



*Castle House
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Newark
NG24 1BY*

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Sunday, 3 November 2024

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

Members of the Committee:

**Councillor A Amer
Councillor C Brooks
Councillor L Dales
Councillor S Forde
Councillor P Harris
Councillor K Melton
Councillor E Oldham**

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

MEETING:	Planning Committee
DATE:	Monday, 11 November 2024 at 4.00 pm
VENUE:	Civic Suite, Castle House, Great North Road, Newark, NG24 1BY

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

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

AGENDA

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There are none.	

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, NG24 1BY on Thursday, 3 October 2024 at 4.00 pm.

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

Councillor A Amer, Councillor C Brooks, Councillor K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor M Shakeshaft, Councillor T Smith, Councillor M Spoons, Councillor L Tift and Councillor T Wildgust

ALSO IN ATTENDANCE: Councillor L Brazier, Councillor R Jackson and Councillor P Peacock

APOLOGIES FOR ABSENCE: Councillor L Dales, Councillor P Harris and Councillor S Saddington

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

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

59 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillors A Freeman and K Melton declared an other registerable interests for any relevant items, as they were appointed representatives on the Trent Valley Internal Drainage Board.

Councillor T Smith declared an other registrable interest as Ward Member for Rainworth South & Blidworth as he had taken part in community meetings in relation to Minute 53 from the last meeting, Land South of Dale Lane, Blidworth.

Councillor D Moore declared an interest in Land at Bowbridge Road, Newark on Trent, noting he resides close to the land in question and left the room when the application was considered.

Mr M Lamb, Director of Planning & Growth declared an interest in Land off Mansfield Road, Clipstone and left the room when the application was considered.

60 MINUTES OF THE MEETING HELD ON 5 SEPTEMBER 2024

AGREED that the minutes of the meeting held on 5 September 2024 to include an omission to Minute 53 Land South of Dale Lane, Blidworth, that the Nottinghamshire County Council Highway to consider to move the speed limit back, the minutes were then signed by the Chair.

61 CHANGE TO ORDER OF APPLICATIONS

The Chair asked the committee to consider a change to the order of the last three applications, item 11 to move up to item 9, item 9 to move down to item 10 and item 10 to move down to item 11. This would not delay proceedings as the change in order meant the last two items did not have any public speakers taking part.

AGREED (unanimously) that the order of applications be taken as agreed.

62 LAND OFF MANSFIELD ROAD, CLIPSTONE - 23/00832/FULM (MAJOR)

The Committee considered the report of the Acting Business Manager – Planning Development, which sought the development of 126 dwellings with open space, landscaping, highways and drainage infrastructure and associated works on land off Mansfield Road, Clipstone.

This application has been referred to the Planning Committee for determination by the local ward member, Councillor Paul Peacock, due to concerns regarding the design of footpath at the perimeter of headstock land leading to Anti-Social Behaviour, too few bungalows, drainage concerns, no details regarding play area, added pressures on local health services, added pressures on education places and added pressure of further junction on Mansfield Road and only one road in and out of the estate.

Councillor Paul Peacock spoke as Local Ward Member and Richard West agent for the applicant spoke in support of the application.

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

AGREED that Planning Permission be granted subject to a S106 Agreement and the conditions set out in Section 11 in the report.

63 CHECKERS FARM, PRIORY ROAD, THURGARTON, NG14 7GU - 23/01779/FULM (MAJOR)

The Committee considered the report of the Acting Business Manager – Planning Development, which sought the residential redevelopment of former farm complex comprising the demolition of existing buildings and conversion of agricultural buildings to create 3 dwellings and associated garages at Checkers Farm, Priory Road, Thurgarton, NG14 7GU.

A site visit had taken place prior to the commencement of the Planning Committee, for members as the proposal is particularly contentious, and the aspects being raised can only be viewed on site.

This application is being referred to the Planning Committee for determination, in accordance with the Council's Constitution, because the application is a departure from the Development Plan.

Holly Grant spoke against the application and George Machin agent for the applicant, spoke in support of the application.

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

AGREED (unanimously) that Planning Permission be granted subject to the condition(s) detailed at Section 10.0 and the expiry of the press notice.

64 TRENT VALLEY LIVERY LTD, TRENT VALLEY EQUESTRIAN CENTRE, OCCUPATION LANE, FISKERTON, SOUTHWELL, NG25 0TR - 24/00808/FUL

The Committee considered the report of the Acting Business Manager – Planning Development, for the change of use from stables building to single dwelling at Trent Valley Livery Ltd Trent Valley Equestrian Centre Occupation Lane Fiskerton Southwell NG25 0TR.

This application has been referred to the Planning Committee for determination, in accordance with the Council’s Constitution, because the proposal is a departure from the Development Plan.

George Machin agent for the applicant, spoke in support of the application.

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

AGREED (unanimously) that Planning Permission be granted subject to the conditions outlined at the end of this report.

65 HENDRE COTTAGE, MAIN STREET, EPPERSTONE, NG14 6AD - 24/00814/HOUSE

The Committee considered the report of the Acting Business Manager – Planning Development for the erection of raised platform with screen fencing and ramp at Hendre Cottage, Main Street, Epperstone, NG14 6AD.

A site visit had taken place prior to the commencement of the Planning Committee, for members to benefit from seeing the site and understanding the context.

Councillor Tom Smith left the meeting

This application is being referred to the Planning Committee for determination by the Development Manager due to personal circumstances that have been put forward by the applicant to be considered as part of the application. Due to reasons of privacy and compliance with the General Data Protection Regulations, full details are not included within the report, however, should members wish to obtain further details then they should contact officers individually.

Councillor Paul Bracegirdle from Epperstone PC along with Councillor Roger Jackson who spoke as Local Ward Member and Colin Wells the applicant spoke in support of the application.

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

AGREED it was voted unanimously that contrary to the Officer recommendation the application be approved subject to a condition requiring painting of the structure and legal agreement requiring the removal of the structure once no longer needed.

66 MURPHY PIPELINES LTD, NEWARK ROAD, OLLERTON - 24/00317/FULM (MAJOR)

The Committee considered the report of the Director – Planning & Growth for the extension to and re-development of site to provide new plant and vehicle workshop, welding services workshop, office and training academy, pylon training facility and other associated works at Murphy Pipelines Ltd, Newark Road, Ollerton.

A site visit had taken place prior to the commencement of the Planning Committee, for members to benefit from seeing the site and understanding the context.

This application is being referred to the Planning Committee for determination as it represents a material departure from policy within the Development Plan.

Councillor Lee Brazier spoke as Local Ward Member and the applicant spoke in support of the application.

The Chair indicated that the meeting duration had expired therefore a motion was moved by the Chair and seconded by the Vice Chair to continue the meeting. A motion to continue the meeting was voted on without discussion to continue for a further hour.

Members considered the presentation from the Director – Planning & Growth, which included photographs and plans of the proposed development.

AGREED (unanimously) that Planning Permission be granted, subject to the recommended conditions within Section 10.0 of this report.

67 ROBIN HOOD RETREAT CARAVAN PARK, BELLE EAU PARK, BILSTHORPE, NEWARK ON TRENT NG22 8TY - 24/01146/S73

The Committee considered the report of the Acting Business Manager – Planning Development for the application for removal of condition 04 for the time period for which a person can occupy the pitches for holiday use attached to planning permission 17/00147/FUL; Works to facilitate the siting of up to 15 additional caravans for holiday use (retrospective), at the Robin Hood Retreat Caravan Park, Belle Eau Park, Bilsthorpe, Newark on Trent NG22 8TY.

This application is being referred to the Planning Committee for determination by the local ward member, Councillor Rainbow, on the grounds that:

- The removal of the condition (4) would enable the site to become a permanent residential site which would have an impact on local tourism trade. Tourism is important to us all, it generates, revenue, jobs and in some cases supports communities. Visitor ‘turn-over’ is vital for the surrounding area and

its attractions.

- Environmental concerns regarding the effect a further 15 pitches would have on the current sewage system.

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

AGREED that Planning Permission be granted subject to the conditions detailed at Section 10.0.

68 LAND AT BOWBRIDGE ROAD, NEWARK ON TRENT - 24/00618/FUL

The Committee considered the report of the Acting Business Manager – Planning Development for the proposal of 5 bungalows on land at Bowbridge Road, Newark On Trent.

This application is being referred to the Planning Committee for determination in line with the Scheme of Delegation, as the applicant is Newark and Sherwood District Council.

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

AGREED (unanimously) that Planning Permission be granted subject to the Conditions set out at Section 10.0 of this report.

69 APPEALS LODGED

AGREED that the report be noted.

70 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 7.44 pm.

Chair

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 Monday, 14 October 2024 at 6.00 pm.

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

Councillor A Amer, Councillor C Brooks, Councillor L Dales, Councillor K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor S Saddington, Councillor M Shakeshaft, Councillor T Smith, Councillor L Tift and Councillor T Wildgust

ALSO IN

ATTENDANCE: Councillor S Forde, Councillor J Lee

70 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 lived streamed.

71 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillors L. Dales, A Freeman and K Melton declared an other registerable interests for any relevant items, as they were appointed representatives on the Trent Valley Internal Drainage Board.

72 LOCAL IMPACT REPORT A46 NEWARK BYPASS

The Committee considered the report of the Acting Business Manager – Planning Development, which considered the local impact report A46 Newark Bypass and sought Member approval for the submission of the report to the Examining Authority.

Given the scale and complexity of this project, there was a lengthy process involved. To date, there had been non-statutory public consultation (December 2020), statutory consultation (October 2022), and various technical consultations and negotiations with this Council and other Councils, alongside affected landowners and communities along the route of the proposed Bypass. National Highways submitted a Development Consent Order (DCO) earlier this year with the formal acceptance having been made by the Planning Inspectorate on the 23 May 2024.

The developer/applicant had to apply to the Planning Inspectorate for a different permission called a Development Consent Order (DCO), instead of applying to the local authority for Planning Permission in the normal way. A DCO followed a strict timetable and procedure as set out by the Planning Inspectorate and removed the need to obtain several separate consents and was intended to be a quicker process. The final decision would be taken by the Secretary of State, the elected minister with responsibility for the area of policy.

The Local Impact Report had to be submitted to the ExA by Deadline 1 as outlined in the Rule 6 letter which was 22 October 2024. A Hearing would take place 2 December 2024 and 14 February 2025.

Councillor J Lee (Local Ward Member Balderton North & Coddington) spoke in support of the application.

A schedule of communication was circulated prior to the meeting which detailed correspondence received following publication of the agenda from TownLegal and AECOM (via Nottinghamshire County Council).

The Planning Chair thanked the Planning Team for their work on this informative report.

The Director Planning & Growth informed the Committee that the Council's role was to help the Secretary of State to decide whether this scheme was acceptable. Members had a role of adding value, which can be achieved through representations. It was perfectly legitimate for the Council not to have all the answers, but to be involved and have a role in the process.

Members considered the Local Impact Report and the following suggestions were raised:

- Impact on Winthorpe School
- Choice of road surface for noise mitigation
- Additional traffic from other developments including commercial projects on the A17/showground
- Construction and phasing for the purposes of flooding, lighting details, columns, and exploration of low energy solution
- Additional cross sections between Brownhills and Cattlemarket roundabouts to show impact on St. Marys church
- Emergency services and traffic management detailing people and green corridors and movements across the site
- How many new footpaths
- Pedestrians access from Winthorpe Village across the A46 to Newark showground

It was also confirmed that the construction time would be 2025 if started on time and completed 2029. The scheme would cost circa half a billion (tier 1 scheme).

AGREED (unanimously) that Members approve the submission of the Local Impact Report to the Examination Authority, with the delegation to the Planning Committee Chair and or Vice Chair and the Director for Planning and Growth to approve any amendments to the report before

submission in line with the comments raised and other outstanding amendments.

Meeting closed at 7.26pm

Chair



Report to Planning Committee 11 November 2024

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Clare Walker, Senior Planner, 01636 655834

Report Summary			
Application No.	22/02375/FULM (Major)		
Proposal	Demolition of existing cottage. Residential development of 142 new dwellings and creation of new accesses.		
Location	Land Adjacent Hayside Cottage, Lowfield Lane, Balderton		
Applicant	Arkwood Developments Ltd	Agent	Jackson Design Associates
Web Link	22/02375/FULM Demolition of existing cottage. Residential development of 141 new dwellings and creation of new accesses. Land Adjacent Hayside Cottage Lowfield Lane Balderton (newark-sherwooddc.gov.uk)		
Registered	07.03.23	Target Date	06.06.23 (agreed extension until 29.11.24)
Recommendation	That planning permission is approved subject to the conditions detailed at Section 10.0 of the report and the signing and sealing of an associated legal agreement.		

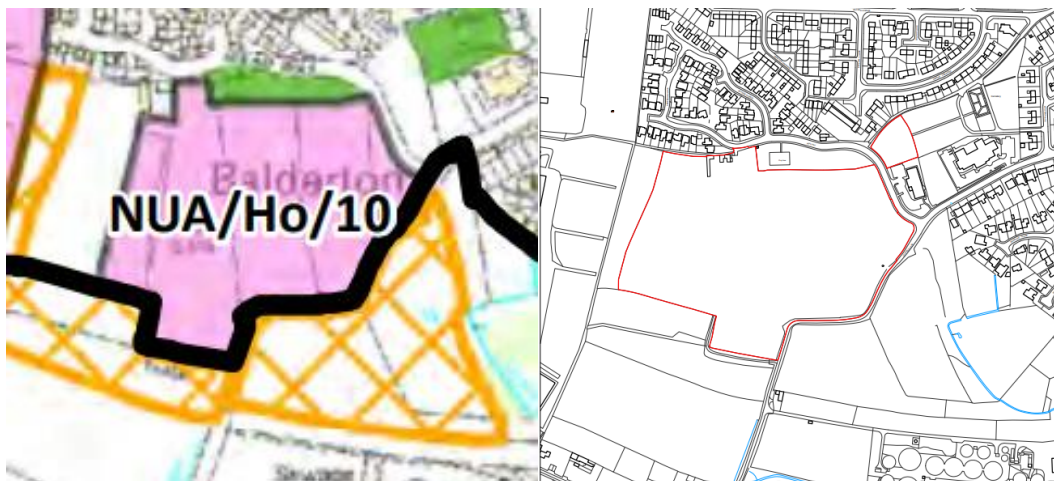
This application is being referred to the Planning Committee for determination because Arkwood Developments Ltd (a development company owned by the Council) are the Applicant.

1.0 The Site

- 1.1 The application relates to c6.8ha area of land located largely on the south side of Mead Way and west of Lowfield Lane in Balderton, albeit a smaller parcel of the site is located on the opposite side of Mead Way to the north east. The land lies within the defined Newark Urban Area.
- 1.2 The majority of the site is greenfield and is used or utilised for grazing and/or equestrian purposes. It is split into 6 main parcels of land. The land includes semi-improved grasslands, swamp, dense and scattered scrub, scattered broadleaved trees, a network of hedgerows, a pond and ruderal vegetation.

- 1.3 The majority of the site is allocated for the residential development of around 120 dwellings in the Allocations and Development Management DPD (July 2013) by Policy NUA/Ho/10.

Policy Map Extract showing extent of allocation (left image); Site Location Plan – site edged in red (right image)



- 1.4 Hayside Cottage is located adjacent to the north edge of the site. To the north of the site (east of Hayside Cottage) is a children’s play area which is allocated Public Open Space in the DPD (shown in green on the extract above). Mead Way runs along the north edge of the play area and wraps around the east side of the site leading to a junction with Lowfield Lane. Lowfield Lane forms the majority of the south boundary of the site. The rear of the residential dwellings located to the south of Mead Way are located immediately north of the west part of the site separated by an existing Public Right of Way. This public right of way continues to the north and also forms the north west boundary of the part of the application site located on the opposite side of Mead Way. A Public Right of Way is also located immediately adjacent to part of the south boundary of the site.
- 1.5 Immediately to the south and west of the site are designated (non statutory) Local Wildlife Sites known as Balderton Works Meadow and Lowfield Lane Grasslands (shown on yellow hatching on the extract above). The site contains a large number of trees/hedgerows particularly along its boundaries.
- 1.6 Flowserve (part of which has recently received outline consent on appeal and reserved matters approval for housing) is located just less than 100 metres to the west of the site. A Salvation Army building and medical centre are located to the east of the site on the opposite side of Mead Way.
- 1.7 The site falls gently from approx. 17m AOD in the north to approx. 12.5m AOD in the south. The site lies almost entirely within Flood Zone 1 with some small portions of the southern boundary lying with Flood Zone 2.
- 2.0 Relevant Planning History**
- 2.1. There is no relevant and recent planning history on the site itself, with the adjacent

land to the north of the application site (now Mead Way/Hayside Avenue Housing) being subject to the following application:

96/50085/FUL Erection of 90 houses and garages – permission 04.06.1999.

3.0 **The Proposal**

3.1 The application as originally submitted sought full planning permission for the demolition of Hayside Cottage and the erection of 151 dwellings. During the course of the application, the applicant amended the scheme and reduced the number of dwellings to 142. It should be noted that plot numbers on the most recent layout plan still range from 1 to 151 inclusive, as plots 32- 40 were removed.

3.2 The development would include the creation of three new access points off Mead Way – one to be located centrally adjacent to the north of the site (east of the current position of Hayside Cottage) and one to the east of the site, close to the junction of Lowfield Lane with the third access off Mead Way serving the parcel of land to the north-east. The layout of the proposed development is presented below.



3.3 The development includes a proposed 'protected green space' (as described by the applicant) to the western portion of the site albeit there is no public access proposed as this is an area where key, sensitive areas of existing hedgerow are proposed for retention. A landscape wetland area is proposed to the southern part of the site,

adjacent to the boundary with the existing designated local wildlife site to the south, which also includes drainage attenuation proposals for the site.

- 3.4 It is proposed that the development would be built out in a phased way (albeit no phasing plan has been provided to date) and includes the following proposed mix of house types on the main allocated element of the site:

6 x 1-bed maisonettes.
 6 x 2 Bed Bungalows.
 22 x 2-bedroom houses
 8 x 2 bed maisonettes.
 61 x 3 bed houses.
 20 x 4 bed houses.
 9 x 5 bed houses.

- 3.5 The land to the north eastern side of Mead Way (the part of the application site that isn't allocated) would comprise of 6 x 2 bed dwellings and 4 flats (ground floor and first floor).

- 3.6 Taking account of a viability appraisal, the proposed development includes for 10% on-site affordable housing provision. This comprises of four First Homes (plots 52-55) and ten dwellings which would be provided as affordable rented properties (plots 142-151). These have been clustered in two groups; one comprising the 10 dwellings on the unallocated section of the site (to be provided by the Council in its capacity as a registered social landlord) and the other home ownership products would be placed centrally within the allocated part of the site to be delivered by the developer.

- 3.7 Houses would front Lowfield Lane and Mead Way (including the play area). Each dwelling would be provided with private amenity space and car parking. Some existing hedgerows and trees particularly around the southern boundary of the site would be retained.

- 3.8 The application submission has been accompanied by and considered based on the application drawings comprising of layout, elevations and house types and visualisations, the Design and Access Statement and various associated standalone technical and assessment reports. A full list of documents is provided below.

Document Description	Reference	Date Deposited
Plans		
Location Plan	21-2337 (02) LP	9.12.22
Site Location and Block Plan (SGA Architects)	DR/A/00001/P4	1.6.23
View along Main Street	(VIS) 001	9.12.22
View North West from Central Space	(VIS) 002	9.12.22

View South from Mead Way Entrance	(VIS) 003	9.12.22
View of the Central Space	(VIS) 004	9.12.22
View East Along Main Steet	(VIS) 005	9.12.22
View of Lane to Southern Edge	(VIS) 006	9.12.22
Type A Flat Elevations	00002 P2	9.12.22
Type D House Elevations	00003 P2	9.12.22
Type A and D Floor Plans	00004 P1	9.12.22
Garage Plans	21-2337 (02) GAR	1.12.24
Visualisation Image	00005 P2	9.12.22
Visualisation Image	00006-P1	31.8.24
Visualisation Image	00007-P1	31.8.24
Visualisation Image	00008-P1	31.8.24
Proposed Site Layout and General Arrangement Plan	21-2337 (02) 1001 Rev G	18.10.24
Type IM01 I B2P Maisonette	21-2337-IM01 (02) 001 Rev A	9.12.22
Type 2103 2B3P Bungalow	21-2337-2103 (02) 001 A	9.12.22
Type 2201 2b4p Terrace (The Winthorpe)	21-2337-2201 (02) 001 A	9.12.22
Type 2M01 2B3P Maisonette (The Kirton)	21-2337-2M01 (02) 001 A	9.12.22
Type 3201 v1 3B5P Semi-Detached (The Edingley)	21-2337-3201-V1 (02) 001 A	9.12.22
Type 3201 V2 3B5P Terrace (The Edingley)	21-2337-3201-V2 (02) 001 A	9.12.22
Type 3204 3B5P Detached (The Maplebeck)	21-2337-3204 (02) 001 A	9.12.22
Type 3205 3B5P Semi-Detached	21-2337-3205 (02) 001 A	9.12.22
Type 3206 V1 3B5P Terrace	21-2337-3206-V1-(02) 001 A	9.12.22
Type 3206 V2 3B5P Semi-Detached	21-2337-3206-V2-(02) 001 A	9.12.22

Type 3207 V1 3B5P Detached & Semi- Detached	21-2337-3207-V1-(02) 001 A	9.12.22
Type 3207 V2 3B5P Semi-Detached	21-2337-3207-V2-(02) 001 A	9.12.22
Type 4201 4B6P Detached	21-2337-4201 (02) 001 A	9.12.22
Type 4202 V 4B6P Detached Corner House	21-2337-4202 V1 (02) 001 A	9.12.22
Type 4202 V2 4B6P Detached Corner House	21-2337-4202 V2 (02) 001 A	9.12.22
Type 4301 3B5P Link (Live Work Unit)	21-2337-4301 V1 (02) 001 A	9.12.22
Type 5201 5B8P Detached House	21-2337-5201 (02) 001 A	9.12.22
Type 5302 5B9P Dormer House	21-2337-5302 (02) 001 A	9.12.22
Sensitive Site Area Key Plans	001 REV A	2.11.23
Swept Path Analysis - Large Car and Van	3943 002 REV D	29.8.24
Visibility Splays 2.4m x 25m	3943 004 REV D	29.8.24
Swept Path Analysis - Refuse Vehicle Inbound	3943 006 REV B	29.8.24
Swept Path Analysis - Refuse Vehicle Outbound	3943 007 REV B	29.8.24
Forward Visibility Splays	3943 008 REV B	29.8.24
Indicative Lowfield Lane Parking Review	3943 009 REV B	29.8.24
Swept Path Analysis - Bus Eastbound	3943 010 REV A	29.8.24
Swept Path Analysis - Bus Westbound	3943 011 REV A	29.8.24
Distance Between Traffic Calming Features	3943 012 REV A	29.8.24
Proposed Site Layout: Adoption Plan	21-2337 02 002	28.6.24
Topographical Survey and Utility Survey	36158 T UG 0	29.8.24

Reports		
Arboricultural Survey Report	Smeeden Foreman	17.5.24
Archaeological Desk-Based Assessment	Allenarchaeology	9.12.22
Design and Access Statement	Jackson Design Associates	9.12.22
Flood Risk Assessment and Drainage Strategy	HWA	17.5.24
Interim Travel Plan	ITP	9.12.22
Framework Travel Plan Addendum	ITP	1.2.24
Transport Assessment	ITP	9.12.22
Transport Assessment Addendum	ITP	01.2.24
Utility Search Report	Greenhatch Group	9.12.22
Ecological Appraisal	Baker Consultants	2.2.23
Ecological Impact Assessment	Weddles	1.2.24
Habitat Creation, Maintenance and Management Costs	Brindle Green	23.10.24
Letter (ecology)	Weddles	29.10.24
Odour Assessment	Noise Assessments Ltd	6.3.23
Noise Impact Assessment	Noise Assessments Ltd	7.3.23
Phase 1 Contaminated Land Assessment	Your Environment	11.4.23
Phase 2 Site Investigation Report	Solmek	17.7.23
Historic Building Survey Report	Allenarchaeology	28.6.23

4.0 Departure/Public Advertisement Procedure

4.1 Occupiers of 57 properties have been individually notified by letter. Site notices have been posted and an advert has been placed in the local newspaper. A site visit was undertaken on the 1st July 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
Spatial Policy 9 – Selecting Appropriate Sites for Allocation
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 (2013)

NUA/Ho/10 – Newark Urban Area – Housing Site 10
DM1 – Development within Settlements Central to Delivering the Spatial Strategy
DM2 – Development on Allocated Sites
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 scheduled to be examined in November 2024. 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 (online resource)
National Design Guide - Planning practice guidance for beautiful, enduring, and successful places September 2019
Building for a Healthy Life, Homes England
Technical Housing Standards, nationally described space standards, 2015
Residential Cycle and Car Parking Standards & Design Guide SPD June 2021
Newark and Sherwood Developer Contributions and Planning Obligations SPD (December 2013)
NCC Developer Contributions Strategy (December 2021)
Estate Regeneration National Strategy 2016
Planning and Design for Outdoor Sport and Play by FIT
Newark and Sherwood Playing Pitch Strategy Review 2016/17
Newark and Sherwood Physical Activity and Sport Plan 2018-2021
Guidance for Outdoor Sports and Play, Fields in Trust
NPPF Planning Reforms (Consultation and Draft NPPF) July 2024

6.0 Consultations and Representations

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

Statutory Consultations

6.2. Nottinghamshire County Council (Highways) – No objections subject to obligations and conditions. Some of the main points raised in the latest comments are summarised as follows:

- There still may be some issues in terms of the adoptability of the internal road layout but any changes are unlikely to have a significant material impacts in planning terms;
- The northernmost access traverses unregistered land and to be able to commence the process of adoption will need to be constructed first;
- Conditions are required to avoid planting of the rain gardens that fall within visibility splays;
- It is accepted that car ownership may be less to the north of Main Street but a S106 contribution should be secured so that the County Council can subsequently implement a traffic regulation order to address problematic parking if required.

6.3. National Highways – No objections, there will be no adverse impact on the safe operation of the Strategic Road Network.

6.4. Nottinghamshire Lead Local Flood Authority – No objections subject to condition.

6.5. Environment Agency – Commented that they have no fluvial flood risk concerns.

6.6. Natural England – No objection, the proposal will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

6.7. Active Travel England – Standing advice applies, encourage the local authority to consider this as part of the assessment of the application.

Parish Council

6.8. Balderton Parish Council – (Original Comments March 2023) Object:

- There are concerns about the impact on the drainage system;
- The area of the village is low lying land and Manners Road estate regularly experiences problems;
- The adjacent Mount Road Cemetery has experienced a change in water table making double depth burials not possible;
- This is one of the last open green spaces left in the village;
- There are indications of a Medieval field system on the site;
- The developments at Flowserve and this additional development would mean an almost continuous sprawl from Balderton, Middlebeck through to the south

of Newark;

- An in-depth ecological impact survey should be undertaken to fully assess the considerable potential impact of this proposal.

Further comments June 2024:

- The highways report does not consider the impact on Manners Road, Belvoir Place and Belvoir Road;
- The traffic assessment was completed during covid restrictions and do not consider the combined impact of other development such as Flowserve
- The application conflicts with local and national planning policy with insufficient ecological information to fully appreciate the impact of the proposed development;
- Significant flood events were experienced in 23/24 with foul sewer drainage backing up into homes;
- The development will have significant impact on service provision including education; libraries and local transport provision.

Representations/Non-Statutory Consultation

- 6.9. Internal Drainage Board – The Board maintained Lowfield Lane Drain exists to the South of the site. The Boards consent is required to erect any building or structure within 9m of the top edge of the watercourse.
- 6.10. NCC Planning Policy –
- Education – the development would yield an additional 30 primary, 23 secondary and 4 post 16 aged pupils including 1 pupil requiring a specialist place. Request a contribution of £660,240 for primary education (based on 30 pupils x £22,008 per place) and £104,556 for the special educational needs and disabilities place.
 - Transport and Travel – Footpath 11 should be fully lit to make the development acceptable. Planning conditions requested in relation to the provision of bus stops. Contribution of £108,000 requested for bus service support.
 - Libraries – The proposal would add 324 people to the library catchment area. Request £6,289 for stock.
- 6.11. NHS Estates Team – Request contribution of £138,462 towards provision at Balderton Surgery; Fountain Medical Practice and Barnby Gate Surgery.
- 6.12. NSDC Conservation Officer – The cottage to be demolished is not considered to meet the Criteria for ‘Non-designated heritage assets’.
- 6.13. NSDC Archaeological Advisor – The development of the site has the potential to significantly impact upon significant archaeological remains if present and further evaluation is recommended so that an appropriate mitigation strategy can be designed and implemented prior to enabling or construction works beginning.

- 6.14. NSDC Environmental Health (noise and odour) – The odour assessment indicates that odour from nearby sewage treatment works is unlikely to affect the development. In relation to noise, the report indicates that an acceptable acoustic environment can be achieved at the development subject to conditions for the properties facing towards STW.
- 6.15. NSDC Environmental Health (contaminated land) – Recommend the use of the full phased contamination condition.
- 6.16. Nottinghamshire Wildlife Trust – Object and wish to see the application refused:
- Loss and damage to Local Biodiversity Action Plan grassland of county and regional importance;
 - Contrary to both national and local planning policy in terms of protecting wildlife habitat;
 - Details are required on how a net gain in biodiversity will be achieved as per NPPF;
 - Inadequate protection of Local Wildlife Sites;
- 6.17. NSDC Biodiversity and Ecology Lead Officer – Additional surveys undertaken have been comprehensive and have included all relevant species and species groups, and habitats have been surveyed and assessed to the required level of detail. Agree with most of the proposed avoidance and mitigation measures. Areas of concern:
- Clarification is required regarding the habitat classification of the orchard area;
 - Would appear that in addition to Field B meeting the selection criteria for Local Wildlife Sites, Field E also potentially does;
 - Should be a Construction Environmental Management Plan and other plans such as a Landscape and Environmental Management Plan or a Biodiversity Management Plan;
 - The proposal should secure off site compensation through a section 106.
- 6.18. NCC (Rights of Way) – Balderton Footpath No. 14 and Balderton Footpath No. 11 pass within / adjacent to the site. Balderton Footpath No. 28 passes along the western boundary of the smaller site. Footpaths adjacent to rear garden fences is not ideal and goes against safe design policies. Footpaths will need to be 2m wide surfaced paths – difficult to comment in detail as no dimensions are given. More detail is required to comment on the proposed link to Balderton Footpath No. 14.
- 6.19. NSDC Tree Officer – Drawings should show full mature size of both proposed and existing retained trees and hedgerows.
- 6.20. NSDC Strategic Housing – This application requires provision for 45 affordable dwellings.

- 6.21. NSDC Environmental Services – Detailed bin storage and collection points for properties should be shown. Provision should be made for a NEAP and an additional LEAP play area.
- 6.22. A paper petition dated 26th June 2024 was received, however, some of the pages of this document do not reference what the signatures and objections relate to. The pages that do contain reference to the proposed development include reference to an objection, but no further information is given on the nature of the objections. The paper petition was accompanied by an Excel spreadsheet titled ‘record of hard copy petition dated 26.6.24’ suggesting a record of 954 signatures, although this must be considered within the context of the points raised above.
- 6.23. A further single page paper position was received on the 2nd July 2024, which appears to form part of the same paper petition referenced above. This single page does not reference what the petition relates to.
- 6.24. A further electronic petition dated 26th June 2024 was received, which states it has been signed by 1,257 people. The front page of the document sets out the basis for objection, which includes issues as summarised below. There is, however, no means of verifying the authenticity of the petition as whilst the petition includes a number of names and postcodes, there is no signature, electronic or otherwise against any of the names.
- 6.25. Comments have been received from 118 third parties/local residents representing objections for the summarised reasons below.

Impact on Principle

- There has already been far too many houses built around this area, this is one development too far;
- The development is unnecessary;
- The site is not allocated in the Local Plan and nor should it be – there are major flaws with the Integrated Impact Assessment that has been carried out for this site (NUA/Ho/10) due to the biodiversity value being under-estimated;
- The original proposal was for 120 houses but this has increased to maximise profits without regard for the impacts;
- If NSDC wish to build more houses it should be towards Caunton, Ossington, Eakring and Ollerton where there is more space;
- All brownfield sites should be exhausted before concreting over our last fragments of green space;
- Balderton has taken enough new housing in recent years;
- Led to believe that Newark and Sherwood have already reached their quota for housing.

Impact on Wildlife and Biodiversity including Trees

- Lowfield Lane is the last tranquil, naturally diverse lane in Balderton – it is home to a huge amount of Wildlife;
- Wildlife has been pushed onto this site since the Flowserve development;

- Fields and natural spaces would be highly impacted with constant traffic;
- The area has wildlife including deer;
- Many of the trees are protected;
- There may be an impact on the amount of CO2 emissions;
- A Schedule 1 Barn Owl has bred within the last 18 months within 100m of the site – if the application is approved the work will have a major impact on this species;
- The site provides important foraging habitat for this species that hunts mainly over grassland for prey;
- Many trees will be lost;
- The site is next to a local wildlife site including meadows and grasslands – this is identified as officially designated rich grassland;
- The fields are of rich, biological importance and form part of an essential wildlife corridor running to Middlebeck;
- Further surveys were recommended for a number of protected species;
- Nature in Newark and Sherwood is not being considered highly enough – Newark is a concrete jungle;
- The proposal does not comply with the mitigation hierarchy set by the NPPF – it is apparent that no effort has been made to avoid impacts – the site would be almost fully developed with small areas of open space / drainage;
- The proposal fails to comply with Policy DM7;
- 97% of species rich grassland have been lost over the last century;
- We have one of the lowest green space access per head in the country;
- Redactions in the ecological report should be explained;
- An in depth ecological survey should be undertaken to fully assess the considerable potential impact of the proposal;
- A pair of short eared owls that used to hunt in the area have already been lost due to the by-pass road that has been built;
- There is aquatic life in the pond near Hayside Cottage;
- Councils should recognise the connection between towns/cities and their natural surroundings;
- The Council is going against its 'initiatives to create a greener district';
- The proposals do not take account of Biodiversity Net Gain;
- We are in a climate and ecological emergency;
- There is a little buffering or consideration of the impact on the adjoining local wildlife site;
- The Council are well placed as landowners to develop the site as high value biodiversity and green space;
- Newark only provides 19.04sqm of green space per person which is only just above London;
- The site is home to rare fungi;
- The hedgerows and grasslands are a sanctuary to a variety of wildlife;
- Sandwiching a piece of green space amongst the new estate will not attract or support wildlife diversity that the current open and natural fields encourage;
- The tree report suggests no dig methods but how can this be done for a road without damage;
- The indications of the ecological survey is that the site is of county level importance but this is being ignored;

- The report is split into 5 fields therefore reducing the importance of the biodiversity of the whole site – it should be a local wildlife site in its own right;
- The plans have been greenwashed to make it appear that environmental concerns are being addressed.

Impact on Character

- The village is fast losing any charm or personality being continuously covered in identikit new build estates.

Impact on Infrastructure

- NSDC are not fulfilling the green space strategy in Balderton;
- Newark is unable to provide a dental service, there are no NHS places at this moment in time;
- The GP near the proposed development cannot cope with the patients they have now let alone the additional houses proposed;
- Newark hospital cannot cope with the number of patients it is asked to look after;
- Loss of a community by not having the open spaces to meet;
- There are not enough school places in Newark;
- Not enough jobs in the area to support more housing;
- Adding a path to the playground on Mead Way will saturate the facility and ruin it for families already living in the area;
- Little or no green space for children's safe play areas;
- A new police station in Newark is not manned overnight;
- If these are supposed to be affordable homes then they should be closer to public services.

Impact on Residential Amenity

- The area was a vital green space in lockdown and continues to be so today;
- The green spaces around Newark have proven essential for good mental health and wellbeing, they are slowly being swallowed up;
- Background noise levels will increase;
- At night there will be increased light pollution;
- The neighbouring land should have been marked as private as it could be suggesting an attractive amenity that does not exist for the public;
- Noise and disturbance during construction;
- The wildlife and stillness of the area is a rare value for mental health.

Impact on Drainage and Flooding

- In recent floods, Lowfield Lane and the Cottages experienced flooding and sewage overflow;
- With this development and the further housing and Flowserve, Fernwood and Middlebeck the infrastructure won't be able to cope;

- All developments in the area should stop until Severn Trent have upgraded the sewerage plant to cope with the capacity;
- Last year the fields were under water – where will the water go to;
- The land around this area is boggy and water logged;
- The allotments that used to be within the site always flooded;
- The flooding causes very strong sewage smells;
- The developer has ticked all the boxes to say drainage is sustainable and there is no flood risk but the area is notoriously problematic;
- The ditches along Lowfield Lane and Middlebeck reach road level during heavy rain;
- The site being a flood plain protects nearby residential properties - development at Middlebeck is causing flooding in areas not experienced before and there is concern that the development of this site would do the same;
- The maps in the flood risk assessment appear to be flipped so concern that the data is incorrect and based on data from 2022;
- The flood risk assessment has shown that run off water will be nearly doubled to an already saturated area;
- The new plans showing a pumping station is a clear sign that the land is naturally too wet and unsuitable for building.

Impact on Highways including Rights of Way

- There is a bridleway through the property which has not been able to be used – residents have been assured the paths won't be closed but that is not the case;
- There are issues arising with cars going down Lowfield Lane – there is a health and safety issue;
- Patients visiting the health centre regularly park on both sides of the road which causes access difficulties for both patients and residents;
- Traffic would impede the use of the Lane for ramblers and dog walkers;
- The lane is single track and many families and dog walkers use it;
- The top of the lane has a really bad blind bend with cars parked on both sides of the road;
- The traffic would have a major impact on existing estates (Mead Way to Lowfield Lane) especially with having 2 access routes where the traffic will all lead through Lowfield Lane;
- Traffic could conflict with elderly patients who visit the Doctors surgery;
- The clue is in the name – it should remain a lane;
- The ever expanding Fernwood village is bring more and more traffic out of Newark along London Road making joining London Road from Manners Road a lengthy and dangerous task;
- It is already an unsafe area without the extra traffic which would come from this development;
- The Salvation Army hosts large gatherings occasionally having to park on the roadside;
- The access and egress is too close to the car park entrance for the Salvation Army;
- The proposed access which is the existing access to the cottage is taking traffic past a children's play park and crosses the entrance to a well used public footpath;
- Pedestrians and dog walkers will have to cross a potentially busy junction to access the footpath;

- Mead Way can prove to be a bottleneck and an increase in traffic will only make this worse;
- The proposal has the potential to affect access to neighbouring property;
- The estate access will be saturated and overwhelmed by the additional traffic;
- Articulated heavy tankers associated with the Severn Trent treatment works regularly use the road for access;
- Even with current activity, vehicles regularly have to wait and filter through the congestion;
- The plans show single or double parking but most families require a minimum of 2.5 car parking spaces therefore cars will need to be parked on the road / footpath;
- Disabled people or families with prams will have difficulty passing cars;
- It is obvious that the developer is putting profit before safety;
- There does not appear to be many garages so most vehicles will be parked kerbside;
- The design and interim travel plan notes links to another potential residential site but it is not clear where that is;
- Vehicles don't give way at the junction causing near collisions, adding more cars would make this potential worse;
- There would be an increase in the use of Belvoir Road which is already in a bad state;
- The bottom of Mead Way where it meets Lowfield Lane gets very icy in the winter;
- How would fire services and ambulances cope getting to some of the dwellings;
- The increase in vehicles would endanger life and the health of the existing residents;
- The traffic assessment does not seem to have taken into account the impact on the main junctions at London Road (from Belvoir Road and Manners Road);
- Double yellow lines on Lowfield Lane would result in residents having nowhere to park;
- The assessment of parking was not done at weekends when everyone is home and has visitors;
- Surveys were done during the school holidays so the data will give a misleadingly low value of normal traffic.

Impact on Heritage

- The report refers to a medieval field system which provides amazing history- this should not disappear under concrete;
- Hayside cottage is of historical value and should be treated as such and retained – further research is recommended to establish the level of heritage;
- Newark South has identified nationally significant remains – every chance this extends onto this site;
- The neighbouring field is medieval with its distinct ridge and furrow.

Other Matters

- Adjacent landowners have not been consulted by the developers;
- The District Council must be made accountable – it cannot be allowed to buy up land and give itself permission to do as it pleases with taxpayers money;

- Instead of a housing development there is an opportunity in supporting a community engagement project;
- Concerned about impacts on house prices;
- The land is owned by Newark and Sherwood so all of us at Newark and Sherwood should have a say to what happens;
- Issues with portal allowing comments;
- Duplicate documents make it confusing to go through;
- Existing problems with antisocial behaviour down Lowfield Lane;
- The revised layout plan does not have full data inserted to the legend so it is not clear how many dwellings are being proposed;
- Data washing appears in most of the consultancy reports;
- There should be a full council debate on the application.

7.0 Comments of the Business Manager – Planning Development

7.1 The key issues are considered to be:

- The Principle of development
- Housing Density, Needs, Mix & Type
- Design, Character and Appearance (including Parking)
- Impact on Residential Amenity
- Impact on Highway Safety
- Impact on Ecology
- Impact on Trees, Landscape and Public Open Space
- Flood risk and Drainage
- Impact on Heritage & Archaeology
- Development Viability and Planning Obligations
- Planning Balance and Conclusion

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

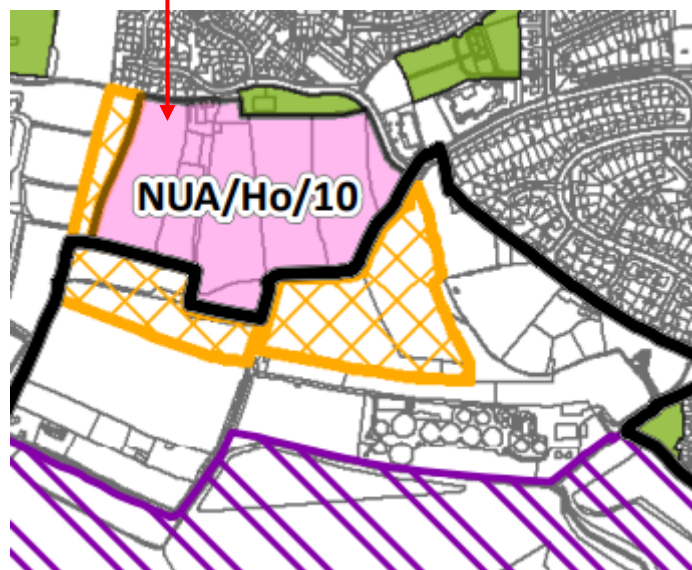
7.3 The description of development was amended from 151 dwellings to 141 during the course of the application to reflect a reduction in the number of units. In fact, the scheme seeks permission for 142 new dwellings (albeit it is noted that the impacts relate to a net 141 additional dwellings as an existing cottage is to be demolished) and as such with the applicant's agreement, this description has been amended to accurately reflect the amended plans upon which full public consultation has been

undertaken. Officers are satisfied that the amended description of development accurately reflects the plans which have been consulted on, ensuring nobody has been prejudiced by this change in the description of development.

Principle of Development

- 7.4 The Allocations & Development Management DPD (ADMDPD) was adopted in July 2013 and, together with the Amended Core Strategy DPD, now forms part of the Development Plan for Newark & Sherwood. The proposal site is located in Balderton, part of the 'Newark Urban Area' (NUA), a Sub Regional Centre. The majority of the site is allocated for housing development within the ADMDPD under the terms of policy NUA/Ho/10 for the provision of around 120 dwellings. Members may note that the Publication Amended Allocation and Development Management DPD proposes to formally enlarge the area included in NUA/Ho/10 with additional land to the west, which would take the allocation up to the existing Site of Interest in Nature Conservation, SINC (see image below). This is why the overall numbers are greater than the current 2013 allocation but below the proposed allocation of around 170 dwellings. In any event the entirety of the application site is within the Newark Urban Area boundary.

Extended proposed allocation to include field next to the SINC.



- 7.5 The current allocation policy notes the need to consider transport including potential highway improvements (noting the reference in policy requiring a 'sport assessment' was a typo that should have said transport), an appropriate landscaping scheme and pre-determination of archaeological potential, matters which will be discussed later in the report.
- 7.6 As Members will be aware the allocation for 120 dwellings is approximated and does not set an upper or lower limit for the number of units. Notwithstanding density, which will be considered in the next section, it is clear that the policy NUA/Ho/10 sets and establishes the principle of development for the significant majority of the application site.

- 7.7 Some of the land to the west and northeast (forming part of the overall application site boundary) does not lie within the boundaries of the extant allocation. This element could be regarded as a windfall site that is also within the NUA and within a sustainable location such that it would be appropriate for residential development as a matter of principle, subject to site specific impacts being considered acceptable.

Housing Density, Need, Mix and Type

- 7.8 Paragraph 60 of the NPPF states that local authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Core Policy 3 (Housing Mix, Type and Density) indicates that housing developments should be no lower than an average 30 dwellings per hectare and that sites should provide an appropriate mix of housing types to reflect local housing need, namely family housing of 3 bedrooms or more, smaller housing of 2 bedrooms or less and housing for the disabled and elderly population, but to reflect local need. It also states that housing mix, type and density will also be dependent on the local circumstances of the site, any localised housing needs information and the housing market at the time of delivery.

Density

- 7.9 The part of the site to the south of Mead Way achieves a density of around 19.8 dwellings per hectare (dph). This is lower than the usual 30dph minimum set out in Core Policy 3. However, it is necessary to provide for a lower density development to protect the key existing natural features within the site and deliver a more sensitive development that respects the character and appearance of the surrounding area.

Mix, Need and Type

- 7.10 Policy CP3 sets out that the district council will seek to secure new housing development which adequately addresses the housing needs of the district namely, family housing or 3 bedrooms or more, smaller housing of 2 bedrooms or less and housing for the elderly or disabled population.
- 7.11 The proposal offers a range of house types of varying sizes (from 1 to 5 bedrooms) ranging from single storey bungalows, ground and first floor flats, two and two-and-a-half storey dwellings with a mix of terrace dwellings (34) semi-detached (36) and detached (54) units amongst these.
- 7.12 The Council's District Wide Housing Needs Assessment (2020) forms the most up to date survey data (HNS) for the District. The site falls within the Newark Sub Area of this assessment which sets out the overall housing mix required for the sub-area. The following table shows the proposed development and mix when measured against the HNS (2020) data:

Overall Housing Mix – Proposal versus HNS Data.		
Dwelling Type	Proposed Number and %	HNS 2020 (%)
1 bed house	6 (4%)	19.5%
2 bed house	36 (26 %)	
3 bed house	61 (43 %)	30.7%
4 or more bed house	29 (20%)	25.5%
1 bed flat	4 (3%) -	4%
2 or more bed flat	-	4.9%
1 bed bungalow	-	-
2 bed bungalow	6 (4%)	7.4%
3 or more bed bungalow	-	6.7%
Other	-	1.3%
Totals	142	

7.13 The proposed mix of the percentages would generally align with that shown in the recent housing needs evidence (i.e, the greatest delivery would be three bed houses) and provide family housing in addition to smaller housing of 2 bedrooms or less in accordance with the objectives of CP3. It is also noted that the scheme provides a positive response to the provision of bungalows. Whilst the provision is not precisely aligned to the HNS, the figures are for the overall Newark Sub-Area, not just Balderton. When considered against the locality as a whole and also taking account of development viability as is documented further below, it is considered that the development would provide an appropriate mix for the area which would comply with the aims and objectives of CP3.

Affordable Housing

7.14 Although the provision of 30% affordable housing is the preferred approach and starting point, Core Policy 1 acknowledges that the impact upon viability should be taken into account. Paragraph 66 of the NPPF sets out that developments should expect at least 10% of the total number of homes to be available for affordable housing. In this case, as the section later in the report sets out, viability issues mean that the full 30% affordable housing cannot be met. The offer is for 10% on site provision to comprise 4 'First Homes' (the governments preferred intermediate affordable housing product) and 10 affordable rent properties to be delivered by the Council as part of its commitment to building new affordable homes for rent. I note that the 10% affordable minimum is proposed to be deleted in the Governments

recent consultation on proposed changes to the NPPF. A response to this consultation is yet to be published so I afford this little weight in this recommendation.

- 7.15 In respect of Core Policy 1, this typically seeks a tenure split of 60% social rented and 40% home ownership, noting that consideration should also be given to local housing need and viability. The proposal in this case is for 30% home ownership and 70% rented properties and whilst there is some variance in favour of rented properties, this is directly linked into the applicant's viability case as presented for consideration, which impacts both the overall provision of affordable housing and results in a moderate variation on tenure split.
- 7.16 The affordable housing need, as set out in the HNS for the Newark Sub Area has the following need per annum:

Type of Dwellings	Affordable rent	Intermediate
1-2 bedroom house	18	12
1 bedroom flat	11	7
1 bedroom bungalow	32	21
2 bedroom bungalow	42	28
3 bedroom house	23	15
4 or more bedroom	30	20
Total	156	103

- 7.17 The offer presented directly responds to some of the most needed types of affordable housing in this area. Whilst the dwellings are clustered together into two groups rather than pepper potted through the site, this is due to delivery requirements and given they are tenure blind should not be a reason for refusal. Core Policy 1 does account for viability and therefore this proposal is considered to be acceptable, based on the overall acceptance of development viability.

Design, Character and Appearance

- 7.18 Core Policy 9 (Sustainable Design) seeks a high standard of sustainable design and layout that, amongst other things is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments and well as provide for development that proves to be resilient in the long-term. Policy DM5 requires all new development to ensure that the rich local distinctiveness of the District's landscape and character of built form is reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.
- 7.19 The NPPF sets out that decisions should aim to achieve healthy, inclusive and safe places with an emphasis on beautiful buildings and homes, well designed, high quality and beautiful places. Good design is said to be a key aspect of sustainable development that creates better places in which to live and work and helps make development acceptable to communities. It goes on to say state the importance of trees to the character and quality of urban environments and sets out that decisions should ensure that new streets are tree-lined, that opportunities are taken to

incorporate trees elsewhere in developments and that appropriate measures are in place to ensure the long-term maintenance of newly planted trees and that existing trees are retained wherever possible.

- 7.20 It also sets an expectation for local planning authorities to make appropriate use of tools and processes for assessing and improving the design of development including specific reference to frameworks such as Building for a Healthy Life (BHL). The original 12-point structure and underlying principles within Building for Life 12 are at the heart of BHL. The assessment relates to Integrated Neighbourhoods; Distinctive Places and Streets for all each with separate sub-categories.

Integrated Neighbourhoods

- 7.21 This development is positioned immediately to the south of an existing housing estate at Lowfield in Balderton and south of an existing play park. New vehicular access points would be formed from Mead Way which would offer a tree lined street which loops through back onto Mead Way. The site is rightly somewhat constrained by the retention of existing hedgerows but the layout offers connectivity with footpaths leading to the play area and existing cycleways offering a good level of permeability through the site.

Distinctive Places

- 7.22 Given the greenfield nature of the site, there are many existing natural features that have influenced the design and layout of the development. Impacts on these will be discussed in a later section of the appraisal.
- 7.23 The design proposals for the site include for a mix of dwelling types, ranging from 1-bedroom maisonettes, all the way up to 5-bedroom dwellings. The higher density units are generally contained within the central portions of the site, assisting in the transition with some of the existing dwellings around Mead Way, but with lower density development also being present to the south and west, where the application site borders more open areas. The design principles for the site are based around a sense of enclosure around external spaces, with a number of houses performing roles dependent on their position within the site. For example, dwellings adjacent to the play area front onto this, providing natural surveillance.
- 7.24 The house types proposed adopt a modern design. Materials aren't specified but visualisations depict mainly red and buff brick and plain tiles with limited render.



Visualisation of plots 142- 151



Visualisation of Main Street around Plot 97 and 100

- 7.25 A full schedule of materials would be secured by condition, however officers are satisfied that the proposals are reflective of local vernacular as required by Policy DM5. Details of the boundary treatments would also need to be controlled by condition to ensure that these are appropriate for the context and avoiding the use of stark fences in prominent positions.
- 7.26 Most corner plots have dual frontages with windows serving principal rooms on the side elevations which create active frontages. Movement through the site would be softened by retained hedgerows, rain gardens (parts of the sustainable urban drainage scheme) and street trees providing focal points, adding interest to the development.
- 7.27 The proposed site layout efficiently integrates the buildings in order to provide definition and enclosure for the streets and spaces. In overall terms, the proposed development is considered to respect the distinctiveness of local character and the

scale, form and mass of the proposed development, and detailing is considered to be acceptable in accordance with policy DM5 of the ADMDPD, positively integrating into the character and appearance of the surrounding area.

Streets for all (including Parking)

- 7.28 BHL acknowledges that well designed development will make it more attractive for people to choose to walk or cycle for short trips. Parking should also be sufficient and well integrated. In regards to the latter, the Council has adopted a supplementary planning document (SPD) for cycle and car parking standards which sets a number of expectations on design and quantum for residential developments.
- 7.29 The Councils SPD reflects local parking demand with dwellings in this area requiring 1 parking space for 1 bedroom dwellings, 2 spaces for 2 and 3 bedroom dwellings and 3 spaces for 4 or more bedroomed properties, based on suitable evidence. If this isn't achieved, visitor parking is then expected.
- 7.30 Single or double width spaces are required to be a minimum of 3m by 5.5m (with an additional 0.3m if they are bounded by a wall or similar obstruction). Internally garages should be at least 3.3m by 6m with a minimum door width of 2.4m for a single garage or 6m by 6m with a door width of 4.2m for a double garage.
- 7.31 All garages proposed meet the required size dimensions of the SPD and can therefore be counted as a genuine parking space.
- 7.32 The parking strategy includes a mix of frontage and side parking. Triple tandem parking has been largely avoided, insofar as garages that are provided with tandem parking in front are not relied upon for parking.
- 7.33 A total of 14 dwellings (c9.85%) do not have sufficient parking to meet the guidelines of the SPD. These are all 2 bedroom dwellings requiring 2 spaces whereas they are only allocated 1 space. However as can be seen from the extracts below, all are located close to visitor parking. Plots 89-96 (8 dwellings) have access to 8 parking spaces opposite and to the north whilst Plots 113-118 (6 units) have 5 spaces directly opposite. Furthermore, these are the smaller 2 bed units that Arkwood offer, which have at their other site on Bowbridge Road attracted first time buyers more likely to have only one car. I therefore do not consider that this slight deficiency would be cause for concern.



- 7.34 In their latest comments, NCC as Highways Authority have raised concerns noting ‘significant issues with the provision north of Main Street’ and go on to say ‘*However, given the tenure of the dwellings here, car ownership may be less than that elsewhere in this vicinity and an issue may not arise. However, in order to protect against the potential risks to the highway of obstructive and unsafe parking, we would request that a s.106 contribution is secured so that the County Council can subsequently implement a traffic regulation order to address problematic parking, should it arise.*’ For the reasons set out above, parking is most likely to be sufficient but in any event the applicant has agreed to the obligation regarding the TRO to afford this additional comfort.
- 7.35 The dwellings in the area shown on the extract below comprise part of the affordable offer; 4 x one-bed flats (each requiring 1 space) and 6 x two bedroom terraces (requiring 2 spaces each) making a total parking requirement of 16 spaces. As can be seen from the plan, parking is not shown as allocated but there is provision of 17 spaces, so 1 more than is required. A condition is suggested relating to agreeing a parking strategy (most likely to be how the spaces are allocated) to avoid that the matter from becoming a source of conflict between residents and in the interests of highway safety generally. This is considered reasonable and necessary.



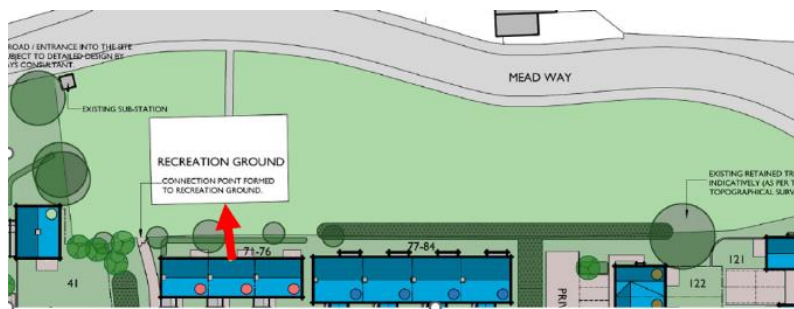
- 7.36 All other plots (90.15%) have either sufficient, or in excess of policy expectations for parking. However, some plots will need to rely on their garages for parking. It is therefore proposed to safeguard this by imposing by condition that affected garages are kept available for parking for the lifetime of the development, in order to prevent future issues of insufficient parking on the estate.
- 7.37 In terms of the parking design strategy, it is noted that the applicant has provided no more than 4 parking spaces side by side before there is a break for tree planting which helps break up expanses of hard landscaping and accords with the expectations of the SPD.
- 7.38 No specific mention has been made to cycle storage in the application albeit the house types with integral garages and garages would have secure storage built within. For all other plots this can be provided which could be secured by condition.
- 7.39 Overall, the street-scene is considered to now be an attractive environment that has struck the balance between an appropriate parking strategy, achieving genuinely tree lined streets and ensuring that they are a place where pedestrians and cyclists can move freely and safely across and through the site. This accords with design guidance as well as policies SP9, CP9, DM5 and the SPD on residential parking as well as other design tools noted.

Impact upon Residential Amenity

- 7.40 Safeguarding the residential amenity for both existing and any new dwellings will be paramount in order to comply with policies CP9 and DM5 of the Development Plan.
- 7.41 The nearest residential properties to the application site, which will interface with the proposed development, lie to the north west of the site along Mead Way and the north east with properties served off Bakewell Close.
- 7.42 In the case of Mead Way, Plot 1 is the closest proposed property, but this comprises a side-to-side relationship with the nearest dwelling on Mead Way, being parallel to the front garden of this existing neighbouring property and with the intervening public

footpath in-between. The rear facing plots in this portion of the site comprise semi-detached bungalows and therefore there are no windows above ground floor level. As such, with separation distances also taken into account (over 16m from rear elevation to side elevation), it is considered that no adverse or unacceptable amenity impacts would occur as a result of the proposed development.

- 7.43 In respect of Bakewell Close, the nearest plots in this location are plots 142-143 and plot 144. Plot 144 (adjacent to the boundary) is located 'side on' with no direct views afforded over the existing dwellings on Bakewell Close. Again, distances would be sufficient to safeguard neighbouring amenity (around 24m). Plots 142 and 143 would again have a side on relationship but would be set further south westwards in terms of building line than the nearest neighbour (23 Bakewell Close). The alignment of the properties and the distance of around 16m from the rear elevation of no. 23 Bakewell close to the side gable of the proposed plots would be an acceptable amenity relationship.
- 7.44 The remaining parts of the site are not bordered by existing residential development and therefore, there are no concerns in respect of amenity impacts to the east south and west of the site.
- 7.45 In regard to the interrelationship amongst the proposed dwellings within the site, dwellings have been orientated so as to protect residential amenity and facing distances where they occur are typically 21m or more, so to also ensure a satisfactory level of amenity can be maintained for future occupiers of the dwellings. Some dwellings have first floor balconies but would not cause any unacceptable loss of privacy to either existing or proposed dwellings owing to their locations and distances between dwellings. Gardens sizes are considered commensurate with the sizes of the dwellings and the units meet the nationally described space standards internally such that the dwellings are considered to provide for adequate living environment for future occupiers.
- 7.46 The proposed dwellings to the northern edge of the site would be located adjacent to the existing play area. It is recommended by the Fields in Trust Guidelines that activity zones for locally equipped play areas are located around 20m distance from the facades of dwellings to safeguard against nuisance from noise and general disturbance. For units 71 to 84, this distance could be slightly compromised, depending on the layout of any upgrades to the park, noting that the distance from the frontages to the edge to the existing recreational ground would be c10m. However, a more linear layout in equipment to reflect the shape of the site would be capable of achieving close to the required distance and therefore this is not a matter that need be fatal to the scheme, particularly when occupiers would be well aware of the proximity to the play space before first occupation.



7.47 Overall, with regard to the living conditions of both existing and proposed neighbours the proposals are judged to be acceptable in compliance with policies CP9 and DM5.

Impact upon Highway Safety

7.48 Policy NUA/Ho/10 requires the preparation of an appropriate transport assessment and makes specific reference to improvements to Manners Road/London Road junction forming part of any planning application. In addition to the site specific policy, Spatial Policy 7 is of relevance in seeking to encourage an improved and integrated transport network with emphasis on non-car modes as a means of access to services and facilities.

7.49 The development is proposed to be served by three vehicular access points. One would be from Mead Way along the northern boundary of the development which would subsequently loop round to another access on the eastern boundary (also from Mead Way). The third access would serve the separate cluster of dwellings to the north east of Mead Way (north of the Salvation Army building).

7.50 As requested by the site allocation, the application has been supported by a Transport Assessment which has been updated on numerous occasions throughout the application to address concerns raised by consultees, namely NCC as the Highways Authority.

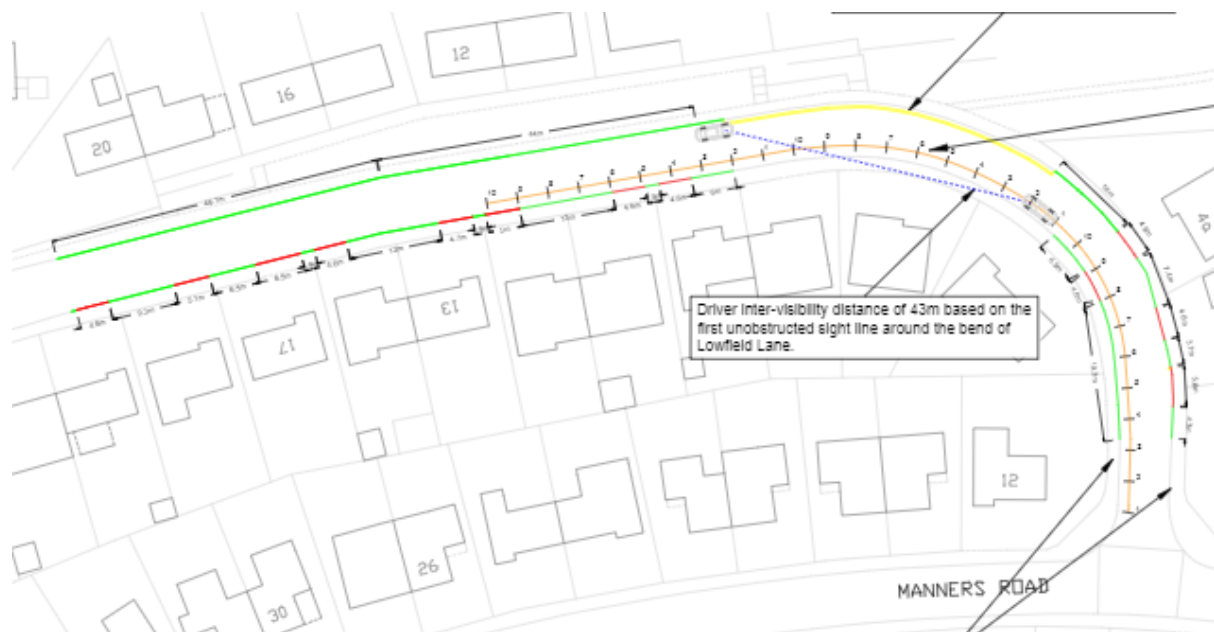
7.51 The original comments from NCC Highways (dated April 2023) raised a number of fundamental issues including some which correspond to the neighbouring comments received during the consultation process, for example that traffic counts were done during a time of covid restrictions and therefore would not form an accurate representation.

7.52 Specifically in relation to the Manners Road/London Road junction (referenced in the site allocation policy), concern was raised that the assessments were not based on the development in its own right but rather the Newark Transport Model which relates partly to infrastructure which has not yet been built. Ultimately the comments raised an objection on the grounds of highways safety and insufficient information to enable proper consideration of the impact on highway capacity.

7.53 It is these issues that the application has sought to overcome through the application process. The latest Transport Addendum was submitted in October 2024. It is noted that it still refers to the development being for 151 dwellings despite the number of dwellings being reduced to 142 during the application. It is assumed that has arisen from the numbering of the plots (which still goes up to 151). For the avoidance of doubt, the assessment relates to the latest plan (revision G) so Officers are satisfied

that the assessment relates to the latest plans which are being assessed for determination which has a lesser impact than the assumed quantum of development in any event.

- 7.54 The highways assessment requires consideration of numerous elements including the accesses into the site; the impact of the development on the wider highways network; the internal road network; the impact on existing public rights of way; opportunities for sustainable travel including bus provision and overall parking and cycle provision.
- 7.55 The northernmost access traverses unregistered land. It is noted that a neighbouring party has raised concerns that this access would conflict with the access to their property but there is no unacceptable conflict from the submitted plans. Because the access crosses unregistered land, it would need to be constructed first so that the development can commence the process of adoption under Section 228 of the Highways Act. The intention is for this access to accommodate a bus route which the Highways Authority have agreed negates the need to provide lighting on the public right of way to facilitate a route to alternative bus stops.
- 7.56 Throughout the consultation process, several interested parties have raised concerns about the impacts of the development on highway safety. Part of these concerns relates to the narrowness of Lowfield Lane and the bends in the road which are perceived as causing a danger to highway users (particularly given the level of on-road parking experienced in the area). This part of the Lane would be used to connect to Manners Road and subsequently London Road. In the most recent highways comments, NCC acknowledge the presence of the blind bend and that an increase in traffic of this level would increase the risk of conflict.
- 7.57 NCC in their original comments confirmed that the dimensions of Lowfield Lane and Manners Road accord with that required for a large development when considering current standards. However, the level of on street parking could cause an obstruction to the free flow of the additional traffic generated. In order to mitigate this risk of conflict, the applicant has proposed double yellow lines. The length of the proposed double yellow lines is based on the first point of visibility around the bend whilst still retaining residual on-street car parking capacity to cater for the existing demand. The potential area for the traffic regulation order is shown indicatively below but the exact detail would be subject to agreement through a separate process to NCC.



- 7.58 In addition to this part of Lowfield Lane, junction protection markings (i.e. double yellow lines) would be required at the junction of Belvoir Road and London Road. Both of these areas of mitigation would need to be secured by condition.
- 7.59 Other off site mitigation required includes the installation of CCTV at the junction of London Road and Mount Road. The CCTV at traffic signals would monitor the junction for issues and congestion in real time and allow intervention of manual control of the traffic lights to clear traffic when required. Again, this would need to be secured. No specific measures are proposed to the Manners Road / London Road junction as originally envisaged by the site specific policy. However, the impact on the wider highways network has been thoroughly considered justifying the areas of potential improvements required. The agreed areas of mitigation are considered proportionate and necessary to facilitate the development.
- 7.60 The internal layout has been subject to numerous amendments with the aim of ensuring it will meet adoptable standards and demonstrates appropriate visibilities. This comes down to the level of detail such as surfacing to make sure that the development can sustain delivering a bus route. Even the latest comments of NCC acknowledge that some further changes may be required to meet highways technical approval but that these are unlikely to have significant material impacts in planning terms. NCC have requested conditions for the finer details of the new roads (such as cross-sectional gradients; street lighting etc.) but based on the latest plan revision, the scheme satisfies the highway authority that impacts are acceptable.
- 7.61 The Rights of Way Team at NCC have also commented on the proposals noting the close proximity of existing rights of way and their connections to the wider Sustrans network. This includes public footpath 11 which is to the northern boundary of the site (to the north of proposed plots 1-9); footpath 14 to the south of the site and also public footpath 28 to the west of the site. The footpath most likely affected by the development is right of way 11 given that the access to the development would require users to cross the access to use the path.

- 7.62 It is this path (11) that links the site to the Sustrans NCN64 cycle route. As a minimum, public footpaths adjacent to substantial developments should have a 2m wide surfaced path with a minimum of 1m grass verge either side. The applicant is proposing to cut back / replant the hedge which currently obstructs path 11 and to set back the fence lines of the closest plots to allow for maintenance of the right of way (the latest plan revisions shows ample set back). NCC Rights of Way team in their original comments referred to matters of safety and design but did not fundamentally raise an objection to the proposal. Through a condition securing boundary details, there would be an opportunity to control the specific design of the boundaries of the properties which adjoin the right of way (for example with additional softer landscaping). NCC Highways in their latest comments have suggested a condition requiring precise details of the footpath improvements prior to 50 dwellings becoming occupied.
- 7.63 The Transport and Travel Services team at NCC have commented on the proposals. Their view originally was that the distance to the nearest bus stop would mean that the footpath 11 referred to above would need to be fully lit. However, the scheme has since been revised to provide a bus route (and associated stops) within the site so that this mitigation is no longer necessary (as confirmed by NCC Highways).
- 7.64 A request has been made for a contribution to bus services support at £108,000. This contribution would fund a demand responsive transport (DRT) service to serve the development and encourage an increase in means of sustainable travel. Sustainable travel would also be facilitated by a Travel Plan and its associated monitoring. These are considered proportionate and reasonable to the development and would be included in the accompanying Section 106 agreement.
- 7.65 It is understood that the impacts of the development on the highways network are a significant concern locally. However, as set out above, subject to conditions and legal provisions, the development as amended is now considered to satisfy the relevant elements of Policy NUA/HO/10 as well as Spatial Policy 7. In the absence of an objection from the Highways Authority, there are no grounds to justify a refusal based on highways safety impacts.

Impact upon Ecology

- 7.66 This application was lodged prior to mandatory Biodiversity Net Gain coming into effect and therefore does not need to advance a 10% net gain. Nevertheless, the starting point for development is that trees and natural features such as hedgerows should be retained where possible as set out in CP12 and DM5.
- 7.67 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.'*

- 7.68 The NPPF sets out expectations (at para. 180) of (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan and (d)) of minimising impacts on and providing net gains for biodiversity by establishing coherent ecological networks that are more resilient to current and future pressures. At para.186 it sets out the principle that, if significant harm cannot be avoided, adequately mitigated, or as a last resort compensated for, then planning permission should be refused, in line with Policy DM5.
- 7.69 The site comprises 6 fields including semi-improved grasslands, swamp, dense and scattered scrub, scattered broadleaved trees, a network of hedgerows, a pond and ruderal vegetation.
- 7.70 In respect of biodiversity value and the impacts of the proposed development, it is noted that there are a number of concerns on this matter (amongst other issues) from the local community in addition to Nottinghamshire Wildlife Trust. When the application was first submitted, it did not contain the complete survey assessment on different species to enable an informed conclusion of the impact of the proposed development. This work was subsequently undertaken and submitted in support of the application and the complete suite of appraisals and assessment work has been subject to review by the Council's Biodiversity and Ecology Lead Officer.

Extract from ecology appraisal showing field numbers referred to for context



- 7.71 The loss of existing biodiversity value and the planned approach to compensate for this are discussed below, but in order to provide an overview and context, in the absence of compensatory measures the proposed development would result in the following residual loss of habitat as follows:
- 3.8ha of g3c (other neutral grassland)
 - 1.5ha of h3h (mixed scrub)
 - 0.2ha of w1g (woodland)
- 7.72 The Council's Biodiversity Lead Officer has advised that the additional surveys undertaken have been comprehensive and have included all relevant species, species groups and that habitats have been surveyed and assessed to the required level and detail. The assessment is comprehensive and the methodology sound. As such a robust assessment of biodiversity value has been undertaken. They have offered

impartial advice (rather than either supporting or objecting) to enable officers to form a view, to be weighed in the balance.

7.73 Site specific surveys have considered the impacts upon bats, breeding birds, great crested newts, badgers, invertebrates, reptiles and European Hedgehogs. Following the application of mitigation, aside from invertebrates (which is discussed in more detail below) these impacts are judged by the applicant to be either 'Neutral' or 'Positive' (not significant) and our Ecologist agrees that this judgement is fair. In order to secure this mitigated impact, planning conditions are proposed. These include securing reasonable avoidance measures through a Construction Environmental Management Plan (CEMP) and a Biodiversity Management Plan (similar to a Landscape Environmental Management Plan).

7.74 More detail and discussion on impacts and means of mitigation follows:

Amphibians and Great Crested Newts

7.75 The sites habitat may be suitable for common amphibians and Great Crested Newts (GCN). A single common toad was recorded during the survey. The site is known to support a small population of toads so a suitable mitigation strategy will be required (which would need to be embedded with a Biodiversity Management Plan (BMP) condition as well as Reasonable Avoidance Measures (RAMs)) that would need to be embedded within the CEMP condition. Potential breeding habitat for GCN was provided by 3 ponds within the application area and within 500m of the site such that the water bodies were subjected to eDNA sampling which returned negative results meaning they are likely absent.

Badgers

7.76 The scheme has been assessed for badgers and is not addressed within this report due to poaching sensitivities. Should any mitigation or avoidance measures be required they would be covered by the CEMP and BMP conditions.

Bats

7.77 Various different bat species are known to be in the area and the site contains habitat suitable for foraging and commuting bats. The cottage and stable to be demolished has been subject to preliminary assessments and further surveys undertaken finding no evidence of roosts. The trees on site which would be removed have also been subject to surveys.

7.78 Loss of roost potential from the buildings is proposed to be mitigated by the provision of artificial roost boxes to 10% of the dwellings, indicatively shown on a drawing within the ecology appraisals but to be secured as part of the BMP.

7.79 Three trees (T42, T47 & T60) were identified as having 'high' and 'moderate' potential to support roosting bats. T60 has to be removed to facilitate development of the spine road and therefore would need to be soft felled (to be secured through the CEMP). Design interventions have taken place in respect of the other two trees allowing them to remain and 15m protection buffers used during construction, again to be secured

by the CEMP.

- 7.80 Mitigation for commuting bats includes hedgerow retention and protection, provision of additional species rich hedgerow planting to result in an overall increased length. New tree planting and hedgerow enhancement will aim to create a new corridor for bats. A detailed lighting scheme and contour mapping will need to be secured for both construction and operational phases.

Breeding Birds

- 7.81 Hedgerows within the site offer suitable nesting opportunities. No ground nesting birds were recorded during surveys though a total of 22 species were recorded within the site. A known barn owl pair are present in the area and observed foraging within Fields A & B.
- 7.82 Mitigation and avoidance measures would be secured via the CEMP but include vegetation clearance during bird breeding season unless an ecologist is present and the provision of 20 bird nesting boxes on houses to be secured by the BMP.
- 7.83 Loss of grassland could affect bird species reliant on small mammals for prey and therefore open spaces to the south and in Field B will be designed for supporting wildlife that would be subject to a landscape management and monitoring regime.

Reptiles

- 7.84 Records show reptiles have been noted within a 2km radius of the site although not for the site itself. The site has suitable habitat that could support such species. Surveys identified a single common lizard, north of Field A. RAMs contained in the CEMP would avoid impacts on construction stage and provision of suitable hibernacula would provide longer term mitigation and can be secured via the BMP.

Hedgehogs

- 7.85 Hedgehogs were found in 4 of the 6 fields to the north and central areas. Hedgerows within the site are considered a Habitat of Principal Importance and therefore their retention of as many as possible and retaining the plot shape has been part of the design approach. Retained hedgerow would have a 5m buffer on either side during construction and would be enhanced through favourable management and additional planting/gapping up.
- 7.86 Hedgerow removal is as follows:
- H7 – 20m to allow access drive to northern extent
 - H9 – 25m to allow access drive to south and within centre to allow development of central space
 - H11 – 75m of hedgerow removal to allow for access and built form
 - H13 – 20m of hedgerow to allow for access drives
- 7.87 A total of 140m of hedgerow is to be lost. To compensate, a new species rich hedgerow with trees of at least 10 native species 300m in length would be planted along the

south of the site.

- 7.88 It is also considered that in considering boundary treatments to new dwellings, holes should be left to allow hedgehogs to pass through the site which would need to be secured by condition.

Invertebrates

- 7.89 Concerns have been expressed by our Ecologist regarding the assessment for impacts on recorded invertebrate assemblage. This concluded that the recorded assemblage is of county importance and the likely significance in the absence of mitigation would be 'negative (significant)' but with mitigation would be 'neutral'. Mitigation relies heavily on management of the retained grassland and the habitats to be created to the south of the site. These areas would be subject to management unlike the current situation and there would be a direct loss of some areas of supporting habitat reducing the chances of colonisation and there would be a difference in the structural nature of the new habitat. Our ecologist advises that in their view the impact even with mitigation is likely to be 'negative (not significant)' rather than neutral.

Habitats

- 7.90 Clarification was sought regarding the intensive orchard habitat and whether it qualified as a 'traditional orchard or principal importance' as listed in S41 of the Natural Environment & Rural Communities (NERC) Act 2006. This has been provided and our Ecologist is now satisfied that it does not qualify.
- 7.91 Our Ecologist indicates that important habitats where avoidance measures should be a priority are the grassland habitat within Field B and the hedgerow network that divides the site into its component field compartments.
- 7.92 The initial work prepared by the applicant has looked at the possibility of providing for compensatory habitat, for mixed scrub, woodland, and other neutral grassland, to the level where a potential net gain would be secured, but as a minimum the intention would be to replace the habitats lost, so as to ensure no net loss. These proposals have had a cost assigned to them (as referred to above under planning obligations) which forms part of the overall financial planning obligations that the applicant has committed to. As such, the compensatory habitat would be provided for, off-site, in an agreed location and maintained over a 30-year period. This is in addition to the retained Priority Grassland Habitat (referred to as Field B in the Ecological Impact Assessment) which is shown as the 'protected green space' in the layout drawing (Ref: 21-2337 (02) 1001 Rev G) which is highlighted in yellow on the image below.

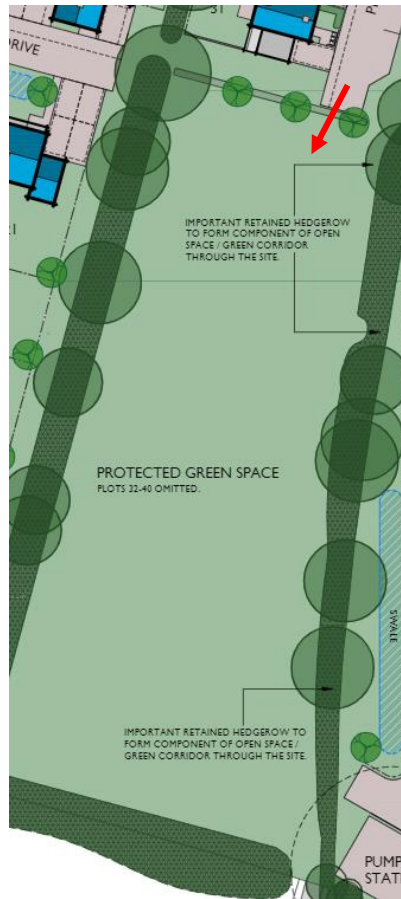
Field B (Protected Green Space) retained



Habitat Baseline Plan



- 7.93 Most of the grassland within Field B is representative of Lowland Meadows Habitat of Principal Importance (HPI) and forms part of the selection criteria for Nottinghamshire Wildlife Sites. In order to avoid a significant negative impact, the majority of this field is now shown as being retained as protected green space where there it is proposed that there be no public access permitted and placing it into long term favourable management. A similar approach is proposed for other areas of species-rich grassland to be created within the development's green infrastructure. The principle of this approach is considered acceptable by the Council's Ecologist.
- 7.94 Access to this retained green space has been raised as a concern given none is shown on the plans. This would be required from time to time for maintenance machinery. Management could be resolved by condition given this would likely be off a private drive (in the location of the red arrow).



- 7.95 Concern is expressed that keeping this free from public access could be difficult to police and that it might be better to allow public access and then manage this via suitable interpretation, providing regularly mown paths around or across the field and suitable dog waste bins. Potential negative effects would be trampling and nutrient enrichment from dog waste. A more formal recreational strategy involving features such as designated dog walking route through the development would be another potential mitigation measure. The precise details of public access (or otherwise) would be agreed via the conditioned Biodiversity Management Plan.
- 7.96 Field E (to be built on) only just falls short of having sufficient indicators to qualify as a HPI and the Appendix actually shows the necessary 12 indicators to meet the selection criteria. However, the ecology officer notes that 10 of the indicators only occurred rarely within the field so is less clear cut. This field could therefore potentially be the type of existing grassland habitat that the Habitat Action Plan would target for restoration. This field would be lost to development, and so would the opportunity for restoration which needs to be taken into account. However the only way this opportunity could be achieved is through the retention of a further area of land proposed for development, which would fail to ensure the meaningful delivery of a holistic and viable housing development on the site. Given the overall compensatory proposals for habitat, which seek as a minimum no net loss, when taken in the planning balance, this is judged to be acceptable.
- 7.97 The on-site compensation strategy involves the creation of some areas along the southern edge of the site and for this to involve translocation of turves. Field E should therefore be considered as a donor but impacts are unlikely to be adequately

addressed on site.

- 7.98 The development design has been shaped by the intention to retain as much priority hedgerow habitat as possible, an approach which is welcomed. However, some loss is still necessary to facilitate access into each component field, a matter that would have been known at allocation stage.
- 7.99 Some lengths of hedgerow form the boundaries of new gardens. In mitigation for the problems this could cause is a proposal to separate them from gardens by a 2m high wooded fence. Issues around maintenance where these hedgerows lies adjacent to swales and fencing could be problematic and the measures are judged to have a neutral impact rather than the applicants claim as 'positive (not significant)'.



- 7.100 In line with the NPPF and local policy, not all impacts concerned with habitat can be avoided (especially given the sites allocation) and therefore compensation is required. Whilst some of this can be achieved on site not all can and there is a need for off-site compensation. Three habitat types which require 4.5ha of land on a like for like basis (so not net gain) but would bring about no net loss which is the minimum required by the NPPF.

Off-site Compensation

- 7.101 Two options have been explored that are available for implementation and delivery of the compensatory habitat off-site.
- 7.102 The first is the applicant directly delivers it with an appropriate local partner and is directly responsible for its delivery and maintenance over a 30-year period. At this stage the applicant has had initial communications with potential partners, but the location of where the compensatory habitat would be located has not yet been determined. Initially a 20-year maintenance period was planned for, however, the Council's Biodiversity Officer has been clear that a longer 30-year period should be sought which is best practice. This has added an additional cost of £47,500 to the initial obligation but is considered necessary in order to ensure ecological impacts are compensated for in the longer term.

- 7.103 The second option is for the financial sum to be provided to the Council and secured via a S106 Agreement. In this scenario, the applicant would be requested to contribute the financial sum as part of the overall financial planning obligations package, with the monies to be spent on the re-provision of the compensatory habitat, within an agreed time period and with a preference for the habitat to be created within the Newark Urban Area. With this option the location and delivery of the habitat would be managed by the Council.
- 7.104 The second option is the one that is being pursued. The Council's Ecologist has advised that ideally the details of the site should be known before permission is granted to ensure compliance with the NPPF. The Council has dealt with situations like this on previous occasions (notably in the case of Suitable Alternative Green Space (SANGs)) where compensation is required beyond what a site can address. In such cases the Council has collected a contribution (as it would for other sS06 commuted payments) and directed that provision to sites identified in the wider area. At this time, the market for such sites is limited with the BNG market being at its infancy. However, the Council as LPA is aware of a number of third party sites which may emerge as candidates for ecological enhancement which could be the recipient for this funding. Indeed, the Council itself is also exploring ecological enhancement or BNH credit land within its own and other public sector land holdings. On this basis it is recommended that the commuted payment is secured, indexed linked to invest in ecological enhancement in the NUA within a defined time period.

Ecology Conclusions

- 7.105 The starting point for the consideration of biodiversity impacts must be reflected within the context of the sites status as an allocated housing site. The 'in principle' consideration of the loss of a greenfield site has been considered as part of the previous local plan process, including the examination of the plan, subject to statutory consultation and the testing of evidence. In order to deliver against this committed housing site, there is an inevitable loss of greenfield land and existing biodiversity value.
- 7.106 In the context of introducing significant new built development as part of the implementation of the housing allocation, a reasoned conclusion must be reached on the delivery of an appropriate programme of mitigation, without placing unreasonable burdens on the proposed development and maintaining the viability of the proposed development, as has been referred to earlier in this report.
- 7.107 A number of mitigation, avoidance and compensation measures are proposed both on and off site to ensure that the development brings about a no net loss which is compliant with the NPPF. These measures, when considered wholistically are considered appropriate.

Impact on Trees, Landscaping and Public Open Space

- 7.108 The allocation policy NUA/Ho10 seeks an appropriate landscaping scheme to the south and west and hedgerow retention wherever possible. The starting position in

terms of Core Policy 12 and DM5 seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.

7.109 No detailed landscaping scheme has been provided with this application, as one would expect given the need for a planning condition in this regard. However, a masterplan embedded within the Arboricultural Impact Assessment sets out some broad parameters for new landscaping alongside tree impacts. The extract below shows tree loss, retained trees, retained hedgerows and proposed broad areas for tree planting.



7.110 At the scale of the extract, it is difficult to see tree retention (the hedgerow retention is more obvious in bright green). Tree removal that is required to facilitate the development amounts to 15 individual trees and 16 groups of trees (all category C2 trees, judged as being of low quality). A further 16 trees would need to be removed due to their poor quality, being graded U in the survey. Tree pruning is required to two trees to facilitate development. Some works would also be necessary to protect trees from works within or close to their root area (depicted by yellow on the plan above) but a method statement to control these works would adequately protect the trees from long term damage.

7.111 The extent of pruning and removing of hedgerows is set out in the impact assessment as well, with wholesale removal required only in respect of a privet hedge and removal of sections of others to gain access. Officers are satisfied that the tree loss has been minimised as far as practicable and that subject to conditions to protect trees during the construction process that the impact on tree would be acceptable.

7.112 Proposed landscaping in terms of compensation for lost trees and new trees (that would be expected anyway such as tree lined streets) would need to be controlled by condition. The plan above indicates 75 new trees.

- 7.113 In respect of the southern boundary of the site, a number of existing trees are proposed for retention, alongside proposals for blue and green infrastructure, comprising of landscaped wetland areas and drainage features that support the site, alongside additional tree/hedgerow planting. The treatment of the exterior part of this site, will create a soft and attractive edge to the development and support the transition into the Local Wildlife Site (LWS) to the south, through creating green and blue infrastructure links. Similar dense planting will be secured to the western side of the site, through the retention of existing trees and hedgerows, supported by additional complimentary tree planting. The final version of the proposals also includes for the retention and protection of an informal amenity greenspace area (the retained grassland habitat as referred to above) to the south western portion of the site.
- 7.114 The requirement for onsite amenity space is set out as an area-based approach as per the Developer Contributions SPD is calculated on the basis of 14.4m² per dwelling, which based on the number of units proposed, would amount to 2,030m². The onsite provision is far in excess of that figure. Turning to the provision of Children's play space, this is not provided for 'onsite' but as per the SPD, through discussions and negotiations with the applicant, it has been agreed that the immediately adjacent existing play space to the northern boundary of the application site should be improved. A sum of money has been agreed with the applicant as set out in the planning obligations table, later in this report.
- 7.115 Further to this, the scheme also provides for the retention and protection of a number of linear hedgerows that run from north to south across the site, assisting in the retention of existing natural features, that form an attractive component of the character of the site, that will be integrated into the development and will assist in breaking up the different sections of built development across the site. Some hedgerows will be subject to further works and/or sections removed, in order to facilitate the proposed development, but the majority of the higher value hedgerows will be incorporated into the proposed development.

Flood Risk and Drainage

- 7.116 The vast majority of the site lies within flood zone 1 (low risk) according to the Environment Agency maps, with a small amount of land along the southern boundary falling into zone 2, at medium risk from fluvial flood risk. The site lies within an area defined as being a low risk from surface water and is not within a designated critical drainage area.
- 7.117 Core Policy 10 'Climate Change' of the Amended Core Strategy DPD requires mitigation of climate change impacts through ensuring new development proposals minimise their potential adverse environmental impacts during construction and operational phases. It also aims to steer new development away from those areas at highest risk of flooding, applying the sequential approach to its location. In accordance with the requirements of Core Policy 10 'Climate Change', Policy DM5 'Design' of the Allocations & Development Management DPD clarifies that development proposals within Environment Agency Flood Zones 2 and 3 and areas with critical drainage problems will only be considered where it constitutes appropriate development and

it can be demonstrated, by application of the sequential test, that there are no reasonably available sites in lower risk flood zones.

- 7.118 Paragraph 172 of the NPPF makes clear that sites allocated through the development plan need not go through the sequential test again, although the exception test may need to be applied where relevant.
- 7.119 As most the site is allocated for housing, the sequential test would not need to be applied to that part. However, even taking the wider enlarged site that includes the land to the north-east, the sequential test would be passed given all built development would be located in zone 1.
- 7.200 In flood vulnerability terms the development is classes as 'More vulnerable'. Table 2 of the 'Flood Risk and Coastal Change' Planning Practice Guidance confirms the flood risk Exception Test does not apply to this category within flood zone 1 (which is where all build development would be located). However as a site that is over 1ha in area, a site specific flood risk assessment (FRA) is required to consider drainage, which has been undertaken and submitted as part of this application.
- 7.201 The revised FRA considers a range of flood risks associated with the site's development. Surface water flood risk is low which means that each year the chance of flooding is between 0.1% and 1%, although is difficult to predict as rainfall location and volume are difficult to forecast. Middle Beck runs along the southern boundary of the site. The source of the overland flow appears to be generated from Mead Way to the NE corner of the site routing through and ponding in the site, a matter noted by local residents in their representations.
- 7.202 Infiltration testing has shown soakaways would not be viable for this site to dispose of surface water. As such the next best option (according to the drainage hierarchy) is discharge to a watercourse.
- 7.203 Any impact from fluvial flooding is likely to be at the southern boundary, away from the habitable areas. This is lowest lying area of land and is where a number of attenuation swales would be located to hold the water so that run off from the site is restricted to green field rates. The FRA suggests that the proposed SUDs system would reduce offsite flows for the more significant events causing current flooding, suggesting a betterment over existing; though this has not been verified by the Lead Local Flood Authority. The SUDs scheme would comprise filter drains, swales, bioretention systems, permeable paving, rain gardens in verges, detention basins, ponds and wetlands, as depicted in the drainage plan extract below:



- 7.204 All finished floor levels of dwellings are proposed to be set no lower than 300mm above the 1 in 1000 year flood level at 13.580m AOD as a means of avoiding impacts from flooding.
- 7.205 The Lead Local Flood Authority (LLFA) have reviewed the proposals, and they are satisfied that the Flood Risk Assessment adequately accounts for flood risks associated with the proposed development and have no objection to the proposed development, subject to a condition to secure the submission and approval of a detailed surface water drainage strategy. The detailed strategy will seek the prioritisation of SUDS, limit discharge rates and require the approval of detailed design, calculations and the proposals for attenuation, including how surface water drainage systems will be maintained over the long term. This is all designed to manage impacts on the development and not make them worse elsewhere. The EA have also raised no objections.
- 7.206 Foul drainage would connect to a public sewer located in Mead Way which is in accordance with the national drainage hierarchy. 17 dwellings could discharge by gravity with the remainder requiring a pumping station, the location of which is shown on the layout drawing. It is noted that representations have raised concern about foul sewage capacity being an issue. This would be a matter for Severn Trent as local water authority to deal with in the event that permission was granted. Developers have the right to connect to public sewers (see caselaw *Barratt Homes Ltd v Welsh Water* [2009] UKSC13) and that the local water authority would have an obligation to increase capacity in the event of an approval.

- 7.207 Whilst noting the local concerns over flood risk, the site does not lie within a high risk area and suitable mitigation is proposed by way of the planning condition recommended by the LLFA to also ensure that close consideration is given to the detailed proposals for site drainage.

Impact on Heritage & Archaeology

- 7.208 The site allocation policy NUA/Ho/10 requires a pre-determination archaeological evaluation to be submitted as part of an application and post-determination measures to be secured by condition. It goes on to say that new development should respect the plots shape of the medieval field system. Policy DM9 of the ADMDPD also requires that development proposals should take account of likely impacts on areas of potential impact and the associated need for mitigation.
- 7.209 It is considered that the measures set out within policy have been satisfied in that as summarised below initial investigations have been conducted and an approach to mitigation identified.
- 7.210 The County Archaeologist has provided advice on the scheme proposals, from the pre-application stages, and in the post submission stages. The layout of the proposed development has been informed by a Heritage Desk Based Assessment (DBA) and the layout has incorporated, as far as possible medieval and post medieval plot boundaries, seeking to respect the historical boundaries of the site. In order to account for the potential archaeological remains, a condition is recommended by the County Archaeologist to secure a mitigation strategy to effectively deal with the site, through a phased programme of investigation, followed by mitigation. This condition is incorporated into the recommendation.
- 7.211 The proposal involves the demolition of an existing dwelling known as Hayside Cottage. Concern has been raised locally that the historic value of this cottage has not been appropriately assessed. The applicant has subsequently undertaken an assessment (Allen Archaeology Ltd, 2023) which has been shared with the Nottinghamshire Historic Environment Record (HER) in accordance with paragraph 211 of the NPPF. The report summarises the external interest thus: “The two-storey structure is built in red brick, currently covered in render with a concrete pantile roof and kneelers and with modern fenestration throughout. The two former cottages have been merged, however, a partially blocked back-to-back fireplace still denotes the earlier division between the two properties.” The Council’s Conservation Officer is of the view that there is little external historic fabric of the cottage surviving. Given the relatively modest 19th-century domestic form of the building and significant loss of original features, the building would not meet the Council’s adopted criteria to be considered as a non-designated heritage asset.

Development Viability and Planning Obligations

- 7.212 Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. This states that infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance

from the District Council. It is noted that there are concerns locally that the infrastructure in the area cannot cope with the additional development. It is therefore critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this.

- 7.213 The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure. The relevant contributions to this development are discussed shortly, but first a discussion on viability is necessary.
- 7.214 The applicant has set out concerns around development viability, with particular regard to the delivery of affordable housing. Following the normal process, the applicant has prepared a viability submission, setting out the basis for their position. This submission has been subject to independent review and advice to the Council from a specialist consultant. The independent advice received by officers has confirmed that should the development be asked to deliver affordable housing at the rate of 30% provision in accordance with Core Policy 1 (in addition to the other planning obligations sought) the development would be in a financial deficit and therefore would be unviable. The independent advice confirms that with the reduction of affordable housing to a 10% contribution, the development would be able to sustain that provision, alongside a total financial provision of £901,000 towards other planning obligations, so as to mitigate the impacts of the proposed development.
- 7.215 Details of the affordable housing offer are set out in the relevant section of this report but comprises 10% on site provision. Furthermore, when taking into account Policy DM3 of the ADMDPD, the proposals include for infrastructure provision, as part of a combination of financial planning obligations, which have been agreed with the applicant. When weighed against the desire to deliver against the requirements of an allocated housing site, the provision of 10% affordable housing is considered to be acceptable, particularly given that it will take the form of 'onsite' provision.
- 7.216 It should be noted that whilst the scheme is for 142 new dwellings, given an existing dwelling would be demolished, the mitigation impacts would only be required for 141 dwellings and this is what has been assessed below. The policy requirements for the development are set out and discussed below:

Primary Education

- 7.217 The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. The number of primary places required is based on a formula of no. of dwellings x 0.21 to establish the number of child places required. Based on this site in combination with others recently having received approved (such as Flowserve) the Local Education Authority have requested a contribution for 30 places (rounded up for 141 dwellings) and 1 special education needs place, which the applicants have agreed to fund. Secondary school places are currently funded by CIL.

Health

7.218 The Council's SPD sets out that the type and size of developments which may trigger a health contribution. These are Residential developments of 65 units or more and/or Development which places extra demand on the local health care provision through its operation.

7.219 The application in question relates to 141 dwellings and the health care trust confirm that existing practices are already operating at capacity, with development placing additional demand on health care. I therefore consider the request is justified and the developer has agreed fund a contribution to health care infrastructure. The contribution (indexed at 2016 so would require an uplift) is £982 per dwelling equating to £138,462 which would be secured by the s106 agreement and be spent on facilities in the area.

Community Facilities

7.220 Community facilities are defined as including Community Halls, Village Halls, Indoor areas for sport, physical activity, leisure and cultural activity and Halls related to places of worship. The Council's SPD provides where existing infrastructure exists or where small scale developments do not warrant new infrastructure, a contribution may be appropriate to support the existing infrastructure such as a village or community hall or other community asset. Off site contributions based on £1181.25 per dwelling are ordinarily sought.

7.221 The proposal itself does not offer any provision for community facilities and therefore occupiers of the scheme could place additional pressure upon existing facilities. However, no specific scheme has been identified for monies that would justify a contribution and in any event viability issues mean that this would not be a priority for spending. As such no community facility contribution is being sought.

Transport Contribution

7.222 Contributions towards bus service provision are requested which are covered in more detail in the Highways section of this report. This have been factored into the viability and would be secured by s106 agreement.

Open Space

7.223 For major developments there is an expectation for on site open space provision, as set out in the Council's Developer Contribution SPD. For this application it includes:

- Amenity green space - is triggered at 30+ dwellings and our SPD indicates provision should be 14.4m² per dwelling. Based on 141 dwellings this would equate to 2030.4m². However the area to the south where the SUDs features would be located equates to over 7000m² not including the protected green space which is over 5,000m² so officers are satisfied this there is ample provision on site.
- Natural and semi-natural green space - Our SPD suggests that 10ha per 1000 population should be provided although recognises that due to difficulties in achieving this a more realistic measure is that residents

should live within 300m of an area of natural and semi-natural green space. In this case as the area, given the areas of open space on site, the scheme would achieve this expectation.

- Outdoor sport facilities - are triggered at 100+ dwellings with 52.8m² expected per dwelling or £718.70 if provided off-site. No on-site provision is being made and no contribution is able to be offered due to viability issues. However, the shortfall in pitch provision in the area is being addressed by Council's Playing Pitch Strategy and the Council's own capital programme for the provision of 5 new 3G pitches across the district 2 of which will be in the NUA. Therefore a contribution towards this is not considered a priority.
- Public open space for children and young people – this is triggered at 10 houses and the usual requirement is for 18m² per dwelling, which would require a space of 2538m². On site provision isn't part of the offer here due to viability reasons. However, there is an adjacent play park serving the existing 90 houses on this estate which is approximately 3958m² in area. In order to mitigate for increased pressure on the existing play park to the north of the site, a financial contribution of £100k is proposed which would be used to upgrade the existing park. A scheme has been costed up and would be progressed should permission be granted. Whilst the play area would be c200m² smaller than what would have been expected for the combined number of units (existing and proposed = 232 dwellings) this is not significantly so, and the contribution of monies to upgrade this space is considered a reasonable compromise, bearing in mind the viability issues, that will benefit existing residents in the longer term.

Libraries

- 7.224 Developments of 10 or more dwellings ordinarily trigger a requirement for library contributions. Justification from NCC has been put forward that requests £6,289 towards library stock for Balderton library. However based on viability issues, this is not considered a priority.

Summary

- 7.225 The table below sets out a summary of the planning obligations that are triggered by the scheme. Those considered a priority by officers have been put to the applicant and the following financial sums agreed. Those with a zero against them are matters which cannot be provided for in this instance, based upon the viability of the proposed development.

Obligation Type	Policy Requirement	Amount to be Secured
Affordable Housing	30% on site affordable housing	10% on site affordable housing
Education (comprising 30 primary school places and 1 SEND place). £22,008 per place x 30 pupils £104,556 per place x 1 pupil	£764,796	£764,796
NHS (investment in existing local GP services). £982 per dwelling x 141	£138,462	£138,462
Offsite Play Area (planned enhancements to existing Mead Way space).	£100,000	£100,000
Transport (bus service provision)	£108,000	£108,000
Offsite Biodiversity Compensation	£383,500	£383,500
Offsite Outdoor Sports Facilities	£101,336	0.00
Libraries	£6289	0.00
Community facilities	£166,556	0.00
Total	£1,768,939	£1,497,758

7.226 The development would generate a requirement for various financial contributions comprising children's open space, outdoor sports facilities, community facilities, libraries, transport, education, and health. In respect of offsite provision for these combined requirements, this would generate a total figure of around £1.77m. This is around £870k in excess of the figure the Council have been advised the scheme can sustain.

- 7.227 This final proposal and offer on behalf of the applicant follows various discussions and negotiations that have taken place over the length of time that the application has been under consideration. Notably, the final figure offered is well in excess of the provision of £901k that formed the output of the independent viability report. As such, the applicant is therefore providing financial contributions of around £596k more than what is typically considered to be a reasonable profit, but unfortunately this cannot sustain all the usual planning obligations, as detailed in the table above. Notwithstanding this, the proposed approach ensures that the obligations that are considered to be more imperative in respect of compensating for the biodiversity loss, infrastructure provision and capacity are provided for namely education, health, and transport, with the addition of a figure towards offsite open space improvements.
- 7.228 Whilst some contributions are not provided for, the issue of viability is a legitimate consideration that must be weighed in the balance. It is also evident that the applicant is providing for in excess of the figure as advised to the Council. This also includes a substantial sum towards offsite biodiversity compensation. The applicant has made an enhanced financial offer, over and above usual reasonable profit margins, to bring the development forward and it is therefore recommended this proposed offer by the applicant is accepted.
- 7.229 CIL - The Council's adopted Community Infrastructure Levy confirms that for residential development in this location is rated zero.
- 7.330 When considering all the elements of the scheme in the round, the key contributions would be secured (by requiring a section 106 to be entered into by all parties with a legal interest in the land by condition – NCC would be the enforcing body noting we could not enforce against ourselves) and officers are satisfied that the scheme is a sustainable development overall. The proposed development is therefore considered to make a suitable overall contribution to infrastructure and is therefore judged to be in accordance with policy DM3 of the ADMDPD.

Other Matters

- 7.331 In addition, impacts in respect of other topic areas such as noise and contaminated land are judged to be acceptable, subject to the imposition of suitable planning conditions, which form part of the recommendation. In respect of noise the Environmental Health Officer notes that the Noise Impact Assessment Report indicates that an acceptable acoustic environment can be achieved at the development, but some of the units would require upgraded glazing and the specific recommendations of the report in this regard are included and carried forward as a planning condition.
- 7.332 Concerns have been raised locally that the construction of the development would increase noise and disturbance for existing residents. Whilst this may be the case, this would be for a finite period of time and in any case, the majority of the dwellings are proposed to be some distance from existing neighbouring properties which would limit the impacts of construction.
- 7.333 Whilst it is noted that there are strong concerns within the local community regarding

the proposed redevelopment of the site, including in the context of health and wellbeing, any current informal use is not safeguarded. As the site remains a planned development site, reflecting its status as an allocated site within the proposed and emerging local plan. The statutory process has previously considered (in the case of the current allocation) the merits of redevelopment of the site, with testing of evidence and the approach has been considered by an Independent Planning Inspector, in the adoption of the ADMDPD.

8.0 Implications

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

9.0 Planning Balance and Conclusion

9.1 The proposed development will secure the implementation of an allocated and committed housing site within the current local plan, with the wider land being part of the emerging plan allocation, ensuring the efficient redevelopment of a site, located within a main built-up area, and reflecting the principles of sustainable development. As such, the principle of development is considered to be wholly acceptable.

9.2 The proposed development will deliver an attractive form of development, offering a variety of dwelling types, which will provide for a mixed and sustainable community and will also deliver onsite affordable housing provision, comprising of 'First Homes' and affordable rent properties. It is considered that the proposals will positively integrate into the character and appearance of the surrounding area.

9.3 Whilst it is noted that strong concerns exist around the loss of biodiversity, the loss of some habitat was inevitable for a site that has been allocated for housing development. The applicant has sought to respond to this, through the provision of both onsite and offsite compensatory habitat, the funds for the delivery and maintenance of which would be secured via conditions and the associated S106 Agreement. Officers are satisfied that with mitigation, the proposal would deliver no net less to biodiversity in accordance with local and national policies.

9.4 Whilst it is noted that the site delivers less affordable housing than would normally be sought, independent viability advice received by the Council suggests that the development would be unviable delivering more than the agreed 10%. In contrast, the development also delivers in excess of the sum that the viability advice suggests would be reasonable and the applicant has offered a higher sum, in the interest of bringing the scheme forward. This is considered to be acceptable when taking matters as a whole and to ensure that a viable form of development is delivered on this committed housing site.

9.5 The applicant has sought to resolve concerns from the local highway authority throughout the application with the latest plan being deemed acceptable to NCC subject to conditions and obligations within the legal agreement.

- 9.6 The applicant has prepared a comprehensive drainage strategy to accompany the application which demonstrates appropriate measures to deal with drainage in line with the national hierarchy. This should, in the opinion of the Lead Local Flood Authority, adequately deal with drainage associated with the proposed development.
- 9.7 Despite the level of concern raised locally, in the absence of a highways objection or an objection on drainage from the Lead Local Flood Authority, there are no grounds to refuse the scheme on matters of highways safety or flooding.
- 9.8 The appraisal above considers other material considerations such as residential amenity, finding no fundamental harm. Whilst there are some compromises (for example, the potential proximity of some properties to existing areas of play space), these are not considered fatal to the development.
- 9.9 The proposed reforms to the NPPF seek to deliver 1.5million homes over the next 5 years which will have a significant impact on local housing needs within the Newark and Sherwood (in the context of being able to demonstrate a five year housing land supply). It is therefore paramount that allocated housing sites which comes forward in a sustainable way, as this has been shown to do, are approved without delay. This will assist in avoid pressure on more sensitive sites within the District which are not allocated.
- 9.10 There are no other significant and/or adverse impacts that would result from the proposed development, and it is therefore recommended that planning permission be granted subject to the satisfactory completion of the S106 Agreement and the drafted planning conditions.

10.0 Conditions

- 10.1 It is likely that development would be delivered in at least two phases (noting that the Council would build out part of the affordable housing north of Mead Way) and therefore the conditions have been framed to allow for a phased approach.

1. 01 (Time for Implementation)

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.

2. 02 (Phasing Plan)

No development shall be commenced until a phasing plan for carrying out the approved works and development has been submitted to and has been approved in writing by the local planning authority. This phasing plan shall show which elements of strategic landscaping and open space shall be provided alongside each residential phase. The approved phasing plan shall be adhered to throughout the construction period unless otherwise agreed in writing by the local planning authority.

Reason: In order to allow for a phased development and ensure that appropriate mitigations are delivered in a timely manner.

3. 03 (Approved Plans)

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

Document Description	Reference	Date Deposited
Plans		
Location Plan	LP	9.12.22
Site Location and Block Plan (SGA Architects)	DR/A/00001/P4	1.6.23
View along Main Street	(VIS) 001	9.12.22
View North West from Central Space	(VIS) 002	9.12.22
View South from Mead Way Entrance	(VIS) 003	9.12.22
View of the Central Space	(VIS) 004	9.12.22
View East Along Main Steet	(VIS) 005	9.12.22
View of Lane to Southern Edge	(VIS) 006	9.12.22
Type A Flat Elevations	00002 P2	9.12.22
Type D House Elevations	00003 P2	9.12.22
Type A and D Floor Plans	00004 P1	9.12.22
Garage Plans	21-2337 (02) GAR	1.11.24
Visualisation Image	00005 P2	9.12.22
Visualisation Image	00006-P1	31.8.24
Visualisation Image	00007-P1	31.8.24

Visualisation Image	00008-P1	31.8.24
Proposed Site Layout and General Arrangement Plan	21-2337 (02) 1001 Rev G	18.10.24
Type IM01 I B2P Maisonette	21-2337-IM01 (02) 001 Rev A	9.12.22
Type 2103 2B3P Bungalow	21-2337-2103 (02) 001 A	9.12.22
Type 2201 2b4p Terrace (The Winthorpe)	21-2337-2201 (02) 001 A	9.12.22
Type 2M01 2B3P Maisonette (The Kirton)	21-2337-2M01 (02) 001 A	9.12.22
Type 3201 v1 3B5P Semi-Detached (The Edingley)	21-2337-3201-V1 (02) 001 A	9.12.22
Type 3201 V2 3B5P Terrace (The Edingley)	21-2337-3201-V2 (02) 001 A	9.12.22
Type 3204 3B5P Detached (The Maplebeck)	21-2337-3204 (02) 001 A	9.12.22
Type 3205 3B5P Semi-Detached	21-2337-3205 (02) 001 A	9.12.22
Type 3206 V1 3B5P Terrace	21-2337-3206-V1-(02) 001 A	9.12.22
Type 3206 V2 3B5P Semi-Detached	21-2337-3206-V2-(02) 001 A	9.12.22
Type 3207 V1 3B5P Detached & Semi-Detached	21-2337-3207-V1-(02) 001 A	9.12.22

Type 3207 V2 3B5P Semi- Detached	21-2337-3207-V2-(02) 001 A	9.12.22
Type 4201 4B6P Detached.	21-2337-4201 (02) 001 A	9.12.22
Type 4202 V 4B6P Detached Corner House	21-2337-4202 V1 (02) 001 A	9.12.22
Type 4202 V2 4B6P Detached Corner House	21-2337-4202 V2 (02) 001 A	9.12.22
Type 4301 3B5P Link (Live Work Unit)	21-2337-4301 V1 (02) 001 A	9.12.22
Type 5201 5B8P Detached House	21-2337-5201 (02) 001 A	9.12.22
Type 5302 5B9P Dormer House	21-2337-5302 (02) 001 A	9.12.22
Type A and d floor plans	636 SGA 226 XX DR A 00004 Rev P1.	9.12.22
Sensitive Site Area Key Plans	001 REV A	2.11.23
Swept Path Analysis - Large Car and Van	3943 002 REV D	29.8.24
Visibility Splays 2.4m x 25m	3943 004 REV D	29.8.24
Swept Path Analysis - Refuse Vehicle Inbound	3943 006 REV B	29.8.24
Swept Path Analysis - Refuse Vehicle Outbound	3943 007 REV B	29.8.24
Forward Visibility Splays	3943 008 REV B	29.8.24
Indicative Lowfield Lane Parking Review	3943 009 REV B	29.8.24

Swept Path Analysis - Bus Eastbound	3943 010 REV A	29.8.24
Swept Path Analysis - Bus Westbound	3943 011 REV A	29.8.24
Distance Between Traffic Calming Features	3943 012 REV A	29.8.24
Proposed Site Layout: Adoption Plan	21-2337 02 002	28.6.24
Topographical Survey and Utility Survey	36158 T UG 0	29.8.24

Reason: So as to define the proposal.

Pre-commencement overarching conditions

4. (Section 106 Obligations)

No development shall commence until a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 relating to the land subject of this consent has been entered into and completed by all parties with an interest in the land and has been lodged with and executed by the Council. The said obligation is to provide the following:

Obligation Type	Contribution to be Secured
Affordable Housing	10% on site affordable housing
Education (30 primary + 1 SEND place)	£764,796
NHS (Investment in existing local GP practice)	£138,462
Off-site Play Area	£100,000
Transport (Bus Service Provision)	£108,000
Off-site Biodiversity Compensation including 30 year maintenance programme	£383,500
Travel Plan Monitoring Fee	£7,500
Safeguarding of land for potential future cycle link	Non-financial provision for safeguarding of land

Contribution to cover CCTV installation of the London Road/Mount Road junction	TBC
A contribution to cover the costs of implementing a traffic regulation order within the site if required	TBC
Programme for the provision of management of onsite 'protected' amenity space	Non-financial for management of land

Reason: In order to secure the necessary infrastructure and contribution requirements to mitigate the impacts of the development in the interests of achieving a sustainable development.

5. (Access to retained Grassland Habitat – Field B)

No development shall be commenced until details of the vehicular access arrangements to support the ongoing maintenance of the retained Priority Grassland Habitat (Field B), have been submitted to and approved in writing with the local planning authority. Once approved, access arrangements shall be provided to an agreed timetable and shall be retained in perpetuity thereafter.

Reason: To ensure that retained habitat is able to be accessed to ensure the conservation and management of an area of biodiversity value.

6. (TRO for preventative parking)

No works or development above foundation level shall take place until applications for traffic management measures to prevent parking on the bend on Lowfield Lane and at the Junction of Belvoir Road/London Road are made. Any measures subsequently approved shall be implemented within 6 months of the date of that approval.

Reason: In the interests of highway safety.

Pre-commencement Conditions

7. (Construction Method Statement)

No development shall be commenced, on any phase of the development, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority covering that phase of work/development. The approved statement shall be adhered to throughout the construction period unless otherwise agreed in writing by the Local Planning Authority. The Statement shall provide for:

- days and hours of working (excluding Sundays and Bank Holidays)
- the parking of vehicles of site operatives and visitors;

- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works.
- measures to minimize the transfer of mud and detritus to the public highway including wheel washing facilities for construction traffic and arrangements for road sweeping.
- a layout of the construction access including a drawing showing visibility splays and method statement for the use of banksmen;
- details regarding parking provision for construction workers and plant on the site.
- the development build route.

Once approved, the Construction Management Plan shall be adhered to at all times unless otherwise agreed in writing by the Local Planning Authority.

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

8. (Construction Environmental Management Plan)

No development shall take place (including demolition, ground works, vegetation clearance) on any phase of the development, until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority covering that phase of work/development. 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.

An annotated plan providing a summary of the elements covered by items b), c), d), e) and h).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of protecting features of biodiversity value during the construction phase. This condition is necessary to capture all mitigation and avoidance measures necessary for safeguarding the environment/biodiversity on site together 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. This is likely to be an evolving document as the phases progress across the site. For the avoidance of doubt this condition should amalgamate and elaborate on measures identified within the ecological submissions which accompanied the application.

9. (Biodiversity Management Plan)

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

- The location and summary description of the features to be mitigated, maintained and/or enhanced, or created;
- The proposed actions to maintain and/or enhance or create the features, and the timing of those actions;
- The proposed management prescriptions for those actions;
- An annotated plan providing a summary of the elements covered by items a, b, and c;
- An annual work schedule covering a 5-year period (with the view that the management proposals would be reviewed every 5 years for a period of 30 years);
- Identification of who will be responsible for implementing the BMP; and
- 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 appropriate intervals. The provision of the monitoring reports shall then form part of the planning condition.

The development shall thereafter be implemented in accordance with the BMP and in accordance with the timetable for works which shall be embedded into the scheme.

Reason: In the interests of protecting and/or enhancing onsite biodiversity features, over the long term. For the avoidance of doubt this BMP should be based upon the ecological submissions forming part of the application and needs to capture all matters of biodiversity that have been identified as requiring to be secured.

10. (Arboricultural Method Statement)

No works or development shall take place on any phase of the development until an Arboricultural Method Statement and scheme for protection of the retained trees/hedgerows within that phase has been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include:

- a. A plan showing details and positions of the root 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.

11. (Proposed Finished Levels)

No development shall commence in respect of the proposed dwellings on any phase, until details of proposed site levels and finished floor levels (noting FFLs should be no lower than 13.58m AOD as set out in the Flood Risk Assessment that accompanied the application) have been shown on a composite plan for that phase and submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interested of residential amenity and flood risk.

12 (Archaeology Part 2)

Part 1

No development or demolition shall take place in any phase until an archaeological Mitigation Strategy for the protection of archaeological remains in that phase is submitted to and approved by the Local Planning Authority. The Mitigation Strategy will include appropriate Written Schemes of Investigation for trial trench evaluation and provision for further mitigation work, as necessary. These schemes shall include the following: 1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements). 2. A methodology and timetable of site investigation and recording 3. Provision for site analysis 4. Provision for publication and dissemination of analysis and records 5. Provision for archive deposition 6. Nomination of a competent person/organisation to undertake the work

The scheme of archaeological investigation must only be undertaken in accordance with the approved details.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with the National Planning Policy Framework

(Archaeology Part 2)

Part 2

The archaeological site work must be undertaken only in full accordance with the approved written schemes referred to in the above Condition. The applicant will notify the Local Planning Authority of the intention to commence at least fourteen days before the start of archaeological work in order to facilitate adequate monitoring arrangements. No variation shall take place without prior consent of the Local Planning Authority.

Reason: To ensure satisfactory arrangements are made for the recording of possible archaeological remains in accordance with the National Planning Policy Framework.

Archaeology Part 3)

Part 3

A report of the archaeologist's findings for each phase shall be submitted to the Local Planning Authority and the Historic Environment Record Officer at Nottinghamshire County Council within 3 months of the archaeological works hereby approved being commenced, unless otherwise agreed in writing by the Local Planning Authority. The post-investigation assessment must be completed in accordance with the programme set out in the approved Written Scheme of Investigation and shall include provision for analysis, publication and dissemination of results and deposition of the archive being secured.

Reason: In order to ensure that satisfactory arrangements are made for the investigation, retrieval and recording of any possible archaeological remains on the site in accordance with the National Planning Policy Framework.

13 (Surface Water Drainage Scheme)

No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved HWA Flood Risk Assessment (FRA) and Drainage Strategyv02 ref P22177-HWA-ZZ-XX-RP-C-5000 dated October 2022, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details, including the ability to phase the development where appropriate accounting for housing to the north and south of Mead Way 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 NPPF 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.
No surcharge shown in a 1 in 1 year.
No flooding shown in a 1 in 30 year.
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 STW 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.

Reason: A detailed surface water management plan is required to ensure that the development is in accordance with NPPF 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.

14 (Land Contamination)

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, including the ability to phase the development where appropriate accounting for housing to the north and south of Mead Way prior to completion of the development. 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

Prior to the commencement of development on any phase, 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 that phase of 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:

- a survey of the extent, scale, and nature of contamination;
- 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;
- 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 for each phase. 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 for each phase 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 in each phase, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out on that phase 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 for each phase, 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.

15 (Road Provision)

No development hereby permitted shall commence on any phase of the development, until details of the new roads within that phase (including any access as may be appropriate) 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 these details for each phase to the satisfaction of the Local Planning Authority.

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

16 (Arrangements for future management of private roads)

No works above foundation level shall take place within each phase until details of the proposed arrangements and plan for future management and maintenance of the proposed streets and private accessways including associated drainage contained within that phase of development have been submitted to and approved in writing by the Local Planning Authority. The streets and drainage shall for the lifetime of the development be maintained in accordance with the approved private management and maintenance details unless an agreement has been entered into under section 38 of the Highways Act 1980 at which point those streets covered by the agreement will not be subject to the approved management and maintenance details.

Reason: In the interests of general safety and amenity

17 (Main Access Provision)

Save for any development in relation to Plots 142-151 inclusive, no development shall be commenced until the northernmost access point on Mead Way shall be constructed and made available for use thereafter.

Reason: To ensure the development can be constructed as approved and safeguard the proposed bus route.

18 (External Materials)

Prior to the laying of any facing bricks above damp proof course of any dwelling in any phase, a schedule of external facing materials (including manufacturers name, colour and material) covering that phase, shall be submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: Insufficient details have been provided and the condition is necessary in the interests of visual amenity.

Prior to Occupation Condition

19 (Hard and Soft Landscaping and its Implementation)

Prior to first occupation of any dwelling within each phase, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority, covering that phase. These details shall include:

- full details of every tree, shrub, hedge to be planted (including its proposed location, species, size, and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
- proposed finished ground levels or contours;
- means of enclosure of any open areas of communal space;
- car parking layouts and materials (parking area shall be of no-dig construction type as per email dated 9.6.24);
- hard surfacing materials
- minor artefacts and structures for example, furniture, refuse or other storage units, signs etc.
- proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)

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

The approved hard landscaping shall be completed in accordance with the approved details prior to first occupation of any dwelling or as may be otherwise agreed and shall be retained for the lifetime of the development.

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

20 (Noise Attenuation/Window Glazing)

Prior to first occupation of each phase, a scheme of noise attenuation for that phase shall be submitted to and approved in writing in respect of noise from the nearby Wastewater Water Treatment Works. This scheme of mitigation shall build upon those set out in the Noise Impact Assessment BS 8233:2014, BS4142:2014+A1:2019 Report dated 10/02/23 by Noise Assessments Limited, identifying the precise mitigation measures for each plot. The approved scheme shall be implemented on site prior to first occupation.

Reason: In the interests of protecting residential amenity from unacceptable levels of noise.

21 (Boundary Treatments)

Prior to the first occupation of any plot within each phase, precise details (types, height, design and materials) of all hard boundary treatments for dwellings within that phase shall be submitted to an approved in writing by the Local Planning Authority. The approved boundary treatments for each plot shall thereafter be implemented in full prior to first occupation, in accordance with the approved details and thereafter retained for a minimum of five years.

Reason: In the interest of residential and visual amenity and biodiversity. It should be noted that hedgehog holes in boundaries should be considered and included to allow for the passage of them through the site. Careful consideration will also be required in respect of the boundaries fronting on the public right of way no. 11.

22 (Bus Stop and Associated Infrastructure)

Notwithstanding the layout as shown on drawing number 21-2337 (02) 1001 rev G, no part of the development hereby permitted shall be brought into use unless or until plans denoting the locations of new Demand Responsive Transport (DRT) bus stops within the site have been submitted to and approved in writing by the Local planning Authority.

Details shall include: Polycarbonate bus shelter, Solar or electrical lighting for the shelter, Raised boarding kerbs, Lowered access kerbs, Enforceable bus stop clearway, Black top dressing (tarmacadam) on 3.6metre x 7metre hardstand and footways associated with the bus stop, purpose-built terminus with vehicle waiting facilities and a timetable for implementation.

The approved details shall be delivered in accordance with the approved details.

Reason: In the interests of highway safety and making for sustainable transport choices.

23 (Plan for unallocated parking)

Prior to first occupation of any dwelling in any phase, a plan for the management of the unallocated residential parking within that phase, shall be submitted to and approved in writing by the LPA. The management plan shall then be adhered to for the lifetime of the development.

Reason: To ensure that sufficient parking is available for residents, in the general interest of highway safety.

24 (PROW Improvements)

No more than 50 dwellings shall be occupied until improvements are made to the Public Right of Way (Balderton Footpath 11) between Mead Way and the adjacent site to the

west, in accordance with details to be first submitted and approved in writing by the Local Planning Authority.

Reason: To safely accommodate the increase in use by virtue of the development and to encourage sustainable transport.

25 (Bin Storage Areas)

Prior to first occupation of the dwellings within each phase, details of the refuse storage areas for each of the dwellings within that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved scheme.

Reason: In the interests of visual amenity.

26 (Covered Cycle Storage Provision)

Prior to first occupation of any dwelling within each phase, for those dwellings without an on-plot garage within that phase, details of secure, covered cycle storage shall be provided to and be approved in writing by the Local Planning Authority. The approved cycle storage shall be provided on site prior to first occupation.

Reason: Insufficient details have been provided with the application and the condition is necessary in order to provide adequate storage for cycles (in the interests of sustainability) in a timely manner and in the interests of amenity.

27 (Roadside verge details)

Notwithstanding the details submitted, prior to first occupation of any dwelling in each phase, details of all planting in road-side verges alongside the approved street lighting and utilities layouts within that phase shall be firstly submitted to and agreed in writing by the LPA. The approved details shall be implemented in accordance with an agreed timetable unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to prevent potential damage to underground services and prevent 'shadowing' of street lighting that may be detrimental to highway safety.

28 (Details of Rain Gardens)

Prior to first occupation of any dwelling in each phase, a detailed landscaping plan of the proposed rain gardens within that phase shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall be provided in accordance with the details approved.

Reason: In the interests of highway safety, to ensure that visibility splays can be maintained where drainage proposals are located in and around the new highway.

Compliance Conditions

29 (Prohibited Activities near Trees)

During the construction period the following activities must not be carried out under any circumstances.

- 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.
- No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
- No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- 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.
- 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.

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.

30 (Tree Retention)

No trees, shrubs or hedges within the site which are shown as being retained on within the Arboricultural Survey Report BS 5837:2012 SF3041 Lowfield Lane, Balderton Revision D - February 2024 shall be felled, uprooted, wilfully damaged, or destroyed, cut back in any way, or removed. Any trees, shrubs or hedges which die, are removed, or become seriously damaged or diseased within five years of being planted, shall be replaced with trees, shrubs, or hedge plants in the next planting season with others of similar size and species.

Reason: To ensure the existing trees, shrubs and or hedges are retained and thereafter properly maintained, in the interests of visual amenity and biodiversity.

31 (Visibility Splays)

The vehicular visibility splays as shown on Drawing Number 3943_004 rev E shall be kept clear of all obstructions over 600mm height above carriageway level for the lifetime of the development.

Reason: In the interests of highway safety.

32 (Provision of Parking)

The parking spaces for each dwelling hereby approved shall be provided prior to each occupation in a bound surface, with means to prevent the egress of surface water to the public highway. The parking areas shall thereafter be retained for parking for the lifetime of the development.

Reason: To prevent the transfer of deleterious material and surface water to the public highway, and to retain parking in the general interests of highway safety.

33 (Retention of Garages for Parking)

The garages serving the following plots shall be retained as parking (and shall not be converted to living accommodation) for the lifetime of the development unless a separate planning application has been granted.

Plots 3, 12, 16, 19, 23, 48, 49, 58, 65, 66, 67, 68, 69, 70, 97, 100, 101, 102, 103, 109, 111, 126, 127, 128, 135, 137, 138, 139, 140 and 141.

Reason: The plots listed above rely on the parking provision within the garages to meet the appropriate level of parking commensurate with the size of the house (as set out in the Council's Residential Car Parking Supplementary Planning Document 2021) and this condition is necessary to ensure adequate off-street parking is provided and retained in the interests of amenity, good planning and highway safety.

34 (Travel Plan)

Notwithstanding the submitted Framework Travel Plan, no phase of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority which covers that phase. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the local planning authority and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the local planning authority.

Reason: To promote sustainable travel

35 (External lighting)

Prior to first occupation of any phase of this development, details of any external lighting (other than street lights within the highway) shall be submitted to and approved in writing by the local planning authority covering that phase. The details shall include contour mapping, details of the locations, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution and adverse impacts on bats. 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 unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity and to safeguard nocturnal wildlife from adverse impacts.

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

The following Notes to Applicant are provided for and on behalf of NCC as the Highway Authority.

02

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the HA, 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@nottsc.gov.uk.

03

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, Page No. 8 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.

04

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

The development requires a notice to be served under S228 of the Highway Act and to enable this the works must be first approved and inspected. It is recommended therefore that the technical approval process required for S38 is requested at the earliest opportunity.

06

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.

07

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 should make every effort to ensure that the hedge/tree line is maintained appropriately.

08

The deposit of mud or other items on the public highway, and/or the discharge of water onto the public highway are offences under Sections 149 and 151, Highways Act 1980. The applicant, any contractors, and the owner / occupier of the land must therefore ensure that nothing is deposited on the highway, nor that any soil or refuse etc is washed onto the highway, from the site. Failure to prevent this may force the Highway Authority to take both practical and legal action (which may include prosecution) against the applicant / contractors /the owner or occupier of the land.

09

The applicant needs to demonstrate how the public will be kept safe on both adjacent public rights of way (PROW) during construction. A Temporary Traffic Regulation Order (TTRO) to prevent or restrict public access of the PROW 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

10

The applicant is advised that all planning permissions granted on or after the 1st December

2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

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

11

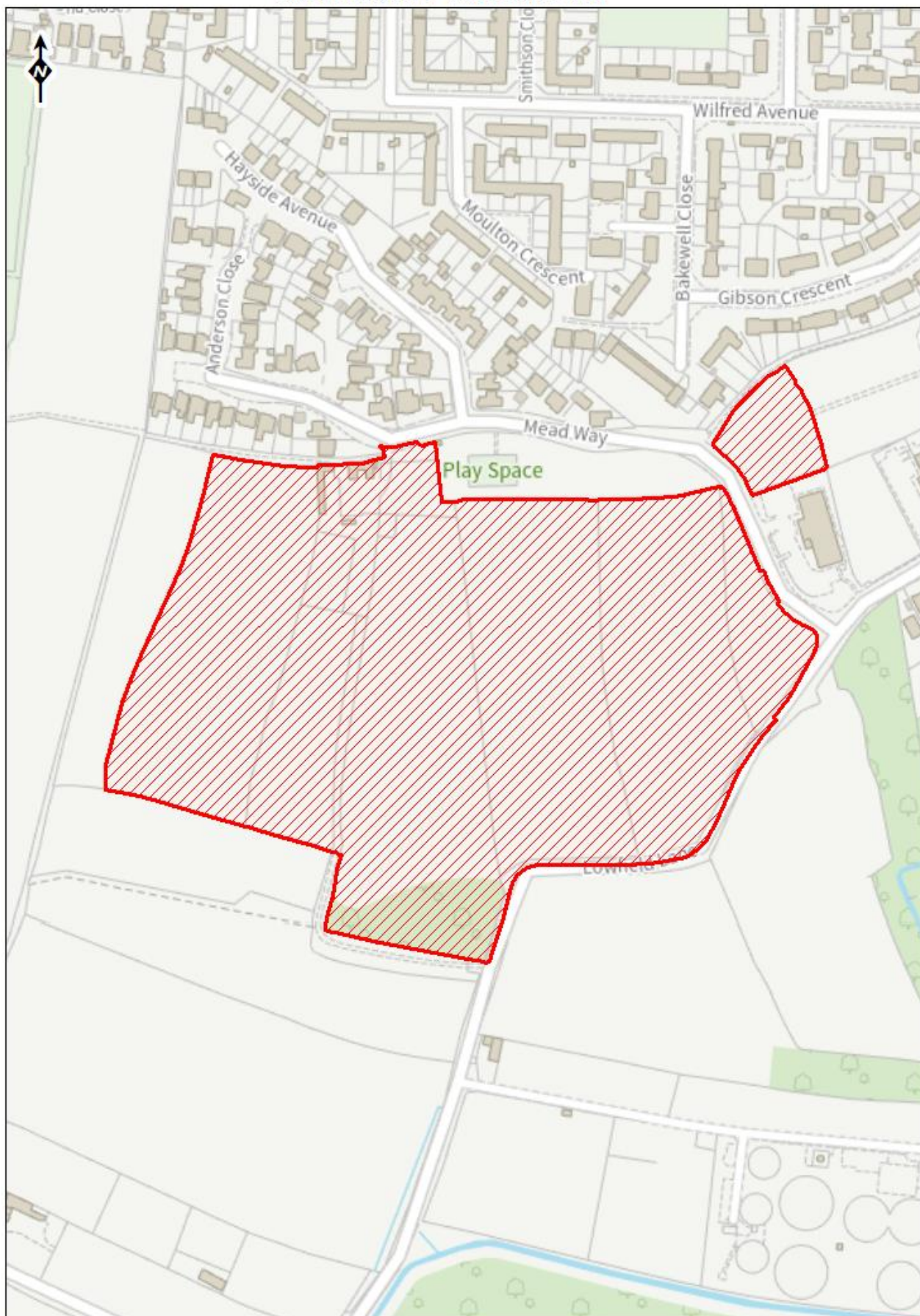
You are advised that you may require building regulations approval in addition to the planning permission you have obtained. Any amendments to the permitted scheme that may be necessary to comply with the Building Regulations, must also be approved in writing by the Local Planning Authority in order 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. Contact details are available on their website 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.





Report to Planning Committee 11 November 2024

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Julia Lockwood, Senior Planner, julia.lockwood@nsdc.info

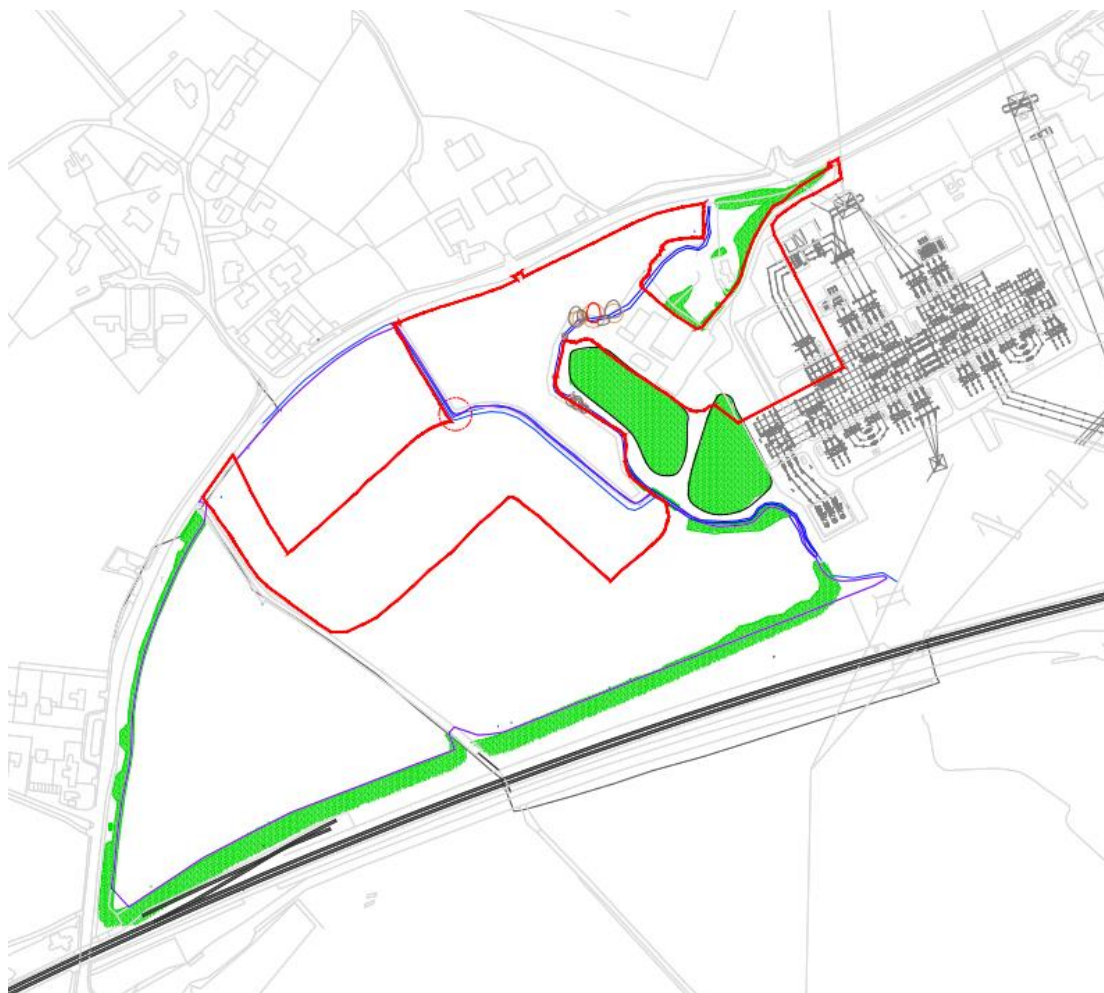
Report Summary			
Application No.	24/01261/FULM		
Proposal	Infrastructure associated with the connection of battery energy storage system to National Grid Staythorpe Electricity Substation and associated works.		
Location	Land West Of Staythorpe Electricity Substation, Staythorpe Road Staythorpe		
Applicant	Elements Green Staythorpe BESS Ltd	Agent	-
Web Link	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage		
Registered	16.07.2024	Target Date	15.10.2024
Recommendation	<p>Provided no further representations are received up until 5pm on 12 November 2024 that raise new material planning considerations that have not be assessed by Members at Planning Committee on 11 November 2024, it is recommended that full planning permission be APPROVED subject to:</p> <p>a) The completion of a S106 Agreement to secure, maintain and monitor Biodiversity Net Gain; and</p> <p>b) Subject to the conditions set out in Section 10 of the report.</p>		

This application is being presented to the Planning Committee at the request of the Authorised Officer in line with the Council’s Scheme of Delegation.

1.0 The Site

- 1.1 The application site comprises approx. 5.20 hectares of mainly flat, agricultural land. Situated to the south-west of Staythorpe Electricity Substation and on the south-eastern side of Staythorpe Road, it is close to the main residential area of Staythorpe village, largely concentrated around Pingley Lane/Close to the north-west of the site.
- 1.2 The red line of the application site is irregularly shaped as shown on the plan below. It includes the western corner of the existing National Grid substation and its existing

access from Staythorpe Road, agricultural land, a large agricultural building, as well as an area of land that was included within the approved Battery Energy Storage System development (its main access and part of the transformer compound). The site also includes a number of drainage ditches, including a watercourse known as Staythorpe Sidings Drain which runs along the centre of the red lined site and is the responsibility of an Internal Drainage Board. This watercourse divides into two to the north and skirts around the two large blocks of woodland shown in green. There is also tree planting to the north-west of the sub-station access from Staythorpe Road.

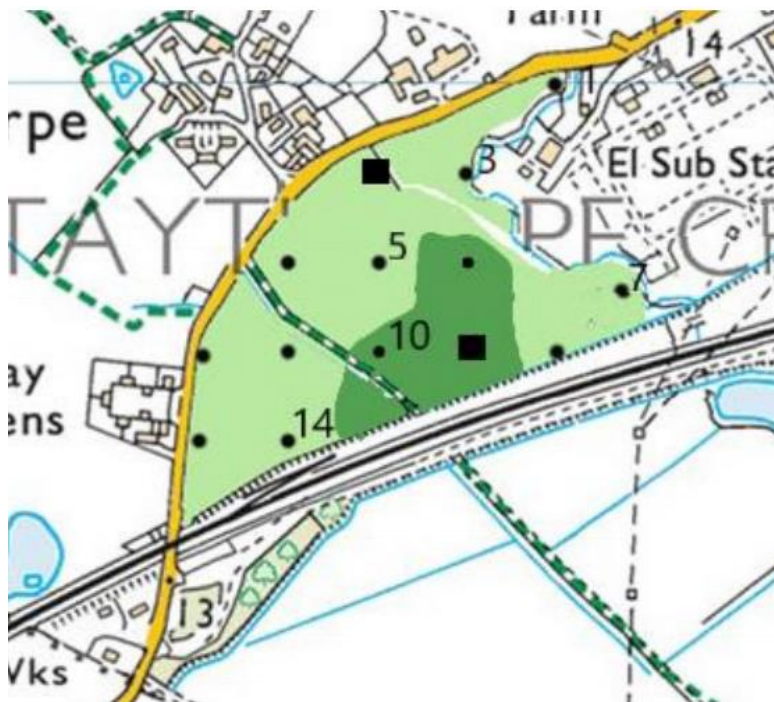


Existing Site Plan showing the proposed red line boundary

- 1.3 Many of the boundaries of the site are somewhat arbitrary and drawn to reflect positions of proposed development with planning permission, rather than features on the ground. The relationship with the layout of the adjacent approved BESS scheme is shown on the plan below for context. The north-west boundary of the application site along Staythorpe Road is defined by mature tree and hedgerow planting. In the centre of this boundary is an existing field access which sits adjacent to a layby which serves as a public bus stop.

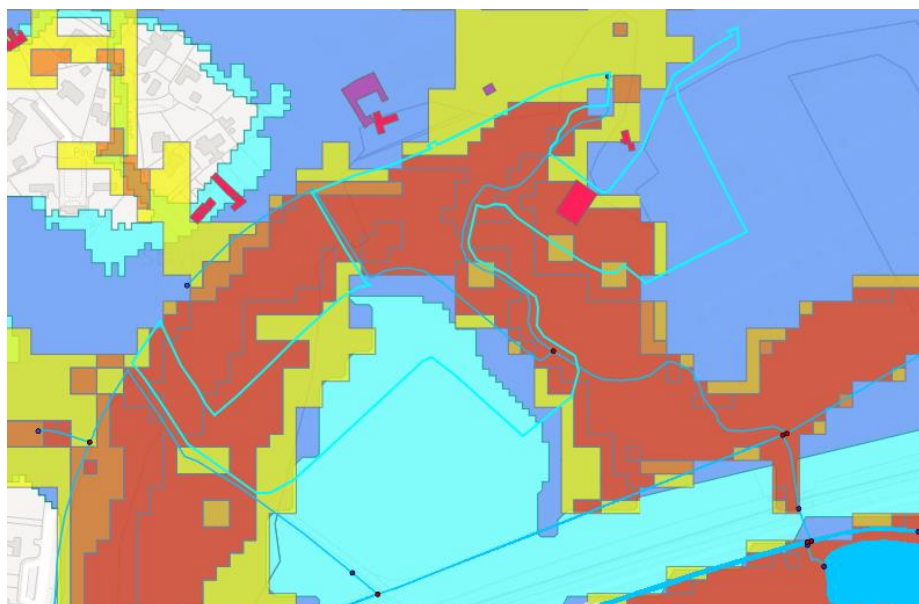


1.4 In terms of Agricultural Land Classification, the majority of the site falls within Grade 3b which means it is of moderate quality and falls outside the definition of Best and Most Versatile agricultural land as defined by the National Planning Policy Framework. The plan below shows Grade 3b in light green and Grade 3a (good quality and within Best and Most Versatile) in dark green. There may be a small area within the red line of this application site that is Grade 3a, however, this land is also within the red line of the application already approved for the Battery Energy Storage System.



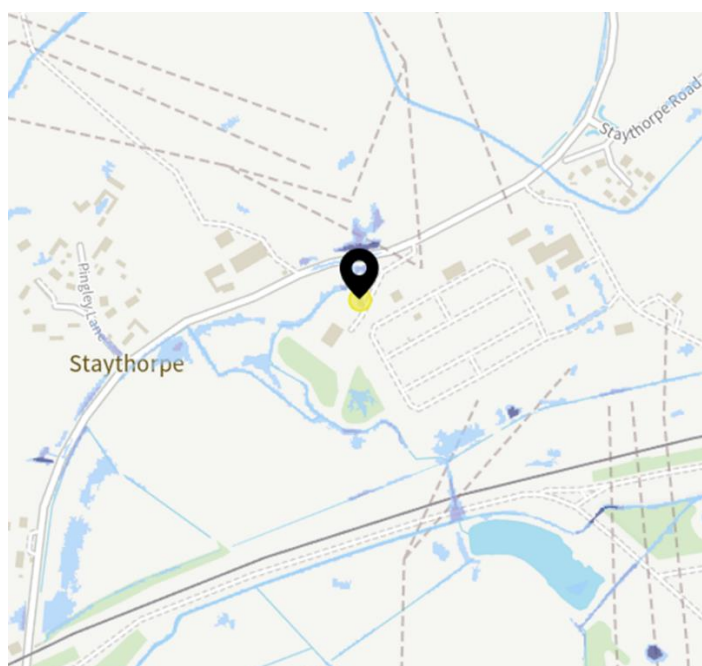
Agricultural Land Classification Plan

- 1.5 Ground levels at the site are relatively even and sit approx. between 12m AOD Above Ordnance Datum (in the west) and 13.7m AOD in the north-east of the site. In terms of fluvial flood risk, the map below shows the majority of the site (outlined in light blue) to be within Flood Zone 3b – high risk functional flood plain (this is all reds, oranges and yellows), with a small part of the site within Flood Zone 3a – high risk (dark blue) and a small area within Flood Zone 2 – medium risk (turquoise).



Main River Flood Map

- 1.6 In surface water terms, the majority of the application site is at very low risk (white on map below), but there are areas at low risk (light blue on map), which appear to largely follow watercourses in the area.



Surface Water Flood Map

- 1.7 There are no international, national or local ecological or landscape designations within the boundary or within 1km of the site, the nearest being Farndon Ponds Local Nature Reserve, 1km to the south-west which includes priority deciduous woodland habitat and large pond supporting kingfisher and common frog and designated as a Local Wildlife Site (LWS)/ Site Interest for Nature Conservation (SINC).
- 1.8 Staythorpe is the nearest village immediately to the east on the opposite side of Staythorpe Road. Averham village is approx. 530m to the north-east from the site boundary, which includes Averham Conservation Area the boundary of which is approx. 560m from the application site boundary. There are no designated heritage assets within the application site, the nearest heritage asset is Manor House (Listed Grade II), which is located approx. 180m from the site boundary to the west. There are also 4 Grade II listed buildings in Averham and 1 Grade I (Church of St Michael). There is a Scheduled Monument ('Averham Moat & Enclosure') approx 725m from the site boundary to the north east. Staythorpe House Farm fronting Staythorpe Road opposite the site is a Non Designated Heritage Asset. The application site is also likely to be of some interest in archaeological terms.
- 1.9 The nearest dwellings to the site boundary are White Cottage situated adjacent to the existing access from Staythorpe Road in the north-east corner, and Harness Cottage, Staythorpe House Farm and Staythorpe House Cottage which are all directly opposite the site on Staythorpe Road.
- 1.10 The site has the following constraints:
- Majority within Flood Zone 3b (high risk - functional flood plain), some within Flood Zone 3a (high risk), some within Flood Zone 2 (medium risk);
 - Within the setting of off-site Heritage Assets and on site Archaeological Interest.

2.0 Relevant Planning History

- 2.1. PREAPM/00060/24 - Proposed infrastructure associated with the connection of a battery energy storage system to National Grid Staythorpe Electricity Substation and associated works.

Within part of current application site but on the wider site to the south-west:

- 2.2. 22/01840/FULM - Construction of Battery Energy Storage System and associated infrastructure, approved on appeal 03.05.2024. The appeal decision is attached as a link to view on the Background Paper listed at the end of this report.
- 2.3. 23/SCR/00002 – Screening Opinion – Construction of Battery Energy Storage System and associated infrastructure, Environmental Impact Assessment not required.
- 2.4. 22/SCR/00008 – Screening Opinion Request for a Battery Storage System and associated infrastructure, Environmental Impact Assessment not required.
- 2.5. 22/SCR/00010 - Screening Opinion Request for a Battery Storage System and associated infrastructure, Environmental Impact Assessment not required.

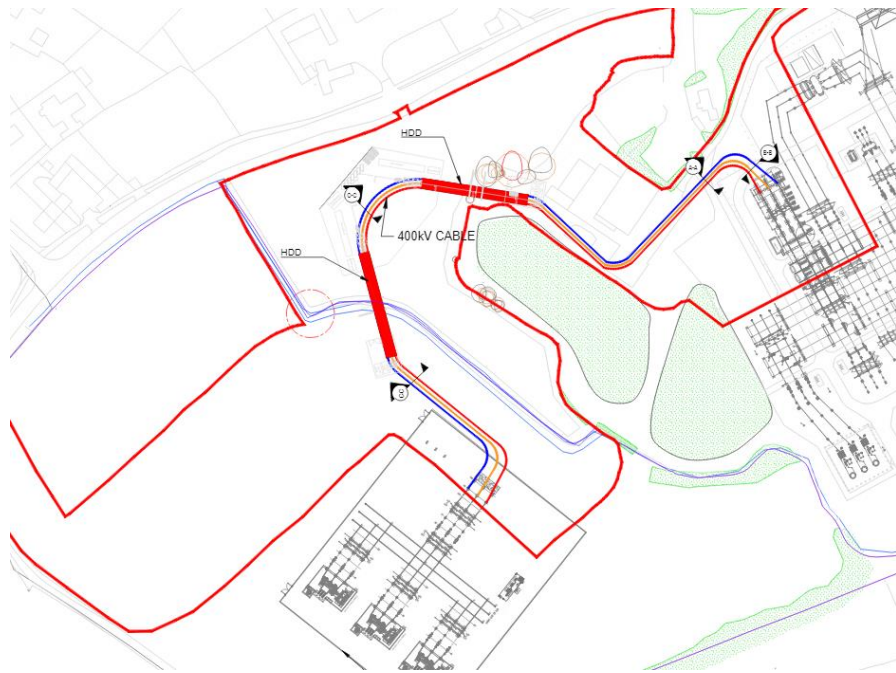
- 2.6. PREAPM/00133/22 - Erection of a Battery Energy Storage System (BESS) and associated infrastructure.
- 2.7. 08/02006/FULM – Temporary laydown and storage facility during the construction of Staythorpe Power Station with restoration by September 2010, approved December 2008.
- 2.8. 95/51657/ELE – Proposal for overhead powerline, approved November 1995.

Other applications that may be considered of relevance: -

- 2.9 23/02060/DCO - The Great North Road Solar Park – Elements Green – a development for an array of photovoltaics panels and a battery energy storage system capable of delivering 800MW AC of electricity to Staythorpe National Grid Substation. This scale of solar development is classed as Critical National Priority Infrastructure, as defined within National Policy Statement ENS-1. The scheme is currently being determined under the Planning Act 2008 (as amended) which covers Nationally Significant Infrastructure Projects (NSIP) under a Development Consent Order that would ultimately be granted by the Secretary of State.
- 2.10 23/00810/FULM – Laying of an underground cable run linking Battery Energy Storage System (at Averham) to Grid connection point at Staythorpe Substation – approved 20.06.2024.
- 2.11 24/SCO/00003 - Environmental Impact Assessment (EIA) Scoping Opinion request for Staythorpe Power Station for Carbon Capture Project

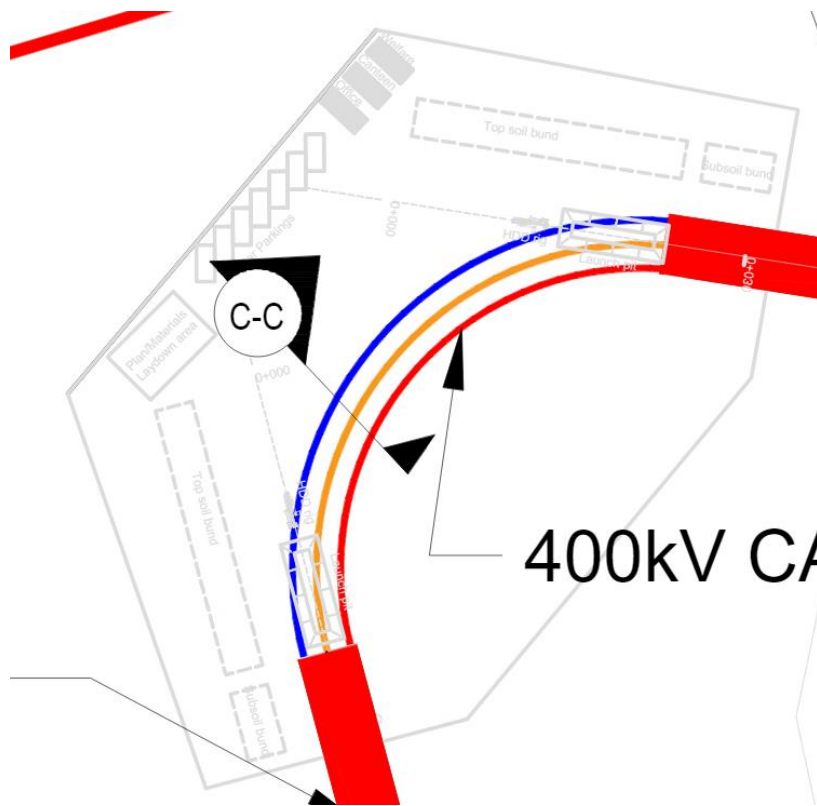
3.0 The Proposal

- 3.1 The application seeks permission for infrastructure associated with the connection of a proposed battery energy storage system to the existing National Grid Staythorpe Electricity Substation that is necessary of the function and operation of the Battery Energy Storage System (BESS) approved at appeal on a temporary basis for 40 years.
- 3.2 The infrastructure comprises a 400kV cable that would run fully underground along its whole length and connect the BESS development with the substation. The cable comprises three strands and has an overall width 2.4m wide. The submitted cross sections show varying depths of the cable between 6m and 9m below ground level. The cross sections show the area above the cable being refilled with well compacted thermally suitable backfill.
- 3.3 The cable route would be constructed using two sections of horizontal directional drilling (shown in solid red on the plan below, each measuring approx. 56m in length, with its own launch pit and reception pit at each end). It is understood that this construction method is required at these two points in order to run the cable below the two existing watercourses that cross the proposed path of the cable. The remaining 3 sections of the cable route would be constructed by digging out trenches from ground level, laying the cable and then restoring the land to its former ground level.



Proposed Construction Plan

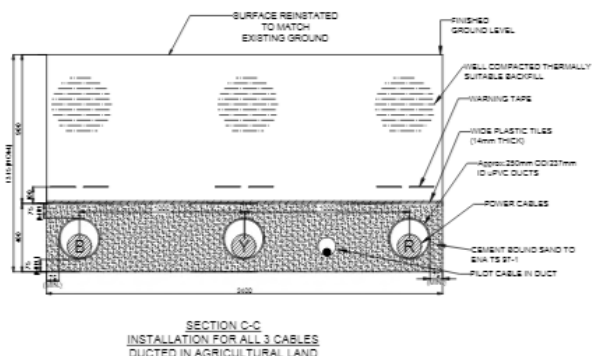
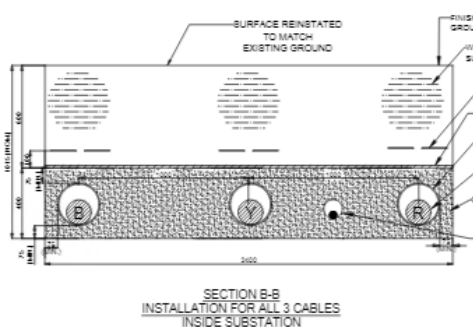
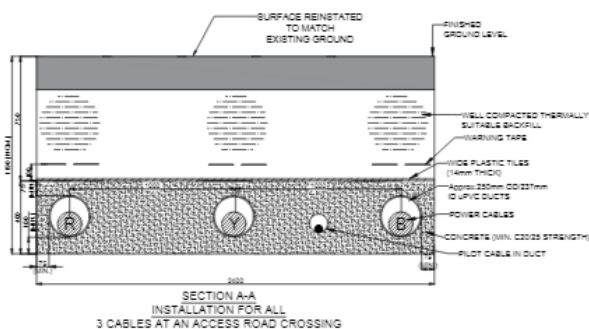
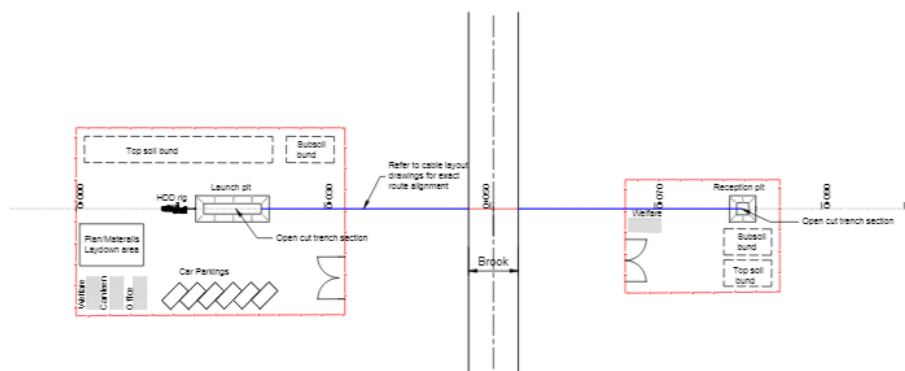
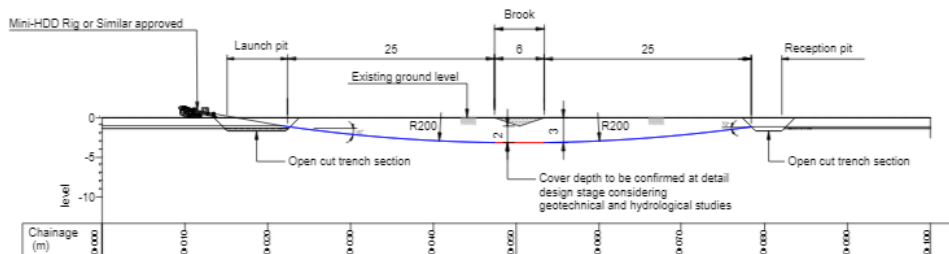
- 3.4 The above plan also shows in a very light grey a compound area showing soil bunds, a materials layout area, 7 parking spaces, and three temporary buildings to provide office, canteen and welfare facilities. No details have been provided on how this area is to be surfaced or any details of the proposed temporary welfare buildings.



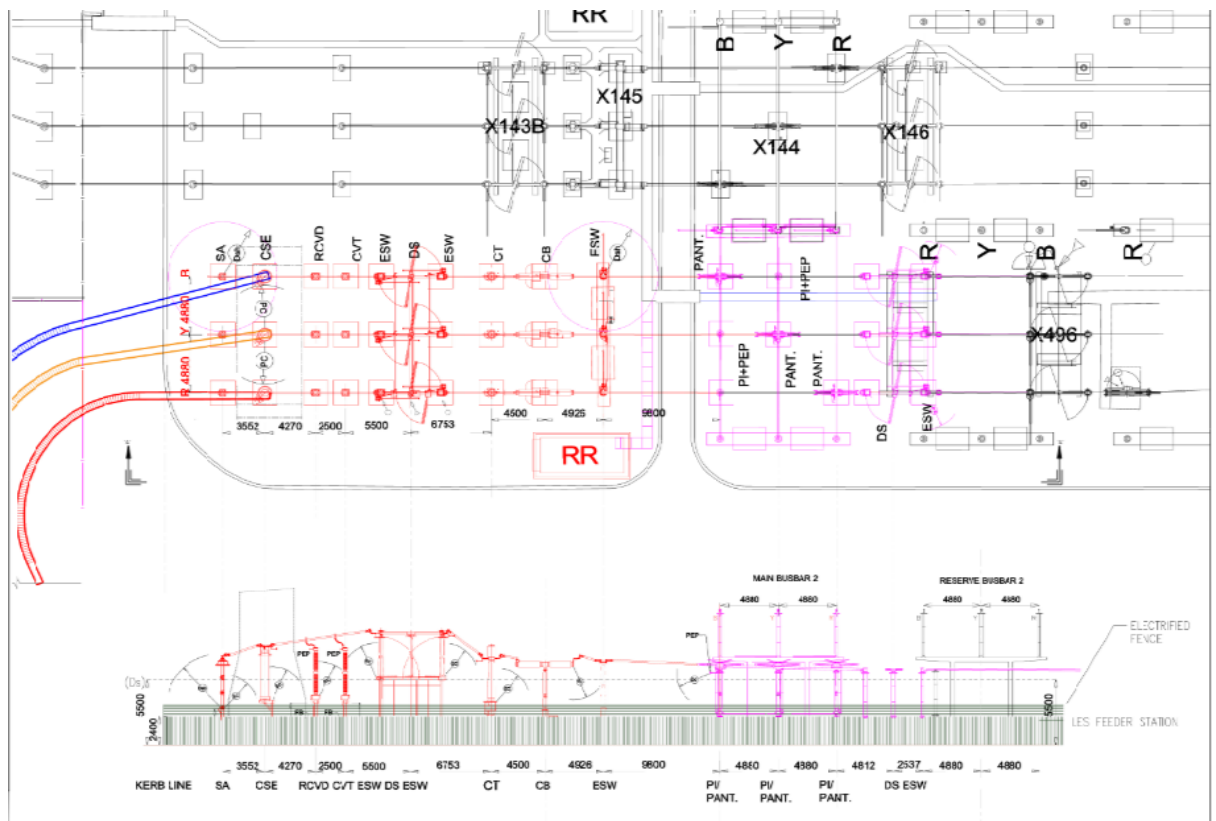
Proposed compound

3.5 The plans below show the Horizontal Directional Drilling plan and cross section first, which identifies the depth the cable needs to be under the watercourse is still to be clarified following further studies.

PROFILE FOR TRENCHLESS BROOK CROSSING



Various cross sections of the cables below ground.



Proposed plan and elevation of substation

- 3.5 Proposed substation elevations show a max height of approx. 9.6m in red and approx. 11.7m in height in pink to match the existing equipment (depicted in black). It is the proposed infrastructure in red that would be carried out by the applicants and forms part of this application. The pink plant represent works that are proposed to be undertaken by National Grid and do not form part of this current application.
- 3.6 The overall proposed substation plan is shown below.



- 3.7 The application confirms that there are to be three access points serving this proposed development:

Access 1 – Staythorpe BESS, subject to appeal decision;

Access 2 – Existing farm access (Drawing Ref 23065-IN-02 Rev A) in Transport Note;

Access 3 – GNET Compound (Drawing Ref 23065-IN-04) in Transport Note;

as set out on the plan below:



- 3.8 The Transport Note sets out that there will be approx. 16 two-way HGV deliveries, which includes the delivery of plant and materials, and 10 two-way vehicle movements per day over a 6-8 week period associated with the construction phase. These will be broadly split between the 3 access points as follows:

Access 1 – 8 two-way HGV and a total of 100 two-way vehicle movements over the 6-8 week period;

Access 2 – 4 two-way HGV and a total of 150 two-way vehicle movements over the 6-8 week period;

Access 3 – 4 two-way HGV and a total of 150 two-way vehicle movements over the 6-8 week period.

Based on the above, Access 2 and 3 will accommodate approx. 3-4 two-way vehicle movements a day. Due to the lack of intensive construction the gate to Access 3 will be closed during the construction phase and opened by the Banksman as required to enable access for construction materials, delivery of machinery and equipment and site operatives.

- 3.9 In relation to Access 2 being adjacent to a bus stop layby, the applicant proposes a temporary bus stop suspension for a period of 6-8 weeks during the construction

period only. Advance signing will be erected to warn of the bus stop suspension and local operators and residents will be informed by the applicants prior to it taking place.

3.10 Documents assessed in this appraisal:

- Site Location Plan (Staythorpe Figure 1) (Ref: 007 4001 002.A)
- Existing Arrangement (Drawing No: 70102964-WAP-LAY-EP-003 Rev 02)
- Proposed Arrangement (Drawing No: 70102964-WSP-LAY-EP005 Rev 03)
- Construction Arrangement (Drawing No: 70102964-WSP-LAY-EP-004 Rev 02)
- Overall Substation Layout (Drawing No: 70102964-WSP-Lay-EP-001)
- Sub-station Elevations (Drawing No: 70102964-WSP-LAY-EP-002)
- Preliminary HDD Plan and Profile (Drawing No: 70102964-WSP-CRS-EC-101)
- 400kV cable Route Trench Sections
- Plan demonstrating length of whole cable route is underground (Drawing No: DEMO-01 Rev 03)
- Covering Letter dated 12 July 2024 from Elements Green Ltd
- Staythorpe Cable Route Archaeological Desk Based Assessment dated June 2024 by Wessex Archaeology
- Staythorpe BESS and Cable Route Written Scheme of Investigation for Archaeological Evaluation dated September 2024 by Wessex Archaeology
- Agricultural Land Classification dated Nov 2023 by Soil Environment Services Ltd
- Arboricultural Method Statement dated June 2024 by AWA Tree Consultants
- Arboricultural Report and Impact Assessment dated June 2024 by AWA Tree Consultants
- Archaeological Evaluation Phase 1 dated Nov 2022 by Wessex Archaeology
- Biodiversity Net Gain Statement & Assessment for Staythorpe Cable Route (Ref: BIOC23-202 v3.0) dated 14 October 2024 by Biodiverse Consulting
- Biodiversity Metric completed 14 October 2024 (v3.0)
- Ecological Impact Assessment v1.2 dated 21 June 2024 by Biodiverse Consulting
- Flood Risk Assessment dated 7 June 2024 by Mabbett
- Outline Construction Traffic Management dated October 2024 by Optima
- Transport Note dated October 2024 by Optima
- Responses from developer to comments submitted by Averham, Kelham and Staythorpe Parish Council and local residents received 25 October 2024

4.0 **Departure/Public Advertisement Procedure**

- 4.1 Occupiers of 109 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 Additional information comprising a Revised Transport Note, a Revised Outline Construction Traffic Management Plan and two plans showing revisions to the construction and proposed layout plans were submitted on 25 October 2024 and are now out to re-consultation/re-notification with the Highway Authority, Averham, Kelham and Staythorpe Parish Council and all neighbours. The deadline given for any further comments is 12 November 2024, the day following Planning Committee.
- 4.3 Officers therefore propose that in the event of any new representations being received between the cut off time for reporting Late Items (up to midday, 2 days

before the meeting (9 November)) and up until 5pm on 12 November (ie a total period of 3.5 days) that raise any new material planning considerations that are not assessed as part of the considerations of Committee on 11 November 2024, that the application be reported back to the Planning Committee for re-consideration on 5 December 2024.

4.4 Site visit undertaken on 9 August 2024.

5.0 **Planning Policy Framework**

The Development Plan

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 9 - Sustainable Design
 Core Policy 10 – Climate Change
 Core Policy 12 – Biodiversity and Green Infrastructure
 Core Policy 13 – Landscape Character
 Core Policy 14 – Historic Environment

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

DM4 – Renewable and Low Carbon Energy Generation
 DM5 – Design
 DM7 – Biodiversity and Green Infrastructure
 DM8 – Development in the Open Countryside
 DM9 – Protecting and Enhancing the Historic Environment
 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 and is due to commence its Examination In Public during November 2024. This is therefore at an advanced stage of preparation, albeit there are unresolved objections to amended versions of all the above DM policies emerging through that process. As such, the level of weight to which those proposed new policies can be afforded is therefore 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)
 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990
 The Climate Change Act 2008
 The Clean Growth Strategy 2017
 Energy White Paper 2020
 The Environment Act 2021
 The Net Zero Strategy: Build Back Greener 2021

UK Government Policy Paper - British Energy Security Strategy April 2022
 Energy Act 2013
 National Grid – Future Energy Scenarios (2022)
 National Policy Statements EN-1 and EN-3 (2023)
 Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990

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. **Nottinghamshire County Council (Highway Authority)** – Following the submission of a Revised Transport Note and Revised Outline Construction Traffic Management Plan, the Highway Authority have been re-consulted. The Highway Authority have already indicated informally that if these documents are up-dated to include all the discussions undertaken with the applicants that following their submission, the Highway Authority would be able to recommend positively. Final formal comments are therefore awaited, together with any conditions that are considered to be necessary for highway safety purposes.
- 6.2. **Nottinghamshire County Council (Rights of Way)** - No objection. Staythorpe Footpath No 1 passes along the track adjacent to the proposed site edges in red. The County Council have received an application to modify the Definitive Map (under Section 53 of the Wildlife and Countryside Act 1981) to upgrade this footpath to a bridleway. It is suggested a number of informatives are attached to any decision.
- 6.3. **National Highways** – No objection, they do not consider the traffic generated from the proposal is likely to have significant impact on the Strategic Road Network (A46 and A1).
- 6.4. **Nottinghamshire Lead Local Flood Authority** – No objection, subject to a condition requiring a detailed surface water drainage scheme being imposed.
- 6.5. **Environment Agency** – No objection, subject to a condition to be in accordance with the submitted plans and the mitigation measures they detail. Their comments are based on there being no permanent above ground works or structures and the proposal is wholly for below ground cable works.
- 6.6. **Historic England** – Did not offer any advice and suggest the views of the Council's specialist conservation and archaeological advisers are sought.

Town/Parish Council

- 6.7. Averham, Kelham and Staythorpe Parish Council object on the following grounds:
- Within the documents submitted there are two differing versions of the same document; one titled 'Outline Construction Traffic Management Plan' and the other 'Transport Note.' Both contain similar, yet differing details of traffic

volumes, site access etc which make it difficult to assimilate the intentions of the proposal.

- The Flood Risk Assessment contains inverted/mirrored and largely incomprehensible maps, together with arguable and subjective details.
- The Design and Assessment is vague, lacking in detail and appears to assume that this development will have an extremely limited impact on the local community and environment. It implies that, as a result of the recent approval (under appeal) of the associated BESS proposal, this application is a 'shoe-in' and a forgone conclusion.
- However, on the contrary, the cumulative impact of this application should be considered against the recently approved development, together with those currently awaiting (planning) decision, reasonably foreseeable future developments (GNR Solar) and also the existing industrial sites with the immediate locality, namely:
 - 22/01840/FULM - Construction of Battery Energy Storage System and associated infrastructure, Land South Of Staythorpe Road Staythorpe
 - 23/00810/FULM - Laying of an underground cable run linking Battery Energy Storage System to Grid Connection Point at Staythorpe Substation.
 - 23/00317/FULM - Construction and operation of Battery Energy Storage System (BESS), transformer/sub-station and associated infrastructure. Land off Staythorpe Road Averham
 - 23/01837/FULM - Proposed ground mounted photo voltaic solar farm and battery energy storage system with associated equipment, infrastructure, grid connection and ancillary work Land to the West of Main Street, Kelham
 - Staythorpe Power Station
 - National Grid Staythorpe
 - GNR Solar Development
- These cumulative effects are both additive and synergistic, in as much as similar impacts from the aforementioned projects combine and interact to create a greater overall effect. This point has been raised many times before by the parish council and has continually been ignored by NSDC planning.
- Considering cumulative effects is crucial when assessing this application as the scale, nature and proximity to residential properties combined with the radical change of use from largely silent, agricultural land to noisy, visually intrusive, potentially-polluting, industrial development, which will be prone to excessive flood risk, will have a significantly negative and detrimental impact to the immediate environment, local area and particularly the local community and residents.
- The D & A Statement also repeatedly refers to this development as 'necessary to support the decarbonisation of the electricity supply managed by the National Grid. This is simply not true and a blatant misrepresentation of fact.
- If it was 'necessary' or 'essential' these developments would not be left for private

enterprise and would be implemented by either the National Grid or Government administered contracts.

- In addition, it fails to address, as did the associated Staythorpe BESS application, the downstream effects and environmental impacts of the extraction of minerals for large scale batteries, the entire production process and also the decommissioning of the 'temporary' (40 years) development.
- Further to the above issues of the application, please find a summary of concerns relating to this proposed development:

Construction Phase Traffic Management

- As previously stated, there are two documents containing outline arrangements of the construction phase of the development, yet neither contain coherent and reasonable details of the following:

VEHICLE ACCESS ARRANGEMENTS (to the site)

- a) Access is provided via a new simple priority junction off Staythorpe Road onto a newly formed track which runs parallel to the existing agricultural track / Public Right of Way Staythorpe FP1 through the middle of the Site.
 - b) An additional gated access road has been provided, accessed at the northeastern corner of the Site.
 - c) The existing access into the field immediately east of Staythorpe BESS will also be utilised.
- This is confusing. None of the above are identified on any of the supporting documents or the 'Construction Arrangement Plan'. The plan does however highlight a site compound for Office, Canteen, Welfare, Lay Down and Parking, but no details of how vehicles would access this area via the proposed Site Accesses referenced above.
 - If, the existing access into the field immediately east of Staythorpe BESS is to be used as suggested in the 'Transport Note' document, this requires vehicles to cross through a Bus Stop lay-by, which is surely not acceptable?
 - The proposal totally fails to acknowledge the existence of the Averham BESS 23/00317/FULM. This will be under construction within the same timeframe and therefore compound the issues regarding construction traffic for locals and through traffic within the area. There is no traffic management plan that takes in to account this or attempts to alleviate the issues of four separate construction activities within the same geographical area happening at the same time.

CONSTRUCTION TRAFFIC

- The 'Transport Note' document states:
- 'The overall construction and installation of the BESS (Staythorpe) is anticipated to take approximately 9-12 months and construction activities will be carried out

concurrently in order to minimise the overall length of the construction programme therefore the cable installation will run alongside the construction of the BESS and substation compound.'

- Therefore, it is essential that this application be assessed together with all the other aforementioned developments when considering construction traffic and NOT in isolation.

This application suggests that;

- For the cable installation works it is assumed that approximately 5 operatives will be required to complete the works which will generate 10 two-way vehicle movements per day.
Assuming a 26-day working month, this will result in 260 car / light van movements per month.
Plus a total of 16 two-way vehicle movements for materials and plant
- What about Management Staff, sub-contractors and visitors for both concurrent developments?
What about parking arrangements for all the above?
- The cumulative volume of additional traffic from the two associated developments alone, plus the additional traffic from the nearby developments and existing Power Station and National Grid facility would be cataclysmic for local residents.

CONSTRUCTION HOURS AND DELIVERY TIMES

- All works will be carried out on-site between 08:00am to 06.00pm Monday to Friday and 08:00am to 02:00pm on Saturdays. No work will be carried out on Sundays, Bank Holidays or public holidays.
Work will be undertaken during daylight hours in order to prevent disturbance to local wildlife.
- Should this application be recommended for approval, I would appeal strongly for you to impose restrictions on working hours that would be more reasonable and considerate to the local residents.
Weekends to be avoided where possible and weekday hours strongly monitored so that hours are reduced during winter days when daylight is shorter.

PROPOSED CONSTRUCTION COMPOUND

- A designated compound has been highlighted within the proposed development site for the storage and plant, materials, site offices, vehicle parking etc. However, there are no details to suggest whether temporary trackways or hardcore will be necessary, given that the site is currently a paddock that regularly becomes waterlogged or flooded, nor if required, how the land will be reinstated after construction works have been completed.

FLOOD RISK ASSESSMENT

- This application conveniently identifies itself as 'essential infrastructure', however

whilst it may be associated with an independent application defined as such, if considered in isolation and on its own merits, it does not qualify as 'essential infrastructure' as defined in Annex 3 of the NPPF.

Therefore, should not be assessed as such.

- Alternatively, for this to be considered correct, then Cumulative Impact must be considered. Despite this, the application considers The Exception Test to be passed for the following reasons:

(a) The proposed development is essential infrastructure that will deliver significant public benefits; and

(b) that the Proposed Development would be safe from flood risk and would not increase flood risk elsewhere for the lifetime of the development. As such, the Proposed Development satisfies parts (a) and (b) of the Exception Test.

- The actual criteria for the Exception Test should read;
'The development would provide wider sustainability benefits to the community that outweigh flood risk, and not public.

- Clearly a deliberate manipulation of the criteria wording, as there is absolutely ZERO benefit to the community neither expressed, implied nor demonstrated within this application.

Our View is that the cumulative effects of this specific proposed development, as set out in the application, together with the already approved schemes nearby, would be catastrophic for our community and will cause life changing impacts to the residents. Some of which cannot be tangibly projected or measured in reports and assessments such as the impacts on mental and physical health.

- There appears to be no consideration to the impact of Noise Pollution during the construction phase and no mention of Lighting (for the compound and works areas).

Road Safety has received very little attention and where traffic management has been detailed, it's widely underestimated. Specifically, there is no mention of the existing Bus Stop lay-by immediately in front of the existing field access and proposed site access. Any Environmental & Ecological Impacts are largely overlooked as it assumed that this is a temporary development.

- In addition to these points there are further discrepancies with the application.

The submitted drawings "Construction Arrangement" 29/05/24 & Proposed Arrangement 29/05/24

Using the key provided the plans appear to show a water pipe in blue laid along the proposed cable run. We are also struggling to determine the site boundary from water courses on the site. We request a comprehensive and legible drawing be resubmitted.

- The same drawing refers to the following:

We are most concerned regarding the evident new proposal for a substation in addition to, or in place of the existent approved design and therefore request clarification in the form of a coherent replacement drawing.

Additionally, what is a Flash Substation as referred to in this diagram?

As a result of the above, the Parish Council are objecting to this proposed development and the application should be REFUSED.

Representations/Non-Statutory Consultation

- 6.8. **NSDC, Archaeological Consultant:** No objection is raised, subject to a number of conditions relating to archaeological investigations and mitigations to preserve by record any archaeological remains that may be lost due to the proposed development.
- 6.9. **Trent Valley Internal Drainage Board** – The Board maintained Staythorpe Sidings Drain is an open watercourse within the site to which Bylaws and the Land Drainage Act 1991 applies. The Board’s consent is required for any works, whether temporary or permanent, in, over or under any Board maintained watercourse. Staythorpe Sidings Drain shall be crossed by means of HDD crossing. The send and receive pits shall be a set a min distance of 9m from the bank tops and the cables shall be set at a minimum of 2m plus safe working distance below hard bed level. The Board’s consent is required irrespective of any permission granted under the Town and Country Planning Act 1990 and will only be granted where proposals are not detrimental to the flow or stability of the watercourse or the Board’s machinery access to the watercourse required for annual maintenance, periodic improvement and emergency works.
- 6.10. **NSDC, Environmental Health** – no comment to make in connection with the proposal. Additional comments have been made in relation to the ability to impose a condition requiring a Construction Environmental Management Plan to be submitted and approved, which could include matters relating to noise, dust, external lighting etc.
- 6.11. **NSDC, Lead Biodiversity and Ecology Officer** – Has advised that the mitigation hierarchy has been followed and with the proposed precautionary avoidance measures being implemented, there would not be significant harm to biodiversity. The Biodiversity net Gain Assessment has identified that the proposal would result in a measurable net gain for biodiversity. Securing the proposed precautionary avoidance measures would be best achieved via appropriate pre-commencement planning conditions for a Construction and Environmental Management Plan (CEMP).
- 6.12. **NSDC, Tree and Landscape Officer** – Arboricultural Impact Report dated June 2024 – information gathered in July 2022 should be considered out of date and it fails to meet the minimum standards set out in BS5837 to anticipate reasonable future dimensions of retained/proposed tree growth. Therefore, insufficient information has been provided.
- 6.13. Comments have been received from 6 third parties/local residents that can be summarised as follows:

- Highways/Construction Traffic Management:-
- No information on how the aggregate compound proposed during the construction phase will be accessed;
- No inner roads shown;
- 7 parking spaces proposed is inadequate resulting in risk of parking on the grass or on the public highway; car sharing is not an acceptable solution and cannot be enforced;
- The field access opposite Staythorpe Farm is totally unsuitable as an access, the visibility is poor and it conflicts with the bus stop layby;
- Small roads servicing the site are inadequate to accommodate the increased traffic – with 5 operatives on site daily, that would equate to nearly 300 vehicle movements per month without factoring in deliveries and plant, other inspections and site visit requirements – in addition to the proposed BESS construction;
- Residential Amenity:-
- The working hours for construction of 8am – 6pm Mon to Fri and 8am – 2pm on Saturdays would impact significantly on residential amenity;
- There appears to be no consideration to the impact of noise pollution, dust or external lighting during the construction phase, for compounds and work areas which would be considerable for the construction period of 9-12 months;
- The impacts have been ignored by NSDC Environmental Health who “have no comment in connection with this proposal.”
- It is mostly likely that these works and other BESS works will potentially be carried out at the same time which will cause enormous disturbance in the vicinity, impacting residents and their enjoyment of their properties;
- Flood Risk
- There is a high risk of flooding during the winter/spring months, likely to cause delay and displace flood water and potentially alter normal flow to dykes – the comments from NCC Flood Risk Team need to be addressed and not disregarded;
- Flood risk of this application must be considered alongside that of Staythorpe BESS;
- The original proposal would displace at least the equivalent of 5 olympic swimming pools of flood water towards Staythorpe. The revised plans seem to indicate the displaced water would be significantly higher. A totally independent investigation must be made into this matter;
- Staythorpe Footpath 1
- The proposal for the new permissive footpath approved under the BESS scheme to be used during the construction phase is unacceptable given that it is twice the length of the current path – the existing Staythorpe Footpath 1 should remain open at all times;
- Visual Impact
 - How will the visual impact during construction be mitigated?
- Damage to pastureland
- What will be the timescale for the reinstatement of the pastureland? Issues such as soil erosion, silty storm-water runoff, site flooding and polluted soils;

Any Environmental and Ecological impacts are largely overlooked as it is assumed that this is a temporary development.

- Climate
 - The developer states that this is essential development to support the de-carbonisation of the electricity supply to the National Grid and there is significant support for delivery of renewable and low carbon energy generation development but no account has been taken of the likely significant ecological and environmental effects of the development on countries producing the elements used in the building of the BESS and cable installation materials or the downstream effects of the extraction of minerals for large scale batteries, the entire production process and the decommissioning of the 'temporary' 40 years development;
- Cumulative effect
 - There are already 3 other approved applications within the immediate vicinity of Staythorpe Village (22/01840/FULM, 23/00810/FULM and 23/00317/FULM)
 - 23/01837/FULM for a proposed ground mounted photo voltaic solar farm and battery energy storage system with associated equipment, infrastructure, grid connection and ancillary work on land to the West of Main Street, Kelham is currently under consideration,
 - the GNR Solar development is currently under consideration,
 - as well as proposals at Staythorpe Power Station and the National Grid Staythorpe.
 - The greater overall cumulative effects are both additive and synergistic and the effect of all these should be taken into account when assessing this application;
- The principle
 - The development would run simultaneously with the BESS development and for correct assessment should have been included in the original application and considered as one application – such a major amendment should result in the necessity for a new revised application for the whole project;
- Other Matters
 - The submitted documents inadequately explain the proposed development, are contradictory in nature and confusing;
 - The submission assumes that as a result of the BESS approval, this application is a forgone conclusion and assumes it will have an extremely limited impact on the local community and environment; The scale, nature and proximity to residential properties combined with the radical change of use from largely silent agricultural land to noisy, visually intrusive, potentially-polluting industrial development which will be prone to excessive flood risk will have a significant and detrimental impact to the immediate environment, local area and local community and residents;
 - It is not considered that the proposed development is “necessary to support the decarbonisation of the electricity supply”, if it were these development would not be left for private enterprise and would be implemented by National Grid or government administered contracts; and

- The site compound will contain a lot of valuable materials and equipment being stored which potentially leaves villages properties more vulnerable to unauthorised people visiting the area.

7.0 Comments of the Business Manager – Planning Development

7.1. The key issues are:

- Principle of Development
- Effect on Stock of Agricultural Land
- Landscape and Visual Impacts
- Impact upon Heritage Assets
- Impact on Archaeology
- Impact on Residential Amenity
- Impact on the Highway Safety
- Impact on Flood Risk
- Impact on Ecology, Biodiversity and Trees
- 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.

7.3 As the application concerns the setting of designated heritage assets such as listed buildings, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') is particularly relevant. Section 66 outlines the general duty in exercise of planning functions in respect to listed buildings stating that the decision maker "shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

7.4 The duty in s.66 of the Listed Buildings Act does not allow a local planning authority to treat the desirability of preserving the settings of listed buildings as a mere material consideration to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm considerable importance and weight.

Principle of Development

7.5 The proposed development is linked to the Battery Energy Storage System that was approved at appeal under reference 22/01840/FULM to the south-west of this site. This application provides the cable link from the proposed BESS to the National Grid

substation that is necessary to ensure the energy stored on the BESS site can be exported to the grid as and when it is required. Without this connection, the BESS could not fulfil its designed function.

- 7.6 The Parish Council and local residents have expressed concern that both applications should have been considered as one project, at the same time, so that the impact of both schemes could be assessed at the same time. Whilst I have some sympathy with these comments, the planning system cannot control when planning applications are submitted for consideration and cannot unnecessarily hold up that decision making process for such eventualities. However, it is also clear that each planning application has to be assessed on its individual merits and as such there can be no foregone conclusion in the determination of this application.
- 7.7 The site is located within the open countryside. Spatial Policy 3 states that the rural economy will be supported by encouraging tourism, rural diversification and by supporting appropriate agricultural development and that the countryside will be protected and schemes to enhance heritage assets, to increase biodiversity, enhance the landscape and increase woodland cover will be encouraged. Development in the open countryside will be strictly controlled and restricted to uses which require a rural setting.
- 7.8 Policy DM8 of the ADMDPD is silent on the appropriateness of renewable linked development in the open countryside. However, the District Council's commitment to tackling climate change is set out in Core Policy 10 which states that the Council is committed to tackling the causes and impacts of climate change and to delivering a reduction in the District's carbon footprint. This provides that the Council will promote the provision of renewable and low carbon energy generation within new development. Although the reference is specifically to energy 'generation' and this development would not generate energy in and of itself, it nevertheless would assist and facilitate a greater capacity of use of energy generated by renewable and low carbon energy sources through storage. Core Policy 10 then signposts to Policy DM4 which states that permission shall be granted for renewable energy generation development and its associated infrastructure, as both standalone projects and as part of other development, where its benefits are not outweighed by detrimental impact from the operation and maintenance of the development and through the installation process upon various criteria. The criteria include landscape character from the individual or cumulative impact of the proposals, heritage assets and their setting, amenity including noise pollution, highway safety and ecology of the local and wider area.
- 7.9 This approach is also echoed by the NPPF which states in para 163 that 'when determining planning applications for renewable and low carbon development, local planning authorities should:
- a. Not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions;
 - b. approve the application if its impacts are (or can be made) acceptable;...'

- 7.10 In determining this application, whilst it is recognised that the proposal is not renewable energy scheme in itself, it is acknowledged to represent important supporting infrastructure to increase the efficiency of renewable forms of energy. It is necessary therefore to balance the strong policy presumption in favour of applications for renewable technologies against the environmental impact. The wider social and economic benefits of the proposal are also material considerations to be given significant weight in this decision, as set out in para 8 of the NPPF. The Planning Practice Guidance states that electricity storage in Battery Energy Storage Systems can enable us to use energy more flexibly and re-carbonise our energy system cost-effectively – for example by helping to balance the system at a lower cost, maximising the usable output from intermittent low carbon generation (eg solar, wind), and deferring or avoiding the need for costly network upgrades and new generation capacity.
- 7.11 In this context, both national and development plan policies adopt a positive approach, indicating that development will be approved where the harm would be outweighed by the benefits of a scheme. The PPG states that whilst local authorities should design their policies to maximise renewable and low carbon energy, there is no minimum quota currently in place with which the Local Plan has to deliver.
- 7.12 The Government recognises that climate change is happening through increased greenhouse gas emissions, and that action is required to mitigate its effects. One action being promoted is a significant boost to energy produced by renewable energy generation. The Climate Change Act 2008, as amended sets a legally binding target to reduce net greenhouse gas emissions to Net Zero by 2050. The Clean Growth Strategy 2017 anticipates that the 2050 targets require, amongst other things, a diverse electricity system based on the growth of renewable energy sources. The December 2020 Energy White Paper states that setting a net zero target is not enough, it must be achieved through a change in how energy is produced. The Net Zero Strategy: Build Back Greener published in October 2021 explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable generation.
- 7.13 More recently, the Government published the British Energy Security Strategy in April 2022 outlining the need for a decarbonised and secure energy supply. It sets out the essential role renewables play in reducing exposure to volatile fossil fuel markets, limiting the UK's reliance on imports, and consequently reducing the cost of consumer energy bills. Specific to electricity generation, the Strategy highlights that by 2030, 95% of electricity could be low-carbon and by 2035, the UK will have a decarbonised electricity system, subject to security of supply.
- 7.14 Newark and Sherwood District Council declared a climate emergency in 2019 and recognises the urgency and significance of its environmental ambitions, for both the Council and the wider District. As such the Council has published a Climate Emergency Strategy, as part of carbon management and reducing its footprint. Therefore, the Council takes the matter of improving carbon emission schemes seriously and both the Council and Central Government see this as part of ongoing agenda priorities.

- 7.15 The purpose of the proposed development would be to support the flexible operation of the Grid and the decarbonisation of the electricity supply by storing surplus energy, produced by renewable sources, for use when it is most needed. A BESS would balance peaks and troughs in energy generation without any greenhouse gas emissions and provide rapid-response electrical back-up, thereby ensuring that the electricity produced can be used efficiently and be provided to consumers at the lowest possible cost. When winds are high at night and demand for electricity is low, instead of that energy going to waste and being lost as currently, it can be transferred to a BESS and be stored and then provide additional electricity supplies to the grid when demands are high. Battery Energy Storage Systems (BESS) and associated works are a key component in seeking to achieve a low carbon energy system.

Effect on stock of Agricultural Land

- 7.16 Paragraph 180 of the NPPF states planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land and of trees and woodland. The footnote to paragraph 181 of the NPPF states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. It goes on to state that the availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.
- 7.17 The most relevant Planning Practice Guidance is the ‘Guide to assessing development proposals on agricultural land’ which states that the policies to protect agricultural land and soil ‘aim to protect the best and most versatile (BMV) agricultural land and soils in England from significant, inappropriate or unsustainable development proposals.’ It emphasises the role of Natural England as the statutory consultee in assessing the likely long term significant effects of development proposal on these resources. Section 6 of this part of the PPG states that site surveys of land should be used to: ‘assess the loss of land or quality of land from a proposed development. You should take account of smaller losses (under 20 ha) if they’re significant when making your decision. Your decision should avoid unnecessary loss of BMV land.’
- 7.18 Policy DM4 is silent on the loss of best and most versatile agricultural land. Policy DM8 seeks a sequential approach in respect to the loss of the most versatile areas of agricultural land and requires proposal that cause the loss of such land to demonstrate environmental or community benefits that outweigh the land loss.
- 7.19 The Agricultural Land Classification Maps define agricultural land quality as being Grade 1-5 (1 being Excellent’ and 5 Very Poor). The NPPF defines ‘Best and most versatile agricultural land as being land in Grades 1, 2 and 3a of the Agricultural Land Classification.’
- 7.20 The application has been supported by an Agricultural Land Classification dated Nov 2023 by Soil Environment Services Ltd which classifies the majority of the site as falling within Grade 3b which is land of moderate quality agriculturally and which falls

outside of the definition of Best and Most Versatile agricultural land. However, there may be a small area within the red line of this application site that is Grade 3a, however, this land is also within the red line of the application already approved for the Battery Energy Storage System. On this basis, there is no objection raised to the proposal, however, in any event, once constructed, the ground above the laid cable could continue in agricultural use and would result in no significant loss.

- 7.21 On this basis, the proposal would not result in any loss of Best and Most Versatile agricultural land and is therefore acceptable.

Landscape and Visual Impacts

- 7.22 Core Policy 9 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. In accordance with Core Policy 9, all proposals for new development are assessed with reference to the design criteria outlined in Policy DM5 'Design' of the Allocation and Development Management DPD.
- 7.23 Core Policy 13 requires the landscape character of the surrounding area to be conserved and created. Para 180 of the NPPF states that planning decisions should recognise the intrinsic character and beauty of the countryside. The application site does not sit within any statutory or non-statutory landscape designations.
- 7.24 The application sets out that the cable route would be constructed using a combination surface digging out of trenches as well as two areas where there would be a need to go underneath two watercourses, horizontal directional drilling would be used with launch and reception pits at each end of both routes. Both these pits and the trenches dug would be required to be re-filled to the same ground levels as existing and this can be secured by condition.
- 7.25 It is acknowledged that during the construction period, the works involved to lay the cable would likely result in some visual intrusion, associated with construction vehicles and temporary construction compound. However, these works would be limited to a period of 6-8 weeks and on the basis of this short duration, is considered to be acceptable. The majority of the proposal, once constructed, would represent works underground and as such would have very little impact on the visual amenity and landscape character of the area. The additional infrastructure proposed within the sub-station, is lower than existing infrastructure on the site and would be seen against the existing substation plant, which would be reasonably screened from Staythorpe Road by existing mature hedgerow and tree planting.
- 7.26 Overall, the proposal, once complete would not be harmful to the visual and rural amenities of the area or its landscape character and would accord with Core Policy 9 and 13 of the Amended Core Strategy and Policy DM5 of the Allocations and Development Management DPD.

Impact upon Heritage Assets

- 7.27 The NPPF defines the setting of a heritage asset as: "The surroundings in which a

heritage asset is experienced. Its extent is not fixed and may change as the asset and its surrounding evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

- 7.28 Core Policy 14 and DM9 of the Council’s LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the setting of designated heritage assets, furthermore, is expressed in Section 16 of the NPPF and the accompanying PPG. The NPPF advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 8.c).
- 7.29 There are no heritage assets within the red line of the application site, although there are a number of designated assets in the nearby settlements of Averham and Staythorpe. These include the following:
- Averham moat and enclosure Scheduled Ancient Monument (725m to the north-east)
 - The Manor House Grade II (180m to the west);
 - Averham Conservation Area boundary is approx. 560m to the north-east.
- 7.30 Staythorpe House Farm sits on the north side of Staythorpe Road opposite the application site and is a non-designated heritage asset. Given the significance of the non-designated heritage asset, the distances and existing development between the site and designated heritage assets, together with the limited above ground works that would be proposed within the existing boundaries of the sub-station, officers are satisfied that the proposal would result no harm in relation to impacts on the setting of these designated heritage assets.
- 7.31 Historic England and the Council’s Conservation Officer raise no objection to the scheme.
- 7.32 Therefore, it is considered that the proposal accords with Core Policy 14 and Policy DM9 of the Development Plan and preserves setting as required by Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

Impact on Archaeology

- 7.33 Core Policy 14 sets out that the Council will seek to secure the continued preservation and enhancement of the character, appearance and setting of the District’s heritage assets and historic environment including archaeological sites. Policy DM9 states that development proposals should take account of their effect on sites and their settings with potential for archaeological interest. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and where necessary a field evaluation’.

- 7.34 The proposed works lie in an area of high archaeological potential associated with Mesolithic, Bronze Age, Iron Age, Roman and modern activity. Recent archaeological work at the Staythorpe Power station has identified Bronze Age features and archaeological evaluation within the proposed site boundary for the new battery storage site has identified Roman remains. A Mesolithic femur was recovered close to the power station during work in the 1990s and a WW2 aircraft crash site is recorded somewhere within the vicinity of the power station, although the precise location is not recorded on the Nottinghamshire HER.
- 7.35 The Council's Archaeology adviser has raised no objection, subject to condition for a mitigation strategy. Ground works associated with this work have the potential to disturb significant and archaeological remains. A geophysical survey was carried out in 2022. Some trial trenching (18 trenches) has already been completed on the wider BESS site and a further 38 trenches are proposed, which includes within this application site. The submitted Written Scheme of Investigation has been agreed by the Council's Archaeology consultant which states that no development work shall take place until a report of the findings of the evaluation is produced and mitigation/WSI for Phase 2 is submitted to and approved in writing by the Local Planning Authority.
- 7.36 Subject to conditions, the proposal is not considered to result in any adverse impact upon archaeological remains in accordance with Policies CP14 and DM9.

Impact on Residential Amenity

- 7.37 Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF seeks to secure a high standard of amenity for existing and future users in para 135.
- 7.38 The nearest residential properties to the site are those on the north side of Staythorpe Road and White Cottage situated just to the west of the existing sub-station. Concerns have been raised by the Parish Council and local residents concerning the impact of noise, dust and external lighting on the amenities of nearby residents to the site. Following the concerns raised, the Council's Environmental Health officer was invited to provide further comments. It was suggested that matters of noise could be controlled through limiting work hours and require a Construction Environmental Management Plan to be submitted and applied during the construction phase to minimise noise as well as dust emissions.
- 7.39 Once completed, the works would result in very little change to the existing situation that is currently experienced by local residents. However, it is acknowledged that whilst the proposal is being constructed, there is likely to be significant increases in noise and traffic as well as potentially from dust and external lighting. In response to concerns raised by local residents, the applicant has stated that working hours will be strictly controlled and construction would be carried out primarily during daylight hours, therefore lighting during construction will be very limited. In terms of noise, this again would be controlled by limiting works within limited hours but in addition, the applicant has suggested that temporary acoustic barriers could be installed, if

required to protect nearby residents from noise. To assist with traffic concerns, the applicant has confirmed that no deliveries/collections will be made to and from the site within peak hours (ie 8:00 to 9:00 and 16:00 to 17:00 Monday to Friday). All works will be carried out on site between 8:00 to 18:00 Monday to Friday and 8:00 to 14:00 on Saturdays, with no working on Sundays and Public Holidays. The proposed construction hours are standard construction control measures typically used by the Council to limit construction hours to reasonable times and are set out in the submitted Outline Construction Traffic Management Plan.

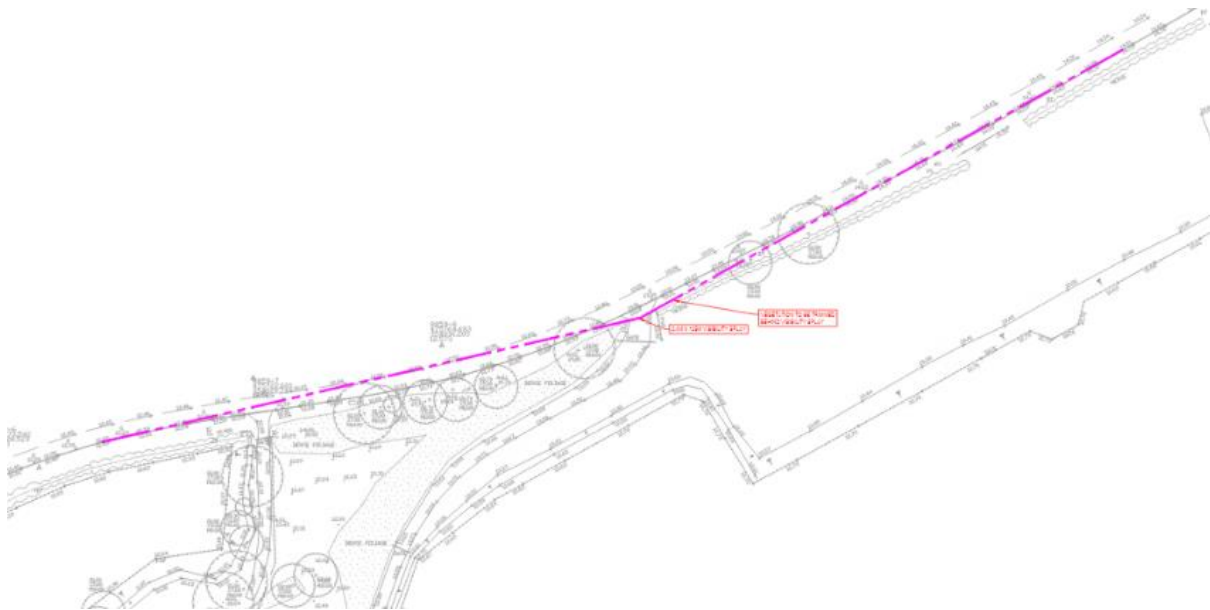
- 7.40 A further detrimental impact on residential amenity would be the suspension of the bus stop adjacent to Access 2 of the proposed development for the 6-8 week construction period. The next nearest bus stop on the south side of Staythorpe Road is situated opposite the properties in Behay Gardens, approx. 490m to the south-west. It is recognised that if there is a resident of Staythorpe that relies on catching the bus at this stop, the proposed suspension would result in inconvenience, or in the worst case scenario may rule out someone using the bus service altogether. This would be an unfortunate consequence and harmful to amenities. It would, however, be only for a finite period and on this basis it is not considered to be so harmful as to warrant refusal of planning permission.
- 7.41 Subject to a condition requiring a Construction Environmental Management Plan to be submitted and approved, overall, it is considered that the proposal would generally accord with Policy DM5.

Impact upon Highway Safety

- 7.42 Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the ADMDPD requires the provision of safe access to new development and appropriate parking provision.
- 7.43 Paragraph 110 of the NPPF (2023) states, amongst other things, that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users.
- 7.44 Paragraph 111 of the NPPF (2023) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.45 The application confirms that there are to be three access points serving this proposed development:
- Access 1 – Staythorpe BESS, subject to appeal decision;
 Access 2 – Existing farm access (Drawing Ref 23065-IN-02 Rev A) in Transport Note;
 Access 3 – GNET Compound (Drawing Ref 23065-IN-04) in Transport Note;
 as set out on the plan below:



- 7.46 The Transport Note sets out that there will be approx. 16 two-way HGV deliveries, which includes the delivery of plant and materials, and 10 two-way vehicle movements per day over a 6-8 week period associated with the construction phase. These will be broadly split between the 3 access points as follows:
- Access 1 – 8 two-way HGV and a total of 100 two-way vehicle movements over the 6-8 week period;
- Access 2 – 4 two-way HGV and a total of 150 two-way vehicle movements over the 6-8 week period;
- Access 3 – 4 two-way HGV and a total of 150 two-way vehicle movements over the 6-8 week period.
- 7.47 Based on the above, Access 2 and 3 will accommodate approx. 3-4 two-way vehicle movements a day. Due to the lack of intensive construction the gate to Access 3 will be closed during the construction phase and opened by the Banksman as required to enable access for construction materials, delivery of machinery and equipment and site operatives.
- 7.48 The main access to the site (Access 1) will be via a new simple priority junction off Staythorpe Road onto a newly formed track which runs parallel to the existing agricultural track/public right of way (Staythorpe FP1) through the middle of the site.
- 7.49 Swept Path Plans have been submitted together with drawings showing the required visibility splays, as attached at the end of the Transport Note. The drawing below shows the proposed new Access 2 via the existing field gate, that would need to be approx. 5.3m wide (the gate at existing access is approx. 3.6m wide). The existing gate would be removed a replaced with a suitable temporary gate and a type 1 aggregate access for a length of 20m into the site would be provided. In order to allow vehicles



Visibility Splay for Access 3

- 7.49 Overall, the traffic movements stated within the supporting Transport Note are a worst-case scenario and have been considered by the Highway Authority who have stated informally that they find them acceptable in highway safety terms, although final confirmation is still awaited.
- 7.50 The 28 bus service runs from Behay Gardens as well as from Staythorpe Road, so the bus stop suspension will result in the temporary inconvenience of walking approx. 490m to the next nearest bus stop. The Highway Authority have indicated informally that the scheme is now in a position that they could support a positive recommendation, although no formal comments have yet been received which will also set out what conditions should be imposed on any grant of planning permission.
- 7.51 The Staythorpe Footpath 1 public right of way will be temporarily diverted for the duration of the construction works to ensure the health and safety of footpath users. This was considered as part of the BESS application. The applicants have confirmed that cable and BESS will be constructed concurrently and at the end of the construction phase, Staythorpe Footpath 1 will re-open for the duration of the lifetime of the development. Nottinghamshire County Council Rights of Way officer raise no objection to this proposal.

Impact on Flood Risk

- 7.52 In fluvial terms, the majority of the application site is located within Flood Zone 3b – high risk functional flood plain, with a small part of the site within Flood Zone 3a – high risk and a small area within Flood Zone 2 – medium risk. In pluvial terms, the majority of the application site is at very low risk but there are areas at low risk which appear to largely follow watercourses in the area.
- 7.53 Paragraph 157 of the NPPF states that the planning system should support the transition to a low carbon future, in a changing climate, taking full account of flood

risk and that it should support renewable and low carbon energy and associated infrastructure.

- 7.54 Core Policy 9 requires that proposals pro-actively manage surface water and Core Policy 10 and Policy DM5 seek to mitigate the impacts of climate change through ensuring that new development proposals take into account the need to reduce the causes and impacts of climate change and flood risk. The NPPF, Core Policy 10 and DM5 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk through the application of the Sequential Test, but where development is necessary, making it safe without increasing flood risk elsewhere as set out in the application of the Exception Test.
- 7.55 In relation to the Sequential Test, the area to apply the test can be defined by local circumstances, relating to the catchment area for the type of development. In this particular case, it is the proximity to the proposed BESS and Staythorpe substation and the ability to provide a link between the two that is the key locational characteristics for the cable route proposed. As such, this development could not be located anywhere else and therefore the Sequential Test is considered to be passed.
- 7.56 Annex 3 (Flood risk vulnerability classification) of the NPPF identifies that essential infrastructure includes “essential utility infrastructure which has to be located in a flood risk area for operational reasons, including infrastructure for electricity supply including generation, storage and distributions systems; including electricity generating power stations, grid and primary substations storage; and water treatment works that need to remain operational in times of flood.”
- 7.57 Table 2 within the Planning Policy Guidance sets out that in Flood Zone 3b, essential infrastructure that has passed the Exception Test, and water compatible uses, should be designed and constructed to:
- remain operational and safe for users in times of flood;
 - result in no net loss of floodplain storage; and
 - not impede water flows and not increase flood risk elsewhere.
- 7.58 The submitted Flood Risk Assessment (FRA) states that the site itself is considered to be at high risk of fluvial flooding, however, because of the nature of the development being largely underground, the site has low sensitivity and the risk of fluvial flooding to the development is low. The Assessment states the cable route is proposed to be installed with a Horizontal Directional Drill (HDD) which will create no ground disturbance or damage to the Unnamed Land Drain that it needs to flow under.
- 7.59 The FRA considers the proposal to pass the Sequential Test as there are no other more suitable locations available for it to be sited. For the Exception Test to be passed, it must be demonstrated that:
- a) The development would provide wider sustainability benefits to the community that outweigh flood risk; and
 - b) The development will be safe for its lifetime taking account of the

vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

- 7.60 In relation to part a) the development assists in providing broader sustainability advantages to the community by enabling renewable energy provision.
- 7.61 In relation to part b), given the proposed cable route would be largely located below ground and suitably constructed, there would be a minimal risk to the infrastructure or to the surrounding area in the event of a flood. The application confirms that the proposal would not result in any lowering or raising of existing ground levels within any part of the site and provided a condition is imposed to require any temporary hard surfacing to be of permeable construction, it is not proposed to undertake any works which would affect flood risk on the site or in the surrounding area. The underground cable development would not likely result in any increased risk of flooding to the local area and would not necessitate any mitigations (owing to its below ground location). On this basis, it is considered that the proposal passes the Exception Test.
- 7.62 In addition the Assessment states that the risk from surface water, ground water, sewer flooding and reservoir/canal and tidal flooding are all low or negligible.
- 7.63 The Lead Local Flood Authority raise no objection to the scheme subject to condition and neither do the Environment Agency, provided there being no permanent above ground works or structures and the proposal is wholly for below ground cabling works and an appropriate safeguarding condition is imposed.
- 7.64 On this basis, it is considered that, subject to conditions, the proposal passes the Sequential and Exception Tests and is therefore acceptable in flood risk terms in accordance with Core Policies 9 and 10 of the Amended Core Strategy and Policy DM5 of the Allocations and Development Management DPD.

Impact on Ecology, Biodiversity and Trees

Ecology and Biodiversity

- 7.65 Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity and geological diversity and to increase provision of and access to, green infrastructure within the District. Policy DM7 mostly relates to the need for development to avoid adverse impacts on sites afforded statutory or non-statutory nature conservation designation. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.
- 7.66 Paragraph 180 of the NPPF states planning decisions should contribute to and enhance the natural and local environment by:
- a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);....
 - d) minimising impacts on and providing net gains for biodiversity,

including by establishing coherent ecological networks that are more resilient to current and future pressures.

7.67 Paragraph 186 of the Framework states that when determining planning applications, local planning authorities should apply the following principles:

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

7.68 The following documents have been submitted with the application in this regard:

- Ecological Impact Assessment (Doc. Ref. BIOC23-202 | V1.2 – 21/06/2024 – Biodiverse Consulting);
- Biodiversity Net Gain Statement & Assessment (Doc. Ref. BIOC23-202 | V3.0 – 14/10/2024 – Biodiverse Consulting);
- Statutory Biodiversity Metric (No Doc. Ref. V3.0 – 14/10/2024 – Biodiverse Consulting);
- Proposed Arrangement (Dwg Ref. 70102964-WSP-LAY-EP-0005 Rev.02 – 25/10/2024 – WSP); and
- Construction Arrangement (Dwg Ref. 70102964-WSP-LAY-EP-0004 Rev.02 – 25/10/2024 – WSP).

7.69 The proposed development is not within a Site of Special Scientific Interest (SSSI) Impact Risk Zone and that the two identified designated sites (Farnon Ponds LNR located ca. 1.6km to the southwest, and River Trent Local Wildlife Site located ca. 1.9km to the southeast) are likely sufficiently distant for there to be no adverse effects as a result of the proposals. Therefore, the proposals would not have any impact on any site afforded either a statutory or non-statutory designation due to its nature conservation interest.

7.70 In terms of habitats, the application site is formed by species-poor agricultural grassland, arable land, developed land (within the power station area) and small areas of other habitats all of which are of relatively low ecological value. Given the nature of the proposal (i.e., installation of underground cabling with associated work compounds) impacts on these habitats will be temporary as they will be restored following installation of the cables.

7.71 **Priority or Notable Species**

Great Crested Newt

Unlikely to be present but precautionary working methods are proposed.

Bats

A single ash tree (TN2) was identified as having features suitable to support roosting bats, but this is to be retained and unaffected by the proposals. No other features within the site were considered to provide bat roost suitability. Boundary hedges and

internal ditch lines provide suitable commuting/foraging routes for bats. Some of these features will be bisected by the cable works, but this is unlikely to have any significant impact on the local bat assemblage, particularly as impacts will only be temporary.

Birds

The site was considered to be of low value for breeding birds but contains suitable nesting habitat for a range of species. There is therefore potential for disturbance of nesting birds depending on the timing of the proposed works. Therefore, avoidance measures are proposed involving ecological supervision if vegetation clearance is undertaken during the bird nesting season (i.e., during March-August, inclusive).

Otter

Whilst no evidence of otter was recorded it was considered that the ditches associated with the site provide connectivity to the River Trent which otter are known to use. Therefore, precautionary avoidance measures have been proposed pre-commencement of works to the wet ditches. This would involve a walkover survey to check for the presence of otter.

Water vole

Although water vole were not identified within the site, and the wet ditches were considered to only be of low to moderate suitability to support this species, precautionary avoidance measures have been recommended. These involve a walkover survey the same as that proposed for otter.

Reptiles

Like otter and water vole, reptiles were not considered to be present, but some of the habitats provided some suitability to support reptiles. Consequently, precautionary avoidance measures have been recommended but, in this instance, with no outline details provided within the EclA.

Summary Conclusions

No significant impacts have been identified but a small amount of mainly precautionary mitigation measures have been recommended, and these should be implemented. These should be secured via a Construction and Environmental Management Plan (CEMP), as has been recommended within the EclA.

7.72 Biodiversity Enhancement

If the proposal were granted planning permission the general Biodiversity Gain Condition (as set out in Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended)) will apply. Consequently, the application is supported by a biodiversity net gain assessment to demonstrate that the proposal will be able to

deliver a minimum, measurable biodiversity net gain of at least 10%.

The assessment is supported by a completed Statutory Biodiversity Metric with the following final calculated result:

10.59% net gain in Habitat Units
 10.81% net gain in Hedgerow Units and
 14.16% net gain in Watercourse Units

All units exceed the minimum 10% of Biodiversity Net Gain.

- 7.73 The Council's Ecology and Biodiversity Officer is satisfied that the proposal complies with Core Policy 12 and would have no adverse impacts on any statutory or non-statutory nature conservation sites, in compliance with Policy DM7. The proposal has been supported by an appropriate ecological assessment covering habitats and species, and significant harmful impact would be avoided and as such the scheme would comply with the requirements of Policy DM5 in relation to ecology matters. The mitigation hierarchy has been followed and with the proposed precautionary avoidance measures implemented, there would not be significant harm to biodiversity and the development would be acceptable in terms of the relevant Development Plan policies and the guidance within the NPPF. These measures should therefore be secured by appropriate conditions to any planning approval, via a Construction and Environmental Management Plan. In addition, a S106 Agreement is also required to secure, maintain and monitor the Biodiversity Net Gain in compliance with the relevant sections of the Town and Country Planning Act 1990.

Trees

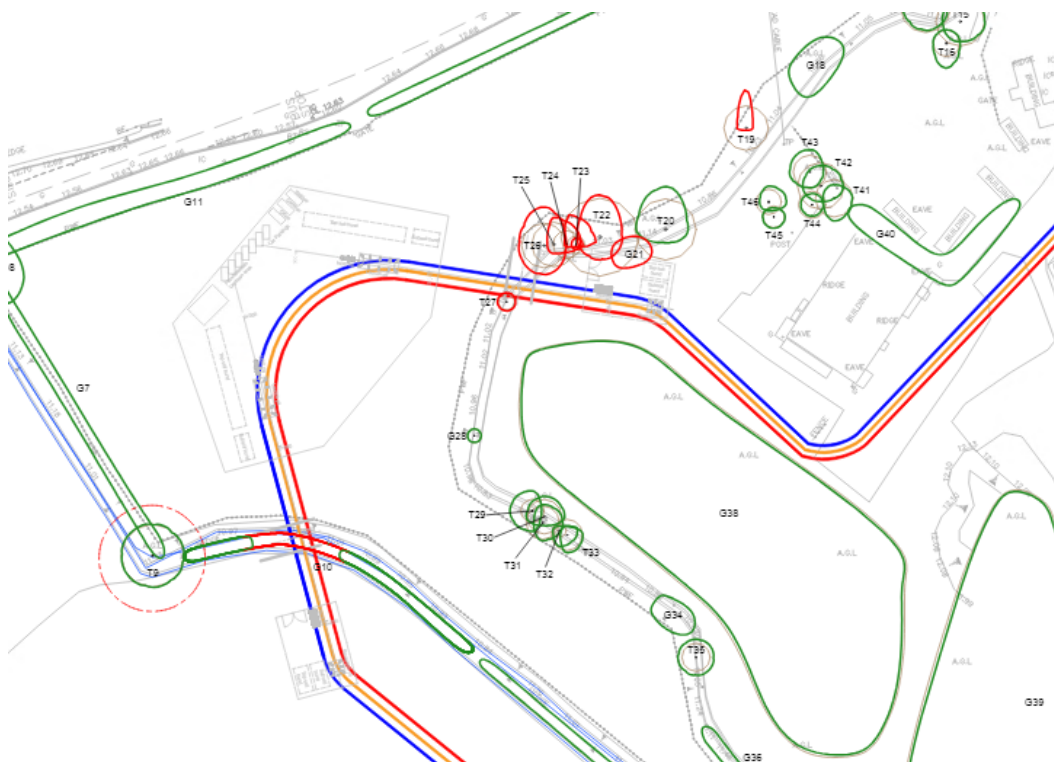
- 7.74 Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The following documents have been submitted in this regard:-

- Arboricultural Report and Impact Assessment dated June 2024 by AWA Tree Consultants
- Arboricultural Method Statement dated June 2024 by AWA Tree Consultants

- 7.75 The tree survey revealed 35 individual trees and 19 tree groups or hedges. Of those surveyed, 2 are classed at Category U (T19 and T22), 4 trees and trees groups are Category B and 48 trees and tree groups and hedges are classed as Category C trees. The survey identifies that the development proposal would require 5 trees (T23 to T27) and 1 tree group (G21) to be removed and one hedge (G10) will require partial removal, as shown on the plan below. As shown on the plan below, none of the planting to be removed is along the Staythorpe Road frontage, although the loss of any planting is regrettable and it is considered that a soft landscaping scheme should be imposed to provide mitigation for this loss. It is noted that the survey does not indicate that there would be a requirement for any hedgerow to be lost along the Staythorpe Road frontage to allow for visibility splays. On this basis, it is assumed

there would be no loss of any part of the hedgerow, but just trimming back to ensure safe visibility. On the basis that this would be for a temporary period (the 6-8 week construction period), it is considered that the hedgerow once trimmed would be able to adequately recover from this temporary cutting back.



- 7.76 The trees/hedgerow to be removed are shown in red on the attached plan above and are classed as Category C or U.
- 7.77 The comments of the Council's Tree and Landscaper Officer have been noted however, officer's consider sufficient information has been submitted to come to an informed judgement in this case in terms of what trees are required to be removed to allow the development.
- 7.78 Subject to clarification, it is considered that there would be no unacceptable harm to trees and hedgerows provided suitable replacement mitigation is secured to re-provide the limited level of loss and as a result, the proposed development would broadly comply with Policy DM5.

Other Matters

Cumulative Impacts

- 7.79 Both the Parish Council and local residents have raised concern regarding recent applications that have or are in the process of being approved as well as other large infrastructure projects that are still currently under consideration, and their concerns relating to harmful cumulative effects on the local area. Some matters raised by these interested parties relate to the battery energy storage scheme as opposed to this development and as such are not material to the consideration of this proposal. The concerns relating to this application have been read, are understood and have been

taken into account. However, the reality in relation to consideration of this application, comprising largely below ground infrastructure with an additional connection within the substation, the impacts, once in place, would be extremely limited. As such, it is not considered that this proposal could reasonably be refused on cumulative impacts.

S106 Obligation

- 7.80 Any permission granted should be subject to a S106 obligation which would secure and maintain the long term maintenance of the Biodiversity Net Gain and monitor it until the development is no longer required (potentially 40 years) or for a period of 30 years from the date of the full implementation of the biodiversity net gain measures, whichever is the later. The monitoring fee will be £3,420 to cover the Council's costs over a 30 year period.

Community Infrastructure Levy (CIL) -

- 7.81 The proposed development would not result in any net additional floorspace and is therefore not CIL liable.

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 concerns of the Parish Council and local residents have been noted and taken into account. This application is required in order to provide the necessary infrastructure link between the proposed Battery Energy Storage System (BESS) approved at appeal under reference 22/01840/FULM and the National Grid Substation. Although the final comments of the Highway Authority are still awaited, all other statutory consultees raise no objection to the proposal, subject to conditions. All material planning considerations have been assessed against the adopted Development Plan and national guidance and no harm has been identified that would warrant refusal of the application. As a result, the application is recommended for approval, subject to a S106 legal agreement and the conditions, as set out below.
- 9.2 Officers therefore propose that in the event of any new representations being received between the cut off time for reporting Late Items (up to midday, 2 days before the meeting (9 November)) and up until 5pm on 12 November (ie a total period of 3.5 days) that raise any new material planning considerations that are not assessed as part of the considerations of Committee on 11 November 2024, that the application be reported back to the Planning Committee for re-consideration on 5 December 2024.

9.3 Provided no further representations are received up until 5pm on 12 November 2024 that raise new material planning considerations that have not be assessed by Members at Planning Committee on 11 November 2024, it is recommended that the application be APPROVED subject to:

a) The completion of a S106 Agreement to secure, maintain and monitor Biodiversity Net Gain; and

b) Subject to the conditions set out 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 approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the submitted Flood Risk Assessment (FRA) and Drainage Strategy has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood 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 through-out the site as a primary means of surface water management and that design is in accordance with CIRIA C753 and NPPF Paragraph 175.
- 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.
 - No surcharge shown in a 1 in 1 year.
 - No flooding shown in a 1 in 30 year.
 - 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.
- 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, including the open drainage ditch along the western boundary of the site, shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.

The approved surface water drainage scheme shall be implemented and maintained for the lifetime of the development.

Reason: A detailed surface water management plan is required to ensure that the development is in accordance with NPPF 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.

03

No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should be prepared in accordance with the Outline Construction Traffic Management dated October 2024 by Optima and shall contain the following details:

- i) A scheme to control noise and dust;
- ii) Construction working hours and all deliveries, which shall be limited to 08:00 to 18:00 hours Mondays to Fridays and 08:00 to 14:00 hours on Saturdays;
- iii) Loading and unloading of plant and materials;
- iv) Storage of plant and metal used in constructing the development;
- v) Details of the temporary access and compound area, including new boundary treatments and permeable hard surfacing;
- vi) Full details of any temporary external lighting;
- vii) A construction stage flood incident plan;
- viii) Construction stage emergency response plan and incident response system(s), including responsible persons and lines of communications;
- ix) Full dimensions, design and materials of any temporary buildings required to be sited during the construction.

The construction of the development shall be carried out only in accordance with the approved CEMP.

Reason: In the interests of residential amenity, highway safety and flood risk.

04

Prior to the commencement of development, a scheme which shows the full reinstatement of the existing field access and gate (Access 2) and the full restoration of the land outside the application site defined by 22/01840/FULM following the removal of the site compound shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable that sets out when the restoration works shall be carried out and completed, which shall be within a reasonable period following the completion of the 6-8 week construction phase (the dates of which shall also be submitted in writing to the LPA when known and before works commence). The reinstatement and restoration of the access and land shall be carried out in full accordance with the approved details and timetable.

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

05

Prior to commencement of development, a detailed soft landscaping scheme for the site shall be submitted in writing to the Local Planning Authority for approval. The submitted landscape scheme shall provide appropriate mitigation for the loss of trees and hedgerow as a result of the development and shall include full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting). 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, landscape character and biodiversity.

06

The approved soft landscaping shall be completed during the first planting season following the restoration of the site outside the red line boundary of 22/01840/FULM, following the construction phase of laying the cable. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations.

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

07

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 District 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 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 hard surfacing within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

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.

08

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.
- i) An annotated plan providing a summary of the elements covered by items b), c), d), e) and h).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of maintaining and enhancing biodiversity and ecological assets.

09

No development shall take place until a programme of archaeological work has been carried out in accordance with the Wessex Archaeology Written Scheme of Investigation ref: 268222.1 and a report of the findings has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation and in accordance with the National Planning Policy Framework.

010

No development shall take place until an Archaeological Mitigation Strategy, informed by works carried out in relation to condition 9 above and the prior phase of trenching, is submitted to and approved by the Local Planning Authority. The Mitigation Strategy will include a Written Scheme, or Schemes, of Investigation for mitigation work, as necessary. These schemes shall include the following:

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
2. A methodology and timetable of site investigation and recording.
3. Provision for site analysis.
4. Provision for publication and dissemination of analysis and records.
5. Provision for archive deposition.
6. Nomination of a competent person/organisation to undertake the work.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation and in accordance with the National Planning Policy Framework.

011

Following the archaeological site work referred to in condition 10 above, a written report of the findings of the work shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the said site work being completed.

Reason: To record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact and to make this evidence (and any archive generated) publicly accessible.

012

The artefactual evidence and paper archive of archaeological works relating to conditions 9 and 10 above shall be deposited within 6 months of the archaeological site work being completed.

Reason: to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact and to make this evidence (and any archive generated) publicly accessible.

013

The development shall be carried out in accordance with the submitted:-

- Flood Risk Assessment (ref 314920; Flood Risk Assessment: Staythorpe Substation Compiled by Mabbett; dated 07.06.2024);
- Preliminary HDD Plan and Profile (Drawing No: 70102964-WSP-CRS-EC-101 Rev 00 Compiled by WSP UK Ltd; dated 24.04.2024);
- 400kV Cable Route Trench Sections (Drawing No: 70102964-WSP-CRS-EC 100 Rev 00 Compiled by WSP UK Ltd; dated 24.05.2024); and
- the following mitigation measures they detail:
 - Ground levels reinstated to existing on completion;
 - No ground raising shall result from the proposed works; and
 - Implementation of an appropriate site management plan.

These mitigation measures shall be fully implemented prior to the development being first brought into use and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter through-out the lifetime of the development.

Reason: In order to acceptably mitigate the development in the interests of flood risk.

014

The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans/drawings:

- Site Location Plan (Staythorpe Figure 1) (Ref: 007 4001 002.A)
- Existing Arrangement (Drawing No: 70102964-WAP-LAY-EP-003 Rev 02)
- Proposed Arrangement (Drawing No: 70102964-WSP-LAY-EP005 Rev 03)
- Construction Arrangement (Drawing No: 70102964-WSP-LAY-EP-004 Rev 02)
- Overall Substation Layout (Drawing No: 70102964-WSP-Lay-EP-001)
- Sub-station Elevations (Drawing No: 70102964-WSP-LAY-EP-002)
- Preliminary HDD Plan and Profile (Drawing No: 70102964-WSP-CRS-EC-101)
- 400kV cable Route Trench Sections
- Plan demonstrating length of whole cable route is underground (Drawing No: DEMO-01 Rev 03)
- Covering Letter dated 12 July 2024 from Elements Green Ltd
- Staythorpe Cable Route Archaeological Desk Based Assessment dated June 2024 by Wessex Archaeology

- Staythorpe BESS and Cable Route Written Scheme of Investigation for Archaeological Evaluation dated September 2024 by Wessex Archaeology
- Agricultural Land Classification dated Nov 20203 by Soil Environment Services Ltd
- Arboricultural Method Statement dated June 2024 by AWA Tree Consultants
- Arboricultural Report and Impact Assessment dated June 2024 by AWA Tree Consultants
- Archaeological Evaluation Phase 1 dated Nov 2022 by Wessex Archaeology
- Biodiversity Net Gain Statement & Assessment for Staythorpe Cable Route (Ref: BIOC23-202 v3.0) dated 14 October 2024 by Biodiverse Consulting
- Biodiversity Metric completed 14 October 2024 (v3.0)
- Ecological Impact Assessment v1.2 dated 21 June 2024 by Biodiverse Consulting
- Flood Risk Assessment dated 7 June 2024 by Mabbett
- Outline Construction Traffic Management dated October 2024 by Optima
- Transport Note dated October 2024 by Optima

Reason: So as to define this permission

Informatives

01

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

02

The 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 given that there is no net additional increase of floorspace as a result of the development.

03

With respect to the attached archaeological conditions, please contact the Historic Places team at Lincolnshire County Council, Lancaster House, 36 Orchard Street, Lincoln, LN1 1XX, email grahame.appleby@lincolnshire.gov.uk to discuss the requirements and request preparation of a brief for the works.

It is recommended the resulting mitigation strategy and Written Schemes of Investigation are approved by LCC Historic Environment Officer prior to formal submission to the Local Planning Authority. Ten days' notice is required before commencement of by archaeological works.

04

Nottinghamshire County Council Rights of Way Team state the applicant should be aware of the following:

There should be no disturbance to the surface of Staythorpe Footpath No 1 without prior authorisation from the Rights of Way Team. The safety of the public using the path should be observed at all times, particularly with regard to safe visibility where the path meets Staythorpe Road. If a structure is to be built adjacent to the public right of way, the width of the right of way is not to be encroached upon.

Structures cannot be constructed on the line of the right of way without the prior authorisation of the Rights of Way Team. It should be noted that structures can only be authorised under certain criteria and such permission is not guaranteed.

No materials or constructor's vehicles should be stored/parked on the path prevent safe access to or along the path at any time (unless a temporary closure of the path has been applied for and granted). Should vehicles run over the path during the development, the developer must ensure that the surface is repaired and made safe for all users.

05

Environmental permit

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

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

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

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

06

The developer should note that the proposals described within this planning application may need to be altered to comply with the Trent Valley Internal Drainage Board's requirements if

the Board's consent is refused for works that affect Staythorpe Sidings Drain, that runs through the site. The developer is advised to make contact with the Board's Planning and Development Control Officer, Darren Cowling.

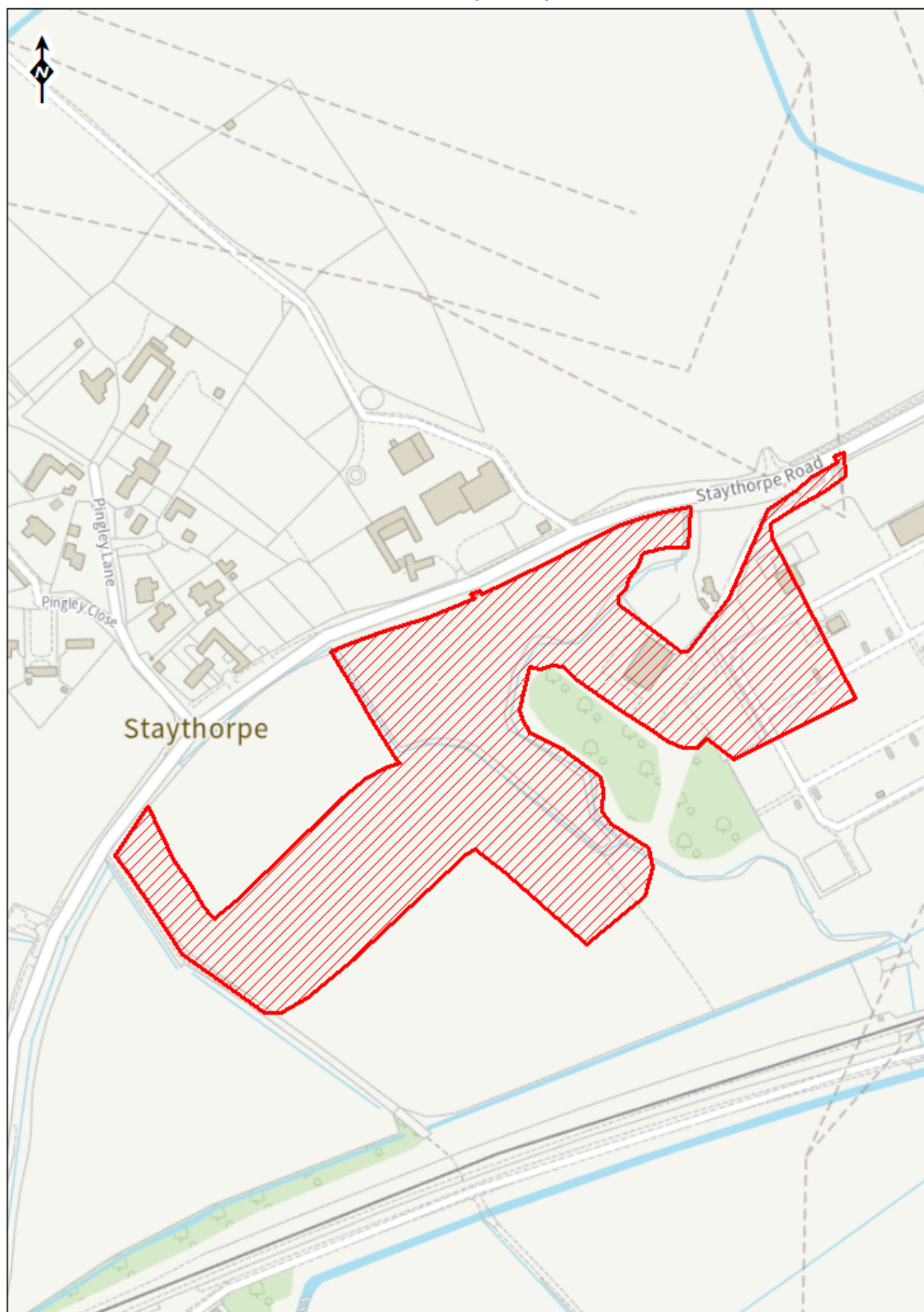
BACKGROUND PAPERS

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.

- Appeal Decision Letter relating to application 22/01840/FULM dated 03.05.2024 in link below
- [BESS Appeal decision](#)

Committee Plan - 24/01261/FULM



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Report to Planning Committee 11 November 2024

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Clare Walker, Senior Planner, 01636 655834

Report Summary			
Application No.	24/00548/FUL		
Proposal	Change of use of land to residential Gypsy/Traveller caravan site comprising 6 pitches each providing 1 static and 1 touring caravan and dayroom.		
Location	The Old Stable Yard Winthorpe Road Newark On Trent NG24 2AA		
Applicant	Messrs Lamb, Smith & Smith	Agent	WS Planning & Architecture
Web Link	24/00548/FUL Change of use of land to residential Gypsy/Traveller caravan site comprising 6 pitches each providing 1 static and 1 touring caravan and dayroom. The Old Stable Yard Winthorpe Road Newark On Trent NG24 2AA		
Registered	07.05.2024	Target Date	24.06.2024 Extension of Time Agreed: 14.11.2024
Recommendation	Refuse		

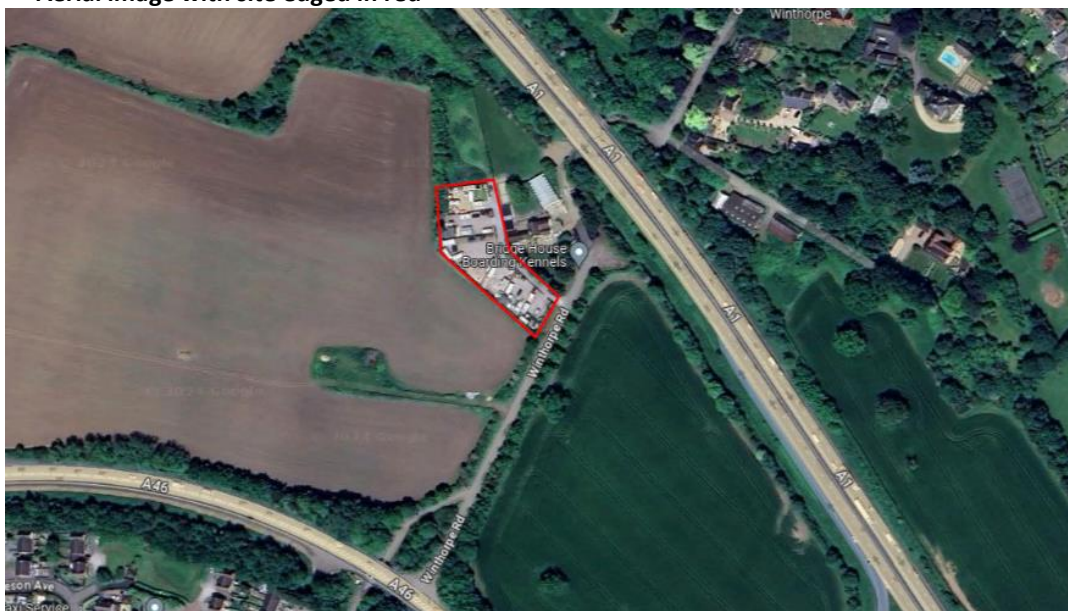
This application is before the Planning Committee for determination in line with part 1.8(e) of the Scheme of Delegation, given that this application raises significant issues such that it is considered prudent that the application be determined by committee.

In addition, it has been referred by two adjoining ward members, Councillors Spoons and Dales. The reason for referral relates to the planning history, its significance and the many variables such as the A46 widening and flood risk which will warrant debate given there are no sequentially more acceptable locations for this.

1.0 The Site

- 1.1 The site is located adjacent (west of) Bridge House Boarding Kennels on the western side of Winthorpe Road, north of Newark between the A1 and the A46. Accessed from the A46 Bypass (off the Bridge House Farm access road), the site lies within the 'Open Break' policy area which seeks to prevent coalescence between the settlements of Newark and Winthorpe.
- 1.2 Agricultural land lies to the north-west and south-west. The A1 trunk road lies to the north-east with the A46 bypass located to the south. The site is approximately 472m from Winthorpe and 250m from the settlement boundary of Newark. The site lies within Bridge Ward but is close to Winthorpe parish boundary.
- 1.3 The site lies within an area where National Highways propose improvement works to the A46 (dualling) which has been subject to initial consultation under 23/00486/CONSUL and now forms an application as a National Infrastructure Strategic Project, with NSDC as a consultee.

Aerial image with site edged in red



- 1.4 The site comprises an area of approximately 0.27ha of land that was formerly a field but is now occupied by a number of touring caravans, and utility/amenity buildings on hardstanding which are divided by close boarded fencing into six pitches/plots.

2.0 Relevant Planning History

- 2.1. There is some important and relevant planning history to this site which is detailed below. However, in summary, the Council has served Enforcement Notices against this retrospective development which have been appealed, taken through the Courts (resulting in the decision being quashed) and been redetermined by the Planning Inspectorate resulting in the appeals being dismissed twice. Three key issues were identified as 1) flood risk, 2) impact on the Newark-Winthorpe Open Break and 3) noise. However, further enforcement action was paused as site allocation was

explored due to changing circumstances around 2 of the 3 key planning issues, with new flood modelling and national highways proposals affecting the Open Break designation. The site previously featured as a potential site allocation for Gypsy and Travellers in the First round of the Plan Review of the Allocations and DM DPD. However following the result of the Council commissioned Noise Surveys, the issue of noise remains of concern such that the site cannot be allocated for Gypsy and Travellers.

- 2.2. 18/00036/ENF – Two separate Enforcement Notices were served on the land as follows:
- 2.3. An **Enforcement Notice was served on 15th February 2018** for a breach of planning control that ‘without planning permission, the material change of use of land to residential occupation including the stationing of caravans and the erection of a structure’. The notice required the cessation of the use of the land and the removal of all caravans, residential paraphernalia and the structure by a set timeframe. **APP/B3030B/C/18/3196972** – An appeal (**known as Appeal A**) was lodged on ground (a) (that planning permission should be granted for the development set out above) which was dismissed with the Notice being upheld and corrected/varied on 13th June 2022 following a Hearing. Compliance was required within 12 months of the decision date.
- 2.4. An **Enforcement Notice was served on 9th November 2018** for a breach of planning control that ‘without planning permission, undertaking operational development consisting of the carrying out of works to the land including but not limited to the laying of materials to create hardstanding, the erection of a building and associated concrete base and the burying of cables, pipes, containers and associated infrastructure’. The notice required the removal of the development that had occurred by a set timeframe. **APP/B3030B/C/18/3217010** - An appeal (**known as appeal H**) was lodged on ground A (that permission should be granted) and ground (g) (that the period for compliance falls short of what should reasonably be allowed). On 13th June 2022 the appeal was dismissed with the Notice being upheld and varied requiring compliance within 14 months of the decision date. This appeal decision forms Appendix 1 of this report.
- 2.5. The two enforcement notices mentioned above, that were upheld on appeal on 29th April 2019 were previously subject to a successful challenge in the High Court by Judicial Review and had to be redetermined. The challenge succeeded on a single ground that related to the part of the decision not to grant permission. Specifically, that the decision failed to apply paragraph 27 of the Government’s policy statement ‘Planning Policy for Traveller Sites dated August 2015 (PPTS) and that it failed to treat the lack of a 5-year supply of deliverable sites as a ‘significant material consideration’ which could have affected the balance of the case. The Court Judgement is *Smith v Secretary of State for Housing Communities and Local Government [2020] EWHC 3827 (Admin)*.
- 2.6. Six other appeals (known as B, C, D, E, F and G) that were determined by appeal decision letter dated 29th April 2019 did not need to be reconsidered; these were considered under only ground (g) that the period for compliance falls short of what

should reasonably be allowed. These appeals were dismissed with corrections and variations made.

2.7. 18/00343/FUL – Full planning permission was sought for the siting of 12 no. caravans on 6 separate plots for permanent residential use (retrospective). Withdrawn 12.03.2018.

2.8. Three historic applications have been noted which all relate to the refusal of permission for a single dwelling on the site (06/01051/OUT refused 08.11.2006, 05/01994/OUT refused 02.11.2005 and 99/51298/OUT in 2019) but these are not of direct relevance.

3.0 The Proposal

3.1 The application seeks planning permission for the change of use of land to a residential Gypsy/Traveller caravan site comprising 6 pitches. The application is retrospective. Each pitch is designed to provide for a single household to accommodate a mobile home, caravan, utility/amenity building and space for parking. The applicants are a collective group of six families each occupying one of the six pitches.

3.2 Documents assessed in this appraisal:

- Application form
- Site Location Plan, drawing no. JOO4777-DD-01
- Site Plan as Existing, drawing no. JOO4777-DD-02
- Site Plan as Proposed, drawing no. JOO4777-DD-03
- As Proposed Dayroom, drawing no. JOO4777-DD-04
- Desktop Review and Assessment Report 1565.DRAR.00, by dBA Acoustics, 12.03.24
- Planning Statement (and 18 Appendices including topographical survey, Stateley Caravans Acoustic Performance Report and 16 appeal decisions), March 2024
- Confidential Statement of Personal Circumstances
- Flood Risk Assessment Rev 00, by SLR dated 1st July 2024
- Foul Drainage Justification, submitted 13th September 2024
- STW Assets Plan, submitted 13th September 2024
- Rebuttal to EA objection, 7th October 2024
- Further comments on EA position by agent, 22nd October 2024

4.0 Departure/Public Advertisement Procedure

4.1 Occupiers of 4 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press (expiring 14th June 2024) due to its location, ability to identify affected neighbours and being a potential departure to the Development Plan.

4.2 Site visit undertaken on 20th May 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 3- Rural Areas
- Spatial Policy 7 - Sustainable Transport
- Core Policy 4 – Gypsies & Travellers– New Pitch Provision
- Core Policy 5 – Criteria for Considering Sites for Gypsies & Travellers and Travelling Showpeople
- 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)

Policy NUA/OB/1 (Open Breaks)

DM5 – Design

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 all of these 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 unless otherwise stated.

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
- Lisa Smith v The Secretary of State for Housing, Communities and Local Government and others [2021] EWHC 1650 (Admin) Court of Appeal ruling on 31.10.2022 that PPTS 2015 was unlawfully discriminatory.
- Gypsy & Traveller Accommodation Assessment, February 2020
- The Equality Act 2010
- Human Rights Act 1998
- Proposed reforms to the National Planning Policy Framework and other changes to the planning system
- National Planning Policy Framework: draft text for consultation, July 2024
- Planning Policy for Traveller Sites (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

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

Statutory Consultations

- 6.2. **Nottinghamshire County Council (Highways)** – (13.06.2024) – No objections subject to conditions to 1) require a hard surfaced verge crossing to serve the access from Winthorpe Road and 2) internal site access to be surfaced in a bound material for a minimum of 10m and thereafter maintained.
- 6.3. **Nottinghamshire Lead Local Flood Authority** – No bespoke comments to be provided as this is a non major development.
- 6.4. **Environment Agency – Object**

(18.10.2024) – Maintain objection.

The appeal decisions provided by the applicant, do not set a precedent in the EA's view.

The NPPF states:

Paragraph 165. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 168. 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 allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

With regards to the Exception Test and the FRA, we are concerned that Plot 6 would not be safe from flooding during the "design flood" and therefore would not be safe from flooding for its lifetime.

We have also highlighted the potential issues at the site with regard to access and egress, and the need for a flood warning and emergency plan. However, our previous response made it clear that we do not carry out these roles during times of flood and instead it is a matter for the Emergency Planner to decide on the adequacy of these plans.

We also highlighted that the void space under the plots would need to be kept clear so that flood storage is not lost due to the development. While we do agree these could be secured by way of a condition this would be difficult to enforce in perpetuity. This is why we included this as an advisory note to the applicant to not only ensure flow routes across the floodplain are maintained but to also protect residents' properties from dangers such as waterborne debris.

Foul Drainage/ Land & Water comments

While we agree that the nearest watercourse is not immediately adjacent to the site we would have expected the applicant to provide justification for not being able to connect via pipe or ditch if this is the case.

We are concerned that the applicant may have opted for cesspools as the cheapest, easiest option rather than properly exploring the alternatives. We would want to see a detailed, in-depth investigation as to why alternatives are not viable, e.g. Percolation testing and areas required for soakaways from package treatment plants etc.

We do agree that there is no mention of distance to feasible connection in our guidance or GBR, just distance of 30m from public sewer multiplied by number of properties (e.g. within 180m of site boundary). There is a sewer located to the north of the site boundary which, according to our measurements is within this 180m distance.

We would like the applicant to explain reasons why this is not possible (e.g. access through neighbouring land to install pipework, disproportionate cost, suitability of sewer for connection).

(03.10.2024) – Object

Flood risk assessment not acceptable as does not adequately assess the flood risk posed by the development. In particular the FRA fails to:

- consider how people will be kept safe from the identified flood hazards;
- consider how a range of flooding events (including extreme events) will affect people and property;
- take the impacts of climate change into account.

Caravans for permanent residential use are classified as “highly vulnerable” to flooding in the PPG. According to Table 2 of the PPG, in flood zone 2, such development is only appropriate when the sequential test and exception test is passed. The applicant has submitted a flood risk assessment as part of the “Exception Test”.

In accordance with the National Planning Policy Framework (paragraphs 164 and 165), the proposed development is appropriate provided that the site meets the requirements of the exception test. Our comments on the proposals relate to the part of the exception test that demonstrates the development is safe. The local planning authority must decide whether or not the proposal provides wider sustainability benefits to the community that outweigh flood risk.

The FRA has based its assessment on a ‘design flood’ of the 1 in 100 year 30% climate change event from the EA Trent at Gunthorpe climate change model update, 2021. We agree with this approach. This data indicates a ‘design flood’ level of 10.98mAOD.

The submitted flood risk assessment identifies that in the ‘design flood’ the site is

expected to flood to depths of between 0.4 to 2.3 metres. (section 6.1.2). The area of the proposed mobile home plots is expected to flood to depths of between 0.18m and 1.38m. See table below:

Plot	Flood depth at each plot in metres with a flood height of 10.98mAOD
Plot 1	0.18m
Plot 2	0.28m
Plot 3	0.38m
Plot 4	0.33m
Plot 5	0.68m
Plot 6	1.38m

We are therefore concerned about the suitability of the site for residential development, in particular access and egress from the mobile homes during a flood event.

The FRA proposes raising the mobile homes 700mm above ground level as a mitigation measure. However, Section 8.2.2 of the FRA identifies that even with this 700mm raising plot 6 would still be inundated with flood water to a depth of 0.38m which is unacceptable.

The EA then goes on to provide advisory notes:

The use of voids are not generally recommended as they are often used for storage or trap debris which can impede the function of floodwater spreading across the floodplain, however recognise that mobile homes are always raised off the ground by their very construction. Therefore they strongly recommend that these voids are kept clear at all times and not be blocked over or used for storage in order to protect the function of the floodplain while also ensuring that dwellings remain as safe as possible.

Flood warning and emergency response - while 5 of the plots will be raised above the design flood level, access and egress to and from the site would be inundated. This would make evacuation during a flood extremely difficult and place extra pressure on the emergency services if required. EA don't comment on adequacy of flood emergency response procedures, their involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The PPG sets out in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations is

whether adequate flood warnings would be available to people using the development. Therefore, LPA need to consider emergency planning and rescue implications.

Advice is also given on the sequential test.

An objection is also made to the disposal of foul water because it involves the use of a non-mains foul drainage system in circumstances where it may be reasonable for the development to be connected to a public sewer and no justification has been provided for the use of a non-mains system. Cesspools and cesspits present a considerable risk of causing pollution, which can be difficult to monitor and correct. The Environment Agency does not encourage the use of cesspools or cesspits, other than in exceptional circumstances.

(27.09.2024) – Object – on two grounds; flood risk and foul drainage.

(26.06.2024) - Object - on two grounds; flood risk and foul drainage.

Town/Parish Council

6.5. **Newark Town Council** (host parish)– (29.05.2024) No objection was raised to this application.

6.6. **Winthorpe Parish Council (adjacent parish)** – Do not support for the following reasons:

- The Council does not consider there to be substantial differences from the previous application in terms of noise levels for the residents of The Old Stable Yard, flood risk or the Open Break policy in the area, particularly in light of the fact that the A46 update has not yet been approved.
- The Council believes that it is important not to set a precedent in terms of illegal occupation leading to the granting of planning permission.

Representations/Non-Statutory Consultation

6.7 NSDC Environmental Health – Object on noise grounds:

Previous (deemed) applications have been submitted for the development, which have been refused in part due to the impact of noise from the A1 adjacent to the site. These previous applications included the provision of acoustic barriers, either along the site boundary or running along a length of the roadside, however these barriers were considered to be either of limited effect or impractical to install and maintain.

The current application proposes the development take place with no acoustic barriers in place, and proposes conditions to limit/prevent residential use of touring caravans on site, and to require static units to comply with acoustic performance requirements of BS3632:2015. An amended acoustic report has been submitted to reflect this scheme.

The acoustic report indicates that external noise levels will be significantly above those in BS8233. The applicant indicates that areas of the site will benefit from shielding by other structures, and will therefore be 'relatively quieter'. The submitted site plan however shows the static units on site to be perpendicular to the A1, and as such these will only provide a barrier to small areas of each plot. Internal noise levels within the static units have been assessed with windows closed, and indicated to be above the guideline levels for both living rooms and bedrooms. It is stated that levels are less than the +5dB relaxation which may be applied if the development is deemed to be necessary or desirable, however this places internal noise levels in the bedroom above World Health Organisation sleep disturbance levels, even with the windows closed. Given that it is deemed necessary to keep windows closed, additional ventilation and cooling provision would be required to be provided to achieve comfortable conditions. This would likely raise noise levels further.

It is therefore evident that occupiers of the site will be exposed to unacceptable levels of noise, both externally and within the static units. Exposure to significant levels of noise can have health and behavioural impacts on those affected and on this basis environment health object.

6.8 **NCC as Lead Local Flood Authority** – Do not wish to make bespoke comments on surface water flooding and offer general guidance.

6.9 **Comments have been received from 8 third parties** (n.b. some are not resident in this district) of which 7 are in support and 1 objection. These can be summarised as follows:

Support:

- Often walk past the site (the underpass to Winthorpe) and never been any noise related issues from residents of this travelling site;
- Cannot see a reason for the site not being here, always maintained, people of polite, courteous and polite residents in the 6 years they have been present;
- The site has not flooded nor had to be evacuated in the 6 years that the site has been present;
- There is more noise from within a house than from the dual carriageway when walking past the site and the static homes will block the noise out further;
- In the 6 years of residing here, no medical issues and if residents are happy with the noise should this not be their decision just like those that choose to but a house next to a busy road?
- These families, who are well respected and caused no issues, need the Council's support to live on the site with their families on their own land.
- Noise survey states it was undertaken in static home – there are none on site and therefore not done correctly
- NSDC previously granted permission on number of other sites where noise levels were higher (e.g. Main Road, Balderton).
- The site has never flooded and residents are signed up to the environment agency flood alerts
- NSDC has unmet gypsy and traveller need that isn't being met.

- Site was to be allocated but was removed from the plan due to noise issues -which isn't totally accurate
- The children attend school and have not raised concerns regarding their health/hearing due to noise which is also true for the adults of the site
- These families are part of the community
- Former school headteacher of school where applicants children attended sets out the exceptional values of the family and points to how this process is unsettling for the children in a general sense
- There has been no issue with police nor has any pressure been placed on emergency services during recent flood events
- The residents on this site have not raised noise complaints relating to adjacent kennel businesses in 6 years
- The listed building nearer the A1 than the site (near the underpass to Winthorpe) cannot have double glazing as listed and is subject to more noise than the application site
- Noise to gardens would be same if not higher than experienced by houses at Fernwood/Middlebeck when new relief road goes in
- Choice of where to live should be considered, especially as NSDC for not have provision to offer the families an alternative
- Pressure on the families in the last 6 years have had an adverse impact on their mental health
- There are no other options for these families
- This would fulfil some of the gypsy need
- All nice families who are not bothered
- Visited the site many times and can't see the issue with the noise
- Regarding the open break there is a house adjacent so there is no break
- Unmet need should be addressed otherwise traveller population will find illicit sites that are suitable and potentially cause danger to the environment

Object

- Bridge House Farm was purchased to allow owners to live with their dogs that could run free, without the fear of complaints from neighbours. Investment has been made to allow it to be multi-purpose establishment comprising a show kennel and boarding kennels.
- Show days (most weeks all year round) can involve very early morning starts and late finishes with 40 or so show dogs making substantial noise. Boarding kennel is usually fully booked and licenced for 30 dogs so at any one time there are c70 dogs on site. Concern for those sleeping in the caravans that this noise from barking would disturb their sleep.
- Concern that that noise complaints made by applicants could lead to enforcement proceedings causing irreparable damage to the business.
- Application lacks details around dayrooms etc. Currently there are several tourers and outbuildings on each plot but the plans are for 1 tourer, 1 static and 1 dayroom so will additional constructions be removed?
- Environmental Health have concluded noise levels inside the caravans are above guidelines and does not take into account the noise from the new A46.

- Concerned at disruption from A46 bypass works if approved and how the applicants would access their site.
- Concerns relating to flood risk. Land at Bridge House Farm has come under increased flooding since the development (hardcore laying) has occurred. What will the drainage system for surface water comprise?
- Concerns that the security fence that separates the dog exercise field running adjacent to an area where the applicants' children play may not be enough to protect the children from injury from the pack of dogs (e.g. children retrieving balls etc).
- Concern about fireworks on bonfire night and the noises/distress it causes the dogs which was previously not an issue.
- Make clear this is not a personal objection against the travelling community and accept that large section of the site is kept in good condition.
- However as occupants of house with double glazing who at times struggle with the existing noise cannot see how the site is acceptable.
- Kindly request that consideration is given to protect the way of life developed over many years and is granted permission conditions are put in place to protect the freedoms, health and safety and well being of all parties including the dogs and the businesses.

7.0 Comments of the Business Manager – Planning Development

7.1. The previous appeals relating to this site focused on three matters in dispute; 1) impact on the designated open break, 2) flood risk and 3) noise. Whilst all matters need to be considered afresh as part of this application, these areas remain key areas of focus. The report that follows addresses the following main matters:

1. Principle of development (G&T need)
2. Sustainability and criteria considered for new Gypsy and Traveller Sites
3. Open Break/Landscape Impacts
4. Flood Risk and Drainage
5. Highway Safety
6. Living Conditions
7. Other Matters
8. Gypsy Status and Personal circumstances

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. Core Policy 4 (Gypsies and Travellers – New Pitch Provision) sets out that it will address future Gypsy and Traveller pitch provision through all necessary means including the allocation of new sites through a development plan.
- 7.4. 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.
- 7.5. 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 permission¹ capable of being implemented. In overall terms this leaves us with a residual minimum requirement for 127 pitches up to 2033.
- 7.6. 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.
- 7.7. 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 at the time of writing 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.

¹ 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)

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 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.

- 7.8. 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 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.
- 7.9. 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.'

- 7.10. 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/FULM²) 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.

² at Land to the rear of Lowfield Cottages, Bowbridge Lane, Balderton

- 7.11. The status of the applicants as meeting the gypsy and traveller definition has previously been accepted by the prior proceedings relating to this site. Therefore, the net additional pitches proposed would be 6.
- 7.12. Based on the information provided by the Applicant, subject to a planning condition restricting occupation of the site to those meeting the planning definition of a gypsy or traveller, the proposed pitches would be available to help meet existing, and future, locally identified G&T need. 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.

Sustainability and Criteria for Considering sites for Gypsies and Travellers

- 7.13. Core Policy 5 (CP5) sets out that provision for new gypsy and traveller pitches 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 (NUA).
- 7.14. 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 unauthorised encampments and the contribution that live/work mixed use sites make to achieving sustainable development. The 9 criteria are summarised below;
1. The site would not lead to the unacceptable loss, or significant adverse impact on landscape character and value, important heritage assets and their settings, nature conservation or biodiversity sites;
 2. The site is reasonably situated with access to essential services of mains water, electricity supply, drainage and sanitation and to a range of basic and everyday community services and facilities -including education, health, shopping and transport facilities.
 3. The site has safe and convenient access to the highway network;
 4. The site would offer a suitable level of residential amenity to any proposed occupiers, including consideration of public health 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;
 5. The site is capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity;
 6. In the case where development proposals raise the issue of flood risk, regard will be had to advice contained in the Government's 'PPFTS' and the findings of NSDC SFRA. Where flooding is found to be an issue, a site specific FRA should be completed applying both the Sequential and Exception Tests as appropriate to achieve safety for eventual occupiers;

7. Where a major development project requires the temporary or permanent relocation of a major traveller site the district council will work with the affected community to identify alternative sites using the criteria above;
 8. Relates to calculating capacities of pitch sizes (250-640m²)
 9. Relates to new pitches on Tolney Lane.
- 7.15. In terms of the sites ability to satisfy the above criteria of CP5, criterion number 1 is considered within the next section along with landscape impacts which reflects criterion 5.
 - 7.16. The second criterion 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.
 - 7.17. In terms of criterion no. 2, whilst the site is outside of the Newark Urban Area, it is acknowledged that nevertheless it is located just 250m from the edge of it providing residents with relatively easy and convenient access to the town's facilities and services both by car and on foot via the pedestrian underpass close by. The Applicant has confirmed the site is served by electricity and water supplies and is served by an existing septic tank. There are issues around foul drainage which are discussed in the relevant section of this report, however officers are generally satisfied that the site is situated with reasonable access to essential services.
 - 7.18. No highways objection has been raised (there is more detail in the relevant section of this report) passing criterion no. 3. Impacts on living conditions overlaps with criterion 4 which is discussed in detail later and flood risk (criterion 6) is also a matter covered in detail. Finally, in terms of other relevant criteria, the pitch sizes (criterion 8) have been considered acceptable previously and remain so now.

Open Break and Landscape Impacts

- 7.19. The application site is located outside of the settlement boundary for Newark, in the 'Newark and Winthorpe Open Break' designation via Policy NUA/OB/1. This states that:

'In order to ensure that existing settlements retain their separate identities and characteristics, the District Council has identified certain areas that are under pressure for development which provide an Open Break between settlements...'

 It then identifies the land between Newark and Winthorpe by name and map. It goes on to say that planning permission will not normally be granted for built development.
- 7.20. 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.

- 7.21. As set out in the above section, given the chronic shortage of available gypsy and traveller sites, the Council has sought to explore and test whether this site could be made suitable for allocation, despite the designation. An independent review of the Open Break was commissioned and undertaken by Via East Midlands in January 2022 where positive conclusions were drawn in respect of the impacts of this development upon it.
- 7.22. This review of the Newark to Winthorpe Open Break was undertaken to assess the impacts of the proposed dualling of the A46 and the Gypsy and Traveller site on the designation and their cumulative effect. The conclusions reached in terms of the Traveller site were that it is partially enclosed by a tree belt along the site's western boundary – though during the winter months, the tops of caravans and the fence boundary to the southwest of the site would be visible from along Winthorpe Road. It was concluded that the sense of an open rural break is somewhat compromised by the site, as also concluded through the previous appeals. However, the review went on to note that the visual impact is relatively localised and at a level where it would not compromise the Open Break purposes overall. It was recommended that additional tree and hedge planting to the southwestern boundary would help mitigate the visual impact of the site.
- 7.23. For the purposes of the Development Plan considerations, the localised impact on the openness of the designation was weighed against the extent of emerging local pitch requirements and the limited alternative options for allocation. It was concluded that the test within the policy around 'built development' (proposed to become 'development' through the Amended Allocations & Development Management DPD) not normally being acceptable could be passed due to the circumstances, particularly given the integrity of the designation could also be maintained. In assessing this planning application, officers find no reason to disagree with the conclusions drawn in respect of the Open Break impact.
- 7.24. With regards the existing Open Break designation, the proposed scheme would appear likely to remain within the level of impact previously identified through the Council's review. This would result in a level of impact consistent with that of a localised nature. Introduction of additional tree and hedge planting to the southwestern boundary would further help mitigate the visual impact of the site. In my view when considered against the lack of a five-year land supply, the overall pitch requirement needing to be satisfied, the current inability to afford meaningful weight to site allocations emerging through the Development Plan process and that the integrity of the designation could be maintained then the threshold whereby built development would not *normally* be permitted within the designation can be passed by the proposal.
- 7.25. Turning then to landscape impacts, albeit there is a degree of overlap here with the Open Break considerations.
- 7.26. At a national level, the site lies within National Character Area 48 Trent and Belvoir Vales. At the local level, the site lies within the East Nottinghamshire Sandlands Character area and in Policy Zone - ES04 - East Nottinghamshire Winthorpe Village

Farmlands as per the Landscape Character Assessment SPD which provides the evidence base for Core Policy 13. The landscape here is typically flat comprising predominantly arable fields, with landscape condition and sensitivity defined as 'moderate' giving a policy action of 'conserve and create' as also embedded in CP13. For landscape features this policy seeks creating new hedgerows and tree cover, conserving existing hedgerows and for built features concentrating new development around existing settlements.

- 7.27. The concerns identified by the previous appeal Inspectors were that the caravans on the appeal site have a noticeable and negative impact on the openness of the area on account of their size and prominence. Notwithstanding this conclusion, this application site is partially contained by an existing tree belt along the western boundary and additional planting to the south-west of the site has been identified as having the potential to mitigate the visual impacts of the proposal. This appears to be within the applicants' ability to undertake and officers are therefore satisfied that the impact on both the Open Break and Landscape would be capable of being partially mitigated and that this issue alone need not be fatal to the outcome.

Flood Risk and Drainage

- 7.28. For background context, in exploring the site allocation, an updated Level 2 Strategic Flood Risk Assessment (SFRA) has been undertaken. Following submission of the Amended Allocations & Development Management DPD in January 2024, and receipt of this application, a difference between the climate change outputs in the updated SFRA and the Environment Agency (EA) modelling became apparent. The modelling for the updated SFRA is currently awaiting approval by the Agency. Therefore, to support the plan-making process agreement has been reached through an updated Statement of Common Ground (SoCG) with the EA, and in respect of the application site this sets out that a more conservative approach which adopts the EA's modelling would be most appropriate. The SFRA has been further updated so that the content relating to the application site reflects this. Whilst it has also been agreed that the SFRA continues to provide a robust and proportionate evidence base for the purpose of the Amended Allocations & Development Management DPD this wouldn't currently extend to the Development Management process – for which the Environment Agency's mapping and modelling should be used.
- 7.29. The site lies in Flood Zone 2 according to the EA's flood risk maps.
- 7.30. Core Policy 10 of the Amended Core Strategy and Policy DM5 of the Allocations and Development Management DPD along with the NPPF set out a sequential approach to flood risk. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Policy is clear that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification

set out in national planning guidance.

7.31. It is for the Local Planning Authority to undertake the Sequential Test. The LPA has already accepted that there is an inadequate supply of reasonable alternative sites in the district that the occupiers of this site could relocate to. In light of this, the Sequential Test is passed. Given this, it is then necessary to consider if the Exception Test needs to be applied. Caravans and mobile homes are classified by the NPPF as 'highly vulnerable' in flood risk terms. Table 2 (Flood risk vulnerability and flood zone 'incompatibility') of the NPPG indicates that the Exception Test is required for highly vulnerable development in Flood Zone 2.

7.32. The NPPF sets out that 'the application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

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

Both elements of the exception test should be satisfied for development to be allocated or permitted.

7.32 The Council previously accepted that the first part of the exception test was met. This remains our position. However, in the previous appeal decisions, the Inspector(s) concluded that with regard to part (b), due to the 'highly vulnerable' condition of its users and assessed risk of flooding using various models, it was not safe for occupants of any of the units to continue to reside at the site.

7.33 In support of this application, the applicants have prepared a bespoke Flood Risk Assessment which has been reviewed by the Environment Agency as statutory consultee. Their role is to advise on whether the development is safe from flood risks. They have raised objections, mainly due to concerns at how people would be kept safe from flood risk during a flood event. They comment even with the recommended raising of the mobile homes 700mm from ground level, Plot 6 would still be inundated with flood water to a depth of 0.38m in a flood event which is unacceptable. Further, whilst 5 of the plots will be raised above the design flood level, access and egress to and from the site would be inundated for all 6 plots. This would make evacuation during a flood extremely difficult and place extra pressure on the emergency services if required. The Environment Agency have adopted a position therefore that the second part (b) of the exception test is not passed in the same way that the Planning Inspector did previously.

7.34 The [planning practice guidance](#) (PPG) states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a [design flood](#) and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the

development.

- 7.35 In all circumstances where warning and emergency response is fundamental to managing flood risk, local authorities are expected to take advice from the emergency planning and rescue implications of new development in making their decisions to determine whether the proposals are safe in accordance with paragraph 173 of the NPPF and the guiding principles of the PPG.
- 7.36 Colleagues working in Emergency Planning are currently busy on flood watch duties so have not been able to offer bespoke advice. However, their position on the previous appeal remains relevant. They raised concerns regarding the risk to occupants and the additional strain on the emergency services which all remain valid concerns.
- 7.37 In an extreme flood event, the access road could be flooded to a level designated as 'Danger to All' meaning that emergency service vehicles would also face danger during any attempt to cross the flood waters. In the event that occupants did not successfully evacuate, then it is possible that occupants of 5 of the 6 caravans would remain safe (noting that pitch 6 would be inundated) within their caravans. However, any vulnerability or change in circumstance requiring them to leave would provide challenges for emergency responders or cause occupants to place themselves in danger.
- 7.38 The Newark Cattle Market lorry park is designated as the evacuation point for caravans from nearby Tolney Lane, an area also at flood risk. Additional caravans moving on to the site during a flood event would place additional strain on resources.
- 7.39 The conclusion reached by the EA is that whilst the site wouldn't increase flood risk elsewhere (subject to the voids being kept clear³), the development would not be safe for its lifetime taking account of the vulnerability of its users. It is not possible to raise the caravan at plot 6 any higher without altering the existing ground levels (an engineering operation that would need to form part of the application in any event) so there is nothing more that can be done to make it any safer. The proposal therefore fails part (b) of the exception test.
- 7.40 Should Members be minded to disagree with this assessment, continued occupation would have to be predicated on the basis of managing the flood risk. Measures such as requiring the applicants to provide an emergency/evacuation plan and that they sign up to the EA'S flood warning scheme would be necessary. The applicants point to this approach being acceptable elsewhere, by appeal Inspectors (in weighing the balance) and at Tolney Lane where it has been tried and tested.

Foul Drainage

³ This could be secured either by condition or by the extant Enforcement Notice remaining so in perpetuity. Any grant of planning permission would cease to be affected, insofar as planning permission is granted. Accordingly, non-compliance with the planning permission would represent a breach of the Enforcement Notice, and so would encourage compliance in perpetuity, and would render the issue relatively simple to enforce.

- 7.41 The national drainage hierarchy within the UK Building Regulations sets out the listed order of priority for discharge in the following order: (1) public sewer then if this is not reasonably practical (2) private sewer communicating with a public sewer, then (3) either a septic tank or another waste treatment system and (4) finally a cesspool. The presumption is always to connect to a public sewer if reasonable to do so as this option represents a much lower risk to the environment than others further down the hierarchy.
- 7.42 The applicants propose a cess pit - a non mains foul drainage system. The EA have objected to the scheme on the basis that it may be reasonable to connect to a public sewer which is located c160m north/north-west of the site boundary within the general binding rules of 180m (6 properties x 30m) distance and an inadequate justification has been provided. They also note maps show a now abandoned sewage pipe which runs directly through the site, which could have serviced the nearby dwellings/property which border the site. The EA would like the applicant to investigate how the property handles their sewage discharges at present as there may be a possibility to use the same means of disposal.
- 7.43 The applicant has provided a rebuttal to the EA's objection and state that the nearest connection point is greater than 180m from the site. They indicate that part of the site is underlain with superficial deposit of the Holme Pierrepont Sand and Gravel Member – sand and gravel (although probably no greater than 1m deep) and that underlying that is Mercia Mudstone Group – Mudstone that is likely to be relatively impermeable suggesting that discharging effluent to ground via drainage field would be unfeasible in any event.
- 7.44 The EA has stated that they agree that the nearest watercourse is not immediately adjacent to the site but would have expected the applicant to provide justification for not being able to connect via pipe or ditch if this is the case. They are concerned that the applicant may have opted for cesspools as the cheapest, easiest option rather than properly exploring the alternatives. They want to see a detailed, in-depth investigation as to why alternatives are not viable, e.g. percolation testing and areas required for soakaways from package treatment plants etc.
- 7.45 The applicants consider the EA comments (certainly around the cesspit being the cheapest option) as being unreasonable in the context of their rebuttal. They argue that the requirement to investigate isn't a proportionate approach. The STW asset plan was also provided, which shows no feasible connection within 180m, with the closest route possible requiring access across third party land, or through National Highways ownership. The applicants assert this would be unfeasible to achieve, and there is no guarantee of their continued use in perpetuity.
- 7.46 The applicants point to the downside of biological systems, like Septic Tanks, and that that they rely on biological factors and biological systems which can falter if left 'unfed' such as during period of travel for the families. The proposed cesspits are in situ, rather than proposed, which is predominantly why they are opted for in this submission. However, as the submission does make clear, the applicant has requested a fully rounded consideration of the use of conditions i.e. temporary permission / personal

permission.

- 7.47 If a temporary permission was to be given, I agree that a cesspit could be considered a proportionate solution to foul drainage, primarily because upon cessation of any permission, the works undertaken have to be undone, and the land restored to its former condition including removal of services and connections. It would be possible to condition that other options for foul drainage are further explored, however this would only be recommended as being reasonable and proportionate if the permission was for a longer temporary permission or indeed a permanent one.

Highways Safety

- 7.48 Spatial Policy 7 seeks to ensure vehicular traffic generated does not create parking or traffic problems and policy DM5 requires the provision of safe access to development and appropriate parking. Core Policy 5 requires that prospective Gypsy and Traveller sites have safe and convenient access to the highway network.
- 7.49 Firstly, with regards to parking, each pitch is provided with sufficient parking for at least two vehicles and there is space to manoeuvre touring caravans/larger vehicles to allow them to leave the site in a forward gear. Officers are satisfied that the parking provision would be adequate and would not present a risk of parking on the surrounding highway network.
- 7.50 Vehicular access to the site is taken from Winthorpe Road which is currently the responsibility of National Highways (NH). NH have not objected to the planning application, noting that wider access to and from the site should be improved because of the evolving proposals for dualling of the A46 in the vicinity of the site.
- 7.51 It is not currently clear to the County Council which highway authority would have responsibility for that section of Winthorpe Road fronting the site under the dualling proposals, which have not yet been approved.
- 7.52 Notwithstanding the above, the future dualling proposals would need to be designed to provide an appropriate tie-in to Winthorpe Road which will have regard to existing access arrangements. At the present time, the site access is not physically affected by the dualling scheme.
- 7.53 NCC Highways Authority advise that the existing site access is in poor condition. The surface comprises loose stone where it crosses the highway verge and is also loose and pitted within the site. Both areas give rise to the risk of loose material being carried onto the carriageway and verge on Winthorpe Road which could be detrimental to highway safety. Improvements are necessary. To safeguard the County highway authority's future interests, should it become responsible for Winthorpe Road following dualling of the A46, the highway authority recommends that the existing verge crossing should be improved to provide a bound surface which complies with the highway authority's specification for verge crossings.

- 7.54 In the interests of highway safety, NCC as Highways Authority therefore recommend conditions in the event that permission is granted to require:
- 1) Provision of a hard surfaced verge crossing to serve the access from Winthorpe Road; and
 - 2) Internal site access road to be surfaced in a bound material for a minimum of 10m into the site and retained for the lifetime of the development.
- 7.55 The triggers NCC Highways Authority have recommended (prior to the development being brought into use) do not work given the application is retrospective and would need to be undertaken within a certain timeframe of an approval (e.g. within 6 months or whatever period Members felt was reasonable and factoring in the length of the permission). Subject to conditions to deal with these matters, there is no highway harm identified arising from the proposal. However, requiring these works to be undertaken for a temporary permission could be considered as disproportionate when factoring in cost. In the event that permission is given, consideration should be given to the reasonableness of conditions, as per the requirements of the NPPF.

Living Conditions

Noise context and background

- 7.56 Noise (from the roads) was a key issue during the last appeal and one where both Inspectors ultimately found that the site 'was unsuitable to residential occupation of the caravans.' In the redetermined appeal the Inspector says at para.30 that:
- 'The noise from nearby sources is indeed noticeable and likely to be disruptive, with potential for sleep disturbance. In policy terms the development is not a place that would promote health and well-being with a high standard of amenity for existing and future users and is contrary to key development plan policies. There are adverse effects that cannot be adequately mitigated. National policy is to the effect that such living conditions should be avoided.'*
- 7.57 The Inspector also expressed concerns regarding the rerouting of the A46 and bringing this much closer to families. They noted that whilst it might be possible to design a mobile home with noise attenuation in mind, in warmer weather, occupants would have windows open and it was unrealistic to expect windows to be closed for most of the time.
- 7.58 Since the appeal, further noise assessments have been commissioned by the Council in the exploration of possible site allocation. The noise work identified that without mitigation to the A1, internal noise levels within a touring caravan on-site are likely to be 6-9 dB above the 'reasonable' target level, with external noise levels of 9dB above the 'reasonable' target level for gardens. It was concluded that it would not be feasible to enforce a higher sound reduction on the caravans themselves, and so the only mechanism available to reduce noise levels within the caravans would be to reduce the noise at source, by providing barrier screening to the A1. The modelling carried out indicated that with a 4-metre-high barrier in place, it would likely be possible to meet the 'reasonable' standard in touring caravans with windows closed, whilst also

meeting a reasonable standard of garden amenity. This barrier would need to extend alongside the A1 for a distance of 500m.

- 7.59 This would have provided for a technically effective mitigation measure, but its introduction would result in a greater impact to the openness of the Open Break designation than previously assessed. The Winthorpe Open Break review had concluded that it was possible for the site itself to have a localised impact on the designation. However, this would be increased through the introduction of an acoustic barrier of the height and length needed – and take that impact beyond ‘localised’. The additional impact was considered likely to undermine the designation. This represented a significant policy constraint on the suitability of the site for allocation and has meant discounting allocation on this ground alone with its deletion identified in main modification to the Submission Amended Allocations & Development Management DPD. The site occupants were given the further opportunity to make representations prior to submission, and have raised an objection to the proposed removal of the site from the plan. The plan Inspector will now consider this matter as part of the Examination in Public.
- 7.60 Beyond its impact, the acoustic barrier necessary to mitigate the impacts would require third-party land and funding to deliver, for which no agreement has been reached or sources identified. The necessary mitigation measure is therefore not considered achievable and indeed has not been advanced as part of this application.

Noise Assessment

- 7.61 The current application proposes that the development takes place with no acoustic barriers in place. It proposes conditions to limit residential use of touring caravans on site, and to require static units comply with acoustic performance requirements of BS3632:2015. An amended acoustic report has been submitted to reflect this scheme. The Council’s Environmental Health Officer advises:

“The acoustic report indicates that external noise levels will be significantly above those in BS8233. The applicant indicates that areas of the site will benefit from shielding by other structures, and will therefore be ‘relatively quieter’. The submitted site plan however shows the static units on site to be perpendicular to the A1, and as such these will only provide a barrier to small areas of each plot. Internal noise levels within the static units have been assessed with windows closed, and indicated to be above the guideline levels for both living rooms and bedrooms. It is stated that levels are less than the +5dB relaxation which may be applied if the development is deemed to be necessary or desirable, however this places internal noise levels in the bedroom above World Health Organisation sleep disturbance levels, even with the windows closed. Given that it is deemed necessary to keep windows closed, additional ventilation and cooling provision would be required to be provided to achieve comfortable conditions. This would likely raise noise levels further. It is therefore evident that occupiers of the site will be exposed to unacceptable levels of noise, both externally and within the static units. Exposure to significant levels of noise can have health and behavioural impacts on those effected. I would therefore object to the proposed development.”

- 7.62 The applicants point out that the acoustic report relies upon the raw data of SLR consulting who undertook prior acoustic assessments and point to the fact that there are **no** static caravans on site. What the acoustic report does is model the levels, based on this raw data and evidence of static caravan performance, specifically those that are BS3632:2015 compliant. They also point out that a touring caravan and static's acoustic performance is distinctly different, which is why they suggest that a touring caravan be restricted to no overnight accommodation as it is impractical to upgrade them to perform adequately.
- 7.63 The applicant's willingness to purchase new static caravans with an improved acoustic performance, no doubt at considerable expense, is noted. However, even in this scenario, the noise levels internally with the windows closed would still be above guidelines and externally would not be addressed at all. Ultimately harm from road noise is not a matter that can be adequately addressed as noted by the two appeal Inspectors and the Council's own environmental health professionals. Therefore, whilst I have sympathy with the position that the occupants are satisfied with their own living conditions, this is not a sustainable position due to the levels of harm identified.

Impact on living conditions of neighbours

- 7.64 Another important matter includes the impact of the development upon the living conditions of the neighbours. Bridge House Farm and Boarding (and Show) Kennels lie directly to the north-east of the site.
- 7.65 There is no concern that the pitches would cause any issue in terms of loss of privacy, overlooking, overbearing or any other physical impact. However, concern has been expressed from the neighbours that noise from barking dogs (at anti-social hours) could disturb sleep for residents of the application site. The owners of the kennels advise they have invested in their business to allow dogs to run free and residential neighbours were not anticipated. The concerns appear to be that noise complaints could ultimately damage their business, that the security fence between them may not be sufficient to protect children from injury and concern regarding noise from fireworks.
- 7.66 Officers are not aware that there have been any noise complaints raised with Environmental Health regarding noise from dogs during the site's occupation. In any event the 'Agent of Change' principle in planning which is designed to protect existing premises from the threat of closure from noise complaints would be relevant here and would likely mean no action would be appropriate on noise grounds.
- 7.67 The fence between the two sites is substantial and there is no reason to suggest that children from the site would climb over to retrieve balls and it would be for parents to supervise their children to prevent this in any case. Likewise, there is no evidence to indicate that the kennels would be any more exposed to firework noise than before the site was established.

Other Matters

- 7.68 It is noted that the previous appeal Inspector considered the implications of the Police, Crime, Sentencing and Courts Act 2022. This relates to making it a criminal offence when a person(s) who resides on any public or private land without permission and is causing, has caused or is likely to cause significant harm, obstruction, harassment or distress. The Inspector previously found no evidence that the appeal would disproportionately affect the applicants and that this was not a matter that needed to be weighed separately in the planning balance. No new evidence has been provided that requires this debate to be reopened.

Gypsy Status and Personal Circumstances

- 7.69 The Council has previously accepted that the applicants have gypsy status, meeting the definition of travellers set out as defined by the PPTS 2015.
- 7.70 There are a number of other considerations that need to be taken into account in making this decision. These include the best interests of the children living on site, which arises from a duty under Article 3.1 of the United Nations convention on the right of the child. Case law is clear that the best interests of the child are a primary consideration.
- 7.71 Officers are advised that the six plots are home to 12 adults and 17 children. A number of the children, though not all, attend local primary schools and therefore there is a need to be within the locale to facilitate this. Some of the adults and children have health needs, some significant, though it is worth clarifying that none of these relate directly to hearing issues. Residents are enrolled in local medical practices, hospitals and dentists etc and rely on these facilities in connection with their health needs. The pending threat of homelessness is adding anxiety and stress to the situation as they have nowhere else to go. The applicants have explained they have local family connections, both on and off-site, and circumstances which mean that they need, for personal reasons, to live in the Newark area. There are no available sites with capacity for these families to relocate to.
- 7.72 These personal circumstances are very similar to when the appeal was redetermined in June 2022, where the Inspector summarised these in paragraph 52 of their decision letter. At that time, the headteacher of a local school where some of the children attended wrote in to support their case expressing their concern if the children were forced to move on with no permanent home. The Inspector accepted that:

'...the current location is a family home where the children have flourished in a positive and stable environment which has contributed to the academic and emotional progress of the children, and that to change this now would be detrimental to their social and emotional well-being as well as their ability to thrive academically.'

The Inspector went on to confirm in paragraph 54 that:

'The weight that should be given to the personal circumstances of the residents of the site, having regard to the best interests of the children, continues to be substantial, particularly the benefits associated with the healthcare and schooling arrangements.'

I fully concur with these statements.

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 The previous appeal decision is a material consideration in determining this appeal. At that time the Inspector noted at para 69 of their decision:

'...the harm to the designated open break policy is not diminished due to the new matters raised, and the combined harm resulting from this, the flood risk and the harm to living conditions of residents on the site is substantial. In my view and particularly significant is the harm arising from the noise environment which renders the site unsuited to residential occupation of caravans for any appreciable length of time due to concerns over disturbance and long term health and well-being, not least in the relation to the children occupying, or who may occupy the site in future, Road traffic noise is a known health hazard and whilst its effect specifically on children's health is less understood, this adds to my own concerns.'

- 9.2 The previous appeal decision has helped focus the issues to three key areas. Notwithstanding this, the scheme has been assessed afresh.
- 9.3 The site is in a sustainable location having regard to accessible facilities nearby. It has been concluded and accepted that the Council has a grossly unmet gypsy and traveller need, with just a 1.48 year land supply of sites (compared with the required 5 year supply) which is a significant material consideration that weighs in favour of the application. The lack of alternative sites available to occupiers also weigh in favour of an approval.
- 9.4 Additionally, this site provides a settled base that facilitates access to health and education for the group of families that enables them to live together conducive to gypsy culture. The best interests of the children living on the site carry significant weight.
- 9.5 There would be some adverse impacts from the development upon the designated open break, however following additional work commissioned by the Council, these are now better understood and are considered localised and capable of partial mitigation with landscaping to the south-west. Some limited harm would however remain unmitigated but on its own should not be fatal.
- 9.6 Whilst the Environment Agency did not object to the potential site allocation, they have raised objection to this application due to concerns that Part (b) of the Exception Test has not been passed. Specifically, that Plot 6 would not be safe during a flood event and they have highlighted potential issues with regard to access and egress. It

has been established that nothing more can be done to protect Plot 6 albeit there are means of managing flood risks in terms of access. I am aware that such risks are managed relatively successfully at Tolney Lane albeit I note replicating this approach could place emergency responders under more pressure. Clearly the site is not ideal from a flood risk perspective but most of the risk, though not all could be effectively managed.

- 9.7 Foul drainage is also a matter that has not been adequately resolved, and there is currently insufficient information for the EA to be satisfied that this is the best option for the environment.
- 9.8 Noise remains a significant concern having attracted an objection from Environmental Health and is not a matter that can be adequately mitigated. The applicants' submission suggests they would purchase new static homes to allow the upgrade to modern British noise standards for sleeping – this would not be considered reasonable to require by condition (due to cost) and in any event wouldn't fully mitigate the harm identified as it would mean windows could never be open at nighttime, and in any case external noise cannot be appropriately dealt with.
- 9.9 I note that the previous inspector gave some additional weight to the fact that it was intentionally undertaken without planning permission which must follow here.
- 9.10 No adverse impacts have been identified in respect of highways impacts or any other matters and these are neutral in the balance.
- 9.11 As can be seen above, there are various competing components to the scheme which all need to be considered and weighed against each other. Whilst it is tempting to take the view that occupants are satisfied with their environment, when considering the site has been previously found by two Inspectors to be inherently unsuitable for a gypsy and traveler site due to concerns over disturbance from the noise environment and long term health and well-being, and that objections remain from our own Environment Health professionals, this does make it more difficult to come to a different view.
- 9.12 Taking this alongside the flood risk and the harm (albeit localized) to the open break, these matters all point to a position that the scheme gives rise to significant harm. Therefore, on balance, officers consider that the harm identified is significant enough to outweigh the positives of the scheme. Officers have considered the previous Inspector's 'proportionality assessment' at paragraphs 76 to 81 and concur with the conclusions of that. For all of these reasons it is recommended that permission be refused.

10.0 Reason for Refusal

01

In the opinion of the Local Planning Authority, the development would give rise to significant harm to occupiers of the site. The harm would arise from the local noise environment and from risk of flooding as part b of the Exception Test in relation to flood risk is failed for placing vulnerable occupiers at risk during a flood event. The risk and harm cannot be avoided or adequately mitigated. Some harm would also arise to

the Newark and Winthorpe Open Break as landscaping would only partly mitigate the impacts. The application also fails to demonstrate that the foul drainage accords with the national drainage hierarchy as it involves the use of a non-mains foul drainage system without adequate justification. When considering the harm identified cumulatively, this amounts to significant and substantial harm, and despite the positive factors weighing in favour of the development, including but not limited to the lack of land available for gypsy and traveller pitches, the harm is not outweighed.

The proposal is therefore contrary to Core Policies 5, 9 and 10 of the Newark and Sherwood Amended Core Strategy DPD (adopted March 2019) and policies NUA/OB/1, DM5 and DM12 of the Development Plan, as well as being contrary to the National Planning Policy Framework 2023, Planning Practice Guidance and the Planning Policy for Traveller Sites (2015) which are material planning considerations.

Informatives

01

The application was refused on the basis on the following plans and documents.

- Application form
- Site Location Plan, drawing no. JOO4777-DD-01
- Site Plan as Existing, drawing no. JOO4777-DD-02
- Site Plan as Proposed, drawing no. JOO4777-DD-03
- As Proposed Dayroom, drawing no. JOO4777-DD-04
- Desktop Review and Assessment Report 1565.DRAR.00, by dBA Acoustics, 12.03.24
- Planning Statement (and 18 Appendices including topographical survey, Stateley Caravans Acoustic Performance Report and 16 appeal decisions), March 2024
- Confidential Statement of Personal Circumstances
- Flood Risk Assessment Rev 00, by SLR dated 1st July 2024
- Foul Drainage Justification, submitted 13th September 2024
- STW Assets Plan, submitted 13th September 2024
- Rebuttal to EA objection, 7th October 2024
- Further comments on EA position by agent, 22nd October 2024

02

The application is contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant in order to reduce the issues even though not all problems arising can be overcome.

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 in this location.

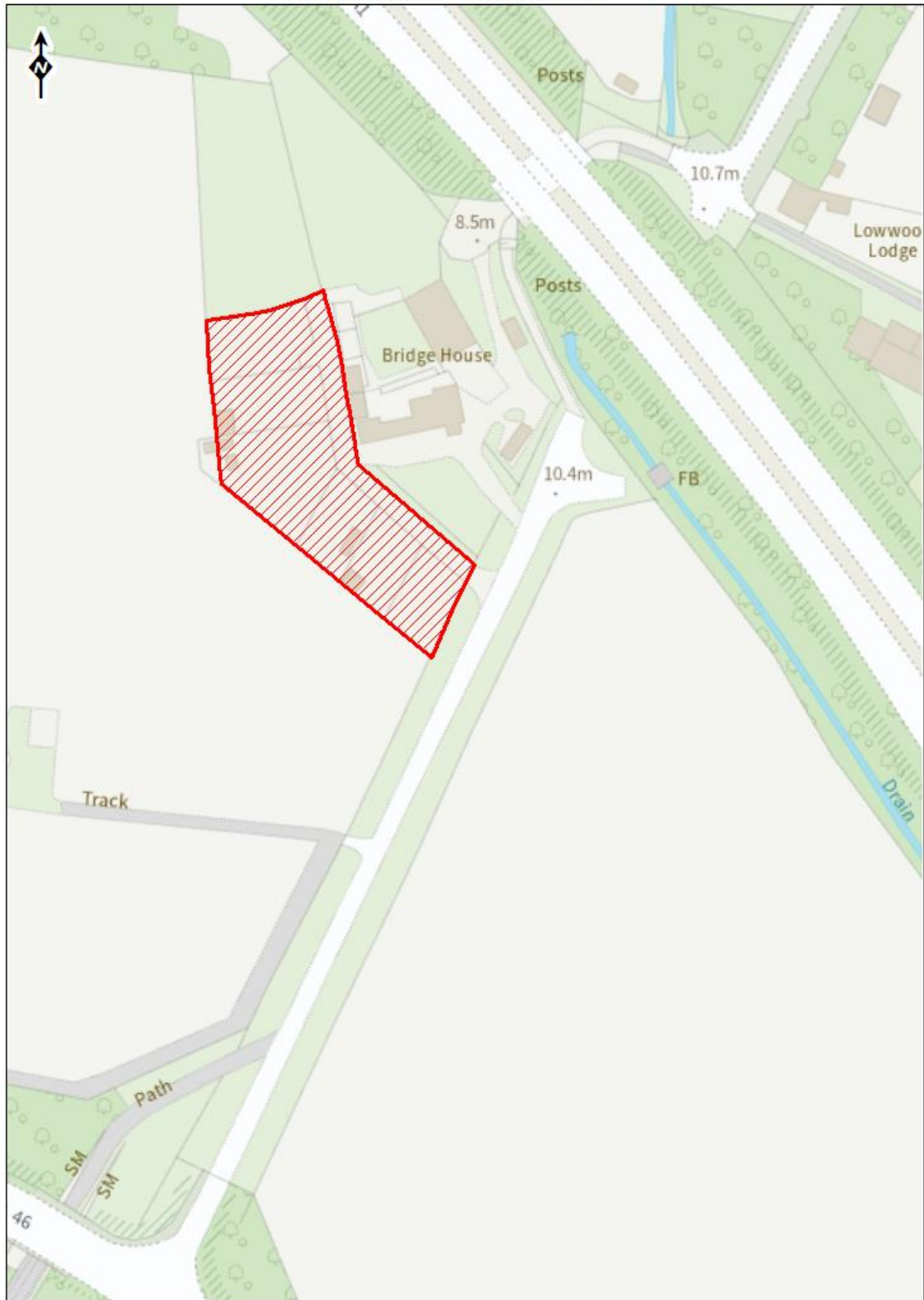
04

This application is exempt from mandatory Biodiversity Net Gain as it was made prior to the date when it came into effect and in any event because it is retrospective.

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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Appeal Decisions

Hearing held on 20 January 2022

Site visit made on 20 January 2022

by Grahame Kean B.A. (Hons), Solicitor HCA

an Inspector appointed by the Secretary of State

Decision date: 13 June 2022

Appeal A Ref: APP/B3030/C/18/3196972

Land to the north-west side of Winthorpe Road, Newark, Nottinghamshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms C Smith against an enforcement notice issued by Newark & Sherwood District Council.
 - The notice was issued on 15 February 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of land to residential occupation including the stationing of caravans and the erection of a structure.
 - The requirements of the notice are:
 - A. Cease the use of the 'land' for residential occupation.
 - B. Remove from the land all caravans and residential 'paraphernalia' including all structures and any planting undertaken on the land.
 - C. Remove from the land, the structure marked 'X' on the attached plan.
 - The period for compliance with the requirements is:
 - A. 56 days after this notice takes effect.
 - B. 58 days after this notice takes effect.
 - C. 63 days after this notice takes effect.
 - The Appeal A is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - This decision supersedes that issued on 29 April 2019. That decision on the appeal was remitted for re-hearing and determination by consent order of the High Court.
-

Appeal H Ref: APP/B3030/C/18/3217010

Land to the north-west side of Winthorpe Road, Newark, Nottinghamshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms C Smith against an enforcement notice issued by Newark & Sherwood District Council.
- The enforcement notice was issued on 09 November 2018.
- The breach of planning control as alleged in the notice is: Without planning permission, undertaking operational development consisting of the carrying out of works to the land including, but not limited to the laying of materials to create hardstanding, the erection of a building and associated concrete base (marked X on the attached Plan A) and the burying of utility cables, pipes, containers and associated infrastructure.
- The requirements of the notice are:
 - A. Remove from the land all hard standing and all associated materials (including

- but not limited to crushed stone and road plainings).
 - B. Remove from the land the building and associated concrete base as marked X on plan A.
 - C. Remove from the land all pipes, cables, containers and associated infrastructure.
 - D. Return the land to its former condition before the unauthorised developments took place.
 - The period for compliance with the requirements is:
 - A. 84 days after the notice takes effect.
 - B. 56 days after the notice takes effect.
 - C. 100 days after the notice takes effect.
 - D. 112 days after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - This decision supersedes that issued on 29 April 2019. That decision on the appeal was remitted for re-hearing and determination by consent order of the High Court.
-

Decisions

Appeal A

1. It is directed that the enforcement notice be corrected and varied as follows:
 - (i) Delete the words "to residential occupation including the stationing of caravans" from the description of the breach of planning control at section 3, and substitute "to use as a caravan site, including the stationing of caravans and their use for residential purposes";
 - (ii) Delete the words "Cease the use of the 'land' for residential occupation" from the requirement at section 5A and substitute "Cease the use of the land as a caravan site"; and
 - (iii) Delete the time periods for compliance and substitute: "For steps A, B and C, within 12 months of the date this notice takes effect".
2. Subject to those corrections and variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal H

3. It is directed that the enforcement notice be varied by substituting the time periods for compliance with: "For steps A, B and C, within 14 months of the date this notice takes effect".
4. Subject to this variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural matters

5. The original appeal decisions were challenged in the High Court under s289 of the Act. By a Consent Order dated 26 October 2020 it was ordered that the appeals be remitted for rehearing and redetermination in accordance with the opinion of the Court. The opinion of the Court is contained in its judgment

Smith v Secretary of State for Housing Communities and Local Government [2020] EWHC 3827 (Admin).

6. The previous decision letter of 29 April 2019 determined separate appeals (there referred to as Appeals B, C, D, E, F and G). It is only appeals A and H that will be reconsidered. The other appeals were considered by the Inspector on ground (g) only, but there were no s289 appeals against those decisions.
7. The challenge succeeded on a single ground that related to that part of the decision not to grant temporary planning permission, the reason being that it failed to apply paragraph 27 of the Government's policy statement, Planning Policy for Traveller Sites dated August 2015 (PPTS) and failed to treat the lack of a 5-year supply of deliverable sites as a "significant material consideration".¹
8. Relevant changes in planning circumstances may now bear upon the original decision. I have read the decision and as to those parts not challenged, I agreed with the Inspector's findings and conclusions for the reasons there stated, save for one matter in relation to flood risk described below.
9. However I held a hearing to give an opportunity for the parties to express what planning circumstances if any had changed since the original appeal decision was issued, and to address how if at all the redetermination should differ from the original decision. I have considered the further evidence submitted in writing and given orally before me.

Main issues potentially affecting the redetermination

10. The importance of PPTS/paragraph 27 in this context is spelt out at in *Smith* at paragraph 66 of the judgment and at the end of paragraph 70 the court made it clear that the crucial point at issue was that the question of whether or not to grant a temporary planning permission "*did require weighing up competing harms to health and welfare which... means that a failure to treat the absence of a 5-year supply as a significant material consideration could have affected that balance in this case.*"
11. The appellant's submission on "Material Changes in Circumstances" dealt with the following topics, I have altered slightly the headings to make better sense of the issues:
 - the 2020 Gypsy and Traveller Accommodation Assessment (GTAA);
 - the Open Break policy: August 2019 review;
 - the Open Break policy: A46 Newark Bypass upgrade;
 - road noise and subsequent grant of permission by the A1M in Newark;
 - flood risk issues;
 - personal circumstances; and
 - implications of the Police, Crime, Sentencing and Courts Bill (PCSCB).
12. I made it clear in a pre-hearing note that I expected representations to identify exactly why any change in circumstances is crucial to the redetermination of the appeal in accordance with the reasons for the successful challenge, - ie why, having regard to the competing harms to health and welfare, the absence of a 5-year supply as a significant material consideration should affect the

¹ Paragraph [61] of the judgment.

balance that was made in the decision, when considering whether or not to grant a temporary planning permission.

13. Paragraph 27/PPTS is part of a suite of policy prescriptions known as "*Policy H: Determining planning applications for traveller sites*". The appellant's agent states that the weight to be attached to this policy is strengthened, by which I understand that the weight to be attached to the factors advanced in support of the appeal that come within the scope of Policy H, are now so strong as to require a different outcome. As was stated in her submissions, there has been no change to Policy H. It is a relevant national policy that I have to consider.

Reasons

2020 Gypsy and Traveller Accommodation Assessment (GTAA)

14. Before the issue of temporary permissions is reached, I should note that in paragraph 64 of *Smith* it is said that PPTS identifies the relevance of considering whether or not there is a 5-year supply more generally and "*it seems self-evident from those other references that it is intended to be a material consideration generally, both for plan making and decision making*", and, I might add for the avoidance of doubt, in considering permanent as well as temporary planning permissions.
15. The National Planning Policy Framework advises (footnote 38) that a five year supply of deliverable sites for travellers should be assessed separately, in line with the PPTS policy. In the absence of specific guidance as to the weight to be given when considering the grant of a permanent permission, the question of weight is clearly established as one for the decision maker.
16. In February 2020 the GTAA was published for the Council's area confirming a significant immediate and unmet need for more pitches. Clearly the options open to the appellant remain limited due to the absence of any socially provided Gypsy and Traveller sites and the fact that most pitches in the Council's area are on privately owned sites. The Council is developing a strategy for pitch delivery which, despite some delays, will help meet the need in an Amended Allocations & Development Management DPD.
17. However the Council remains unable to identify other sites that are currently available or deliverable for Gypsy and Travellers, and it is unable to demonstrate a five-year land supply contrary to PPTS.
18. I agreed with the previous Inspector that the lack of alternative sites and a five-year supply were matters that weighed in favour of a grant of planning permission. But these were matters that were essentially agreed at the earlier hearing (see paragraphs 14 and 15 of the decision letter). The attempt by the appellant (Ground 1 of the challenge in *Smith*) to say they had not been properly considered, failed.
19. Nevertheless I have taken into account the additional information on the progress made by the Council to reach a stage where alternative sites may become available. Also considered is the current state of play with the supply of pitches and the updated assessment of need, which appears to be immediate for 77 pitches during 2019-2024 to address unauthorised and temporary development. But as I say, the basic points about lack of alternative sites where the appellant could relocate to and the lack of a five-year supply (itself reflective of a local need) were already conceded. It is noteworthy that

neither the court nor the appellant subsequently criticised the Inspector for failing to give particular weight to these factors in the planning balance.

20. That said, I agree that the level of need is now appreciably larger than estimated in 2019, although the appellant agrees that there is no reason to believe that allocations will not be agreed within the next 5 years which will help to address the identified need. In my view the lack of a five-year supply of sites in the Council's area and the absence of any alternative site to which the appellant can relocate are matters to which I should give significant weight.

The Open Break policy: August 2019 review

21. In the Allocations and Development Management DPD, 2013 (DPD) there is an "Open Breaks" Policy NUA/OB/1 that aims to keep certain areas under development pressure free from built development. As the previous Inspector had found, the development in relation to both appeals has had a harmful effect on the open break between Newark and Winthorpe, contrary to the aims of this policy. The harm is substantial in terms of the development in Appeal A, and as it relates to Appeal H, contributes to the overall negative impact of the development. It is contrary to relevant development plan policy in that regard.
22. In August 2019 the Newark Open Breaks Review, published on behalf of the Council, assessed whether the extent of the open break designations was appropriate to meet policy objectives. The appellant now says that the concerns of the previous Inspector do not appear to be shared in the relevant passages of this assessment. However there was some confusion as to whether those passages actually referred to the appeal site or some other caravan storage use within the area. At any rate I see no good reason to disturb the findings of the previous Inspector (cf paragraph 25 of the DL) that the caravans on the appeal site have a noticeable and negative impact on the openness of the area on account of their size and prominence.
23. Nor do I see a good reason to revisit the concerns expressed by the Inspector about the visual impact of the development and so forth on this issue; they do not go to the weighing up of competing harms to health and welfare. Nor can the review paper reasonably be argued to be a change in planning circumstances. The appellant seeks to introduce new evidence which does not really amount to a change in planning circumstances and does not in any event cause me to take a different view than did the Inspector on the issue.
24. The appellant argues further, through their agent that it is unclear why the previous Inspector considered that such a condition could not be attached to an eventual permission limiting occupation to a fixed number of touring caravans.
25. This is an issue that should have been raised at the earlier hearing or the decision challenged as a material omission. In fact the Inspector made it quite clear (DL/26) that static units would be preferable anyway as offering more comfortable living standards for the families. It seems to me, reading the decision as a whole that he had clearly in mind the adverse noise impacts on the occupants, so that in doubling the number of vans as in fact was requested, the impact on openness would inevitably be notably worse than at present.

The Open Break policy: A46 Newark Bypass upgrade

26. The appeal site is within an "Important Noise Area" as identified under UK Noise Mapping, due to its proximity to not one, but two major highways, the A1

- and A46. As noted in *Smith* (paragraph 70 of the judgment) the Inspector ultimately concluded in strong terms that his concerns in respect of noise were so great he could not conclude that continued occupation would be in the best interests of the children. I agreed with that conclusion. I also note that he took into account the noise assessment prepared for the appellant and others.
27. It is said now that Highways England proposes an upgrade to the A46 Newark bypass which if it goes ahead as proposed would impact the Newark to Winthorpe Open Break far more significantly than the appeal development.
28. Although the route options for the scheme have not been selected and work is only “potentially” scheduled to start in 2025, the bypass appears critical to the growth point status² of Newark. It seems that the new stretch of road would cross the Open Break to the east of Winthorpe Road through sub area 14 which is adjacent to sub area 13 wherein lies the appeal site.
29. I also note that whoever authored the Newark Open Breaks Review was of the view that it was sub areas 12 and 13 that provided an open break between Newark and Winthorpe³. Sub area 14 was not mentioned. It is too early to come to any firm view as to whether the proposals would impact significantly on the open break between the built-up area of Newark and Winthorpe such as would lessen the weight that must be given to the harm caused by the appeal development conflicting with Policy NUA/OB/1.

Road noise and grant of permission by A1(M)

30. The previous Inspector thoroughly assessed the available information about the noise environment and found that it was unsuited to the residential occupation of the caravans. I need not repeat that material. It formed a key part of his decision. I inspected the site including inside some of the caravans and I see nothing in his conclusions with which to disagree. The noise from nearby sources is indeed noticeable and likely to be disruptive, with potential for sleep disturbance. In policy terms the development is not in a place that would promote health and well-being with a high standard of amenity for existing and future users and is contrary to key development plan policies. There are adverse effects that cannot be adequately mitigated. National policy is to the effect that such living conditions should be avoided.
31. Now the appellant points out that the Council has since resolved to grant temporary permission for a traveller site immediately adjacent to the A1 Trunk Road and East Coast main railway line, and noise levels there were found to be not dissimilar to those for the current appeal site. I am not prepared to undertake a close comparison of the new traveller site with the appeal site because even if the noise levels at that development are what they are claimed to be, they do not provide a compelling reason to override the harmful effects of the road noise and noise from other sources that are and would be experienced by present and future occupants of the appeal site.
32. Indeed, and it is concerning that, in downplaying the harm to the open break policy due to the impending bypass works, nowhere does the appellant mention what effect, if any, the rerouting of the A46 in closer proximity to the appeal site, might have in terms of noise impacts. Considering the plans of the options

² Growth Points are centres of economic activities created or stimulated in disadvantaged regions with a view eventually to becoming centres of economic growth.

³ p54 of the appellant’s submissions.

provided by the appellant it seems clear to me that should the works be carried out and if the bypass became operational, the traffic would be that much closer to the families.

33. The works would expand the A46 running past and towards the appeal site to become a dual carriageway in both directions, in addition to creating a new flyover over the A1 in close proximity to the appeal site. The Council provided illustrations of the options, the "Noise Important Areas", the current layout and a visual representation of the proximity of the flyover to the appeal site. The detail of landscaping and other mitigation measures would have to be considered as the project develops, but I have no doubt that the potential exists for a greater adverse impact as a result of the closer proximity of a dual carriageway to the site.
34. Another matter raised by the appellant is whether one could require mobile homes to comply with BS 3632:2005. This standard is designed for park homes and to be more consistent with conventional forms of housing so that park homes are suitable for permanent residential use. The Inspector was quite clear (paragraph 58 of his letter) that it might be possible to design a mobile home with noise attenuation in mind, but occupants would have windows and doors open in warmer weather and it was unrealistic to expect windows to be closed for most of that time.

Flood Risk issues

35. The previous decision noted that the site is in Flood Zone 2 (FZ2), an area with a medium probability of flooding. The sequential test was passed on account of the absence of alternative available sites. However "highly vulnerable" development, including full-time occupation of caravans, should not be located in FZ2 areas unless the exception test were met, informed by a flood risk assessment (FRA). The Council accepted the first part of that test was met.
36. The second part required a site-specific FRA showing that the development will be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. The Inspector found that due to the "highly vulnerable" condition of its users and assessed risk of flooding using various models, it was not safe for occupants of any of the units to continue to reside at the site, and the development would not be safe in the terms of its physical characteristics.
37. There was no discussion of other sites with greater flood risk, but the Inspector noted several pitches in FZ2 or FZ3 in Newark had emergency plans setting out evacuation procedures and so forth. Given the additional strain on emergency services due to the vulnerability of the development he had concerns whether the residual risk could be managed safely, even if emergency plans were required by condition. Therefore the second part of the exception test was not met, contrary to paragraph 163(b) and (d) of the NPPF and Core Policy 5(6) of the CS and Core Policy 5(6) of the Amended CS. Those concerns weighed also against a grant of planning permission for the operational development.
38. I agreed with those concerns. The Council thought that the flood risk had not materially changed since the first hearing but the appellant's consultant had asked the Environment Agency (EA) about any change to flood modelling since the last appeal. The EA had contended that the outputs from the 1 in 1000 year event in the current model should be used as the proxy for the 1 in 100

- year event, plus 50% allowance for climate change, meaning that on such an event all pitches on the site would be flooded.
39. Nowadays when assessing flood risks, account should be taken of potential impacts of climate change by applying "climate change allowances" set out in the Planning Practice Guidance (PPG). These allowances are predictions of anticipated change for peak river flows and other events that cause flooding. Different allowances are used for various climate scenarios at different periods over the next 100 years. The guidance aims to increase resilience to flooding, a key part of sustainable development.
 40. During the hearing the main parties and myself consulted, by means of a link to the Defra web site, the peak river flow allowances for the Lower Trent and Erewash Management Catchment where the appeal site lies. The appropriate allowance for highly vulnerable developments in FZ2 areas uses the "central allowance" which is based on the 50th percentile, that is the point at which half of the possible scenarios for peak flow fall below it, and half fall above it.
 41. The discussion between the EA and the appellant's expert was hampered firstly, by their virtual participation on the Teams platform that caused communication issues, but secondly, the main parties had not ensured that the experts on whom they relied had agreed in advance on what had materially changed, if anything, in terms of predicted flood levels on the appeal site.
 42. If no precise modelling is established for particular scenarios of the development, including the question of a temporary permission, the experts should have been briefed in good time to enable them to produce an agreed bespoke position on what common ground exists or the material differences between them, if they wished to offer revised figures for estimated flood depths on the appeal site. In fact, at the end of their evidence the appellant's agent conceded that there had not been a lot of change, she considered Plot 6 only was at risk, and the access road. The Council maintained that the second part of the exception test was still unmet.
 43. In the first place, I have doubts about whether the first part of the exception test is truly met, given that it expects there to be "*wider sustainability benefits to the community*". Elements of a sustainable location import, in my view environmental conditions that promote health and well-being, or at least no significant contraindications. The noise environment of the site is a significant constraint as it is in an Important Noise Area as identified under UK Noise Mapping, a locational constraint that in my view affects its wider sustainability.
 44. For this part of the test to meaningfully assess whether wider community benefits outweigh the flood risk, it would seem logical to include the particular locational disbenefits to the community of an otherwise accessible site that meets a defined need, as integral to the assessment.
 45. The agreed statement in the earlier hearing merely stated that "the sequential test is passed". It is also instructive to review the previous appeal statement as to Part 1 of the exception test (drafted by a different agent). There, the correct test is acknowledged and various decisions held up as examples, but emphasis was on the test being met due to sites meeting a defined need, without any demonstrable appreciation of the balancing exercise expressly required, ie whether the benefits actually do outweigh the assessed flood risk.

46. In the present appeal and setting aside the issue of “net” benefits to the wider community, it is unclear that in terms the evaluation was in fact judged to outweigh the flood risk. This can only sensibly be done, looking at the actual risk where information is available, not a generalised recognition there is a “medium probability” between a 1:100 and 1:1,000 annual probability of river flooding in a FZ2 area. Reviewing the evidence, the revised figures for predicted flood depths at these locations still give cause for concern. I consider the most vulnerable part of the site remains at the north, where pitch 5 (where the appellant resides) and pitch 6 are located, and the access road outside the site.
47. Then, the appellant seeks to compare sites on Tolney Lane where many traveller sites in the Council’s area are located. It is said the flood risk is “far” greater and “more serious” than on the appeal site where the flood risk could be managed with an evacuation plan, and “*permission is sought for just 6 families*”. I do not accept this argument. The fact that other sites may be at greater risk is hardly a compelling reason to accept occupation of a site which is in itself unsafe, the occupants would still be “highly vulnerable”.
48. Another reason I do not accept this argument is that in effect the development being characterised as minor, and I note that although the PPG definition of “minor development” including changes of use, is excepted from sequential or exception tests, this does not apply to changes of use to a caravan site.
49. I conclude that it has not been satisfactorily demonstrated that the development passes the first part of the exception test, or that if it does, that it is otherwise appropriate or necessary and safe in its location, in accordance with the Framework.

Personal circumstances

50. All the previous information as to the appellant’s circumstances is relevant. In addition I have taken into account the information and further information provided that relates to other families in the unchallenged appeal decisions, insofar as they might bear on the well-being of the appellant and her family, for example the degree of interdependence and support that the families give each other, which is a recognised feature of Gypsy culture.
51. In this connection I was provided with a statement detailing the material change in circumstances since the previous hearing with several exhibits, including statements and letters from doctors, hospital trusts, and schools. As noted previously, apart from the Smiths the other residents are not related to one another but are all English Gypsies with long-standing relationships and a strong desire to live together as a group.
52. The key changes on plot 5 are that SM is now living with his wife, the appellant. The appellant has health issues and her daughter A suffers with hypermobility issues and has ongoing referrals to hospital, she was due to start a college course soon. On plot 1, N will now have transferred to secondary school and Mr B Snr has had health issues. On plot 2, Mr D Snr has developed further health issues and on plot 3 L has experienced serious health issues. On plot 4 G is to re-marry someone with two young children, G has health issues and is awaiting surgery. On plot 6, G and her daughter B now live there with husband and father J. They have one new child and a 3rd is expected. B was to start college to prepare for an art foundation course, she has been out of

education for some years. J's health needs had not been fully explained previously and these were now detailed in the submitted correspondence.

53. In addition the headteacher of Mount CoE primary school wrote and spoke compellingly in support of the appeal, expressing her concern if the children of the appellant's family were forced to move on with no permanent home. I accept that the current location is a family home where the children have flourished in a positive and stable environment which has contributed to the academic and emotional progress of the children, and that to change this now would be detrimental to their social and emotional well-being as well as their ability to continue to thrive academically.
54. The Council did not dispute any of this information. I listened carefully to this and the other evidence from various family members and the appeal's supporters. The weight that should be given to the personal circumstances of the residents of the site, having particular regard to the best interests of the children, continues to be substantial, particularly the benefits associated with healthcare and schooling arrangements.

Implications of the Police, Crime, Sentencing and Courts Act 2022

55. The appellant's agent made submissions about the implications of a proposed new criminal offence where a person who resides or intends to reside on any public or private land without permission and is causing, has caused, or is likely to cause, significant harm, obstruction, harassment or distress. It was not then relevant as the proposals were not enacted, however the Bill received Royal Assent on 28 April 2022 and is now an Act of Parliament.
56. Powers to deal with unauthorised encampments are not new. However, the proposals now also amend the Criminal Justice and Public Order Act 1994 to broaden the list of harms that can be considered by the police when directing people away from land; and increase the period in which persons so directed must not return, from 3 to 12 months. Amendments to the 1994 Act allow police to direct trespassers away from land that forms part of a highway.
57. It is said that under the new powers, the nomadic lifestyle of travellers could be criminalised and they would live with the threat of their homes, ie caravans, and vehicles being impounded if they risked stopping on unauthorised roadside encampments. Now it is said, even a single Gypsy or Traveller could be caught by the Act, making life on the road a very difficult lifestyle to follow.
58. I do not agree with the appellant's agent's argument that it is a separate factor to weigh in the balance in this appeal, over and above the obvious risk of homelessness should the notice be upheld. She argues that use of the new powers would disproportionately affect a specific minority and ethnic community and would be likely to conflict with equality and human rights legislation.
59. It seems to me that this factor could only be material in an appeal such as the one before me where, either the primary legislation itself is incompatible with human rights and equality legislation or, notwithstanding the safeguards against the use of the powers, there was very strong evidence that they would or are being used in an arbitrary manner against Gypsies and Travellers.
60. As to the first argument, when the Bill was first introduced the government wrote to Rt Hon Harriet Harman QC MP Chair, Joint Committee on Human Rights explaining these issues and why the Act was compatible with the

European Convention on Human Rights (ECHR). It did recognise this as a sensitive issue, and that

"the offence, seizure power and amendments to the 1994 Act would interfere with the rights of anyone who lives in a caravan or movable vehicle, most notably the Gypsy Roma Traveller community, whose nomadic existence is given special consideration by the courts (see Chapman v United Kingdom (2001) 33 EHRR 18)."

61. In this appeal the rights of English Gypsies deserve no less consideration.
62. However the powers are in accordance with law, set out precisely in statute, and the aims of preventing crime and disorder and protecting the rights of landowners and the local community are clearly legitimate in our society. The government states that they are necessary to tackle harms caused by unauthorised encampments.
63. Secondly, there are safeguards inherent in the exercise of the powers. The damage, disruption or distress caused or likely to be caused by residing on land without permission, must be significant for there to be an offence. Moreover it is a reasonable excuse not to leave the land such that the police will be expected to take into account welfare considerations, such as children in the caravans, and would allow sufficient time for the families to move themselves and their vans to a new location. It is stated in the government's letter justifying the ECHR compatibility of the new powers, that a constable will conduct a balancing exercise between the rights of the person residing in their vehicle against the rights of the landowner and/or the local community. I do note however that this expectation is not made a statutory requirement.
64. At any rate removal from the appeal site would not inevitably expose occupiers to criminality, due to the balancing exercise that the police have to do in any given situation. Therefore whilst the general risk of homelessness is of course a significant consideration, the particular risk of families being criminalised just by being homeless and staying put on the roadside would seem to be lower in this appeal, precisely because of their vulnerable status and circumstances.
65. That of course depends on constables on the ground being able to evaluate fairly the balance required between the rights of the families in their caravans on the roadside (as that is where they may well end up if the EN is upheld) on the one hand), and the "*rights of the landowner and the local community*" pertaining in any given situation, on the other hand.
66. The Council may be committed to removal of all illegal encampments in its district, and it may have been urged to consider a network of emergency stopping places to enable the Police to use their powers to move households on, but yet there is no formal transit provision in its area⁴. Such actions or inactions by the Council may well make life for homeless Gypsies and Travellers more perilous but as far as criminalising their behaviour is concerned, the duties of the office of a constable are exercised independently.
67. There is no actual evidence adduced by the appellant in this appeal to substantiate a view that such decisions would be taken arbitrarily, in a disproportionate way.

⁴ February 2020 GTAA Final Report February 2020.

68. I would add that clearly there are measures that the Council could consider, given the Article positive obligation to facilitate the gypsy way of life and, as a minority group, to give special consideration to their needs and lifestyle, for example by alleviating the distress of families who find themselves homeless and on the road, by following the ORS recommendations to use negotiated stopping agreements, allowing caravans to be sited on suitable ground for an agreed, limited time, with limited services such as water, waste disposal and toilets. Unfortunately and as the report notes, there is no formal transit provision in Newark and Sherwood.

Planning balance and whether a temporary permission is justified

69. I have reviewed the planning balance in respect of Appeal A and Appeal H conducted by the previous Inspector. The harm to the designated open break policy is not diminished due to the new matters raised, and the combined harm resulting from this, the flood risk and the harm to living conditions of residents on the site is substantial. In my view and particularly significant is the harm arising from the noise environment which renders the site unsuited to residential occupation of caravans for any appreciable length of time due to concerns over disturbance and long-term health and well-being, not least in relation to the children occupying, or who may occupy the site in future. Road traffic noise is a known health hazard and whilst its effect specifically on children's health is less understood, this adds to my own concerns.

70. As previously found, the development is clearly contrary to, as well as national guidance, relevant policies of the development plan read as a whole. Some additional weight against the development must be accorded to the fact that it was intentionally undertaken without planning permission.

71. The lack of alternative sites immediately available for the occupants, the proven local need for gypsy and traveller accommodation in the district, and the admitted lack of a 5 year supply to meet that need, amount to significant considerations in favour of the development. Similarly, the fact that the site provides a settled base to facilitate access to education and healthcare enables the appellant family and the group to live together in a way conducive to gypsy culture, and bearing in mind the protected characteristics of that group in relation to public sector equality duties that have to be discharged, carry significant weight in favour of the development.

72. I have not found on the evidence that the existence of the new powers to criminalise trespass on another's land, is material in this appeal for the reasons given. Of course it is implicit that the lack of immediately available alternative sites may result in homelessness if the notices were upheld.

73. However, I have concluded that the combined harm and conflict with the development plan clearly outweigh the material considerations in favour of the development such that I should not grant a permanent planning permission for a caravan site, including the development to which Appeal H relates for the reasons previously given.

74. Nor do I consider that a temporary permission is appropriate in this case, for all the reasons given by the previous Inspector but in addition having for the avoidance of doubt, considered paragraph 27 of PPTS which advises that the lack of a 5-year supply of deliverable sites should be treated as a "significant material consideration" in this context. Although the identified harm might be

experienced for a limited period, the site is inherently unsuitable for the unauthorised use and continued presence of the development for longer than is necessary is unjustified. It would not be in the best interests of the occupants to remain there and it is uncertain when new sites may come forward. Continued occupation will only exacerbate the potential for harm to the health and well-being of occupants whether, for example, from the adverse noise environment or the unpredictable timing of a flood event.

75. The changes in circumstances put forward, insofar as they are material, taken with the now overt consideration of paragraph 27, do not strengthen the case for a temporary permission sufficiently to cause me to take a different view from the previous Inspector.

Proportionality assessment

76. Decisions that affect a community's ability to place their caravans on land interfere with the right to respect for their home and their ability to maintain their identity and to lead a private and family life that follows their nomadic tradition. Thus a refusal to grant permission for the family to continue to reside at the site engages Article 8 and concerning enjoyment of possessions, Article 1 of the First Protocol. Interference must be proportionate and necessary.
77. Article 3(1) of the United Nations Convention on the Rights of the Child also provides that the best interests of children must be a primary consideration in all actions of public authorities. The best interests of the children would include being able to continue education and accessing health facilities without the difficulties of access presented by not having a settled base.
78. The implications of having to leave the site are more significant for some, including the appellant family, than others as found previously. Review of the families' circumstances have pointed up continuing health and education concerns among individuals, the impacts of which are of course felt among the group as a whole. However although these impacts are concerning and I have great sympathy with those affected, I do agree with the previous Inspector that the interference with the home and family life of the appellant and her family is necessary and proportionate having regard to legitimate land use planning objectives of protecting the environment and public safety. It follows from the factors I have considered as to a temporary permission, that my conclusions on proportionality are the same here. Therefore to dismiss the appeals and uphold the enforcement notice would not result in a violation of the rights of the occupants under equalities or human rights legislation.
79. Dismissal of this appeal may well have the likely effect of forcing the families back onto the road and I recognise that will be in a situation where powers are available to criminalise behaviour of roadside travellers refusing to move, or perhaps simply being unable realistically to do so, as directed by the police.
80. Also considered in these appeals is the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 that sets out the need to eliminate unlawful discrimination and advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. However, considering possible steps to address that inequality I find no alternatives that would be appropriate to the circumstances and have less harmful impacts. Weighing all the relevant considerations in the balance, I consider that upholding each of the notices would be proportionate.

Conclusion on the ground (a) appeals

81. For the reasons set out above, I conclude that planning permission should not be granted for the material change of use and operational development in relation to Appeal A or for the operational development in relation to Appeal H.

The ground (g) appeals

82. The issue here is whether the compliance periods are reasonable and proportionate. For the reasons given in the decision of 19 April 2019 I agree the notices should have appropriately extended compliance periods. The appellant now requests an extended compliance period of 12 months plus two months for the operational development for alternative accommodation to be sought, and schooling and other arrangements to be made, although she states that schooling is not the most important issue, but social well-being of families.

83. The Council has no objection to such extension. I agree that for these reasons a twelve months compliance period plus an extra 2 months for the operational development would be reasonable and proportionate periods within which to comply with the requirements of the notices.

84. Whether or not the Council might invoke its power to extend the compliance period without prejudicing its right to take further action, would be a matter entirely for the Council.

Conclusion on Ground (g) Appeals

85. For the reasons given above, I conclude that the period for compliance within the notices notice falls short of what is reasonable. Accordingly, I shall vary the enforcement notices prior to upholding them. The appeals on ground (g) succeed to that extent.

Grahame Kean

INSPECTOR

APPEARANCES

FOR THE APPELLANT

M Heine	Planning consultant, Heine Planning
Mr Walton	SLR Consulting Limited

FOR THE LOCAL PLANNING AUTHORITY

Ms Lockwood	Senior Planning Officer
Mr Briggs	Planning Enforcement Officer
Mr Norton	Business Manager, Planning Policy
Mr Barton	Environment Agency
Mr Goldsmith	Environment Agency

INTERESTED PERSONS

Mrs Kent	Headteacher, Mount Church of England Primary School
Ms Mounsey	Interested person



Report to Planning Committee: 11 November 2024

Business Manager Lead: Oliver Scott– Planning Development

Lead Officer: Steve Cadman, Planner (Development Management)

Report Summary			
Application No.	23/02141/FUL		
Proposal	Change of use of agricultural field to dog exercise area, construction of hardstanding, fence and gates.		
Location	Land at Highfields, Gonalston Lane, Epperstone		
Applicant	Mr A Worrall	Agent	Mr Tim Fletcher, TF Architectural Services
Web Link	23/02141/FUL Change of use of agricultural field to dog exercise area Land At Highfields Gonalston Lane Epperstone NG14 6AZ (newark-sherwooddc.gov.uk)		
Registered	15 th December 2023	Target Date EOT	9 th February 2024 EOT: 15 th November
Recommendation	That Planning Permission is APPROVED subject to the Conditions detailed at Section 10		

This application is being referred to the Planning Committee in accordance with the Council’s Constitution, due to a referral by the local ward member Councillor Roger Jackson, due to its impact on the privacy of neighbouring properties.

1.0 The Site

- 1.1 The site is a 0.65Ha approx. agricultural field, located in the Green Belt, approximately 1km east of Epperstone, 1.45km west of Gonalston, and set back approximately 430m to the north of Gonalston Lane. It is reached via a private tarmacked vehicle access (known as Netherfield Farm Lane) from Gonalston Lane to the south.
- 1.2 To the north of the site lies the dwelling of Highfields, with its associated outbuildings. The complex of farm buildings and livery stables of Netherfield Farm lie beyond this. To the south of the field lies the neighbouring dwelling of Netherfield Farm House with its associated outbuildings.

- 1.3 There is a change in levels across the site, with the land rising to the north. The site is surrounded by open fields to the west and east.
- 1.4 There is a small timber shelter on the site and historical aerial photographs show that a shelter of similar size to the existing appears to have been present on the site since circa 2007, although its position appears to have changed slightly.
- 1.5 The site has the following constraints:
- The site is located in the Nottingham-Derby Green Belt;
 - Some of the buildings at Netherfield Farm to the north of the site are considered to be non-designated heritage assets;
 - There is a watercourse at the western boundary of the site, and a small part of the site adjacent to this has been identified as being at low to medium risk of surface water flooding.

2.0 Relevant Planning History

- 2.1. None relevant.

3.0 The Proposal

- 3.1 The application seeks permission for a change of use from an agricultural field to a dog exercise area.
- 3.2 The scheme also includes the construction of a 1.8m metal mesh gate with a mesh panel on either side of the gate to the entrance and the installation of a 'Grasscrete' parking and manoeuvring area including two 3m by 5.5m parking spaces. The gateway would form part of a boundary of 1.8m high deer fence that fully encloses the site.
- 3.3 The site is currently operated by 'Mutts Go Nuts' and is used as an area for people to visit and exercise their dogs in a secure location. The business currently operates during the hours of 8am to 6pm daily. The applicant advises that dog exercising is available for hourly slots throughout the day, giving a maximum of 10 customer bookings. There would be no organised classes, and booking is limited to one hirer at a time, booked via an online portal. The field is otherwise used for dog exercise. It is anticipated that there would usually only be one vehicle on site at a time, and that they would use the gate and an existing hardstanding area (sufficient space to turn to enable vehicles to enter and leave in forward gear). The site operator provides customers with fresh water, shade, some limited seating and waste bins. The seating comprises two moveable picnic benches, one in the field, and one in the wooden field shelter that provides shelter/shade.
- 3.4 The applicant advises that those hiring the field are expected to keep the field clean and to keep off the grass with their vehicles. Customers are not permitted to arrive before their allocated slot and must leave before the end of the slot to avoid overlap with customers and avoid problems along the access off Gonalston Lane.



Proposed Site Plan

3.5 Documents assessed in this appraisal:

- Application form, received by the Local Planning Authority on 4th December 2023
- Location Plan, received by the Local Planning Authority on 4th December 2023
- Existing and Proposed Block Plan, drawing no. 670-2023-01 Rev C, received by the Local Planning Authority on 16th October 2024
- Planning Statement, dated November 2023, by town-planning.co.uk, received by the Local Planning Authority on 4th December 2023
- Flood Risk Assessment, dated December 2023 by town-planning.co.uk, received by the Local Planning Authority on 15th December 2023.

4.0 Departure/Public Advertisement Procedure

- 4.1 Occupiers of 3 properties have been individually notified by letter. A site notice has also been displayed near to the site.

Site visit undertaken on 23rd January 2024

5.0 Planning Policy Framework

5.1. Epperstone Neighbourhood Plan

- Policy EP11: Design Principles
- Policy EP18: Traffic Management in Epperstone Village.

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

- Spatial Policy 1 Settlement Hierarchy
- Spatial Policy 2 Spatial Distribution of Growth
- Spatial Policy 4A Extent of the Green Belt
- Spatial Policy 4B Green Belt Development
- Spatial Policy 7 Sustainable Transport
- Core Policy 9 Sustainable Design
- Core Policy 10 Climate Change
- Core Policy 12 Biodiversity and Green Infrastructure
- Core Policy 13 Landscape Character

5.3. Allocations & Development Management DPD (2013)

- DM5 Design
- DM7 Biodiversity and Green Infrastructure
- DM8 Development in the Open Countryside
- DM12 Presumption in Favour of Sustainable Development

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 and due to be examined between 5th – 14th November 2024 by the Planning Inspectorate. There are unresolved objections to amended versions of policies DM5, DM7, DM8 and DM12 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

Planning Practice Guidance (online resource)

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

Landscape Character Assessment SPD (December 2013)

- 5.5. On 30 July 2024 the Government published a consultation on proposed reforms to the NPPF (2023). The consultation and draft NPPF do not constitute Government policy or guidance. However, they are capable of being material considerations in the assessment of this application.

6.0 Consultations and Representations

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

Statutory Consultations

6.2. Local Highway Authority -

The proposed use is already operating, via an existing access. It is promoted as a dog walking field available for hire on an hourly basis. Similar ventures within the district are known to also offer such fields for classes and events, attracting multiple customers and vehicles at one time. Gonalston Lane is a narrow country lane popular with walkers, cyclists and equestrians and is not suitable for attracting numbers of vehicles at one time, therefore a condition to ensure the field is not used for classes or events is considered necessary.

Town/Parish Council

Epperstone Parish Council

- 6.3. The Parish Council unanimously object to this planning application. They believe it is misleading and advise that the business has been operating illegally for a number of years. They also raise concerns about impact on Netherfield Farmhouse, impact of traffic and visitors, the potential for dogs to spook horses at the nearby livery and general impact on the countryside.

Representations/Non-Statutory Consultation

6.4. Environmental Health Officer

Given the close proximity of the dog exercise area and other residential property, there is potential for noise and disturbance, which might include dog barking and vehicle movements, which may be greater than that already experienced in the vicinity.

When and how often barking is likely to occur is difficult to predict, although the proposal would provide scope for dogs to attend the exercise area for up to 10 sessions per day. While this may be limited to only one booking per hour, this does not prevent more than one dog attending each booking. While barking might not ultimately amount to statutory nuisance, it could result in a material change in the character of the noise environment.

Information provided with the application suggests that existing mature vegetation would likely provide some noise attenuation for the closest neighbouring property, but does not provide any information to support that assertion or demonstrate how effective that may be in the circumstances. The effectiveness of vegetation in attenuating noise is likely to be influenced by a complex interaction between the site, seasonality, and noise frequency. In reality this might not provide significant attenuation or eliminate barking noise at the closest neighbouring property.

The exercise facility does not require a licence under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. One person at a time on the field should not cause a noise nuisance but if a complaint was received then we would investigate the issue.

Security of the field and any entrance or exit is adequate to prevent any dog/s escaping into the surrounding area where livestock are grazing. For example there must be at least 2 secure physical barriers (gates) between a dog and any entrance or exit from the field to the outer curtilage to avoid escape.

Fencing must be:

- strong and rigid
- sufficient height
- in good repair to prevent an escape
- dig proof
- there must not be any sharp edges, projections, rough edges or other hazards which could injure a dog.

6.5. British Horse Society

Have concerns about horses being startled by vehicles on the lane, and by dogs barking, running at the gate, or running loose on the lane. This could cause injury to the horses, to people or to dogs.

Pointed out that horse are “flight animals” with a greater range of hearing than humans so are more likely to become stressed or panicked.

Provided summary statistics for 2023 listing the reported frequency of road incidents involving horses, and the frequency of incidents between dogs and horses.

6.6. Comments have been received from 17 third parties/local residents that can be summarised as follows:

- Harm to road safety through causing excessive traffic on an inadequate lane and through the entrance to the site being inadequate.
- Horses using the livery stables to the north need to ride past the site to exercise, so dogs and traffic using the site present a hazard and risk of injury to horses, riders and others (if horses bolt).
- Risk of dogs escaping.
- Harm to residential amenity through loss of privacy and noise.

- The site is poorly managed which creates problems such as:
 - o Cars parking on the verges, creating an obstruction and resulting in dogs not being contained within the site and posing a risk to horses.
 - o No vetting of the number of people, dogs and cars due to the online booking system and lack of security locks.
 - o No rules or warnings requiring users to be considerate.
 - o People using the site at inappropriate times (e.g. 7am in the morning).
 - o No 'break' between bookings, leading to more than one user being present.
 - o The owner of the site being absent when problems occur.
- The site has been operating for 2 ½ years without the necessary approvals.
- There is an existing dog exercise field within 3 miles and the need for a further facility has not been proven.
- Thefts (of garden implements) from neighbouring properties have happened recently
- The vehicle access onto the lane should not be described as "existing" as it has only been created recently, and without the permission of Nottinghamshire County Council (the owner of the lane).
- Fear of dog attacks and crime.

7.0 Comments of the Business Manager – Planning Development / Appraisal

7.1. The key issues are:

1. Principle of development
2. Impact on the Green Belt
3. Impact on Residential Amenity and on other nearby land uses
4. Impact on Highway Safety
5. Flood Risk 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. Spatial Policy 1 'Settlement Hierarchy' of the Amended Core Strategy DPD sets out the settlement hierarchy for the District, with Epperstone identified as an "other village". It also states that outside of Newark and identified Service Centres and Principal Villages, development within the Green Belt will be considered against Spatial Policy 4B 'Green Belt'.

- 7.4. Spatial Policy 4B 'Green Belt Development' of the Amended Core Strategy DPD provides clarification that, outside of a specific list of locations and specific types of development, proposals will be judged according to national Green Belt Policy.
- 7.5. National Green Belt Policy is set out in NPPF section 13 'Protecting Green Belt Land', with the purposes of Green Belt set out in paragraph 143 and specific guidance on assessing development proposals affecting the Green Belt provided in paragraphs 152-156.
- 7.6. Paragraph 143 states that the Green Belt serves five purposes:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land
- 7.7. Paragraph 152 states that 'inappropriate development' which is, by definition, harmful to the Green Belt, should not be approved except in very special circumstances.
- 7.8. Paragraph 153 directs local planning authorities to give substantial weight to any harm to the Green Belt, with 'very special circumstances' existing only where the potential harm to the Green Belt and any other harm resulting from the proposal is clearly outweighed by other considerations.
- 7.9. Paragraph 155 states that a number of other forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it. This includes, at part e), material changes in the use of land.
- 7.10. The proposal under consideration is for a change of use, with the associated operational development limited to fences and gates together with a "Grasscrete" parking and manoeuvring area. There is an existing timber shed in the field, but this was in place prior to use as an exercise field, so no new buildings have been constructed. For clarity, the Council's Enforcement Team have confirmed the applicant's assertion that the shed was present in at least 2016 and therefore immune from enforcement (applying the 4 year rule).
- 7.11. The fencing along the western and eastern sides of the fields is of metal mesh and is installed against existing hedgerows and is considered to have minimal impact on openness.
- 7.12. Along the northern boundary of the site, the fencing also consists of metal mesh, but here it is supported by a mixture of vertical timber poles and horizontal timber rails. There is no significant vegetation at this side of the site, so this fence is more visually prominent than the others. This fence is however situated at the boundary between

the garden belonging to Highfields to the north, and the former field to the south, and the fact that there is no hedge at this point means that some kind of fence, most likely one capable of restraining animals, is effectively made necessary in this location. The type of fencing used is relatively inconspicuous, for example when compared with the type of close boarded fence which is often used to enclose gardens, and a similar fence of up to 2m in height could be installed under the permitted development rules, without the need to apply for planning permission.

- 7.13. In any case, given that the fence is largely open in character, that it would be screened from public vantage points along the lane to the east by the hedge at the boundary, it is considered that it would not be significantly harmful to the openness of the Green Belt.
- 7.14. The existing fencing along the southern boundary is considered to be inadequate where it is not backed by a hedge by the Council's Environmental Health section and so fencing in the form of a 1.8m-high, wire mesh "deer fence" has been proposed along the eastern part of this boundary. An additional condition has been recommended requiring a planting scheme to provide a screening hedge at the open part of the southern boundary. It is considered that a mesh fence would have a minimal impact on openness, particularly when installed adjacent to a hedge. While the use of privacy screening at the boundary while planting becomes established would necessarily reduce openness to some degree, it's impact would only be equivalent to that of a typical boundary hedge, and would only be temporary, and it is not therefore considered as providing sufficient grounds for a refusal.
- 7.15. The provision of an additional gate (1.8m high), as recommended by the Council's Environmental Health section also requires a small amount of associated fencing to provide enclosure at its sides. Given their relatively small scale and location adjacent to the hedge at the eastern boundary, the only public vantage point from which these additions would be clearly visible would be from immediately adjacent the entrance on the lane to the east. From here, it is considered that the visual impact would only be slightly greater than the visual impact of a single, stand-alone gate. Given this, it is considered that these would not be harmful to the openness of the Green Belt either.
- 7.16. Given its minimal height and open nature, the "Grasscrete" hard standing would have a minimal visual impact, and it is considered that it would not be harmful to openness either. While provision has been made for 2 parked cars, it is expected that there would normally be just a single car parked on the site. Even with 2 cars parked, given the limited scale and temporary nature of the parking, this is not considered to be harmful to the openness of the Green Belt either.
- 7.17. It is possible that use of the site as a dog-walking field may involve other paraphernalia, however it is considered that this is unlikely to have a greater visual impact than the types of paraphernalia required for the keeping of livestock for example.
- 7.18. In summary, it is considered that the proposal would not be harmful to the openness of the Green Belt from either a spatial or visual perspective. Furthermore the proposal

is not considered to conflict with any of the purposes of the Green Belt set out in paragraph 143. The proposal is therefore not considered to constitute inappropriate development in the Green Belt.

Loss of Agricultural Land

- 7.19. Section 15, paragraph 180 part (b) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of the best and most versatile agricultural land.
- 7.20. The site's previous and lawful use was as agricultural land, and it has been provisionally assessed as a mixture of Grade 2 and Grade 3 land in the Agricultural Land Classification (ALC). At least part of the site therefore falls within the category of the Best and Most Versatile (BMV) agricultural land. However, I note the limited area of the site at approximately 0.65Ha (only part of which is grade 2) and the fact that the proposal would not involve the permanent loss of the land for agricultural use. The proposal does not therefore conflict with part b) of paragraph 180 of the NPPF.

Impact on Landscape Character and Visual Amenity

- 7.21. Core Policy 9 'Sustainable Design' of the Amended Core Strategy DPD requires new development proposals to, amongst other things, "achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments". In accordance with Core Policy 9, all proposals for new development are assessed with reference to Policy DM5 of the Allocations & Development Management DPD, which, amongst other things, require new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing.
- 7.22. Core Policy 13 states that, based on the assessment provided by the Landscape Character Assessment SPD, the Council will work with partners and developers to secure new development which positively addresses the implications of relevant landscape Policy Zone(s), ensuring that landscapes have been protected and enhanced.
- 7.23. Policy DM5 'Design' of the Allocations and Development Management DPD states that in accordance with the requirements of Core Policy 9, all proposals for new development shall be assessed against a number of criteria, including a requirement that new development must reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing.
- 7.24. The Council's Landscape Character Assessment SPD identifies the surrounding landscape as forming part of the Mid Nottinghamshire Farmlands Regional Character Area, with the site itself located in the Thurgarton Village Farmlands with Ancient Woodlands Policy Zone. The actions for this particular policy zone are as follows:

Landscape Features

- Conserve permanent pasture and seek opportunities to restore arable land to pastoral.
- Conserve hedgerow planting along roadsides, seek to reinforce and enhance as appropriate.
- Conserve the biodiversity and setting of the designated SINCs, seek to enhance where appropriate.
- Conserve and enhance woodland/plantation blocks, seek to reinforce green infrastructure as appropriate.

Built Features

- Conserve the rural character of the landscape by concentrating new development around existing settlements.
- Conserve and respect the local architectural style and local built vernacular in any new development.

The proposal does not include any built features and is considered to be compatible with all of the listed actions relating to landscape features.

- 7.25. As discussed above, the fencing along the northern boundary is not visually obtrusive, while the fencing along all of the other boundaries would consist of mesh and would sit adjacent to hedges which are in place at the moment or to hedges which are to be required by condition. In view of this, it is considered that the visual impact of the fencing would be minimal and that it would not harm the character of the local landscape, or harm visual amenity more generally. Similarly, the temporary nature of the screening fence would ensure that it would not have a significant harmful impact on the surrounding landscape.
- 7.26. In summary, it is considered that the proposal would not be harmful to the character of the surrounding landscape, or to visual amenity generally. It therefore complies with Core Policy 9, Core Policy 13, Policy DM5 and has regard to paragraph 155 of the NPPF.

Impact upon Residential Amenity and Neighbouring Land Uses

- 7.27. Policy DM5 'Design' of the Allocations and Development Management DPD states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. It also states that separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity, including loss of privacy.
- 7.28. The comments of the Council's Environmental Health Officer regarding the potential for noise and disturbance as a result of dog barking are noted.

- 7.29. The dog exercise field is located close to Netherfield Farm House to the south of the site. It sits adjacent to the driveway at the northern side of the house, and also to some outbuildings which sit adjacent to the south-west corner of the site. It is set back by more than 10m from the house itself, but it is evident that part of the curtilage of this property close to the boundary, has been used for the installation of a table with brick seating, and a timber bench has also been installed close to the northern boundary.
- 7.30. The separation distance between the house and the boundary is considered to be sufficient that any noise impacts on the house itself would remain within acceptable limits. As regards the outdoor space around the house, it is acknowledged that some areas (including two outdoor seating areas) are close to the boundary, but the main garden belonging to the house is located to its south, and is unlikely to be significantly affected. While impacts on the seating area do weigh negatively in the planning balance, these impacts are given limited weight.
- 7.31. It is considered that potential noise and disturbance can be mitigated by the use of planning conditions restricting the hours of use of the site, and also the intensity with which the site is used. In addition, it is considered that a condition requiring visual screening in the form of planting at the boundary would reduce the likelihood of dogs running up to the boundary and barking in response to activity around the outbuildings or in the driveway area, and so it is recommended that such a condition be attached. Since this planting will take time to become established, temporary screening in the form of a 2m high section of BeGrit Garden Privacy Fence Screening will be provided in the interim.
- 7.32. The proximity to Netherfield Farm House also means that privacy impacts must be considered. At present the generally open nature of the boundary, together with the fact that the exercise field sits at a higher level, means that people using the exercise field are able to look through to the northern part of the curtilage, and to the northern side of the house. While, as noted above, the main garden belonging to the house is located to the south, and would remain largely unaffected, there would be a significant loss of privacy to the table and seating area adjacent to the northern boundary. Appropriate planting at the boundary would however be sufficient to mitigate this impact, so with a condition requiring this in place, it is considered that the impact would be acceptable. Planting would also mitigate any loss of privacy to the ground floor windows in the house and conservatory as well. As outlined above, temporary screening can be provided while the planting becomes established.
- 7.33. Given that the first floor of the house is higher up, and that the land rises to the north, a planting scheme will not be sufficient to fully block sight lines between the whole of the field and the facing window on the first floor of Netherfield Farm House.
- 7.34. This window provides light to a landing area, rather than to a habitable room which is likely to be occupied for substantial periods of time. It is acknowledged that landing areas are typically used for purposes such as passing between bedrooms and bathrooms, and also typically contain doors which open onto both of these types of room.

- 7.35. Achieving complete privacy to landing areas like this one is likely to be difficult. A farmer visiting the field to the north to feed livestock, or the driver of a delivery van pulling into the driveway would be able to see into the landing window to some degree. Typically, the occupiers of the house would be aware of this as they go about their daily activities.
- 7.36. It is acknowledged that, when compared with use as an agricultural field or paddock, the field to the north is likely to be visited more frequently as a result of the proposal, but the difference would be one of degree.
- 7.37. Given that the landing area would typically only be used briefly for passing between other rooms, and given that it could not be used with an expectation of complete privacy prior to the introduction of the dog exercise field, it is considered that the overall impact on the privacy afforded to this neighbouring dwelling would be modest, and in officer's opinion providing insufficient grounds for a refusal.
- 7.38. There is also the potential for noise and disturbance from dogs to impact upon the stables to the north, principally through horses using the lane at the eastern side of the site. In this case however, the hedge at the boundary provides a good degree of visual screening, except in the area around the gate. Furthermore, it is often hard to completely separate dogs from equestrian uses in rural areas, with them often having to co-exist to some extent – for example on public bridleways etc., so it is considered that it would be unreasonable to attempt to prevent any kind of proximity here.
- 7.39. The comments and recommendations from the Environmental Health Officer for Public Protection are noted, specifically their recommendations for:
- The use of 2 gates to prevent dogs escaping when the outer gate is opened.
 - Fencing which is of strong and rigid, of sufficient height, and dig proof.
- 7.40. Given the narrowness of the lane and its use by horses, the use of 2 gates is considered to be necessary to prevent dogs escaping and potentially startling horses or indeed creating problems for pedestrians or vehicle traffic on the lane.
- 7.41. The recommendation of dig-proof fencing would undoubtedly be necessary for land uses like kennels, where dogs are contained within a relatively small area for long periods of time. In practice however, it is considered that any given dog is only likely to be using the exercise field for relatively short periods, they are not contained within a highly restricted area, and they would be expected to be under some degree of observation during this time. For these reasons, dig-proof fencing is not considered to be necessary here, with it instead being the responsibility of the owner and operator to make repairs to the ground near any fencing, should this become necessary.
- 7.42. The existing fencing along most of the western and eastern sides of the site sits adjacent to thick hedges, and the combination of both fence and hedge is considered to be sufficient to provide adequate containment. The fencing at the northern

boundary serves to separate the site from the owner's house and is also considered to be adequate.



Photograph of existing fence at the south-eastern corner of the site

- 7.43. The fence in place along the southern boundary is considered to be of a sufficient height, but is not backed by a substantial hedge for its full length, so the installation of a better engineered and more durable solution in the form of 1.8m high mesh 'deer fencing' along the eastern part of the southern boundary has been agreed with the applicant. It is therefore recommended that a condition requiring that this takes place is attached. Concern has been raised by local residents that the use of the site should cease until the fence is installed on safety grounds. However, officers feel that the existing arrangements do provide some separation and therefore a 6 month period has been suggested by which the deer fence should be installed (to enable the applicant sufficient time to mobilise).
- 7.44. In view of the above, with appropriate conditions in place, any loss of residential amenity is considered to remain within acceptable limits. The proposal is therefore in accord with Policy DM5.

Impact upon Highway Safety

- 7.45. Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD requires development proposals to provide safe, convenient and attractive access for all, to be appropriate for the highway network, and to ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected. They should provide appropriate and effective parking.
- 7.46. Policy DM5 'Design' of the Allocations and Development Management DPD states that

provision should be made for safe and inclusive access to new development.

- 7.47. Nottinghamshire County Council Highways has concerns that any future use for classes and events would attract more vehicles than is appropriate, given the narrowness of Gonalston Lane and its potential for conflicts with walkers, cyclists and equestrians. This concern is considered reasonable, and it is noted that the use of the private Netherfield Farm Lane as an access makes this condition even more necessary. A condition has been recommended requiring that vehicle parking by users of the site be restricted to the parking area shown on the proposed plans and also be restricted to no more than 2 cars at any one time. This condition has the effect of preventing use for events etc. involving increased numbers of cars, and so a more specific condition relating to training and events is not considered to be necessary.
- 7.48. While the Local Highway Authority have raised no objections, subject to the above restriction being imposed, their comments relate to impacts on the public highway only. While the tarmacked lane known as Netherfield Farm Lane is owned by Nottinghamshire County Council, it is not adopted public highway, and as such falls outside their remit.
- 7.49. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. As regards its impacts on public highways, it is considered that the proposal would not cause either of these two distinct levels of harm.
- 7.50. As well as impacts on the public highway, any impacts on a private lane which might render it unsafe, or which would cause significant levels of inconvenience to other users are also material planning considerations.



“Passing opportunities” along the Lane

- 7.51. The ability of vehicles, horse riders etc. to pass each other varies significantly along the lane. At its southern end there is an approximately 250m long section without a verge wide enough to pull onto, and without any field / residential or other access which can be used as de facto “passing opportunities”. Along the rest of the lane to the north of this section there is either an entrance or a verge at 100m intervals or less.
- 7.52. The 250m section described above has an area of verge at its northern end, while at its southern end, adjacent Gonalston Lane, the tarmacked area is wide enough to accommodate 2 cars.
- 7.53. It is noted that this 250m stretch of the lane is straight with good visibility, so the absence of places to pull in is not considered as rendering it significantly unsafe. It may however result in users having to go forwards or backwards to one end or the

other of this part of the lane in order to allow passing to take place.



Bends in the lane

- 7.54. The lane is approximately 630m long, and contains 3 clearly-identifiable bends:
- a. Approx. 25m from junction with Gonalston Lane (at the entrance)
 - b. Approx. 260m from junction (at the end of the first straight)
 - c. Approx. 440m from junction (at Netherfield Farm House)
- 7.55. All of these bends involve a slight rather than an acute change in direction (i.e. they are not “hairpin” bends).

- 7.56. At all of these locations there is a hedge or trees on the inside of the bend which reduces visibility. However, given that the angle of the bend is moderate, there is visibility through the bend as it is approached and as you pass through. In addition, there are verges, entrances or other “passing opportunities” at or close to all 3 of the bends. The bends are not therefore considered to be unduly hazardous.
- 7.57. It is acknowledged that Netherfield Farm Lane is a narrow, private lane, which is not of a standard to be adopted as public highway by the Local Highway Authority. This does not however mean that it is automatically unfit for use by vehicle traffic of any kind.
- 7.58. The likely projected usage of 20 vehicle movements a day resulting from the exercise field (based on individual bookings, assuming a single car per visit) is not considered to be inappropriate for a private lane of this type. The most significant negative consequence likely to result from the increased traffic is for users to have to reverse or change direction on the lower part of the lane, so as to allow others to pass. Given the number of traffic movements, and the short amount of time that each of them would spend traversing the lower part of the lane (approx.. 20-30 seconds at speeds of 20-30 mph), this situation is expected to occur relatively infrequently, and to amount to an occasional minor inconvenience rather than a hazard or a significant obstruction to the use of the lane.
- 7.59. In view of the above, the proposal is considered to be in accordance with Spatial Policy 7 and Policy DM5.

Flood Risk and Drainage

- 7.60. Core Policy 9 ‘Sustainable Design’ of the Amended Core Strategy DPD states that new development will be expected to demonstrate a high standard of sustainable design, setting out a number of specific requirements, including the pro-active management of surface water.
- 7.61. Core Policy 10 ‘Climate Change’ states that the Council is committed to tackling the causes and impacts of climate change, including through steering new development away from those areas at highest risk of flooding, and also through ensuring that new development positively manages its surface water run-off to ensure that there is no unacceptable impact in run-off into surrounding areas or the existing drainage regime.
- 7.62. Policy DM5 ‘Design’ states that all proposals for new development shall be assessed against a number of criteria, including (in part 9) avoidance of areas at highest risk of flooding and the inclusion of measures to pro-actively manage surface water.
- 7.63. The proposal is located in Flood Zone 1 and is not therefore at increased risk of fluvial flooding. However, small parts of the site near the watercourse at its western side are at low, medium or high risk of surface water flooding, as are parts of the access lane to the east.
- 7.64. The Flood Risk Assessment accompanying the application concludes that the field shelter and hard standing should be safe for the lifetime of the development and that,

given the small extent of the site which is at high risk, that the proposal is acceptable. This assessment is considered reasonable.

- 7.65. The proposal would not therefore be at an unacceptable risk of flooding and would not increase the risk of flooding elsewhere and is therefore considered to comply with Core Policy 9, Core Policy 10 and Policy DM5.

Biodiversity Net Gain (BNG)

- 7.66. This application is for retrospective planning permission, and the development was carried out prior to the introduction of the requirement for BNG for “small sites” in April 2024. Provision of a Biodiversity Net Gain is not therefore required for this application.

Other Matters Raised in Representations

- 7.67. There is some frustration that the application is not described as ‘retrospective’. The Council recognises that the business is already in operation. However, the description of ‘retrospective’ is not *development*. It is not unlawful to submit an application retrospectively, and retrospective planning applications should be considered on their individual planning merits.
- 7.68. It is recognised that there might be other dog exercise fields in this part of the District. Potential competition between individual businesses and the financial impact on existing businesses is not a material consideration. A demonstration that the facility is ‘strictly necessary’ is not therefore required.

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. In conclusion, it is considered that the proposal accords with Epperstone Neighbourhood Plan policies EP11, EP18 with Spatial Policies 1, 2, 3, 4A, 4B, 7, Core Policy 9, Core Policy 10, Core Policy 13 and with policies DM5, DM6, DM8 and guidance within the NPPF, and there are no other material reasons why this application should not be permitted, subject to appropriate conditions.

10.0 Conditions

01

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

- Location Plan, received by the Local Planning Authority on 4th December 2023.
- Existing and Proposed Block Plan, drawing no. 670-2023-01 Rev C, received by the Local Planning Authority on 16th October 2024

Reason: So as to define this permission.

02

The approved alterations to the entrance of the site, the replacement deer type fencing at the southern boundary and the temporary screening fence shall be implemented within a period not exceeding 6 months from the date of this permission.

Reason: In the interests of public safety and residential amenity.

03

Within 3 months of the date of this permission, full details of soft landscape works to provide a screening hedge at the southern boundary of the site as indicated on drawing no. 670-2023-01 Rev C shall be submitted to and approved in writing by the Local Planning Authority. 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: Inadequate information has been provided and this condition is necessary to protect the residential amenity of nearby residents and in the interests of visual amenity and biodiversity.

04

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

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

05

The existing hedge along the southern boundary shall be retained at a minimum height of 2 metres for the lifetime of the development. Any trees or shrubs which die are removed or are seriously damaged or diseased shall be replaced by trees or shrubs of a similar size and species to those replaced.

Reason: In the interests of residential amenity.

06

The 2m high BeGrit Garden Privacy Fencing at the southern boundary, as shown in drawing no. 670_2023_01 Rev C, shall be retained until the approved soft landscaping provides satisfactory visual screening to a height of a minimum of 2 metres, and shall not be removed without the prior written consent of the Local Planning Authority

Reason: In the interests of residential amenity.

07

Parking for the development shall only be within the parking area shown on drawing no. 670_2023_01 Rev C and shall comprise no more than 2 vehicles at any time.

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

08

The use hereby permitted shall only take place during the following hours:-

08:00h to 18:00h Monday – Saturday

10:00h to 16:00h on Sundays and bank holidays

Reason: In the interests of residential amenity.

09

The site shall not be floodlit or illuminated in any way.

Reason: In the interests of residential amenity and to prevent light pollution

Informatives

01

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

02

The 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 given that there is no net additional increase of floorspace as a result of the development.

03

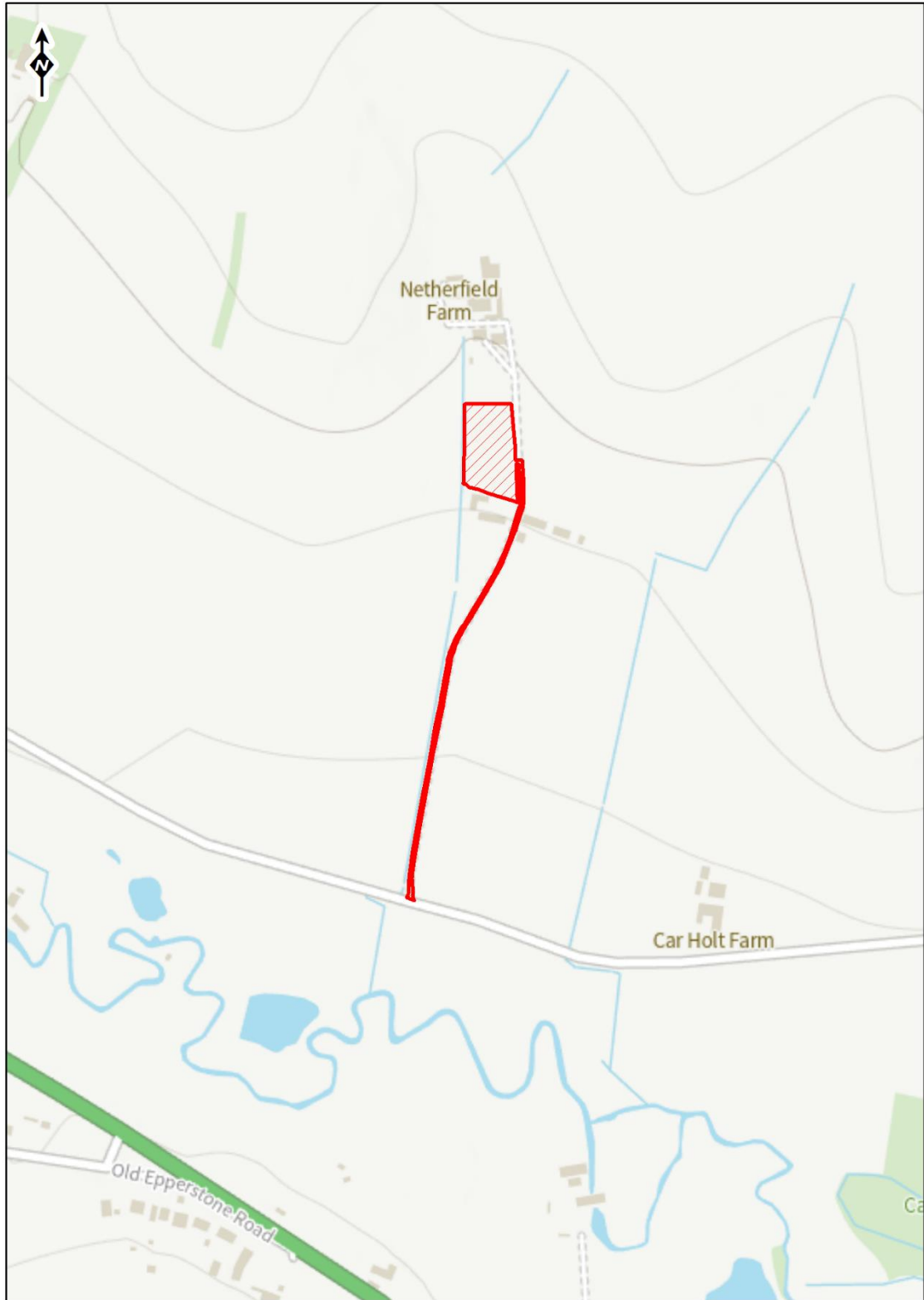
Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because the following reason or exemption is considered to apply:

- The approval is a retrospective planning permission made under section 73A.

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 11 November 2024

Business Manager Lead: Oliver Scott – 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 / 18.11.2024
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.

The application was deferred at the June 6th meeting for Officers to discuss the proposals with Severn Trent Water noting the concerns regarding drainage locally. The outcome of these discussions is included in the report below. Since that time a lawful development certificate was also submitted (see the Planning History section for further detail) so there was a delay to the application being presented pending the determination of that application.

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. **24/01194/LDCE** - Application for lawful development certificate to confirm use of existing land known as Rolleston Village Hall as a local community use. *Certificate issued 9th September 2024 with the following site area:*



- 2.2. **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.



- 2.3. 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.

- 2.4. 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.

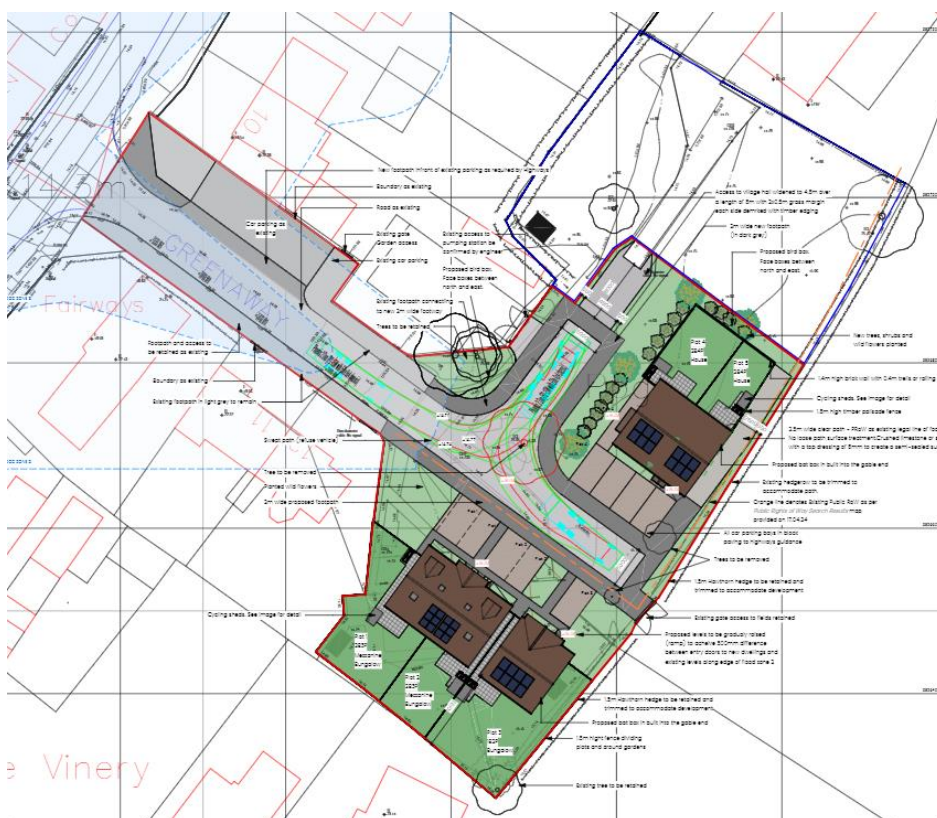
3.0 The Proposal

- 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 P3 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

- 5.1. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and is due to commence its Examination In Public during November 2024. This is therefore at an advanced stage of preparation, albeit there are unresolved objections to amended versions of all the above DM policies emerging through that process. As such, the level of weight to which those proposed new policies can be afforded is therefore 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
- 5.5 Proposed reforms to the National Planning Policy Framework and other changes to the planning system, 30 July 2024 & National Planning Policy Framework: draft text for consultation, July 2024. The planning reforms are not yet policy but indicate a direction of travel for policy and the planning system. There are capable of being a material consideration.

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 dwellings 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 11 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;
- Severn Trent have made it clear they are not planning to carry out repairs on the sewage and surface water systems – any additional load will lead to overflow;

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 6 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;
- The LDC confirms that the site has an F2 use and none of the exceptions in Spatial Policy 8 would apply;
- STW comments neglect to consider that additional connections will increase loadings to a failing system;
- The description of development should be changed to refer to change of use of village hall site.

7.0 Comments of the Business Manager – Planning Development

7.1. The key issues are:

- 1) Preliminary Matters
- 2) Principle of Development
- 3) Loss of Community Facility
- 4) Housing Mix/Tenure
- 5) Impact on Flood Risk
- 6) Impact on Visual Amenity
- 7) Impact on Ecology and Trees
- 8) Impact on Highways including Public Right of Way

9) 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 of the site. The full reason is included at paragraph 2.3. 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. However, the lawful development certificate (LDC) issued in September 2024 was post this decision and is therefore material to the assessment of this application.
- 7.4. 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 (unless in relation to material changes such as the LDC).

Principle of Development

- 7.5. 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

- 7.6. 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

- 7.7. 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

- 7.8. The proposed dwellings would potentially support community facilities and local services in the local area (notwithstanding the potential impact on the village hall as discussed in more detail below). A further explanation of the need for the proposed dwellings is set out in the Housing Mix/Tenure section below.

Impact

- 7.9. 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.
- 7.10. 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.
- 7.11. 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:
- into the ground (infiltration);
 - to a surface water body;
 - to a surface water sewer, highway drain, or another drainage system;
 - to a combined sewer.
- 7.12. 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.

- 7.13. Severn Trent Water have confirmed that the foul sewer is only designed to handle foul water but unfortunately there have been cases of existing properties incorrectly connecting surface water discharge to the foul discharge. The result of this is that the system becomes overloaded with extra surface water it is not designed to take. When the tankers are visiting the pumping station it is not because the pump system is failing as such, it is because the system is full of incorrectly directed surface water. This is a separate issue to the application at hand as it does not fall for this proposal to fix existing issues with the sewerage system.
- 7.14. In the case of this application, the proposed dwellings are intended to discharge to the correct surface water sewer and therefore will not create an additional issue which would warrant refusal of the proposals.

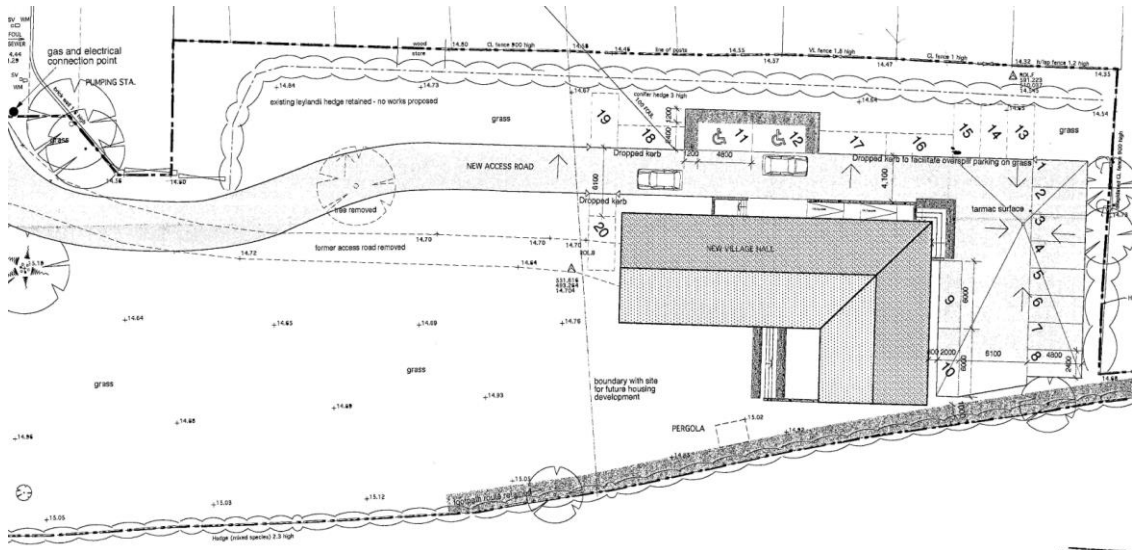
Character

- 7.15. 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.

Loss of community facility

- 7.16. Notwithstanding the above assessment which outlines that the principle of development is potentially permissible against Spatial Policy 3, it is material that since the previous planning applications on the site, there has also been a Lawful Development Certificate (LDC) granted affecting part of the site.
- 7.17. The LDC issued under reference 24/01194/LDCE has concluded that part of the site (primarily where Plots 4 and 5 are proposed) has a lawful community use (use class F2) in association with the adjacent village hall. The certificate does not relate to the whole application site as it excludes the curtilage of the existing bungalows. The extent of the lawful F2 use is included in the site location plan at paragraph 2.1.
- 7.18. The granting of this certificate is a material change since the previous refusal and must be afforded appropriate weight in the assessment of this application.
- 7.19. Spatial Policy 8 (Protecting and Promoting Leisure and Community Facilities) states that the loss of existing community and leisure facilities through new development will not be permitted unless one of the three criteria are met. These relate to the use no longer being feasible (and appropriately marketed); there being sufficient provision elsewhere or that sufficient provision will be made elsewhere.
- 7.20. The part of the site which has a lawful community use is understood to be used for overspill parking in association with the village hall. During the LDC determination, numerous testimonies were received outlining that the land has been used for parking for several years.

- 7.21. Indeed, several neighbour comments have been received through the consultation of this application regarding the impact that the proposed development would have on the village hall. Specifically, that if the land were to be no longer available for parking, then the use of the village hall would become less viable.
- 7.22. 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):



- 7.23. 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:



- 7.24. 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, but these have not been formally provided on site (and did not form part of that application site).

- 7.25. The use of the site for parking appears to have been purely on an informal arrangement as and when required rather than any spaces ever being laid out. Nevertheless, the LDC confirms that the lawful use of part of the site is for an F2 use and therefore, through the development, part of this use would be lost.
- 7.26. There has been no demonstration that the land is no longer feasible to be used in association with the village hall (and clearly given local concern this would not be the case) so compliance with the first criteria of Spatial Policy 8 has not been demonstrated. It therefore falls to assess whether there is sufficient provision of such facilities in the area or that sufficient provision has been or will be made available elsewhere (which is equally accessible and of the same quality or better as the facility being lost).
- 7.27. There are no other available car parks in the village which could compensate for the potential loss of overspill parking and the applicant (the Council) is not proposing to provide alternative land elsewhere for community use. It is acknowledged that the development proposed for this application is less than the previously refused scheme and would therefore retain some open land available for overspill parking as and when required but this does not overcome that this proposal would represent a net loss in F2 land.
- 7.28. Based on the above, the proposal would not comply with any of the criteria of Spatial Policy 8 and is contrary to that policy.
- 7.29. In order to assess whether or not this holds determinative weight in the planning balance, it is in my view necessary to understand the value of the area of land to be lost to the proposed development.
- 7.30. The village hall application (approved under reference 04/00439/FUL) covered a site area of approximately 0.39 hectares. The building itself represents around 320m² with the remaining area being laid to hardstanding and grass with interspersed trees and hedgerows.
- 7.31. The overlap between this application site and the wider village hall site would be approximately 0.13 hectares leading to a potential loss of around a third of the original site area.
- 7.32. Nottinghamshire County Council have produced a highways design guide which includes expectations for commercial parking. A village hall is not explicitly mentioned in any of the categories detailed. It is understood that the concerns relating to overspill parking relate to events such as weddings and children's parties which take place regularly in the hall. In this context, I consider it reasonable to apply the parking standards referred to by NCC for 'Dance halls, nightclubs, indoor play areas'. For these uses, it is required to demonstrate one space per every 22m² of floor area.

- 7.33. Based on the buildings floor area of approximately 320m² this would necessitate the building being served by 15 car parking spaces. Despite permission having been granted for 20 spaces, only 11 (including 2 disabled) have been formally provided on site. However, as already mentioned the original areas intended for parking are still in part available and therefore presumably account for the short fall of spaces as and when required.
- 7.34. In taking into account the guidance of NCC, Officers are mindful this is not site specific and should therefore be assessed against the views of the of the local representations.. Nevertheless, based on the above assessment, it appears that the level of land available outside of the application site (including land between the application site and the village hall which has been removed from the red line boundary compared to the previously refused application) is sufficient to meet the needs of the building. There may be occasions where there would be additional parking demand, but the extent of this demand will be self-governed to some degree by the size of the building. To this end, the loss of the land for potential overspill parking is not considered to amount to demonstratable planning harm.
- 7.35. The lack of compliance with Spatial Policy 8 must weigh negatively in the overall planning balance but in my view would not be strong enough to justify a refusal in its own right.

Housing Mix/Tenure

- 7.36. 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.
- 7.37. 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.
- 7.38. 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).
- 7.39. 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.

- 7.40. 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

- 7.41. 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.
- 7.42. 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).
- 7.43. 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).
- 7.44. 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:
- 7.45. *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).

- 7.46. An updated Sequential Test document has been submitted throughout the application (the original submission included a document which is now over three years old).
- 7.47. 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.



- 7.48. 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).
- 7.49. 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).

- 7.50. 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.
- 7.51. 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.
- 7.52. 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.
- 7.53. 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.
- 7.54. 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.
- 7.55. Based on the above, it is not considered reasonable to resist the proposal on flood risk grounds.

Impact on Visual Amenity

- 7.56. 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.

- 7.57. 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.
- 7.58. 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.
- 7.59. 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.
- 7.60. 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).
- 7.61. 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.
- 7.62. 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.

- 7.63. 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

- 7.64. 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.
- 7.65. 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).
- 7.66. However, the approach taken to the assessment of the buildings for potential to support roosting bats was not supported and further surveys were requested in this respect.
- 7.67. 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.
- 7.68. 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.
- 7.69. 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.

- 7.70. 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

- 7.71. 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.
- 7.72. 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.
- 7.73. 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.

- 7.74. 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

- 7.75. 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.
- 7.76. 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.
- 7.77. 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.
- 7.78. 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

- 7.79. 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'.
- 7.80. 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.
- 7.81. 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).
- 7.82. 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.
- 7.83. Plot 3 would be close to the neighbour to the south at 2 Gorse View (around a minimum of 14m 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 with no window at first floor facing the site. There is however a ground floor window on the gable end facing the site which the neighbouring property has raised concerns in relation to. It is stated that currently the existing bungalows are barely visible over the fence line but that the proposed dwelling will be 'severely more impactful'.
- 7.84. It is not disputed that the proposed bungalows along this boundary would have greater pitch heights than the existing bungalows and therefore are likely to have greater visibility from neighbouring properties. However, the revised plans have removed all but roof lights on the south western elevations facing the neighbouring properties and so there are no concerns in relation to loss of privacy through overlooking. Even in acknowledgement that there will be increased visibility of built form, given the separation distances and modest heights of the properties, I do not consider that this would amount to detrimental overbearing impacts which would be justifiable to refuse the application on amenity grounds.
- 7.85. 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.
- 7.86. 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.

7.87. Overall, the proposal would comply with the amenity considerations of Policy DM5.

Other Matters

7.88. 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:

7.89. *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.*

7.90. 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.

7.91. 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.

7.92. 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.

7.93. 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.

- 7.94. 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.
- 7.95. It has also been suggested by a neighbouring party that the description of development should be amended to refer to the loss of F2 land. This is not considered necessary. The creation of new residential curtilages would implicitly lead to a change of use in the majority of scenarios without specific reference in the description of development. The loss of the F2 part of the site is discussed in detail above.

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. 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 site would result in the loss of land associated with a community use as confirmed by the recent grant of a lawful development certificate. It is understood that part of the site is used as overspill parking areas for larger events at the village hall. The proposal does not meet any of the criteria within Spatial Policy 8 and is therefore contrary to Spatial Policy 8. This weighs negatively in the overall planning balance, although when NCC parking standards are applied for a similar use, the land remaining outside of the application site would in theory be sufficient to meet the needs of the village hall building.
- 9.3. 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.
- 9.4. 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.

- 9.5. 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. Although there are additional material considerations to assess in this application (namely the grant of a lawful development certificate affecting part of the site) the balance is still tipped towards an approval subject to the conditions outlined below.

10.0 Conditions

01

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

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

02

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 P3 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.

- 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.
- No equipment, signage, fencing etc. shall be attached to or be supported by any retained tree on the application site,
- No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- No mixing of cement, dispensing of fuels or chemicals outside of existing areas of hardstanding within the application site.
- No soak- aways to be routed within the root protection areas of any retained tree/hedgerow on the application site.
- 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.
- No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on to the application site.
- 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.lineearchbeforeudig.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.

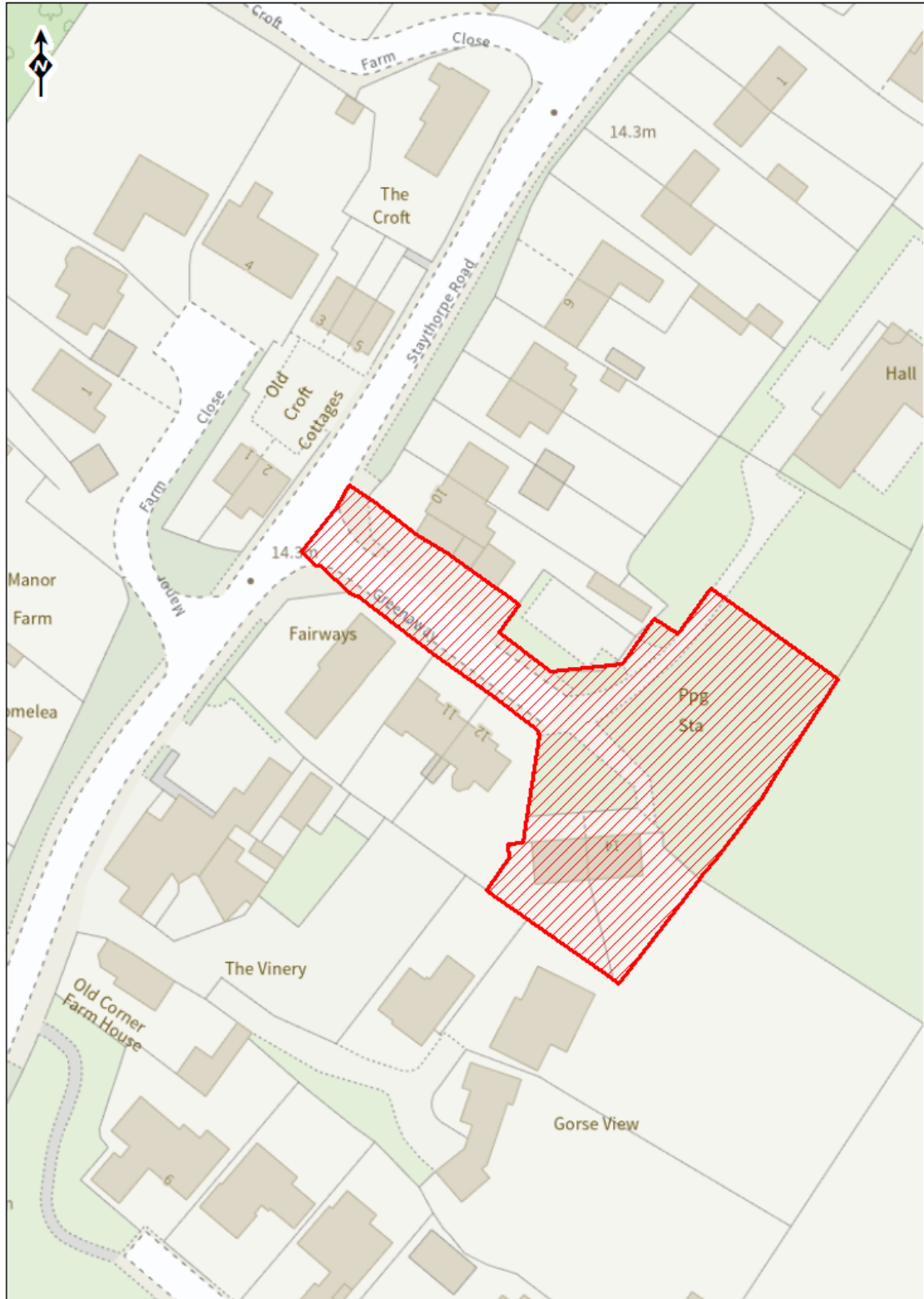
East Midlands Building Control operates as a local authority partnership that offers a building control service that you may wish to consider. You can contact them via email at info@eastmidlandsbc.com via phone on 0333 003 8132 or via the internet at www.eastmidlandsbc.com.

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.

Committee Plan - 24/00402/FUL



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Planning Committee – 11 November 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
- 2.1 That the report be noted.

Background papers

Application case files.

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

Oliver Scott
Business Manager – Planning Development

Appendix A: Appeals Lodged (received between 23 September 2024 and 01 November 2024)

Appeal and application refs	Address	Proposal	Procedure	Appeal against
APP/B3030/D/24/3353878 24/00887/HOUSE	The Grange Averham Park Averham Newark On Trent NG23 5RU	Erection of Garage	Fast Track Appeal	refusal of a planning application
APP/B3030/D/24/3354364 23/02259/HOUSE	High Park Farm Cross Lane Blidworth NG21 0LX	First floor extension to create en-suite/dressing room to master bedroom	Fast Track Appeal	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
22/00976/FULM Field Reference Number 2227 Hockerton Road Caunton	Construction of a solar farm, access and all associated works, equipment and necessary infrastructure.	Hearing 5 November 2024	Honor Whitfield
22/00975/FULM Land At Knapthorpe Lodge Hockerton Road Caunton	Construction of a solar farm, access and all associated works, equipment and necessary infrastructure.	Hearing 5 November 2024	Honor Whitfield

<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>	<p>Hearing 08 November 2024 –</p>	<p>Richard Marshall</p>
<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. Building B (outlined in blue on plan 2) -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). -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>22/00360/TPO</p>	<p>Undertake work to Cedar tree identified as T5 protected under TPO N282: T5 Cedar as identified on schedule attached to N282. Remove tree.</p>	<p>Hearing – date to be confirmed</p>	<p>Sean Davies</p>

23/00013/ENFNOT	Appeal against Tree Replacement Notice	Hearing – date to be confirmed	Micheal Read
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If you would like more information regarding any of the above, please do not hesitate in contacting the case officer.

Planning Committee – 11 November 2024

Appendix B: Appeals Determined (23 September 2024 and 01 November 2024)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
23/02150/FUL	Land To The Rear Of 112 High Street Collingham Newark On Trent NG23 7NG	Removal of existing buildings and Erection of 1no. dwelling and detached garage.	Delegated Officer	Not Applicable	Appeal Allowed	1st October 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=S55F3OLBLNR00						

22/02341/OUT	Land Off Holly Court Rolleston	Outline application for erection of two detached dwellings and the re-alignment of Rolleston Public Footpath no.5 with all matters reserved except access.	Planning Committee	Committee Overturn	Appeal Allowed	25th September 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=RMFB4FLBG5C00						

23/01578/FUL	The Acre Main Street Bleasby NG14 7GH	Erection of 1 dwelling	Delegated Officer	Not Applicable	Appeal Dismissed	23rd September 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=S01LKDLBKB00						

Legal Challenges and Other Matters

App No.	Address	Proposal	Discussion

Recommendation

That the report be noted.

Background papers

Application case files.

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

Oliver Scott
Business Manager – Planning Development



Report to Planning Committee: 11 November 2024

Business Manager Lead: Oliver Scott– Planning Development

Lead Officer: Richard Marshall - Senior Planner (Enforcement)

Report Summary	
Report Title	Quarterly planning enforcement activity update report.
Purpose of Report	<p>To update Members as to the activity and performance of the planning enforcement function over the second quarter of the current financial year.</p> <p>To provide Members with examples of cases that have been resolved (both through negotiation and via the service of notices) and to provide details and explanations of notices that have been issued during that period.</p>
Period covered	2024 Q2 - 1 st July 2024 – 30 th September 2024
Recommendation	That the report is noted.

1.0 **BACKGROUND**

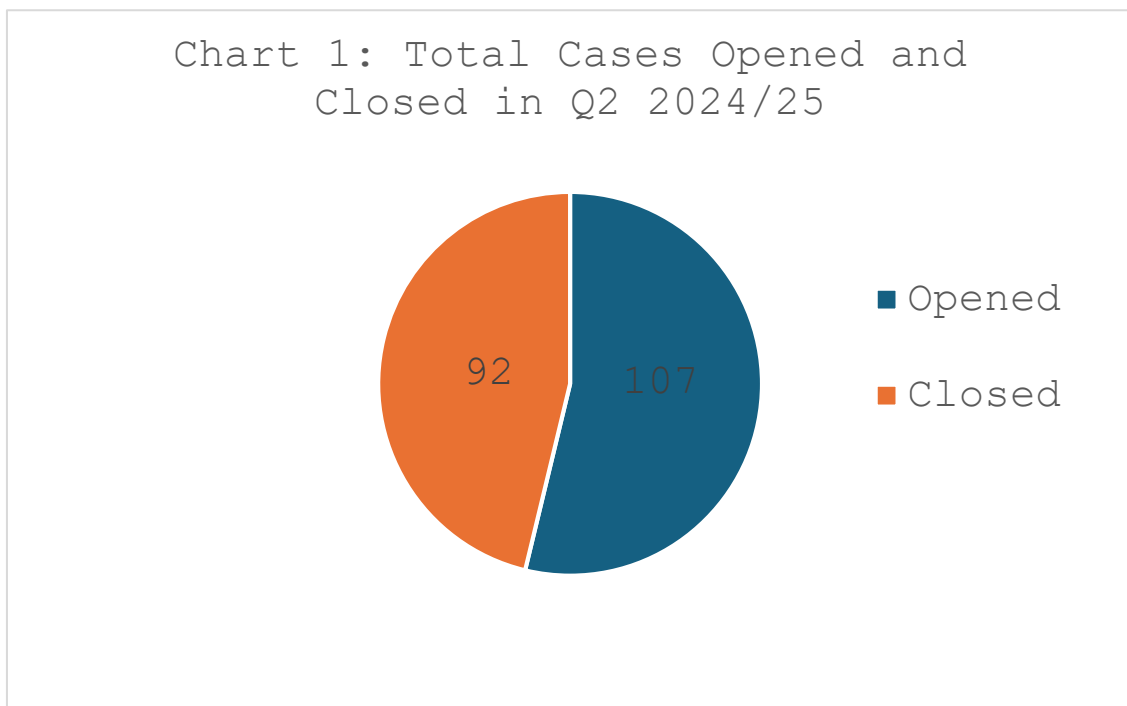
- 1.1 This report relates to the second quarter of 2024/25 from 1st July to the 30th of September 2024, providing an update on enforcement activity during this period.
- 1.2 Schedule A outlines the enforcement activity for Q2 in terms of numbers of cases received, response times and the reasons for cases being closed.
- 1.3 Schedule B includes a small number of examples of where formal planning enforcement action has been taken (such as a notice being issued).
- 1.4 Schedule C provides an example of a case where officers have managed to resolve the breaches through dialogue and negotiation during the second quarter.

1.5 Schedule D provides examples of Notices having been complied with. The examples within the report shows considerable success again that has been achieved by the enforcement team.

2.0 SCHEDULE A – OUTLINE OF ENFORCEMENT ACTIVITY

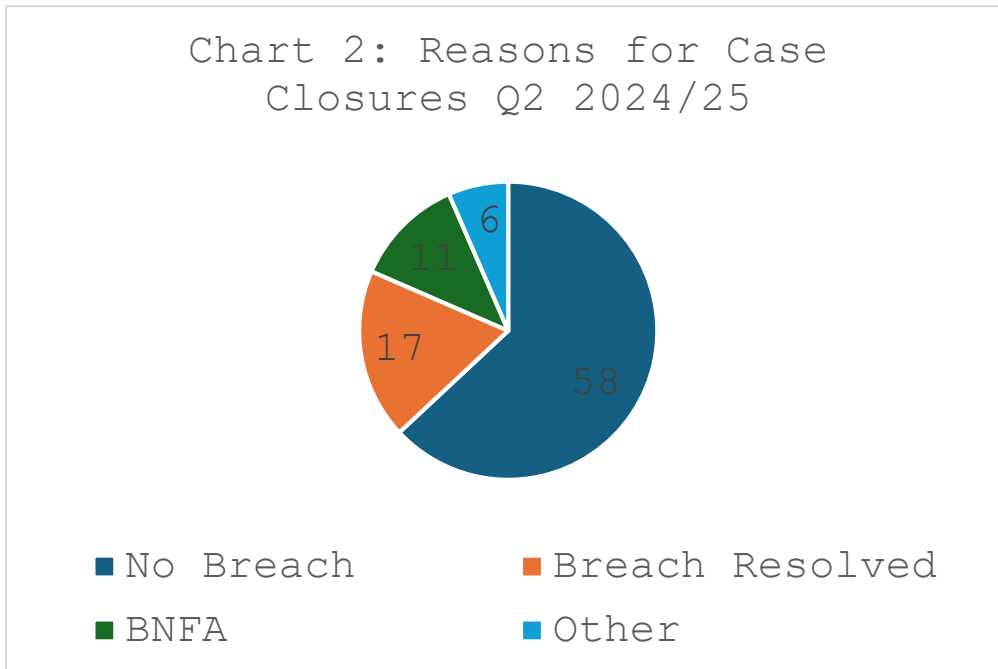
2.1 **Chart 1** sets out the number of new enforcement cases that were received and closed during Q2. Members will note that the numbers are relatively consistent with previous quarters with new cases opening in Q1 at 108 with 107 in Q2. The only minor change from Q1 is the number of cases closed is down by 10 and can be explained by ongoing activity on some of the major cases being handled by officers during this period (as set out within Schedule D). The consistent number of cases demonstrates the ongoing workloads being undertaken by officers and when viewed through the lens of Q2 being ‘summer holiday’ season, the closures and number of cases being investigated shows the hard work of the Enforcement team as a whole.

2.2 It should be noted that as part of the new cases opened in Q2, attempts are being made to introduce more pro-active monitoring of certain types of developments. For example, the Middlebeck and the Southern Relief Road projects have 3 x new ‘Enforcement Monitoring’ cases active in order to stay on top of complaints and concerns from local residents as these projects continue.

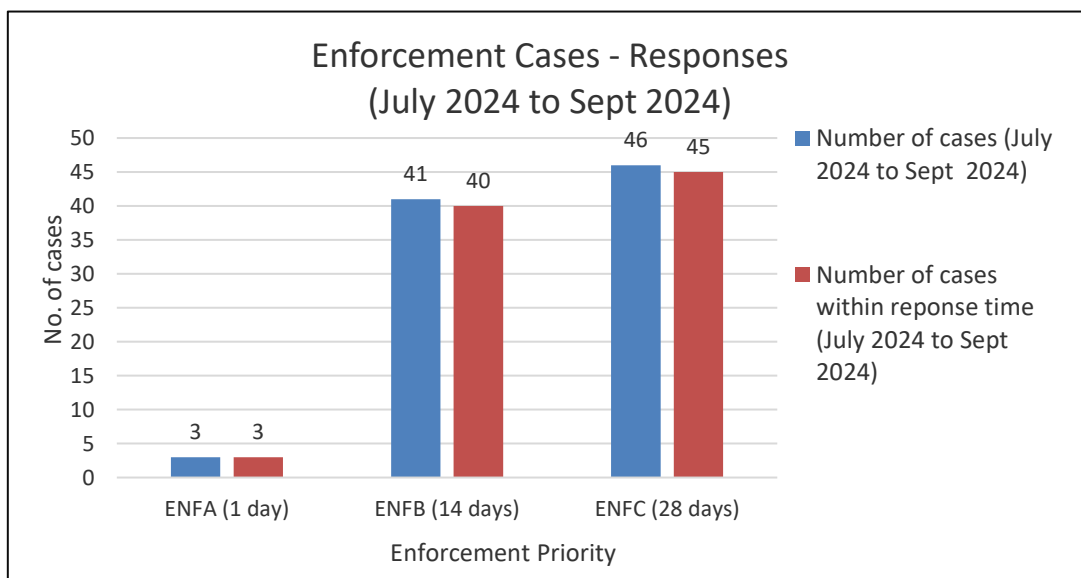


2.3 **Chart 2** sets out the reasons why cases have been resolved in Q2. The chart shows that the highest proportion of cases investigated proved to be ‘No Breach’ – at 63% - but when looking at the actual number it is only 5 higher than Q1 (53 vs 58). The historical average for this category sits at approximately 50% of all cases so this is higher this quarter. Whilst this may be an anomaly, there is also the potential that this reflects the

view that even when a case is received and it suggests 'No Breach', it is still a useful exercise to open the case to investigate and close so there is still a record of the complaint and actions taken by officers. This is particularly useful if, in the future, another complaint was to be submitted for the same case then it does not need to be re-started and re-investigated.



2.4 **Chart 3** sets out the response time of Officers in relation to the targets set out in the Newark and Sherwood District Council’s Planning Enforcement Plan (PEP) - (adopted September 2020). Members will note that 98% of enforcement cases have been actioned within the target period that is set out within the PEP and again this demonstrates the continuing efforts by the team to meet all targets and objectives that have been set.



2.5 **Table 1** sets out the number of Notices issued and appeal activity during Q2 of 2024/2025.

Table 1 – Details of Planning Enforcement Action (Enforcement Notices) and appeals during Q2 of 2024/25			
	JULY	AUGUST	SEPTEMBER
Notices Issued	1	1	3
Notices Complied With	1	1	1
Appeals Lodged	1	0	0
Appeals Determined	1	3	6

3.0 SCHEDULE B – EXAMPLES OF FORMAL ACTION TAKEN DURING QUARTER

3.1 EXAMPLE 1

Enforcement Ref: 23/00512/ENFB
Site Address: Stodman Street, Newark
Alleged Breach: Unauthorised Signage
Action To Date: Enforcement Notice Issued

Background:

3.1.1 This ‘new’ shop was opened following many years of ‘Pandora’ trading from this location. It is situated in an extremely prominent position within Newark town centre and in the conservation area, close to the Market Square and Town Hall.

3.1.2 A box fascia sign was installed. The fascia sign, by virtue of its size, lettering and colouring is unduly prominent and visually obtrusive, resulting in unnecessary clutter and detracting from the visual amenity of the area. It was deemed to result in harm to the character and appearance of the Newark Conservation Area.

3.1.3 Enforcement officers were made aware of this following several complaints and began to proactively work towards an improved solution with the owners and occupiers, including providing advice and guidance. An Enforcement Notice was issued in September requiring that the box fascia be removed from the building. The aim of this is to encourage the replacement more sympathetic to its location.

3.1.4 The owners have until 9th December for compliance.

Initial Complaint photo and 'current' view of store front.



3.2 EXAMPLE 2

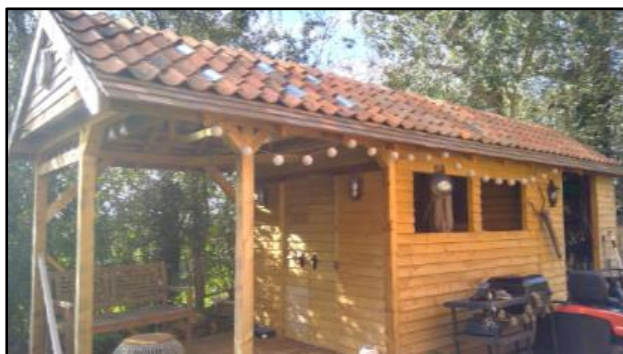
Enforcement Ref: 23/00396/ENFB
Site Address: The Mill, Rolleston
Alleged Breach: Erection of a Summerhouse in the Curtilage of the Listed Building
Action To Date: Enforcement Notice Issued

Background:

3.2.1 A complaint was received regarding the erection of a summerhouse in the curtilage of the Grade II Listed Building. It was assessed that such a development would require planning permission, but any submission would not benefit from the support of the conservation team.

3.2.2 The outbuilding was deemed to be 'too domestic in nature' and therefore harms the character of the Grade II Listed Building. An Enforcement notice was issued in September requiring the demolition of the outbuilding and to remove the resultant waste materials from site, all by March 2025.

Initial Complaint Photo



3.3 EXAMPLE 3

Enforcement Ref: 23/00368/ENFB
Site Address: Landseer Road, Southwell
Alleged Breach: Alleged unauthorised extension and balcony
Action To Date: Enforcement Notice Issued.

Background:

3.3.1 The owner of this property created, without planning permission, a balcony on the existing flat roof at the rear of this property that overlooked neighbouring properties and, if used, would be an overbearing impact on those properties.

3.3.2 This was initially investigated in 2019 with the matter resolved following compliance with an enforcement notice after decking boards were removed. However, the complaint resurfaced in 2023 with the reintroduction of the 'balcony' development.

3.3.3 Contact with the owner and access to the property has been difficult to resolve, which has resulted in a new enforcement notice being issued in July 2024. This notice requests the removal of the balcony platform by the end of November.

Initial Photo Following 'new' Complaint



Photo from previous Enforcement activity in 2019



4.0 SCHEDULE C – EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION DURING QUARTER

4.1 EXAMPLE 1

Enforcement Ref: 23/00478/ENFA
Site Address: Mill Gate, Newark
Alleged Breach: Unauthorised security barrier
Action To Date: S330 Notice Issued

Background:

4.1.1 This Grade II Listed Building was, until relatively recently, a care home and is located on Mill Gate, which is within the Newark Conservation Area. Around August 2023, a large timber 'security barrier' was installed without planning permission. This installation was, according to the then owners, an attempt to secure the empty building and prevent trespass. Shortly after the case being opened, towards the end of 2023, the building was sold.

4.1.2 In early 2024 the new owners were contacted to request the gates be removed. A dialogue commenced. As the removal was not carried out, further action was carried

out that resulted in a Section 330 notice (a request for information relating to site ownership in preparation for potential further action) being issued in August 2024. Following this initial 'action', the barrier/gate was removed late September.

Before Action



After Action



5.0 SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER

5.1 EXAMPLE 1

Enforcement Ref: 22/00096/ENFB
Site Address: 'Chicken/Mushroom' Shed, Kilvington.
Alleged Breach: Alleged creation of dwelling without planning permission - linked to 09/00843/FUL.
Action To Date: Enforcement Notice Issued and complied with. Case closed.

Background:

5.1.1 In 2022, the owner contacted NSDC for a pre-application planning advice relating to a 'chicken shed' that had been erected on site following planning permission being approved in 2009. During the investigations, a potential breach of that original permission was revealed which led to this enforcement case.

5.1.2 It was found during the course of the investigation that although the building which had been erected was of a similar size and layout to the previously approved agricultural development, the use and external details differed significantly from what had been approved.

5.1.3 In particular, Members attention is drawn to the numerous glazed 'domesticated' doors and windows that had been inserted within the building, as opposed to roller shutters (as shown within the 'before' photograph below). It was also noted that the building had been insulated and plastered throughout, concurrent with a domestic use as opposed to the housing of chickens.

5.1.4 Subsequent applications for planning permission were submitted (22/01168/FUL - Retention of building for use as holiday accommodation) and (22/01832/FUL - Retention of and Alterations to Building for Agricultural use). The former being refused permission and the latter being undetermined.

5.1.5 In accordance with the above decisions a planning enforcement notice was issued. The notice effectively alleged that the building did not benefit from planning permission as the design etc differed so significantly from the original approval, and also because of the alleged difference in intention of use. The enforcement notice required the complete demolition of the building.

5.1.6 The issue of the enforcement notice, refusal of planning permission for the change of use of the building to holiday accommodation, and the non-determination of the planning application for the use of the building for agricultural purposes were the subject of appeals. The decisions, issued in December 2023, were to uphold the Council's decision to refuse planning permission and to issue the planning enforcement notice. However, the appeal against the non-determination of planning permission was upheld and consent granted to use the building for mushroom growing/ agriculture. However, the Inspector imposed a condition that should the proposed changes to the

building not take place, external changes that included the removal of the bi-fold doors and double-glazed windows - to be replaced with timber cladding and cowls, the building must be demolished. In addition, a condition was also imposed that the building could only be used for agricultural purposes.

5.1.7 The owner has since made these changes and complied with these conditions and the enforcement case has therefore been closed. Annual monitoring has been diarised by the enforcement team to inspect the building and to check the ongoing use.

Before Action – External



Before Action – Internal



After Compliance



After compliance



5.2 EXAMPLE 2

Enforcement Ref: 23/00182/ENFB
Site Address: Former Red House Sawmill, Ollerton
Alleged Breach: Alleged Untidy Land
Action To Date: Section 215 Notice Issued and Complied with.

Background:

5.2.1 This matter was raised as a complaint via a Councillor in May 2023 regarding the state of this 'empty' piece of land that held a planning permission for residential

development. Initial investigations between NSDC Enforcement and Environmental Health teams commenced and it was revealed that the land had been accessed and used to illegally deposit waste. The owners agreed to clear the waste and secure the site. Unfortunately

5.2.2 Unfortunately, the works were not undertaken as agreed and further complaints were received in the Spring of 2024. Following this, the site owners were issued with a Section 215 Notice (Untidy Land) that took effect in June 2024 that requested they secure the removal of waste items (in the correct manor), tidy the site of any salvageable items, cut and trim the overgrown foliage and to also repair the defective boundary.

5.2.3 Reports of their compliance with the S215 Notice were received and noted shortly afterwards. A final site visit was conducted in early September to confirm that the land had been cleared with development commenced under their permission.

Before Action



After Action



6.0 IMPLICATIONS

6.1 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 referred to these implications and added suitable expert comment where appropriate.

7.0 RECOMMENDATIONS

7.1 The report is noted.

8.0 BACKGROUND PAPERS

8.1 None.

END OF REPORT