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Wednesday, 29 November 2023

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

Members of the Committee:

**Councillor A Amer
Councillor C Brooks
Councillor L Dales
Councillor P Harris
Councillor J Lee
Councillor K Melton
Councillor E Oldham**

**Councillor P Rainbow
Councillor S Saddington
Councillor M Shakeshaft
Councillor M Spors
Councillor L Tift
Councillor T Wildgust**

MEETING:	Planning Committee
DATE:	Thursday, 7 December 2023 at 4.00 pm
VENUE:	Civic Suite, Castle House, Great North Road, Newark, NG24 1BY

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

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

AGENDA

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There are none.	

Agenda Item 4

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, NG24 1BY on Thursday, 9 November 2023 at 4.00 pm.

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

Councillor A Amer, Councillor C Brooks, Councillor L Dales, Councillor P Harris, Councillor J Lee, Councillor K Melton, Councillor P Rainbow, Councillor S Saddington, Councillor M Shakeshaft, Councillor M Spoons, Councillor L Tift and Councillor T Wildgust

APOLOGIES FOR ABSENCE: Councillor E Oldham

61 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor Mrs S Saddington declared having an other registerable interest on application Nos. 22/00975/FULM – Land at Knapthorpe Lodge, Hockerton Road, Caunton and 22/00976/FULM – Field Reference Number 2227, Hockerton Road, Caunton, as she had attended Parish Council meetings where the applications had been discussed.

The Chair advised the Committee of a blanket of other registerable interests declared on behalf of Councillors L Dales, A Freeman and K Melton as appointed representatives on the Trent Valley Internal Drainage Board for any relevant items.

Councillor J Lee declared having an other registerable interest as a member of the Fire Authority and a Member of Nottinghamshire County Council.

Business Manager – Planning Development declared an other registerable interest on application No. 23/01604/FUL – Lorry and Coach Park, Great North Road, Newark On Trent, as the Council was the applicant.

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

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

63 MINUTES OF THE MEETING HELD ON 5 OCTOBER 2023

AGREED that the minutes of the meeting held on 5 October 2023 were approved as a correct record and signed by the Chair.

64 ORDER OF BUSINESS

The Chair with the permission of the Planning Committee changed the order of business on the agenda. Agenda Item 6 – Oak Tree Stables, Sand Lane, Besthorpe (22/01203/FULM) was taken as the first item for decision, the agenda resumed its

stated order thereafter.

65 OAK TREE STABLES SAND LANE BESTHORPE NG23 7HS - 22/01203/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought the use of the land as a residential caravan site for gypsy/traveller families (8 No. pitches) and conversion of existing stable to form amenity building and warden’s office.

A site visit had taken place prior to the commencement of the Planning Committee, for the reasons that there were particular site factors which were significant in terms of the weight attached to them relative to other factors and they would be difficult to assess in the absence of a site inspection; and the proposal was particularly contentious, and the aspects being raised could only be viewed on site.

Members considered the presentation from the Planning Case 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 publication of the Agenda from local residents.

Karen Grundy, representing Besthorpe Parish Meeting, spoke against the application in accordance with the views of Besthorpe Parish Meeting as contained within the report.

Members considered the application and it was commented that this was not an allocated gypsy/traveller site and had not been put forward and allocated against the allocations plan criteria. The allocations plan was further advanced and had been considered at Full Council and had delivered thirty-four pitches and had identified further pitches within that plan. It was questioned whether it was correct for an Officer recommendation to be made before it had been considered by the Planning Policy Board and before assessment of responses had been undertaken, which would alter the Council’s weighting. It was questioned whether it was appropriate for this item to be deferred until an outcome had been reviewed.

The Business Manager – Planning Development confirmed that the consultation period for the allocations document had closed. The Planning Policy team would be analysing the responses to the Local Plan which at present had very limited weight. More weight would be applied after approval by Full Council in the coming months but would not be significantly more to assist in determination by the Planning Committee. The Director – Planning Growth also informed the Committee of the process of the Development Plan and confirmed that the plan was not at an advanced stage to attach any weight to the application to be considered.

A Member sought clarification regarding how many pitches the application could have if it had had been an allocated site. The Planning Case Officer confirmed that the site could accommodate twenty-two pitches.

AGREED (with 8 votes For and 5 votes Against) that full planning permission be approved, subject to the conditions contained within the report.

The Committee considered the report of the Business Manager – Planning Development, which sought the construction of a solar farm, access and all associated works, equipment and necessary infrastructure.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that the proposal was particularly contentious, and the aspects being raised could only be viewed on site.

Members considered the presentation from the Planning Case 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 publication of the Agenda from the Planning Case Officer; Local Residents; Averham, Kelham and Staythorpe Parish Council; and the Agent. Additional late representations had been received from local residents.

Councillor D Catenach, South Muskham & Little Carlton Parish Council, spoke against the application in accordance with the views of South Muskham & Little Carlton Parish Council as contained within the report.

Members considered the application and commented that the solar panel farm had an overbearing impact and there was no biodiversity. Members were cynical regarding the two applications received separately, rather than one application which would have been determined by the Secretary of State. It was also raised that a planning policy regarding solar farms within the district would have been useful. It was commented that the ideal place for solar panels to be installed was on roof tops of businesses, schools, public buildings, warehouses, factories etc., the electricity generated could then be sold to the National Grid or shared within the community. Concern was raised regarding the narrow roads within that area, and problems encountered with the planning site visit bus that morning, which was unable to park safely on the highway. Concern was therefore raised regarding construction traffic if the committee were minded to approve the application. Concern was further raised regarding the runoff of rainwater from this site which may exacerbate the problem of flooding in that area. The Planning Case Officer confirmed that there was a 900mm bund included in the planning conditions. It was also confirmed that increased surface water run off rates were not known to increase with solar farm developments and there was potential for downstream betterment. The Planning Case Officer also confirmed that there was an error in the planning report and confirmed that the two access points were new. It was commented that the land should be used to grow crops rather than importing food due to the economic climate.

The Chair commented, in relation to the Great North Road solar scheme that the Council was only a consultee and this was a national infrastructure project.

Members raised concerns that the solar panel farms were being submitted to the Council piecemeal and felt that the Council did not have any framework to make decisions. Concern was also raised regarding the glint and glare from the solar panels

on the pilots of Caunton Airfield, which was in close proximity to the application site.

Councillor A Amer entered the meeting during the Member debate.

Councillor A Amer and Councillor D Member did not take part in the vote as they were not in the meeting for the duration of the Officers presentation.

A vote was taken and unanimously lost to Approve planning permission.

Moved Councillor A Freeman and Seconded Councillor S Saddington
AGREED (unanimously) that contrary to Officer recommendation planning permission be refused for the following reasons:

- (i) Loss of agricultural land;
- (ii) Loss of agricultural land over a forty-year period; and
- (iii) Landscape visual character impact.

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

Councillor	Vote
A Amer	Did not vote
C Brooks	For
L Dales	For
A Freeman	For
P Harris	For
J Lee	For
K Melton	For
D Moore	Did not vote
E Oldham	Absent
P Rainbow	For
S Saddington	For
M Shakeshaft	For
M Spoor	For
L Tift	For
T Wildgust	For

Councillor D Moore left the meeting at this point.

67 FIELD REFERENCE NUMBER 2227 HOCKERTON ROAD CAUNTON - 22/00976/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought the construction of a solar farm, access and all associated works, equipment and necessary infrastructure.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that the proposal was particularly contentious, and the aspects being raised could only be viewed on site.

At this point in the meeting, in accordance with Rule 2.7, the Chair indicated that the meeting had been ongoing for three hours and a motion was required to be proposed and seconded to extend the meeting for the duration of one hour.

AGREED (unanimously) that the meeting continue for the duration of one hour.

Members considered the presentation from the Planning Case 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 publication of the Agenda from the following: local residents; Averham, Kelham and Staythorpe Parish Council; Planning Case Officer; and the Agent.

Councillor D Catenach, South Muskham & Little Carlton Parish Council, spoke against the application in accordance with the views of South Muskham & Little Carlton Parish Council as contained within the report.

Members considered the application and commented that this application was a link in a chain that would visually strangle Nottinghamshire. This was an economical disaster for future generations. It was questioned who could predict what would happen ten-forty years in the future, and the solar panels had a life span of around forty years. The impact would be devastating and would be the death of the beautiful landscape in Nottinghamshire that Members wished to protect. This was agricultural land and should remain that. The community was losing a massive area where they could walk and enjoy the countryside and not walk through acres of solar panels. It was commented that Wheaten House (to the east of the site) may also suffer from the glint and glare from the solar panels until the trees had grown in significant height and when they had grown, the residents would have lost their view. It was also questioned whether Caunton Airfield had an interest in the site, as it was considered strange that they had not submitted any comments, given the potential glint and glare to light aircraft and gliders. The Planning Case Officer confirmed that they had been told that the landowner of the site was also the landowner of the Airfield but that this had not been confirmed in the submission and the operator of the Airfield had been consulted separately on the Application. A Member suggested that the footpaths be widened to 30 metres and the northern boundary have a biodiversity buffer. The Planning Case Officer confirmed that this could impact the generating capacity of the scheme which would conflict with the description of the development and therefore could not be imposed by condition. The scale of the development at 49.9MW was such due to economies of scale where these schemes become viable and most efficient, reducing the capacity of the Solar Farm by removing areas for panels could impact the viability of the scheme.

A debate took place regarding whether the application should be deferred to discuss the possibility of widening the footpaths and adding the biodiversity buffer to the northern boundary. The Director – Planning & Growth advised the Committee that if they were minded to defer the application in order to discuss the footpaths and biodiversity buffer, if that was to the satisfaction of the applicant, that would indicate that all other matters were acceptable.

A vote was taken and lost for approval, with 1 vote For and 12 votes Against.

Councillor D Moore, having left the meeting during part of the Officer presentation took no part in the vote.

Moved Councillor J Lee and Seconded Councillor L Tift

AGREED (with 11 votes For and 2 Abstentions) that contrary to Officer recommendation planning permission be Refused for the following reasons:

- (i) Visual impact on landscape;
- (ii) Loss of agricultural land 3B;
- (iii) Loss of agricultural land for forty years.

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

Councillor	Vote
A Amer	For
C Brooks	For
L Dales	For
A Freeman	Abstention
P Harris	For
J Lee	For
K Melton	Abstention
D Moore	Absent
E Oldham	Absent
P Rainbow	For
S Saddington	For
M Shakeshaft	For
M Spoors	For
L Tift	For
T Wildgust	For

The time being 9.00pm the Chair sought Planning Committee approval to continue business for a further one hour.

AGREED: that the Planning Committee continue for a further hour.

68 GLEBE COTTAGE, MAIN STREET, NORWELL, NOTTINGHAMSHIRE, NG23 6JN - 22/01504/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought a new proposed dwelling and a cart shed.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that there were specific site factors and/or significant policy or precedent implications that need to be carefully addressed.

Members considered the presentation from the Planning Case 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 publication of the Agenda from Nottinghamshire County Council Highways.

Councillor A Robertshaw, Chair of Norwell Parish Council, spoke in support of the application in accordance with the views of Norwell Parish Council as contained within the report.

Members considered the application and it was commented that the applicant had worked hard with the Planning Case Officer to address any issues raised and had addressed them. The property was in flood zone 1 and had never flooded. There had been unanimous support from Norwell Parish Council, and it was considered in keeping with the rest of the village. Other Members commented that this was back land development in a conservation area, the planning principles were clear and if approved would set a precedent for future applications.

AGREED (with 6 votes For, 6 votes Against and 1 Abstention, the Chairman used his casting vote in support of Refusal) that the report be refused for the reasons set out within the report.

69 MILL FARM, GONALSTON LANE, HOVERINGHAM, NG14 7JJ - 23/01159/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the proposed change of use of an agricultural buildings for weddings and events, including external alterations to the buildings and proposed use of field for associated car parking. Proposed change of use of main farmhouse for use as holiday accommodation and use of one room for wedding ceremonies.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that there were specific site factors and/or significant policy or precedent implications that need to be carefully addressed.

Members considered the presentation from the Planning Case 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 publication of the Agenda from Planning Case Officer and Agent.

Councillor R Jackson as Local Ward Member (Dover Beck) spoke in support of the application on the grounds that the proposed application was suitable for redundant farm buildings to create a business and jobs in the open countryside.

The Planning Case Officer confirmed that the hedgerow had been removed along the access track and passing places created and an investigation regarding that was taking place separate from the application.

Members considered the application and some Members liked what had been done, which was an improvement from the old buildings. Changes had been made which didn't appear detrimental. Other Members commented that the application should not be approved and a wedding had taken place there recently without permission. Members commented that the Committee was being asked to accept a business which wasn't being run as alleged in the application and that other development had taken place on site that was disingenuous.

The Planning Case Officer confirmed that the applicant had submitted a business case, which would subsidise the applicant's income in the summer months when the farm was less profitable. The Planning Case Officer confirmed that the public benefit would not amount to special circumstances.

AGREED (with 10 votes For, 2 votes Against and 1 Abstention) that planning permission be refused for the reasons set out within the report.

The time being 9.00pm the Chair sought Planning Committee approval to continue business for a further one hour.

AGREED: that the Planning Committee continue for a further hour.

70 LAND ADJACENT TO FOSSE ROAD, FARNDON- 23/01429/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of a four bedroom bungalow.

Members considered the presentation from the Planning Case 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 publication of the Agenda from The Planning Case Officer following advice from the Environment Agency.

Councillor J Kellas Local Ward Member (Farndon and Fernwood) spoke in support of the application and commented that the application continued to be supported by Farndon Parish Council and some residents. There was a development to the north-east of the site that had been built in 2017 in flood zones 1 & 2 which created a precedent for the application. The application site had never flooded in the past and the proposed development would make the site visually appealing. The access road to the site would be raised and was in flood zone 2.

Members considered the application, and it was commented that by raising the access the proposed development would not have an impact on neighbouring properties by flooding. Other Members commented that they could not support the development as the access road was in flood zone 2.

AGREED (with 9 votes For, 2 vote Against and 2 Abstentions) that planning permission be refused for the reasons set out within the report with the omission of the last sentence starting "In addition,.....".

The Chair with the permission of the Planning Committee Members changed the order of business on the agenda and moved to Agenda item No. 12 – The Coach House, Church Hill, Bilsthorpe – 23/01186/FUL, due to the number of speakers registered to speak.

71 THE COACH HOUSE, CHURCH HILL, BILSTHORPE, NG22 8RU - 23/01186/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the demolition of an existing detached garage and outbuildings and the erection of a single storey dwelling.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that there were specific site factors and/or significant policy or precedent implications that need to be carefully addressed.

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 the Agent and neighbouring residents.

Councillor Holloway Local Ward Member (Bilsthorpe) spoke in favour of the application and felt that there was scope when looking at heritage harm for different viewpoints. The reasons for refusal related to Core Policy 9 & 14 and DM 5 & 9. The proposal was low level single storey. It was pavilion style architecture which may have architectural merit in the future. The garden was large and accessible and would not affect the overall amenity of the neighbouring properties. The applicant had included items to increase biodiversity. The conservation area in Bilsthorpe covered many ages and styles of properties over the years. The previous vicarage had been changed into a much more modern building than neighbouring properties, which added to a distinctive character of this area. This property sat behind high gates and would have no visual impact on the surroundings.

Members considered the application and it was commented that the impact on the conservation area was when you could see it and it was considered that you could not see this property. This property could be a heritage asset in the future. Concern was raised regarding the solar panels and whether they could be incorporated in the design without an angle.

AGREED (with 7 votes For, 5 votes Against and 1 abstention) that planning permission be refused for the reasons set out within the report.

72 FIELD SIDE, 86 CAYTHORPE ROAD, CAYTHORPE, NG14 7EB - 23/01160/HOUSE

The Committee considered the report of the Business Manager – Planning Development, which sought a proposed first floor and ground floor rear extension and single storey side extension. The erection of a canopy at principal elevation and replacement roof covering and windows.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that there were specific site factors and/or significant policy or precedent implications that needed to be carefully addressed.

Members considered the presentation from the 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 publication of the Agenda from the applicant.

Councillor R Jackson Local Ward Member for (Dover Beck), spoke in favour of the application on the grounds that the current owners had bought the property whilst planning permission was still live and were trying to add a change to that. It was a very small semi-detached cottage amongst some very large houses, which were all newly built in that vicinity. The rooms were very small and the applicant was trying to create an extra bedroom and a larger living space and kitchen. He couldn't see any impact on the green belt, the neighbouring property had an extension to the side, which wasn't quite as large as what was being requested. The flood zone 2 was not an issue and this part of Caythorpe did not flood as it was higher than some parts of Caythorpe which did flood. The Parish Council fully supported this even though it was in part in the green belt. If the Planning Committee was to turn every planning application down because it was in the green belt Caythorpe would not evolve, if there was no change things would stagnate.

Members considered the application and some Members commented that there would be no harm to the green belt. Other Members felt the application should not be supported on the grounds of impact on the green belt and the size of the development.

Councillor K Melton did not vote as he was not in the meeting for the duration of the Officer presentation.

AGREED (with 7 votes For and 5 votes Against) that planning permission be refused for the reasons set out within the report.

73 MEETING ADJOURNMENT

The Chair proposed that the meeting be adjourned given the time being almost 10.00pm.

AGREED: that the meeting be adjourned and the business remaining on the Agenda be considered at an extraordinary meeting of the Planning Committee, the date to be confirmed.

Meeting closed at 9.58 pm.

Agenda Item 5

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, NG24 1BY on Thursday, 23 November 2023 at 6.00 pm.

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

Councillor A Amer, Councillor L Dales, Councillor P Harris, Councillor E Oldham, Councillor P Rainbow, Councillor M Shakeshaft, Councillor M Spoons and Councillor L Tift

APOLOGIES FOR ABSENCE: Councillor C Brooks, Councillor J Lee, Councillor S Saddington and Councillor T Wildgust

74 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Director – Planning & Growth declared an other registerable interest on application No. 23/01737/ADV – Former Marks & Spencer, 32 Stodman Street, Newark on Trent, as the Council was the applicant and he had been involved in the application.

The Chair advised the Committee of a blanket of other registerable interests declared on behalf of Councillors L Dales and A Freeman as appointed representatives on the Trent Valley Internal Drainage Board for any relevant items.

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

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

76 STABLE BUILDING, NEWHALL LANE, EDINGLEY - 23/01552/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the conversion of a stable building into a single dwelling.

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

Members considered the application acceptable.

Councillor A Amer entered the meeting during Committee debate and did not take part in the vote.

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

77 97 SOUTH AVENUE, RAINWORTH - 23/01213/HOUSE

The Committee considered the report of the Business Manager – Planning Development, which sought the front side elevation rebuild with render finish and

new porch extension which was part retrospective.

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

Members considered the application and commented that the scale of the porch was too large for the building. The Conservation Officers comments included in the report, informed the Committee that the retrospective works, including the render were harmful to the area and the planned nature of the colliery village which was a non-designated heritage asset. Another Member commented that the works were unique, neat and tidy.

AGREED (with 7 votes For and 3 votes Against) that planning permission be refused as detailed within the report.

78 LORRY AND COACH PARK, GREAT NORTH ROAD, NEWARK ON TRENT - 23/01604/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought a glass recycling compound.

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

Members considered the application and it was clarified that the Air and Space Institute (ASI) had been statutorily consulted. Members were concerned with the noise levels and air quality impacts on the ASI students and surrounding residents and suggested that a temporary condition for a maximum of three years be allowed.

AGREED (with 8 votes For and 2 votes Against) that planning permission be approved subject to the conditions contained within the report and an additional condition including a temporary condition for maximum of three years, specific wording to be delegated to the Business Manager – Planning Development.

Having declared a registerable interest on the following application the Director for Planning & Growth left the meeting at this point.

79 FORMER MARKS & SPENCER, 32 STODMAN STREET, NEWARK ON TRENT - 23/01737/ADV

The Committee considered the report of the Business Manager – Planning Development, which sought advertising hoardings for 32 Stodman Street.

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

Members considered the application acceptable.

AGREED (unanimously) that Advertisement Consent be approved subject to the conditions contained within the report.

The Director for Planning & Growth came back to the meeting.

80 PALACE THEATRE, 16 - 18 APPLETON GATE, NEWARK ON TRENT - 23/01551/LBC

The Committee considered the report of the Business Manager – Planning Development, which sought the attachment of steel truss to existing roof truss and drill holes to plasterwork ceiling for cables for lighting rig.

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

Members considered the application and commented that this would be a great addition to the theatre.

AGREED (unanimously) that Listed Building Consent be approved subject to the conditions contained within the report.

81 PUBLIC SPEAKING & PLANNING CONSTITUTION UPDATE

The Committee considered the report of the Director for Planning & Growth, which notified Members of a future report looking to introduce public speaking along with constitutional updates.

The Planning Development Business Unit had been tasked with investigating allowing public speaking at Planning Committee. Initial investigations established that the Council was one of the few in England and Wales who did not permit public speaking.

Due to Constitutional requirements, it was necessary for Full Council to agree to public speaking at Planning Committee. A report had been considered by the Audit & Governance Committee on 22 November 2023, detailing the general principles. It had been intended that a report be taken to the 7 December 2023 Planning Committee followed by Full Council on 12 December 2023. That had been changed and the Audit & Governance Committee had agreed that the report be forwarded to a future Full Council. The Planning Committee Chair informed the Committee that a workshop had been arranged for Planning Committee Members to discuss this matter on the 9 January 2024.

AGREED: that the report be noted

82 APPEALS LODGED

AGREED that the report be noted.

83 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 7.24 pm.

Chair



Report to Planning Committee 7 December 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Lynsey Preston, Planner, ext. 5329

Report Summary			
Application Number	22/02341/OUT		
Proposal	Outline application for erection of two detached dwellings and the re-alignment of Rolleston Public Footpath no.5 with all matters reserved except access.		
Location	Land Off Holly Court, Rolleston		
Applicant	Arc Partnership (obo Nottinghamshire County Council)	Agent	Aspbury Planning Limited
Web Link	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage		
Registered	06.12.2022	Target Date	31.01.2023
		Extension of time	TBA
Recommendation	Approval subject to conditions within Section 10.0 of this report and the signing of a S106 Agreement.		

This application is presented to Planning Committee in line with the Council’s Scheme of Delegation as the officer recommendation differs from that of the Parish Council. The Ward Member, Councillor Melton, has also called in the application to Planning Committee due to heritage concerns and the relationship with Ullyat’s Cottage and access to and via the site and the impact to associated footpath trails.

1.0 The Site

The application site relates to land which was formally part of a Nottinghamshire County Council small holding to the rear of Ulliyats Cottage. Although it is not in operation now as a small holding and is verdant in character being laid to grass and contains no farm animals. Ulliyats Cottage is a 2-storey detached dwelling at 90 degrees to the road with outbuildings running parallel to the dwelling.

The site is currently accessed through Ulliyats Cottage from Fiskerton Road.

An unsurfaced public right of way is located to the south east of the site and runs alongside Holly Court. A large early mature beech hedge approximately 2.5m high is located parallel to Holly Court.

Existing trees protected by a Tree Preservation Order (N399) are located along the eastern boundary with Holly Court.

2.0 Relevant Planning History

21/02435/OUT Erection of up to 3 no. detached dwellings and the re-alignment of Rolleston Public Footpath No. 5 **Refused by Planning Committee – 11.05.2022**

Reasons for refusal

01

In the opinion of the Local Planning Authority, the existing trees on the site provide for amenity value and as such a provisional Tree Preservation Order (ref. TPO N399) has been served. It is therefore considered that the trees within the site are worthy of retention and contribute to the overall biodiversity of the area. The development of up to 3 dwellings would be too intensive for the site, given this constraint, and thus would result in a conflict with the existing green infrastructure and effect their longevity.

As such the proposal is considered to fail to accord with policy DM5 of the Allocations and Development Management DPD and the NPPF (2021) which is a material planning consideration.

02

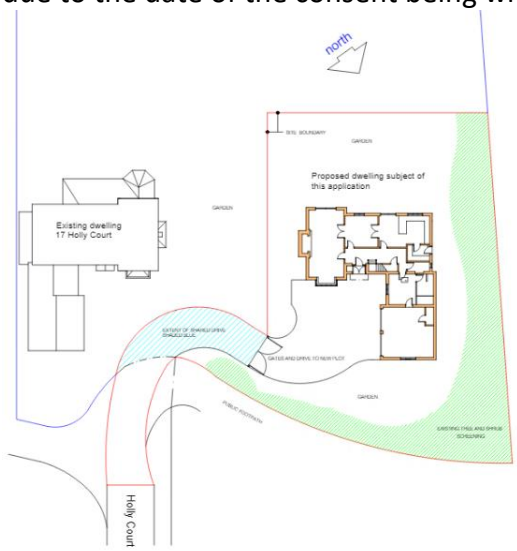
The site has potential for protected species to be impacted on by the development and whilst a Preliminary Ecological Assessment has been submitted, generic mitigation measures are proposed which fail to quantify the loss of habitat when considered through to maturity. The loss of habitat would effectively be replaced with built development as opposed to providing an adequate mitigation of a habitat, which directly contradicts paragraph 180 of the National Planning Policy Framework (NPPF) (2021).

The proposal would therefore fail to meet the aims of Core Policy 12 of the Amended Core Strategy and Policy DM5 and DM7 of the Allocations and Development Management DPD and the NPPF (2021) and would result in harm to the ecology and biodiversity of the site which has not been adequately mitigated for.

Illustrative layout that was submitted, although layout was a reserved matter.



22/02338/FUL Consent has been granted for a dwelling to the south (and outside of the application site) of the site which extends into its adjoining land to 17 Holly Court (see below). This was first consented in 2016 with subsequent later approvals (renewal of consents due to being lapsed), but no commencement has since taken place. The latest approval is still extant due to the date of the consent being within 3 years.



Site plan for 22/02338/FUL showing the new dwelling to 17 Holly Court which lies to the south of the proposed application site.

3.0 The Proposal

The application seeks outline planning consent for the construction of 2 dwellings on the existing garden to the rear of Ulyats Cottage. The proposal is for all matters reserved (appearance, landscaping, layout and scale) apart from the access, which includes the vehicular access to the plots. The proposal includes the realignment of Rolleston Public Footpath No.5 along Holly Court.

Information submitted with the application:

- DRWG no. 27793-ARC-XX-XX-DR-A-AB008 P05 Illustrative masterplan;
- DRWG no. (03)001 Rev J Illustrative landscape plan;
- DRWG no. HollyCourtTopo001 Rev B Topographical Survey;
- DRWG no. 27793-ARC-XX-00-DR-A-0001 Rev P05 Application Site Plan;
- Preliminary Ecological Appraisal & Biodiversity Net Gain Assessment Oct 2023;

Revised Arboricultural Survey & Impact Assessment 28 July 2021 (revised 12 October 2022)
Cascade chart for tree quality assessment;
Spatial Planning Design and Access Statement.

4.0 Departure/Public Advertisement Procedure

Occupiers of 32 properties have been individually notified by letter, a notice has been displayed at the site and a notice has been advertised in the press.

Site visit undertaken 05.01.2023

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 3 – Rural Areas
Spatial Policy 7 - Sustainable Transport
Core Policy 9 - Sustainable Design
Core Policy 12 – Biodiversity and Green Infrastructure

Allocations & Development Management DPD (adopted July 2013)

DM5 – Design
DM7 – Biodiversity and Green Infrastructure
DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2023
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
NSDC Housing Need Survey 2020

6.0 Consultations

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

(a) Statutory Consultations

Nottinghamshire County Council Highways: The applicant has submitted amended plans in support of this application:

- a plan ref. 27793-ARC-XX-XX-DR-A-AB008 rev. P05 titled: Illustrative Masterplan;
- a plan ref. N0894 (03)001 rev. J, titled: Illustrative landscape plan;
- a plan ref. HollyCourtTopo001 rev. B, titled: Topographical Survey (unchanged)

The proposed changes shown on the submitted plans would not compromise highway safety, therefore, the Highway Authority do not wish to raise an objection subject to conditions being attached to any grant of consent.

Nottinghamshire County Council Rights of Way –the Definitive Map of recorded Public Rights of Way (PROW) shows Rolleston Footpath No. 5 crosses the land edged in red on the Location plan.

A condition is requested requiring works not to commence on footpath no.5 until the replacement footway has been provided to adoptable standard.

(b) Town/Parish Council

Rolleston Parish Council: Comments from 09/01/2023 OBJECT The parish council recognises that the revised application responds to concerns over the previous over-intensive proposals for development of the site. However the parish council is unable to support the application (whilst noting that the application is in outline with most matters reserved), primarily for the following reasons:

- 1) Boundary line for the application site still derives the adjoining Ulyett's Cottage of a viable protective garden;
- 2) Height of the larger proposed dwelling has adverse impact on neighbouring dwellings;
- 3) Loss of established footpath edge adversely impacts biodiversity.

Comments received 10/11/2023 from the Parish council reaffirmed objections to the scheme.

(c) Representations/Non-Statutory Consultation

NSDC Conservation: As set out in the previous scheme. Kate Greenaway has clearly had links to Rolleston and is an important historic literary figure. Information has been provided by local interest groups, although details of the academic sources have not been given.

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

Without academic sources outlining the significance of Ulyats Cottage and its association with Kate Greenaway it is difficult to give considerable weight on the significance of the heritage asset as a non-designated heritage asset. In addition, the cottage is much altered. This application has reduced the number of units from 'up to 3 dwellings' to 'two detached dwellings'.

As an outline application the precise number, layout and design do not form part of the application. The reduction in number of dwellings reduces the intensification of the proposed development, providing more space around the cottage.

The illustrative layout shows detached dwellings with detached garages and it likely these buildings will not respond to the host dwelling. A design that has a more positive relationship with the cottage, such as a design approach that gives the impression they are ancillary to the

cottage could alleviate any impact on the setting of the cottage.

NSDC Tree Officer – It is suggested.

1. Accepting that the retained protected trees will achieve mature size (canopy spread) the placement of car parking with this area is not acceptable.
2. Landscaping, in principle this is acceptable, acknowledging that the current species pallet is likely to be required to be altered to give a reasonable living standard to future residents and ensure retention of the proposed scheme.

Ramblers Association – No comments received.

8 letters of objection have been received from third/interested parties which are summarised below:

Amenity

- Spatial Policy 3 ‘new development should not have a detrimental impact on the amenity of local people’ and that ‘new development should be appropriate to the proposed location and small scale in nature’. We believe that should any development go ahead, the size and height of any houses should be determined as a condition of any future planning application, with the dwellings required to be of low height and with adequate space around them so as and not to be detrimental to the character of the surrounding area or the amenity of nearby properties, and therefore, this issue should not be a reserved matter.
- Backland development which destroys amenity of land of neighbours and obliterates all privacy.
- Overlooks all the private areas of the neighbour and internal spaces.
- Any dwelling approved should be limited in height to no more than 6.2m which matches the height of our dwelling and 1.5 stories.

Biodiversity/Ecology

- It is unclear whether the proposal adequately demonstrates that the site can be developed whilst protecting those trees identified as A and B category, now an into the future.
- Does the proposal adequately mitigate for the loss of the beech hedge?
- The proposal says that the hedge ‘will be replaced by a more species diverse instant hedgerow (to the same height), including native hedgerow trees planted at the back of the new footpath’. This possibly means the new layout may not allow for this.
- Significant loss of hedgerow and trees.
- Application failed to quantify the loss of habitat for protected species when considered through to maturity.
- The proposal states that the loss of habitat for nesting birds should be compensated for by the proposed tree planting and new hedgerow, but not how this will be mitigated for in the years before they reach sufficient maturity to provide reliable nesting sites.
- Unclear how the new front hedgerow and the proposed soft landscaped areas are to be maintained.
- The existing PROW provides a wildlife corridor for plants and animals to move between the village and open fields. The development kills this by grubbing up the hedge and making the PROW part of the road.

- No reference to how the orchard or wildflower meadow will be managed, fears it will result in an eyesore. This land should be incorporated in to Ullayat's Cottage to make it more commercially viable and less likely it will be demolished.
- TPO on the site which provides for biodiversity value.
- Sceptical that replacing the beech hedge with an instant hedge will provide the same value to nature. Seems ridiculous to remove it.
- Proposed layout does not allow for any tree planting between buildings and the boundary to soften the impact.

Highway impact/Parking/Public Right of Way (PROW)

- Whilst the proposal indicates 4 parking spaces per property, the arrangement will mean only 2 cars can park without obstructing access for the others, so it is inevitable that this will lead to parking on Holly Court, making access problematic and potentially unsafe.
- At its narrowest Holly Court is 4.5m wide and does not allow for a car to pass a larger vehicle, nor for 2 large vehicles to pass each other.
- Concern on the impact of the PROW now being next to the road.
- Perhaps highways should consider the imposition of double yellow lines.
- Holly Court is not an adoptable highway along its entire length. The limit if the public highway is marked in the road and excludes the turning area in front of the gate to no.17. Occupants of the proposed dwellings will have no right to use of the private road.
- The applicant does not address the issue of the inadequate sight line when emerging from Holly Court on to Fiskerton Road.

Flood Risk

- Although the site is at very low-risk from flooding, this is not our experience from living on Holly Court. The ground level of the development site is a good 10 inches higher than Holly Court itself. This is not mentioned in the application. Without flood mitigation measures, the development will cause more problems.
- The development will increase the surface water run-off in heavy rainstorms.
- There is no evidence in the application that the capacity of the existing water, sewer and electricity services can cope with the additional development. Foul drainage is already a problem.
- The existing hedge acts as a natural water barrier to the properties located on Holly Court and downhill from the site.

Principle of Development including Need and Heritage impact

- 4 houses have been built over the past few years, all larger properties. Any housing need would be for small bungalows only.
- Rolleston has no easy or safe access to services for day to day needs.
- Village hall is the only village facility; the pub has closed four times in the last 15 years, should not be relied upon to provide an amenity for the village.
- Neither the train nor bus services operate a viable timetable for regular use, and access roads into the village are liable to flooding.
- This is blatant backland development.
- No history of development on the site previously. The area has always been domestic

garden amenity area for the pleasure of the inhabitants of Ulyatt's Cottage.

- Land has been taken from the cottage to the detriment of its viability as a family dwelling.
- The future of Ulyatt's Cottage should be taken in to consideration.
- Proposal would represent an overdevelopment of the site to the detriment of the character and appearance of the locality.
- Loss of the historical significance to the Kate Greenaway cottage who lived there and has remained largely intact for over 150 years.
- The Council has a 5year housing land supply so there is no need for this scale of development in Rolleston.

7.0 Comments of the Business Manager – Planning Development/ Appraisal

The key issues are:

- Principle of the Development
- Impact on Design and Heritage
- Impact on Highway Safety
- Impact on Residential Amenity
- Impact upon Biodiversity and Ecology
- Impact upon Flood Risk and Surface Water run-off

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

The Council can demonstrate in excess of a 5 year housing land supply and the development plan is up to date for decision making purposes. The starting point in decision making terms is with the development plan as set out in statute and reaffirmed by Policy DM12 (Presumption in Favour of Sustainable Development).

The site is located within the extremities of the village settlement of Rolleston. The site forms part of a former Nottinghamshire County Council small holding where pigs were kept and later became a market garden.

Spatial Policy 1 of the Amended Core Strategy (ACS) defines the settlement hierarchy for new development across the District. Rolleston is not defined within that hierarchy and is therefore a 'Rural Area' under Spatial Policy 3 (Rural Areas) (SP3). This policy states that new development will be considered against the following criteria. Location, Scale, Need, Impact and Character.

The supporting narrative with SP3 states that the locational criteria supports the development of sites in sustainable accessible villages. It would not normally include undeveloped land, fields, paddocks or open space which form the edge of built form. Due to the presence of the existing extant consent associated with no.17 Holly Court (see the planning history section above), whilst the site is verdant in character, the proposal would not extend beyond the extremities of the built-up area of the village. Therefore, it is officer opinion that developing this site would not result in additional encroachment into the open countryside, and it can therefore be considered as being within village.

SP3 of the ACS states that in assessing the scale element that the 'development should be appropriate to the location and small scale in nature'. Two dwellings as can be seen on the illustrative masterplan, can comfortably be accommodated on the site and would numerically, be small scale in nature. Rolleston, although it does not feature within the settlement hierarchy, is a settlement of a reasonable scale and has seen much development in recent years and 2 dwellings would contribute to that mix and would be capable of contributing towards meeting the district housing need.

The NSDC Housing Need Survey 2020 states that within the Southwell area (to which Rolleston is located), the greatest housing need is for 3-bedroom dwellings (33.3%) with 4 bedroomed houses next (24%), followed by 3 or more bedroomed bungalows (15.2%) and then 2 bedroom bungalows (14.8%). Rolleston's own housing need survey (2016), although outdated and does not account for the recent developments, but provides a useful indication of the greatest need within Rolleston itself, states the need is for:

- 1 x 3 Bed house – open market,
- 1 x 5 Bed house – open market,
- 1 x 2 Bed bungalow – open market,
- 1 x 3 Bed bungalow – open market

Therefore, going by the 2020 survey (the latest one) the greatest need within the settlement is for 3 bedroomed dwellings. However, as the scheme is in outline only with all matters reserved (apart from access), the number of bedrooms is a matter to which the detailed application (reserved matters) would advance but it is considered that up to 2 dwellings could be accommodated on the site which would satisfy local housing need and in order to secure this, a condition is recommended to ensure dwellings come forward which are no greater than 3 bedrooms (or as may be required through any amended or updated housing needs survey) and thus meeting a housing need.

The principle to develop the site with dwellings is acceptable and complies with the criteria within Spatial Policy 3, subject to further on-site assessment which is outlined below. The matter of character is further explained in the following 'design' section below.

Impact on Design and Heritage

The National Planning Policy Framework (NPPF) (2023) states '*decisions should ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting*' (para 130). Core Policy 9 (Sustainable Design) of the ACS states '*new development should be of an appropriate form and scale to its context*

complementing the existing built and landscape environments'. Policy DM5 (Design) (ADMDDPD) states the 'rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.'

The site is not located within a conservation area and the area does not include any listed buildings. The main consideration is the siting within land which contains the property known as Ullyat's Cottage.

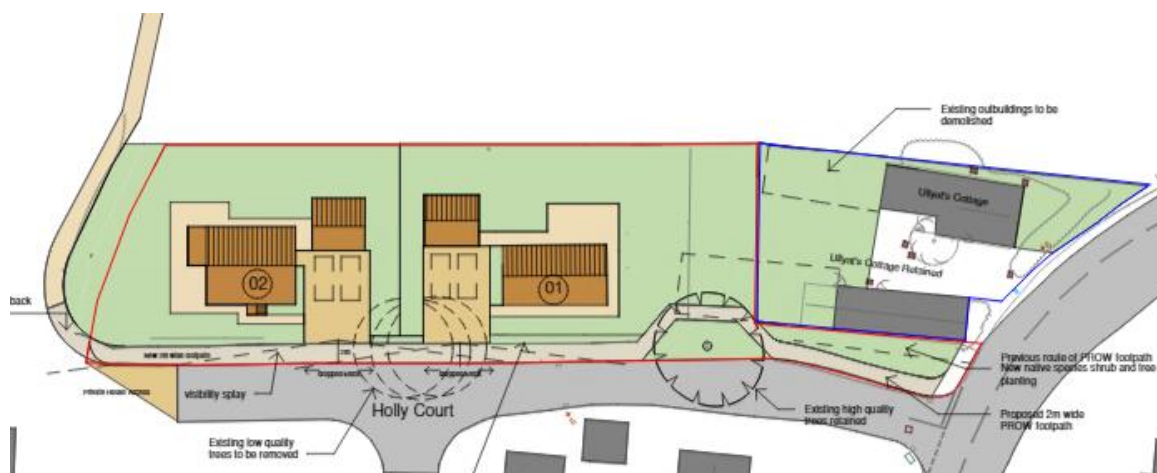
This cottage has been the subject of much interest from residents on the implications of the development upon the longevity of the cottage and its social history associated with Rolleston. Firstly, it is pertinent to consider the condition of the cottage. The NPPF is clear on how to assess applications when Non-Designated Heritage Assets (NDHA) are in the vicinity. Paragraph 203 of the NPPF (2023) states *'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect 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'*.

The cottage is late C18 or early C19, not listed and Officers do not consider it meets the qualifying criteria within the Council's adopted NDHA guidance, to define it as such due to its condition and degree of alterations. The original doors and windows have been replaced to uPVC, there are concrete tiles on the roof and very little remains of any stylistic detail. The brick outbuildings have been much altered too and are of no special interest. Members will note however that from the illustrative layout, the outbuildings associated with Ullyat's Cottage are due to be demolished as a result of the proposal. Under Section 55 of the Town and Country Planning Act 1990¹ the definition of development includes demolition. This has not been applied for through this application but given it is in outline form, this can be applied for separately. In this respect it is not considered to contain considerable significance that can be attributed weight in decision making.

The building does have a local connection with Kate Greenway, a Victorian illustrator whom from the mid C19 spent significant periods of time there. However, this was not her home and she is commonly associated with London where she was born and subsequently died. Whilst this is an important connection to the village and indeed local residents have set up The Kate Greenway Trail and a blue plaque has been awarded to Ulllyatts Cottage in her recognition, these are not overriding factors in ensuring the importance of the cottage or the surrounding land. Residents have submitted comments on the connection to Kate Greenway through this application and previous submissions, however these are not substantiated through academic sources but rely on websites for their weight. Given the alterations to the cottage and the weight already attributed to the connection with Kate Greenway, it is not sufficient to include this building and the surrounding land as important enough to warrant it as a NDHA.

¹ Updated by The Town and Country Planning (Demolition – Description of Buildings) Direction 2021
<https://www.gov.uk/government/publications/the-town-and-country-planning-demolition-description-of-buildings-direction-2021>

It is pertinent to inform Members of the changes to the application site plan since the previous refusal, which has been done to try to address this relationship.



Proposed site plan



Previously refused scheme under 21/02435/OUT

Previously under 21/02435/OUT the Conservation officer stated that the ‘three dwellings have very little relationship with the dwelling and a reduced number of 1 or 2 dwellings, to afford more space around the cottage would result in a more positive relationship with the cottage.’ Following the refusal, the agent has taken these comments on board and reduced the number of dwellings on site to 2 thus increasing the distance from the existing cottage. The Conservation Officer in their latest comments has now stated that the reduction in the number of dwellings has reduced the intensification of the proposed development, providing more space around the cottage. They raised concern with the detached dwellings and their garages stating they would not respond well to Ulyat’s Cottage, and that a design approach which gives the impression they are ancillary to the cottage could alleviate any impact on the setting. Given the layout is only illustrative, it is considered that a layout and design could be designed which respects the scale and form of the existing cottage such as siting development to the south west of the site and limiting the height at reserved matters stage, if permission is granted. Illustrative plans are provided in order to assist in demonstrating that the quantum of dwellings could be delivered.

Therefore, it is considered that the proposal in principle is acceptable and a design could be achieved which respects the original cottage. This however should be considered in

conjunction with the Trees/hedgerows section which references the trees within the site, which would affect the layout of the development which is reasonably achievable on the site.

Impact on Highway Safety

Policy DM5 of the ADMDPD is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 (Sustainable Transport) of the ACS encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

Holly Court is approximately 5.4m wide at the access, with some localized narrowing to 4.5m. The access road is existing with no accidents reported on record to Nottinghamshire County Council (NCC). There is a narrow tarmac service strip along the western side of the carriageway and a wide grass verge along the eastern side. NCC Highways have previously suggested that the eastern side grass verge could be utilised for the footway as it already forms part of the highway. The verge however has been incorporated by the residents as part of their gardens and has been planted over and even fenced off. The applicant however has decided not to utilise this area but to realign the public footpath that exists along the western edge instead. However, as the land still remains 'highway' land those residents are at risk of that land being incorporated back in to highway or action being taken against them requiring removal of unlawful structures. This is a matter to which the County Council could review separately as to whether it is expedient to pursue.

The new 2m wide public right of way (PROW) to be created runs along the western edge of Holly Court to realign the existing unsurfaced public right of way (Rolleston no.5). This involves the removal of the existing beech hedgerow and the planting of a new more native rich instant hedgerow to the back edge of the new footway which is illustrated on the landscape plan (DRWG no. (03)001 Rev J). This would allow pedestrians and vehicles to enter the proposed house frontages and would safeguard a safe pedestrian access for the existing and future residents and users of the footway.

Dropped kerb crossings are proposed over the footway to the new properties which have been designed in consultation with Highway colleagues and includes sufficient visibility splays whilst accommodating the new hedgerow.

Residents have raised issues of highway safety from Holly Court onto Fiskerton Road. Highways previously considered this under 21/02435/OUT and reviewed the intensification of this access point and concluded that the visibility to the right from Holly Court is a concern as the visibility splay with a 2.4m setback from the edge of the carriageway is limited due to the Holly Court junction design, overgrown planting from third party land, and a narrow footway along Fiskerton Road. However, when a 2m setback is applied, the visibility is greatly improved and acceptable. Manual for Streets advises that the 2m setback can be considered for some very-lightly trafficked and slow speed situations where the drivers and cyclist travelling along the main road would be able to see the overhanging vehicle at the minor arm and be able to manoeuvre around it without undue difficulty. It is considered that Fiskerton Road complies with this requirement due to the geometrical alignment of the road which allows the north-westbound traffic to see and react to any vehicles waiting at Holly Court to join Fiskerton Road and react to any overhang accordingly. This road has low speeds of traffic

due to the design of the road, i.e. 6.25m wide carriageway, existing frontages, narrow footways, streetlights, bends and low AADT (annual average daily traffic) of 1150 in 2019. There have also been no accidents recorded at the Holly Court and Fiskerton Road junction for over 20 years and any highway improvements to the junction would be seen unreasonable and disproportionate to the proposed scale of development. This position has not changed and the access to Fiskerton Road would remain as existing.

It is not envisaged that this proposal will severely compromise highway safety and thus Highways have not objected subject to the imposition of suitable conditions.

The Council has adopted its Residential Cycle and Car Parking Standards & Design Guide SPD (2021), which provides a minimum standard expected for parking provision within sites. It also provides details of garage and parking space dimensions. As the proposal is in outline, and the number of bedrooms provided has not yet been defined it is difficult at this stage to ascertain the degree of parking provision required. However, for 3 bedrooms or more, it is expected that 3 parking spaces are provided for each dwelling on site which could be achieved within the site. Residents have raised concern about the lack of visitor parking within the site leading to parking on Holly Court. Holly Court is unrestricted in terms of parking provision and visitors would be able to park unrestricted on it regardless of this development coming forward. Notwithstanding this, due to the development being in outline and the indicative plans showing parking can be provided for each dwelling, this would not be a reason for refusal and can be addressed at reserved matters stage.

Right of Way

Rolleston footpath No.5 is located parallel to Holly Court, although separated from the highway by the existing beech hedge, and it is a feeder to the Trent Valley Way. The footpath is signed from Fiskerton Road and currently runs to the south east of Ulllyats Cottage and separated by an existing wire fence. The footpath comprises of a trodden muddy uneven track approximately 1m in width. The proposal would keep the footpath on a similar alignment although the position would be altered to run alongside Holly Court approximately 700mm south east and it would largely be a 2m wide hard surfaced even footpath to adoptable standard.

The proposal would enable safe passage of users of Holly Court, as at present occupiers walk on the carriageway, and it would enable a wider footway which is accessible to all.

NCC Rights of Way colleagues have provided details on practicalities for stopping up and diverting the ROW.

Although comments relating to the ROW have been given due consideration, the relocation would not result in harm to the usability of the ROW and its realignment is not so dissimilar to its current position. It will still connect to the existing PROW to the south-west outside no.17 Holly Court to enable continued use and connectivity. NCC highways have suggested conditions to enable the legal extinguishing of the footway under a S.257 of the Town and Country Planning Act 1990, which is acceptable. Therefore, the realignment is considered acceptable within this proposal.

Impact on Residential Amenity

Policy DM5 of the ADMDPD states development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate. The layout of development within site and separation distances from neighbouring development should be sufficient to ensure that neither existing nor future occupiers suffer from an unacceptable reduction in amenity including overbearing impacts, loss of light or privacy.

The dwellings are expected to be two storey although the detail would come from the Reserved Matters application. The position within the site compared to other surrounding dwellings, is not likely to result in harm to amenity from overbearing, loss of privacy or light impacts. Comments received during the consultation have alluded to a favourable use of bungalows or 1.5 storey dwellings which again would be appropriate here and would be more in keeping than two storey. One resident has stated a height limit of 6.2m (to the ridge) would be appropriate given that is the height of their dwelling opposite. Should Members resolve to support the proposal a condition to ensure the height of the dwellings which come through the reserved matters application are no greater than 1.5 storey could be imposed. This would allow for dwellings to be designed which would not be dominating to existing neighbours and although scale is a reserved matter, dwellings at 1.5storey would be more in keeping and more acceptable from an amenity perspective.

All of the concerns raised by residents have been given due consideration however it is not Officer's opinion that the proposal would result in harm to neighbour amenity and that dwellings could be sited and designed to not cause undue harm.

Impact on Biodiversity and Ecology

Core Policy 12 (Biodiversity and Green Infrastructure) of the ACS states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 (Biodiversity and Green Infrastructure) supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment. Policy DM5 seeks to avoid adverse impacts upon ecological interest and protected species.

The NPPF (2023) states when determining planning applications LPAs should apply the following principles as stated within paragraph 180 of the NPPF. This states that if "*significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*"

A Preliminary Ecological Appraisal and Biodiversity Net Gain (BNG) Assessment (Oct 2023) has been submitted and it was concluded that the hedgerows, trees and scrub offer suitable habitat for nesting birds. Most of this habitat will be lost to the proposed development and there is a risk that the removal of this vegetation may result in nesting birds being disturbed

or harmed. However, the submitted Preliminary Ecological Appraisal submitted with the application suggests mitigation measures to be put in place to secure measurable benefits and gains to negate the loss and harm caused. These include additional nesting boxes, new species rich hedgerow and compensatory tree planting which would all result in measurable gains for compensation.

The site provides habitat of moderate suitability to support foraging bats, however the proposals have the potential to increase light spill at the site, which will further reduce its suitability for foraging bats. Mitigation measures can be ensured through the detailed design stage for low luminance lighting which would be more acceptable and managed by condition.

Hedgehogs are known to be present within close proximity to the site such that proposal may result in the loss of foraging habitat for them. However, the provision of new hedgerow planting and species rich grassland planting will compensate for this. In addition, the site boundaries can incorporate hedgehog holes to allow safe access and egress through the site.

As part of the above Assessment, the applicant has submitted a BNG Assessment. As Members are aware a 10% BNG is not mandatory requirement until January 2024 and this will only cover major developments. Smaller sites such as this will become mandatory from April 2024. Nonetheless the NPPF (2023) states that proposals should provide net gains for biodiversity (para 174) which the applicant has demonstrated at paragraph 5.4.1 of the Assessment. The BNG spreadsheet states that with regard to habitat units there is a 115% increase in BNG and for hedgerow units its 57%. These are all positives for the scheme which officers welcome and include measures which the LPA can control moving forward to reserved matters. Officers therefore do not consider there is harm to biodiversity or ecology which has not been adequately mitigated for.

It is therefore considered that subject to the mitigation measures such as bat/bird boxes, carrying out clearance works outside of bird nesting season, hedgehog holes and appropriate lighting for bats, there would be negligible harm caused as a result of the development and as such I consider the proposal accords with the aims of Core Policy 12 and Policy DM7 and the NPPF.

Trees/hedgerows

Policy DM5 of the ADMDPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Wherever possible, this should be through integration and connectivity of the Green Infrastructure to deliver multifunctional benefits.

Paragraph 131 of the NPPF (2023) states *'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.'

Members will note that at the time of the previous application being presented to the former Committee, the TPO was served as provisional on the site. This was later confirmed as an Order on 11 October 2022 and includes the copper beech tree and the group of 3 beech trees. The scheme has been amended during this consideration so these trees are retained and the access points to the site amended to suit. Other trees within the site are due to be felled and these have not raised objections by the tree officer. These comprise of poor species or trees of a condition category C, U or dead trees and can be replaced within the site as illustrated on the illustrative landscape plan.

Members are reminded that the landscaping is a reserved matter but should Members consider the landscaping scheme acceptable, the standard landscaping condition has been imposed with an informative attached stating the landscaping scheme submitted at reserved matters should feature in a similar way to that submitted as part of the outline as shown on drawing no. (03)001 Rev J. This layout of landscaping includes an area of landscaping outside of the land marked for the residential 'plots' (shown in pink on the landscape plan). These areas are shown to comprise of an orchard (to replace the former orchard on site) and areas of wildflower grasses. No details of who or how this area will be managed and maintained, has been submitted with the application. However, the applicant has agreed to enter into a S106 Agreement for the maintenance of the common areas, which includes management which will enable the necessary mechanism to ensure this takes place. This is considered an acceptable approach and would legally secure these areas in perpetuity.

The latest comments received from the Tree Officer state that the TPO trees when reached to full maturity will be located within the parking area as shown on the illustrative layout plan. However, as layout is a reserved matter it is reasonable to consider that parking could be sited outside of this area and therefore it is not considered that this is a justifiable reason to refuse the application.

Therefore, the proposal is considered to be acceptable and it is considered that the site could be developed without conflict with the TPO trees or harm to their longevity. The loss of trees on the site is adequately justified and the compensation, although formally agreed through reserved matters, could be sufficient to not result in a BNG deficit. The proposal therefore complies with policies within the Amended Core Strategy, Allocations and Development Management DPD and the NPPF.

Impact upon Flood Risk and Surface Water run-off

The site is located within Flood Zone 1 as defined by the Environment Agency data maps, it is therefore at lowest risk from flooding. Nonetheless careful consideration will need to be given to the impact of surface water from the development and the use of appropriate materials and other ground materials to improve the permeability of the site to ensure the risk is not increased to the locale. The Environment Agency data maps however have assessed this area to be at very low risk from surface water flooding but the increase in run-off would still be considered at reserved matters stage.

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

The site is a windfall site located within the built up area of Rolleston which although it has limited facilities, it is closely connected to other more sustainable areas and is serviced by public transport. Therefore, the principle of development is acceptable. A restriction of the height of the buildings to 1.5 storey would ensure the buildings are not dominating to the nearby bungalows and are unlikely to result in harm to local character. The proposal would make a positive contribution to housing stock and need within the area.

The proposal would result in an alteration to the existing Rolleston no.5 footpath which is aligned adjacent to Holly Court carriageway and its condition will be upgraded to improve usability and there will be no reduction in provision as a result.

The proposal includes the loss of trees and hedgerows within the site however the loss of trees have been identified as low character and condition with them being categorized as C, U or dead. The trees which are protected by the Tree Preservation Order (N399 2022) are retained and it is considered that the access points and the realignment of the footpath would not result in harm to their longevity. The replacement of trees and hedgerows would increase the BNG for the site and securing the additional landscaping through a S106 agreement would ensure these areas are well managed in perpetuity for the benefit of both nature and the local community.

A well designed scheme, taking in to account the height and the position of neighbouring properties would avoid any negative impacts upon residential amenity.

Matters of highway safety, flood risk and ecology have been carefully considered and it is concluded that the proposal would result in no adverse harm.

All material planning considerations have been taken into account as set out above and appropriate weight has been given to each issue. It is considered that the principle of development is acceptable and two dwellings could be designed to not result in harm to the surrounding area. The proposal is therefore considered to accord with Spatial Policy 3 and 7, Core Policy 9 and 12 of the Amended Core Strategy, Policy DM5 and 7 of the Allocations and Development Management DPD as well as the NPPF and PPG which are material planning considerations.

10.0 Conditions

01

Application for approval of reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

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

02

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

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

03

The scale of the dwellings submitted within the 'reserved matters' application, shall be limited to no greater than 6.2m to the ridge and limited to 1.5 storey (first floor within the roof).

Reason: In the interests of neighbour amenity.

Prior to commencement

04

No works shall be undertaken on or affecting any part of the land comprising the highway known as Rolleston Footpath No.5 until such time as a replacement footway has been provided to adoptable standard along Holly Court, Rolleston, and the existing public right of way legally extinguished under S.257, Town and Country Planning Act 1990, to the satisfaction of the Local Planning Authority in accordance with details to comply with Highway Design Guide.

Reason: In the interests of highway safety and to ensure that the public minor highway is properly dealt with under S.257, Town and Country Planning Act 1990, avoiding the commission of criminal offences (which may be committed in relation to the public right of way by disturbing that highway or obstructing or otherwise impeding the lawful exercise of the public's right of way thereover) acknowledging that a) the footpath is only legally extinguished upon confirmation of such order and b) that there is a need for a suitable replacement pedestrian highway to be provided in substitution thereof.

05

Prior to the commencement of the development hereby approved (including all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to any development commencing on site and the protection measures shall be retained throughout construction until substantial completion of the final dwelling.

Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) a full specification for the installation of boundary treatment works.
- e) a full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- f) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h) a specification for scaffolding and ground protection within tree protection zones.
- i) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- j) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- k) Boundary treatments within the RPA
- l) Methodology and detailed assessment of root pruning
- m) Arboricultural supervision and inspection by a suitably qualified tree specialist
- n) Reporting of inspection and supervision
- o) Methods to improve the rooting environment for retained and proposed trees and landscaping

Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, and pursuant to section 197 of the Town and Country Planning Act 1990

Prior to occupation

06

Prior to first occupation of any dwelling hereby approved, full details of all proposed replacement trees, hedgerows and other soft landscaping within the site, 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 guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period. All tree planting shall be carried out in accordance with those details and at those times. Any trees that are found to be dead, dying, severely damaged or diseased within five 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.

07

No trees or hedges that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless they have first been inspected within 5 calendar days of the development commencing, by a suitably qualified ecologist.

Reason: To ensure that adequate provision is made for the protection of any nesting birds on site.

08

No part of the development hereby permitted shall be brought into use until dropped vehicular footway crossings are available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interest of highway safety.

09

No part of the development hereby permitted shall be brought into use until the access driveways are 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.

10

No part of the development hereby permitted shall be brought into use until the driveway and any parking or turning areas are surfaced in a hard-bound material (not loose gravel) for a minimum of 8.0 metres behind the highway boundary. The surfaced driveway and any

parking or turning areas shall then be maintained in such hard-bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.)

11

No dwelling on site shall be occupied until details of at least 2 bat and 2 bird nest boxes and or bricks and hedgehog houses and fence holes, have been submitted to and approved in writing by the Local Planning Authority. The nest boxes/bricks and hedgehog houses and fence holes, shall then be installed, prior to first occupation of the associated dwelling, in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: In the interests of maintain and enhancing biodiversity.

12

Application for approval of reserved matters shall include dwellings with bedroom numbers which do not exceed 3 bedrooms or in accordance with the latest housing needs survey for Rolleston, if amended or updated.

Reason: In order to comply with Newark and Sherwood District Council's Housing Need Survey 2020 (or as may be amended or updated) and define the expectations of the Reserved Matters application.

Informatives

01

Section 278 Agreement (Highways Act 1980)

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works, you will need to enter into an agreement under Section 278 of the Act. Please contact Sarah Hancock on 01158043168 for details or e-mail Highways Development Control team on hdc.north@nottscc.gov.uk

02

The applicant is advised that the illustrative landscaping scheme submitted on drawing no. (03)001 Rev J is broadly acceptable in terms of the species mix and the reserved matters should be submitted to follow these similar principles.

03

This application has been the subject of discussions during the application process to ensure

that the proposal is acceptable. The Local 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).

04

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

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

05

The decision should be read in conjunction with the associated S106 legal agreement.

BACKGROUND PAPERS

Application case file.

Committee Plan - 22/02341/OUT



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Report to Planning Committee 7 December 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Honor Whitfield, Planner (Development Management), ext. 5823

Report Summary			
Application Number	23/01490/FUL		
Proposal	Change of use of two agricultural buildings to storage and distribution (Class B8)		
Location	Manor Farm, Long Lane, Barnby In The Willows, Newark On Trent, NG24 2SG		
Applicant	Jane Snipe	Agent	Jacqueline Jackson - Marrons Planning
Web Link	23/01490/FUL Change of use of two agricultural buildings to storage and distribution (Class B8) Manor Farm Long Lane Barnby In The Willows Newark On Trent NG24 2SG (newark-sherwooddc.gov.uk)		
Registered	23.08.2022	Target Date Extension	18.10.2023 <i>Requested</i>
Recommendation	That Planning Permission is <u>APPROVED</u> subject to the condition(s) detailed at Section 10.0		

In line with the Council’s Scheme of Delegation, as the Officers recommendation is contrary to the view of the Parish Council (who support the application), the application has been referred to the local ward members. Cllr J Lee has requested the application be referred to the planning committee for consideration for the following reasons:

- 1. Expanded Site Boundary and Additional Access (Drawing 23-275-SK04):** While the intention to accommodate HGV manoeuvrability is understood, the proposed expansion and additional access from Broadsyke Lane raise significant concerns. The potential increase in traffic and environmental impact needs to be thoroughly evaluated, especially considering the possible overestimation of space required for HGV movements.
- 2. Visibility Splays and Road Safety (Drawing 23-275-SK02 Rev C):** The modifications to the visibility splays, particularly the reduction in minor road visibility splay distance, may not adequately safeguard road users, considering the high-speed nature of Long Lane. The

appropriateness of using the DMRB methodology in this context also warrants closer examination.

3. Delivery and Servicing Management Plan: The effectiveness of the proposed plan in mitigating traffic impacts could be limited, particularly during unforeseen circumstances like road works. Additionally, the enforcement mechanism outlined in the plan may not be robust enough to ensure compliance and minimal disruption.

4. Planning Conditions – Need for Stricter Measures: The current planning conditions, while comprehensive, may not fully address potential issues such as noise pollution, air quality, and ecological disturbance. Stricter conditions or additional impact studies might be necessary to ensure the development aligns with local environmental and community standards.

5. Electric Vehicle Charging Facilities: The provision for electric vehicle charging is a positive step; however, the current plan might fall short in promoting broader sustainable transport initiatives and reducing the overall environmental impact of the development.

6. General Considerations: Lastly, the overall scale and nature of the development prompt further consideration regarding its compatibility with the local area's character and the potential strain on existing infrastructure.

1.0 The Site

The application site is located to the north of Barnby in the Willows and relates to a farm site down Broadsyke Lane which lies to the east of Long Lane. Surrounding land is predominately agricultural in nature save for land to the NW which is part of Newark Golf Club. Within the wider site is a farmhouse, a collection of agricultural buildings, a manège and land used for the grazing of horses. This particular application relates to two existing agricultural buildings which lie directly to the south of the existing manège, one of which is c. 673m² and the other 989m². The buildings are modern agricultural buildings, constructed from concrete skirt walls and green/grey cladding.

Other than residential properties and agricultural buildings associated with Manor Farm, there are no residential properties within close proximity to the site; Barnby in the Willows village lies some 800m to the south. The site does not lie within a Conservation Area or in an area at risk of flooding.

2.0 Relevant Planning History

04/00471/FUL - Proposed agricultural crop storage building – Permitted 20.04.2004

04/02105/FUL - Two storey extension and alterations to dwelling – Permitted 04.10.2004

15/00716/FUL - Installation of Ground Mounted Solar Array – Permitted 23.06.2015

17/00858/FUL - Construct a menage including fencing and floodlighting – Permitted 20.07.2017

22/02302/FULM – Change of use of two agricultural buildings to B8 (storage and distribution) – Refused 19.01.2023 due to representing inappropriate development in the open

countryside and failure to adequately demonstrate that the proposed use required a countryside location and how the development would provide or sustain rural employment to meet a local need. It was also considered that the change of use of these buildings could prejudice the existing and future agricultural operation of the farm holding and could result in future pressure for additional agricultural buildings, which would intensify development in the open countryside.

3.0 The Proposal

The application seeks permission for the change of use of two agricultural buildings to B8 (Storage and Distribution) use. The buildings have a combined GEA of 1,662sq m (17,889sq ft).

The supporting statement explains that the buildings are no longer needed on this holding as Barnby Estates has changed their farming contractor and they use larger agricultural machinery that does not fit into these buildings. The statement explains that this is a modernised farming operation where equipment is shared and stored off-site with crops stored in larger off-site storage facilities, reflecting *“modern UK farming practices”*.

The proposal is for the buildings to be used for storage and distribution use for the company Rotom which *“handles equipment, roll cages and metal equipment”*. The business is looking to stock a greater volume of products within its Webshop, as well as allowing it to develop its wooden pallet business (including pallet repairs as an ancillary function of the business). This would result in 3 full time jobs being created at the site.

No physical alterations are proposed to the buildings. The hardstanding to the south of the buildings would be used for parking/vehicles and access into the site is proposed to remain as existing (from the access to the south of the buildings off Broadsyke Lane).

The Supporting Statement explains that in terms of the number of vehicular movements, *“the proposed development would not generate any discernible change to movements when compared to the previous permitted use of the site”*. Additional information has been provided which explains *“Rotom anticipate 1 medium sized vehicle daily to collect any required pallets. They also anticipate 1 trailer every 2 weeks to help restock, as needed. They would also anticipate 1-2 loads per week for the collection or delivery of the wooden pallets, again this would only be a medium sized vehicle.”*

Spaces within the site for car and HGV parking have been provided along with disabled spaces within the land surrounding the buildings. Access would be taken off Broadsyke Lane (east off Long Lane).

For the avoidance of doubt, the assessment outlined below is based on the following plans and supporting information:

- Application Form
- Planning, Design and Access Statement
- Economic Statement
- Appendix 1 Notice of Decision

- Site Location Plan 23.11.2023
- Proposed Site Location Plan – Ref. 23-275-SK04
- Proposed Site Access Visibility Splays – Ref. 23-275-SK02 Rev. B
- Building 1 Floor Plans and Elevations – Ref. 2706-A1-01A
- Building 2 Floor Plans and Elevations – Ref. 2706-A1-02A
- Email from Agent received 02.10.2023.
- Transport Statement
- Magna Transport Highway Note 13.10.2023

4.0 Departure/Public Advertisement Procedure

Occupiers of 4 properties have been individually notified by letter, a site notice has been displayed and an advert has been placed in the local press.

Site Visit Undertaken: 31.08.2023

5.0 Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy Development Plan Document (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 13 – Landscape Character

Allocations & Development Management DPD (2013)

DM1 – Development within Settlements Central to Delivering the Spatial Strategy
 DM5 – Design
 DM8 – Development in the Open Countryside
 DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2023
 Planning Practice Guidance (online resource)
 Landscape Character Assessment Supplementary Plan Document (SPD) 2013

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 – No objection subject to conditions.

(b) Town/Parish Council

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

- Lack of information on vehicle types, numbers and movements.
- Previous application suggested predominant storage whereas this application is more distribution use.
- Concerns about Long Lane weight limit for HGVs which is unlikely to support this business and associated traffic movements.
- Lack of/difficult access at the main road junction with the A17.
- Concerns that agricultural buildings should be preserved with their use maintained for related activities and not that of a new distribution business. A change of use could set a precedent that changes the structure and make up of local businesses in the surrounding area.
- Concerns reiterate the comments made by the Highway Authority.

(c) Representations/Non-Statutory Consultation

NSDC Environmental Health Officer – No comments to make.

No comments have been received from any third party/local resident.

7.0 Comments of the Business Manager – Planning Development

The key issues are:

1. Background Information
2. Principle of Development
3. Impact on the Character and Appearance of the Area
4. Impact on Amenity
5. Impact on Highways Safety
6. 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.

Background Information

It is noted that The Town and Country Planning (General Permitted development) (England) Order 2015 (The Order) permits the change of use of agricultural buildings to certain uses under permitted development (subject to prior approval), however in this case, given the

floor space of the buildings exceeds 500 sqm the change of use of the buildings to B8 use is not eligible for consideration under Class R, Part 3 of Schedule 2 of The Order.

Principle of Development

The site is located in the open countryside - in accordance with the requirements of Spatial Policy 3 (Rural Areas), development away from the main built-up areas of villages, in the open countryside, will be strictly controlled and limited to certain types of development through Policy DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD.

In the interests of sustainability, DM8 supports the conversion of existing buildings before proposing replacement development, stating that proposals should investigate and assess alternative uses for buildings in accordance with the aims of the Spatial Strategy and present a case for the most beneficial use. DM8 also explains that proposals to diversify the economic activity of rural businesses will be supported where it can be shown that they can contribute to the local economy. Proposals must be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible. Paragraph 84 of the NPPF is also relevant in the assessment of this application which affirms that decisions should enable the diversification of agricultural and other land-based businesses.

Core Policy 6 (Shaping our Employment Profile) also states that the economy of the District will be strengthened and broadened to provide a diverse range of employment opportunities by helping the economy of rural areas by rural diversification that will encourage tourism, recreation, rural regeneration, and farm diversification, and complement new appropriate agriculture and forestry development. Development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact.

The application seeks permission for the change of use of two agricultural buildings to B8 (Storage and Distribution) use. It is noted that permission was recently refused in Jan 2023 for the same proposal on this site. This application was refused due to the proposal representing inappropriate development in the open countryside and failure to adequately demonstrate that the proposed use required a countryside location and how the development would provide or sustain rural employment to meet a local need. It was also considered that the change of use of these buildings could prejudice the existing and future agricultural operation of the farm holding and could result in future pressure for additional agricultural buildings, which would intensify development in the open countryside. This application therefore looks to address these reasons for refusal.

This application includes the following changes from the previously refused application:

- Additional information in relation to the end user which is a business that *“handles equipment, roll cages and metal equipment”* known as Rotom which operates from 20 locations across 10 European counties and forms a *“critical part of the logistics supply chain, and a core part of the Midlands economy”*.
- Change in staff numbers from 2-4 full time jobs being created to 3 full-time jobs.

B8 storage and distribution use falls within a wider employment category of uses. The Spatial Strategy of the Amended Core Strategy states that the majority of new employment uses should be located in sustainable locations. This is reflected in Core Policy 6 that states that the economy of the District will be strengthened and broadened to provide a diverse range of employment opportunities by providing most growth, including new employment development, at the Sub-Regional Centre of Newark, and that of a lesser scale directed to our Service Centres and Principal Villages, to match their size, role and regeneration needs. However, it is acknowledged that the conversion of agricultural buildings to such uses is permitted under Class R, Part 3 of Schedule 2 of The Order (i.e. under permitted development) and invariably these buildings will be located in rural locations – thus there is a general acceptance that such use could be acceptable in rural locations. In this case the buildings exceed the floorspace criteria to be eligible under Class R and thus the consideration must be whether the scale of the proposed operation would be acceptable in this context.

The case advanced with this application is that the two grain storage buildings are no longer required on this holding as the farm has been subcontracted to a farm manager that operates from an alternative site. The statement also explains that the farming contractor uses larger agricultural machinery that does not fit into these buildings and thus they are redundant for agricultural purposes. The statement also explains that this is a modernised farming operation where equipment is shared and stored off-site with crops stored in larger off-site storage facilities, reflecting “modern UK farming practices”. Nevertheless, the Applicant wishes to retain the buildings to future proof for potential requirements long term and seeks consent for the change of use of the buildings so they can be rented out to Rotom to assist in bringing in additional revenue for the farm.

The Statement explains that *“Within its Tuxford site, Rotom employ circa. 25 staff and requires additional floorspace in order to grow and develop its UK business. The additional floorspace provided at the application site will enable Rotom to expand its storage area, allowing it to stock a greater volume of products within its Webshop, as well as allowing it to develop its wooden pallet business. Wooden pallets, including pallet repairs, are a new core business area of Rotom. Rotom have confirmed that without use of the application site it would not have commenced its wooden pallet storage and repair business, whilst the Webshop would be limited by available storage (with an outstanding need for additional floorspace), thereby affecting its future business and contribution to the local economy.”*

The statement goes on to state that *“Rotom is understood to have taken a wider search of available properties as part of its business expansion, but the search revealed minimal options for a unit in excess of 5,000ft² in close proximity to its existing site at Tuxford. A review of available units in the area is provided at section 4 of the submitted Economic Statement and concludes that there is a lack of suitable alternative accommodation to meet Rotom’s needs. Rotom’s rental contribution will also assist in the future viability of the Manor Farm farming business [...]”*. The Economic Statement sets out a Review of Alternative Sites and considers four other sites ‘in the vicinity of Tuxford’ as follows:

- Moy Park Limited, Brunel Drive (12,051sq ft total, 9,828sq ft for workshop/warehouse floorspace) – discounted as the size of the unit would limit the business’s ability to develop its web shop and wood pallet expansion in one location.
- Units 1-3 Whittle Close, Newark (7,500sq ft on GF and FF) – discounted as the size of

the ground floor of the building is on the 'lower end' of the businesses requirement and would not provide enough space for the business to develop its web shop and wood pallet expansion in one location.

- Sangiar Court, Whittle Close, Newark (7,121 sq ft total, 4,968sq ft GF)– discounted as the unit is too small to accommodate the businesses needs for additional floorspace.
- Sports Direct, Newark (15,000sq ft total, subdivided into three units) – discounted due to the previous rent exceeding the rent of other available units and a planning application for the change of use of the building for office use.

The statement sets out that the re-use of the barns would contribute to the viability of the farm through rental payments, thus supporting their existing 5 full-time employees. Another benefit cited in the Statement is the business paying business rates.

The supporting information puts forward that this proposed change of use would support the farm through additional rental income – given the proposal is for an entirely separate enterprise that would not be linked to the farm other than through rental income Officers have considered whether this can be considered a true farm diversification proposal. It is acknowledged that most farm businesses engage in other activities in addition to those carried out on their own farm. The definition of diversification used by the government also often excludes agricultural work on another farm but is restricted to *“non-agricultural work of an entrepreneurial nature on or off farm but which utilises farm resources”* (Department of Environment for Food and Rural Affairs, 2022).

In this case the Applicant asserts that the *‘resource’* is the existing agricultural buildings, and the *‘diversification’* would be the letting of these buildings, which in turn provides funds to improve the viability of the existing farming business. The Applicant has drawn attention to the fact that the letting of disused buildings for non-agricultural uses is a widely accepted form of diversification, with a government report published in December 2022 identifying *“The main diversified activity is letting out buildings for non-agricultural use, with almost half (47%) of farms in England engaging in this activity”*¹. It is therefore accepted that the letting out of agricultural buildings for a separate business can be considered as an appropriate form of farm-diversification. This is also reaffirmed by Class R, Part 3 of Schedule 2 of The Order which permits such changes of use (subject to prior approval) for smaller buildings.

CP6 and DM8 requires rural diversification schemes to meet local needs, be proportionate to the existing business and small scale in nature to ensure an acceptable scale and impact and be accommodated in existing buildings wherever possible.

In this case the proposal would reuse existing agricultural buildings, and the letting of these buildings would provide a source of income to subsidise the existing farming business and assist its long-term viability and success. The requirement for an additional income stream is driven by farm income being volatile due to fluctuating markets and climate change inhibiting yield and production targets. Additionally, there is a rapid reduction in subsidies that have traditionally supported farming now taking place which have tapered withdrawal to zero by 2028. In order to secure the future of the farm the Applicant states that an additional source of income is needed, and this proposal would utilise currently underutilised buildings for this purpose without compromising the farm’s agricultural productivity. In addition, the Applicant

¹ <https://www.gov.uk/government/statistics/farm-accounts-in-england/chapter-5-diversification>

explains that Rotom is an existing, well established local business, which is already located within the rural area and significantly contributes to the rural economy and rural employment (albeit currently outside the district). The sustainable growth and expansion of this business, which would sustain local jobs and provide an additional small-scale increase in rural employment is considered to accord with the aims of DM8 and CP6. Whilst noting that the buildings on site are large and thus the use of the buildings for the expansion of this business would not be small scale in terms of area, when compared with the wider holding these buildings are a small part of the wider farming enterprise which are understood to be currently underutilised. It is therefore considered that the proposal would be acceptable in this case, based on the additional information supplied throughout this re-submission application.

Officers are also mindful of the direction of travel in relation to the Government's commitment to supporting farm diversification proposals and the agricultural sector/rural economy. Whilst hosting the Farm to Fork Summit back in June, the UK Prime Minister pledged to *"cut the red tape currently holding farmers back from delivering projects on their land to diversify their incomes"*. The Government said it wants the planning system to respond to the immediate challenges facing farmers and give them greater freedoms to make the best use of their existing agricultural buildings and support the wider rural economy. The Government also recently consulted on a proposed reform of permitted development rights contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) which include several proposals that could impact the diversification of agricultural holdings². Whilst the outcome of the consultation has not been published and thus does not carry any material weight, the consultation indicates the Government's intended direction of travel to supporting rural businesses by enabling them greater flexibility to diversify and bring underutilised buildings and farmland into a use which can generate additional income.

Concerns were also raised in the most recent application on this site in relation to the impact of the loss of the agricultural buildings on the farm holding and how this might increase future pressure for additional agricultural development on the holding. However, Officers note the intention of the farm to retain ownership of the buildings and lease them out to Rotom to enable them to retain the buildings as assets if they are needed for the farm enterprise in the future.

On this basis it is therefore considered that the business proposal would be relatively small scale in the context of the holding as a whole, and it would enable an existing farm enterprise to diversify in a low-cost way that would help sustain the business and existing employment on site. This in turn would sustain local employment in both the farm enterprise and Rotom business and thus, the rural economy of the district. It is therefore considered that based on the additional information provided as part of this re-submission that the principle of this use in this location, for the purposes of rural diversification, is now considered to be acceptable in principle in accordance with policies CP6 and DM8, subject to a more detailed assessment of other factors below.

Impact on the Character and Appearance of the Area

² Public consultation on these proposed amendments closed 25 September 2023.

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 (Sustainable Design) states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. 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. Core Policy 13 (Landscape Character) also 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 application site is within the East Nottinghamshire Sandlands Policy Zone 04: Winthorpe Village Farmlands. The landscape condition is defined as being moderate with moderate landscape sensitivity. Specific actions in relation to built features with the Policy Zone are to conserve what remains of the rural landscape by concentrating new development around the existing settlement and create new development which reflects the local built vernacular.

In the assessment of the 22/02302/FULM application the Officer Report stated, *“The proposal is to change the use of two existing agricultural buildings. No external alterations are proposed and therefore any impact on the character and appearance of the area would be very limited. Any visual or character impact would be limited to the associated comings and goings of the proposed business compared with the existing agricultural use, however this is unlikely to result in any perceivable change given the location and nature of the existing use. It is therefore not considered that the proposed change of use would result in any adverse impact on the character or appearance of the area. [...] Therefore, [...] it is not considered that it would have an unacceptable effect on the character and appearance of the area. It would comply with CP9 and 13 of the Amended Core Strategy and Policy DM5 of the Allocations & Development Management DPD, the aims of the Council’s Landscape Character Assessment Supplementary Planning Document (2013), as well as the provisions of the NPPF where it concerns design and landscape character matters.”*

Given the application at hand proposes no external alterations to the building and is for the same use as proposed in 22/02302/FULM the above conclusion remains relevant.

Impact upon Amenity

Consideration of amenity impacts is required through Policy DM5 which states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. Moreover, the presence of existing development which has the potential for a detrimental impact on new development should also be considered and mitigated for in proposals. New development that cannot be afforded an adequate standard of amenity or creates an unacceptable standard of amenity will be resisted.

In the assessment of the 22/02302/FULM application the Officer Report stated, *“Residential dwellings associated with the farm which lie to the SW and across the highway to the south and the closest dwelling not associated with the farm is located some 400 metres to the north*

of the site. The properties to the SW and S are separated from the application site by other agricultural buildings on the holding and the access to the application buildings is via a track to the east of the properties. The supporting statement advances that the proposed B8 occupier would have a relatively small amount of associated vehicle movements and would be less intensive than the operation of the site in agricultural use. Officers are mindful that granting consent for B8 use would mean that any such business could operate from the site, which may have different associated movements than the proposed occupier, however when compared with the lawful use of the site it is not considered likely that the change of use would result in any significant impact on surrounding occupiers. On this basis it is considered that the proposal would comply with policy DM5 in this regard."

Given the application at hand is for the same use as proposed in 22/02302/FULM the above conclusion remains relevant.

Impact upon Highway Safety

Spatial Policy 7 (Sustainable Transport) 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.

In the assessment of the 22/02302/FULM application the Officer Report stated, "No alterations to the access or parking arrangements on site have been made or are proposed as part of this application. As explained in the previous section of this report the supporting statement advances that the proposed B8 occupier would have a relatively small amount of associated vehicle movements and would be less intensive than the operation of the site in agricultural use. Whilst this may not be the case for all B8 users, the comments received from the Highway Authority state that the proposal is unlikely to give rise to highway safety issues given the historic agricultural uses. On this basis the proposal is considered to accord with the requirements of Spatial Policy 7 and Policy DM5 of the DPD in this regard."

During the course of this application the Highway Authority have raised a number of concerns following receipt of an updated Planning Statement detailing the nature of the proposed use of the site. It is noted that their initial objection to this application conflicted with their previous position in relation to the proposed change of use (under 22/02302/FULM), however given they raised concerns in relation to highways safety the comments have been considered and addressed by the Applicant throughout the lifetime of the application. This has included the provision of a Transport Statement and additional Highways Note and amendments made to the Proposed Site Plan and Site Location Plan (which have also resulted in public re-consultations).

The Highway Authority has advised that the amended plans submitted have amended the planning application site boundary to provide additional space within the site and an additional access from Broadsyke Lane (i.e. two points of access into the site off Broadsyke Lane), both measures being necessary to ensure that HGVs can manoeuvre to, from and within the site without impact on the public highway. This drawing also includes the land required for visibility splays at the Long Lane/Broadsyke Lane junction within the revised planning application site boundary. Car, cycle, and HGV parking are illustrated on the amended plan, demonstrating that adequate space is available within the site to

accommodate the proposed B8 use. The details shown the Proposed Site Location Plan (SK04) are therefore considered to be acceptable to the highway authority subject to a condition requiring provision of electric vehicle charging points however the Highway Authority have not justified why the provision of EV charging points would be necessary to make this development acceptable in planning terms and it is noted that the Council's Parking SPD does not advise EV points to be necessary for this proposed use. If provided, EV charging points would be welcomed but they are not considered necessary in planning terms.

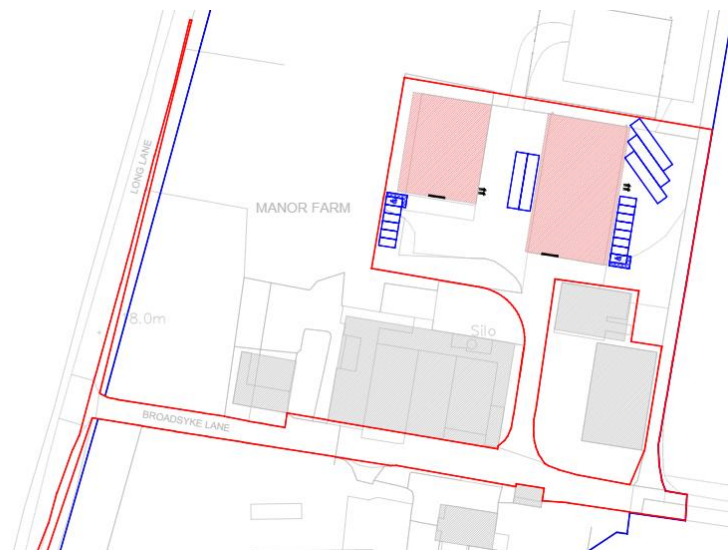
The Highways Authority have also advised in relation to the Proposed Site Access Visibility Splays plan (SK02 Rev. C) that this drawing illustrates proposed visibility splays at the Long Lane/Broadsyke Lane junction which are necessary to safely mitigate the traffic impact of the proposed development at the Long Lane/Broadsyke Lane junction based on the traffic speed surveys undertaken by the applicant and standard Design Manual for Roads and Bridges methodology. The Highway Authority has advised that there has been a minor relaxation of the required splays as a result of speed surveys undertaken by the Applicant, which is justified in this case because the proposed development is likely to reduce the volume of tractor movements at the Long Lane/Broadsyke Lane junction due to the proposed change of use.

The Highways Authority have advised that the splays proposed on drawing number 23-275-SK02 Rev C are acceptable subject to a condition requiring the visibility splays shall be kept clear of obstructions, structures or erections for the life of the development. The condition also requires existing hedgerows within 1m of the visibility splays to be removed and new hedgerows not to be planted within 1m of the visibility splays (with reference to the Highways Design Guide made in this respect in an ongoing email chain between the Highway Officer and Applicant) and it is noted that SK02 Rev. C refers to the hedgerows being removed. This would result in the removal of approx. 120m length of hedgerow to the north of the junction and 160m to the south which would have a significant adverse impact on the landscape character and visual amenity of the area as well as consequential ecological implications – the extent of the visibility splays is roughly annotated on the aerial image below:



Having referred to the Highways Design Guide it is noted that this states that “*Hedges should not **be planted** within 1.0m of the visibility splay if there is potential for the visibility splay to be encroached upon by vegetation during periods of rapid growth*” (emphasis added). In this

case it is noted that the hedgerow along the site boundary/adjacent to the splays is existing rather than new planting, and subject to the proper maintenance of the hedgerow to ensure it does not encroach within this splay (see plan extract below showing the splay is west of the line of the hedgerow) this would ensure that the splays are provided and maintained in the interest of highways safety. Amending the condition to require the hedgerows to be managed to ensure the visibility splays are maintained free of obstruction would be reasonable and would achieve the aim of the condition rather than requiring their unnecessary removal which would have consequential character and ecological implications and is not considered to be reasonable or necessary to make the development acceptable in planning terms.



Plan extract showing the visibility splay

Turning now to delivering and servicing it is noted that the submitted transport notes explain that the site will operate with vehicles exiting the site north (using the A17 to access the site) and therefore will not pass through Barnby-in-the-Willows village. This could be managed by signage at the Broadsyke Lane exits from the site prohibiting left turns. A management plan is also proposed to be submitted to mitigate traffic impacts on Barnby-in-the-Willows and the Highway Authority have considered this to be acceptable and necessary to prevent any adverse impact on the nearby village and have suggested a condition to this effect. Officers have considered whether this is reasonable and necessary, and it is considered that given the nature of the surrounding road networks and that the closest main road is off Broadsyke Lane is to the north of the site, which would avoid travelling south towards the village of Barnby, that this would prevent any adverse impact on the capacity of the highway and therefore highways safety within the village. Consideration has been given to the suitability of the A17 junction with Long Lane for the proposed use and accident reports have been reviewed and explained in the updated transport note – this explains that none of the reported collisions in the last 10 years had been directly related to the A17/Long Lane junction and given the previous use of the barns generated large HGV movements (the majority of which were 16.5m articulated lorries) and these movements occurred at the A17/Long Lane junction this demonstrates the suitability of the junction to accommodate HGVs which would not be different/materially worse with the proposed use.

Overall, in light of the negotiations undertaken throughout the course of the application and the support from the Highway Authority, subject to conditions as explained above the

proposal is considered to accord with the requirements of Spatial Policy 7 and Policy DM5 of the DPD in this regard.

Other Matters

The statement puts forward that the proposal would make effective use of previously developed land (PDL) and that this should be encouraged and given positive weight in the planning balance in accordance with Section 11 of the NPPF. However, Officers note that the definition of PDL in the NPPF specifically excludes land that is or was last occupied by agricultural buildings. The land is therefore not considered to be PDL.

Officers note the concerns raised by Cllr Lee in his request to call the application to planning committee which have been duly considered as part of this assessment. Concerns relating to noise and air pollution are noted but are not considered to arise as a result of this change of use, particularly when comparing the proposed use with the fall-back position that the site can be used for agricultural uses. For this reason there is also not anticipated to be any ecological impact as a result of the proposal as no alterations are proposed to the buildings, no trees/hedgerows are proposed for removal and no additional external lighting is proposed.

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

In light of the additional information submitted throughout the course of this application Officers are satisfied that the principle of the development at the site is now acceptable and would support the diversification of this rural enterprise. It is not considered that the proposal would result in any material impact on the character and appearance of the site, highways safety concerns or neighbouring amenity. It is therefore considered that the proposal would accord with the aims of NPPF as well as the abovementioned policies within the Development Plan. It is therefore recommended that planning permission be granted.

10.0 Conditions(s)

01

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

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

02

The development hereby permitted shall not be carried out except in accordance with the

following approved plans, reference:

- Site Location Plan 23.11.2023
- Proposed Site Location Plan – Ref. 23-275-SK04
- Proposed Site Access Visibility Splays – Ref. 23-275-SK02 Rev. B
- Building 1 Floor Plans and Elevations – Ref. 2706-A1-01A
- Building 2 Floor Plans and Elevations – Ref. 2706-A1-02A

Reason: So as to define this permission.

03

The Site shall be used for Use Class B8 and for no other purpose, including any other use permitted within the Schedule to the Town and Country Planning (Use Classes Order) 1987 or the Town and Country Planning (General Permitted Development) (England) Order 2015, or in any provision equivalent to those Classes or Orders or in any statutory instrument revoking and re-enacting those Orders with or without modification).

Reason: To define the permission and to ensure that the local planning authority retains control over the specified use classes of development normally permitted under the abovementioned Orders (or any amending legislation) in acknowledgement of the site's location in the Open Countryside.

04

No raw materials, equipment, finished products or waste materials shall be stored outside buildings.

Reason: In the interests of visual amenity.

05

No part of the development shall be brought into use until the on-site car, cycle and HGV parking areas are provided in accordance with drawing number 23-275-SK04. The car, cycle and HGV parking areas shall not be used for any purpose other than parking, turning, and loading and unloading of vehicles.

Reason: In the interest of highway safety.

06

No part of the development shall be brought into use until the visibility splays at the Long Lane/Broadsyke Lane junction shown on drawing number 23-275-SK02 Rev B have been provided. The area within the visibility splays shall be kept clear of obstructions, structures or erections and shall be maintained for the life of the development.

Reason: In the interest of highway safety.

07

No part of the development shall be brought into use until a delivery and servicing management plan (the plan) has been submitted to and approved in writing by the Local

Planning Authority. The plan shall set out proposals for the management of use of the site accesses onto Broadsyke Lane and to prevent development traffic from using Long Lane to the south of Broadsyke Lane. The approved plan shall include a timetable for implementation and an enforcement mechanism. The plan shall be implemented in accordance with the timetable set out in the plan. The approved delivery and servicing management plan shall operate for the life of the development.

Reason: In the interest of sustainable travel and highway safety.

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/

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

02

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

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.



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Planning Committee – 7 December 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
That the report be noted.

Background papers

Application case files.

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

Lisa Hughes
Business Manager – Planning Development

Appendix A: Appeals Lodged (received between 23 October 2023 and 20 November 2023)

Appeal reference	Application number	Address	Proposal	Procedure	Appeal aga
APP/B3030/C/23/3328093	22/00056/ENFB	The Magnolias Ricket Lane Blidworth NG21 0PF	Without planning permission, development consisting of the erection of a boundary treatment/means of enclosure (as shown within photographs 1 and 2)	Written Representation	Service of Enforcement Notice
APP/B3030/C/23/3331876	23/00410/ENFB	Hardys Farm Shop Hawton Lane Farndon Newark On Trent NG24 3SD	Without planning permission, operational development consisting of the erection of a marquee-structure, as marked by an "X" on the attached Plan A and shown on Photograph 1.	Written Representation	Service of Enforcement Notice

APP/B3030/C/23/3332032	23/00150/ENFB	B And Q Unit A Maltings Retail Park North Gate Newark On Trent NG24 1GJ	Without planning permission, operational development consisting of the erection of a canopy structure to the rear (north) of the premises, illustrated in red on the attached Plan A and shown on photograph 1.	Written Representation	Service of Enforcement Notice
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APP/B3030/C/23/3329019	22/00281/ENFB	Hutchinson Engineering Services Ltd Great North Road Weston Newark On Trent NG23 6SY	Without planning permission, the material change of use of agricultural land edged in yellow on the attached Plan A, to use for the parking and manoeuvring of commercial and staff vehicles ancillary to the use of the wider site as an industrial haulage yard, and operational development consisting of the laying of hardcore and the erection of a sectional concrete wall on the southern, western and eastern	Written Representation	Service of Enforcement Notice
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			boundaries of the land, identified with the blue lines on Plan A, as shown within photographs 1, 2 and 3.		
APP/B3030/D/23/3330632	23/01181/HOUSE	2 Birkland Drive Edwinstowe NG21 9LU	Proposed side extension to replace existing outbuilding and material alterations to existing dwelling.	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/23/3331638	23/00996/HOUSE	Tamworth House Palmer Road Sutton On Trent NG23 6PP	Single storey rear extension	Fast Track Appeal	Refusal of a planning application
APP/B3030/W/23/3329011	23/00770/FUL	Hutchinson Engineering Services Ltd Great North Road Weston Newark On Trent NG23 6SY	Proposed change of use of agricultural land to proposed turning area, long term staff parking area and electric vehicle charging points	Written Representation	Refusal of a planning application

Planning Committee – 7 December 2023

Appendix B: Appeals Determined (between 23 October 2023 and 20 November 2023)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
22/00180/ENFA	Bonington Vicarage Road South Clifton Newark On Trent NG23 7AQ	Without planning permission: 1) The erection of timber trellis-style fencing affixed to the western boundary wall (image 1 and image 2) 2) The erection of a pergola along the western boundary wall (image 2) 3) The erection of a pergola affixed to the western elevation of the dwellinghouse (image 3)	Delegated Officer	Not Applicable	Appeal Dismissed	24th October 2023
Click on the following link to view further details of this application: https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RGNBXMLB0DF01						

22/00180/ENFA	Bonington Vicarage Road South Clifton Newark On Trent NG23 7AQ	Without planning permission: 1) The erection of timber trellis-style fencing affixed to the western boundary wall (image 1 and image 2) 2) The erection of a pergola along the western boundary wall (image 2) 3) The erection of a pergola affixed to the western elevation of the dwellinghouse (image 3)	Delegated Officer	Not Applicable	Appeal Dismissed	24th October 2023
Click on the following link to view further details of this application: https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RJCOHWLB0DF00						

22/00390/ENFB	Field Reference Number 9710 Lindhurst Lane Lindhurst	Without planning permission, operational development on "the Land" comprising of the construction of a stable block (marked "X" on the attached Location Plan and identified within plan 1)	Delegated Officer	Not Applicable	Appeal Dismissed	24th October 2023
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Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RSLDO2LB0FL01>

22/00390/ENFB	Field Reference Number 9710 Lindhurst Lane Lindhurst	Without planning permission, operational development on "the Land" comprising of the construction of a stable block (marked "X" on the attached Location Plan and identified within plan 1)	Delegated Officer	Not Applicable	Appeal Dismissed	24th October 2023
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Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RSLDO2LB0FL01>

22/00390/ENFB	Field Reference Number 9710 Lindhurst Lane Lindhurst	Without planning permission, operational development on "the Land" comprising of the construction of a stable block (marked "X" on the attached Location Plan and identified within plan 1)	Delegated Officer	Not Applicable	Appeal Dismissed	24th October 2023
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Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RSLDO2LB0FL01>

22/02213/FUL	Land To the West of Cherry View Bilsthorpe Road Eakring NG22 0DG	1no. single-storey dwelling	Delegated Officer	Not Applicable	Appeal Dismissed	23rd October 2023
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Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RLECJ1LBFUR00>

23/00198/ADV	ATM Esso Interchange Filling Station Fosse Road Winthorpe	7M Totem Pole Sign	Delegated Officer	Not Applicable	Appeal Allowed	24th October 2023
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Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RPG9AELBH2700>

23/00665/HOUSE	Bridge Cottage Rufford Lane Wellow NG22 0EQ	Loft conversion with 2 dormer windows and balcony	Delegated Officer	Not Applicable	Appeal Dismissed	15th November 2023
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Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RT9G4RLBI6B00>

22/02023/FUL	Unit A Maltings Retail Park North Gate Newark On Trent NG24 1GJ	Proposed canopy to cover outdoor retail floorspace of proposed garden centre	Delegated Officer	Not Applicable	Appeal Not Determined (Out of Time)	30th October 2023
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Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RJYF6ZLBFG300>

Recommendation

That the report be noted.

Background papers

Application case files.

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

Sarah Hughes

Business Manager – Planning Development



Report to Planning Committee 7 December 2023

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Lisa Hughes, Business Manager – Planning Development, x 5565

Report Summary	
Report Title	Development Management Performance Report
Purpose of Report	This report relates to the performance of the Planning Development Business Unit over the three-month period July to September 2023. In order for the latest quarter's performance to be understood in context, in some areas data going back to July 2021 is provided. The performance of the Planning Enforcement team is provided as a separate report.
Recommendations	For noting. The services it assists in the delivery of Community Plan Objectives: <ul style="list-style-type: none"> • Deliver inclusive and sustainable economic growth • Create more and better-quality homes through our roles as landlord, developer and planning authority • Enhance and protect the district's natural environment

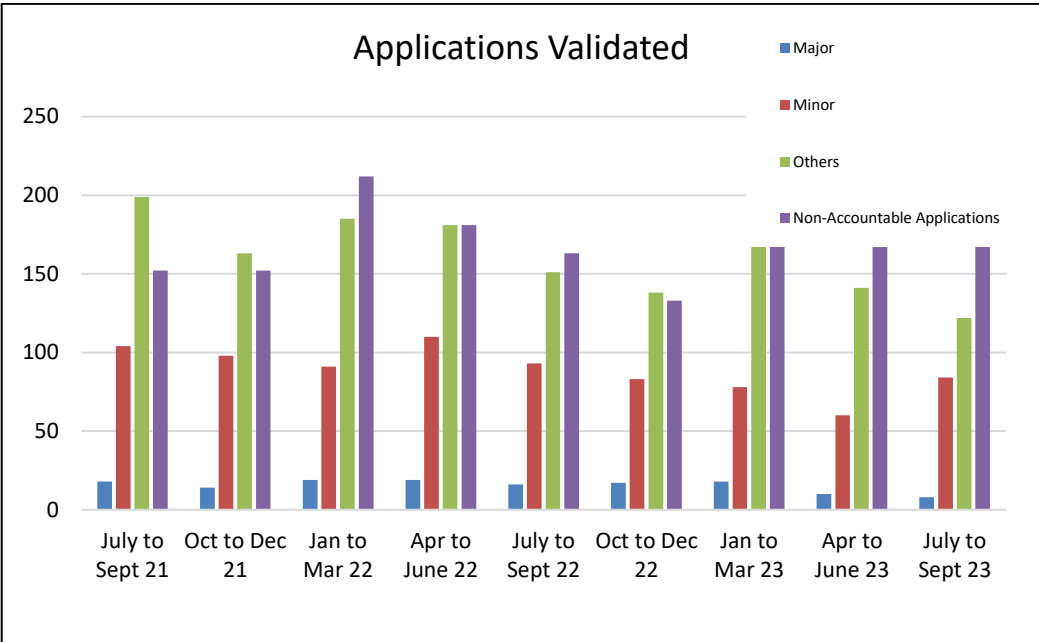
1.0 Background

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 July 2021 up until September 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 second quarter of 2023/24, a total of 586 valid applications were received. This, compared to the same quarter in 2022/23 shows a reduction from 623 applications or an approximate 6% decrease in application workload. The trend of application numbers being lower than during the pandemic in 2021/22 continues. It would appear the increase during the pandemic were outliers and numbers are returning what is the norm. 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 minor developments, permitted development enquiries, tree works and non-countable.



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

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

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

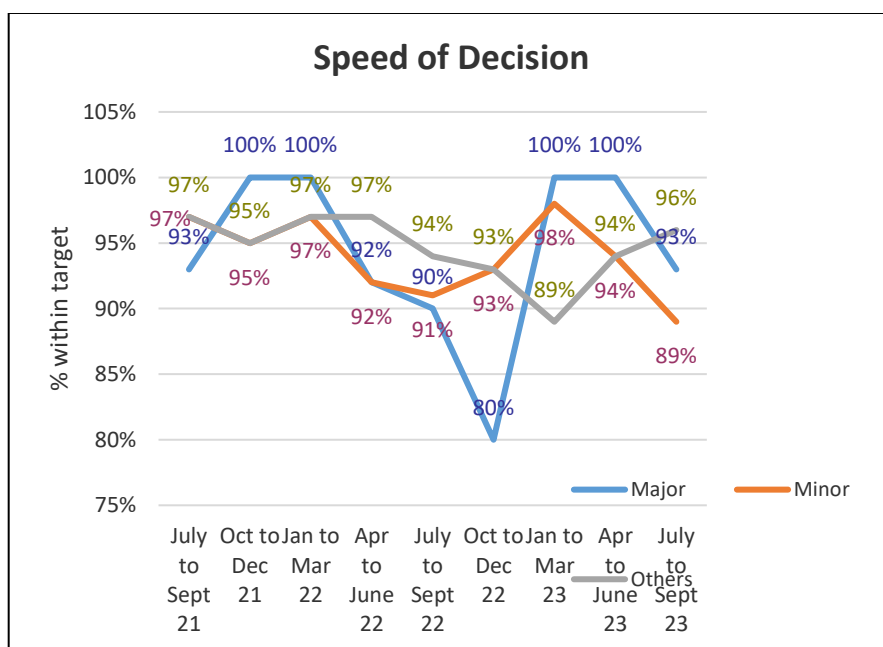
2.3 The ‘non countable’ category are those applications which are not reported to the Department for Levelling Up, Housing and Communities (DLUHC). Such applications include, but are not limited to prior approvals, discharge of conditions, etc.

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 July to September 2023, 93% of major applications have been determined within these timescales, which is a drop compared to the previous quarter. This is as a result of 1 of the 14 decisions made being outside agreed dates.

- 3.2 For non-majors, the target set nationally is 70% over a two-year period. 92.5% of non-major applications during Q2 have been determined in time. The graph below shows non-majors separated out between minor and others.
- 3.3 These targets are challenging when taking account, in accordance with the National Planning Policy Framework, working 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.
- 3.4 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.
- 3.5 The following graph relates to the percentage of planning applications determined within set timescales.

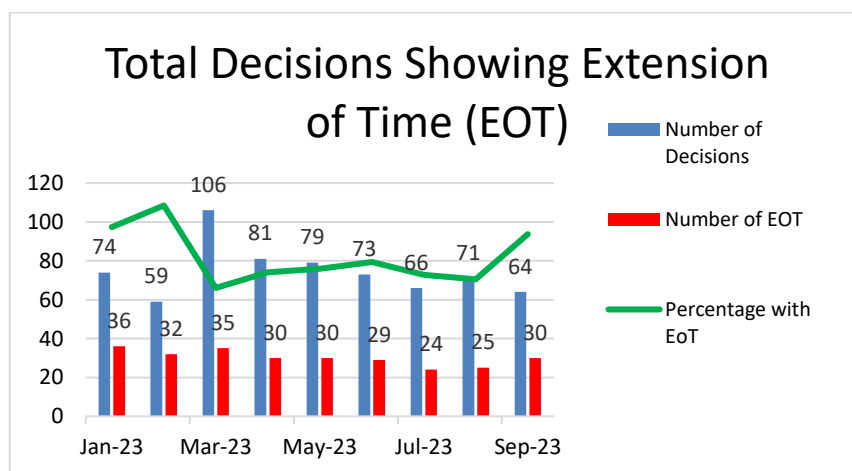


- 3.6 These targets continue to be achieved due in part to seeking time extensions for dealing with the applications beyond their [original] statutory time-period from applicants. Time extensions might be sought by either party (the applicant or the Council) for a variety of reasons but might include 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, as previously reported to Members 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 suggested increasing planning application fees by 35% for major developments and 25% for non-majors. This fee increase has been agreed by both House of Lords and Commons and are awaiting being formally 'made'. This increase in fees is said,

alongside other changes set out in the Levelling Up and Regeneration Bill (now Act), 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.

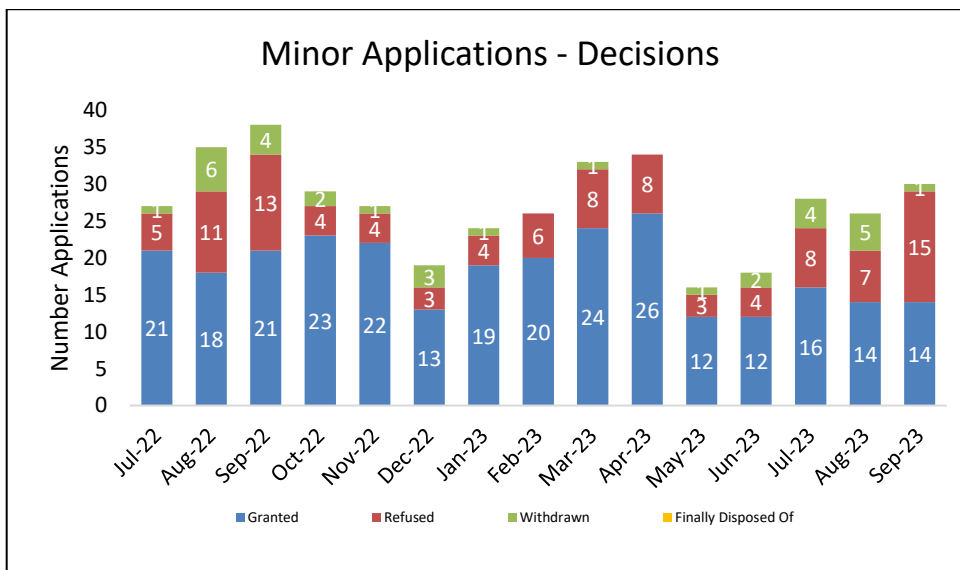
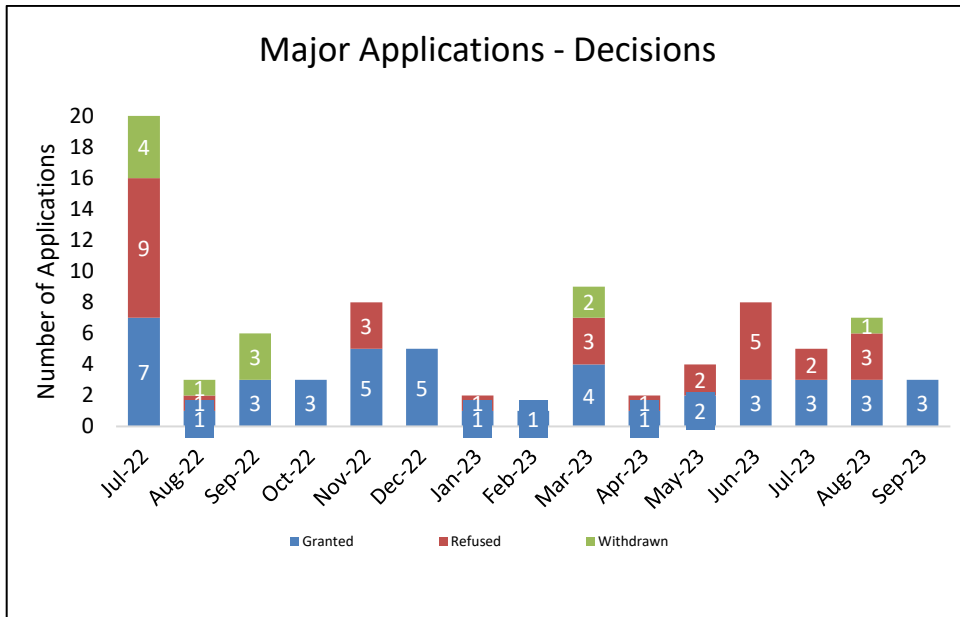
3.7 As advised in the previous report, the outcome of the ‘performance’ element is being considered by the Government. When any information is known, this will be reported, together with any changes to processes that might be required in order to ensure that performance is maintained. This will be undertaken 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.

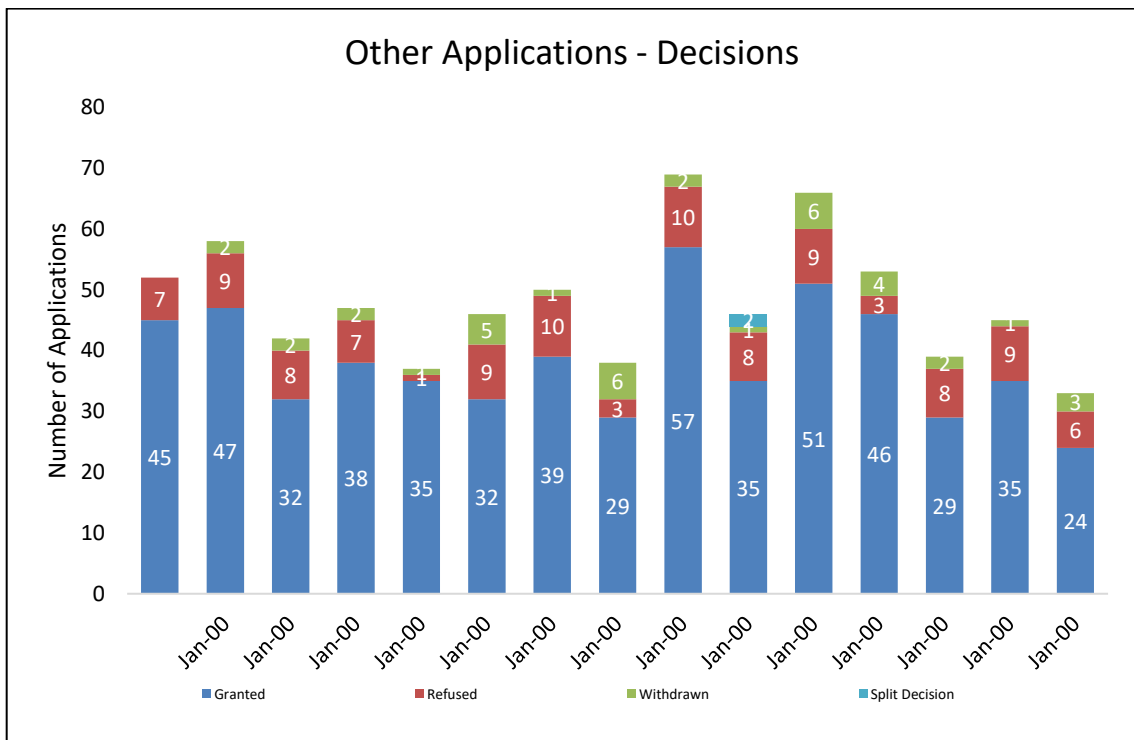
3.8 The graph below shows the total number of applications determined each month in blue and alongside, those in red are the number of applications where time extensions have been sought of those determined. Seeking time extensions means that case officer workloads increase overall which makes dealing 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.



3.9 The number of decisions each quarter fluctuates, although it can be seen in the graph above that for July, August and September the numbers have been consistent although slightly fewer than the previous quarter. 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. In relation to the percentage of applications approved, compared to the number determined (including withdrawals), for majors 60%, minors 55% and others, 75%. Withdrawals (13 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. However, the draft Fee Regulations detail that the exemption relating to free-go's will be removed (subject to time limited criteria).





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 (TWCA) 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:

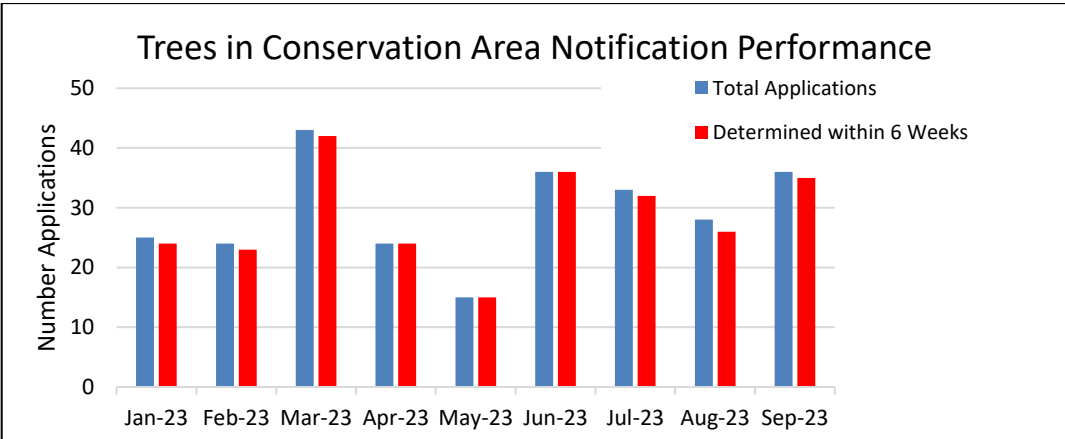
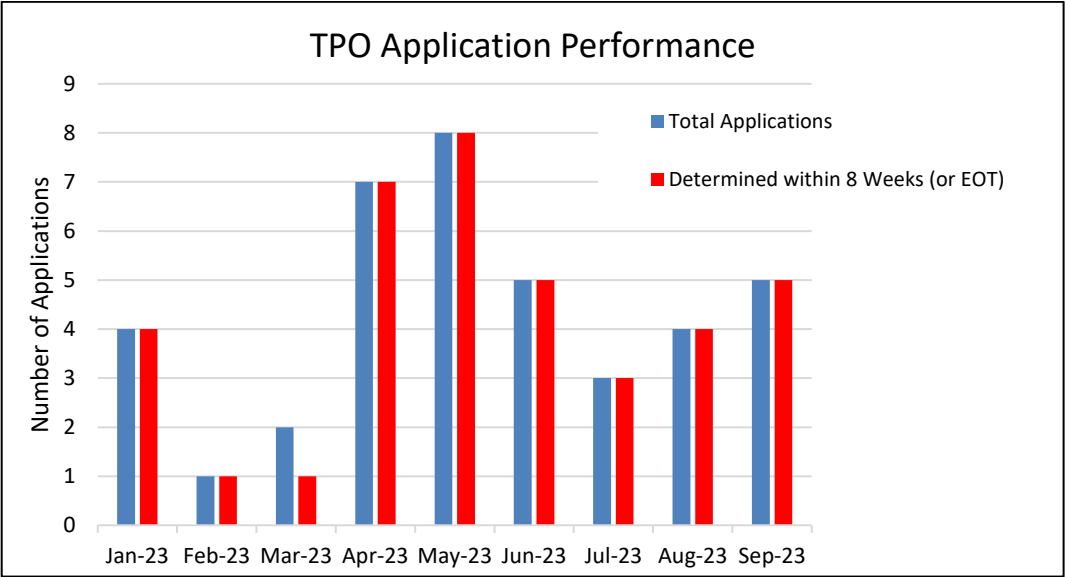
- Its condition and suitability
- Its remaining longevity (in years) and suitability
- Its relative public visibility and suitability
- Other factors, such as whether it has historical value, its rarity, whether it is part of a group etc.

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), time is taken to proactively engage, 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 has consequentially seen delays regarding time taken to reply and the agent/applicant’s availability to meet on site. This can, for a small number, result in a delay in issuing the Council’s decision (over the statutory 42 days). In the last quarter, the service determined 97 TWCA notifications, 92 within the 6-weeks. Of the remaining 5, delays to 3 were due to further discussions with applicant/agent alongside additional time for onsite meetings. However, it is with regret to report, the remaining 2 are because of a delay in issuing the decision.

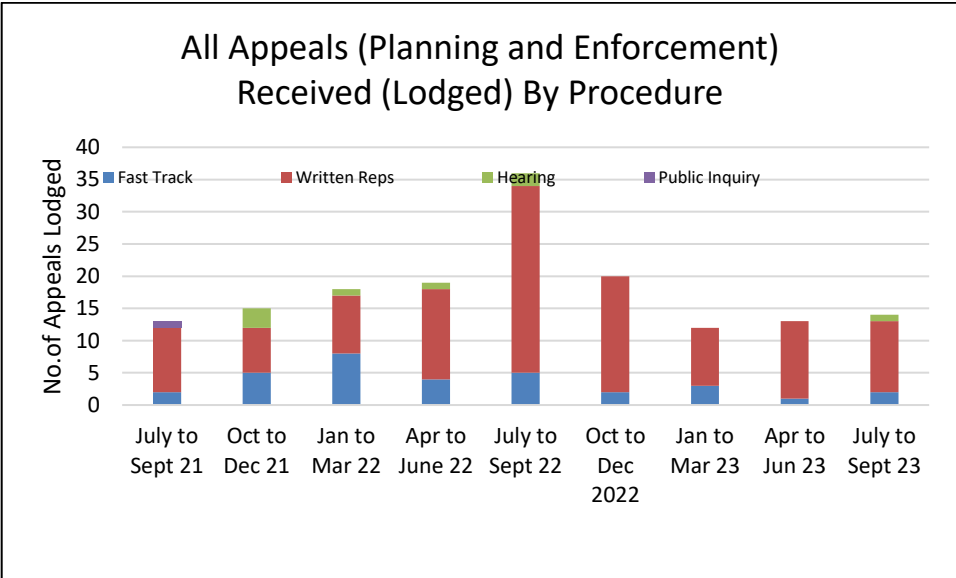
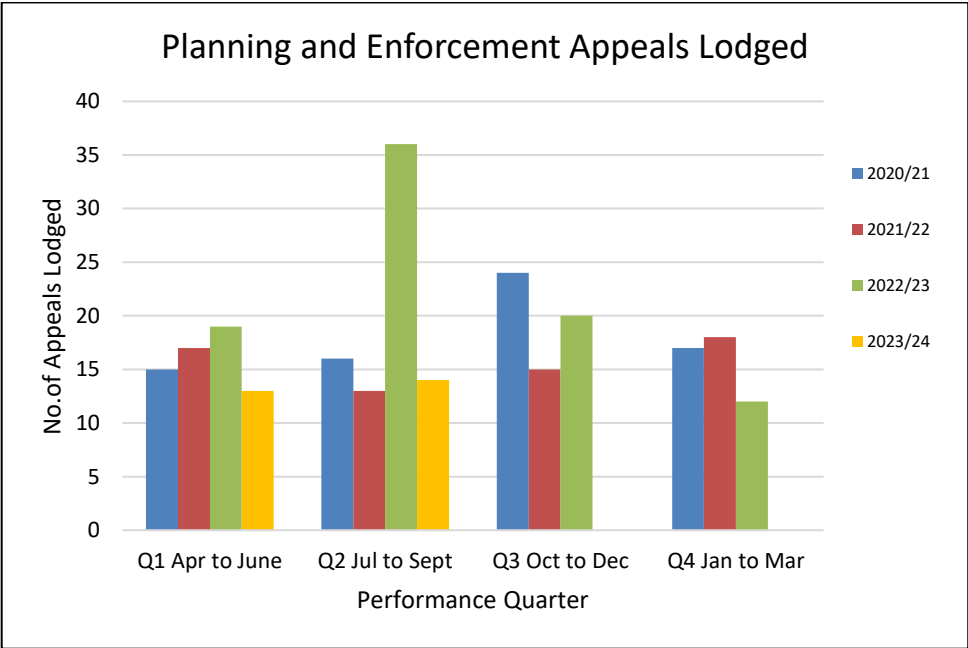
Overall, previous training undertaken with the Technical Support team who validate the applications to seek appropriate descriptions of work from the outset continues to have had a positive outcome. In addition, ‘better’ submissions are being received due to the engagement undertaken by the Tree/Landscaping Officer. This engagement will continue and it is hoped quality of submissions as well.



5.0 Appeals

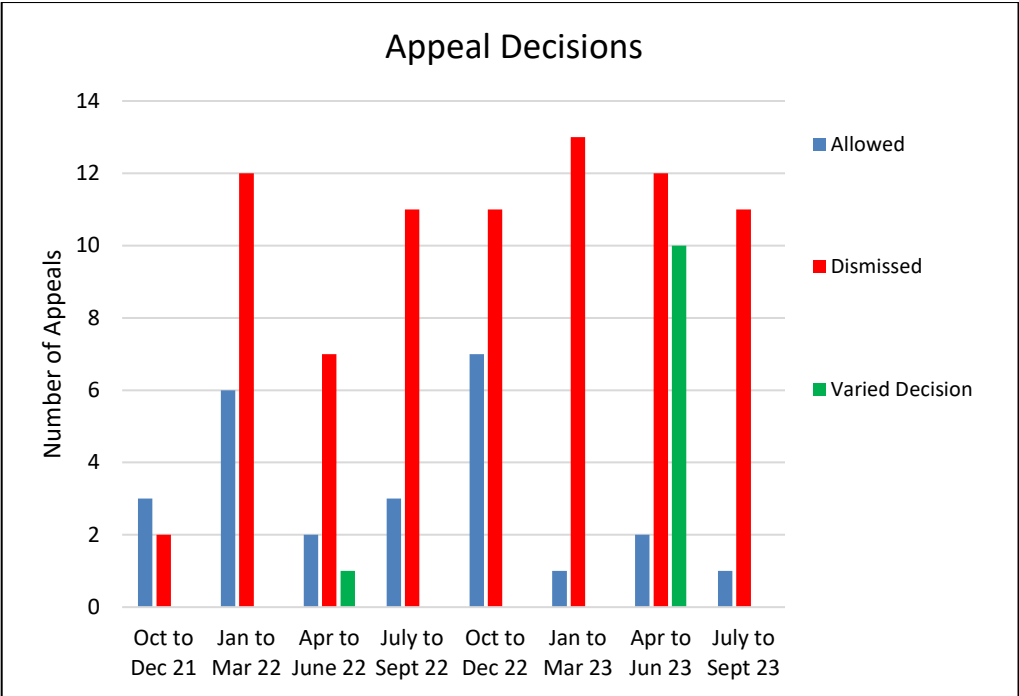
5.1 The charts below show the number of appeals against planning applications and enforcement notices that have been submitted over the last 3-4 years, quarter on

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 a decrease in the number of decisions issued by the Inspectorate compared to previous quarters, from 24 to 12. The number dismissed

continues to significantly exceed the number allowed and for the monitoring period between July to October 2023 the number allowed is 1 out of 11 decisions, representing 9%, in line with the Government’s previous target of having no more than 33% being allowed. For information, when a split decision has been issued, in terms of the Government’s monitoring, this is treated as a dismissal.



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 – there have been no changes to staffing in the last quarter.

6.2 The Levelling Up and Regeneration Bill became an Act on 26th October 2023. The impact of this Act will be considered and an update provided to members in due course. The majority of the Act is not in force with some areas coming into force on the 26th December. Other areas require secondary legislation to be issued. The proposed implementation of biodiversity net gain in November has been delayed until January 2024 for major developments. There is no change to the implementation for non-major (being April 2024). Guidance and Regulations have yet to be published.

- 6.3 A report was presented to Planning Committee in September on proposed changes to permitted development rights. No response has been provided to this consultation.
- 6.4 Following the consultation in relation to planning performance and fee increases, fee regulations have been published increasing the fee for major applications by 35% and all other application types by 25%. This comes into effect on 6th December. There are other changes to legislation with the removal of free-go', subject to defined criteria. In addition, the planning guarantee for non-major decisions has been reduced from 26-weeks to 16-weeks. 26 weeks still applies to major developments. The guarantee is that any application determined beyond this number of weeks shall have the fee refunded unless an extension of time has been agreed.
- 6.5 The Planning Development and Public Protection & Licensing teams are progressing the procurement of software to deliver our services. In relation to planning, this will be a significant piece of work requiring significant investment of time in setting up the software to ensure that our service is able to continue without interruption. It is expected that a number of improvements will be made meaning the service will be able to be operated in a more effective way for the benefit of all involved.
- 6.6 The Council will shortly be dealing with 3 Nationally Strategic Infrastructure Projects (NSIPs) – A46 dualling, solar farms – one within the South Clifton area (including both West Lindsey and Bassetlaw) and the other in the Carlton, Norwell, Muskham (etc.) locality. These will have, both individually and collectively, significant resource impacts on the department. Resources are being secured from the developers to deal with these.
- 6.7 The progress reported in the previous performance report in relation to the provision of TPO's online has been completed and they can now be viewed via the Council's Public Access System. This will hopefully benefit all residents and businesses in the District by having this information available 24-7.
- 6.8 The Planning Application Validation Checklist has had a minor amendment relating to the need for Preliminary Bat Roost Assessments. An email to all agents who have submitted applications to us over the previous 12-months was sent out to advise of this change and to provide a copy of the Explanatory Note.

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 significant challenges for the team in view of the number and types of proposals being submitted and engagement with as well as major projects, such as the software procurement.

8.2 However, the team, as always is keen and positive towards always improving and meeting the high standards it always aims to achieve.

Background Papers and Published Documents

None



Report to Planning Committee 7 December 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Richard Marshall, Senior Planner (Enforcement), Richard.marshall@newark-sherwooddc.gov.uk

Report Summary	
Report Title	Quarterly planning enforcement activity update report
Purpose of Report	<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>
Period covered	1 st July – 30 th September
Recommendation	That Planning Committee accept the contents of the report and note the ongoing work of the planning enforcement team.

1.0 Background

This report relates to the second quarter of 2023/24 from the 1st July to the 30th September 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 Q2 in terms of the numbers of cases that have been received and resolved (Charts 1 & 2) and also provides a breakdown of the reasons that cases have been resolved (Chart 3). Charts 4 and 5 details the performance of the enforcement team when compared against time limits set out within the Newark and Sherwood District Planning Enforcement Plan (PEP) in Q2 and since the targets were first set.

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. Schedule D provides examples of Notices having been complied with.

2.0 **SCHEDULE A – OUTLINE OF ENFORCEMENT ACTIVITY**

Review of number of enforcement cases received and resolved

Members will note from Chart 1 that the enforcement team has received an exceptionally high number of cases this quarter - which routinely occurs over the summer period – but the team has nevertheless resolved many more cases than would typically be expected over a quarter (the extent of this high level of activity being apparent from Chart 2 which shows the level of activity over the previous 2 years).

Members will note from Chart 2 that the team received approximately 44% more cases received during Q2 for the current year compared to the same period during 2022/23. Pleasingly, over that same period 84% more cases were resolved. Whilst these figures include several enforcement cases that were received following a series of complaints submitted by the same complainant, as part of an ongoing campaign against the decision of the Council to enforce against their property, given the increased efforts to investigate the additional cases it is an extremely gratifying figure and demonstrates the team’s ongoing dedication to improvements in the service provided.

Chart 3 sets out the reasons why cases have been resolved in Q2; the predominant reason for which is that the allegation made to the team is not a breach of planning control (meaning works being undertaken without, or in breach of, the relevant permissions and consents that can be issued by the Local Authority). These cases nevertheless require Officer resource to inspect the alleged breach and make an assessment. Despite this large number of cases, Officers have continued to rectify a considerable number of breaches of planning control (35) through negotiation or take formal enforcement action where necessary (10), some significant examples of which are contained later within this report.

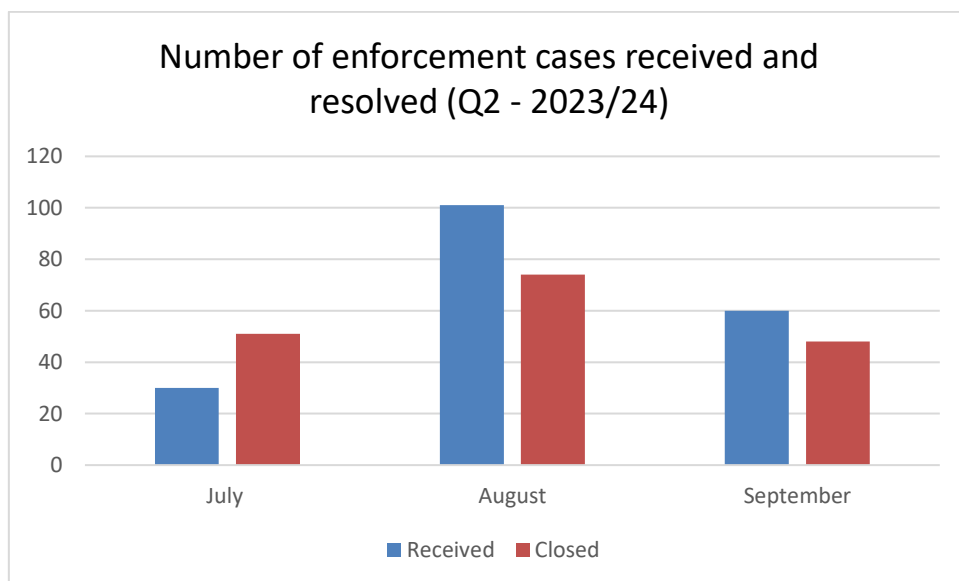


Chart 1

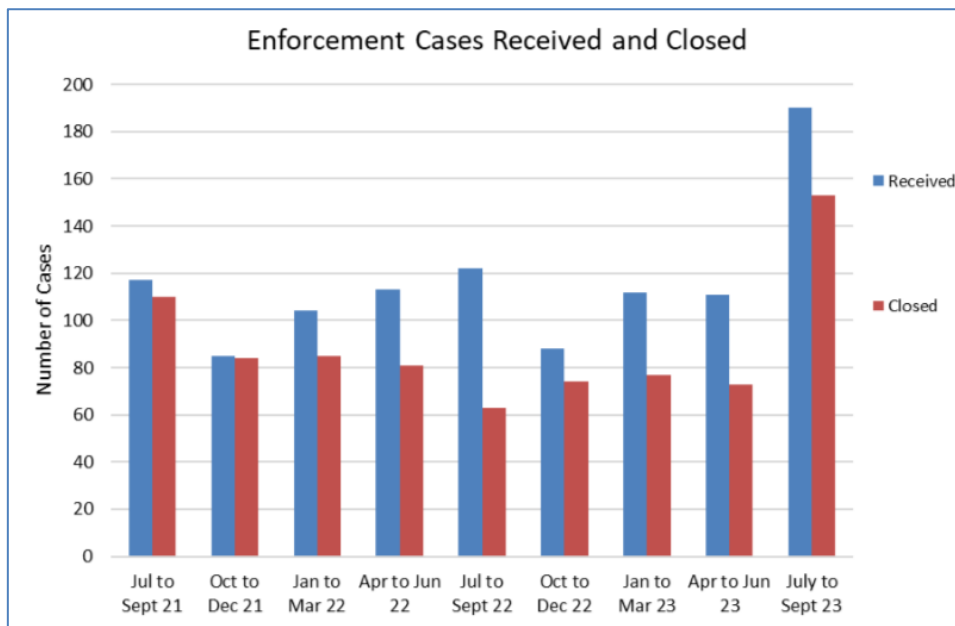


Chart 2

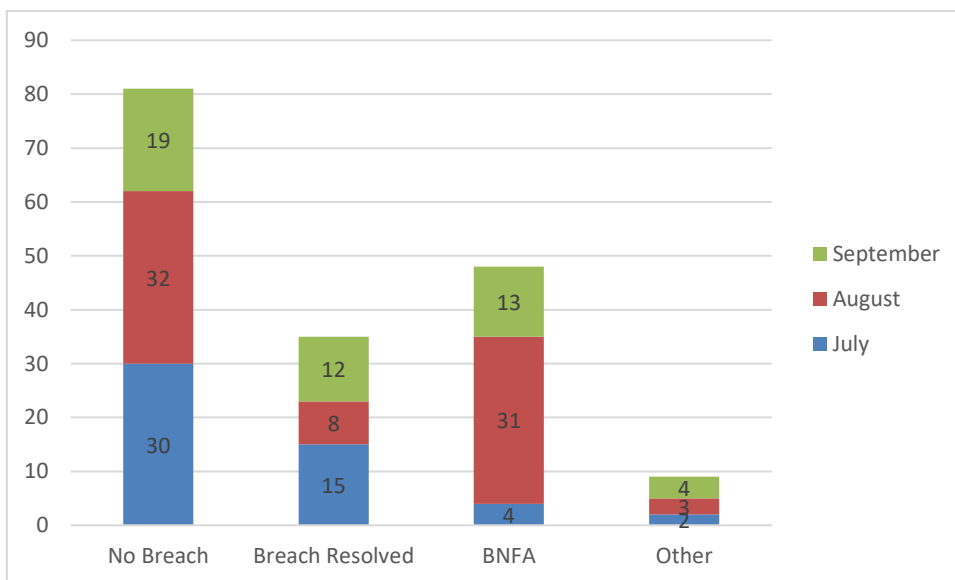


Chart 3

Breach No Further Action (BNFA)

Where an alleged breach of planning control has been received and verified, Officers are responsible for determining whether enforcement action can and should be taken.

Section 172(1) of the Town and Country Planning Act 1990 sets out that a LPA can issue an enforcement notice where:

- a) there has been a breach of planning control; and
- b) it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

In relation to Section 172(1)(b) above, expediency applies equally to decisions not to take enforcement action or to underenforce.

National Planning Policy Guidance sets out that *“Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case. In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:*

- *there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;*
- *development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;*
- *in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.*

This approach to planning enforcement is echoed in the Newark and Sherwood District Council Planning Enforcement Plan (2020):

“Where there is a ‘technical breach of planning control’, but that breach is not considered to be causing ‘harm’, the Council may decide that further enforcement action is not expedient”.

Officers cannot compel owners or occupiers to submit retrospective applications for planning permission. In instances where unauthorised development has taken place that is not immune and not ‘trivial’, Officers undertake a comprehensive assessment of the planning merits of the development. This is often done through the service of a Planning Contravention Notice, which legally requires further details to be provided to the Local Planning Authority.

Forming the judgement that it would not be expedient to take action requires as much care and argument as deciding to take action. Expediency, along with determining that something is de minimis, is not a route to reduce the workload of enforcement officers or to avoid making difficult decisions.

Public opinion can bring pressure to take enforcement action. In particular, where a development has been granted consent following objections from local residents, it is to be expected that they will ‘police’ the development. However, officers must be mindful at all times that in such cases consideration is taken to ensure that expediency remains a planning decision in the public interest.

Notwithstanding the nature or the extent of complaints, expediency is still a matter for the Officers and if they decide to exercise discretion and take no action, our reasons for doing are explained in detail to all complainants.

Where development is considered to be acceptable – having considered the potential for negative impacts upon matters including neighbours, highway safety, heritage, and flood risk – then local and national planning policy dissuades the Local Planning Authority from taking enforcement action. These cases, which form a small number, may be closed as Breach no further Acton (BNFA).

Cases that have been closed BNFA are therefore typically a combination of the following cases:

- Where the development is immune from enforcement action due to the passage of time. For example, an unauthorised domestic outbuilding which is more than four years old will, generally, be immune under these provisions. Enforcement action cannot be taken in this scenario and the case would be closed as a BNFA.
- Where a breach that has been identified but is considered by officers, based upon policy and legislation, to be a “trivial or technical breach of planning control” where enforcement action would be disproportionate and not in the public interest. For example, an allegation identifies a fence that is 1100mm in height, where the legislation only allows for a fence to be 1000mm in height. Officers may consider that in that particular context the additional 100mm is not of sufficiently harmful impact (having considered matters such as heritage or highway safety) to warrant enforcement action to reduce the fence by 100mm, and the case may be closed BNFA.

It is important for Members to note that it is often the case that unauthorised development is found to be harmful and enforcement action is often taken. National figures published for the 2022/23 year identified that Newark and Sherwood District Council are one of the most active planning enforcement teams in England, ranking 16th overall (out of 322) and 7th outside of London authorities (Newark and Sherwood have served a significantly higher number of enforcement notices over the last recorded period (43) compared to the other Authorities within Nottinghamshire (the next highest being Broxtowe with 5). Indeed, it must also be noted that NSDC has issued almost a third of all notices issued over this period over the whole East Midlands (156) and more than double than the next Authority (Leicester, 18). These figures therefore demonstrate that Officers robustly consider cases before recommending that they are closed as a BNFA.

As previously explained, an unusually high number of Breach No Further Action cases have arisen in Q2 as many cases concerning fences that were reported to the team by a particularly aggrieved person in response to planning enforcement action against a breach taking place at their property. Many of these alleged breaches that were reported have been determined to be immune from enforcement action due to the passage of time between the development being undertaken and them being reported to the enforcement team.

Enforcement response times

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 particularly high volume of cases that have been dealt with over the Q2 period, the enforcement team work well towards the targets set out, reaching 98.9% of the targets set within the PEP during Q2 (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 97.71% of cases (chart 5).

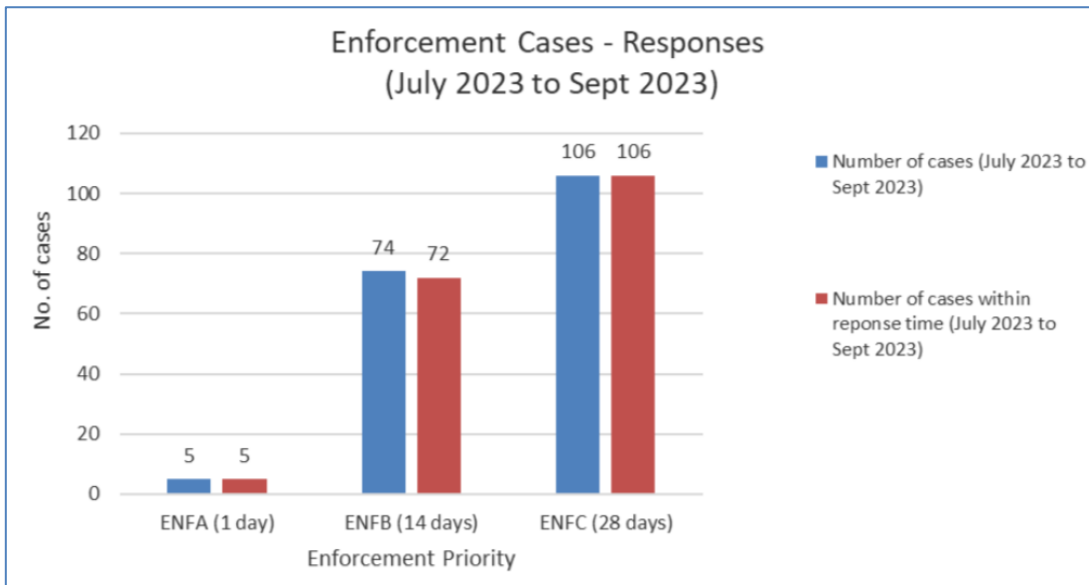


Chart 4 – PEP response times for Q2

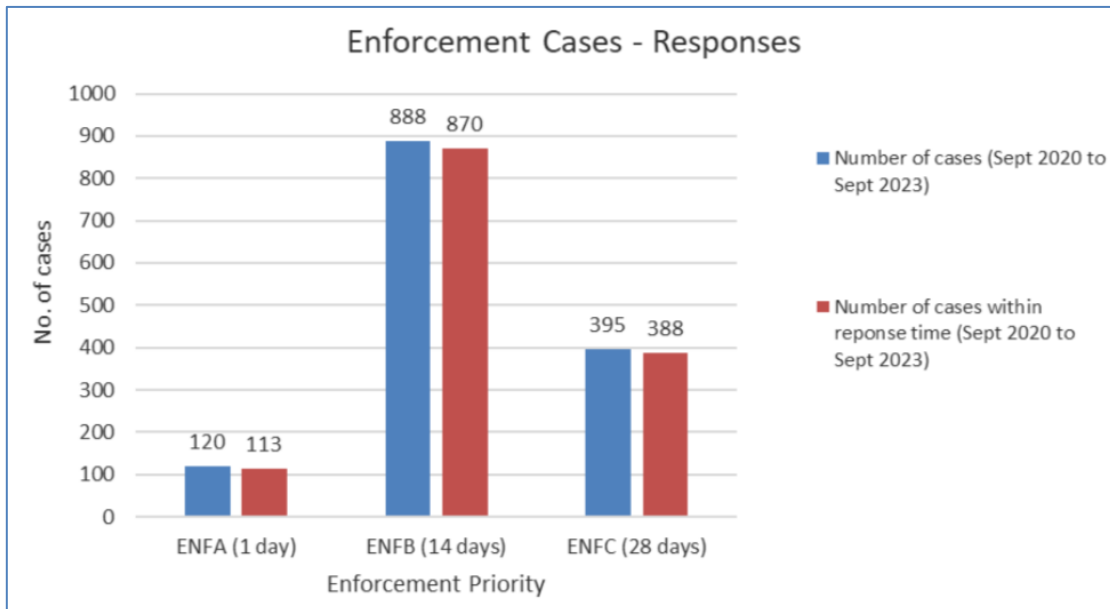


Chart 5 – PEP response times Sept 2020 – Sept 2023

Formal enforcement action

Whilst officers make every effort to resolve breaches of planning control by negotiation and discussions with those that undertake development without first receiving consent, inevitably there are occasions where a resolution cannot be found and it is deemed expedient to issue a notice.

Members will note from Chart 6 that a considerable number of notices were issued during Q6. These notices range from planning enforcement notices requiring alleged breaches to be resolved, to ‘lesser’ notices such as a PCN or S330 notice which requires information to be provided to aid an investigation.

Notwithstanding to number of notices that have been issued, Members will also note from table 1. that a considerable number of notices have been complied with – which particularly pleasing given the amount of work often entailed in securing a successful

outcome. An example of the notices that have been resolved are set out later within this report.

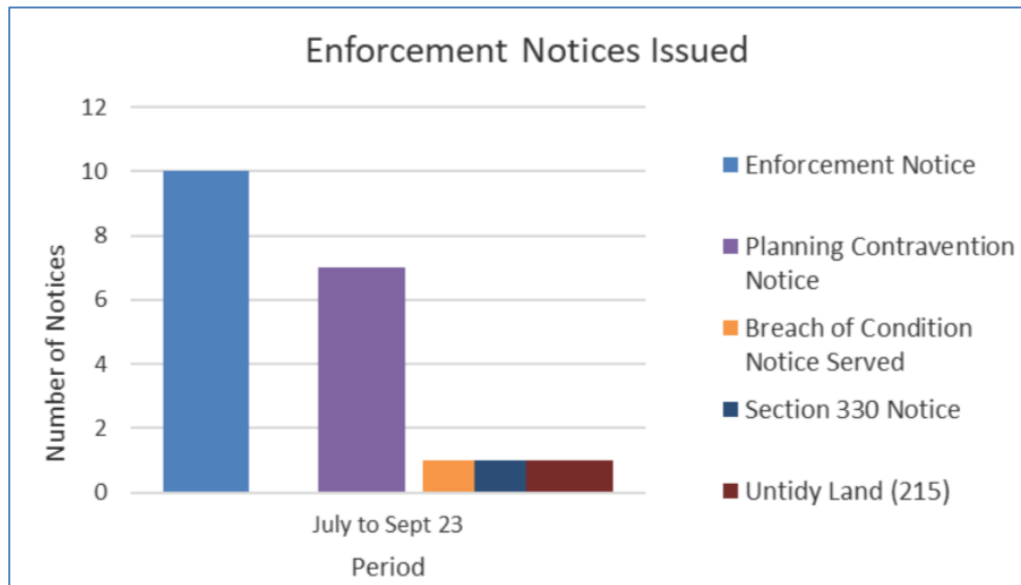


Chart 6 – notices issued during Q6

	July	August	September
Notices Issued	1	4	5
Notices Complied With	5	1	1
Appeals Lodged	1	0	1
Appeals Determined	2	0	1

Table 1 – Details of planning enforcement action (enforcement notices) and subsequent appeal results during Q2 of 2023/2024.

3.0 SCHEDULE B. FORMAL ACTION TAKEN

PROSECUTIONS

Enforcement Ref: 22/00418/ENFA

Site Address: Bilsthorpe Road, Eaking

Alleged Breach: Unauthorised Removal of Trees Within a Conservation Area

Action To Date: Prosecution September 2023

Background: Whilst considering an application for a new dwelling, Officers noted that four fruit trees had been felled and removed from the land, which is located within the Eaking Conservation Area. Such works are an offence and make the owner and person who undertook the works liable to legal action.

The trees were considered to have been sufficiently important to warrant an interview under caution and resulting legal action to be taken. The landowner was ordered to pay total costs of £1792.80, including a £1200 fine, at Nottingham Magistrates Court.

An appeal against the refusal to grant planning permission for a new dwelling on the land has been dismissed. Enforcement Officers are continuing with the enforcement investigation in relation to seeking the planting of replacement trees.

Enforcement Ref: 20/00045/ENF

Site Address: Old Hall Farm, Edingley

Alleged Breach: Untidy land adversely affecting the amenity of the District

Action To Date: Prosecution September 2023

Background: A S215 Notice (untidy land) was issued by the Council in April 2021. The defendant failed to comply with the notice within the period specified. This is an offence and therefore the Council sought to have the defendant prosecuted for the failure to comply. At the original magistrate's trial (May 2022), the defendant pleaded not guilty to the offence despite admitting to not having complied.

The matter was heard at trial on Friday 22nd September 2023 following a number of postponements. The defendant initially again pleaded not guilty to the offence, despite the substantial evidence to the contrary. However, during the course of the trial, the defendant subsequently amended their plea to guilty and was fined £445 (plus a victim surcharge of £45). They were also ordered to pay the Council costs of £3427 (the total therefore being £3922).

The case continues to be monitored to ensure compliance.

NOTICES

Enforcement Ref: 23/00088/ENFB

Site Address: Forest Side, Blyth Road, Ollerton

Alleged Breach: Alleged extension of garden into agricultural land and erection of buildings.

Action To Date: Planning enforcement notice issued.

Background: A report was received alleging that two buildings were being erected on land that was not within the formal curtilage of a residential property. Investigations found that the lawful use of the land was not residential and therefore the erection of the buildings could not be considered as being 'permitted'. A retrospective application for planning permission was submitted to retain the change of use of the land, however the application was refused due to the impact of the proposal on the surrounding land.

Consequently, the breach of planning control remains and therefore a planning enforcement notice has been issued against the use and the buildings. The enforcement notice requires the unauthorised use of the land to cease and the buildings to be removed.



Unauthorised buildings on the land.

Enforcement Ref: 22/00281/ENFB

Site Address: Great North Road, Weston

Alleged Breach: The unauthorised enlargement of a haulage yard with the associated laying of hardcore and concrete boundary fencing

Action To Date: Enforcement Notice and a Breach of Condition Notice issued in August 2023

Background: Three planning applications have been refused, relating to the development that is alleged within the Enforcement Notice, which was implemented in late 2022 despite initial refusals. The enlargement of the haulage yard, which covers an area that was conditioned to be landscaped on an earlier grant of planning permission, is considered to be inappropriate in this open countryside location. Given the refusals that have recently been issued, two corresponding Notices have been issued requiring the hardcore and fencing to be removed and the area landscaped in accordance with the earlier grant of planning permission.



Enforcement Ref: 23/00279/ENFB

Site Address: Main Street, Thorney

Alleged Breach: The unauthorised demolition of two barns and unauthorised ground works for the development of two dwellings

Action To Date: Enforcement Notice Issued

Background: Planning permission was granted for the conversion of two barns into dwellings in 2020, subject to a range of conditions requiring further information before works commenced. Officers were made aware that the barns had been demolished, other than one small section, and new foundations were beginning to be laid to build two new dwellings. This invalidated the conversion permission. An application to continue with the erection of two new dwellings was refused and a corresponding Enforcement Notice issued requiring what remains of the barn to be demolished and the foundations to be removed and infilled.



4.0 SCHEDULE C: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION

Enforcement Ref: 23/00268/ENFC

Site Address: Field Reference Number 1459, Kelham Road, Kelham

Alleged Breach: Alleged displaying of advert without consent

Background: The Enforcement team received an allegation regarding the display of a parked trailer advert off Cattle Market roundabout. A parked trailer advert pertaining to caravans was present on site. It was identified that the advert was unlawful and would have to be removed. The owner of the business was contacted and informed that their advertisement was unlawful and would need to be removed. The advert was subsequently removed and the enforcement case closed.

	
<p>Advert present before making owner aware</p>	<p>Site after advert removed</p>

Enforcement Ref: 22/00241/ENFB

Site Address: Guylers Hill Drive, Edwinstowe

Alleged Breach: Unauthorised beauticians operating from a residential address.

Background: A complaint was received that a beauticians business operating from a residential address was leading to issues in the locality such as an increase in traffic and resulting parking concerns. A Planning Contravention Notice (PCN) was issued to ascertain further details regarding the business. The business has since relocated from the residential address to a commercial premises in the locality, resolving the vehicular issues that were occurring in the residential area.

Enforcement Ref: 22/00232/ENFB

Site Address: Middle Gate, Newark

Alleged Breach: Unauthorised Signage

Background: Card Zone occupies a grade II listed building. Signage that was considered to be inappropriate on this historic building had been installed without the requisite consent having been sought from the Local Authority. Conservation Officers engaged successfully with the occupants who engaged constructively to have an alternative scheme designed and implemented in a timely manner, resulting in the much-improved signage shown below.

This is part of an ongoing project of engagement with commercial premises in Newark town centre to improve its aesthetics whilst also protecting our heritage assets, which in turn is hoped to improve the success of the commercial aspect of the town.



Enforcement Ref: 22/00268/ENFC

Site Address: Sherwood Road, Rainworth, NG21 0LJ

Alleged Breach: Alleged Overgrown Garden: Empty Property

Background: An allegation regarding untidy land and overgrown grass on a short-term abandoned property was received. It was noted upon further investigation that the property has over-grown grass to the side and rear gardens which is adversely affecting the amenity of the area given the prominent position of the property. A site visit was conducted in August 2022 and it was evident that the house was vacant and was concurrently subject to two planning applications that were seeking to change the use from a C3 dwellinghouse to a dental practice. Both applications were dismissed at appeal. A site inspection was conducted and it was noted that the property was being renovated to bring the house back to a liveable residential condition. Given that visible, and extensive works were being undertaken to improve the condition of the property, it was considered that there would be no reason to believe that the conditions of the land wouldn't be improved as part of the works.

However, no immediate improvements were forthcoming and officers were therefore required to actively engage with the property owners/ developers to improve the

condition of the land. Subsequent inspections revealed that works had taken place and that the garden on this prominent location had been sufficiently improved.



	
<p>Condition of land when case raised</p>	<p>Condition of land following officer intervention</p>

Enforcement Ref: 23/00316/ENFC

Site Address: 12 Goldcrest Avenue, Rainworth, Mansfield, Nottinghamshire, NG21 0WS

Action To Date: Alleged Tall Fencing

Background: The Council received a complaint regarding a high fence/screen that was erected on the rear garden without planning permission. The complainant said that the fence was high and was blocking sunlight from coming into their property. A tall (approximately 3 metres from ground level) timber screen had been erected at the rear garden and did not benefit from deemed consent. The owner was made aware that the timber screen would either have to be removed entirely or be reduced to a maximum height of 2 metres from ground level. The timber screen has been reduced to a maximum height of 2 metres from ground level. Therefore, the breach was resolved, and no further action was needed.

	
<p>Fence prior to reduction (note the considerable overall height)</p>	<p>Site after timber screen was reduced to 2 metres in height from ground level</p>

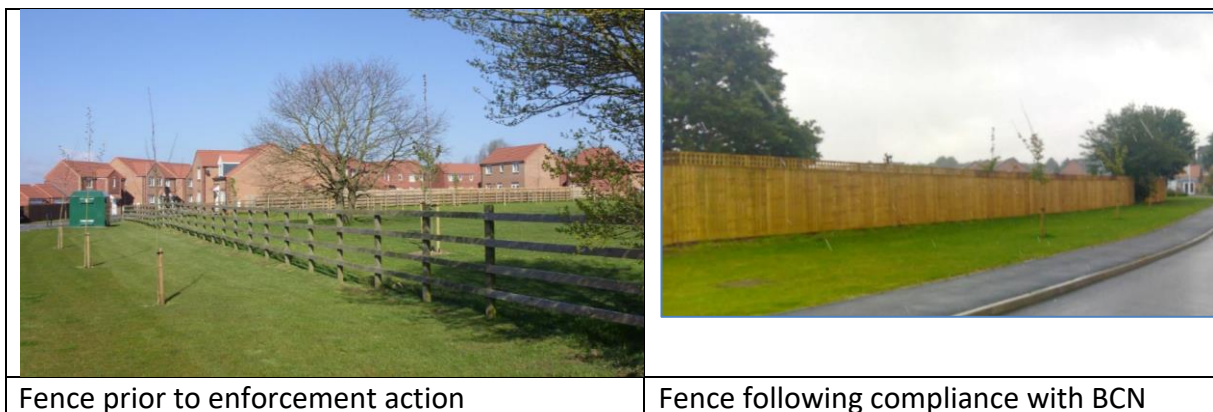
5.0 SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER

Enforcement Ref: 21/00355/ENFM

Site Address: Land Off Oldbridge Way, Bilsthorpe

Action To Date: Breach of Condition Notice issued March 2023

Background: A housing developer had not installed the 1.8m high trellised fencing around the perimeter of the play area on a new-build estate as stipulated in their approved set of plans. An application to retain a low level post and rail fencing that was instead erected was refused by the Planning Committee on account of safety and security of persons using the play area and passing road users. A Breach of Condition Notice (BCN) was issued requiring the developer to install the approved 1.8m high fencing. This has been undertaken.



Enforcement Ref: 21/00419/ENFC

Site Address: Southwell Road East, Rainworth

Action To Date: Enforcement Notice issued August 2022

Background: A complaint regarding the erection of a poor-quality canopy structure at a hand car wash premises, affecting local amenity and neighbouring properties was raised. Officers issued an Enforcement Notice requiring the removal of the canopy. The occupants did not initially comply with the Notice and legal proceedings were issued, with a hearing date set for early September 2023. Shortly before this the owner took possession of the land and a further site inspection found that the canopy has now been removed.



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.

7.0 Recommendation

That Planning Committee considers the contents of the report and identifies any issues it wishes.

Background Papers

None