



**Castle House
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Tuesday, 28 May 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 K Melton
Councillor E Oldham
Councillor P Rainbow**

**Councillor S Saddington
Councillor M Shakeshaft
Councillor T Smith
Councillor M Spors
Councillor L Tift
Councillor T Wildgust**

MEETING:	Planning Committee
DATE:	Thursday, 6 June 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.	

Agenda Item 4

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, NG24 1BY on Thursday, 9 May 2024 at 4.00 pm.

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

Councillor A Amer, Councillor C Brooks, Councillor L Dales, Councillor P Harris, Councillor J Lee, Councillor K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor S Saddington and Councillor M Shakeshaft

ALSO IN
ATTENDANCE: Councillor L Brazier

APOLOGIES FOR
ABSENCE: Councillor M Spoor, Councillor L Tift and Councillor T Wildgust

142 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.

143 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

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

Councillor J Lee declared an other registerable interest as appointed representative on the Nottingham Fire Authority and Member for Nottinghamshire County Council.

144 MINUTES OF THE MEETING HELD ON 4 APRIL 2024

AGREED that the minutes of the meeting held on 4 April 2024 were approved as a correct record and signed by the Chair.

145 ORDER OF BUSINESS

The Planning Committee Chair advised the Committee that the following two applications had been withdrawn from the agenda, by request from the Agents: Agenda Item 5 – Wild Briars, Goverton, Bleasby, NG14 7FN (23/01960/FUL) and Agenda Item 10 – Oak House, Grassthorpe Road, Sutton On Trent, NG23 6QX (24/00150/HOUSE). The order of business was also changed, Item 7 – E-Centre, Darwin Drive, Sherwood Energy Village, Ollerton, NG22 9GW (23/01857/OUTM) was taken as the first item for decision. The agenda resumed its stated order thereafter.

146 WILD BRIARS, GOVERTON, BLEASBY NG14 7FN - 23/01960/FUL

The application was withdrawn from the agenda by the agent.

147 E-CENTRE, DARWIN DRIVE, SHERWOOD ENERGY VILLAGE, OLLERTON, NG22 9GW - 23/01857/OUTM

The Committee considered the report of the Business Manager – Planning Development, which sought outline permission for proposed Care Home Development for up to 105 En-Suite Resident Accommodations (Use Class C2) all matters reserved except access.

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

Members considered the application acceptable.

Councillor C Brooks entered the meeting during the Planning Officers presentation and in accordance with the Planning Protocol took no part in the debate or vote.

AGREED (unanimously) that Planning Permission be approved subject to the conditions contained within the report and the completion of a Section 106 agreement.

148 GOVERTON HEIGHTS, GOVERTON, BLEASBY NG14 7FN - 23/02058/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of two dwellings with detached garages.

A site visit had taken place prior to the commencement of the Planning Committee, for the following two reasons: that there were particular site factors which were significant in terms of the weight attached to them relative to other factors if they would be difficult to assess in the absence of a site inspection; and the impact of the proposed development was difficult to visualise.

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

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

Michele Tierney, public speaker, acted as spokesperson and spoke against the application as contained as representations within the report.

Councillor Michael Coombs representing Bleasby Parish Council, spoke against the application in accordance with the views of Bleasby Parish Council as contained within the report.

Members considered the application and the following concerns were raised: fluvial and pluvial flooding; over intensification of the site; narrow road serving the site, with the potential of an increase in vehicles; clay base and springs in the area which would result in greater flooding. There was also a lack of knowledge regarding the trees on

site and some confusion regarding what trees had been removed or would be retained.

The Senior Planning Officer confirmed that this site was in flood zone 1 which was the lowest rating for flooding. Condition 4 could include “permeable” to be added, which would address concerns in relation to flooding. Condition 6 could include the wording, “that any scheme needed to demonstrate it could mitigate its full impact”.

Members commented on the need for biodiversity net gain, the Chair reminded the Committee that any application prior to April 2024 did not have to comply with that. Members were also reminded that none of the trees on site had Tree Preservation Orders (TPOs) and could therefore be felled.

A Member suggested that a flood mitigation plan be submitted for consideration.

AGREED (with 5 votes For, 5 votes Against and 1 Abstention, the Chair used his casting vote For the application) that Planning Permission be approved subject to the conditions contained within the report and the inclusion of hard standing to be permeable materials in Condition 4 and strengthening of Condition 6 to include demonstration that any surface water resulting from the development could be fully mitigated and not cause harm elsewhere.

Councillors P Harris and M Shakeshaft left the meeting at this point.

149 LAND OFF CHURCH CIRCLE, BRIAR ROAD, OLLERTON - 24/00281/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought five new dwellings with parking and associate infrastructure.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that there were particular site factors which were significant in terms of the weight attached to them relative to other factors as they would be difficult to assess in the absence of a site inspection.

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

Members considered the proposal as excellent and would provide good quality homes. Several Members commented upon the tree lined walkway down the side of the development and requested that as many of the Sycamore trees as possible should be retained. It was therefore suggested that Condition 2 & 5 be amended to facilitate the retention of the Sycamore trees on the boundary path where possible.

AGREED (unanimously) that Planning Permission be approved subject to the conditions contained within the report and the amendment of Condition 2 and 5, to facilitate the retention of the sycamore trees on the boundary path where possible.

150 HEATHCOTES ENRIGHT VIEW, 1 - 4 ENRIGHT CLOSE, NEWARK ON TRENT, NG24 4EB - 24/00064/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the creation of a car park, the erection of a fence and associated works.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that the impact of the proposed development was difficult to visualise.

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

The Business Manager – Planning Development provided an update on the trees and landscape comments which had been omitted from the report. The comments raised concerns regarding the loss of the trees as the tree officer would like them to be retained. It was considered that the tree report needed compliance to British Standard and recommended a condition be attached to enable compliance with this. There were concerns over the close proximity of trees to the fencing, however with appropriate tree planting it was considered that this could be accommodated hence the condition.

Councillor L Geary representing Newark Town Council, spoke against the application in accordance with the views of Newark Town Council as contained within the report.

Members considered the application and were disappointed that some of the trees would need to be felled. The Business Manager – Planning Development explained that trees had to be of a certain standard to be protected and whilst the Planning Team would like to see all trees retained, sometimes that was not possible. Replacing tall mature trees with similar trees was also unlikely to be possible as it was understood they did not survive; a compromise would be somewhere between the two.

A Member suggested that Condition 8 regarding maintenance of planting be amended to ten years as five years was too short a time period.

A Member commented that a stronger policy was required regarding trees to try and retain as many trees as possible. The Chair confirmed that could be discussed at the Planning Policy Board.

Councillor S Saddington arrived at the meeting during the Officer presentation and in accordance with the Planning Protocol took no part in the debate or vote for this application.

AGREED (with 8 votes For) that Planning Permission be approved subject to the conditions contained within the report subject to the amendment to Condition 8 to replace the period of five years to “**ten years** of being planted die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with other or similar size and species.”

151 OAK HOUSE, GRASSTHORPE ROAD, SUTTON ON TRENT, NG23 6QX - 24/00150/HOUSE

The application was withdrawn from the agenda by the agent.

152 NEWARK CASTLE, CASTLE GATE, NEWARK ON TRENT - 24/00403/LDO

The Committee considered the report of the Business Manager – Planning Development, which sought a Local Development Order (LDO) to enable and control filming at Newark Castle.

The Business Manager – Planning development requested a small amendment to the definition of the Castle to include “and all below ground archaeology”.

A consultation had been undertaken for a period of 28 days and the results of the consultation were contained within the report.

Members considered the application, and one Member raised concern regarding the Castle being closed for long periods of time when filming was taking place for residents and the disruption to the town. He requested that the Planning Committee should make the decision on a case-by-case basis and not allow the Heritage, Culture and the Arts Portfolio Holder to take responsibility.

The Business Manager – Planning Development confirmed that consent through a contract would still be required for each event, and they would have to comply with Planning and any criteria set by Heritage, Culture and the Arts.

Other Members commented on the benefits from tourism that this would bring to the district and considered the Order acceptable.

AGREED (with 9 votes For and 1 Against) to adopt the Local Development Order (LDO) as set out in the report with the amendment to the definition of the wording regarding the Castle, subject to Secretary of State approval and apply to Historic England for the relevant schedule monument consent.

153 PALACE THEATRE, 16 - 18 APPLETON GATE, NEWARK ON TRENT - 24/00404/LDO

The Committee considered the report of the Business Manager – Planning Development, which sought the Local Development Order (LDO) to enable and control filming at the Palace Theatre and National Civil War Centre.

A consultation had been undertaken for a period of 28 days and the results of the consultation were contained within the report.

Members considered the LDO acceptable.

AGREED (with 9 votes For and 1 vote Against) to adopt the formal Local Development Order (LDO) as set out in the report, subject to Secretary of State approval.

154 APPEALS LODGED

AGREED that the report be noted.

155 APPEALS DETERMINED

AGREED that the report be noted.

156 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 January to March 2024 as well as providing an overview of the performance and achievements across the financial year. In order for the latest quarter's performance to be understood in context, in some areas data going back to January 2022 was provided. The performance of the Planning Enforcement team was provided as a separate report.

AGREED that the report be noted.

157 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 fourth quarter of the previous financial year and a review of the financial year as a whole.

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 January 2024 – 31 March 2024; financial year 1 April 2023 – 31 March 2024.

The Planning Committee Chair thanked the Planning Enforcement team for all the work they had achieved over the year.

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

158 PLANNING COMMITTEE ANNUAL REPORT 2023-2024

The Committee considered the report of the Director – Planning & Growth relating to the performance of the Planning Committee.

The report advised that all Planning Committee meetings had been held at Castle House. All meetings commenced at 1600 hours on a Thursday. An Extraordinary meeting was held in November.

Newark & Sherwood District Council's Planning Committee sat on twelve occasions throughout the municipal year 2022- 2023, one more than 2023. The Committee undertook twenty-three official site visits, as part of seven meetings. This was one

more site visit than the previous municipal year but the same number of meetings.

The Planning Committee considered sixty-four planning applications over the eleven meetings. This was six more applications than 2022/23. Thirty-two applications were granted in line with officer recommendation; nineteen applications were refused in line with officer recommendation; three applications were granted contrary to officer recommendation; nine applications were refused contrary to officer recommendation; one was withdrawn from the agenda; and of the sixty-four, one was deferred for negotiation or further information.

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

Out of the two, one of the appeals were allowed (i.e. granted) by the Inspector and one was dismissed (refused) supporting the decision of the Committee.

Of the appeals one of these had been recommended for approval by Officers but overturned by Committee; and one had been recommended by Officers to be refused. The report also detailed the allowed appeal. A list of the variety of reports considered by the Planning Committee was also detailed in the report.

AGREED that the report be noted.

This was the last meeting on the Planning Committee for Councillor J Lee as he was coming off this Committee, the Chair thanked Councillor J Lee for his valued contribution whilst serving on the Planning Committee.

Meeting closed at 6.57 pm.

Chair



Report to Planning Committee 6 June 2024

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Clare Walker, Senior Planner, 01636 655834

Report Summary			
Application Number	23/01514/OUTM (Major)		
Proposal	Proposed residential development (9 units)		
Location	Former Allotments, Barnby Road, Newark		
Applicant	Mr Len Bateman	Agent	Guy Taylor Associates Architects
Web Link	23/01514/OUTM Proposed residential development (9 units). Former Allotments Barnby Road Newark On Trent (newark-sherwooddc.gov.uk)		
Registered	31.08.2023	Target Date	24.11.2023 Extension of Time Agreed 07.06.2024
Recommendation	Approve, subject to conditions and entering into a section 106 agreement		

This application has been referred to the Planning Committee by Cllr D Moore at the request of Newark Town Council (NTC). The material planning reasons for the request are the 5 points set out in the NTC comments contained within this report. The request was made prior to the recently adopted changes to the Planning Protocol.

1.0 The Site

- 1.1 The site comprises 1.15 ha in extent and lies on the northern side of Barnby Road to the south east of Newark-on-Trent within the Newark Urban Area, as defined by the Development Plan.
- 1.2 The site is bound along its frontage with Barnby Road by mature native hedgerows. Access to the site is currently via a gap in the hedgerows which also runs alongside what is essentially a pedestrian grassed pathway into the site bounded by hedgerow

and vegetation. There are many trees on site which take the form of an old orchard and woodland in parts. There is also a small ornamental pond on site. The majority of the site is unmanaged, overgrown and inaccessible by foot.

- 1.3 The western part of the site was formally a private allotment (albeit has not been used as such for around 10 years) and this area is shown in the Development Plan as being designated currently as 'public open space'. There are some dilapidated sheds on site once associated with the allotment. The site extends north from Barnby Road to the east coast railway line which bounds the site to the north.
- 1.4 The site lies adjacent to a property known as The Gables (to the south-west) and behind (north of) a row of seven modern two storey detached dwellings which front onto Barnby Road. The garden of Meadow Lodge forms the eastern site boundary.
- 1.5 Boundaries to the site comprise post and wire fence, trees and metal sheet fencing to the north alongside the railway and timber fencing alongside the rear gardens of properties that back onto the site, with trees and vegetation elsewhere.
- 1.6 A Biological SINC (Ballast Pit) local wildlife site lies to the southwest (just on the other side of Barnby Road) which is recognised for 'a long-dis-used ballast pit supporting open water and carr communities'. To the south (also on the other side of the highway) are public allotments which appear well used.
- 1.7 The site lies within Flood Zone 1 according to Environment Agency maps albeit is prone to superficial deposit flooding but within an area at low risk of surface water flooding.

2.0 Relevant Planning History

- 2.1 PAFU/00213/21 – Follow up advice to PREAPP/00210/19. Advice offered 05.08.2021.
- 2.2 PREAPP/00210/19 – Residential development scheme for 19 dwellings. Advice offered 19.09.2019.

Western part of the site

- 2.3 **16/01245/FUL** – An application to 'Erect detached dwelling and detached garage' (on land east of The Gables) including the relocation of allotments elsewhere was refused 07.11.2016 by the Planning Committee due to failure to appropriately demonstrate impacts on ecology including (but not limited to) mitigation for the common toad migration route that crosses this site and upon grass snakes and due to impact from loss of green space/break to development and harm to character and appearance of the area.

Land south (now forming 7 detached dwellings fronting Barnby Road between The Gables and Meadow Lodge)

- 2.4 **93/50945/OUT** – Residential development granted on outline basis 23.12.1994.

- 2.5 **97/51095/OUT** – Residential development granted (renewed) on outline basis 17.12.1997.
- 2.6 **00/00678/FUL** – Erection of seven dwellings and garages, approved 21.02.2001
- 2.7 **02/00244/FUL** – Substitution of house types from previous approval 00/00678/FUL approved 30.09.2002.

3.0 The Proposal

- 3.1 Outline permission is sought for residential development, with the means of access and layout for consideration. Matters reserved for subsequent approval are appearance, landscaping and scale albeit the quantum of units is specified as 9 dwellings within the description of development (reduced down from 10 following amendment) and is also confirmed on the layout plans.
- 3.2 Vehicular access is shown as being taken off Barnby Road between two detached dwellings known as The Gables to the west and Ascot House to the east. The road (to be adopted) would extend into the site and then sweep around to the east parallel with the railway line to provide a cul-de-sac access to the proposed dwellings.
- 3.3 The layout plan shows an area of managed traditional orchard alongside the western side of the access (adjacent to The Gables) that would be open space. Beyond that is a larger area containing an attenuation and wildlife pond and an area of habitat (with no public access) to the north-western corner of the site adjacent to the railway line. Land to the north-east, alongside the railway line, would be a managed traditional orchard.
- 3.4 The dwellings would be located in a broad line to the rear of the existing ribbon development of Barnby Road. Plots 1, 2, 7, 8 and 9 are depicted as detached dwellings with Plots 3 to 6 shown as semi-detached dwellings. None of the plots have garages or outbuildings shown. All dwellings are two storey except for Plot 9 which would be a bungalow.
- 3.5 The application sets out a housing mix of 2x2 beds, 3x3 beds and 4x 4+beds.
- 3.6 The application has been considered on the basis of the following:
- Application form
 - Drawing no. (08) 101 Rev H (Site Plan as Proposed)
 - Drawing no. (09) 101 (Proposed Vehicle Tracking Plan)
 - Drawing no. 0001 Sheet 1 of 2 (Topographical Survey)
 - Drawing no. (00)100 Rev A (Site location plan)
 - Arboricultural Report and Impact Assessment Rev B, by Watson Lindsey Arboriculture, received 28.03.2024
 - Design and Access Statement, July 2023
 - Flood Risk Assessment and Drainage Strategy, BSP July 2023
 - Noise Assessment, RP Acoustics Ltd, 28th March 2024

- Preliminary Ecology Appraisal, CGC Ecology, December 2022
- Reptile Survey and Ground Level Bat Roost Assessment of Trees, Emec Ecology, August 2023
- Submission Amendment Statement, received 28.03.2024
- Outline Sustainable Drainage Strategy, by Roy Lobley Consulting, March 2024

4.0 Departure/Public Advertisement Procedure

- 4.1 Occupiers of 28 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 visits have been undertaken during the application with the latest visit 17.05.2024.

5.0 Planning Policy Framework

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

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

5.2 Allocations & Development Management DPD

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

- 5.3 The Draft Amended Allocations & Development Management DPD was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage of preparation albeit the DPD is yet to be examined. There are unresolved objections to amended versions of the above policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

5.4 Other Material Planning Considerations

National Planning Policy Framework 2023

Planning Practice Guidance (online resource)
National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
Residential Cycle and Car Parking Standards & Design Guide SPD June 2021
SPD's on both Developer Contributions and Affordable Housing
Second Publication Plan Review for Allocations and Development Management DPD, September 2023
NSDC Open Space Assessment and Strategy, Knight, Kavanagh & Page, January 2022

6.0 Consultations

6.1 Full consultation comments are available to review on the planning file as the following is a summary position unless otherwise stated:

(a) Statutory Consultations

6.1 **National Highways** – No objection. The development does not share a common boundary with the strategic road network therefore there is no objection to this outline application.

6.2 **NCC Highways Authority** – (16.05.2024) Previous objection removed, development now acceptable from highway safety perspective following amendments (road widening/changes to turning head etc) to the scheme.

Point out that hedge in front of Ascot House will have to be removed or significantly reduced in depth to provide for visibility splays.

Request the footway to the northwest of the site frontage is increased in width to the same 2m that is required along the frontage, to reach the existing crossing point (approx. 25m). This is a busy section of footway at school pick up and drop off times and the additional width would accommodate the increased demand from pedestrians as a result of the development.

Conditions recommended require (1) the provision of the visibility splays prior to development commencing, (2) details of the new road to be submitted for approval (including longitudinal and cross-sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any proposed structural works), (3) no occupation until driveway/access is provided in a bound surface and (4) that the footway to the north-east is widened prior to first occupation.

6.3 **NCC Lead Flood Authority** – Notwithstanding the latest drainage strategy submitted, there is no objection subject to the imposition of a condition to require a detailed drainage scheme.

6.4 **Network Rail** – No objection in principle. A number of conditions and informatives are required in the event of an approval. An initial query relating to land ownership has since been resolved.

6.5 **Environment Agency** – No comments to make, does not fall within remit.

(b) Parish/Town Councils

6.6 **Newark Town Council** – (03.04.2024) Sustains its previous objection. (27.09.2023) strongly object on following grounds

1. The development is not allocated for Housing
2. Loss of green ecologically valuable land is not justified especially when having high toad population on this site
3. Impact on highway, highway safety issues on road already under pressure from cumulative development impacts
4. Land to north earmarked for future housing and if this happens the green space will even more valuable to wildlife
5. Too close to railway line, noise and air quality impacts would be unacceptable

(c) Representations/Non-Statutory Consultation

6.7 **NSDC Tree and Landscape Officer** – No objection. Comments in response to amendments.

- Protective fencing needs to be at edge of Root Protection Area (currently in question according to Appendix 7 of Arboricultural Impact Assessment)
- Points out shading to gardens will occur, particularly plots 1, 6 and 8.
- Landscaping between parking spaces insufficient for trees.

6.8 **NSDC Biodiversity and Ecology Lead Officer** – (18.04.2024) No objection. Summary of comments:

- Appropriate assessments of the potential impacts on protected, and priority species has been undertaken, and the resulting recommendations for precautionary working methods to protect such species is acceptable;
- Traditional Orchard (Habitat of Principal Importance) is present. Scheme and Preliminary Ecological Appraisal (PEA) has been amended, submitted, and whilst the applicant's agent continues to refute the presence of Traditional Orchard HPI, the response has been positive with an amended scheme design reducing the area of orchard that would be lost, and with the creation of a new area of traditional orchard as compensation for that area lost.
- Agree there is no potential impacts on sites designated for their nature conservation interest;
- Proposal will result in loss of Traditional Orchard but is now compensated for by the creation of a new orchard area and bringing this and existing areas into long-term positive management. In principle this is acceptable level of mitigation but securing the proposed required management and ensuring its delivery is necessary for the proposal to be acceptable in terms of impacts on important habitats.
- Orchard to be retained and enhanced should be protected from damaging impacts during the construction phase.

- The PEA has identified that the hedgerow along the south-west site boundary, and the one adjacent to the allotment area represent the priority habitat Hedgerow HPI.
- There will be a need to require compensation for loss of hedgerows within the site
- Mitigation measures set out for impacts on foraging bats, avoidance measures for impacts on reptiles, nesting birds and badgers are acceptable.
- A mitigation and compensation strategy is required for amphibians but as the location is shown the detail can be left for reserved matters
- Section 5.7 of the PEA sets out recommendations for ecological enhancement. These include details regarding new hedgerows (additional to those required to compensate loss), tree planting, flower borders, grassland, wetland habitat in the form of a wildlife pond, provision of nesting bricks for swift and bat bricks. The proposal being to capture this within a Biodiversity Management Plan.

Two important documents are required to ensure that the necessary mitigation, compensation, and enhancement measures to make the proposed development acceptable in respect of impacts on important ecological features:

Construction and Environment Management Plan (CEMP)

The CEMP should capture the aforementioned species mitigation measures and protection of retained habitats during construction, and the BMP should set out the detail for creation of new habitats, works to enhance existing habitats, and then the long-term management and monitoring of the new and retained habitats. The CEMP should form a pre-commencement planning condition.

Biodiversity Management Plan (BMP)

Monitoring of the delivery and outcomes of the BMP over the long-term will be important, and this might be best secured by a section 106 planning agreement. I would advise that the BMP and monitoring should extend for 30-years, and that we should seek a financial contribution to cover its anticipated costs for monitoring. Monitoring fees are proposed over a 30 year period indexed links, which would be sought as part of the s.106 agreement.

- 6.9 **NSDC Strategic Housing** - Comments that there is no affordable housing, notes the market mix is all two storey and would have liked to see ground storey dwellings to help demand for bungalow accommodation in the district.

6.10 **NSDC Environmental Health –**

With regard to **land contamination**, no desktop study has been undertaken. Given the site is a former allotment (which are potentially a contaminative use from fertilizers, pesticides, fungicides and localised waste disposal) it is requested that the standard phased condition is imposed.

With regard to **noise**, no objection has been raised subject to a condition being imposed requiring mitigation either through a suitable barrier or glazing/mechanical

ventilation to a minimum standard be installed on bedroom windows facing the railway.

6.11 **NCC Policy/Developer Contributions** – Initial comments were submitted in respect of a scheme for 10 units, triggering a requirement for securing bus stop infrastructure. As the scheme has been reduced to 9 units this provision is no longer required nor can be justified.

6.12 **Six representations** have been received from third parties/neighbours raising objections, comments or concerns. These are summarised as follows:

- There are currently 7 houses being built between the cycle track and level crossing, a plan for 7 traveller plots and 11 houses south of Barnby Road and this is for 10 more; totalling 36. Existing number of houses is 32 so it will more than double traffic movements on this stretch of road;
- Road is also a bus route, very narrow in places and in poor condition yet no mention of upgrading the road itself;
- Encircling traveller site with new housing not logical as on outskirts of Newark;
- Vegetation (hawthorn and brambles) around properties needs to be retained to protect privacy;
- Query regarding if the boundary hedge maintenance and by whom;
- Can new build properties be fully insulated and include solar panels and ground source heat pumps as makes sense to plan for the future not just for today;
- 10m depth between rear of gardens of the new houses facing Barnby Road but no such distance between site and Meadow Lodge;
- Loss of privacy - currently house/garden is private but anyone walking down the new road would be able to look over the fence and new houses would overlook gardens;
- Concern at loss of view;
- Would make sense to angle the houses so that upper floor rear windows aren't staring directly into rear windows and gardens of existing houses to afford more privacy;
- Although the plan shows trees cover, this is patchy and would provide little screening in winter;
- Noise and light pollution will be greatly increased, decreasing quality of life and reduce value of property;
- Trees currently offer some mitigating noise reduction so if ripped out this will impact on noise to existing residents;
- When houses were first built there was an order that ensured there was woodland at bottom of gardens for at least 10 years. If approved, can consideration be given to having new equivalent woodland/green wedge where houses back onto houses;
- No mention of fox den nor of monk jacks or owls in wildlife survey;
- Area is rich in wildlife (bats, rabbits, hedgehogs, owls, foxes, frogs, newts, grass snakes and many species of birds) which development will destroy;
- Barnby Road is a registered toad patrol site with amphibians migrating from the north to the Ballast Pit on the southern side of the road. Common Toads are no longer common as numbers have been in decline for years;

- Fully support the recommendations of the preliminary ecological appraisal.
- Queries regarding the proposed wildlife pond and attenuation, will it be ensured that only rain/clean water will be allowed to enter the wildlife pond and during dry/draught conditions how will the water level be maintained? Pond side will need to slope for wildlife to safely enter and leave, what is the depth?
- Will the pond be partitioned off for public/child safety? If this is to be done I would like to have access to continue monitoring/recording amphibians presence.
- Moving away from the pond there is always the risk where amphibians become trapped in drains and die unless freed therefore consideration should be given to gully pots and drain covers in order to prevent this from happening.
- Do not want fencing to be a barrier to the free movement of amphibians, reptiles and hedgehogs for foraging, hibernation etc.
- would like to see the remaining natural landscape protected with sensitive maintenance. It is important to retain and support all of our existing wildlife and to protect the ecological and biodiversity of this area.
- Birds should be taken into account along with their suitable nesting sites and healthy Ash trees should certainly remain.
- Object to the suggestion that the hardcore pathway is widened by removing the grass area in front of The Gables. It has been there for 40 plus years and diligently maintained by ourselves. Within the grass we allow spring flowers and other manageable plants to grow for pollinating insects throughout the year.
- Concerns with new layout as the large house at the rear of Ascot House is now only 10m away from our boundary fence that will significantly impact our light, privacy and will take out most of the established shrubs and trees. Can it be moved?
- Can you also confirm that the toad corridor is fenced off from the neighbouring field to ensure the wildlife is protected?
- Can you clarify where the pumping machinery will be pumping the actual water to as there are no sewage mains down this stretch of Barnby Road. Can you also clarify how much noise that machinery will produce as it is right at the end of a garden.
- Where the sewage treatment pits will be for each house?
- Can you also clarify who will be maintaining the wildlife / grassy areas and maintaining the pond?

7.0 Comments of the Business Manager – Planning Development

7.1 The key issues are:

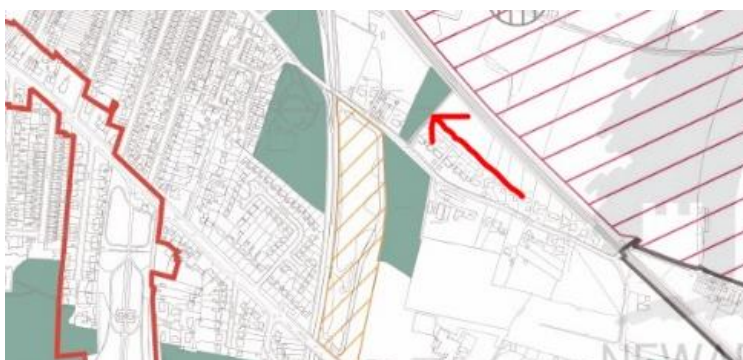
1. Principle of Development
2. Appropriateness of the Development, including Character
3. Housing Type, Mix and Density
4. Impact on Trees and Biodiversity
5. Highway & Parking Impacts/Railway Safety
6. Residential Amenity
7. Flooding and Drainage

7.2 The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the

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

Principle of Development

- 7.3 The Council is able to robustly demonstrate a 5 year housing land supply and the Development Plan is up to date for decision making. In accordance with DM12 and the NPPF, the starting point for decision making is with the statutory Development Plan.
- 7.4 Spatial Policies 1, 2 and NAP1 of the adopted Amended Core Strategy, identify Newark as a Sub Regional Centre where the focus, as a sustainable settlement, is for housing and employment growth.
- 7.5 The site is located within the defined main built up area of Newark as identified on Map 2 of the Allocations and Development Management DPD. Policy DM1 states that within the urban areas of the Sub Regional Centre will be supported for housing appropriate to the size and location of the settlement.
- 7.6 Part of the application site (see red arrow on extract below) is currently designated as an area of Public Open Space (POS) currently protected by Spatial Policy 8 of the Core Strategy. SP8 states that the loss of existing community and leisure facilities will not be permitted particularly where it would reduce the communities ability to meet its day to day needs unless (1) it can be clearly demonstrated that its continued use as a community facility or service is no longer feasible having had regard to appropriate marketing and the demand, usability etc, (2) there is sufficient provision elsewhere or (3) that sufficient alternative provision has been or will be made elsewhere which is equally assessable and of the same or better quality than that being lost.



- 7.7 It is understood that the site was previously a private allotment but that it has been inaccessible for years. Furthermore it is not shown at all in the Council's Open Space Strategy (published January 2022). The A&DM Plan Review Policy Map currently still identifies the site as POS; however this is an error that only the examining Inspector

can modify. The site will no longer be promoted as POS and the matter will be rectified on the policy proposals map as soon as we are able to. As such the proposal would not result in the loss of an actual allotment in real terms and there would be no conflict with the emerging policy.

- 7.8 In principle therefore, housing development could be appropriate subject to other considerations which are discussed below.

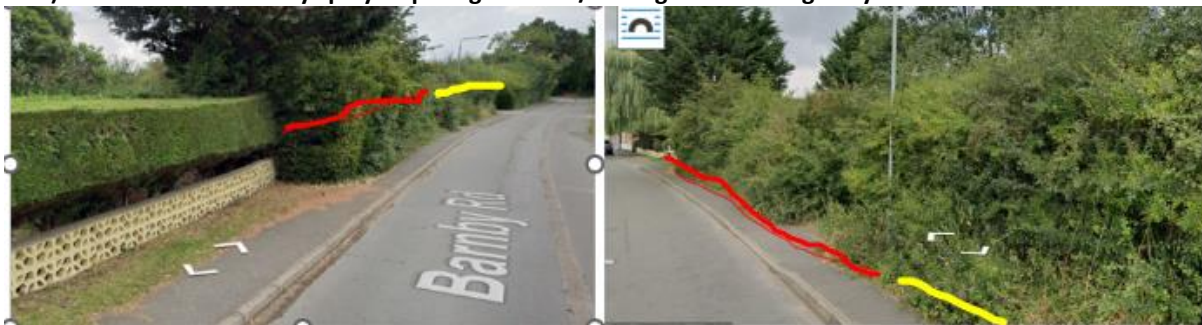
Appropriateness of the Development, including Character

- 7.9 As it is only the means of access and layout that are to be considered by this outline application, consideration is confined to whether the scheme at this quantum is capable of being developed without detrimental impacts.
- 7.10 The site is located on Barnby Road with part of the site fronting the highway and the remainder falling behind existing ribbon development between the highway and the railway line. Development in the area is generally low density ribbon development interspersed with areas of open green space giving it a semi-rural visual appearance.
- 7.11 The proposed development would sit behind the existing 7 detached dwellings (Ascot House being the western most house and Newbury House being the eastern most) that front Barnby Road. Other than the access road, there would be no built form fronting onto Barnby Road.
- 7.12 Policy DM5 (Design) states: *'Proposals creating backland development will only be approved where they would be in-keeping with the general character and density of existing development in the area, and would not set a precedent for similar forms of development, the cumulative effect of which would be to harm the established character and appearance of the area. Inappropriate backland and other uncharacteristic forms of development will be resisted.'*
- 7.13 In considering whether the proposed layout is capable of meeting the above policy requirements, it is noted that there are some limited examples of backland development along the northern side of Barnby Road, notably the terraces forming numbers 1 to 4 Barnby Cottages to the west. It is also noted that there is extant outline consent for up to 10 dwellings at Grove Bungalow to the southern side of Barnby Road (south-east) which would take the form of backland development and modern development in depth has been erected to the south-east adjacent to 'Beacon Hill View'. Given this context it is not considered that the proposals for backland development in principle would be harmful. Aside from the application site, there are no other parcels of land that would have sufficient depth to allow for backland development such that development of this land is unlikely to set a precedent for similar development elsewhere.
- 7.14 In terms of character and appearance, much of the built form would not be visible from Barnby Road given the proposed set back distances of c70m from the road. The main change would be the creation of an adoptable access road (5.5m wide with 2m

wide footpath adjacent) which would necessitate the removal of part of the frontage hedge.



Images from Google streetview showing approximate position of site frontage in red (looking from west and east) and extent of visibility splay requiring removal/cutting back of hedge in yellow.



- 7.15 In addition to the removal of the hedgerow to create the new access, NCC Highways Authority initially pointed out the hedgerow in front of Ascot House (approximate position shown in yellow on above images) would have to be removed or significantly reduced in depth to provide for visibility splays. The agent has clarified through an ordnance survey plan (see para.7.47 and the image below it) that the hedgerow is likely to be able to remain but will need a trim.
- 7.16 Whilst the loss/reduction of this hedgerow is regrettable, the hedgerow is currently unmanaged and the visual appearance of the development (which would be primarily the new access road) would be softened by the greenery on either side of the access which would be kept undeveloped, whilst opening up views of the site from the public realm. There would be opportunities for additional, compensatory planting within the site. Overall, the changes to the character and appearance would be limited and are considered to be acceptable, subject to details of the built form being considered at reserved matters stage along with detailed landscaping which is also a reserved matter. The impact upon trees is discussed below at para. 7.22 onwards.

Housing Mix, Type and Density

- 7.17 Core Policy 3 sets out that average densities should normally be no lower than 30 dwellings per hectare but should be justified taking into account individual site circumstances.
- 7.18 This scheme promotes a scheme that is less than 10 dwellings per hectare, considerably lower than policy expectations. However in this case, the low density is justified in order to retain areas of the orchard and habitat and in order to reflect the lower density of its surroundings. The density is therefore considered acceptable in this case.
- 7.19 CP3 also sets out the expectation of seeking to secure a housing mix that adequately reflects the housing needs of the District including family housing, smaller homes and housing for the elderly and disabled population. Paragraph 60 of the NPPF (December 2023) also states that the overall aim of delivering a sufficient supply of homes should be to meet as much of the area's identified housing need as possible, including with an appropriate mix of housing types for the local community.
- 7.20 The District Council commissioned a District wide housing needs survey undertaken by ARC4 in 2020 which represents the most up-to-date housing needs information available. In the Newark Sub Area (within which this scheme falls) the housing need is for family housing of 3 and 4 bedrooms, then 2 bed roomed dwellings, then bungalows followed by flats.
- 7.21 The table below shows how this proposed mix compares with the identified local housing needs:

House Types	Newark Sub Area Housing Need	Proposed Scheme as Amended
3 bedroom house	30.7%	33.3% (3)
4+ bedroom house	25.5%	33.3% (3)
1/2 bed houses	19.5%	22.2% (2)
2 bed bungalows	7.4%	
3+ bed bungalows	6.7%	11.1% (1)
2 or more bed flats	4.9%	
1 bed flat	4%	
Other	1.3%	
Totals	100%	100% (9)

- 7.22 As can be seen from the table above, the housing mix (which has been amended during this application) closely reflects the housing needs for the area and in my view offers an appropriate mix to help meet the identified local housing need. Given that the number of units equates to less than 10 and the floor space would be less than 1,000m², the trigger for affordable housing provision embedded in Core Policy 1 is not engaged and need not be provided. It is proposed to secure the mix and maximum internal floor space by condition to ensure that this is what comes forward.

Impact on Trees and Biodiversity

- 7.23 The starting point for development is that trees and features such as hedgerows should be retained where possible as set out in CP12 and DM7.
- 7.24 The site comprises a currently unmanaged area of green space and habitat including trees and hedgerows. As such an Arboricultural Report and Impact Assessment, a Preliminary Ecological Appraisal, a Reptile Survey and a Ground Level Bat Roost Assessment of Trees have been submitted in support of the submission.

Trees

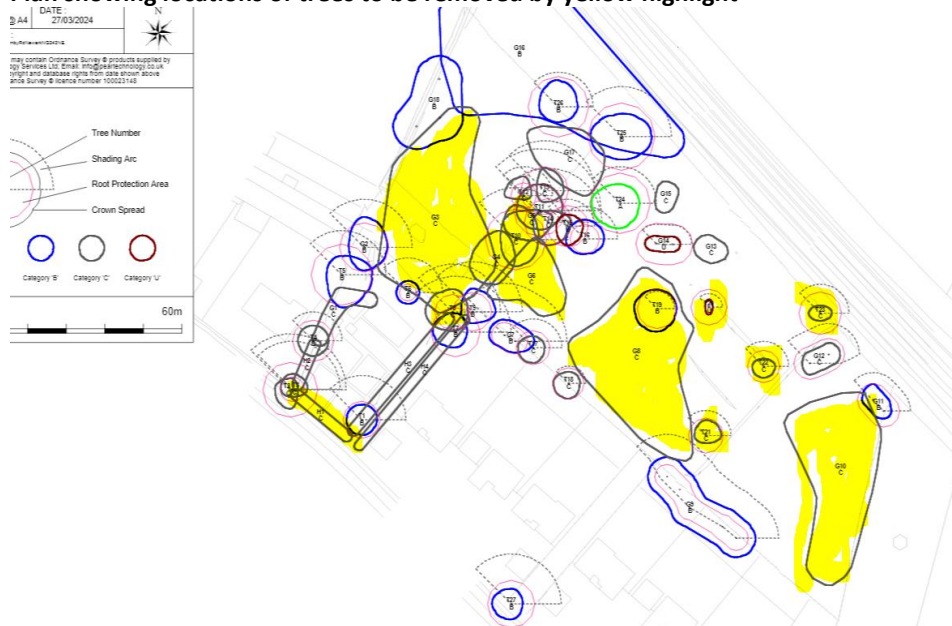
- 7.25 The Arboricultural Report surveyed 27 individual trees, 18 groups of trees and 4 hedgerows. Some of the trees on site form a significant part of the local treescape and give a moderate visual amenity value. These are primarily located to the site frontage visible from Barnby Road and those to the north of the site which are visible from the railway and land beyond.
- 7.26 This application would require the removal of:

8 individual trees; T8 & T10 (Common Ash, C1/2), T19 (Common Hazel, B1/2), T20 (Orachrd Apple, U), T21, T22, T23 (Orachrd Apple,C1)

6 groups of trees; G3 (young to semi-mature trees comprising ash, blackthorn, elder and lawson’s cypress, C2), G4 (semi mature hawthorn, elder, blackthorn and mature apple, C2), G5 (line of 4 Ash, C2) G6 (semi mature hawthorn, elder, blackthorn and a mature apple, C2), G8 (group of hazel, elder, hawthorn, C2), G10 (blackthorn interspersed with fruit trees, C2)

1 hedgerow: H1 (3.5m high privet hedge with occasional hawthorn, C2)

Plan showing locations of trees to be removed by yellow highlight



- 7.27 The majority of the tree loss are relatively low graded/poor specimens except for T19 which is unable to be retained. The trees do not meet, individually or cumulatively, the threshold required to warrant their protection. Whilst this loss is regrettable these trees could be compensated for as there would be space to do so. This would be controlled by condition/a section 106 agreement.
- 7.28 The proposal would also require minor pruning to trees and hedgerows (T1 (Common Ash, B1), T7 (Common Ash, B1/2) H3 (4.5m high privet, hawthorn and ash hedgerow, C2) along the eastern boundary to facilitate the new access road and footpath. New hard surfacing would be required within the root protection area (RPA) of T1, T7 & T9 for the proposed access road and footpath albeit this would be less than 10% of the RPA and provided the surface is permeable the survey indicates the impact would be acceptable. Tree group G14 would also require work within the RPA which amounts to c5% of RPA affected. The laying of drainage would require excavations within RPA of T2. All works within the RPA would need to be undertaken by hand. Tree protection fencing around the RPA's is recommended and is reasonable. The acoustic fence (which could double as a trespass fence as required by Network Rail) would need to be installed on hand dug intermittent posts to avoid root damage to retained trees. However subject to these controls the impacts on retained trees could be acceptable an unlikely to cause tree failure of trees capable of protection.
- 7.29 Shading cast by retained trees has been considered by the AIA which shows significant shading to the gardens of plots 1, 6, 7 and 8. The layout has since been amended to provide Plot 1 with more garden not shaded by trees to help reduce pressure for tree loss/and or works and this amendments now means that all affected plots have more than half of their gardens unaffected by shading. Given all gardens have the benefit of being south facing and there would be opportunities to maximise light through the house design at reserved matters stage, I am now satisfied that this is acceptable from an amenity aspect and that it will limit the need for tree works.
- 7.30 Landscaping is a reserved matter. However the proposed layout plan and application does indicate areas of new, compensatory planting within the site and I am satisfied that this matter can be adequately secured.

Biodiversity/ Ecology

- 7.31 This application was lodged prior to mandatory Biodiversity Net Gain coming into effect and therefore does not need to advance a 10% net gain.
- 7.32 Policy DM5 of the Allocations & Development Management DPD states in relation to ecology that: *'Where it is apparent that a site may provide a habitat for protected species, development proposals should be supported by an up-to date ecological assessment, including a habitat survey and a survey for species listed in the Nottinghamshire Biodiversity Action Plan. Significantly harmful ecological impacts should be avoided through the design, layout and detailing of the development, with mitigation, and as a last resort, compensation (including off-site measures), provided where significant impacts cannot be avoided.'*

- 7.33 The site comprises a currently unmanaged area of dense scrub, broad-leaved woodland, a small ornamental pond, orchard, semi-improved grassland (some species rich) and an allotment area. Amongst the scrub and woodland are piles of debris and rubbish. The former allotment area is overgrown and unused, scattered with some small apple trees.
- 7.34 The Council's Biodiversity and Ecology Lead Officer has raised that a significant part of the site qualifies as a Traditional Orchard of Principle Importance that is a priority habitat and included on the UK Biodiversity Action Plan. This is not accepted by the applicant's appointed ecologist, but regardless of the differing expert opinions, the applicant has chosen to retain a proportion of the orchard and provide new provision which could be secured along with their long term management and monitoring. The Council's ecologist is comfortable with that approach acknowledging the benefits of bringing large portions of the site into management on these currently unmanaged and unprotected habitats. The level of mitigation is therefore considered to be acceptable.

Habitat and Plant Species

- 7.35 The hedgerow to the site frontage comprises 80% native woody species so is a priority habitat. This would be lost to facilitate the new access road and visibility splays. With regard to this, the Council's Biodiversity and Ecology Lead Officer states that: *'Whilst acknowledging that this is a Habitat of Principal Importance, most hedgerows in the wider countryside in the UK meet the criteria that define Hedgerow HPI, so this is a common, widespread and abundant habitat type; however, as noted in the PEA any loss will require adequate compensation by planting an equal (as a minimum) length of new hedgerow to that lost. I'm not aware that the location for this is currently showing in the proposed layout plan, but it should be possible to find a suitable location within the proposed development greenspace, so could be secured as part of a wider planning condition.'*
- 7.36 The area to the north is to be retained for habitat creation and restoration of some of the original orchard, by removing scrub and the self set trees that are crowding the existing mature fruit trees and planting new heritage fruit trees to ensure continuity of habitat and tree succession. Overall it is considered that there is ample space here or elsewhere within the site to secure compensation for the lost hedgerow and habitat.

Great Crested Newts

- 7.37 The site has potential to provide habitat for Great Crested Newts (GCN; a protected species) although the Local Wildlife Site 39m to the south has poor suitability for this species and they are unlikely to use it for breeding if they are present in the immediate area. The surveys undertaken found no presence of GCN on site and no mitigation is required.

Common Toad

- 7.38 The common toad is listed as a species of principal importance under the Natural Environment and Rural Communities Act (2006) and have been declining in recent years. There is a known common toad crossing point between the site and the LWS to the south. Froglife have been monitoring this since 1995 and it appears that toads use the survey site to hibernate and forage returning to the Ballast Pit LWS in Spring to breed. Given this, it is necessary to retain suitable habitat for hibernation and foraging and to retain a corridor to allow toads to continue to migrate between the site and the LWS to the south. An Amphibian Mitigation and Compensation Strategy is required to secure this. The proposed layout shows this indicatively in the location recommended by the ecologist and therefore at this stage it has been adequately planned for with further detail to be secured at reserved matters stage. It would be expected that the toad corridor be fenced off during construction phase.

Common Reptiles

- 7.39 Native reptiles are protected under the Wildlife and Countryside Act 1981 (as amended). Grass snakes have been recorded within the area with many of them recorded at the Highfields School site 280m to the south. The site has good potential for use by grass snakes, slow worms and has low potential for common lizard. Surveys undertaken show a low population of grass snakes at the site. Noting that the north-west corner will be left and retained for wildlife, the impacts can be mitigated by precautionary working methods as set out in section 4.3.1 of the Reptile Survey dated August 2023 which would be suitably secured by condition.

Bats

- 7.40 There is good connectivity between the site and the wider area with excellent foraging and commuting opportunities for bats. The sheds on site, given their dilapidated state, are considered to have a negligible potential for roosting bats. Most of the apple trees on site are mature and have features highly suitable for roosting bats and therefore additional surveys of the trees has been undertaken.
- 7.41 The removal of trees assessed as offering a 'low roost potential' could result in damage or destruction of bat roosts if mitigation isn't put in place as well as result in a reduction in bat roost opportunities and increasing light spill into the site and thereby reducing the suitability of the site for foraging and commuting bats. Recommendations therefore include the soft felling of trees in the autumn (September to November inclusive) under a precautionary approach as set out in 4.3.3 of the BRA and a carefully designed lighting scheme adopting the principles of paragraph 4.3.4 of the same report. These measures will be secured.

Birds

- 7.42 The site comprises good nesting opportunities for common birds which are protected under the Wildlife and Countryside Act. To avoid harm to nesting birds it is recommended that clearance is undertaken outside of bird breeding season or that a search for nests is first undertaken by a suitably experienced ecologist. This can be

controlled by condition.

Badgers

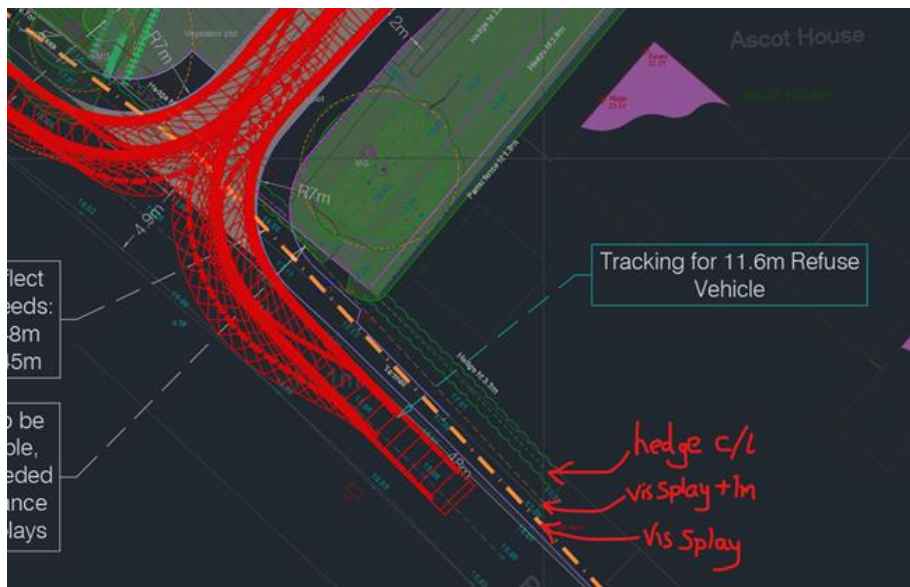
- 7.43 The proposal has been assessed but due to sensitivities on this matter the result have not been published.

Compensation and Enhancements

- 7.44 In order to make the development acceptable, mitigation, compensation and enhancement will be required and the applicant proposes new tree planting, habitat creation and bringing area's outside of the residential gardens into a management regime which would also include ongoing monitoring to ensure the site delivers on expectations. A Biodiversity Management Plan would need to be secured via a s.106 Agreement to enable long term management and monitoring (with fees payable for our role in that monitoring). This s.106 Agreement would need to secure specifications for enhancement/habitat creation, management and maintenance and arrangements for monitoring. It is expected that a management company will need to be set up to look after the land in question which will be secured through the agreement.
- 7.45 The Council's Biodiversity and Ecology Lead Officer has advised that a Construction and Environment Management Plan should be imposed as a pre-commencement condition to avoid harmful impacts from the construction phase. Subject to these measures being secured through suitable means, the proposals would meet the requirements of the policy context set out.

Highways and Parking Impacts/Railway Safety

- 7.46 Policy DM5 requires that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.
- 7.47 Part of Barnby Road has an 'advisory' 20mph limit due to its proximity of Barnby Road Primary School, however, these are not legally enforceable. This section of Barnby Road is restricted to 30mph. The proposal seeks to take access from the northern side of Barnby Road, located centrally within the land they control to provide a single point of access and egress for all 9 units. Amendments (widening) to the road have been made during the application to address concerns initially raised by the Highways Authority. Appropriate visibility splays at the access point have now been demonstrated such that vehicles emerging could do so safely.
- 7.48 As previously noted, the Highways Authority have stated that the hedgerow to the south-east of the access would need to be removed/cut back. The agent has queried this and provided a ordnance survey plan extract (see image below) with the topographical survey overlaid which appears to show the hedgerow wouldn't need removing. The HA have indicated that it would need to be trimmed so that any growth is not within a metre of the rear of the visibility splay.



- 7.49 The agent has queried the Highway Authority requirement to provide the access prior to commencement of development, noting that there is already a maintenance access point which would be used for site clearance etc. However the HA have responded that the use, including by construction vehicles needs to be in place before that starts for highways safety reasons.
- 7.50 In relation to the requested condition requiring details of the highway (no. 16 in the suggested conditions) the agent has queried the need for this given that such details would need to be agreed with the Highways Authority as part of a section 278 agreement. However the Highways Authority has advised that in theory the developer may not apply for adoption (there is not requirement for them to do so) and therefore the condition is necessary to ensure the road and its associated infrastructure is appropriate, fit for purpose and has some longevity.
- 7.51 It is noted that local residents have raised highway safety and capacity as an issue, however this is not a matter that NCC as the Highways Authority have raised a concern regarding.
- 7.52 In the interests of sustainable transport and noting the emphasis on non car modes of transport, the Highways Authority have requested that the footway to the northwest of the site frontage is increased in width to the same 2 metres that is required along the site frontage, to reach the existing crossing point (approximately an additional distance of 25 metres). The agent has queried the reasonableness of this request and suggested that if it is necessary, 2m appears impossible to achieve in places so the condition should be amended so that it is widened insofar as the space is available up to 2m. In response the Highways Authority have advised that this is a busy section of footway at school pick up and drop off times and the additional width would accommodate the increased demand from pedestrians as a result of the development. This would mean that the narrow grass verge would be lost on this side of the road in front of 'The Gables' as indicated by the red line on the image below. This would have a minor impact upon the character but a positive impact in terms of pedestrian safety. This area in front of the wall is adopted highway. The Highways Authority suggest the

works are estimated to cost in the region of £2K which would be proportionate to the development. The Highways Authority agree with the applicants suggested amendments to the condition. Overall it is considered to be a reasonable request and can be secured by a Grampion condition.

Image from streetview showing area denoted by red line of requested footpath widening



- 7.53 As the layout is to be fixed alongside the housing mix, parking provision does need to be considered at outline stage. The Council has adopted a SPD on Residential Cycle and Car Parking Standards & Design Guide which sets out expectations for residential parking quantum's, designs and sizes types across the district.
- 7.54 As the site lies within the Newark Urban Area, the number of parking spaces for a 2 or 3 bedroom dwelling is 2 spaces and is 3 spaces for houses with 4 or more bedrooms. Visitor parking is encouraged where the developer has not met the above standards. The layout shows that all of the dwellings meet the expected quantum of parking with parking provided either alongside the dwellings or directly in front of them. No provision is currently shown for the covered cycle provision as is required by the SPD. However this is a matter that can be controlled by condition at reserved matters stage if none of the dwellings were to include integral garages or storage.
- 7.55 In terms of railway safety, Network Rail as statutory consultee, raise no objection to the scheme subject to 1) to the developers agreeing the construction methodology with them, 2) surface water to flow away from the railway, 3) no ponds or attenuation within 30m of the railway unless agreed in advance, 4) provision of trespass proof fencing 1.8m high adjacent to the railway boundary, 5) consideration of the landscaping and species to be planted alongside the railway and 6) details of any external lighting to be provided. In respect of these requirements, all are reasonable and can be secured either by condition or in the case of the landscaping, is a reserved matters in any case so would be considered at that stage and does not need to be conditioned separately. The attenuation pond is 33m away from the railway so wouldn't be in breach of Network Rail's requirements.
- 7.56 For the reasons set out above, subject to conditions, the proposal would cause no adverse impact on highway or railway safety and the parking provision is adequate to meet the needs of the development in accordance with the identified policies.

Residential Amenity

- 7.57 Safeguarding the residential amenity for both existing and any new dwellings will be paramount in order to comply with policies CP9 (Sustainable Design) and DM5 of the Development Plan. Given that the layout is to be fixed, this needs to be considered at outline stage.

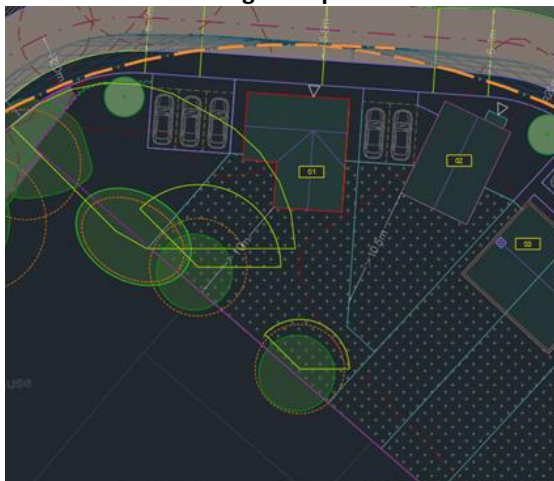
Existing Residents

- 7.58 All 9 dwellings would be set north of the existing dwellings fronting Barnby Road with the closest relationship being 35m back to back. This distance is considered to be acceptable in meeting the needs of privacy. The appearance and siting of window positions etc is a matter for reserved matters but I am satisfied that the layout and substantial distances involved would enable a suitable scheme to be submitted without causing loss of amenity for existing residents. As Plot 9 is now proposed as a bungalow, the impact on the property to the east is considered to be acceptable and would avoid any issues of overlooking or perception of such.
- 7.59 Representation has been made questioning the location of the drainage pumping equipment and whether this would cause adverse noise impacts. An indicative location is shown on the layout plan which is a considerable distance from existing and proposed occupiers (at least 38m) such that this would be unlikely to cause any adverse noise impacts to residents, but this can be explored as necessary as part of the reserved matters application.

Proposed Residents

- 7.60 The proposed layout and housing mix information provided, indicate that all dwellings would likely meet the nationally described space standard in terms of internal floor space. Externally all proposed dwellings have a reasonable sized gardens commensurate with their size. Amendments have been made in respect of plot 1 to provide more private amenity space that isn't shaded by trees which is now considered acceptable.

Extract of tree shading in respect of Plot 1



- 7.61 Given the proximity of the East Coast railway line, consideration of noise impacts for the proposed dwellings (which are located c40m away) is necessary. A Noise Assessment has been provided. This concludes that daytime ambient noise levels are relatively low but that mitigation is desirable for night time noise. This could be in the form of an acoustic barrier adjacent to the railway or enhanced sound insulation and ventilation (acoustic glazing and ventilation) to the external fascades of the bedrooms overlooking the railway line. The Council's Environmental Health Officer has advised that a Noise Mitigation Strategy should be provided with a reserved matters application and this can be required by condition. Subject to securing this, I am satisfied that noise need not be a constraint to granting an outline consent here.
- 7.62 In conclusion, having regard to the matters for consideration, I am satisfied that the site is capable of the quantum of development envisaged without detrimental impacts to the living conditions of either existing or proposed residents in accordance with the policy expectations.

Flooding and Drainage

- 7.63 Core Policy 9 requires developments to be pro-actively manage surface water and Policy DM5 builds upon this requiring developments to include, where possible, appropriate surface water treatments in highway designs and Sustainable Drainage Systems. Core Policy 10 requires development to positively manage surface water run-off and ensure there is no unacceptable impact to surrounding areas or the existing drainage regime.
- 7.64 According to the Environment Agency Flood Maps the site lies within Flood Zone 1 (at lowest risk of flooding) albeit is in an area identified as being prone to superficial deposit flooding and within an area at low risk of surface water flooding.
- 7.65 The application has been accompanied by Flood Risk Assessment and Drainage Strategy to show how both surface water would be managed and foul sewage would be disposed of given the lack of public sewers along Barnby Road.
- 7.66 The national drainage hierarchy sets out the aim to discharge as high up the drainage hierarchy as reasonably possible as follows;

	Surface Water Disposal	Foul Waste Disposal
1	Into the ground (infiltration)	Public sewer
2	To a surface water body	Private sewer
3	To a surface water sewer, highway drain or another drainage system	Septic tank
4	To a combined sewer	Cesspool

- 7.67 The strategy appears to rule out infiltration with discharge proposed into a surface level watercourse to the south. An on-site attenuation pond with a surface area of 315m² (volume of 198m³) is proposed which would store water below that required to provide ecological enhancements and stored water would need to be pumped to

the watercourse due to the distance. The pumping station is proposed to be located close to the attenuation pond some 57m back from the site frontage.

- 7.68 The Lead Local Flood Authority raised objection to the latest strategy submitted, but this is on the basis that the Strategy has ruled out infiltration without evidence of BRE65 testing (percolation tests to measure the absorption rate of the soil to ascertain if ground conditions are appropriate for soakaway to a certain standard) having been undertaken, and then assuming discharge to a surface water body. Their position is that the application hasn't shown evidence to rule out infiltration (the testing involves multiple tests and insufficient testing has been done to comply with the BRE65 standard) and move to the next tier within the drainage hierarchy. However they have confirmed that notwithstanding the drainage submission their position is a 'no objection' subject to a suitable strategy being submitted which should evidence how the strategy has followed the national drainage hierarchy and that this should be controlled by condition, which is acceptable. With the layout being considered and fixed by this outline, the fact that the scheme does include a layout/location of a pumping station on site is helpful as this would be the worst case scenario and there would be no additions at reserved matters stage.
- 7.69 Foul water would be disposed of via a public sewer located at the junction with John Gold Avenue approximately 215m to the west which has capacity. To reach this, waste would need to be pumped for 145m to the high point of the bridge when gravity would then take over. This form of disposal meets the drainage hierarchy expectations and is acceptable in principle.

Developer Contributions/Planning Obligation

- 7.70 As the scheme is for 9 dwellings, it doesn't meet the triggers for the provision of affordable housing or any other developer contribution that might have otherwise been required by Spatial Policy 6, Policy DM2 and Policy DM3.
- 7.71 However as discussed above, a Biodiversity Management Plan (BMP) is needed to make the development acceptable. In order to cover the costs of the Local Planning Authority monitoring the obligations of the BMP, a monitoring fee schedule has been drafted. This has been based on a proportionate 3.5 hours of officer time (at £332.50) to allow for a site visit, a review of the monitoring report submitted and a response at years 1, 2, 3, 5, 8, 11, 14, 17, 20, 25 and 30, totalling £2,612.50 which would be index linked. This would need to be captured and secured within a section 106 planning obligation.

8.0 Implications

- 8.1 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

- 9.1 Being located within the Newark Urban Area, locationally the principle of residential development is acceptable, subject to site specific matters being considered. It has been established that whilst part of the site is shown in the current Development Plan as being protected public open space, the former private allotment has not been used as such for a decade and, subject to the plan being found sound and adopted, will not enjoy protection in the plan moving forwards. This should not be a constraint to development therefore.
- 9.2 The development of the site would take the form of backland development but has been judged not to be an inappropriate form of development taking into account the site context. There would be some impact to the character and appearance of the area but this is limited to impacts involving the loss of the frontage hedgerow to gain safe access into the site and to the widening of a section of footway to make the development as sustainable as possible.
- 9.3 The proposal offers a housing mix that would help meet the identified needs of the area and the provision of 9 dwellings would make a modest contribution to the housing stock and in terms of temporary construction roles that can carry some weight.
- 9.4 No adverse impacts have been identified in respect of highway safety nor upon the living conditions of existing or proposed residents.
- 9.5 The proposal would involve the loss of trees, hedgerows and vegetation that are currently unmanaged. The ecological impacts have been given careful consideration. Given the retention of a large part of the site for habitat and given the areas available for enhancements, on balance it is considered that subject to conditions and securing a biodiversity management plan that would see favourable management for a 30 year long period, that the scheme would meet the requirements of the NPPF and Core Policy 12.
- 9.6 Having weighed all matters in the balance, I am satisfied that the limited visual harm identified would be outweighed by the provision of additional needed housing and that securing the long term management of the retained and new habitat sufficiently off-sets the harm arising from the loss of the site to be developed. The proposal accords with the provisions of the Development Plan and the recommendation is for approval subject to the applicant entering into a section 106 agreement to secure the Biodiversity Management Plan along with a monitoring fee and the conditions that follow.

10.0 Conditions & S106 Requirements

- 10.1 It is recommended that planning permission is granted subject to the completion of a **section 106 agreement** to secure a Biodiversity Management Plan for a 30 year period. This shall include monitoring fees as set out. Whilst the precise wording is to be

agreed/finalised in conjunction with legal colleagues, the following is an example of what this would seek to achieve:

Prior to the commencement of the development, a Biodiversity Management Plan (BMP) shall be submitted to and be approved in writing by the Local Planning Authority. The content of the BMP shall include the following:

- a. The location and summary description of the features to be maintained and/or enhanced, or created;*
- b. The proposed actions to maintain and/or enhance or create the features, and the timing of those actions;*
- c. The proposed management prescriptions for those actions;*
- d. If appropriate, an annual work schedule covering a 5-year period (with the view that the management proposals would be reviewed every 5 years);*
- e. Identification of who will be responsible for implementing the BMP; and*
- f. A schedule for monitoring the implementation and success of the BMP, this to include monitoring reports to be submitted to Newark and Sherwood District Council at agreed intervals.*

and the following conditions:

01

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

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

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

02

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

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

03

Development shall not commence until a construction methodology has been submitted to and approved in writing by the Local Planning Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology-

Reason: To ensure that development is undertaken safely and without impact to operational railway safety. For contact details of the Asset Protection Project Manager see informative note number 1 below.

04

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall capture all mitigation and avoidance measures required in one single document and should include annotated plan(s) summarising the key elements, which will then provide a rapid visual assessment of what should be implemented that can be distributed to construction workers on the site. The CEMP shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of “biodiversity protection zones”;
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs;
- i) Hours of construction activities, which should not be during the hours of darkness that necessitate external lighting.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: This condition is necessary in the interests of ensuring all mitigation and avoidance measures are clear in order to safeguard the biodiversity of the site.

05

Save for the construction of the visibility splays themselves, the development shall not be commenced until the visibility splays as shown on drawing number (08)101 rev H are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height above carriageway level to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

06

The development shall not be commenced until the footway to the northeast of the site access is widened between the existing kerb edge and the front boundary of The Gables, up to a maximum width of 2 metres, in accordance with a drawing to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of pedestrian safety and to ensure that this is provided within a timely manner. For clarity site clearance, the installation of tree protection measures and matters such as soil sampling are not considered to constitute a start to the development.

07

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

Part A: Site Characterisation

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

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

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

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the

natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part C: Implementation of Approved Remediation Scheme

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

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

Part D: Reporting of Unexpected Contamination

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

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

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

08

Notwithstanding the drainage strategy submitted which is not approved, no part of the development hereby approved shall commence until a detailed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753 and National Planning Policy Framework paragraph 169.

- Limit the discharge generated by all rainfall events up to the 100 year plus 40% (climate change) critical rain storm to QBar rates for the developable area.
- Provide detailed design (plans, network details, calculations and supporting summary documentation) in support of any surface water drainage scheme, including details on any attenuation system, the outfall arrangements and any private drainage assets.

Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods.

- o No surcharge shown in a 1 in 1 year.
 - o No flooding shown in a 1 in 30 year.
 - o For all exceedance to be contained within the site boundary without flooding properties in a 100 year plus 40% storm.
- Evidence to demonstrate the viability (e.g Condition, Capacity and positive onward connection) of any receiving watercourse to accept and convey all surface water from the site.
 - Details of Severn Trent Water approval for connections to existing network and any adoption of site drainage infrastructure.
 - Evidence of approval for drainage infrastructure crossing third party land where applicable.
 - Provide a surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site.
 - Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.
 - Evidence the decision to not use infiltration with site specific infiltration testing to BRE365 standards.

Reason: A detailed surface water management plan is required to ensure that the development is in accordance with National Planning Policy Framework and local planning policies. It should be ensured that all major developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site.

09

No works or development shall take place until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the Local Planning Authority. This shall build upon and consolidate the recommendation of the Arboricultural Report and Impact Assessment by Watson Lindsey dated 21st July 2023. The scheme shall include

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers.
- c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.

- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. Details of any scaffolding erection and associated ground protection within the root protection areas
- h. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

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

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

010

The submission of any reserved matters application pursuant to this Outline consent shall be accompanied by a Noise Mitigation Scheme that builds upon the findings and recommendations of Noise Assessment, RP Acoustics Ltd, 28th March 2024. This scheme shall detail mitigation measures to appropriately mitigate noise impacts from the operational railway line to the north. The approved scheme shall be implemented on site prior to first occupation of any dwelling subject of the reserved matters application and retained thereafter.

Reason: To ensure that noise levels, specifically from the railway line and level crossing are appropriately mitigated and that the mitigation measures are implemented in a timely manner in the interests of residential amenity.

011

The submission of any reserved matters application pursuant to this Outline consent shall be accompanied by an Amphibian Mitigation and Compensation Strategy. This shall include:

- Details including a corridor linking the north-eastern edge of the survey site to Barnby Road, running along the north-western edge and provide details of how this will be separated from the development site during construction phase;
- A retained area of habitat to include dense scrub/trees and purpose-built amphibian hibernacula
- Demonstration of a mosaic of habitats to increase invertebrate prey, including a new wildlife pond.

Reason: In order to afford adequate protection to amphibians given the presence of

amphibians on site and in the vicinity of the site. It should be noted that compliance and the timetable for the implementation of such a scheme will be controlled at reserved matters stage.

012

The submission of any reserved matters application pursuant to this Outline consent shall be accompanied by details of the provision of integral bird nest boxes and integral bat boxes based upon the principles set out the Reptile Survey and Ground Level Bat Roost Assessment by Emec Ecology dated August 2023.

Reason: These particular enhancements have been separated from the other enhancement, compensatory and mitigation requirements as these must be installed during the construction phase as they must be incorporated into the walls – as such details need to be submitted within a timescale that is appropriate and in order to properly meet the policy tests.

013

Trees identified of low bat roost potential (as shown on Figure 3 of the Ground Level Bat Roost Assessment by EMEC Ecology dated August 2023 as T14, T20, T21, G8C, G10C, G14C, G17C) shall only be removed in the Autumn (September to November inclusive) in strict accordance with the following soft fell precautionary approach:

- Immediately prior to the felling works, the trees shall be inspected with an endoscope by a suitably licensed ecologist, to ensure that no bats are present within the trees prior to them being felled;
- The ecologist will remain on Site to supervise the felling works and advise as to what to do in the event bats are encountered;
- The trees shall be sawn in sections and each section carefully lowered to the ground with any PRFs identified during the works on the uppermost surface;
- Any observable PRFs, such as lifted bark, knot holes, splits and crevices, shall avoid being sawn through;
- Following this, they will undergo another detailed inspection by the supervising ecologist to check for the presence or likely absence of bats;
- The sawn sections shall then remain on the ground in suitable location for 24 hours to allow bats to disperse in the unlikely event that any are present but undetectable

Reason: In order to provide suitable avoidance measures to protect bats that may be present in line with the recommendation of the submission.

014

The following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.

- b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

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

015

Prior to first occupation of any dwelling hereby approved, precise details (including exact location and design) of a trespass proof fence to be erected alongside the northern boundary with the railway line shall be submitted to and agreed in writing by the Local Planning Authority. The approved fence shall then be erected on site prior to first occupation and shall be maintained and retained for the lifetime of the development.

Reason: Due to the increased risk of potential trespassers from opening up the site, this condition is necessary to protect against damage to the railway infrastructure and to protect from injury and loss of life.

016

Prior to first occupation details of any external lighting (except for street lighting which is covered by condition 17) to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution in terms of nocturnal wildlife and the operational railway line. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.

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

017

No part of the development hereby permitted shall take place until details of the new road have been submitted to and approved in writing by the Local Planning Authority. Details shall include longitudinal and cross-sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any

proposed structural works. The development shall be implemented in accordance with the approved details.

Reason: To ensure the development is constructed to safe and suitable standards.

018

Each dwelling shall not be occupied until the access and driveway associated with that dwelling is constructed in a bound material with means to prevent the egress of surface water to the public highway, details of which shall be first be submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce the chance of deleterious material and surface water entering highway, in the general interests of highway safety.

019

The reserved matters application(s) shall comprise a housing mix of two x 2-bed dwellings, three x 3-bed dwellings and 4 x 4 bed-dwellings one of which (Plot 9) shall be single storey. The combined gross internal floor space of all dwellings hereby approved shall be not more than 1,000 square metres.

Reason: This condition is necessary to secure the mix advanced at outline stage, in order to provide a housing mix that responds to the identified local housing need and address the fact that no affordable housing contribution has been advanced which would be triggered by Core Policy 1 if the combined floor space exceeds 1,000m².

020

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

- Drawing no. (08) 101 Rev H (Site Plan as Proposed)
- Drawing no. (09) 101 (Proposed Vehicle Tracking Plan)
- Drawing no. 0001 Sheet 1 of 2 (Topographical Survey)
- Drawing no. (00)100 Rev A (Site location plan)

Reason: So as to define this permission.

Informatives

01

This permission should be read in conjunction with the Planning Obligation (section 106 agreement) which secures a Biodiversity Management Plan for compensation, mitigation and enhancements and their management for a 30 year period which require agreement prior to commencement of development.

02

For enquiries, advice and agreements relating to construction methodology, works in proximity to the railway boundary, drainage works, or schemes in proximity to railway tunnels (including tunnel shafts) please email assetprotectioneastern@networkrail.co.uk. Please also see the attached note to applicant provided by Network Rail.

03

With regard to drainage, Network Rail advise that it is imperative that drainage associated with the site does not impact on or cause damage to adjacent railway assets.

Surface water must flow away from the railway, there must be no ponding of water adjacent to the boundary and any attenuation scheme within 30m of the railway boundary must be approved by Network Rail in advance. There must be no connection to existing railway drainage assets without prior agreement with Network Rail. Please note, further detail on Network Rail requirements relating to drainage and works in proximity to the railway infrastructure is attached for your reference. It is expected that the preparation and implementation of a surface water drainage strategy should address these points as part of condition 08.

04

Network rail have advised with regards to landscaping that it is imperative that planting and landscaping schemes near the railway boundary do not impact on operational railway safety. Where trees and shrubs are to be planted adjacent to boundary, they should be position at a minimum distance greater than their height at maturity from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Any hedge planted adjacent to the railway boundary fencing for screening purposes should be placed so that when fully grown it does not damage the fencing, provide a means of scaling it, or prevent Network Rail from maintaining its boundary fencing. Below is a list of species that are acceptable and unacceptable for planting in proximity to the railway boundary;

Acceptable:

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear, (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorn (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata “Zebrina”

Not Acceptable:

Acer (Acer pseudoplatanus), Aspen – Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea)

05

In respect of Condition 4 (CEMP) it is expected that this should build upon Preliminary Ecological Appraisal - V2. (CGC Ecology – 20 October 2023) and Reptile Survey and Ground Level Bat Roost Assessment of Trees (EMEC Ecology -04 August 2023) including matters such as all precautionary working method statements and reasonable avoidance measures etc.

06

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

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

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

Correspondence with the HA should be addressed to hdc.north@nottscc.gov.uk

In order to carry out the off-site works required, the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. In order to undertake the works, which must comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks, the applicant will need to enter into an Agreement under Section 278 of the Act. The Agreement can take some time to complete as timescales are dependent on the quality of the submission, as well as how quickly the applicant responds with any necessary alterations. Therefore, it is recommended that the applicant contacts the Highway Authority as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties.

The applicant should email hdc.north@nottscc.gov.uk to commence the technical approval process, prior to submitting the related discharge of conditions application. The Highway Authority is unlikely to consider any details submitted as part of a discharge of conditions application prior to technical approval of the works being issued.

Planning permission is not permission to work on or from the public highway. In order to ensure all necessary licenses and permissions are in place you must contact licences@viaem.co.uk

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

07

This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The Local Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

08

You are advised that you will require building regulations approval in addition to the planning permission you have obtained. Any amendments to the 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.

East Midlands Building Control operates as a local authority partnership that offers a building control service that you may wish to consider. You can contact them via email at info@eastmidlandsbc.com via phone on 0333 003 8132 or via the internet at www.eastmidlandsbc.com.

09

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

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

BACKGROUND PAPERS

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

Application case file.



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Report to Planning Committee 6 June 2024

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Laura Gardner, Senior Planner, x5907

Report Summary			
Application No.	24/00402/FUL		
Proposal	Demolition of two bungalows and erection of five dwellings including parking provision and amenity spaces.		
Location	Land at Greenaway, Rolleston		
Applicant	Mr Kevin Shutt - Newark and Sherwood District Council	Agent	Mrs Karolina Walton - Studio G Associates
Web Link	24/00402/FUL Demolition of two bungalows and erection of five dwellings including parking provision and amenity spaces. Land At Greenaway Rolleston (newark-sherwooddc.gov.uk)		
Registered	04.03.2024	Target Date / Extension of Time	29.04.2024 / 13.06.2024
Recommendation	Approve, subject to the conditions in Section 10.0		

This application is before the Planning Committee for determination, in accordance with the Council’s Constitution, because the applicant is the Council.

1.0 The Site

1.1 The application site comprises land at Greenaway which is a road to the south of Staythorpe Road within the settlement of Rolleston. The land includes two existing bungalows, a parking area located on the north side of Greenaway and a grassed area with tarmac access leading to Rolleston Village Hall located to the north east of the site. A play area with open space is also located to the north east of the site. The majority of the boundaries of the site comprise hedgerow with a number of mature trees also scattered within the site. A Tree Preservation Order (TPO) tree is also located close to the south west corner of the site (outside of the application boundary). Open countryside is located to the east of the site with residential properties located to the south and west.

1.2 Part of the entrance to the site is located within Flood Zones 2 and 3.

1.3 A right of way also runs through the site and runs along its south east boundary past the village hall.

1.4 The site has the following constraints:

- Part Flood Zones 2 and 3;
- Right of Way.

2.0 Relevant Planning History

2.1 **22/02176/FUL** - Demolition of two single storey bungalows and construction of 8 dwellings that include off-street parking provision and outdoor amenity space. See below for proposed layout.



2.2 Application refused by Planning Committee (contrary to Officer recommendation) at the 20th April 2023 meeting for the following reason:

The proposed development by virtue of the site's constraints would result in an over intensive and overdevelopment of the site. The development would be sited too close to the village hall, in particular its outdoor area which could result in impact upon the amenity of the new occupiers. This is considered cannot be appropriately mitigated (agent of change principle), potentially affecting the viability of the hall. In addition, the proposal does not provide adequate visitor parking and the design of the scheme does not appropriately reflect and respond to its rural edge of settlement location. The application fails to demonstrate suitable measures for the maintenance of the road leading to the boundary with the village hall. Overall the development is

considered to be contrary to Policies SP3 - Rural Areas, Core Policy 3 - Housing Mix, Type and Density and Core Policy 13 - Landscape Character of the Newark and Sherwood Amended Core Strategy Development Plan Document (March 2019) and Policies DM5 - Design of the Allocations & Development Management Development Plan Document (July 2013) in addition to the National Planning Policy Framework which is a material consideration.

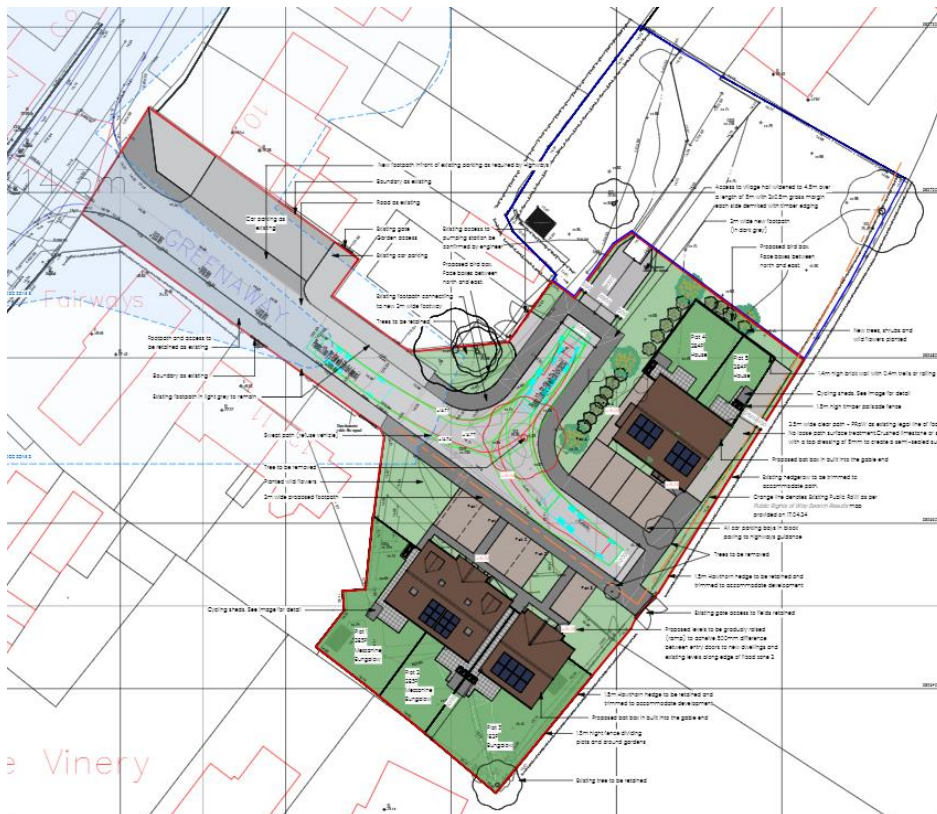
2.3 Other planning history affecting the site relates to the adjacent village hall and play area as well as the existing bungalows which were granted planning permission in 1976.

3.0 **The Proposal**

3.1 The application seeks permission for the erection of five dwellings following the demolition of the two existing bungalows within the site. The dwellings would be positioned towards the south western part of the site with the land between the dwellings and the village hall left as an open green area.

- Plot 1 – 2 bed ‘Mezzanine’ semi detached bungalow;
- Plot 2 - 2 bed ‘Mezzanine’ semi detached bungalow;
- Plot 3 – 1 bed detached bungalow;
- Plot 4 – 2 bed semi detached two storey dwelling;
- Plot 5 - 2 bed semi detached two storey dwelling.

3.2 Other than the 1 bed bungalow which would have one parking space, the properties would each have two parking spaces.



3.3 Documents assessed in this appraisal:

- 655-SGA-091-SL-DR-A-00001 P4 Existing Site Plan;
- 655-SGA-091-SL-DR-A-00002 P13 Site Plan and Site Location Plan;
- 655-SGA-091-XX-DR-A-00003 P1 Bungalow Plans and Elevations;
- 655-SGA-091-XX-DR-A-00004 P5 Dormer Bungalow Elevations;
- 655-SGA-091-XX-DR-A-00005 P5 Dormer Bungalow Floor Plans;
- 655-SGA-091-XX-DR-A-00006 P5 2 Bedroom House Elevations;
- 655-SGA-091-XX-DR-A-00007 P6 2 Bedroom House Floor Plans;
- 655-SGA-091-3D-DR-A-00010 P5 3D Images Sheet 1 of 2;
- 655-SGA-091-3D-DR-A-00011 P5 3D Images Sheet 2 of 2;
- Design and Access Statement Rev 1 Ref: ID354;
- Flood Risk Assessment & Drainage Strategy – 20-0622 dated 26 March 2024;
- Phase 1 Desk Top Study Report – Ref ID91;
- Phase 2 Ground Investigation Report – Ref ID191;
- Phase 2 Pre-development Arboricultural Report dated 2nd April 2024;
- Sequential Test Assessment – 20790-R02 dated May 2024;
- Ecological Appraisal & Baseline BNG Assessment dated October 2022;
- Preliminary Roost Assessment – SQ-1839 dated 24th April 2024.

4.0 Departure/Public Advertisement Procedure

4.1 Occupiers of 31 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.

4.2 Site visit undertaken on 18th March 2024.

5.0 Planning Policy Framework

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

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 3 – Rural Areas
- Spatial Policy 7 - Sustainable Transport
- Spatial Policy 8 - Protecting and Promoting Leisure and Community Facilities
- Core Policy 1 – Affordable Housing Provision
- Core Policy 3 – Housing Mix, Type and Density
- Core Policy 9 -Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 – Biodiversity and Green Infrastructure
- Core Policy 13 – Landscape Character

5.2 Allocations & Development Management DPD (2013)

- DM5 – Design
- DM7 – Biodiversity and Green Infrastructure

- DM12 - Presumption in Favour of Sustainable Development

5.3 The Draft Amended Allocations & Development Management DPD was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage of preparation albeit the DPD is yet to be examined. There are unresolved objections to amended versions of policies **DM5 and DM7** emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

5.4 **Other Material Planning Considerations**

- National Planning Policy Framework 2023
- Planning Practice Guidance (online resource)
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Residential Cycle and Car Parking Standards & Design Guide SPD June 2021

6.0 **Consultations and Representations**

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

(a) Statutory Consultations

6.2 **NCC Rights of Way** – No objections.

6.3 **NCC Highways** – No objections subject to conditions.

(b) Town/Parish Council

6.4 **Rolleston Parish Council** – Object to original plans on the following summarised grounds:

- The development would have a detrimental impact on the amenity and viability of the Village Hall;
- The reduction in parking would hinder the function and accessibility of the Hall;
- Limited visitor parking proposed for dwellings;
- Increase traffic will pose risk to users of the play park;
- Loss of valuable open green space;
- Existing sewerage and surface water drainage are inadequate;
- Access is at risk of flooding;
- Existing neighbours would suffer detrimental amenity impacts;
- There is no specific local requirement for social housing as demonstrated by existing vacant units.

(c) Representations/Non-Statutory Consultation

- 6.5 **Ramblers Association** – No comments received.
- 6.6 **Environment Agency** – Though part of the red-line boundary falls within flood zone 3, the built development falls entirely within flood zone 1 and therefore we have no fluvial flood risk concerns associated with the site.
- 6.7 **NSDC Strategic Housing** – Support the proposal to replace two existing bungalows and provide three houses to meet the need identified in the parish housing needs survey.
- 6.8 **NSDC Tree and Landscape Officer** – The full impact of the development has not been quantified and it is suggested that the proposed application will have a negative impact on protected trees, the character and amenity of the area.
- 6.9 **NSDC Biodiversity and Ecology Lead Officer** – No objections subject to conditions.
- 6.10 **NSDC Environmental Health (contaminated land)** – Phase 1 Desk Top Study and Phase 2 Ground Investigation Reports have been submitted in support of this application. These have previously been submitted and reviewed in support of an earlier planning application and found that no elevated contamination was present. The recommendations made were to import certified clean material for placement in garden areas in areas where suitable material was not present.
- Any imported material should be appropriately certified as clean in line with YALPAG Verification Requirements for Cover Systems. I would recommend the use of an appropriate condition to ensure verification of any imported material is controlled.
- 6.11 **NSDC Environmental Health (noise)** – No objection subject to condition seeking noise attenuation measures.
- 6.12 **Ambulance Service** – No comments received.
- 6.13 **Nottinghamshire Fire** – No comments received.
- 6.14 **NSDC Emergency Planning Officer** - Whilst the dwelling are unlikely to be flooded the risk to residents from remaining in their homes needs to be addressed and the risk to drivers and other village residents from driving along flooded roads is real.
- 6.15 **NCC Flood** – No bespoke comments.
- 6.16 **Severn Trent Water** - No comments received.
- 6.17 **Cadent Gas** – No objection, informative note required.
- 6.18 Comments have been received from 10 third parties/local residents in relation to the original plans that can be summarised as follows:

Principle of Development

- Housing surveys have not shown a need for this development in Rolleston and there is little evidence that this would address the housing needs or interests of the Village;
- The proposal should be limited to replacement bungalows only;
- The development represents an inappropriate increase in density and is not an appropriate scale for the location;
- The District Council can demonstrate a 7.2year housing land supply and there is no need to deviate from the development plan in decision making;
- The existing social housing properties remain vacant demonstrating no specific local need for such housing;

Impact on Character

- The heights of the properties are not appropriate with the character of the open countryside;
- The semi-detached dwellings would erode the countryside setting and conflict with the Landscape Character Assessment;
- The development would constitute loss of valuable green space in the village;

Impact on Highways

- Parking is an issue and the land is used for parking for the Village Hall on a regular basis;
- There is concern that the vehicular movements would affect safety of the users of the adjacent park;
- Tandem parking will cause parking on the highway which will be obstructive;

Impact on Village Hall

- The development as planned would make significant inroads into the sustainability of the Village Hall as a local amenity;
- The development would risk the loss of the village hall;
- The parking associated with the village hall is not adequate and would not be appropriate on the 2 acre field which is used for community activities and access;

Impact on Infrastructure / Flooding

- Current water system is not fit for purpose;
- Any additional dwellings would worsen the existing sewage problems;
- The properties are supposed to be suitable for the elderly but would be too isolated when the roads flood;
- Rolleston has no local services to address day to day needs and the development would not support any community facilities so would be contrary to Spatial Policy 3;
- The location does not provide safe and inclusive access and egress being solely across land at risk of flooding;
- The pumping station regularly requires attendance by tankers to unblock it with many residents suffering sewerage spilling into their property;
- Neither the train or bus operate a viable timetable for use;

- The drainage layout is still 8 properties;

Impact on Amenity

- Bought the property due to having no neighbours to the rear so strongly object to the buildings;
- The mezzanine bungalow is a two storey dwelling hidden behind an oversized roof;
- The height would be overbearing at such a close distance to the neighbouring properties;
- Plots 4 and 5 would have direct views into neighbouring gardens;
- Plots 4&5 would suffer unacceptable noise impacts from the village hall;
- The development would obstruct neighbouring views raising serious privacy concerns;
- The proximity to the village hall would be extremely disruptive to proposed occupiers;

Other Matters

- Following the previous application residents were assured that any further application would be subject to community consultation;
- Limited parking would block existing rights of access;
- Ground floor bedrooms with front elevation windows with no defensible boundary to the public realm would be at risk of crime;
- Other applications and appeal decisions in the village are relevant to the application and should be taken into account in this decision;

Comments have been received from 5 third parties/local residents in relation to the revised plans, additional points are summarised as follows:

- Changes are minor in nature;
- Overlooking risks have been overcome;
- The bungalows would still be overbearing to neighbouring property;
- A Section 106 agreement to secure replacement of the village drainage should be considered;
- The hall is booked almost every day with many events being well attended and requiring parking;
- Neither NSDC nor the applicant have accepted an invitation to discuss the application and thus there has been no engagement with the village about this fairly significant development to the community;
- The road should be adopted if the development takes place.

7.0 Comments of the Business Manager – Planning Development

7.1 The key issues are:

1. Principle of Development
 - a. Location
 - b. Scale
 - c. Need
 - d. Impact
 - e. Character

2. Housing Mix/Tenure
3. Impact on Flood Risk
4. Impact on Visual Amenity
5. Impact on Ecology and Trees
6. Impact on Highways including Public Right of Way
7. Impact on Residential Amenity

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

Preliminary Matters

7.3 As is set out in Section 2.0 above, it is notable that the site has been subject to a previous application which was refused based on cumulative harm relating to: overdevelopment; amenity (given proximity to village hall); visitor parking; and the overall design not reflecting the rural edge location. The full reason is included at paragraph 2.2. This decision is material to the assessment of the current application. Local policy has not changed since the previous decision and the changes to national policy do not fundamentally change the assessment. The current application has been submitted seeking to overcome the previously identified harm and the number of units proposed has reduced from 8 to 5. Whilst this current application must be assessed on its own merits, it would be unreasonable to raise new issues which were not a cause for concern in the previous refusal.

Principle of Development

7.4 The Settlement Hierarchy (Spatial Policy 1) within the Core Strategy outlines the intended delivery for sustainable development within the District. Primarily the intention is for further growth to focus at the Sub- Regional Centre of Newark before cascading to larger Service Centres such as Ollerton and Southwell and then to the larger villages of the District referred to as Principal Villages. At the bottom of the hierarchy are 'other villages' within which development will be considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas). The settlement of Rolleston falls into this 'other village' category. This provides that local housing need will be addressed by focusing housing in sustainable, accessible villages. The policy requires the proposal to be assessed against five criteria including location, scale, need, impact and character which are set out below.

Location

- 7.5 The site as existing is largely laid to grassland and visually reads as being associated with the village hall (other than the residential curtilages associated with the existing semi-detached bungalows). The eastern boundary is defined by a hedgerow which in my view represents the edge of the village. On this basis I consider it is reasonable to conclude that the site is within the main built up area of the village. Whilst Rolleston is one of the District's smaller rural villages and has limited services, it does have a public house, church and village hall and is located in relatively close proximity to Southwell and is connected to other more sustainable settlements through regular bus and train links.

Scale

- 7.6 The proposal would result in a net addition of three dwellings which is not considered to be high in numerical terms relative to the scale of Rolleston overall with further consideration of the physical characteristics of the site set out in the relevant sections below.

Need

- 7.7 The proposed dwellings would potentially support community facilities and local services in the local area. A further explanation of the need for the proposed dwellings is set out in the Housing Mix/Tenure section below.

Impact

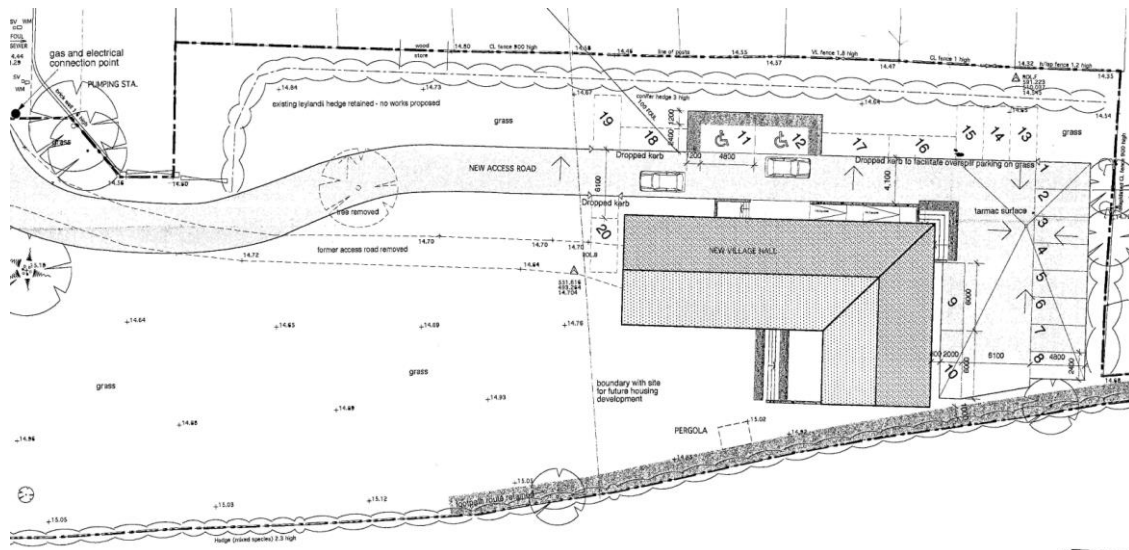
- 7.8 This element of the policy refers to ensuring that new development does not generate excessive car borne traffic or unduly impact on local infrastructure including drainage and sewerage etc. The impact on the highways network is discussed separately below.
- 7.9 Locally, there is concern that the development would worsen existing issues with the sewerage system in the village. Whilst it does not fall for this proposal to fix existing issues with the sewerage system, the impact on local infrastructure is a legitimate concern which requires consideration.
- 7.10 National planning guidance (an online resource known as the NPPG), states that where possible, preference should be given to multi-functional sustainable drainage systems and to solutions that allow surface water to be discharged according to the following hierarchy of drainage options:
1. into the ground (infiltration);
 2. to a surface water body;
 3. to a surface water sewer, highway drain, or another drainage system;
 4. to a combined sewer.
- 7.11 The application has been accompanied by a Drainage Strategy which confirms that based on the geology of the area, together with a potentially high water table, it is unlikely that permeable ground conditions are present at the site. As a result, the discharge of surface water runoff by infiltration based systems has been ruled out.

There are no open watercourses within the immediate vicinity of the site which could accept surface water run off from the site and therefore the only option available for the development would be to drain surface water to the public sewer network. Surface water drainage rate and new foul public sewer connections will be subject to agreement by Severn Trent Water through a separate Section 106 (Water Industry Act 1991) application.

7.12 Given the local concerns raised, a consultation has been undertaken with Severn Trent Water but unfortunately, no response has been received. Nevertheless, noting the drainage strategy submitted, I consider that the proposal has done enough to demonstrate that the dwellings could be adequately catered for in the existing network and ultimately any formal drainage approval would be controlled outside of the planning process.

7.13 Several neighbour comments have also raised concern regarding the impact that the proposed development would have on the village hall noting that as existing the site is informally used for overflow parking for village hall events (and thus if the site was no longer available for parking the use of the village hall would become less viable). In the context of Spatial Policy 8 (Protecting and Promoting Leisure and Community Facilities) and the NPPF, any detrimental impact to an existing community facility has the potential to weigh negatively in the overall planning balance.

7.14 The village hall was constructed through a 2004 permission (reference 04/00439/FUL) with the approved plan indicating a total of 20 parking spaces (including 2 disabled) on land to the east of the Hall (outside of the application site for this current application):



7.15 Having visited the site, not all of the spaces have been laid out as approved albeit there would remain some land available for further parking in the areas where spaces were originally approved:



- 7.16 It is noted a 2009 application (09/00001/FUL) for the erection of play equipment, construction of access road and hard surfaced play area / overspill car park indicated that part of this application site would be used for overspill parking for the village hall. However, this did not fall within the red line application boundary for that application and thus these spaces did not form part of the wider proposals (and indeed have not been provided on site).
- 7.17 Whilst I appreciate local concern in respect to this matter, in the absence of a highway safety objection, it would not be reasonable to resist the development of the site purely on the basis that the land would no longer be available for overspill parking when larger events are taking place within the hall. The parking which has been taking place on the application site is purely an informal arrangement and does not fall within the relevant permissions for the village hall.

Character

- 7.18 The criterion character of Spatial Policy 3 states that new development should not have a detrimental impact on the character of the location or its landscape setting. The impact on character is set out in more detail in the Impact on Visual Amenity section below.

Housing Mix/Tenure

- 7.19 Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. Core Policy 3 also states that the LPA will seek to secure new housing which adequately addresses the housing need of the district, namely family housing of 3 bedrooms or more, smaller houses of 2 bedrooms or less and housing for the elderly and disabled population. It goes on to say that the LPA will secure an appropriate mix of housing types to reflect the local housing need.

- 7.20 Based on a site area of 0.37 hectares, the development for 5 dwellings would lead to a development density of around 14 dwellings per hectares thereby below Core Policy 3 aspirations. However, it is noted that the current application is a re-submission of a previous scheme which was refused partly based on it being over intensive. The reduction in the number of units is therefore a direct attempt to overcome the previously identified harm and is welcomed noting the transitional nature of the site between the village and the open countryside.
- 7.21 The development is being put forward as part of a building programme by Newark and Sherwood District Council to deliver approximately 360 new affordable dwellings across the District to directly meet affordable housing need. All of the proposed dwellings would be for affordable purposes which will assist in meeting the District's overall affordable housing delivery (as required by Core Policy 1 – Affordable Housing Provision).
- 7.22 In May 2020 Midlands Rural Housing conducted a follow-up survey to an original 2016 survey relating to the housing needs of Rolleston to confirm the need for affordable and open market housing that exists in the village. The results of the survey were combined with information from the housing needs register and, in total, a need was identified for 10 affordable homes and for 3 open market homes in the village.
- 7.23 The affordable houses forming this proposal would make a meaningful contribution towards the need identified in the village as well as contributing to the overall affordable housing delivery in the District. This represents a significant benefit of the proposal.

Impact on Flood Risk

- 7.24 Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. The NPPF states when determining planning applications, the Local Planning Authority should ensure flood risk is not increased elsewhere. It is stated that decision makers should only consider development appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the sequential test, and if required the Exception Test, it can be demonstrated that development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant.
- 7.25 Whilst the part of the site proposed to accommodate the housing does not fall within Flood Zone 2 or 3 its access/egress arrangements do. Based on current mapping during a flood event of sufficient magnitude the part of the site proposed for development would risk being effectively cut-off from the surrounding area. I note that the public right of way passing through the site does enable a pedestrian escape route to the main road and a flood zone 1 area to the north east of the site – however this would be restricted to pedestrians as opposed to vehicles. As such, it is still necessary to apply the sequential test (an approach supported by the Inspector in determining the appeal for application reference 20/01807/OUT where similarly the area at risk of flooding was the site access).

- 7.26 The Planning Practice Guidance states *'Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. Application of the sequential approach in the ...decision-making process will help to ensure that development is steered to the lowest risk areas, where it is compatible with sustainable development objectives to do so.'* (Paragraph: 023 Reference ID: 7-023-20220825).
- 7.27 Applying the Sequential Test however is normally applied District wide and for that the Council has a proven 5-year housing land supply whereby it would not be reliant on the use of land at risk of flooding for the supply of housing. However, the Planning Practice Guidance states that:
- 7.28 *For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. Equally, a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location.* (Paragraph: 027 Reference ID: 7-027-20220825).
- 7.29 An updated Sequential Test document has been submitted throughout the application (the original submission included a document which is now over three years old).
- 7.30 This has changed the emphasis in comparison to the original document now stating that the Test has been restricted to Rolleston on the basis of the housing needs for the village. Essentially there are large areas of Rolleston that are within Flood Zones 2 and 3 and therefore in the context of the PPG paragraph above, there is unlikely to be reasonable alternatives for the development within the settlement of Rolleston.



- 7.31 The above flood risk map covering the village does show that there is an island within Flood Zone 1 with the village being surrounded by areas within Flood Zones 2 and 3. The majority of Staythorpe Road is at risk at flooding and therefore it is likely that the development of most of the area within Flood Zone 1 would have the same issue as the application site that the access would be at risk of flooding (and therefore would be no more sequentially preferable compared to the application site).
- 7.32 It is notable that the District Council has resisted the restriction of the Sequential Test on the basis of housing need in the past, an approach which has been supported by the Planning Inspector (namely an application for 4 market dwellings in Sutton on Trent – 19/00868/FUL). However, I accept there are material differences here, specifically that the current proposal relates to affordable housing and that the dwellings themselves would be in Flood Zone 1 (the Sutton on Trent scheme were all market properties proposed in Flood Zone 2).
- 7.33 It is also material that the national guidance has changed since the Sutton on Trent decision with the indication that there will be cases where local circumstances will legitimately restrict the area of the Sequential Test.
- 7.34 Based on the site specific factors relevant to this application (i.e. the housing needs of the village and that the dwellings themselves are within Flood Zone 1) the restriction of the revised Sequential Test to the extent of Rolleston is deemed appropriate. Given the large areas of the village affected by Flood Zones 2 and 3, it is accepted that there would be no other sites within the village which could reasonably accommodate the

scale of the development proposed. The Sequential Test is therefore considered to be passed.

- 7.35 The proposed development is defined as 'more vulnerable' within Table 2 of the Technical Guidance to the NPPF. The application submission suggests that addressing the unmet need for new housing in the village is a significant benefit to the community that outweighs the identified flood risk thereby complying with the first element of the exception test. A site specific flood risk assessment sets out proposed mitigation including the setting of finished floor levels above existing ground levels and flood evacuation plans.
- 7.36 The Environment Agency have been consulted on the application and have raised no objections acknowledging that the proposed dwellings are not located within Flood Zone 2 or 3.
- 7.37 The mitigation measures set out within the Flood Risk Assessment could be secured by condition. It is accepted that there may be additional pressure on the emergency services in a flood event noting that there is no means for vehicles to exit the site without entering an area at risk of flooding but it is equally accepted that the dwellings themselves should provide safe refuge and that the public right of way passing through the site does enable a pedestrian escape route to the main road and a Flood Zone 1 area to the north east of the site.
- 7.38 Based on the above, it is not considered reasonable to resist the proposal on flood risk grounds.

Impact on Visual Amenity

- 7.39 Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design of an appropriate form and scale to its context complementing the existing built and landscape environments (in line with Core Policy 13 – Landscape Character). Policy DM5 of the DPD requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. Policy DM5 also states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. It also states that proposals creating backland development will only be approved where they would be in-keeping with the general character and density of existing development in the area, and would not set a precedent for similar forms of development, the cumulative effect would be to harm the established character and appearance of the area. Inappropriate backland and other uncharacteristic forms of development will be resisted.
- 7.40 The site is located in a mixed-use area with a range of building types and sizes. The nearest residential properties comprise a mixture of more modern brick semi-detached dwellings albeit there are some larger detached and smaller terraced properties in the vicinity.

- 7.41 Whilst the proposal would represent a form of backland development partially on land not previously developed, there are already examples of backland development in the vicinity including the cluster of dwellings directly to the south of the site. As such, the proposed layout and density is broadly consistent with the pattern of housing development in the vicinity.
- 7.42 As existing the site is predominantly an open attractive landscape other than the existing residential dwellings which exist within the site. Mature trees form the focal point for the entrance into the site. The bungalows which exist are of modern construction and no architectural merit which would warrant concern to their demolition in principle.
- 7.43 As is noted above, the proposal is a re-submission of a previously refused scheme for a greater quantum of development. Part of the reason for refusing the previous application was that it did not adequately respond to the rural edge of the settlement location. In reducing the quantum of development from a total of 8 units to 5 units, the current application would have significantly more retained green space (primarily to the north eastern end of the site).
- 7.44 The proposed access and associated turning head would represent perhaps the most engineered and visually harsh element of the development which unfortunately still necessitates the removal of existing attractive and focal trees. However, it is difficult to see how else this could be designed noting that a field access along the eastern boundary is required to be retained. The lesser number of units does at least allow extra space for softer areas of landscaping around the access (and more retained trees overall). It is also of note that the previous application was not refused due to the loss of the trees on the site.
- 7.45 The dwellings themselves would have a relatively modern appearance and use of materials as well as sustainability benefits such as the inclusion of solar panels. Plot 4 would occupy a relatively prominent position on approach into the site and therefore Officers have negotiated the design of this plot be changed to have a dual frontage to add visual interest. The garden fences for Plots 4 and 5 have also been amended to be walls with fencing above to soften the impact on the retained areas of open space.
- 7.46 At present there is a public right of way which runs along most of the eastern boundary of the site (taking access from the Greenaway). The original plans were not clear as to the intentions of whether or not the footpath was proposed for diversion but the updated site layout plan shows that it would be retained as existing (following the proposed pavement up to the site boundary).

Impact on Ecology and Trees

- 7.47 Core Policy 12 of the Core Strategy and Policy DM7 of the DPD 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.

- 7.48 An ecological appraisal has been submitted with the application noting that the site has the potential for ecological interest. The report acknowledges that the site is largely composed of regularly mown modified grassland along with hedgerows and individual trees. The document has been reviewed by the Council's Ecologist who has noted that despite being undertaken 16 months before the application submission, it would be adequate in terms of the habitats present on site (based on recent photos confirming this).
- 7.49 However, the approach taken to the assessment of the buildings for potential to support roosting bats is not supported and further surveys were requested in this respect.
- 7.50 Surveys were undertaken in April 2024 focusing on the two existing bungalows proposed for demolition. The bungalows were recorded in good condition externally with no potentially roosting features present within any elevation of the properties. An internal inspection was carried out for one of the two bungalows (the one that is currently occupied) but as with previous survey works, no access was available to the vacant bungalow for an internal inspection. The conclusions of the survey works are that both bungalows have been categorised as providing negligible suitability for supporting roosting bats. No further survey is therefore deemed necessary.
- 7.51 The Council's appointed Ecology Officer has accepted the reason for not accessing the vacant bungalow (the lock has not been changed since it became vacant circa 6 years ago and keys are no longer available). It is concluded that it would be unlikely that internal access to the unoccupied bungalow would result in a change to the assigned 'negligible suitability' to support roosting bats. Sufficient information to discharge our statutory duty regarding protected species has been provided and the proposed development would not result in any impacts on bats. The proposed bat boxes shown on the site plan could be secured by a Biodiversity Management Plan (BMP) condition.
- 7.52 The application was submitted prior to Biodiversity Net Gain (BNG) legislation coming into force and therefore there is no requirement for the application to provide a BNG calculation. Compliance against Core Policy 12 can be assessed by other means, namely assessment of the Ecological Appraisal. The precautionary measures set out through the appraisal can be secured by a Construction and Environmental Management Plan (CEMP). Subject to the conditions discussed, the proposal complies with Core Policy 12 and Policy DM7.
- 7.53 A revised Arboricultural report has also been submitted during the application noting that the previous version related to the layout of the previous application which was refused. The revised report is based on a survey undertaken on 18th March 2024. The majority of the trees have been assessed as either Category C or Category U with the exception of one Sycamore tree on a neighbouring property which was assessed as Category B (this is the tree subject to protection through a TPO). A number of trees would need to be removed to facilitate the development:

Impact on trees	Category A trees	Category B trees	Category C trees	Category U trees
Unaffected.	None	9	1, 2, 4, 5, 8, 10	3
Within the footprint of development.	None	None	7	None
Unacceptable encroachment into the crowns.	None	None	None	None
Unacceptable encroachment into the RPAs.	None	None	6	None

- 7.54 This represents a higher level of tree retention when compared to the previously refused scheme. The report sets out a number of protection measures for the trees which are intended to be retained which could be secured by condition. There is also a greater opportunity for additional planting.
- 7.55 The Council's Tree Officer has raised concerns that the full impact of the development has not been properly assessed in that future growth of the existing trees has not been taken into account. Specifically in relation to T9 (the TPO tree on adjacent land) there are concerns that the growth of the tree would lead to shading of the garden to Plot 1 which eventually will lead to pressure to fell the tree. Other retained trees are predominantly away from residential curtilages next to the road layout. Whilst there may be some need for future trimming, given they won't affect a specific property, any risk for future felling is considered low.
- 7.56 It is accepted that tree T9 may lead to some shading to the garden of Plot 1, however, this will occur in the late afternoon / early evening leaving a greater proportion of the day where the south facing garden would be unaffected by the tree. In respect to future growth, I am conscious that there are already two bungalows in this part of the site and therefore these impacts are likely to occur for two residential properties irrespective of whether they are the existing or proposed bungalows. Taking this into account, I do not consider that it would be reasonable to resist the proposal purely on the potential impacts of this tree. The potential impacts on this tree were considered in the assessment of the previous scheme. It is noted that Members did not reference impacts to trees in their previous refusal. Given the less intensive form of development proposed here, in my view it would be unreasonable to do so in this application.
- 7.57 Subject the conditions to secure mitigation and additional planting, the proposal would comply with Core Policy 12 and Policy DM7.

Impact on Highways including Public Right of Way

- 7.58 Spatial Policy 7 indicates that development proposals should be appropriate for the highway network in terms of the volume and nature of traffic generated and ensure the safety, convenience and free flow of traffic using the highway are not adversely affected; and that appropriate parking provision is provided. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.
- 7.59 All of the proposed dwellings would be accessed via The Greenaway through a shared access. NCC have commented on the access arrangements which have been subject to a number of revisions throughout the application. Specifically, revisions to the footway have been made and the upgrade of part of the access into the village hall where it leaves what will be the adopted highway for the development. Based on the latest plans NCC have no objections subject to conditions, the majority of which are considered reasonable (subject to some tweaks to the wording to ensure they would be enforceable). One of the conditions suggested relates to measures to prevent the deposit of debris on the highway. This would be controlled by other highways legislation and therefore is not considered reasonable to impose (but can be referred to in an informative). It is also not considered reasonable to insist on details of electric vehicle charging points since this would be controlled through Building Regulations.
- 7.60 The Council has adopted a Supplementary Planning Document for Residential Cycling and Parking Standards. Numerically, the proposal achieves the level of parking provision required by the SPD. The spaces would also meet the requirements of the SPD in terms of their size. The site plan includes details showing each garden would have a small metal shed which would be suitable to store cycles. Whilst there is no specific allowances for visitor parking, there are existing spaces along the Greenaway which would be retained and would serve for that purpose if required. It is noted that this formed part of the reason for refusal on the previous scheme but that was for a greater number of dwellings. In resolving the other areas of harm identified, it is not considered that a lack of visitor parking would be a strong enough reason for refusal in its own right.
- 7.61 There is an existing public footpath which runs through Greenaway and then in a north easterly direction along the boundary of the site. The latest plans show that the footpath would be retained in its current alignment running alongside the side of Plot 5. NCC Rights of Way team have commented on the proposals throughout the application ensuring that a wider corridor has been provided (to prevent the path becoming an unsafe narrow alleyway). An informative could be added to ensure that the applicant is aware of their responsibilities in terms of keeping the existing right of way undisturbed (unless facilitated by a temporary closure).

Impact on Residential Amenity

- 7.62 Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF promotes 'an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions'.

- 7.63 Being at the edge of the village, the site would have limited impacts on existing neighbouring residential properties. Plot 4 would be closest to the dwellings on Staythorpe Road but still over 45m away.
- 7.64 The gable end of Plot 1 would be just 12m away from the two storey side gable of no. 12 which has two obscurely glazed windows. There would be a first floor window on the side gable but this is annotated as being obscurely glazed which could be conditioned. This would prevent overlooking between the two properties (albeit this would be low risk anyway given the neighbouring windows are obscurely glazed).
- 7.65 The original plans showed that the dormer bungalows for Plots 1 and 2 would have their first floor bedroom served just by rooflights and a small obscurely glazed window. It was therefore suggested that the design of the bungalows be altered to have a dormer window on the principal elevation which has been incorporated into the revised plans. This is a benefit to the occupiers of the units but also will protect the residential amenity of the neighbouring dwellings to the south.
- 7.66 Plot 3 would be close to the neighbour to the south at 2 Gorse View (around 15m built form distance) but plot 3 is proposed to be a true single storey bungalow and this relationship would not be dissimilar to the existing relationship with the existing bungalows. The neighbouring dwelling is two storey and has a blank gable end facing the site.
- 7.67 Despite concerns raised through the consultation process, in respect to the revised plans, no amenity harm has been identified to neighbouring plots given in part the height of the proposed dwellings and also the distances mentioned.
- 7.68 Each of the dwellings would be afforded an area of garden space to the rear which would be private by the proposed use of boundary treatments. These vary in size but would be broadly commensurate with the size of the dwellings proposed. I have considered whether or not it would be appropriate to remove permitted development rights for the proposed dwellings but do not consider it to be reasonable or necessary in this case. The size of the gardens would likely restrict the desire for significant extensions in any case but I can see no automatic harm arising if individual occupiers did intend to take advantage of permitted development rights.
- 7.69 Overall the proposal would comply with the amenity considerations of Policy DM5.

Other Matters

- 7.70 The boundary of the site is adjacent to the existing village hall. The proximity of the village hall formed part of the reason for the refusal of the previous scheme on the site. However, unlike the previous application, it is no longer proposed for residential curtilages to be adjacent to the shared boundary. Paragraph 193 of the NPPF states:
- 7.71 *Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship,*

pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

- 7.72 Colleagues in Environmental Health have confirmed that the village hall has a licence permitting regulated entertainment until midnight 6 days a week and until 10:30pm on Sundays. The hall could therefore reasonably be used for events such as weddings which would create noise into the evenings. The access for the hall would also be partly shared with the accesses to the dwellings meaning that the occupiers are likely to experience disturbance from comings and goings associated with the hall. There is also a play area adjacent to the village hall which could also create noise impacts.
- 7.73 It is noted that the hall is already close to other residential properties in the village. The revised application presented for consideration here would mean that there would be around 30m between the boundary of the village hall and the rear boundaries of Plots 4 and 5 but a greater distance of approximately 40m between built form. Given the scale of the village hall to serve a local community, this distance is considered sufficient to alleviate concerns of noise nuisance.
- 7.74 Nevertheless, given the potential for late night noise from events at the hall, it is considered necessary (as confirmed by discussions with Environmental Health Officers) to impose a condition seeking sound insulation and attenuation measures for the proposed dwellings.
- 7.75 The Council's Environmental Health Officer has commented acknowledging that the site is low risk and so an overarching land contamination condition is not required. They have however requested that the certification of imported material should be controlled by condition.
- 7.76 Neighbour comments have referred to other applications in the village which have been refused (namely outline applications). None of these are considered directly comparable to the detailed scheme at hand here. Each application must be considered on its own merits and the previous decisions referred to are not considered material to this application.

8.0 Implications

- 8.1 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

- 9.1 It is accepted that the site is within the village of Rolleston and that the residential development of the site is acceptable in principle. The proposal includes 5 affordable dwellings which would make a meaningful contribution to the specific local housing needs of the village.
- 9.2 The access to the site would be at risk of flooding but the dwellings themselves would be in Flood Zone 1 according to the Environment Agency maps. Based on the information provided to support the application, and taking account to changes within national planning guidance, Officers are satisfied that the extent of the Sequential Test can be restricted to Rolleston and that there are no other reasonably available sites within Rolleston that could deliver the development proposed. Subject to appropriate mitigation being secured by condition, matters of flooding are considered acceptable.
- 9.3 The application has been subject to numerous amendments which has led to some design improvements. However, as is detailed in the appraisal, there remain some compromises to the overall design approach, namely the tree removal necessitated through conflict with built form, albeit this was not a reason for refusal previously and the overall scheme will see a greater number of trees retained in comparison.
- 9.4 It is notable that there is also local concern in respect to the potential impacts on the long term usage of the village hall should this development come forward. Officers acknowledge that the proposed occupiers are likely to experience some noise and disturbance through events at the village hall due to the proximity to the site. However, this is mitigated through the conditions recommended by Environmental Health.
- 9.5 Other matters such as impact highways have been found to be acceptable by Officers albeit it is appreciated that there remains local concern in respect to these issues.
- 9.6 Taking all matters into account, it is considered that the revised scheme has successfully overcome the areas of harm through the previous refusal and should be approved subject to the conditions below.

10.0 Conditions

01

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

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

02

No part of the development hereby permitted shall take place until details of the new road have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross-sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any proposed structural works. The development shall be implemented in accordance with the approved details to the satisfaction of the Local Planning Authority.

Reason: To ensure the development is constructed to adoptable standards.

03

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To secure development that protects the District’s ecological and biological assets, with particular regard to priority habitats, and which maximises opportunities to conserve and enhance biodiversity in accordance with the Newark and Sherwood Amended Core Strategy, Core Policy 12 Biodiversity and Green Infrastructure (2019).

04

Prior to the commencement of the development, a Biodiversity Management Plan (BMP) shall be submitted to and be approved in writing by the Local Planning Authority.

The content of the BMP shall include the following:

- a) The location and summary description of the features to be maintained and/or enhanced, or created;

- b) The proposed actions to maintain and/or enhance or create the features, and the timing of those actions;
- c) The proposed management prescriptions for those actions;
- d) Where appropriate, an annual work schedule covering a 5-year period (with the view that management proposals would be reviewed every 5 years);
- e) Identification of who will be responsible for implementing the BMP; and
- f) A schedule for monitoring the implementation and success of the BMP, this to include monitoring reports to be submitted to the Local Planning Authority at appropriate intervals. The provision of the monitoring reports shall then form part of the planning condition.

The approved BMP shall then be implemented in accordance with the approved details therein.

Reason: To secure development that protects the District's ecological and biological assets, with particular regard to priority habitats, and which maximises opportunities to conserve and enhance biodiversity in accordance with the Newark and Sherwood Amended Core Strategy, Core Policy 12 Biodiversity and Green Infrastructure (2019).

05

Prior to the importation of any soil material into the site, the imported material shall be tested in compliance with YALPAG Verification Requirements for Cover Systems (Ver 4.1) document as evidenced through a validation report to be submitted to and agreed in writing with the Local Planning Authority. The material shall thereafter be brought onto the site in accordance with the approved details.

Reason: To ensure that matters of land contamination are adequately dealt with.

06

No dwelling hereby approved shall be occupied until the metal shed (cycle storage facility) for that dwelling has been provided as shown for on plan 655-SGA-091-SL-DR-A-00002 P13 Site Plan and Site Location Plan.

Reason: In the interest of promoting sustainable transport.

07

No part of the development hereby permitted shall be brought into use until the adoptable access road to the site has been completed and surfaced in a bound material in accordance with details to be first submitted and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

08

No part of the development shall be brought to use until a new footway connection has been provided along the Greenaway separating the off-street parking bays with the carriageway as shown for on plan 655-SGA-091-SL-DR-A-00002 P13 Site Plan and Site Location Plan.

Reason: In the interest of pedestrian safety.

09

No part of the development hereby permitted shall be brought into use until all private drives and any parking or turning areas are provided and surfaced in a hard bound material (not loose gravel)- The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.

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

10

No part of the development hereby permitted shall be brought into use until the access driveways and parking areas are constructed with provision to prevent the discharge of surface water from the driveway/parking areas to the public highway in accordance with details first submitted to and approved in writing by the Local Planning Authority. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development. Any proposed soakaway shall be located at least 5.0m to the rear of the highway boundary.

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

11

Notwithstanding the submitted details, the dwellings hereby permitted shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of new trees and hedging to compensate for losses noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species. For the avoidance of doubt, size shall be 12-14cm girth nursery stock;
- details of new boundary treatments, including gates (height and appearance);
- existing and proposed levels;
- details of any other means of enclosure;
- permeable driveway, parking and turning area materials;
- other hard surfacing materials.

The approved planting scheme shall thereafter be carried out within the first planting season following approval of the submitted details and the commencement of development. If within a period of seven years from the date of planting any tree, shrub, hedging, or replacement is removed, uprooted, destroyed, or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written consent of the Local Planning Authority.

The approved hard landscaping elements shall be provided on site prior to the occupation of the development and thereafter retained for the lifetime of the development.

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

12

Notwithstanding the submitted details, no works or development shall take place until an updated arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the Local Planning Authority. This scheme shall include:

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers.
- c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on the application site.
- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows including details of hand digging of the re-aligned footpath (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on the application site.
- f. Details of any scaffolding erection and associated ground protection within the root protection areas
- g. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

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

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

13

The dwellings hereby approved shall not be occupied until details of sound insulation and attenuation measures for the dwellings have been submitted to and approved in writing by the Local Planning Authority. The measures shall have particular regard to the noise associated with amplified music from the village hall to the north-east of the site.

The agreed details shall be implemented prior to the occupation of the dwellings hereby approved and thereafter retained for the lifetime of the development.

Reason: In the interests of residential amenity and to protect the operations of the existing adjacent commercial use.

14

The development hereby approved shall be carried out in accordance with the mitigation measures outlined in the Flood Risk Assessment & Drainage Strategy – 20-0622 dated 26 March 2024, including but not limited to:

- The prospective site management should register to receive flood warnings;
- The Flood Warning & Evacuation Plan for the site should be brought into place prior to occupation of the development.

Reason: To protect the occupiers in a flood event.

15

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

- 655-SGA-091-SL-DR-A-00002 P13 Site Plan and Site Location Plan;
- 655-SGA-091-XX-DR-A-00003 P1 Bungalow Plans and Elevations;
- 655-SGA-091-XX-DR-A-00004 P5 Dormer Bungalow Elevations;
- 655-SGA-091-XX-DR-A-00005 P5 Dormer Bungalow Floor Plans;
- 655-SGA-091-XX-DR-A-00006 P5 2 Bedroom House Elevations;
- 655-SGA-091-XX-DR-A-00007 P6 2 Bedroom House Floor Plans;

Reason: So as to define this permission.

16

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application.

Reason: In the interests of visual amenity.

17

Prohibited activities

The following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on the proposal site.
- b. No equipment, signage, fencing etc. shall be attached to or be supported by any retained tree on the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals outside of existing areas of hardstanding within the application site.
- e. No soak- aways to be routed within the root protection areas of any retained tree/hedgerow on the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

Reason: To ensure that adequate protection is afforded to the existing vegetation and trees to remain on site, in the interests of visual amenity and biodiversity.

18

No site clearance works including building or shrubbery removal shall take place and no tree shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless a precautionary pre-start nesting bird survey has been carried out by a qualified ecologist/ornithologist and agreed in writing by the Local Planning Authority.

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

19

The first floor window opening on the north western elevation of Plot 1 shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.

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

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

www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

02

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

03

Section 38 Agreement (Highways Act 1980) – new road details

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

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

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

04

Section 278 Agreement (Highways Act 1980)

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

The applicant should email hdc.north@nottsc.gov.uk to commence the technical approval process, prior to submitting the related discharge of conditions application. The highway authority is unlikely to consider any details submitted as part of a discharge of conditions application prior to technical approval of the works being issued.

05

Building Works shall not project over the highway

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

06

Prevention of Mud on the Highway

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

07

Signs

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

08

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions

Prior to carrying out works, including the construction of access points, please register on www.linerearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

09

The Rights of Way Team have no objection to the proposal however please make the applicant aware of the following:

There should be no disturbance to the surface of the footpath without prior authorisation from the Rights of Way team.

The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route on should be provided if possible.

10

You are advised that you may require building regulations approval in addition to the planning permission you have obtained. Any amendments to the 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.

East Midlands Building Control operates as a local authority partnership that offers a building control service that you may wish to consider. You can contact them via email at info@eastmidlandsbc.com via phone on 0333 003 8132 or via the internet at www.eastmidlandsbc.com.

BACKGROUND PAPERS

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

Application case file.



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Report to Planning Committee 6 June 2024

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Honor Whitfield, Planner (Development Management)

Report Summary			
Application No.	24/00088/FUL		
Proposal	Proposed additional 5no pitches for gypsy/traveller use.		
Location	Shady Oaks, Eagle Road, Spalford		
Applicant	Tom Holmes	Agent	N/A
Web Link	24/00088/FUL Proposed additional 5no pitches for gypsy/traveller use. Shady Oaks Eagle Road Spalford (newark-sherwooddc.gov.uk)		
Registered	18.03.2024	Target Date	13.05.2024
		Extension Agreed	14.06.2024
Recommendation	That Planning Permission is <u>APPROVED</u> subject to the condition(s) detailed at Section 10.0		

The application is referred to the Planning Committee at the discretion of the Business Manager.

1.0 The Site

1.1 The application site, approximately 0.18ha in area, relates to the western half of a broadly rectangular parcel of land which is located to the east of the settlement of Spalford on the south side of Eagle Road. The site is set back approx. 7m from Eagle Road behind a grass verge and mature planting.

1.2 The northern, southern and eastern boundaries are bounded by a substantial belt of mature conifer trees and the eastern boundary is open to the remainder of the larger rectangular plot. The eastern half of the site is laid out for the four pitches approved under 21/02528/FUL and the access track extends through the application site to join the existing access (which is outside of the previous application site) in the north-west corner of the site which leads directly off Eagle Road (marked by brick piers and low wall supporting timber 5 bar gates).

1.3 The site extends to include the access through the eastern part of the site, onto a

private unmade single track which then leads to a junction with Eagle Road which has an existing gated access.

- 1.4 The application site is located within Flood Zone 3a and the rest of the rectangular plot to the east (beyond the red line site) is Flood Zone 2 as defined by Environment Agency data maps, which means the application site is at high risk of fluvial flooding. The site is also at risk from surface water flooding. In addition, the site (and Spalford) benefits from a flood defence (ref. 24,375) which lies to the west – this matter is explained further in the relevant section of this report.
- 1.5 To the north of the site, beyond Eagle Road is an agricultural field, to the south of the site are horse paddocks, accessed via the same private track from Eagle Road serving the application site, to the east of the site is a smaller grassed field, beyond which is a dwelling known as Sandycroft (approx. 35m away). To the west of the site is a private access road leading to Croft House to the south-west (approx. 180m away). There is also an existing property to the north-west of the site, known as Tree Tops (approx. 75m away), on the opposite side of Eagle Road.
- 1.6 Site Constraints:
 - Flood Zone 3a
 - Open Countryside

2.0 Relevant Planning History

- 2.1. 21/02528/FUL (relates to the land immediately to the east of this application site) - Change of use of land to provide 4 pitches (1 static and 1 touring caravan and two parking spaces on each pitch) hardstanding and associated infrastructure for members of the Gypsy and Traveller community – refused March 2022 on grounds of suitability of location in the open countryside, the effect on the character and appearance of the area and whether any harm would be outweighed by other considerations. Allowed at Appeal¹ 07.02.2023 – permission implemented.
- 2.2. 19/01810/FUL (relates to the application site *and* the land immediately to the east of this application site)- Erection of detached house (resubmission of 18/02010/FUL), refused 08.11.2019 on grounds of harm to open countryside and flood risk. Appeal was dismissed 12.10.2020
- 2.3. 18/02010/FUL (relates to the north-west side of the application site) – Erection of detached house, refused 07.05.2019 on grounds of harm to open countryside and flood risk.
- 2.4. 14/02071/FUL (relates to the application site *and* the land immediately to the east of this application site)- – Erection of stable block, approved 24.03.2015.

3.0 The Proposal

- 3.1 The application seeks permission for the material change of use of the land to form 5

¹ Appeal Decision: <https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=51135051>

gypsy and traveller pitches on a permanent basis.

- 3.2 The submitted layout shows one static and one tourer caravan to be located on each pitch in addition to hardstanding which would provide two parking spaces per pitch. The pitches range in area from approx. 354 sqm up to 393 sqm in area.
- 3.3 Two pitches are proposed on the northern side of the central access road that runs in an east-west direction and three pitches are proposed on the southern side. Access would be taken from the existing access through the eastern side of the site on to Eagle Road and a turning head would be provided within the site. The existing access onto Eagle Road in the north-west corner of the site is showing as being closed.
- 3.4 The pitches would be made up of a combination of hardstanding shingle material and grass. There are boundary treatments shown between pitches on the submitted plan (which are indicated to be formed by planting).
- 3.5 The existing (authorised) pitches are also shown on the eastern side of the site where there is also a waste/recycling bin storage area. A septic tank has also been installed on the site (to serve the authorised pitches) which would continue to be used for this proposal.

NB: All measurements above are approximate.

- 3.6 Documents assessed in this appraisal:
 - Application Form
 - Planning Statement (15.01.2024)
 - Flood Risk Assessment (11.03.2024)
 - Existing Site Plan and Site Location Plan – Ref. 2311-01 Rev. G
 - Proposed Site Plan – Ref. 2311-02 Rev. F

4.0 Departure/Public Advertisement Procedure

- 4.1 Occupiers of 12 properties have been individually notified by letter. A site notice has also been displayed near to the site.
- 4.2 Site visit undertaken on: 09.04.2024

5.0 Planning Policy Framework

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

Spatial Policy 1 – Settlement Hierarchy
Spatial Policy 3 – Rural Areas
Spatial Policy 7 – Sustainable Transport
Core Policy 4 – Gypsies and Travellers – New Pitch Provision
Core Policy 5 – Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople
Core Policy 9 – Sustainable Design
Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

5.2. **Allocations & Development Management DPD (2013)**

DM5 – Design

DM8 – Development in the Open Countryside

DM12 – Presumption in Favour of Sustainable Development

5.3. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage of preparation albeit the DPD is yet to be examined. There are unresolved objections to amended versions of policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

5.4. **Other Material Planning Considerations**

National Planning Policy Framework 2023

Planning Practice Guidance

NSDC Plan Review Publication Amended Allocations & Development Management DPD, Nov 2022

Gypsy and Traveller Accommodation Assessment, Feb 2020

The Equality Act 2010

Human Rights Act 1998

Planning Policy for Traveller Sites (PPTS) – 2015 (summarised below):

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

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

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

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

Weight should also be attached to:

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

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

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

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

6.0 Consultations and Representations

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

Statutory Consultations

- 6.1. The Environment Agency – No objection subject to conditions.
- 6.2. NCC Highways Authority – No objection subject to conditions.

Town/Parish Council

- 6.3. Spalford Parish Meeting – Object. Concerns raised:
 - Queries about the existing permission and number of caravans on site, concerns that there are 8 static caravans where only 4 statics were permitted with 4 touring vans. This is in breach of condition 10 of the planning permission.
 - Highways:
 - The increase in pitches will increase the traffic on the road and erode the rural character of Eagle Road.
 - Concerns that the existing site has not been laid out in accordance with the approved drawings for parking spaces.

- Concerns that the existing access to the east is unsafe as it exits onto an unmade track and that the north-west access onto Eagle Road is unsafe as it is on a bend.
- Settled Residents: concerns that the residents of Spalford need time to adjust to the changes that the original application has caused. This additional application will change the balance and demographic of Spalford.
- Infrastructure: there is no infrastructure to support additional residents in Spalford.
- Flooding: Concerns relating to the flood risk on the site and potential increase in flood risk to third parties.
- Character:
 - Concerns about the impact on the nature of the open and rural countryside.
 - Adverse visual impact on the site and Spalford.
- Policies:
 - The application does not accord with NSDCs policies and strategic planning.

Representations/Non-Statutory Consultation

- 6.4. NSDC Environmental Health – No comments to make.
- 6.5. Trent Valley Internal Drainage Board - General standard comments regarding watercourses, septic tanks, when the Board's consent is required, riparian responsibilities and soakaways.
- 6.6. Comments have been received from **FOUR** third parties/local residents that can be summarised as follows:
- Queries about the existing permission and number of caravans on site, concerns that there are 8 static caravans where only 4 statics were permitted with 4 touring vans. This is in breach of condition 10 of the planning permission.
 - Highways:
 - The increase in pitches will increase the traffic on the road and erode the rural character of Eagle Road.
 - Concerns that the existing access to the east is unsafe as it exits onto an unmade track and that the north-west access onto Eagle Road is unsafe as it is on a bend.
 - Character:
 - Concerns about additional light and noise pollution.
 - The visual impact of the site upon Spalford.
 - Concerns that the gates at the Eagle Road access look commercial.
 - Flooding:
 - The potential to elevate flood risk to surrounding land and properties.
 - Concerns that existing infrastructure within Spalford such as sewerage networks will be adversely affected.
 - Sustainability:

- Lack of facilities and infrastructure within Spalford to support the site.
- Impact of expansion on the population of Spalford/over-dominance of the settled community.
- Policies:
 - The application does not accord with NSDCs policies and strategic planning.

7.0 Comments of the Business Manager – Planning Development

7.1. The key issues are:

- Principle of Development
- Sustainability
- Impact on the Character and Appearance of the Area, Heritage Assets and Ecology
- Impact on Residential Amenity
- Impact on Highways Safety
- Impact of Flood Risk
- Other Matters

7.2. The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 (Presumption in Favour of Sustainable Development) of the Allocations and Development Management DPD (2013).

Background Information & Preliminary Matters

7.3. This application proposes the expansion of the site granted permission in February 2023 under 21/02528/FUL, following appeal.

7.4. As set out in para. 5.3 of this report, the Draft Amended Allocations & Development Management DPD (ADMDDPD) was submitted to the Secretary of State on the 18th January 2024 and is therefore at an advanced stage of preparation. Whilst the preparation of the Amended ADMDDPD has moved on since the February appeal decision this is not to the extent where the emerging Gypsy and Traveller strategy can be afforded any more weight. There remain unresolved objections against fundamental parts of the proposed strategy, without which the identified needs of the District's Traveller communities would not currently be able to be met or a five-year land supply demonstrated. Consequently, many of the judgements which the Inspector made in this recent appeal remain relevant.

7.5. Officers noted at a recent site visit that there were 8 static caravans present on the adjacent site which is in breach of one of the conditions attached to the (appeal) permission which limits each pitch to containing one static caravan and one touring caravan. Given this is on the adjacent site, outside of the application site boundary, it

will be investigated and pursued separately under the Council's Enforcement procedures.

Principle of Development

- 7.6. The District Council, as Local Planning Authority, has a duty to provide sites on which Gypsy and Travellers (G&Ts) can live. The Gypsy and Traveller Accommodation Assessment (GTAA) for the District demonstrates a minimum requirement for 169 pitches to meet the needs of Travellers between 2013-33 (118 pitches of this overall 169 minimum requirement would be necessary to meet the needs of 'planning definition' Traveller households, as defined within Annex 1 of the National Planning Policy for Traveller Sites). Through the *Lisa Smith v The Secretary of State for Housing, Communities and Local Government and others* [2021] EWHC 1650 (Admin) legal case, the planning definition within Annex 1 was found to be unlawfully discriminatory. Due to its exclusion of Gypsies or Travellers who have permanently ceased to travel due to old age, disability or due to caring responsibilities. No amendments have been made to national policy following the legal decision, and so accordingly there is a lack of clarity over what local pitch target should form the basis for calculation of the five-year land supply test, as required as part of the Planning Policy for Traveller Sites (PPTS). Whether this should still be calculated on the basis of the planning definition, or from the overall minimum requirement.
- 7.7. Either local target would reflect a heavy skewing towards that first five-year tranche – due to the need to address unauthorised and temporary development, doubling up (i.e., households lacking their own pitch) and some demographic change within that timespan (i.e., individuals who will be capable of representing a household by the time 2024 is reached). The Council's latest monitoring data shows that since 2019 there have been 3 completed pitches, and there are a further 39 pitches with an extant planning permission² capable of being implemented (this includes those pitches on the adjacent land granted consent at appeal). In overall terms this leaves us with a residual minimum requirement for 127 pitches up to 2033.
- 7.8. Indeed, it is necessary to project forwards delivery from proposed site allocations to satisfy relevant national policy tests, and to demonstrate a five-year land supply. However, as outlined earlier it is not yet currently possible to afford meaningful weight to those emerging site allocations, and once they are removed from the five-year land supply calculation then NSDC currently has a 1.48 year supply.
- 7.9. This represents a significant unmet need under both scenarios. Provision to assist in meeting this need will be made as part of the production of the Amended Allocations & Development Management Development Plan Document (ADMDDP), which is currently awaiting examination. The amended ADMDDP seeks the allocation of specific sites for Traveller accommodation and would provide an updated Framework for the granting of consent for appropriate development on windfall sites. The Council is currently unable to identify any other sites that are currently available or deliverable for Gypsy and Travellers and in addition is unable to demonstrate a five-year land

² 21/02528/FUL – Shady Oaks, Spalford (4 pitches, adjacent site), 23/00063/FULM - Chestnut Lodge, Barnby Road, Balderton (19 pitches), 23/00060/FUL – Appleby Lodge, Barnby Lane, Newark (8 pitches) and 22/01203/FULM – Oak Tree Stables, Sand Lane, Besthorpe (8 pitches)

supply, as required through national policy (PPTS). It is therefore accepted that the Local Planning Authority is not able to demonstrate a five-year land supply for Gypsy and Traveller pitches and has a considerable shortfall which needs to be addressed. Both the extent of the pitch requirement and the lack of a five-year land supply represent significant material considerations, which weigh heavily in the favour of the granting of consent where proposals will contribute towards supply.

- 7.10. The emerging policies within the Publication Amended Allocations and Development Management DPD demonstrates a commitment by the Council to meeting the need for pitches in the District. However, only limited weight can be given to the newly proposed allocation sites as the Plan is still going through the plan-making process and has yet to be submitted, examined and found sound. As such, in the absence of any current allocated sites and in the light of the significant unmet need, provision of pitches are only likely to come forward through the determination of planning applications on windfall sites.
- 7.11. In terms of how this site would contribute to the Council's Gypsy and Traveller need, no firm evidence of demand for inward migration into the District was found as part of the GTAA. Therefore, net migration to the sum of zero was assumed for the GTAA – which means that net pitch requirements are driven by locally identified need rather than speculative modelling assumptions. With inward and outward migration in balance with one another, this means that when a household moves into the District that movement is counterbalanced by the outward migration of another. Therefore, providing proposed pitches are addressing the needs of a Traveller household, consistent with the definition below (reflecting the Smith decision), then they would contribute supply against the local pitch target.

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

- 7.12. With regards to the current need for G&T pitches, as set out above, there have been several planning approvals over 2023/24, resulting in an additional 39 pitches gaining permission and there is one planning application pending consideration (ref. 24/00282/FULM³) for 15 pitches. However, the overall supply secured since 2019 (the published date of the Gypsy and Traveller Accommodation Assessment) still falls some way short of being able to meet either overall needs or to provide for a five-year land supply. Consequently, the absence of a sufficient land supply and of suitable and available alternative sites elsewhere is a significant material consideration in the assessment of this application, as was the case at the recent appeal on the adjacent site.
- 7.13. As this site is a new site, it did not form part of the baseline position (August 2019) for the GTAA. The Applicant has confirmed that the future occupiers of the pitches are not currently known but will be restricted to those meeting the definition of a gypsy

³ at Land to the rear of Lowfield Cottages, Bowbridge Lane, Balderton

or traveller, as provided through the PPTS. Therefore, the net additional pitches proposed would be 5.

- 7.14. Based on the information provided by the Applicant, subject to a planning condition restricting occupation of the site to those meeting the planning definition (as referred to in the recent appeal decision on the adjacent site) of a gypsy or traveller, the proposed pitches would be available to help meet existing, and future, locally identified G&T need. It could also indirectly assist in meeting identified needs at other sites within the District, such as those on Tolney Lane, should existing occupiers of these sites (with temporary consent) relocate to the Application Site. This positive contribution towards meeting the need identified through the GTAA, in the absence of a five-year land supply, is a significant material consideration in favour of the proposal.
- 7.15. The application site is located in the open countryside, but just east of the settlement of Spalford. Amongst other things, paragraph 25 of the Planning policy for traveller sites (PPTS) states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.
- 7.16. Spatial Policy 3 (Rural Areas) requires that, amongst other things, new development should be in villages with sustainable access to the Newark Urban Area, Service Centres or Principal Villages and have a range of local services to address day to day needs. Local services are identified as including, but not being limited to, post offices/shops, public houses and village halls. Spalford does not fall within any of the aforementioned categories of settlement, which are outlined in Spatial Policy 1 on settlement hierarchy. SP3 also confirms that development not in villages or settlements, but in the open countryside, will be strictly controlled and restricted to uses which require a rural setting.
- 7.17. Core Policy 4 (Gypsies and Travellers – New Pitch Provision) states that future pitch provision will be addressed through all necessary means, including amongst other criteria, the granting of planning permission for pitches on new sites in line with Core Policy 5 (Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople). Provision will be made in line with the Council's Spatial Strategy with the focus of the Council's efforts to seek to secure additional provision in and around the Newark Urban Area.
- 7.18. Beyond this, CP5 sets out a range of criteria, which proposals need to satisfy. The overall aims of this policy are identified as reducing the need for long distance travelling and possible environmental damage caused by unauthorized encampments and the contribution that live/work mixed use sites make to achieving sustainable development. Amongst other criteria, criterion 2 requires the site to be reasonably situated with access to utilities and to basic and everyday community services and facilities, including education, health, shopping and transport facilities.
- 7.19. Policy DM8 (Development in the Open Countryside) sets out types of development supported in the countryside. The proposal does not fall within Policy DM8's parameters.

- 7.20. Notwithstanding this, under some circumstances, it is accepted that gypsy and traveller sites can be acceptable in this type of location, but this is dependent on the proposal being considered against the criteria within Core Policy 5, provided the scheme would, in the absence of more appropriately located sites, contribute towards meeting the significant local need (which in this case it provides for at least one). Beyond this, then Core Policy 5 criterion 1 (landscape) and 2 (access to services and facilities) provide an appropriate way of determining what kind of locations in the countryside could be acceptable.
- 7.21. The second criteria of CP5 requires consideration of reasonable access to essential services (mains water, electricity, drainage and sanitation) and basic everyday community services and facilities – including education, health, shopping and transport.
- 7.22. It is acknowledged that Spalford itself has no services and facilities, though there does appear to be a (sporadic) bus service that would provide access to Collingham and Newark within the District. The location would fall inside the Primary School catchment for North Clifton – which is being considered for closure by the County Council. Beyond this the site would then be dependent upon accessing the limited range of services within South Clifton (church and village hall), and the closest place to carry out food shopping and access healthcare provision appears to be Collingham (around a 9-minute drive and 5.5 miles away). Consequently, this location would be largely dependent on the accessing of services and facilities some distance away, and as set out above, this would fall short of meeting the requirements in criterion 2 of Core Policy 5, which weighs against the proposal.
- 7.23. The Applicant has confirmed the site is served in terms of electricity and water supplies and is served by an existing septic tank.
- 7.24. In terms of proximity to services the Inspectors decision explained that: *“most of the housing in Spalford is located around Chapel Lane, Sand Lane and Rabbit Hill Lane. The bus stop serving Spalford is located here, with one, somewhat irregular bus service running Monday to Friday between Newark, Collingham and Harby. There are no shops, public house, or village hall. The only other community infrastructure in Spalford is a post box. Further housing, farms and a caravan park (Four Seasons Country Park) are located sporadically along Eagle Road travelling south-eastwards from Spalford and in the open countryside. Open fields, hedgerows and groupings of trees separate existing development. Eagle Road lacks both street lighting and footpaths, and has the appearance of a rural road, with grassed verges and hedges. Located on Eagle Road away from the core of Spalford, the site forms the eastern part of a rectangular paddock.*

In terms of access to services, the nearest church and village hall are located in South Clifton, while food shopping and healthcare facilities are in Collingham, over five miles away. The nearest primary and secondary schools are two to three miles away and would be likely to be accessed by school bus. I understand that one of the nearby schools is threatened with closure. While many people now undertake banking, shopping and health consultations online, these would not negate the need for the site’s intended occupiers to travel to services and facilities.

Paragraph 105 of the [NPPF] acknowledges that development should be focussed on locations which are and can be made sustainable. However, it also highlights that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Even taking this and the likelihood that any gypsies and travellers living on the site would travel as an intrinsic part of their lives into account, the appeal site is located away from facilities necessary for day to day living.

The intended occupiers would be permanently reliant on the private car rather than sustainable transport to reach services and facilities. Walking to the local bus stop would not necessarily be safe, given the absence of street lighting and pavements. Furthermore, the limited bus service would not offer flexibility and ease of access to all likely destinations. Although transport movements will already be made on the local road network by residents of Eagle Road and nearby Spalford, the addition of a number of pitches on the site would contribute further unsustainable movements by the private car.

I conclude therefore that the site is not suitably located with regard to proximity to services. This is contrary to ACS Spatial Policy 3 and Core Policies 4 and 5, ADM Policy DM8, PPTS paragraph 25, and paragraph 105 of the Framework as set out above. Given the size of the site and the number of pitches proposed, this would have no more than a moderate adverse effect.” The conclusion reached by the Inspector therefore remains valid, in that the site would not be suitably located. This therefore weighs negatively against the proposal.

- 7.25. The proposed expansion would also increase the maximum number of pitches within the overall site, from 4 to 9, and therefore it remains to be considered whether this cumulative level of development would be appropriate in this location. An assessment of this impact in relation to the character of the area will follow in a subsequent section of this report, however, through the PPTS there is also the requirement to avoid G&T sites dominating nearby communities. The only existing pitches within proximity of the village are those granted at appeal on the adjacent site, and in this case, it is considered that increasing this to a maximum number of 9 would remain at a level that would not dominate the existing settled community of Spalford.
- 7.26. Therefore, in summary, the site is not considered to be suitably located with regard to proximity to services. This is contrary to Spatial Policy 3 and Core Policies 4 and 5 of the Amended Core Strategy, Policy DM8 of the ADMDPD, PPTS paragraph 25, and paragraph 109 of the NPPF as set out above. However, given the size of the site and the number of pitches proposed, this would have no more than a moderate adverse negative effect. Balanced against this it is concluded that the District has a significant unmet need for Gypsy and Traveller pitches. The proposal would represent a small but direct contribution towards a five-year land supply of 5 pitches. This positive contribution is a small but significant benefit, and in the absence of the availability of alternative sites and emerging site allocations which cannot yet be given meaningful weight, this contribution to supply should be afforded significant positive weight as part of the overall planning balance.
- 7.27. The principle of this use in this location may therefore be considered to be acceptable in the overall planning balance, subject to assessment under the criteria set out within

Core Policy 5, which are more site specific, and these are set out and considered below.

Impact on the Character and Appearance of the Area, Heritage Assets and Ecology

- 7.28. The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 (Sustainable Design) states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 (Design) of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.
- 7.29. The first criteria of Core Policy 5 states that the site would not lead to the unacceptable loss, or significant adverse impact on the landscape character and value, important heritage assets and their settings, nature conservation and biodiversity sites. The fifth criteria of CP5 seeks that the site is capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity. Core Policy 13 (Landscape Character) of the Core Strategy addresses issues of landscape character. The Landscape Character Assessment SPD informs the policy approach identified within Core Policy 13. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape.
- 7.30. The site is identified as being within the East Nottinghamshire Sandlands and within the Landscape sub-type of Wigsley Village Farmlands (ES PZ 02) as set out within the Landscape Character Assessment SPD. This states that the condition of the landscape is poor and the sensitivity low with an outcome to create a landscape. It acknowledges characteristic visual features include numerous fragmented blocks of mixed deciduous woodland, coniferous plantations and some remnant Parkland. Specific recommendations for built features therefore encourage conservation of what remains of the rural landscape by concentrating new development around existing settlements and creating new development which reflects the local built vernacular. With regard to landscape features this seeks to create new hedgerows and conserve existing.
- 7.31. Despite houses, farms, and a caravan park nearby, the sporadic nature of development along Eagle Road leads to gaps where fields adjoin the road. Bounded by hedges and trees, these fields support the area's open character. The Inspectors assessment of the site concluded that *"the paddock, of which the site forms part, is surrounded by tall, imposing and unsympathetic conifers, and contains some hardstanding. It has two gated accesses, one at its north-western corner adjacent to Eagle Road with formal brick piers, and a further access off a shared track at the site's eastern end. Even with these features, the expanse of paddock is also of an open character and contributes positively to this part of Eagle Road."*

The proposal would comprise four pitches with a maximum of one static caravan and one touring caravan on each pitch. Along with the pitches themselves, there would be

an access road to the pitches and parking and turning areas. This would erode the paddock by introducing caravans, further hard landscaping and associated domestic paraphernalia to much of its eastern half. This would in turn erode the rural character of this part of Eagle Road.”

- 7.32. Following the conclusions of the Inspector it is accepted that the introduction of a further 5 pitches with associated hardstanding, parking and turning areas would further erode the paddock and the rural character of this part of Eagle Road. However, as set out in the Committee Report for the adjacent site, the square boundaries formed by the conifers around the site result in a very deliberate, man-made functioning feature that provide a high and successful level of screening between the inside and the outside of the site (other than the gap providing the access in the eastern boundary). Therefore, whilst acknowledging that they have a rather odd current visual appearance, they are an existing feature that would provide a successful soft screen to the additional development proposed at the site.
- 7.33. Five pitches (max. 10 caravans) are considered to be relatively small scale; however, it is accepted that 9 total pitches (max. 18 caravans) would be a more substantial development. However, the pitches would be made up of grass and hardstanding areas which would soften the development and retain a green appearance. The existing boundary treatment would also provide a green softening around the site. It is noted that these trees are not afforded any protection by virtue of being located within a Conservation Area or by Tree Protection Orders on the site. However, as concluded in the assessment of the application to the adjacent site, it is not considered to be appropriate to seek to protect the trees around the boundaries of the site through an Order. The most critical boundary would be the one along the Eagle Road frontage and given this existing boundary treatment would provide the residents of the proposed site with privacy and a buffer from the road, it is considered that there would be a very low risk of this planting being removed.
- 7.34. No designated heritage assets are located near to the site that would be affected by the proposals.
- 7.35. In terms of biodiversity impacts, given that the site is an open grassed field/paddock with areas of hardstanding, it is unlikely that the site supports any significant levels of biodiversity. There is also no intention to remove any trees or hedgerow from the site. The proposal also includes closing the existing access at Eagle Road in the north-west corner of the site with new planting which would provide a biodiversity benefit, albeit small.
- 7.36. Section 11 of the NPPF relates to making effective use of land and paragraph 123 states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding the environment. This chapter sets out that planning decisions should support development that makes efficient use of land, considering the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it and the desirability of maintaining an area’s prevailing character and setting. Core Policy 5 advises on general guidelines for pitch sizes. A pitch that is a permanent site where there are shared facilities within the overall site (e.g., the storage of waste and

sewerage disposal), should be approx. 350m². The size of the pitches presented range between 354-393m², which would meet the pitch size guidance.

- 7.37. Nevertheless, whilst caravans are not necessarily alien features in open countryside, it is accepted that their often white, shiny box-like form (and therefore far from reflecting local built vernacular) can somewhat detract from the surrounding rural visual amenities. Therefore, considering this and the conclusions of the Inspector at the adjacent site it is accepted that the introduction of further pitches on this land would erode the rural character of this part of Eagle Road. Whilst this would not conflict with CP5, as it would not cause unacceptable loss or significant adverse impact on landscape character and value, it is contrary to CP9, DM6 and para. 174 of the NPPF which requires, amongst other things, that planning decisions should recognise the intrinsic character and beauty of the countryside. However, given the extent of boundary screening and low level of the caravans it is considered that the extent of harm would be moderate, which would weigh against the proposal.

Impact upon Residential Amenity

- 7.38. The fourth criteria of Core Policy 5 states that the site would offer a suitable level of residential amenity to any proposed occupiers and not have an unacceptable adverse impact on the amenity of nearby residents particularly in rural and semi-rural settings where development is restricted overall.
- 7.39. Paragraph 97(b) of the NPPF states that planning decisions should create places that promote health and well-being with a high standard of amenity for existing and future users.
- 7.40. In terms of the proposed occupiers of the site, the size of the pitches presented would meet the size standard of 350m² set out in CP5. Given existing boundary treatments around the site and separation distances from any existing dwellings, it is considered that the needs of the privacy of proposed occupiers could be met and a condition relating to proposed boundary treatments between pitches could ensure a degree of privacy between pitches.
- 7.41. Turning now to existing residents who would live close to the site, to the east is a smaller grassed field, beyond which is a dwelling known as Sandycroft (approx. 35m away). To the west of the site is the remainder of the larger plot enclosed by mature conifers, beyond which is a private access road leading to Croft House to the south-west (approx. 180m away). There is also an existing property to the north-west of the site, known as Tree Tops (approx. 75m away), on the opposite side of Eagle Road. These would represent the nearest affected receptors of the proposed development.
- 7.42. Any new development will have some impact on the amenity of neighbouring properties. The proposal would result in increased vehicular movements causing additional noise and disturbance from associated comings and goings. It is also acknowledged that some level of new external lighting would likely be required which also has the potential for some negative impact, although existing boundary treatment would provide some mitigation to this aspect. There is also a defined waste/recycling area within the layout of the wider site which shows consideration to

matters of refuse disposal for the site.

- 7.43. Given the single storey nature of the two caravans per pitch, together with boundary treatments and the separation distance between the site and existing neighbours, together with the relative small-scale nature of the proposal for 5 additional pitches that would be well contained within the site boundary, it is not considered that the relationships would result in any unacceptable degree of harm on the amenities of existing occupiers close to the site.

Impact on Highways Safety

- 7.44. The third criteria of Core Policy 5 states that the site has safe and convenient access to the highway network.
- 7.45. The permission granted on the adjacent site included a requirement for the site access (which lies to the east) to be surfaced with appropriate drainage to prevent the discharge of surface water onto the public highway. These works have yet to be completed and are being pursued separately by the Council's Enforcement Team – any permission granted on this site would therefore similarly require a condition for the access works to be completed prior to occupation.
- 7.46. Nottinghamshire County Council have raised no concerns in relation to the principle of the additional pitches on the site from a highway safety perspective and consider the level of parking on site to be adequate to serve the number of pitches proposed.
- 7.47. The Highway Authority's initial comments noted that the access track through the site was shown to adjoin an existing access point in the north-western corner of the site. The Highway Officer raised concerns about the use of this historic access for the development given its proximity to an access immediately to the west which impedes visibility from this access. The plans have therefore been amended to remove the internal road link to the historic access and an annotation has been added on the plan to show the north-western access would be closed with new hedging. The plans have also been amended to include a turning head, to the required vehicle size standards of the Highway Authority, within the site so vehicles can enter and exit the site in a forward gear. The Highway Authority have therefore commented in support of the application, subject to conditions.
- 7.48. Therefore, on the basis of the assessment above, it is considered that subject to conditions the proposal would not cause any highway safety concerns and accords with Spatial Policy 7 of the Core Strategy and Policy DM5 of the A&DM DPD in this regard.

Impact on Flood Risk

- 7.49. Core Policy 9 requires new development proposals to pro-actively manage surface water. Core Policy 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD along with the NPPF set out a sequential approach to flood risk.
- 7.50. Criteria 6 seeks that in the case of any development proposal which raises the issue of

flood risk, regard will be had to advice contained within the Government's PPTS and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site-specific Flood Risk Assessment, applying both the Sequential and Exceptions Tests, as appropriate, to achieve safety for eventual occupiers.

- 7.51. The NPPF states that local planning authorities should minimise risk by directing development away from high-risk areas to those with the lowest probability of flooding. Core Policy 10 and Policy DM5 also reflect the advice on the location of development on land at risk of flooding and aims to steer new development away from areas at highest risk of flooding. Paragraph 13(g) of the PPTS sets out a clear objective not to locate gypsy and traveller sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
- 7.52. The Planning Practice Guidance states that caravans, mobile homes and park homes intended for permanent residential use are classified as "highly vulnerable" uses. Table 2 of the Practice Guidance states that within Flood Zone 2, highly vulnerable classification development requires the Exception Test to be applied, however in Flood Zone 3, highly vulnerable development should not be permitted. Nevertheless, CP5 explains that where flooding is found to be an issue, the Council will apply both the Sequential and Exception Tests as appropriate, to achieve safety for eventual occupiers.
- 7.53. Whilst the eastern half of the larger paddock falls within Flood Zone 2 (at medium risk of flood risk) the application site falls within Flood Zone 3a (at high risk of fluvial flooding). The site also benefits from flood defences (an embankment following the western edge of the A1133) which have the effect of minimising flood risk and allowing it to be managed.
- 7.54. A Flood Risk Assessment (FRA) has been submitted with this application which acknowledges that the wider site is within FZ2, however, as confirmed by the Environment Agency (EA) the portion of the site where the new pitches are proposed is within FZ3a. The EA's comments also explain that the defined Flood Zones do not consider the presence of flood defences and when these are taken into account, the site is not impacted by main river flooding during the 1 in 100-year event (1% annual probability). When the impacts of climate change (29% allowance) are taken into account, a shallow 150mm flood depth passes through the middle of the site. The EA confirms that "*these depths are not considered hazardous at the velocity anticipated*". Therefore, whilst strictly in Flood Zone 3a, taking account of the flood defences as directed by the EA, it is noted that the projected flood risk at the site would not be hazardous.
- 7.55. The FRA recommends that the finished floor levels of the caravans should be set no lower than 7.34 metres above Ordnance Datum (AOD) (which is above the highest predicted flood breach level), and all caravans should be chained to a secure anchor block to prevent any risk of floatation in an extreme flood event.
- 7.56. The EA Flood Warning Service is available in the area and prompt the implementation of a flood plan. Details of a flood plan are set out within the FRA where on receipt of

a flood warning (giving a min of 2 hours advance warning), the site could be evacuated.

- 7.57. Nevertheless, given the site is located within Flood Zone 3a, the Sequential Test must be applied. The NPPF states the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 7.58. National policy and guidance in relation to flood risk is clear that seeking to avoid the exposure to flood risk as a matter of first principle, via application of the Sequential Test, is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Furthermore, where a FRA shows the development can be made safe throughout its lifetime without increasing risk elsewhere, then it still remains necessary for the Sequential Test to have first been passed.
- 7.59. It is accepted that the proposal would represent an enlargement of any existing site – but it is also the case that it would extend it into an area at greater flood risk. The land subject to the current application was not covered by the earlier, now implemented, permission and as a result, flood risk was not considered on that wider basis. It is therefore important that the latest proposal is assessed on its own merits from a flood risk perspective, and it is noted that the exemptions to the Sequential Test outlined within national policy and guidance would not cover this application.
- 7.60. National guidance is also clear that the Sequential Test should consider the spatial variation of flood risk within medium and then high flood risk areas to identify the lowest risk sites in these areas, ignoring the presence of flood risk management infrastructure. Once the Test has been applied on that basis then it may prove appropriate to consider the role of such infrastructure in the variation of risk within high and medium flood risk areas. The response from the EA detailing the effect of the flood defences is noted in respect.
- 7.61. The PPG defines reasonably available sites, as those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. Potential sources of alternative land would include site allocations, existing Gypsy and Traveller sites which may have additional capacity, land with extant permission and other suitable land which may be available for the use (as considered in the Gypsy and Traveller Land Availability Assessment). The PPG outlines that the absence of a 5-year land supply is not a relevant consideration for the Sequential Test for individual applications, though it is silent on how overall pitch requirements should be considered.
- 7.62. In terms of site allocations, as outlined earlier those emerging through the Plan Review process are not currently able to be afforded meaningful weight within the planning balance. In terms of existing sites with capacity – where these are suitable (or can be made so) then that land has been proposed for allocation. The LPA also has an application pending consideration (ref. 24/00282/FULM) for 15 pitches, albeit the access of this site is within the flood zone. However, comments from the Council's

Planning Policy team explain that whilst there is land with extant permissions⁴ for the proposed use elsewhere within the District which is at less flood risk than the application site, even coupled with the 15 pitches pending consideration (which also have an associated flood risk) this remains insufficient to fully address the District's overall pitch requirements.

- 7.63. Land included within the Gypsy and Traveller Land Availability Assessment (GTLAA)⁵ undertaken is also mostly either that which is proposed for allocation, or sites that are not considered as being available. This is except for sites 19_0026 'Land between Tinkers Lane and A1133, Girton' and 19_0044 'Former Walesby Garden Centre, Brake Road, Walesby' which are not proposed site allocations but are identified as potentially available sites in the GTLAA (albeit site specific assessments have not been undertaken). The Girton site is located in Flood Zone 3 and therefore no better sequentially (indeed possibly worse once the flood defences of the application site are taken account of unless it also benefits from some). However, the Walesby site is situated in Flood Zone 1 and has a capacity of 17-34 pitches. Even if this site were to be brought forward at the expense of the application site, then the District would still fall short of being able to (currently) address its overall pitch requirements. However, given this is a potentially suitable site at a lesser flood risk the application would fail the sequential test.
- 7.64. In the context of the District's current unmet need, it is considered appropriate to have regard to **actual** flood risk presented at this site, and in this case the presence of the flood defences which the application site benefits from. This results in the land being at a lower level of risk than the standard EA mapping shows and the actual flood risk at the site is acknowledged by the EA not to be hazardous. This, together with the fact that even if the Walesby site were to be delivered the District would still be unable to demonstrate a 5-year pitch supply, is a material consideration which attracts significant weight in favour of the proposal.
- 7.65. Flood risk guidance and policies also require the application of the Exception Test where relevant. In FZ3a the PPG does not permit '*highly vulnerable development*', however in lesser Flood Zones (like FZ2) the application of the exception test is required. In this case, whilst technically in FZ3a, the site is actually at a lesser flood risk and therefore it is considered appropriate to consider whether the application could also pass the exception test which requires the:
- a. The development to provide wider sustainability benefits to the community that outweigh flood risk; and
 - b. The development to be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

⁴ 35 pitches under refs. 23/00063/FULM - Chestnut Lodge, Barnby Road, Balderton (19 pitches), 23/00060/FUL - Appleby Lodge, Barnby Lane, Newark (8 pitches) and 22/01203/FULM - Oak Tree Stables, Sand Lane, Besthorpe (8 pitches).

⁵ [https://www.newark-sherwooddc.gov.uk/media/nsdc-redesign/documents-and-images/your-council/planning-policy/local-development-framework/amended-allocations-and-development-management-dpd/GRT10---GTLAA-\(Jan-2024\).pdf](https://www.newark-sherwooddc.gov.uk/media/nsdc-redesign/documents-and-images/your-council/planning-policy/local-development-framework/amended-allocations-and-development-management-dpd/GRT10---GTLAA-(Jan-2024).pdf)

- 7.66. In relation to the first part of the Exception Test, the proposal would allow the housing needs of the District to be met and would contribute to the supply of pitches within the District in the absence of a 5-year land supply. Whilst it is not ideal from a flood risk and sustainability perspective, in that the G&T needs of the District should be located on land that is at lowest flood risk, it is noted that in the absence of sufficient land to meet the Council's 5-year land supply a number of sites proposed for allocation also include areas at risk of flooding. No additional sustainability benefits have been identified by the submission, but the development would provide wider sustainability benefits to the community through contributing to the Districts pitch supply.
- 7.67. In relation to part b) of the Exception Test, the Environment Agency consider the proposed development can be made safe for its perceived lifetime through the imposition of a condition relating to minimum internal floor levels of the caravans and anchoring of the caravans to prevent buoyancy in any extreme flood events.
- 7.68. In the assessment of the 21/02528/FUL the Report detailed comments from the EA that stated *"The ground levels according to the most up to date LiDAR data range between 6.8-6.7mAOD at the west of the site and between 7.1-7.2mAOD at the East of the site where the structures will be situated. While the FRA has not used the most up to date hydraulic modelling, which did not include the most up to date climate change allowances.*

The latest hydraulic modelling does now include the updated climate change allowances. In this case the assessment has been made against the 1 in 100 year 30% climate change allowance which would cover the perceived lifetime of the development of up to 100 years. In this case the 1 in 100 year 30% climate change allowance event including a breach of the flood defences would result in depths of 6.7mAOD. Therefore, this would not impact the site as the topography is already elevated above this level." The EA conclude in their comments on this application that the site is not impacted by main river flooding during the 1 in 100-year event (which has a 1% annual probability) and when the impacts of climate change (29% allowance) are taken into account, only a shallow depth of 150mm would pass through the middle of the site which is not considered hazardous at the velocity anticipated. Therefore, subject to a condition requiring finished floor levels to be set appropriately to account for any minor variations in ground levels which may not have been picked up by LiDAR, the EA have concluded that the proposal would be considered safe for its lifetime without increasing flood risk elsewhere. Therefore, despite the vulnerability classification, the EA do not object to the proposals. On this basis, and in the absence of any identified flood risk harm, it is considered that the second part of the Exception Test is passed.

- 7.69. The FRA acknowledges that surface water flooding is also high on the site but considers that the proposal is not likely to unacceptably increase surface water flooding, and would not result in flooding elsewhere from surface water flooding. All proposed surfaces on the development site would be permeable (grass, gravel and permeable tarmac) and is unlikely to result in any material reduction in soakway on the site below the existing situation. However, the application form states that surface water would be disposed of in an existing water course and in the assessment of the

application on the adjacent site it was noted that there was concern locally that the ground water levels are high in this area. As such, it is considered that should planning permission be granted, a condition should be imposed requiring details of a surface water disposal scheme be submitted and approved.

- 7.70. In conclusion, notwithstanding the site's location on land within Flood Zone 3 and its failure of the sequential test, when considering the presence of flood defences, the Environment Agency have confirmed that the actual flood risk on the site would not be hazardous in the 1 in 100-year + climate change flood event resulting in an absence of actual flooding harm on the site. This, coupled with the fact that even if the other site identified as being potentially available were to be delivered the District would still be unable to demonstrate a 5-year pitch supply, are material considerations which must be weighed in the overall balance of the proposal. The proposal has also been found to pass the exception test as the proposal would be safe for its lifetime without increasing flood risk elsewhere. Therefore, given the specific circumstances of this case it is considered that the significant material considerations in this case outweigh the failure of the sequential test and the proposal would not result in an unacceptable flood risk that would warrant withholding planning permission on this basis. This is therefore considered to be a neutral matter in the overall planning balance.

Other Matters

- 7.71. Comments have been received from local residents which have been duly taken on board throughout this assessment. It is noted that concerns have been raised in relation to the number and dominance of caravan development in the local area. Cumulative harm of developments on a local area is a material consideration, however, there are no cumulative impacts identified with this site that would lead to unacceptable harm either in visual or landscape character grounds that would warrant refusal of this application. Concerns also relate to the impact on drainage infrastructure, however, there would be no mains sewerage and sewerage would be dealt with via a septic tank.

8.0 Implications

- 8.1. 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

- 9.1. The recent GTAA has identified a significant unmet need for gypsy and traveller pitches. This development would contribute five pitches to the significant unmet need and contribute towards a five-year land supply, which weighs heavily in favour of the proposal, given the current level of need. This positive contribution is a significant benefit, and one which should be afforded significant weight in the planning balance.

The lack of sufficient alternative sites to meet the Districts 5-year supply also attracts significant weight.

- 9.2. An approval would provide a settled base that would facilitate access to education and enable the families to continue their gypsy way of life. The human rights of families means due regard must also be afforded to the protected characteristics of Gypsies and Travellers in relation to the Public Sector Equality Duty (PSED) when applying the duties of section 149 of the Equality Act 2010. These factors attract significant positive weight in favour of the development.
- 9.3. In contrast, the proposal would fail to accord with SP3 and CP4 and 5 of the Amended Core Strategy and Policies DM5 and DM8 of the ADMDDP, PPTS paragraph 25, and paragraphs 109 and 180 of the NPPF by virtue of the unsustainable location and access to services and the harm to the character and appearance of the area as set out above. Officers attach moderate weight to the harm to the character and appearance of the area and to the harm in respect of location and access to services.
- 9.4. In terms of flood risk, notwithstanding the site's location on land within Flood Zone 3a and its failure of the sequential test, when considering the presence of flood defences, the Environment Agency have confirmed that the actual flood risk on the site would not be hazardous in the 1 in 100-year + climate change flood event resulting in an absence of actual flooding harm on the site. This, coupled with the fact that even if the other site identified as being potentially available were to be delivered the District would still be unable to demonstrate a 5-year pitch supply, is a material consideration which attracts significant weight in favour of the proposal. The proposal has also been found to pass the exception test as the proposal would be safe for its lifetime without increasing flood risk elsewhere. Therefore, given the specific circumstances of this case it is considered that the significant material considerations in this case outweigh the failure of the sequential test and the proposal would not result in an unacceptable flood risk that would warrant withholding planning permission on this basis. This is therefore considered to be a neutral matter in the overall planning balance.
- 9.5. No harm has been identified in relation to residential amenity and highway safety which are also therefore neutral in the overall planning balance. New hedgerow planting, controlled by condition, would also provide ecology enhancements which represents a minor benefit.
- 9.6. Weighing all of these competing considerations, it is considered that the harm in relation to location and access to services, (actual) flood risk and character and appearance would be clearly outweighed by the other considerations. These other considerations consist of the significant weight afforded to the benefits of the additional pitches where there is both a significant unmet need and a significant shortfall in five-year supply, and the lack of sufficient alternative sites. As such it is recommended that planning permission is approved, subject to conditions.

10.0 Conditions

01

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

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

02

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

- Existing Site Plan and Site Location Plan – Ref. 2311-01Rev. G
- Proposed Site Plan – Ref. 2311-02 Rev. F

Reason: So as to define this permission.

Pre-Occupation Conditions

03

No part of the development hereby permitted shall be brought into use until the existing site access in the north-west corner of the site and as shown on the plan (Drawing ref. 2311-02 Rev F) is permanently closed by installation of the boundary hedge and the access crossing reinstated as verge.

Reason: In the general interest of highway safety.

04

No part of the development hereby permitted shall be brought into use until the turning head as shown on drawing number 2311 02 Rev F is provided. The turning head shall not be used for any purpose other than the turning of vehicles.

Reason: To enable vehicles to turn within the curtilage of the site and egress onto the public highway in a forward gear.

05

No part of the development hereby permitted shall be brought into use until the access is provided at a minimum width of 4.8 m within 8.0m of the highway plus 0.5m clearance on both sides and additional width for bin storage and in a bound material for a minimum distance of 5.5 metres from the rear of the highway boundary with measures to prevent the egress of surface water on to the public highway.

Reason: to ensure that vehicles entering and leaving the site may pass each other clear of the highway; to reduce the chance of transferring deleterious material and surface water on to the public highway. All in the general interest of highway safety.

06

No part of the development shall be brought into use until details of the Waste & Recycling Areas have been submitted to and approved in writing by the Local Planning Authority. The approved Waste & Recycling Areas shall be installed prior to commencement of the approved use and retained thereafter for the lifetime of the development.

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

07

No part of the development shall be brought into use until a Flood Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and maintained in accordance with the approved Flood Management Plan.

Reason: In the interest of flood risk management and safety of future occupiers of the site.

08

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

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

09

Prior to first occupation of the development, details of additional soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

Reason: In the interests of visual amenity and biodiversity.

10

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

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

Compliance Conditions

11

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

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

12

No more than 1 static caravan and 1 touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on each pitch at any one time. For the avoidance of doubt, this permission authorises 5 pitches in total.

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

13

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

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

14

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

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

15

The development shall be carried out in accordance with the submitted flood risk assessment (ref LMX473/FRA/Rev A, dated 5th March 2024 and compiled by Lumax Civil & Environmental Ltd.) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 7.34 metres above Ordnance Datum (AOD), as detailed within Section 3.41 of the report.
- All caravans shall be chained to a secure anchor block to prevent any risk of floatation, as detailed within Section 3.42 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.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Informatives

01

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

02

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

03

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.

04

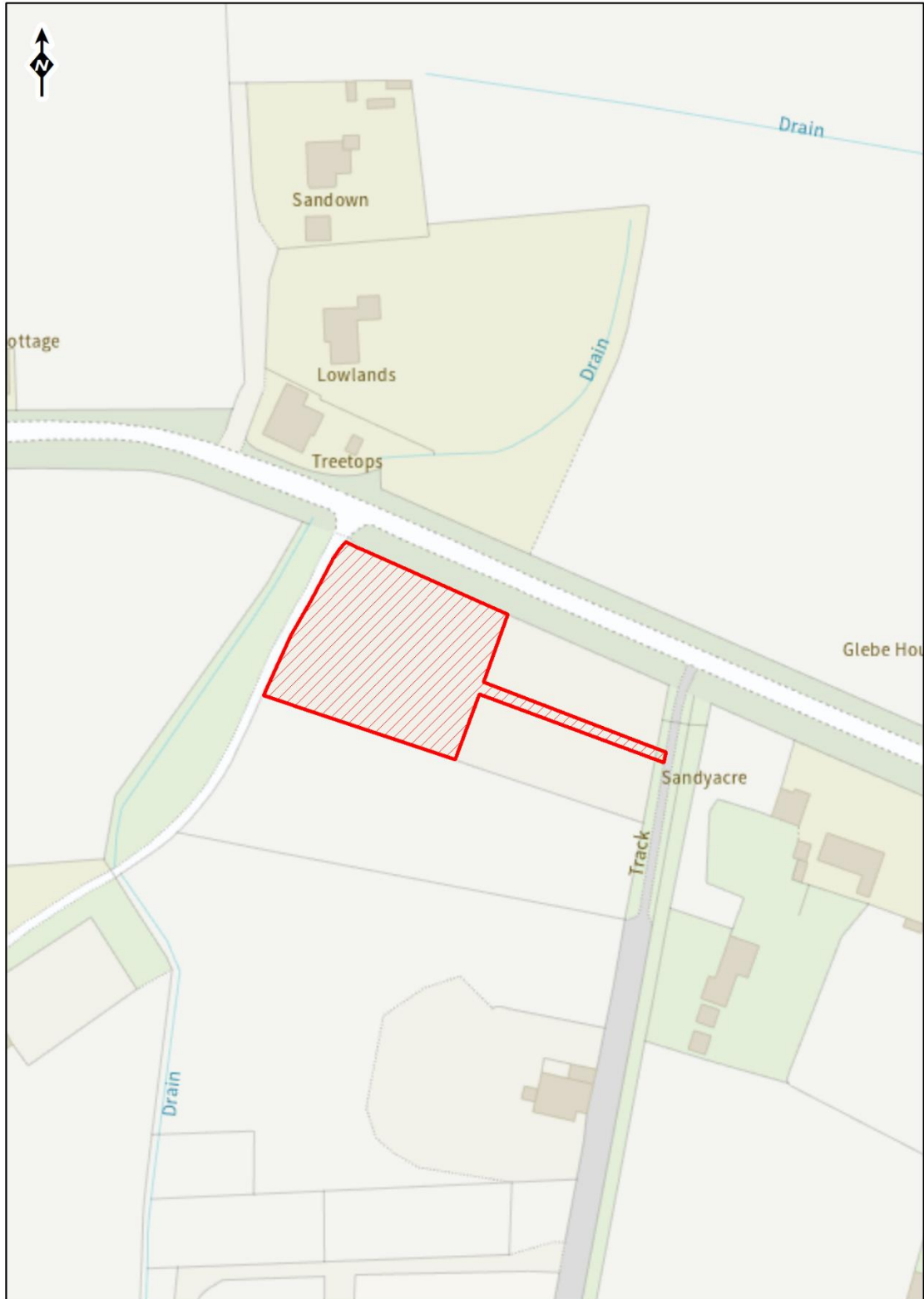
The minor access reinstatement works referred to in Condition 03 above involves work on the highway and as such requires the consent of Nottinghamshire County Council. Please contact the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080.

Any hedge/tree/shrub line on the boundary of the development land (either proposed or retained) is the responsibility of the owner/occupier (including subsequent owners/occupiers) of the adjoining land, whether or not a fence or other boundary treatment is installed behind it. It is an offence under Section 154 of the Highway Act 1980 to allow vegetation to overhang highway such that it obstructs the function of the highway and therefore owners/occupiers should make every effort to ensure that the hedge/tree line is maintained appropriately.

BACKGROUND PAPERS

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

Application case file.



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Report to Planning Committee 6 June 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Nationally Significant Infrastructure Projects and Development Consent Orders
Purpose of Report	The purpose of this report is to set out a proposal for managing the Council’s involvement in two Nationally Significant Infrastructure Projects (NSIPs) and provide a summary of the Development Consent Order (DCO) process.
Recommendations	<p>a) That Members of Planning Committee be provided with quarterly updates on the projects (or earlier if required in the opinion of the Director for Planning & Growth) and the Council’s input where there are substantive updates to be reported.</p> <p>b) With the exception of Local Impact Reports, all the Council’s representations (to the developers and Secretary of State) will be delegated to the Director for Planning & Growth (who may delegate to authorised officers), in consultation with the Chair and Vice-Chair of Planning Committee.</p> <p>c) That the protocol as enclosed as an Appendix to this report be adopted and that it forms part of the agreed delegation for NSIP projects going forward.</p>

1.0 Background

1.1 This report relates to the two Solar Farm Nationally Significant Infrastructure Projects (NSIPs) known as One Earth Solar Farm (OESF) and Great North Road (GNR) Solar Park. It also seeks to set out a protocol that will be used for any subsequent NSIP projects that are proposed in the district.

1.2 NSIPs are projects of certain types, over a certain size, which are considered by the Government to be so big and nationally important that permission to build them needs to be given at a national level, by the responsible Government minister (i.e., the ‘Secretary of State’). Instead of applying to the Local Authority for planning permission, the developer must apply to the Planning Inspectorate (PINS) for a different permission

called a Development Consent Order (DCO). The process for applying for a DCO is set out in the Planning Act 2008 ('the Act'). A DCO enables the ability to consolidate separate consents, including planning permission, and is designed to improve efficiencies by avoiding the need to make separate consent applications such as Permits from the Environment Agency, drainage consents from the Lead Local Flood Authority etc.

- 1.3 PINS is the Government Agency responsible for administering NSIP applications and (with the agreement of the relevant Secretary of State) appoints the Examining Authority (ExA) to consider the scheme who make a recommendation to the Secretary of State for Business, Energy, and Industrial Strategy. Under the Act, the Application will be determined by the Secretary of State or his successor. If the Application is successful, the Secretary of State will grant the DCO in respect of the Application. The relevant Local Authority (or Authorities where the application is cross-boundary) then becomes responsible for discharging and monitoring any *requirements*¹ of the DCO and associated legal agreements.
- 1.4 Newark and Sherwood District Council is a statutory consultee for these projects which means we can make comments but do not make the final decision on whether they are approved or not.
- 1.5 Although the OESF and GNR Solar Park NSIPs are similar (in that they are both large-scale solar farm proposals with battery energy storage systems), there are some notable differences that will influence the nature of the Council's engagement. For the OESF, the Council is one of five "host authorities" which fall across two county boundaries (Nottinghamshire and Lincolnshire) and three local authorities (Newark and Sherwood District Council, West Lindsey District Council and Bassetlaw District Council). Whereas the GNR Solar Park falls entirely within the District of Newark and Sherwood, which means the Council is one of only two "host authorities" alongside Nottinghamshire County Council. A host authority is defined within the Act as a 'local authority where the application land is in, or part of, the area of that authority'².
- 1.6 In addition, the two projects are sited in different parts of the district and are proposed to be progressed within slightly different timescales albeit in-line with the same 6 stages of the development consent regime as illustrated below.

¹ Which are similar to conditions attached to planning permissions.

² Section 55(5)(a) of the Planning Act 2008.

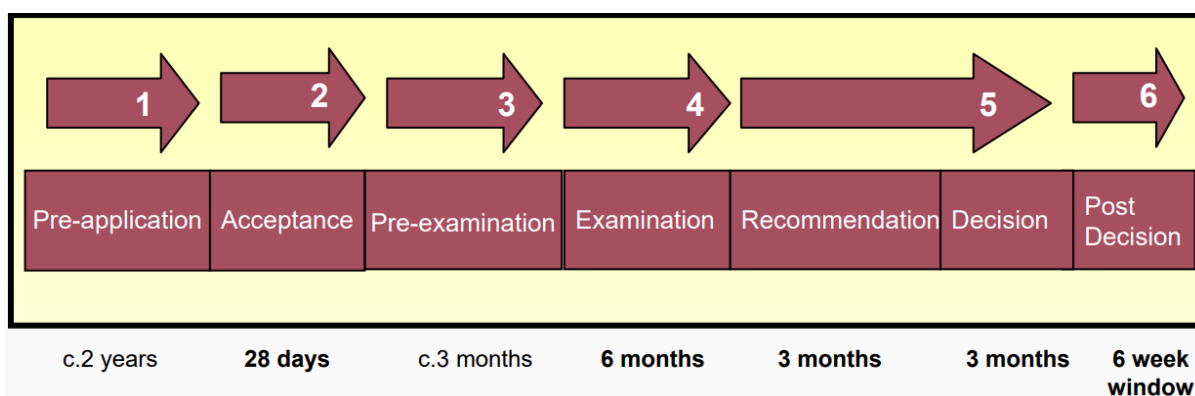


Figure 1 DCO Consent Regime Stages (Source: Planning Inspectorate)

- 1.7 While the Council does not have the power to determine DCO Applications, it has a statutory obligation to undertake specific functions in relation to them and is encouraged to work collaboratively with Developers and other host authorities to facilitate their efficient determination. This will initially be through Planning Performance Agreements (PPAs) with the Promoters and will follow on to the formal pre-application stage before the submission and examination of the Application by the Secretary of State (in line with the 6 stages listed above).
- 1.8 The Council is expected to provide an important local perspective during the pre-application, examination and determination stages of the Applications and will produce documents not limited to: Relevant Representations, Written Representations and Local Impact Reports, in addition to contributing to Statements of Common Ground, responding to Written Questions from the Secretary of State, and making representations on the content of the DCOs and other material that forms part of the application submissions.
- 1.9 The Planning Inspectorate has published a series of advice notes to inform applicants, consultees, the public and others about the DCO process. Advice Note Two³ covers the role of local authorities in the development consent process and has been used to inform the preparation of this report.
- 1.10 Members will also be aware that the Council is currently dealing with another NSIP, the A46 Newark Bypass, which is categorised as a 'Transport' NSIP (as opposed to an 'Energy' NSIP). This NSIP is at a more advanced stage, with an application having recently been submitted to the Planning Inspectorate on the 26 April 2024. The Application is being made by National Highways as the scheme forms part of the Government's second Road Investment Strategy. The Council is one of only two "host authorities" alongside Nottinghamshire County Council. Planning Officer Lynsey Preston has been identified to lead on the Council's involvement on the A46 Newark Bypass. The application was accepted for examination on the 23 May 2024.

³ <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-two-the-role-of-local-authorities-in-the-development-consent-process/>

- 1.11 The Council is also providing pre-application advice for the Staythorpe Carbon Capture Project which is not an NSIP (and is not considered under the DCO process) but an application made under the Electricity Act 1989. The project promoters, RWE, are applying to the Secretary of State for the Department for Energy Security & Net Zero to vary the Section 36 consent and Deemed Planning Permission for Staythorpe Power Station. The scope of the application is for the retrofit of carbon capture technology to Staythorpe Power Station, plus associated changes within the site which includes relocation of some operational equipment. The Council's involvement in this project is as a statutory consultee that will provide consultee advice to the Secretary of State (SoS). It is referenced in this report for information, as another type of project that follows a different consenting process, where the Council is not the decision maker. There are, however, no actions required, as the Electricity Act has minimal input for statutory consultees in comparison to the DCO process.
- 1.12 The Council has brought in external support to lead on NSIP Projects. Simon Betts, as a Planning Officer specialising in Major Projects. Support will be provided by two other Planning Officers namely Honor Whitfield for the One Earth Solar Farm and Amy Davies for the Great North Road Solar Park. Progress to date is reported below.

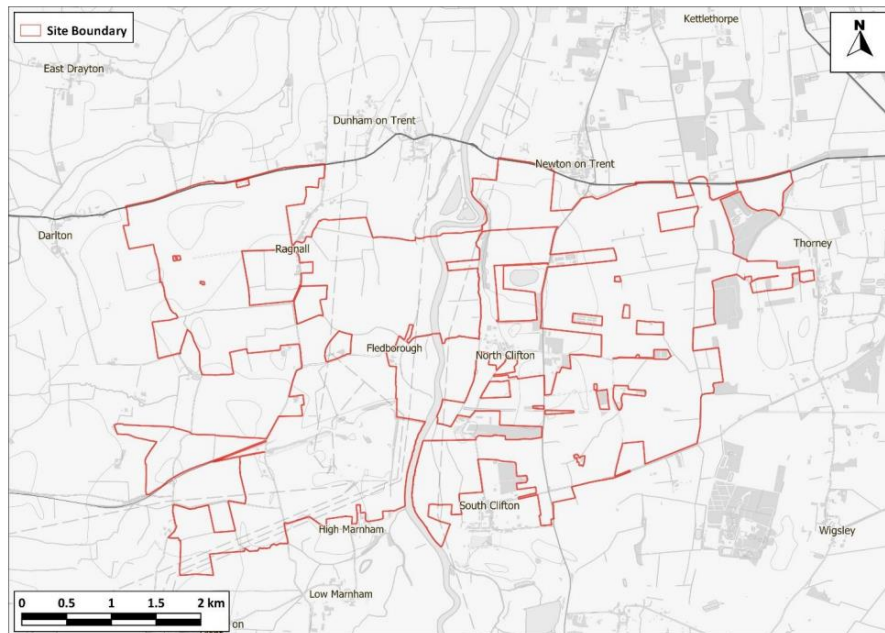
2.0 The Proposals

- 2.1 The Planning Inspectorate has dedicated project pages for each NSIP where you can find project updates and the document register, these are linked under the 'Background Papers and Published Documents' section of this report.

One Earth Solar Farm (OESF)

Project Overview

- 2.2 One Earth Solar Farm is being brought forward by two companies, PS Renewables and Ørsted ('the Developers'). The project website can be found here: <http://oneearthsolarfarm.co.uk/>
- 2.3 The OESF comprises the construction and installation of solar photovoltaic panels, Battery Energy Storage Systems (BESS) and associated grid connection infrastructure which would allow for the generation of an anticipated 740 megawatts (MW) of electricity across approximately 1,500 hectares (ha) in Lincolnshire and Nottinghamshire.
- 2.4 The OESF site is located at OS grid reference SK816718 (approximate centre of the Site). The Site boundary is shown in Figure 2 and consists of approximately 170 agricultural fields located to the east and west of the River Trent. At its maximum, the Site extends approximately 4.5km in a north-south direction and approximately 8km in an east-west direction.



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Figure 2 OESF Site Boundary

- 2.5 The Site falls across two county boundaries and three local authorities, with approximately one third of the site within NSDC’s district. Approximately 1,250ha of the Site falls within Nottinghamshire County and the remaining 250ha of the Site falls within Lincolnshire County.
- 2.6 To the southwest of the OESF site is the existing national grid substation at High Marnham, which is proposed to provide the connection for the Proposed Development to the National Grid Electricity Transmission network. The Developer has secured a connection agreement with National Grid which would allow export and import up to 740MW of electricity to the High Marnham substation. The Transmission Entry Capacity (TEC) register shows the Developer has a contract for this connection agreement to be established by 31/10/2027.

Progress to Date

- 2.7 The Developers carried out non-statutory public engagement between 27th September – 8th November 2023 which comprised of several in person and virtual consultation events as well as site visits to local properties. They also submitted an Environmental Impact Assessment (EIA) [Scoping Report](#) to the Planning Inspectorate (PINS) for consideration in December 2023. Before responding to the Scoping Opinion, PINS consulted several consultation bodies⁴ including Newark and Sherwood District Council.
- 2.8 The Council responded to the Scoping Opinion, with input from specialist technical officers including the Council’s Biodiversity and Tree Officers. This response can be found in full on pages 170-193 of PINS’ Adopted Scoping Opinion here: [EN010159-](#)

⁴ in accordance with Regulation 10(6) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

- 2.9 This project is currently at pre-application stage and has the following projected timetable:

Event	Estimated Date
Stage One (Pre-Application)	Q1 2024 – up until submission
Stage Two (Statutory Consultation)	Q2 2024
Stage Three (Application Submission)	Q1 2025
Stage Four (Pre-examination Period)	Q2 2025
Stage Five (Examination)	Q3 2025

- 2.10 Based on this projected timetable, the application is expected to be formally submitted to PINS between January-March 2025.
- 2.11 The Council has signed a Planning Performance Agreement (PPA) with the Applicant as part of the pre-application process which provides a framework within which the Council will engage with the Developers to provide advice on the proposal. Consultants have been instructed to provide expert assistance in assessing the potential Landscape Character and Visual Impact (LVIA) and Agricultural Land Classification implications of the proposal.
- 2.12 The Developers are in the process of carrying out site surveys to inform the production of their Preliminary Environmental Information Report (PEIR) and are engaging with the Host Authorities and their Officers (including topic specialists such as Conservation, Ecology and Noise) to inform their local survey work. The PEIR is a document that precedes the Environmental Statement and enables consultees (both specialist and non-specialist) to understand the likely significant environmental effects of the Proposed Development and helps to inform their consultation responses on the Proposed Development during the pre-application stage.
- 2.13 Feedback on a draft Statement of Community Consultation (SoCC), which sets out how the local community will be consulted about the Proposed Development, has also been provided. Formal consultation by the applicant on the finalised SoCC was recently carried out, with the Council issuing a response on the 4th of May 2024. The statutory consultation period is proposed between the 29th of May and 9th July 2024.

Great North Road (GNR) Solar Park

Project Overview

- 2.14 Great North Road (GNR) Solar Park is being brought forward by Elements Green Ltd ('the Applicant') who have a project website that can be found here: <https://www.gnrsolarpark.co.uk/>
- 2.15 GNR Solar Park would comprise the installation of solar photovoltaic (PV) panels, an on-site energy storage facility, and the infrastructure needed to connect the scheme into

the national grid at Staythorpe substation. The Solar Park would be located on approximately 2,800 hectares (6,920 acres) of land to the north west of Newark and would connect to the grid by underground cables.

- 2.16 The Order Limits of the GNR Solar Park are shown on the masterplan image enclosed below. As indicated by the key, the redline area indicates the ‘Order Limits’ with the areas in blue typically comprising the solar panel areas and/or ancillary development. The green areas comprise mitigation and/or enhancement areas.

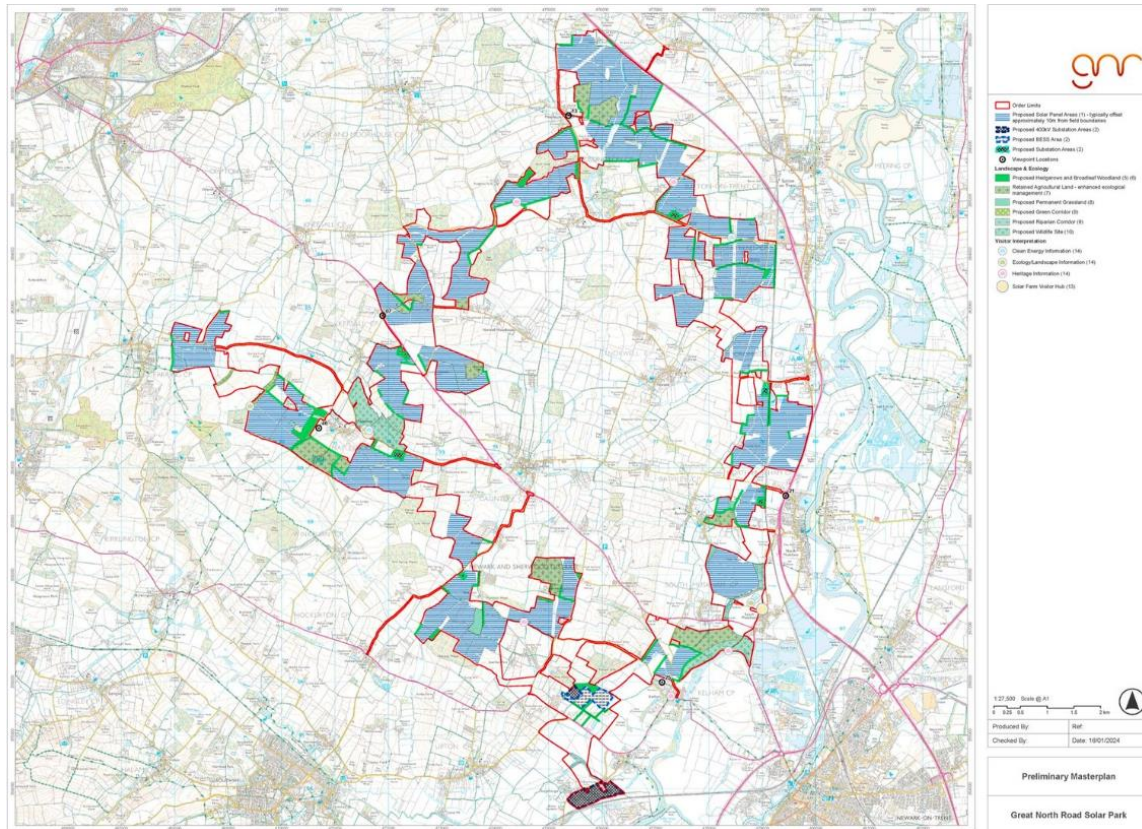


Figure 3 Great North Road Solar Park Preliminary Masterplan

- 2.17 The Applicant has secured a connection agreement with National Grid that would allow export and import up to 800MW of electricity to the Staythorpe substation. The Transmission Entry Capacity (TEC) register shows the cumulative capacity of electricity secured by the connection would increase over four phases, starting with 360MW effective from 01/08/2025, increasing to 400MW effective from 01/05/2027, and then 600MW effective from 01/08/2027, before finally reaching the total agreed amount of 800MW effective from 01/05/2028.

Progress to Date

- 2.18 The Developers carried out non-statutory public engagement between 16th January and 27th February 2024, which comprised of several in person and virtual consultation events as well as letter and leaflet drops in and around a “core consultation zone”. Prior to this, they submitted an Environmental Impact Assessment (EIA) [Scoping Report](#) to the Planning Inspectorate (PINS) for consideration in December 2023. Before

responding to the Scoping Opinion, PINS consulted several consultation bodies⁵ including Newark and Sherwood District Council.

2.19 The Council responded to the Scoping Opinion with input from specialist technical officers including the Council’s Biodiversity and Tree Officers. This response can be found in full on pages 165-195 of PINS’ Adopted Scoping Opinion here: [EN010162 – Great North Road Solar Park - Scoping Opinion 2017 EIA Regs.pdf \(planninginspectorate.gov.uk\)](#)

2.20 This project is currently at pre-application stage and has the following projected timetable:

Event	Estimated Date
Stage One (Pre-Application)	January 2024 – up until submission
Stage Two (Statutory Consultation)	Autumn 2024
Stage Three (Application Submission)	Spring 2025
Stage Four (Pre-examination Period)	Mid-Late 2025
Stage Five (Examination)	2025-2026

2.21 Based on the projected timetable, the application is expected to be formally submitted to PINS Spring 2025.

2.22 A Planning Performance Agreement (PPA) is currently being drafted as part of the pre-application process, which will provide a framework within which the Council will engage with the Developers to provide advice on the proposal. The Council also intends to instruct consultants to provide expert assistance where needed, e.g., Landscape Character and Visual Impacts. It is expected that the PPA will be signed by the applicant and the Council shortly.

3.0 Focusing the Council’s Input and Reasons for Recommendation

3.1 Before submitting a DCO Application to PINS, potential applicants have a statutory duty to carry out consultation on their proposals. The length of time taken to prepare and consult on a project will vary depending upon its scale and complexity. Therefore, responding to pre-application consultations is considered the best time to influence a project, whether you agree with it, disagree with it, or believe it could be improved.

3.2 PINS Advice Note Two explains that the pre-application stage is a very important part of the process for all participants. Pre-application consultation is a statutory requirement of the process. It is the responsibility of the developer to carry out the pre-application consultation with local authorities, statutory consultees, and members of the public. Whilst local authorities should have regard to what local communities are

⁵ in accordance with Regulation 10(6) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

saying, the local authority and the local community are consultees in their own right and should engage with developers on issues of interest.

- 3.3 The Advice Note goes on to explain that a local authority must conduct itself in line with the National Policy Statements⁶ and the relevant guidance and that it is important for local authorities to use the pre-application process to inform themselves about the application and gather information that will assist in the production of the Local Impact Report (LIR), written representations and any Statement of Common Ground (SoCG). Adopting a proactive approach at this stage is expected to reduce the demand on the local authority's resources during the set timescales of the Examination stage.
- 3.4 The Advice Note sets out that local authorities should engage proactively with a developer even if they disagree with the proposal in principle. It goes on to explain that it is important to recognise that a local authority is not the decision maker but will want to contribute towards the development of the emerging proposals with the benefit of their detailed local knowledge. Local authorities are not undermining any 'in principle' objections to a scheme by engaging with a developer at the pre-application stage. Once an application has been formally submitted to PINS it cannot be changed to the extent that it would be a materially different application, so as to constitute a new application. It is therefore important for local authorities to put any fundamental points to the developer during the pre-application stage.
- 3.5 Following submission, i.e., during the Examination (stages 3 and 4 of Fig. 1), there will be numerous deadlines for the local authority to submit certain reports and representations. The PINS Advice Note explains that these require prompt responses to set deadlines to ensure all matters can be fully explored before the close of examination. In making its recommendation to the relevant SoS, the examining authority (i.e., PINS) can only consider evidence that has been received by the close of the examination by the relevant deadlines. Once the examination timetable is published, interested parties must adhere to the deadlines. Therefore, Advice Note 2 states that local authorities are advised to seek their Members' approval for examination documents to be submitted to PINS under delegated authority and confirms the following.
- 'A local authority will therefore need to ensure it has adequate delegations in place. There is unlikely to be time to seek committee approval for representations made by a local authority during the examination. In general terms a local authority must assume that it won't be possible for the examination timetable to be structured around its committee cycle.'*
- 3.6 Given the strict deadlines that must be adhered to, and having sought advice from other neighbouring Authorities, this report requests approval from Members to delegate authority to the Director – Planning & Growth for the submission of all examination documents and representations save for the Local Impact Report (LIR), which would be reported to Members for approval during the pre-examination period.

⁶ NPS for Overarching Energy (EN-1) and NPS for Renewable Energy (EN-3)
<https://www.gov.uk/government/collections/national-policy-statements-for-energy-infrastructure>

- 3.7 The LIR is defined as a report in writing giving details of the likely impact of the proposed development on the authority's area (or any part of that area). This is a technical document setting out an evidence-based assessment of the impacts of a proposal and should cover any topics the local authority considers relevant to the impact of the proposed development on their area. The LIR should be used by the local authority as the means by which their existing body of local knowledge and evidence on local issues can be reported to PINS. The local authority can set out its local planning policy considerations as they relate to the proposal in the LIR. The LIR's principal purpose is to make the examining authority (PINS) aware of the potential impacts of the project with the benefit of local knowledge.
- 3.8 Given the breadth of topic areas the examination will cover, it is not practical, realistic, or appropriate for local authorities to respond on every subject matter. Therefore, having considered the remit of the District Council (compared with the County Council⁷ and other Statutory Consultees⁸), and consulted with neighbouring authorities with previous experience of Solar NSIP proposals, the following topic areas have been identified as those which NSDC should initially focus its efforts on responding to
- a) Landscape Character and Visual Impact
 - b) Public Rights of Way (user amenity)
 - c) Cultural, Built and Buried Heritage (Conservation and Archaeology)
 - d) Noise
 - e) Ecology and Biodiversity
 - f) Agricultural Land Classification and Impact
- 3.9 For these topic areas the Council will contribute towards in agreeing the methodology, assessment, and mitigation of effects. Whilst this topic specific focus enables the appropriate allocation of resources at a District level as part of the pre-application, this does not limit the authority's ability to respond on any other matters relating to the DCO that we see is appropriate if these are to arise during the process. Similarly, this does not preclude Members or Local Communities responding to consultations on issues of interest themselves.
- 3.10 This report therefore seeks agreement from Members that the local authority will focus on providing advice and responses on the topics listed in paragraph 3.8 of this report, unless this list is further refined throughout the pre-application stage of the application. Furthermore, this report seeks agreement to the more general protocol for responding to NSIP projects, so that a clear approach is in place for other future projects that may be promoted within the District, which is attached as an Appendix to this report.
- 3.11 In addition, in relation to ongoing project progress, it is proposed that Members of the Planning Committee be provided with quarterly updates on both NSIPs (unless issues arising would necessitate earlier briefings) and the Council's input where there has been substantive progress and there are updates to report.

⁷ Who will respond to the NSIP in their remit as the Highway Authority, Lead Local Flood Risk Authority and on other matters such as impact on Public Rights of Way and Minerals and Waste (for example).

⁸ Such as the Environment Agency, National Highways, Natural England etc.

4.0 Implications

- 4.1 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

The Planning Inspectorate webpages for the two NSIPs can be found here:

[One Earth Solar Farm - Project information \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/one-earth-solar-farm/)

[Great North Road Solar Park - Project information \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/great-north-road-solar-park/)

Appendix – Protocol for responding to NSIP Projects

The following protocol is proposed to be adopted to guide the response of the Council to all future NSIP projects. It sets out the key stages of the statutory process for which the Council has an obligation to respond, the associated timetable for providing a response and the proposed delegation process associated with the Council's response to the process.

Project Stage	Activity	Timescale	Proposed Approach	Justification
<p>Pre-application stage</p>	<p>Agreeing a Planning Performance Agreement (PPA).</p>	<p>No fixed timescales.</p>	<p>Delegated to Officers.</p>	<p>A PPA is simply a tool to ensure the project is resourced and allows the authority to secure funds for this.</p>
	<p>Joint working arrangements with other LPA's.</p>	<p>No fixed timescales.</p>	<p>Delegated to Officers.</p>	<p>This is simply a means to organise joint working arrangements, where it can improve efficiency and saves on cost.</p>
	<p>Informal discussions on the approach to consultation with applicants and information gathering.</p>	<p>No fixed timescales, this activity typically takes place over a period 3-6 months.</p>	<p>Delegated to Officers. Information provided to Ward Members and the Planning Committee as an update as part of the regular Planning Committee cycle.</p>	<p>This stage is simply a means for Officers to find out more information about the project and undertake informal discussions about how an applicant intends to consult with the community.</p>
	<p>Formal response to the Statement of Community Consultation (SOCC).</p>	<p>The Council has 28 days to respond (beginning the day after the day of receipt) under the terms of Section 47(3) of the Planning Act 2008.</p>	<p>Delegated to Officers. Formal response subsequently provided to Members for information purposes.</p>	<p>An applicant only has a duty to 'consider' the comments of a Council if made within the fixed 28-day time period. In order to enable Officers to give thorough consideration to the proposals set out and provide a response, it is not considered practical nor possible to engage with Members via Planning Committee within the time available.</p>

Project Stage	Activity	Timescale	Proposed Approach	Justification
	Respond to Statutory Consultation (Section 42 of the Planning Act 2008)	Under the terms of Section 45 of the Planning Act 2008, an Applicant must provide a minimum of 28 days (which begins the day after the day of receipt), but most applicants consult for longer than the statutory minimum, typically for around a period of 6-8 weeks.	Delegated to Officers, on the assumption that 28 days is provided. with special agreement being reached on putting the recommended response to Planning Committee if there is sufficient time available in the consultation period. This would likely require a specially arranged Planning Committee. If not provided to Planning Committee for a decision, based on timescales, as a minimum, provided for information purposes, following a response at the next available Planning Committee meeting.	As there may be variation from one project to the next on the timescales for a response, a fixed approach is not considered feasible.
	Commence work on the Local Impact (LIR)	No fixed period.	Delegated to Officers.	In line with guidance from the Planning Inspectorate, an early start on the LIR is recommended although this would not be provided/completed within the pre-application stage (see below), but this is something that is requested in

Project Stage	Activity	Timescale	Proposed Approach	Justification
				<p>the early part of the examination phase and the timescale for this request is not fixed (it is at the discretion of the Examining Authority (ExA)). In any event, the LIR is a factual based report, which seeks to simply provide a factual presentation of the potential impacts of the proposed development, taking account of the local knowledge and experience of the authority. It does not seek to appraise the project nor indicate support or otherwise but is designed to assist the ExA in the consideration and assessment of NSIP projects.</p>
	<p>Commence work on Statements of Common Ground (SOCG).</p>	<p>No fixed period.</p>	<p>Delegated, in consultation with Members of the Planning Committee where possible.</p>	<p>The preparation of any SOCG is something that is progressed and managed by the applicant. It is not mandatory to produce them at the pre-application stage, but they are requested by the ExA at the examination stage (see below). Any areas of agreement, if confirmed at this stage, would not relate to the merits of the development, but typically factual elements, including how the project will be assessed, including the methodology for</p>

Project Stage	Activity	Timescale	Proposed Approach	Justification
	Discussion on Requirements and/or Section 106 Agreements.	No fixed period.	Delegated.	assessment with regard to EIA. Depending on the applicant seeking to progress this at the early stage, a recommendation could be made to Planning Committee, setting out the terms of any issues that could be agreed, setting a framework for the onward completion and negotiation of the SOCG. 'Requirements' form part of the Development Consent Order (DCO) Statutory Instrument, but they are akin to planning conditions on a planning permission. As with planning conditions, they are the mechanism for producing detailed areas of work and/or mitigating the impacts of development. If tabled at the pre-application stage, they would comprise early discussions, only as per any discussion on S106 Agreements as relevant.
Acceptance Stage	Adequacy of Consultation Response	14 days.	Delegated.	At the point that an application is submitted to the Planning Inspectorate (PINS) they have 28 days to decide whether to accept an application for examination based on satisfying a number of statutory tests within the Planning Act 2008.

Project Stage	Activity	Timescale	Proposed Approach	Justification
				<p>Within this period, PINS invite the relevant local planning authorities to comment on the adequacy of consultation. There would be insufficient time to allow a report to be put to Planning Committee during this period, with the timescale being fixed under the Act.</p>
<p>Pre-Examination Stage</p>	<p>Preliminary Meeting</p>	<p>Single date.</p>	<p>Delegated.</p>	<p>To be attended by Officers, a procedural meeting only, relating to how the examination will be conducted.</p>
	<p>Relevant Representations</p>	<p>No fixed period.</p>	<p>Delegated, in consultation with Members of the Planning Committee where possible.</p>	<p>A 'relevant' representation provides the initial opportunity during pre-examination to set out the main issues, impacts and concerns that the Council may have. It is an important procedural step, as it enables registration for active participation in the examination. As it is based on a timetable to be decided by the ExA, the time available may not allow for formal consideration by the Planning Committee.</p>
	<p>Finalise LIR</p>	<p>No fixed period.</p>	<p>Planning Committee.</p>	<p>Following the submission of the application, the finalised LIR can be drafted and presented for approval</p>

Project Stage	Activity	Timescale	Proposed Approach	Justification
				to the Planning Committee, during the pre-examination period.
Examination Stage.	Submission of LIR	No fixed period.	Delegated.	As per the approach recommended at pre-application stage. Completion of the LIR. The timescale is discretionary and is set by the ExA as part of the 'Rule 8' Letter. On the basis that the LIR will be drafted and approved in the Pre-examination stage by Planning Committee, the LIR will simply be released to coincide with the ExA timetable.
	Inputs into SOCGs.	No fixed period.	Delegated.	As part of an iterative process, inputs are provided throughout the examination, up to the point that a final version is agreed. Responses are dictated by the examination timetable.
	Written Responses.	No fixed period.	Delegated.	Written responses comprise a combination of responding to the written questions of the ExA, comments on other representations
	Participation in Hearings	No fixed period.	Delegated (but with member attendance where desired)	A number of hearings take place during the examination. This comprises round table discussions, where it is expected that Officers will provide verbal representations on the issues. It may be that Members (particularly Ward Members) may

Project Stage	Activity	Timescale	Proposed Approach	Justification
				wish to be present at certain hearings to observe or actively participate.
Post Decision	Discharge of requirements	No fixed period.	Delegated.	The 'Requirements' form part of the DCO Statute and are finalised on the assumption that the Secretary of State approves the application. The responsibility of discharging requirements falls to the Council, as does enforcement, in the event of non compliance. As the DCO is a statute, there would be no need to consider public interest, as non compliance would be a direct breach of legislation.



Report to Planning Committee 6 June 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Permitted Development Rights: Implementation of Various Amendments to Existing Classes under Schedule 2 - Part 3, (Class MA, Class Q, Class R: Part 6, Classes A and B)
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 24 July 2023, the Department for Levelling Up, Housing and Communities commenced a consultation on six proposals concerning amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), as amended. They are:

- a) Changes to certain permitted development rights that allow for the change of use to dwellinghouses.
- b) Changes to certain permitted development rights that allow agricultural diversification and development on agricultural units.
- c) Changes to certain permitted development rights that allow for non-domestic extensions and the erection of new industrial and warehouse buildings.
- d) Changes to the permitted development right that allows for the temporary use of land to allow markets to operate for more days.
- e) Changes to the existing permitted development right that allows for the erection, extension or alteration of schools, colleges, universities, hospitals, and closed prisons to also apply to open prisons.
- f) The application of local design codes to certain permitted development rights.

1.2 A paper was presented to Planning Committee on 7 September 2023 setting out the Council's response to this consultation. The Government has issued, on the 13th February, coming into force on the 5th March, a new Statutory Instrument 2024 No. 141 ([The Town and Country Planning \(General Permitted Development etc.\) \(England\)](#))

[\(Amendment\) Order 2024](#)) setting out permitted development rights relating to a) above.

- 1.3 It has also issued, on the 30th April 2024, coming into force on the 21st May 2024, a further Statutory Instrument 2024 No. 579 [The Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2024](#) setting out permitted development rights relating to b) above.

2.0 Detail

Commercial, Business and Service Uses to Dwellinghouses

- 2.1 Schedule 2, Part 3, Class MA, under the above Order has had two paragraphs removed. They are
- (a) unless the building has been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval; and
 - (c) if the cumulative floor space of the existing building changing use under Class MA exceeds 1,500 square metres.
- 2.2 These changes will provide a lot more flexibility for those wishing to exercise this permitted development right. All other requirements and conditions still apply, along with the requirement for anyone wishing to benefit from this Class of permitted development right to seek confirmation as to whether prior approval is required on - transport impacts, contamination risks, flooding risks, impacts of noise and, if the building is within a conservation area (CA), and the change of use applies to the ground floor, the impact on the change of use on the character or sustainability of the CA.

Buildings on Agricultural Units and Former Agricultural Buildings to Dwellinghouses (Class Q)

- 2.3 There are a number of changes permitted under this Class:
- (a) removal of the requirement for an agricultural building, part of an established agricultural unit to have been used solely for an agricultural use in order to carry out permitted development under Class Q,
 - (b) allows the change of use to a dwellinghouse, together with works to facilitate the change of use and the erection of an extension, of buildings that have not been used for any non-agricultural purpose since ceasing to be part of an established agricultural unit,
 - (c) replaces the separate floor space limits on larger and smaller dwellinghouses with a single floor space limit applying to all dwellinghouses of up to 150m²,
 - (d) increases the cumulative floor space that may be developed of up to 1000m²,
 - (e) increases the cumulative number of separate dwellinghouses that may be developed to 10,
 - (f) allows a small increase in the external dimensions of an existing building to accommodate permitted building operations,
 - (g) allows a single-storey rear extension of a building as part of the change of use to a dwellinghouse subject to a number of criteria including being single storey and not extending from the rear wall by more than 4 metres,

(h) provides that only buildings of a pre-development size that is capable of complying with the nationally described space standard may be converted to dwellinghouses and extended (the national space standards are set out within the GPDO for developments that are permitted), and

(i) prohibits a building without an existing suitable access to a public highway from being developed.

Change of Use from Agricultural Buildings to a Flexible Commercial Use

2.4 This Class expands the range of commercial purposes for which agricultural buildings and land within their curtilage may be used. It also increases the cumulative floor space of buildings that may change use under Class R. The previous permitted changes comprised Class B8 (storage or distribution), Class C1 (hotels) or Class E (commercial, business, business or service).

2.5 In addition to these, the following have been added B2 (general industrial), Class F.2(c) (outdoor sport or recreation) and for the provision of agricultural training.

Agricultural Development on Units of 5 hectares or More (Class A) and Less than 5 hectares (Class B)

2.6 The amendments prohibit the development of a scheduled monument. The size of buildings permitted has been increased and permits the ground area that may be covered by any building erected under Class A by up to 1000m² or any building that is extended would exceed 1,500m².

2.7 Class B also prohibits the development of a scheduled monument. It allows an increased cubic content by no more than 25% and ground area of an extension to an agricultural building by up to 1,250m².

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

[Additional flexibilities to support housing delivery, the agricultural sector, businesses, high streets and open prisons; and a call for evidence on nature-based solutions, farm efficiency projects and diversification](#)

[The Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2024](#)

[The Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2024](#)

PLANNING COMMITTEE – 6 JUNE 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 22 April 2024 and 28 May 2024)

Appeal and application refs	Address	Proposal	Procedure	Appeal against
APP/B3030/D/24/3340709 23/02172/HOUSE	Strelley 88 Kirklington Road Rainworth NG21 0JX	Single storey rear extension	Fast Track Appeal	Refusal of a planning application
APP/B3030/W/24/3340164 23/01578/FUL	The Acre Main Street Bleasby NG14 7GH	Erection of 1 dwelling	Written Representation	Refusal of a planning application
APP/B3030/W/24/3340326 23/01119/FUL	Aubourn Firewood Ltd Chase Holt Farm Sand Lane Besthorpe	Proposed new office building, car parking area and repositioning of bio-mass boiler.	Written Representation	Refusal of a planning application
APP/B3030/W/24/3340540 23/01092/FUL	Paddock Land Southwell Road Kirklington	Erection of storage barn	Written Representation	Refusal of a planning application
APP/B3030/C/24/3340763 23/00221/ENFB	The Nook Marsh Lane North Muskham Newark On Trent NG23 6HG	Without planning permission, operational development consisting of the altering of land levels and the construction of associated works including a gabion wall, brick walls and wooden sleeper wall, as shown on Images 1, 2 and 3.	Written Representation	Service of Enforcement Notice

APP/B3030/C/24/3340764 23/00221/ENFB	The Nook Marsh Lane North Muskham Newark On Trent NG23 6HG	Without planning permission, operational development consisting of the altering of land levels and the construction of associated works including a gabion wall, brick walls and wooden sleeper wall, as shown on Images 1, 2 and 3.	Written Representation	Service of Enforcement Notice
APP/B3030/W/24/3341130 23/01296/FUL	Field Reference Number 9208 Moor Lane East Stoke	Demolition of existing stable block and replacement with dwelling including new vehicular access.	Written Representation	Refusal of a planning application
APP/B3030/W/24/3341165 23/02101/FUL	Land Off Main Road Boughton	Erection of 4No. semi detached dwellings with associated parking and landscaping works (resubmission)	Written Representation	Refusal of a planning application
APP/B3030/W/24/3341482 23/01432/FUL	Annexe 16 Mansfield Road Clipstone NG21 9EH	Change of use of annex to use as separate dwelling (not ancillary to existing dwelling) (retrospective). Erection of fence	Written Representation	Refusal of a planning application
APP/B3030/W/24/3341835 23/01584/FUL	Beck House Station Road Edingley NG22 8BX	Proposed Detached Two Bed Dwelling	Written Representation	Refusal of a planning application

Future Hearings and Inquiries

The following applications are due to be heard by hearing or inquiry over forthcoming months.

Planning application number or enforcement reference	Proposal	Procedure and date	Case officer
22/01742/FUL Land At Wood Lane Kersall	Siting of park home/lodge for use as a rural worker's dwelling in connection with existing livery business	Hearing 11/06/2024	Amy Davies
23/00771/HOUSE 23/00772/HOUSE 23/00773/HOUSE 23/00774/HOUSE 23/00775/HOUSE 23/00776/HOUSE	Installation of security cameras (retrospective) Erection of a car port (part retrospective) Erection of outdoor gym building (retrospective) Reconfiguration and landscaping of patio area including construction of retaining walls, pagoda, pergolas and sun pod (retrospective) Erection of a summer house, installation of soft matting, service shed and timber shed (retrospective). Outdoor swimming pool, spa, raised platform area and retaining walls, balustrading and 2 pagodas (retrospective).	Hearing 02/07/2024	Steve Cadman Michael Read
22/00393/ENFB Fernhill Hoveringham Road Caythorpe	Without planning permission, "operational development" consisting of the erection of security cameras mounted on metal posts (as shown within photographs 1, 2, and 3 and marked with a "A" and "B" on Plan A); Without planning permission, "development" consisting of the material change of use of land from agricultural use to residential use (as shown within photographs 1 and 2). Without planning permission, the following operational developments: a) the erection of an outbuilding (as shown within photograph 1 and marked with a "X" on Plan A)		

	<p>Without planning permission, "operational development" consisting of the erection of a raised "platform" area, occupying approximately 348 sqm finished using timber cladding and containing a swimming pool measuring approximately 11m by 3m, set into the raised platform described above and a smaller 3m by 1.8m "spa" pool to the rear of the larger pool.</p> <p>Without planning permission, the following operational developments: a) the erection of an outbuilding (as shown within photograph 1 and marked with a "X" on Plan A)</p>		
<p>23/00190/ENFB</p> <p>Mill Farm Gonalston Lane Hoveringham NG14 7JJ</p>	<p>Without planning permission, operational development consisting of the erection of a building (identified with a blue "X" on the site location plan, outlined in red on Plan 2 and shown within photographs 1 and 2)</p> <hr/> <p>Without planning permission, "operational development" consisting of works and alteration to existing buildings, comprising of::</p> <ul style="list-style-type: none"> -The insertion of 3 rooflight windows (figures 1 & 2 within Appendix 1). -The installation and creation of a glazed openings and door (figure 3 within Appendix 1). -The application of horizontal timber cladding (figure 5 within Appendix 1). -The installation of a glazed window opening and the bricking up of an existing door opening (figure 6 within Appendix 1). - The fixing of rainwater goods to the building. <p>Building B (outlined in blue on plan 2)</p> <ul style="list-style-type: none"> -The insertion of 2 rooflight windows (figure 9 within appendix 1). -The erection of "dwarf" brick walls within two of the openings to the front of the building (figure 10 within appendix 1). 	<p>Hearing TBA</p>	<p>Richard Marshall</p>

	<ul style="list-style-type: none"> -The fixing of rainwater goods to the building. Building C (outlined in orange on plan 2) -The insertion of 2 rooflight windows -The erection of a dwarf wall and capping to the eastern gable end of Building C, (figure 11 within appendix 1). -The fixing of rainwater goods to the building. Courtyard (identified within an X on Plan 2). -Erection of brick walls (including "well" type construction) and a pole (figures 12 & 13 within appendix 1). -The creation of a hard surface comprising of slabs and crush stone (highlighted in green on plan 2). 		
	<p>Without planning permission, "operational development" consisting of the laying of hard core/crushed stone to create new access tracks and pedestrian paths (identified outlined in red on "aerial photograph" and shown within photograph 1)</p>		

If you would like more information regarding any of the above, please do not hesitate in contacting the case officer.

PLANNING COMMITTEE – 6 JUNE 2024

Appendix B: Appeals Determined (22 April 2024 and 28 May 2024)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
23/00013/ENFB	The Hermitage Gonalston NG14 7LL	Appeal against	Delegated Officer	Not Applicable	Appeal Allowed	20th May 2024
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=ROKOBJLB0FL01						
22/01840/FULM	Land South Of Staythorpe Road Staythorpe	Construction of Battery Energy Storage System and associated infrastructure.	Planning Committee	Committee Overturn	Appeal Allowed	3rd May 2024
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=RIIKHYLBMRQ00						
23/01186/FUL	The Coach House Church Hill Bilsthorpe NG22 8RU	Demolition of existing detached garage and outbuildings. Erection of single storey dwelling.	Planning Committee	Not Applicable	Appeal Allowed	24th May 2024
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=RXMQQVLBJH500						
22/01320/FULM	Woodland Alverton	Use of land as woodland amenity area and fishing pond including erection of wooden lodge (retrospective)	Delegated Officer	Not Applicable	Appeal Allowed	26th April 2024
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=REHFE5LBLMN00						

23/00136/FUL	Land To The Rear Of The Old Coach House Drinsey Nook Lane Thorney Newark On Trent LN1 2JJ	New commercial unit including an office, storage space and workshop.	Delegated Officer	Not Applicable	Appeal Dismissed	17th May 2024
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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=ROZZ6QLBGWQ00>

22/01298/FUL	Tesco Express Kirklington Road Rainworth Nottinghamshire NG21 0AE	Proposed retail unit with parking and amended site entrances	Planning Committee	Committee Overturn	Appeal Dismissed	24th May 2024
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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=RE8V5WLBKLO0>

23/00149/ENFB	Offices And Workshops Downside Cottage Great North Road Bathley Newark On Trent NG23 6HP	Without planning permission, the material change of use of land to B8 storage with the associated siting of storage containers; and associated operational development including the laying of ground materials (aggregates) and erection of boundary fencing to facilitate the material change of use to B8 storage.	Delegated Officer	Not Applicable	Appeal Withdrawn	9th May 2024
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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=SAYHUDLB0GW01>

Agenda Page 136 Legal Challenges and Other Matters

App No.	Address	Proposal	Discussion
22/02248/FUL	11 Station Road Collingham NG23 7RA	Erection of New Dwelling; Alteration of Existing Dwelling; Demolition of Existing Garage and Shed and Erection of New Garaging	Appeal following overturn of Officer recommendation by Planning Committee on 16 th February 2023. Costs award against the Council of £1,760.

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