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Tuesday, 9 January 2024

**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, 18 January 2024 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.	

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, 7 December 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 K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor M Shakeshaft, Councillor L Tift and Councillor T Wildgust

APOLOGIES FOR ABSENCE: Councillor J Lee and Councillor S Saddington

84 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

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.

85 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.

86 MINUTES OF THE MEETING HELD ON 9 NOVEMBER 2023

AGREED that the minutes of the meeting held on 9 November 2023 were approved as a correct record and signed by the Chair.

87 MINUTES OF THE MEETING HELD ON 23 NOVEMBER 2023

AGREED that the minutes of the meeting held on 23 November 2023 were approved as a correct record and signed by the Chair.

88 LAND OFF HOLLY COURT, ROLLESTON - 22/02341/OUT

The Committee considered the report of the Business Manager – Planning Development, which sought outline planning for the erection of two detached dwellings and the realignment of Rolleston Public Footpath no. 5 with all matters reserved except access.

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 Planning Officer.

Councillor Steele, Rolleston Parish Council, spoke against the application in accordance with the views of Rolleston Parish Council as contained within the report.

Members considered the application and concern was raised regarding the status of the land and the encroachment into the open countryside. There was also an additional house being built at the end of the lane, with four cars per property and a very narrow lane the proposed development was considered over intensive. The surface water run-off from the developed land also raised concern. The Business Manager Planning Development confirmed that the site was in flood zone 1, with the lowest risk and permeable surfacing could be sought through condition.

A vote was taken and lost with 4 votes For and 7 votes Against, to approve the application subject to an additional condition and Section 106 agreement.

Councillor Amer entered the meeting during the Officer presentation and took no part in the vote.

Moved by Councillor L Dales and Seconded by Councillor D Moore

AGREED (with 8 votes For and 3 votes Against) that contrary to Officer recommendation outline planning consent be refused, on the grounds of over intensification of the site and encroachment into the open countryside and previously undeveloped land the Planning Committee considered the site was in the open countryside.

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	Against
L Dales	For
A Freeman	Against
P Harris	For
J Lee	Absent
K Melton	For
D Moore	For
E Oldham	For
P Rainbow	For
S Saddington	Absent
M Shakeshaft	For
M Spoors	Absent
L Tift	For
T Wildgust	Against

89 MANOR FARM, LONG LANE, BARNBY IN THE WILLOWS, NEWARK ON TRENT, NG24 2SG - 23/01490/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the change of use of two agricultural buildings to storage and distribution (Class B8).

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 Planning Officer and Barnby-in-the-Willows Parish Council.

Members considered the application and it was commented that there were no major issues with diversity of farming. Clarification however was raised regarding the maintenance of the hedgerow and the potential hazard in terms of road safety if that could not be maintained at certain periods of the year. The Business Manager Planning Development confirmed that the hedgerow was not currently in the visibility splays and there was legislation that allowed hedgerows to be cut back where there was a danger to life even in bird season. Another Member raised concern regarding the change of use from agricultural use to a logistic hub, as the building was only twenty years old and requested concise smart conditions. It was also commented that the approval of the application would be protecting a business, which was creating three jobs. It was considered that the additional vehicle movement through the village would not be detrimental.

AGREED (with 11 votes For and 1 vote Against) that full planning permission be approved, subject to the conditions contained within the report.

90 APPEALS LODGED

AGREED that the report be noted.

91 APPEALS DETERMINED

AGREED that the report be noted.

92 DEVELOPMENT MANAGEMENT PERFORMANCE REPORT

The Committee considered the report of the Director – Planning & Growth relating 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 was provided. The performance of the Planning Enforcement team was provided as a separate report.

AGREED that the report be noted.

93 QUARTERLY PLANNING ENFORCEMENT ACTIVITY UPDATE REPORT

The Committee considered the report of the Business Manager – Planning Development updating Members as to the activity and performance of the planning enforcement function over the first quarter of the current financial year.

The report provided Members with examples of cases that had been resolved, both through negotiation and via the service of notices and provided detailed and

explanations of notices that had been issued during the period covered 1 July 2023 – 30 September 2023.

AGREED that the contents of the report and the ongoing work of the planning enforcement team be noted.

Meeting closed at 5.15 pm.

Chair



Report to Planning Committee 18 January 2024
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Laura Gardner, Senior Planner, Ext. 5907

Report Summary			
Application Number	22/02321/FULM (Major)		
Proposal	Demolition of existing store building, creation of car parking and removal of trees.		
Location	Newark Day Service, Woods Court, Walker Close, Newark On Trent NG24 4BP		
Applicant	Assura Aspire Limited	Agent	Mr Steve Buckley - Peacock + Smith
Web Link	22/02321/FULM Demolition of existing store building, creation of car parking and removal of trees. Newark Day Service Woods Court Walker Close Newark On Trent NG24 4BP (newark-sherwooddc.gov.uk)		
Registered	19.12.2022	Target Date / Extension of Time	20.03.2023 / 26.01.2024
Recommendation	Refuse, for the reason outlined in Section 10.0		

The application is being referred to Planning Committee by the Business Manager as the Authorised Officer due to the potential impacts on the provision of a community facility through the recommendation to refuse the application.

1.0 The Site

The site relates to the former Newark Day Centre, a purpose-built building erected in the 1980s originally as a County Council-run residential care home and day care unit for elderly people. From 2018 the building was used solely as an adult day centre by the County Council but it is now vacant.

The site is located to the south of London Road and to the east of Bowbridge Road in the Newark Urban Area and Conservation Area and is accessed via Walker Close, a residential street. The building is well screened by mature trees and shrubs and has off-street parking for approximately 6-7 vehicles adjacent to the vehicle access. The building is currently secured behind high security fencing. Boundaries to the north and west with Bowbridge Road and

London Road respectively are formed by brick walls, timber fences and mature trees and shrubs. The boundaries to the south and west are formed by the rear garden walls/fences/hedges of residential properties on Walker Close and London Road.

The site is within Flood Zone 1 and at low risk of surface water flooding according to the Environment Agency maps.

The site has the following constraints:

- Newark Conservation Area.

2.0 Relevant Planning History

18/01579/CMA - Change of use of an Elderly Persons Home to an Adult Day Centre (Use Class C2 to D1) including erection of secure 2m timber fencing. 2.4m high secure Herras fencing. Erection of building entrance canopy and polytunnel. *Application approved by Nottinghamshire County Council 17th September 2018.*

01850810 - Erection of elderly persons home with day centre. *Application approved 29th November 1985.*

3.0 The Proposal

The proposal seeks planning permission for the creation of car parking to facilitate the use of the building as a medical centre and ancillary pharmacy for the re-location of the existing Barnby Gate GP Surgery.

The change of use in itself does not require planning permission but the creation of car parking, the demolition of the existing store building and associated removal of trees does require permission.

Car parking is proposed for 59 spaces in total, including 13 staff parking spaces. Cycle parking areas are also proposed totalling space for 56 bikes.

The scheme has been revised during the application given there is no longer an intention for Fountain Medical Practice to also occupy the building. Previously proposed extensions to the building have also been removed from the application.

A number of trees would be removed (total of 30) on site to provide space for the construction the car park to the south and west of the building. Replacement planting is proposed as part of the application (total of 37).

An existing detached store building next to the entrance is proposed to be demolished.

The application has been considered based on the following plans and documents:

- Planning Statement by Peacock + Smith/Assura dated November 2023;
- Design and Access Statement – 2202-03 dated November 2023;

- Arboricultural Impact Assessment and Tree Compensation Plan by via V3 dated 09/11/23;
- Framework Travel Plan by Civic Engineers dated 18th November 2022;
- Transport Statement by Civic Engineers dated 18th November 2022;
- Phase 1 Ecology Survey prepared by Betts Ecology;
- Supplementary Ecological Report dated December 2023;
- Statement of Community Involvement by Peacock + Smith/Assura;
- Location Plan– drawing no. 2202-0200, rev P00;
- Existing Site Plan– drawing no. 2202-0201, rev P00;
- Existing Ground Floor Plan– drawing no. 2202-0210, rev P00;
- Existing First Floor Plan– drawing no. 2202-0211, rev P00;
- Existing Roof Plan– drawing no. 2202-0212, rev P00;
- Existing Elevations Sheet 1– drawing no. 2202-0220, rev P01;
- Existing Elevations & Sections Sheet 2– drawing no. 2202-0221, rev P01;
- Proposed Site Plan– drawing no. 2202-0101, rev P06;
- Proposed Ground and First Floor Plans– drawing no. 2202- 0110, rev P00;
- Proposed Elevations Sheet 1– drawing no. 2202-0320, rev P02;
- Proposed Elevations Sheet 2– drawing no. 2202-0321, rev P02.

4.0 Departure/Public Advertisement Procedure

Occupiers of 60 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Site visit undertaken on 12th January 2023.

5.0 Planning Policy Framework

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

Spatial Policy 1 - Settlement Hierarchy
 Spatial Policy 2 - Spatial Distribution of Growth
 Spatial Policy 7 - Sustainable Transport
 Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
 Core Policy 6 – Shaping our Employment Profile
 Core Policy 9 -Sustainable Design
 Core Policy 12 – Biodiversity and Green Infrastructure
 Core Policy 13 – Landscape Character
 Core Policy 14 – Historic Environment
 NAP1 - Newark Urban Area

Allocations & Development Management DPD

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

Other Material Planning Considerations

National Planning Policy Framework 2023

Planning Practice Guidance (online resource)

National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019

6.0 Consultations

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

(a) Statutory Consultations

NCC Flood – No objection and no further comments.

(b) Town/Parish Council

Newark Town Council – *Comments on the revised scheme:*

Newark Town Council repeats its previous comments made in relation to this application but would further wish to offer Fountain Gardens as a potential location for tree planting to mitigate the loss of trees on this site. The improved local medical facilities are required and repurposing an existing building rather than building new, is advantageous.

Comments on the original scheme:

No Objection was raised to the principal of this development and Members recognise the need for the medical services this development will generate.

Newark Town Council does however, have serious concerns about the impact of traffic on adjoining residential streets and would ask that the applicant and Highways have due regard to these concerns and ensure where practical, that mitigation measures are applied.

Newark Town Council would also recommend bat surveys are undertaken on all trees due to be felled and relevant conditions applied in response thereto. There is evidence of a bat population in and around the site.

Councillors welcomed the green roof on the extension and other climate friendly measures within the development, including the replacement of trees being felled to make way for the car park.

(c) Representations/Non-Statutory Consultation

NCC Highways – No objections subject to conditions.

NSDC Conservation – No objections from a heritage and conservation perspective.

NSDC Lead Biodiversity and Ecology Officer – No objections subject to conditions.

NSDC Tree Officer – It is suggested the revisions:

1. Will have a strong negative impact on the character of the conservation area.
2. Proposed mitigation is inappropriate, ineffectual, and not reasonable due to the level of built structures.
3. Represents significant loss of canopy coverage within the urban area.
4. At a basic level simple measures such of tree growth, species, environmental impacts have not been included in the submitted assessment.

Cadent Gas – No objection subject to informative.

NHS – No S106 contributions requested.

7 letters of representations have been received relating to the revised proposals:

- Concerns remain as previous objection, the increased traffic will make an already difficult access much worse;
- There is a fox family living on site;
- Parking will spill out onto neighbouring streets;
- The previous use of the building produced very little traffic so they should not be seen as comparable;
- Not enough trees being removed to provide adequate parking but trees should be planted elsewhere to mitigate;
- Concern regarding noise nuisance from late opening of the pharmacy or GP appointments;
- Concerned about the lack of parking spaces;
- Parking was inadequate when it was a nursing home;
- Will the surgery be policing the car park for non patient visitors;
- Concern regarding removal of trees;
- There is no vehicular barrier making it at risk of antisocial behaviour;
- No lighting is shown on the plans;
- Without hours of opening it is difficult for residents to assess the application;
- Has any action to extend permit parking zone been considered;
- Construction impacts will need consideration in relation to neighbouring properties;

5 letters of representation were received in respect to the original scheme, details of which can be summarised as follows:

- The combining of surgeries would provide a very busy centre;
- Hatton Gardens and Walkers Close are at best only capable of one-way traffic due to the width of Walkers Close;
- There is already parking on both sides of the street;
- The proposed car park will not be big enough causing overflow into residential areas;
- Construction lorries will not be able to access the site;
- Not the right place for a doctors surgery;

- There should be a stop sign for people exiting the site as its on a bend;
- Expect the traffic to be much higher than the figures generated;
- If vehicles are parked on the entry into Walker Close on the double yellow lines it could stop access by larger delivery vehicles, ambulances and refuse collection vehicles as the road isn't wide enough;
- There are hedges and foxes living on the site;
- When the site was in use as a Care Home large vehicles had difficulty turning out of Walker Close due to parked cars on both side of Hatton Gardens;
- People park in the area who work in Newark to avoid parking charges;
- The church provides facilities for MIND most of the week and the building is also booked Friday and Saturday mornings;
- The only time residents can park close to their house at the weekend;

7.0 Comments of the Business Manager – Planning Development

The key issues are:

1. Principle of Development
2. Impact upon the Character of the Area and Heritage Implications
3. Impact upon Trees and Ecology
4. Impact upon Residential Amenity
5. Impact upon Highway Safety

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

As the application concerns designated heritage assets of the conservation area, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') is particularly relevant. Section 72(1) requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

Principle of Development

Spatial Policy 1 states that the Newark Urban Area is the main location for investment for new services and facilities within the District. The proposal relates to external works to the site to

facilitate the change of use of the building to a medical practice and ancillary pharmacy. Given the previous use of the site as an adult day care centre, the use as a medical practice would be permitted development not requiring express planning permission. The change of use element is therefore not assessed further other than to acknowledge that the proposal relates to works which are intended to support a community facility. Spatial Policy 8 states that new community facilities will be encouraged particularly where they address a deficiency in current provision.

The impact of the proposal, namely the construction of car parking areas and subsequent loss of trees are assessed below.

Impact upon the Character of the Area and Heritage Implications

The NPPF states that good design is a key aspect of sustainable development. Core Policy 9 and Policy DM5 of the DPD require new development to 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.

In addition to the above, the site is located within the Newark Conservation Area. Proposals should therefore be sensitively designed so as to not harm the setting of these heritage assets in accordance with Section 16 of the NPPF along with Core Policy 14 of the Core Strategy and DM9 of the DPD.

The existing building is set across a sprawling footprint with varying single storey and two storey elements. The detached store building to be demolished is of no particular architectural merit and therefore there is no objection to its loss in character terms. There are no longer any extensions proposed to the building and therefore the main impact on character would be the creation / formalisation of a car parking area and related loss of trees.

Car parking is proposed to the east; west and south of the building. However, given the size of the site, there would remain some form of landscaped buffer between the areas of car parking and the site boundaries with the exception of the eastern boundary. The spaces along the eastern boundary are discretely positioned away from a public vantage point of view given their proximity to neighbouring dwellings. The car parking spaces by their very nature are low lying. The creation of hardstanding in itself would not impose harm to the setting and appearance of the Conservation Area as reflected by the lack of objection from Conservation colleagues. The character impacts arising from the loss of trees is discussed further below.

Impact upon Trees and Ecology

Core Policy 12 states that the District Council will seek to conserve and enhance the biodiversity of the District and seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.

The application has been supported by a Tree Survey which inspected 49 individual trees and 2 groups of trees containing over 60 stems. Of these, one tree was deemed to be of Category A quality (a tree in separate ownership overhanging the building); 34 of Category B; 12 of Category C and 4 Category U.

A total of 30 trees are proposed for removal to facilitate the proposed parking areas. These include 17 Category B specimens and 13 Category C specimens. To compensate for the loss of tree cover, it is proposed to undertake replacement planting at a minimum 1:1 ratio as shown on a tree compensation plan. The comments of the Town Council are noted in terms of offering the Fountain Gardens as an alternative location for tree planting, but the aim should be for adequate replacement planting to be provided on site to compensate for the site specific impacts.

The proposals have been assessed by the Councils Tree Officer who has raised significant concerns in relation both to the proposed level of tree loss but also the inadequacy of replacement planting.

It is stated that the proposed planting does not take account of the current location, site conditions, soil conditions or the character of the area. Some of the trees to be removed are of a significant scale (for example 20m high and above) but would be replaced by specimens of just 5m high. Visually and biologically the replacement trees are not comparable to those which would be lost.

In addition to the above, the Tree Officer has raised some doubt to the categorisation of the trees suggesting that their quality has been under-estimated.

Based on the level of car parking proposed, there would not be adequate space for the viable replacement of tree cover but there is also the potential that trees shown as being retained would be subsequently lost through construction damage. The tree loss proposed would have significant character impacts to the site and the surrounding area exposing a large building which is currently heavily screened. The impact on the character of the area could potentially be further exacerbated by the potential further loss of trees intended for retention through construction damage in the creation of the car parking areas.

Given that the building as existing is vacant, and noting the aforementioned tree cover within the site, there is potential for the site to hold ecological value. The development involves an element of demolition in the form of the detached building towards the south of the site. On this basis, a preliminary ecological survey has been undertaken and submitted with the application.

This has subsequently been updated during the application noting the delay since the initial survey and in response to the revised design proposals. The updated report concludes the following text:

“The habitats present within the Site were not found to have changed significantly since the initial ecology site visit. The preliminary bat roost assessment of the buildings concluded that the main former care home building (Building 1) provides moderate suitability for roosting bats, whilst the boiler building (Building 2) provides negligible suitability for roosting bats. All trees within the Site were assessed to be of negligible suitability for roosting bats. This is consistent with the results and conclusions of the 2022 PEA report. The potential roost features on Building 1 are typically gaps within the soffits, and occasionally around window frames and adjacent hanging tiles. It is understood that the works to the building will comprise internal

refurbishment only and will not impact loft spaces, or any areas of potential roost features. No further survey for roosting bats is considered necessary as the development is not anticipated to result in any direct impacts to potential roosting features within Building 1. Demolition of Building 2 and tree felling operations will also pose negligible risk to roosting bats given the lack of potential roosting features present.”

The report goes on to make recommendations for mitigation, compensation and enhancement which could be secured by suitably worded conditions.

It is noted that the original survey did recommend further emergence surveys which do not appear to have been undertaken. Given the discrepancy between the two documents, the Councils ecologist has reviewed the updated ecological report. It has been confirmed that the change in the development proposals (i.e. no longer proposing any extensions) and confirmation that the proposed internal works would not involve any disturbance of the roof space would be sufficient to conclude that there are no potential constraints regarding roosting bats. As such it is agreed that no additional survey work would be required. It is suggested that if permission were to be otherwise forthcoming then a planning condition could be attached requiring a Biodiversity Management Plan.

Notwithstanding that the development would have an acceptable impact on protected species, overall, the impact to trees is considered unacceptable and contrary to the aims of Core Policy 12 and Policy DM7.

Impact upon Residential Amenity

Policy DM5 states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

Residential dwellings are located on Walker Close to the south of the site and Bowbridge Road to the west. There is also a pair of semi-detached dwellings accessed from London Road immediately adjacent to the eastern boundary of the site. The additional parking areas have the potential to cause nuisance from comings and goings. However, an existing line of trees on a raised bund would separate the parking from the majority of the neighbouring dwellings and provide some screening and separation (even with the proposed tree removal works). Whilst there may still be some nuisance from increased activity within the site it is unlikely to occur at unsociable hours and given that the site has been a day centre in the past, which would have resulted in a degree of activity, I consider that this would be acceptable.

Impact upon Highway Safety

Spatial Policy 7 states that development proposals should contribute to the implementation of the Nottinghamshire Local Transport Plan and should minimise the need for travel, through measures such as travel plans for all development which generates significant amounts of movement. In addition, development should provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use. The policy goes on to state that proposals should provide

appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements in line with Highways Authority best practice and ensure that vehicular traffic generated does not create new or exacerbate existing on street parking problems.

It is recognised that the location is close to public transport links and it is likely that some patients would be able to attend the health centre by non-car modes of transport including walking and cycling (for which secure storage would be provided). However, it is equally acknowledged that there are local concerns that the local road network cannot facilitate the traffic from the development and that there may be increased parking on residential streets close by should the car park reach capacity.

The proposal would be served by the existing vehicular access from Walker Close albeit it is proposed to create an additional pedestrian access from London Road at the north eastern corner of the site. The proposals include a car park for 59 vehicles (including 13 staff parking spaces) and cycle stores for both visitors and staff. It is worth noting that the existing Barnby Gate Surgery operates with approximately 20 spaces.

The application has been accompanied by a Transport Statement and Travel Plan which have been reviewed by NCC as the Highways Authority. Initially concerns were raised in relation to the level of car parking proposed but NCC have since accepted that given the extant use of the site (and acknowledging that the change of use in itself does not require permission) there would be no justifiable highways grounds to resist the application. The additional parking through the revised plans is welcomed by NCC but there is still concern that the level of parking does not meet standards. Conditions have therefore been suggested to mitigate this which could be imposed if permission were to be otherwise forthcoming.

Neighbouring comments have queried whether there has been consideration to extending the parking permits in the area. One of the conditions suggested by NCC Highways is for parking surveys to be undertaken following the development being brought into use which could in theory lead to the introduction of a Traffic Regulation Order.

Although parking and matters of access are clearly a concern locally, material weight must be given to the potential of the site being brought back into use without the level of car parking proposed. The revised scheme does at least demonstrate an increased provision of parking for both staff and patients and with the ability to impose conditions were the application to be otherwise acceptable, there is therefore no demonstrable conflict with Spatial Policy 7 or the relevant elements of Policy DM5.

Other Matters

A neighbouring party has made representations in relation to a tree close to their shared boundary which in their opinion should be coppiced. However, having identified this specimen within the submitted tree survey it appears to be in good condition with no recommended works. I therefore do not consider it would be reasonable or necessary to require further works to this tree through this application process.

Neighbours have also made comments in relation to a lack of detail in relation to lighting. No lighting is proposed as part of this application, if permission were to be granted and lighting

were deemed necessary, it would need to be subject to a separate application which would then be assessed on its own merits.

Reference is made to opening hours not being known and therefore it not being possible to fully assess the impacts of the proposal. However, as above, the change of use is not subject to assessment noting that it does not require planning permission. There are no controls on the hours of opening on the extant permission and therefore it would be unreasonable to impose them through this application (if permission were to be otherwise forthcoming).

If the application were to be improved, impacts of construction could be controlled through condition (e.g. hours of construction noting the close proximity to residential properties). A neighbouring property has raised concern that there is no barrier indicated on the car park to prevent antisocial behaviour. It is not deemed necessary to insist on this from a planning perspective, there would be other reasonable means of security (such as cameras) and there is no substantive evidence to suggest antisocial behaviour would be an issue.

8.0 Implications

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

9.0 Conclusion

The principle of the development is acceptable noting that the site is within a sustainable location and the proposed end use will bring community benefits. The level of car parking proposed is substantial albeit there are still concerns from NCC Highways that it may not be sufficient to serve the end use. However, noting that the building could be brought into use as a medical centre without planning permission (and therefore without any additional car parking to what is already on site) there are no substantive grounds to resist the application on parking and highways impacts. NCC Highways have confirmed this through a lack of objection to the revised proposal.

The creation of the car parking has considerable impacts in respect to the existing tree cover within the site. A total of 30 trees are proposed for removal to facilitate the proposed parking areas. These include 17 Category B specimens and 13 Category C specimens albeit it is considered that the quality of the specimens on site overall has been underestimated. Despite replacement planting being proposed to compensate for the loss of trees, visually and biologically the replacement trees are not comparable to those which would be lost.

The tree loss proposed would have significant character impacts to the site and the surrounding area exposing a large building which is currently heavily screened. The impact on the character of the area could potentially be further exacerbated by the further loss of trees shown as being retained through construction damage in the creation of the car parking areas.

Overall, the impacts to trees and subsequent adverse impact on the character of the area is unacceptable and contrary to the aims of Core Policies 9 (Sustainable Design), 12 (Biodiversity and Green Infrastructure) and 13 (Landscape Character) of the Amended Core Strategy and Policies DM5 (Design) and DM7 (Biodiversity and Green Infrastructure) of the Allocations and Development Management DPD. The benefits of the proposal, namely facilitating the building being brought into a community use are not considered sufficient to outweigh the harm associated with tree loss.

In reaching the above conclusion, weight has been attached to the fall-back position of bringing the building into use as a medical centre and pharmacy without planning permission (which would potentially have adverse impacts on the highway network through increased parking in the area). However, it is considered that without associated car park the risk of the applicant choosing to implement a change of use would be low. The applicant (through discussions with their agent) was offered the option to withdraw the application and pursue the change of use through permitted development without any associated external works or indeed to reduce the level of car parking in an attempt to lessen the adverse impact on trees. However, it was confirmed that the level of car parking proposed has been tested with the operators at significant length. It is therefore not considered to be a reasonable fall back position that the change of use would occur without the associated car parking so the weight attached to this is limited in the overall planning balance.

10.0 Reason for refusal

01

The creation of the proposed car parking areas has considerable impacts in respect to the existing tree cover within the site. A total of 30 trees are proposed for removal to facilitate the proposed parking areas. These include 17 Category B specimens and 13 Category C specimens albeit it is considered that the quality of the specimens on site overall has been underestimated. Despite replacement planting being proposed to compensate for the loss of trees, visually and biologically the replacement trees are not comparable to those which would be lost.

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Informatives

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website www.newark-sherwooddc.gov.uk/cil/

02

The application has been refused based on the following plans and documents:

- Planning Statement by Peacock + Smith/Assura dated November 2023;
- Design and Access Statement – 2202-03 dated November 2023;
- Arboricultural Impact Assessment and Tree Compensation Plan by via V3 dated 09/11/23;
- Framework Travel Plan by Civic Engineers dated 18th November 2022;
- Transport Statement by Civic Engineers dated 18th November 2022;
- Phase 1 Ecology Survey prepared by Betts Ecology;
- Supplementary Ecological Report dated December 2023;
- Statement of Community Involvement by Peacock + Smith/Assura;
- Location Plan– drawing no. 2202-0200, rev P00;
- Existing Site Plan– drawing no. 2202-0201, rev P00;
- Existing Ground Floor Plan– drawing no. 2202-0210, rev P00;
- Existing First Floor Plan– drawing no. 2202-0211, rev P00;
- Existing Roof Plan– drawing no. 2202-0212, rev P00;
- Existing Elevations Sheet 1– drawing no. 2202-0220, rev P01;
- Existing Elevations & Sections Sheet 2– drawing no. 2202-0221, rev P01;
- Proposed Site Plan– drawing no. 2202-0101, rev P06;
- Proposed Ground and First Floor Plans– drawing no. 2202- 0110, rev P00;
- Proposed Elevations Sheet 1– drawing no. 2202-0320, rev P02;
- Proposed Elevations Sheet 2– drawing no. 2202-0321, rev P02.

03

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

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.





Report to Planning Committee 18 January 2024
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Julia Lockwood, Senior Planner, 01636 655902

Report Summary			
Application Number	21/02690/FUL		
Proposal	Engineering works to form new gatehouse approach, alterations to existing castle, creation of new pedestrian access, construction of new entrance pavilion and multi-functional events facility and landscaping works		
Location	Newark Castle, Castle Gate, Newark- on-Trent		
Applicant	Newark And Sherwood District Council - Carys Coulton-Jones	Agent	Martin Ashley Architects - Ms Ellen McBride
Web Link	21/02690/FUL Engineering works to form new gatehouse approach, alterations to existing castle, creation of new pedestrian access, construction of new entrance pavilion and multi-functional events facility and landscaping works Newark Castle Castle Gate Newark On Trent (newark-sherwooddc.gov.uk)		
Registered	13.01.2022	Target Date	10.03.2022
		Extension of Time	22.01.2024
Recommendation	That planning permission is APPROVED, subject to the conditions set out within Section 10 of this report		

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation because Newark and Sherwood District Council is the applicant.

1.0 The Site

The application site relates to Newark Castle and Gardens which are located on the edge of Newark Town Centre on the east bank of the River Trent, opposite the Ossington (Grade II* Listed Building) and at the junction between Beast Market Hill to the north and Castle Gate to the east.

The castle is a Grade I listed building and a Scheduled Monument. The gardens are a Grade II registered park and garden. The site is also located within Newark Conservation Area.

The Grade II listed now Federation of Women's Institute (former Tollhouse) building (known as Trent Bridge House) is located to the north-west of the site fronting Beast Market Hill. This building is used as offices and meeting rooms. To the east of the site and within the castle grounds (but not within the application site) is the Grade II listed Gilstrap Building which houses the registry office and is owned and run by the County Council. To the south of the site is a footpath which connects Castle Gate to the path along the river. There are many other Grade II listed buildings located along Castle Gate.

The western boundary of the site is formed by a dwarf brick wall that forms the riverbank adjacent to the river path. Beyond this on the opposite side of the river is Riverside Park which forms an open setting to the castle from the west. All other boundaries are formed by low stone walls supporting iron railings with mature tree and hedgerow planting behind.

Pedestrian access is currently achieved from Castle Gate at the northeast and southeast corners of the site (with vehicular access also from Castle Gate at the southeast entrance).

The lower land levels, including the river path, to the west of the castle curtain wall lies predominantly within Flood Zone 3a (with a very small area in Flood Zone 3b) which means it is at high risk of main river flooding with Flood Zone 2 (medium risk) extending further into the site to up the gatehouse ruin. Surface Water Flood Risk is very low within the site.

Ground levels on the site range from 10.5m AOD (adjacent to the River Trent) to 19.3m AOD across the grounds.

2.0 Relevant Planning History

96/50975/CAC - Demolish existing public toilets facilities. Permitted 01.01.1996.

98/51120/FUL - New vehicular entrance, replacement railings, repairs to perimeter wall and demolition of existing toilet block. Permitted 20.05.1998.

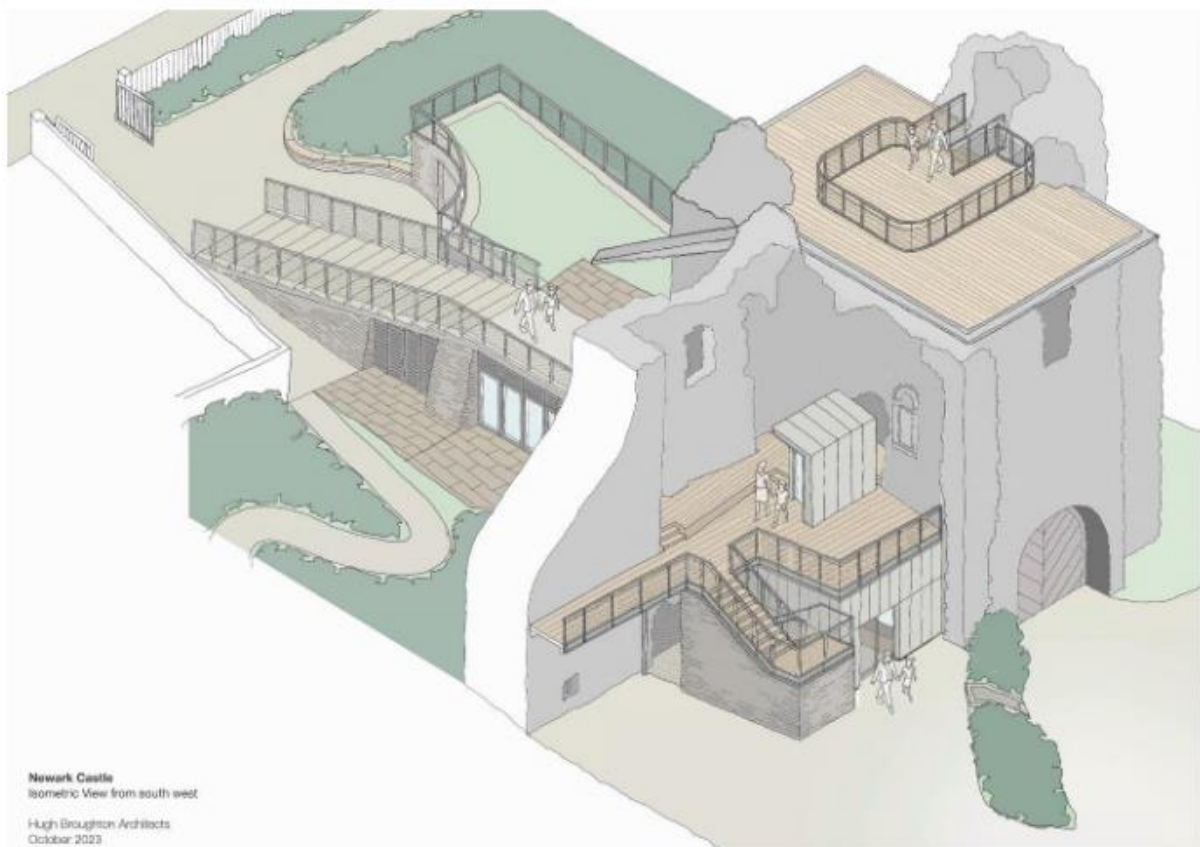
3.0 The Proposal

Although Newark Castle is a listed building, it is also a Scheduled Monument. As such, no application for listed building consent is required to be determined by the Local Planning Authority for these proposals, as any physical alterations to the building would require Scheduled Monument Consent from Historic England, which would override the need for listed building consent in this case.

This application seeks full planning permission for the creation of a new pedestrian access from Beast Market Hill adjacent to the Women's Institute building and the formation of a new gatehouse approach, the construction of a new entrance pavilion and multi-function building providing an events facility through alterations to the existing castle.

Entrance

- New pedestrian gated entrance between new stone piers from Beast Market Hill;
- Gatehouse approach (appearance of stepped moat bridge) with multi-function building beneath;
- Reprofilng of ground surface to provide accessible ramps to provide a sinuous path through the gardens to entrance pavilion on other side of curtain wall;
- Materials: brick piers and iron entrance gates; concrete screed steps; stainless steel balustrade and handrails; Blue Lias coursed rubble walling with coursed aggregate lime mortar bedding; resin bound gravel path surfaces.



Multi-function building

- Sits below stepped moat bridge and extends into accessible flat roofed area to a new single storey building to the north and east, partly semi-buried/incorporated into the slope of the land;
- 160m² floorspace beneath new stepped moat bridge and existing gardens;
- Paved accessible entrance from west leading into building;
- Staff office and storerooms;
- Multi-function events space 85m² to include educational/engagement activities;
- WC and accessible WC;
- Materials: Coursed Blue Lias stone walling; grey powder coated aluminium bi-fold doors; aluminium louvres; part green/part hard surfaced roof.

Gatehouse

- Re-inserted first and smaller second floor, roof and creation of roof-top viewing deck;
- Stepped access to second floor leading to roof-top viewing deck (approx. 26 sqm in area)
- Materials: Duratek/recycled plastic walkway boarding to roof deck; course ban-sawn seasoned English oak for structural timber boards and clenched nail doors; iron-strapped and oak-boarded double external doors; leaded casements and fixed light windows reinstated in historic locations; stainless steel mesh balustrades and handrails to roof deck.

Entrance pavilion

- New building erected in the corner between the west side of the gatehouse and the curtain wall;
- To be constructed independently from the castle structure;
- Ticketing point and retail area at ground floor level (the only area internally heated)
- External step access up to first floor walkway and viewing gallery;
- External step access down to existing dungeons;
- Lift to first floor of pavilion building and walkway to NW tower;
- Concrete raft foundation to protect underlying archaeology;
- Materials: Coursed Blue Lias walling; steel steps; terne/batten roll zinc cladding; stainless steel mesh balustrades, screens and gates; steel and glass entrance sliding doors.

NW tower alterations

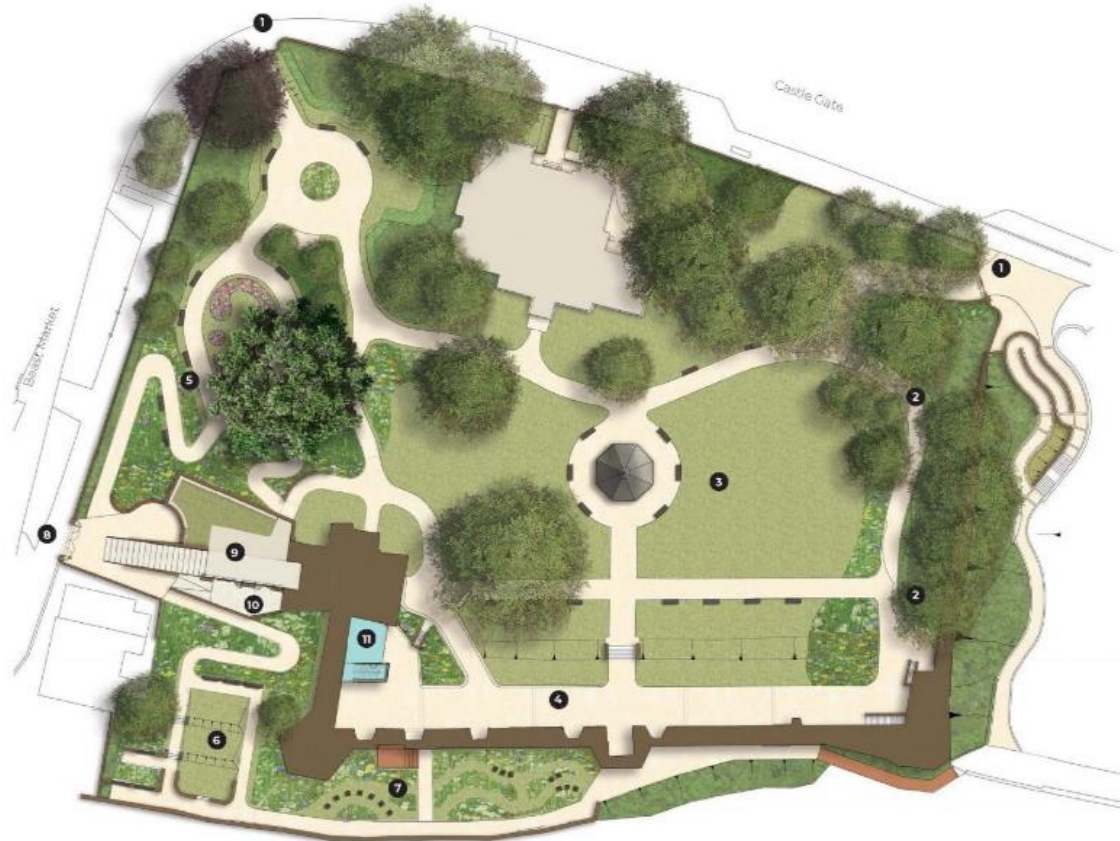
- Removal of the existing 1990's first floor and installation of new oak floor structure at the Medieval 1st floor level;
- New floor above existing ground floor level for wheelchair accessibility to ground floor level.

Alterations within existing gardens

- Reprofilng of ground surface, including cut and fill, to provide accessible ramps and sinuous path from the entrance point, through the gardens to the entrance pavilion on other side of curtain wall;
- Removal of tree and vegetation around new entrance in north-west corner;
- Provision of new external lighting, seating, bin facilities, trim trail and bicycle parking provision.

The proposals seek to better control and direct visitor movement across the site, provide inclusive access to ground and first floor levels of the Gatehouse, entrance pavilion, North-West Tower and multi-function building. Whilst all external space would continue to be financially free to access by all as is currently the case, a charge would be payable on implementation of the scheme to access the buildings.

Proposed Site Layout:



There are a considerable number of plans and supporting documents relating to this application. In order to avoid duplication, the plans are listed within Condition 012 below and all the supporting reports and documents are listed within Informative 010 towards the end of this report.

4.0 Departure/Public Advertisement Procedure

Occupiers of 42 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

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 7 - Sustainable Transport
- Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
- Core Policy 7 – Tourism Development
- Core Policy 9 - Sustainable Design
- Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure
Core Policy 14 – Historic Environment
NAP1 - Newark Urban Area

Allocations & Development Management DPD

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

Other Material Planning Considerations

- National Planning Policy Framework 2023
- Planning Practice Guidance (online resource)
- Newark Castle Gatehouse Project Conservation Management Plan Oct 2023 by Purcell
- Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

6.0 Consultations

Comments have been summarised below but are available to view in full on the Council website.

(a) Statutory Consultations

Historic England – support the scheme, which will better reveal the significance of the Castle and enhance visitor understanding and enjoyment. The revised form of the pavilion structure better respects the architectural form of the gatehouse whilst delivering access arrangements etc. In regard to the 3 laurels to the east of the gatehouse, rather than fell two and retain one, they recommend all three should be retained but managed as a designed group and very heavily cut back. The lighting arrangements on the waterside need refining in new masonry pilasters against the dry side of the existing riverside wall with shallowed armoured cable connections rather than deep cable trenching. Such final detailing and archaeological controls can be appropriately addressed through conditions on Scheduled Monument and Planning consents, along with those details of seats, bins and other bollard lighting.

Ancient Monuments Society (Historic Buildings and Places) – Initial comments state unclear why both entrance pavilion and multi-function space are fully attached to castle and not stand-alone structures with minimal connections needed to link the ramp, stair and lift to the Gatehouse and why ticket office is not within multifunction building where visitors first arrive on the site. Recommends less intrusive options are fully explored before proceeding with the application to consider less intrusive options. No comments have been received to latest revised submission.

NCC, Highway Authority – No objection to a new pedestrian entrance as the gates are proposed to open inwards, away from the public highway, subject to a condition preventing the use of the access by any motorised vehicles. The applicant has previously been advised that the amendment of the Traffic Regulation Order to allow new disabled parking on Beast Market Hill may not be successful and the submitted drawing should not therefore form an

integral part of any permission. Recommend an informative be added to any permission to explain that the applicant will be able to make an application to amend the TRO but the outcome cannot be guaranteed.

The Environment Agency – No objection although the developer may wish to include measures to reduce risk posed to the general public and staff in the event of future flooding of the western access and immediate riverside area. Use of the riverside area should be avoided well before any flooding occurs. In the event of a Flood Alert Warning, evacuation should be sought in accordance with the measures put forward within Section 4.3 of the submitted Flood Risk Assessment. Recommend an informative be added to any permission regarding the need for the applicant to apply for an Environmental Permit from the EA.

NCC, Lead Local Flood Authority – No bespoke comments on surface water drainage but recommend a number of general guidance points.

The Gardens Trust – Do not wish to comment at this stage, and this does not signify their approval or disapproval of the proposals.

Canals & River Trust – No objection but raise some concern in relation to the impact on the stability of the waterway wall as the proposed drainage strategy shows a soakaway approx. 7.5m from the waterway wall, which can adversely affect stability through excavations and increased ground saturation. At the distance and depth proposed such adverse effects are unlikely to arise. However, the strategy states that the soakaway design is likely to change. Therefore, it is requested that final drainage plans shall be conditioned, clarifying the soakaway location to ensure the stability of the wall is not adversely affected. The Trust is also interested in the archaeology relating to this historic coal wharf which may survive between the western wall and the River Trent. The recommendations of the Archaeology Report should be implemented via a planning condition and that any findings relating to the wharf and/or waterway form part of future interpretation, particularly addressing the relationship between the castle and the waterway, which is central to its significance and visual presence within the Conservation Area. Recommend a number of informatives be attached to any permission granted.

(b) Parish Council

Newark Town Council – No objection.

(c) Non-statutory Consultees and Representations

Nottinghamshire Federation of Women's Institutes – neither object nor support but make the following comments. The removal of all trees around the perimeter of their building except the Yew tree at the rear, would expose the rear and side of the building and make it more vulnerable to break ins and theft and prone to litter from the castle site blowing through the railings; disruption due to noise and interruption to water supply and potentially lack of toilet facilities; the multi-function room seats up to 40 people with 2 toilets, wash hand basins and a sink. Notts Federation of WI's has been approached by NSDC requesting use of the sewer pump to service the waste as the WI own the pipework which leads from the sewer pump in the back yard, under the castle grounds to the corner of the castle grounds, where it meets the town sewer. The current pump is over 20 years old and unlikely to meet the demands of any extra load. The request by NSDC for shared use of the sewerage pump and transfer pipe has been declined by the Trustees; any damage to sewer pipework during heavy machinery usage must be made good by NSDC.

NSDC, Conservation – Subject to clarification and justification of the structural work to the Gatehouse, overall, the proposed development preserves the special interest of the listed building and the character and appearance of Newark Conservation Area.

Structural details submitted in relation to the floor and viewing deck within the Gatehouse show a 60mm diameter steel column, however, architect drawings show columns will be 100mm and hollow to thread cabling through. Floor plans show most of the columns located close to the edge/corners of the rooms, assisting to mitigate their visual impact, however, some are located a greater distance away, making them more visible and impacting the visitor experience and ability to access features such as the window on the second floor. Further information and clarification in relation to the structural requirements would be helpful to confirm if columns could be moved closer to the edges or made smaller? There is also potential to reduce the number of bollard lighting and thereby the visual intrusion within the park and garden by removing the bollards between the benches at the end.

NSDC, Tree and Landscape Officer – Suggests that the documents submitted are biased and do not take into account the living heritage or history in its full breadth of this location; suggests that the tree survey does not give sufficient information to fully evaluate the proposal and both Category A and B trees should not be removed as they are considered significant to the historic character of the area and the scheme be redesigned to ensure retention; no justification for the removal of the trees and no mitigation proposed (where, on the balance of benefits, trees are lost, replacement should be required by condition within 2m of the stump, ensuring canopy coverage is replaced at full mature size) and impact on the remaining trees is an unknown due to insufficient information supplied.

NSDC, Biodiversity and Ecology Lead Officer – has commented as follows - I can advise that I consider a satisfactory level of survey and assessment has been undertaken to determine the potential ecological impacts of the proposal. This has been undertaken by suitably competent ecologists using best practice guidelines. Based on the submitted documents I would concur with the key conclusions of the ecological assessment which are summarised below:

- There would be no impact on any site designated for its nature conservation interest;
- There would be no impact on any priority habitats (i.e., Habitats of Principal Importance as listed under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006);
- There would be a potential impact on a common pipistrelle *Pipistrellus pipistrellus* roost located in the northwest tower;
- There would be potential impacts on foraging and commuting bats from artificial lighting;
- There is potential for impacts on nesting birds during vegetation clearance;
- Except for the impacts on bats and nesting birds, there would be no impacts on other protected and/or priority (i.e., species listed on s41 of the NERC Act 2006);
- The invasive non-native plant Japanese Knotweed *Reynoutria japonica*, which is listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended) is present along the riverbank; and
- There is potential for biodiversity enhancement via an appropriate soft landscaping scheme.

NSDC, Environmental Health – no objection but recommends a Construction Method Statement is submitted to control hours of construction and deliveries be restricted to normal building hours.

Newark Business Club – support the application.

One letter of representation has been received from an interested resident of the District who consider the series of steps proposed up to the Gatehouse would have been out of place in 1123/1133 and underneath would have been the original moat and a bridge type structure would have been required to cross it (although there does not appear to be any slots for a drawbridge) and questions is this to be indicated in any way in the proposed works?

7.0 Comments of the Business Manager – Planning Development

The key issues are:

1. Principle of Development
2. Impact on Heritage Assets and Visual Amenities of the Area
3. Impact on Residential Amenity
4. Impact on Highway Safety
5. Impact on Ecology
6. Impact on Trees
7. Impact on Flood Risk
8. 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.

As the application concerns designated heritage assets of the setting of listed buildings and the conservation area, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') are particularly relevant. Section 66 outlines the general duty in exercise of planning functions in respect to listed buildings stating that the decision maker "*shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*" Section 72(1) also requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

Newark is one of England's finest market towns and was identified by the Council for British Archaeology in 1964 as one of only 51 towns of national importance. Today, Newark is still a remarkable town historically and architecturally, with a range of historical assets reflecting

the Medieval, Civic War, Georgian and Victorian periods. This includes Newark Castle, which is perhaps the jewel, given its contribution to the nation's history and its prominent siting within the wider built environment together with its position on the River Trent and it can be considered the town's most significant key asset.

Principle of Development

Spatial Policy 1 (Settlement Hierarchy) identifies the Sub Regional Centre (Newark) to be the main location for investment for new services and facilities within the district. Spatial Policy 2 (Distribution of Growth) states Newark Town Centre will act as a focus for new retail, cultural and leisure development, which is also reflected in Policy DM1 (Development within Settlements Central to Delivering the Spatial Strategy).

Spatial Policy 8 (Protecting and Promoting Leisure and Community Facilities) states the provision of new and enhanced community and leisure facilities will be encouraged, particularly where they address both deficiency in current provision and where they meet the identified needs of communities, both within the district and beyond. It goes on to state that small-scale development that is ancillary to existing open space and recreational land and which would result in a small loss of space will be supported, provided that it contributes toward the improvement and better use of the remainder.

Core Policy 7 (Tourism Development) states that the Council recognises the economic benefits of sustainable tourism and visitor-based development and will view positively proposals which help to realise the tourism potential of the District, support the meeting of identified tourism needs, complement and enhance existing attractions or that address shortfalls an existing provision subject to:

- Design and layout; and
- Individual and/or cumulative impact on local character (including the built and natural environments), heritage assets, biodiversity, amenity, transport, infrastructure, community services and in locations adjacent to the open countryside, landscape character.

Policy NAP1 (Newark Urban Area) seeks to protect and enhance the architectural, historic and archaeological character of Newark and its riverside, identifying locations and sites to be the subject of conservation and sensitive redevelopment. This policy also seeks to promote Newark Town Centre as one of the district's key tourism destinations by developing and enhancing culture, leisure and entertainment facilities and uses and heritage assets which attract visitors and residents to the area.

This application seeks to promote and better reveal the significance of Newark Castle and improve the visitor experience through a combination of better access, increased facilities, and greater deployment of historic knowledge and interpretation. Such improvements would be enjoyed by visiting tourists, schools, residents of the district and beyond. As such, it is considered that the principle of the development is acceptable and would accord with the summary of Development Plan policies above, subject to the assessment of site-specific considerations which are set out below.

Impact on Heritage Assets and Visual Amenities of the Area

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF). Section 16 advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development. LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas.

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Core Policy 9 states that new development should achieve a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the district and is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. Paragraph 135 of the NPPF states planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

The site sits in a prominent and important location, at the end of the Great North Road, at the main entrance to the town and adjacent to the River Trent. It is also a significant historic location, the existing castle dating back to late 13th/early 14th century and is Grade I listed and a Scheduled Monument. The site is also a Grade II registered park and garden. Sitting within Newark Conservation Area, it is also surrounded by other listed buildings, including the Ossington (Grade II* Listed Building) to the north on the opposite side of Beast Market Hill, the Grade II listed former Tollhouse (now occupied by the Women's Institute) to the north-west, the Grade II listed Gilstrap Building fronting Castle Gate to the east. There are many other Grade II listed buildings located along Castle Gate. This site is therefore in a highly significant historic environment.

The site of the castle and grounds is well contained and generally well screened with only limited views in. The castle is an impressive building and a dominant architectural feature, it has a long and distinctive curtain wall punctuated by a complete Romanesque Gatehouse. It

is this wall which today forms the stunning view of the castle on entering Newark along the Great North Road. The castle is a prominent building which positively contributes to the character and appearance of Newark Conservation Area.

Newark's first castle was probably a motte and Bailey built in the wake of William the Conqueror's push northwards during the winter of 1068-69 with Newark targeted as one of the key positions needed to establish control in the East Midlands. Newark castle was substantially rebuilt in the late 13th/ early 14th century. Although little is known about the siege in 1218, it is thought that the walls were in poor condition. The castle had been restored as an aristocratic residence at the end of the 16th century but following the third siege of Newark in 1646 was left as a roofless ruin.

After the Civil War, the abandoned castle and grounds were put to an extraordinary variety of uses and by 1788 the southern part of the grounds were given over to a Bowling Green and gardens with the remainder of the site being occupied by stables, tenements, workshops, slaughterhouses, a blacksmith shop and a candle manufacturer. Squatters had occupied the North-West Tower of the castle and the area had become something of a slum.

In 1839 the tenements were cleared and the area became a cattle market which was moved from its congested location on Beast Market Hill with a public bath house built in the south-east corner of the grounds.

In 1887 the Town Corporation decided to landscape the castle grounds as a lasting memorial to Queen Victoria's jubilee and a public park was opened in 1889. At this time the site was levelled and tarmacked, the baths demolished and a number of less sensitive repairs were carried out to the castle fabric. Henry Ernest Milner (1845-1906) was commissioned to design the gardens and it is thought that the layout remains largely unchanged.

The riverside area of the castle grounds runs directly below the ruins of the curtain wall. Access along the river by the castle is via a gravel pathway and boardwalk which gives way to a grassed area with parterra and gardens linking uphill to the inner gardens within the castle walls. The disabled ramp has been incorporated sensitively into the design here, as at other points within the grounds. These gardens run past the Gatehouse which again towers over the grounds here, making it better appreciated from some distance.

The inner gardens are made-up of a series of formal lawns and interconnecting pathways. The pathway layout reflects the designs of Henry Ernest Milner of 1887, with some minor modifications such as the bandstand. Running adjacent to and within the northwest curtain wall is an upper terrace providing a promenade which gives access to the former windows of the castle.

The trees within the castle grounds are an essential element of the character of this historic park and garden and are mainly the inheritance of H.E. Milner's original scheme implemented in 1887, although some predate this.

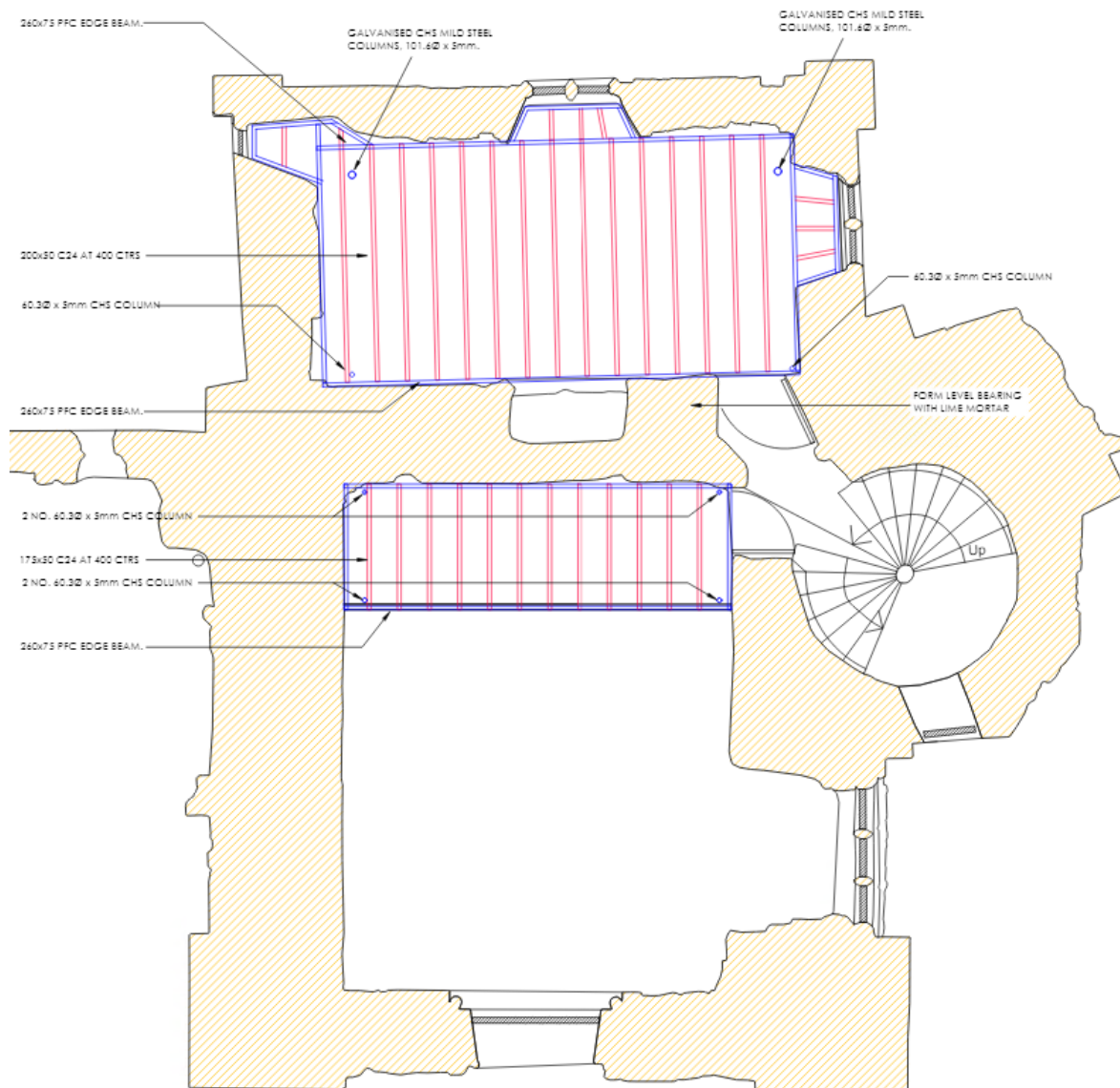
The castle has gone through a number of significant phases through-out its history from its medieval origins to its Victorian garden setting. These proposals could therefore represent an important continuation of the story of the castle.

The proposals seek to retain the garden setting character in the north-east corner of the site but also to reinstate the historic entrance to the Gatehouse from Beast Market Hill in the north-west corner. The addition of new modern structures and other alterations proposed to the castle ruin itself, would also introduce intimate elements to the historic fabric, but they would be modern and easily read, as would the new entrance which would represent the historic horse-bridge feature into the Gatehouse. The Council's Conservation Officer considers the proposals would better reveal the significance of this part of the castle as well as reintroducing a historic view of the Gatehouse, thereby enhancing the character and appearance of the Conservation Area.

The multi-function internal space has been designed to be sub-terranean to mitigate some of the impact on the Registered Park and Garden. In addition, this part of the Registered Park and Garden has been altered over time through previous archaeological investigations.

In relation to the Gatehouse proposals, the Council's conservation officer states that the rooftop viewing deck is large enough for a whole school class to be accommodated at one time. It has been designed so any views of the viewing deck barrier from elsewhere are minimal and the barrier has been designed to be lightweight.

Structural details have been submitted in relation to the floor and viewing deck within the Gatehouse which are supported by steel columns. The applicant has confirmed that there is no contradiction in the plans but that two of the steel columns are 60mm and two are hollow and 100mm. Floor plans show that most of the columns would be located close to the edge/walls of the rooms which would assist with mitigating their visual impact. However, the conservation officer has commented that one column in particular is located away from the wall which would make it more visibly intrusive and which could also impact the visitor experience and ability to access a window in the west elevation at second floor level. Further clarification has been sought to see if this column can be relocated to a less sensitive location and will be further reported.



In terms of the entrance pavilion with accessible platform lift to the first floor level, allowing access to the Gatehouse and North-West Tower, its roof provides a flat viewing platform to provide an accessible elevated viewing area over the park and garden. Its independent construction from the castle structure means it would have no direct impact on the heritage asset. The proposed balustrade detail is lightweight and would have some interpretation designed into it. Conservation colleagues do not raise any concerns in relation to this element.

The proposed ground floor alterations to the northwest tower include level and inclusive access from the entrance pavilion and reinstatement of a first floor connecting walkway and timber beams to the second floor would improve access to the North-West Tower and reinstate historic features which would better reveal the heritage asset, in the view of the conservation officer.

The new entrance would remove part of the 20th century railings however, the new gates would be designed to reflect those at Castle Gate. The creation of new pathways within the park and garden allow for better accessible access around the site and deal with the difficulties of changes in ground levels with appropriate gradients. Whilst the new winding

footpaths are reflective of the H. E. Milner garden design, their increase would result in changes to soft landscaping. The landscape master plan for the whole site includes benches and play equipment which would be generally low-level equipment and would not appear visually intrusive.

The scheme includes a range of bollard lighting within the park and garden, placed periodically along footpaths and between benches. The conservation officer considers there is potential to reduce the number of bollards to reduce visual clutter and this can be conditioned as part of any permission granted. Additional services such as lighting, heating and ventilation details within the buildings would also need to be conditioned.

Another significant aim of the project is to carry out important conservation work. These conservation works include:

- removal of vegetation, lichen and moss;
- cleaning of stone;
- replacement and repair to stone;
- removal of previous masonry repairs;
- repointing.

These are considered to be important for the future of the heritage asset and reflect the principals set out in paras 196, 203 and 205 of the NPPF.

Overall, with clarification on the positioning of one of the steel columns, both the conservation officer and planning officer consider that the proposed development would preserve the heritage assets that would be affected by these proposals.

Historic England has raised no objection to the proposal in terms of its impact on the Scheduled Monument, other than to query the loss of two trees and the need for conditions to require greater detailing on lighting, benches and bin facilities.

The Garden Trust do not wish to raise any comment at this stage. Although no up-to-date comments have been received from the Historic Buildings and Places, the fact that the entrance pavilion is now an independent building from the castle structure, does respond to their initial comments in part.

The comments of the Canal and River Trust are noted in relation to their desire to condition further archaeological investigations to be carried out between the castle and the river, however, the applicant has confirmed that this is unlikely to occur within this project and it would be unreasonable for a condition to be imposed to require this, given works to this area are limited to additional planting and lighting. In response to the matter raised by a third party in relation to the historic moat, it is considered that the new entrance structure would adequately reflect a horse-bridge feature.

It is considered that reinstating the historic entrance to the castle would better reveals its significance and therefore its positive contribution to the character and appearance of Newark Conservation Area. However, it is also acknowledged that this would come at a cost through the loss of the majority of the mature planting in this north-west corner of the site (which is not currently supported by the Council's Tree and Landscape Officer). The strong

existing planting provides a soft setting to the heritage assets and surrounding area which contributes positively. However, it also serves as a barrier to the wider appreciation of the historic Gatehouse entrance and divorces this principal elevation from its connection with Beast Market Hill. Any decision would therefore have to consider whether the harm resulting from the loss of some of the existing trees to both the Registered Park and Garden and the Conservation Area would be outweighed by the benefits of better revealing the significance of Newark Castle, through reinstating its historic entrance, increasing its visual prominence and its positive contribution to the character and appearance of Newark Conservation Area (which is considered to represent a clear and convincing justification required by para 206 of the NPPF). These considerations are also of relevance to the impact of the proposals on the general visual amenities of the area and street scene.

Giving weight to the fact that the castle would not historically have had trees within its setting and the fact that the original layout of the Victorian garden design is still retained in the north-east area of the site, officers consider that in this case the benefits would outweigh the harm in terms of the impact on heritage assets and the visual amenities of the area, which will be weighed in the conclusion and planning balance below. Furthermore, the harm identified is considered to be at the lower end of less than substantial harm and which, in accordance with para 208 of the NPPF, this harm would be outweighed by the public benefits of the proposal, in terms of heritage (better revealing the significance of the castle), economic (increased tourist attraction) and social (improved education facilities) benefits.

In conclusion therefore, although some limited harm is acknowledged, this is outweighed by heritage and public benefits, and subject to conditions, would comply with CP14 and DM9 of the Development Plan and the guidance set out within Section 16 of the NPPF. Overall, the impact of the proposal on the general visual amenities of the area and street scene would also be acceptable in compliance with CP9 and Policy DM5.

Impact upon Residential Amenity

Policy DM5 of the DPD states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

Paragraph 135 of the NPPF seeks to ensure a high standard of amenity for existing and future users of land and buildings.

The nearest residential properties to this part of the application site are those flats situated in the upper floors of the Ossington, approx. 40 m to the north-east of the proposed new entrance point, situated on the opposite side of Beast Market Hill.

Given this distance together with the scale of the proposed new built form, it is not considered that the proposal would result in any over-bearing impacts or loss of light. Clearly the introduction of the roof deck at the Gatehouse would increase the potential capacity for an increased degree of loss of privacy to these occupiers. However, there would be a distance of approx. 66m between the two and on this basis it is not considered any unacceptable loss of privacy would be experienced by residents. Environmental Health colleagues have raised

no objection to the development.

It is acknowledged that there may be some disturbance from increased levels of noise during any construction period, however a Construction Method Statement would be conditioned on any permission which could control hours of construction and deliveries be restricted to acceptable hours.

The development would not likely result in any adverse residential amenity impacts to existing occupiers and would accord with the requirements of Policy DM5 of the ADM DPD and guidance within Para 135 of the NPPF.

Impact upon Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the ADMDPD requires the provision of safe access to new development and appropriate parking provision.

Paragraph 114 of the NPPF states, amongst other things, that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The Highway Authority have confirmed they have no objection the proposed new pedestrian entrance as the gates proposed would open inwards, away from the public highway. However their comments are subject to the imposition of a condition on any permission preventing the use of the access by any motorised vehicles. Any vehicles to the site would have to use the existing vehicular access from Castle Gate.

The Highway Authority also refer to the fact that the submitted plans show two disabled parking bays being provided within the cobbled layby area at the side of Beast Market Hill that is already used for general parking. However the Highway Authority have requested an informative be added to any grant of permission to inform the applicant that such provision would require an amendment of the Traffic Regulation Order but that the outcome cannot be guaranteed. They also advise that such proposals should not therefore form an integral part of any permission. However, it is considered that even though such proposals may be drawn on a plan that may be approved for planning permission purposes, this does not and cannot override any requirement required under the TRO. This area is also outside the red lined application site and as such does not form part of the consideration of this planning application in any event.

There are two proposed locations for new bicycle parking facilities adjacent to existing pedestrian access points within the Registered Park and Garden but no details have been submitted and so this will need to be conditioned within any permission granted.

Subject to conditions, the application is considered to be acceptable in relation to highway safety having regard to the requirements of Spatial Policy 7 of the Newark and Sherwood Amended Core Strategy and Policy DM5 of the Newark and Sherwood Allocations &

Development Management DPD and the guidance set out at paragraphs 114 and 115 of the NPPF (2023).

Impact upon Ecology

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

DM7 states 'On sites of regional or local importance, including previously developed land of biodiversity value, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site.'

Para 180 of the NPPF states in parts a) and d) that planning decision should contribute to and enhance the natural and local environment by:...

...a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

...d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures."

Para 186 of the NPPF states that "When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;"

The application has been accompanied by an Ecology Report and a Bat Survey Report as well as proposed Eaves Bat Box Detail and Putlog Hole Roost Detail.

The information submitted acknowledges that the proposal would potentially impact on a common pipistrelle bat roost located in the North-West Tower and therefore to be lawful, a European Protected Species (EPS) Mitigation Licence will be required from Natural England to enable a derogation from the legislation that affords protection to all UK bat species and their places of shelter (roosts).

When Natural England consider an EPS licence application they must consider three 'tests', and court judgements have established that a local planning authority must as part of its planning considerations consider whether the Statutory Nature Conservation Organisation (i.e., Natural England) would be likely to grant a licence.

The 'tests' are:

- A licence can be granted for the purposes of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.

- There is no satisfactory alternative.
- The population of the species concerned will be maintained at a favourable conservation status in their natural range.

To make a judgement as to whether an EPS Mitigation Licence is likely to be granted, NSDC needs to also consider the three 'tests.' The Council's Biodiversity and Ecology Lead Officer has advised that sufficient survey information, and details of proposed mitigation in the form of replacement artificial roost opportunities, has been provided within the application to enable such a judgement on the third test.

It is considered that with the proposed mitigation measures implemented that the favourable conservation status of the species affected (common pipistrelle) would be maintained, but with the caveat that Natural England might require minor modifications to the proposed mitigation. Consequently, these measures should be secured by condition on any grant of permission.

In relation to the first test, the proposals are considered to be of overriding public interest in social and economic terms given the education and economic benefits it would bring through its contribution to local schools and attraction of increased visitors to the town and can be considered of primary importance for the continued sustainability of the historic environment. In relation to the second test, there is no satisfactory alternative because there are no other castles in the district and this scheme is completely unique to this building and so cannot be repeated elsewhere. As such, it is considered that all three derogation tests are passed in this case.

The applicant needs to be aware that if the application for the licence is made after May 2024 there is likely to be a need for the emergence surveys to be repeated so that the licence application is determined by Natural England using sufficiently up to date surveys. This would be a matter between the applicant, their contracted ecologist and Natural England and an informative can be added to any permission to this effect. This could be added as an Informative on any permission.

The potential impacts on foraging and commuting bats are likely to be mitigated by the way the proposed lighting scheme has been designed, which has given due consideration to these potential impacts. Consequently, this should be secured satisfactorily within the decision notice should approval be granted.

Potential impacts on nesting birds can be adequately mitigated by ensuring that any removal of vegetation takes places during the period September-February (inclusive), i.e., outside to the nesting season for most species. If this is not possible, areas to be cleared should be checked in advance by an ecologist. This can be conditioned.

The Ecology Survey has identified Japanese Knotweed on the riverbank which is an invasive, non-native species. Whether this is currently being subjected to control/eradication methods is not clear, however, an informative is considered appropriate to inform the applicant to its presence and ensure that management measures are in place to control and prevent spread. A condition is already imposed to control depths of digging out for cabling serving proposed new lighting along the riverbank in order to protect archaeology which could also minimise

the potential for disturbance and spread of this very harmful species.

Given the historic nature of the site and the need to make the grounds attractive for visitors for as long as possible throughout the calendar year, landscaping planting cannot be based solely on providing biodiversity benefits. Against this background, the Council's Ecology Officer considers that the proposed soft landscaping scheme provides an acceptable balance.

With the mitigation measures discussed above, it is considered that the proposals would not likely result in significant harm to biodiversity and would provide a proportionate level of enhancement for biodiversity.

To conclude, the proposals would have no impact on any site designated for its nature conservation interest, or on any priority habitat, and with the proposed mitigation measures in place, impacts on protected and notable species would be adequately mitigated. Also, within the wider constraints discussed above, the proposals have sought to maximise opportunities for biodiversity. Consequently, it is considered that, subject to conditions, the proposals accord with the requirements of Core Policy 12 and the guidance within the NPPF with regard to biodiversity.

Impact on Trees

Policy DM5 states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Paragraph 136 of the NPPF states trees make an important contribution to character and existing trees should be retained wherever possible.

There are no Tree Preservation Orders on the site but the trees are protected by their location within the Conservation Area. The application has been accompanied by a Tree Survey Report and Arboricultural Impact Assessment dated 1 Nov 2023 by RPS Group. The Survey was carried out in the north-west corner of the site only and recorded 22 trees, 3 Groups, 3 hedges and 12 scrub areas.

The Report identifies that the following are proposed for removal:-

- 16 existing trees (3 No. Grade A (high quality and value) trees; 3 No. Grade B (moderate quality and value) trees and 10 Grade C (low quality and value) trees).
- 2 Category C groups (G1 and G3);
- 3 Hedges (H1, H2 and H3); and
- 5 areas of scrub (S5, S7, S10, S11 and S12).

It also identifies that it may be necessary to lift the crowns of many tree that would overhang the Tree Protection Fencing within the development site in order to lift them clear of works and it recommends it should be carried out to the specification laid out in Section 6 of the report, which would be minimally invasive and have little impact on the overall health of the trees. However, Section 6 is very general and does not detail the extent of crown lift proposed for the trees. This would therefore need to be conditioned prior to works commencing.

The Arboricultural Report states the proposed works within the Root Protection Area of T14 is the installation of a footpath. The Report sets out that guidance within 5.23 of BS5837

states that permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within a Root Protection Area and the report uses this same limit of 20% as a guide when determining whether or not the impact on an affected tree is acceptable. The area of RPA for T14 is 275 sqm and the proposed incursion is 26sqm, which represents a total of 9.45%. The Report states that provided the guidance set out is followed, the incursion would have minimum impact on the physiology of the tree. The new path will require the current levels to be manipulated to form a level surface. This work must be done in both a “no dig” manner where the levels are to be raised and hand dug where the levels are to be lowered. Any roots under 25mm found in the excavation process are to be pruned in accordance with BS3998. Any roots larger than 25mm are to be retained within the new surfacing and protected by backfilling around the roots with sand. This should therefore be conditioned on any permission.

The Arboricultural Report recommends that Construction Exclusion Zones should be defined by protective fencing on the site in accordance with Appendix B which defines the siting of the Root Protection Fencing to protect existing trees to be retained. The Protective fencing should accord with the details within Appendix C of the Arboricultural Report and should be in place for the duration of the construction works, which can be conditioned.

The only existing trees that would be retained in the north-west area of the site is a Yew Category A tree to the rear of the Women’s Institute building and a Holly Category C tree just east of the North-West Tower. The Group of 3 laurel trees (Category C) referred to by Historic England are much further to the eastern side of the site closer to Castle Gate.

In relation to new planting proposals, a Landscape Masterplan and Planting Strategy has been submitted. The former plan shows a new hedgerow to be planted along the northern boundary and one new tree to be planted and a proposed play trail area in the south-west corner of the site. The latter plan identifies 4 planting character areas:-

- 01 – Entrance and pleasure ground planting in north-east corner of the site;
 - 02 - Woodland Planting along southern boundary of the site (including play trail elements);
 - 03 - Terraced Gardens between the castle and the Women’s Institute Building; and
 - 04 – Watergate Gardens between the castle curtain wall and the River Trent.
- However, precise planting schedules would need to be conditioned.

The Council’s Tree and Landscape Officer has raised concerns that the submitted information does not take into account the living heritage or history in its full breadth of this location; that the tree survey does not give sufficient information to fully evaluate the proposal; that both Category A and B trees should not be removed as they are considered significant to the historic character of the area and the scheme be redesigned to ensure their retention; no justification for the removal of the trees and no mitigation proposed (where, on the balance of benefits, trees are lost, replacement should be required by condition within 2m of the stump, ensuring canopy coverage is replaced at full mature size) and impact on the remaining trees is an unknown due to insufficient information supplied.

It is undoubtedly clear that the proposals would result in a loss of existing trees and planting from the Registered Park and Garden, designed by H.E. Milner, that is of historic interest and contributes positively to the amenity and character of the area. A considerable element of Milner’s garden design would be retained, including the tear-drop feature. Planting removals

are concentrated in the north-west corner of the site and are required in order to provide the new entrance and to provide pathways within the site that are of the correct gradients to enable accessible access to the proposed new facilities. These aspects represent the wider justification for the proposed amendments to the layout of the park and garden and removal of much of the existing planting in this area, as well as the desire to restore the historic entrance to the castle and give this landmark structure a more prominent and visible setting.

It is clear that there are a number of competing planning considerations in relation to the assessment of this application that need to be weighed in the balance and it is acknowledged that the loss of mature tree planting from the site represents moderate harm that weighs negatively in the overall planning balance.

The submitted Landscape Design & Access Statement states that in relation to mitigation for the loss of trees on the site opportunities for replacement tree planting are limited by the existing stock and the desire to retain the openness of the gardens. In addition, it states that any new tree planting would need to be located away from sensitive archaeological areas to avoid any damage to underground archaeology by tree roots and consequently the proposals only include for the introduction of one new tree. However, the applicant is keen to offset the loss of existing trees with new planting as close as possible to the site and as such it is proposed to plant at least 15 new trees within the Riverside Park, on the opposite side of the river from the castle. These would be a range of native and ornamental trees chosen for their wildlife value and ornamental appeal, planted large enough to create an immediate effect.

Whilst this suggested mitigation is acknowledged, there are a number of issues with it, including the distance from the application site and whether it would be appropriate to introduce new planting of some height in this area, given that it currently provides an appropriate open setting for the castle on approach to it from Great North Road. Furthermore, it has not been identified as a requirement in terms of mitigation for ecological impacts. For these reasons, officers consider it would not be appropriate to insist on this suggested mitigation strategy in this case.

Impact on Flood Risk

Core Policy 10 of the Amended Core Strategy requires new development to be located away from areas at highest risk of flooding in order to avoid both present and future flood risk. Core Policy 9 requires new development proposals to proactively manage surface water. Policy DM5 and the guidance within the NPPF requires that development should be located in the least sensitive areas to flood risk through the application of the Sequential Test.

The lower land levels, including the river path, to the west of the castle curtain wall lies predominantly within Flood Zone 3a (with very small area in Flood Zone 3b) which means it is at high risk of main river flooding, with Flood Zone 2 (medium risk) extending further into the site to up the Gatehouse ruin. Development proposals on land at high risk of flooding would be limited to new planting and external lighting. The proposed new entrance pavilion and the new entrance structure and small section of the multi-function building are located within Flood Zone 2 according to the Environment Agency flood maps.

In terms of the application of the Sequential Test, it is evident that the proposed development

is specific to this unique building and therefore could not be reasonably provided on land elsewhere at lower flood risk. It is therefore considered that the Sequential Test is passed. The Sequential Test does not need to be applied for surface water flooding as the risk at the site is very low.

It is considered that in terms of flood risk vulnerability set out in Annex 3 of the NPPF, the proposal would fall within a less vulnerable class. Table 2 of the PPG identifies that the Exception Test is not required for less vulnerable uses within Flood Zone 2.

Nevertheless, para 173 of the NPPF states that local planning authorities should ensure that flood risk is not increased elsewhere.

The application has been supported by the submission of a Flood Risk Assessment (FRA), Drainage Strategy, Flood Risk Plan as proposed and Proposed Drainage Layout Plan. The FRA identifies that apart from the fluvial flood risk, there is a low potential risk from the proposed increased impermeable areas on the site that would increase surface water flood risk that would need to be appropriately managed as part of the scheme. Flood levels on the site at the 1 in 100year + climate change event would be 12.02mAOD and in the 1 in 1000-year event it would be 12.29mAOD. The base of the access ramp would be 13.77mAOD and floor levels of the multi-function building being 14.2mAOD. Floor levels of the entrance pavilion would be 19.47mAOD. The FRA therefore confirms these flood levels would only affect areas of garden and paths on the area between the curtain wall and the river and would not impact either of the proposed new buildings. The policy would be to avoid use of the riverside area when river levels are high and well before any flooding occurs. No further site safety and evacuation procedures are considered necessary in this case.

The Environment Agency raises no objection to the proposal although recommends that the Flood Alert Warning Evacuation subject to

The proposed Drainage Layout Plan shows various proposed systems to deal with drainage matters across the site, including:

- Proposed foul connection into the Women's Institute pumping station and connections into existing foul drainage system to be determined
- Geo-cellular soakaway crates located in garden area to north of NW Tower. Soakaway preliminary sized using a rate of 1×10^{-5} m/s. Size of soakaway likely to change subject to percolation tests to be undertaken
- Rodding Eye, mushroom cowl vent and various acro multi drains and downpipes to be located across the site but precise details are yet to be confirmed

Clearly in the light of the comments made by the Women's Institute, the proposed foul connection into their pumping station is no longer an option, as shown on the submitted drainage plan. The applicant is aware and in the process of designing an alternative provision such as providing a gravity drain across the Wharf to the Severn Trent sewer network. There are still tests and work to be carried out before the final detailed drainage design is determined. As such, it is considered a condition requiring final drainage details to be submitted and approved should be imposed on any grant of permission. Subject to this condition, no flood risk harm has been identified.

Other matters

The concerns of the Women's Institute relating to the fear for potential increased risk of crime as a result of the majority of existing planting would be removed around their site is noted. However, there is also a consideration that in removing the majority of planting and opening up the boundaries of the site, could in fact improve securing as any potential intruders would be more easily and clearly seen. However, this fear expressed is acknowledged and is therefore afforded some minor negative weight in the overall planning balance set out below.

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

Core Policy 7 (Tourism Development) recognises the economic benefits of sustainable tourism and visitor-based development, stating that proposals which help to realise the tourism potential of the District, support the meeting of identified tourism needs, those that complement and enhance existing attractions will be viewed positively. Policy NAP1 seeks to promote Newark Town Centre as one of the district's key tourism destinations by developing and enhancing culture, leisure and entertainment facilities and uses and heritage assets which attract visitors and residents to the area. The principle of the proposal is therefore considered to accord with both of these strategic policies of the Amended Core Strategy which attracts significant positive weight in the determination of this application.

As set out in this report, no harm would result in terms of residential amenity, ecology, flood risk/drainage or highway safety impacts, subject to conditions, which are neutral in the overall planning balance.

There is no doubt that the proposal would result in a loss of the majority of existing trees and planting in the north-west corner of the site, which contribute positively to the amenity of the area. This would represent moderate harm that weighs negatively against the scheme, and the fear of crime expressed by the occupiers of Trent Bridge House would be a minor negative.

In terms of impact on heritage assets, the loss of existing trees and planting in this area would have some negative impact on the historic significance of the Registered Park and Garden and as well as the existing soft setting of the Grade I listed castle and be harmful to the character and appearance of Newark Conservation Area. However, this harm is considered to be less than substantial harm and according to the NPPF must be weighed against the public benefits of the scheme. This report identifies that the proposal would represent benefits in terms of heritage (better revealing the significance of the castle), economic (increased tourist attraction) and social (improved education facilities) considerations. Furthermore, the reinstatement of the historic gateway into the castle would better reveal the significance of

this listed building and scheduled monument which would also positively contribute to the character and appearance of Newark Conservation Area.

Overall, based on a balancing exercise of positive benefits against harm identified, it is considered that the positive elements outweigh the harm identified and the scheme is judged to be acceptable, representing a sustainable development in accordance with the NPPF and the Development Plan.

10.0 Conditions

01

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

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

02

Prior to any new stone being laid, a stone sample panel, showing the stone, coursing, mortar and pointing technique shall be provided on site for inspection and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed sample panel.

Reason: To preserve the special architectural and historic interest of the heritage assets.

03

Prior to the construction of the relevant element, samples or detailed specifications of all external materials to be used on the development hereby approved shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed materials.

Reason: To preserve the special architectural and historic interest of the heritage assets.

04

Prior to the windows and doors hereby approved being installed, details of their material, design, specification, method of opening, method of fixing and finish, in the form of drawings and sections of no less than 1:20 scale, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed window and door details.

Reason: Insufficient details of these matters have been submitted with the application and in order to ensure that the development preserves the special architectural and historic interest of the heritage assets.

05

Prior to their installation, full details of the siting, appearance and materials to be used in the construction of all extractor vents, heater flues, meter boxes, airbricks, soil and vent pipes, rainwater goods or any other external accretion shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed details.

Reason: Insufficient details of these matters have been submitted with the application and in order to ensure that the development preserves the special architectural and historic interest of the heritage assets.

06

Prior to the commencement of development, an up-to-date detailed methodology shall be submitted to and agreed in writing by the Local Planning Authority. This shall include a full schedule of works which comprehensively addresses:

- Details of fixings to the listed building
- New structural elements

The development shall be carried out only in accordance with the agreed methodology.

Reason: To preserve the special architectural and historic interest of the heritage assets.

07

Prior to the installation of the metal railings/handrail, details of their design, scale, materials and finish, in the form of drawings and sections to no less than 1:20 scale (or detailed specifications), shall be submitted to and agreed in writing with the Local Planning Authority. The development shall only be carried out in accordance with the agreed railing/handrail details.

Reason: To preserve the special architectural and historic interest of the listed building.

08

Prior to the commencement of the use of the development hereby approved, full details of both hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved landscape details. These details shall include:

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

- minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, external lighting, bicycle parking etc.
- All external lighting details submitted shall be in accordance with the Lighting Design Report (Doc Ref. 1262-700-RP-S3_Rev 07 – 30/10/2023 – Michael Grubb Studio) and Lighting Specification (Doc Ref. 1262-900-SP-S3_Rev 00 – 27/11/2023 – Michael Grubb Studio);
- proposed and existing functional services above and below ground (for example, drainage, power and communications cables etc).

All the approved details listed above (other than the soft landscaping) shall be provided on site prior to the proposed development being first brought into use and retained for the lifetime of the development.

Reason: To preserve the special architectural and historic interest of the heritage assets.

09

The approved soft landscaping shall be completed during the first planting season following the use of the development commencing. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species.

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

010

Development must be undertaken strictly in accordance with the recommendations of section F3.1 of the Bat Survey Report [LM0140] BSR [Newark Castle Gatehouse Project] Rev C dated July 2023 by LM Ecology and as amended by Drawing Nos: 2269-01/06/09, 2269-01/06/10 and 2269-01/06/11, except where these may be varied by the terms of a European Protected Species Licence granted by Natural England.

Reason: In the interests of protected species and biodiversity.

011

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting season (beginning of March to end of August inclusive). If such works are required to be conducted within the breeding season, a nesting bird survey must be carried out by a qualified ecologist prior to clearance. Any nests located must then be identified and left undisturbed until the young have left the nest.

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

012

Notwithstanding the information shown on submitted plans, prior to any works being undertaken to existing trees being retained on the application site, the extent and details of those works shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out only in accordance with the approved details.

Reason: In the interests of the trees to be retained on the site and amenity of the area.

013

The proposed footpath to be located within the Root Protection Area of T14 and shown on the plan attached at Appendix B of the submitted Tree Survey Report and Arboricultural Impact Assessment dated 1 Nov 2023 by RPS Group, shall only be constructed in full compliance with mitigation measures set out in Para 5.26 of the same Report.

Reason: In the interests of this tree to be retained on the site and amenity of the area.

014

Prior to the commencement of development, the root protection fencing shall be installed in accordance with the details and location shown on the plan attached at Appendix B of the submitted Tree Survey Report and Arboricultural Impact Assessment dated 1 Nov 2023 by RPS Group and shall be retained for the whole duration of the construction phase.

Reason: In the interests of the trees to be retained on the site and the amenity of the area.

015

The bat mitigations and enhancements as shown on:-

- Detail Drawing – Gatehouse Putlog Hole Roost Detail as proposed (Drawing No: 2269-01/06/09)
- Detail Drawing – Gatehouse Eaves Bat Box Detail as proposed (Drawing No: 2269-01/06/10)
- Detail Drawing – Entrance Pavilion Wall Void Bat Roost Detail as proposed (Drawing No: 2269-01/06/11)

shall be fully provided prior to any of the buildings hereby approved being brought into use and retained for the lifetime of the development.

Reason: In the interests of protected species and biodiversity.

016

The development hereby approved shall be implemented in accordance with the submitted Flood Risk Assessment (Ref: 12376-WMS-ZZ-XX-RP-39301-S8-P2) dated Nov 2023 by William Saunders. The development shall be operated in full accordance with the approved details for its lifetime.

Reason: In the interests of flood risk and keeping visitors to the site safe in a flood event.

017

Notwithstanding the submitted Proposed Drainage Layout Plan (Drawing No: 12376- WMS-ZZ- XX- DR- C- 39201- S3 Rev P1) which is not hereby approved, prior to the commencement of development, details of the final Drainage Strategy and Plans shall be submitted to and approved in writing by the Local Planning Authority, which shall include the disposal of both surface water and foul sewerage from the site. The approved Drainage Strategy shall be fully implemented on site prior to the proposed development being first brought into use and retained for the lifetime of the development.

Reason: In the interests of flood risk and amenity.

018

No motorised vehicles shall use the access onto Beast Market Hill, hereby approved.

Reason: In the interests of pedestrian safety.

019

Prior to the commencement of development a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt that shall include, but not be limited to:

- i. construction works on the site shall not take place outside 08:00 to 18:00 hours Mondays to Fridays and 08:00 to 14:00 hours on Saturdays and no time at all on Sundays or Bank Holidays;
- ii. deliveries shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 to 14:00 on Saturdays and at no time on Sundays or Bank Holidays;
- iii. the provision of site compound facilities;
- iv. the provision of any hoarding around the site;
- v. the parking of vehicles of site operatives and visitors;
- vi. loading and unloading of plant and materials; and
- vii. storage of plant and materials used in constructing the development.

The construction of the development shall only proceed in accordance with the approved Construction Method Statement until construction is complete.

Reason: In the interests of residential amenity, trees, archaeology and highway safety.

020

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

Site Location Plan as existing (Drawing No: 2269-01/04/01)

A – Gatehouse – Ground Floor Plan showing removals (Drawing No: 2269-01/02/03)

A – Gatehouse – Intermediate & First Floor Plans showing removals (Drawing No: 2269-01/02/04)
A – Gatehouse – Second Floor Plan showing removals (Drawing No: 2269-01/02/05)
A – Gatehouse – Roof Plan showing removals (Drawing No: 2269-01/02/06)
A – Gatehouse – Elevations & Sections Key Plan as existing (Drawing No: 2269-01/02/07)
A – Gatehouse – North Elevations showing removals (Drawing No: 2269-01/02/08)
A – Gatehouse – East Elevations showing removals (Drawing No: 2269-01/02/09)
A – Gatehouse – South Elevations showing removals (Drawing No: 2269-01/02/10)
A – Gatehouse – West Elevations showing removals (Drawing No: 2269-01/02/11)
A – Gatehouse – Section A-A showing removals (Drawing No: 2269-01/02/12)
A – Gatehouse – Section B-B showing removals (Drawing No: 2269-01/02/13)
A – Gatehouse – Section C-C showing removals (Drawing No: 2269-01/02/14)
A – Gatehouse – Section D-D showing removals (Drawing No: 2269-01/02/15)
A – Gatehouse – Section E-E showing removals (Drawing No: 2269-01/02/16)

B+C – Link Passage & NW Tower – Ground Floor Plan showing removals (Drawing No: 2269-01/02/20)
B+C – Link Passage & NW Tower – First Floor Plan showing removals (Drawing No: 2269-01/02/21)
B+C – Link Passage & NW Tower – Second Floor Plan showing removals (Drawing No: 2269-01/02/22)
B+C – Link Passage & NW Tower – Roof Plan showing removals (Drawing No: 2269-01/02/23)
B+C – Link Passage & NW Tower – Section A-A showing removals (Drawing No: 2269-01/02/25)
B+C – Link Passage & NW Tower – Sections B-B & C-C showing removals (Drawing No: 2269-01/02/26)
B+C – Link Passage & NW Tower – Internal Elevations showing removals (Drawing No: 2269-01/02/27)
B+C – Link Passage & NW Tower – Internal Elevations showing removals (Drawing No: 2269-01/02/28)
B+C – Link Passage & NW Tower – North Elevations showing removals (Drawing No: 2269-01/02/29)
B+C – Link Passage & NW Tower – South Elevations showing removals (Drawing No: 2269-01/02/30)

R – Conservation & Repairing Works – Elevations & Sections Key Plan as proposed (Drawing No: 2269-01/03/01)
R – Conservation & Repairing Works – Gatehouse - North Elevation as proposed (Drawing No: 2269-01/03/02)
R – Conservation & Repairing Works – Gatehouse - East Elevation as proposed (Drawing No: 2269-01/03/03)
R – Conservation & Repairing Works – Gatehouse - South Elevation as proposed (Drawing No: 2269-01/03/04)
R – Conservation & Repairing Works – Gatehouse - West Elevation as proposed (Drawing No: 2269-01/03/05)
R – Conservation & Repairing Works – Gatehouse - Section A-A as proposed (Drawing No: 2269-01/03/06)

R – Conservation & Repairing Works – Gatehouse - Section B-B as proposed (Drawing No: 2269-01/03/07)
R – Conservation & Repairing Works – Gatehouse - Section C-C as proposed (Drawing No: 2269-01/03/08)
R – Conservation & Repairing Works – Gatehouse - Section D-D as proposed (Drawing No: 2269-01/03/09)
R – Conservation & Repairing Works – Gatehouse - Section E-E as proposed (Drawing No: 2269-01/03/10)

R – Conservation & Repairing Works – NW Tower & Link Passage – Key Plan as proposed (Drawing No: 2269-01/03/11)
R – Conservation & Repairing Works – NW Tower & Link Passage – Section A-A as proposed (Drawing No: 2269-01/03/12)
R – Conservation & Repairing Works – NW Tower & Link Passage – Section B-B & Elevation C as proposed (Drawing No: 2269-01/03/13)
R – Conservation & Repairing Works – NW Tower – Internal Elevations as proposed (Drawing No: 2269-01/03/14)
R – Conservation & Repairing Works – NW Tower – External Elevations as proposed (Drawing No: 2269-01/03/15)
R – Conservation & Repairing Works – NW Tower & Link Passage – North Elevation as proposed (Drawing No: 2269-01/03/16)
R – Conservation & Repairing Works – NW Tower & Link Passage – South Elevation as proposed (Drawing No: 2269-01/03/17)
R – Conservation & Repairing Works – Internal Elevation F as proposed (Drawing No: 2269-01/03/18)

Archaeological Context Plan as proposed (Drawing No: 2269-01/04/03)
Flood Risk Plan as proposed (Drawing No: 2269-01/04/04)
Local Transport Plan as proposed (Drawing No: 2269-01/04/05)
Impact Statement Key Plan as proposed (Drawing No: 2269-01/04/06)

General Arrangement – Lower Ground Floor Plan as proposed (Drawing No: 2269-01/05/01)
General Arrangement – Ground Floor Plan as proposed (Drawing No: 2269-01/05/02)
General Arrangement – First Floor Plan as proposed (Drawing No: 2269-01/05/03)
General Arrangement – Second and Third Floor Plans as proposed (Drawing No: 2269-01/05/04)
General Arrangement – Roof Plan as proposed (Drawing No: 2269-01/05/05)
General Arrangement – Existing Archaeology Entrance Pavilion Building as proposed (Drawing No: 2269-01/05/06)
General Arrangement – Existing Archaeology Multi-Function Building as proposed (Drawing No: 2269-01/05/07)
General Arrangement – Accessible Parking Plan as proposed (Drawing No: 2269-01/05/08)
General Arrangement – Gatehouse North Elevation as proposed (Drawing No: 2269-01/05/10)
General Arrangement – Gatehouse East Elevation as proposed (Drawing No: 2269-01/05/11)
General Arrangement – Gatehouse West Elevation as proposed (Drawing No: 2269-01/05/12)
General Arrangement – Gatehouse South Elevation as proposed (Drawing No: 2269-01/05/13)

General Arrangement – Gatehouse Section A-A as proposed (Drawing No: 2269-01/05/14)
General Arrangement – Gatehouse Section B-B as proposed (Drawing No: 2269-01/05/15)
General Arrangement – Entrance Pavilion S. Elevation as proposed (Drawing No: 2269-01/05/16)
General Arrangement – NW Tower External Elevations as proposed (Drawing No: 2269-01/05/17)
General Arrangement – NW Tower Section A-A as proposed (Drawing No: 2269-01/05/18)
General Arrangement – NW Tower Section B-B as proposed (Drawing No: 2269-01/05/19)
General Arrangement – NW Tower Internal Elevations as proposed (Drawing No: 2269-01/05/20)
General Arrangement – Multi-Functional Building West Elevation as proposed (Drawing No: 2269-01/05/21)
General Arrangement – Multi-Functional Building Section A-A as proposed (Drawing No: 2269-01/05/22)

Detail Drawing – Entrance Gates and Pillars as proposed (Drawing No: 2269-01/06/01)
Detail Drawing – Roof Edge Typical Detail as proposed (Drawing No: 2269-01/06/02)
Detail Drawing – Metal Mesh Typical Detail as proposed (Drawing No: 2269-01/06/03)
Detail Drawing – Metal Mesh for opening EP-FW01 as proposed (Drawing No: 2269-01/06/04)
Detail Drawing – Metal Mesh for opening EP- FW02 as proposed (Drawing No: 2269-01/06/05)
Detail Drawing – Metal Mesh for opening EP-FW03 as proposed (Drawing No: 2269-01/06/06)
Detail Drawing – Tudor Fixed Window Typical Detail as proposed (Drawing No: 2269-01/06/07)
Detail Drawing – Norman Fixed Window Typical Detail as proposed (Drawing No: 2269-01/06/08)
Detail Drawing – Gatehouse Putlog Hole Roost Detail as proposed (Drawing No: 2269-01/06/09)
Detail Drawing – Gatehouse Eaves Bat Box Detail as proposed (Drawing No: 2269-01/06/10)
Detail Drawing – Entrance Pavilion Wall Void Bat Roost Detail as proposed (Drawing No: 2269-01/06/11)
Detail Drawing – Gatehouse Metal Gate (GH-GD01) Details as existing and as proposed (Drawing No: 2269-01/06/12)
Detail Drawing – Typical Mesh Screen to Arrow Loop Details as proposed (Drawing No: 2269-01/06/13)
Detail Drawing – Fixed Window Gatehouse (GH-SW06) Details as proposed (Drawing No: 2269-01/06/14)
Detail Drawing – First Floor Build Up Gatehouse Typical Details as proposed (Drawing No: 2269-01/06/15)
Detail Drawing – Second Floor & Balcony Floor Gatehouse Typical Details as proposed (Drawing No: 2269-01/06/16)
Detail Drawing – First Floor Build Up NW Tower Typical Details as proposed (Drawing No: 2269-01/06/17)
Detail Drawing – NW Tower Arrow Slit Detail Fixed Window NT-FW02 – as proposed (Drawing No: 2269-01/06/18)
Detail Drawing – Balustrades Typical Details as proposed (Drawing No: 2269-01/06/19)
Detail Drawing – Gatehouse Fire Door (GH - SD01) Typical Details as proposed (Drawing No: 2269-01/06/20)

Detail Drawing – NW Tower Ground Floor Details as proposed (Drawing No: 2269-01/06/21)
Detail Drawing – NW Tower Ground Floor Threshold Details as proposed (Drawing No: 2269-01/06/22)
Detail Drawing – NW Tower Door – (NT-GD01) Detail NT-04 as proposed (Drawing No: 2269-01/06/23)
Detail Drawing – NW Tower Door (NT-GD02) Detail NT-05 as proposed (Drawing No: 2269-01/06/24)

Cut and Fill Analysis (Drawing No: 12376- WMS- ZZ- XX- DR- C- 39002- S2 Rev P1)
Development Viewports (Drawing No: 12376- WMS- ZZ- XX- DR- C- 39003- S2 Rev P1)
Proposed Contours and Levels (Drawing No: 12376- WMS- ZZ- XX- DR- C- 39004- S2 Rev P1)

Structural Scheme - Multi Functional Space (Drawing No: 1 01 Rev B)
Structural Scheme - Gatehouse Courtyard Level & First Floor Plan (Drawing No: 1 02 Rev B)
Structural Scheme - Gatehouse Second Floor and Roof Plans (Drawing No: 1 03 Rev C)
Structural Scheme - NW Tower Section & Floor Plans (Drawing No: 1 04 Rev C)
Structural Scheme - Entrance Pavilion (Drawing No: 1 05 Rev E)
Structural Scheme - Gatehouse Sections (Drawing No: 1 06 Rev D)

Electrical Symbols Legend (Drawing No: 99663/E001 Rev T1)
Electrical Distribution Schematic Layout (Drawing No: 99663/E002 Rev T1)
Indicative Data Schematic Layout (Drawing No: 99663/E003 Rev T1)

Multi-Function Building – Ground Floor Main Below Ground Electrical Service Routes (Drawing No: 99663/E101 Rev T1)
Multi-Function Building – Ground Floor Main Electrical Service Routes (Drawing No: 99663/E102 Rev T1)
Pavilion – Ground Floor Main Electrical Service Routes (Drawing No: 99663/E111 Rev T1)
Pavilion – First Floor Main Electrical Service Routes (Drawing No: 99663/E112 Rev T1)
Pavilion – Second Floor & Roof Main Electrical Service Routes (Drawing No: 99663/E113 Rev T1)
Multi-Function Building – Ground Floor Proposed Lighting Layout (Drawing No: 99663/E201 Rev T1)
Pavilion – Ground Floor Proposed Lighting Layout (Drawing No: 99663/E211 Rev T1)
Pavilion – First Floor Proposed Lighting Layout (Drawing No: 99663/E212 Rev T1)
Pavilion – Second Floor & Roof Proposed lighting & Small Power Layout (Drawing No: 99663/E213 Rev T1)
Multi-Function Building – Ground Floor Proposed Small Power & Ancillary Services Layout (Drawing No: 99663/E301 Rev T1)
Pavilion – Ground Floor Proposed Small Power & Ancillary Services Layout (Drawing No: 99663/E311 Rev T1)
Pavilion – First Floor Proposed Small Power & Ancillary Services Layout (Drawing No: 99663/E312 Rev T1)
Multi-Function Building – Ground Floor Indicative Intruder Alarm Layout (Drawing No: 99663/E401 Rev T1)
Pavilion – Ground Floor Indicative Intruder Alarm Layout (Drawing No: 99663/E411 Rev T1)
Multi-Function Building – Ground Floor Indicative Fire Alarm Layout (Drawing No: 99663/E501 Rev T1)

Pavilion – Ground Floor Indicative Fire Alarm Layout (Drawing No: 99663/E511 Rev T1)
Pavilion – First Floor Indicative Fire Alarm Layout (Drawing No: 99663/E512 Rev T1)
Pavilion – Second & Third & Roof Indicative Fire Alarm Layout (Drawing No: 99663/E513 Rev T1)

Mechanical Symbols Legend (Drawing No: 99663/M001 Rev T1)
Multi-Function Building – Ground Floor Heating Layout (Drawing No: 99663/M101 Rev T1)
Multi-Function Building – Ground Floor Ventilation & Above Ground Drainage Layout (Drawing No: 99663/M201 Rev T1)
Multi-Function Building – Ground Floor Domestic Hot & Cold Water Services Layout (Drawing No: 99663/M301 Rev T1)

Landscape Master Plan (Drawing No: 1263-001-DR-S3-00 Rev 01)
Landscape Masterplan (Drawing No: L2752-URB-XX-00-L-DR-497150 Rev P09)
Typical Details - Sheet 1 of 2 (Drawing No: L2752-URB-XX-00-L-DR-497151)
Typical Details - Sheet 2 of 2 (Drawing No: L2752-URB-XX-00-L-DR-497152)
Planting Strategy (Drawing No: L2752-URB-XX-00-L-DR-497153 Rev P00)

Reason: So as to define this permission.

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).

03

The development seeks amendment to an existing traffic Regulation Order. Should the applicant wish to pursue this, please e-mail businessdevelopment@viaem.co.uk or telephone 0300 500 8080. Please note that this work would be carried out at cost to the applicant and may not result in the desired changes.

04

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)

- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the riverbank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk.

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

05

The applicant/developer is advised to contact the Canal and River Trust Works Engineering Team on 0330 0404040 in order to ensure that any necessary consents are obtained and that the works comply with the Trust's "Code of Practice for Works affecting Canal & River Trust."

06

The applicant is advised that any surface water discharge to the River Trent will require prior consent from the Canal & River Trust. As the Trust is not a land drainage authority, such discharges are not granted as of right-where they are granted they will usually be subject to completion of a commercial agreement. The applicant should contact the Trust's Utilities Team on 01942 405766 for further advice in the first instance.

07

The applicant is advised that the Canals and River Trust encourage the applicant to incorporate information in interpretive signage related to:-

- the strategic location of the castle on the River Trent is promoted alongside the importance of the feature to the castle in terms of the development of the market town; and
- the importance of the river today as a place for recreation and well-being.

Please contact the Trust's Heritage Adviser, Kerry Walmsley at Kerry.walmsley@canalrivertrust.org.uk, or on 0788 0446202/0303 0404040, to discuss further.

08

It should be noted that if the application for the licence is made after May 2024 there is likely to be a need for the emergence surveys to be repeated so that the licence application is determined by Natural England using sufficiently up to date surveys. This would be a matter between the applicant, their contracted ecologist and Natural England.

09

The applicant needs to be made aware that the Ecology Report identified a growth of Japanese Knotweed along the riverbank. This is an invasive non-native species that is very

difficult to eradicate and requires intensive management to prevent spread. If there are currently no measures in place to control this species, it is strongly advised that this is put in place as a matter of urgency.

010

List of Supporting Reports and Documents:

Design and Access Statement by Martin Ashley Architects dated Nov 2021 Rev B

Landscape Design & Access Statement (Ref: 2752-URB-ZZ-XX-DA-A-2A3750-P00) dated Nov 2023 by Urban Edge Architecture

Ecology Report dated Nov 2023 by BSG Ecology

Bat Survey Report Rev C dated July 2023 by LM Ecology

Tree Survey Report and Arboricultural Impact Assessment dated 1 Nov 2023 by RPS Group

Heritage Impact Assessment by Martin Ashley Architects dated Nov 2023 – Rev A

Archaeological Assessment (Report No: YA/2023/180) dated 31 Aug 2023 by York Archaeology

Structural Comments by Hockley & Dawson dated Dec 2021

Flood Risk Assessment (Ref: 12376-WMS-ZZ-XX-RP-39301-S8-P2) dated Nov 2023 by William Saunders

Drainage Strategy (Ref: 12376-WMS-ZZ-XX-RP-C-39201-S8-P2) dated Nov 2023 by William Saunders

Lighting Design Report (Ref: 1262-700-RP-S3 Rev 07) dated Oct 2023 by Michael Grubb Studio

Lighting Specification (Ref: 1262-900-SP-S3 Rev 00) dated Nov 2023 by Michael Grubb Studio

Mechanical and Electrical Services RIBA Stage 3 Design Report (Ref: P99663/R02P4) by Martin Thomas Associates Ltd dated Nov 2021

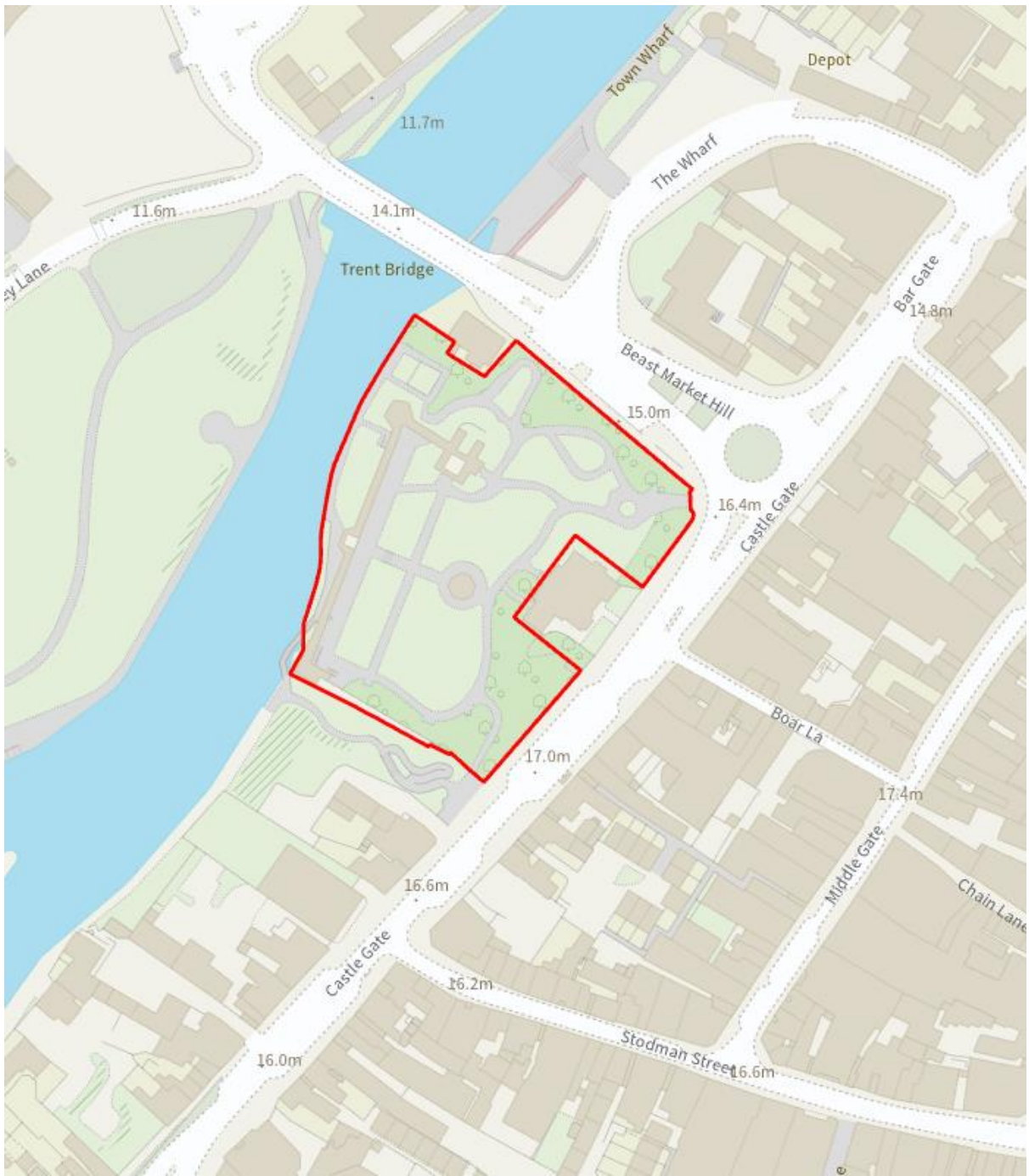
CDM Designers Risk Assessment (Ref: 99663.R04) by Martin Thomas Associates Ltd dated Sept 2023 Rev A

Hazard Elimination and Management Register by Philip Waller Consulting

Scheme Design (Parts 1 – 4) dated Nov 2023 by Nissen Richards

BACKGROUND PAPERS

Application case file.





Report to Planning Committee 18 January 2024

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Ellie Sillah, Planner (Development Management), ext. 5267

Report Summary			
Application Number	23/00584/FUL		
Proposal	Rebuilding and replacement of existing barns, sheds and outbuildings for agricultural use, following demolition (Retrospective)		
Location	The Rhymes, Carlton Lane, Sutton On Trent, NG23 6PH		
Applicant	Mr & Mrs A Henson	Agent	Studio-G Architecture LLP Mr Ricky Maynard
Web Link	23/00584/FUL Rebuilding and replacement of existing barns, sheds and outbuildings for agricultural use, following demolition (Retrospective) The Rhymes Carlton Lane Sutton On Trent NG23 6PH (newark-sherwooddc.gov.uk)		
Registered	28.04.2023	Target Date	23.06.2023
Recommendation	Approve, subject to the conditions in Section 10.0		

In line with the Council’s Scheme of Delegation, Cllr Michael has requested the application be referred to the planning committee for consideration for the following reasons:

1. Design Grounds.
2. Inappropriate Building.
3. Uncharacteristic of a farm building.

1.0 The Site

The application site is situated off Carlton Lane, to the south of Sutton on Trent, and is accessed via a single width track, within the open countryside. The red outline of the site as submitted includes the access to the public highway, the building, and the courtyard area, that are the subject of the application (largely built already) and a small area around the building. The blue outline indicating other land owned by the applicant includes the dwelling

(The Rhymes), an attached converted garage that is used for a catering business (approved under a previous application), an L-shaped brick stable building, and agricultural land.

The site has the following constraints:

- Flood Zones 2 and 3

2.0 Relevant Planning History

22/01955/AGR Application for prior approval for new agricultural store. Prior Approval Not Required (Not commenced). (The location of the proposed building is outside of the red line of the current application but within the blue line of the wider site owned by the applicants.)

22/01685/FUL Change of use of private garage for business use, including food preparation area for food to be consumed off site (retrospective) Approved

(The location of the building is outside of the red outline of the site but within the wider site owned by the applicant.)

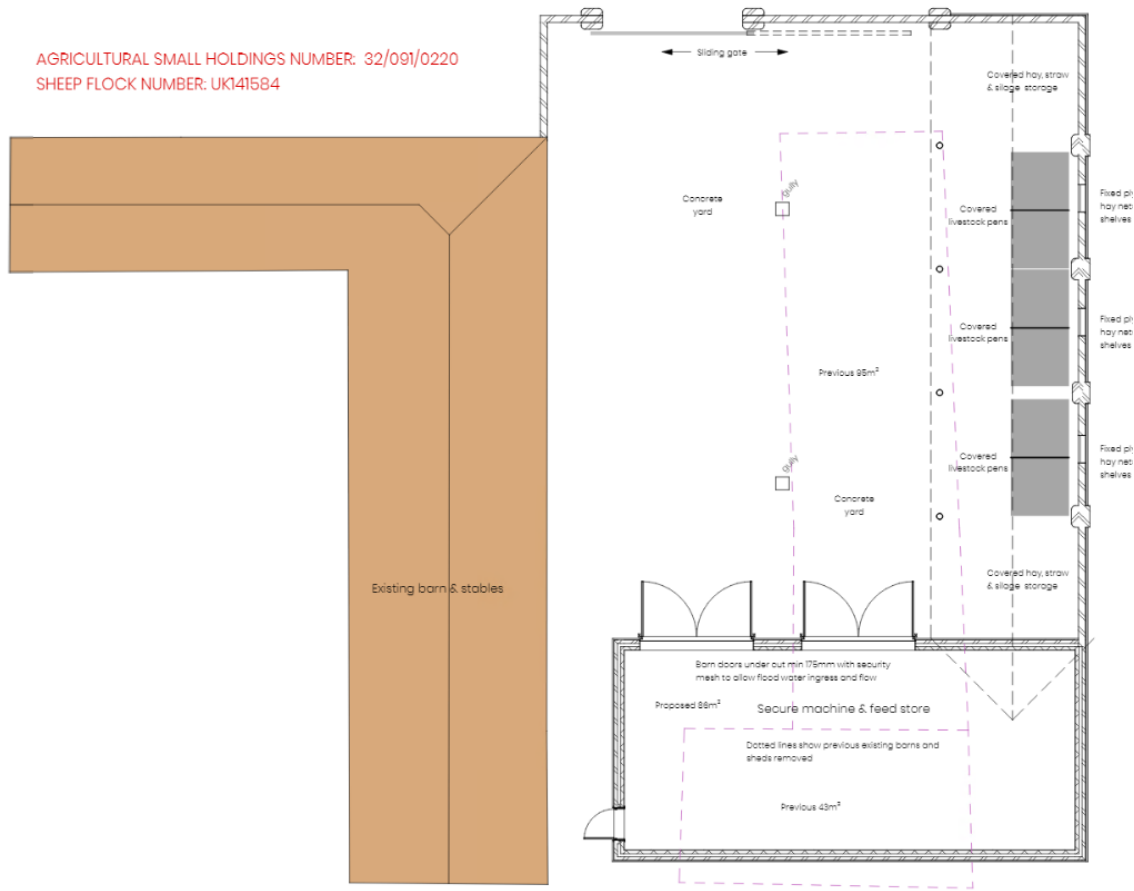
3.0 The Proposal

The proposal is for the demolition of existing outbuildings and the construction of an L-shaped brick barn in its place. The application is part retrospective. The original buildings have been removed and the construction of the new building is well underway. Construction work has been halted due to an enforcement case as the development does not benefit from planning permission. The application is therefore part retrospective and has been submitted following the enforcement case that remains ongoing.

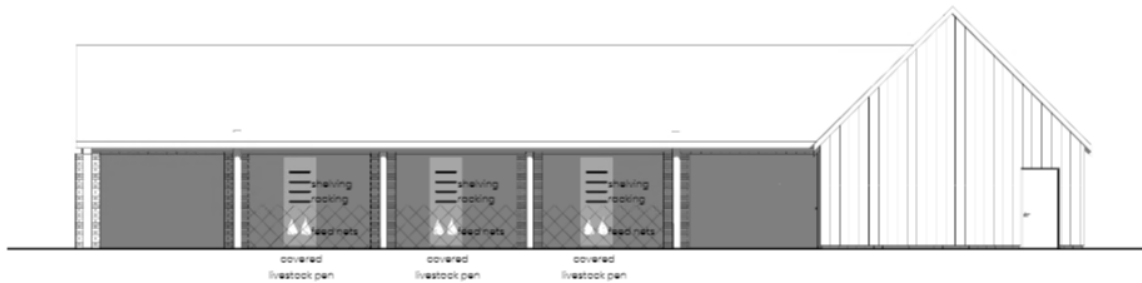
The proposed barn comprises an enclosed section and an open fronted section to create an L-shape, both facing into a courtyard area which would have a concrete surface. The enclosed section measures approximately 14.64m in width, 6.97m in depth, 2.62m to the eaves and 6.43m to the ridge with a pitched roof. The walls are clad in black corrugated metal and the elevation facing into the courtyard is red brick. The roof is covered in slate coloured tiles. The open fronted section measures 19.41m in width, 4.72m in depth, 2.62m to the eaves and 5.36m to the ridge.

Due to concerns with the practicality of the design for agricultural use, as well as concerns raised by the Environment Agency in relation to flood risk, the plans have been revised throughout the lifetime of the application. Notwithstanding the retrospective nature of the application, it is the proposed plans that are being assessed, rather than what has been constructed on site to date. The most up to date revision is drawing number 0004 REV P4. For clarity the revised plans are shown below (the drawings can be scaled accurately online):

AGRICULTURAL SMALL HOLDINGS NUMBER: 32/091/0220
 SHEEP FLOCK NUMBER: UK141584

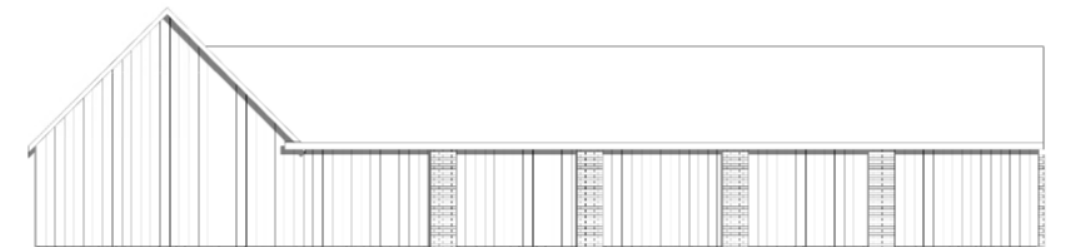


Proposed Ground Floor Plan



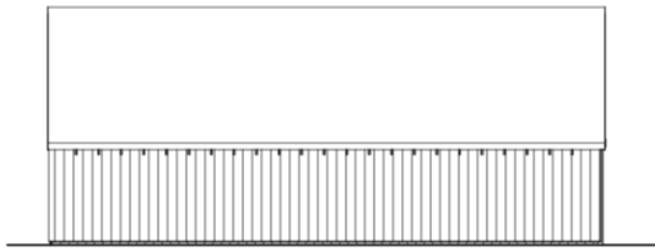
Courtyard Elevation

1:100



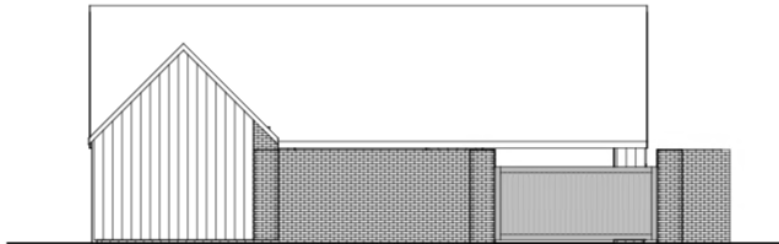
Field Elevation

1:100



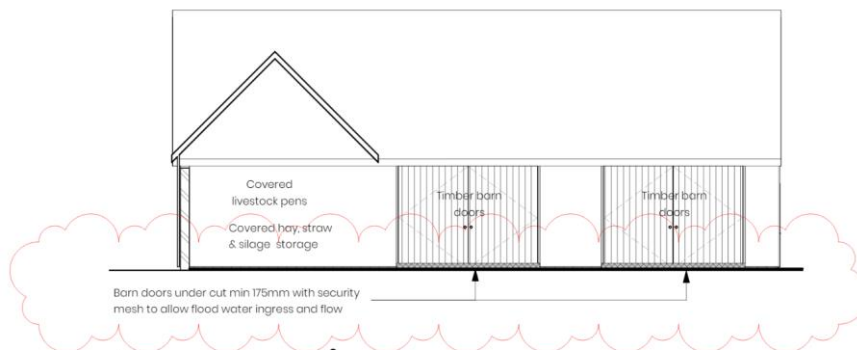
South Elevation

1:100



North Elevation

1:100



Barn Elevation

1:100

Submitted Documents (Superseded documents are not included within the list below)

- 0002 P1 Existing Plans received 31st March 2023
- 0003 P1 Existing Elevations received 31st March 2023
- 0001 P1 Site Location Plan received 31st March 2023
- 0005 P1 Proposed Block Plan received 31st March 2023
- Planning Statement received 31st July 2023
- 0004 REV P4 Proposed Plans and Elevations received 25th October 2023
- Flood Risk Assessment Part 1 received 25th October 2023
- Flood Risk Assessment Part 2 received 25th October 2023

4.0 Departure/Public Advertisement Procedure

Occupiers of 9 properties have been individually notified by letter. A site notice has also been displayed near to the site.

Site visit undertaken on 31.5.23.

5.0 Planning Policy Framework

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

Spatial Policy 1 - Settlement Hierarchy
Spatial Policy 2 - Spatial Distribution of Growth
Spatial Policy 3 – Rural Areas
Spatial Policy 7 - Sustainable Transport
Core Policy 9 -Sustainable Design
Core Policy 10 – Climate Change
Core Policy 13 – Landscape Character

Allocations & Development Management DPD

DM5 – Design
DM8 – Development in the Open Countryside

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

6.0 Consultations and Representations

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

(a) Consultations

Environmental Agency comments (on the latest revised plans ref 0004 REV P4)

Environment Agency position

The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition

The development shall be carried out in accordance with the submitted flood risk assessment (ref TRST-BSP-XX-XX-T-W-0001-P04_Flood_Risk_Assessment, revision P04, dated 24th October

2023 and compiled by BSP Consulting) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 7.79 metres above Ordnance Datum (AOD) as detailed within Section 4.1.2 of the report.
- A water entry strategy shall be provided through the addition of a 6700mm x 175mm security mesh panels as the base of the two pairs of timber barn doors to allow the flow of water during a flood event. This is detailed within Section 4.1.3 and on the plan and elevation details within Appendix B of the report.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons

- To reduce the risk of flooding to the proposed development and future occupants
- To prevent flooding elsewhere by ensuring that floodplain volume is not lost during a flood event.

(b) Parish Council

'After discussion, it was AGREED that objection be raised to this application on the grounds of the increase in footprint by 32%, which was much larger than the original building.

Concern was also raised around the stated use of the buildings as agricultural. In the event that planning permission was granted, the Parish Council would wish to see a condition included that the buildings only be used for agricultural purposes.'

(c) Representations

7 representations have been received from third parties/local residents. The points raised are summarised as follows:

- Clarity sought that the building will be used for agriculture – or is it for use for food preparation as the initial change of use application?
- Objection to any building that would increase traffic on Carlton Lane
- Assume the building is for a wedding venue – if this is the case then I would strongly object due to poor condition of the lane and width not wide enough for additional traffic – in favour of building and land remaining agricultural.
- Concerns over retrospective nature – hard to believe not applying for planning permission was a mistake.
- Application states extra space needed to increase number of sheep – ratio should be 6 sheep to 1 acre. The Rhymes has 7 acres so where will an extra 102 graze?
- No provision in application for dealing with the waste sheep produce.
- Concerns over potential wedding venue
- White Marquee seen on site and 'trial run' of double decker bus down lane.
- Support for new agricultural barn

7.0 Comments of the Business Manager – Planning Development

The key issues are:

1. Principle of development
2. Flood Risk
3. Impact on the Character of the Area
4. Impact on Residential Amenity
5. Impact on Highways

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 proposal is for a replacement agricultural building within in the open countryside. The wider site comprises a detached dwelling, a garage that has been converted for a catering business use (under planning application reference 22/01685/FUL), a stable, and agricultural land. The application is part retrospective. An L-shaped range of timber buildings has been removed and a brick and metal clad barn has been constructed in its place, albeit on a larger footprint. It should be noted that the retrospective nature of the application does not alter the assessment process of the application which should be assessed in the same way as a proposed development.

The site is within the open countryside and is confined to a small area of a wider site owned by the applicant, outlined in blue on the site location plan, comprising approximately 7.1ha of land.

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.

Policy DM8 strictly controls development within the open countryside however does support agricultural development subject to a need for the development, it's siting and scale in relation to the use it is intended to serve.

The supporting text for Policy DM8 states in paragraph 7.37 that many proposals for agricultural development will be dealt with under the prior approval procedure but those that are not will consequently often be large or intensive and therefore have the potential for visual or environmental impact. Whilst it is accepted that a degree of impact is inevitable, in order to minimise this, the scale of proposals should be limited to that necessary to sustain the operation it is intended to serve. To allow the Council to balance the agricultural need against visual impact, applications should be accompanied by an explanation of the operational requirements for the development. Development should be sited and designed

to complement existing development wherever possible and minimise its impact on the surrounding countryside.

The building subject to this application cannot be considered under the prior approval process as construction has already commenced.

Given the above, subject to sufficient information to justify a need for the proposed agricultural building, its siting and scale, the development is acceptable in principle, in accordance with DM8. This is discussed below.

Justification for Agricultural Need

The definition provided in the Town and Country Planning Act 1990 (as amended) for “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly.

The applicant’s Agricultural Small Holdings Number and Sheep Flock Number have been provided. Grazing sheep on the land is an agricultural use, however the acceptability of the proposed building in accordance with Policy DM8 is whether there is a justified need for the building itself.

Further information regarding the agricultural need has been sought during the lifetime of the application. The most recent Planning Statement provides that the building is required for the storage of the applicant’s machinery, livestock pens, hay and straw. Invoices from ‘Farmstar’ have also been provided of recent equipment purchases in relation to the keeping of sheep, as well as photos of the sheep in situ, and photos of haybales on site. A list of machinery and equipment that would be stored in the building includes a large trailer, trimmers, feeding barrels, industrial chainsaw, 2 sit down mowers and a buggy to transport feed over the land. Invoices of gates and fencing for field enclosures have also been provided. The plans have been revised with annotations to make it clearer as to what each section of the building would be used for. The annotations include:

- ‘Covered livestock pens’
- ‘Fixed ply panel for hay nets, feeders, shelves racking’
- ‘Covered hay, straw & silage storage’
- ‘Secure machine & feed store’
- ‘Concrete yard’

Concerns have been raised by local residents that the building is not intended for genuine agricultural use. The design of the building does not have a typical modern agricultural appearance however, the changes to the plans, and the information submitted supports the need for the proposed agricultural use.

In a recent appeal decision (APP/B3030/W/22/3313346), similar concerns were raised regarding the use of the building subject of the appeal which was proposed for agricultural use. The appeal was allowed and in relation to this issue the appeal decision states: *'I note the representations of third parties raising concerns as to the possible alternative intentions of the appellant. However, as conjecture that is unsupported by any substantive evidence, this is not a matter for the appeal.'*

Given the above, the application should be assessed based on the submitted information unless there is strong evidence to suggest otherwise.

The concerns raised are largely related to the fact that the applicants have previously used their land to site a marquee to hold events. This has been done under permitted development rights that allow land to be temporarily used for another use for a certain number of days a year, subject to conditions set out in the General Permitted Development Order 2015 (England) as amended. This permitted development right does not extend to the use of buildings therefore if permission is granted, the building could only be used for the purpose applied for – agricultural use. As such, the concerns raised should not hold weight in the decision making process. If the applicants chose to apply for a wedding venue on the site at a later date, the application would be subject to the relevant policies at the time of the application. If the building were used for any other purpose other than agricultural, this would not accord with the permission, and enforcement action could be taken by the Council.

Taking into consideration all of the above, based on the information provided, the agricultural need for the building is justified.

Siting and Scale

In terms of siting, the building is immediately adjacent to the existing stable building. The Planning Statement provides that this is for easy access to the fields and within close proximity of the dwelling to ensure that from a crime prevention point of view, any unauthorised activity can be monitored effectively. In addition, the building is in place of previous existing buildings. The location adjacent to the existing buildings would minimise any visual impact within the wider landscape.

The scale of the building is larger than the buildings that were previously in situ, however in the context of agricultural buildings the scale is not excessive.

Given the above, the siting and scale of the building is justified.

Replacement of Non-Residential Buildings

DM8 also supports the replacement of non-residential buildings where they are related to established uses or proposed uses enabled by other criteria of the policy. Proposals will need to demonstrate that the buildings to be replaced originated from a permanent design and construction, are not of architectural or historical merit, have not been abandoned and are not suitable for conversion to other uses. The replacement building should be located within the curtilage of the site it is intended to serve.

The image below is included as part of the Planning Statement and shows the buildings that were previous in situ.

2.2 The Rhymes comprises of a small group of buildings detailed on the aerial image below, Figure 1.



Figure 1 – Aerial Image of The Rhymes

Although the principle of development does not rely on compliance with this part of DM8, it is considered that the buildings were of permanent design and construction and were not of architectural or historical merit. The replacement building is in the same location albeit on a larger footprint, and the location is within the curtilage of the site it intends to serve. The proposed use is for agriculture, which complies with another use enabled by DM8. As such, it is considered that the proposal also complies with DM8 as the replacement of non-residential buildings.

Fallback Position

It is noted that the applicants have a recent approval under the prior notification procedure for a larger agricultural building elsewhere on the wider site for the same use as what is currently proposed. The prior approval has not been implemented to date, however remains extant until 07.10.2027 (the development would need to be completed by this date). In relation to this, the submitted Planning Statement states at paragraph 6.1:

The Council have accepted that there is an agricultural need on site when considering Prior Notification ref: 22/01955/AGR. The Applicants are not intending to erect that building should this application be approved.

Notwithstanding the above, the building approved under 22/01955/AGR could still be implemented in addition to the building subject of this application, but only in the instance where it is reasonably necessary for the purposes of agriculture within that unit. Otherwise, the building would no longer meet the initial qualifying criteria of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. Prior approval does not grant planning permission in the same sense as a full planning application. Regardless of any decision the Council makes on Prior Notification applications, the development would still need to comply with the criteria set out in Schedule 2 Part 6 to constitute permitted development. This is set out on the decision notice for 22/01955/AGR by the following informative:

This decision relates solely to the determination as to whether the proposed development meets the definitional requirements of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 and whether prior approval of the authority is required in relation to the siting, design and appearance of agricultural building only. The applicant is reminded that development is permitted by Class A must be reasonably necessary for the purposes of agriculture within that unit. To confirm, the lawfulness of the proposed development has not been formally considered. The applicant is advised to submit an application for a Certificate of Lawfulness, should a formal decision be required for this.

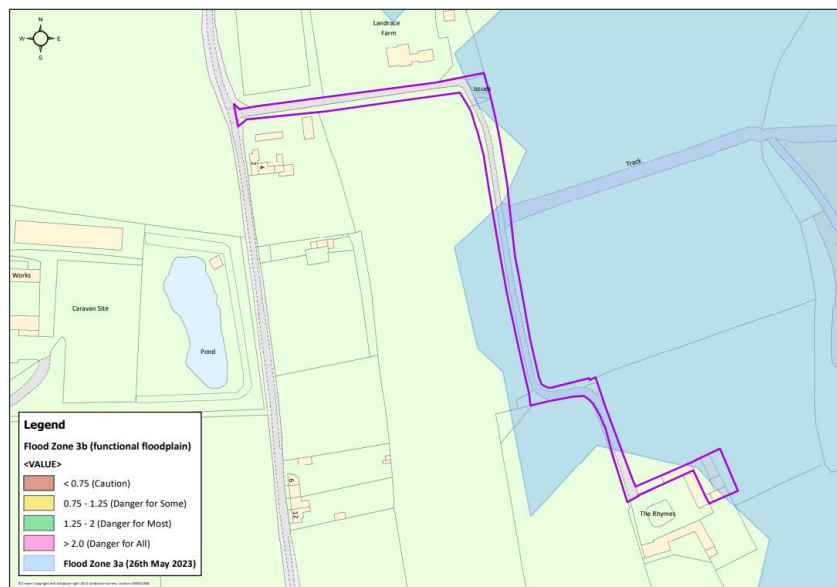
As such, unless the applicants were to significantly increase the scale of their agricultural enterprise, it is unlikely that the additional building would be reasonably necessary for agricultural use in addition to the building proposed. Given the applicants have confirmed that there is no intention to build both buildings, and the Planning Statement talks about the prior approval as more of a fallback position, it is not considered that the possibility of the applicant constructing both buildings should be a reason to refuse the application.

In addition to the above, the prior notification application was approved before the removal of the buildings that were previously in situ on the current application site. Therefore, given that the proposed building is a replacement of previous buildings, the cumulative impact of the proposed building and the building approved under 22/01955/AGR would not necessarily be unacceptable in terms of visual impact as the scale of the replacement building is not significantly larger than the previous buildings on site (in the instance that there was a genuine agricultural need).

In any case, it is considered that the proposed building would result in less visual impact than the larger building approved under 22/01955/AGR therefore would have less impact than the fallback position.

Flood Risk

The site falls within Flood Zones 2 and 3a. The majority of the proposed building is located within Flood Zone 3a as shown on the flood map below. (The map shows the previous buildings in situ.)



In accordance with Core Policy 10 of the Amended Core Strategy, Policy DM5 of the Allocations and Development Management DPD, and Part 14 of the NPPF, a sequential test is required to establish if an alternative site would be suitable and reasonably available for the same (or similar) development elsewhere within the district within an area at lower risk of flooding. The purpose of the sequential test is to steer new development away from areas at high risk of flooding.

No sequential test has been submitted on the basis that the building is a replacement.

The sequential test is usually applied across the whole district. However, given that the proposed building is required in association with the existing land and is for the replacement of buildings, it is not considered that the proposed development could be accommodated elsewhere in the district.

The building (albeit larger in scale) is proposed in place of the previous buildings which were also in Flood Zone 3a. Therefore, despite the increase in footprint from the previous buildings, it is considered that the principle of a building in this position is acceptable and therefore the sequential test is passed.

In terms of the exception test, buildings for agriculture are classed as 'less vulnerable' and in accordance with Table 2: Flood risk vulnerability and flood zone 'incompatibility' of the PPG, the exception test is not required for this type of development in Flood Zone 3a.

An objection was initially raised from the Environment Agency, requiring a revised flood risk assessment. This was submitted along with revised plans and the EA were reconsulted. Based on the most recent revision, which includes gaps under the doors to allow water into the building in the event of a flood, the EA no longer object to the application subject to a condition (noted in the consultee section of this report) which if the application is approved, could be attached.

Considering the above, subject to the condition requested by the Environment Agency, the proposed building would not result in a greater risk of flooding for the occupants of The

Rhymes, or within the surrounding area, and the proposal is acceptable in relation to flood risk.

Impact on Visual Amenity and the Character of the Area

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

Core Policy 13 (Landscape Character) seeks to secure new development which positively addresses the implications of relevant landscape Policy Zone(s) (set out in the Landscape Character Assessment SPD) that is consistent with the landscape conservation and enhancement aims for the area, ensuring that landscapes, including valued landscapes, have been protected and enhanced.

Policy DM5 (Design) of the Allocations and Development Management DPD seeks to ensure that the rich local distinctiveness of the District's landscape and character of built form is reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

Section 12 of the NPPF (Achieving Well Designed Spaces) paragraph 130 states inter-alia that development should be visually attractive as a result of good architecture, should be sympathetic to local character and history, and should maintain or establish a strong sense of place.

Section 15 of the NPPF seeks to conserve and enhance the natural environment. Paragraph 174 requires planning decisions to recognise the intrinsic beauty of the countryside.

The site falls within the Trent Washlands landscape character area (TW PZ 18) as identified in the Landscape Character Assessment SPD. Characteristics include a flat low lying landscape, medium scale fields in arable production, smaller fields of pasture around villages, red brick and pantile roofed villages, and narrow lanes enclosed by mixed species hedgerow. The condition is defined as 'moderate'. The proposed actions for the area are to 'conserve and create'.

Given that the building would be in place of previous buildings and would be sited next to the existing stable, plus would facilitate an agricultural use of the surrounding land, the proposal would conserve the landscape character of the area.

The building would only be viewed within the context of the site and is sited adjacent to the existing stable buildings. The L-shaped form of the building is similar to the buildings that were previously in situ, albeit on a larger scale. The materials used in the new building reflect the character of the stables (red brick, slate coloured tiles). The black metal cladding on the external elevations has an agricultural appearance, as do the double timber doors to the enclosed section.

Although not typical of a modern agricultural building, the design is considered appropriate for its context. Its siting, next to the existing buildings, and single storey scale would minimise

its visual impact within the open countryside and wider landscape. The building therefore would not result in a detrimental impact on the character of the wider area, or the character of the adjacent dwelling and buildings, in accordance with Core Policies 9 and 13, DM5, and Parts 12 and 15 of the NPPF.

Impact upon Residential Amenity

In relation to amenity, Policy DM5 states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. 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. Proposals resulting in the loss of amenity space will require justification.

There are no neighbouring dwellings close by. As such there are no concerns in relation to overbearing impact, loss of light or loss of privacy. The existing stable building would be between the new building and the host dwelling. There would be no loss of amenity space for The Rhymes.

Considering the above, the single storey scale of the building, and the previous buildings in the same location, the proposed building would not have a detrimental impact on amenity for the occupiers of the dwelling or neighbouring occupants.

Impact upon Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

Paragraph 111 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The building would be used for agricultural purposes including the storage of machinery, feed, hay and livestock pens. The buildings would not result in an increase in vehicular movements to and from the site and would not alter the existing access or parking arrangements.

Given the above there are no concerns that the proposal would result in a detrimental impact on highways safety.

Other Matters

One comment has been received stating no information regarding how sheep waste would be dealt with has been provided. The proposal, although associated with the keeping of sheep on the wider site, is for the agricultural building. Sheep could be kept on the site without the need for a planning application therefore this information is not required as part of the planning application.

Another comment requests clarity over the proposed use of the building and refers to a previous application for the change of use to a catering business. The previous application was in relation to a different building on the site and that permission has been implemented and is not related to the proposed agricultural use.

The 'trial run' of the double decker bus mentioned in comments is not related to the proposed development. Therefore, this should not be a consideration for the proposed building.

Comments have been received by local residents with concerns that the building proposed is intended to be used for a wedding venue. The applicants have a catering business on the site which was granted permission under planning permission ref 22/01685/FUL. The applicants have held weddings on the site in a marquee which can be done a certain number of times per year on land providing the use complies with the conditions set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). If approved, the building could not be used as a wedding venue and an appropriately worded condition can be attached for the avoidance of doubt. A wedding venue would be a material change of use from what has been applied for and it should be noted that the permitted development rights for temporary uses do not apply to buildings, only land, therefore there would be no option to use the building as a wedding venue without a separate planning permission. If the building was used for any other purpose other than what has been applied for and approved, enforcement action can be taken by the Local Planning Authority. Based on the information that has been submitted to date, it is accepted that the building would be used for agriculture.

Because the application is part retrospective, no commencement condition is necessary. However, because the revised plans require changes to be made to what has been constructed, it is considered reasonable to attach a condition that requires the completion of the building to be in accordance with the plans within 6 months of this decision.

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

Further to the above assessment, it is considered that the principle of an agricultural building in this location is in accordance with policy DM8 of the Allocations and Development Management DPD. In addition, the principle of buildings in this location is established by the previous buildings that have been replaced by the new building. Revisions and additional information have been submitted throughout the lifetime of the application to further justify the need for the agricultural building and it is accepted that the information provided is sufficient to demonstrate a need for the building.

In terms of the siting and scale, the building and courtyard would replace previous timber buildings that were similar in footprint and position, albeit the proposed building is larger.

The building and courtyard would be adjacent to the existing stable building therefore viewed in context with the other buildings on site as opposed to being sited in an isolated position. It is considered that the design and siting accords with Core Policies 9 and 13, Policy DM5, and Parts 12 and 15 of the NPPF.

There are no concerns that the proposal would have a negative impact on residential amenity considering the separation distances to neighbouring dwellings.

There are no concerns regarding highways safety, as the proposal would not impact the existing access or parking arrangements, nor would it increase the number of vehicular movements to and from the site.

In terms of flood risk, it is concluded that the principle of a building in this position is already established therefore the sequential test is passed. In addition, the proposal would not introduce a more vulnerable use and design features have been incorporated to address concerns raised by the Environment Agency. This can be secured by condition. The wording of the suggested condition by the Environment Agency has been amended to include 'These mitigation measures shall be fully implemented prior to first use of the building or within 6 months of the date of this decision, whichever comes first' in place of '*These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements*' due to the retrospective nature and of the application, and the proposed use (as it would not be 'occupied') and to ensure the condition complies with the tests in the NPPF.

In summary, the proposal for an agricultural building is acceptable and in accordance with the Development Plan when read as a whole, and the NPPF. The recommendation therefore is to approve the application subject to conditions.

As the development has already commenced, a condition requiring the completion of the development in accordance with the approved plans within 6 months of the date of the decision is considered reasonable.

10.0 Conditions

01

The approved building shall be completed in accordance with the approved plans listed below, within 6 months of the date of this decision.

- 0001 P1 Site Location Plan received 31st March 2023
- 0005 P1 Proposed Block Plan received 31st March 2023
- 0004 REV P4 Proposed Plans and Elevations received 25th October 2023

Reason: To define this permission and to ensure the development is completed in accordance with the approved plans.

02

The development shall be carried out in accordance with the submitted flood risk assessment (ref TRST-BSP-XX-XX-T-W-0001-P04_Flood_Risk_Assessment, revision P04, dated 24th October 2023 and compiled by BSP Consulting) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 7.79 metres above Ordnance Datum (AOD) as detailed within Section 4.1.2 of the report.
- A water entry strategy shall be provided through the addition of a 6700mm x 175mm security mesh panels as the base of the two pairs of timber barn doors to allow the flow of water during a flood event. This is detailed within Section 4.1.3 and on the plan and elevation details within Appendix B of the report.

These mitigation measures shall be fully implemented prior to first use of the building or within 6 months of the date of this decision, whichever comes first. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that floodplain volume is not lost during a flood event.

03

The development hereby approved shall be used for agricultural purposes only and for no other use at any time.

Reason: For the avoidance of doubt and to define this permission.

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).

03

For the avoidance of doubt, the building approved under application ref 22/01955/AGR can only be implemented if the initial requirements of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 are satisfied. This includes (but is not limited to) that the development is '***reasonably necessary for the purposes of agriculture within that unit***'. The lawfulness of the proposed development has not been formally considered under application ref 22/01955/AGR or at any other time by the Council to date. If the intention is to implement the approval, the applicant is advised to submit an application for a Certificate of Lawfulness, prior to commencement, to establish if the development would be lawful.

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.





Report to Planning Committee 18 January 2024
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Oliver Scott, Senior Conservation Officer, 01636 655847

Report Summary			
Application Number	23/02073/LBC		
Proposal	Proposed addition of 4 poster boards on the theatre frontage		
Location	Palace Theatre 16 - 18 Appleton Gate Newark On Trent NG24 1JY		
Applicant	Miss Rose Maxwell	Agent	n/a
Web Link	23/02073/LBC Proposed addition of 4 poster boards on the theatre frontage Palace Theatre 16 - 18 Appleton Gate Newark On Trent NG24 1JY (newark-sherwooddc.gov.uk)		
Registered	27.11.2023	Target Date	22.01.2024
		Extension of Time	n/a
Recommendation	That Listed Building Consent is APPROVED subject to the conditions detailed at Section 10.0		

This application is before the Planning Committee for determination, in accordance with the Council’s scheme of delegation as the applicant is Newark and Sherwood District Council.

1.0 The site

The application site comprises the Palace Theatre on Appleton Gate. The Theatre is an imposing Grade II listed brick and stucco building that forms part of a wider complex that includes the former Magnus School, now the National Civil War Centre (NCWC). The Theatre is an important community asset and hosts a vibrant cultural programme.

The Palace Theatre is situated within Newark Conservation Area. Built by Emily Blagg c1920, the Theatre is an important feature of the streetscene and forms a group with several other listed buildings which includes the Grade II* listed former Magnus School. The metal and glass link between the NCWC and Theatre forms part of a significant remodelling phase of the site nearly a decade ago.

2.0 Relevant planning history

95/50928/LBC – INTERNAL ALTERATIONS. Approved 26.07.1995.

00/50429/LBC – INTERNAL ALTERATIONS AND REFABRICATION. Approved 06.06.2000.

02/02237/LBC - Proposed internal alterations for disabled access. Approved 03.01.2003.

03/01677/LBC - Replacement of existing auditorium seats and creation of designated wheelchair area. Approved 01.12.2003.

15/00167/LBC - Integration of front of house areas of the Palace Theatre with the National Civil War Centre. Enhancing of the existing Box Office, Foyer, Function Room, Bar area and WCs. Improvement of catering facilities. Approved 21.04.2015.

16/00651/LBC - Installation of mechanical equipment associated with catering facilities at The Palace Theatre. Incoming gas supply to North Elevation and supply/extract ductwork to South Elevation (part retrospective). Approved 20.06.2016.

20/00066/LBCLDC - Certificate of lawfulness of for proposed works to Listed Building. Two signs comprising; update of existing sign to replace existing welcome sign to entrance window and new seating plan sign to entrance foyer. Approved 17.01.2020.

20/00093/LBCLDC - Certificate of Lawfulness for Proposed Works to a Listed Building repaint the main entrance sign and reinstate lettering on the Palace side. Approved 24.01.2020.

23/01551/LBC - Attachment of steel truss to existing roof truss and drill holes to plasterwork ceiling for cables for lighting rig. Approved by Committee 23.11.2023.

3.0 The proposal

The proposed works comprise the installation of four poster boards on the external wall of the main theatre entrance. Each poster board measures 64cm x 94cm (width by height). Two boards each will be placed either side of the main doors within the covered entrance stairs. The boards will be located mid-way up the wall, above the handrail where they will be visible to passers-by. The boards are constructed from aluminium with a black finish. They are designed to carry A2 sized posters (these will advertise upcoming events at the theatre). The poster boards will be fixed into the wall with screws.

Documents considered within this appraisal:

Application form
Heritage Impact Assessment
Site location plan
Product literature
Annotated photos showing position of poster boards

Pre-application advice was given on the proposals during a site visit earlier in the year. The submitted proposals are consistent with advice given at that time.

4.0 Consultation/notification summary

Occupiers of 23 neighbouring properties have been individually notified by letter.

Newark Town Council was consulted on the 30.11.2023.

A site notice has also been displayed near to the site on 07.12.2023 and an advert has been placed in the local press on 07.12.2023.

A site visit was undertaken on the 07.12.2023.

5.0 Legal and policy considerations

Section 16 of the Act requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF – revised 2023). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of designated heritage assets when considering new development within their setting (paragraph 206).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). Historic England Advice Note 2 (2016) states: *"The junction between new work and the existing fabric needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting. Where possible it is preferable for new work to be reversible, so that changes can be undone without harm to historic fabric. However,*

reversibility alone does not justify alteration; If alteration is justified on other grounds, then reversible alteration is preferable to non-reversible. New openings need to be considered in the context of the architectural and historic significance of that part of the asset and of the asset as a whole. Where new work or additions make elements with significance redundant, such as doors or decorative features, there is likely to be less impact on the asset's aesthetic, historic or evidential value if they are left in place" (paragraph 43).

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of their duty under the legal framework in determining such matters, i.e. Section 16(2) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and take into account the following other material considerations:

- National Planning Policy Framework 2023
- Planning Practice Guidance
- Newark and Sherwood Amended Core Strategy DPD (adopted March 2019) - Core Policy 14: Historic Environment
- Allocations & Development Management DPD - Policy DM9 – Protecting the Historic Environment
- Historic England (2016) Making Changes to Heritage Assets: Advice Note 2

6.0 Consultations

(a) Statutory Consultations

None received.

(b) Town Council

Newark Town Council – raised no objection, confirmed via email 06.12.2023.

(c) Representations/Non-Statutory Consultation

The Theatres Trust supports the proposals, letter dated 18.12.2023.

7.0 Comments of the Business Manager

The key issue is whether the proposed works preserve the special architectural and historic interest of the Palace Theatre, a Grade II listed building.

The proposal seeks consent for four poster boards within the external entrance stairwell. The entrance is an important architectural feature of the listed building and prominent within the street.

The Palace Theatre dates to 1920 and was built by the local entrepreneur Emily Blagg. The property is Grade II and forms part of a wider complex that includes the National Civil War

Centre, much of which is housed in the Grade II* listed former Magnus School. The list entry for the Palace Theatre states: "Theatre and 2 shops. Built 1920 for Miss Emily Blagg. Altered mid C20, altered and restored 1988. Brick with stucco front and stone and stucco dressings. Hipped and mansard slate and artificial slate roofs. Single external rear wall stack. 2 storeys, 7x12 bays. Angled front has round towers at the angles, topped with cupolas with onion domes, and coped parapets. Main entrance front, to left, has dentillated cornice. 3 glazing bar sashes with eared and shouldered architraves, with swags between them. Under the windows, an altered framed panel with scrolled ends with the theatre's name. Below, full width entrance with dentillated cornice and 2 square piers. Steps with wrought iron handrail. Shops front, to right, has 4 sashes with architraves and swags similar to the entrance front, plus aprons. Below, 2 wooden shopfronts with bracketed dentillated cornices, the right shopfront double width with central door. On either side, 12 full height recessed panels and a range of 11 windows, some of them blank. Northeast side has, below, 4 doors and 6 windows. Southeast end has plain round corner towers. Auditorium, narrowed and refitted 1988, has an enriched bow fronted gallery on 3 sides, with boxes. Enriched segmental proscenium arch. Plaster ceiling has enriched dentillated cornice and cove-cornered panels with ventilators between them. Entrance vestibule has enriched cornice and beamed ceiling. 2 pairs of segment headed half glazed doors with oval sidelights and segment headed stained glass overlights."

When viewed from the road, the entrance staircase is framed by the minaret towers and architectural lettering. This is an attractive feature and provides a processual route into the main theatre building. Importantly, the entrance is architecturally legible as a theatre building, and therefore works affecting it must be sensitive to the architectural and historic significance of the listed building.

The proposed poster boards are modestly sized. As demonstrated by the applicant, there is historic precedent for poster boards in this location, with evidence of them visible in historic images of the building. Poster boards are a feature typically found on any theatre building furthermore.



Extract from proposed details showing location of the poster boards within the main entrance stairway.

Situated within the entrance stairway in the side wall returns, the notice boards are not likely to be unduly impactful when seen from the street. The black finish of the metal frames is appropriate furthermore and sits comfortably within the entrance.

Other material considerations

Although not a reason to grant consent, the proposed works are reversible, and the notice boards can easily be removed and masonry restored to its previous condition.

The poster boards will contribute to the cultural offer of the theatre and help attract visitors. This will in turn contribute to the on-going viability of the theatre and therefore helps with the long-term conservation of the building. The Theatres Trust echo these observations in their letter of support.

It is noted that the Town Council raised no objection to the proposal. No other comments or observations have been made on the proposals.

There are no other material considerations in this case.

8.0 Implications

In writing this report and in putting forward recommendation's 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.

The proposed works will cause no harm to the special interest of the listed building. The proposed works therefore accord with the objective of preservation required under section 16 of the NPPF. Weight is also given to the public benefits identified in the scheme, notably improving the offer of the theatre and improved accessibility and safety associated with a rig than can be lowered. The proposals are considered to comply with heritage objectives contained within the Council's LDF DPDs and section 16 of the NPPF.

9.0 Conclusion

For the reasons set out above, the proposed works are considered to be acceptable and cause no harm to the special interest of the Palace Theatre, a Grade II listed building. The proposal is therefore considered to be consistent with the objective of preservation required under section 16(2) of the Act. The scheme is also considered to accord with heritage policies and advice contained within the Council's LDF DPDs (notably policies CP14 and DM9), and section 16 of the NPPF.

The modest nature of the proposals ensures that no harm is caused to Newark Conservation Area or the setting of any other heritage asset.

The nature of the is minor works and the justification for the proposal as providing useful information on upcoming events is accepted.

10.0 Conditions

01

The works to which this consent relates shall be begun no later than three years from the date of this consent.

Reason: In accordance with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

02

The works hereby approved shall be carried out in accordance with the following approved plans and associated documents:

- Application Form
- Heritage Impact Assessment
- Site location plan
- Notice Board Product literature
- Annotated photos showing position of poster boards

Reason: To ensure that the works take the agreed form envisaged by the District Planning Authority when determining the application and thus result in a satisfactory form of works.

03

Any damage caused by or during the course of the carrying out of the works hereby permitted shall be made good within 3 months after they are complete.

Reason: To ensure that the works take the agreed form envisaged by the Local Planning Authority when determining the application and thus result in a satisfactory form of works.

Informative notes

01

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

02

The Listed Building Consent is granted in strict accordance with the approved plans and specifications contained in this application. It should however be noted that:

- a) Any variation from the approved plans and specifications following commencement of the works, irrespective of the degree of variation, will constitute unauthorised

works, would be a criminal offence under the Planning (Listed Building and Conservation Areas) Act 1990 and would be liable for enforcement action.

- b) You and your agent or any other person responsible for implement this consent should inform the Local Planning Authority immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter.
- c) The applicant is advised that the proposed works may require approval under the Building Regulations. Any amendments to the hereby permitted scheme that may be necessary to comply with the Building Regulations must also be approved in writing by the Local Planning Authority in order that any planning implications arising from those amendments may be properly considered.

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.





Report to Planning Committee 18 January 2023

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Street vote Development Order Consultation
Purpose of Report	To set before Planning Committee a consultation by the Government and consider the proposed response to be made
Recommendations	<ul style="list-style-type: none"> a) The contents of the report and the proposal for street vote development orders to be noted and b) That, subject to any other comments Planning Committee agrees to make, that it endorses the draft Council response in Appendix 1.

1.0 Background

- 1.1 On 22nd December 2023, the Department for Levelling Up, Housing and Communities commenced a consultation on Street vote development orders. The consultation runs for 6 weeks from the 22nd December to 2nd February 2024.
- 1.2 The accompanying consultation paper is not available as a downloadable format, however it can be viewed using the following link [Street vote development orders](https://www.gov.uk/government/consultations/permitted-development-rights-supporting-temporary-recreational-campsites-renewable-energy-and-film-making-consultation/permitted-development-rights-supporting-temporary-recreational-campsites-renewable-energy-and-film-making-consultation)<https://www.gov.uk/government/consultations/permitted-development-rights-supporting-temporary-recreational-campsites-renewable-energy-and-film-making-consultation/permitted-development-rights-supporting-temporary-recreational-campsites-renewable-energy-and-film-making-consultation>. There are 53 consultation questions – attached at appendix A, together with the suggested response of the Council.
- 1.3 The section below provides the Government’s (directly quoted) Introduction to street vote development orders, why they are needed and their vision for such orders.

2.0 Proposal/Options Considered and Reasons for Recommendation

- 2.1 The government has secured new powers through the Levelling Up and Regeneration Act 2023 (the “Act”) to introduce a new route to planning permission called street vote development orders and intends to bring forward secondary legislation to govern how they will operate.

- 2.2 Street vote development orders are an innovative new tool that will give residents the ability to propose development on their street and, subject to the proposal meeting certain requirements, vote on whether that development should be given planning permission.
- 2.3 Street vote development orders will provide residents with a new opportunity to take a proactive role in the planning process and bring forward the development they want to see on their streets. They will encourage residents to consider the potential for new development on their streets and are intended to deliver additional or more spacious homes in places where they are needed most, while helping to reduce development pressure on sensitive areas.

Why do we need street vote development orders?

- 2.4 Making better use of land in existing settlements will enable us to deliver more of the homes we need while at the same time making best use of existing infrastructure and bringing social and environmental benefits such as reducing development pressure on the green belt. The government wants to encourage some development on land in existing settlements, where this has the support of residents. Street vote development orders will support this ambition by giving residents a new tool they can use to bring forward additional development in their street.
- 2.5 Local residents can, understandably, be resistant to new development in their area if they have little say over what gets built and it doesn't reflect their preferences. The goal of street vote development orders is to encourage residents to bring forward proposals for new development that they would support, and which would make a contribution to their street. The system is intended to allow residents to share in the economic and other benefits of permitting appropriate kinds of new development.
- 2.6 This policy will provide the means for residents to work together and decide what development is acceptable to them, and to shape that development so that it fits with the character of their street. After a street vote development order has been made, it will mean homeowners can develop their properties with much greater confidence that their neighbours will be supportive of what they're doing, providing the development complies with the terms of the order.
- 2.7 The value of property may increase as a result of a street vote development order, so there is an incentive for homeowners to work with their neighbours to prepare one. There may also be benefits for those that don't own their property, including environmental improvements in their street and a greater choice of accommodation in the area.

Our vision for street vote development orders

- 2.8 Our proposals are guided by three key principles:
 - to create a predictable system where residents have a high degree of certainty on what proposals are permitted to contain before they prepare a proposal;

- to make the system accessible and easy to use so local people can take up the opportunity that street vote development orders provide; and
- to create a robust system that enables residents to bring forward well designed development on their street that has local support, in particular, from those most directly affected by it.

What makes street vote development orders different from other routes to planning permission?

- 2.9 Street vote development orders encourage local residents to come together and set out a coherent vision for additional development on their street. We anticipate that the policy will allow residents to propose and support development and street improvements that would otherwise not have happened, making better use of land in existing settlements.
- 2.10 Other routes to planning permission, such as household planning applications, and permitted development rights will continue to be available in areas where street vote development orders are being prepared or are in place. Communities will also continue to be able to prepare neighbourhood plans or neighbourhood development orders in their areas.

How will street vote development orders work in practice?

- 2.11 A group of residents which meets certain requirements will be able to come together with a proposal for permission to be granted for development on their street, for example the addition of an extra storey to properties. The proposal can be put forward by the group of residents directly or with the assistance of an individual such as an architect.
- 2.12 The proposal will be examined by the Planning Inspectorate on behalf of the Secretary of State to check that the proposed development is in scope and that requirements prescribed in secondary legislation are met. These requirements will help ensure that development meets high design standards and that local impacts are taken into account.
- 2.13 If the proposal passes the examination, it is then put to a referendum. Where the required threshold of votes is met, subject to any final checks, the Planning Inspectorate will make the street vote development order on behalf of the Secretary of State. Once the street vote development order is made, granting planning permission, a person with control of the land can then decide whether they want to take forward development.
- 2.14 Where street vote development takes place, local authorities will be able to capture value from the new development via the Community Infrastructure Levy and, when it is introduced, the new Infrastructure Levy, and use it to fund infrastructure that will support the local area.

3.0 Implications

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

Background Papers and Published Documents

[Levelling-up and Regeneration Act 2023](#)

[Street vote development orders](#)

Appendix A

Preparing a proposal

16. The government's ambition is to make the process of preparing and submitting street vote development order proposals as simple and as easy as possible so that they are accessible to residents in all parts of the country. At the same time, we want to ensure that proposals can be processed efficiently at the examination stage and that the orders, once they are made, can both be understood and complied with.

Who can submit a proposal?

17. The Act sets out that a "qualifying group" or an individual acting on behalf of a qualifying group can submit a street vote development order proposal. To be a member of a qualifying group, an individual must be registered at an address in the 'street area' (see paragraph 26) to vote in a local council election on a prescribed date. We propose that the prescribed date would be the date on which the proposal is submitted for examination. Where an individual submits a proposal on behalf of a qualifying group, we envisage that someone with expertise in preparing development proposals such as an architect would be well placed to perform this role. The proposal will only be considered for examination where that individual provides a signed and witnessed letter from members of the qualifying group declaring that they support the proposal.

Question 1 – Do you agree that to be a member of a qualifying group an individual must be registered at an address in the street area to vote in a local council election on the date the proposal is submitted for examination? If not, please provide details.

Yes.

However, this could significantly skew the outcome of the development order. For example, towns and cities with a significant student population living in rented dwellinghouses would, subject to being on the electoral roll, be able to vote in the referendum (as recommended in this consultation). People such as students are unlikely to have interest in whether such development is permitted or not. This might therefore mean the development order does not meet the necessary tests in order to be approved.

However, it is also considered appropriate to require those who don't own the land on which the development order would apply are required to engage with the land owners as well.

Size of a qualifying group

18. The Act also requires that a qualifying group must be comprised of at least the prescribed number, or the prescribed proportion of persons of a prescribed description. We propose that the minimum number of members in a qualifying group is 20% of the total number of individuals registered to vote in local council elections at an address within the street area, on the date the proposal is submitted for examination. Street areas must have at least 10 residential properties. In the case of street areas with between 10 and 25 residential properties, we propose that different requirements will apply as set out in the table below. This approach ensures that proposals have sufficient support in the street area before they can be considered by an examiner.

Total no. of residential properties in street area	Minimum no. of properties where at least one resident must be a member of the qualifying group	Percentage required
10	10	100%
11	10	95%
12	11	90%
13	11	85%
14	11	80%
15	11	75%
16	11	70%
17	11	65%
18	11	60%
19	10	55%
20	10	50%
21	9	45%
22	9	40%
23	8	35%
24	7	30%
25	6	25%

Question 2 – Do you agree with our proposed minimum thresholds for the size of a qualifying group? If not, please provide details.

No.

Any percentage less than 51% would have the potential that those within the group would undertake a significant amount of work in order to prepare their development order for submission, which could be abortive when it comes to the referendum. Notwithstanding this, it is acknowledged that any percentage is not a guarantee of an order being agreed.

The thresholds up to 15 residential properties are considered reasonable.

Question 3 – Are there any other factors that you feel should be considered when determining the minimum thresholds for the size of a qualifying group?

No.

Engaging the community

19. Clear design requirements and limits on the extent of development that can be granted planning permission through street vote development orders (see paragraphs 34 to 36) will help ensure that impacts on the local community are limited. There is a strong incentive to engage effectively with the community, especially those most affected by development, as this will help both improve proposals and help secure the support needed to gain approval at a referendum. Therefore, we propose to make it a requirement for qualifying groups to engage with the community to inform the development of their proposals but give them discretion to choose the most appropriate community engagement methods. This approach will give them the freedom to tailor their engagement approach to local circumstances. To support qualifying bodies (and those acting on their behalf), we propose to publish guidance on engaging effectively with the community and neighbourhood planning groups including on the opportunities presented by digital technologies such as online visual preference surveys. If the proposal is EIA development, certain statutory requirements relating to public participation will need to be complied with. Qualifying groups will also be expected to notify landowners.

Question 4 – Do you agree that qualifying groups (or those acting on their behalf) should be required to undertake community engagement, but have discretion on how they engage on their proposals? If not, please provide details.

Unsure.

Yes in terms of community engagement. However, direction should be given within any statutory instrument as to what engagement is required. For example, with those communities that are not part of the 'street', but who might be affected by any development implemented via an Order due to their proximity. This aspect does not appear to be addressed within the consultation document. Additionally, whilst the majority of people have access to digital technology, not all do. Account should be given to this. See response to Question 42.

Question 5 – Which additional protections, such as notice, could be given to residents? Please provide details if applicable.

Whilst digital technology is at the forefront of much of the Government's communications, not everyone has access to such technology. It should therefore be necessary for any communication to be both 'traditional' i.e. paper as well as digital.

Question 6 – Do you have any views on what level of community engagement would be appropriate? If yes, please provide details.

This will likely be largely dependent upon the scale and type of development being promoted as well as its location as some area will be more sensitive than others. Engagement should take place, as a minimum, when there is a significant change – however definition of significant would need careful consideration.

Question 7 - Do you have any further views on community engagement you feel should be considered? If yes, please provide details.

Yes, where the amenity of occupiers of dwellings other than those within the street are going to be affected, it needs to be a requirement that engagement takes place with them as well.

What a proposal must include

20. The Act gives powers to the Secretary of State to prescribe the form and content of a proposal and the information and any documents which must accompany that proposal. We propose that a proposal must include:

- a signed and witnessed letter from members of the qualifying group declaring that they support the proposal, where a proposal has been submitted on their behalf
- a map which identifies the street area and the land in that street area to which the proposal relates
- a draft order which includes a description of the development to which the order relates and any proposed planning conditions
- any necessary supporting information such as impact assessments or statements. Further information is set out in the “Managing local impacts” section of this consultation
- details of any consultation with statutory bodies
- a declaration that the qualifying group has engaged with the local community

21. In addition, we propose that qualifying groups (or those acting on their behalf) must submit a street design code that sets out illustrated design parameters for physical development within the street area such as number of floors, plot use and the facade treatment of buildings.

22. We also propose qualifying groups (or those acting on their behalf) will have the option to submit a detailed specification of the elevations visible from public spaces for new or extended buildings that are permitted in the street area. If these are submitted, they must include at least one detailed elevation drawing for facades facing public spaces. Specifications of elevations not facing public spaces are optional. Qualifying groups may provide various façade options if a varied streetscape is desired.

23. If plot widths in the street area vary, the specification must include requirements on how the elevations can be adapted to deal with such variation. If they wish, qualifying groups may also choose to include permitted elevations for wider buildings that can be created by merging plots e.g. an elevation for a small mansion block created by merging three existing plots.

24. The government is also interested in hearing views on what tools would help support qualifying groups in preparing and submitting street vote development order proposals.

Question 8 – Do you agree with the government’s proposals on what a street vote development order proposal must include? If not, please provide details.

A definition of what constitutes a ‘public space’ will be required to avoid any risk of confusion or challenge. Regarding paragraph 22, it is anticipated that if this is an ‘option’ for qualifying groups that they will unlikely be provided due to the additional work involved. It is considered that if varying façade options in a varied streetscape is desired that the requirement for these to be provided is a must.

Qualifying groups will need the expertise to understand how to understand the implications of what might be proposed, how to draft effective conditions that should be required to meet all of the tests as set out in the NPPF.

Question 9 – Do you consider that there is any further information or documents that should form part of a proposal? If not, please provide details.

A statement setting out how they have engaged and consulted, how they have appraised the constraints of an area and taken this into account. The criteria above includes detail of consultation with statutory bodies, however other consultees might be applicable as well but are not statutory e.g. Environmental Health departments in relation to contamination (affecting humans which the Environment Agency does not consider) and noise for example. However, this would have consequential impact upon their resources unless there is a mechanism for the qualifying body to recompense them for their time.

Question 10 – Do you have any views on what tools would help qualifying groups in preparing and submitting street vote development order proposals? If not, please provide details.

Not a 'tool' but guidance on where they can go to for support with preparing their orders e.g. chartered Members of the RTPI. It should be clear to groups that the local planning authority is not in place to assist them with such orders unless they (a) have the resource to assist; and (b) are appropriately recompensed for their expertise and time to enable this to take place.

There is concern that orders prepared by qualifying groups without significant detail provided within the order (reference to they 'if they choose' text set out above).

Scope of street vote development orders

25. To help deliver more good quality homes in the right places, the government wants to enable residents to bring forward proposals that make better use of their streets, enabling more homes in existing settlements where this has the support of residents. This ambition has informed our proposals on the detailed scope of the policy.

Definition of a 'street area'

26. The Act sets out that street vote development orders can only be used to grant planning permission to development in a 'street area' as defined in secondary legislation. We propose that a street area is defined as the properties on each stretch of road starting or ending at a crossroads or as a minor road at a T-junction or where there is a gap between buildings of more than 50 metres. A street is treated as terminated if the continuous stretch of buildings is broken by a bridge wider than 3 metres. This applies to both the street running beneath and over the bridge. A residential property is counted as being in a street area if any part of its boundary runs along the highway. The street area must have at least 10 residential properties within its boundary. We also propose that adjoining streets could be joined together to form one street area, for example, joining together two streets that have fewer than 10 residential properties.

Question 11 – Do you agree with our proposed definition of a street area? If not, please provide details.

This description omits roads that might be 'broken' with a roundabout (including mini-roundabouts).

It also doesn't apply to many villages that might have isolated pockets of dwellings up to 9 units that would like to benefit from a development order. Equally, it is appropriate to not allow the number of dwellings to be too small a number which could potentially result in unwarranted development. It could be that in cases where fewer than 10 dwelling are within a 'street' that the order only permits extensions and similar developments and not new dwellings.

Furthermore, segmenting streets with crossroads where such roads are long and often have a uniformity of character to them could result in different orders with different design requirements being applied. This could result in poor development that does not achieve the 'beauty' that the government is advocating.

Question 12 – Do you have any views on the most appropriate definition of a street area that you feel should be considered? If yes, please provide details.

No. Due to the way our towns, cities and rural areas have evolved there is no simple definition that can easily be followed that would fit all situations.

Having some form of agreement with the local planning authority (LPA) as to whether a proposed area is appropriate would be one approach. However, the assessment of this would need to be resourced (financially) by the qualifying group. This would have a risk that the LPA does not agree and without any form of recourse the group would not be able to continue. The Inspectorate is not considered to be the correct entity as more often than not it would be necessary to visit the area to understand its context.

Excluded areas

27. The Act specifies that certain areas are excluded from the scope of a street vote development order. The intention behind this is to provide an additional safeguard for certain sensitive areas where development is either normally highly restricted or not permitted through other routes to planning permission. The list of excluded areas currently includes:

- a National Park or the Broads
- an area comprising a world heritage property and its buffer zone as identified in accordance with the Operational Guidelines for the Implementation of the World Heritage Convention as published from time to time
- an area notified as a site of special scientific interest under section 28 of the Wildlife and Countryside Act 1981
- an area designated as an area of outstanding natural beauty under section 82 of the Countryside and Rights of Way Act 2000
- an area identified as green belt land, local green space or metropolitan open land in a development plan
- a European site within the meaning given by regulation 8 of the Conservation of Habitats and Species Regulations 2017

28. The Act also gives the Secretary of State the power to add to the list of excluded areas through secondary legislation. We propose to use this power to exclude land that has been safeguarded for major infrastructure projects and land that is in proximity to Ministry of Defence assets, activities and within safeguarded areas.

29. We are also interested in views on whether any other categories of land or area should be excluded from the scope of street vote development orders. To note, there is a separate power available to the Secretary of State to prescribe conditions that street votes development must meet. This provides an alternative approach to managing impacts and is explored in more detail in paragraphs 33 to 36.

Question 13 – Do you agree with our proposals for additional excluded areas? If not, please provide details.

No.

Conservation areas should also be excluded.

Question 14 – Are there any categories of land or area that you think should be added to the list of excluded areas? If yes, please provide details.

Yes.

Consideration also needs to be given to Article 4 Directions in place as well as planning conditions removing permitted development rights. An order should not be allowed to override either of these. Neither should it be possible to benefit from development under an order that has been dismissed previously on appeal within the last (suggested) 5 years prior to the order being submitted to the Inspectorate.

Development within the curtilage of a listed building should be excluded.

Regard also needs to be given to non-designated heritage assets to try and ensure they retain their character.

Development in scope

30. The Act sets out that a street vote development order may only provide for the granting of planning permission for any development that is prescribed development or development of a prescribed description or class. We propose that street vote development orders may only grant planning permission for residential development. This would not include residential institutions such as care homes or student accommodation. We also propose that they cannot be used to permit changes of use.

Question 15 – Do you agree that street vote development orders may only grant planning permission for residential development and cannot be used to permit changes of use? If not, please provide details.

Yes – there are sufficient permitted development rights that enable a change of use to another form of development that further permissions are not considered are required.

Excluded development

31. The Act specifies that certain types of development are excluded from the scope of a street vote development order. The intention behind this is to provide an additional safeguard for heritage assets and to prevent development that would not typically be appropriate in a residential area. The list of excluded development includes:

- development of a scheduled monument within the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979
- Schedule 1 development as defined by regulation 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2017/571)
- development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008)
- development of a listed building within the meaning given by section 1(5) of the Planning (Listed Buildings and Conservation) Act 1990
- development consisting of the winning and working of minerals

32. The Act also gives the Secretary of State the power to extend the list of excluded development in regulations. It is a recognised heritage principle that older buildings tend to

merit a higher level of protection. We therefore propose to add development of buildings whose origins date from before 1918 and, any land between those buildings and a public space (including roads), to the list of excluded development. It would be the responsibility of the qualifying group to assess whether buildings in the street area are subject to this exclusion using relevant information sources such as old maps and historic environment records. The proposed examination process, set out under paragraphs 61 to 63 would allow for this to be tested before a street vote development order can be made. We are also interested to hear whether you think any further types of development should be added to the list of excluded development.

Question 16 – Do you agree we should add development of buildings whose origins date before 1918 to the list of excluded development? If not, do you have any alternative suggestions for how the development of older buildings can be excluded?

Yes.

The excluded should also include development within the curtilage of a listed building and non-designated heritage assets.

Question 17 – Are there any further types of development you think should be added to the list of excluded development? If yes, please provide details.

No

Development requirements

33. The government wants to ensure that street vote development orders result in well-designed development that improves the condition of existing streetscapes and takes account of local impacts. The government also wants to create a predictable system where qualifying groups and the wider community have a high degree of certainty on what development is likely to be permissible before they prepare a proposal. To achieve this, we propose proposals (including street design codes that will form part of proposals) are assessed against more precise requirements which will be prescribed in secondary legislation. The Act sets out that street votes development must satisfy any prescribed conditions and we are interested to hear views on what our proposed conditions should cover.

Ensuring design quality

34. We propose that development proposed through a street vote development order must comply with detailed design requirements. Our proposed design requirements set out in the following table are informed by 6 design principles:

1. Supporting a gradual evolution in the character of neighbourhoods
2. Limiting impacts on neighbours
3. Preserving green space and increasing outdoor space (including balconies)
4. Celebrating heritage
5. Promoting active travel
6. Creating sociable neighbourhoods

35. We are interested in views on our proposed design principles and proposed design requirements and to hear any alternative suggestions.

Requirements

Floor limits

A double threshold would apply to floor limits, where the limit is picked as the lower of the storeys given by either the density of the Middle Super Output Area (MSOA)¹ any property on the street falls within, or any MSOA within 200m of any point on the street in question.

- in areas with fewer than 20 inhabitants per hectare, it is capped at 2 storeys

- in areas with between 20 and 60 inhabitants per hectare, it is capped at 3 storeys

- in areas with between 60 and 120 inhabitants per hectare it is capped at 4 storeys

- in areas with more than 120 inhabitants per hectare, it is capped at 5 storeys

In addition to these totals, a further storey may be added provided it is set back under a light plane (see “Limits on development near neighbouring properties”) angled at 75 degrees from the horizontal, starting from the top of the highest permitted floor at the front of the building. All building over this light plane should be forbidden, excepting parapets, balustrades, dormers, chimneys and purely ornamental structures.

In addition to these totals, residents in areas where four or five storeys are permitted may propose a second setback storey. All parts of a proposed second setback storey must also remain under a 32.5 degree light plane above the horizontal from the top of the previous floor at the front, again with the exception of parapets, balustrades, dormers, and purely ornamental structures.

In addition to these totals, residents may propose a basement within the permitted footprint, lit by excavated ‘areas’ and/or a lowered ground level on the garden side of the building, similar to standard practice in Georgian and Victorian terraces. Light wells must be at least 1.5m in width. MSOAs with fewer than 20 inhabitants per hectare should be excluded from this provision, given the lack of precedent for such forms in rural areas. Proposed basements must be appropriately assessed as part of Flood Risk Assessment and follow national policy on flood risk as set out in the National Planning Policy Framework.

The local authority has the discretion to designate areas where proposals for further floors are permitted, up to a limit of seven floors plus the two setback storey described above.

¹ MSOAs are statistical units used for the Census which comprise between 2,000 and 6,000 households and usually have a resident population between 5,000 and 15,000 persons. They fit within local authorities and are freely available through the Office of National Statistics.

Limits on development near neighbouring properties

All buildings must be under 'light planes' (the angle of which is given below) starting from the property boundary of neighbours living on other streets.

The rule should run that the building must not be capable of being hit by a line from the boundary of a non-street vote property as follows:

- If on a plan view the line runs from the boundary in a direction to the north of due east or west, the line shall rise from the boundary upwards at 45 degrees; and
- If on a plan view the line runs from the boundary in a direction x degrees horizontally away from due south, where x is less than or equal to 90, the line shall rise upward from the boundary at an elevation of (35 plus (x/9)) degrees. The reason for this distinction is that buildings to the south of a given location affect the light that reaches it more than those to the north.

New buildings may exceed the rule only to occupy volume already occupied by existing buildings or approved in an existing permission at the time of the street vote. That is, if there is already a building on a site that passes these light planes, it can be replaced with a new building of up to the same height and breadth.

One half of a semi-detached house must not be developed unless the other half is also developed.

Between houses that are not attached to each other, each owner shall not build above an angled light plane stretching up at 70 degrees above the horizontal from the border with an adjacent neighbour. The only exception to this is where there is existing building over this light plane, in which case there can be no new building beyond the space in which building already exists or is approved through another planning permission.

Ceiling heights

The maximum ceiling height should be 3.5 metres. The ceiling height of the higher setback storeys should not exceed 3 metres. The minimum ceiling height should be 2.5 metres. Ceilings may exceed these limits only if and to the extent that the existing ceiling height prior to the street vote does so. A street vote may thus grant a building with a pre-vote first floor ceiling height of 4 metres with permission to build a new building on the site with a first floor ceiling height of up to 4 metres.

If a vote grants permission to add floors to existing buildings (rather than permission to replace buildings), the ceiling height of the added floors may not be greater than that of the highest existing floor.

	<p>If there are ten or more pre-1918 buildings that are within 100 metres of the street then the number of floors should be restricted to three storeys plus one set-back storey, except when at least half of the buildings on that stretch of street have more floors than this already, in which case it should be restricted to the existing total. This will prevent obtrusive development on infilled streets within historic areas.</p>
Plot use limits	<p>Permission granted by the proposal for building in the direction of another property not on the same street (down the back garden, for example), if any, should be limited to a maximum of 25% of the distance from the built footprint to the boundary of properties on other streets.</p> <p>Development must not lead to a net loss of green space (including roof gardens) and any stretch of green space more than 50 metres along a street between one building and the next cannot be developed.</p>
Corner properties	<p>Corner properties can only receive permissions if both streets on which they sit are subject to a street vote development order. This includes properties facing on to 'chamfered corners'.</p> <p>Corner properties on chamfered corners can only use the more restrictive of the two permissions that they are subject to with regards to floor heights and plot use.</p> <p>Facades facing the street that passed a street vote development order first must comply with the design code in that order. Facades facing the second street may either (a) comply with the code of the second street; or (b) comply with special provisions in the order for the second street written for corner properties, providing for a more natural segue between the two streets. Corner houses may also of course (c) seek permission for an alternative design through the normal planning system.</p>
Other regulations	<p>To preserve an active facade for pedestrians, there may be no more than 15 metres between any two front doors. These must be real doors, though they may give access only to ground-floor flats.</p> <p>Windows in the side walls are not permitted unless the windows are at least 2 metres from the plot boundary towards which they face.</p> <p>Any additional dwellings resulting from development in the street area must be car free (i.e. there should be no provision for parking in the street area for these dwellings).</p>

36. Furthermore, we propose that qualifying groups must have regard to the National Model Design Code and National Design Guide, which we intend to update, to support the preparation of street design codes.

Question 18 – Do you agree with our proposed design principles? If not, please provide details.

Yes.

Question 19 – Do you agree with the proposed design requirements? If not, please provide details.

Floor limits – reference to “...75 degrees from the horizontal, starting from the top of the highest permitted floor at the front of the building. All building over this light plane should be forbidden,...” It is considered this should be read as ‘...shall be forbidden,....’

“One half of a semi-detached house must not be developed unless the other half is also developed.”. This is not disputed, however it is questioned how this would be legally enforced should one party develop and the other not? Would the one not developing be forced to, and if so how? Or would the one who has built be subject to enforcement action? Both parties might have the intention of building but for whatever reason it might not be possible for both to build or at the same time. It is recommended that if development to one half a semi-detached property requires the other half to also build out their permission in order to be acceptable that this form of development is not permitted within an order.

It is not known why ten or more buildings has been chosen in the following “If there are ten or more pre-1918 buildings that are within 100 metres of the street then the number of floors should be restricted to three storeys plus...”. There could be significantly fewer than ten dwellings that would be adversely affected by three storeys being permitted.

Plot use limits – it should be clear if 25% is retained that this is from the original building’s elevation (or that in 1947) and not from any subsequent extension.

A definition of ‘green space’ will be required if it is not to include gardens.

Using inhabitants per hectare may lead to disproportionate allowances in areas where the number of inhabitants is dictated by a single development – for example a Care Home may exist in the street area leading to a higher occupancy rate for the street area (notwithstanding that the rights would not apply to Care Home developments).

“If on a plan view the line runs from the boundary in a direction x degrees horizontally away from due south, where x is less than or equal to 90, the line shall rise upward from the boundary at an elevation of (35 plus $(x/9)$) degrees” - This method of assessment is overly complicated and likely to lead to confusion.

Question 20 – What role, if any, should neighbours have in determining development that goes beyond the light planes, plot use limits, window rules and restrictions on developing semi-detached houses and spaces between detached properties? Please provide details if applicable.

Their views need to be considered by the group and responses made accordingly. Any dispute that remains at the time that the order is submitted should be made known to the Inspector. However, it is recommended that consultation is undertaken by the Inspectorate when they receive an order to understand the opinions of residents within the street as well as those on adjoining land. Appropriate funding should be made to the Inspectorate for this to be undertaken, or the local planning authority if this is an action they need to undertake.

Question 21– Do you have any further views on design requirements that you think should be considered? If yes, please provide details.

No.

Relationship with the local development plan

37. For existing routes to planning permission, the development plan helps ensure that development meets the community's needs. Street vote development orders will instead give local people a more direct say on development in their immediate area. The government anticipates that the proposed development requirements set out under paragraphs 33 to 36 will generally result in development that is compliant with local development policies. However, there may be instances where proposals for additional development go further than that which would be permitted by local policy, for instance, where those policies do not support intensification of development even though that is overwhelmingly supported by residents in the street area. We propose that street vote development orders should be permitted to go beyond that which might be permitted under the local development plan where the impacts are broadly acceptable in the view of the Secretary of State according to national policy, and it will not cause problems with the implementation of the local plan. This reflects the protection given to others beyond the street under the requirements set out in paragraphs 33 to 36 and the strong democratic majority support which will be required for a street vote development order to be made. Qualifying groups will be expected to engage with the local planning authority, any neighbourhood planning group and other relevant authorities, when preparing their proposals.

Question 22 – Do you agree with our proposals on the role of the development plan in the street vote development order process? If not, please provide details.

It is not evident that the development plan has any role in the process from the proposals?

Question 23 – Do you have any further views on the role of the development plan in the street vote development order process that you feel should be considered? If yes, please provide details.

It is not clear if reference to national policy will also include other relevant guidance or not? Additionally, whilst not many councils will have, as yet, design codes prepared and adopted by the planning authority. The consultation is silent in relation to this. Notwithstanding any development will be greater than the development plan permits, it is recommended that design principles from this and any relevant supplementary guidance and documents need to be considered.

Ensuring that additional development is delivered

38. The government wants street vote development orders to support the delivery of additional or more spacious homes in areas where they are needed most. We therefore propose that street vote development orders must not be used to reduce the number of residential dwellings in a street area.

Question 24 – Do you agree that street votes must not be used to reduce the amount of residential development in a street area? If not, please provide details.

Yes.

It is questioned on whether the orders will result in homes in areas where they are needed most due to the challenges in preparing an order and the [lack of the necessary] skillsets by people looking to prepare one.

Managing local impacts

39. The government anticipates that in the majority of cases the impact of street vote development order proposals will be limited. In some circumstances, however, there may be impacts that need to be considered.

Highways and transport

40. By supporting the delivery of additional development within existing settlements, street vote development orders have the potential to support sustainable forms of transport including active travel and better use of public transport.

41. Increases in vehicle movements, delivery and servicing requirements, parking demands and access to the road network all have implications for the proper operation and safety of the transport network. Given the potential scale of development, it is important that qualifying groups appropriately and proportionately assess the transport impacts of street vote development, for example, through the preparation of a transport statement. This will ensure that any impacts on the transport network are managed and mitigated (secured via condition or obligation where necessary). As necessary we will consider whether guidance needs to be updated to reflect this approach.

Question 25 – Do you have any views on our proposed approach to managing highways and transport impacts? If yes, please provide details.

Yes.

The Transport Statement will only be applicable at the time the Statement is prepared/the order submitted to the Inspectorate. Suggestion is made that these orders might be granted with no time period (in the worst-case scenario). The TS will more than likely not be relevant in an unknown future number of years but will have granted permission. A condition could be attached to an order requiring updated transport information to be submitted prior to commencement of development for approval. However, this then removes the certainty that such orders are aiming for. As such, parties would just as well apply for planning permission. These concerns apply even if permission is allowed to commence up to 10 years in the future. A lesser time would probably result in no desire to prepare an order by communities.

Protecting the historic environment

42. The government wants to ensure that heritage is safeguarded in the process. As set out under paragraph 31, the Act excludes development of key designated heritage assets such as listed buildings. Furthermore, we expect many qualifying groups will submit proposals that seek to enhance their street's traditional built form and character such as requiring the use of traditional local bricks or maintaining the window types commonly found on the street. To further preserve the historic environment, we are proposing to make it a requirement that qualifying groups must provide evidence that they had given special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses; and preserving or enhancing the character or appearance of any conservation area as set out under section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990. This special regard requirement would be extended to other designated assets such as World Heritage Sites when the new special regard duties for these assets in the Levelling Up and Regeneration Act will be implemented. Compliance with this duty will then be tested at examination.

Question 26 – Do you agree with our proposals to further safeguard the historic environment? If not, please provide details.

Yes, unless the curtilage of a listed building and conservation areas are excluded areas, as suggested. If they are retained, then the SI needs to be clear that development not within a conservation area but within a given distance, e.g. 400 metres, must be given the regard to as set out above.

Other potential impacts

43. There may also be other relevant impacts that need to be considered including flood risk, land contamination and the impact on local utilities. We propose that qualifying groups, where they are making proposals where these impacts are relevant (for example the street area is in a flood risk zone), must ensure that the proposal complies with the relevant policies in the National Planning Policy Framework (NPPF) and the Government’s planning guidance and engage with consultation bodies whose interests will be impacted or affected by their proposals.

44. As set out in the NPPF, all proposed developments in Flood Zones 2 and 3 must be accompanied by a Flood Risk Assessment (FRA). Some proposed development in Flood Zone 1 may also require an [sic] FRA.

45. The legal requirements and government guidance that manage the impacts of noise, nuisance and air pollution from construction sites will apply to development that takes place under a street vote development order. We also propose that qualifying groups may also include an additional code of construction practice.

Question 27 – Do you agree with our proposed approach to managing local impacts? If not, please provide details.

No. These are needed and more. As well as flood zones, it needs to be clear that areas at risk of surface water flooding need to be subject to a flood risk assessment.

Question 28 - Do you have any suggestions on additional or alternative ways that could assess and provide assurance to ensure that street votes development does not lead to increased flood risk in the immediate and/or surrounding areas? If yes, please provide details.

No.

Question 29 – Do you think any other impacts should be considered? If yes, please provide details.

Yes.

Trees, Archaeology and Ecology such as roosting bats.

Environmental duties

The government is committed to ensuring that street votes development is subject to the same assessment requirements as similar scale development enabled by other routes to planning permission. This is consistent with the government’s commitment on non-regression of environmental protections.

Environmental assessment

46. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the “EIA regulations”) are in place to protect the environment by ensuring that when

deciding whether a project which is likely to have significant effects on the environment should go ahead, the decision is made in full knowledge of the likely significant effects. The government expects that in many cases street vote development will not be of a nature or scale that would be above the threshold for an EIA. Where development that is proposed under a street vote development order qualifies as EIA development, it will continue to be prohibited unless an assessment has been carried out and the environmental impacts are considered by the examiner during the examination.

47. The EIA regulations relate to existing routes to planning permission. It is likely that the regulations will need some adjustments to ensure they operate effectively for street vote development orders. The Act allows for the Secretary of State to make regulations modifying the existing process under the EIA regulations. In keeping with our broader aims for the policy, the government also wants to ensure that the process is as simple as possible for qualifying groups to navigate and that it provides appropriate support to carry out EIA to those groups with more complex proposals. We are interested in views about how best the government can support qualifying groups to undertake an EIA (where it is required) and also how the EIA regulations should be modified for street vote development orders.

48. We propose that the existing EIA process will apply in a similar way to the way it applies to other types of development, including the ability for mitigation schemes to be secured via a planning condition or obligation. This means that where street vote development orders propose development within the remit of the EIA regulations, the key stages of screening, scoping, assessment, preparation of an environmental statement, mitigation and monitoring will need to be carried out and requirements met.

49. Largely, as with other routes to consent/permission, the qualifying group or someone acting on their behalf would be responsible for appropriately considering any impacts on the environment and carrying out assessments as well as considering alternatives. We propose the Secretary of State would be responsible for making decisions at the required stages, for example, issuing an EIA screening decision to a qualifying group would fall to the Secretary of State.

50. We also recognise there can be changes to EIA schemes between scoping stage and submitting a scheme/proposal. Therefore, we propose not to oblige the Secretary of State to issue a scoping decision, but to carry out a pre-submission check/review of the work that has been carried out to make sure it complies with the EIA regulations, before it is considered by an examiner. We think this will save time and reduce potential for complexity for qualifying groups proposing street vote development. Qualifying groups will then receive a decision from the Secretary of State about whether their proposals are ready for examination or whether further work is needed on their EIA.

51. We are interested in views on options for discharging our requirements to consult on the EIA, such as who should be responsible for publicising the proposed order and the environmental statement, as well as how and where proposals and associated documents could be made accessible to the public.

52. EIA has evolved to include increasingly complex processes. The government intends to use powers in the Levelling Up and Regeneration Act 2023 to introduce a new framework of environmental assessment to replace the EU systems of Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA). This will be an outcomes-based approach to assessment - Environmental Outcomes Reports (EOR). We launched a consultation seeking

initial views on the key building blocks of the new system (closed in June 2023). We are in the process of analysing responses received and will respond in due course.

Question 30 – What support should be provided to qualifying groups in order to make sure they can effectively discharge their obligations under the Environmental Impact Assessment regulations, if required? Please provide details if applicable.

Unsure.

This is difficult to answer in the 'should' sense. Any support provided by local planning authorities, where they have resources available to do so in the first place, need to be compensated for financially. This will be dependent on who has responsibility for this, but if it is the LPA it will be less if it relates purely to a screening assessment and based on the development proposed, it is not considered EIA development. Otherwise, the groups should appoint the necessary experts needed to assist them privately. Neither route would be unfair, taking account of the consultation indicating that house values may increase, thus there is rationale for support not to be given freely.

Question 31 – Do you have any views on how the Environmental Impact Assessment regulations should be modified for street vote development orders? If yes, please provide details.

No.

Question 32 – Do you agree that the Secretary of State should be responsible for issuing screening decisions and advising qualifying groups on their scoping work prior to submitting their proposals? If not, please provide details.

Yes.

Question 33 – Do you have any views on the mechanisms for publicity and consultation for Environmental Impact Assessments for street vote development orders including who should be responsible for running the consultation? If yes, please provide details.

This could be undertaken by the local planning authority (subject to resource provision from the group). The responses can be provided to the qualifying group, subject to clarification of any GDPR issues, in full or redacted. It will then be for the group to collate, assess and utilise to prepare their ES.

Question 34 - Do you have any views on providing qualifying groups with more certainty around Environmental Impact Assessment screening? If yes, please provide details.

No.

Habitats regulation assessment

53. The Act makes provision for the application of requirements under the Conservation of Habitats Regulations 2017 (the 'habitats regulations') to street vote development orders. Habitats Sites are excluded from the scope of street vote development orders. However, depending on the nature, scale or location of development, it is possible that street votes development may still have an impact on a protected Habitats Site (as defined in the glossary of the National Planning Policy Framework) and that therefore a Habitats Regulations Assessment may be required.

54. The government wants to ensure that that the high standards of protections for Habitats Sites are maintained, while ensuring that the process is as streamlined and simple to navigate as possible for qualifying groups. We will therefore be taking a similar approach to the

procedure used for General Permitted Development Orders as per regulations 75-78 of the habitats regulations.

55. This means that where it is not possible to rule out that street vote development is likely to have a significant effect on a Habitats Site (either alone or in combination with other plans or projects), prior approval from the local planning authority is required before development can begin. Qualifying groups would be required to consult Natural England for its opinion as to whether the development is likely to have a significant effect upon a Habitats Site. If Natural England's opinion is that the development is likely to have a significant effect, an Appropriate Assessment of the implications of the development for the Habitats Site must be undertaken, and the local planning authority may provide approval only after having ascertained that doing so will not adversely affect the integrity of the site.

Biodiversity Net Gain

56. Biodiversity Net Gain (BNG) is a way to contribute to the recovery of nature while developing land, making sure the habitat for wildlife is in a better state than it was before development. BNG will be an important part of the planning system going forward. Mandatory BNG, as introduced by the Environment Act 2021, will require that new development must deliver a net gain in biodiversity of at least 10%. This will be achieved through imposing a mandatory pre-commencement condition on new grants of planning permission for development in scope of biodiversity net gain. See [further information](#).

57. Biodiversity gains can be delivered on-site, off-site or through the purchase of statutory credits from government, and there will be a requirement that any significant on-site enhancements or off-site gains must be secured and maintained for a period of at least 30 years. Certain types of development will be exempt from BNG requirements, including development granted planning permission through permitted development rights, householder development and development which only has a de minimis impact on habitats. Implementation of BNG will be commenced from early 2024 for applications for major development in the Town and Country Planning Act 1990. Commencement to other routes to permission, including Local Development Orders (LDOs) and Neighbourhood Development Orders (NDOs), will be made as part of the second phase of BNG's implementation. The street vote development order legislation gives the Secretary of State the power to modify the BNG framework for street vote development.

58. As set out under paragraphs 34-36, we propose that street vote development orders can grant planning permission to a range of development from more minor development, such as roof extensions, to more extensive development such as the redevelopment of existing dwellings and their gardens. So the potential impact on habitats could vary. We propose to develop a framework which exempts street vote development if it is similar to the existing exemptions for BNG, but would apply BNG if the development has a more substantive impact on habitats. This framework would only come into force as part of the second phase of BNG implementation so it can be consistent with the approach for LDOs and NDOs.

Question 35 – Do you think that Biodiversity Net Gain should apply to street vote development in this way? If not, please provide details.

Yes.

BNG should apply to development under a street vote order in exactly the same way as all other development proposals, with the same inclusions and exclusions. To do otherwise, would add further complexity to the planning system.

Examination

59. Street vote development order proposals will be examined by the Planning Inspectorate. The government wants to ensure that proposals are examined fairly and efficiently before they are put to referendum.

60. After a proposal has been submitted for examination, we propose that it would be 'validated' by the Planning Inspectorate to ensure that it meets certain basic requirements. The purpose of this stage is to help ensure that proposals are ready to be examined and that they can be examined efficiently. We propose that the requirements would be that the:

- qualifying group and its members meet the prescribed requirements (see paragraphs 17 to 18). Relevant local authorities would be required to support the Inspectorate by providing access to the local electoral register;
- proposed street area meets the statutory definition and is not in an excluded area (see paragraphs 16 to 28);
- proposal includes the prescribed documents and any supporting information as proposed under paragraphs 20 to 23); and
- proposal is not a repeat proposal (i.e. a proposal that is the same or similar as one that has previously been submitted within 3 years before the date it was submitted).

61. If the examiner determines that these requirements have been met, the qualifying group and the local planning authority would be notified by the Planning Inspectorate that the proposal has proceeded to examination. Where the correct documents and information have not been provided, the qualifying group would be advised by the Planning Inspectorate and would have another opportunity to provide the missing information.

Question 36 – Do you agree with our proposals for a validation stage before proposals can be examined? If not, please provide details.

Yes

Subject to any additional exclusions (e.g. conservation areas, curtilages of listed buildings etc.) being included as per this response and others from other respondents.

Question 37 – Do you have any further views on how the validation process should operate that you feel should be considered? If yes, please provide details.

No.

Examination process

62. We propose that the role of the examiner will be to assess whether proposals have been prepared in accordance with procedural requirements and duties that will be set out in secondary legislation, comply with the prescribed development requirements (see paragraphs 34 to 36) and to consider relevant impacts proposed under paragraphs 39 to 45. Where a proposal is Environmental Impact Assessment (EIA) development, the examiner will need to consider the Environmental Statement and representations made in relation to EIA in reaching a decision on the proposal.

63. We propose that examiners will conduct the examination through written representations. However, the examiner can hold a hearing in any case where they decide that the consideration of oral representations is necessary to ensure adequate examination

of an issue or that a person has a fair chance to make their case. Before the examination gets under way, the local planning authority will be required to publicise the examination in the most appropriate way (e.g. through site and online notices) for a defined period and to invite representations from the public and statutory bodies on whether the prescribed requirements have been met. The local authority will also be able to submit a representation.

64. After the examination has concluded, we propose that the examiner will be required to issue a report to the qualifying group setting out the decision with the reasons for the decision. The decision may be one of three options:

- **Pass** - Where the proposal passes examination the examiner would then instruct the local authority to organise a referendum on the proposal.
- **Conditional pass** - Where the proposal passes examination subject to additional or amended planning conditions and obligations and/or minor modifications to the proposal that are necessary to ensure compliance with prescribed requirements. Where modifications have been made, the local planning authority will publicise these and invite further representations on the modifications. The qualifying group must also agree in writing to all the modifications made to the proposal before it can proceed to referendum. If the qualifying group do not agree with the modifications, they must withdraw the proposal within a defined period.
- **Fail** - Where the proposal would require major modifications to comply with the development requirements, the qualifying group would have one opportunity to amend their proposal and have it re-examined by the Inspectorate.

We propose that the qualifying group would be able to withdraw their proposal from examination at any time, however, they would lose their right to resubmit a proposal that is the same or similar to the one they previously submitted for a period of 3 years.

Question 38 – Do you agree with our proposals on the examination process? If not, please provide details.

In theory.

Any SI needs to be clear as to whom is able to respond to the publicity – anyone as is the case with planning applications or limited to only those within the area of the street order **and** adjoining occupiers? As owners are excluded within the process above, but are likely to have an opinion on development, if they do not live at the premise, there should be a requirement for the group to provide up-to-date land registry information to ensure that all relevant land owners can be notified by the LPA. This should not be a requirement for the LPA to undertake the search due to the cost in obtaining land registry titles.

Clarity will be required within any SI as to what constitutes a ‘similar order’ – will this just relate to the development, type of development, area that is within the order or something different?

Question 39 - What (if any) statutory bodies do you think should be invited to make representations? Please provide details if applicable.

All of those within Schedule 4 of the Town and Country Planning (Development Management Procedure) England Order 2015 (as amended). In addition, any consultee that is (generally) in-house – e.g. conservation, ecology, public protection, trees and landscape, design officers, town and parish councils

Question 40 – For non-Environmental Impact Assessment development, what period of time should we allow for representations to be made? Please provide details if applicable.

Minimum of 28 days (plus bank holidays) to provide consistency with existing LDO requirements.

Referendum

65. The referendum is an important part of the process as it will ensure that street vote development order proposals can only be made where they have strong local support. The government wants to see high turnouts and make sure that voting in a referendum is accessible and secure.

Who can vote in a referendum?

66. We propose that individuals who are registered at an address in the street area (see paragraph 26) to vote in a local council election on the date the proposal is submitted for examination, would be eligible to vote. This means that absentee landlords and some foreign nationals who live in the street area will not be able to vote.

67. Individuals nominated to vote on behalf of non-domestic rate payers in the street area would also be eligible to vote, if they are also eligible to vote in UK parliamentary elections.

Question 41 - Do you agree with our voter eligibility proposals? If not, please provide details.

No. The development proposed within a LDO will have impact upon all who live there and they should therefore have an opportunity to make their views known. Equally absentee landlords should be able to make their representation too as the proposals will affect them to a greater or lesser degree. They are required to be made aware of proposals by applicants when submitting a planning application, there is no obvious logic for them not being included as part of a street vote order.

The ERO would need to have a mechanism to verify that any absentee landlords who live outside of the local authority boundary are registered electors.

Question 42 - Do you think any other individuals should be eligible to vote in a referendum? Please provide details if applicable.

Yes. The development proposed within a LDO will have impact upon all who live there and they should therefore have an opportunity to make their views known. Equally absentee landlords should be able to make their representation too as the proposals will affect them to a greater or lesser degree. They are required to be made aware of proposals by applicants when submitting a planning application, there is no obvious logic for them not being included as part of a street vote order.

How will referendums be conducted?

68. We propose that the local authority's returning officer will be responsible for organising and conducting the referendum. For other types of poll, voters typically have a choice about how they vote. As street vote development order referendums will have small electorates, we consider it would be proportionate to limit the referendums to a single method. We therefore propose to allow for postal voting only. Postal voting is a well established, secure and accessible voting method in this country and is well suited to smaller polls such as these. The government will assess and fund any new burdens on local authorities associated with

these proposals. We also propose that the question to be asked will be: “Do you want the development described in the street vote development order to be granted planning permission?”.

Question 43 - Do you agree that street vote development order referendums should be conducted via postal voting only? If not, please provide details.

Yes.

A postal voting solution with defined statutory dates to be open to those who are existing registered electors.

Question 44 – Do you agree with our proposed referendum question? If not, please provide details.

Yes.

However, it will likely mean that more people will reply ‘no’ than ‘yes’ as there might be areas of the proposal that people find particularly unacceptable. This of course does depend on who is able to vote at the referendum. If only those within the identified area can vote, this is more likely a ‘yes’.

Approval thresholds

69. In order for a street vote development order proposal to be approved following a referendum, we propose that:

- at least 60% of those eligible to vote must vote in favour
- at least one voter in at least half of the voting households in the street area votes in favour. We are also interested in views on whether the relevant local authority should have discretion to apply this threshold

Question 45 - Do you agree with the proposed approval thresholds? If not, please provide details.

No.

This also excludes anyone outside of the area who from the above consultation, as currently drafted, are unlikely to have any say on the proposals. This will more than likely lead to significant complaints if an order is passed and development commences. The complaint will come to the local planning authority whereas it would be the Inspectorate, through the drafting of the SI who would be responsible.

Question 46 – Do you have any views on whether the 2nd threshold should be applied at the relevant local authority’s discretion? If yes, please provide details.

No.

It should be consistent to provide clarity.

Post permission process

Making the order

70. If a proposal is approved following a referendum, we propose that the local planning authority would announce this and notify the Planning Inspectorate who would then make some final checks and then make the order which would grant planning permission to the development specified in the order.

Commencing development

71. The government are interested in views on the time period within which development granted planning permission through a street vote development order must be commenced. As a street vote development order will allow for development of properties across the street area, we want to allow enough time to commence development whilst balancing this with need to provide certainty. Potential options include:

- Option A: Development must be commenced within 10 years of the order being made. This is longer than is typically allowed for planning permission granted through existing consent routes because the permission will potentially apply to properties under many different owners, some of which may not be able to commence development within a shorter period (e.g. 3 years). The qualifying group would also have the option to propose an increase to this period as part of its proposal if it takes the view more time is needed to commence development;
- Option B: Development must be commenced within a specified period (e.g.10, 20 or 30) years of the order being made. The qualifying group would also have the option to apply to the local planning authority after the order has been made to extend the commencement period; and
- Option C: No time period. Permission granted through a street vote development order would be permanent.

Question 47– Do you have any views on the potential options for when development granted planning permission through a street vote development order must be commenced? If yes, please provide details.

Yes.

No more than 10 years. However, this is a significant length of time and developments granted permission through the order might then conflict with any development granted planning permission (and implemented) in the intervening time period.

Pre-commencement requirements

72. Before commencing development granted planning permission under a street vote development order, we propose that the homeowner/developer must submit any details on matters required by any planning conditions attached to the order to the local planning authority for approval. In addition, those intending to develop under the terms of the order would be able to apply to the local planning authority to obtain a lawful development certificate to check that drawings for individual developments are in compliance with the street design code.

Question 48 – Do you agree with our proposed pre-commencement requirements? If not, please provide details.

No.

Notification should apply to all developments to be undertaken under the street vote development order i.e. where conditions do not apply. The SI needs to be clear that where a legal agreement is required that it is **not** subject to any time exclusions in terms of approval being granted in default if development is not commenced within a given time period. This will particularly be the case if the rule regarding 'semi-detached properties commencing development at the same time' is retained.

Developer contributions

73. It is important that street vote development is able to contribute to the mitigation of the impact of the development that occurs in its area. It is also important that there is a simple and certain process for the calculation of contributions. In the longer term, the Infrastructure Levy will become the route to collecting these contributions, but street vote development orders may be made before an area has transitioned into the new Levy.

74. In general, prior to the introduction of the new Levy, we expect that charging authorities (including the Mayor of London) will be able to use a streamlined version of the Community Infrastructure Levy (CIL). Local planning authorities will be able to set specific CIL rates for development which is permitted under a street vote development order. Unlike other CIL rates, this will not be subject to examination in public, and the process requirements for setting the rates will be substantially stripped back. This will ensure that local authorities are able to act quickly to set rates, even in areas which do not have an existing CIL.

75. We anticipate that existing CIL exemptions and offsets, such as the self-build exemption, will apply. In particular, CIL is not charged on existing floorspace, or floorspace which is demolished and replaced. Moreover, annexes and extensions to existing residential properties are entitled to claim CIL exemption, unless an additional dwelling is created. These types of development have a much lower impact on the infrastructure needs of an area, and so it is appropriate that they are generally not charged the Levy.

76. Where more substantial development occurs, and where additional dwellings are created, it is appropriate that a contribution can be secured. We envisage that collection of CIL in these cases will work similarly to how CIL is currently collected on development permitted by permitted development rights or a local development order. A person proposing to rely on a street vote development order to carry out CIL-chargeable development will need to submit a notice of chargeable development to the CIL collecting authority.

77. For development consented through a planning application to the local authority, a section 106 planning obligation can be used to collect contributions for affordable housing. National planning policy sets out that affordable housing contributions should not be sought on developments comprised of less than 10 units (meaning 9 units or under), other than in designated rural areas. For street vote development orders, local planning authorities will be able to use revenues secured through CIL from street vote development to fund infrastructure and affordable housing. Section 106 planning obligations will not be used to secure affordable housing for street vote development.

78. In the existing system, s106 planning obligations can also be negotiated. These are agreements between the landowner and local authority, which are binding on the land. Street vote development orders will typically cover an area in which there are multiple landowners, who may have different views on the street vote development order itself, and on whether they will take forward development under the order. Therefore, it would not be practical to attempt to negotiate s106 planning obligations with landowners at the point a street vote development order is made. However, it is possible to include a condition under the street vote development order that a s106 obligation must be entered into before development is begun. If this were to become a major part of the development process under street vote development orders it could create substantial uncertainty for landowners as to the deliverability of development under the street vote development order. It is for this reason that the main focus of developer contributions is CIL and – in the longer term – the Infrastructure Levy.

79. These levies allow for much more certainty over the level of contributions that are expected. Nonetheless, there are some circumstances where the security of a s106 obligation is necessary in order to enable a permission to be granted – for instance, if a mitigation is required to deliver specific mitigation required in consequence of an appropriate assessment under the Conservation of Habitats and Species Regulations.

80. Therefore, we propose that, where it is necessary to enable the street vote development order to be granted, a pre-commencement condition may be placed on any development taken forward under the street vote development order, requiring a s106 obligation to be entered into in relation to a specified essential mitigation. We propose that s106 obligations should be limited to circumstances in which: the mitigation cannot be achieved through a condition alone; and cannot be delivered through CIL, either due to the nature of the mitigation, or because the development is exempt.

Question 49 - Do you agree that the setting of Community Infrastructure Levy (CIL) rates for street vote development should be simplified and streamlined, and that CIL should be the main route for the collection of developer contributions on street vote development orders, prior to the introduction of the Infrastructure Levy? If not, please provide details.

Unsure.

At the time the development order is made, it might be appropriate for only CIL to apply as the main route. However, with the length of time that these orders are suggested will grant planning permission for, significant change might occur which could result in new issues arising that are not known at the time the order is made. There should therefore be some scope for additional requirements, as required.

Question 50 - Do you agree that conditions requiring a s106 planning obligation should be limited to mitigations which cannot be achieved through condition alone, and which cannot be delivered through Community Infrastructure Levy? If not, please provide details.

Yes.

Subject to that due to the length of time that these orders are suggested will grant planning permission for, significant change might occur which could result in new issues arising that are not known at the time the order is made. There should therefore be some scope for additional requirements, as required.

Question 51 - Do you think the same approach should be taken for street vote development orders as for planning applications, that developments of 9 units or less should not have to make an affordable housing contribution via their Community Infrastructure Levy receipts? Please provide details if applicable.

Yes.

Subject to developers not deliberately submitting multiple applications for reduced numbers of dwellings within their application (condition approval) in order to get around this threshold. Additionally, subject to the host local planning authority not having any differing threshold within their adopted, and up-to-date, planning policy.

A digital process

81. The government's ambition is to bring planning into the digital age. This includes using new technology to better engage people, supported by data standards and publication of open data. Our ambition is for street vote development orders to also be at the forefront of

using new technologies to better prepare, present and engage people with proposals. We are proposing to prescribe data standards for proposals to follow and require data to be published as open data where possible. For security reasons, we propose that the referendum process will be a paper-based non-digital process.

Question 52 – Do you agree that data standards and publication requirements should be implemented as part of the street vote development order process? If not, please provide details.

Unsure.

In theory yes, but it depends upon what these are and their complexity. It could limit some people from being able to prepare a development order. However, consideration should be given to as part of the response to this consultation as to whether those leading on the preparation of an order should be required to consider GDPR issues as a public authority is. There is the risk that some people might not want to share their data with their neighbours for personal reasons.

Question 53 – Do you agree that the referendum should be paper-based and non-digital? If not, please provide details.

Unsure.

If in the future general elections, for example, are able to be held in a digital way, there should be scope for the referendum to also follow suit.

Implementing the system

82. The government's intention is to have the regulations in place in 2024. We are considering the best way to support qualifying groups in preparing their proposals. This includes to support requirements to carry out the necessary environmental assessments such as Environmental Impact Assessment (EIA) and a Habitats Regulation Assessment (HRA). Options under consideration include the role of government in providing screening directions and scoping opinions.

Public sector equality duty

83. We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document.

Question 54 - Do you have any comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document? If yes, please provide details.

No.



Report to Planning Committee 18 January 2024

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Oliver Scott, Senior Conservation Officer – Planning Development, x 5847

Report Summary	
Report Title	De-listing Notification
Purpose of Report	To set before Planning Committee formal Notification of the de-listing of a Listed Building within the District
Recommendations	The contents of the report and the Notification of De-listing be noted.

1.0 Background

- 1.1 On the 15 December, Historic England notified Newark and Sherwood District Council that Old Hall Cottage of Main Street, Kneesall has been removed from the List of Buildings of Special Architectural or Historic Interest (List entry number: 1045629).
- 1.2 The date of Notification is the date of de-listing. The building was originally designated in 1986.

2.0 Detail

- 2.1 Listing celebrates a building's special architectural and historic interest and brings it under the consideration of the planning system, so that it can be protected for future generations. Crudely put, the older a building is, and the fewer the surviving examples of its kind, the more likely it is to be listed. The general principles are that all buildings built before 1700 which survive in anything like their original condition are likely to be listed, as are most buildings built between 1700 and 1850. Particularly careful selection is required for buildings from the period after 1945. Buildings less than 30 years old are not normally considered to be of special architectural or historic interest because they have yet to stand the test of time.
- 2.2 Listing is managed by the Department for Culture, Media and Sport (DCMS) on advice from Historic England. Anyone can apply to add or remove a building from the List directly with Historic England. Following evaluation and consultation, Historic England make a recommendation to the Secretary of State for DCMS based on the *Principles of*

Selection for listed buildings and they make the final decision as whether a site should be listed or not. The Principles of Selection set out strict criteria for identifying domestic vernacular architecture (further information on the selection criteria are included in the background papers).

- 2.3 In this case, Historic England have advised DCMS that old Hall Cottage is no longer of special architectural or historic interest. Detail on this advice can be found in the background papers. Essentially, DCMS agreed with Historic England that the building, which was originally listed on the basis of being a good example of an early 19th century estate cottage, has undergone too much late-20th century alteration.
- 2.4 Before arriving at their decision, Historic England consulted the owner of the property and the Local Planning Authority. Our advice was limited to factual commentary.

3.0 Implications

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

Background Papers and Published Documents

DCMS Reports and relevant correspondence:

<https://services.historicengland.org.uk/webfiles/GetFiles.aspx?av=F030FA2A-2B13-432C-9EB8-6F58F4CAEC87&cn=CD70AAA7-1B5A-49E2-9CCC-5695ED3FD535>

Principle of Selection:

<https://www.gov.uk/government/publications/principles-of-selection-for-listing-buildings>



Report to Planning Committee 18 January 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Permitted Development Rights: Solar and Telecommunications Masts
Purpose of Report	To set before Planning Committee the latest permitted development right.
Recommendations	The contents of the report and the permitted development right changes to be noted.

1.0 Background

- 1.1 On 28 February 2023, the Department for Levelling Up, Housing and Communities commenced a consultation on 4 proposals concerning 1) permitted development rights relating to recreational campsites, 2) renewable energy, 3) electric charge vehicle points and 4) film-making.
- 1.2 A paper was presented to Planning Committee on 20 April 2023 setting out the Council's response to this consultation. The Government has issued, on the 28th November 2023, a new Statutory Instrument 2023 No. 1279 ([The Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) \(No. 2\) Order 2023](#)) setting out permitted development rights relating to 2) above, in addition to amendments to the telecommunications permitted development right and extensions to schools, colleges, universities, prisons and hospitals. The amended legislation came into force on 21st December 2023. Members will recollect a report presented to Planning Committee on 10th August in relation to 1) and 4) above.

2.0 Detail

- 2.1 Solar on Domestic Premises – Schedule 2, Part 14, Class A allows the installation of solar photovoltaic equipment and solar thermal equipment to a flat roof. When the site is within a conservation area, prior approval is required from the Council, as Local Planning Authority, in respect to the impact of the appearance of the solar PV or thermal equipment on that land.

- 2.2 Stand Alone Solar on Domestic Premises - Schedule 2, Part 14, Class B permit stand-alone solar equipment in a conservation area where the solar equipment is closer to a highway than the part of the premises nearest the highway. The maximum height of the solar equipment permitted is up to 2 metres along with a requirement to seek prior approval from the Council, as Local Planning Authority, in respect to the appearance of the stand-alone solar on the conservation area.
- 2.3 Solar on Non-domestic premises - Schedule 2, Part 14, Class J allows for the development of solar equipment on a roof slope fronting a highway on conservation area land and removes the 1 megawatt capacity threshold for the installation of solar PV.
- 2.4 Stand-alone Solar on Non-Domestic Premises - Schedule 2, Part 14, Class K permits stand-alone solar equipment on conservation area land where the solar equipment is closer to a highway than the part of the premises nearest the highway. The maximum height of the solar equipment permitted is up to 2 metres along with a requirement to seek prior approval from the Council, as Local Planning Authority, to the impact of the appearance of the equipment on the conservation area.
- 2.5 Installation, Alteration and Replacement of a Solar Canopy on Non-domestic, Off-Street Parking - Schedule 2, Part 14, Class OA is subject to various limitations, including that no part of the development may exceed 4 metres in height or be within 10 metres of the curtilage of a dwellinghouse or block of flats. There is a requirement to seek prior approval from the Council, as Local Planning Authority, in respect to the canopy's siting, design and external appearance, in particular the impact of glare on the occupiers of neighbouring premises and within conservation areas, the impact of the appearance of the solar canopy on that land.
- 2.6 Electronic Communications Code Operators - Schedule 2, Part 16, Class A is amended to limit some of the conditions to ground-based masts, ensure that height calculations for masts exclude any antennas, and adjust the definitions of "safeguarding map" and "small cell system".
- 2.7 Extensions etc for Schools, Colleges, Universities, Prisons and Hospitals –Additional requirements are inserted including the requirement for the developer to assess the contamination and flood risks of the site. They are also required to confirm that development will not take place on land used as a playing field. When the site is within Flood Zone 3, there is a duty on the Environment Agency to respond to consultations.

3.0 Implications

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

Background Papers and Published Documents

[Permitted development rights: supporting temporary recreational campsites, renewable energy and film-making consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/permitted-development-rights-supporting-temporary-recreational-campsites-renewable-energy-and-film-making-consultation)

[\(The Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) \(No. 2\) Order 2023\)](#)



Report to Planning Committee 18 January 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	National Planning Policy Framework 2023 and Ministerial Statement – The Next Stage in Our Long Term Plan for Housing Update
Purpose of Report	To brief Members on changes arising from the recently amended National Planning Policy Framework (December 2023) and changes that are to come into effect for planning
Recommendations	To note the report and be aware of the contents of the documents when considering planning applications

1.0 Background

1.1 The Government, between 22 December 2022 and 2 March 2023, consulted upon changes to the [National Planning Policy Framework](#) (NPPF). A report was presented to Planning Policy Board in February of our recommended response. The consultation suggested a number of updates as well as a view on the approach to be given to preparing National Development Management Policies, support for levelling up as well as how national policy is accessed by users. The outcome of this consultation was published on 19th December 2023 following an interim update to the NPPF which made amendments in relation to off-shore wind.

1.2 Additionally on the 19th December, the Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations, published a Ministerial Statement '[The Next Stage in Our Long Term Plan for Housing Update](#)'. Whilst the title appears to relate towards housing, its ramifications for planning and decision-making is far wider.

2.0 Detail

National Planning Policy Framework

2.1 The highlighted changes below are set out according to the Chapters within the NPPF that they each fall within. Only those sections that are considered particularly important for Planning Committee to be aware of are reported.

Achieving sustainable development

- 2.2 The purpose of the planning system has an addition inserted. As well as “*contribute to the achievement of sustainable development*”, the following has been added “*including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner*”.
- 2.3 Amendments are made in relation to housing supply, however as we have a five-year supply, these changes do not currently affect us.

Plan-making

- 2.4 Strategic policies as well as setting out “... *an overall strategy for pattern, scale and quality of places...*” now includes the requirement “*(to ensure outcomes support beauty and placemaking)...*”. No definition of beauty has been provided.

Delivering a sufficient supply of homes

- 2.5 Amended detail is provided regarding the method for calculating housing delivery targets, which will be a matter for the Planning Policy & Infrastructure team to consider when reviewing future local plans. There are many additions to this section including, within the introductory paragraph to this section “*The overall aim should be to meet as much of an area’s identified housing need as possible, including with an appropriate mix of housing types for the local community.*” In terms of our decision-making, Members will be aware that we refer to, and evaluate schemes against, the [District Wide Housing Needs Assessment](#) report.
- 2.6 Opportunities to support, through policies and decisions, community-led development for housing and self-build and custom-built housing has been inserted. This also includes, for community-led schemes, exception schemes. A footnote indicates that such exceptions cannot exceed 1 hectare or exceed 5% of the size of the existing settlement. Additionally, it supports market dwellings when these are required to enable the delivery of affordable dwellings without grant funding. This is broadly in accordance with how we have appraised such schemes historically.

Promoting healthy and safe communities

- 2.7 The introductory section inserts the aim to achieve “... *the use of beautiful, well-designed, clear and legible pedestrian and cycle routes...*”.

Making effective use of land

- 2.8 To increase density of development and support the use of airspace above existing residential and commercial premises a new section has been inserted in relation to mansard roof extensions “... *allow mansard roof extensions on suitable properties where their external appearance harmonises with the original building, including extensions to terraces where one or more of the terraced houses already has a mansard... A condition of simultaneous development should not be imposed on an application for multiple mansard extensions unless there is an exceptional justification.*” Such roof alterations are not a typical request to the authority, whereas they are more common within London and its hinterlands, for example. Referring to the requirement to achieve ‘beauty’, they are anticipated to be less likely a solution within the District, but should such applications be received, they will need to be considered on their merits.

- 2.9 Potentially a fairly significant insertion is paragraph 130 which says *“In applying paragraphs 129a and b above to existing urban areas, significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area. Such circumstances should be evidenced through an authority-wide design code which is adopted or will be adopted as part of the development plan.”* Paragraphs 129a and b address plan making and policies setting out density criteria, which we have, within Core Policy 3 (Housing Mix, Type and Density) within the Amended Core Strategy with an average of 30-50 dwellings per hectare. This insertion has the potential to allow significantly higher densities than our policy requirements until we have a design code setting out acceptable levels. In the context of delivering beautiful places, there is the potential that there might be conflict between policy aim of appraising proposals with higher densities against policies considering the character of an area, as often is the case.

Achieving well-designed and beautiful places

- 2.10 The title of this chapter has ‘beautiful’ inserted. In relation to improving the design of schemes, importance is put on design codes *“... primary means of doing so should be through the preparation and use of local design codes...”*. An insertion in terms of ensuring what is considered (and approved) and planning application stage is reinforced with *“... ensure that relevant planning conditions refer to clear and accurate plans and drawings which provide visual clarity about the design of the development, and are clear about the approved use of materials where appropriate. This will provide greater clarity for those implementing planning permission.... and a clearer basis ... to identify breaches of planning control...”* As Members will be aware, we attach conditions requiring developments to be constructed in accordance with the approved plans and will either attach a condition requiring the materials used to be in accordance with information provided or a requirement for samples to be submitted. In terms of design codes, this will likely be a matter for the Planning Policy & Infrastructure team to lead on.

- 2.11 How far it will be possible to take the ‘visual clarity’ referred to above in relation to drawings is not yet known. Frequently, especially in relation to householder developments where the homeowner prepares their own plans, these can often be difficult to interpret and are limited in detail. Whilst we ask for clearer drawings these are often very difficult to secure. Challenging the quality of the visual clarity of drawings could, in effect, result in a homeowner having to go to an architect or design company to prepare their plans, adding cost to their scheme. This will likely be an aspect that becomes clearer over the coming months.

Meeting the challenge of climate change, flooding and coastal change

- 2.12 A new paragraph has been inserted in relation to energy efficiency *“In determining planning applications... should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights. Where the proposal would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 (Conserving and enhancing the historic environment) of this Framework.”*

Conserving and enhancing the natural environment

2.13 A footnote has been inserted *“The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.”* This addition may have some limited bearing on the inquiry at Staythorpe.

Written Ministerial Statement

2.14 This has some significant changes and challenges within it, not all apply to ourselves due to having an up-to-date local plan and having a 5-year housing supply of housing, for example. It is advised that all Members of Planning Committee read the Statement in full and ideally those not on Committee as well.

2.15 A section is provided on the ‘Role of Beauty’. *“Building beautifully and refusing ugliness has been central to the Government’s planning reforms, as the right aesthetic form makes development more likely to be welcomed by the community. ...the NPPF goes further to cement the role of beauty and placemaking in the planning system by expressly using the word ‘beautiful’ in relation to ‘well-designed places’....”*.

2.16 Planning performance is a central key to the whole of the Statement, both in relation to plan making but also in the determination of planning applications. Due to the importance of this and the implications, extracts are copied below. It is set out that it is up to local authorities, the Planning Inspectorate and statutory consultees to expedite delivery.

“Greater Transparency

Being transparent about data improves understanding of relative good and poor performance, and sparks action. That is why we will publish a new local authority performance dashboard in 2024.

As part of that reporting, we will...strip out the use of Extension of Time agreements, which currently mask poor performance. ... there will be instances where such agreements are necessary, ...concerned by the increase in their use – in particular for non-major applications, where the figure has jumped from 9% during the two years to March 2016 to 38% during the two years to March 2022. I therefore intend to consult on constraining their use, including banning them for householder applications, limiting when in the process they can apply, and prohibiting repeat agreements.

Additional Financial Support

In recognition that we are expecting better performance from local authorities, we are providing additional resource to help meet those expectations through a range of new funding streams.

... planning fees have increased by 35% for major applications and 25% for other applications. Local authorities are obliged to spend these fees on planning services, and ... there should be no decrease in authorities’ spend on planning from their general fund.

Second, ...180 local authorities have today been awarded a share of £14.3 million from the first round of funding. This will better enable them to clear their

planning application backlogs and invest in the skills needed to deliver the changes set out in the Levelling Up and Regeneration Act. ...

Faster Processes

Today we also address wider causes of delay in the planning system, with action on statutory consultees, customised arrangements for major applications, and support to prioritise the work of planning committees.

On statutory consultees, while the statistics suggest that most do respond within the 21-day limit, ... The Levelling Up and Regeneration Act makes sure statutory consultees can charge for pre-application advice, which should tackle problems ...

On accelerated planning services, ... these will build on the existing model of Planning Performance Agreements, which are struck between local authorities and developers, detailing how an application will be handled and what timescales will apply. ... know these agreements work well in some areas, it is also clear that they are used inconsistently – with many developers finding that the payments charged and the level of service offered vary significantly between authorities.

We will now look to regularise these arrangements – making sure that they are offered across England, that clear milestones have to be agreed, that fees are set at an appropriate level, and that those fees have to be refunded where milestones are missed. Given the complexity and necessary flexibility that comes with such applications, we will work closely with the sector as we design these arrangements before consulting in the new year.

On planning committees, we rightly see elected representatives judge the merits of significant applications – and it is vital that they focus their time on applications that truly merit such scrutiny, and arrive at decisions following legitimate reasoning. On this basis, I have asked the Planning Inspectorate to start reporting to the department about cases where a successful appeal is made against a planning committee decision, and the final decision is the same as the original officer's recommendation. The overturning of a recommendation made by a professional and specialist officer should be rare and infrequent – such that I have reminded the inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer's recommendation, it should consider awarding costs to the appellant.

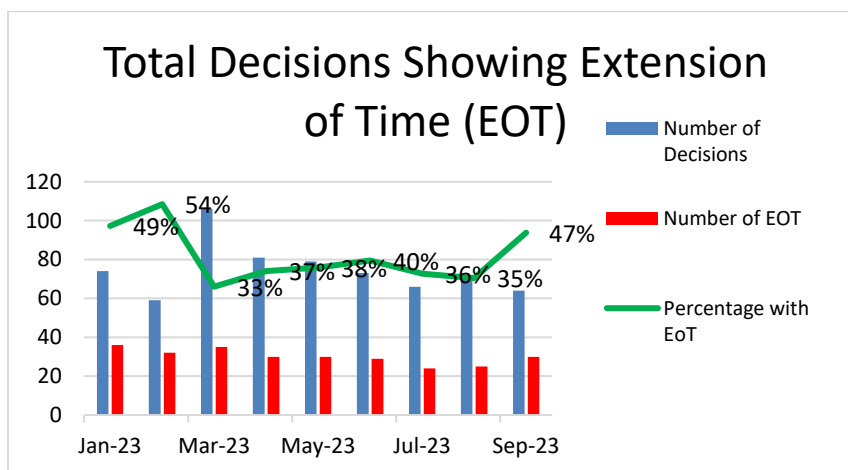
I intend to consider what more we can do to support planning officers and the committees they serve to focus on the right applications. This might be about providing more training, or using guidance to share best practice on the tools that can help to prioritise a committee's time – including the schemes of delegation that authorities adopt to determine which applications get determined by officers and which warrant committee airing.

Direct Action

Where these expectations for the planning system are not met, I will intervene.

...also designated two additional authorities for their poor-decision making performance and intend to review the thresholds for designation to make sure to we are not letting off the hook authorities that should be doing better. ...”

2.17 This Statement will, if the Council is not seen to be poorly performing and ‘dragging its feet’ result in a need to change a number of our processes. As reported to Planning Committee in December regarding extension of time agreements, a number are agreed between ourselves and an applicant (refer graph below). A breakdown has not been undertaken as of yet regarding the number that relate to householder applications. However, with reference to our response to the Government Consultation in early 2023 on [Increasing planning fees and performance: technical consultation](#), a significant number of extension of time requests are at the request of applicants/developers rather than ourselves. This is due in part to pre-application advice not having been sought and officers trying to achieve ‘beautiful’ development but also due to additional information being required. However, Officers do also request them for instances such as applications being presented to Planning Committee or legal agreements being required. The [outcome of this consultation](#) indicated that the Government recognised authorities do try to negotiate and also that sufficient resources were not in place at all Councils to facilitate speedier decision-making. The increase in fees, together with the additional funding is putting speed of decision-making towards the forefront.



2.18 In terms of funding, we do not have a backlog and were therefore unable to submit an application to secure money for this. However, we were successful in a bid to increase our skills knowledge within the Planning Enforcement team so will be looking to progress this in order to comply with the grant conditions.

2.19 In relation to Planning Committee and decisions generally, there is direction that committees should be dealing with the complex and controversial applications. This will be particularly relevant if extension of time applications cannot be agreed for householder developments as these will more than likely be out of time if presented to Committee. However, the majority of applications presented to Committee are subject to extension of time agreements, so this will be reflected in our performance.

2.20 It is also clear that an overturn of an Officer recommendation if appealed and it cannot be satisfactorily defended will have a significant risk of costs being awarded in the event of an appeal. The Committee should always be able to make the decision that it

considers is the right one but awareness of the need for a sound reason(s) for refusal needs to be a priority.

2.21 Any process changes required in order to improve performance will have consequence for applicants and their agents. Professional agents should be aware of this Statement and therefore anticipate that all local planning authorities in England will need to review their processes. It is likely to have an impact on householders submitting their own applications as well as across the development industry. It is likely to result in increased complaints where we are not seen to be approaching decisions in a “... positive and creative way” (paragraph 38, NPPF), particularly now that free second submissions have been withdrawn.

2.22 Lastly, in relation to the NPPF, whilst not a change but in relation to the latest Ministerial Statement, the Introduction is clear that “Other statements of government policy may be material when ... deciding applications, such as Written Ministerial Statements....”. This Statement will therefore be a matter that needs consideration in making decisions by Committee and under delegated authority.

3.0 Implications

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

Background Papers and Published Documents

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.

[National Planning Policy Framework, December 2023](#)

[Written statements - Written questions, answers and statements - UK Parliament](#)

[Increasing planning fees and performance: technical consultation,](#)

[Outcome of the planning fees consultation](#)

Planning Committee – 18 January 2024

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 17 November 2023 and 02 January 2024)

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/D/23/3328809	23/00589/HOUSE	Cheveral House Newark Road Hockerton Southwell NG25 0PW	Two storey side/ front extension with cladding	Fast Track Appeal	refusal of a planning application
APP/B3030/C/23/3330441	23/00279/ENFB	Westwood Park Main Street Thorney NG23 7DA	Without planning permission, the demolition of Barn B and the substantial demolition of Barn A - as illustrated on the attached Plan A and shown on Photograph 1 and 2 attached to this Notice; and operational development consisting of the part-implementation of footings and foundations of two new dwellinghouses (illustrated on Photograph 1 attached to this Notice).	Hearing	service of Enforcement Notice

APP/B3030/W/23/3334043	22/01840/FULM	Land South Of Staythorpe Road Staythorpe	Construction of Battery Energy Storage System and associated infrastructure.	Public Inquiry	refusal of a planning application
APP/B3030/W/23/3325972	22/01320/FULM	Woodland Alverton	Use of land as woodland amenity area and fishing pond including erection of wooden lodge (retrospective)	Written Representation	refusal of a planning application
APP/B3030/W/23/3328618	23/00890/OUT	Willow Hall Farm Mansfield Road Edingley NG22 8BQ	Outline application for residential development to erect 1 dwelling with all matter reserved	Written Representation	refusal of a planning application
APP/B3030/W/23/3328836	23/01051/FUL	Land At Lodge Farm Great North Road Weston	Erect 5no. dwellings.	Written Representation	refusal of a planning application

APP/B3030/W/23/3330192	23/01125/FUL	59 Beacon Hill Road Newark On Trent NG24 2JH	Demolition of Garage/Outbuildings, Erection of One Single Storey Dwelling, Widen Existing Access to Form Shared Private Drive and Create New Parking for Existing Dwelling (resubmission)	Written Representation	refusal of a planning application
APP/B3030/W/23/3330745	22/01298/FUL	Tesco Express Kirklington Road Rainworth Nottinghamshire NG21 0AE	Proposed retail unit with parking and amended site entrances	Written Representation	refusal of a planning application
APP/B3030/C/23/3331064	23/00073/ENFB	2 St Marys Drive Edwinstowe NG21 9LY	Without planning permission, operational development consisting of the erection of a single storey rear extension (as shown within photographs 1 and 2 and identified with an X on Plan A).	Written Representation	service of Enforcement Notice

APP/B3030/Z/23/3331543	23/01304/ADV	Lincolnshire Co-operative Bilsthorpe Stanton Avenue Bilsthorpe Newark On Trent NG22 8GL	Retain existing 1No. illuminated Totem sign	Written Representation	refusal of a planning application
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Planning Committee – 18 January 2024

Appendix B: Appeals Determined (between 17 November 2023 and 02 January 2024)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
22/00240/ENFB	Plot 13 New Lane Blidworth	Without planning permission, operational development on the Land comprising of the construction of a field shelter / hay store building (marked X on the attached Location Plan and identified within drawing 1). Field shelter / hay store with an approximate 43m2 and pitch height of 3m. Without planning permission, development comprising of the material change of use of the land from agriculture to the keeping of horses (equestrian).	Delegated Officer	Not Applicable	Appeal Dismissed	14th December 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=REUU3LLB0FL01						

22/00096/ENFB	Chicken Shed Newark Road Kilvington	Without planning permission, development consisting of the erection of a building (as shown within photographs 1 and 2 and identified with an X on the site plan and aerial photograph).	Delegated Officer	Not Applicable	Appeal Dismissed	8th December 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=ROKZJILB0BL00						

22/01832/FUL	Chicken Shed Newark Road Kilvington	Retention of and Alterations to Building for Agricultural use	Delegated Officer	Varied	Appeal Allowed	8th December 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=RIG3JALBMQX00>

23/00195/ADV	B_Q Unit A Maltings Retail Park North Gate Newark On Trent NG24 1GJ	External signage	Delegated Officer	Not Applicable	Appeal Allowed	28th 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=RPEPQBLBH1S00>

23/00589/HOUSE	Cheveral House Newark Road Hockerton Southwell NG25 0PW	Two storey side/ front extension with cladding	Delegated Officer	Not Applicable	Appeal Allowed	1st December 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=RSJAHQLBHYN00>

22/02248/FUL	11 Station Road Collingham Nottinghamshire NG23 7RA	Erection of New Dwelling; Alteration of Existing Dwelling; Demolition of Existing Garage and Shed and Erection of New Garaging	Planning Committee	Committee Overturn	Appeal Allowed	12th December 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=RLORJDLBFWZ00>

21/02659/FULM	Plot 13 New Lane Blidworth	Change of use of land to equestrian use, retention of field shelters and hay store and formation of new access track (retrospective)	Delegated Officer	Not Applicable	Split Decision	14th December 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=R49LT1LBISU00>

23/00296/FULM	Field Reference Number 1798 New Lane Blidworth	Retention of existing stables, container and fencing and change of use of land to equestrian (retrospective).	Delegated Officer	Not Applicable	Appeal Not Determined Appeal turned away – missing documents	28th December 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=RQDA5OLBH9G00>

22/01168/FUL	Chicken Shed Newark Road Kilvington	Retention of building for use as holiday accommodation	Delegated Officer	Not Applicable	Appeal Dismissed	8th December 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=RDFB96LBLBP00>

22/00288/FUL	Rose Cottage Normanton Road Upton Nottinghamshire NG25 0PU	Proposed erection of 2 no. dwellings following demolition of existing buildings within the site	Delegated Officer	Not Applicable	Appeal Dismissed	21st December 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=R75B3CLBJJ400>

22/02391/FUL	Land Adjacent Churchside Cottages Fishpool Road Blidworth	Change of use of land to residential garden, retaining wall and new wooden shed.	Delegated Officer	Not Applicable	Appeal Dismissed	8th December 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=RMU1M9LBG9S00>

22/01655/HOUSE	4 The Orchards Oxton Nottinghamshire NG25 0SY	Demolition of existing garage, front conservatory/utility and rear porch. Proposed erection of 2- storey side extension and single- storey rear extension.	Planning Committee	Not Applicable	Appeal Dismissed	15th December 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=RGVDWYLBMC400						

Legal Challenges and Other Matters

App No.	Address	Proposal	Discussion

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.

Amanda Hughes
Business Manager – Planning Development