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**Tuesday, 1 August 2023**

**Chairman: Councillor A Freeman  
Vice-Chairman: Councillor D Moore**

**Members of the Committee:**

<b>Councillor A Amer</b>	<b>Councillor P Rainbow</b>
<b>Councillor C Brooks</b>	<b>Councillor S Saddington</b>
<b>Councillor L Dales</b>	<b>Councillor M Shakeshaft</b>
<b>Councillor P Harris</b>	<b>Councillor M Spoors</b>
<b>Councillor J Lee</b>	<b>Councillor L Tift</b>
<b>Councillor K Melton</b>	<b>Councillor T Wildgust</b>
<b>Councillor E Oldham</b>	

**MEETING: Planning Committee**

**DATE: Thursday, 10 August 2023 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

	<u>Page Nos.</u>
1. Apologies for Absence	
2. Declarations of Interest by Members and Officers	
3. Notification to those present that the meeting will be recorded and streamed online	
4. Minutes of the meeting held on 6 July 2023	5 - 10
<b>Part 1 - Items for Decision</b>	
5. Chestnut Lodge, Barnby Road, Balderton - 23/00963/FULM Site Visit: 10.15am – 10.25am	11 - 47
6. Tesco Express, Kirkington Road, Rainworth - 22/01298/FUL	48 - 67
7. Highfields School, London Road, Balderton - 22/01726/FULM	68 - 131
8. Westwood Farm, Main Street, Thorney - 23/00927/FUL	132 - 152
9. Hutchinson Engineering Services Ltd, Great North Road, Weston - 23/00770/FUL Site Visit: 10.50am – 11.00am	153 - 173
10. South Barn, 4 Redmay Farm, Church Lane, South Scarle - 23/00829/HOUSE	174 - 183
11. Annexe, The Cottage, Winthorpe - 23/00715/FUL	184 - 201
<b>Part 2 - Items for Information</b>	
12. Permitted development rights: supporting temporary recreational campsites, film-making and prison fencing	202 - 204
13. Appeals Lodged	205 - 207
14. Appeals Determined	208 - 215
<b>Part 3 - Statistical and Performance Review Items</b>	
15. Development Management Performance Report	216 - 226
16. Quarterly planning enforcement activity update report	227 - 234
<b>Part 4 - Exempt and Confidential Items</b>	
17. There are none.	

## 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 Thursday, 6 July 2023 at 4.00 pm.

PRESENT: Councillor A Freeman (Chairman)  
Councillor D Moore (Vice-Chairman)

Councillor C Brooks, Councillor L Dales, Councillor J Lee, Councillor K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor S Saddington, Councillor M Shakeshaft, Councillor M Spoons and Councillor L Tift

ALSO IN ATTENDANCE: Councillor R Cozens and Councillor S Michael

APOLOGIES FOR ABSENCE: Councillor S Crosby (Committee Member), Councillor P Harris (Committee Member) and Councillor T Wildgust (Committee Member)

### 12 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillors L Dales, A Freeman and L Tift declared Non-Registrable Interests as appointed representatives on the Trent Valley Internal Drainage Board.

Councillor J Lee declared a Non-Registrable Interest as an appointed representative on the Nottingham Fire Authority. He also declared a Non-Registrable Interest in Application No. 23/00060/FUL – Appleby Lodge, Barnby Road, Newark on Trent as a former Newark Town Councillor when this had been discussed at a Planning Committee meeting. He also declared a further Non-Registrable Interest in Application No. 23/00107/FUL – Forest Farm House, Mansfield Road, Farnsfield as he knew the applicant and would not take part in the debate or vote.

Councillor K Melton declared a Disclosable Pecuniary Interest in Application No. 22/01840/FULM – Land South of Staythorpe Road, Staythorpe, as the owner of a residential property close to the application site. Councillor Melton would speak as Local Ward Member and then withdraw from the meeting.

Councillor D Moore declared a Non-Registrable Interest in Application No. 23/00060/FUL – Appleby Lodge, Barnby Road, Newark on Trent as he was known to the owner of a residential property in close proximity to the application site and would not take part in the debate or vote.

Councillor P Rainbow declared a Non-Registrable Interest in Application No. 23/00890/OUT – Willow Hall Farm, Mansfield Road, Edingley as an acquaintance of the applicant. She also declared a Non-Registrable Interest in Application No. 23/00107/FUL – Forest Farm House, Mansfield Road, Farnsfield as she knew the applicant.

Councillor S Saddington declared a Non-Registrable Interest in Application No. 22/01840/FULM – Land South of Staythorpe Road, Staythorpe as she had attended a residents’ meeting but had not commented and had not attended any subsequent meetings. She also declared a Non-Registrable Interest in Application No. 23/00107/FUL – Forest Farm House, Mansfield Road, Farnsfield as she knew the applicant.

13 NOTIFICATION TO THOSE PRESENT THAT THE MEETING WILL BE RECORDED AND STREAMED ONLINE

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting and that it was being live streamed.

14 MINUTES OF THE MEETING HELD ON 8 JUNE 2023

AGREED that the Minutes of the Meeting held on 8 June 2023 were approved as a correct record and signed by the Chairman.

Prior to consideration of the following item on the Agenda, the Chairman adjourned the meeting for 5 minutes in order that Members be given opportunity to read the late Schedule of Communication as tabled.

15 LAND SOUTH OF STAYTHORPE ROAD, STAYTHORPE - 22/01840/FULM

The Committee considered the report of the Business Manager – Planning Development which sought to update Members on an application for the construction of a Battery Energy Storage System and associated infrastructure. Members attended a site visit prior to the commencement of the Planning Committee as the proposal was particularly contentious and the aspects being raised could only be viewed on site.

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

Schedules of Communications were circulated prior to and at the meeting, which detailed correspondence received following publication of the Agenda from the Battery Energy Storage System (BESS) Action Group; the Agent; the Agent of the Battery Storage Scheme currently pending on land to the north (east of Averham); the Case Officer, the Environmental Health Officer (NSDC); Nottinghamshire Fire & Rescue Service; Averham, Kelham & Staythorpe PC; and the Applicant.

Councillor K Melton, speaking as Local Ward Member stated that the application failed on 3 issues: scale; impact; and character. He referred to the loss of ancient and mature hedgerow; the poll of local residents undertaken by both the applicant and the BESS; noise pollution; failure of sequential testing; and harm to landscape and character.

*Having declared a Disclosable Pecuniary Interest, Councillor Melton left the meeting after addressing the Committee.*

Councillor Bradey, on behalf of Averham, Kelham & Staythorpe Parish Council spoke against the application in accordance with the view of the parish council contained within the report.

Members considered the application and whilst acknowledging the requirement for greener energy solutions raised concerns on a number of issues including: the potential for flooding at the site; the risk of fire or explosion from the storage of such an energy source; loss of high-quality agriculture land; impact on rights of way; detrimental visual impact; lighting of the scheme and mitigation thereof.

In response to several requests to defer determination of the application until it could be considered with similar applications in order to consider cumulative impact, the Business Manager advised that each application must be determined on its own merits. Unless Members required additional information, the application should be determined without delay. She added that when the next such application came before Committee, the effect of cumulative impact could be considered at that time.

Having considered advice given by the Committee's Legal Advisor in relation to pre-determination and bias, Councillor Saddington abstained from voting, as recorded below.

A vote was taken and lost with 10 votes against and 1 abstention for approval. The application was proposed for refusal by Councillor Lee and seconded by Councillor Oldham.

AGREED (with 10 votes For and 1 Abstention) that contrary to Officer recommendation, planning permission be refused, subject to the following reasons:

Reasons:

- i. Scale of Development
- ii. Design of Development
- iii. Visual Impact
- iv. Loss of amenity without sufficient mitigation
- v. Perceived Safety Risks
- vi. Loss of Agricultural Land
- vii. Failure to pass Sequential Flood Risk Test

In accordance with paragraph 13.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

<b>Councillor</b>	<b>Vote</b>
C Brooks	For
S Crosby	Absent
L Dales	For
A Freeman	For
P Harris	Absent
J Lee	For
K Melton	Did Not Vote
D Moore	For

E Oldham	For
P Rainbow	For
S Saddington	Abstain
M Shakeshaft	For
M Spoons	For
L Tift	For
T Wildgust	Absent

*Councillor Melton returned to the meeting.*

16 APPLEBY LODGE, BARNBY ROAD, NEWARK ON TRENT - 23/00060/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the application for a change of use of a paddock to provide 8 no. pitches for permanent residential occupation and 2 no. amenity buildings.

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

Schedules of Communications were circulated prior to and at the meeting, which detailed correspondence received following publication of the Agenda from: local residents; and Nottinghamshire County Council – Highways.

Members considered the application, noting the requirement of the Council to provide sustainable sites for Gypsy and Travellers. Members noted the number of objections received in relation to traffic and also the current community efforts in relation to the promotion of a safe environment for amphibians on the proposed site. Members considered the application acceptable, subject to the inclusion of an informative note to the applicant in relation to working with the community on the toad patrol.

AGREED (unanimously) that planning permission be approved subject to the conditions contained within the report and the addition of the above-mentioned informative note to the applicant.

*Having declared a Non-Registrable Interest, Councillor Moore left the meeting during the debate and vote of the above item.*

17 TESCO EXPRESS, KIRKLINGTON ROAD, RAINWORTH - 22/01298/FUL

This application was withdrawn from the Agenda.

18 BILSTHORPE BUSINESS PARK, EAKRING ROAD, BILSTHORPE - 22/00424/OUTM

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the proposal to create flexible commercial/industrial units together with the provision of allotments. A site visit had taken place prior to the commencement of the Planning Committee in order that Members could see the impact of the proposed development, as it was considered difficult to visualise.

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

A Schedule of Communication was circulated prior to the meeting which detailed correspondence received following publication of the Agenda from Planning Officers.

Members considered the application and commented on a number of issues including traffic from commercial vehicles and the potential ecological impact.

AGREED (with 6 votes For and 6 Votes Against, the Chairman used his casting vote for Refusal) that planning permission be refused for the reasons contained within the report.

19 WILLOW HALL FARM, MANSFIELD ROAD, EDINGLEY - 23/00890/OUT

The Committee considered the report of the Business Manager – Planning Development which sought to update Members on the outline application for a residential development to erect 1 no. dwelling with all matters reserved.

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

A Schedule of Communication was circulated prior to the meeting which detailed correspondence received following the publication of the Agenda from: Nottinghamshire County Council (Rights of Way); Nottinghamshire County Council (Highways Authority); and the Case Officer.

Councillor Diana Poole, Chair of Edingley Parish Council, spoke in support of the application in accordance with the views of Edingley Parish Council as contained within the report.

Members considered the application, noting that the proposed development was in open countryside. Some Members felt that the location of the site was suitable for the development with other Members stating that to approve this would set a precedent for future applications, similar in nature.

AGREED (with 7 votes For, 4 votes Against with 1 abstention) that planning permission be refused for the reasons contained within the report.

20 FOREST FARM HOUSE, MANSFIELD ROAD, FARNSFIELD - 23/00107/FUL

The Committee considered the report of the Business Manager – Planning Development which sought to update Members on the application for a replacement dwelling and office (including stores) with associated works including demolition of existing dwelling.

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



Members considered the application acceptable.

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

*Having declared a Non-Registrable Interest, Councillor Lee did not participate in the debate or vote of the above item.*

21 UPDATE TO PLANNING ENFORCEMENT PLAN (PEP) TO OUTLINE THE APPROACH TO THE ENFORCEMENT OF ADVERTISEMENTS

The Committee considered the report of the Director – Planning & Growth which sought to set out for Members how planning enforcement would proactively approach the display and enforcement of illegal advertisements within the district.

The Business Manager – Planning Development advised that following changes to the Council’s Portfolio Holders, Recommendation (b) of the report required amendment to read “Portfolio Holder for Sustainable Economic Development”.

The Director advised that an email would be forwarded to all Members of the Council advising them of the proposed amendment to the Planning Enforcement Plan.

AGREED (unanimously) that:

- a) the proposed updates to the Planning Enforcement Plan relating to advertisements be endorsed; and
- b) this amendment be forwarded to the Portfolio Holder for Sustainable Economic Development for adoption.

The PEP contributes toward assisting with:

- Continuing to maintain the high standard of cleanliness and appearance of the local environment;
- Enhancing and protecting the district’s natural environment.

22 APPEALS LODGED

AGREED that the report be noted.

23 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 7.55 pm.

Chairman



Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Honor Whitfield, Planner, 01636 655827

Report Summary			
<b>Application Number</b>	23/00963/FULM		
<b>Proposal</b>	Proposed change of use to residential caravan site for gypsy/travellers (19 No. pitches), relocation of 2 no. existing pitches, construction of 1 no. managers dwelling, an amenity building and creation of new access (resubmission)		
<b>Location</b>	Chestnut Lodge, Barnby Road, Balderton, Newark on Trent, NG24 2SN		
<b>Applicant</b>	Mr Tom Holmes	<b>Agent</b>	N/A
<b>Web Link</b>	<a href="https://newark-sherwooddc.gov.uk/23/00963/FULM">23/00963/FULM   Proposed change of use to residential caravan site for gypsy/travellers (19 No. pitches), relocation of 2 no. existing pitches, construction of 1 no. managers dwelling, an amenity building and creation of new access (resubmission)   Chestnut Lodge Barnby Road Balderton Newark On Trent NG24 2SN (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	06.06.2023	<b>Target Date</b>	05.09.2023
<b>Recommendation</b>	That Planning Permission is APPROVED subject to the Conditions detailed at Section 10.0		

This application is being referred to the Planning Committee for determination by the local ward members, Councillor J Lee and Councillor E Oldham.

Cllr J L has requested to call the application in for the following reasons:

“Propose changes of use of land to from 19 number caravan pictures and one number new dwelling. I request this application is called in due to going against policies.

UK planning policies have underlined the importance of protecting the countryside from inappropriate development. According to the National Planning Policy Framework (NPPF), the purpose of this protection is to ensure that development is located where it can enhance or maintain the vitality of rural communities (NPPF, para 83). Further, the NPPF clearly states that planning policies and decisions should recognise the intrinsic character and beauty of the countryside (NPPF, para 170), which underlines the need for this factor to be considered in our

decisions. Hence, the committee is urged to meticulously examine the 'open countryside' aspect in its evaluation of the new application. This involves a thorough analysis of the potential environmental implications of the development, its impact on the scenic quality, and how it could alter the rural character of the countryside. In addition, the planning officer, is strongly advised to look again at the previous position that 'open countryside' should not be a decisive factor for refusal.

In opposition to this policy the responsibility to protect community interests, especially preserving open green spaces, must guide its evaluation of the project. As we move forward with this application, it is crucial to comprehensively consider all relevant factors, especially those that might have been undervalued in the past.

**Also Local Infrastructure Capacity:** The PPTS, under 'Policy A: Decision-taking' states that Local Planning Authorities should very strictly limit traveller site development in the countryside and adds in point 23 that "local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally".

This implies consideration of the effect of the site on local services and infrastructure. If the addition of a traveller site would place undue stress on local resources such as schools, medical facilities, roads, and other services, it may provide grounds for a refusal.

**Amenity Impact:** PPTS also suggests that "Local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community." (Barnby) The language implies that the development should not overburden the local community or be disproportionate in scale.

The National Planning Policy Framework (NPPF), which provides more general guidance, also contains relevant policies:

**Building a Strong, Competitive Economy (Para 80-82):** The NPPF suggests planning policies should allow for sustainable growth and expansion of all types of business in rural areas. If a development would overburden local resources to the detriment of local businesses, it could potentially be contrary to this policy.

As the site will be run as a business I believe it also goes against this policy - **Promoting Sustainable Transport (Para 102-111):** The NPPF encourages developments that minimize the number and length of journeys. If a development would place significant additional stress on local transport networks, it could potentially be contrary to this policy.

I also believe it goes against

- **NPPF Paragraph 79:** This seeks to prevent new isolated homes in the countryside unless certain exceptions apply. I do not believe the expectations apply NPPF Paragraph 127: This sets out criteria for achieving well-designed places. I don't believe the application in the open countryside meets this policy.
- **PPTS Criterion d:** This states that traveller sites in open countryside away from existing settlements should be avoided unless there are exceptional circumstances. I also believe it goes against this policy. As Barnby has no services and the site itself sits in Balderton.
- **PPTS Criterion e:** This states that traveller sites should not be located in areas at high risk of flooding, including Functional Floodplains, except in exceptional circumstances. From advice given from the parish council, I believe this area floods, and it would go against this policy as well."

**due to the following concerns and objections:**

- **Impact on the Open Countryside; Inclusion of a Managers Dwelling; Highways Safety; Impact on Local Services (and a lack of sufficient services); and Impact on Barnby in the Willows Village.**

**Councillor E Oldham has not provided any reasons for their call-in request.**

## **1.0 The Site**

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

The site includes land to the west, south and south-west of the gas compound and Chestnut House and includes Chestnut Lodge and the land that surrounds it. The main portion of the site relates to a field to the rear of an existing site with consent for 2 gypsy and traveller pitches – two static caravans are on site, one adjacent to the southern boundary and one to the west of the gas compound. Beyond the confines of the site is open countryside. The site is flat and was previously predominantly a grassed field/paddock but some of which has been hard surfaced as part of the aforementioned consent. Boundaries to the south and west with the open countryside comprise existing hedgerows with close boarded timber fencing in front, but within the site the boundaries between Chestnut Lodge and the wider site are bound by post and rail fencing. On site, to the north of Chestnut Lodge two caravans were observed on site being stored.

As well as the application site, the applicant also owns Chestnut Lodge and the land that surrounds it (to the east). The southern portion of the site currently has a former agricultural building along the eastern boundary and land to the NW, around Chestnut House, contains a number of structures. To the east of Chestnut Lodge is a vehicular access from Barnby Road that runs down the side of the Lodge (enclosed along its eastern boundary and then turns 90 degrees adjacent to its rear boundary, which then stretches into the application site. This access serves both the Lodge, the application site, the two authorised pitches and the agricultural buildings beyond the site to the west.

Situated in the open countryside, the site is located to the east of the main built-up area of Balderton. The application site is located within Flood Zone 1 of the Environment Agency Flood Maps, which means it is at low risk of fluvial flooding but is susceptible to surface water flooding. Two underground gas pipelines run across part of the site which both have 6m wide easements where no structures should be sited. These gas pipes connect to the gas valve compound running to the south; one pipe then turns 90 degrees and runs along the southern boundary of the application site. Barnby Road has a deep grass verge on its southern side in this location, some of which is planted with mature trees, but no footways are provided along Barnby Road.

## **2.0 Relevant Planning History**

**23/00058/FULM** - Proposed change of use to residential caravan site for gypsy/travellers (19 No. pitches), relocation of 2 no. existing pitches, construction of 1 no. managers dwelling, an amenity building and creation of new access – Refused by Planning Committee 16.05.2023 for the following reason:

*“In the opinion of the Local Planning Authority, the proposed dwelling by virtue of its excessive size and scale in addition to its design does not reflect the local building vernacular results in an overly dominant form of development. This results in a material adverse impact on the character and appearance of the site and rural character of the surrounding open countryside. Whilst the Council supports the provision of the gypsy/traveller pitches, no evidence has been provided to demonstrate why a dwelling of this size is required in order to manage the gypsy and traveller pitches associated with the proposal. This part of the proposal would be contrary to Core Policy 9 and Core Policy 13 of the Amended Core Strategy and Policies DM5 and DM8 of the Allocations and Development Management Development Plan Document.”*

**22/01424/LDC** - Lawful Development Certificate for the formation of one access for outbuilding – Certificate not issued 03.10.2022 due to the works not complying with the permitted development legislation.

**21/00027/FUL** - Change of use of the land for the siting of caravans for residential purposes for 2no. gypsy pitches and hardstanding ancillary to that use (retrospective) – Permitted 01.04.2021 (by Planning Committee in line with officer recommendation) and conditions discharged under 21/01252/DISCON.

**03890470** – Erection of agricultural workers dwelling and garage – approved 03.08.1989 (this related to land to the north of Chestnut Lodge but does not appear to have been implemented).

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

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

### **3.0 The Proposal**

The application seeks planning permission for the change of use of the land to provide 19 Gypsy and Traveller pitches for permanent occupation, the relocation of 2 existing pitches (21 total pitches), the erection of one associated amenity building and one manager’s dwelling in addition to the creation of a new access onto Barnby Road.

The submitted layout shows the manager’s dwelling would be broadly central within the site, approx. 8m to the south-west of the Gas Valve Compound, in place of one of the existing static caravan units. The dwelling would be an L-shaped 3-bed dormer bungalow. It would be positioned approx. 45m back from the front boundary with the highway and approx. 89m from Chestnut Lodge to the east and 75m from Chestnut House to the west. The dwelling would be accessed from the new access to the north (to the west of the Gas Valve Compound) and would overlook both the proposed access and the land to the rear where the new pitches are proposed. It would be constructed in red brick (Hampton rural blend facing brick) and Marley Modern anthracite roof tiles with uPVC windows and doors. Below is a comparison between the dwelling that was part of the recently refused scheme and the amended plans that are under consideration as part of this application:

	Recently Refused Dwelling Presented to Committee	New Amended Plans	Difference
<b>Design</b>	3-Storey Rectangular Dwelling	L-Shaped Dormer Bungalow	
<b>No. of Beds</b>	5	3	- 2 beds
<b>Footprint (m<sup>2</sup>)</b>	186 m <sup>2</sup>	179 m <sup>2</sup>	- 7 m <sup>2</sup>
<b>Internal Floor Area (m<sup>2</sup>)</b>	446 m <sup>2</sup>	305m <sup>2</sup>	- 141 m <sup>2</sup>
<b>Ridge Height</b>	10.7 m	7.3 m	- 3.4 m
<b>Eaves Height</b>	5.3 m	3 m	- 2.3 m
<b>Width</b>	16 m	15 m	- 1 m
<b>Depth</b>	12 m	13 m	+1 m

The existing 2 pitches are proposed to be relocated to the north of Chestnut Lodge along with 2 new pitches in a row of four along the northern boundary. 17 new pitches are then proposed to be positioned in the southern field and each pitch has been shown with space for one static and one tourer caravan. Additional parking spaces are proposed to the north-west. The pitches range in area from approx. 160m<sup>2</sup>-216m<sup>2</sup> and in the southern field are proposed to be laid out in two rows. The pitches are proposed to be made up of hardstanding and grass. Communal bin storage for waste and recycling is proposed broadly central at the front of the 17 pitches. Foul sewerage disposal would be via septic tanks.

The amenity building would be located on the eastern side of the site in place of an existing caravan pitch and would measure approx. 15.1m x 8.1m, 5.9m to the ridge and 2.7m to the eaves, constructed in brick and anthracite roof tiles. The amenity building would comprise 8 shower rooms, 2 separate w/cs and a kitchen/utility room and would be constructed in red brick (Hampton rural blend facing brick) and Marley Modern anthracite roof tiles with uPVC windows and doors.

Future occupiers of the proposed pitches are not currently known but will be restricted to those meeting the definition of a gypsy or traveller, as provided through the Planning Policy for Traveller Sites. The Applicant states that future occupiers are likely to be from Tolney Lane where there are a number of pitches that only have temporary consent.

Documents assessed as part of this application:

- Application Form
- Planning Statement (06.06.2023)
- Supporting statement (06.06.2023)
- Flood Risk Assessment (06.06.2023)
- Plans:
  - Existing Site Plan – Ref. 2208-06 Rev. A
  - Proposed Site Plan – Ref. 2208-10 Rev. A
  - Proposed Floor Plans – Ref. 2208-11 Rev. A
  - Proposed North Elevation – Ref. 2208-12 Rev. A
  - Proposed Elevations and 3D Views – Ref. 2208-13 Rev. A
  - Proposed Amenities Block – Ref. 2208-05
  - Proposed Access and Visibility Splays – Ref. JG01
  - Swept Path Analysis Plan – Ref. JG02

#### **4.0 Departure/Public Advertisement Procedure**

Occupiers of 5 properties and 62 local residents have been individually notified by letter, a site notice has been displayed and an advert has been placed in the local press.

Site Visit Date: 12.06.2023

#### **5.0 Planning Policy Framework**

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

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

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 3 – Rural Areas

Spatial Policy 7 – Sustainable Transport

Core Policy 4 – Gypsies and Travellers – New Pitch Provision

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

Core Policy 9 – Sustainable Design

Core Policy 12 – Biodiversity and Green Infrastructure

*Allocations & Development Management DPD*

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
- NSDC Plan Review Publication Amended Allocations & Development Management DPD, Nov 2022
- Developer Contributions and Planning Obligations Supplementary Planning Document 2013
- Gypsy and Traveller Accommodation Assessment, Feb 2020
- The Equality Act 2010
- Human Rights Act 1998
- Planning Policy for Traveller Sites (PPTS) – 2015 (summarised below)

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

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

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

- Existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;

- Other personal circumstances of the applicant;
- Locally specific criteria used to guide allocation of sites in plans should be used to assess applications that come forward on unallocated sites;
- Applications should be determined for sites from any travellers and not just those with local connections.

Weight should also be attached to:

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

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

Annex 1 provides a definition of “gypsies and travellers” and states:-

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

## **6.0 Consultations**

*NB: Comments below are provided in summary and relate to the latest comments received from consultees. For comments in full please see the online planning file.*

### **(a) Statutory Consultations**

**NCC Highways** – No objection subject to conditions.

### **(b) Town/Parish Council**

**Balderton Parish Council** – Object – Concerns raised:

- The proposal fails to provide a safe means for pedestrians and cyclists to link with footways or cycleways to the village amenities; neither Coddington Road or Barnby Road have pavements.
- The site falls within the countryside and the proposed development is considered to be out of keeping, creating a detrimental impact upon neighbouring properties.
- The presence of the gas line running through the site poses a safety concern should the site be developed further.
- There are both land contamination and sewerage treatment plan concerns as these are not addressed within the application.

**Barnby in the Willows Parish Council** – Object – Concerns raised:



- Changes to the design of the dwelling are insufficient.
- If permitted the ability to develop the site further should be restricted by removing permitted development rights. Restrictions should include preventing the change of use (for example the amenity block) and the site should be subjected to regular review.
- Other sites proposed for allocation are better placed than this site.
- Site Capacity – concerns that each pitch having one static and one touring caravan would be occupied by two families meaning potential for 38 families on site.
- Road Safety concerns due to increased vehicle movements, types of vehicles using the roads, safety of pedestrians/cyclists/horse riders. Poor condition of the road surfaces and increase in traffic flows.
- Loss of privacy – neighbouring properties would be overlooked. The site has potential for expansion which would exacerbate privacy concerns.
- Light pollution – erection of floodlighting at the site has increased light pollution which impacts neighbours and natural habitats.
- Impact on landscape and character of the area – the loss of hedgerows and trees as a result of new fencing has impacted the character of the area and local wildlife. The managers dwelling would not be in keeping with the surrounding area.
- Managers dwelling - A managers dwelling is not required, particularly at such a scale.
- Flooding - Increase in hardstanding will impact flooding. Insufficient detail has been given about how water, waste and waste water is to be managed on site in terms of being connected to mains, or septic tank facilities. Concerns that the drainage ditch has been infilled to facilitate the new access.
- Site and facilities management – no details have been provided as to how the site will be managed, concerns whether the site would be council-led and how this would work in practice.
- Facilities – Barnby does not have sufficient amenities so future occupiers would not have access to schools, medical provision etc. They will strain existing facilities.
- Alleged breaches of condition – two caravans were put on the site and applied for retrospectively, and concerns that more caravans are on the site than previously stated.
- Inconsistency of application of planning review guidelines – previous applications for a caravan site, a bungalow and for a log cabin, as well as matters relating to the site’s access - have been refused in the past so granting permission for a scheme of this size and scale would be inconsistent and contrary to previous policy decisions in the area. This is in addition to it being inconsistent with policy for green belt land.
- Petition and resident feedback – the Parish has received a petition signed by 123 people requesting the Parish Council object to the application.

**Coddington Parish Council – Object – Concerns raised:**

- The new dwelling to house the site manager is unnecessary as there is already a property on the site from which to manage the travellers.

**(c) Representations/Non-Statutory Consultation**

**The Environment Agency – No objection.**

**NSDC Planning Policy – Comments from 23/00058/FULM support the principle of development.**

**NSDC Environmental Health Officer – Comments from 23/00058/FULM - No objection – “The applicant should be aware that should permission be granted, the site is likely to require a site**

license [...]”

**NSDC Environmental Health Contaminated Land Officer** – Comments from 23/00058/FULM - No objection subject to imposing the full phased contaminated land condition due to previous potentially contaminative land-use on the site.

**CADENT Gas** – Comments from 23/00058/FULM - No objection – “The applicant has reassured us on the issues with the intermediate and high pressure gas assets and we are happy the integrity of the Cadent gas assets will be adequately protected.”

**Nottinghamshire Police Designing Out Crime Officer** – Comments from 23/00058/FULM Comments reference ‘Secured by Design’ which relates to the design and build of new homes to reduce opportunity for crime and fear of crime.

**Trent Valley Internal Drainage Board (TVIDB)** – No comments received.

**Comments have been received from 71 residents/interested parties (19 anonymous) that can be summarised as follows:**

## **OBJECT**

### *Principle*

- The number of pitches is excessive for the area and would expand the village to the detriment of local infrastructure (quality of roads and local amenities). The quantum should be reduced.
- Previous owners approached NSDC for a new dwelling on the site and were turned away as the site is in Green Belt.
- Site allocations are still out for consultation and therefore carry little weight.
- There are no exemptions for Travellers in the open countryside policies.
- The site does not comply with CP5.
- No justification as to why a new house of such size is required and an additional access when a house and access is already on the site - Chestnut Lodge with its access.
- A condition was attached recently to limit the site to 2 pitches, this position should not change.
- The scale of development is disproportionate and will dominate the local community.

### *Character Impact*

- The development would be significantly out of character with the surrounding area.
- The fencing around the site is harmful to the character of the area.
- The proposed site would be out of scale and character with the surrounding area and would urbanise the countryside.
- A three-storey house would be highly visible and out of character with the surrounding area.
- The development would harm the natural beauty of the countryside.
- Landscape character impact cannot be assessed as an LVIA has not been submitted.
- The amended design of the house is not significantly different and does not address the Council’s concerns.
- These sites should not be cut off from local residents by being behind high fences.
- The smaller dwelling plans do not alter previous concerns in relation to the principle of a new dwelling on the site. The house is still substantial and could be easily extended in the future.

### *Highways*

- Concerns over the increase in traffic due to the condition of the roads and lack of footway and streetlights.
- The site is adjacent to an equestrian yard. Many horse riders use Barnby Road and the increase in traffic will increase the risk of collision and compromise the safety of horses and riders. Extra traffic would also increase noise and air pollution.
- A previous application for a new access at the site was refused by highways as it is not suitable for additional traffic.
- There would be an increase in pedestrian traffic and there are no footpaths.
- Concerns in relation to safety of pedestrians and cyclists.
- Concerns in relation to adequate visibility from the proposed access.
- The site is not sustainable as there is a reliance on the private car.
- Traffic generated by G&T sites will damage the condition of the roads.
- The site is on a blind bend.
- There seems to be a clash with the proposed access and the one for the existing business.
- The access would be too close to existing accesses which is dangerous.

### *Ecology*

- Bats, birds and owls are rarely seen any more due to the floodlights that have been installed.
- The site would harm local biodiversity.
- Within the environmental statement there is no mitigation for the increased light pollution caused by such an increase in properties and site lighting on the local environment.

### *Flood Risk*

- The applicant has infilled the adjacent ditches along the highway which controls flooding – this has exacerbated flooding of surrounding fields.
- The flood risk assessment doesn't take into account the lack of road drainage within the area and the flow of water into the agricultural drainage and the effect on wildlife.
- Concerns about the proposed drainage plans being insufficient.

### *Amenity*

- The site would have a detrimental impact on local guest house businesses and the newly opened public house.
- The proposal would diminish the standard of living of local residents.
- The light pollution from the site adversely impacts local residents.
- Erection of additional flood lighting and CCTV installation is going to prove an added environmental problem to the habitats of the local wildlife.
- The house, even though amended, would result in overlooking to adjacent properties.

### *Procedure*

- Residents have not been given enough time to comments on the application as three weeks is not enough.
- The Planning Committee need to consider all the concerns raised by locals and not just accept the development is acceptable if the dwelling is amended as it is not necessary in the first place.
- Another site visit by the new committee is essential to consider the application.

### *Other*

- Concerns over the proximity to the gas mains over the site and the potential impact through vehicles moving over the pipeline.
- Concerns over the provisions for waste and whether local infrastructure can accommodate a septic tank and additional waste and whether this will pollute local water sources.
- There is a lack of local infrastructure in place to accommodate additional residential properties. The development triggers the requirement for developer contributions.
- The area has an issue with low water pressure which would be exacerbated with this development.
- The site has large fires and burning through the year.
- Two caravans per pitch is unnecessary and excessive.
- The increase in caravans would result in the site spreading past the boundaries of the site.
- The proposal would result in more littering in the area.
- 19 pitches could result in 76 additional people residing in the village meaning a 30% increase in the Barnby in the Willows population (based on 2011 census data).
- The application is a major development as the number of dwellings applied for is 21. Planning application requirements for major applications therefore needs to be met and a number of documents are therefore missing from the application.
- There are currently 5 vans on site and not 2 as stated in the application.
- Tolney Lane is not full and should be occupied in preference to this site.
- Traveller sites in Balderton have been approved and are now not being used.
- Consultation with local residents has been insufficient.
- There has already been an increase in door knocking, leaflet dropping and cold calling in the village and this anti-social behaviour will increase.
- Allowing this application with breach the human rights of existing residents.
- The government's latest planning manifesto states that although there is commitment to building more properties, they "won't do that by concreting over the countryside – their plan is to build the right homes where there is the most need and where there is local support, in the heart of Britain's great cities". None of which corresponds with this application.
- The announcement by the Secretary of State for Levelling Up, Housing and Communities Michael Gove also stated that the government will empower communities to have a say in the development in their area.

## **7.0 Appraisal**

The key issues are:

1. Procedural Matters
2. Background Information
3. Principle of Development
4. Impact upon Character and Appearance of the Area, Heritage Assets and Ecology
5. Sustainability
6. Highways Impacts
7. Impact upon Amenity
8. Impact of Flood Risk
9. Other Matters

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material

considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

### Procedural Matters

Many of the comments received from third parties reference the site being within the Green Belt. In the interest of clarity and for the avoidance of doubt, the site is not located within the Nottinghamshire-Derby Green Belt as this broadly covers the south-west side of the District (as shown in Figure 2, pg.30 of the Amended Core Strategy). Green Belt policies are therefore not applicable.

Comments from third parties also reference the fact the application has been registered as a 'major' planning application as the proposal is for the *"provision of 21 dwellings"*. However, Officers note that the application is for only **one** dwelling (the manager's dwelling) and 19 pitches. G&T pitches do not meet the definition of a *'dwellinghouse'*. *'Major development'* is defined under Section 2(1) (Interpretation) of Part 1 of The Town and Country Planning (Development Management Procedure) (England) Order 2015. In this case the application constitutes major development as the development would be carried out on a site that is greater than 1 hectare in size (para. E, Section 2(1), Part 1).

The Council has considered comments made in relation to the alleged requirement for additional reports and surveys to be submitted with the application given it constitutes *'major development'*. However, Officers are satisfied that the necessary documents have been submitted to accompany this application, and where they have not, these have been requested throughout its course.

Comments received also refer to permission being refused for a new access point into the site. However, the Lawful Development Certificate application was refused ref. 22/01424/LDC for the formation of a new access due to the works not complying with the permitted development legislation rather than it not being acceptable in principle/highways safety terms. The refusal of the LDC merely indicates that express planning permission is required.

### Background Information

Members may recall that a similar application was last presented to Planning Committee in May this year under application ref. 23/00058/FULM. This current application is a re-submission which looks to address the concerns the Planning Committee raised in the reason for refusal.

In the interest of clarity, in their assessment of the previous application Members concluded that the proposed managers dwelling by virtue of its *"excessive size and scale in addition to its design does not reflect the local building vernacular"* (emphasis added) would result in an overly dominant form of development resulting in a material adverse impact on the character and appearance of the site and rural character of the surrounding open countryside. Members further concluded that *"whilst the Council supports the provision of the gypsy/traveller pitches, no evidence has been provided to demonstrate why a dwelling of this size is required in order to manage the gypsy and traveller pitches associated with the proposal"* (emphasis added).

Therefore, this application looks to address the following points contested by the Planning Committee:

- Size, scale and design of the Managers Dwelling
- Need for a Managers Dwelling of this size.

### Principle of Development

The District Council, as Local Planning Authority, has a duty to provide sites on which Gypsy and Travellers (G&Ts) can live. The Gypsy and Traveller Accommodation Assessment (GTAA) 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). Our requirement of 118 pitches forms the basis of the five-year land supply test, as required as part of the Planning Policy for Traveller Sites (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). For the Council to be able to demonstrate a five-year land supply of deliverable G&T sites, the supply must exceed the five-year need figure of 77 pitches.

Officers note that in the last 6 months one application for 4 G&T pitches at Shady Oaks, Eagle Road, Spalford (ref. 21/02528/FUL) has been allowed on appeal, and that in July the Planning Committee resolved to approve an application for 8 pitches at Appleby Lodge, Barnby Rd, Newark (ref. 23/00060/FUL) subject to the signing of a S106 agreement. Whilst the latter is yet to be formally granted planning permission, subject to the progress of the S106 agreement these two permissions combined would contribute 12 pitches towards the District's G&T need (noting the 4 pitches at Spalford are anticipated to be delivered imminently). This would reduce the five-year need figure to 65 pitches.

This still represents a significant unmet need. Provision to help meet this need will be made, if approved and adopted, as part of the production of the Amended Allocations & Development Management DPD, which is currently underway which will seek the allocation of specific sites, as well as through the granting of permission for appropriate development. Presently however the Council is unable to identify any other sites that are currently available or deliverable for Gypsy and Travellers and in addition is unable to demonstrate a five-year land supply, as required through national policy (PPTS). 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 consent where proposals will contribute towards supply. Importantly, the GTAA assumed a net zero contribution from inward migration into the District - meaning that NSDCs pitch requirements are driven by locally identifiable need.

The emerging policies within the Publication Amended Allocations and Development Management DPD<sup>1</sup> demonstrates a commitment by the Council to meeting the need for pitches in the District and this emerging strategy seeks to allocate the application site for gypsy and traveller pitches (ref. NUA/GRT/12 for 20 pitches and a new dwelling to assist in the management and operation of

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<sup>1</sup> <https://democracy.newark-sherwooddc.gov.uk/documents/b2647/Newark%20Sherwood%20Plan%20Review%20-%20Amended%20Allocations%20and%20Development%20Management%20Development%20Plan%20Docu.pdf?T=9>

the new pitches). In the absence of an adopted strategy, any need is required to be met through the determination of planning applications on an ad hoc basis with limited direction from adopted planning policies beyond Core Policy 5 (Criteria for Considering Sites for Gypsies & Travellers and Travelling Showpeople). Furthermore, while only very limited weight can be given to the proposed allocation as the Plan has yet to be submitted and found sound and the unresolved objections to the broad G&T strategy from the publication stage, the contribution towards supply as a windfall site could nevertheless contribute towards the District's current unmet need.

There are currently no other alternative sites available with planning permission (noting that application 23/00060/FUL at Appleby Lodge, Barnby Road is pending completion of the S106 agreement and only contains 4 pitches that do not have identified occupiers), and no allocated sites identified and consequently the Council does not have a five-year supply of sites. These matters carry significant weight in favour of proposals where they would contribute towards supply.

As this site is a new site, it did not form part of the baseline position (August 2019) for the GTAA. The supporting information submitted states that future occupiers of all of the pitches are not currently known but will be restricted to those meeting the definition of a gypsy or traveller, as provided through the PPTS. The applicant states that future occupiers are likely to be from Tolney Lane where there are a number of pitches without permanent consent, however this is not reinforced by any expressions of interest from families wanting to relocate to the site. It is also noted that two authorised pitches currently exist on the site, both of which are proposed to be retained but relocated to the north of Chestnut Lodge – the occupiers of one of the existing pitches would move into the Manager's dwelling and the occupiers of the other pitch would be relocated to the north of the site - therefore, the net additional pitches proposed would be 20.

Based on the information provided by the applicant, subject to a planning condition restricting occupation of the site to those meeting the planning definition (as referred to in the recent Spalford appeal decision<sup>2</sup>) of a gypsy or traveller, the proposed pitches would be available to help meet existing, and future locally identified G&T need. It could also indirectly assist in meeting identified needs at sites on Tolney Lane should existing occupiers of these sites relocate to the application site. This positive contribution towards meeting the need identified through the GTAA and the inability to demonstrate a five-year land supply, is a significant material consideration in favour of the proposal.

The proposal includes a manager's dwelling on site to support the operation of the site – whilst comments from third parties reference consent having been refused for a new dwelling on this site historically (for a separate owner/applicant at the time), Officers have not been able to identify any planning history in relation to this. Nevertheless, it is accepted that new market dwellings in such a rural location would ordinarily be resisted under policy DM8 (Development in the Open Countryside) which seeks to strictly control new development in the Open Countryside and this proposal wouldn't meet any of the exceptions envisaged in DM8. However, colleagues in Planning Policy have advised that whilst the *“Publication Amended Allocations and Development Management DPD holds limited weight, the site is proposed as a G&T allocation for around 20 pitches and a new dwelling in order to assist with the management and operation of the new pitches. At the time of publication, the new dwelling was considered acceptable in principle in this location. Ordinarily, a new dwelling would be assessed under DM8 due to its location within the open countryside. However, as the function and role of the dwelling is to support the wider G&T*

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<sup>2</sup> <https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=51135051> or 21/02528/FUL

*use and not a conventional residential dwelling, I consider it appropriate to assess the site as a whole under Core Policy 5.”*

In this case the dwelling is required for the site to function as a G&T site, to ensure its smooth operation and to manage any potential issues with anti-social behaviour. Officers note that the proposed allocation allows for the inclusion of a manager’s dwelling, subject to it being of an appropriate scale and siting (which will be discussed further in the subsequent section of this report). Therefore, the benefits of a manager’s dwelling to be occupied by a family that meets the definition of a gypsy and traveller as set out in the PPTS are noted and is therefore considered to be acceptable in this instance, subject to a site-specific assessment and planning conditions firstly restricting occupation of the dwelling to the identified site manager and their family, who must also meet the planning definition (as referred to in the recent Spalford appeal decision) of a gypsy or traveller, and secondly to prevent its occupation until at least the 17 no. pitches proposed to the rear of the site are provided and made available for occupation. It is worth noting at this stage that a site providing 21 G&T pitches is not of an insignificant scale and it is not uncommon for such sites to have managers or indeed managers dwellings on site to assist in day-to-day operations and the overall management of the site. Officers appreciate the assumption that Chestnut Lodge itself should be used for such purposes, however this dwelling is already occupied and is separated from the main area of pitches. Given Member’s previous concern was with a lack of demonstrated need for a manager’s dwelling **of such a size** as was originally proposed, the Council has accepted that a manager’s dwelling in principle could be acceptable on this site (depending on the site specific impacts) as is proposed as part of the draft site allocation.

The application site is located in the open countryside, approx. 700m east of the boundary of the Newark Urban Area, as defined by the Allocations and Development Management DPD. Core Policy 4 (Gypsies & Travellers –New Pitch Provision) states that future pitch provision will be addressed through all necessary means, including amongst other criteria, the granting of planning permission for pitches on new sites in line with Core Policy 5. Provision will be made in line with the Council’s Spatial Strategy with the focus of the Council’s efforts to seek to secure additional provision in and around the Newark Urban Area. Beyond this, Core Policy 5 sets out a range of criteria, which proposals need to satisfy. The overall aims of this policy are identified as reducing the need for long distance travelling and possible environmental damage caused by unauthorized encampments and the contribution that live/work mixed use sites make to achieving sustainable development.

The PPTS expects LPAs to strictly limit new traveller site development in the open countryside *‘that is away from existing settlements’* or outside areas allocated in the development plan. Notwithstanding the site’s location in the Open Countryside, given the site’s relatively close location to the Newark Urban Area, leaves the proposal reasonably well-placed to satisfy the above overarching aims and would be more suitable than other more isolated countryside locations which would align with the aim of the PPTS.

In summary, the District has a significant unmet need for Gypsy and Traveller pitches. The proposal would represent a direct and indirect contribution towards the Council’s five-year land supply. This positive contribution is a significant benefit, and one which should be afforded significant weight as part of the overall planning balance. The principle of this use in this location is therefore considered to be acceptable in accordance with the principles of the abovementioned policies, as previously determined, subject to an assessment of the remainder of the criteria set out within Core Policy 5, which are more site specific and are set out and considered below in turn.



## Impact upon Character and Appearance of the Area, Heritage Assets and Ecology

Core Policy 9 (Sustainable Development) states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 (Design) of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. The first criteria of Core Policy 5 also states that when considering sites for G&T, sites should not lead to the unacceptable loss, or significant adverse impact on the landscape character and value, important heritage assets and their settings, nature conservation and biodiversity sites (which will be covered in the subsequent section of this appraisal). The fifth criteria of CP5 seeks that the site is capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity. The emerging site allocation (NUA/GRT/12) also requires that the proposed pitches and manager's dwelling be appropriately sited to ensure they are acceptable in landscape and visual terms, with the impact on the open countryside being appropriately managed.

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

The northern portion of the site is occupied by the two existing (authorised) static caravans and areas of grass with hardstanding. This portion of the site has been enclosed to the north and south by close boarded fencing in front of existing hedgerows. The southern portion of the site comprises an open grassed field/paddock with a large former agricultural building adjacent to the eastern boundary that is in a dilapidated state. This field has also been enclosed by close boarded fencing with planting behind. The highway boundary is relatively well bounded by established trees and hedging which lie outside of the application site boundary, save for the location of the proposed access to the west of the Gas Valve Compound which itself is enclosed by metal palisade and timber fencing.

Considering first the proposed pitches, no detail of the proposed caravans has been submitted, however it is acknowledged that caravans would not reflect the local built vernacular. The pitches proposed in the rear portion of the site would not be highly prominent from the surrounding countryside given the site has been enclosed by fencing, and given the set back from Barnby Road, and screening afforded by existing development (Chestnut House to the NW) and it is not considered that they would be readily visible from passers-by travelling along Barnby Road. Given the paddock is already part of the wider site and has been separated from the wider agricultural landscape for many years, it is not considered that the loss of the paddock would lead to an

unacceptable loss, or significant adverse impact on landscape character and value in accordance with CP5. Furthermore, the pitches proposed to be located to the front of Chestnut Lodge would be well screened by the existing boundary fencing and vegetation along the highway boundary which limit any views into the site and would be screened from the surrounding countryside by the existing dwelling itself such that they would not have any significant adverse impact on the local landscape.

It is not exactly clear what vegetation/planting has been removed from the site to facilitate the installation of the boundary fencing, but it appears that any removal is likely to have taken place around the site boundaries to the rear, where new planting is proposed in any event in addition to planting to the north of the site. Whilst vegetation removal is regrettable from both a landscape character and ecological point of view, a matter reflected by the comments from local residents, the vegetation was not protected in any way. The mature trees within the grass verge of Barnby Road in this location have been retained and are not proposed to be removed as part of this application, so the mature trees and soft setting to the site from Barnby Road would remain. No designated heritage assets are located near to the site that would be affected by the proposals.

In relation to ecology, given that the southern portion of the site is an open grassed field/paddock it is unlikely to support any significant levels of biodiversity, however any removal of hedgerow or trees from the site may have offered potential opportunities for foraging bats and nesting and foraging birds. Should planning permission be granted, therefore, it is considered reasonable to impose a condition to require some biodiversity enhancements to provide two bat and two bird boxes on the site. Following clarification and amendments to the plans, the applicant wishes to retain the existing building in the rear portion of the site (adjacent to the eastern boundary), as such no ecological investigation on this building has been requested. Details of external lighting which could also have the potential to disturb the natural environment if left unconstrained is a matter that can also be dealt with by condition through a requirement for a lighting scheme to be submitted prior to installation. Therefore, subject to a condition to secure biodiversity enhancements and require the submission of details of any external lighting, the scheme is considered to be acceptable in this regard would comply with the requirements of CP5, CP12 and DM7 which seek to protect ecology and the natural environment.

#### *Pitches and Amenity Block*

Section 11 of the NPPF relates to making effective use of land and paragraph 117 states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding the environment. Paragraph 122 states that planning decisions should support development that makes efficient use of land, taking into account: a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it and [...] the desirability of maintaining an area's prevailing character and setting (d). Core Policy 5 advises on general guidelines for pitch sizes. A pitch that is a permanent site where there are shared facilities within the overall site (e.g. the storage of waste and sewerage disposal), should be approx. 350m<sup>2</sup>. The size of the pitches presented range between 160m<sup>2</sup>-216m<sup>2</sup>, which would fall significantly below the pitch size guidance. However, Officers note that the proposed amenity block would offer a large space for shared facilities which would meet the needs of future occupiers. Furthermore, grassed space is proposed within the side site which would provide communal external amenity space. Future occupiers would also be aware of the size constraints of the pitches prior to choosing to locate on this site. Given the site would contribute significantly towards the unmet need of gypsy and traveller pitches, it is considered that it would be difficult to sustain a reason for refusal on the basis that the pitches are substandard in size, and it is

noted that the layout of the site has been designed to avoid development over the pipeline easements to the north and east of the proposed pitch areas. In addition, the pitch sizes and their locations have not been changed from when the previous application was considered, and no concern (reason for refusal) was raised in this regard.

Turning now to the characteristics of the proposed pitches, it is noted that the majority of these would be located in the southern portion of the site, in two rows either side of the access road. These pitches, and those proposed to the front of Chestnut Lodge, are proposed to be made up of hardstanding and grass with an amenity block to the east with an area of proposed intervening planting. Access to serve the main area proposed for pitches is proposed to be taken off Barnby Road to the north, past the proposed manager's dwelling and access for the pitches adjacent to Chestnut Lodge would be taken via the existing (authorised) access to the east. Fully occupied, the scheme would represent single storey development of up to 19 additional caravans (21 in total given two authorised pitches exist on the site). The amenity block, broadly positioned in the location of an existing caravan on site, would be constructed from vernacular materials, single storey and set against a backdrop of the Gas Valve Compound when viewed from the countryside to the south (and partially screened by it and surrounding vegetation when viewed from the highway) such that it would not become highly prominent or visible in the street scene – whilst there would inevitably be some adverse impact as a result of additional permanent development in the open countryside, the level of impact on the landscape character is not considered to be '*significantly adverse*'. The previous application raised no concerns (reason for refusal) with the character impacts in terms of the amenity block and pitches.

#### *Managers Dwelling*

Turning now to the proposed manager's dwelling, this is proposed to be located broadly centrally within the site to increase passive surveillance opportunities around the site. The positioning of the dwelling, set well into the site, would reduce its visual prominence in the street scene when travelling along Barnby Road and its offset from the rear boundary, and positioning clustered with existing built development on the wider site, would assist in mitigating the visual impact of the development in the open countryside. Nevertheless, it is undisputable that the introduction of a large, detached dwelling on the site, which is within the open countryside, would have an impact on the open character of the site both visually and spatially.

As set out in the background section of this report, the scale, size, design and need for a dwelling of such a large scale formed the crux of the Planning Committee's reason for refusal of the previous application. Below is a comparison of the previously refused plans (left) with those submitted as part of this application (right) in addition to a comparison table which provides a breakdown of the key differences between both plans.



*Plans Refused under 23/00058/FULM (L) compared to the Current Re-submission Plans (R)*

The scheme now proposes a detached 3-bed dormer bungalow rather than a 5-bed detached three-storey dwelling in order to address Members' previous concerns. The table below shows that the amended dwelling would have 46% less gross internal floor area than the recently refused scheme as a result of the omission of the second floor and a reduction in overall scale. The ridge and eaves height of the dwelling would be 3.4m and 2.3m lower respectively and the overall footprint of the dwelling has also been reduced.

	Recently Refused Dwelling Presented to Committee	New Amended Plans	Difference
<b>Design</b>	3-Storey Rectangular Dwelling	L-Shaped Dormer Bungalow	
<b>No. of Beds</b>	5	3	- 2 beds
<b>Footprint (m<sup>2</sup>)</b>	186 m <sup>2</sup>	179 m <sup>2</sup>	- 7 m <sup>2</sup>
<b>Internal Floor Area (m<sup>2</sup>)</b>	446 m <sup>2</sup>	305m <sup>2</sup>	- 141 m <sup>2</sup>
<b>Ridge Height</b>	10.7 m	7.3 m	- 3.4 m
<b>Eaves Height</b>	5.3 m	3 m	- 2.3 m
<b>Width</b>	16 m	15 m	- 1 m
<b>Depth</b>	12 m	13 m	+1 m

From a straight comparison of figures the Applicant has proposed a reasonable reduction in the size of the proposed dwelling (significant in terms of floor area) and a significant reduction in scale by virtue of the reduced heights and amendment of the design to a dormer bungalow. The dormer bungalow design has also reduced the overall massing as the first floor is within the roofscape and utilises well-proportioned dormer windows. Therefore, whilst the difference in the width and depth

of the dwelling does not appear to be different in numerical terms, the alteration to an L-plan shape has reduced the overall footprint and the design has significantly reduced the overall scale.

In terms of whether a dwelling of this scale is uncharacteristic, Officers note that the footprint would be no greater than the footprint of Chestnut Lodge to the east which is a 4-bed detached two-storey dwelling. Chestnut House to the NW also has a footprint of 115m<sup>2</sup> and the dwelling across the highway (Moorhouse, a 6-bed two-storey detached dwelling) has a footprint of approx. 140m<sup>2</sup>. As such, given the amendments proposed in this re-submission, Officers do not consider the scale and size of the proposed dwelling to be out of character with the prevailing local vernacular and do not consider the dwelling would be an overly dominating form of development when compared with surrounding properties – particularly given the amendment of the design to a dormer bungalow which would result in less overall bulk when compared with the two directly adjacent properties. Officers also consider the use of red brick and slate tiles would not be uncharacteristic of the local vernacular.

Members also considered the need for a dwelling of this size had not been demonstrated (given the Applicant currently resides in one of the pitches on site and at the time was proposing a large 5-bed dwelling). To this the Applicant has advised that they currently reside in the biggest static caravan that can be bought, which has two bedrooms. The Applicant currently has three children, two of which share a bedroom and a baby who currently shares with the Applicant and his wife but will require their own bedroom in the future. The Applicant has understandably advised that it is unsafe to have young children sleeping in a separate caravan on their own overnight and therefore as part of their investment into the site and provision of a significant number of pitches to contribute towards the District's overall G&T need, they require a manager's dwelling to house their growing family. The Applicant has also amended the scale of the dwelling, reducing it internally to a 3-bed property which they consider to be the very minimum they require for their family needs. Overall, whilst this dwelling would be of a reasonable size, it would not be dissimilar in size and scale to other dwellings in the immediate vicinity and it would be set well into the site which would reduce its prominence in the street scene.

Officers note that comments from 3<sup>rd</sup> parties question why Chestnut Lodge could not be used as the manager's dwelling for the site, however this property is already occupied by members of the Applicant's family (who do not want to manage the site and/or move out of their family home) who would be displaced if this was the case. Furthermore, having the manager's dwelling centrally within the site, overseeing the main access and the majority of the pitches to the south would assist in the surveillance and running of the site. It is noted that planting is also proposed to the front of the site which would provide some additional visual relief, although would unlikely screen the property in full from the surrounding countryside. Whilst the dwelling would undeniably have an impact on the character of the open countryside in simple spatial terms, given the substantial amendments made and when compared to surrounding development, it is not considered that this element of the proposal would have a '*significantly adverse impact*' on the landscape character given similarly scaled residential development exists to the north and east. Nevertheless, the degree of visual harm that would arise from introducing a permanent 1.5 storey dwelling into this site would be a negative impact of the proposal that would still weigh against the scheme. However, the benefits of having a manager's dwelling on site to support its operation and reduce perceived potential crime and anti-social behaviour weighs in favour of the proposal. Furthermore, the wider benefits of the proposal, which would contribute significantly towards the unmet need of gypsy and travellers within the District carries significant positive weight and would outweigh this level of identified harm.

## *Summary*

Overall, the general impact on the visual amenities of the area and roadside is found on balance to be acceptable with new hedgerow planting along the new fencing to soften its appearance. To conclude, whilst some harm has been identified to visual amenity from the proposed manager's dwelling and to biodiversity from the removal of vegetation to facilitate the installation of fencing around the site, it is considered that mitigation could be provided, and for the reasons outlined it would be difficult to sustain a reason for refusal on the basis that the proposal would result in an unacceptable impact on the landscape character and appearance of the area. In any event, it is also considered that the limited harm identified would be demonstrably outweighed by the wider benefits of the proposal. Therefore, whilst comments received from local residents have been duly taken on board, it is not considered that the proposal would lead to an unacceptable loss, or significantly adverse impact on landscape character and value, important heritage assets and their setting or ecology, in accordance with the requirements of policies CP5, CP9, CP12, DM5 and DM7.

## Sustainability

The second criteria of CP5 requires consideration of reasonable access to essential services (mains water, electricity, drainage and sanitation) and basic everyday community services and facilities – including education, health, shopping and transport.

Whilst it is acknowledged that the site is not located within the Newark Urban Area, it is only a relatively short distance away from the boundary (700m) and also has the ability to enjoy the full range of basic everyday services and facilities offered within Balderton. The site is adequately served in terms of electricity and water supplies. The applicant has also confirmed that the site will be served by septic tanks and as such, an informative can be added to any decision notice to advise what is required in this regard outside the planning process. In relation to drainage, it is noted that the site is proposed to be drained with soakaways, the precise details of the drainage strategy can also be controlled by condition. Overall, the site is considered to be suitably situated with access to essential services and a range of basic and everyday community services and facilities in accordance with the requirements of CP5.

## Highways Impacts

Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision echoed by SP7 (Sustainable Transport). The third criteria of Core Policy 5 also states that sites should have safe and convenient access to the highway network. The emerging site allocation (NUA/GRT/12) also requires the provision of the new vehicular access to be appropriate in highways terms, providing for a safe standard of access and having regard to the location and operation of other existing points of vehicular access in the immediate area.

It is noted that during the previous application for two pitches at this site the County Council, as highway authority, objected to the proposal on the basis that the site was not considered to offer reasonable and practical way of accessing the site other than by private car/van. In the assessment of this application the Officer noted that the nearest pavement to which the site could be connected is either approx. 2.1km to the west along Barnby Road towards Newark, 1.5km to the south-west along Balderton Lane towards Balderton or 1.9km to the north-west along Balderton Road towards Coddington. It was not therefore considered to be reasonable to insist that the applicant be required to provide any of these lengths of footway.

Paragraph 108 of the NPPF states that in assessing applications for development, it should be ensured that:- “a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.” Part c) of this paragraph refers to ensuring that any significant impacts from the development on highway safety can be “cost effectively mitigated to an acceptable degree.” This appears to acknowledge that there could be cases where mitigation is considered to go beyond being “cost effective” and may therefore not be appropriate to pursue.

Officers note that the Highway Authority have not raised concerns in the assessment of this current application (or the most recently refused application on this site) in relation to accessibility/sustainable transport, neither have they raised any concerns in relation to potential highway conflict with pedestrians, cyclists, horse riders etc. Following receipt of highways tracking and visibility plans for the new central access point the Highway Authority have also raised no objection in relation to the suitability and safety of the new access, subject to conditions relating to its surfacing, setting the access gates back from the carriage way (to allow vehicles to pull off the highway when entering the site) and provision of drainage infrastructure to prevent the discharge of surface water on to the highway.

Whilst local comments have raised concerns regarding the suitability of the site in highways safety terms, on the basis of the comments received from the Highway Authority, it is considered that the proposal would not result in any highway safety concerns and therefore accords with Spatial Policy 7 of the Core Strategy and Policy DM5 of the A&DM DPD in this regard. Furthermore, it is also considered that whilst the proposed site is not currently able to be accessed safely by any other form of transport other than by private vehicles use, it would not be reasonable on the basis of cost, to require the applicant to provide a footway link between the site and the nearest existing footway, which is approx. 1.5km away from the site. Nevertheless, this lack of a safe and more sustainable option for accessing the site therefore weighs against the proposal in the overall planning balance. It is of note the same considerations applied with the previous application and this was not identified as a reason for refusal.

#### Impact upon Amenity

Core Policy 9 (Sustainable Development) of the Core Strategy and Policy DM5 of the DPD state that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The fourth criteria of Core Policy 5 also states that sites should offer a suitable level of residential amenity to any proposed occupiers and not have an unacceptable adverse impact on the amenity of nearby residents particularly in rural and semi-rural settings where development is restricted overall. Paragraph 127(f) of the NPPF also states that planning decisions should create places that promote health and well-being with a high standard of amenity for existing and future users.

In the assessment of a recent application on this site, the Council’s Environmental Health Officer (EHO) assessed the potential impact of noise from existing uses adjacent to the site – namely the gas valve compound and the potential of noise from the adjacent transportation company and was satisfied that occupiers of the site would be adequately protected from these noise sources by the close boarded timber fencing erected around the boundaries. Officers note that the EHO has also reviewed this application and has raised no objection in this respect.

In terms of the proposed occupiers of the site, as explored in a previous section, some of the sizes of the pitches presented fall below the recommended standard of 350m<sup>2</sup> as set out in Core Policy 5. Whilst this shortfall is acknowledged, it is not considered that this needs to be fatal to the scheme. However, acknowledging the size of the proposed pitches and to promote reasonable living conditions, Officers consider the number of caravans allowed to be stationed on the land should be limited by condition to two per pitch, of which no more than one should be a static caravan.

Turning now to existing residents who would live close to the site, Moorhouse, a two-storey dwelling on the opposite side of Barnby Road is positioned approx. 51 m from the northern boundary of the application site. Chestnut Lodge (in the same ownership as the site) is also in excess of 80m to the east of the proposed managers dwelling and Chestnut House is approx. 80m to the west. Given the separation distance proposed (from both the manager's dwelling, amenity block and proposed pitches), it is not considered that any adverse amenity impact would arise to existing occupiers through overlooking, overbearing or overshadowing. Whilst the relationship of the four pitches to the north of Chestnut Lodge would be closer than the 17 pitches to the SW, the separation distance would be in excess of 25m and given the dwelling is in the same family ownership as the remainder of the site it is not considered that any adverse amenity impact would arise.

Any new development on this site has the potential to have some impact on the existing property to the west given the proposal would result in increased vehicular movements causing additional noise and disturbance from associated comings and goings, however, given the separation distance from the proposed access and location of the pitches this is unlikely to be of such a level that would result in an adverse impact on their amenity.

There are five external lighting columns (that have the appearance of streetlights), approx. 3m high; two are situated adjacent to the boundary with Barnby Road and three more within the site. Concerns regarding the current levels of illumination coming from the site has been raised by local residents. However, Officers note that the recent application on this site included a planning condition requiring the installation of a back plate to be fitted to each of the columns adjacent to the road to mitigate any potential light spill. However, it is acknowledged that some level of new external lighting would likely be required which also has the potential for some negative impact, although existing boundary treatment and intervening buildings would provide some mitigation in this respect and the precise details of the lighting (to reduce light spill etc.) can be (and is typically) controlled by condition. The inclusion of a defined communal bin area within the layout of the site also indicates consideration to matters of refuse disposal.

Overall, given the site context and degree of separation from existing properties, together with general single storey nature of the development, boundary treatments and the separation distance between the site and existing neighbours, it is not considered that the relationships would result in any unacceptable degree of harm on the amenities of existing occupiers close to the site which accords with the requirements of CP5, CP9 and DM5.

#### Impact of Flood Risk

Criteria 6 of Core Policy 5 states that in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within the Government's PPTS and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site-specific Flood Risk Assessment,



applying both the Sequential and Exceptions Tests, as appropriate, to achieve safety for eventual occupiers.

The 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. Core Policy 10 (Climate Change) and Policy DM5 also reflect 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.

Notwithstanding comments that have been received from third parties in relation to flooding concerns, it is noted that the site is within Flood Zone 1 on the Environment Agency flood maps, which means it is at low risk of fluvial flooding. In terms of surface water drainage, all pitches would be served predominantly by areas of permeable ground surfaces and, as such, are unlikely to result in any unacceptable impact on the site or neighbouring sites in the regard. The proposal also includes soakaways for the dwelling, amenity building and pitches which would manage any increase in surface water runoff from the site in addition to the permeable hard surfacing proposed to the pitches – precise details of which can be controlled by condition.

In relation to proposed foul drainage, paragraph 020 of the Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications) states that when considering wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer. Where this is not feasible (in terms of cost and/or practicality) a package sewage treatment plant can be considered, which may be adopted in due course by the sewerage company. Septic tanks should only be considered if it can be demonstrated that discharging into a public sewer to be treated at a public sewage treatment works or a package sewage treatment plant is not feasible. The applicant has explained that providing a connection to the public sewer from the site would be cost prohibitive and that the best option in terms of feasibility and practicality is to use a septic tank. Following comments from the Environment Agency additional clarification has been provided from the Applicant that all of the pitches would discharge foul waste to septic tanks within the application site and the amenity block would also discharge to septic tank and would have soakaways. Whilst a detailed drainage plan has not been provided with this application, the proposed site plan has been annotated with the proposed septic tank locations. The Environment Agency have been consulted on this amended plan and advised that the proposed drainage details are acceptable, and that if the proposal does not meet with General Binding Rules, then a permit would be required for the soak away system. It is not uncommon for a detailed drainage strategy to be a requirement of a planning condition and Officers note that the EA have not raised any concerns in relation to the indicative drainage proposed for the site. The proposed drainage approach is therefore considered to be acceptable subject to a condition requiring the precise surface water and foul drainage strategy to be provided, would not result in an increase in flood risk to site users or third parties in accordance with CP5, CP10 and DM5.

Comments received have also referenced the infilling of a drainage ditch adjacent to the site, however it is noted that this ditch lies outside of the red line of the application site. In any event, TVIDB have been consulted on the application and have not made any comments. Upon visiting the site, Officers also did not observe any works to facilitate the creation of an access at the proposed access point.

Other Matters

As noted in the description of the site there are two pressurised gas pipelines within the site which have a total easement of 12m (6m either side of the gas pipeline) in which no development would be permitted by Cadent. The emerging site allocation (NUA/GRT/12) requires the siting of the new pitches and dwelling (and any associated amenity buildings) to be kept outside of the easements to the underground gas pipelines which pass through the site – this has been adhered to with the submitted plans. The plans show that the access road to the field to the south would cross over the pipeline easement and space for parking would be provided to the west, also over the easement. The remainder of the easement would be kept free from obstruction/physical development. It is noted that in the assessment of the recently refused application CADENT initially issued a holding objection pending a site visit due to concerns about the clearance of the easement and the potential for additional loading over the pipeline, however following a site visit on 06.04.2023 their revised comments withdrew their objection and confirmed that they are satisfied that the integrity of the gas assets would be adequately protected. There has been no change in this respect in the application at hand. As such there are no concerns in relation to the safety and integrity of the gas assets.

As can be noted from the Consultation of this report, the proposal has received strong local opposition. Matters relating to character, highways safety, ecology, food risk and amenity have been duly taken on board throughout this assessment. Reference has been made from third parties to the potential risk of increased crime and anti-social behaviour. However, there is no evidential basis of any potential criminal or anti-social activity. Similarly, no detailed evidence has been provided to indicate how the living conditions or safety of local residents would be impacted by future occupiers of the application site. Comments received have also referenced previous incidents at the site where waste was burnt, however the Council does not hold any Environmental Health records of complaints of such activities taking place. Matters relating to building regulations/fire regulations in respect of windows proposed in the amenity building are also not material planning considerations, but in any event the arrangement proposed is not considered to be unusual.

Concerns have also been raised in relation to the number and dominance of caravan development in the Newark area and particularly surrounding Barnby in the Willows village. Cumulative harm of developments on a local area is a material consideration, however, Officers do not consider there to be any cumulative impacts identified with this site that would lead to unacceptable harm either in visual or landscape character grounds or amenity impact that would warrant refusal of this application. Neither were such matters raised as a concern previously. It is noted that Newark as a town has a high population of G&Ts which are predominately focussed at Tolney Lane, however this comes with its own set of challenges and constraints, particularly in relation to Flood Risk. Furthermore, whilst there are other examples of G&T sites locally (but notably outside of the District), Officers do not consider there to be a proliferation of such sites within the vicinity or that the addition of this site as proposed would unduly impact Barnby in the Willows village.

Comments have been received in relation to planning obligations and contributions towards matters such as local infrastructure including education and healthcare. However, neither the Council's adopted planning policy nor the Developer Contributions and Planning Obligations SPD require such contributions to be provided. It is also not a matter that the Planning Committee previously considered was an issue and thus did not include as part of the reason for refusal. As such, no obligations are requested.

Officers note that comments also reference the need for an Environmental Impact Assessment (EIA) for this application. The aim of an EIA is to protect the environment by ensuring that a local

planning authority when deciding whether to grant planning permission for a project, which is likely to have *significant effects* on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision-making process. The regulations set out a procedure for identifying those projects which should be subject to an EIA, and for assessing, consulting, and coming to a decision on those projects which are likely to have *significant environmental effects*. Importantly, the regulations only apply to certain types of development, and these are set out clearly in the regulations. Officers have considered whether the development constitutes EIA development requiring submission of an Environmental Statement, however Officers do not consider this to be the case having considered the relevant regulations, particularly given any impacts of this development would be at the local level and *not significant* in EIA terms.

Members will note the inclusion of Cllr Lee's reasons for requesting that this application be referred to the Planning Committee for decision. Many of the issues raised such as the perceived impact on the open countryside, the inclusion of a manager's dwelling, highways safety concerns, impact on local services (and a lack of sufficient services); and impact on Barnby in the Willows village have been considered throughout this appraisal. Cllr Lee refers to the requirement for the Committee to consider the importance of preserving green open spaces - for the avoidance of doubt, this privately owned paddock is not an area of publicly accessible open space, nor is it an identified Main Open Area within the Development Plan policies map. Cllr Lee's comments also refer to the application site being run as a business, however no such use is proposed within this application.

CIL - The site is located within the Medium Zone of the CIL charging schedule where the CIL rate is £45. The proposal would result in 305m<sup>2</sup> of residential GIA (in the manager's dwelling) plus 122.3m<sup>2</sup> of GIA in the proposed amenity block. Considering the applicable permission year and charge year indices, the CIL charge on this application is therefore £20,874.98.

## **8.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **9.0 Planning Balance and Conclusion**

Overall, the recent GTAA has identified a significant unmet need for gypsy and traveller pitches. The net addition of 20 pitches proposed would contribute directly and indirectly (in that the proposal could help meet identified needs at sites on Tolney Lane should existing occupiers of these sites relocate to the application site) to the significant unmet need of the Council's five-year land supply and identified G&T need over the plan period. This pitch contribution carries significant positive weight in favour of the proposal.

The site is in a relatively highly sustainable location, as although located in the open countryside, the site is in close proximity to all the facilities required for day to day living and the requirements of growing families in Balderton and Newark (although only accessible by private vehicles). No harm has been identified in relation to heritage assets, residential amenity and flood risk which are therefore neutral in the overall planning balance.

Additional planting, controlled by condition, could provide some ecological enhancements which

would represent a minor benefit.

Notwithstanding the substantial amendments made by the Applicant in this re-submission, harm has been identified on the character and appearance of the open countryside as a result of the manager's dwelling proposed on the site. In highway safety terms, harm has been identified with regard to the lack of facilities to access the site other than by private vehicle, without the provision of a significant length of new footway, which is considered to be an unreasonable cost in this case. These factors weigh against the proposal in the planning balance.

However, an approval would provide a settled base that would facilitate access to education and enable families of future occupiers to continue their gypsy/traveller way of life. The human rights of these families mean due regard must also be afforded to the protected characteristics of Gypsies and Travellers in relation to the Public Sector Equality Duty (PSED) when applying the duties of section 149 of the Equality Act 2010. These factors also attract significant positive weight in favour of the development.

Therefore, weighing all of the above competing factors in the overall planning balance and considering a limited number of adverse impacts have been identified, Officers consider the benefits of the scheme would outweigh the identified harm. It is therefore recommended that planning permission is granted, subject to conditions.

## **10.0 Conditions**

### **01**

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

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

### **02**

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

- Proposed Site Plan – Ref. 2208-10 Rev. A
- Proposed Floor Plans – Ref. 2208-11 Rev. A
- Proposed North Elevation – Ref. 2208-12 Rev. A
- Proposed Elevations and 3D Views – Ref. 2208-13 Rev. A
- Proposed Amenities Block – Ref. 2208-05
- Proposed Access and Visibility Splays – Ref. JG01
- Swept Path Analysis Plan – Ref. JG02

Reason: So as to define this permission.

### ***Pre-Commencement Conditions***

### **03**

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

### **Part A: Site Characterisation**

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

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

This must be conducted in accordance with DEFRA and the Environment Agency's ['Land contamination risk management \(LCRM\)'](#)

### **Part B: Submission of Remediation Scheme**

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

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

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

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

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

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

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

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

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

#### ***Pre-Occupation Conditions***

##### **04**

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

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

##### **05**

Prior to first occupation of the development hereby approved full details of additional soft landscape works and any hard landscaping works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species, with particular emphasis along the boundaries of the site;
- means of enclosure (including access gate);
- car parking layouts and materials;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials.

Reason: In the interests of visual amenity and biodiversity.

**06**

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

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

**07**

Prior to first occupation of the dwelling hereby approved full details and the precise positioning of 2 bat boxes and 2 bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The approved boxes shall then be installed within two months of first occupation in accordance with the agreed details and retained thereafter for the lifetime of the development.

Reason: In the interests of maintain and enhancing biodiversity.

**08**

No part of the development shall be brought into use until details of the Waste & Recycling Area shown on 'Proposed Site Plan – Ref. 2208-10 Rev. A' have been submitted to and approved in writing by the Local Planning Authority. The approved Waste & Recycling area shall be installed prior to commencement of the approved use and retained thereafter for the lifetime of the development.

Reason: To ensure that appropriate provision is secured for litter disposal in the interest of amenity.

**09**

No part of the development shall be brought into use until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by The Local Planning Authority. The development shall be carried out thereafter in accordance with the approved details.

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

**10**

No part of the development hereby permitted shall be brought into use until the new access driveway is constructed with provision to prevent the discharge of surface water from the driveway to the public highway. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

## **11**

No part of the development hereby permitted shall be brought into use until the parking, turning, and servicing areas are provided in accordance with the approved drawing no. 2208-10 Rev. A, titled: Proposed Site Plan. The parking, turning, and servicing areas shall not be used for any purpose other than parking, turning, loading and unloading of vehicles.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems in the area and enable vehicles to enter and leave the site in a forward direction, all in the interests of Highway safety.

## **12**

The Manager's dwelling hereby permitted shall not be occupied until the 17 pitches approved on the southern portion of the site have been provided and made available for use for gypsies and travellers. Thereafter the occupation of the dwelling shall be limited to a person solely or mainly working or last working as the manager of the associated gypsy and traveller site or a widow or widower of such a person, and to any resident dependents.

Reason: To ensure that the benefits of the scheme (providing pitches for gypsies and travellers) are delivered to justify the requirement of the managers dwelling that would otherwise be inappropriate in this location and to ensure that the occupation of the dwelling continues to meet the needs upon which it was justified.

### ***Compliance Conditions***

## **13**

The Manager's Dwelling and Amenity Block hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application.

Reason: In the interests of visual amenity.

## **14**

The Manager's Dwelling and Pitches hereby permitted shall not be occupied by any persons other than gypsies and travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.



Reason: To ensure that the site is retained for use by gypsies and travellers only in order to contribute towards the LPAs 5-year housing supply.

## **15**

No more than 1 static caravan and 1 touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on each pitch at any one time.

Reason: In order to define the permission and protect the appearance of the wider area in accordance with the aims of Core Policy 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **16**

No commercial or industrial activities shall take place on this site, including the storage of materials associated with a business.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **17**

No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **18**

For the avoidance of doubt, the amenity block hereby permitted shall only be used ancillary to the approved caravan pitches and shall not be occupied as independent dwellinghouse(s).

Reason: To ensure the building is retained for its intended purpose.

## **19**

The new access shall be constructed and surfaced in a bound material in accordance with drawing no. JG01, titled: Proposed Access and Visibility Splays, dated: 29/03/2023 and no other part of the development shall be commenced until the access has been completed in accordance with those plans.

Reason: To allow the vehicles to enter and leave the highway in controlled manner; to protect structural integrity of the highway and allow for maintenance; in the interest of highway safety.

## 19

The gates at the new access point shall open inwards only and be set back 15 metres from the edge of carriageway.

Reason: To enable vehicles to stand clear of the highway whilst gates are opened/closed. In the interest of highway safety.

## 20

In respect of the managers dwelling, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse.

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.

Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse.

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access to a highway.

Class C: The painting of the exterior of any building.

Reason: To ensure that any proposed alterations or extensions do not adversely impact upon the openness of the countryside.

### **Informative Notes to Applicant**

#### 01

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

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

#### 02

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

### 03

#### NOTES FROM CADENT GAS:

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

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

BEFORE carrying out any work you must:

- Ensure that no works are undertaken in the vicinity of our gas pipelines and that no heavy plant, machinery or vehicles cross the route of the pipeline until detailed consultation has taken place.
- Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.
- Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>
- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

### 04

The Council must issue licenses for sites to be operated as a recognised caravan, mobile home or park home site. This is to ensure proper health, safety and welfare standards are maintained. A caravan site includes anywhere a caravan (including mobile or 'park' home) is situated and occupied for human habitation including on a permanent, touring or holiday basis. Further information is available by contacting the Environmental Health and Licensing Team at the Council on 01636 650000, or by visiting the Council's website at <https://www.newark-sherwooddc.gov.uk/caravansitelicence/>

### 05

A septic tank is not the optimum method of dealing with the disposal of foul sewerage waste. Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer

2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank Foul drainage should be connected to the main sewer.

Where this is not possible, under the Environmental Permitting Regulations 2010 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, in addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters. Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

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

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

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

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit. Further advice is available at: <https://www.gov.uk/permits-you-need-for-septic-tanks> and <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>

## 06

Note From NCC Highways: Abnormal loads -

An abnormal load is a lorry carrying an extra-long or wide load.

If you are planning to transport an abnormal load through Nottinghamshire, please email: [abnormalloads@viaem.co.uk](mailto:abnormalloads@viaem.co.uk) to let us know the intended route.

We will then:

- check the height of any bridges and other known pinch-points along the route
- advise on the best routes for the load
- recommend how to minimise delays for other vehicles.

Loads in excess of 150 tonnes can still be moved by Special Orders, made separately for each load. Agreement on the route is again required between us and the carrier.

Movements up to 300 tonnes regularly pass through the county carrying items such as transformers for power stations and large castings for industry.

Source:

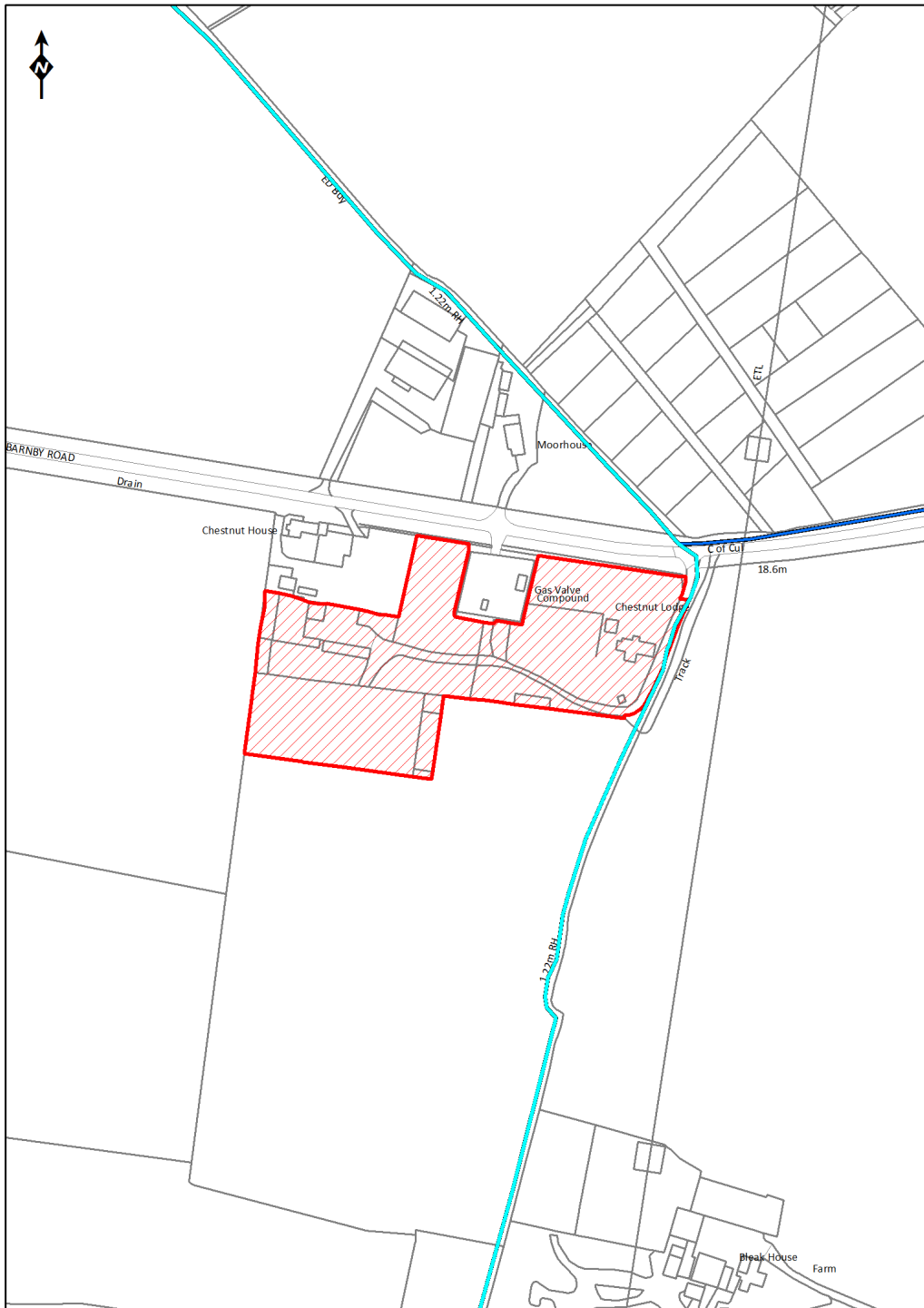
<https://www.nottinghamshire.gov.uk/transport/lorries/abnormal-loads>

#### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 23/00963/FULM



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Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Amy Davies, Planner, Ex 5851

Report Summary			
<b>Application Number</b>	22/01298/FUL		
<b>Proposal</b>	Proposed retail unit with parking and amended site entrances		
<b>Location</b>	Tesco Express, Kirklington Road, Rainworth, NG21 0AE		
<b>Applicant</b>	Mr K Nijjar	<b>Agent</b>	Alan McGowan Architects - Mr Alan McGowan
<b>Registered</b>	30 June 2022	<b>Target Date</b>	25 August 2022
		<b>Extension of Time</b>	18 August 2023
<b>Web link</b>	<a href="#">22/01298/FUL   Proposed retail unit with parking and amended site entrances   Tesco Express Kirklington Road Rainworth Nottinghamshire NG21 0AE</a>		
<b>Recommendation</b>	That planning permission is APPROVED subject to the conditions outlined at the end of this report		

This application is being referred to the Planning Committee for determination by the local ward member, Councillor Claire Penny due to the following concerns and objections:

- **Pedestrian safety within the car park and accessing the store via vehicle entrances, and to those travelling along Kirklington Road and Southwell Road East.**  
Pedestrians use this site as a cut through. An additional retail unit with more cars will create more danger for pedestrians due to the rise in cars accessing the car park from either entrance.
- **Lack of space to manoeuvre delivery vehicles**  
Delivery vehicles are currently unable to access the existing car park at certain times and end up on the road obstructing the highway. An additional retail unit will exacerbate this issue.
- **The central reservation and size of the pavements**

The central reservation is much smaller than shown on the plans. A high number of pedestrians use this reservation to cross the road at very busy traffic periods. Pavements are also very narrow in this area.

- **Safety of children on Kirklington Road**

There is a children's centre/social hub and park and play area opposite the proposed site entrance. An additional retail unit with more cars will put children at greater risk.

There are currently three supermarkets located close to the site and residents do not want another retail store.

## **1.0 The Site**

The application relates to a fenced off area to the southeast of the former Robin Hood Hotel located on the corner of Kirklington Road and Southwell Road East in the settlement of Rainworth. The ground floor of the former Robin Hood Hotel building is currently in use as a Tesco Express, with its car park sited adjacent to the application site and accessed off Southwell Road East to the west. The application site comprises an unused car park and includes several trees and groups of trees. There is an existing, currently unused, vehicular access off Kirklington Road.

St Simon and St Jude's Church is located to the south of the site and has been identified as Non-Designated Heritage Asset. The site is in Flood Zone 1 where there is a low probability of flooding.

The site has the following constraints:

- Trees;
- Drainage – ground not suitable for infiltration; and
- Adjacent Non-Designated Heritage Asset.

## **2.0 Relevant Planning History**

### ***Application Site and Former Robin Hood Hotel building (upper floor)***

20/02209/FULM - Conversion of the first floor of the existing building into 4 apartments, comprising 1x3 bed unit, 2x2 bed units and 1x studio, plus the erection of a two storey apartment building to the east side of the existing building to provide a further 8 x 1 bed apartments. The proposed new building would include a hip roof with slightly elevated eaves and would be linked to the existing building by a double height glazed entrance. Application Withdrawn.

### ***Part of Application Site and Former Robin Hood Hotel building (upper floor)***

19/02237/FUL - Conversion of first floor space into 6 apartment units, 5 x one Beds and 1 x Studio, external entrance and fire exit staircase introduced on the facade facing the existing car park. Refused 30.04.2020.

### ***Former Robin Hood Hotel building (ground floor)***

11/01795/FUL – External alterations to facilitate permitted change of use (A4 to A1). Approved 16.02.2012.

## **3.0 The Proposal**

The application proposes the erection of a 269m<sup>2</sup> retail unit with associated staff office/store for Heron Foods. The unit would be L-shaped and constructed of bricks, with aluminium glazed windows



and a 30-degree pitch profiled zinc/aluminium roof. It would be served by a 12-space car park with additional parking provision for disabled vehicles adjacent to the store (14-spaces in total). Separate customer vehicular and pedestrian accesses would be provided off Kirklington Road, while deliveries would be directed to use the existing access off Southwell Road East, which is proposed to be widened, and the delivery bay outside the existing Tesco store.

### Revised Plans

Revised plans were received during the course of the planning application to address concerns regarding design, highway safety, parking and impacts on trees. For the avoidance of doubt, the assessment outlined below is based on the following plans and supporting information:

- 0003B Location and Block Plans *received 11 May 2023*
- Swept Path Proposed Plans REV A 1-100 *received 20 July 2023*
- 0013J Amended Site Plan 500 *received 20 June 2023*
- 0014L Proposed Site Plan 200 *received 26 June 2023*
- 0015J Amended Roof Plan *received 20 June 2023*
- 0016J Amended Ground Floor Plan *received 20 June 2023*
- 0017G Amended Proposed Elevations *received 17 April 2023*
- Arboricultural Impact Assessment, Method Statement and Tree Protection Plan prepared by Ramm Sanderson dated November 2022 (Ref: RSE\_6574\_R1\_V1\_ARB) *received 29 November 2022*
- RSE\_6574\_TCP V1 Tree Constraints Plan *received 29 November 2022*
- RSE\_6574\_TPP V1 Tree Protection Plan *received 29 November 2022*
- NG210AE-03-XX-DR-A 0004 Existing Plans *received 29 June 2022*
- NG210AE-03-XX-DR-A 0005 Existing Plans *received 29 June 2022*
- Design and Access Statement prepared by Alan McGowan Architects Ltd dated June 2022

#### **4.0 Departure/Public Advertisement Procedure**

Occupiers of 8 properties have been individually notified by letter of the submitted and revised schemes. Site notices have also been displayed near to the site.

Site visits undertaken 28 July 2022 and May 2023.

#### **5.0 Planning Policy Framework**

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

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

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 9 – Sustainable Design  
Core Policy 8 – Retail & Town Centres  
Core Policy 12 – Biodiversity and Green Infrastructure  
MFAP1 – Mansfield Fringe Area

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

Policy Ra/DC/1 – Rainworth District Centre Boundary  
Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM10 – Pollution and Hazardous Materials  
Policy DM11 – Retail and Town Centre Uses  
Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2021
- Planning Practice Guidance
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Nottinghamshire Highway Design Guide –  
<https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide>

### **6.0 Consultations**

*NB: Comments below are provided in summary - for comments in full please see the online planning file.*

#### **(a) Statutory Consultations**

##### **NCC Highways –**

The applicant has revised the proposal and some significant changes have been made to satisfy the highway safety concerns listed in our previous reports. These have now been either satisfactorily addressed or the information provided now allows the Highway Authority to make an informative decision and request any outstanding details to be conditioned.

On the basis of the available information, the Highway Authority is content with the proposed development. In coming to this conclusion, the Authority has considered issues of highway access, capacity and safety, parking, servicing and sustainability and we would like to withdraw our previous objection subject to the [recommended] conditions.

#### **(b) Parish Council**

**Rainworth Parish Council – Object** (same response submitted in response to the submitted and revised schemes)

Concerns regarding:

- Pedestrian safety within the car park
- Lack of space to manoeuvre delivery vehicles
- Removal of central reservation to facilitate access
- Safety of children on Kirklington Road

#### **(c) Representations**

**Environmental Health Officer – No objection**

### **Tree and Landscape Officer –**

Landscaping condition including 10 years maintenance

Tree protection condition

No objection provided the above two conditions are added

### **2no. representations have been received Objecting to the scheme, which can be summarised as follows:**

- There are too many shops available for residents already with some struggling to survive.
- The scheme raises traffic and safety concerns for public and children.

### **7.0 Comments of the Business Manager – Planning Development**

The key issues are:

1. Principle of Development
2. Impact on Character
3. Impact on Residential Amenity
4. Highway Safety and Parking
5. Trees and Ecology

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

#### Principle of Development

Spatial Policy 1 ‘Settlement Hierarchy’ of the Amended Core Strategy (Adopted March 2019) identifies Mansfield Fringe Area as a Service Centre and a focus for housing and employment growth in the District. Between 2013 and 2033, 30% of the overall housing growth is expected to be delivered within the Service Centres, including 10% of Service Centre growth within Rainworth (Spatial Policy 2 ‘Spatial Distribution of Growth’). This growth is expected to increase demand for services and facilities to meet the community’s day-to-day needs.

The site lies within the defined built-up area of Rainworth, a Service Centre in the District’s settlement hierarchy. Policy MFAP1 of the Amended Core Strategy DPD outlines that the provision of new housing and employment opportunities and the provision of new community infrastructure appropriate to the size of the settlement will be supported in principle. The site also lies within the District Centre Boundary, which was defined through the Allocations and Development Management DPD to promote the strength of Rainworth as a Service Centre. Both Core Policy 8 of the Amended Core Strategy DPD and Policy DM11 of the Allocations and Development Management support new and enhanced retail provision within existing centres, which promote the ‘town centre first’ approach reflecting national retail policy.

Retail impacts only need to be considered where sites are located outside of defined local centers and so a retail impact assessment is not required for this proposal in line with Policies CP8 and DM11 of the development plan.

Councillor Penny's comments regarding over provision of supermarkets in the area have been noted, however, whether the proposal would introduce a competing retail/food store is not a material planning consideration.

### Impact on Character

Core Policy 9 'Sustainable Design' of the Amended Core Strategy (Adopted March 2019) requires new development proposals to, amongst other things, "*achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments*". In accordance with Core Policy 9, all proposals for new development are assessed with reference to the design criteria outlined in Policy DM5 'Design' of the Allocation and Development Management DPD.

The site used to form part of the Robin Hood Hotel car park but has been fenced off and left undeveloped since the ground floor of the building changed to a Tesco Express over ten years ago. Sections of the fence are now missing, and the former car park has been left unkempt. The site also attracts littering and, overall, has a negative impact on the visual amenity of the area.

The design of the proposed retail unit has been negotiated and amended during the application process to ensure it complements the site in terms of its position, form, and scale and would include materials and architectural features to complement adjacent buildings including the Former Robin Hood Hotel and St Simon and St Jude's Church. The amended proposed Site Plan also incorporates a dedicated pedestrian access, leading from Kirklington Road to the store entrance, and tree planting to compensate for tree loss and provide appropriate landscaping. Notwithstanding the submitted details, it is considered appropriate, should permission be granted, to impose conditions requiring details of materials and architectural features to be submitted to and agreed in writing by the Local Planning Authority prior to being used in the development to ensure the building takes the form and quality envisaged. Subject to such conditions, the proposed development would be successfully assimilated with the site and surrounding area, and sensitively redevelop a vacant and prominent site with the village.

Overall, the proposed development would accord with the relevant provisions of Core Policy 9 and Policy DM5 of the DPD and be acceptable in this regard.

### Impact on Residential Amenity

Policy DM5 of the Allocations & Development Management DPD requires development proposals to have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.

There are no residential properties adjoining the application site. The proposed opening hours of the retail unit are noted as 8am to 8pm Monday to Saturday and 8am to 4pm on Sunday/Bank Holiday, which fall comfortably within the existing opening hours of the adjacent Tesco Express store, which is open from 6am to 11pm, 7 days a week. The Council's Environmental Health Officer has raised no objections to the proposal.

Rainworth Parish Council's concerns regarding the safety of young children have been noted and the scheme amended to secure safe access and egress and pedestrian priority. Further details are outlined in the 'Highway Safety and Parking' section below.

## Highway Safety and Parking

Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD requires development proposals to ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems. Opportunities to enhance the pedestrian environment should also be explored. Policy DM5 'Design' of the Allocations & Development Management DPD requires parking provision for vehicles and cycles to be based on the scale and specific location of the development.

Access and parking arrangements have been the subject of lengthy discussions and negotiations during the planning application process. Rainworth Parish Council's concerns regarding access and pedestrian safety have been noted and addressed through revisions to the scheme, as outlined within Nottinghamshire County Council Highway Authority's comments received on 15 May 2023. These comments are copied in *italics* under relevant sub-headings below followed by a summary of amendments and details provided and/or required where relevant.

### **Amended red line boundary and layout**

*Highways - Proposed layout confusion has been clarified and only one layout has now been submitted.*

The red line boundary has been amended to include the existing Tesco Express car park and entrance, to enable the existing and proposed units to share the Southwell Road East access and Tesco delivery bay for deliveries. This is possible as the site is in single ownership with the units leased to operators on a medium to long term basis.

The decision to utilise the existing Southwell Road East access for deliveries has enabled the proposed Kirklington Road site entrance to become a dedicated customer entrance, with a separate pedestrian access leading up to the store front. Nottinghamshire County Council has raised no objections to this revised layout (see **Delivery vehicle swept path analysis etc.** commentary below for further comments regarding delivery arrangements).

### **Kirklington Road access**

*Highways - The proposed access, however, is still presented in such way that it could be read as both a dropped kerb access and a radii access to the site. A dropped kerb access would be preferred in this location as it would prioritise pedestrian movements on the footway in accordance with NPPF and would be more suitable for the size of the proposed unit, especially as delivery vehicles will not be permitted to use this access. If a radii kerb access is to be installed, this would result in changes to the existing TRO on Kirklington Road outside the access and any additional cost of changing the existing TRO will have to be covered by the applicant.*

This comment concerns the specific design of the proposed vehicular access off Kirklington Road and potential changes to the 'Traffic Regulation Order' on Kirklington Road i.e., the existing double yellow lines along this section of the highway. This is somewhat out of the applicant's control and would be the subject of a Section 278 Agreement with the Highway Authority<sup>1</sup>. The Highway Authority has therefore recommended a condition to secure further details before the development

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<sup>1</sup> A section 278 agreement is a section of the Highways Act 1990 that allows developers to enter into a legal agreement with Nottinghamshire County Council, in their capacity as Highway Authority, to make permanent alterations or improvements to a public highway, as part of a planning approval.

can begin but has, in principle, accepted a vehicular access can be provided in this location to serve the proposed development.

**Kirklington Road pedestrian central refuge**

*Highways - Pedestrian central refuge on Kirklington Road near the access is now shown on all the newly submitted plans. This refuge is to remain as existing and, for clarification, it is not proposed to be removed.*

Despite being consulted on revisions, Rainworth Parish Council still believe the pedestrian central refuge will be removed to facilitate access, however, this is not the case, and the scheme has been amended accordingly to clarify. Before the scheme was amended to enable the existing and proposed retail units to share the Southwell Road East access for deliveries, the Highway Authority was concerned that delivery lorries would cut across part of the pedestrian central refuge when turning right out of the Kirklington Road access (see comments regarding swept path analysis below). To confirm, it was never proposed to remove this element of the highway, which is out of the applicant's control.

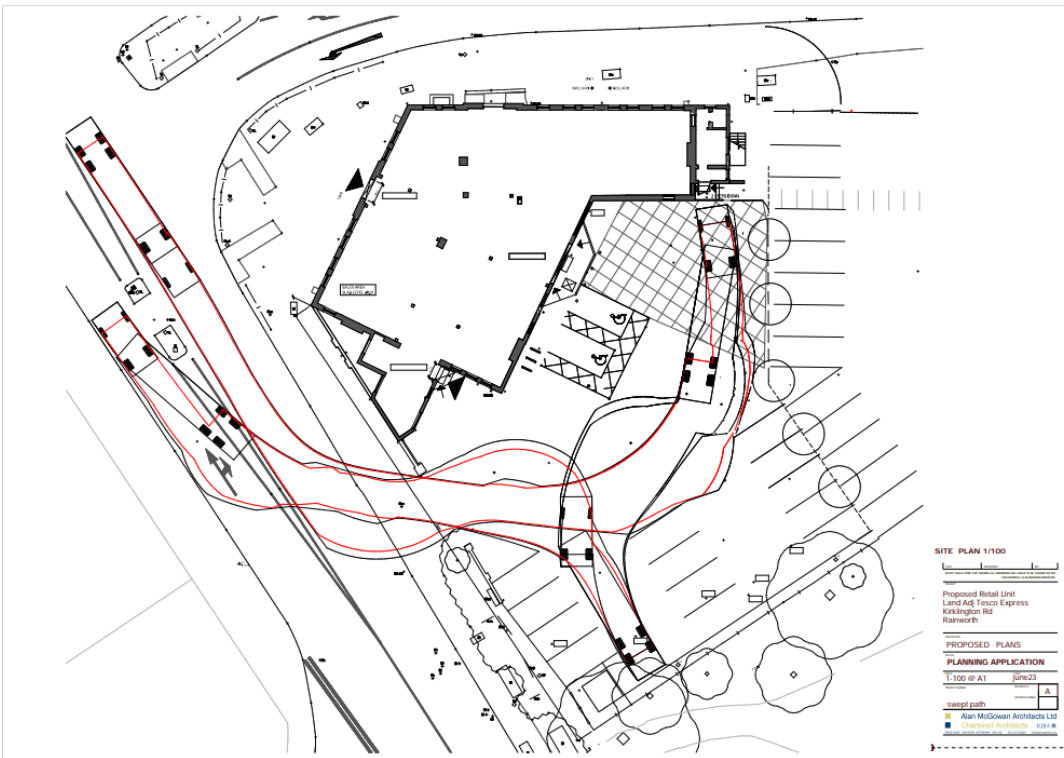
**Delivery vehicle swept path analysis etc.**

*Highways - As the previously submitted swept path analysis revealed the lack of space for a delivery vehicle to manoeuvre within the site to enter and exit the highway in forward gear, the applicant has put forward a proposal to use an existing access and delivery bay for current Tesco Extra store on the adjacent site. The red-line location plan was amended in order to accommodate this proposal, and this seems a reasonable solution for the size of the proposed unit. Please note that signs should be erected at the access to the new store prohibiting HGVs to enter the site via the access off Kirklington Road once the store becomes operational. All deliveries must be carried out from the delivery bay adjacent to current Tesco Extra. A delivery method statement should be provided by the applicant, which should secure this arrangement. This can be conditioned.*

Concerns regarding lack of space to manoeuvre delivery vehicles in front of the current Tesco Express have been noted, however, the Highway Authority considers the revised layout reasonable for the size of the existing and proposed units and has highlighted no concerns regarding delivery vehicle manoeuvrability.

The 002 Swept Path Analysis *received 17 April 2023* illustrated there was sufficient space for delivery vehicles to enter and leave the site via the widened Southwell Road East access but did not illustrate how delivery vehicles would manoeuvre within the site. Ahead of June Planning Committee the applicant, via their agent, confirmed that tracking would mirror that which enabled the Tesco store to be approved and provided an updated swept path drawing to reflect this. However, this drawing illustrated potential conflicts between the lorry turning area and proposed tree planting. The scheme was therefore withdrawn from the June Planning Committee Agenda to allow the applicant time to address this conflict.

Revised Swept Path Analysis *received 20 July 2023* illustrates there is sufficient space for delivery vehicles to enter and leave the site via the widened Southwell Road East access in a forward gear without interfering with proposed tree planting (see image below).



### Swept Path Analysis for Delivery Vehicles

Highways has confirmed this is acceptable. The Council's Tree Officer has also confirmed this is acceptable, subject to a condition to secure lorry proof tree guards, i.e., metal guards that rest on the ground and wrap around tree trunks to protect trees. Such guards are widely used in public areas. Condition 09 requires full details of all proposed tree planting to be submitted to and approved in writing by the LPA prior to first occupation of the retail unit including details of such tree guards.

The end user, Heron Foods, has confirmed the store would receive one delivery a week from Head Office along with about three, third party fresh deliveries, e.g., milk and bread, that would come on smaller vehicles throughout the week. Regarding the transfer of goods to the store from delivery vehicles once on site, this would be by foot with products pushed across in roll cages. The delineated roll cage route is shown on revised plans received 20 & 22 June and 20 July would result in one parking bay being unavailable at the time of delivery. In view of this, it is considered appropriate, should permission be granted, to impose a condition requiring deliveries to take place outside of opening hours of the proposed store, when the car park should theoretically be empty. It is also considered appropriate, should permission be granted, to restrict delivery times further to fall *inside* of the opening hours of the existing Tesco store (i.e., 6am to 11pm), to ensure deliveries etc. take place during existing active hours. The proposed store opening hours are 8am to 8pm Monday to Saturday and 8am to 4pm on Sundays, Public or Bank Holiday. Consequently, it is considered reasonable to restrict store deliveries and collections to between the hours of 6am- 8am and 8pm-11pm, which Heron Foods has confirmed would be workable. Any future occupier of the store, i.e., not Heron Foods, would have to adhere to the agreed restrictions or apply to change them, at which point the Local Planning Authority would consider the impacts of such proposed changes.

### **Parking provision**

*Highways - The applicant has submitted further details regarding current off-street parking use for similar sites with comparable off-street provision and requirements previously approved by neighbouring Local Planning Authorities to justify their level of proposed off-street parking for this*

*site. The information provided is helpful and clarifies the proposal. Therefore, on the basis of the submitted details, and after thorough consideration of the submitted details and the proposed site, the Highway Authority is now content with the justification of the number of the off-street parking bays for this site. The amended red line plan also allows for the current Tesco Extra car park, with access off Southwell Road East, to be used for the proposed store, which secures additional parking if required.*

The originally submitted scheme proposed 14 parking bays, which falls short of the numbers recommended in Nottinghamshire County Council's Highway Design Guide i.e., 24 off-street parking spaces for food retail or 17 spaces for non-food retail. Following confirmation of the end user, Heron Foods, Highways requested parking surveys of existing nearby Heron Foods stores to demonstrate parking provision would meet demand over the course of a typical day, however, the applicant was unable to meet this specific request. Instead, details of existing provision at nearby Heron Foods were confirmed as follows:

Newark = 13 spaces, Aspley (Nottingham) = 6 spaces, Mansfield = 11 spaces

Google Maps shows all of the above stores are similar in size to the proposed, if not slightly larger, and sited adjacent to other commercial businesses and/or local convenience stores. Consequently, the existing stores appear to share parking provision with other stores, similar to what is proposed for this site.

Following revisions, the scheme would provide 15 spaces which, when added to the existing Tesco spaces, would provide 31 spaces overall to serve the two stores (which is 17 spaces short of the recommended amount for two new food retail stores). Notwithstanding the shortfall, the Highway Authority is satisfied with the proposed parking provision and has withdrawn their previous objection. It is noted that opening hours of the stores would overlap, although the existing Tesco Express store would be open earlier and later than the proposed Heron Foods store (see 'Impact on Residential Amenity' for details of opening hours). It is also anticipated that some customers would make one visit to shop at both stores, given their proximity and open pedestrian access between the two sites. Indeed, it is not uncommon for retail stores such as this to be sited close together to enhance customer convenience. Given the proposed provision would exceed the number provided at other stores in similar locations in Nottinghamshire, and Highways no longer object to the scheme, the proposed parking provision is considered acceptable. There is no evidence to suggest that the demand for spaces at any time of day would exceed overall provision across the two sites and lead to unacceptable levels of on-street parking in the vicinity.

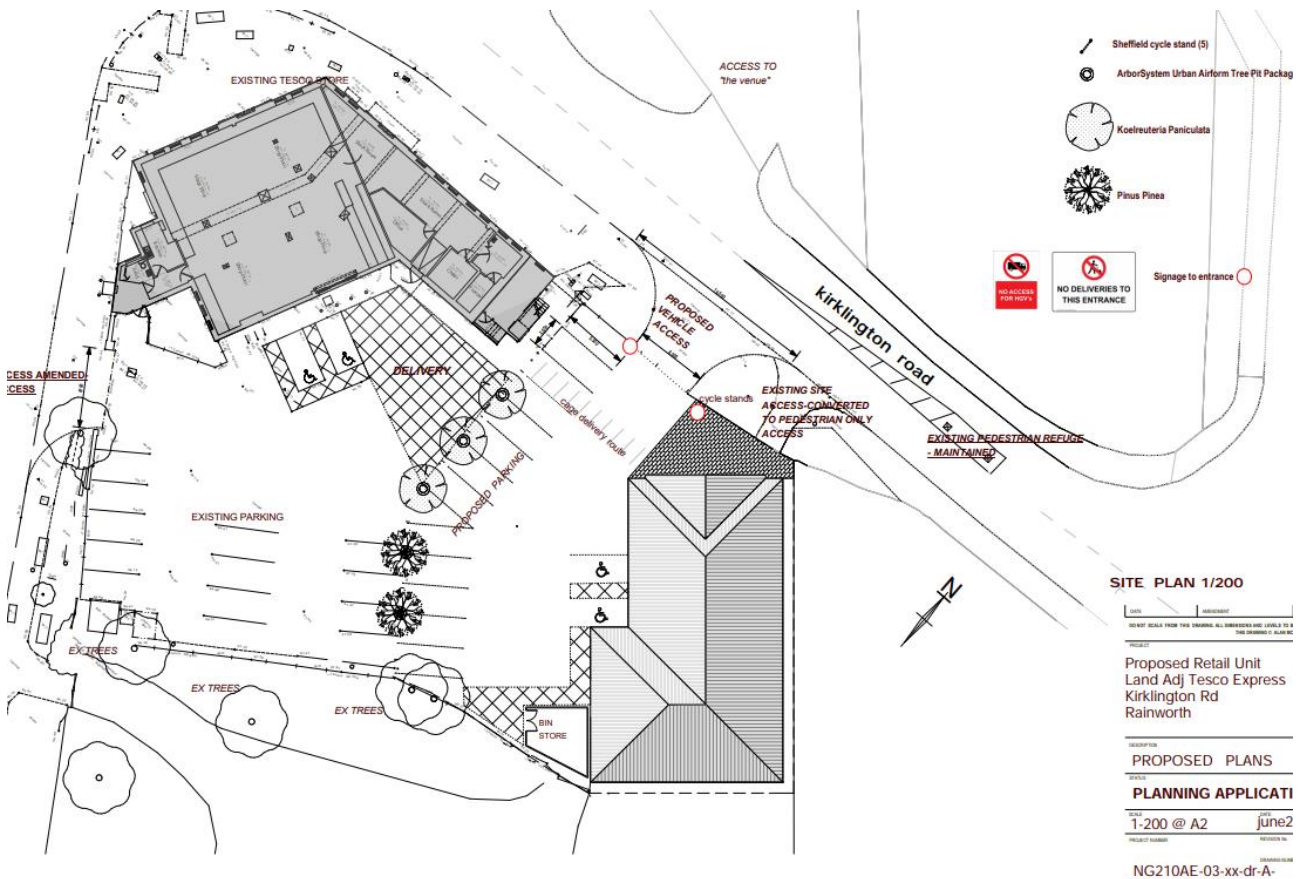
### **Pedestrian access to store**

*Highways - The location of the store front has also been amended to face the highway and thus, better accommodates pedestrian movements and encourage trips to the store on foot. The new pedestrian access will be directly off the footway along Kirklington Road and is shown as "delineated" access on the submitted plan. It should be noted that the access should be level with the footway to comply with current accessibility regulations. The existing vehicular access will require reinstating to a footway with a full height kerb. This can be conditioned.*

The new pedestrian access off Kirklington Road would be formed by repurposing the old vehicular access to the Former Robin Hood Car Park. Following revisions, this would be sited directly in front of the store entrance to ease pedestrian access and reduce the potential for pedestrian-vehicular collisions within the car park. Concerns regarding pedestrian safety have been noted, and consideration was given to incorporating a dedicated pedestrian route across the wider site (broadly



where trees are proposed to be planted). However, this arrangement had to be discounted as it would have left insufficient space for delivery and customer vehicles to manoeuvre into their respective bays. Overall, it is considered that the proposed car park would be no more unsafe than any other retail car park where pedestrians and vehicles mix. Furthermore, proposed landscaping would obscure the pedestrian desire line across the current car park and prevent drivers from using the site as a “rat run” between Kirklington Road and Southwell Road East (see Site Plan 1/200 (Rev L) including Landscaping details enclosed below).



Works to reinstate the existing vehicular access to a footway with a full height kerb can be secured by condition on an approved application in accordance with Highways advice.

**Amended Southwell Road East access**

*Highways - There are no exact details of the amendments to the existing access off Southwell Road East. However, any design changes of the existing access can be conditioned as any works to both accesses will require a Section 278 Agreement with the Highway Authority to carry out off-site works; therefore, a separate technical approval for both accesses will be carried out at a later date. This is a separate process to planning.*

The revised plans indicate the existing access off Southwell Road East would be widened as part of the proposed development. This is welcomed as it would improve the useability of this access and reduce instances of vehicles having to wait on the highway while others exit the site before entering. This would also be the subject of a Section 278 Agreement with the Highway Authority and noted to the applicant as part of an approved application.

**Car park layout and landscaping**

*Highways - It is noted that there is no form of physical separation proposed between the two car parks i.e., the proposed site and existing Tesco Extra site except for the projected tree planting scheme. Although this is not a highway safety concern, the applicant may want to consider a knee-high fence, or similar, between the two car parks, with only gaps left large enough to accommodate pedestrians and deliveries, in order to prevent this retail site to become a “rat-run” or a “shortcut” from Kirklington Road and Southwell Road East for other motorists in the interest of the safety of the users of the car-park / retail units.*

The proposed tree planting has been discussed and agreed with the Council’s Tree Officer as noted under the ‘Trees and Ecology’ section below. The Tree Officer has recommended conditions to secure the planting, maintenance, and protection of the trees, which would address the above concerns.

Taking all of the above into account, and subject to the recommended conditions, it is considered the proposed development accords with the relevant provisions of Spatial Policy 7 and Policy DM5 of the DPD and is therefore acceptable in this regard.

### Trees and Ecology

Core Policy 12 of the Amended Core Strategy DPD seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the Allocations & Development Management DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. The NPPF also requires planning decisions to minimise impacts and provide net gains for biodiversity.

The application is supported by an Arboricultural Impact Assessment, Method Statement and Tree Protection Plan prepared by Ramm Sanderson dated November 2022 (Ref: RSE\_6574\_R1\_V1\_ARB) that identifies a number of trees for removal. All trees and group (of trees) to be removed were assessed as low quality (Category C), as such, there will be a low reduction in amenity value on the site as a result of these losses. Indicative landscaping is shown on the Amended Proposed Site Plans (drawing nos. 0013J & 0014L) to compensate for this loss, comprising of one tree every two parking spaces along the boundary between the existing and proposed car parks. The Council’s Tree Officer has considered the submitted and revised details and raised no objection subject to conditions to secure tree protection, full details of tree planting, and landscape maintenance. It is also considered appropriate to impose a condition requiring details of other site enhancement measures, such as the provision of suitably sited bat and bird boxes, to be submitted to and agreed in writing by the Local Planning Authority. Subject to the recommended conditions, the proposed development would meet the relevant aims of Core Policy 12 and Policy DM5 of the DPD and the NPPF and is therefore acceptable in this regard.

### Flood Risk and Drainage

The application site is located within Flood Zone 1, as shown on the Environment Agency’s Flood Map for Planning and is therefore at low risk of fluvial flooding.

The proposal involves the erection of a building on an existing area of hardstanding and would result in no significant increase in surface water run-off. The application form indicates wastewater would be appropriately disposed of via the existing drainage system, which is considered an acceptable drainage solution for this site.

## **8.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **9.0 Conclusion**

The proposed development is acceptable and would enhance retail provision within the centre of Rainworth to serve its growing population. The proposed new building has been appropriately sited and designed and overall, the proposed development would have a positive impact on visual amenity. There would be no adverse impacts on the amenities of existing or future residents in accordance with Policy DM5 'Design' of the Allocations & Development Management DPD.

Subject to appropriately worded conditions, whilst there is an overall parking shortfall, it is considered the development would not result in harm to highway safety, nor would it create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems in accordance with Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD and Policy DM5 'Design' of the Allocations & Development Management DPD.

It is therefore recommended that this application is approved subject to the conditions outlined below.

## **10.0 Conditions**

### **01**

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

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

### **02**

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

- 0003B Location and Block Plans *received 11 May 2023 (red line boundary)*
- Swept Path Proposed Plans REV A 1-100 *received 20 July 2023*
- 0013J Amended Site Plan 500 *received 20 June 2023*
- 0014L Proposed Site Plan 200 *received 26 June 2023*
- 0015J Amended Roof Plan *received 20 June 2023*
- 0016J Amended Ground Floor Plan *received 20 June 2023*
- 0017G Amended Proposed Elevations *received 17 April 2023*
- RSE\_6574\_TPP V1 Tree Protection Plan *received 29 November 2022*

Reason: So as to define this permission and ensure adequate protection of trees.

### **03**

Notwithstanding the submitted plans, no part of the development hereby approved shall commence until details of works to install the new vehicular access off Kirklington Road and reinstate the existing redundant access as footway, as indicatively shown on the submitted plans, have been first submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details prior to the development being brought into use and retained for the lifetime of the development.

Reason: To enable vehicles to enter and leave the public highway in a slow and controlled manner, in the interests of general highway safety, and to ensure that the vehicular and pedestrian accesses are provided at an appropriate point in the development.

### **04**

No development above damp-proof course shall take place until samples or specifications of materials set out below have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

- (a) Bricks
- (b) Brickwork specification
- (c) Roof covering

Reason: In the interests of visual amenity

### **05**

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish and/or scaled drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in accordance with the approved details.

- (a) External windows, doors, and their immediate surroundings, including details of glazing and glazing bars
- (b) Treatment of window and door heads and cills
- (c) Ridges, verges, and eaves
- (d) Rainwater goods

Reason: In the interests of visual amenity.

### **06**

Notwithstanding the submitted plans, no part of the development hereby approved shall be brought into use until the existing access off Southwell Road East is widened and upgraded in accordance with the details to be first submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that the vehicular and pedestrian accesses are provided at an appropriate point in the development.

## 07

No part of the development hereby permitted shall be brought into use until the new access off Kirklington Road and widened access off Southwell Road East, parking, and turning areas are:

- a) surfaced in a hard bound material (not loose gravel) in accordance with the details on the approved plans; and
- b) constructed with provision to prevent the discharge of surface water to the public highway in accordance with the details to be first submitted and approved in writing by the Local Planning Authority.

The surfaced accesses, parking, and turning areas shall thereafter be maintained in such hard bound material and provision to prevent the discharge of surface water to the public highway retained for the lifetime of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.) and to ensure surface water from the site is not deposited on the public highway causing dangers to road users

## 08

Once the retail store hereby approved becomes operational, there shall be no HGV access between the Application Site and Kirklington Road. All deliveries and general HGV access shall take place only off Southwell Road East via the delivery access as shown on the approved plans reference:

- Swept Path Proposed Plans REV A 1-100 *received 20 July 2023*; and
- 0014L Proposed Site Plan 200 dated June 2022 (incl. no HGV access signage)

The signage shall remain in place for the lifetime of the development.

Reason: In the interest of highway safety

## 09

Prior to first occupation of the retail unit hereby approved, full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of lorry proof guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier, and defect period. The approved planting scheme shall thereafter be carried out within the first planting season following approval of the submitted details.

Any trees that are found to be dead, dying, severely damaged or diseased within ten years of the completion of the building works OR ten years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.

## 10

The retail unit hereby approved shall not be open to members of the public outside the following hours: -

8am to 8pm Monday to Saturday  
8am to 4pm on Sundays, Public or Bank Holiday

Reason: In the interests of residential amenity.

## 11

In relation to Condition 09, delivery and collection vehicles to the retail unit hereby approved shall only arrive and leave the site between the hours of 6am- 8am and 8pm- 11pm.

Reason: To ensure deliveries take place outside of store opening hours and in the interests of residential amenity.

## 12

No gates shall be erected at the access to the development from the public highway.

Reason: To protect the free and safe passage of traffic, including pedestrians, in the public highway.

### Informatives

#### 01

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

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

#### 02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord

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

03

#### Access requirements and access Re-instatement Works

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 the Highway Authority on [hdc.north@nottscc.gov.uk](mailto:hdc.north@nottscc.gov.uk) or please call 0300 500 80 80 and ask for Highways Development Control Team for Newark and Sherwood for further details.

04

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

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

05

#### Prevention of Mud on the Highway

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

06

#### Signs

Non-statutory signs are not permitted within the limits of the public highway.

07

#### Traffic Regulation Orders

Depending on the final design of the access, the application may affect the existing TRO on Kirtlington Road. Any required amendments to the existing Traffic Regulation Order shall be completed before the development is brought to use to provide safe access/off-site mitigating works. The developer should note that the Order can be made on behalf of the developer by Nottinghamshire County Council at the expense of the developer. This is a separate legal process, and the Applicant should contact the Highway Authority's Customer Services on 0300 500 8080 for further information and guidance.

08

Nesting birds are protected by the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take any wild bird; take, damage or destroy its nest whilst in use or being built; and/or take or destroy its eggs. Normally it is good practice to avoid work potentially affecting nesting birds during the period 1st March to 31st August in any year, although birds can nest either side of this period.

In relation to Condition 11, the following British Standards should be referred to:

- a) BS: 3882:2015 Specification for topsoil
- b) BS: 3998:2010 Tree work – Recommendations
- c) BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
- d) BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- e) BS: 4043:1989 Recommendations for Transplanting root-balled trees
- f) BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations
- g) BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
- h) BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations
- i) BS: 8601:2013 Specification for subsoil and requirements for use

#### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.



Committee Plan - 22/01298/FUL



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Committee Plan - 22/01298/FUL



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Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Clare Walker, Senior Planner, 01636 655834

Report Summary			
<b>Application Number</b>	22/01726/FULM		
<b>Proposal</b>	Residential development comprising of 87 no. dwellings, including the removal of TPO trees (resubmission)		
<b>Location</b>	Land at Highfields School, London Road, Balderston, Newark on Trent		
<b>Applicant</b>	Avant Homes (Central) Ltd	<b>Agent</b>	DLP Planning Ltd
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/22/01726/FULM">22/01726/FULM   Residential development comprising of 87 no. dwellings, including the removal of TPO trees (resubmission)   Highfields School London Road Balderton Nottinghamshire NG24 3AL (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	13.09.2022	<b>Target Date E.O.T Agreed</b>	12.12.2022 11.08.2023
<b>Recommendation</b>	Refuse for the reason(s) set out at Section 10.0 of this report		

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation at the discretion of the Business Manager given the level of local interest and because the Planning Committee has made decisions on all the previous applications at this site.**

## 1.0 Background

The delay in forming a recommendation on this application is due to enabling the applicant the opportunity to address various concerns raised by consultees and officers on numerous occasions. This has demonstrated that the local planning authority has sought to approach this development in a positive way and work proactively with the applicant as recommended by the NPPF and is required to be explained within decisions by the Town & Country Planning (Development Management Procedure) (England) Order 2015.

## **2.0 The Site**

The wider site comprises approximately 15.75 hectares of relatively flat land at Highfields School which is located on the north side of London Road and falls within the defined Newark Urban Area within the parish of Balderton. The site area has been extended since the previous applications to include the school itself, its car park and land to the west where two existing sports pitches are located. The developable area remains broadly the same as previously presented.

Land that lies to the south and east of the school buildings forms part of the school's grounds and includes an open grassed area used as a playing field that lies between the main school building and London Road. To the north of the school buildings is a field known as Baileys Field formerly used as a sports field although hasn't been used for this purpose for a long period of time (in excess of ten years). A thin slither of land that connects this field to Barnby Road to the north is included within the application site; this previously provided pedestrian access when it was in operation as a playing field but is now overgrown and inaccessible. To the east of this is an area of open land known as Quibell Field. In addition, included within the red line boundary is a small area of land to the west which forms part of the school's existing playing fields and lies adjacent to a Local Wildlife Site; Ballast Pit containing a long-disused ballast pit containing open water surrounded by woodland.

To the west of the school lies the car parking area serving the school together with the school playing fields. Baileys Field is bounded to the west by the school playing fields and allotments, and by the school buildings to the south. The rear of dwellings located along Barnby Road bound the northern edge of Baileys Field and Quibell Field with the East Coast Mainline located beyond Barnby Road itself. Immediately to the south of Quibell Field are residential dwellings located off The Woodwards, Glebe Park and London Road. Allotments are located to the east of Quibell Field.

The site contains a number of trees protected by Tree Preservation Order. These are predominantly located along the site's frontage to London Road, along the west boundary of the site adjacent to Ballast Pit LWS, and to the east of the school buildings, adjacent to the site's boundary with Nos. 27 and 29 London Road.

## **3.0 Relevant Planning History**

**22/01566/TPO** – (This application related to trees within the site and alongside London Road) Undertake works to trees protected by Tree Preservation Order N215 as recommended within the attached VIA Tree Survey Report. Additional works added:

- 1) Crown lift trees along entrance drive to 4.0 metres.
- 2) Crown lift avenue trees up to 3 metres for clearance with regards children and cross country.
- 3) Fell Indian horse chestnut (T076) due to fungus.

Permitted 12.12.2022 but condition imposed requiring a replacement for the felled tree.

**22/00281/FULM** - Residential development comprising 117 dwellings and associated infrastructure, including the removal of 5 individual and 3 groups of TPO trees. Withdrawn July 2022 due to concerns raised by officers.

**21/00367/FULM** – Residential development comprising 99 dwellings and associated infrastructure including the removal of 8 individual and 3 groups of TPO trees. Withdrawn February 2022 due to concerns raised by officers.

**20/02541/TPO** - Undertake works to trees identified as being protected by TPO N215:

1. 3mts crown lift (removal of secondary branches) from ground level to groups G9, G14 and G2 (trees only adjacent the playing field side) to give clearance over school playground.
2. Fell damaged Blue Cedar (not protected by TPO)
3. Prune back trees to G11 (side overhanging tennis courts only) by 2mts
4. Prune back trees to G6 (side overhanging driveway only) by 2mts
5. Fell trees to NE boundary due to significant lean (not protected by TPO)
6. 1No. multi stemmed Sycamore (contained within G14) removal of large limb to provide clearance along track

Permitted 02.03.2021

**PREAPM/00172/20** – Pre-application advice was sought on a proposal for 94 dwellings and associated infrastructure in August 2020.

**17/00357/FULM** –



This application for residential development comprising 95 dwellings and associated infrastructure, including the removal 26 TPO trees was refused by the Planning Committee (September 2017).

Reasons for refusal related to the inability to mitigate for the increase in demand upon infrastructure because of inadequate developer contributions being offered along with concerns regarding the loss of 26 trees and inadequate ecological protection which together made the development compromised and unsustainable. An appeal was lodged (**Ref: APP/B3030/W/17/3188864**) and dismissed on 14.02.2019 following a co-joined hearing (see below) with the Inspector finding harm from the loss of trees that couldn't be mitigated and that the viability assessment didn't conform with the national planning policy guidance in respect of simplicity and transparency and ultimately would not make an appropriate financial contribution towards the provision of affordable housing. No harm was found in respect of ecology which was one of the other appeal considerations.

**16/01134/FULM –**



This application was for residential development comprising 89 dwellings and associated infrastructure, including the relocation of the school access, car parking area and sports pitches, the provision of a multi-use games area (MUGA) and the removal of 8 TPO trees.

This was refused by the Planning Committee (September 2017) on the grounds that the MUGA enclosure designed to address noise issues would lead to an oppressive and unattractive environment and likely give rise to anti-social behaviour. An appeal was lodged (**Ref: APP/B3030/W/17/3188871**) and dismissed on 14.02.2019 following a co-joined hearing (see above). In summary the main issues and conclusions were:

- 1) Character and appearance in respect of the MUGA; *Inspector found no harm*
- 2) Ecology, *Inspector found no harm*
- 3) Crime and disorder in respect of the MUGA; *Inspector found no harm*
- 4) Whether the shortfall in the provision of developer contributions towards affordable housing would be appropriate in the context of the viability of the development; *Inspector found the viability assessment didn't conform with PPG in respect of simplicity and transparency and ultimately would not make an appropriate financial contribution towards the provision of affordable housing.*

**14/01964/FULM –**



Application was submitted for residential development comprising 91 units and associated infrastructure, including the relocation of the existing school car park and sports pitches, the provision of a MUGA and the removal of 8 TPO trees.

Members considered this application at the Planning Committee in July 2015 and resolved to refuse planning permission (contrary to a finely balanced recommendation of approval by Officers) on the grounds that: *“By reason of the layout, density, juxtaposition and type of uses proposed including re-provision of school car parking, sports field, MUGA and access, this application presents a series of compromises which accumulatively lead to an unacceptable and unsustainable development. This is with respect to noise for future residents, residential*

*privacy, a failure to maximise community use and lack of appropriate infrastructure and affordable housing. All these matters taken as a whole make the development unsustainable...* An appeal was lodged (Ref: APP/B3030/W/15/3133508) which was subsequently dismissed. The Inspector found harm to living conditions from noise from the MUGA and through loss of privacy. The Inspector concluded that based on the unilateral undertaking that offered £235,219 in developer contributions and a CIL receipt of £669,326 the proposed development would make adequate provision for infrastructure and affordable housing, having regard to the viability of the scheme. However in the planning balance the scheme was not considered sustainable development and was dismissed on 3<sup>rd</sup> March 2016.

**Tree Preservation Order – N215 Alternative ref: 11/00116/TPO** confirmed 50+ trees as being protected at this site.

#### **4.0 The Proposal**

Various amendments have been submitted during the course of this application which amongst other things has resulted in the number of units being reduced from 94.

Full planning permission is now sought for 87 dwellings that each have between 2 and 5 bedrooms. There are 15 different house types proposed which are predominantly two storey, albeit there are some two-and-a-half storey dwellings and 6 bungalows included. 26 of the units (30%) are being offered as on-site affordable housing.

Vehicular access would be taken from London Road via the existing access (which would be widened) serving the school which would then branch off to the east and cut through the playing pitch to the front of the school. To facilitate the development a number of trees would also need to be removed, some of which are protected by Preservation Order.

The scheme includes public open space within the development site comprising a green crescent centrally located where the road forks east and west as well as a larger area of open space to the west which includes an area for children's play. Amendments have been made to exclude structural landscaping from front gardens with this now proposed to be maintained by a management company.

Given that part of an existing playing field would be lost to form the access road, the application 'is advancing a number of mitigations/improvements within the adjacent school site including the provision of a 'Kwik' cricket square to the western playing field and an extended floodlit MUGA which is to be made available outside of school hours for the wider community.

Details of the house types proposed are set out in the table below. It should be noted that the minimum national standard size for a single bedroom is 7.5sq m. Some first floor rooms are below standard for a bedroom and officers have taken this into account in assessing the scheme by adjusting the mix accordingly. It should be noted that the Council does not have any adopted standards in relation to room sizes.

House Type	No. of Bedrooms	House Type	Floor Space m <sup>2</sup>	No. of Plots
<b>Appleton</b>	5 beds	2 storey detached	173	10 Plots
<b>Baildon</b>	3 beds plus second floor storage room of 6.2m <sup>2</sup>	2 ½ storey (roof lights) Semi/terrace  – Affordable and market	95	20 Plots
<b>Cadeby</b>	3 beds	2 storey detached	87	4 plots
<b>Coverham</b>	5 bed, 2 en-suite	2 storey detached double integral garage (4.2m wide x 4.6m, door widths 2.1m)	207	6 plots
<b>Darley</b>	4 beds + upstairs study of 5.4m <sup>2</sup>  (applicant refers to this as 5 bed)	2 storey detached  Integral single garage/store (2.7m x 5m) door 2.1m wide	159	1 Plot
<b>Eastburn</b>	2 bed + first floor office of 6.6m <sup>2</sup>	2 ½ storey  Semi/terrace  Affordable	73	8 Plots
<b>Levisham</b>	2 bed	Single storey detached  Affordable	60	4 Plots
<b>Leyburn</b>	3 bed	2 storey detached	86	5 Plots
<b>Oakwood</b>	3 bed	2 storey semi-detached  Integral garage/store (2.4m x 4.6m, door width 2.1m)	95	5 Plots
<b>Ripon</b>	2 bed + study of 4.2m <sup>2</sup>	2 storey Semi-detached	74	4 Plots



<b>Thornton</b>	4 bed + study of 5m <sup>2</sup>	2 storey detached	133	1 Plot:
<b>Wentbridge</b>	4 bed	2 storey detached (single integral garage 4.52m deep x 2.6m wide, door 2.2m wide)	118	4 plots
<b>Cookridge</b>	4 bed with upstairs study of 5.2m <sup>2</sup>	Two storey, Single integral garage/store (5mx2.57m, door 2.1m wide)	131	10 Plots
<b>Bilborough</b>	5 bed	Two storey, single integral garage/store (4.8m x 2.6 x 2.1m door)	150	3 Plots
<b>3B5P VMD</b>	3 bed	Single storey	86	2 Plots

<b>Garage Type &amp; Plan Ref</b>	<b>Internal Measurements</b>
Double Detached Garage	6m deep x 6.07m wide. Door width of 4.2m (Floor area 36.9sq m)
Garage Single End, SITE/SG/006 Rev A	6.1m deep x 3.11m wide. Door width of 2.3m (Floor space 19.6 sqm)
Single Detached Garage, 500/005 Rev A	6m deep x 3.3m wide, door width 2.4m wide
Garage Twin Gable Side, 504/006 Rev A	6.1m deep x 3m wide, door width 2.28m

### The Submission

Details of the plans and supporting documents that have been assessed as part of this application are listed in informative no. 1 at the end of this report.

### **5.0 Departure/Public Advertisement Procedure**

Occupiers of 170 properties have been individually notified by letter. Site Notices have been displayed near to the site and adverts has been placed in the local press, the latest one expired on 13<sup>th</sup> May 2023.

Site visit undertaken on 13 October 2022 and July 2023.

### **6.0 Planning Policy Framework**

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 5 – Delivering the Strategy  
Spatial Policy 6 – Infrastructure for Growth  
Spatial Policy 7 - Sustainable Transport  
Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities  
Core Policy 1 – Affordable Housing Provision  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 -Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 14 – Historic Environment  
NAP1 - Newark Urban Area

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM3 – Developer Contributions and Planning Obligations  
DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM9 – Protecting and Enhancing the Historic Environment  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2021
- Planning Practice Guidance (online resource)
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Residential Cycle and Car Parking Standards & Design Guide SPD June 2021
- Newark and Sherwood Housing Needs Survey, December 2020 by Arc4
- NSDC Playing Pitch Strategy 2016/17 (September 2017)
- Newark and Sherwood Local Football and Facility Plan (May 219)
- Newark and Sherwood District Council Open Space Assessment and Strategy, adopted January 2022
- Building for Healthy Life 2022

## **7.0 Consultations**

Comments have been summarised below but are available to view in full on the Council website. There have been several rounds of public consultation on this application and the latest comments are summarised unless otherwise stated.

### **(a) Statutory Consultations**

**NCC Highways Authority** – Objections have been made on 11.05.2023 and 05.10.2023 on the grounds that the application had failed to demonstrate a suitable scheme to meet highway

safety needs and that capacity on the highway network hadn't been demonstrated as adequate. The latest comments (of objection) dated 28.06.2023 is set out as in full as follows:

'The applicant has submitted further information.

#### Travel Plan

The TP has been reviewed previously and although previous iterations have larger dwelling numbers, the trip generation table hasn't been updated in the latest version which needs to be corrected. A list of comment history is appended to these observations with key outstanding items highlighted.

#### Layout

The bends have now been demonstrated to be widened appropriately with suitable forward visibility splays available. A condition will be requested that the splays are kept clear of obstruction.

In order to overcome the issues in terms of access to and from the northbound bus stop, a footway has been extended through the grounds in the land, to remain private but linking to London Road at an appropriate point. This footway must be lit to be acceptable, but it is understood that high level lighting would conflict with other planning matters here and therefore low level suitable lighting from bollards would be acceptable, with a condition for this requested. This lighting should also be included in any management/maintenance plan. Of the detailed matters previously highlighted, only the driveway serving Plots 73/74 has not been addressed. This one residual matter is not considered to constitute an unacceptable highway safety issue in this particular location.

#### Access

In terms of wider access matters, the applicant has been in discussion with the applicant over the last few weeks and has prepared an amended junction assessment at Bowbridge Road/Sherwood Avenue which has been shared with the Highway Authority and addresses the issues raised in our previous observations. The resulting impact in the morning is considered to be severe, to the extent that the Highway Authority may be minded to object as there are no measures available to improve these signals which are proportionate to the development.

In order to try to mitigate the above by further encouraging travel by means other than car (over and above the standard measures in the Travel Plan) and with the aim of reducing the severe impact at the above traffic signal junction, the applicant has submitted a drawing titled 'Draft Barnby Road Cycle scheme'. Unfortunately, for a number of reasons this is not acceptable - removal of the centreline on this bridge is unsafe and the provision cannot offset morning peak traffic generation to the school as a primary school aged child would not be expected to cycle in the road.

(Notwithstanding the above, the now proposed shared link created from the development to Barnby Road meets the core principles of sustainable transport, with cyclists from the development having access along a quiet road (Barnby Road) to the National Cycle Route to the west and is therefore viewed as a necessary positive.)

However, after ongoing discussions with the Highway Authority, the applicant is now considering submission of improvements to footways along Barnby Road, linking the development to the primary school. This would allow safer access on foot to the school, encouraging families to walk rather than drive, with the aim of lowering any traffic generated by this development in the morning peak (which is the main concern), and therefore, subject to a satisfactory proposal for this being submitted, (alongside a condition for provision of a CCTV camera at Mount Street as previously highlighted), the Highway Authority would be minded to accept these measures as suitable offsite mitigation.

However, until such a time that suitable measures are submitted, the Highway Authority maintain an OBJECTION to the application due to the development having a severe impact on the adjacent highway network.'

**NCC Lead Local Flood Authority – (29.06.2023)** have now lifted their objection (related to insufficient information) and have no objection subject to the use of a condition the requires a detailed surface water scheme based on the principles already set out to be submitted to and agreed and then implemented on site prior to the development being occupied.

**Sports England – (07.07.2023)** In response to additional information (including the draft Community Use Agreement (CUA) and MUGA Lighting technical note) –maintain their objection with the following summarised comments:

They confirm that they are not satisfied that the CUA meets the requirements to secure use of the playing fields for the community. They point out that it should follow Sport England's template to ensure all information is included so that the legal agreement will provide sufficient benefit to sport as to outweigh the loss of playing field space from the development. Specifically they advise that:

- It is not clear the specific playing fields that will be available for use by community members.
- The CUA should include details of access to toilets and changing facilities.
- It is not clear the hours of use for community members. This should be made explicit and should include school holidays or any other days which might be available for community use.
- Booking arrangements – how will community members and clubs book the space.
- Pricing – it states that a reasonable rental will be charges, however this price should be stipulated in the agreement.
- Which party will be management the community use bookings and maintenance The document needs to be signed by all parties involved including the school and the council.

*MUGA Lighting* – To ensure sufficient hours of use for community members, the MUGA should be available in the evening. The hours of use of the MUGA with floodlights for community use has not been made clear. Without specific hours of use, the benefit of the MUGA for community members would not be sufficient.

*Previous comments (14.04.2023) summarised:*

Object on the basis that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined

in secondary legislation. The concerns specifically are that the proposed access road affects the playing field area used for football and results in a loss of part of that playing field area and whilst the Newark and Sherwood DC Playing Pitch Strategy 2017 is no longer considered up to date, the demand for playing field for in particular football has not reduced. The proposal also involves the temporary loss of a playing field area for around 6 months, for the construction of the surface water drainage system and the underground storage facility as well as the temporary loss of all of the frontage playing field area for 6 to 9 months. Sport England acknowledge a package of mitigation has been submitted but until they have seen details and it is secured, the objection is to remain.

## **(b) Parish/Town Councils**

**Balderton Parish Council (host)** – (19.04.2023) Object, still over-intensive and out of keeping with the style of properties which surround the school grounds. The additional traffic that this development will create is a concern along with entrance/exit being so close to the bridge. It would have an adverse impact on neighbouring properties causing lack of privacy. There will be a loss of green space and mature trees some of which are subject to preservation orders.

**Newark Town Council (adjacent parish)** – (29.06.2023) Object.

1. The access road will cause damage to an historic wall and hedgerow that cannot be justified by the proposed application.
2. The development will cause significant adverse damage to the wildlife and ecology that exists both on the land itself and the nearby pond and allotments.
3. The loss of the trees protected by TPOs is not justified for this application.
4. The development will remove an important open break in the street scene.
5. The comments of Balderton Parish Council in respect of concerns over standing water are supported.
6. The cumulative impact of this development and other developments in the area will cause an unacceptable impact on the provision of infrastructure for the highway, primary healthcare and school places.

Objected previously on 12.04.2023 and 03.11.2022.

## **(c) Representations**

**Environment Agency** – (05.06.2023) do not wish to make comments; the site lies in flood zone 1 and there are no fluvial flood risk concerns with the scheme and no other environmental constraints within their remit.

**NCC Policy/Developer Contributions** – (June 2023) Summary, development to secure:

- Primary education contribution of £111,929;
- Bus stop infrastructure contribution of £24,200 to go towards improvements to two local bus stops (NS0779 The Woodward's Bus Stop and the NS0416 The Woodward's Bus Stop) to pay for the installation of real time bus stop poles & displays including associated electrical connections and raised boarding kerbs;
- Condition to secure introductory free bus passes;
- Library stock contribution of library stock of £3,064 for Balderton library;

- They also refer to the Nottinghamshire Spatial Planning and Health Framework, referencing Active Design principles.

**Historic England – (05.06.2023)** No requirement to be notified and they have no comments.

**Archaeology/Historic Environment Officer** – Recommends archaeological excavation in mitigation of two areas following the results of earlier evaluation. The applicant has provided a Written Scheme of Investigation (WSI) for Strip Map and Record excavation of the central area (in two parts). The excavation methodology presented is sound, however the WSI does not cover the full extent of the areas recommended in my earlier advice and currently cannot be recommended as an appropriate mitigation strategy. The scope of excavation would need to encompass two areas, the first covering trenches 2 to 6 and including the area to the south of trenches 2 and 5 which were not trenched; and the second covering an area around trenches 8 and 9. If permission is granted, I recommend there be an archaeological condition for a robust mitigation strategy to effectively deal with this important site. This would include, but may not be limited to, archaeological excavation of the areas identified in the geophysics and trenching as mentioned above. This should be secured by appropriate conditions to enable any remaining archaeology which currently survives on this site to be recorded prior to its destruction.

**Trent Valley Internal Drainage Board** – Make general comments

**Cadent Gas** – No objection but informative note required to be attached to any planning consent.

**Network Rail – (30.09.2022)** - No objection in principle. However, they ask for the distribution of welcome packs/leaflets regarding railway safety and also flag that adequate sound proofing for each dwelling will be required to mitigate noise from trains.

**NHS Nottingham/Nottinghamshire Clinical Commissioning Group** – (07.06.2023) Confirm that local health practices are working at capacity and this scheme would lead to pressure upon services. A financial contribution of £982 per dwelling is sought towards improvements to health infrastructure to be spent at any one of the three closest GP practices.

**Natural England** – No comments made.

**Nottinghamshire Wildlife Trust** – (18.10.2022) No objection. Their comments are summarised below:

They have reviewed the Reptile and Amphibian Mitigation Strategy (BWB Environmental Planning, August 2022), Biodiversity Enhancement and Management Plan (BWB Environmental Planning, August 2022) in conjunction with revised Ecological Impact Assessment (BWB Environmental Planning, August 2022).

NWT previously objected to development on this site due to concerns that there would be a significant negative impact to local amphibians and reptiles.

They point out the need to consider the effects of the installation of outfall pipe on the LWS. Temporary/short term impact from installation and long-term impact from the outfall need

to be considered. They consider the Construction Environmental Management Plan could deal with short term effects during construction but long-term impacts associated with the outfall going into the LWS need to be addressed. Sustainable Urban Drainage System is required to be incorporated to filter runoff before it gets to the LWS.

They support the design of the proposed wildlife corridor that encompasses the perimeter of the development that would support habitats for amphibians, recommending as much vegetation is retained as possible and that the hedgerow planted is a double row. They would like to see the wildlife corridor wider than 4-5m and recommend creating a management plan. They advise that if widening the corridor isn't possible the following conditions must be met to maximise the chance of continual use by amphibians and snakes:

- The wildlife corridor will have restricted access, with no access permitted to residents.
- Residential gardens are to be separated from the wildlife corridor by fence to restrict access of residents and cutting of wildlife corridor hedgerows.
- Residential fences should be fitted with amphibian and/or hedgehog tunnels to allow movement of these target animals.
- Management company should be appointed to maintain the wildlife corridor with only them having access only twice a year in late autumn and early spring to avoid disturbance of active amphibian active period and bird nesting season. They should check the wildlife corridor for fly-tipping twice a year, in specified seasons above and remove any found and carry out maintenance of hedgerows and other vegetation to avoid development of scrub in the wildlife corridor. The vegetation will be cut once in two years, in late autumn or early spring.

Subject to these conditions being met they remove their objection.

**Nottinghamshire Police – (12.06.2023)** Make general comments and general recommendations regarding designing out crime and disorder in the context of Section 17 of the Crime and Disorder Act 1998. Request an informative be placed on the decision notice relating to Secure by Design generic advice.

**NSDC (Environmental Health) – (11.04.2023 and updated 07.06.2023)**

#### Construction Noise and Dust

The construction management plan provided does not adequately address key aspects relating to minimising noise and dust during the construction phase. The document will therefore need upgrading in order to protect sensitive properties in the area.

#### Artificial Lighting

Street lighting should be provided in line with the recommendation in report BWB lighting impact assessment which also recommends lighting to MUGA should be submitted and approved in line with obtrusive lighting limitations The information submitted refers to the extension of the MUGA and floodlighting it. Given the MUGA is close to the boundary of proposed housing there is a risk of lighting related issues associated with the use of the MUGA affecting future occupiers of the dwellings. The impacts should be considered to identify mitigation measures as necessary to address impacts.

### Noise Impact Assessment

Final details for acoustic fencing, glazing and ventilation will be required and should be agreed in writing.

### Air Quality

Local authorities have a statutory duty to periodically assess and review air quality in their district against objectives set by Government. This is known as local air quality management. Where objectives are not being achieved in a local authority area, the local authority must carry out an assessment and develop an action plan to improve air quality. There will be some increases in local traffic levels as a result of the proposed development. However, I do not consider this to be significant in context of the Council's existing obligations under local air quality management, and air quality impact assessment is not therefore considered necessary.

### Land Contamination

(16.09.2022) The new geo-environmental report has been noted which describes the additional sampling carried out. However, no sample location plan so not able to fully consider impacts. The borehole and trial pit logs appear in the appendix but are blank of strata information, including depths but not describing what was identified in each. This information should be submitted. Despite not knowing the location of TP17 as there was no plan, it did show elevated levels of lead concentration which will need remediating. Standard condition using parts B, C and D recommended.

### **NSDC (Conservation) – (June 2023) Summarised comments:**

Highfields House and Lodge (the school buildings) are considered to be non-designated heritage assets (NDHA). Views of the Grade 1 St Mary's Church can be achieved from the school playing field. The main issues are the impact on the NDHA and on the significance of the church through its setting. The proposal wouldn't have an impact on the setting of the Newark Conservation Area.

The siting of the housing will cause minor heritage harm from the presumed loss of the remnant of the walled garden wall and partial loss to the historic parish boundary hedgerow. Tree loss needs careful analysis from our Tree Officer and may well denude the grounds of significant historic specimen trees and planting schemes that play an important part in the setting of these NDHAs. The proposed new access drive will be unwanted infrastructure within the primary aspect of the House causing harm to its setting and thereby significance. The potential enclosure of the football pitch by the Lodge has the potential to be additional potential harm to the setting, and thereby significance, of the House and Lodge. Boundaries generally need careful consideration.

**NSDC (Tree Officer) – (June 2023)** In summary concerns have been raised in relation to the impact of the development upon existing trees. This is due to the feasibility of the drainage scheme and soakaways requiring excavation and their potential to cause damage to trees and their hydrology and the fundamental changes to the environment and risk regime, not allowing sufficient room above or below ground for trees to reach a reasonable level of maturity all of which are not compatible with paragraph 131 of the NPPF.



Various concerns and comments made (April 2023 and previously) summarised below and remain valid:

- Speculative statements with no detail on drainage are not acceptable and not acceptable to place drain on or near retained significant trees as changes in hydrology are likely to lead to trees design in short to medium term. Future growth has not been considered clearly prejudicing their future retention;
- Tree species are not considered appropriate or in scale with the landscape noting it is open parkland with large mature trees (some have poor structural form and the Amelanchier is a large shrub)
- Protected species are expected to be replaced in the same approximate location with sufficient room to reach full maturity, placing a house instead of a tree is inappropriate;
- Retained trees have not the room to reach full maturity;
- Species selection in open areas should be large trees not large shrubs with short life expectancy.

#### **NSDC (Strategic Housing) – (06.04.2023)**

Provide comments on affordable housing, indicating that 26 dwellings from this scheme would need to be affordable as follows:

Type of dwelling/ Recommend space standard	Affordable Rent (60%)	First Homes (25%)	Shared Ownership (15%)	Total
2 bed bungalow 61m <sup>2</sup>	4	0	0	4
2 bed house 70m <sup>2</sup>	3	3	2	8
3 bed house 86m <sup>2</sup>	9	3	2	14
Totals	16	6	4	26

**Representations have been received from 57 local residents/interested parties**, many of whom have submitted multiple letters in response to amendments. Their comments are summarised as follows:

#### **1 support**

- Comment that this scheme would deliver much needed affordable homes and enable people to get on the housing ladder.

#### **56 objections**

##### *Principle*

- No need for this development;

- There are better sites for development;
- We have a planned growth point to accommodate such development
- Concern that the green border between Newark and Balderton will be lost and Newark and Balderton will merge.

#### *Visual/Character/Mix*

- Over-development of the site;
- Does not respond to local distinctiveness and is high density which is at odds with the immediate surroundings;
- Development too tightly spaced and in no way reflects the adjoining layout;
- Poor layout and out of character;
- Mix of housing doesn't align with the housing needs of the district.

#### *Traffic*

- Position of access at bottom of old railway bridge would be a dangerous junction;
- Traffic at peak and off peak times will cause congestion and risk of accidents and to pedestrians and cyclists;
- Number of homes will cause traffic problems and danger entering and exiting onto London Road;
- Already difficult trying to enter London Road;
- The scheme is an accident waiting to happen;
- Applicants relying on old data for traffic impacts and thus traffic will be worse;
- Having a single entry to housing estate and school is madness;
- Travel plan is tongue-in-cheek. Accept that car sharing can be way forward but we live in the real world where the vast majority of people rely on their own transport;
- Consider there would be more than 60 vehicles using the existing entrance;
- Insufficient parking;
- Long access road will promote instances of on-street parking at peak times and is not 'safe and inclusive';
- Already high accident risk in this area;
- Concern regarding safety of school children from 4 schools in the area; Highfields, Newark Academy, The Orchard School and John Hunt.

#### *Environment*

- Pollution concerns – trees protect against exhaust fumes;
- Loss of mature trees cannot be replaced - it would take many decades to achieve same benefits;
- Adverse effect on landscape from loss of trees;
- Retained trees would be subject to pressure post approval where they overhang gardens and overshadow gardens;
- Discrepancies between replacement trees and drainage plans which raises concerns that they won't be planted;
- Trees and green space are vital to our wellbeing;
- Loss of open space will negatively affect quality of life for locals;
- Concern at loss of habitat for wildlife including but not limited to bats, hedgehogs, foxes, deer, owls etc.
- Concern for amphibians who migrate through the site;

- Hedgehog gaps are better to be square than round (13cm x 13cm is advised by Hedgehog Preservation Society)
- Any mitigation measures agreed need to be checked on the ground to ensure they are actually installed.

#### *Infrastructure*

- Lack of supporting infrastructure to support new homes, such as doctors and dentists that are already stretched and there is no A&E department at the hospital;
- Concern at loss of playing field that will be lost and not replaced;
- On various occasions children can be heard in Quibells field enjoying the space which is maintained by the school and used for their sporting activities. Its reduced usage is because of its poor state of upkeep by Nottinghamshire County Council which has contributed to its loss of status.
- Development encroaches onto school and may well prevent further modernisation and expansion;
- Concern at further erosion of sporting offer for the school.

#### *Living Conditions*

- This is un-neighbourly development;
- Would result in privacy loss, overlooking and light pollution for neighbours and increase risk of crime;
- Proposed garages would cause issue and no noise assessment has been carried out;
- Levels will need to be raised and there is concern regarding drainage risks;
- Patio under oak tree will be overlooked at 33 Glebe Close
- Plots adjacent to 27 London Road would be in shadow most of the day due to the height of the boundary wall
- Adverse impact on air quality and disagree that AQ Assessment isn't required;
- Inadequate details of lighting and noise (from pumping station etc);
- Query re ownership of land adjacent to 33 Glebe Park;
- Dust, noise and disruption from construction activities would have adverse impact on residents;
- 7 new homes at Barnby Lane back onto the site.

#### *General*

- Comments that the developers should take the hint that 'no means no';
- Previous comments still stand and haven't been addressed;
- Developers appear to be counting on objection exhaustion;
- Concerned about drainage and where surface water would go;
- Archaeology needs to be fully explored;
- Nature should be put first and profit second;
- Active Travel England are now a statutory consultee. Where are their comments?

### **8.0 Comments of the Business Manager – Planning Development**

The key issues that will be discussed in turn as are follows:

- The Principle of Development

- Loss of Playing field
- Impact on Trees
- Housing Mix, Type and Density
- Impact on Heritage
- Design & Character
- Highway Safety and Parking
- Residential Amenity
- Ecology
- Flooding and Drainage
- Infrastructure and Developer Contributions

### **Principle of Development**

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The Council currently has a healthy 7.2 year supply of housing land (against the required 5 year supply) and the development plan is considered to be up to date for decision making.

The site lies within the defined Newark Urban Area (NUA) which is identified in Spatial Policy 1 (Settlement Hierarchy) as a Sub-Regional Centre whose function is to be the focus for housing and employment growth in the district. Spatial Policy 2 sets out that the NUA, which comprises Newark, Balderton and Fernwood, is expected to accommodate 60% of overall growth over the plan period. The Development Plan identifies a number of strategic urban extensions and site allocations to help meet this need. Spatial Policy 5 sets out that more than sufficient sites have been allocated to meet the housing needs of the District over the plan period.

Policy DM1 (Development within Settlements Central to Delivering the Spatial Strategy) states that proposals for housing (amongst other things) will be supported within the urban boundaries of the Sub-Regional Centre that are appropriate to the size and location of the settlement, its status in the settlement hierarchy and in accordance with the Core Strategy and other relevant Development Plan Documents.

This site is not allocated for housing and is a greenfield windfall site. Nevertheless, given its location within a defined sustainable settlement, the principle of residential development is acceptable subject to an assessment of site-specific impacts which follow below.

### **Loss of Playing Field and Sport Pitches**

Spatial Policy 8 (Protecting and Promoting Leisure and Community Facilities) of the Amended Core Strategy states that the loss of existing community and leisure facilities through new development requiring planning permission will not be permitted, particularly where it would reduce the community's ability to meet its day-to-day needs, unless it can be clearly demonstrated that the continued use is no longer feasible; sufficient alternative provision has been made and there is sufficient provision of such facilities in the area.

Land between the school and London Road is used as a playing field by the school. As this proposal affects the playing field, Sport England are a statutory consultee. Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all or any part of a playing field, unless one or more of the five exceptions stated in its playing fields policy applies. This is consistent with the protection set out in the NPPF at paragraph 99. In brief the five exceptions are summarised as:

- E1) Demonstration that there is an excess of playing field provision in the area which would remain if the development was permitted and the site holds no special significance of sport;
- E2) The development is for ancillary facilities to support the principal use of the site as a playing field and doesn't affect the quantity or quality of the pitches;
- E3) Development affects only land incapable of forming a pitch (as well as meeting other criteria);
- E4) Lost pitch would be replaced by a new playing field of equal or better quality in suitable location prior to commencement of development;
- E5) Proposal is for indoor or outdoor facility for sport, the provision of which would be sufficient to benefit to the development of sport as to outweigh the detriment caused by the loss or prejudice to the use of the area of the playing field.

It should be noted that in relation to land known as Baileys Field, Sport England have confirmed their agreement that this is no longer considered to be a playing field given that it has not been used as such for an extensive period of time and raise no objection in relation to the development of this land. This is consistent with the previous appeal decision.

Before considering the impacts of the proposal it is useful to understand the existing sports provision at this site. North of the school car park are two pitches (mainly used for rugby and hockey) with an allotment beyond. The former tennis court area (north of the school building) has been resurfaced and replaced with a multi use games area (MUGA) surface. South of the school building the current sports provision comprises multi purpose playing fields including a cricket and football pitch.

The proposed new access road affects the playing field area south of the school building and results in a permanent loss of part of that playing field area and in addition would lead to a temporary loss of all of the frontage playing field during construction works for an estimated period of 6 to 9 months. The pitch would have to be reduced in size with the touchline brought in by 10m albeit the applicants indicate there is space beneath the tree canopies to the north to compensate so loss would be limited.

In assessing the scheme against exception E1, The Newark and Sherwood DC Playing Pitch Strategy review took place in 2017 and given the passage of time since it cannot be regarded as up to date and robust. Whilst a review is underway on behalf of the Council, it is understood that the demand for playing field for football, in particular, has not reduced.

The applicant has set out a mitigation package which is outlined in their 'Sports Pitch Provision Statement' SPPS (August 2022) which attempts to advise how the proposals might meet the Sport England exception policies.

The proposal seeks to facilitate a number of improvement works to existing sports facilities at the school, which include the potential for increased and formalised community access (out of school hours) which Sport England consider *could* address some shortfalls in provision.

The applicants advise the existing grass pitches will not be improved, given the overall quality of the existing surface. Sport England have commented that it is not clear how the quality has been assessed and what the impact on that quality would be given the additional use by the community. This hasn't been addressed by the applicant.

The SPPS confirms that both the sports hall and toilet facilities will be made available for community use and that improvement works are proposed to the existing MUGA (extending it by 5m) so it would provide a 40m x 31m playing pitch plus the addition of flood lighting to allow for a more extended use. At the time of writing, no details of flood light locations have been received nor have the proposed hours that the extended MUGA would be available for community use been advanced, so it is difficult to take a view of the effectiveness of the offer.

In addition, the Kwik cricket facility would be a non turf wicket made available to the community. The England and Wales Cricket Board (ECB) has advised that a Sports Hall and a 'Kwik' cricket space is useful for a community use particularly if secured under an agreement, but the field is too small for senior cricket and wouldn't help with senior game shortfalls identified in the strategy.

The applicant's SPPS confirms in paragraph 7.9 that the 'improvement works' will be undertaken towards the later stages of the construction process, with community access being available upon completion of these works. Sport England's position is that given the temporary loss of the frontage playing field (for 6/9months) and permanent loss of the playing field area, it is imperative from a school perspective that the improvement works, in particular the court improvements should take place as part of any initial works as the construction period could take a number of years. The applicant has indicated verbally that this could form part of the offer and I am satisfied that this could form part of a condition if minded to approve.

Sport England have been clear that the proposed mitigation doesn't meet any of the five exceptions in their playing field policy nor Paragraph 99 of NPPF. They have however indicated that the mitigation package outlined has the *potential* to deliver school and additionally community benefits to the development of sport, as listed in the Sports Pitch Provision Statement which could, when delivered, outweigh the loss of part of the frontage playing field area. This however is only subject to these benefits being brought forward in a timely fashion and not delayed until the development is complete. However, the proposed Community Use

Agreement (CUA) lacks the detail to fully understand whether the scheme would offer genuine benefits. For example, as currently drafted, the community use would be permitted outside of 0730-1800 weekdays (but the school can elect to use the facilities outside of these hours) bringing into question what hours it would be available to the community. In any event, due to the location of the MUGA adjacent to new dwellings and the flood lighting required along with the noise it would generate (see Residential Amenity Section) there is concern that allowing this to be used in the evenings and at weekends could be harmful to living conditions so that extending its use would be problematic. This disconnect is of concern because it is not clear that the proposal could mitigate for the harm as it purports to do.

It is acknowledged that 'community access' to sports facilities at the site was considered as part of a previous appeal at this site. The Inspector found that whilst the lack of provision of floodlights at the facility would limit its wider community use during winter months (outside of weekends), the proposal would still make appropriate alternative provision which would be equally accessible and of better quality than the facilities that would be lost. They also concluded that whilst floodlighting would have increased the value of the facility for use by both the school and the wider community, it was recognised that this needed to be balanced against the impact of floodlighting on the amenity for occupiers of dwellings that would lie in close proximity to the facility. In that context, floodlighting of the pitches was not considered to be appropriate and the facilities would necessarily be limited to daylight hours.

However, the facilities to be lost on the previous appeal were not the same facilities (noting that the football pitch to the south of the school was to remain intact as part of the 2014 appeal) and therefore the schemes are not directly comparable and should be assessed afresh.

The applicants advance floodlighting (albeit without specific times of its operation) and Sport England require more information in order to gain comfort that the scheme will mitigate the harm. This is also my view. It remains that the scheme as presented doesn't demonstrate that the harm arising from the permanent loss and temporary loss of pitches would be properly compensated/mitigated as the scheme lacks clarity and there is no clear mechanism in place to do so.

### **Impact on Trees**

Core Policy 12 (Biodiversity and Green Infrastructure) of the Amended Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the Allocations and Development Management DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The 2021 NPPF places an increased emphasis on the importance of trees and states at paragraph 131 that:

*'Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate*

*measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.'*

This application takes its vehicular access off London Road with a new access road to serve the residential development that would extend off the existing access running parallel with London Road then sweeping north along the eastern edge of the school site. This new road would require the loss of existing mature trees, some of which enjoy protection by Preservation Orders.

The applicant has advised they are unable to realign the road due to (a worse) impact on trees and due to the safety of school children. It should be noted that the access road on the three previous refused schemes have each taken a different route into the site as is broadly shown on the layout plans within the site history section, so this element needs to be assessed afresh.

Trees to the south (between the school and London Road) form a parkland setting for the school (a former manor house) including specimen trees along with linear tree groups most of which are category A and B trees which are high graded trees contributing significantly to the amenity of the area. Trees within the northern fields are more typical of an arable landscape comprising boundary hedgerows which contain some mature trees.

An (amended) Arboricultural Survey and Impact Assessment accompanies the application. This surveys 132 individual trees, 19 groups of trees and 3 hedgerows across the application site, the wider Highfields school grounds and across some third-party land adjacent to the site. Eighty-three trees (T1-T83) and eight tree groups (G1-G8) are within the school site or adjacent to the development site boundary. Very many of the trees on the site enjoy protection by A Tree Preservation Order (TPO) and some that aren't currently protected are still regarded as high-grade specimen trees.

#### *Tree Loss and Compensation*

According to the applicant's Arboricultural Impact Assessment (AIA), the proposal requires the following tree loss (**bolded to represent those currently protected by a Tree Preservation Order**):

#### **Tree Loss**

<b>Tree no.</b>	<b>Species</b>	<b>Height</b>	<b>Age Class</b>	<b>Category</b>
<i>To facilitate the new access road the following trees would be lost:</i>				
<b>T1</b>	<b>Sycamore</b>	<b>14</b>	<b>Early Mature (EM)</b>	<b>B (i)</b>
T2	Yew	10	Mature (M)	B (i)
<b>T8</b>	<b>Common Lime</b>	<b>14</b>	<b>Mature</b>	<b>B (i)</b>
T10	Sycamore	24	Mature	A (i)
T11	Hornbeam	16	Mature	A (i)
T12	Yew	6	Early Mature	B (i)
T15	Sweet Chestnut	7	Semi Mature (SM)	B (I)



T64	Common Larch	7	Semi Mature	C (i)
T72	English Oak	8	Semi Mature	C (I)
G5 (all)	Common Lime, Hawthorn, Poplar	15	Semi Mature/Early Mature	C (II)
<b>G6 (7 trees from group)</b>	<b>Sycamore, Yew</b>	<b>13</b>	<b>Early Mature</b>	<b>B (i)</b>
<i>Tree cover to be removed from playing field due to incursions into the RPA</i>				
T63	Hybrid Black Poplar	20	M	B(i)
T64	Common Larch	7	SM	C(i)
<b>T68</b>	<b>Yew</b>	<b>7</b>	<b>EM</b>	<b>B (i)</b>
T72	English Oak	8	SM	C (i)
T78	Damson	5	M	U
G5	Common Lime, Hawthorn, Hybrid Black Poplar	15	SM/EM	C (ii)
<b>G6</b>	<b>Sycamore</b>	<b>13</b>	<b>EM</b>	<b>B(ii)</b>
<i>To facilitate the footpath the following trees would need to be removed</i>				
<b>T24</b>	<b>Wild Cherry</b>	<b>7</b>	<b>M</b>	<b>U</b>
<b>T27</b>	<b>Crab Apple</b>	<b>4</b>	<b>EM</b>	<b>U</b>
<b>T40</b>	<b>Horse Chestnut</b>	<b>14</b>	<b>M</b>	<b>U</b>
<i>To provide access between school site and fields</i>				
<b>G7</b>	<b>Yew</b>	<b>11</b>	<b>EM</b>	<b>B(i)</b>
<i>To building the housing</i>				
T80	Ash	13	EM	C(i)
T82	Sycamore	13	EM	C(i)
T94	Sycamore	8	SM	C(i)
G8	Blackthorn, Elder, Damson	5	EM	C(ii)
G9	Blackthorn, Hawthorn, English Elm	5	EM	C(ii)
G10	Ash leaf Spirea	4	EM	C(ii)
G13	Hawthorn	3.5	EM	C(ii)
<i>For the extended MUGA</i>				
T83	Sycamore	13	EM	B (i)
G18	Elder	7	SM	C (ii)
H3 (10m)	Blackthorn	1	Y	C (i)
<i>Drainage connection to the west</i>				
T125	Wych Elm	13	EM	B (ii)
T126	Wych Elm	9	EM	U
T127	Wych Elm	11	EM	C (i)
G19	Crack Willow, Hawthorn,	13	EM	C (ii)

	Sycamore, Wych Elm, Holly			
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In summary 24 individual trees, 11 groups (part and whole) plus 10m of hedge would be lost. Clearly the loss of any trees is disappointing particularly in a climate emergency as declared by this Council. Indeed, the starting point in our Development Plan is that trees and features such as hedgerows should be retained where possible as set out in Core Policy 12 and Policy DM5. For trees that are protected, the level of justification for loss should be much greater given they have been specifically identified as being specimens that positively and significantly contribute to the character and appearance of the area.

The Council’s Tree Officer has commented that protected trees removed are expected to be compensated for in the same approximate location with sufficient room to reach full maturity. Clearly given the reasons for the tree loss, it would be impossible for trees to be planted in the same positions and therefore it is more reasonable to consider whether the proposed tree compensation is appropriate and whether it would sufficiently mitigate against any harm caused. Whilst the applicant has sought to address this issue by providing a scheme of replacement trees within the public areas of the site (in addition to new trees which would be expected within a development regardless of tree loss) they haven’t shown a comparable canopy coverage to take into account the size, age and maturity of trees. Officers are concerned this compensation scheme would not provide for adequate compensation. The reasons for this are further explored below.

Many of the trees to be removed are to the south of the site, visible in the public realm from London Road and are specimen trees conducive to the parkland setting that the school has enjoyed. There are no new trees proposed within this area to compensate for the loss of the trees which is shown by the red shaded outlines on the plan below.



Only three new trees (shown by small dark green circles) alongside the access road would be planted to this part of the site. These trees have been depicted to show maximum canopy

spread after 25 years which nowhere near compensates for the loss of canopy spread in this area. The proposed species (Acre campestre 'street-wise') is a form of Field Maple bred for urban areas with a narrow canopy which doesn't complement the parkland setting nor are these trees of a species to achieve the stature of trees to be lost. Neither would these trees assist with succession planting.

More broadly, the planting schedule submitted shows structural planting of 89 trees. Responding to criticism, the applicant has now amended their plans to show that trees previously within the front gardens of plots to the west, are now within the area to be managed as public open space. These trees are now intended to be maintained by a management company which are set up by developers to look after all public open space elements for the lifetime of the development – usually for an annual fee (service charge) paid for by the occupiers. Whilst the trees to be planted are 'heavy standard' (between 3.5-4m tall) the species proposed are not bred to achieve high status trees and the applicant is seeking to use root barriers to limit growth in any case further compounding the position.

Many of the other 89 trees are considered to be inappropriate for their setting, being trees that are not suitable for high traffic areas. For example, trees used to break up the frontage parking to the western part of the site are Rowan or Cherry trees which are known to give birds diarrhoea. By placing the trees within the control of the management company, the concern that occupiers would be able to remove the trees is abated somewhat, albeit the trees could still be removed with the consent of the management company.

Limited details of the species of trees proposed to be planted to the eastern part of the site have been provided as plans haven't been properly annotated. However, with maintenance strips of between 1.5m and 2m wide (within the management company) and in some places being very close to the houses, it is considered unrealistic to expect trees to establish and thrive given the lack of space for growth and the species suggested.

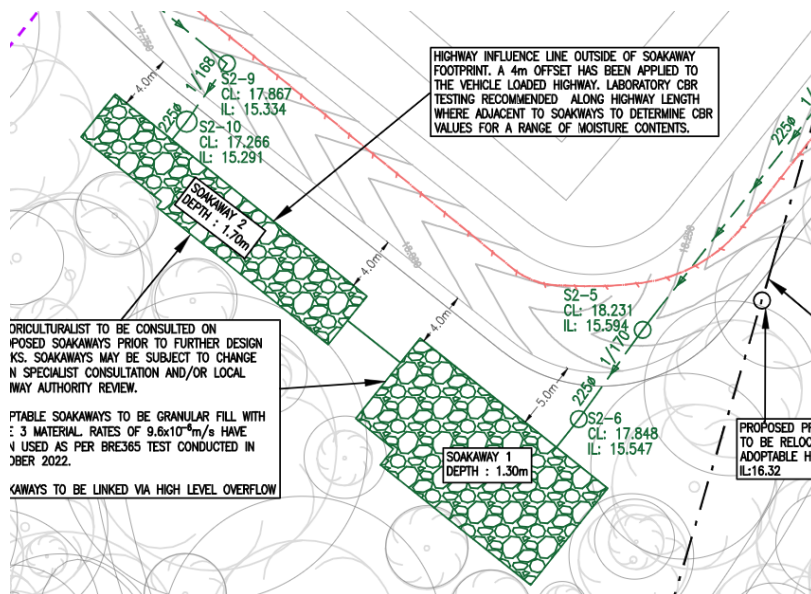
Having considered tree loss and the proposed compensation, I turn now to the impacts of other tree works. Tree works are also proposed within the root protection area (RPA's) of a number of trees. The applicants state in their submission that these trees could be retained subject to a suitable working methodology.

**Tree Works within the RPA's: (bolded text indicates TPO status)**

<b>Tree no.</b>	<b>Species</b>	<b>Height</b>	<b>Age Class</b>	<b>Category</b>
<i>Widening the Access</i>				
<b>T7</b>	<b>Common Lime</b>	<b>20m</b>	<b>Mature</b>	<b>A(I)</b>
<b>T9</b>	<b>Sycamore</b>	<b>22</b>	<b>Mature</b>	<b>A(I)</b>
<b>T16</b>	<b>Horse Chestnut</b>	<b>14</b>	<b>Early Mature</b>	<b>B(I)</b>
<b>T17</b>	<b>Beech</b>	<b>19</b>	<b>Mature</b>	<b>A(I)</b>
<b>T18</b>	<b>Common Lime</b>	<b>20</b>	<b>Mature</b>	<b>A (I)</b>
<i>Construction of the access road</i>				
<b>Tree no.</b>	<b>Species</b>	<b>Height</b>	<b>Age Class</b>	<b>Category</b>
T61	Turkey Oak	15	EM	B(i)
T62	Swedish	10	M	B(i)

	Whitebeam			
T66	Common Lime	17	M	A(i)
T73	Common Lime	14	EM	B(i)
T74	Common Lime	14	EM	B (i)
T76	Common Lime	14	EM	B (i)
T77	Common Lime	14	EM	B (i)

Whilst it is stated that these trees could be retained, it hasn't been properly demonstrated that this work can be undertaken without harm. In addition to the works outlined above, the Council's Tree Officer has raised concerns with the feasibility drainage works indicated on the plans. These are yet to be finalised, but show drainage attenuation in close proximity to retained and protected trees which could harm the trees by changing their growing environment (such as an increase in water saturation that could negatively impact on soil root health creating anaerobic conditions and causing long term tree loss) and through encroachment into their RPA's. The applicant advises that a suitable methodology could be agreed by condition and that the intention is for the drainage attenuation feature to be designed around existing trees and their RPA's requiring no further tree removal. Their feasibility drawings however appear to show excavations within the root protection areas of the retained trees adjacent to London Road which casts doubt on the ability to undertake such works without harm to trees (see image below). The proposed foul drain also appears to disregard the presence of existing and newly planted trees (compensation for previous TPO removals).

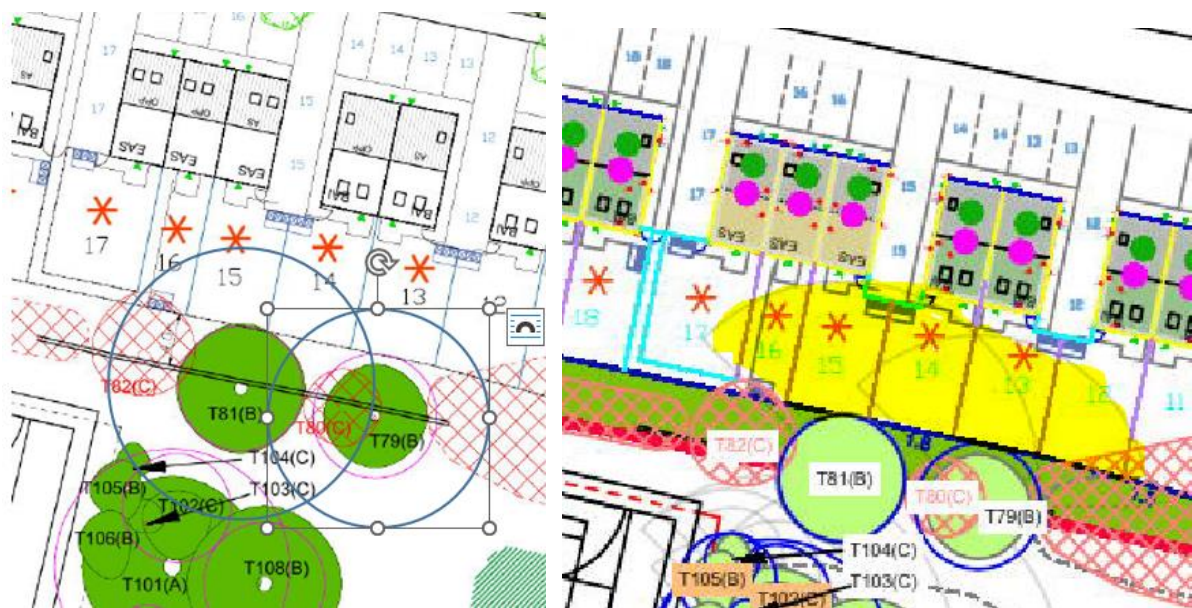


The applicant has issued a rebuttal (from their arboricultural advisor) to our position and it is clear there is some professional disagreement between parties. The rebuttal does not alter officer's position.

*Retained Tree Impacts*

The majority of retained trees are to the south of the site near to the London Road frontage. However, there are also established trees close to the proposed dwellings where their relationship to the development puts their retention at risk.

For example, Tree T81 (an early mature Sycamore, 12m tall and B1 graded) is expected to grow to around 22m in diameter to a height of around 22m. When this and the adjacent trees along the southern boundary are plotted at full maturity against the layout (see blue line on left hand side image below for approximate depiction of full growth) there is in clear conflict with the canopy spread taking up the vast majority of the gardens of plots 12 to 17. This would be highly likely to lead to requests for severe pruning or removal in the longer term. Furthermore, the trees as existing would already cast shadow on gardens for much of the day as demonstrated by the applicants AIA. The right-hand side image shows an example of this which has been highlighted in yellow for clarity. Whilst the applicants claim that longer gardens have been provided to deal with this, that pruning is normal and the trees would be managed, I have come to the view that the scheme hasn't been designed to adequately reflect and respect existing features of importance and builds in avoidable issues in the first place.



Another example would be with tree T93 located in a prominent position within an area of public open space close to where the road forks east and west. This is also an early mature Sycamore which is expected to grow to a similar size as the example above. When plotted to full maturity against the layout, this tree (and others adjacent) conflict with the adjacent garages and houses (as shown broadly by the blue circles in the image below) which again will place pressure on the retained trees from occupiers who may see these as a threat to their safety and amenity.



**Housing Mix, Density and Type**

Core Policy 3 (Housing Mix, Type and Density) sets out the expectation that densities should not normally be lower than 30 dwellings per hectare with the Newark Urban Area (within which this site lies) achieving average densities of 30-50 dwellings per hectare. It also requires that housing should address the local housing needs which would be dependent on the local circumstances of the site, the viability of the development and any localized housing need information.

The density of the development is in excess of 40 dwellings per hectare (discounting the undeveloped parts of the site) and is broadly compliant with the policy. Different densities can be achieved however depending on what land is taken into account so caution is urged in respect of this. The applicant, for example, has calculated a density of 23.3 dwellings per hectare (access link to the north-west, drainage link to the west, and access road pass the school is NOT included in this calculation). Regardless of the calculation, I have no concerns regarding the density as I consider it more important to achieve an appropriate character given the context, which if this site were to be developed successfully would, I believe, require a density lower than the policy requirement.

The following tables show how the overall housing mix compares with the housing needs as established for the Newark Sub Area in 2020 (the council commissioned district wide housing needs [HNS] survey by arc4) which represents the most up to date housing needs evidence available.

*Overall Housing Mix*

House Type Needed in Newark Sub Area	No. of Units	%	HNS 2020 Required Mix
1 bed flat	0	0	4%
1 bed house	0	0	19.5%* (1 and 2 beds)
2 bed flat	0	0	4.9%
2 bed house	12*	13.79%	19.5%** (1 and 2 beds)
2 bed bungalow	4	4.59%	7.4%

3 bed	34	39%	30.7%
3 bungalow	2	2.29%	6.7%
4 + bed	35	40.22%	25.5% (4+ beds)
Other types	0	0	1.3%
<b>Total No.</b>	88		100%

\*1 and 2 bedroom dwellings and 4 or more bedrooms are not differentiated in the HNS – they are considered together

\*\* 3<sup>rd</sup> bedroom of Ripon house type insufficient dimensions to be classed as bedroom so I am counting this as a 2 bedroom unit

Achieving an appropriate mix has been an issue raised with the applicant from the outset of this latest application and has been subject to various amendments in an attempt to strike the right balance. Given the constraints of the site I would accept that it may not be appropriate to provide flats/apartments noting that this requirement can be absorbed in the town centre and through conversion schemes. The table above therefore shows these types of accommodation greyed out.

Three bed bungalows have now been introduced into the scheme (earlier versions had none) but the scheme has consistently offered a lower number of two bedroom units than the identified need and more 3 and 4+ bedroom houses albeit most are within a 10% tolerance. The scheme therefore still has a dominance of larger units compared to the need.

#### *Open Market Mix*

The table below shows the open market mix in more detail. The applicant's mix has been adjusted because whilst the applicant calls the 'Ripon' house type a 3 bedroom dwelling, the third bedroom (at c4.2m<sup>2</sup>) is below the nationally described minimum standard for a single bedroom which must be at least 7.5m<sup>2</sup> and at least 2.15m wide. This is also the case for the 'Darley' house type which has a bedroom size of 5.4m<sup>2</sup> which Avant have called a 5 bed dwelling which is more akin to a 4 bedroom house with an upstairs study.

House Type	Applicants Mix (No. of Units)	Adjusted Mix (No. of Units)	Floorspace	National described space standards (best practice)
2 beds	0	4	74m <sup>2</sup>	70m <sup>2</sup> (3 person) or 79m <sup>2</sup> (4 person)
3 bed bungalow	2	2	86m <sup>2</sup>	74m <sup>2</sup> (1 storey 4 person) 86m <sup>2</sup> (1 storey 5 person) or 95m <sup>2</sup> (1 storey 6 person)
3 beds	24	20	86m <sup>2</sup> , 87m <sup>2</sup> , *95m <sup>2</sup>	84m (2 storey 4 person), 93m <sup>2</sup> (2 storey 5 person), 102m <sup>2</sup> (2 storey 6 person), *95m <sup>2</sup> (3 storey, 4 person)
4 beds	15	16	118m <sup>2</sup> , 131m <sup>2</sup> , 133m <sup>2</sup> and 159m <sup>2</sup>	97m (5 person), 106 (6 person) 115 (7 person) 124 (8 person)
5 beds	20	19	150m <sup>2</sup> , 173m <sup>2</sup> , 207m <sup>2</sup>	110 (6 person) 119 (7 person) 128 (8 person)

Total no.	61	61		
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As can be noted from the fourth and fifth columns above, all of the house types meet the national 'Technical housing standards – nationally described space standards' (2015) which doesn't form part of our policy making but is guidance and a helpful tool in decision making.

### *Affordable Housing Mix*

The Council's Core Strategy, Affordable Housing SPD and Developer Contributions and Planning Obligations SPD seek to secure the provision of 30% on site affordable housing where the relevant thresholds are met, which in this case in 11 dwellings or more.

Based on the application proposal of 87 dwellings, this would amount to a requirement for 26 affordable homes. Core Policy 1 identifies that the required tenure mix is 60% social rented housing and 40% intermediate housing. However, a new product 'First Homes' (which is a discounted market sale dwelling) now meets the definition of 'affordable housing' and government guidance is that it needs to account for at least 25% of all affordable housing units delivered.

The table below shows the type and tenure split of the affordable products.

House Type Needed in Newark Sub Area	No. of units	HNS 2020 Required Mix for Affordable Rent	HNS 2020 Required Mix for Intermediate	HNS 2020 Overall Affordable Housing Need	Suggested affordable rent mix	Suggested shared ownership mix	First Homes
1 bed flat		11	7	18			
1 bed house		18	12	30			
2 bed flat							
2 bed house	8	18	12	30	3	2	3
2 bed bungalow	4	42	28	70	4	0	0
3 bed	14	23	15	38	9	2	3
3 bungalow		-	-	-	-	-	-
4 bed		30	20	50			
<b>Total No.</b>	26				16	4	6

The applicant advances a scheme that offers 2 and 3 bedroom units including 4 x 2 bedroom bungalows. The 'Levisham' 2 bedroom bungalow has 60m<sup>2</sup> of floor space. It should be noted that the national described minimum standard for single storey dwellings is 61m<sup>2</sup>. The 'Eastburn' 2.5 storey house comprises 73m<sup>2</sup>. There is no national standard for a 2.5/3 storey house albeit a 2 storey, 3 person house should have a minimum of 70m<sup>2</sup>. Finally, the 3 bedroom 86m<sup>2</sup> 'Baldon' house type meets the minimum standard for a 4 person, 3 storey house type. Strategic Housing colleagues have indicated that these house types are likely to be acceptable and attractive for registered providers to take on despite their modest size.

The affordable mix aligns with the mix suggested by colleagues working in Strategic Housing who have also considered the information on the Council's Housing Register which shows



demand for 4/5 bed units is far less (49) compared with the current need for 2 beds (597) and 3 beds (246) units. Based on all these factors I consider that the affordable element represents a fair affordable housing mix that would assist in meeting the District wide housing needs.

### Heritage Impacts

Core Policy 14 and Policy DM9 require the continued conservation and enhancement of the character, appearance and the setting of the district's heritage assets and historic environment in line with their identified significance.

The NPPF sets out the approach to heritage assets. Paragraph 204 states that 'effect of an application on the significance of a heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect the non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Highfields School is within what was historically known as Highfield House, a large Victorian villa, set within landscaped (parkland) grounds. The building was of such a status that it was laid out with a separate lodge structure at the entrance off London Road, leading to a tree lined drive and turning area in front of the house. The grounds were laid out with a wooded area to the west, orchard and glass houses to the rear (north) and specimen trees in more open land to the front of the house (south). A further tree lined track can be seen to the east of the house, perhaps being a service drive to the productive gardens at the rear.

Also of significance on historic maps is the line of the parish boundary separating Newark and Balderton. It is not known when the parish boundary was set, but this could be a potentially ancient boundary line and today on site the boundary is partly marked by a hedgerow along the field boundary.

The building is built of Flemish bond brickwork with brick plinth, stone bands and with render panels and canted bay. It has a central projecting gable with brick pilasters and stone corbels supporting an overhanging gable. In this central section is a Gothic arched doorway with transome window above. This leads into an attractive tiled entrance way with polished columns. Decorative cornices also survive internally. The roof is slate with bands of fish scale detailing and there is a large, toothed, brick eaves detail. The windows are plain sashes. The detailing of the Victorian phase of the building survives well. The building has been extensively extended and added for its C20 school use, although these additions have been to the rear - allowing the villa to be clearly legible and well-appreciated despite these later additions.

The Lodge is a small gatehouse structure, being one and a half stories high, with central stone chimney stack. The building is built of local blue lias stone, with Mansfield stone dressings, and has a plain tile roof with decorative ridge tiles. The roof is finished with raised and coped gables with stone corbel detail. The building is built in a mock Tudor style with Tudor arch lancet windows gathered in pairs at first floor and in canted bays at the ground floor. A heraldic style shield sits in the gable of the porch, which also houses a timber door with decorative strap hinges set within a Gothic arched stone doorcase. The Lodge sits within a small walled enclosure topped with railings, at the entrance to the site - as marked by pedimented stone pillars.

Despite the school uses in the grounds the House and Lodge are clearly set within historic and well landscaped grounds which contribute to the setting of these buildings, providing a sense of grandeur, sylvan charm and a landscape of specimen trees reflecting the Victorian interests at the time. The driveway entrance is well-defined by the gate piers and railings, and of course by the Lodge itself, and then gives way to a tree-lined avenue leading to the house. The House has clear views out to an open grassed area with trees shielding the road from view. Mature trees created a semi-wooded area to the west, while yew trees have been laid out in a bank to the north of the House, although these seem to be somewhat degraded in places by the imposition of modern school buildings. To the rear of the house remnants of a tall red brick wall survive, which provided for the lean-to glass houses, also seen in the above historic map. This wall is now very degraded and only survives in very partial chunks.

The House, Lodge and the grounds here are considered to be a Non-Designated Heritage Asset (NDHA). Arguably the individual buildings could be NDHAs in their own right, but as a grouping there is additional significance. The architectural interest of both House and Lodge are clearly demonstrated by a deliberate and decorative design style, different in each case, but united by the Victorian love of pseudo-Tudor and Gothic features. There is historic interest through age alone but the use of the House as a high-status residence for Newark's wealthy, plus its use in the War and then as a local school give additional layers of historic interest. Both buildings are undeniably attractive structures, having aesthetic significance, especially so within this designed landscape. Their grouping together as a villa site with country house pretensions makes a nice association and is representative of Victorian aspirations around status, fashion and wealth. Despite additions to the school building the site overall remains very legible and the historic architectural features are well preserved.

Turning then to the heritage impacts of the scheme, these are considered in turn below.

#### *Historic Wall*

The limited impacts to consider from the housing alone include what is presumed to be the removal of the remaining section of wall that once formed part of the glass houses and walled garden area. However, this is only a small section of what once survived, is hard to relate to any structure other than through historic maps and is not well preserved at present, as such the impact is limited.

#### *Parish Hedgerow*

Additionally, the hedge forming part of the parish boundary is being partially removed within the housing area to create an access into the development. It is acknowledged that the removal has been minimised as far as practical for the layout advanced. However regardless of this and of the maturity of the hedgerow itself, the line of it *is* significant so its partial loss to create an access into the field would still have an adverse impact upon the historic boundary.

#### *St Mary's Church Newark*

While the proposed houses will inevitably impact upon the incidental view of St Mary from the field to the north of the school, it is not a view currently enjoyed from the public realm or which specifically contributes in any significant way to the setting of the Grade I listed church. A church spire of this height will inevitably have many incidental views across potentially miles of land, and while these can be a positive element in the understanding of significance, there is nothing specific about this composition which would mark this as an important view. Arguably the incidental view may well survive in this new housing between buildings anyway. As such there will no impact to the significance of St Mary's Church, Newark.

#### *Trees (In heritage context)*

The proposals require the removal of healthy and historic specimen trees, those which form part of a historic avenue and deliberate historic clusters of trees such that it will degrade the quality of the setting and thereby significance of the House and Lodge. Replacement planting will only be able to compensate in some limited way, depending on maturity, location and species of the replacement planting which has been discussed and has already been found inadequate.

#### *Alterations to the Access*

It is proposed that the part of the curved frontage wall and railings, stone pier and railings with London Road would be partially removed and would be re-sited as part of the access works. There is a degree of harm in altering what may be the original formation of the driveway, however if the details were well replicated this proposal could potentially be mitigated with the use of conditions to control appropriate details.

#### *New Driveway*

One key area of concern is the impact of the new driveway to the proposed housing, not just if it requires removal of key trees but by the impact of this hardstanding and traffic movement within the open green setting of the House. The principal façade of the House was very deliberately given a naturalistic and carefully designed setting and even the principal driveway avoided cutting across the main aspect of the House. As such, this new driveway will be a rather incongruous element within the setting of the House. This impact could be minimised with a single lane access, with no formal kerb, no road markings, no lighting, no enclosure and a suitable surface but that is not what is proposed here, nor would it be acceptable. The applicant advises that this wasn't considered an issue on previous refusals however the access previously did not take this route to the housing site so isn't comparable.

#### *Enclosure to Football Pitch*

In order to pass the new driveway safely by the retained football pitch the playing pitch would need to be fully enclosed to prevent balls escaping onto the driveway for highway safety reasons. The applicant advises that if required, a new green mesh fence would be erected. However, whilst this would likely be the best option available to mitigate the harm it would still be an imposing and unattractive feature required in the principal aspect of the House, and in views of the Lodge from the House, which will detract from the setting of both these

buildings. This is not shown on the plans and its provision would need to be conditioned in the event of an approval but in doing so, would bring about some harm to the NDHA.

### *Archaeology*

A Geophysical Survey was undertaken in 2014 to determine the potential for archaeological remains which found a series of linear anomalies which inferred the presence of an enclosure and associated features. Evaluation took place by trial trenching which suggested evidence of Iron Age, Roman occupation and medieval agricultural practices. There was also a possibility that some features found relate to the civil war.

The applicant has provided a Written Scheme of Investigation (WSI) for Strip Map and Record excavation of the central area (in two parts). Our archaeological advisor has advised that the excavation methodology presented is sound but that it doesn't cover the full extent of the areas recommended. However, the matter could be dealt with by condition in the event of an approval to enable any remaining archaeology which currently survives on this site to be recorded prior to its destruction.

### **Design and Character**

Core Policy 9 (Sustainable Design) seeks a high standard of sustainable design and layout that, amongst other things is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments and well as provide for development that proves to be resilient in the long-term. Policy DM5 requires all new development to ensure that the rich local distinctiveness of the District's landscape and character of built form is reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

The NPPF seeks to achieve well designed places and at para. 126 sets out the following objective: *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities....'*

Tree lined trees is advocated by the NPPF at para.131 as has been set out in the tree section of this report.

Other design guidance such as the National Design Guide – Planning practice guidance for beautiful, enduring and successful places, September 2019 and Building for a Healthy Life set out key principles for good, sustainable design which have been used to appraise the scheme.

During the course of the application, various amendments have been made to improve the overall design and layout and the scheme is now much improved over what was initially submitted.

The dwellings are positioned amongst proposed 'structural landscaping' in an attempt to define and enhance streets. However as has been set out within the 'Impact on Tree' section of this report, given the lack of space provided and given the species proposed, the structural

landscaping would be unlikely to be viable in the medium to longer term and thus fails to create the tree lined streets that the NPPF envisions.

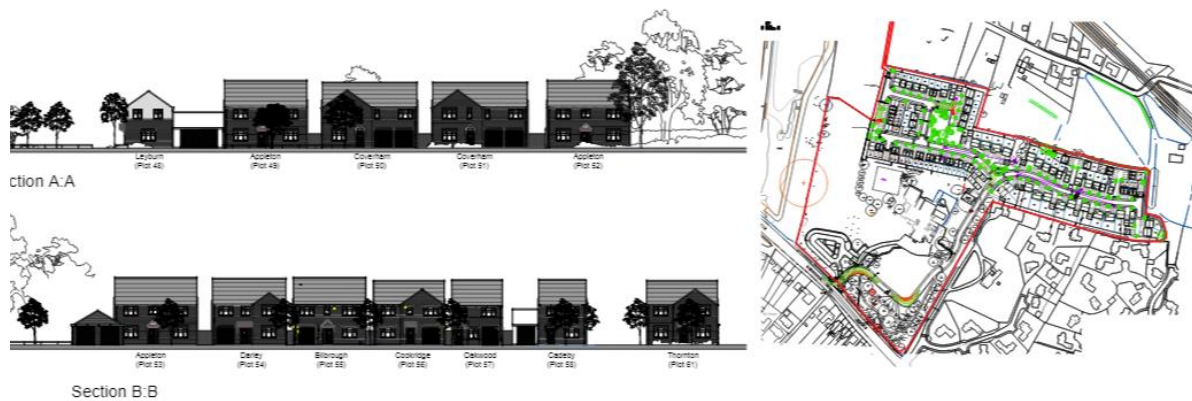
Dwellings haven't explicitly been designed to turn corners on this site as suggested by the Building for a Healthy Life guidance. On approach to the housing element of the site, receptors would first notice the foul pumping station and the sides of detached dwellings (Plot 1 and 87) which is less than ideal albeit the green space forward of Plot 52 does at least provide for a more attractive visual focus point upon entering the development. The public open space to the west of the scheme has the potential be an attractive place for residents to enjoy with houses fronting this and is a positive element of the scheme. There are however areas that are less than ideal and are missed opportunities in place making, such as the lack of an attractive visual end stop at the termination of the road/turning area between plots 22 and 27 to the west and between plots 73 and 76 to the east, which make the scheme somewhat highway led and dominated. The blue arrows on the plans below attempt to show the view that those travelling into the scheme would be faced with.



Other compromises are the car dominated areas in the rear courtyard areas, examples of which are included below. These spaces are at least out of public vantage points but still represent a harsh and heavily engineered setting for the adjacent houses.



The spacing between the houses is minimal with many of the dwellings (even the larger units) appearing tightly packed in many areas as is demonstrated by the extract of the street-scene provided below. This is in sharp contrast to the existing low density character of the surrounding area. It is accepted that there is a disconnect with both the policy expectations on housing density and character. However, this is an area of green open space which currently informally (given there is no open break policy relating to it) keeps Newark and Balderton distinct and if development is to happen, a lower density is considered to be more appropriate given its context.



Within the London Road area there is wide variety of handsome and traditional period properties including, for example, Victorian and Edwardian terracing and similar period semi-detached houses and villas. The terrace housing tends to be quite simple in vernacular with windows and doors arranged in bays and typically have continuous roof lines. In contrast, the semi's and villas typically have more ornate detailing with interesting brickwork and a vertical emphasis in joinery.

This scheme promotes dwelling designs that are generic and could be found anywhere, rather than specifically drawing upon positive local vernacular to create a sense of place or memorable character. Late amendments have sought to substitute the previously (5 no.) fully rendered dwellings with plots that now feature first floor render (on a total of 14 plots) in an attempt to better respond to local vernacular. However half rendered houses are not typical of the area and this amendment makes the scheme worse in my view. The remainder of the scheme would utilise a pallet of red brick facing materials, grey roof tiles and have traditional pitch roof forms which are considered appropriate for the area. However, the persistent use of integral garages, which whilst assisting with providing suitable storage for occupiers, is not a design feature that is typical for this area. The dwellings generally lack an appreciation of local vernacular design including a lack of local detailing such as chimneys and the arrangement of windows and doors which has a horizontal emphasis.

Overall officers conclude that the scheme falls short of the high design expectations of both national and local policies and would fail to create a sense of place as advocated by good design principles.

#### Impact upon Highway Safety and Parking

Spatial Policy 7 (Sustainable Transport) sets out that developments should minimise the need for travel, through measures such as travel plans for all development which generate significant amounts of movement. It also requires the provision or enhancement of local services and facilities, the requirement for development to provide for safe, convenient and attractive accesses for all, be appropriate for the highway network in terms of the volume and nature of traffic generated. It also seeks to ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected as well as providing appropriate and effective parking provision. Furthermore, it seeks to ensure that traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems. Policy DM5 largely reflects this.

NCC as Highways Authority (HA) have objected to the scheme on three occasions so far. The reasons are due to failure to robustly demonstrate the impact on the highway network, issues with the design and layout and requiring further information in order to properly assess the scheme. Amendments have been received but these still do not enable the objection to be lifted.

### *Capacity of the Highway Network*

Highway modelling has been used to show the impact the development could have on the highway network. The HA have been clear that there would be a significant adverse impact on two signalised junctions if the scheme were to go ahead in the absence of mitigation. These junctions are 1) at Bowbridge Road/Sherwood Avenue in Newark and 2) Mount Road/Main Street in Balderton.

The applicant has prepared an amended junction assessment of Bowbridge Road/Sherwood Avenue. The HA advise that the impact in the morning is considered to be severe, to the extent that they may be minded to object as there are no measures available to improve these signals which are proportionate to the development. In order to try to mitigate this impact, the applicants have sought to encourage more sustainable travel to reduce the impact of traffic at the signal junction, with the submission of the 'Draft Barnby Road Cycle scheme'. However, this is not acceptable as the removal of the centreline on the bridge is unsafe and the provision cannot offset morning peak traffic generation to the school as a primary school aged child would not be expected to cycle in the road. The applicant is now seeking to improve footways along Barnby Road, linking the development to the primary school to allow safer access on foot to the school, encouraging families to walk rather than drive, with the aim of lowering any traffic generated by this development in the morning peak, which it is understood to be the main concern.

At the time of writing this report, the Highways Authority have not yet commented on the latest scheme to improve the footway and their comments will be provided as a late representation where appropriate. What is clear however, is that without mitigation, there is harm resulting from queuing traffic as a result of the development at morning peak times. The effectiveness of the proposed mitigation is therefore the key matter for consideration. The provision of a cycle route linking to the (Sustrans) National Cycle Route and better footways along parts of Barnby Road would be welcomed in a general sense because it could encourage walking and more sustainable modes of transport. However, the effectiveness of this actually reducing traffic to London Road is difficult to measure and predict.

Whilst I would be guided by the HA as the experts on this matter, it appears to me that the effectiveness as to whether the proposed mitigation would actually reduce cars in the morning peak is a subjective matter. For example, people who drop their children off to school by car are frequently going on elsewhere to work etc. and there is little to convince them to walk to school, to walk back to then pick up the car to go to work, because it would be unlikely to make sense. Whilst I acknowledge that the proposed cycling and walking scheme would not increase traffic and could only ever reduce it, I am not persuaded that this would fully mitigate the harm identified by the HA.

The other junction in Balderton would also have an unacceptable impact on capacity as a result of the proposal and is already equipped with most available equipment to maximise performance, with the exception of a CCTV camera which would allow for manual intervention at peak times, reducing queues and delay. A CCTV camera would cost in the region of £5k and would negate the need for any further mitigation if it was secured. The developer has agreed in principle to cover the cost of this to be secured by s106 agreement.

### *Sustainable Modes of Transport*

A Travel Plan has been submitted but this hasn't been properly updated since the scheme was amended. It was initially proposed that a footpath link from the north-west corner of the site leading to Barnby Road towards Barnby Road School (and its community park) would be maintained as part of the communal areas of this development managed by a management company rather than as an adopted highway. However, this has now been upgraded as a cycle way (in an attempt to deal with capacity issues on the highway network) which is a positive element of the scheme from a purely sustainability perspective.

In order to overcome the issues in terms of access to and from the northbound bus stop, a footway within the Public Open Space has been extended through the grounds linking to London Road at an appropriate point. The HA have advised this needs to be lit and that given the ecological constraints low level bollards would be required.

### *Access and Layout*

The access itself appears to be acceptable. Many concerns were previously raised by the HA but have now been resolved with the exception of an issue (with kerb upstands) at Plots 73/74 which diminishes safety for pedestrians when vehicles are turning and requires cars to reverse along the footway to access spaces. However, HA have confirmed that this alone is not considered to constitute an unacceptable highway safety issue in this particular location.

### *Parking*

The Council has adopted a SPD on Residential Cycle and Car Parking Standards & Design Guide in 2021 which carries full weight. This sets out expectations for residential parking quantum's, designs and sizes types across the district.

For garages to be counted as genuine parking spaces they need to have clear internal dimensions of 3.3m x 6m with a door at least 2.4m wide for a single or 4.2m for a double



garage. Visitor parking is encouraged where the developer hasn't met the above standards. As the site lies within the Newark Urban Area parking space quantum's are requirements as follows:

- 1 bed dwelling = 1 space
- 2 and 3 bed dwellings = 2 space
- 4 + bed dwellings = 3 spaces

The SPD acknowledges that tandem car parking arrangements can form part of an overall car parking strategy but should not be encouraged to be the only, or predominant design solution.

Firstly, it should be noted that none of the proposed integral garages meet the minimum internal dimensions set out in our SPD and cannot therefore be counted as parking spaces. However, the scheme has been designed with sufficient external parking for the plots in question so that there is no reliance of these integral garages for parking. Instead, these may be counted as cycle parking provision. There is sufficient internal space within the double garages and the single garages. The Twin style garage is marginally below standard (3m wide instead of 3.3m wide and with a door width of 2.28m rather than 2.4m) but these only affect plots 1 and 2 so would not be fatal to the scheme.

Tandem parking is part of the strategy utilised but is used by only 18 plots (20%) so there is no over reliance on it. None of the integral garages (which are below size for a parking space) are relied upon for parking as these plots have sufficient parking within the plot. The scheme as now presented mostly accords with the vehicle parking guidance in terms of quantum of spaces and design. There are some instances of compromise which are set out below.

Plot no. 61 (the 'Thornton' 4 bed house type) doesn't meet the guidance. This is because it relies on triple tandem parking (three in a line behind one another) which are not encouraged at all because of several vehicles having to manoeuvre to let the first vehicle exit. However as this is limited to just one plot in a non-prominent location it is unlikely to cause harm in isolation.

Six plots (27, 28, 29, 33, 72, 76) shown in the images below have illegible parking that is not directly adjacent to their dwellings such that they wouldn't have sight of their own vehicles from their properties. This is not ideal, but most spaces are at least overlooked by other properties.



Frontage parking has been widely used, but in the most part the parking has been designed such that there are no more than four spaces side by side without a space equal to a parking space for soft landscaping to visually break this up as required to accord with the design guidance of the parking SPD. There is one exception as shown below.



Overall, however the parking provision is now acceptable in terms of quantum and design, with this vast majority of parking adhering to the parking and design guidance set out in the SPD.

*Cycle Parking*

It should be noted that greater emphasis is being placed on walking and cycling in terms of both health and sustainability with developments needing to provide cycle parking as set out in the Council's adopted SPD.

It is therefore recommended that secure and undercover overnight cycle parking is provided for all dwellings of all tenures. The recommended minimum cycle parking standards are detailed as 2 cycle spaces for 2 and 3 bedroom dwellings and 3 for 4 or more bedrooms.

The scheme advanced provides covered cycle storage in the form of garaging (either integral or detached) for the larger units. However, no provision is shown for the 42 units without garages despite a request to deal with this. Notwithstanding this, in the event of an approval I am satisfied that a condition could be imposed to require the applicant to make provision for this, either by providing a small shed or providing an alternative covered bike store within the rear gardens.

### Impact upon Residential Amenity

Policy DM5 of the Allocations and Development Management DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. Core Policy 9 also seeks a high standard of design that contributes to a compatible mix of uses.

#### *Overlooking, Privacy and Amenity*

The application site is bounded by a number of existing residential properties such that the impacts upon these dwellings requires careful consideration.

In relation to the first appeal (14/01964/FULM), the effect of the proposed development on the living conditions of neighbouring residents (with particular regard to privacy) was a key issue considered in detail by the Inspector. It is worth noting that the Inspector concluded that the proposed development would harm the living conditions of the occupiers of No. 27 London Road, No. 11A The Woodwards and Nos. 31 and 33 Glebe Park, with particular reference to privacy. I have sought to consider the impact on each of the affected properties.

#### ➤ *27 London Road*

The northern elevation of this dwelling forms part of the boundary with the appeal site, with a substantial brick wall forming the remainder of the northern boundary of this property. No. 27 is predominantly 2 storeys in height, with a single storey projection on its eastern elevation, with a conservatory/sun room beyond. The single storey projection includes a window in the northern elevation which opens into a living room. No. 27 contains 2 bedrooms in the attic space of the converted building attached to the western elevation of the main house. The northern roof slope of this part of no. 27 includes rooflights opening into these bedrooms and a bathroom. The eastern elevation of the dwelling includes 2 first floor windows, which each open into a bedroom. Although sited on a large plot, the main area of private amenity space associated with this dwelling is located immediately to the east of the conservatory, to the south of the boundary wall with the application site, which includes a paved patio, grassed area, trees and shrubs.

In relation to the layout of the first dismissed appeal, the Inspector considered that the separation distances of between 12m and 14m between the first floor rear elevations of the proposed dwellings and the boundary with 27 London Road would result in an unacceptable impact in terms of privacy.

Under this application, Plots 84-87 are the dwellings that have the potential to directly affect it. Plot 87 (a single storey dwelling) would be arranged at an oblique angle sited between c8.8m- 16.4m from its northern boundary and a new single garage would intervene the two proposed dwelling and no. 27, beyond the 4.4m wide ecological corridor. Given its single storey nature, I am satisfied that the dwelling would not cause a loss of privacy through overlooking. This is also the case in respect of Plot 86, also a single storey dwelling located further from the existing property.

The rear elevation of Plot 85 is c25.3m from the boundary whilst Plot 84 is c18.8m. Whilst there are no set distances in policy, as a rule of thumb 21-22m (as noted and accepted by the Inspector in the 1<sup>st</sup> appeal) is usually expected between dwellings to meet the needs of privacy. The distances between Plot 84 to no. 27 falls slightly short of what would ordinarily be requested albeit it should be noted that the new dwelling would be directly north of the eastern end of the garden to no. 27 which doesn't appear to be the most used element of it. This proposed two storey dwelling (with 3 first floor bedroom windows facing south) towards the neighbour's garden is shown as being slightly elevated with finished floor levels raised to 17.85AOD compared to the topographical survey which shows existing land levels to be around 17.41AOD in that area. Nevertheless, the bedrooms from Plot 84 would be able to achieve some views into part of the garden and would give a slight perception of overlooking. The black arrow on the image below attempts to demonstrate the area of garden that plot 84 would overlook. This is not ideal but in my view is just at the fringe of acceptability.



➤ *12 The Woodwards*

Plots 82 and 83 would lie to the north of this dwelling at a distance of 33.9m and 39m away and their garages are proposed to be over 30m away. At these distances and with mature trees intervening the two which help to screen the development, I am satisfied that there would be no adverse impact upon this dwelling by the development.

➤ *11a The Woodwards*

11a The Woodwards features a conservatory which is not shown on the layout plan which lies to the north-east of the dwelling. It has two first floor windows facing the site.

Plots 80 and 81 lie adjacent to (north of) this dwelling. Separation distances between dwellings are 24.4m at the closest point. The proposed adjacent garage is 15.4m from no. 11a. I am satisfied that these distances meet the needs of privacy without direct overlooking.

➤ *31 Glebe Park*

Plots 77 and 78 lie to the north of this dwelling, along with the double garage of Plot 75. Separation distances between dwellings are between 28.3m and 24.4m and the double garage is approximately 9.9m away. I do not consider there would be any adverse impacts through overbearing or loss of amenity upon this dwelling.

➤ *33 Glebe Park*

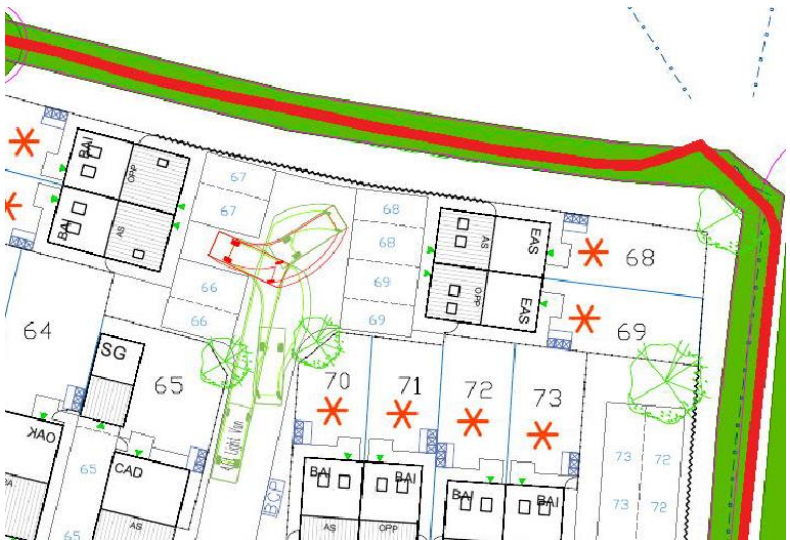
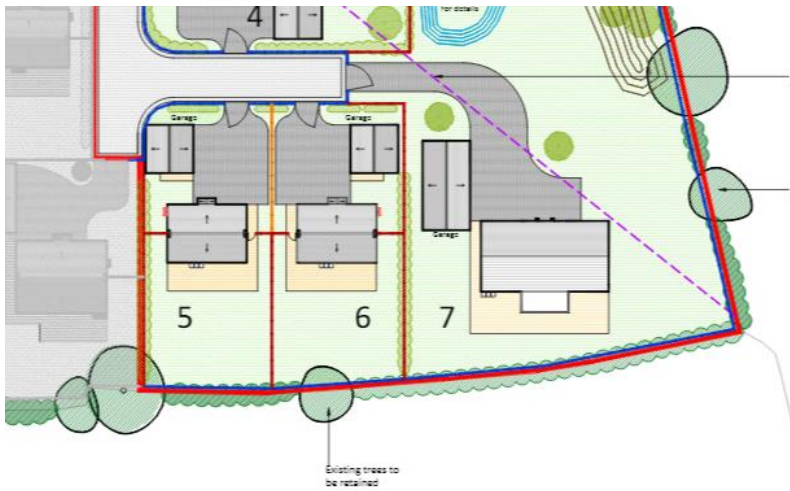
This existing property is located facing west and features a large clear glazed opening at first floor facing the application site serving what appears to be a home office/habitable room. The occupier has made representations that their patio would be overlooked by the new housing.

Plot 75 (Appleton house type) lies to the north of this dwelling also facing west with its rear garden orientated east. It is located at a distance of c10.7m (from the side of no. 33) with its side elevation blank (aside from a small obscure glazed bathroom window) thus avoiding overlooking. Its orientation avoids the loss of amenity which was a concern of the Inspector in the first appeal.

➤ *Barnby Road*

Grove Bungalow is the closest dwelling to the north of the site which has a separation distance in excess of 30m between the rear of this dwelling and the application site. It should be noted that Grove Bungalow has outline consent with all matters reserved for its demolition and the erection of 10 dwellings on the site. I am satisfied however that this scheme would not prejudice the ability for a satisfactory detailed reserved matters scheme to come forward at the northern site.

On land to the north-east of the site, planning permission has been granted for 7 new dwellings. Plot 3 (22/01588/S73 – which has been lawfully commenced and is greyed out on the image below to the west of 5) and 5, 6 and 7 (22/01589/S73 – which remains extant until 24 March 2024) would abut the northern boundary adjacent to proposed dwellings. These are ‘committed’ dwellings (shown in the image below) and therefore regard needs to be given to the impact of the proposal upon these.



Extract of proposed layout, plots 67 and 68 (two-and-a half-storey dwellings) would be side on with the approved dwellings immediately to the north.

Due to the distance from the nearest adjacent dwelling to extant Plot 3, I do not have concerns regarding privacy.

Oblique views from first and second floor windows would appear to be achievable from Plot 67 (a 'Baldon' 2.5 storey dwelling which is sited side-on c5m from the boundary) into the private garden of Plot 6 (house is 16m away) and likewise from Plot 60 (a 'Cookridge' 2 storey house type) into the rear garden of Plot 5 (house is c17m away). Whilst these houses are unlikely to amount to an oppressive/overbearing impact, due to the distance to the boundary this would in my view lead to a loss of privacy from not having adequate distances between dwellings to meet the needs of privacy, as well as direct overlooking/perception of overlooking particularly into the private rear gardens.

Plot 7 is a two storey dwelling with first floor bedroom windows on either side of the rear projection which would sit approximately 11m and 9.3m to the boundary. Plot 68 (a two-and-a half storey dwelling measuring 9.3m to ridge) of the proposed development would be sited side-on approx. 5.3m to the boundary and due to its positioning (which isn't shown on the proposed plan) would achieve oblique views into the area behind the garage of Plot 7 from its upper floors which consist of two bedrooms and potentially from the attic room which is served by 2 rooflights (potentially insofar as it is not currently clear on the internal floor height of the attic windows). It is acknowledged that there is a large garden for Plot 7 but this is likely to be some of the most used and private part of the garden so does represent a compromise.

➤ *Proposed New Dwellings*

Whether the proposal creates a satisfactory living environment for the proposed new dwellings is material to decision making.

As is set out within tree section of this report, there are concerns that retained trees would cause gardens of some plots to be in shade for most of the day.

The northern elevation of 27 London Road and its garden wall forms a boundary with the development site. Given its height, the southern part of the garden of Plot 87 (and the intervening ecology corridor) would be in shade for large parts of the day. The nearest part of the garden to the property would however be largely unaffected and buyers would be aware of this before occupation. This is therefore not fatal to the scheme.

*Noise – Pumping Station*

Existing noise sources in the area have been identified as being from the MUGA which houses back onto, the highway and the railway. The foul pumping station is also a potential source of noise.

Like its predecessors before it, this application proposal includes a foul pumping station which is to be located centrally within the site at the north east corner of the school grounds. This pumping station would be located in close proximity to a number of proposed residential properties, including the existing neighbouring property at 27 London Road. The distances between the pumping station and the closest part of 27 London Road is c24m. Distances between it and the nearest proposed dwellings Plots 1, 2 and 87 are 11.5m, 24m and 29m respectively.

Environmental Health Officer (EHO) colleagues advise that pumping stations being located underground rarely cause any adverse impacts in terms of noise. However, in order to ensure no unacceptable noise impact, a condition is recommended to require submission and approval of a noise assessment and implementation of any mitigation measures identified as necessary via this assessment. This would be required prior to first operation of the foul pumping station. Given the enclosed nature of the pumping station, and the separation distance to the nearest residential properties it is considered that any necessary mitigation measures could be readily accommodated within the proposed development.

*Noise - MUGA*

A number of houses back onto the MUGA, with the wildlife corridor intervening. The distance from the rear of houses to the MUGA perimeter is between 17m (plot 22) and 19.5m (plot 17).

The EHO advises that the noise assessment indicates that internal and external WHO noise guidelines will be achieved with mitigation (acoustic fencing and glazing/ventilation). The commonly used assessment method relating to proposed development (BS4142) is not suitable for recreational noise, and there are no other objective assessment methods that

could be used to assist with noise impact assessment. Subjectively there is a risk of complaints about noise from residents in close proximity to MUGAs i.e. shouting, whistles, and impact noises associated with balls and other objects striking framework and panels etc. It is not clear how likely complaints would be in this case. The risk is increased given the MUGA is particularly close to the proposed residential properties, where the use is extended across a variety of activities, and operating times are likely to be extensive especially as the MUGA is intended for community use with proposed floodlighting.

Officers expect noise from the MUGA would be audible at the rear of the proposed dwellings, and the unpredictable nature of the noise is likely to be more annoying than a more predictable level of noise. While those noise levels might not be high enough to cause a significant observed adverse effect, the character of the soundscape could potentially cause small changes in resident behaviour such as closing windows, or not sitting in the garden. Acoustic fencing has been proposed to minimise noise from the MUGA. Additional noise mitigation measures could be considered including the limiting the hours of use, albeit this will affect the community benefit.

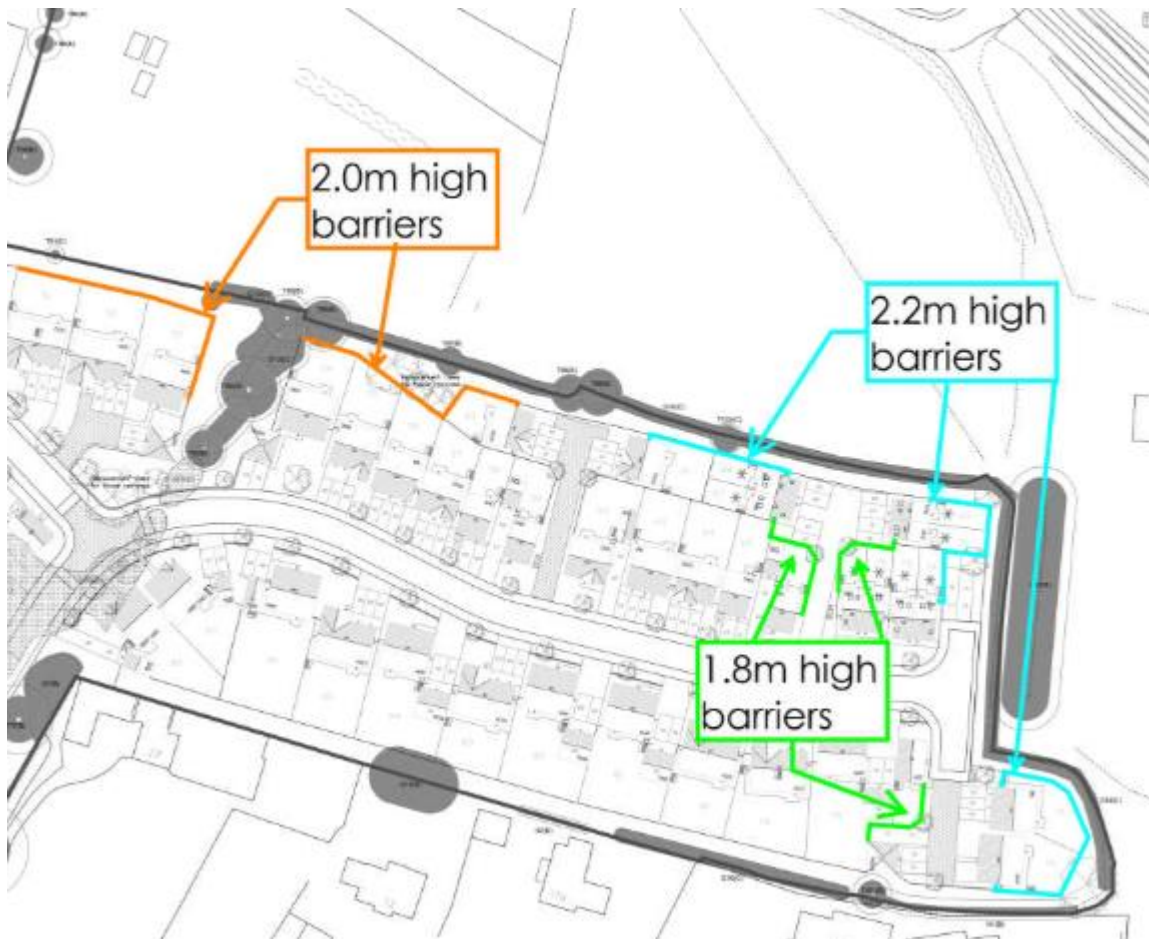
Without fully understanding the community use offer (i.e. the hours that it would be available to the community into the evening and at weekends) it is difficult to make a definitive assessment of impacts but it is considered that due to the proximity in relation to proposed dwellings there will be some compromises to the living conditions of residents.

#### *Noise - Railway*

The proposed houses to the eastern part of the site would be sited relatively close to the east coast railway line.

The Noise Assessment has shown that noise levels in gardens facing the railway line would be up to 64dB and exceed the recommended upper guideline of 55dB such that noise mitigation fencing would need to be installed to protect the gardens from unacceptable levels of noise. Three plots would exceed the upper guidelines (by between 1 and 3dB depending on which section of the report you read) even with a fence of 2.2m high. The applicant points to BS8233 guidance in this circumstance which states: 'These guideline values may not be achievable in all circumstances where development might be desirable. In such a situation, development should be designed to achieve the lowest practicable noise levels in these external amenity spaces but should not be prohibitive.' EHO have commented that an exceedance in the region suggested is not considered significant. On this basis I am satisfied that subject to mitigation (controlled by condition) the impact from railway noise should not be fatal to this scheme.





All properties are to have minimum glazing specifications and ventilation requirements to bring internal noise levels to within accepted guidelines. The report appears to suggest that a mitigation strategy is possible and that a detailed mitigation strategy would need to be prepared building upon those outlined in the report. This could be secured subject to a condition.

#### *General Disturbance/Noise from Road*

It is noted that some residents have raised concerns relating to general disturbance that could arise from the extra volume of traffic and from car headlights when they access/exit the site onto London Road. I consider it unlikely that these matters would amount to a substantial harmful impact on amenity sufficient to warrant a reason for refusal and neither the Noise Assessment or Environmental Health Officers raise concerns relating to this.

#### *MUGA Lighting*

The proposed scheme notes that floodlighting to the extended MUGA is proposed. While details of the floodlights (12 lights fixed to 6 x 6m columns) have now been forthcoming, no details of the hours that the floodlighting would be in use have been advanced. The information provided refers to mitigation where necessary but hasn't identified what if any is required and where.

#### Impact upon Ecology

Core Policy 12 of the Amended Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM7 of the Allocations and Development Management DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. The NPPF sets out at paragraph 174 that planning decisions should contribute to and enhance the natural environment by (d) minimising impacts on and providing net gains for biodiversity.

To the west of the application site lies 'Ballast Pit' which is an identified Local Wildlife Site (LWS). 'Ballast Pit' comprises a large fishing lake with willow carr (waterlogged woodland). The application site comprises a range of existing habitats within the site including flora, amenity grassland, semi-improved grassland habitat on the land at Baileys Field and Quibell Field, together with hedgerow, broadleaved woodland, tall ruderals and scrub on parts of the site.

It is worth noting that Nottinghamshire Wildlife Trust previously objected to development on this site due to concerns that there would be a significant negative impact to local amphibians and reptiles (albeit they had removed their objections to the scheme by the time the previous scheme was refused). Ecology harm also formed a matter at appeal previously, albeit the Inspector found no harm in respect of this in dismissing the previous appeals. NWT have raised no objection to this latest scheme subject to a number of mitigations being secured.

Notwithstanding all of the site's history, I have assessed this scheme afresh in light of the information submitted as part of this scheme. The applicant has submitted an Ecological Impact Appraisal which includes surveys along with a Reptile and Amphibian Mitigation Strategy and a Biodiversity Enhancement and Management Plan (all dated August 2022). The methodology appears sound and forms a suitable basis for assessment.

In terms of species, the Appraisal identifies that the site is used by a number of protected and priority species. The survey work identifies use of the land by grass snakes and identifies use of the site as a migratory route for the common toad which is a priority species under the Natural Environment and Rural Communities Act 2006.

In summary it is considered that to avoid unacceptable adverse impacts to ecology, a number of mitigation measures would be required. At construction phase, to avoid impacts such as increased noise, dust and ground water run-off pollution to the LWS a Construction Environmental Management Plan (CEMP) would need to be produced and implemented in order to protect the site itself and the adjacent LWS. Precautionary measures (as set out in the applicant's Appraisal) to prevent harm to badgers and other animals at construction phase would also need to be adopted. The impacts are considered in more detail below along with the proposed mitigation measures.

Barnby Road to the north is listed on the Department for Transport register as a toad crossing and a migratory route. The appraisal acknowledges that Baileys field to the north-west offers suitable habitat for the common toad (a priority species) and this appears to be associated with the Ballast Pit (a breeding ground) adjacent. The development has the potential to permanently disrupt an element of an existing toad migratory route, resulting in a loss of

suitable terrestrial habitat for the species and to cause injury or harm to toads during the construction and operational phases of the development. Common amphibians such as smooth newts and common frog (also found on site) may become injured during the construction phase. The development will also result in a loss of suitable terrestrial habitat for these species. In the absence of mitigation, the impacts above would result in a moderate adverse impact at the Local level.

The site is considered to form part of a common toad migration route with the potential to support hibernating toads. A specific Amphibian and Reptiles Mitigation Strategy has been produced for the Site to protect common toads during the construction and operational phases of the development. This shows the inclusion of a 4m wide wildlife corridor along the peripheries (north, east south and west) of the site. This would need to be conditioned so that it is provided early in the development as part of the vegetation clearance works and be protected during construction by signed hedges fencing. This corridor would retain access to the lake from Baileys field for migrating toads, and towards the allotments adjacent to the eastern site boundary. This wildlife corridor would need to retain the areas of existing rough grassland suitable for hibernation, and some sections of short mown grassland. This grassland will be subject to less management to allow the development of tussocky, longer sward in order to mitigate for the loss of grassland in Baileys Field. It would be planted with native, species rich hedgerow along the side of the new development in order to provide screening for wildlife and small holes for toads would be created at the base of the wall along the western boundary of the Highfields School to improve small faunal dispersal from the wildlife corridor towards the Ballast Pit LWS. An underpass below the new access road would need to be big enough for badgers too unless traffic calming measures are introduced to lessen increased badger mortality.

The applicant's ecological submission details that in terms of connectivity, the final scheme has been designed to allow toads (and hedgehogs) to move across the site and that garden fencing (required to prevent interference of the corridor from dogs) would have holes cut into the bases (13cm x 13cm) and where possible the fences would be raised off the ground to allow 10-13mm gaps for toads to migrate. However, this element of mitigation is at odds with Noise Assessment which makes clear at paragraph 5.5 that noise barriers needed to form suitable mitigation for the noise sensitive properties, should be continuous unbroken barriers with no gaps at the bottom. In an attempt to resolve this conflict, the applicant has now suggested that ACO underpass tunnels are proposed at 10m intervals underneath the fencing to still allow for migration which would resolve this issue if properly secured by condition.

Other measures such as the positioning of dropped kerbs in suitable locations across the development in order to facilitate the movement of toads across the site and prevent toads becoming trapped on roadways would be needed, including gully pots with small animal exclusion devices to prevent toads falling into drainage systems and becoming trapped. Speed bumps and speed restrictions are also recommended by the ecologist, which are not currently shown on the drawings but are usually technical matters that would be designed post consent.

To compensate for the loss of grassland habitat, a permanent compost heap or egg laying piles will be created to provide suitable breeding habitat for grass snakes. Refuge and hibernation habitat that is being lost would be compensated by two large hibernacula for

toads and one large one for reptiles a minimum of 4m long x 2 m wide x 1m deep. The compensation plan (Appendix 1) of the Reptile and Amphibian Mitigation Strategy identifies 3 broad locations, one of which is off site but within land owned by the applicant so this would need to be controlled through the s106. Enhancement measures specifically designed for amphibians and reptiles include 10 permanent brush and log piles created from clearance of suitable vegetation which could be controlled by condition.

A working methodology to protect reptiles and amphibians has been prepared which is broadly acceptable but would need to form part of the CEMP.

It is also recommended that monitoring surveys for common toad should be undertaken during the migratory period for two years post development in order to monitor the presence of toad population at the site and to inform if any additional mitigation measures are required. These visits should also be utilised to assist with migration and any individuals found on roads should be assisted and taken away from risk of injury or killing towards the ballast Pit LWS via the wildlife corridor. This would go beyond the scope of a planning condition and would need to be included within the s.106 agreement.

In respect of Great Crested Newts (GCN), the two lakes within 500m of the site show poor suitability for the species given they are fish stocked and lack suitable egg laying substrate. Overall, the Appraisal found it unlikely that GCN are present in or adjacent to the site. No mitigation is necessary.

Impacts on badgers have also been assessed but due to poaching sensitivities this is not discussed within this report. They could, however, be appropriately mitigated for.

In relation to bats, the site was assessed as being of local importance to common foraging and commuting bats. Of the trees proposed to be felled to make way for the development, one provided moderate suitability for bat roost potential and was subject to further nocturnal surveys where no bats were recorded. The removal of trees and hedgerow, in addition to increased lighting, noise and vibration levels at the Site have the potential to disrupt foraging and commuting routes. In the absence of mitigation, these actions would result in a minor adverse impact at a local level. In order to reduce risks to roosting bats, any tree subject to removal will be inspected by a licensed bat surveyor immediately prior to felling using soft felling techniques. New roosting opportunities for bats will be provided on new buildings and retained trees within the Site. Bat activity at the Site is considered to be low, with the Site considered to be of local importance only. The loss of habitats on-Site is not considered likely to impact local bat populations. Construction work should be avoided at night and any external lighting should be bat sensitive details of which would need to be agreed by condition.

On site habitats are suitable habitat for breeding birds and the development would result in the loss of nesting habitat for common species. Clearance therefore should be undertaken outside of bird breeding season to be controlled by planning condition.

A low population of grass snakes were recorded in Baileys field. Clearance of the vegetation in this area has the potential to cause injury or death to reptiles present and will also result in a loss of suitable foraging and refuge habitats for the species at the Site. Reptiles may

become trapped or injured in open excavations during the construction phase of the development. In the absence of suitable mitigation, the impacts above would constitute a moderate adverse impact at the local level. Mitigation would be by way of method statement for the construction phase and the wildlife corridor to allow for continued movement and habitat.

The development will result in a loss of suitable foraging and hibernation habitat for hedgehogs. To mitigate it is recommended that the removal of habitat is undertaken using hand tools, with the base checked for hedgehogs prior to complete removal and that this is done prior to the main breeding season in line with a suitable method statement.

It is proposed that the LWS would be planted with native scrub and tree species to enhance the woodland area and provide more cover and opportunities for species. This would need to be secured by a s106 agreement. Enhancements relate to planting of native species, provision of artificial roosts and bird boxes on 20% of new buildings.

It is noted that NWT have scrutinized the proposals and raise no objection on that basis that the conditions they have set out are met. They have commented that they would like to see the wildlife corridor wider than that proposed. It should be noted that the ecology report submitted with the previous (withdrawn scheme) by the same ecologist, recommended a corridor of 4-5m wide. However, the corridor proposed is shown on the plans as being only 4m wide; the minimum width recommended by the ecologist.

It is also notable that the County Ecologist in commenting on previous refused schemes was unable to support a scheme where the corridor was less than 10m wide. This differing professional opinion is noted. NWT have stated that if the corridor cannot be widened it is essential that a number of conditions are met to ensure its effectiveness including restricting its access to residents and a number of other matters which can be controlled by condition and s106 agreement.

The ecological information submitted doesn't clearly distinguish between what works are needed for mitigation and compensation and what would represent a genuine enhancement. No baseline matrix has been provided (nor does it currently need to be) to be able to conclude whether the scheme would lead to enhancements or biodiversity net gain. However, given that it has been concluded that the tree compensation would be inadequate, and the risk of tree loss from the proposed works (which the applicant hasn't assessed given their view is that they could be retained) the scheme is considered likely to lead to some associated adverse impact on ecology and biodiversity net loss.

### Flooding and Drainage

Core Policy 9 requires developments to be pro-actively manage surface water and Policy DM5 builds upon this, requiring developments to include, where possible, appropriate surface water treatments in highway designs and Sustainable Drainage Systems. Core Policy 10 sets out a commitment to tackling the causes of climate change including ensuring the new development positively manages its surface water run off to ensure there are no unacceptable impacts.

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

Owing to the scale of the development, the application has been accompanied by Flood Risk Assessment (FRA) and Drainage Strategy to show risk of flooding and how both surface water would be managed and foul sewage would be disposed of.

The FRA concludes the flood risk is low from all sources but notes that mitigation measures would be required in the form of reprofiling the site to ensure surface water doesn't pond, that finished floor levels are set a minimum of 0.15m above adjacent ground levels following the reprofiling and the implementation of a surface water drainage scheme.

The drainage strategy proposes a foul pumping station close to existing and proposed dwellings which would pump waste south to a public sewer on London Road. Connecting to a public sewer is the preferred option in the drainage hierarchy and is acceptable in principle.

The surface water drainage strategy comprises a system of surface water sewers (tanks are indicatively shown under the sports pitches to the west of the site adjacent to the ballast pit/lake) discharging to the watercourse to the west and highway soakaways underneath retained and protected trees to the south of the site close to London Road. Soakaways are also proposed amongst the mature trees to increase long term infiltration.

The Environment Agency have made no comment given there is no risk of fluvial flooding. Following the submission of additional information and clarification, the Lead Local Flood Authority have now advised they raise no objection to the scheme. On the basis of the above it is concluded that the scheme would accord with the aforementioned policy requirements in respect of flooding and drainage.

#### Impacts on Infrastructure/Developer Contributions

Spatial Policy 6 of the Core Strategy and Policy DM3 of the Allocations and Development Management DPD set out the approach for delivering the infrastructure necessary to support growth.

The Developer Contributions and Planning Obligations Supplementary Planning Document provides additional detail on the Council's policy for securing planning obligations from new developments and how this operates alongside the Community Infrastructure Levy (CIL). The SPD is a useful starting point in setting out the approach to developer contributions not dealt with by CIL to make a future development proposal acceptable in planning terms.

Members will note that viability was considered as part of the previous appeals and ultimately the Inspector found that the last 2 schemes didn't make adequate provision for affordable housing. This application does not seek to argue that the scheme is unviable such that it cannot afford the full scale of the planning obligation requirement, in addition to the CIL liability.

The policy position in respect of delivering the necessary infrastructure to support the scheme is set out and assessed below.

### *Community Facilities*

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

The site itself is too small to provide community facilities on it and therefore any additional pressure upon community facilities that this scheme would place upon the community should be met off-site by way of a financial contribution. This contribution is triggered at 10 units or more and therefore a financial contribution toward community facilities which is based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling is sought.

The application scheme of 87 dwellings would equate to a community facilities contribution of **£120,414.09** (plus indexation).

### *Primary Education*

The Developer Contributions and Planning Obligations SPD indicates that development of 10 or more dwellings which generate a need for additional primary school places will be secured via a legal agreement. The number of primary places required is based on a formula of no. of dwellings x 0.21 to establish the number of child places required.

Nottinghamshire Country Council as The Education Authority have confirmed that the development would yield an additional 18 primary, 14 secondary and 3 post 16 aged pupils. Based on current data there is a projected surplus of places in the planning area and the impact of the development would not lead to a deficit in provision of primary or secondary school places. However, when considered cumulatively alongside other proposed developments (Land at Flowserve, Hawton Lane and 293 Bowbridge Road, Newark) the 3 schemes would generate an additional 86 primary school pupils which would reduce the surplus from 120 to 34 places. The residual surplus would not be sufficient to accommodate the pupil demand arising from this and the proposed 150 dwellings at Lowfield Lane in Balderton which is pending.

NCC's Developer Contributions Strategy states that where one application does not justify obligations owing to projected spare capacity in the planning area, but a further application would result in capacity being exceeded, obligations will be requested and shared between all eligible applications. The combined shortfall created by these two applications would be 16 places (i.e. 34 places less demand for 18 places generated at London Road and 32 places at Lowfield Lane). It is therefore requested that the cost of the cumulative shortfall (16 x £18,907 = £302,512) is divided proportionally between these two applications, which would equate to **£111,929** (37% of the above).

In terms of secondary education, the development would be covered under CIL regulations.

### *Integrated Transport*

In accordance with the Developer Contributions SPD, to increase and encourage public transport and to mitigate for the impact of the development, the Public Transport and Travel Services arm of NCC has confirmed that they require a financial contribution of £24,200 towards improvements to two local bus stops (NS0779 & NS0416 The Woodwards Bus Stops). This would pay for the installation of real time bus stop poles & displays including associated electrical connections, polycarbonate bus shelters and solar lighting, raised boarding kerbs and lowered access kerbs.

In terms of sustainable travel, the detail around the free introductory bus passes noted in the Travel Plan would also need to be secured through the s.106 agreement.

A contribution towards junction improvements at Mount School/Main Street as noted in the Highway section of this report would also need to be secured in order to make the scheme acceptable.

### *Health*

For developments of 65 dwellings or more that increase pressure on the health service, Policy DM3 and the Developer Contributions SPD allow for contributions to be sought (£982.62 per dwelling, including indexation) where there is an identified need in the locality. The Clinical Commissioning Group on behalf of the NHS have confirmed that local health practices are operating at capacity and this scheme would lead to pressure upon services. A financial contribution of £982.62 per dwelling (£85,487.94) is sought towards improvements to health infrastructure.

### *Libraries*

The Developer Contributions SPD sets out that residential developments of 10 dwellings or more may trigger the need for a contribution towards libraries based on need. At an average of 2.4 persons per dwelling, the application scheme of 87 dwellings would increase the existing library's catchment area population by 269 persons. The County Council has therefore confirmed that a developer contribution of £3,064 (plus indexation) would be required towards the additional stock that would be required to meet the needs of the increase in population.

### *Public Open Space*

In accordance with the requirements of the Developer Contributions SPD, the proposal is required to make provision for public open space in the form of provision for children and young people and amenity green space. The SPD also requires all residents to live within 300m of an area of between 0.2Ha and 1Ha in size of natural or semi-natural green space.

In line with the SPD, 'Amenity Open Space' at a rate of 14.4m<sup>2</sup> per dwelling (1252.8m<sup>2</sup> for this development) is expected on site. The indicative layout would vastly exceed this which,



excluding the wildlife corridor around the site perimeter, amounts to approximately 6897m<sup>2</sup>. All of the dwellings are within 300m of an area exceeding 0.2ha in size.

To meet the needs of the development and its future occupants, provision for Children and Young People should be provided at a rate of 18m<sup>2</sup> per dwelling, which for a development of this size would equate to 1566m<sup>2</sup> of space.

Previous applications have relied on making a financial contribution for off-site provision of play space. However, the Council have since published an Open Space Strategy which is now material to decision making. This is a useful starting point in deciding how to approach POS. The strategy makes clear that the nearest existing play area is beyond the accessibility standard of 500m. In addition, the Strategy indicates that it is only green infrastructure (such as making it more resilient to climate change through additional tree planting) that is required to improve the Barnby Road Community Park which we are already seeking contributions towards from another nearby site that is much smaller. On this basis the applicant was requested to provide the POS in the form of both amenity open space and the children's play space on site.

	<b>Provision</b>	<b>Policy Requirement</b>
Amenity Open Space	6897	14.4m <sup>2</sup> x 87 = 1252.8
Children's Play Space	1511	18m <sup>2</sup> x 87 = 1566
<b>Total</b>	<b>8408m<sup>2</sup></b>	<b>2818.8m<sup>2</sup></b>

In response the proposal now offers an area for play within the main green area comprising of 1511m<sup>2</sup> located adjacent within the western part of the development. It includes 2 centrally placed pieces of play equipment; a 'Rockscape Henge' and 3 small rockscapes designed for climbing which have an appropriate buffer distance of around 20m to the nearest dwelling facade. This area for play does fall marginally short (by 55m<sup>2</sup>) of the policy requirement. However, given that the amenity open space offers a greater quantity of space, I consider that this compensates for this modest shortfall.

### *Maintenance*

The maintenance of all of the public open space including the wildlife corridors would be managed by a management company in perpetuity which could be secured through the s.106 agreement.

### Other Matters

This section is intended to deal with material matters raised during the course of the consultation process that haven't already been dealt with elsewhere.

Active Travel England are now a statutory consultee but only for schemes that exceed 150 dwellings, which this isn't. In any event there is no formal requirement to consult them on scheme received before 1<sup>st</sup> June 2023.

One local resident appears to query land ownership issues. This would be a civil matter. For the purposes of considering this application I am satisfied that the correct ownership certificates have been served and that nobody has been prejudiced.

## **9.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **10.0 Planning Balance and Conclusion**

The site lies within the defined Newark Urban Area which is part of the Sub Regional Centre where there is expected to be housing growth. Locationally therefore, the principle of housing development could be acceptable subject to consideration of other impacts. As a green field windfall site, this is not a site that has been allocated for housing or upon which we rely to fulfil our housing needs. At present we have a healthy 7.2 year housing supply (against a requirement of 5 years) and therefore the tilted planning balance does not apply here.

This scheme like its predecessors has attracted much local opposition with many residents making multiple representations throughout the re-consultation processes. The amended scheme as now submitted is an improvement on previous iterations. The scheme has some positive elements including the provision of on-site open space for residents which previous versions haven't advanced, albeit this is not a benefit - it would merely serve the occupiers of the dwellings proposed.

The scheme would have benefits including the provision of generally needed housing and whilst the market mix is not fully reflective of local need, the affordable housing element at least would be a policy compliant 30% offer which would help meet the housing needs of the District. It would also provide for construction jobs during the construction phase albeit these are temporary benefits.

However, significant harm has been identified which weighs against the scheme. It has been concluded that the loss of trees (both protected and those that are not) would not be properly compensated by this scheme due to an insufficient quantum of appropriate trees in appropriate places not close to where they would be lost. Furthermore, retained trees would be put at risk from loss due to proposed works adjacent and potentially within the RPAs from drainage works, works to create the new road and widen the access as well as their position so close to new dwellings which doesn't adequately account for future growth of the trees nor for them to reach their full potential. This would likely lead to requests for severe pruning or removal in the longer term due to fears of tree failure/safety and impacts on amenity through seasonal shedding etc. This loss would have an associated inevitable detrimental impact on ecology. The loss of mature trees from the south of the school would also harm the setting of the Non Designated Heritage Asset which enjoys a parkland setting of specimen trees of stature.

I have therefore concluded that the scheme hasn't been designed to adequately reflect and

respect existing features of importance and builds in avoidable issues from the outset. Whilst efforts have been made to create tree lined streets with the provision of maintenance strips alongside the eastern part of the scheme, these are of insufficient size to allow trees to establish and thrive. The majority of trees, especially to the western part of the site would be within the private gardens of occupiers which in the longer term wouldn't enjoy protection and are of a variety that occupiers are unlikely to tolerate in the medium to longer term. As such the scheme would not therefore deliver the tree-lined streets that the NPPF seeks to achieve. Overall, the impact on trees is considered unacceptable and unsustainable contrary to the requirements of Core Policy 12, DM5 and the NPPF.

There are a range of other compromises from this scheme that when taken together would cause demonstrable harm. Heritage harm to the setting of the NDHA would occur from the presumed loss of the remnant walled garden, partial loss of the historic boundary hedgerow, new access drive which would disrupt its setting and the enclosure of the football pitch. These represent low levels of harm but are still harm that need to be weighed in the balance.

Other compromises include the open market housing mix offer which doesn't fully reflect the most up to date housing needs information, the genericness of the house types which fail to reference local vernacular, compromises to the layout in respect of some parking arrangements, the way in which the houses have been packed in with minimal gaps between dwellings giving it a cramped appearance/grain and one that is at odds with the much lower density of the surroundings. There are also conflicts between the amenity/living conditions that would likely arise from the unpredictable noise and disturbance associated with the extended MUGA so close to the rear gardens of the new affordable houses and additionally from the retained trees that would also cast shadow on newly created gardens for much of the day providing a poor standard of amenity and placing increased pressure upon trees. Additionally, the extant dwellings to the north would experience overlooking/perception of overlooking from the scheme due to the inadequate distances between dwellings.

NCC Highways Authority have advised in their technical judgement that the scheme would result in severe adverse impacts at morning peak from junctions in the area that would be over capacity as a result of this development. Whilst a mitigation scheme has been advanced, NCC have yet to make comment on it. However, I am not persuaded that a scheme to encourage walking and cycling to the north would fully mitigate the harm identified to the south at London Road. In any event there is currently no mechanism in place to secure the necessary mitigation for either this or for the upgraded needed for the Mount Road/Main Street junction in Balderton.

The temporary and permanent loss of sporting facilities has received an objection from Sport England who will only lift their objection if a range of mitigation measures are secured. One of these is that the MUGA would be extended. However no specific details of this are included within the application scheme, nor the hours that the floodlighting would be operational. It is unclear whether there would be genuine benefits from the community use agreement as the details are vague. Therefore, I am not persuaded that the scheme would mitigate for the loss. In any event, there is currently no mechanism to secure the mitigation measures.

The scheme would place pressure on existing infrastructure and there is no mechanism to secure the necessary mitigation measures without a unilateral undertaking or planning

obligation (under Section 106) being entered into. Therefore, the scheme fails to provide appropriate mitigation for the impacts of the development such as upon education, health etc. This is not insurmountable as the applicant has shown a willingness, even drafting, an agreement and therefore doesn't form part of the balancing exercise being a neutral factor, that is mitigation required because of the development.

After careful consideration, I have concluded that the proposal would be harmful and does not meet the tests of sustainability and taking all matters into account I find the balance tipped very firmly towards a refusal.

## **10.0 Reasons for Refusal**

01

In the opinion of the Local Planning Authority the proposal which involves the loss of many mature and high quality trees (some of which are protected) causes significant harm to the environment and to the character and appearance of the area. This application fails to properly compensate for this tree loss due to an insufficient quantum of appropriate trees in appropriate places, not close to where they would be felled. Furthermore, retained trees would be placed at unacceptable risk of failure due to proposed associated works adjacent and potentially within their root protection areas, as well as due to the positioning of new houses so close to the trees which doesn't adequately account for future growth of the trees nor for them to reach their full potential. This would be likely to lead to requests for severe pruning or removal in the longer term due to fears of tree failure/safety and impacts on residential amenity through seasonable shedding etc. This loss would have an associated inevitable detrimental impact on ecology and the application fails to demonstrate the scheme would not have a biodiversity net loss. The loss of mature trees from the south of the school site would also harm the setting of the Highfield School building, a Non-Designated Heritage Asset (NDHA) which enjoys a parkland setting of specimen trees of stature. Overall, it is considered that the scheme fails to adequately reflect and respect existing features of importance and builds in avoidable issues from the outset. The impact on trees and the environment is considered unacceptable and unsustainable contrary to the requirements of Core Policy 12 (Biodiversity and Green Infrastructure) of the Newark and Sherwood Amended Core Strategy (ACS) adopted 2019 and Policies DM5 (Design) and DM7 (Biodiversity and Green Infrastructure) of the Allocations and Development Management DPD (A&DMPD) adopted 2013 and the National Planning Policy Framework which is a material planning consideration.

02

This application presents a series of compromises which cumulatively lead to an unacceptable and unsustainable development when taken as a whole. In the opinion of the Local Planning Authority the scheme fails to properly integrate street trees into the development in a sustainable way. The generic design of the house types fail to adequately reference local vernacular and there are compromises to the layout in terms of poor design (that does not make for a memorable place), with regards to some parking arrangements, the way in which the houses have been sited with minimal gaps between dwellings giving it a cramped appearance/grain and one that is at odds with the much lower density/character of the surrounding area. There are also conflicts identified between the living conditions of

occupiers of some of the affordable housing and the impacts that would likely arise from unpredictable noise and disturbance due to having the extended multi use games areas (MUGA) so close to their rear gardens. The hours of use of the MUGA have not been specified but given the need to provide for a community benefit to outweigh the loss of the playing field, and that the MUGA would be floodlit there is potential for adverse impacts from unpredictable noise associated with the MUGA use into the evening and at weekends when nearby occupiers might reasonably expect tranquillity. Additionally, there is conflict from the retained trees that would cast shadows on newly created gardens for much of the day providing a poor standard of amenity and placing increased pressure upon the likely future loss of these trees. Furthermore, the extant (and committed) dwellings to the northern boundary of the site would experience overlooking/a perception of overlooking from the proposed scheme due to the relationship between them. Heritage harm to the setting of the NDHA would also occur from the loss of the remnant walled garden, partial loss of the historic boundary hedgerow, new access drive and the enclosure of the football pitch. Finally, the market housing offer doesn't fully reflect the most up to date housing needs information available. All these matters when taken as a whole, make the development unsustainable and contrary to the following policies:

Spatial Policy 7 (Sustainable Transport), Core Policy 3 (Housing Mix, Type and Density), Core Policy 9 (Sustainable Design), Core Policy 10 (Climate Change), Core Policy 12 (Biodiversity and Green Infrastructure), Core Policy 14 (Historic Environment), NAP1 (Newark Urban Area) from the Newark and Sherwood Amended Core Strategy DPD (adopted March 2019) and Policies DM5 (Design) and DM9 – Protecting and Enhancing the Historic Environment from the adopted Allocations & Development Management DPD as well as the National Planning Policy Framework 2021, National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019, Residential Cycle and Car Parking Standards & Design Guide SPD June 2021, Newark and Sherwood Housing Needs Survey, December 2020 by Arc4 and Building for Healthy Life 2022 which are material considerations.

03

The proposal has been shown to cause a severe adverse highway impact at morning peak from signalised junctions in the area that would be over capacity as a result of this development. Whilst a mitigation scheme has been advanced which attempts to encourage residents to walk and cycle by exiting the site to the north onto Barnby Lane this, in the opinion of the Local Planning Authority, would not fully mitigate the harm identified to the south at London Road. Furthermore, whilst an acceptable scheme of mitigation to the Mount Road/Main Street junction in Balderton has been identified, this relies on a financial contribution towards upgrades to that junction and there is no mechanism at the time of decision making to secure this. As such the proposal is considered to be harmful to highway safety contrary to Spatial Policy 7 (Sustainable Transport) of the ACS and Policy DM5 of the A&DM(DPD) which together form the relevant parts of the Development Plan.

04

The proposal would involve the temporary and permanent loss of playing fields/sporting facilities at the school site which has attracted an objection from Sport England as statutory consultee. In the opinion of the Local Planning Authority, the mitigation package advanced (which includes a Community Use Agreement) lacks the detail to enable a full and proper

assessment to establish whether the scheme would in fact be of genuine benefit for the wider community that would outweigh the loss of part of the affected playing field. The proposal is therefore contrary to Spatial Policy 8 (Protecting and Promoting Leisure and Community Facilities) of the Amended Core Strategy as well as Sport England's Playing Fields Policy and paragraph 99 of the National Planning Policy Framework 2021 which are material considerations.

05

The scheme would place pressure on existing infrastructure and there is no mechanism to secure the necessary mitigating measures without a unilateral undertaking or planning obligation (under Section 106) being entered into. Therefore, in the opinion of the Local Planning Authority, the proposal (at the point of determination) fails to provide appropriate mitigation for the impacts of the development upon infrastructure such as primary education, public transport, health, libraries, community facilities as well as the provision of affordable housing and off site ecology mitigation. The proposal is therefore contrary to Spatial Policies 6 (Infrastructure for Growth) and 7 and Core Policies 1 (Affordable Housing) 9 (Sustainable Design) and 12 of the Amended Core Strategy (2019), DM5 and DM7 of the Allocations and Development Management DPD (2013).

### Informatives

01

For the avoidance of doubt the application has been determined on the basis of the following plans and supporting information:

AV22/APP/0-001 Rev C Floor Plans  
AV22/APP/0-002 Rev C Elevation Plans  
APP/0-002 Rev A (Elevations, Appleton Render)  
AV22-BAI/0-001 Rev C Floor Plans, (End/Mid)  
AV22/BAI/0-002 Rev C (End/Mid Elevations)  
AV22/BAI/0-102 Rev A – Elevations (Semi)  
AV22/CAD/0-001 Rev B (Floor Plans)  
AV22/CAD/0-002 Rev B (Elevations)  
AV22/COV/0-001 Rev C (Floor Plans)  
AV22/COV/0-002 Rev C (Elevations)  
COV/0-002 Rev A (Elevation, Coverham Render)  
AV22/DAR/0-001 Rev D (Floor Plans)  
AV22/DAR/0-002 Rev C (Elevations)  
AV22/EAS/0-001 Rev C (Floor Plans) (End/Mid)  
AV22/EAS/0-002 Rev C (Elevations)  
AV22/LEV/0-001 Rev B (Floor Plans & Elevations)  
AV22/LEY/0-001 Rev B (Floor Plans)  
AV22/LEY/0-102 Rev A (Elevations)  
AV22/LEY/0-002 Rev B (Elevations)  
LEY/DET/0-002 Rev A (Leyburn det render, Elevations)  
AV22/OAK/0-001 Rev B (Floor Plans),

AV22/OAK/0-002 Rev B (Elevations)  
OAK/0-002 Rev A (Elevations, Oakwood Render)  
AV22/RIP/0-001 Rev B (Floor Plans) (End)  
AV22/RIP/0-002 Rev B (Elevations)  
AV22/THO/0-001 Rev D (Floor Plans)  
AV22/THO/0-002 Rev D (Elevations)  
AV22/WEN/0-001 Rev C (Floor Plans)  
AV22/WEN/0-001 Rev C (Elevations)  
COO/DET/0-001 Rev E,  
COO/DET/0-002 Rev D  
BIL/0-001 Rev E,  
BIL/0-002 Rev D  
MICK/3BD/001 Rev A  
MICK/3BD/002 Rev A  
502/006 Rev A (Double Detached Garage)  
SITE/SG/006 Rev A (Garage Single End)  
500/005 Rev A (Single Detached Garage)  
504/006 Rev A (Garage Twin Gable Side)  
Biodiversity Enhancement and Management Plan by BWB, August 2022  
Ecological Impact Assessment by BWB, March 2023  
Supplementary Geoenvironmental Appraisal, by Lithos, June 2021  
Transport Assessment, Bryan G Hall Consulting Civil & Transportation Planning Engineers, July 2022  
Proposed Planning Layout, drawing no. HSN.PL.02 Rev N  
Materials and Enclosures Plan, drawing no. HSN.PL.03 Rev D  
Boundary Treatment, drawing no. SD 12-045  
Boundary Treatment Plan, drawing no. HSN.PL.04 Rev E  
Boundary Treatments (1.8m Acoustic Fence) drawing no. SD 12-041  
Boundary Treatments (2.0m Acoustic Fence) drawing no. SD 12-042  
Proposed Feasibility Drainage Sheet 1 of 2, drawing no. 100406\_01\_0500\_03.1 P04  
Proposed Feasibility Drainage Sheet 2 of 2, drawing no. 100406\_01\_0500\_03.2 P04  
Sustainable Drainage Statement, Dice, May 2023, Rev P02  
Detailed Landscape Proposals (1 of 3), drawing no. 3792/1 Rev L  
Detailed Landscape Proposals (2 of 3), drawing no. 3792/2 Rev L  
Detailed Landscape Proposals (3 of 3), drawing no. 3792/3  
LEAP, drawing no. 3792/4 Rev B  
Detailed off-plot planting plan, 11139-FPCR-XX-XX-DR-L-0001 Rev PO4  
Detailed off-plot planting plan, 11139-FPCR-XX-XX-DR-L-0002 Rev PO4  
Detailed off-plot planting plan, 11139-FPCR-XX-XX-DR-L-0003 Rev PO4  
Parking Distribution and Bin Collection, HSN.PL.10 Rev B  
Green Buffer, Bird and Bat Boxes, HSN.PL.11 Rev A  
Maintenance Contract Layout, drawing no. HSN.PL.05 Rev E  
Street Scenes, HSN.PL.06 Rev B  
Sections, HSN.PL.07 Rev B  
Tracking Plan, drawing no. HSN.PL.08 Rev 8 Rev D  
Materials and Enclosures Plan, drawing no. HSN.PL.03 Rev E  
Site Location Plan, HIGH-LP-003  
Covering Letter, DLP 01.09.2022

Arboricultural Assessment (amended), fpcr, May 2023  
Arboricultural Method Statement (amended), May 2023  
Response to Tree and Landscape Officer comments (1.06.2023)  
Design and Access Statement, August 2022  
Reptile and Amphibian Strategy, BWB, August 2022  
Flood Risk Assessment, Weetwood, Final Report v2.1, June 2023  
Noise Impact Assessment, BWB, LDP2472, November 2022  
Noise Mitigation Plan, HSN.PL09 Rev D  
Nottinghamshire Rapid Health Impact Assessment Matrix  
Planning Statement, DLP, August 2022  
Sports Pitch Provision Statement, DLP, August 2022  
Amended Travel Plan (21-108-013.05) Bryan G Hall Consulting Civil and Transportation Engineers, June 2023  
Technical Note, Bryan G Hall, amended 29 June 2023  
Written Scheme of Investigation for Archaeological Mitigation, BWB, January 2021  
Noise Mitigation Plan, HSN.PL09 rev C  
GTC-E-SS-0012-R2-1, 1 of 1, Substation General Arrangement  
Lighting Impact Assessment, BWB, March 2023  
Technical Note MUGA lighting, BWB June 2023  
Draft Community Use Agreement, 26.05.2023  
Barnby Road Cycle Scheme - 21-108-TR-009 Rev A  
Barnby Road Footway Scheme – 21-108-TR-010 Rev A  
Electrical Services, Proposed MUGA, External Lighting Layout Proposed Site Plan, NHS-BWB-XX-XX-DR-E-2302 Rev P1,  
Electrical Services, Proposed MUGA, External Lux Plot Layout Proposed Site Plan, NHS-BWB-XX-XX-DR-E-2303 Rev P1  
Datasheet for Amnis Match floodlights  
Proposed Sports Facilities Plans, Sheet 1 (HSN.PL.13 Rev A) Sheet 2 (HSN.PL.14), Sheet 3 (HSN.PL.15) Sheet 4 (HSN.PL.16 Rev A)  
Response to Tree and Landscape Officer Comments dated 21.07.2023

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However, the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

03

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

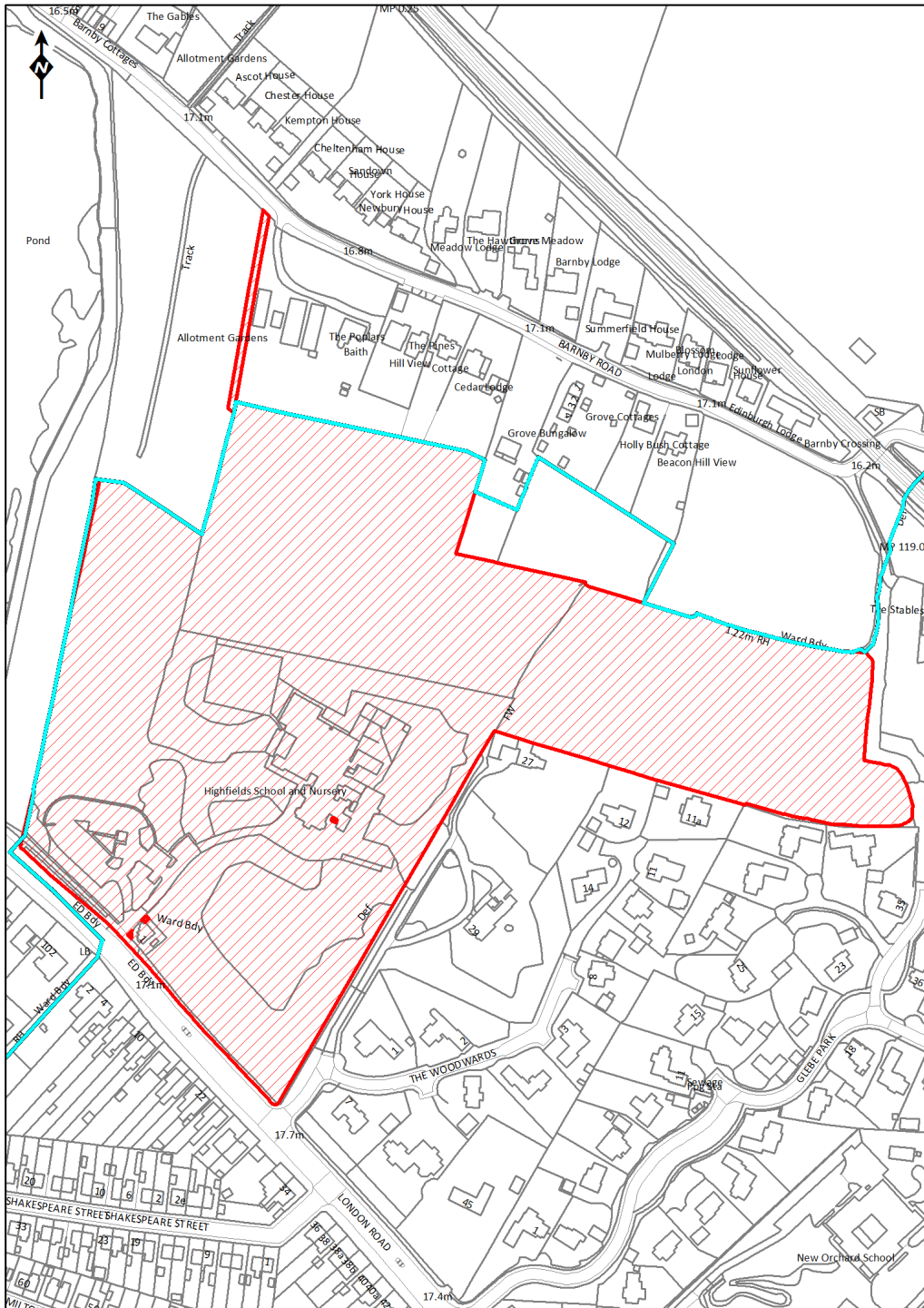


## BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 22/01726/FULM



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Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Honor Whitfield, Planner, 01636 655827

Report Summary			
<b>Application Number</b>	23/00927/FUL		
<b>Proposal</b>	Part retrospective application for erection of two new dwellings		
<b>Location</b>	Westwood Park, Main Street, Thorney, NG23 7DA		
<b>Applicant</b>	Mr & Mrs A Sidebottom	<b>Agent</b>	Reece Musson - UKSD Developments
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/23/00927/FUL">23/00927/FUL   Repair and extension to the existing barn to create 2 dwellings (Part retrospective)   Westwood Farm Main Street Thorney NG23 7DA (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	07.06.2023	<b>Target Date Extension To</b>	02.08.2023 Requested 18.08.2023
<b>Recommendation</b>	That Planning Permission is <u>REFUSED</u> for the reasons detailed at Section 10.0		

This application is being referred to the Planning Committee for determination by the local ward member, Councillor P Farmer for the following reasons:

1. Approval of the development would result in no greater visual harm than the previously approved conversion and restoring the site back to its former (and enhanced) appearance would improve the current appearance of the site which would otherwise be a blight on the countryside. This would accord with Core Policy 9 and Policy DM5.
2. Approval of the development would result in no greater flood risk than the previously accepted and approved conversion scheme with two dwellings being created. Subject to the same flood mitigation measures the accepted position of the Council has been that the development would be safe for its lifetime and not increase flood risk elsewhere in accordance with Core Policy 9 and Policy DM5 of the Development Plan.
3. The re-build scheme would be constructed to improved building regulations which would mean that the buildings perform better in sustainability terms and would re-use the

**reclaimed materials on site showing the Applicant's efforts to maintaining the aesthetic of the former consented conversion scheme.**

## **1.0 The Site**

The application site is located on the west side of Main Street in Thorney; the site previously contained four outbuildings and an existing farmhouse (two outbuildings have since been demolished with only one partial element of the more historic building remaining).

- Barn A was a traditional brick and slate built agricultural building with historic features and architectural merit – only the easternmost wall of this building and directly adjoining masonry returns remain;
- Barn B was a steel framed building with concrete block facades and a concrete corrugated roof building – this has been completely demolished and footprint foundations are visible on site;
- Barn C (outside the application site to the NW) is a breezeblock and corrugated sheeting barn used for agricultural storage; and
- Barn D (outside the application site to the NE) was an agricultural building that is now being converted to a dwelling under 22/00687/CPRIOR.

At the time of visiting a mobile home was also present to the east of Barn D.

The site is situated in the settlement of Thorney and is accessed via a long private drive that serves the wider site from Main Street. The main farmhouse is located to the south of the former barn buildings and beyond this is a new black clad building that has recently been constructed. Fields bound the site to the west.

The land where Barns A and B stood lie within FZ2 as defined by the Environment Agencies Flood Mapping with the access track within FZ1 and land to the west in FZ3.

## **2.0 Relevant Planning History**

**Relating to Barn D: 22/00687/CPRIOR** – Prior approval application for proposed change of use from agricultural barn to one dwelling house and associated building works (Class C3) Schedule 2 Part 3 Class Q – Prior approval required and granted 20.05.2022 and implemented.

**21/01878/FUL** - Part retrospective application for erection of two new dwellings and the change of use of 2 No. barns to ancillary storage (approved ref: 20/00855/FUL) – Refused 13.10.2021 due to the principle of the development (two new dwellings) being contrary to policy DM8, the consequential impact on the character of the area and concerns in relation to flood risk.

**21/01599/FUL** - Application to erect small scale agricultural storage building (Part Retrospective) – Refused 15.10.2021 and allowed on appeal.

**20/00855/FUL** - Conversion of existing barns to form two new dwellings and the change of use of 2 No. barns to ancillary storage (resubmission of 19/00946/FUL) – Permitted 14.07.2021 subject to conditions (including pre-commencement conditions). Not lawfully implemented, expired.

**20/00573/CPRIOR** - Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to dwellinghouse and for building operations reasonably necessary for the conversion – Withdrawn 13.05.2020 due to comments received from the Highways Authority in relation to the an unacceptable intensification of the use of the existing site access (with both agricultural and residential vehicles) which has impaired visibility to the north at the junction with Main Street. Required to change the use of barns C & D to prevent this level of intensification.

**19/00946/FUL** - Conversion and extension of barns to form 2 No. dwellings and the change of use of 2 No. barns to ancillary storage – Withdrawn 02.10.2019 to undertake additional ecology surveys.

### **3.0 The Proposal**

*NB: The description of development has been amended with agreement from the Agent to better reflect the nature of the proposed development throughout the lifetime of this application.*

The application seeks permission (part-retrospective) for the erection of two new dwellings. The application is part retrospective in that two outbuildings/barns have been demolished/part-demolished and footings have been dug for the new dwellings.

The application advances the same design for Barns/new dwellings A and B as approved under 20/00855/FUL, albeit the scheme would no longer constitute a conversion scheme as the outbuildings have been demolished with only remnants of Barn A remaining at present.

Permission is therefore sought for the erection of two new dwellings in the form of two barns as follows:

- Barn A – the proposal would rebuild the former outbuilding in the format approved under 20/00855/FUL. The dwelling would have an open plan kitchen/living/dining area at GF with a utility, WC, living room, study, snug and a garage and at first floor would have four bedrooms, all with ensuite bathrooms. Materials would be brick (reclaimed from the site) and slate tiles with composite windows and doors.
- Barn B – the proposal would rebuild the former structure in the format approved under 20/00855/FUL. This dwelling would have an open plan lounge/dining area at GF with a kitchen, utility, WC, living room, study, boot room and a two bedrooms with ensuites and at first floor would have two bedrooms with ensuite bathrooms and dressing rooms. Materials would be timber and brickwork (reclaimed from the site) cladding, slate tiles and composite windows and doors.

Curtilages for both dwellings would be provided to the south and west of the new buildings and 4 no. parking spaces would be provided to the north. Access to the new dwellings would be taken off the Main Street via the existing private access track.

Information Assessed in this Application:

- Application Form
- Site Location Plan – Ref. UKSD-SA-08-0001 A00
- Existing Site Block Plan – Ref. UKSD-SA-08-0002 A00

- Proposed Site Block Plan – Ref. UKSD-SA-08-0003 A03
- Proposed Plans and Sections – Ref. UKSD-SA-08-0006 A.01
- Proposed Elevations 0007 A.01
- Supporting Statement
- Flood Risk Assessment, dated June 2021

#### **4.0 Departure/Public Advertisement Procedure**

Occupiers of 5 neighbours have been individually notified by letter and a site notice has been displayed close to the site.

Site Visit date: 17.07.2023

#### **5.0 Planning Policy Framework**

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

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

Spatial Policy 1 - Settlement Hierarchy  
 Spatial Policy 3 – Rural Areas  
 Spatial Policy 7 - Sustainable Transport  
 Core Policy 7 – Tourism Development  
 Core Policy 9 -Sustainable Design  
 Core Policy 10 – Climate Change  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 Core Policy 13 – Landscape Character  
 Core Policy 14 – Historic Environment

*Allocations & Development Management DPD*

DM5 – Design  
 DM7 – Biodiversity and Green Infrastructure  
 DM9 – Protecting and Enhancing the Historic Environment  
 DM12 – Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework 2021
- Planning Practice Guidance (online resource)
- NSDC Residential Cycle and Car Parking Standards and Design Guide SPD (2021)
- Conversion of Traditional Rural Buildings Supplementary Planning Dated (Nov 2014)
- The Town and Country Planning (General Permitted Development) (England) Order 2015

#### **6.0 Consultations**

*NB: Comments below have been summarised. Full Consultee comments can be found on the online planning file.*

**(a) Statutory Consultations**

None.

**(b) Town/Parish Council**

**Thorney Parish Council – Object – Concerns raised:**

- Concerns that the overall development on site would create a small satellite village.
- Works have been undertaken without planning permission and have been halted due to enforcement instigation.
- The access track is very narrow and there are concerns about highways safety due to visibility at the site access.
- Concerns about damage to the roads.
- No evidence of the sequential test being undertaken and that there should be no further development in an inaccessible location.
- Concerns that the previous structural survey does not align with the statements in the planning statement in relation to the poor structural stability of the barns.
- The scheme is not a conversion, but a completely new build.

**(c) Representations/Non-Statutory Consultation**

**NSDC Conservation – Summary of comments made on application 21/01878/FUL:**

- Only the conversion of the historic barn [Barn A] merited the input of Conservation and now this has been substantially taken down with the proposal to take down and rebuild this element in its entirety.
- The mortar [of Barn A] being low in cement indicates a soft lime mortar which was no doubt historic and was probably not a cost saving at time of construction as the Applicant suggest but a traditional method of construction which helps older fabric to breath. Cement free mortar is not 'weak' mortar as is suggested, and most crucially mortar is not the structural element of a wall.
- The statement advances that the barn may well have been too contaminated for human habitation without complete rebuilding, so essentially the Applicant is saying that this building was, in fact, never suitable for conversion, which one would assume means the scheme as approved could never have been implemented.
- Historic elements of the barns are all but removed and the remaining element would be rebuilt. Rebuilding the barn, even with the re-used fabric and to the same design, does not restore significance. The basis of historic building conservation is such that conservation, rather than reconstruction or restoration, is at its heart. Once a historic building is lost there is no way to fully reinstate its significance. A facsimile could reintroduce an element of its aesthetic significance, but even here there are likely to be subtle differences due to the modernity of the build, which will inevitably have a crisper, even and less weathered look, and the inevitable request for higher u-values and modern building standards, being now a new-build, may well bring about other changes. However, the significance of historic buildings is not just in their aesthetics. Age alone is a large contributor of significance, and this is lost through its demolition. Authenticity is also a significant factor, and while the new build could be a faithful copy of the original building it will be just that, a copy, and not the

real or genuine building.

- In terms of whether there is any heritage benefit that could be attached to the rebuilding of the barn, this is not considered to be the case. The previous photographs of the site make a more accurate record of the lost historic building than a modern version of a copy would. Neither is this a small missing element in an otherwise positive site where an element of restoration would be beneficial to the overall significance of the site. The farmhouse is at its core a historic building, being visible on the OS 1875/85 map and looking to have Georgian brickwork, but it has been hugely altered in terms of extensions, fenestration and porch addition and the farmyard has also been significantly altered by new build barns. The rebuilding of a fake historic barn would not then benefit the remaining buildings on site nor complete a site-wide restoration, for example. It could put back in place an element of what visually once existed, but this may only serve to confuse the history and development of the site. As such it is not considered that there would be any tangible heritage benefit of the proposed scheme which is would now be a new build in the countryside.

**NCC Highways** – Object – Concerns that traffic generated by the proposed development would likely result in an increase in danger to other users of the highway owing to increased use of the existing access which affords restricted visibility for drivers emerging from the access.

**Natural England** – No comments to make.

**NCC Ecology** – No comments received.

**Nottinghamshire Wildlife Trust** – No comments received.

**The Environment Agency** – No comments to make.

**Trent Valley Internal Drainage Board** – General advice given.

**NSDC Environmental Health Contaminated Land** – No objection subject to the full phased contaminated land condition being imposed.

**No comments have been received from any third party/local resident.**

## **7.0 Appraisal**

The key issues are:

1. Background Information
2. Principle of Development
3. Impact upon Character of the Area
4. Impact on Amenity
5. Impact on Highways Safety
6. Impact on Flooding
7. Impact on Ecology

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning



applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

### Background Information

This application follows a recent and almost identical application reference 21/01878/FUL. This application sought part retrospective permission for the erection of two new dwellings and the change of use of 2 barns to ancillary storage and was refused 13.10.2021 due to the principle of the development (two new dwellings) being contrary to policy DM8, the consequential impact on the character of the area and concerns in relation to flood risk.

This recently refused application followed a recent permission under 20/00855/FUL which consented (amongst other things) the conversion of Barns A and B to two new dwellings. In the assessment of this application, it was concluded that Barn A had historic features and architectural merit that warranted its preservation through conversion. The building was considered to be attractive and structurally sound (as evidenced by the submitted structural report) and had historic significance, such that the principle of residential conversion of this part of the range was considered to be acceptable. Following negotiations, the scheme was considered to have been designed sensitively and in accordance with the Council's Supplementary Planning Document (SPD) in relation to applications to convert traditional rural buildings and required no re-building or alteration save for a small extension of a former element of the building.

Barn B was not a building of any architectural or historic merit and thus its conversion to residential use under policy DM8 was not supported in principle. However, the conversion of this barn was assessed under Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and was found to be acceptable in accordance with this legislation for conversion to residential use under permitted development. Weight was given to this as a fallback position in the assessment of 20/00855/FUL and it was concluded that the conversion of Barn B, strictly within the parameters of Class Q, was acceptable.

However, as in the 21/01878/FUL, this application seeks consent for the construction of two new dwellings (identical in appearance to that approved under 20/00855/FUL) following the demolition of Barn B and the partial demolition of Barn A. The photos below show the current status of the site and the site at the time of the 2021 application:



Site Photos July 2023



Site Photos from 21/01878/FUL

The supporting statement submitted with this application (which is the same as that submitted under 21/01878/FUL) advances that Barn B was in a poor condition due to weather events in the months following the grant of permission. The statement explains that the owners had *“major concerns relating to safety; in particular with the roof to Barn B”* and the *“the decision was made to carefully remove the roof from Barn B to mitigate the risk of falling debris and potential severe injury or death”*. The statement alleges that without removing the roof of this building it would have *“been impossible to safely enter the barn to complete pre-construction surveys as required by the building contractor team”* and that *“when lifting the unstable roof trusses from the building [...] it was causing major defects to the structure below. It was apparent that the mortar was defective and was not fit for purpose”*. The statement advances that there were major cracks both internally and externally and following the removal of the roof *“80-90% of the external walls became severely unstable and fell to the floor”*. No contact was made with the LPA by the applicant/owner (or their planning agent) at the time to discuss the alleged structural deficiencies of Barn B or the alleged subsequent collapse. The matter was instead brought to the Council’s attention by a third party and investigated by the Council’s Enforcement Team. There is limited reference in the submitted statement to Barn A and why a significant portion of this building has been demolished.

Officers also note that all works on site were commenced prior to discharging the pre-commencement conditions attached to permission ref 20/00855/FUL (numbers 12 – Ground Contamination Investigation and remediation, 15 - a timetable for implementation of ecological mitigation recommendations and 17 - full details of a Habitat Enhancement/Creation Scheme) and that no contact was made under the provisions of condition 8 which allowed for the agreement of a schedule and methodology of repairs to Barn A if they were found to be necessary. The supporting statement submitted with this application alleges that consultants would not have been able to visit the site and enter the buildings to undertake the works necessary to satisfy the pre-commencement conditions due to the dangerous condition of the buildings.

The owner commenced works to re-build Barn B (in the form of digging footings) which were halted following the enforcement investigation (but appear to have increased since 2021, see photos above) however the statement explains the applicant’s intention was to rebuild the barns to implement the permission and that they believed they could do so within the parameters of their consent as there were no conditions attached to the permission that stated the buildings could not be rebuilt. The statement also argues that within the parameters of Class Q it is possible to replace roofs and exterior walls. Officers disagree with both of these statements. The permission was clearly granted as a *‘conversion’* scheme, as stated within the description of the development and

re-affirmed by the approved plans and supporting documents which detailed the conversion approach. Class Q is also limited to schemes for 'conversion' and does not permit the replacement or installation of structural elements (notwithstanding that the scheme was approved through full planning permission not Class Q in any case).

Despite the supporting statement alleging to serious structural defects with the buildings Officers note that the original structural report (submitted under 20/00855/FUL), upon which the conversion permission was granted, concluded that Barns A and B were in a stable condition and did not find anything other than very minor wear and tear with the structures. The report also concluded that both buildings were capable of conversion with no significant repairs - external and internal walling showed no evidence of instability and the roof structure required no further alteration or strengthening, just minor repairs. No foundation strengthening or underpinning was recommended (following foundation trail hole investigation) and the final conclusion was that the buildings were in sound and fully stable condition. The Council's Conservation Officer (CO) has also provided some advice in response to the supporting statement in relation to the mortar (and its structural function), advising that cement free mortar is not 'weak' mortar as is suggested, and most crucially, mortar is not the structural element of a wall. The 2020 permission was only granted on the basis that the buildings were capable of being converted without structural alteration. Had the buildings been found to be structurally unstable and incapable of conversion without significant rebuilding then the principle of the development would have been contrary to policy.

#### Principle of Development

The site lies outside of Thorney Village down a long private track off the Main Street, surrounding land extends into the open countryside. Spatial Policy 3 states that development out of villages, in the open countryside, will be strictly controlled and restricted to uses that require a rural setting such as agriculture. It also states that the Allocations & Development Management Document will set out policies to deal with such applications.'

Policy DM8 which covers development in the open countryside discusses the 'Conversion of existing buildings' (emphasis added) at criterion 5 – it states *"In the interests of sustainability, consideration should be given to the conversion of existing buildings before proposing replacement development."* The primary consideration for conversion of rural buildings to residential use is that it should be demonstrated that the architectural or historical merit of the building warrants its preservation and it can be *"converted without significant re-building, alteration or extension"* (emphasis added). This aligns with the stance of the adopted SPD in relation to the conversion of traditional rural buildings. Policy DM8 also deals with applications for new dwellings, stating that *"Planning permission will only be granted for new dwellings where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area"* (criterion 3).

Barn A was considered suitable for conversion as it was identified to be a non-designated heritage asset and Barn B would have been permitted for conversion under provisions of the GPDO (which was considered as a fallback position). However, Barn B has been completely demolished and only remnants of Barn A are currently present. The application is therefore for the erection of two new dwellings on this application site. The current scheme cannot reasonably be considered as a conversion scheme under criterion 5 as there are no buildings that remain on site to 'convert'.

Furthermore, no new evidence has been provided with this application to demonstrate that what remains of Barn A is structurally capable of being retained as part of any new build dwelling (or indeed whether it would be practical in construction terms to include this into any new build).

The Applicant's Agent asserts that as the proposed development for these two new dwellings would look identical to the previously approved conversion scheme that the principle of the development should be considered acceptable. However, Officers would highlight that both the Development Plan and the NPPF set the focus of providing new dwellings in sustainable locations, development in the Open Countryside is intentionally restricted to only certain appropriate types of development in accordance with this hierarchical approach, in the interests of sustainability and in order to protect the countryside. The supporting text to DM8 explains that, **in the interests of sustainability** consideration will be given to the conversion of existing buildings. It advises that other than where they are very close to settlements, the conversion to dwellings is likely to be a very unsustainable use and consequently the Council will only support the principle of this where the architectural or historical merit of the building(s) outweighs their unsustainable location. It must be demonstrated through the submission of a structural survey that the building is capable of being converted without substantial alteration or re-building and if approval is granted, the amount of re-building permitted (if applicable) will be restricted by the structural survey and a methodology of repair/schedule of works. If the need for further re-building is identified during the construction process, this may trigger the requirement for a new planning application. In this case the structural survey submitted identified no need for any rebuilding (save for a small extension of a historic element of Barn A) – physical works were limited to the installation of new windows, doors and external cladding materials and a condition for a methodology of repair works was included (condition 08). Whilst noting the comments of the local Ward Member in their call-in request regarding how the use of the existing materials from the site could restore the heritage value of Barn A once re-built, however, respectfully Officers consider this approach could set a dangerous precedent.

Putting the aesthetic appearance of the proposed new-build scheme versus the approved conversion scheme aside, Officers are of the opinion that this application can in no way be considered as a scheme for 'conversion' as what remains of Barn A would require the re-building of a significant portion of the building/new structural elements and Barn B has been demolished. The application must therefore be assessed as the construction of two new dwellings in the open countryside. Policy DM8 sets out that new dwellings that do not relate to rural workers dwellings or the conversion of appropriate buildings, will only be supported where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and are sensitive to the defining characteristics of the local area, similarly to para. 80e of the NPPF. In this case the dwellings would not be of exceptional quality and would not be innovative in design. The new dwellings would not reflect the highest standards of architecture, nor would they significantly enhance their immediate setting. On this basis the application would be contrary to DM8 and is therefore unacceptable in principle.

#### Impact upon Character of the Area

Given there are no physical changes proposed to Barns C & D this part of the appraisal will only consider the proposed new dwellings which would be in place of Barns A & B.

Policy DM5 of the Allocations and Development Management DPD confirms the requirement for new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. Policies CP14 and DM9 of the Council's LDF DPDs also, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

Core Policy 13 of the Core Strategy also addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area. The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

Barn A was constructed of brick and slate and was a relatively attractive, traditional outbuilding range. The barn was considered to have historic and architectural merit and considered worthy of re-use, demonstrating the historic agricultural use of the site and contributing to the character and appearance of the area and the districts traditional agricultural vernacular. In line with policy DM8 it was considered beneficial to secure a suitable re-use of the building and concluded that there would be an enhancement to the site through an upgrading of the building and safeguarding its future. Barn A was considered to be a non-designated heritage asset, however as it has been partially demolished the significance of this asset has been lost. The unauthorised demolition of the building therefore fails to preserve the historic significance of a NDHA. The unsympathetic barn range (Barn B) has also been demolished and therefore there is no longer a heritage benefit of improving the appearance of this range to enhance the character and appearance of Barn A.

Whilst Barn A was considered to be a NDHA, the adjacent Farmhouse (or indeed the farm site overall) was not considered to have any positive merit that would warrant replacing any lost elements for a heritage benefit. There would also be no merit in replacing Barns A and B to restore any lost farmstead form. This is reinforced by the comments of the Conservation Officer (see the consultation section for summary and the online planning file for comments in full) which comprehensively address the principle of rebuilding lost historic buildings and the impact on their former significance and the impact of the loss of the buildings on this current site. Essentially the conclusion they draw is that once a building has been demolished, even if all of the existing materials are re-used, the heritage value and significance of the former building is lost.

Whilst the submitted plans demonstrate that in terms of appearance, the external appearance of the new dwellings would be the same as approved under the conversion scheme (albeit the development would be entirely a new build), this scheme was only ever acceptable in principle as a scheme for conversion, to re-use existing buildings in the interest of sustainability. The domestication of the land surrounding the barns was only considered acceptable in this 2020 application given the scheme would re-use existing redundant buildings for housing in accordance with DM8 and the provisions of NSDCs Conversion SPD. Now this is no longer a conversion scheme the attributable benefits to the conversion have been lost. Whilst the impact of the scheme is intended to be the same as previously approved, in reality it would be two completely new build

structures which would no longer secure the retention of an attractive barn. All authenticity of Barn A has been lost and Barn B was only ever considered to be appropriate within the parameters of the GPDO, which is no longer the case given no building remains to be converted. Despite assertions within the supporting statement, the Applicant has lost the benefit of any fallback position in this case given the series of events that have taken place resulting in the demolition of the buildings.

Considering the impact on the character of the area of the proposed scheme compared with the approved scheme in simple terms the impact could be argued to be the same visually. In reality the scheme would be entirely new-build rather than conversion with the historic value of Barn A having been completely lost. In terms of the proposal's impact upon the character of the wider area, the new build dwellings would continue to be well separated from the public realm as the site is accessed down a long private track however as the scheme is no longer for conversion the requirement for new build dwellings in the open countryside is for them to be of exceptional quality and innovative in design. The new dwellings in this case would not reflect the highest standards of architecture, nor would they significantly enhance their immediate setting – instead they would be a facsimile attempt to replicate the buildings which existed before them.

In terms of the landscape character impact, the site is located within the East Nottinghamshire Sandlands Policy Zone ES PZ 02: Wigsley Village Farmlands with Plantations as defined within the Landscape Character Assessment SPD. This states the condition of the landscape is moderate and the sensitivity is very low with an outcome to create. The policy zone justification states with regards to built features, proposals should conserve what remains of the rural landscape by concentrating new development around existing settlements. In this case the development would not be located close to an existing settlement and whilst the proposal attempts to reflect the previous vernacular of the site it would essentially be for two new dwellings in a somewhat isolated location in the open countryside, contrary to the appropriate forms of development permitted by DM8 and thus harmful to the character of the open countryside.

Officers note the comments of the local Ward Member who argues that the re-building of these barns would improve the current appearance of the site for other site users, however if the land was restored to paddock or agricultural land this would not have any harmful visual or character impacts on residential receptors and indeed would be more characteristic of the surrounding land, reflecting the least harmful option. Therefore, it is not considered that the argument of this scheme improving the current appearance of the site could be considered to be determinative in this case.

The development is therefore considered to be contrary to policies Core Policy 9 of the Core Strategy in addition to Policies DM5 and DM8 of the DPD and the provisions of the NPPF as the proposal would result in new pastiche dwellings which would not be innovative or outstanding and would consequently result in harm to the character of the open countryside.

#### Impact on Residential Amenity

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

dwelling Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. An assessment of amenity impact also relates to both the existing neighbouring occupiers and the occupiers of the proposed dwelling in terms of the amenity provision.

The closest residential property would be the barn to the north-east of Barn A that is being converted to a dwelling under 22/00687/CPRIOR which is approx. 19m away. This barn has two windows that face the application site, one serving a games room at ground floor and one serving Bedroom 05 at first floor. These windows would look over the north elevation of Barn A which is proposed to have windows at ground floor serving the kitchen, utility and living room and rooflights serving two bedrooms and two en-suites. Whilst this would be a close relationship, given the rooms in the barn currently under conversion would not serve main habitable rooms it is not considered that the separation distance proposed would be unacceptable in this instance, particularly given it is also proposed to be separated by the proposed parking area for Barn A.

The new dwellings would be located c.15m from the main farmhouse, albeit closest windows would be c. 28 m away from the side of the farmhouse. Given the orientation of the respective properties and intervening curtilages/boundaries there would be no unacceptable overlooking impacts on this property or future occupiers of these new dwellings as a result of the development in accordance with the NPPF and policy DM5 of the DPD. Similarly, Officers do not consider there would be any overbearing or overshadowing impacts as a result of the proposal.

It is noted that this application now proposes to retain the barn to the north-west for agricultural storage purposes. In terms of the compatibility of uses it is noted that this barn is being used for the storage of machinery to maintain the Applicant's small holding and does not attract any significant volume of traffic. The building is used for small scale general maintenance machinery and whilst it could realistically attract larger agricultural machinery with its lawful use, it is unlikely to do so given its association with the wider farm to the south has been severed and a new agricultural building was granted on appeal (ref. 21/01599/FUL) to serve the wider farm. Future occupiers of these dwellings would also be aware of the agricultural/residential interrelationship prior to purchase/occupation. In addition, the curtilages proposed for new build barns A & B are considered to be appropriate and commensurate for the size of the properties that they would serve.

Officers note the comments of the local Ward Member who argues that refusing the proposed re-building of these barns would have a harmful visual appearance and adversely impact the amenity of adjacent occupiers. However, if the land was restored to paddock or agricultural land this would not have any harmful visual or amenity impact on residential receptors and indeed would be more characteristic of the surrounding land, reflecting the least harmful option. Therefore, it is not considered that the proposal or indeed failing to approve this proposal would result in an adverse neighbouring amenity impact.

Nevertheless, the proposal as a whole would respect the amenity of existing and future occupiers which is in accordance with Policy DM5 and the NPPF.

#### Impact on Highway Safety

Spatial Policy 7 of the Core Strategy amongst other things requires proposals to minimise the need for travel through measures such as travel plans or the provision or enhancement of local services and facilities; provide safe, convenient and attractive accesses for all; be appropriate for the highway network in terms of volumes and nature of traffic generated and avoid highway improvements which harm the environment and character of the area. DM5 mirrors this. The Council's Residential Parking Standards and Design Guide SPD also sets out expectations for parking which in this area is 3 spaces for a 4-bed dwelling.

The site is served by an access from Main Street with ample turning area and parking provision within the site.

During the course of the 2020 Application the Highways Authority provided a number of comments in relation to the suitability of the existing access onto Main Street to take additional traffic given the substandard visibility from the junction and this resulted in the inclusion of Barns C & D into the application as ancillary residential storage areas for Barns A & B (this was controlled by Condition 18). This was because, at the time Barns A and B were non traffic generators whilst Barns C and D were being used for agricultural purposes, with no restrictions. As such it was concluded that the proposed conversion of Barns A and B to large family dwellings would clearly increase the use of the access road which has impaired visibility to the north at the junction with Main Street and which is unable to be improved as it requires land beyond the control of the Applicant, or that of the Highway Authority. Therefore, by controlling the use of Barns C and D, it was considered acceptable to permit the conversion of Barns A and B to residential.

However, this permission was never lawfully implemented and indeed Barns A and B are no longer capable of conversion. Since the 2020 permission prior approval has been granted for Barn D to be converted to residential use which is now underway. As expressly explained in the associated highways observations at the time of 22/00687/CPRIOR, the reason for supporting to this conversion, was that the site at the time did not have any other lawful permission given Barns A and B had been demolished. Therefore, in terms of the baseline situation, the Highways Authority comments explain that this is a change from what was considered acceptable in 2020 because Barns A and B are in effect no more, Barn C has unrestricted agricultural use, and Barn D is currently being converted into a large family dwelling.

As set out above, the Applicant asserts that Barn C is being used for the storage of machinery to maintain the Applicant's small holding and they have advised that this does not attract any significant volume of traffic. The building is used for small scale general maintenance machinery however given it has agricultural use it could realistically attract unrestricted larger agricultural machinery with its lawful use, depending on its ownership and landholding association (and it is unclear how much land is within the Applicant's ownership).

The current proposal therefore seeks to create two large family dwellings. In comparison to the current lawful use, the Highway Authority comments state that this would represent an intensification in use of the access road, which is something for several years the Highway Authority, and indeed the Local Planning Authority have been unwilling to support owing to the impaired visibility splay to the north, at its junction with Main Road. As identified previously, unfortunately the splay cannot be improved, as the land required is beyond the applicant's control or of the Highway Authority. The Highway Authority have advised that had Barns A and B remained



on site and capable of conversion at the time of assessing the conversion of Barn D to residential use, they would have raised concerns about the intensification of the use of the junction on Main Street and the consequential highways safety impact.

Overall, the Highway Authority comments state that they are unable to support this application given the traffic generated by the proposed development would likely result in an increase in danger to other users of the highway owing to increased use of the existing access which affords restricted visibility for drivers emerging from the access. It is therefore considered that the application would be unacceptable in this respect and would be contrary to Spatial Policy 7 of the Core Strategy and DM5 of the Allocations and Development Management DPD.

### Impact on Flooding

The proposed new dwellings would lie within land identified as Flood Zone 2 by the Environment Agency Flood Maps with land to the west in FZ3 – the site is therefore considered to be at medium risk of flooding.

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. The NPPF adopts a sequential approach to flood risk advising that development should first be directed towards less vulnerable sites within Flood Zone 1. Where these sites are not available new developments will be required to demonstrate that they pass the exception test by demonstrating that the development provides wider sustainability benefits to the community that outweigh flood risk and that, through a site specific Flood Risk Assessment (FRA), the proposed development can be considered safe for its lifetime and not increase flood risk elsewhere. Both elements of the exception test must be passed for development to be permitted.

The NPPG states that the sequential test does not need to be applied for minor development or changes of use (exception for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site). Conversions of buildings are not specifically considered although the NPPG states that the creation of a separate dwelling within a curtilage of an existing dwelling (for instance the subdivision of a house into flats) cannot be considered 'minor development'. Given the NPPF excludes changes of use from the need to undertake a sequential test the 2020 application was not subjected to the sequential test. However, the application at hand is for two new dwellings in Flood Zone 2 and as such the development must pass the sequential test.

A Flood Risk Assessment has been submitted with this application which assesses the potential risk to occupiers. The FRA is cantered on the fact that the development would result in a scheme that would be the same as the previously approved conversion with finished floor levels above the 1 in 100 year floodplain level including 20% climate change allowance and the incorporation of flood resilience and resistance matters. The FRA does not consider whether the development satisfies the sequential or exception tests. It is the responsibility of the developer/landowner to gather the evidence for their application to allow the Local Planning Authority to carry out the Sequential Test. The PPG is clear that the Exception Test (and the compatibility of the proposed use in the flood zone, i.e. Table 2) is not a tool to justify development in flood risk areas when the Sequential Test has already shown that there are reasonably available, lower risk sites, appropriate for the proposed development. As such, only once the site has been deemed to have passed the Sequential Test should an assessment be undertaken as to whether the development would pass the Exception

Test, and/or whether it would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

The PPG sets out that for individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. When assessing applications in the flood zone the LPA applies the Sequential Test on a district wide basis as a starting point – on this basis, there are other sites within the district that are at a lower risk of flooding than the application site (i.e. located within Flood Zone 1) that would be sequentially preferable for the development. In this case, Officers see no reason for the search area for the Sequential Test to be restricted to a lesser area, particularly given no argument has been advanced to demonstrate that this development is required to sustain an existing community.

On this basis Officers consider the area to apply to the Sequential Test in this case would be the administrative boundary of Newark and Sherwood District. Planning Practice Guidance is clear that applicants must contact the local planning authority to discuss what the search area should be for alternative sites for their development.

Whilst the applicant has not considered the sequential test in their FRA the Council's view is that there are other windfall and allocated sites within the District which could deliver market housing as a lesser risk of flooding. The application would therefore fail the Sequential Test. In this case Officers do not consider there to be any special circumstances that negate the need for a sequential test on a District wide basis and, given that there are other sites that are at lower risk of flooding than the application site (i.e. within Flood Zone 1) within the District and through the provision of a 5-year housing land supply, in addition to sites with planning permission there are considered to be sequentially preferable sites at a lesser flood risk located elsewhere within the District. Consequently, the proposal is considered to fail the sequential test and is contrary to Core Policy 9 and Core Policy 10 of the Amended Core Strategy DPD and Policy DM5 of the Allocations & Development Management DPD as well as relevant guidance contained within the National Planning Policy Framework and the accompanying Planning Practice Guidance.

#### Impact on Ecology

Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets. The NPPF also seeks to minimise impacts on biodiversity and provide net gains where possible.

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Officers note that conditions were attached to the conversion permission relating to ecological precautionary and mitigation measures and a habitat enhancement and creation scheme, however as Barns A and B have been demolished their ecological potential has been lost. The series of events that have unfolded on site are regrettable, however Officers would still consider it reasonable to attach the same Habitat

Enhancement/Creation Scheme condition, if permission were to be granted, to ensure the biodiversity and ecological value of the site could be enhanced as originally intended. Subject to condition the application would therefore accord with CP12 in this regard.

### Other Matters

CIL - As the buildings on site have been demolished outside of any permission and the application is for two new dwellings the entire new build dwellings would be CIL liable. New residential floor space is chargeable at £70 per sqm given the site is located within the Housing High Zone 3 within the district - the CIL charge on the development would therefore be: £49,927.98.

The supporting statement explains how refusal of planning permission would infringe the applicants Human Rights through interference with the right to respect for family life and home and with the right not to be deprived of property. Officers must disagree with this assertion and note some inconsistencies within this statement which allude to the applicant and their family becoming homeless if consent is not granted. Page 7 for example states that this consent would *“merely place them back in the position where they can complete and occupy the dwelling and sell their existing large family home”* but page 8 states *“consideration should also be given that my clients and their young family are essentially homeless whilst this matter is held in obedience”*. The applicant’s current living situation is not completely clear from the supporting statement (albeit note from site discussions that they appear to be converting Barn D to a dwelling for their own use); however, Officers do not consider refusing planning permission in this case would deprive the applicant of their possession or infringe their Human Rights.

In the same statement the Applicant agent refers to a number of appeal decisions which they allege indicate that that the application should be granted, despite technically being contrary to policy DM8 as the new dwellings would be exact replicas of those approved in the 2020 application. To these Officers would note that every application must be assessed on its own merits and that the nature of the examples cited make it difficult to draw direct comparisons. Most are applications that were in the Green Belt where there is a different policy approach to development including re-developing previously developed sites. As such Officers do not consider these to be relevant to the application at hand.

The local ward member has stated in their call-in request that the re-building of these barns rather than converting them would deliver improved sustainability benefits as the resultant new dwellings would be more thermally efficient and required to meet a higher standard of building regulations. However, Officers note that as a conversion or a new-build scheme the dwellings would have had to have met the requirements of Building Regulations in terms of energy efficiency/thermal performance etc. As such this is not considered to be a factor that carries any significant positive weight in the assessment.

### **8.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## 9.0 Conclusion

The Applicant's Agent asserts that the previous permission should be considered a material consideration in assessing the principle of the development, in Officer's view it is, insofar as consent was once granted for a conversion scheme to, amongst other things, secure the reuse of a NDHA (Barn A) which overall would provide two residential units. However, the benefits that would have arisen from that scheme have been lost given the building is no longer capable of conversion. Barn B was also only ever considered acceptable against the strict parameters of Class Q of the GPDO, given its conversion would previously considered to otherwise have been contrary to DM8, however as the barn no longer exists it can no longer be converted.

For significant weight to be afforded to any fall-back position, there needs not only to be a reasonable prospect of it being carried out in the event that planning permission was refused, but it also needs to be more harmful than the scheme for which permission is sought. Although planning permission has previously been granted for two houses, this was in the form of a conversion of previously existing buildings in the interest of sustainability, securing the future use of a positive historic building (and enhancing its significance) and given the provisions of the GPDO. As these buildings have been demolished there is no reasonable prospect of the 2020 permission being implemented (indeed it is no longer possible to implement this consent) and therefore there is no fall-back position to consider this application against.

Whilst the submitted plans demonstrate that in terms of appearance, the external appearance of the new dwellings would be similar as approved under the conversion scheme (albeit the development would be entirely a new build), this scheme was only ever acceptable in principle as a scheme for conversion, to re-use existing buildings in the interest of sustainability. Now this is no longer a conversion scheme, the attributable benefits to the conversion have been lost. Whilst the impact of the scheme is intended to be the same as previously approved, in reality it would be two completely new build structures which would no longer secure the retention of an attractive barn.

The new dwellings would fail to meet the any of exception points within policy DM8 or the NPPF which requires new dwellings in the open countryside to be of exceptional quality, truly outstanding or innovative, reflecting the highest standards in architecture, helping to raise standards of design more generally in rural areas and significantly enhance its immediate setting. The development would also fail to be sensitive to the defining characteristics of the local area and is therefore unacceptable in principle. The NPPF and Policy DM8 are clear that development in the open countryside is limited for specific reasoning and this proposal is therefore unacceptable in principle. In addition, the proposal would also result in an unacceptable impact upon the character and appearance of the area and would conflict with the aims of the Landscape Character Assessment which would be contrary to policies SP3, CP9 and CP13 of the Core Strategy in addition to Policies DM5, DM8 and DM12 of the DPD and the provisions of the NPPF.

Furthermore, the proposal would also result in the creation of two new dwellings in an area at risk of flooding and the application has failed to demonstrate that there are no reasonably available sites in lower flood risk zones within the District. The proposal therefore fails the sequential test and is contrary to Core Policy 9 and Core Policy 10 of the Amended Core Strategy DPD and Policies DM5 of the Allocations & Development Management DPD as well as relevant guidance contained

within the National Planning Policy Framework and the accompanying Planning Practice Guidance.

In addition, the Highway Authority have concluded the traffic generated by the proposed development would likely result in an increase in danger to other users of the highway, and consequentially a highways safety risk, owing to increased use of the existing access onto Main Street which affords restricted visibility for drivers emerging from the access. It is therefore considered that the application would be unacceptable in this respect and would be contrary to Spatial Policy 7 of the Core Strategy and DM5 of the Allocations and Development Management DPD.

No unacceptable adverse impacts have been identified in respect of living conditions and ecology (subject to mitigating conditions) but these are neutral in the balance. Having regard to the harm identified above Officers recommend that this application should be refused given there are no material benefits to outweigh the harm identified.

## **10.0 Reasons for Refusal**

01

In the opinion of the Local Planning Authority the site is located within the open countryside. Spatial Policy 3 (Rural Areas) of the Newark and Sherwood Amended Core Strategy 2019 and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management DPD 2013 seek to strictly control development in the countryside and limits this to a number of exceptions, none of which have been adequately met by the application at hand. The proposal would therefore result in unnecessary encroachment into the countryside, representing an unsustainable form of development. The proposal would also result in an unacceptable impact on the character and appearance of the Open Countryside, conflicting with the aims of the Council's Landscape Character Assessment. The development represents an unsustainable and unacceptable form of development and is considered to be contrary to Spatial Policy 3 (Rural Areas) and Core Policies 9 (Sustainable Design) and 13 (Landscape Character) of the Amended Core Strategy (2019) and Policies DM5 (Design), DM8 (Development in the Open Countryside) and DM12 (Presumption in Favour of Sustainable Development) of the Allocations and Development Management DPD (2013) as well as the NPPF (2021), as a material planning consideration.

02

The site is located within Flood Zone 2 as defined by the Environment Agencies Flood Mapping. The proposal represents the erection of two new dwellings and is required to pass the Sequential Test as set out in the NPPF, the PPG and Policy DM5. In the opinion of the Local Planning Authority, given that there are other sites that are at lower risk of flooding than the application site (i.e. within Flood Zone 1) within the District and through the provision of a 5-year housing land supply, in addition to sites with planning permission and other windfall site, there are considered to be sequentially preferable sites at a lesser flood risk located elsewhere within the District. As such, the proposal is contrary to Core Policy 10 of the Amended Core Strategy DPD (2019) and fails the Sequential Test as set out in Policy DM5 of the Allocations & Development Management (DPD) and the NPPF and the Planning Practice Guidance, which are material considerations.

03

In the opinion of the Local Planning Authority the traffic generated by the proposed development would likely result in an increase in danger to other users of the highway, and consequentially a highways safety risk, owing to increased use of the existing access onto Main Street which affords restricted visibility for drivers emerging from the access and is unable to be improved. It is therefore considered that the application would be unacceptable in this respect and would be contrary to Spatial Policy 7 of the Core Strategy and DM5 of the Allocations and Development Management DPD.

### Informatives

01

Refused Drawing Numbers:

- Site Location Plan – Ref. UKSD-SA-08-0001 A00
- Proposed Site Block Plan – Ref. UKSD-SA-08-0003 A03
- Proposed Plans and Sections – Ref. UKSD-SA-08-0006 A.01
- Proposed Elevations 0007 A.01

02

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

03

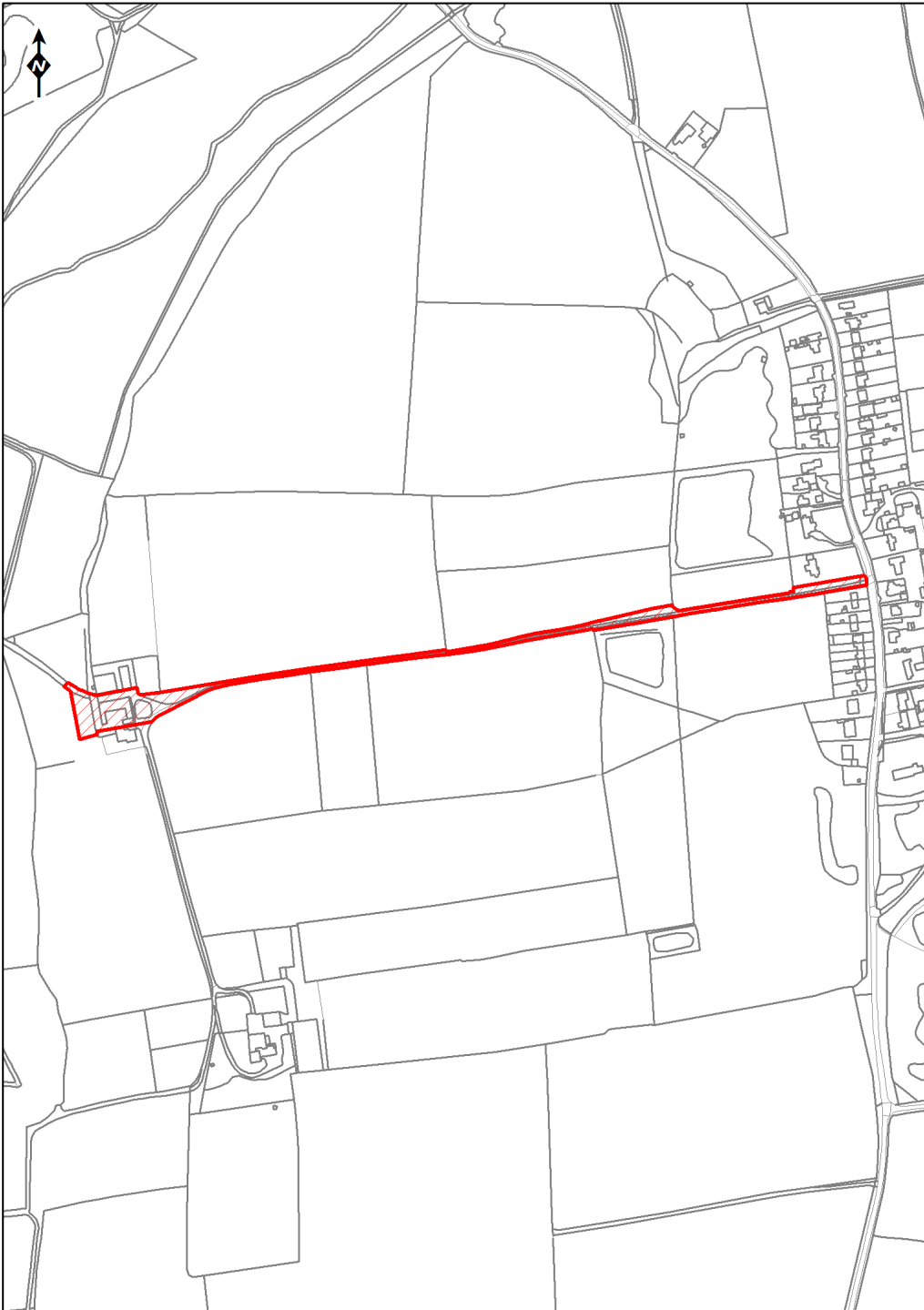
The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 23/00927/FUL



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Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Clare Walker, Senior Planner, 01636 655834

Report Summary			
<b>Application Number</b>	23/00770/FUL		
<b>Proposal</b>	Proposed change of use of agricultural land to proposed turning area, long term staff parking area and electric vehicle charging points		
<b>Location</b>	Hutchinson Engineering Services Ltd, Great North Road, Weston, NG23 6SY		
<b>Applicant</b>	Hutchinson Engineering Services Ltd	<b>Agent</b>	Mike Sibthorpe Planning
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/23/00770/FUL">23/00770/FUL   Proposed change of use of agricultural land to proposed turning area, long term staff parking area and electric vehicle charging points   Hutchinson Engineering Services Ltd Great North Road Weston Newark On Trent NG23 6SY (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	05.05.2023	<b>Target Date</b>	30.06.2023
		<b>Extension of Time Agreed</b>	11.08.2023
<b>Recommendation</b>	That planning permission is REFUSED for the reasons detailed at Section 10.0		

This application is before the Planning Committee as the request of Cllr S Michael who supports the views of the Parish Council which differ from the officer recommendation.

## 1.0 The Site

Hutchinson’s Engineering is situated on the western side of the Great North Road within Weston parish, approximately 15 km (9.5 miles) north of Newark. Plans deposited with the application show that the wider site has a depth of approximately 300m from the back edge of the highway boundary to Great North Road and approximately 71 metres width across. Buildings are primarily grouped towards the northern part of the site behind and adjacent to



staff/visitor car parking facilities located immediately behind the road frontage. Vehicular access to the site is gained from an access point alongside the eastern boundary onto the Great North Road. The existing site appears to comprise approximately 2.11 hectares in area. The boundaries are demarcated primarily by mixed hedgerows and concrete security fencing on the inside. There are significant areas of open storage on the wider site comprising high sided vehicles, plant and equipment, to the rear of the existing group of buildings.

On the site subject to this application, hardcore has already been laid, concrete security fencing installed and the spoil and self-set saplings that were on site have been removed.

The housing within the village of Weston lies to the north of Great North Road. The East Coast Railway Line passes from southeast to northwest to the northeast of the village whilst the A1 trunk road passes through the open countryside to the southwest, along a line broadly parallel with the railway.

There is open agricultural land to the east, south and west of the site. A short distance to the west is a substantial open space upon which is located the grounds of the Weston Cricket Club.

## **2.0 Relevant Planning History**

There has been extensive planning history to this site (the most recent of which towards the bottom- is of most relevance) which is summarised below:

**60/76480** – Extension to offices. Approved 07/06/1976 (Hempsalls Transport Ltd)

**60/76753** - Relaxation of condition on previous planning consent relating to sales of commercial vehicles from the site. Approved 07/09/1976.

**60/76231** – Extension to workshop. Approved 06/04/1976.

**60/77596** – Extension to transport depot. Approved 17/08/1977.

**60/80856** – Extensions to offices. approved 29/08/1980.

**60/82814** – Extension to workshops for servicing good vehicle. Approved 04/011/1982.

**60/891265** – Rural workshop development to house light industry on land at rear of existing facility (includes the site now being considered). Refused 20/11/1990.

**98/51958/FUL (FUL/980457)** - Extension to offices, alterations to flat roof to offices to form new pitched roof (retrospective). Approved 08/06/1998.

**98/51959/FUL (FUL/980458)** - Change of use of agricultural land to form parking area for haulage/commercial vehicle repair depot. Refused 04/08/1998) and related to land now in use as the yard.

**9951844/FUL (FUL/990429)** - Extended parking area for existing haulage /commercial vehicle

repair depot. erection of workshop/store and related land (related to a site that now forms part of the existing yard) Refused 23/07/1999.

**02/00511/LDC** - Continue use of land for storage of vehicles and equipment on area of hardstanding on former agricultural land (related to part of the site now used as yard and part open countryside). Refused 21/05/2002.

**03/00027/FUL** - Change of use from agricultural land to form additional rear yard space to engineering services depot. Restoration of hardstanding to south to former state. Withdrawn 15/07/2003.

**03/01966/FUL** - Change of use of agricultural land to form additional rear yard space to depot. Restoration of hardstanding to south to former state. This application related to the land immediately north of the current proposal. Refused 06/10/2003 on grounds:

*01*

*This proposal is also subject to Policy NE1 (Development in the Countryside) of the adopted Newark & Sherwood Local Plan and Policy 3/1 (Control of Development in the Countryside) of the adopted Nottinghamshire Structure Plan Review. These policies state a general presumption against development in the countryside, unless it meets one of the exceptions listed. This proposal does not meet any of the exceptions listed and is therefore contrary to the above policies.*

*02*

*The site is subject to Policy E28 (Employment Development in the Countryside) of the adopted Newark & Sherwood Local Plan. This Policy state that planning permission will not normally be granted for employment development in the countryside. It provides a list of exceptions, one of which is 'the reasonable expansion of an existing business, provided inter alia, that the development would not intrude into the openness of the countryside.' Policy 2/9 of the Nottinghamshire Structure Plan adopts a similar stance. In the opinion of the Local Planning Authority, the proposal does not constitute a reasonable expansion and constitutes a harmful intrusion into the open countryside. Therefore the proposal is considered to be contrary to the above-mentioned policies.*

**04/01305/FUL** - Change of use of land to form extended parking/storage area for existing haulage/commercial vehicle depot. Related to land north of the application currently being considered. Approved 23/07/2004.

**05/01571/FUL** - Partial change of use of site to enable 'end of vehicle life' operations, including the extension of an existing concrete cutting bay, storage of end of life vehicles and their de-pollution and disposal. (related top small area of land in centre of site) Approved 12/10/2005.

**07/00606/FULM** –‘Change of use agricultural land to industrial (Class B2) and formation of associated bunding, demolition of existing workshop and erection of extension to rear to form new maintenance and storage facility’. The extension into the open countryside comprised a vehicle turning facility encompassed by a security bund to the rear of the site around which the existing boundary hedge was proposed to be retained. This was refused 02/08/2007

(delegated) on the following grounds:

01

*The proposed workshop extension does not constitute a reasonable expansion of the business and constitutes a harmful intrusion into the open countryside, contrary to Policy NE1 (Development in the Countryside) and E28 (Employment Development in the Countryside) of the adopted Newark & Sherwood Local Plan.*

02

*The proposed change of use of agricultural land to industrial (Class B2) use does not constitute a reasonable expansion of the business and constitutes a harmful intrusion into the open countryside, contrary to Policy NE1 (Development in the Countryside) and E28 (Employment Development in the Countryside) of the adopted Newark & Sherwood Local Plan.*

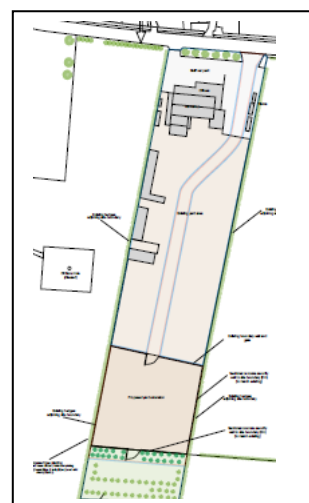
**APP/B3030/A/08/2067961** – The applicant appealed against this decision and the appeal was dismissed on 13<sup>th</sup> June 2008.

**17/00901/FUL** – Change of use land to form extension to existing haulage yard area for the parking of vehicles and trailers and storage of goods. Application was withdrawn in August 2017.

**17/01389/FUL** - Construction of Pitched Roof on Ancillary Industrial Buildings (Retrospective) approved 02.10.2017

**18/00251/FUL** – Change of use of land to form extension to existing haulage yard area for the parking of vehicles and trailers and storage of goods (revised proposals following application 17/00901/FUL) approved March 2018 and implemented.

Condition 3 required the planting of 26 heavy standard native trees, which either has not been undertaken at all or maintained as required by the condition. The proposed planting area is the area where this latest change of use is now sought. The reason for the condition was to help mitigate and reduce the level of visual harm from the development.



**21/02245/FUL** – Change of use of land to form extension to existing haulage yard area for the parking of vehicles and trailers and storage of goods. Refused (under delegated powers) on 2<sup>nd</sup> December 2021 for the following reason:

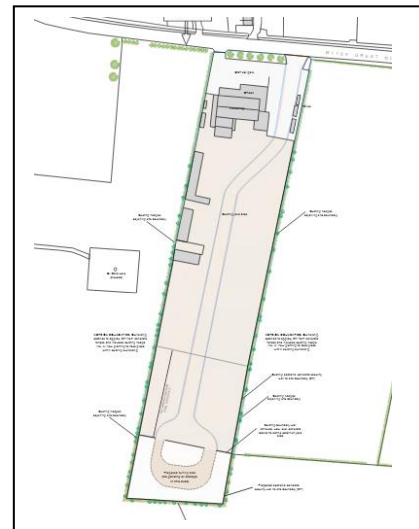
*In the opinion of the LPA the proposal does not represent a small scale or proportionate expansion and further expansion into the countryside is considered to be unsustainable and would unacceptably harm the open flat landscape. Furthermore the application has not demonstrated there is a need for this level of expansion into the open countryside and in any event the harm is now considered to outweigh any such need taking into account the amount that the business has already expanded over time. This application would also result in the inability to mitigate existing visual harm to the*

*countryside through an approved soft landscaping scheme in 2018. The proposals are therefore considered to be contrary to Core Policy 6 (Shaping our Employment Profile), Core Policy 13 (Landscape Character) and Spatial Policy 3 (Rural Areas) of the adopted Newark and Sherwood Core Strategy DPD and policies DM5 (Design) and Policy DM8 (Development in the Open Countryside) of the Allocations & Development Management DPD which together form part of the Development Plan as well as being contrary to the NPPF, a material planning consideration.*

**APP/B3030/W/22/3293016** – An appeal was lodged and dismissed on 05.08.2022

**22/02086/FUL** – ‘Change of use of agricultural land to proposed turning area’. This application was refused by the Planning Committee in April 2023 (as recommended) following a site visit the previous month for the reason set out below:

*In the opinion of the Local Planning Authority the proposal does not represent a small scale or proportionate expansion and further expansion into the countryside is considered to be unsustainable and would unacceptably harm the open flat landscape. Whilst it is accepted that the applicant has an economic need to expand their growing business, it remains that no proper evidence has been advanced to demonstrate why it needs to be in this rural location. In any event the visual and landscape harm is considered to outweigh any such need taking into account the amount that the business has already expanded over time and given the level of hardstanding that has been laid without meaningful*



*mitigation in the form of landscaping to areas of hardstanding outside of the turning area. This application would also result in the inability to mitigate existing visual harm to the countryside, resulting from and required for planning application 18/00251/FUL, through an approved soft landscaping scheme in 2018. The proposals are therefore considered to be contrary to Core Policy 6 (Shaping our Employment Profile), Core Policy 13 (Landscape Character) and Spatial Policy 3 (Rural Areas) of the adopted Newark and Sherwood Core Strategy and policies DM5 (Design) and Policy DM8 (Development in the Open Countryside) of the Allocations & Development Management Development Plan Document which together form part of the Development Plan as well as being contrary to the National Planning Policy Framework, a material planning consideration.*

### **3.0 The Proposal**

Full planning permission is once again sought for the change of use of land to form an extension to an existing haulage yard. This time however, the application is said to relate to the provision of a turning area and includes a staff parking area (the previous scheme explicitly stated there would be no parking) with provision for electric vehicle charging points.

The size of the application remains exactly as before; 0.3 hectares in area, between c38m and

c48m deep by 71m in width which is the same site area as the most recent appeal decision. This would apparently utilize all land within the applicant's ownership and is said to be required to meet the growing needs of the business.

The plans show 14 spaces adjacent to the turning area for 'long term staff parking' to allow staff who work away all week to leave their cars on site and free up capacity elsewhere on site. Three parking spaces and electric hook up's would also be provided close to the site entrance for visitors.

The boundaries are 2m high concrete sectional fencing (which has now already been installed). The plans annotate the existing hedge along (outside) the boundaries would be gapped up with a double row of native hedgerow of hawthorn, blackthorn, hazel, holly and dog rose. Compacted hardcore has already been laid at the site over the entire site area with just the topcoat left to be laid.

At the time of writing the proposed turning and parking area has not yet been brought into use but given the physical development has already been largely undertaken (with the exception of the provision of electrical charging points) the proposal is therefore part retrospective.

#### The Submission

Covering Letter from agent dated 3<sup>rd</sup> May 2023  
Proposed Block Plan, MSP:225/011D  
Site Location Plan, MSP:225/001D  
Letter from Duncan and Toplis, 21.10.2022  
Landscape and Visual Assessment, by Mike Sibthorpe  
Planning Statement by Mike Sibthorpe, September 2022  
Business Plan 2022-2025 (received 01.02.2023)  
Commentary on Business Plan (received 01.02.2023)

#### **4.0 Departure/Public Advertisement Procedure**

Occupiers of 9 properties have been individually notified by letter. The application has also been advertised as a departure to the Development Plan.

Site visits undertaken 19 May and 24 July 2023.

#### **5.0 Planning Policy Framework**

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 3 – Rural Areas  
Spatial Policy 7 - Sustainable Transport  
Core Policy 6 – Shaping our Employment Profile  
Core Policy 9 -Sustainable Design

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

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

DM4 – Renewable and Low Carbon Energy Generation

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM8 – Development in the Open Countryside

### **Other Material Planning Considerations**

National Planning Policy Framework 2021

Planning Practice Guidance (online resource)

NSDC Landscape Character Assessment SPD

## **6.0 Consultations**

### **(a) Statutory Consultee**

**NCC Highways Authority** – ‘The addition of a turning area to the premises is welcomed as it will enable vehicles to exit the highway in a forward gear as such there are no objections to the proposal. The plan has however not been accompanied by any swept path analyses so it is assumed that the design is fit for purpose for the applicants purposes.’

### **(b) Parish Councils**

**Weston Parish Council** – unanimously support the proposal with the following comments:

- ‘This proposal will not have a detrimental effect on the residents within the village.
- We believe the addition of the turning area will enhance the safety of the site by improving the existing movement and are for manoeuvring the HGV’s and specialist vehicles.
- The proposal will not significantly affect the visual impact from either the A1, Wadnall Lane or the surrounding area due to the existing hedging which currently screens the boundary wall and which will soon grow and provide an increasingly effective screening of the site.
- By provision of a turning circle there will be less reversing ‘warning bleeps’ from the vehicles which can currently be heard, on occasion, by the nearest property occupants although the PC is not aware of any complaints regarding this sound.
- The provision of an employees car parking facility will offer enhanced safety within the main working area within the site.
- The provision of electric vehicle charging points will be of benefit now and increasingly for the foreseeable future.

We are proud and pleased to have this thriving specialist business within the village of Weston. Its current location is ideally situated, being separately located from the main

residential areas by the B1164 Great North Road, so disruption and noise is minimal within the village.

It is beneficial to have the local employment opportunities provided by this company and businesses need our support in these challenging times.

The site is no more, and in some cases less, visible than some other industrial enterprises within the local area and is clean and tidy with no known complaints locally.

Hutchinson's business willingly helps fund our defibrillator and supports the village activities and its continuing success locally is important to Weston.

Weston Parish Council hope that this proposal is successful and can go ahead without further delay.'

### **(c) Representations**

**One representation of support** has been received summarised as:

I am local farmer who uses Hutchinson Engineering services. It is an important local asset and needs to be supported and allowed to expand to preserve local jobs. It is better to have the turning area at the back of the site so noise can be reduced and do not believe it would spoil the view from Wadnall Lane or the A1.

## **7.0 Comments of the Business Manager – Planning Development**

The key issues are:

- 1) Principle of Development
  - i) Has the applicant evidenced a need for expanding in this particular rural location and will it create or sustain employment locally in line with CP6 and DM8?
  - ii) Can this development be considered to be small-scale as required by DM8 and whether the proposal does constitute 'sustainable growth' as required by the NPPF
  - iii) Whether the scheme would have harmful impacts on the open countryside;
  - iv) Whether the findings of the appeal dismissal in 2007 and from August 2022 remain valid as well as considering what has changed since the refusal of planning permission in April 2023;
- 2) Residential Impacts;
- 3) Highway Impacts; and
- 4) Other Matters

A balancing exercise will then be undertaken to reach a recommendation.

### **Preliminary Matters**

An application for the '*change of use of land to form extension to existing haulage yard area for the parking of vehicles and trailers and storage of goods*' was refused and dismissed on appeal in August 2022. The main issues were identified by the Inspector to be :

- whether the proposed development would represent an unacceptable encroachment into the open countryside; and
- if the proposed development is an unacceptable encroachment whether this would be justified by the reasonable needs of the existing business.

The Inspector found there was unacceptable encroachment in the countryside and that this was not justified by the reasonable needs of the business.

This application like its predecessor (that was refused in April 2023 by the Planning Committee) seeks to directly respond to the concerns raised in the previous refusals. The application has been assessed on its merits albeit the report that follows is based on the previous report and updated where necessary given the scheme remains largely as previously advanced.

### **Principle of Development**

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The starting point in assessing this scheme is with the Development Plan. Spatial Policies 1, 2 & 3 set out the settlement hierarchy in the District and where growth should be distributed to. At the top of the hierarchy (as detailed in Spatial Policy 1) is the Sub Regional Centre (Newark, Balderton and Fernwood) followed by a number of Service Centres, Principle Villages and then at the bottom is 'Other Villages'. Spatial Policy 2 sets out the distribution of employment sites across a number of areas. In terms of providing context, Weston village itself would be considered a rural area where Spatial Policy 3 would become relevant. However, as the site lies outside of the settlement and in the open countryside this policy acts as a signpost to other policies within the Development Plan which are Core Policy 6 (Shaping our Employment Profile) and Policy DM8 (Development in the Open Countryside).

CP6 provides that most employment land should be at the Sub Regional Centre with a lesser scale directed towards Service Centres and Principal Villages. It goes on to say (in its penultimate bullet point) the economy within the District should be strengthened and broadened to provide a range of employment opportunities by *'helping the economy of Rural Areas by rural diversification that will encourage tourism, recreation, rural regeneration and farm diversification, and complement new appropriate agriculture and forestry development. Development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact.'*



Policy DM8 (at point 8 – Employment Uses) states that *‘Small-scale employment development will only be supported where it can be demonstrated the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of CP6. Proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment. Such proposals will not require justification through the sequential test.’*

I am mindful that the NPPF also represents a material planning consideration, notably the 3 dimensions to sustainable development which have economic, social and environmental roles. Paragraph 84 (supporting a prosperous rural economy) is particularly pertinent which states that ‘Planning policies and decisions should enable (A) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings...’

It is against this policy context above that the scheme needs to be assessed. Some of the key points which are worthy of further exploration are:

- 5) Has the applicant evidenced a need for expanding this particular rural location and will it create or sustain employment locally in line with CP6 and DM8?
- 6) Can this development be considered to be small-scale as required by DM8 and whether the proposal does constitute ‘sustainable growth’ as required by the NPPF.

I explore these issues as I move through the report. Other key considerations that need to be considered are:

- 7) Whether the scheme would have harmful impacts on the open countryside and
- 8) Whether the findings of the appeal dismissal in 2007 and from August 2022 remain valid as well as considering what has changed since the refusal of planning permission in April 2023.

A number of other considerations are also explored (highways, residential amenity, ecology etc.) and then all matters will need to be weighed in the planning balance which I undertake at the end of this report.

Has the applicant evidenced a need for expanding this particular rural location and will it create or sustain employment locally in line with CP6 and DM8?

The applicant’s company operate a range of engineering and manufacturing services as well as specialist haulage services from 3 sites in the area; Weston and Sutton-on-Trent which are within NSDC’s jurisdiction and a depot at Tuxford (their specialist trailer division) falling within Bassetlaw District Council’s area. The Weston site operates the haulage side of the business which specializes in heavy and abnormal loads.

The applicant previously set out that as the business has expanded so has the need to expand the space on site and there is no capacity at any of the other sites and that in any event it would be costly and inefficient to do so. The agent advises that as abnormal loads vary in form it is necessary to have a varied stock of trailer types available for use and therefore for every vehicle operating from the site, there will be several different, compatible trailers available

to be used. When not in use these need to be stored at the site and ready to be used according to the demands of the business. They go onto explain that the plant and crane hire operation has also expanded significantly (by around 30%) since 2018. Two additional mobile cranes have been added with the number of access platforms having increased from 15 to 24. Off-loading shovels have increased from 4 to 7. Four large fork-lift trucks (up to 30 tonnes capacity) have been added, as well as two, 20-tonne excavators and two, 25 tonne bulldozers. Other smaller items have also been added to the inventory. The rapid growth of the business has meant that the needs of the enlarged fleet cannot reasonably be accommodated within the site alongside the other site activities, including specialist equipment hire and in-transit goods. They say there is a real and evident need to expand the site to accommodate the day-to-day needs of the business.

In considering the previous schemes (dismissed on appeal and refused permission in April 2023) it was noted that whilst the application gave a strong anecdotal commentary on the need for the space, no plans or details had been submitted that evidenced how the existing site might be rationalised and better used or if this is even possible. This remains the case. Despite the scheme now providing 'long term' staff parking within the extended part, it is not clear how this frees up usable space elsewhere for HGV's. This is because the current staff parking area is separate from the yard at the frontage and would appear sufficient to accommodate existing staff members from observations on site, as well sufficient to accommodate vehicles associated with the 7 vacant posts (which is understood to be currently the case) and thus there would be no reason for cars to be parked within the yard area.

The employment position also suggests a neutral impact on sustaining existing jobs. Ultimately neither officers nor the Planning Inspector have been persuaded that there was a demonstrable need for the additional space on site to meet the needs of the business.

The previous application was supported by additional evidence of the business and its needs. The auditors letter submitted in support of this previous application indicate the gross turnover for the year ending 30.04.2021 was £10.523m and on 30.04.2022 was £12.225m demonstrating growth. This business plan relates only to the haulage division at the Weston site. They also make the case that the turning facility will free up space within the existing yard to allow additional specialist HGVs and specialist equipment to be stored, which would allow vehicles to more safely leave the application site and create employment opportunities for around 20 jobs. The submitted Business Plan (BP) (for the period 2022 to 2025) indicates the projection for both sustaining and creating employment (by 24% over the next 3 years) which is significant for a rural area.

There is limited evidence presented (other than anecdotal commentary) to show why the business needs a rural setting and cannot be relocated to a more urban setting such as the industrial estate. Clearly this would have cost implications for the applicant who owns the site at Weston and it would appear to be unpalatable. It is accepted that the business has operated from this site for a long period and is close to the A1 so has reasonable access to one of the major transport links.

Like many others in its sector, the business continues to face the challenges of a shortage of experienced and qualified drivers as well as volatile and increasing fuel costs but is said to

remain resilient given its specialisms in abnormal loads and involvement in major projects such as the HS2. The Business Plan makes the case that there is a need to allow expansion to allow the business to grow to gain new clients and offer valued added services to existing ones. The business is said to be turning away work in part due to the physical limits of the Weston site. Clearly this application would only solve part of the problem and efforts would be required to make more efficient use of the yard to create additional capacity. This application (nor the previous) is not accompanied by any plans or evidence to show how the use of the existing site could be made more efficient. Whilst not fully demonstrating the case for the need in this location, there does appear to be a reasonable case in economic terms to allow this business to expand.

Can this development be considered to be small-scale as required by DM8 and whether the proposal does constitute 'sustainable growth' as required by the NPPF?

The business has been incrementally expanded over a long period of time to more than 1 ½ times the size of the original business, a matter noted by the Inspector in his latest decision letter at para.19. The Inspector concluded that the expansions that had gone before should be considered cumulatively and that there was no evidence the proposal amounted to sustainable growth that would be justified by the reasonable needs of the business.

'Small-scale' is not defined anywhere in policy but is a matter of judgement based on fact and degree. Whether this proposal constitutes 'sustainable growth' as required by the NPPF is a difficult matter to grapple with. The business has been allowed to expand over decades and it difficult to know where the line should be drawn in terms of saying enough expansion is enough in the context of when a site should take no more. I remain of the view that the proposal, taking into account the previous expansions does not amount to 'small-scale' as required by Policy DM8. It is also relevant that Planning Committee considering the previous proposal in April 2023 also concluded that the expansion was not small scale having regard to previous extensions.

This Council has both supported and resisted expansions throughout the business' history at this site and the operator is clearly an important and well-established business. However, such support should be within the context of the land use constraints of the site. The justification for DM8 states that 'it should be recognised that the expansion of any given site is likely to be limited at some point by its impact on the countryside.' The key question is where that limit should be. This is, in part, inextricably linked to its impact on the open countryside which I now consider further.

Whether the scheme would have harmful impacts on the open countryside?

This is a matter that was explored with the recent appeal that was dismissed. At that time, it was proposed that vehicles would be parked within the site now subject to this application. The Inspector found there would be harm. At para. 6 of his DL it states:

*"As the proposal would introduce development and vehicles onto land that is currently open it would represent an encroachment into the countryside. Additionally, in the context of the above it would be likely to have a significant adverse visual impact on the openness of the countryside. It would also therefore*

*fail to ensure that the rural landscape has been protected and enhanced. I note that the extended yard would not always be full of vehicles. However, this is not the same as the proposal having no visual impact at all in this regard.”*

The Inspector also noted that the hedgerow proposed would not sufficiently obscure the proposal fully given the visibility from the A1, the footpaths and bridleways. They also noted there was no evidence to support the appellant’s claim that the impact was moderated by the low profile of the on-site parking and storage and the screening in the form of a Landscape and Visual Impact Assessment. The Inspector concluded that the proposal represented an unacceptable encroachment into the open countryside. This revised scheme seeks to remedy these criticisms by providing a Landscape and Visual Impact Assessment (LVIA).

The scheme refused in April 2023 didn’t include any parking in the area (it was simply a turning area with limited landscaping proposed) whereas this scheme would introduce vehicles effectively being stored on site for longer periods of time, albeit these are likely to be cars or vans sitting behind the concrete fence/wall.

The LVIA submitted both with this application and the previous scheme has been undertaken by the planning agent and does not appear to follow objective methodology usually employed by qualified landscape architects in undertaking such assessments. It concludes there would be no adverse impact on the existing landscape and no material change to the appearance of the site. For the same reasons previously expressed, I do not agree with this assessment.

The site lies within the Mid-Nottinghamshire Farmlands landscape and falls to be assessed against Policy Zone 20: Ossington Village Farmlands with Ancient Woodland where landscape condition is defined as ‘good’ and its sensitivity is defined as ‘moderate’ giving a policy action of ‘conserve and reinforce’ according to CP13 (Landscape Character) and the SPD on Landscape Character.

It has already been concluded (at both District Council level and upon appeal in 1998, again in 2007, 2022 and 2023) that developing a larger parcel of land (albeit part of the same land) for an extension of the haulage yard would have a harmful impact on the countryside. One appeal was also for a physical building (new storage facility) as well as the change of use of the land in question which was retrospective at the time the appeal decision was made and was in use for some parking and open storage with low bunding along two sides.

The Inspector concluded that the new storage facility was harmful and with specific reference to the change of use stated:

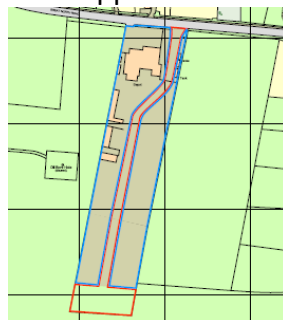
*‘With regard to the change of use of the southern part of the appeal site, even with bunds in place this intrusion into the countryside is very evident and is materially damaging to the rural landscape...On the information before me I am not persuaded that the business needs of the appellant company are such as to outweigh the harm caused by this commercial intrusion to the rural landscape. This aspect of the appeal scheme therefore conflicts with the provisions of local plan policy E.28 and with the objectives of PPS7 and RSS8.’*

It is clear that the Inspector concluded that the expansion would have represented an unacceptable encroachment into the open countryside in 2007 (and before that in 1998). In the last 16 years since that appeal was determined, the boundaries of this parcel of land have been planted up with hedgerows thus providing slightly more robust boundary treatments and offering some screening. The site was granted permission for an extension in 2018 for the same as what was found harmful, in part on the basis that the harm could at least be partially mitigated, though it was accepted that some harm would still ensue. The previous conclusions drawn by the previous appeal Inspector was that the parking of large vehicles (approximately 5m high) would be very apparent in the landscape and visible from public vantage points including the A1 trunk road and thus the mitigation (in the form of planting the area of this current application site as required by the 2018 approval) was intended to strike a balance between allowing expansion and providing some mitigation.

2007 application



2021 application

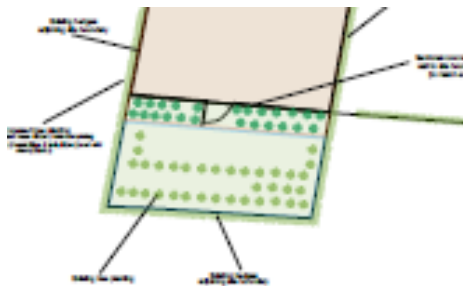


In 2018 the issue of whether the harm could be mitigated formed a key consideration. At that time the applicants put forward a landscaping scheme comprising 26 standard heavy mature native trees on the site (now subject of this latest application) as an attempt to overcome Officer concerns. However, there is no evidence of planting having taken place on site; the applicant says these died but the condition required their replacement if indeed they had failed. Therefore, the harm arising from the approved scheme has not yet been mitigated. In fact the land in question (the application site) has now been covered entirely with hard surfacing.

The applicant argues that the proposed turning area would have no discernible additional impact on the landscape. However, the previously consented development was conditional upon soft landscaping in mitigation which has not happened. The extended part of the application site has been bounded by a 2m high solid concrete wall closer to the A1 which is stark and alien in the landscape. There is an existing hedgerow planted around the perimeter of the concrete wall which has established and almost obscures the wall. However, it would appear there is only limited space (2m deep) on the outside of the wall where the applicant proposes to gap-up the hedge. On the previous scheme (refused in April 2023) the applicant advanced a position of planting 70 trees to comprises a native hedgerow comprising oak, field maple, ash, holly, rowan and alder. The landscaping now proposed would amount to whips of hawthorn, blackthorn, hazel, holly and dogrose. This would provide some limited mitigation to the harm of both the physical wall and the land use but would not fully mitigate the harm. The applicant has also verbally advised that part of the hedgerow is not within their ownership so there are risks that part of the hedgerow could be removed or reduced in height at any time that would compromise the level of mitigation available. The application has been accompanied by ownership Certificate A (indicating the land outlined in red is all within the

control of the applicant) but the plans are ambiguous regarding the ownership of the hedgerow which appears to go through the centreline of the hedgerow. Ultimately, to be able to retain the hedgerow as genuine mitigation it would need to be fully within the application site (which it doesn't appear to be) or would need to be subject to a section 106 legal agreement which it is currently not.

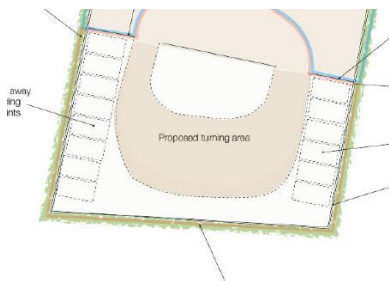
During the course of the previously refused scheme, the applicant was invited to amend their application to include landscaping of all the site, other than the turning area which would have offered comfort that the remainder of the site would not be used for the parking of vehicles and would have provided some of the mitigation that was expected to be in place for the 2018 permission that has been implemented. These amendments were not forthcoming and this latest application seeks consent for vehicle parking on the site where landscaping was requested. There is now no planting proposed within the site. This, when compared to the approved 2018 mitigating landscaping scheme, which would have resulted in an average planting depth of 43m across the width of the site is simply not comparable. The hedgerow around the outside of the concrete wall, even if gapped up, cannot mitigate for the impacts as already discussed. In summary the current proposal would not properly mitigate the visual impacts for the 2018 permission nor this scheme, which would worsen the impacts.



Extract of plan showing 2018 area of landscape mitigation



**April 2023 Refused Scheme:**  
Proposed landscaping in pink. Area highlighted in yellow was also unauthorised hardstanding



**Current Proposal - Proposed landscaping limited to outside of the concrete wall**

It is accepted that staff vehicles parked within the area would likely be lower in height than the 2m high concrete wall and therefore may not in themselves be visible from the outside. It is also noted that the transient nature of the vehicles turning area would negate some concerns regarding prolonged visual harm. However, it remains the position that the limited

landscaping does not provide sufficient mitigation for either the 2018 approved scheme nor this latest application.

It is noted that the applicant considers that the Planning Committee in April 2023 were not given the full picture of impacts as photographs were not shown in the presentation of the viewpoints from outside the site. I can confirm that whilst these were not within the presentation they were circulated to Members as part of the late representation schedule. Committee also visited the site to see the impacts for themselves. Regardless of this, committee site visits are not a determinative factor in their decision making.

The scheme now advanced is worse in landscape terms than the scheme refused in April 2023 in that there now is less space on offer to provide mitigating landscaping. Furthermore, it appears that part of the hedgerow on the outside of the concrete wall (western boundary) isn't within the applicants control so its ability to mitigate is not secure which risks the development from becoming more prominent should the hedgerow be reduced in height or removed. Clearly the proposal also represents an encroachment further into the countryside which in itself is harmful.

### **Residential Amenity**

The nearest residential properties are situated on the opposite side of the carriageway to the site entrance. No objections have been received to the application.

The existing business is operating without any controls in terms of operating hours, lighting etc. and indeed early morning vehicle movements appear to be necessary to allow for the proper functioning of the business. An expansion of the size promoted would likely give rise to some limited further impacts but I do not consider that these would amount to a reason to resist the application in themselves should other matters be considered acceptable. Certainly these were not matters that warranted refusal previously in similar appeals at this site in the context of policies DM5 and CP9.

### **Highway Impacts**

SP7 sets out the policy context for development that affects highways in terms of capacity and impacts further afield as well as seeking to ensure there is suitable access and parking.

In this case no physical changes are being proposed to the site's access.

The proposal would increase the parking capacity at the site by providing space for employees who work away during the week to leave their vehicles at the rear of the site instead on in the secure compound at the site frontage. The plans also show three parking spaces to the site frontage served by electrical charging points albeit these spaces are already in place (minus the electrical hook up).

It is noted that NCC Highways Authority have commented that the turning area is welcomed as it will enable vehicles to exit the highway in a forward gear. My understanding (given that this application has not been advanced as a highway safety improvement by the applicant) is that vehicles using the site already (prior to the currently unauthorised turning area being

created) leave the site in a forward gear. The applicant has been asked to clarify how the site is currently managed in this regard and set out how this application would improve the situation?

*'This information is wrong and was previously wrong and ought not to have been in the previous application. In fact since first purchasing the yard the security gate where installed in such a way as to allow at lease [sic] 4 LGVs to enter the site and not have any trailers sticking out onto the road. This is particularly advantageous when sometimes drivers arrive out of hours as it allows them to park of [sic] the public highway and not Access to the secure yard area.'*

It would appear from the way the application has been advanced and the applicant's response that the proposal would not bring about any improvement with regards turning and consequential highway impacts. Therefore, the application is not a benefit that can be weighed in the balance but rather is a neutral factor.

Consideration has been given to whether the provision of electrical vehicle charging points (EVCP) on site might be persuasive. It is noted that the applicant indicates provision would be made to (some – number unspecified) of the 14 spaces around the turning area and to 3 existing parking spaces to the site frontage and this is included within the description of development. It is noted that there is already provision of an EVCP immediately in front of the building and there appears to be no reason why more could not be provided to the existing staff parking to the site frontage which would be welcomed as a matter of principle. In fact, in most cases the provision of upstands for recharging vehicles is permitted development (not requiring express planning permission under Schedule 2, Part 2, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015)) in any event. The need for the additional long term staff parking and the associated EVCP in the enlarged yard area at the back of the site has not been fully demonstrated. Whilst the sustainability credentials of EVCP is not in dispute, there would appear to be no compelling need for these to be in this location and so they cannot be weighed in favour of the scheme.

### **Other Matters**

Having been to site, I consider it unlikely that the site contains habitat for any protected species (nor would it have been likely to prior to the hard surfacing being laid) and no further assessment is necessary. With regards to flood risk, the site located within flood zone 1 and given its size is just under 1 ha, it does not meet the threshold for a flood risk assessment and I am satisfied that no further assessment is necessary. If approved a condition could be imposed to require any hard surface to be permeable to allow for natural percolation of surface water.

### **8.0 Planning Balance and Conclusions**

No harm to residential amenity, the highway or ecology has been identified. From the submission I have identified no tangible highway benefit and the scheme has not been advanced as such. These matters are neutral factors weighing neither for nor against the scheme.



It is acknowledged that policies at both national and local level allow for the growth of rural businesses albeit the shift to an economy for growth is caveated by the sustainability theme that runs through policy which is seen as the golden thread in policy terms.

I have carefully considered the scheme in light of all material planning considerations including the most recent appeal decision from 2022 and have sought to determine what has changed since the last refusal in April 2023. The main changes relate to the provision of long-term staff parking around the turning area where there was previously none proposed, less space for landscaping within the site and the proposed provision of an unspecified quantum of electrical vehicle charging points. It has also become clear that the existing hedgerow surrounding the perimeter of the concrete wall is not fully owned by the applicant.

I accept that the proposal would sustain employment and the Business Plan shows a projected growth of 20% additional employment over the next 3 years which accords with CP6 and DM8. However, the proposal, taking into account the growth of the business previously, does not amount to small scale expansion and in this regard is a departure from the policy. Continued expansion at this site is unsustainable and the development encroaches into the countryside causing harm to the landscape and visual impact of the area, a matter which the previous Inspectors have agreed on. Some of this harm could be mitigated with appropriate landscaping but not all of this. The applicant previously declined to amend the scheme to provide a more meaningful landscape mitigation package to the unused open areas of the site and has now in fact presented this space as staff parking for workers of the site.

The applicant indicates the application is in response to the urgent business needs of the company and that the landscape impact is now limited. In an attempt to evidence their case, supporting information has been submitted indicating a need for expansion and whilst not fully convinced on the need for a rural location per se, I accept the business is well established, a local employer and close to the A1, so has merit. However, the application still hasn't been persuasive in terms of demonstrating that the site could not be rationalised to make more efficient use of the authorised space to meet this need. When weighing all matters up this is a balanced judgement. It is noted that the proposal is now retrospective so the impacts can be judged in situ. It is also noted that the Parish Council and Local Ward Member support the proposal.

However, whilst I acknowledge that the applicant has now demonstrated there is a reasonable need for the business to expand, this must be countered against 1) whether this expansion could in fact happen without the need for more land take by making more efficient use of authorised land and 2) the encroachment and landscape/visual impacts.

Officers are not persuaded that the first point has been adequately demonstrated. Secondly, landscape harm was established previously for the use of this land. Previous decisions have made clear that this land was required for the purposes of landscaping to mitigate that harm. Now, hardstanding would lead to the same net effect, in my view, as the previous refused and dismissed proposal in so far as it leaves a full hardstanding site without meaningful landscaping in terms of extent, depth and ability to mitigate this and previous development. In fact, the scheme is more harmful than the most recent refused scheme (April 2023) in that there is less space now available for landscaping and because it has come to light that the hedge on the outside of the concrete wall is not fully owned by the applicant so cannot be

relied upon for mitigation. I therefore conclude that the application has not done enough to mitigate the harm it causes and recommend refusal for the reasons set out below.

## **9.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **10.0 Reason for Refusal**

01

In the opinion of the Local Planning Authority the proposal does not represent a small scale or proportionate expansion and further expansion into the countryside is considered to be unsustainable and would unacceptably harm the open flat landscape. Whilst it is accepted that the applicant has an economic need to expand their growing business, it remains that no proper evidence has been advanced to demonstrate why it needs to be in this rural location or demonstrate why the existing site could not be made more efficient to allow for business expansion without the need for further land take. In any event, the visual and landscape harm is considered to outweigh any such need taking into account the amount that the business has already expanded over time and given the level of hardstanding that has been laid without meaningful mitigation in the form of landscaping. This application would also result in the inability to mitigate existing visual harm to the countryside, resulting from and required for planning application 18/00251/FUL, through an approved soft landscaping scheme in 2018. The proposals are therefore considered to be contrary to Core Policy 6 (Shaping our Employment Profile), Core Policy 13 (Landscape Character) and Spatial Policy 3 (Rural Areas) of the adopted Newark and Sherwood Core Strategy and policies DM5 (Design) and Policy DM8 (Development in the Open Countryside) of the Allocations & Development Management Development Plan Document which together form part of the Development Plan as well as being contrary to the National Planning Policy Framework, a material planning consideration.

## **Informatives**

01

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

Covering Letter from agent dated 3<sup>rd</sup> May 2023  
Proposed Block Plan, MSP:225/011D  
Site Location Plan, MSP:225/001D  
Letter from Duncan and Toplis, 21.10.2022  
Landscape and Visual Assessment, by Mike Sibthorpe  
Planning Statement by Mike Sibthorpe, September 2022  
Business Plan 2022-2025 (received 01.02.2023)  
Commentary on Business Plan (received 01.02.2023)

02

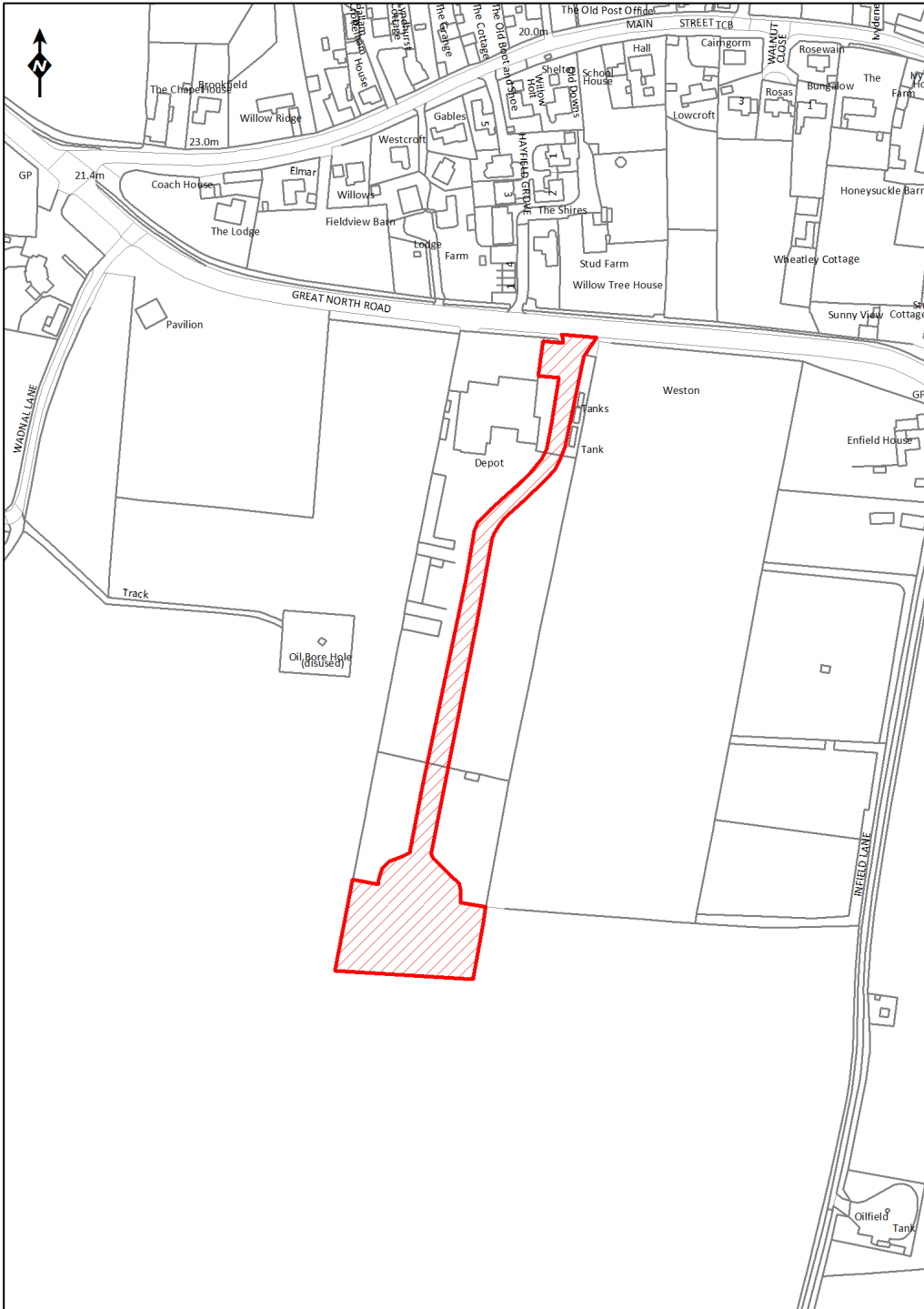
The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However, the Local Planning Authority has worked positively and proactively with the applicant in an attempt to make the scheme acceptable but ultimately the amendments advanced were insufficient to tip the balance to an approval.

#### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 23/00770/FUL



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Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Amy Davies, Planner, Ex 5851

Report Summary			
<b>Application Number</b>	23/00829/HOUSE		
<b>Proposal</b>	Erection of timber pergola		
<b>Location</b>	South Barn 4 Redmay Farm Church Lane South Scarle Newark On Trent NG23 7JP		
<b>Applicant</b>	Mr Barry Hughes	<b>Agent</b>	N/A
<b>Registered</b>	01 June 2023	<b>Target Date</b>	27 July 2023
		<b>Extension of Time</b>	18 August 2023
<b>Web Link</b>	<a href="#">23/00829/HOUSE   Erection of timber pergola   South Barn 4 Redmay Farm Church Lane South Scarle Newark On Trent NG23 7JP</a>		
<b>Recommendation</b>	That planning permission is REFUSED for reason(s) outlined at the end of this report.		

In line with the Council’s Scheme of Delegation, as the Parish Council’s Support is contrary to the Officer recommendation to refuse, the local ward members, Councillor Linda Dales and Councillor Phil Farmer have been notified. Councillor Linda Dale’s has requested to call-in this application to Planning Committee for reasons which can be summarised as follows:

- The property is a modern house with a small domestic garden. It is not a barn conversion and has no features on the back where the pergola would be sited.
- There is no shade nor much room to place a pergola elsewhere in the garden.
- There are substantive differences between this scheme and one at South Clifton – which was an actual barn conversion. The proposed pergola would have concealed a brick archway of the original barn, and the rear of that property was more visible. The material was to be grey aluminium which would have had a ‘jarring effect’.
- The Parish Meeting’s view was that the Conservation Officer’s assessment of ‘minor harm’ was not of sufficient weight by itself to warrant refusal.

## **1.0 The Site**

The application relates to a large, detached dwelling known as 'South Barn' which forms part of a relatively new cul-de-sac development comprising of 6-dwellings located on the north side of Church Lane within the village of South Scarle and its designated Conservation Area. The application dwelling was designed to emulate a converted threshing barn and is sited on the right-hand-side of a formal courtyard.

Neighbouring dwellings referred to in the original application as 'The Cottages' lie immediately to the south, while 'The Barns' are located to the northwest. The principal garden area is located to the rear/east of the dwelling, with boundaries demarcated by a mix of close-boarded and post and rail fences. There is also a small timber shed to the rear that does not appear to have consent (see 'Relevant Planning History' below). The Old Vicarage lies to the east and is a building of local interest set in substantial grounds.

The site has the following constraints:

- Conservation Area

## **2.0 Relevant Planning History**

17/01846/FUL - Demolition of the Existing Industrial Buildings and Erection of 6 dwellings with Associated Access. Application Permitted 19.12.2017

### *Condition 12*

*Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:*

*Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.*

*Class B: Additions etc to the roof of a dwellinghouse.*

*Class C: Any other alteration to the roof of a dwellinghouse.*

*Class D: The erection or construction of a porch outside any external door of a dwellinghouse.*

*Class E: Development of building etc incidental to the enjoyment of a dwellinghouse.*

*Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse.*

*Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.*

*Class H: The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse.*

*Or Schedule 2, Part 2:*

*Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.*

*Class B: Means of access.*

*Class C: The painting of the exterior of any building.*

*Unless consent has firstly be granted in the form of a separate planning permission.*

*Reason: To ensure that any proposed further alterations or extensions preserve the character and appearance of the Conservation Area in accordance with Policy CP 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).*

### **3.0 The Proposal**

The application seeks planning permission to erect a timber pergola to the east facing rear elevation of the host dwelling. The proposed pergola would be affixed to and project approximately 4-metres from the rear wall of the dwelling. It would comprise of two bays and measure approximately 5-metres wide. It would include 13no. Crossmembers with Chamfered edges across the top and measure approximately 2.6-metres in height.

For the avoidance of doubt, the assessment outlined below is based on the following plans and supporting information (revised plans received 28 July 2023):

Site Plan 1:500 'South Barn Pergola' REV 1 *received 28 July 2023*

Proposed Pergola (Drawing no. 2023 245 01 1012021 Sheets 1-5 REV1) *received 28 July 2023*

Photograph of existing rear elevation *received 15 May 2023*

Heritage Statement *received 15 May 2023*

### **4.0 Departure/Public Advertisement Procedure**

Occupiers of 4 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Site visit undertaken 16 June 2023.

### **5.0 Planning Policy Framework**

#### **The Development Plan**

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

Spatial Policy 9 – Sustainable Design

Core Policy 14 - Historic Environment

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

DM5- Design

DM6 – Householder Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2021
- Planning Practice Guidance
- Householder Development SPD 2014
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Appeal Decision Ref: APP/B3030/D/22/3311437 Clifton Barn, Vicarage Road, South Clifton (and the associated refused planning application ref: 22/01693/HOUSE).

### **6.0 Consultations**

*NB: Comments below are provided in summary - for comments in full please see the online planning file.*

#### **(a) Statutory Consultations**

None

#### **(b) Parish Council**

**South Scarle Parish Council – Support**

#### **(c) Representations/Non-Statutory Consultation**

**Conservation** – The proposal would cause minor harm to the character and appearance of the conservation area.

**No third party/neighbour representations received.**

### **7.0 Comments of the Business Manager – Planning Development**

The key issues are:

1. Principle of development
2. Impact on character and designated heritage assets
3. Impact on residential amenity

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

As the application concerns the designated heritage asset of a conservation area, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') is particularly relevant. Section 72(1) requires the Local Planning Authority (LPA) to pay special attention to the desirability



of preserving or enhancing the character and appearance of conservation areas. The s.72 duty does not allow a local planning authority to treat the desirability of preserving the character and appearance of conservation areas as a mere material consideration to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the character or appearance of a conservation area, it must give that harm considerable importance and weight.

### Principle of development

Policy DM6 'Householder Development' of the Allocations & Development Management DPD is permissive of domestic extensions provided the proposal respects the design, materials and detailing of the host dwelling, and respects the character of the surrounding area, and there would be no adverse impact on the amenities of neighbouring residents in terms of loss of privacy, light and overbearing impact. These matters are considered in detail in the assessment outlined below.

### Impact on character and designated heritage assets

Core Policy 14 'Historic Environment' of the Newark and Sherwood Core Strategy DPD (adopted March 2019) requires the continued conservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment, in line with their identified significance; and the preservation and enhancement of the special character of Conservation Areas including that character identified through Conservation Area Character Appraisals which form the basis for their management. In accordance with Core Policy 14, development proposals should take account of the distinctive character and setting of individual conservation areas including open space and natural features and reflect this in their layout, design, form, scale, mass, use of materials and detailing (Policy DM9 'Protecting of the Historic Environment' of the Allocations & Development Management DPD).

The application site is located within South Scarle Conservation Area and, as such, special regard should be given to preserving or enhancing the character or appearance of that area in accordance with the duty contained within Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The application is supported by a Heritage Impact Assessment.

The Council's Conservation Officer has considered the proposal and commented as follows:

*"The application is for a pergola to the rear of the building. As a building that has been designed to appear as a converted agricultural building. Pergolas are a very domestic garden structure. As a domestic feature, it is considered that the pergola would undermine the design approach of the development.*

*The site is visible from the wider public amenity. However, the development does have other domestic elements such as close boarded fences, which will screen the structure.*

*It is considered that the proposal will cause minor harm to the character and appearance of the conservation area."*

I note the Conservation Officer considers the proposal would cause minor harm to the character and appearance of the Conservation Area by virtue of being a domestic garden structure not in keeping with the design approach of the original development. On my site visit I observed the garden was open and devoid of shade. Consequently, the applicant currently has a parasol

positioned on the rear patio broadly where the pergola is proposed to be sited. The top of the parasol is just visible from Church Lane but mostly screened by a neighbour's close-boarded fence. The submitted Heritage Statement suggests the pergola will have negligible/no impact on the heritage setting and would add character to the property. However, it is considered that the proposal will cause harm by virtue of its position, visibility (from Church Lane), and timber construction, which would be visually at odds with the agricultural design approach of the host dwelling. Although the existing parasol already domesticates the area, it is a relatively discreet and easily moveable object, whereas the proposed pergola which would be a permanent and harmful addition to the rear of the property. The existing parasol and proposed pergola are therefore not directly comparable. Consequently, there is no clear or convincing justification for the harm the proposed development would cause.

Paragraph 202 of the NPPF requires 'less than substantial' harm to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There would be no public benefits associated with the proposal that would clearly outweigh the harm identified. Consequently, the proposal does not comply with the duty to preserve and is contrary to the abovementioned planning policy framework.

In reaching this conclusion, I have considered and given weight to the refusal of planning application 22/01693/HOUSE and the subsequent Appeal Decision Ref: APP/B3030/D/22/3311437 for Clifton Barn, Vicarage Road, South Clifton. This application sought permission to erect a matt grey aluminium framed pergola ('Pergola 1') immediately adjacent to the rear elevation of the dwelling, which was designed as a faux threshing barn. The dimensions of this pergola were approximately 3.6m(L) x 5.3m(W) x 2.8m(H), so it was taller and wider than the proposed, as well as to be constructed of a different material (not timber). The application was refused for the following reason:

*In the opinion of the Local Planning Authority, whilst noting that most of the structures proposed have previously been approved, with the addition of Pergola it is considered that the development would significantly undermine the original agricultural design concept of the dwelling. Pergola 1 as proposed would result in a form of development that would appear alien in this setting, resulting in harm to the character and appearance of the Conservation Area. In design terms, this form of development would also undermine the rural farmstead characteristics that formed the original approval and cumulatively the addition of a further garden structure would also give rise to visual clutter within the site, detracting from and undermining the design approach of the dwelling, resulting in less than substantial harm to the character and appearance of South Clifton Conservation Area, contrary to S.72 of the Act. There are no wider public benefits that would arise as a result of this scheme that would outweigh this harm. The development is therefore contrary to the objective of preservation as set out under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in addition to failing to comply with CP9 (Sustainable Design) and CP14 (Historic Environment) of the Core Strategy (2019) and DM5 (Design), DM6 (Householder Development) and DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD (2013) the NPPF (2021), which is a material consideration.*

The applicant appealed against this decision and had their appeal dismissed by the Planning Inspectorate for the following reason:

*"I consider that the proposed development would fail to preserve or enhance the character or appearance of the SCCA [South Clifton Conservation Area] and would result in less than substantial harm to the heritage asset. Therefore, the proposals would be contrary to Policies CP9 and CP14 of*

*the Amended Core Strategy, and also DM5, DM6, and DM9 of the Local Development Framework Allocations and Development Management Development Plan Document which require development to be of good design, and that regard must be had to local context, including the distinctive character of Conservation Areas.”*

Councillor Dales has asserted that the submitted proposal is substantively different to the one at Clifton Barn, however, it is considered the two are directly comparable as both properties were designed to emulate converted agricultural buildings with simple/unfussy elevations to reflect the characteristics of their respective sites and surrounding areas. Indeed, the rear elevations of the two properties are similar and characterised by a mix of small casement windows to the first floors and larger patio/bi-folding doors to the ground floors. Consequently, the principal reason for rejecting both proposals is the same. Overall, the addition of pergolas regardless of design or materials, fails to respect or reflect the design characteristics of each site, contrary to the abovementioned planning policy framework.

### Impact on residential amenity

The NPPF seeks to ensure a high standard of amenity for all existing and future occupants of land and buildings. Policies DM5 and DM6 of the DPD state that planning permission will be granted provided proposal do not adversely affect the amenities of the adjoining premises in terms of overbearing impacts, loss of light and privacy.

Given the form and position of the proposed development (i.e., away from boundaries shared with neighbouring properties), it is not considered that there would be any adverse impacts on neighbouring amenity. The proposal therefore complies with Policies DM5 and DM6 of the DPD in this regard.

Councillor Dale’s comments regarding lack of shade have been noted, however, it is considered the existing parasol, or a similar, would provide adequate shade for the applicants to continue to enjoy their garden.

## **8.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **9.0 Conclusion**

The proposed development would cause minor/less than substantial harm to the character and appearance of South Scarle Conservation Area contrary to the objective of preservation required under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements of Core Policy 14 of the Core Strategy DPD and Policy DM9 ‘Protecting of the Historic Environment’ of the Allocations & Development Management DPD and relevant guidance contained within the National Planning Policy Framework and National Planning Practice Guidance. The NPPF requires less than substantial harm to be weighed against the public benefits of the proposal. There are no public benefits that would arise as a result of this scheme that would outweigh the harm identified. It is therefore recommended the application be refused.

## **10.0 Refusal**

### **01**

In the opinion of the Local Planning Authority, the proposed timber pergola would significantly undermine the original agricultural design concept of the dwelling and result in a form of development that would appear alien and overly domestic in this setting, resulting in harm to the character and appearance of South Scarle Conservation Area. In design terms, this form of development would also undermine the rural farmstead characteristics that formed basis of the original approval. The proposed development would therefore result in less than substantial harm to the character and appearance of South Scarle Conservation Area, contrary to S.72 of the Act. There are no public benefits or other material planning considerations that would arise as a result of this scheme that would outweigh the harm identified. The development is therefore contrary to the objective of preservation as set out under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in addition to failing to comply with Core Policy 9 (Sustainable Design) and Core Policy 14 (Historic Environment) of the Core Strategy DPD (2019) and Policies DM5 (Design), DM6 (Householder Development) and DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD (2013) as well as the Council's Householder Development SPD (2014) and the NPPF (2021), which is a material consideration.

### Informatives

#### **01**

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

#### **02**

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

#### **03**

Refused drawings:

Site Plan 1:500 'South Barn Pergola' REV 1 *received 28 July 2023*

Proposed Pergola (Drawing no. 2023 245 01 1012021 Sheets 1-5 REV1) *received 28 July 2023*

Photograph of existing rear elevation *received 15 May 2023*

Heritage Statement *received 15 May 2023*

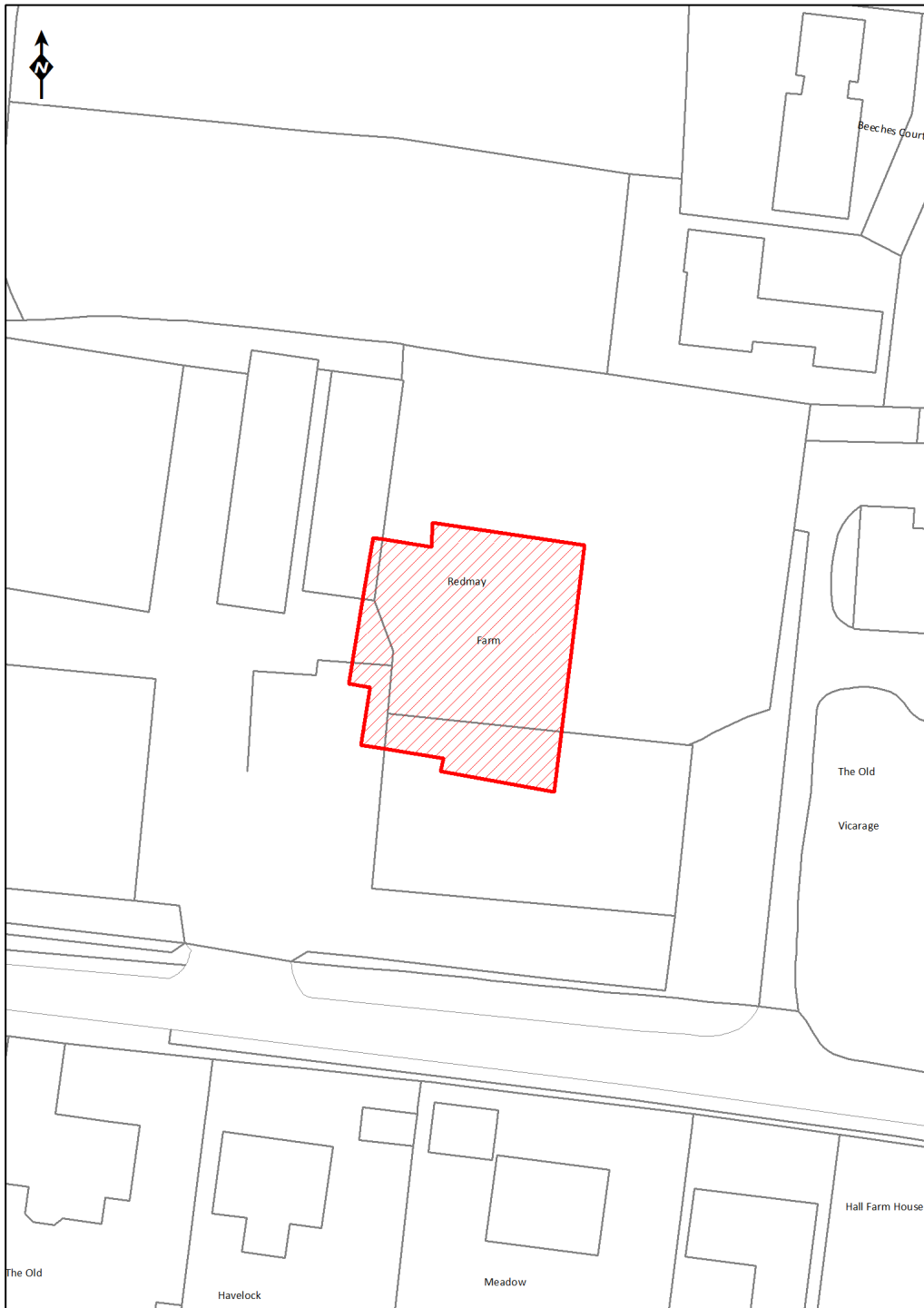
### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act

1972.

Application case file.

Committee Plan - 23/00829/HOUSE



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Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Amy Davies, Planner, Ex. 5851

Report Summary			
<b>Application Number</b>	23/00715/FUL		
<b>Proposal</b>	Change of use to an open use comprising holiday let (Sui Generis) or independent dwelling (C3) and external alterations. Subdivision of land associated with The Cottage, 45 Gainsborough Road, Winthorpe including retention of railings, gates and gate posts at a reduced height		
<b>Location</b>	Annexe The Cottage Winthorpe		
<b>Applicant</b>	Mrs Farmer	<b>Agent</b>	Mayberry Developments Ian Berry
<b>Web Link</b>	<a href="#">23/00715/FUL   Change of use and external alterations to create one independent dwelling including subdivision of residential land associated with The Cottage, 45 Gainsborough Road, Winthorpe   Annexe The Cottage Winthorpe</a>		
<b>Registered</b>	28 April 2023	<b>Target Date</b>	23 June 2023
		<b>Extension of Time</b>	18 August 2023
<b>Recommendation</b>	That planning permission be Approved subject to the conditions detailed at Section 10.0		

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as the applicant is related to an Elected Member of the Council.**

## 1.0 The Site

The application relates to an existing detached building set in the grounds of an extended detached historic home located on the east side of Gainsborough Road, within the village of

Winthorpe and its designated Conservation Area. The historic home appears on the OS First Edition from 1875-85 and has been described by Conservation as follows:

*The building is of a mostly linear form with projecting canted section to the front. The building is rendered with coggled brick detail eaves and a slate roof. The windows are two over two sashes, suggesting a mid-Victorian date. The building had a new extension to the south west, alterations to the rear and minor alterations to the fenestration, but from the front elevation especially has generally retained its historic character and appearance...While there may well have been some aggrandisement of the building over the years the site certainly reads as a high-status period villa of some standing, both historically and on site today.*

Consequently, the building and site make a positive contribution to the character and appearance of Winthorpe Conservation Area.

The host dwelling is set back from the road by approximately 30-metres and includes a tree-lined garden area to the front, which has, in recent years, been partially repurposed as a gravelled parking/turning area. The roadside boundary is a densely planted green boundary, although close-boarded fences have been erected around the site, which now visually separate the site from the road.

The detached building/garage is sited to the north side/rear of the host dwelling. This was originally permitted as a 'garage block' and comprises of a garage and self-contained living accommodation currently used as holiday-let accommodation.

Winthorpe House, a Grade II Listed Building, sits immediately to the south of the wider site ownership, while a detached dwelling at 43a Gainsborough Road lies to the north. Tree Preservation Orders cover trees surrounding Winthorpe House, which sit on the southern and eastern boundaries of the site.

The site has the following constraints:

- Conservation area
- Setting of Winthorpe House (Grade II Listed Building)
- Trees

## **2.0 Relevant Planning History**

22/01779/HOUSE – Proposed oak framed open garage and store, removal of fir tree. Permitted 24.01.2023.

**Development has commenced.**

04/00751/FUL – Proposed two storey side extension, conversion of outbuildings, new garage block. Permitted 26.05.2004.

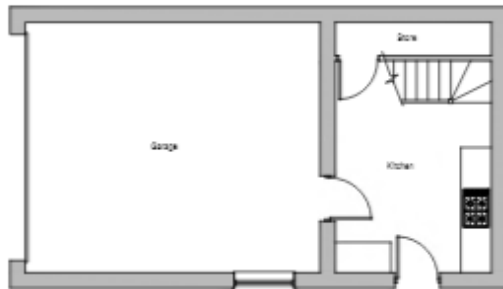
**This permission has been implemented.**

## **3.0 The Proposal**

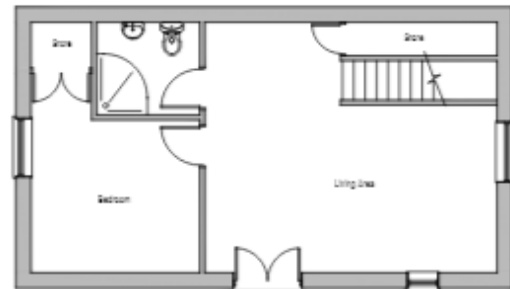


The application proposes the change of use and alterations to facilitate the conversion of the existing garage and 1-bedroom annexe to a 2-bedroom dwelling, comprising of a living room, kitchen/diner, and toilet to the ground floor, and two bedrooms (one double, one single), a bathroom and a snug to the first floor. The proposal also seeks the ability to use the building either as an independent dwelling or as holiday let accommodation.

### Existing Floor Plans

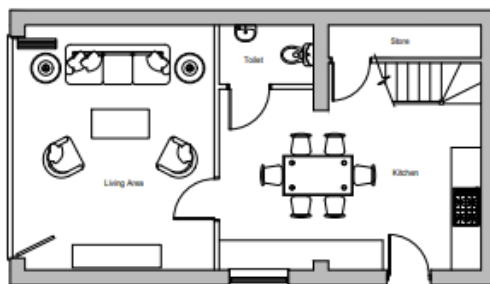


Existing Ground Floor Plan

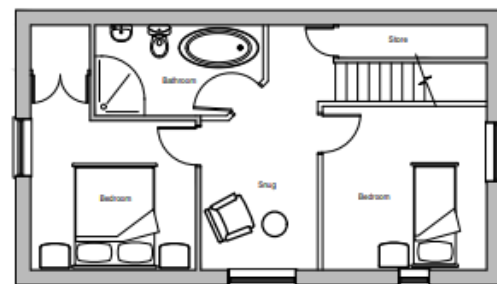


Existing First Floor Plan

### Proposed Floor Plans



Proposed Ground Floor Plan



Proposed First Floor Plan

External alterations would include replacing the existing roller shutter garage door with a large full height glazed window to provide light into the proposed living room and replacing the existing first floor French doors and Juliet balcony on the south facing side elevation with an obscure-glazed casement window.

The application also proposes sub-division of the residential land associated with the host dwelling, and the retention of railings, gates, and gate posts at a reduced height of 2.66-metres following the removal of ball finials.

### Revised Plans

The application has been revised to include details of the railings, gates, and gate posts that have been erected to sub-divide the site and the removal of ball finials to reduce the overall height of the boundary treatment. For the avoidance of doubt, the assessment outlined below is based on the following plans and supporting documents:

*Received 25 July 2023*

Statement in response to Tree Officer Comments dated 21.06.2023.

*Received 30 June 2023*

SF-SK-005 – Existing and Proposed Gate Pillars

*Received 19 June 2023*

SF-SK-002A – Proposed Plans & Elevations & Site Location Plan

*Received 09 June 2023*

SF-SK-004 – Proposed Site Plan

SF-SK-003A – Existing and Proposed Block Plan

*Received 25 April 2023*

SF-SK-001 – Existing Annex Plans & Elevations & Site Location Plan

Heritage Impact Statement & Supporting Statement (April 2023) prepared by Mayberry Design Development Consultants

#### **4.0 Departure/Public Advertisement Procedure**

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

Site visit undertaken on 12 May 2023.

#### **5.0 Planning Policy Framework**

##### **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 9 -Sustainable Design

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

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

DM5 – Design

DM9 – Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

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

National Planning Policy Framework 2021

Planning Practice Guidance (online resource)

National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019

Residential Cycle and Car Parking Standards & Design Guide SPD June 2021

## **6.0 Consultations and Representations**

*NB: Comments below are provided in summary - for comments in full please see the online planning file.*

### **(a) Consultations**

None.

### **(b) Parish Council**

Winthorpe Parish Council – Object

- Proposed change of use is one step further than the current use of the converted garage as a short-term rental facility
- Concerns regarding the visibility of boundary division (railings and gate pillars) and the retrospective nature of the application
- Solid fence to the front of the dwelling does not appear to be lawful
- Site access is inadequate for four dwellings (existing and proposed with neighbouring site at 43 Gainsborough Road)
- Intense development within the Conservation Area

### **(c) Representations**

**Conservation** – The proposed development preserves the special interest of the nearby listed building and of Winthorpe CA, in line with Section 66 and 72 of The Act, as well as policy and advice contained within s16 of the NPPF, and CP14 and DM9 of the Council’s LDF DPDs. However, Conservation defers to the expert advice of the Tree Officer with regards to impact to trees, which in this context could also equate to harm to the CA and setting of nearby LBs.

**Tree Officer** –

- It is strongly suggested that the limited amenity (garden) /utility space (car parking and driveway) will result in strong pressure to remove the tree belt located to the north and east of the proposed site. Resulting in damage to the character of the conservation area.
- The placement of the fencing/ pillars is incongruous to the retention of trees significant to the character of the conservation area.

**2 objections have been received from local residents, which can be summarised as follows:**

- History indicates that this building and its subsequent uses are in breach of planning
- Would a new dwelling have been approved at the time of the original application?
- Highways issues must be considered – concerns regarding congestion at and visibility from the access, which is bounded by high hedges
- Work has been carried out to divide the site in advance of determination of the application – gate posts and inappropriate fencing not in-keeping with the Conservation Area
- Area to extend the driveway would impact on tree roots
- Loss of trees would affect privacy

## **7.0 Comments of the Business Manager – Planning Development**

The key issues are:

1. Preliminary matters
2. Principle of development
3. Impact on Character and Heritage Assets
4. Impact on Residential Amenity
5. Highway Safety and Parking
6. Trees

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 'Presumption in Favour of Sustainable Development' of the Allocations and Development Management DPD.

As the applications concerns designated heritage assets of listed building and the conservation area, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') are particularly relevant. Section 66 outlines the general duty in exercise of planning functions in respect to listed buildings stating that the decision maker "*shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*" Section 72(1) also requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

#### Preliminary matters

A review of the planning history indicates that planning permission 04/00751/FUL did not permit an annexe, as the approved floor plans only labelled the ground floor garage space, which accords with the description of development. However, Council Tax records indicate the "Annexe" has been registered as a separate property since 3 October 2011. Furthermore, it is understood that previous owners accommodated au pairs and visiting family members in the annexe, which would have been lawful provided the occupants had a relationship with the host dwelling.

The applicant purchased the property in July 2020 and subsequently started renting the former annexe accommodation as a holiday let via Air BnB later that year<sup>1</sup>. The current

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<sup>1</sup> [The Hare's Hideaway at Winthorpe](#)

holiday let use is unlawful as the building is independent to the host dwelling, it is not an incidental use to the host dwelling and results in a material change to the character of the area, which has triggered the submission of this planning application. However, the applicant has indicated that the accommodation may be used to accommodate family members in future enabling them to live close to but independently of the host dwelling. Consequently, planning permission is sought for an open use comprising a holiday let (Sui Generis) or independent dwelling (C3), to enable the property to be let privately on a more medium to long term basis in future if needed.

Schedule 2 Part 3 Class V of the Town and Country Planning (General Permitted Development) Order 2015, as amended ("the GPDO") permits ***Development consisting of a change of use of a building or other land from a use permitted by planning permission granted on an application, to another use which that permission would have specifically authorised when it was granted.*** Paragraph V.1 outlines that development is not permitted by Class V if:

- (a) the application for planning permission referred to was made before 5th December 1988;*
- (b) it would be carried out more than 10 years after the grant of planning permission;*
- (c) the development would consist of a change of use of a building to use as betting office or pay day loan shop; or*
- (d) it would result in the breach of any condition, limitation or specification contained in that planning permission in relation to the use in question.*

Parts (a) and (c) would not apply to this proposal, while part (b) would set a time limit for the applicant to switch from one use to another. Regarding part (d), all recommended conditions are for compliance only and would not prejudice a change of use under Schedule 2 Part 3 Class V of the GPDO.

### Principle of Development

The application proposes a holiday let or new dwelling in Winthorpe through the conversion of an existing garage and annexe.

The Amended Core Strategy DPD outlines the intended delivery of growth within the District including in terms of housing. Spatial Policy 1 'Settlement Hierarchy' sets out a hierarchy which directs development towards the Sub-regional Centre of Newark as well as the Service Centres and Principal Villages before confirming that within 'other villages' in the District, which fall to the bottom of the hierarchy, development will be considered against the sustainability criteria set out in Spatial Policy 3 'Rural Areas'.

Winthorpe is defined within that policy as an 'other village'. The locational criteria outlined in Spatial Policy 3 supports the development of sites in sustainable accessible villages. In decision making terms, this means locations within the existing built extent of the village, which includes dwellings and their gardens, commercial premises, farm yards and community facilities. It would not normally include undeveloped land, fields or paddocks or open space which form the edge of built form.

The application building is clearly located within the existing built extent of Winthorpe village, being originally sited within the curtilage of an existing dwelling known as 'The Cottage' and flanked on all sides by residential uses. The proposal is therefore required to be assessed against of the location, scale, need, impact, and character criteria within Spatial Policy 3.

In terms of location, the site falls within the main built-up area of Winthorpe, which has a range of local services and facilities including a church, post office, primary school, village hall, and public house. There is a regular public bus service to both Collingham and Newark that offer a wide range of services and amenities.

The scale of the development in terms of quantum is considered appropriate to the size of the village, resulting in one additional dwelling in the settlement.

The Council's latest District Wide Housing Needs Assessment 2020 identifies Winthorpe as being within the Collingham sub-area. In terms of the need for additional housing, the 2020 HNA outlines that Collingham sub-area needs more 3 and 4-bedroom family housing than the District as a whole. The proposal would therefore not meet a specific housing need, although it is noted in the justification text for Spatial Policy 3 that for schemes of one or two dwellings it will not be possible to require a particular type or mix of dwellings.

The remaining criteria of Impact and Character are considered below, taking account of the context of the site, which is located within Winthorpe Conservation Area.

#### Impact on Character and Heritage Assets

Core Policy 9 'Sustainable Design' of the Amended Core Strategy DPD requires new development proposals to, amongst other things, "*achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments*". In accordance with Core Policy 9, all proposals for new development are assessed with reference to the design criteria outlined in Policy DM5 'Design' of the Allocations & Development Management DPD.

Core Policy 14 'Historic Environment' of the Newark and Sherwood Core Strategy DPD (adopted March 2019) requires the continued conservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment, in line with their identified significance; and the preservation and enhancement of the special character of Conservation Areas including that character identified through Conservation Area Character Appraisals which form the basis for their management. Development proposals should take account of the distinctive character and setting of individual conservation areas and reflect this in their layout, design, form, scale, mass, use of materials and detailing (Policy DM9 'Protecting and Enhancing the Historic Environment' of the Allocations & Development Management DPD).

The application relates to a positive building within Winthorpe Conservation Area and is sited within the setting of the Grade II Listed Winthorpe House. Consequently, special regard should be given to the desirability of preserving or enhancing the character or appearance of that area in accordance with the duty contained within Section 72(1) of the Planning (Listed

Buildings and Conservation Areas) Act 1990 and, for development which affects a listed building or its setting, preserving the building or its setting or any features of special architectural or historic interest which it possesses in accordance with the duty contained within Section 66(1) of the 1990 Act. The application is supported by a Heritage Statement.

The Council's Conservation Officer considered the application as submitted and shared the following observations:

*"The proposed change of use of the building itself will not impact the CA or setting of any LB.*

*The proposal requires minor alterations to the form of this modern garage, notably the removal of the garage door and replacement with a glazed screen and insertion of a one rooflight on the side roof slope. Given the limited size of the outbuilding, the modernity of the outbuilding, its position set well back from the road front and the strong tree cover these changes are minor and will not affect the character and appearance of the CA or the setting of the nearby LB.*

*The proposal also requires the separation of curtilage to create the new residential unit. The only identified difference on the existing and proposed block plan is the area dedicated to parking. The Tree Officer should be consulted to ensure that formalising a new parking area as shown does not compromise important tree cover here.*

*No details have been included in this application with regards to the actual means of separating the curtilage. It is noted from site that this physical separation has occurred by means of railings and decorative gates and gate piers and it is not certain whether these are intended to be considered as part of this application. A separate note has been sent to discuss this item."*

Revised plans were received during the course of the planning application to include details of the railings, gates, and gate posts that had been erected to sub-divide the site. At the time of receipt (09 June), the site division comprised of 1.8-metre-high vertical railings on a base rail, c.2.4-metre-high black decorative iron gates and c.3.25-metre-high stone gate piers (including ball finials). In addition, the revised 'Drawing no. Sf-SK-003 Proposed Site Plan' received on 09 June 2023 clarified that the existing block paved parking area to the front of the existing garage would be repurposed to form a patio area to the front of the proposed dwelling, with parking sited further down, on a wider part of, the existing driveway. Following the submission of these details, the following concerns were raised by Conservation regarding the gate piers/posts:

*"The gate piers are also very tall and ostentations and again are more akin to those seen at a high status country house, not those more traditionally seen at a host building like this, so they remain out of character with the host building and CA generally. They are also so tall they are visible from the public realm and create a cluttered and distracting feature, 'double stacked' beyond the existing roadside boundary and in this way also detract from the appearance of Winthorpe CA"*

The applicant responded by proposing and subsequently proceeding to remove the ball finials, reducing the height of the gate piers/posts to c.2.66-metres (notification of removal

received 07 July and site visit undertaken to verify carried out on 12 July). The Council's Conservation Officer then shared the following final observations on the amended scheme:

*"Plans now indicate a scheme of boundary treatment to achieve this, comprising 1.8m vertical black railings to line the south side of the driveway, with decorative black metal gates, set within square plan stone gate piers both at max height 2470mm. Ball finials have been removed from the proposed scheme in the amended plans of the 30<sup>th</sup> June 2023. While the railings, if used in isolation, may well benefit from permitted development it is understood that the enclosure as a whole does not.*

*Conservation has previously expressed concern about the nature of this enclosure, using railings that do not resonate well with the domestic context of the site, and gates and gate piers which, while attractive architectural features, are rather ostentatious for the site context. The removal of the ball finials from the gate piers has reduced 60 cm from the enclosure height and has removed one of the more conspicuous and high status features in this enclosure.*

*While estate fencing, for example, would make for a more suitable railing division, the railings that have been installed are at least simple, black and visually permeable, and in relative terms quite low, meaning their impact is recessive from both within the site and from the public realm and does not harm the character and appearance of the CA.*

*The gates themselves are undoubtedly attractive, and do have a nod to the age and more formal elements of the host building, but in this location and on this building are perhaps rather more ostentatious than one would have seen traditionally. Again, the stone piers are attractive features, but perhaps somewhat taller and more decorative than one might have traditionally seen at a site like this. However, it is accepted that the site does not have a traditional entrance, this now being a group of two modern, solid gates with large brick gate piers, set in a splayed entrance. As such, the proposed boundary separation here does not harm an otherwise authentic historic landscaping scheme and is not so out of character in terms of status that they harm the host building. The gates themselves are barely visible from the public realm, while the gate piers are visible, but in views limited just to the splayed entrance way, and within these views they are themselves glimpsed and partial views. As such, the impact to the character and appearance of the CA, given this more altered site context and limited visibility, is then acceptable. The proposed boundary treatment, as now altered by the removal of the ball finials, does not harm the character and appearance of the CA or setting of any nearby LBs.*

*However, there is an important proviso here in relation to impact to trees. The enclosure as now installed, and potentially the impact from cars for the scheme, is very close to several specimen trees. While Conservation defers to the expert advice of the Tree Officer these seem to be historic specimens, typical of high status Georgian/Victorian properties and provide important greenery to this part of the CA, which is mentioned specifically in the CA appraisal. If the scheme is likely to harm trees it could create a heritage harm if the trees then failed to thrive and were ultimately significantly reduced or removed."*

Potential impacts on trees are considered under the sub-heading 'Impact on trees' below. In summary, it is considered that, on the balance of probability, the development would not lead



to loss of trees and natural features would be conserved.

Overall, following revisions, the proposal would preserve the setting of Grade II Listed Winthorpe House and the character and appearance of Winthorpe Conservation Area in accordance with the relevant provisions of the abovementioned planning policies and guidance.

#### Impact upon residential amenity

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

The building is sited close to the boundary shared with the neighbouring property to the north known as Tyne House at 43 Gainsborough Road. However, the north facing side elevation is blank and would remain so as part of the proposed development. A small rooflight would be inserted into the north facing roof slope to provide light into the proposed bathroom, however, this would not present issues of overlooking or loss of privacy due to its small size and position on the roof slope. The current occupier of the neighbouring dwelling has commented on the application and confirmed they do not object in principle to the idea of a second dwelling, as the site has been used as two dwellings for some years without planning permission being sought.

In terms of amenity for existing occupants of the host dwelling, the proposal would result in the loss of a garage currently used for storage. However, planning permission has recently been granted for a detached 3-bay garage/store to the front of the host dwelling, which would compensate for this loss.

There is an existing set of French doors and Juliet balcony to the first-floor south facing side elevation of the building facing the applicant's rear garden. These currently provide light into a living room, which is proposed to be relocated to the ground floor to make space for an additional bedroom and snug to the first floor. Given the close proximity to the shared boundary (approx. 1-metre), there is potential for significant overlooking from this opening into the applicant's rear garden and associated loss of privacy. The applicant has therefore agreed to replace this opening with an obscure glazed casement window. It is therefore considered appropriate, should permission be granted, to impose a condition to secure the installation of this window and removal of the Juliet balcony within 6-months of the date of planning permission.

In terms of amenity for future occupants, the proposed plans indicate there would be a reasonable level of amenity space to the front and rear of the dwelling. Trees overshadow some of this space, which the Council's Tree Officer has indicated could lead to future pressure for their removal (see 'Impacts on trees' section below for further details). External alterations to replace the existing roller shutter garage door with a large full height glazed window would provide light into the proposed living room and be acceptable from an amenity perspective.

Consideration has been given to removing relevant permitted development rights from the new dwelling proposed as part of the open change of use. The recommended list of removed rights has been duly considered specifically in relation to this site and scheme, taking into account the Conservation Area location and the building's existing status as a building within the curtilage of a dwellinghouse. In recommending to remove certain permitted development rights, officers are not giving a view on the potential suitability of development that would otherwise be covered by the permitted development rights listed but are concerned about the potential uncontrolled nature in relation to this scheme and consider it would be appropriate for such matters to require express consent of the local planning authority to enable due consideration of impacts.

#### Highway safety and parking provision

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

Concerns regarding the access shared with the property next door have been noted from Winthorpe Parish Council and neighbouring residents. However, there would be no material change to the existing vehicular access and parking arrangements, which meet the relevant requirements of Nottinghamshire County Council's Highway Design Guide in terms of width, visibility, driveway length, and turning space. The scheme also complies with Council's minimum car parking standards set out in the Adopted Residential Cycle and Car Parking Standards and Design Guide SPD.

One new dwelling would have negligible impact on the local highway in terms of traffic and congestion.

#### Impact on trees

Core Policy 12 (Biodiversity and Green Infrastructure) of the Amended Core Strategy DPD seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the Allocations & Development Management DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The application form acknowledges there are trees on the proposed development site, but none which would influence the development or might be important as part of the local landscape character. No trees are proposed to be removed to facilitate the proposed development. The Council's Tree Officer considered the application as submitted and shared the following observations:

*"It is noted no tree survey has been submitted, no shade drawings, no anticipated future growth.*

*The tree belt to the north of plan going to the east is considered historically intrinsic to the character of the conservation area.*

*The drive, parking area and rear recreation space are all heavily overhung by mature trees. It is noted that the car parking has no area except under the canopy of trees, that the rear space will, for the majority of the day, be heavily shaded and overhung by trees.*

*It is accepted that trees will drop branches in high winds, that wildlife will use trees as habitats.*

...

*It is strongly suggested that the limited amenity(garden) /utility space (car parking and driveway) will result in strong pressure to remove the tree belt located to the north and east of the proposed site. Resulting in damage to the character of the conservation area.”*

The Tree Officer’s concerns have been noted, however, site photographs clearly show the building and driveway are not completely surrounded or overshadowed by trees. A review of historic applications for Tree Works in the Conservation Area (2013, 2020 and 2022) also indicate that no trees have been proposed to be removed due to impacts on the annexe or cars parked on the driveway to the front. Furthermore, reviews on Air BnB positively mention the private nature of the rear garden, which would be compromised if trees were to be removed. It is therefore considered, on the balance of probability, that the proposed use of this development, in and of itself, would not lead to loss of trees and natural features.

Following the submission of revised plans including details of railings, gates, and fences that had been erected to sub-divide the site, the Council’s Tree Officer shared strong concerns about the proximity of the railings and gate posts/piers to protected trees and suggested it would be reasonable to expect the tree roots to have been cut [as part of their installation]. The Applicant has responded to the Tree Officer’s concerns with a detailed statement confirming that due consideration was given to the trees during the installation of the railings and gate posts, with hand dug methods used for all ground works and no notable signs of root damage observed. The Council (as Local Planning Authority) has no evidence to contradict or otherwise make the Applicant’s version of events less than probable and, as such, is content that natural features of importance have and would continue to be conserved in accordance with the abovementioned planning policy framework.

## **8.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **9.0 Conclusion**

The proposal has been assessed against each of the five criteria identified by Spatial Policy 3 of the Amended Core Strategy DPD. It has also been assessed against other local and national policies in respect of impacts on character and heritage assets, residential amenity, highway safety and parking, and trees, and is considered to be acceptable in this regard.

It has been concluded that the site is located within the main built-up area of Winthorpe, which has a range of local services and facilities and is well connected to the nearby village of Collingham and town of Newark. Consequently, the development would be considered sustainable. In addition, the proposed development would help support community facilities and local services.

In terms of the proposal's impact and scale, the addition of one holiday-let or dwelling is considered to be an appropriate scale for the village and unlikely to have a detrimental impact upon existing services provided for within the village, nor a significant increase in vehicular traffic that would have a harmful impact upon the highway network.

The character of Winthorpe Conservation Area and setting of nearby listed buildings including Winthorpe House would also be preserved.

Taking the above into account, it is concluded that the proposal accords with all of the criteria of Spatial Policy 3 as well as the relevant provisions of Core Policies 9 and 14 of the Amended Core Strategy DPD (March 2019), Policies DM5 and DM9 of the Allocations & Development Management Development Plan Document (July 2013), in addition to the NPPF 2021 and planning practice guidance which are material considerations. The proposal has been assessed under the duties set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings & Conservation Areas) Act 1990. It is therefore recommended that the application be approved.

## **10.0 Conditions**

01

The obscure glazed casement window to the first-floor south facing side elevation of the building hereby approved for conversion shall be installed and the existing Juliet balcony removed within 6-months of the date of planning permission.

Reason: In the interests of residential amenity.

02

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

*Received 19 June 2023*

SF-SK-002A – Proposed Plans & Elevations & Site Location Plan

*Received 09 June 2023*

SF-SK-004 – Proposed Site Plan

SF-SK-003A – Existing and Proposed Block Plan

Reason: So as to define this permission.

03

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of the following in relation to the building hereby approved for conversion:

Class A – enlargement, improvement or other alteration of a dwellinghouse

Class B – additions etc to the roof of a dwellinghouse

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Or Schedule 2, Part 2:

Class C: The painting of the exterior of any building.

Reason: To ensure that the Local Planning Authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any amending legislation and to ensure that any proposed further alterations are sympathetic to the approved design and to preserve the character and appearance of the Conservation Area and the setting of the adjacent Listed Building.

04

The development hereby permitted as a holiday let (sui generis) or independent dwellinghouse (C3 use) is subject to the criteria set out within Schedule 2, Part 3 Class V of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. This legislation permits the use of the development to change between these permitted uses only for a period of up to 10 years after the grant of planning permission. The use of the building, be it either dwellinghouse or holiday let at the start of the 11<sup>th</sup> year after the grant of planning permission shall be the permitted use thereafter, unless planning permission is granted for an alternative use.

Reason: To provide flexibility in the use of the building and to enable the Local Planning Authority to control any impacts that might arise after the cessation of 10 years.

### Informatives

01

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

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

02

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

03

The applicant is reminded of the following provisions.

Schedule 2 Part 3 Class V of the Town and Country Planning (General Permitted Development) Order 2015, as amended ("the GPDO") permits ***Development consisting of a change of use of a building or other land from a use permitted by planning permission granted on an application, to another use which that permission would have specifically authorised when it was granted.*** Paragraph V.1 outlines that development is not permitted by Class V if:

*(a) the application for planning permission referred to was made before 5th December 1988;*

*(b) it would be carried out more than 10 years after the grant of planning permission;*

*(c) the development would consist of a change of use of a building to use as betting office or pay day loan shop; or*

*(d) it would result in the breach of any condition, limitation or specification contained in that planning permission in relation to the use in question*

#### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

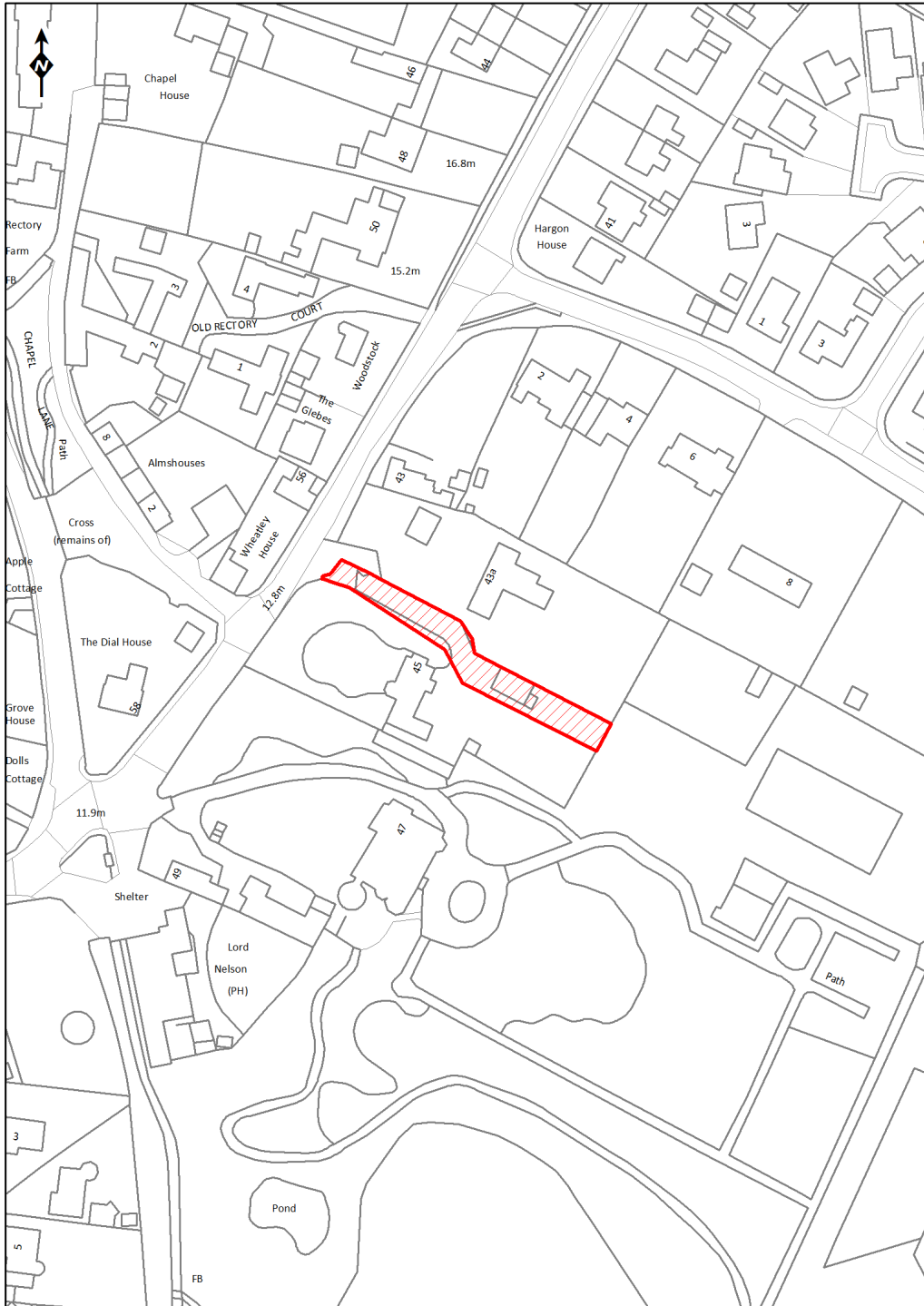
Application case file.

Committee Plan - 23/00715/FUL



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Committee Plan - 23/00715/FUL



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Report to Planning Committee 10 August 2023

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Lisa Hughes, Business Manager – Planning Development, x 5565

Report Summary	
<b>Report Title</b>	Permitted development rights: supporting temporary recreational campsites, film-making and prison fencing
<b>Purpose of Report</b>	To set before Planning Committee the latest permitted development right.
<b>Recommendations</b>	The contents of the report and the permitted development right changes to be noted.

## 1.0 Background

- 1.1 On 28 February 2023, the Department for Levelling Up, Housing and Communities commenced a consultation on 4 proposals concerning 1) permitted development rights relating to recreational campsites, 2) renewable energy, 3) electric charge vehicle points and 4) film-making.
- 1.2 A paper was presented to Planning Committee on 20 April 2023 setting out the Council's response to this consultation. The Government has issued, on the 3<sup>rd</sup> July 2023, a new Statutory Instrument 2023 No. 747 ([The Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2023](#)) setting out permitted development rights relating to 1) and 4) above with an additional permitted development right relating to prison fences, as well as other amendments that do not apply to the Council or its administrative area. The amended legislation came into force on 26<sup>th</sup> July 2023, although elements have transitional arrangements as set out below.

## 2.0 Detail

- 2.1 Temporary buildings and uses Schedule 2, Part 4, Class B is to be amended to remove the temporary use of land for recreational camping when this relates to a festival. This exclusion does not come into effect until the end of 25<sup>th</sup> July 2024.
- 2.2 A new Class is inserted 'Class BC – temporary recreational campsites'. Such campsites can be used for a temporary period of up to 60 days total in a calendar year. In addition, no more than 50 pitches can be provided on the land, also permitted is any moveable structure reasonably necessary for the purposes of the permitted use (e.g. toilets and

waste disposal facilities). These facilities must be made available in order for the developer to benefit from this permitted development right.

- 2.3 Certain land is excluded, and for the NSDC area, this comprises a site of a scheduled monument, safety hazard area, site of special scientific area or a site of a listed building. This right excludes caravans except one used as motor vehicle which is designed or adapted for human habitation. These rights are subject to either a prior notification or prior approval process, as set out below.
- 2.4 Prior approval is required when the land is within Flood Zone 2 or 3, with the developer required to submit a site specific flood risk assessment. The Council, as Local Planning Authority, must take account of any response from the Environment Agency and the National Planning Policy Framework (July 2021) so far as relevant to the prior approval matter i.e. flooding. No representations from any other party may be considered which includes District Councillors and Town/Parish Councils. The Council must make its decision on the prior approval within 56 days, otherwise the development may go ahead.
- 2.5 Prison Fences – Schedule 2, Part 7, Class MA is introduced to the GPDO. This allows the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure in connection with a prison. The permitted height of any of these structures is up to 5.5 metres from ground level.
- 2.6 Film Making – Schedule 2, Part 4, Class E is also amended allowing the maximum time for filming on land or a building commercially to be extended from 9 to 12 months in any 27 month period. It also doubles the maximum areas of land that this permitted right relates to, to 3 hectares as well as increasing the maximum height of any temporary structure, works, plant or machinery from 15 to 20 metres. Land where this can take place has not been amended and thus listed buildings and their curtilage as well as sites of a scheduled monument are still excluded.

### **3.0 Implications**

- 3.1 In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.
- 3.2 For some developers in the District, these changes will have impact upon their operations, for example MoFest and the Wellow Festival. The Planning Enforcement team will engage with the Public Protection team to consider any others that might also be affected and write to advise that if they propose any camping associated with the festivals they hold, that they will need to secure planning permission prior to the event if this is to take place after 25<sup>th</sup> July 2024.

### **Background Papers and Published Documents**

[Permitted development rights: supporting temporary recreational campsites, renewable energy and film-making consultation - GOV.UK \(www.gov.uk\)](#)

[Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2023](#)

**Planning Committee – 10<sup>th</sup> August 2023.**

**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 Development without delay.
- 2.0 Recommendation
- 2.1 That the report be noted.

**Background papers**

Application case files.

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

Lisa Hughes  
Business Manager – Planning Development

**Appendix A: Appeals Lodged (received 16 June 2023 and 24 July 2023)**

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/W/23/3315860	22/02205/HOUSE	102 Whinney Lane Ollerton NG22 9TZ	Single storey front extension (part retrospective) Re-submission of 22/01453/HOUSE.	Fast Track Appeal	Refusal of a planning application
APP/B3030/W/23/3316103	22/00288/FUL	Rose Cottage Normanton Road Upton NG25 0PU	Proposed erection of 2 no. dwellings following demolition of existing buildings within the site	Written Representation	Refusal of a planning application
APP/B3030/W/23/3319376	22/02423/FUL	Land Adjacent Ivydene Main Street Weston	Erection of 5 bed dwelling and garage. New vehicular access.	Written Representation	Refusal of a planning application
APP/B3030/W/23/3319648	22/01252/FUL	Lowfield Farm 111 Gainsborough Road Langford NG23 7RN	Demolish existing dwelling and garage and erect replacement dwelling	Written Representation	Refusal of a planning application
APP/B3030/X/23/3323994	23/00144/LDCP	Gable Oak Old Main Road Bulcote NG14 5GU	Certificate of Lawful Development Certificate for proposed garden room (resubmission of 22/01535/LDC)	Written Representation	Refusal of a planning application

APP/B3030/C/23/3324869	22/00118/ENFB	65 Westhorpe Southwell NG25 0NE	Without planning permission, operational development consisting of the erection of 2 sets of gates along the front the boundary of the Land, adjacent to the highway (Westhorpe), as labelled existing gate openings on the Block plan and as shown within photographs 1 and 2.	Written Representation	Service of Enforcement Notice
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**Planning Committee – 10<sup>th</sup> August 2023**

**Appendix B: Appeals Determined (17<sup>th</sup> June 2023 and 24<sup>th</sup> July 2023)**

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
22/00049/ENFB	Plots 9 and 10 Field Reference Number 1271 New Lane Blidworth	Without planning permission, operational development on the Land comprising of the construction of a stables, field shelter and store, marked X and Y on the attached Location Plan and identified within plan 1.  Plot 9 Stable and field shelter with an approximate footprint of 24m2 and pitch height of 2.6m  Plot 10 Stable building and store with approximate footprint of 33m2 and pitch height of 2.6m. Without planning permission, development comprising of the material change of use of the land from agriculture to the keeping of horses, equestrian.			Split Decision 1. The appeal is allowed insofar as it relates to a material change of use  2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development	23rd June 2023
22/00052/ENFB	Field Reference Number 6815 New Lane Blidworth	Without planning permission, "development" consisting of the erection of unauthorised timber stables, as shown in Figure 1, and the material change of use of the land for the keeping of horses.			Split Decision 1. The appeal is dismissed insofar as it relates to operational development  2. The appeal is allowed insofar as it relates to a material change of use	23rd June 2023

21/02633/FULM	Plot 2 Cross Lane Blidworth	Change of use to equestrian use, retention of field shelter and formation of new access track (retrospective)	Delegated Officer	Not Applicable	Split Decision 1. The appeal is dismissed insofar as it relates to operational development  2. The appeal is allowed insofar as it relates to a material change of use	23rd June 2023
21/02620/FULM	Plots 4, 5 and 8 New Lane Blidworth	Change of use of land to equestrian, retention of associated field shelters/hay store/stables and formation of new access tracks (retrospective)	Delegated Officer	Not Applicable	Split Decision 1. The appeal is dismissed, and the enforcement notice is upheld insofar as it relates to operational development  2. . The appeal is allowed insofar as it relates to a material change of use	23rd June 2023
21/02621/FULM	Plot 11 New Lane Blidworth	Change of use of land to equestrian and retention of associated stables (retrospective)	Delegated Officer	Not Applicable	Split Decision 1. The appeal is dismissed insofar as it relates to operational development  2. The appeal is allowed insofar as it relates to a material change of use	23rd June 2023
21/02638/FULM	Plots 9 and 10 New lane Blidworth	Change of use to equestrian use, retention of stables and field shelter and formation of new access track (retrospective)	Delegated officer	Not applicable	Split Decision 1. The appeal is allowed insofar as it relates to a material change of use  2. The appeal is refused insofar as it relates to operational development	23rd June 2023



21/02663/FULM	Plots 3 and 15 New lane Blidworth	Change of use of land to equestrian use and formation of new access tracks to both plots. New shelter and retention of open fronted field shelter to plot 3 (part retrospective)	Delegated officer	Not applicable	Split decision 1. The appeal is dismissed insofar as it relates to operational development use  2. The appeal is allowed insofar as it relates to a material change of use	23rd June 2023
22/02194/HOUSE	Hawthorn House Bilthorpe Road Eakring NG22 0DG	Proposed extension to garage. Replacement of existing garage doors (retrospective).	Delegated Officer	Not Applicable	Split Decision 1. The appeal is dismissed insofar as it relates to the proposed 'cart shed' style extension to existing garage.  2. The appeal is allowed insofar as it relates to the existing garage doors	29th June 2023
22/00575/FULM	Plot 1 New Lane Blidworth	Change of use of paddock to equestrian use, erection of stable block, provision of hard standing, formation of new access to highway and parking area (part-retrospective)	Delegated Officer	Not Applicable	Split Decision 1. The appeal is allowed insofar as it relates to the material change of use  2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development including siting of shipping containers	23rd June 2023

22/00055/ENFB	<p>Land on the Corner of New Lane and Cross Lane Field Reference Number 7909 Blidworth</p> <p>(Also known as: Plot 1 New Lane Blidworth)</p>	<p>Without planning permission, development consisting of the material change of use of land from agriculture to the use for equestrian proposes and operational development consisting of the erection of a stables building (as shown within photographs 1 and 2 and identified with an X on the site plan and aerial photograph) and the installation of shipping containers (as shown within photographs 1, 2 and 3 and identified with a Y and Z on the site plan and aerial photograph).</p>	Delegated Officer	Not Applicable	<p>Split Decision</p> <p>1. The appeal is allowed insofar as it relates to the material change of use</p> <p>2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development including siting of shipping containers</p>	23rd June 2023
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22/00054/ENFB	<p>Plot 2 New Lane Blidworth</p>	<p>Without planning permission, operational development on the Land comprising of the construction of an open field shelter and store (marked X on the attached Location Plan and identified within photograph 1). Open field shelter and store with an approximate 41m2 and pitch height of 2.8m. Without planning permission, development comprising of the material change of use of the land from agriculture to the keeping of horses (equestrian).</p>	Delegated Officer	Not Applicable	<p>Split Decision</p> <p>1. The appeal is allowed insofar as it relates to the material change of use</p> <p>2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development</p>	23rd June 2023
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22/00050/ENFB	Plots 4, 5 And 8 Field Ref No 6446 Cross Lane Blidworth	<p>Without planning permission, operational development on the Land comprising of the construction of timber stables and hay store buildings (marked X and Z on the attached Location Plan and identified within photograph 1 and 2) and field shelter (marked W on the attached Location Plan and identified within photograph 3).</p> <p>Plot 4 Two stable blocks (marked Z on the Location Plan) each with an approximate footprint of 40m<sup>2</sup> and pitch heights of around 2.85m.</p> <p>Plot 4 Hay store (marked X on the Location Plan) approximate footprint of 34m<sup>2</sup> and pitch height of around 3.17m.</p> <p>Plot 8 Field shelter (marked W on the Location Plan) approximate footprint of 27m<sup>2</sup> and pitch height of around 2.91m.</p> <p>Without planning permission, development comprising of the material change of use of the land from agriculture to the keeping of horses (equestrian).</p>	Delegated Officer	Not Applicable	<p>Split Decision</p> <p>1. The appeal is allowed insofar as it relates to the material change of use</p> <p>2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development</p>	23rd June 2023
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22/00048/ENFB	Paddock 11 Field Reference 4444 New Lane Blidworth	<p>Without planning permission, operational development on the Land comprising of the construction of a timber stable building (marked X on the attached Location Plan and identified within photograph 1).</p> <p>Stable block with an approximate 40m<sup>2</sup> and pitch height of 2.8m.</p> <p>Without planning permission, development comprising of the material change of use of the Land from agricultural use to the keeping of horses (equestrian).</p>	Delegated Officer	Not Applicable	<p>Split Decision</p> <p>1. The appeal under ground (a) is allowed insofar as it relates to the material change of use</p> <p>2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development</p>	23rd June 2023
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22/00239/ENFB	Plot 12 New Lane Blidworth	Without planning permission, operational development on the Land comprising of the construction of a timber stables building (marked X on the attached Location Plan and identified within Photograph 1).  Timber stables building  Without planning permission, development comprising of the material change of use of the land from agriculture to the keeping of horses (equestrian).	Delegated Officer	Not Applicable	Variation to Decision  1. The enforcement notice is varied by the deletion of '84 days' in section 6(1) and the substitution instead of '180 days' and by the deletion of '140 days' in section 6(2) and the substitution instead of '210 days'.  <b>Unlike the other similar planning enforcement appeals, the appellant did not appeal under ground (a) that planning permission should be granted for the breach of planning</b>	23rd June 2023
22/00053/ENFB	Plots 3 And 15 Cross Lane Blidworth	Without planning permission, "development" consisting of the erection of unauthorised timber stables, as shown in Figure 1, and the material change of use of the land for the keeping of horses	Delegated Officer	Not Applicable	Split Decision 1. The appeal is allowed insofar as it relates to the material change of use  2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development	23rd June 2023
22/02663/FULM	Plots 3 And 15 New Lane Blidworth	Change of use of land to equestrian use and formation of new access tracks to both Plots. New shelter and retention of open fronted field shelter to Plot 3 (part retrospective)	Delegated Officer	Not Applicable	Split Decision 1. The appeal is allowed insofar as it relates to the material change of use  2. The appeal is dismissed and the enforcement notice is upheld insofar as it relates to operational development	23rd June 2023

20/00108/ENF	Site Adjacent 'The Old Grain Store' Old Epperstone Road Lowdham	Without planning permission, development consisting of: A. The material change of use of the land, outlined in red and highlighted Blue on plan B, from agriculture to the production of wood fuel, along with the positioning on the land of equipment, machinery and materials associated with the material change of use including, but not limited to: i. Biomass boiler (photo1); ii. Log splitter (photo 2); iii. Wood drying kiln.	Delegated Officer	Not Applicable	Appeal Dismissed	6th July 2023
20/00108/ENF	Site Adjacent 'The Old Grain Store' Old Epperstone Road Lowdham	Without planning permission, operational development consisting of: A. The creation of an earth bund, outlined in yellow on the aerial photograph as part of this notice. B. The creation of a structure by the placing of two shipping containers connected by a canopy roof and concrete floor (as shown within photographs 1 and 2) and outlined in Blue on the aerial photograph as part of this notice. C. The creation of a log drying kiln. D. The creation of concrete walls to form a clamp as shown within photograph 3 and concrete walls adjoining the biomass boiler, both outlined in Red on the aerial photograph as part of this notice.	Delegated Officer	Not Applicable	Appeal Dismissed	6th July 2023
20/00925/FUL	Land Adjacent Ivydene Main Street Weston	Erection of 5 bed dwelling and garage block (resubmission)	Delegated Officer	Not Applicable	Appeal Dismissed	3rd July 2023

23/00151/ADV	Lincolnshire Co-operative Ltd Stanton Avenue Bilsthorpe Newark On Trent NG22 8GL	2no. illuminated fascia signs and 1 No. illuminated totem sign.	Delegated Officer	Not Applicable	Appeal Not Determined Out of time	14th July 2023
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## Legal Challenges and Other Matters

App No.	Address	Proposal	Discussion
22/02430/FUL	Land of Sand Lane, Spalford	Provision of two new Live/work Dwellings including a separate building containing detached work spaces and under cover parking	Following the grant of planning permission by the Council in error on 23 February 2023, a judicial review of the decision was brought about by, the then, Planning Committee Chairman Mr Roger Blaney seeking to quash the decision. The Council did not object to the Order and the decision was quashed on the 20th June 2023 by the High Court. The Council will reconsider the application and a decision made in due course.

## 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.

Agenda  
Business Manager – Planning Development



Report to Planning Committee 10<sup>th</sup> August 2023

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Lisa Hughes, Business Manager – Planning Development, x 5565

Report Summary	
<b>Report Title</b>	Development Management Performance Report
<b>Purpose of Report</b>	This report relates to the performance of the Planning Development Business Unit over the three-month period April to June 2023. In order for the latest quarter's performance to be understood in context, in some areas data going back to April 2021 is provided. The performance of the Planning Enforcement team is provided as a separate report.
<b>Recommendations</b>	<p>For noting. The services it assists in the delivery of Community Plan Objectives:</p> <ul style="list-style-type: none"> <li>• Deliver inclusive and sustainable economic growth</li> <li>• Create more and better-quality homes through our roles as landlord, developer and planning authority</li> <li>• Enhance and protect the district's natural environment</li> </ul>

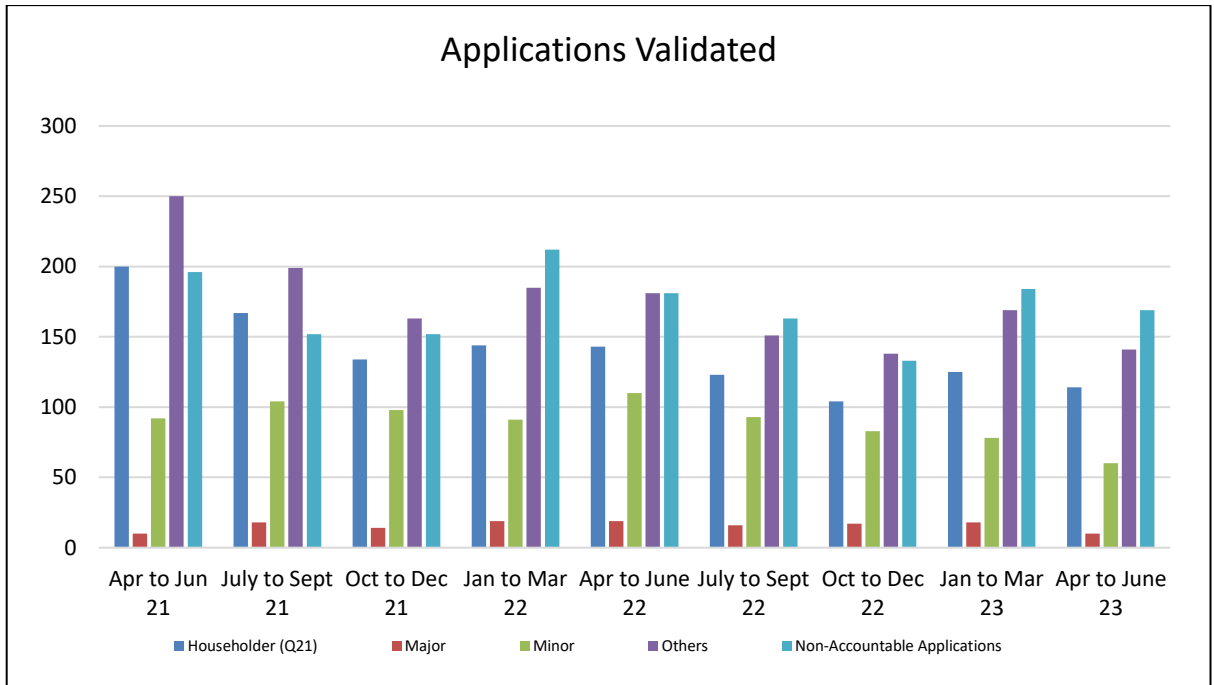
## 1.0 Background

1.1 The Planning Department undertakes a number of activities including the processing of planning applications and associated appeals, planning enforcement, conservation and listed building advice, offering pre-application advice as well as other service areas including land charges, street naming and numbering and management of the building control service for the Council. This report relates to the planning related functions of the service area.

## 2.0 Application Numbers

2.1 The graph below shows the number of applications that have been received as valid each quarter from April 2021 up until June 2023. They are presented in line with the Council's reporting to Government. Definitions of what each application type constitutes is provided below the graph. In the first quarter of 2023/24, a total of 669 applications were received. This, compared to the same quarter in 2022/23 shows a reduction from 802 applications or an approximate 16% decrease in application workload. Application numbers are also lower than during the pandemic in 2021/22

when 942 applications were received in the same quarter [resulting primarily from an increase in householder proposals]. Trends show a reduction in corresponding quarters from previous years. This reduction in application numbers is comparable with reductions reported across the country. Compared to the previous quarter, all application types have decreased with the exception of pre-application enquiries, which is hopefully a positive indicator for future submissions.



2.2 'Major' applications are those with 10 or more dwellings, sites of 1 hectare or more, or provision of 1,000m<sup>2</sup> new floor area or more.

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

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

2.3 The 'non countable' category are those applications which are not reported to the Department for Levelling Up, Housing and Communities (DLUHC). Such applications include, but are not limited to prior approvals, discharge of conditions, etc.

2.4 Non-countable and others generally comprise the highest numbers quarter on quarter, with householders shortly behind.



### 3.0 Performance

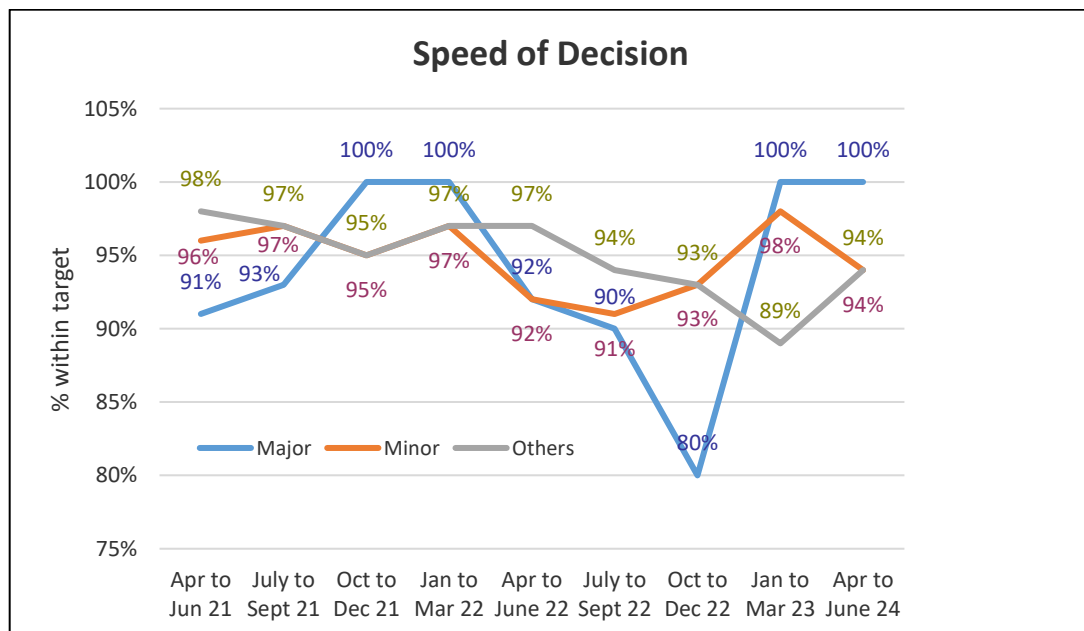
3.1 Government (DLUHC) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a rolling two-year period. From April to June 2023, 100% of major applications have been determined within these timescales, which is the same as the previous quarter and a significant increase compared to Q3 of 2022/23 with that being an outlier of normal performance.

For non-majors, the target set nationally is 70% over a two-year period. 94.5% of non-major applications during Q1 have been determined in time.

These targets are challenging when taking account, in accordance with the National Planning Policy Framework, to work proactively with applicants to secure development that will improve the economic, social and environmental conditions of the area i.e., trying to find solutions, when appropriate as opposed to refusing a planning application that might be amended.

3.2 For authorities who under-perform against the national target, they will be classed as 'poorly performing' and applications for major development may be made by developers directly to the Planning Inspectorate. The Council would not receive the fees for these but would be expected to deal with all the associated administration.

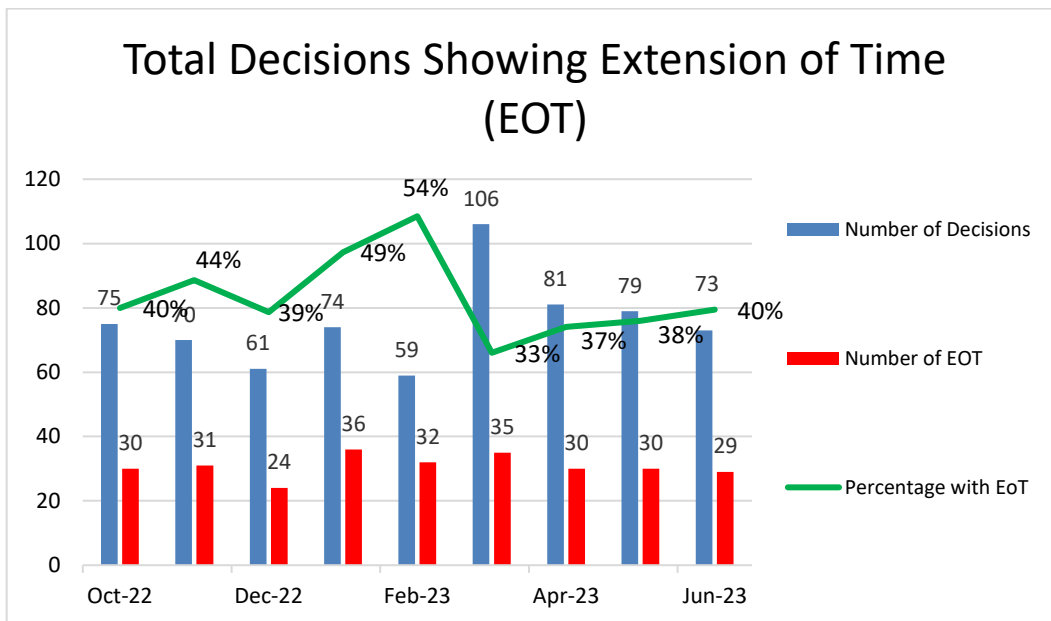
3.3 The following graph relates to the percentage of planning applications determined within set timescales.



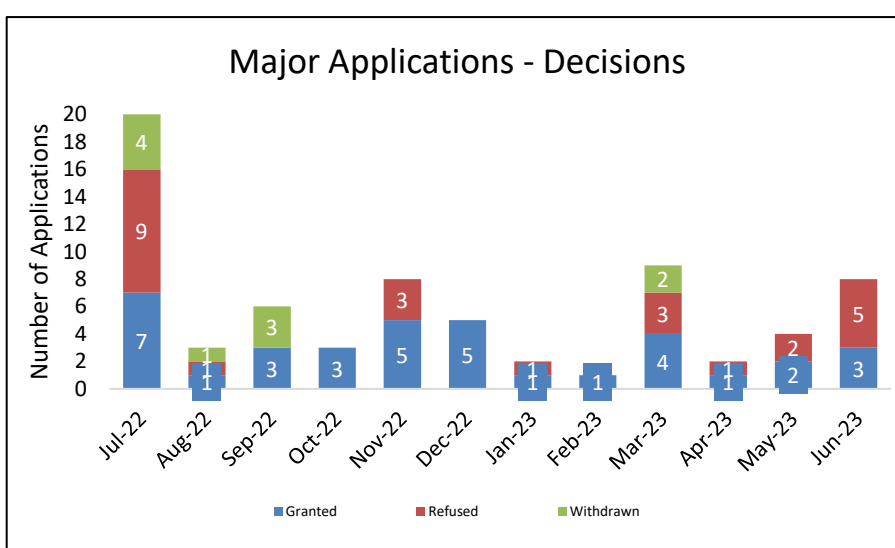
3.4 These targets continue to be achieved due in part to seeking time extensions for dealing with the applications beyond their [original] statutory time-period from applicants. Time extensions might be sought by either party (the applicant or the Council) for a variety of reasons but might include seeking negotiations, complex and/or controversial

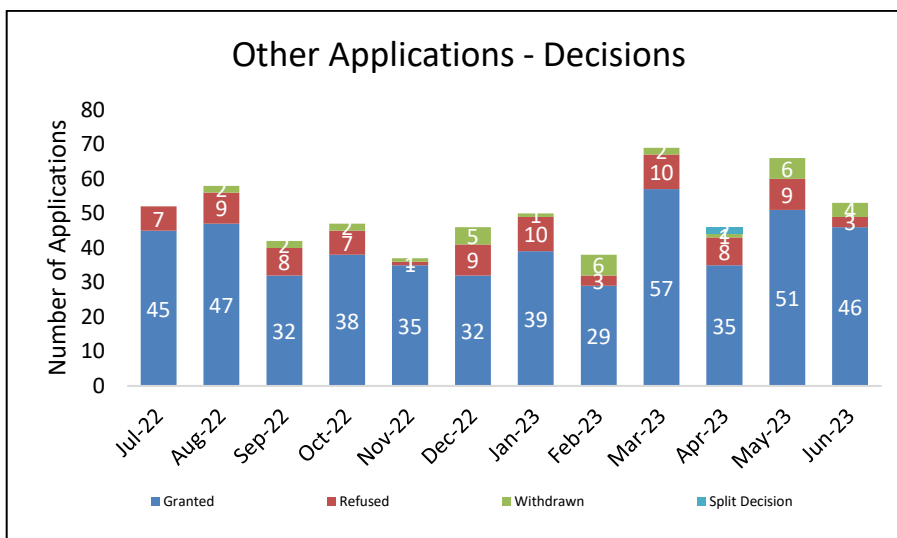
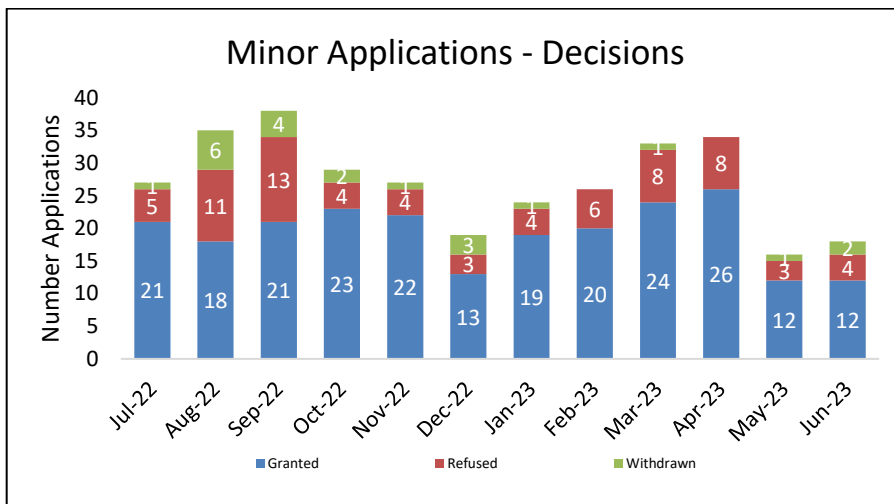
proposals and items presented to Committee. Both parties have to agree in writing to the time extension. Time extensions do not currently go against the authority in terms of speed of decision making when reporting. However, a consultation on '[Increasing planning fees and performance: technical consultation](#)' by the Department for Levelling Up, Housing and Communities may affect how the Council needs to deal with planning applications. The consultation document suggests increasing planning application fees by 35% for major developments and 25% for non-majors. This is said, alongside other changes set out in the Levelling Up and Regeneration Bill, will give additional resource to planning departments and thus improve performance. However, within the consultation, the government has criticised planning authorities in relation to the number of extension of time agreements. The consultation proposed to monitor performance on the basis of those applications determined solely within the statutory 8 and 13-week timescales i.e. excluding extension of times and Planning Performance Agreements.

- 3.5 This might necessitate in the Council changing its processes whereby rather than negotiating with applicants over development proposals in order to achieve an approval as opposed to a refusal, the application is refused, due to agents not being able to submit the necessary information to the Council within the statutory timescales. As advised previously, it would be possible to determine all applications within statutory timescales without a request for, or agreement to, a time extension. However, this would have consequential implications in terms of potential complaints and/or increased appeals. One of the aims of the changes suggested within the consultation, as well as improving performance, is also to encourage developers to seek pre-application advice prior to the submission of an application. The outcome of the consultation is awaited, after which a review will be undertaken to establish whether changes to processes are necessary (and advice to applicants/agents who frequently submit applications in respect to any changes). This review will be undertaken alongside the outcome of a survey currently being undertaken by the Planning Department in relation to customer service delivery [for applicants] for both application processing as well as pre-application advice.
- 3.6 The graph below shows the total number of applications determined each month in blue and alongside, those in red are the number of applications where time extensions have been sought of those determined. Seeking time extensions means that case officer workloads increase overall which makes dealing with newer applications on time more challenging. The number of applications with extensions of time fluctuate quarter on quarter. As is always the case, Officers continually strive to deal with applications in a timely manner whilst working proactively with applicants.



3.7 The number of decisions each quarter fluctuates, although it can be seen in the graph above that for April, May and June the numbers have been consistent and towards the higher end. The graphs below show the number of decisions that were granted, refused, split (i.e., part granted, and part refused) and withdrawn across the major, minor, and other categories. The only types of applications where a local planning authority can issue a split decision are for advertisement and tree applications, unlike the Planning Inspectorate who is able to do this for all application types. Minor and Other applications show the majority of applications were granted, however, unusually there are a greater number of major applications refused than is the normal trend (8 refused, with 6 granted). For Minors, an average of 73% were approved and for Others, 86%. Withdrawals (14 in the quarter) are not reported as part of our overall performance to government but will still have involved a significant amount of work by the case officers. These applications are frequently resubmitted, often as a ‘free go’, whereby no fee is payable.





#### 4.0 Tree Applications

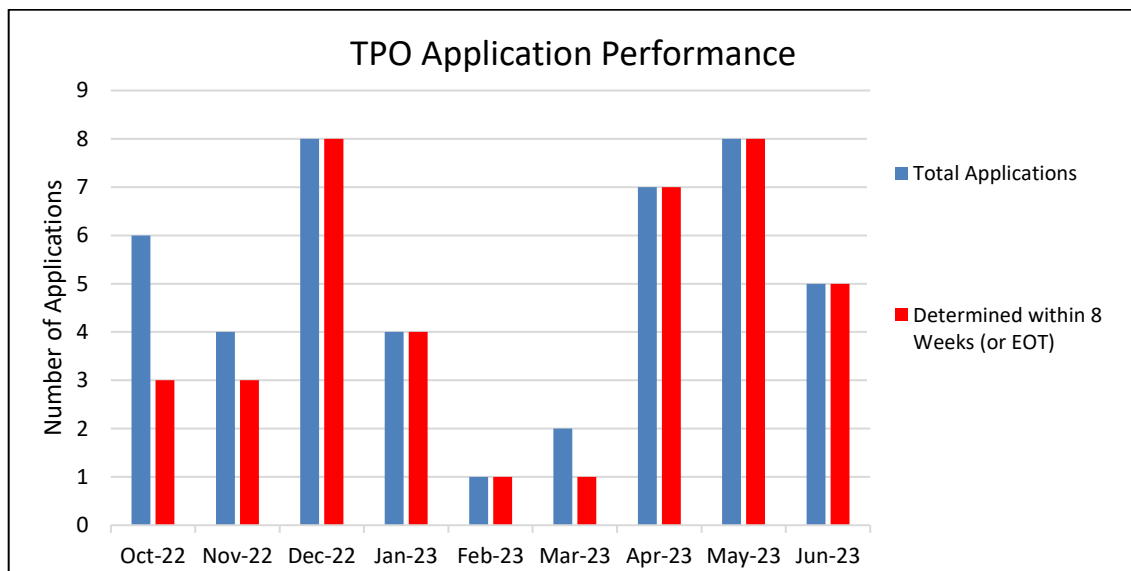
4.1 Trees are a valued amenity contribution to the character of the District. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent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

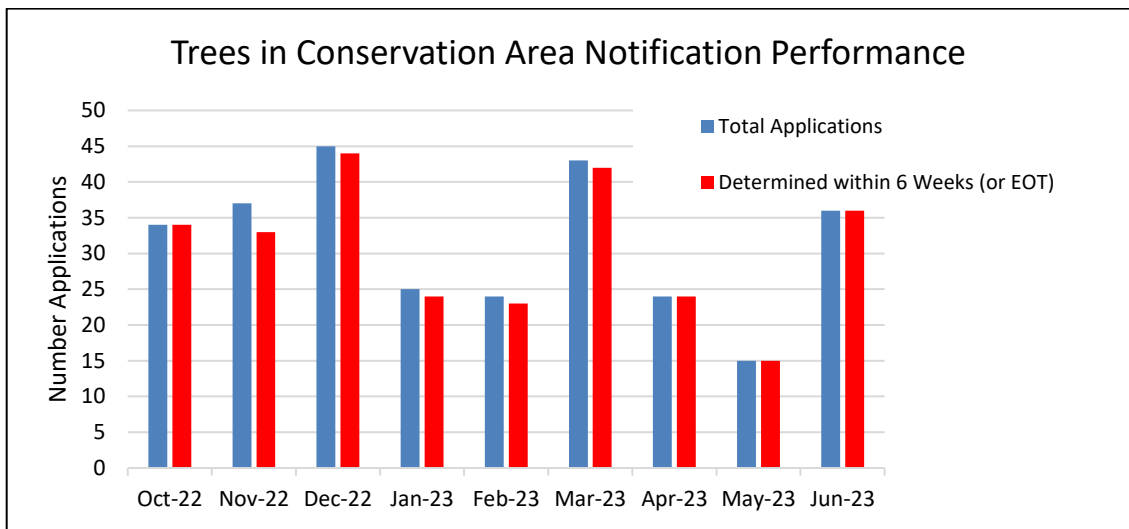
- Its condition and suitability
- Its remaining longevity (in years) and suitability
- Its relative public visibility and suitability
- Other factors, such as whether it has historical value, its rarity, whether it is part of a group etc.

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

that they were seeking consent for. These applications are not subject to a planning fee.

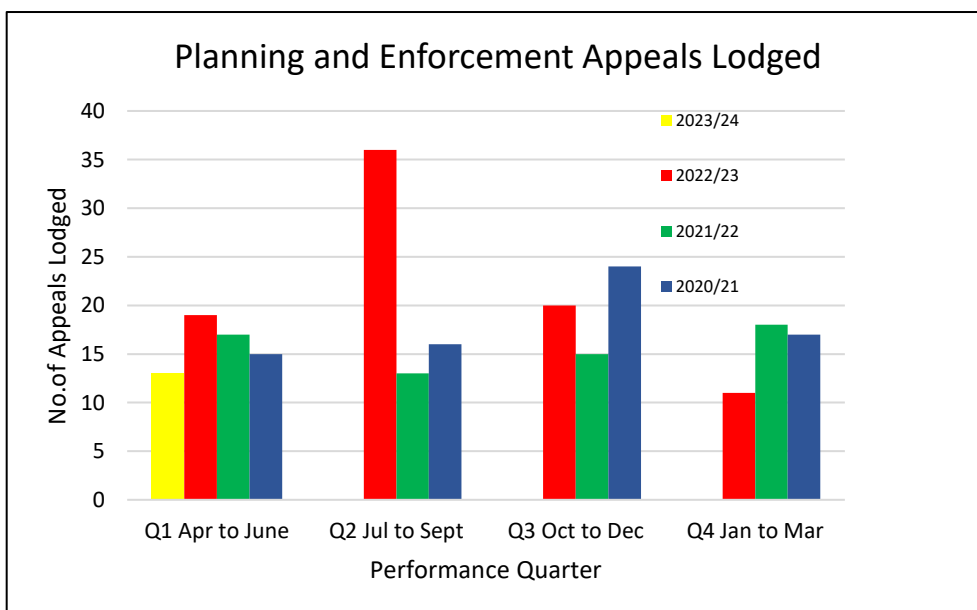
4.2 The following graphs show the number of TPO and Trees within a Conservation Area (TWCA) applications determined each month and whether they were determined within the statutory timescales. The graphs indicate the lack of consistency in terms of the numbers of applications received each month, making resourcing more difficult. It should be noted, however, that where the Officer identifies a potential risk to a tree of value (for trees within conservation areas applications), these applications are determined within the statutory period in order that further protection for the tree can be put in place. In the last quarter, all TWCA applications were determined within the 6-weeks. Whilst performance had dropped slightly over recent months/quarters, this had been due to a number of factors, including time taken around our proactive approach with negotiations between ourselves and agent/applicants regarding amendments to proposed works to bring in line with BS3998.2010. This British Standard gives general recommendations for tree work as well as guidance on management options for established trees. This had consequentially seen delays regarding time taken to reply and the agent/applicant's availability to meet on site. Additionally, further engagement has previously been required to seek clarity of proposals due to vague description of works during the course of the application. The training undertaken with the Technical Support team who validate the applications to seek appropriate descriptions of work from the outset appears to have had a positive outcome. In addition, it would appear that 'better' submissions are being received due to the engagement undertaken by the Tree/Landscaping Officer over the previous 12-months with agents regularly submitting works to trees. This engagement will continue and it is hoped quality of submissions as well.

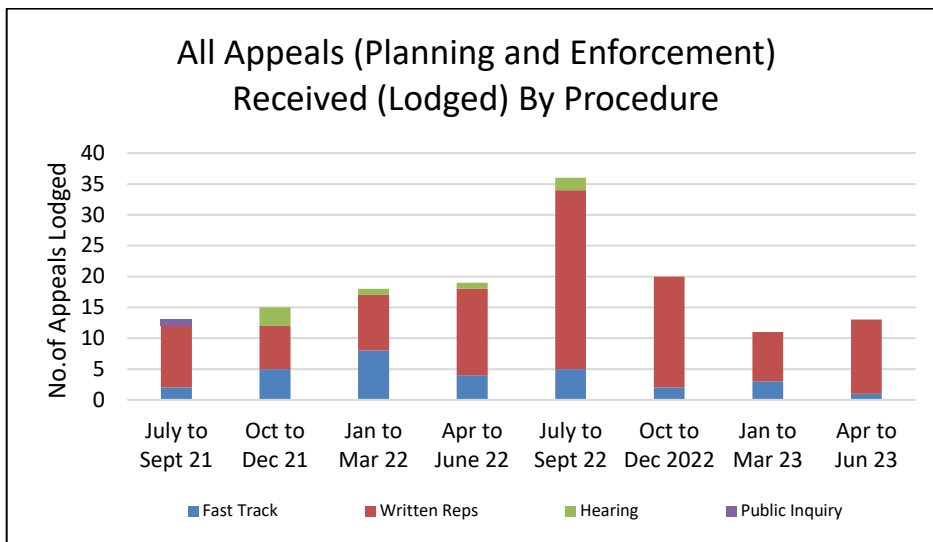




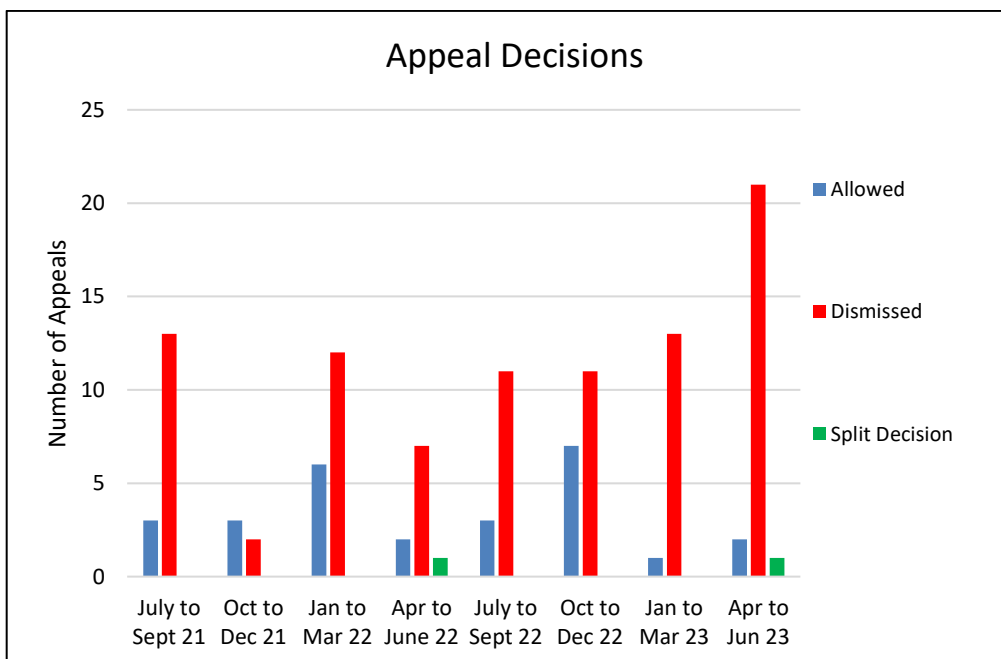
## 5.0 Appeals

5.1 The charts below show the number of appeals against planning applications and enforcement notices that have been submitted over the last 3-4 years, quarter on quarter. It can be seen that the total number of appeals fluctuates, particularly with reference to Q2 2022/23 which makes resourcing them challenging, with a need to balance appeal work against the number of applications a case officer is dealing with. Additionally, the type of appeal has impact upon workloads. There are 4 types of appeal – inquiry, hearing, written representations and fast track with the amount of resource required, from very high to low respectively. The majority of appeals, fortunately, are written representation appeals which have less resource implications due to being an exchange of statements. Members will be aware that for planning appeals, the Officer Report (both for delegated and Committee decisions) is detailed and therefore little additional information is generally required.





5.2 The chart below shows the number of appeals against planning applications and enforcement notices that have been allowed, dismissed and split (part allowed and part refused). This quarter has seen an increase in the number of decisions issued by the Inspectorate compared to previous quarters, from 14 to 24. The number dismissed continues to significantly exceed the number allowed and for the monitoring period between April to June 2022 the number allowed is 2, representing 8%, in line with the Government’s previous target of having no more than 33% being allowed. Where a split decision has been issued, in terms of the Government’s monitoring, this is treated as a dismissal. A number of appeals were varied (9) and these relate to planning enforcement notice appeals where the Inspector allowed the appellants a greater amount of time to comply with the notice. These are recorded below under the dismissed category.



5.3 As of 1 April 2018 DLUHC implemented a threshold for quality of decisions for major and non-major applications at 10%. For clarification, this is 10% of all major and all non-

major (i.e. minor and others) decisions made by the Council and subsequently overturned (allowed) at appeal over a rolling two-year period.

- 5.4 Data from government has not been updated since appeal performance was originally presented to Members which showed the Council is significantly below the thresholds set out. However, with the number of appeals allowed compared to the overall number of decisions made for both major and non-major applications the Council is significantly within the thresholds.

## **6.0 Updates**

- 6.1 Staffing – Since the previous report was presented, there have been further changes to staffing. The GIS (Geographical Information Services) Lead Officer has joined the authority (Andy Ingall). In addition, the Biodiversity and Ecology Lead Officer has joined (Nick Law). Both posts have lots of challenges ahead, but also many exciting opportunities. The Regulations in relation to Biodiversity Net Gain are still awaited, after which training will be provided to Officers and Planning Committee Members, as well as any other Councillor who is interested. Additionally, with the Development Consent Order (DCO) progressing for the dualling of the A46, Lynsey Preston has been seconded from Planning Development to deal with this project. Procurement has been undertaken in order to back-fill Lynsey's post, and the officer will shortly join the Council on a fixed-term basis.
- 6.2 A separate report has been included as part of this agenda relating to amendments to permitted development rights relating to campsites, filming and prison fences. It is anticipated there will be further changes to the General Permitted Development Order following a recent Government consultation. This will be in addition to changes resulting from the LURB and the consultation for 'increase in planning fees and associated improvement in planning performance', both referenced earlier.
- 6.3 The Conservation Team have also recently posted leaflets to affected households in relation to the recently amended Conservation Areas for Newark, Ollerton, Southwell and Laxton. They are also progressing the non-designated heritage assets (NDHA) review in accordance with the NDHA [adopted criteria](#).
- 6.4 Progress is also being made in relation to provision of TPO's and planning Enforcement Notices online as well. Checks need to be made before they are published to ensure the Council complies with Data Protection and other legal duties. Once they are all published, this will reduce the number of requests for the documents to be provided and enable a 24-7 service.

## **7.0 Implications**

In writing this report officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.



## **8.0 Conclusion**

- 8.1 Performance continues to be met and exceeded. There are always areas where improvements can be made and it is hoped that if application numbers submitted remain at their current level that further improvements can be made. Overall, the department has been able to provide an excellent service.

### **Background Papers and Published Documents**

None



Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Richard Marshall, Senior Planner (Enforcement) x5801

Report Summary	
<b>Report Title</b>	Quarterly planning enforcement activity update report
<b>Purpose of Report</b>	<p>To update Members as to the activity and performance of the planning enforcement function over the first quarter of the current financial year.</p> <p>To provide Members with examples of cases that have been resolved (both through negotiation and via the service of notices) and to provide details and explanations of notices that have been issued during that period.</p>
<b>Period covered</b>	1 <sup>st</sup> April 2023 – 30 <sup>th</sup> June 2023
<b>Recommendation</b>	That Planning Committee note the contents of the report and the ongoing work of the planning enforcement team.

## 1.0 Background

This report relates to the first quarter from the 1<sup>st</sup> April to the 30<sup>th</sup> June 2023 and provides an update on enforcement activity during this period, including cases where formal action has been taken. It also includes case studies which show how the breaches of planning control have been resolved through negotiation, and where Notices that have been complied with.

Schedule A outlines the enforcement activity for Q1 in terms of the numbers of cases that have been received and closed (Chart 1) and also provides a breakdown of the reasons that cases have been closed (Chart 2). Chart 4 details the performance of the enforcement team when compared against time limits set out within the Newark and Sherwood District Planning Enforcement Plan (PEP) and Chart 5 charts the overall performance since the targets were introduced in September 2020.

Schedule B includes a small number of examples of where formal planning enforcement action has been taken (such as a notice being issued).

Schedule C provides just a few examples of how officers have resolved breaches through dialogue and negotiation during the last quarter.

## 2.0 Schedule A – Outline of Enforcement Activity

Members will note from Chart 1 that the Planning Enforcement team, now made up of four members of staff, continue to receive a high number of alleged breaches that need investigating, having received more cases in Q1 of 2023 than during the same period in 2021 and 2022. This follows an unusually busy Q4, for which many of the cases received during that period continue to be addressed in Q1; either through formal action or ongoing investigation.

Chart 2 details the number of enforcement cases that have been received and closed, since Q2 in 2021. The figures demonstrate that the team has continued to be busy with a high number of cases which are continuing to prove to be complex and require significant officer resource.

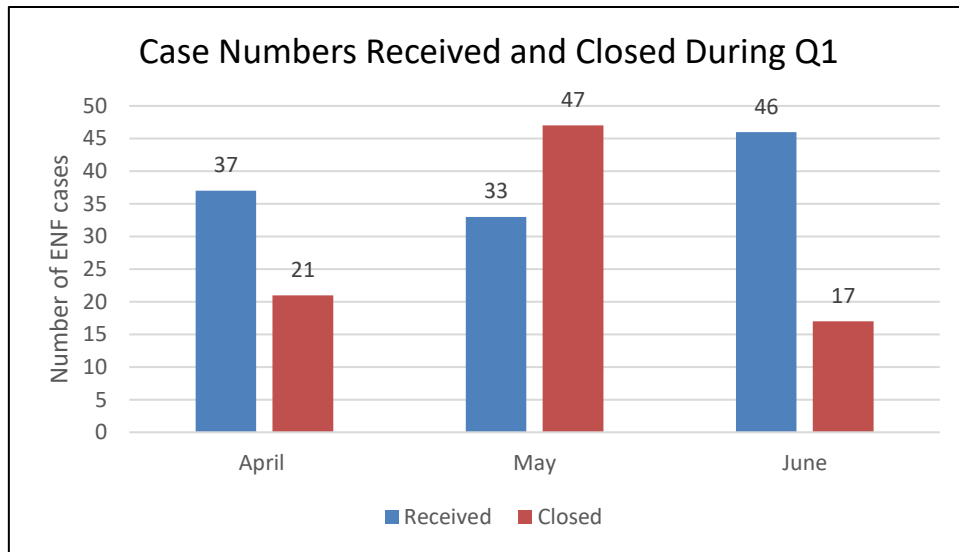


Chart 1

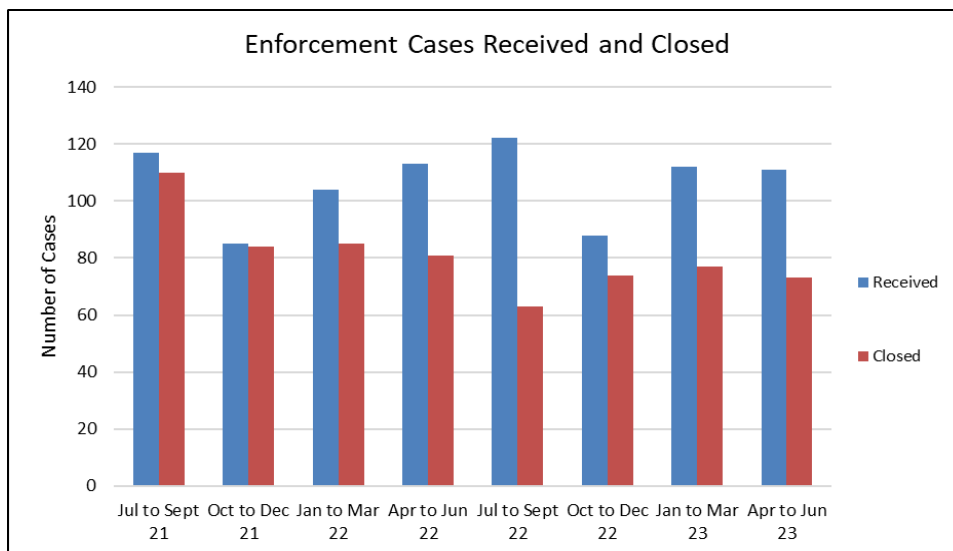
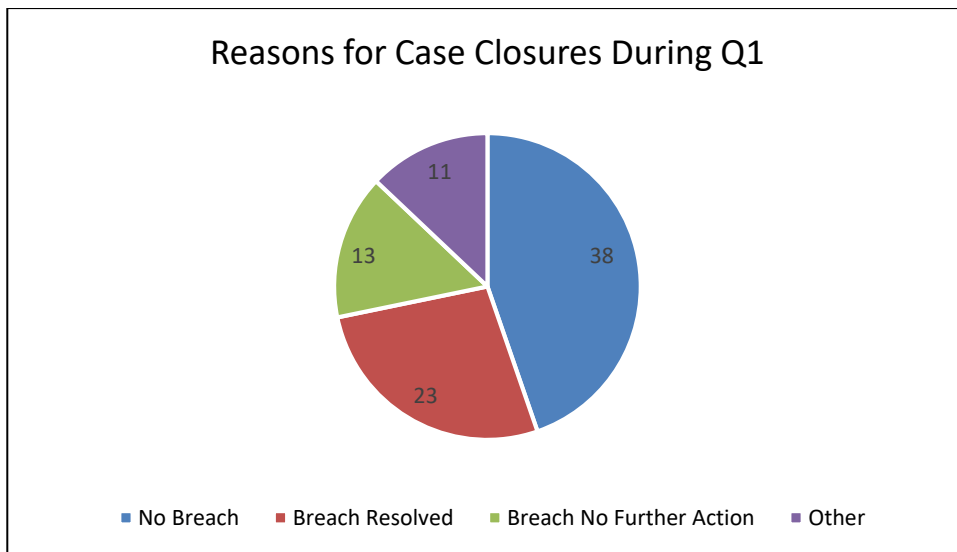


Chart 2

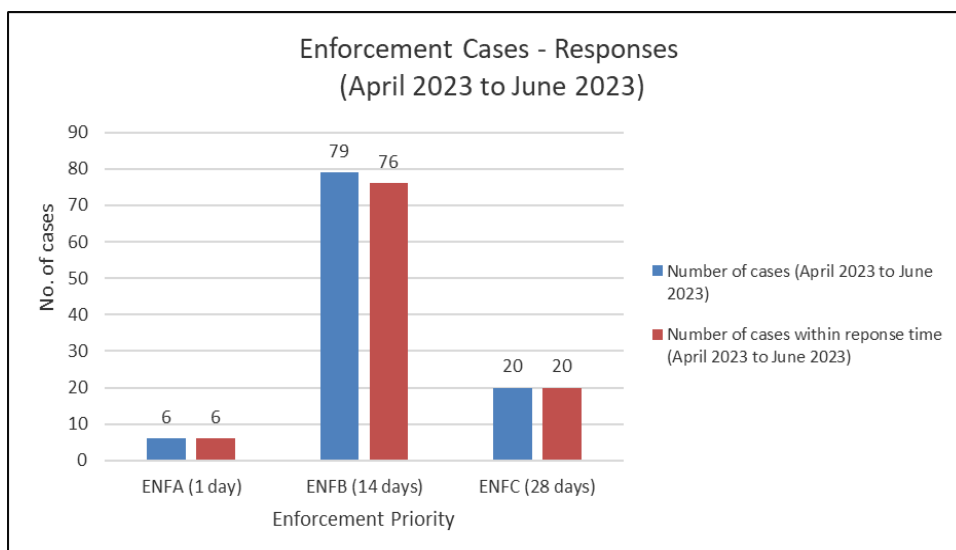
Members will note from Chart 3 that almost 75% of cases that were closed during Q1 were so because they were either not a breach of planning control (including instances where works being undertaken did not require consent or where there was already planning permission granted) or because a breach has been resolved, either through dialogue or formal enforcement action. Although many cases are not a breach of planning control, they nevertheless often still require

significant investigative work from officers, including site meetings and desk-based assessments to establish that this is the case.



**Chart 3**

In addition, Members will be aware that in September 2020 the Planning Enforcement Plan (PEP) was adopted. As well as setting out how the enforcement service will operate and what Members and the public can expect from the service, the PEP also put in place a system of case prioritisation which encompassed targets for initial investigations to take place. Members will note that despite the consistently high volume of cases, the enforcement team work well towards the targets set out, reaching (96.84%) of the targets set within the PEP during Q1 (chart 4). This mirrors the overall achievement of the team over the period since the PEP was adopted, where the team has met the targets of initial investigations in 97.53% of cases (chart 5).



**Chart 4**

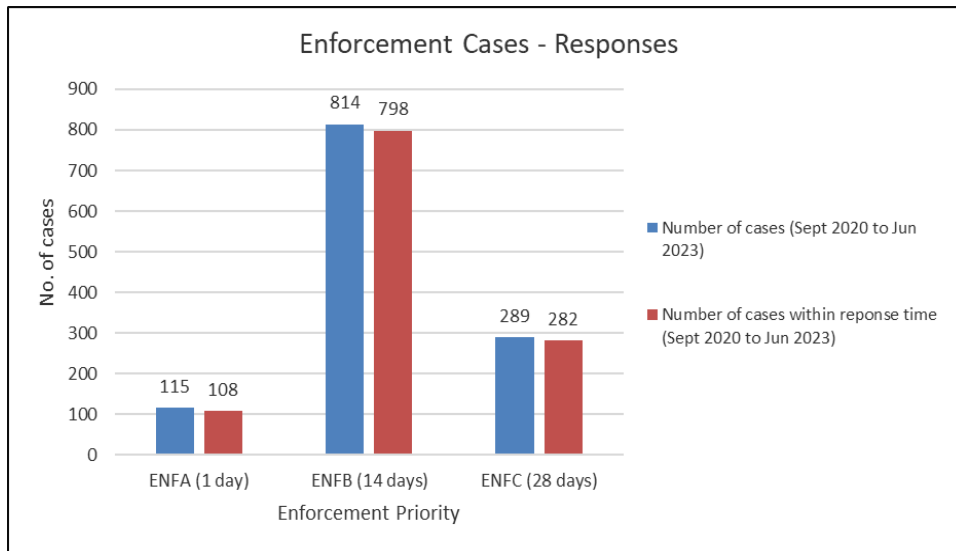


Chart 4

	April	May	June	Total
<b>Notices Issued</b>	3	2	1	6
<b>Notices Complied With</b>	0	2	1	3
<b>Appeals Lodged</b>	0	2	0	2
<b>Appeals Determined</b>	0	3	7	10

Table 1 – Details of planning enforcement action and subsequent appeal results during Q1 of 2023/2024.

Members will note from Table 1 that a significant number of appeals were determined within Q1. The vast majority of these (those determined within June), were linked to a wider project tackling the unauthorised erection of stables and other similar buildings in and around Blidworth (specifically the New Lane/ Cross Lane area). Members will recall that this part of the District is located entirely within the Nottinghamshire-Derby Green Belt. Officers considered that the provision of stables and other similar buildings unacceptably impacted upon the openness of the Green Belt, a key feature of this designation, and therefore issued notices requiring the stables and other buildings to be removed. Those notices were appealed, and the decision of those appeals were received within the Q1. period. The appeals were all dismissed in relation to the buildings (including stables and shelters), subject to minor extension of time given for compliance with the requirements to remove stable structures from the land. The appeals were upheld in relation to allowing the continued use of the land for the keeping of horses.

### 3.0 Schedule B. Formal Action Taken

**Enforcement Ref:** 22/00390/ENFB

**Site Address:** Lindhurst, Rainworth

**Alleged Breach:** Unauthorised Erection of a Stable Block

**Action To Date:** Enforcement Notice issued April 2023, Appeal Lodged May 2023

**Background:** Officers were made aware that a large stable block had been erected without planning permission having been applied for. The land is located within the Nottinghamshire-Derby Green Belt, where development is strictly controlled. A retrospective application for planning permission was refused on account of harm to the openness of the Green Belt, and a corresponding

Enforcement Notice issued. An appeal against this Notice has been lodged with the Planning Inspectorate.

The issue of this enforcement notice is part of the wider project discussed above in relation to the erection of stables and other buildings without planning permission in and around Blidworth (within the Green Belt).



**Enforcement Ref:** 22/00287/ENFB

**Site Address:** Farndon Road, Newark

**Alleged Breach:** Continued Parking, Manoeuvring and Noise issues associated with a car sales premises.

**Action To Date:** Community Protection Notice Issued

**Background:** Officers have been engaged for a number of years with the routine nuisance to local residents caused by the actions of a car sales garage. Specifically, the repeated parking, storage and valeting of vehicles on the public highway and along the length of a residential cul-de-sac. The landowner has previously been prosecuted for non-compliance with planning conditions regarding parking, and Officers have now issued a Community Protection Notice (not a planning-specific Notice) requiring the actions which lead to a persistent detrimental impact to residents to cease.

The business has since received a fixed penalty notice (FPN) for failing to comply with the CPN and investigations are ongoing, along with colleagues from the Police and Nottinghamshire County Council Highways.



#### 4.0 Schedule C: Examples of Breaches Resolved Without Formal Action

**Enforcement Ref:** 23/00051/ENFB

**Site Address:** Epperstone

**Alleged Breach:** Unauthorised Erection of Two Outbuildings

**Background:** During the course of determining an application for planning permission, Officers noted that two unauthorised outbuildings had been erected by the occupiers of a property located within the Nottingham-Derby Green Belt. It was unlikely that the outbuildings would be viewed positively, should an application have been submitted, and as such the owners promptly undertook the removal of the outbuildings, resolving the breach of planning control.



Before



After

## 5.0 Schedule D – Notices Complied with During Quarter

**Enforcement Ref:** 18/00346/ENF

**Site Address:** 29 California Road, Farndon

**Action To Date:** Planning Enforcement Notice Issued

**Background:** Officers were asked to investigate the creation of a balcony on top of an existing flat roof extension to the dwelling house. The balcony, which was created by the insertion of a set of doors in place of an existing window, and installation of a rail and decking on the roof was considered to be unacceptable due to the harmful impact upon neighbouring occupiers through the direct overlooking and perceived overlooking of their properties. Requests to remove the balcony were ignored and therefore a planning enforcement notice was issued. The enforcement notice was appealed and the appeal dismissed.

Officers have now noted that the requirements of the enforcement notice have been met and the balcony has been removed.





Before



After

## 6.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### Background Papers

None