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Tuesday, 26 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:	Thursday, 5 December 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 Monday, 11 November 2024 at 4.00 pm.

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

Councillor A Amer, 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 L Tift and Councillor T Wildgust

ALSO IN ATTENDANCE: Councillor N Allen, Councillor S Crosby, Councillor J Hall, Councillor R Holloway, Councillor R Jackson, Councillor J Lee

APOLOGIES FOR ABSENCE: Councillor C Brooks and Councillor T Smith

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

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

74 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

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

Councillor K Melton informed the Planning Committee that he was not predetermined on Items 6 - Land Adjacent Hayfield Cottage, Lowfield Lane, Balderton (22/02375/FULM), 7- Land West of Staythorpe Electricity Substation, Staythorpe Road, Staythorpe (24/01261/FULM) and 10 – Land at Greenaway, Rolleston (24/00402/FUL), as he represented Trent Ward.

Councillor D Moore informed the Planning Committee that he had expressed a view in the past regarding Item 6 – Land Adjacent Hayfield Cottage, Lowfield Lane, Balderton (22/02375/FULM), but did not reach the bar of predetermination as coming to the meeting with an open mind willing to listen to the representations and debate before forming a view.

Councillor S Forde commented that he was not predetermined regarding Item 6 - Land Adjacent Hayfield Cottage, Lowfield Lane, Balderton (22/02375/FULM), as he represented Balderton South Ward.

Councillor S Saddington informed the Planning Committee that she represented both villages Balderton and Rolleston, as a Nottinghamshire County Councillor, but was not predetermined on either application: Items 6 - Land Adjacent Hayfield Cottage, Lowfield Lane, Balderton (22/02375/FULM), and 10 - Land at Greenaway, Rolleston

(24/00402/FUL).

Councillor M Shakeshaft declared an other registrable interest in relation to Item 6 – Land Adjacent Hayfield Cottage, Lowfield Lane, Balderton (22/02375/FULM), as he was a Director of Arkwood Development Ltd. He would address the committee as allowed under the constitution but would leave the meeting after he had addressed Committee and would not take part in the debate or vote.

Councillor A Amer informed the Planning Committee that he had wrote a poem regarding Lowfield Lane over a year ago, which had been brought to the attention of Council Officers and confirmed that he was not prejudice or predetermined.

Councillor E Oldham confirmed that she had signed a petition in the past regarding Item 6 - Land Adjacent Hayfield Cottage, Lowfield Lane, Balderton (22/02375/FULM), but was not predetermined.

75 MINUTES OF THE MEETING HELD ON 3 OCTOBER 2024

Minute No. 67 – Robin Hood Retreat Caravan Park, Belle Eau Park, Bilsthorpe, Newark On Trent, NG22 8TY – 24/01146/S73 - Cllr Rainbow noted that the Robin Hood Caravan scheme did not include mention of enforcement action, notably in respect of checking the Register.

AGREED that subject to the inclusion of the above, the minutes of the meeting held on 3 October 2024 were approved as a correct record and signed by the Chair.

76 MINUTES OF THE MEETING HELD ON 14 OCTOBER 2024

Councillor P Harris, informed the Committee that he had submitted his apology to this Planning Committee.

AGREED that subject to the amendment regarding Councillor P Harris apology, the minutes of the meeting held on 14 October 2024 were approved as a correct record and signed by the Chair.

77 LAND ADJACENT HAYSIDE COTTAGE, LOWFIELD LANE, BALDERTON - 22/02375/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought the demolition of the existing cottage and the residential development of 142 new dwellings and creation of new accesses.

A site visit had taken place prior to the commencement of the Planning Committee, on the grounds that there were particular site factors.

Members considered the presentation from the Director of Planning Growth, which included photographs and plans of the proposed development. The Committee would benefit from seeing.

A Schedule of Communication was circulated prior to the meeting which detailed correspondence received following publication of the agenda from the following:

Local Residents; Nottinghamshire County Council Policy; Newark & Sherwood District Council Conservation; Applicant; Planning Case Officer; and Nottinghamshire Wildlife Trust.

Mr D Kay, local resident, spoke against the application.

Councillor J Buxton representing Balderton Parish Council spoke against the application.

Mr M Stevenson, applicant, spoke in support of the application.

Councillor M Shakeshaft, spoke in support of the application.

Having declared an other Registrable Interest, Councillor M Shakeshaft left the meeting after speaking to the Committee at this point.

Councillor J Hall Local Ward Member spoke against the application.

Councillor J Lee adjoining Ward Member was neutral when speaking on the application.

Members considered the application and concern was raised that the site if developed may exacerbate the problem of flooding for the surrounding area as this area currently acts as a flood plain. There may be a traffic management issue on the proposed narrow roads with parking issues. Concerns were raised regarding Biodiversity and also bats that were in situ. Bat boxes would be put on the side of houses, however it was reported they were not necessarily affective, and the bats may not stay in that location. Hedgehogs would also be disturbed. Another Member commented on the work that the applicant had achieved to date working with Ward Members, campaigners and officers and the report before the Committee was a consequence of that input. It was felt that hearing all the concerns the applicant perhaps hadn't gone far enough in terms of protecting wildlife/species. Balderton already lacked services, by increasing the housing would have a greater impact on the village. It was commented that the design of the houses on the proposed site was not in keeping with adjoining neighbouring properties.

The Chair commented that this was an allocated site and thanked officers for their hard work in presenting the proposed final plan, which had been sensitive to many of the concerns raised. There had been no statutory objections. 140 metres of hedgerow would be removed; however, 300 metres would be replaced. The 10% affordable housing was an issue when 30% was a local policy requirement and it was felt that the applicant should have gone the extra mile regarding affordable housing and scattering it across the site, not just in one location. Other Members commented that 10% affordable homes was not good enough and expected an exemplar site.

A Member further commented that this was an allocated site since 2013 and was part of the Newark Urban Area. The Planning Committee did not set policy and could not amend that. Strong material reasons would be required to be submitted or if taken to appeal would be granted on appeal. Housing was needed within the district, with the district shortly being required to find 730 houses as part of the new Governments

planning reforms and housing targets. Nottinghamshire County Council had raised no objection to this application. A Member commented on the electricity substation that was 800 metres downstream which served the whole of Newark and commented that if that flooded there would be a major power problem.

A Member commented on the £108,000 to be allocated to a demand responsive bus service. There was a bus service already operational 300 metres from the site. If a demand responsive service was put in place it would be likely that the bus services currently operational would collapse. It was suggested that the £108,000 should be used for community benefit should that be the Committee resolution.

The Director of Planning Growth confirmed that the £108,000 allocated to the bus service could be changed and contributed to community benefit.

A Member commented that the proposal was better than it was previously but that the delivery of affordable housing was poor and that there was no pepper potting.

It was moved and seconded that a recorded vote be taken.

AGREED (with 6 votes For, 4 votes Against and 2 Abstentions) that Planning Permission be approved subject to the following:

- (i) conditions contained within the report with an amendment to condition 4 – Require the offsite ecological provision to be identified and secured (via the S106) prior to the commencement of development; and
- (ii) any Section 106 to reallocate £108,000 from bus services, £108,000 to community facilities.

A Member requested that a recorded vote was taken.

Councillor	Vote
A Amer	Against
L Dales	For
S Forde	Abstention
A Freeman	For
P Harris	Against
K Melton	Against
D Moore	For
E Oldham	Against
P Rainbow	For
S Saddington	Abstention
L Tift	For
T Wildgust	For

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

Councillor M Shakeshaft returned to the meeting at this point.

78 LAND WEST OF STAYTHORPE ELECTRICITY SUBSTATION, STAYTHORPE ROAD, STAYTHORPE - 24/01261/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought the infrastructure associated with the connection of battery energy storage system to National Grid Staythorpe electricity substation and associated works.

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

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

A Schedule of Communication was circulated prior to the meeting which detailed correspondence received following publication of the agenda from the following: Planning Case Officer; NCC Highway Authority; Applicant; Averham, Kelham and Staythorpe Parish Council; The Environment Agency; Local Residents; Newark & Sherwood District Council Tree & Landscape Officer.

Ms P Hall, local resident, spoke against the application.

Councillor J Allan representing Averham, Kelham and Staythorpe Parish Council spoke against the application.

Mr M Noone, agent for the applicant, spoke in support of the application.

The Chair informed the Committee that the end of the consultation period was one day after this Planning Committee, the applicant had asked for the application to be considered at the November Planning Committee. If any new material planning consideration were raised before the deadline on the 12 November 2024, the application would be forwarded back to the 5 December 2024 Planning Committee. Officers explained how highway concerns had been addressed in late items and that there was precedence for determining planning applications prior to the completion of consultation when trying to fit into a committee cycle.

Members considered the application and concern was raised regarding making a decision before the consultation period had ended. Members commented that the application should not be determined without all relevant highway information. Concern was also raised regarding the closure of the bus stop and the access onto the site which may damage the pavements from construction vehicles. Concern was raised about perceived pressure being put on officers in the highway department furthermore. It was therefore suggested that the application be deferred to the 5 December 2024 Planning Committee.

The Business Manager – Planning Development informed the Committee that this was not a statutory consultation but was undertaken due to the lay-by being closed. It was felt that a full re-consultation was not required. The key summary points were read out.

AGREED (unanimously) the application be deferred to the 5 December 2024 Planning Committee, in order for the consultation period to end.

79 THE OLD STABLE YARD, WINTHORPE ROAD, NEWARK ON TRENT, NG24 2AA - 24/00548/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the change of use of land to residential Gypsy/Traveller caravan site comprising six pitches each providing one static and one touring caravan and dayroom.

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

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

Ms W Mounsey, resident, spoke in support of the application.

Members considered the application, and it was commented that this site had not flooded during the last two major recent storms, which was contrary to the advice of the Environment Agency. The site was well kept, the residents had lived on site with the existing noise environment for six years. Members considered this a settled community and raised concern regarding where they would go if planning permission was not granted. It was suggested that if the Committee was minded to approve planning permission, conditions could be applied to include residents (now and in the future) signing up for the Environment Agency early warning scheme and an evacuation plan be established. There should be no expansion of the site further than the six plots and a red line be drawn on the plan around the site to prevent any further expansion. It was commented that the site was noisy, however the residents had chosen to live on that site as do others in similar situations. The children were in local schools and had flourished in a stable environment.

The Director of Planning Growth commented that if the Planning Committee were minded to approve the application, that conditions be reported to a future meeting for awareness. The Council also had a duty to notify the Environment Agency if they went against Officer recommendations*.

*Following the Committee it has been clarified that the Council as the LPA only need notify the Environment Agency for major planning application where there was a resolution to grant consent contrary to their advice. There was therefore no requirement to notify the EA.

A vote was taken to refuse Planning Permission which was unanimously lost.

AGREED (unanimously) that contrary to Officer recommendation Planning Permission be approved to allow permanent residency for a maximum of six plots, conditions regarding this be reported to a future Planning Committee for approval.

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

Councillor	Vote
A Amer	For
L Dales	For
S Forde	For
A Freeman	For
P Harris	For
K Melton	For
D Moore	For
E Oldham	For
P Rainbow	For
S Saddington	For
M Shakeshaft	For
L Tift	For
T Wildgust	For

During the debate of this item, 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 was voted on with one objection, to continue for a further hour.

80 LAND AT HIGHFIELDS, GONALSTON LANE, EPPERSTONE - 23/02141/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the change of use of agricultural field to dog exercise area, construction of hardstanding, fence and gates.

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

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

A Schedule of Communication was circulated prior to the meeting which detailed correspondence received following publication of the agenda from a local resident.

Mr N Iliffe, local resident, spoke against the application.

Councillor P Bracegirdle representing Epperstone Parish Council spoke against the

application.

Mr A Worrall, applicant spoke in support of the application.

Members considered the application, and it was commented that there was scope for ten sessions per day for exercising dogs. This was considered a long time to live with barking dog noise for the adjoining neighbour who had reported experiencing harm from this business.

A Member commented that this site was in open countryside and farm animals could be grazing in that field making noise. Another Member commented that farm animal noise was different from persistent dog barking and raised concern regarding the noise and amenity for the neighbouring property. Members also raised concern regarding the narrow lane that would be used to access the site. Members considered whether the use could be controlled through conditions.

A vote was taken to approve Planning Permission and lost with 12 votes Against and 1 Abstention.

AGREED (with 11 votes For and 2 Abstentions) that contrary to Officer recommendation Planning Permission be refused on the grounds of impact on residential amenity and the noise from barking dogs.

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

Councillor	Vote
A Amer	For
L Dales	For
S Forde	Abstention
A Freeman	For
P Harris	For
K Melton	For
D Moore	For
E Oldham	For
P Rainbow	For
S Saddington	Abstention
M Shakeshaft	For
L Tift	For
T Wildgust	For

During the debate of this item, 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 was voted on with two objections to continue for a further hour.

81 LAND AT GREENAWAY, ROLLESTON - 24/00402/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the demolition of two bungalows and erection of five

dwellings including parking provision and amenity spaces.

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

Mr C Baillon-Saunders, local resident, spoke against the application.

Councillor R Steele representing Rolleston Parish Council spoke against the application.

Members considered the application, and it was commented that the Council was seeking to put housing on land which was used by the village hall. There was also an issue with foul waste and tankers were used to clear the sewers to prevent flooding problems. The village hall was considered a huge asset to the village and the removal of this land for houses would create an issue for car parking at the village hall and a traffic issue as visitors would park on the roadside, which may affect the viability of the village hall. It was further commented that the ownership of the land had not been sorted out and a bat survey had not been undertaken.

The Business Manager – Planning Development advised that the lead ecologist had confirmed that the existing bungalows to be demolished were not likely to be suitable for bats.

A vote was taken and lost to approve planning permission with 2 votes For and 11 votes against.

AGREED (with 11 votes For and 2 votes Against) that contrary to Officer recommendation Planning Permission be refused on the grounds of loss of community facility and highway issues including the loss of parking facility.

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

Councillor	Vote
A Amer	For
L Dales	For
S Forde	For
A Freeman	For
P Harris	For
K Melton	For
D Moore	For
E Oldham	For
P Rainbow	Against
S Saddington	For
M Shakeshaft	For
L Tift	For
T Wildgust	Against

82 APPEALS LODGED

AGREED that the report be noted.

83 APPEALS DETERMINED

AGREED that the report be noted.

84 QUARTERLY PLANNING ENFORCEMENT ACTIVITY UPDATE REPORT

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

The report provided Members with examples of cases that had been resolved, both through negotiation and via the service of notices and provided detailed and explanations of notices that had been issued during the period covered 1 July 2024 – 30 September 2024.

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

Meeting closed at 9.40 pm.

Chair



Report to Planning Committee 5 December 2024

Business Manager Lead: Oliver Scott – Planning Development

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

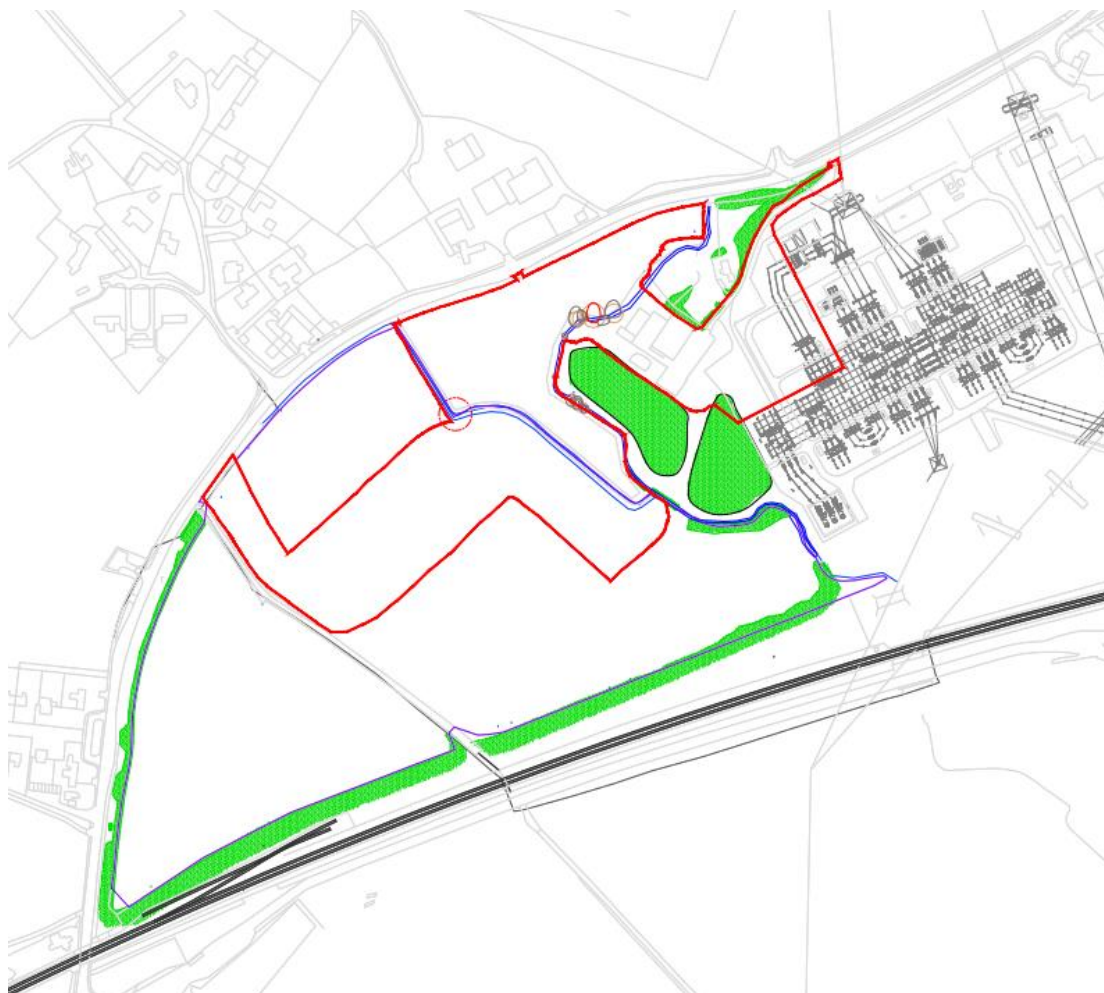
Report Summary			
Application No.	24/01261/FULM		
Proposal	Infrastructure associated with the connection of battery energy storage system to National Grid Staythorpe Electricity Substation and associated works.		
Location	Land West Of Staythorpe Electricity Substation, Staythorpe Road Staythorpe		
Applicant	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	That full planning permission 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 in Section 10 of the report.		

This application was deferred at the Planning Committee meeting held on 11 November 2024, to allow the application to be considered after the completion of the consultation period and 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.

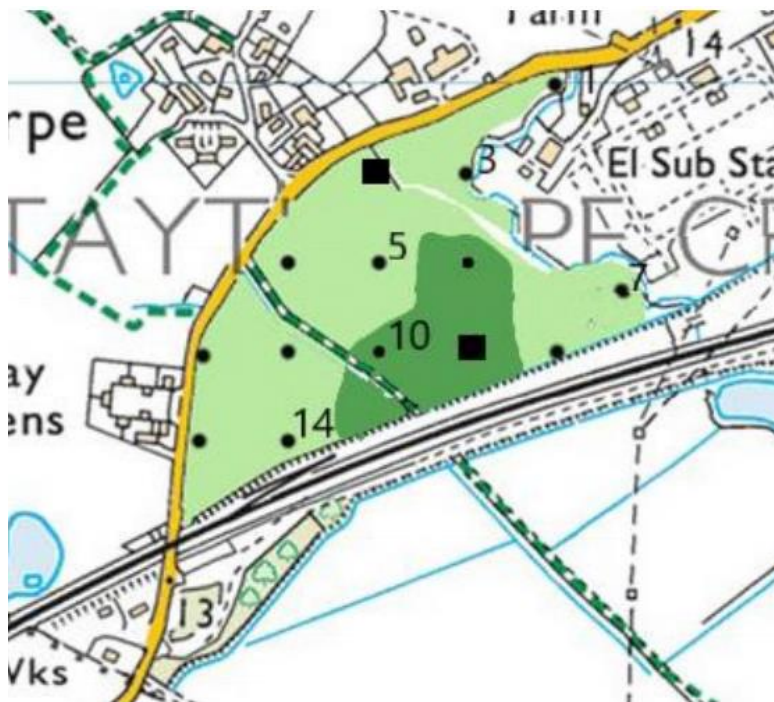


Existing Site Plan showing the proposed red line boundary

- 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.

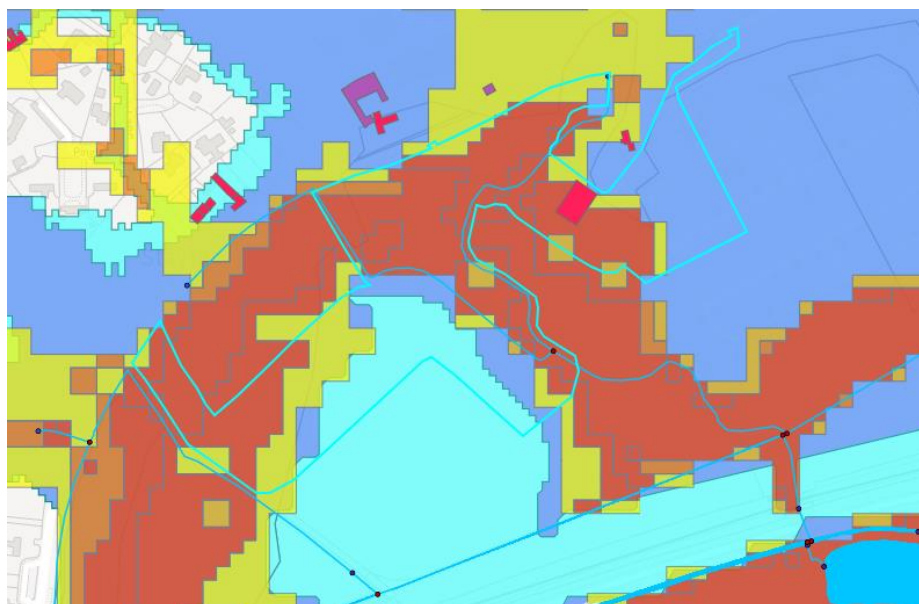


1.4 In terms of Agricultural Land Classification, the majority of the site falls within Grade 3b which means it is of moderate quality and falls outside the definition of Best and Most Versatile agricultural land as defined by the National Planning Policy Framework. The plan below shows Grade 3b in light 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.



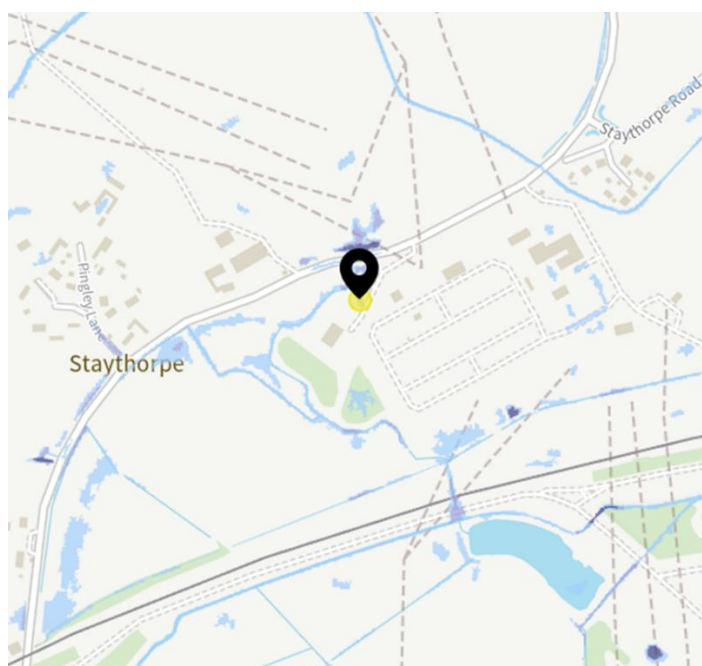
Agricultural Land Classification Plan

- 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 Harness Cottage, Staythorpe House Farm and Staythorpe House Cottage which are all directly opposite the site on Staythorpe Road. There is a property labelled 'White Cottage,' situated adjacent to the existing access from Staythorpe Road in the north-east corner, close to the existing sub-station site. However, on inspection it is derelict, uninhabited and not registered with Council Tax.
- 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.

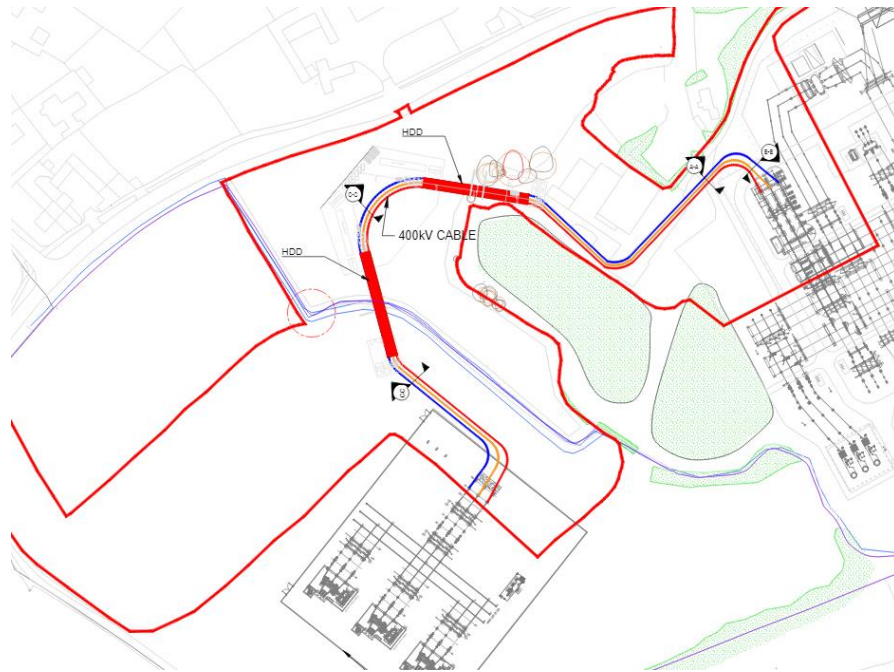
Other applications that may be considered of relevance: -

- 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

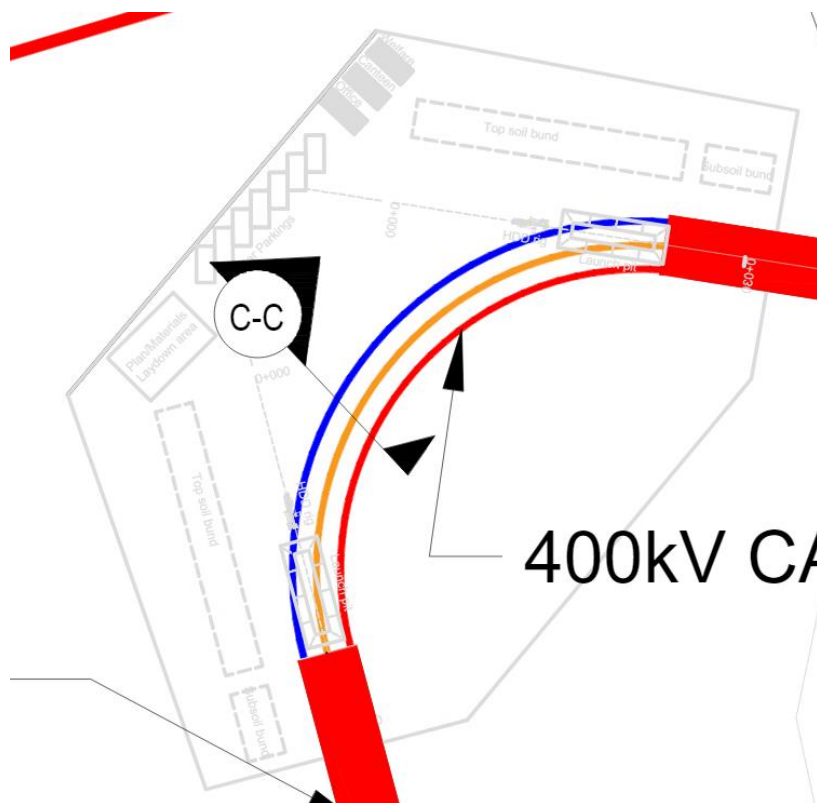
- 3.1 The application seeks permission for infrastructure associated with the connection of a proposed battery energy storage system to the existing National Grid Staythorpe Electricity Substation. The cable would be necessary for the successful function and operation of the Battery Energy Storage System (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

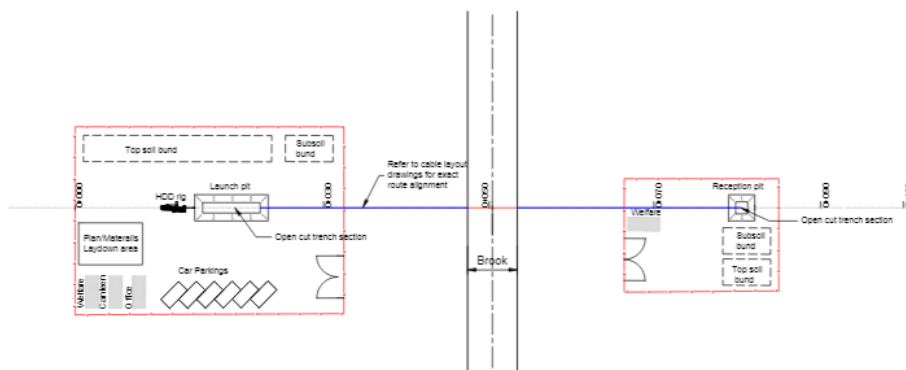
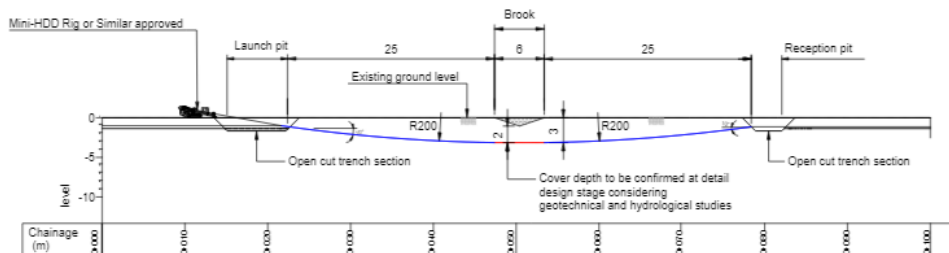
- 3.4 The above plan also shows in a very light grey a compound area showing soil bunds, a materials layout area, 7 parking spaces, and three temporary buildings to provide office, canteen and welfare facilities. No details have been provided on how this area is to be surfaced or any details of the proposed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

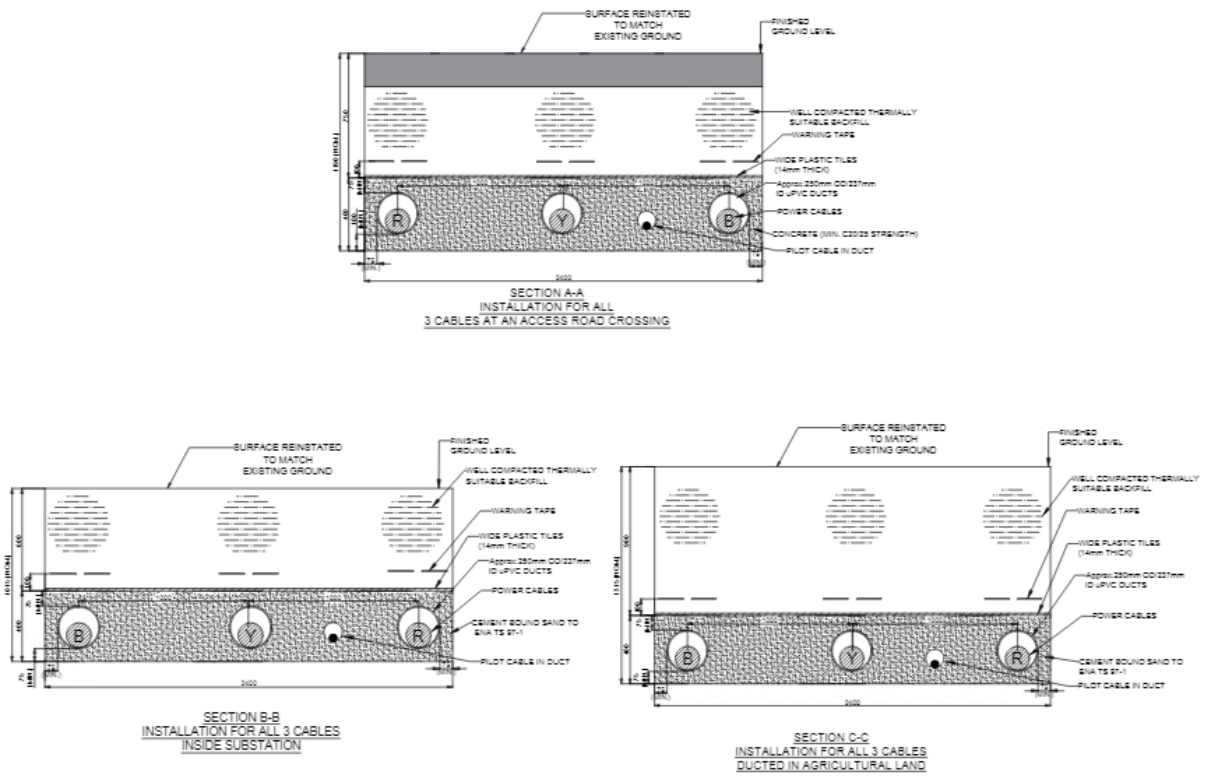


Proposed compound

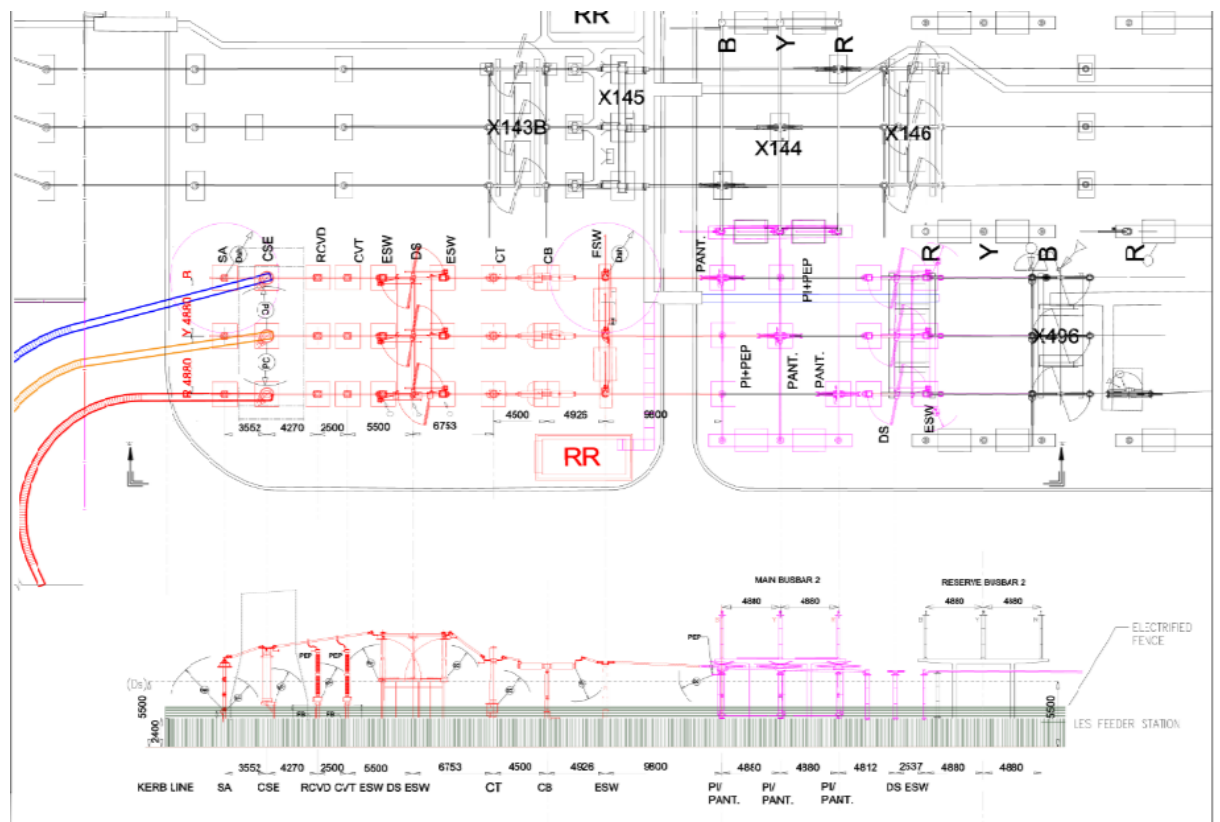
3.5 The plans below show the Horizontal Directional Drilling plan and cross section first, which identifies the depth the cable needs to be under the watercourse is still to be clarified following further studies.

PROFILE FOR TRENCHLESS BROOK CROSSING





Various cross sections of the cables below ground.



Proposed plan and elevation of substation

3.6 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.

3.7 The overall proposed substation plan is shown below.



3.8 A submitted Transport Note (revision 2 dated October 2024) has been prepared to provide an overview of the cable installation works with regard to traffic and provides assessment of the impact of these works on local traffic and transportation. The nature of the proposed development means that the key transport related effects are associated with the construction stage, rather than once the cable is operational. The Transport Note confirms that there are to be three access points serving this proposed site:

Access 1 – Staythorpe BESS, subject to appeal decision;

Access 2 – Existing farm access – Proposed Construction Access (Drawing Ref 23065-GA-03);

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

as set out on the plan below:



- 3.9 The applicant has stated that the cable cannot be constructed using the main BESS access only (Access 1) because there is a watercourse between the BESS access and the field accessed by Access 2. The applicant has stated that there is a need for 3 separate access points as one is for works on the western side of the watercourse, one is for works on the eastern side of the watercourse and the other is for the NGET works. It has been confirmed that Accesses 2 and 3 will only be in use during the 6-8 weeks of the Construction Phase. 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. The applicant is happy to commit to providing a local taxi service to those residents for whom the temporary suspension of the bus stop would affect their service area. If Members consider this is appropriate, such a service could be included within the S106 legal agreement.
- 3.10 An Outline Construction Traffic Management Plan (revision 2 dated October 2024) has also been submitted in support of the application, has also been submitted, the purpose of which is to ensure that the impact of construction traffic and delivery vehicles on the surrounding highway network is minimised during the construction phase. This is achieved by identifying the main highway issues associated with the construction of the scheme and introducing mitigation measures to minimise the impact on existing highway users.
- 3.11 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
- 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 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 has just completed 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 (apart from DM12) 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 all policies from the adopted Development Plan, other than DM12.

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)** – Subsequent to our previous observations, the applicant has submitted revised documents, namely a Transport Note (TN) revision 2 (dated October 2024) and an Outline Construction Traffic Management Plan (OCTMP) revision 2 (dated October 2024).

It is noted that both documents are included in the Committee Report's Condition 14, but neither are fully acceptable and have some inconsistencies between them. The Highway Authority (HA) would suggest that these are removed from the approved list, to be replaced in due course by documents and drawings to be submitted in response to conditions.

It should be noted that details for a construction phase are normally finalised subsequent to planning permission being given, with the imposition of pre-commencement conditions. It is noted that a condition for a Construction Environment Management Plan (CEMP) has been drafted by the LPA and we endorse this, with some recommended amendments/additions (indicated in red within the suggested condition).

Access 1 – Staythorpe BESS

Access 1 is via the access approved under the appeal for the Staythorpe BESS, for which delivery is secured for that approval. However, this is a separate planning application and whilst it is stated that the two applications would be constructed concurrently, this cannot be secured by planning, and we would require a condition for its delivery related to this application.

Access 2 – existing field access (within bus stop layby)

This access is at the point of an existing field access within a bus stop layby. It appears that the applicant is promoting use of this to gain access to the land otherwise cut off by ditches as opposed to providing temporary culverts to enable access to this land via Access 1 or 3.

It has become apparent that whilst initially framed as Junction 1 being the main access to the site with Junction 2 & 3 providing additional access for the works, Junction 2 appears to now being indicated as the main access to the works, showing an estimate of more vehicles accessing here than at Junction 1, along with the compound for the construction of all cable connection works.

The Transport Note identifies this compound as a temporary Horizontal Directional Drilling compound. It shows temporary offices etc alongside a materials laydown area, both of which would require that deliveries are made to this compound by HGVs from the north, utilising the A roads set out in the routing information and turning left in/right out, rather than the 3 specific construction vehicles shown on the swept path analysis as turning right in/left out to link Junction 1 with Junction 2. It is also likely that if Junction 2 gives access to the compound, similar movements would also be required between Junction 2 and Junction 3.

This would not therefore be in accordance with the information provided to the HA by the applicant and for clarity, it has not therefore been demonstrated that the existing dropped kerb arrangement is suitable for vehicles from the north, which may include Abnormal Loads for delivery of offices, HGVs for deliveries etc and the same construction vehicles shown on the swept path analysis, but turning the other directions, to and from Access 3.

It is not thought likely that the existing dropped kerb would be suitable so further details of this access would therefore be required as part of the CEMP otherwise the proposed use is likely to result in damage to the highway and highway safety issues if vehicles are not able to access or egress in a controlled manner. Please note that whilst

amendments are likely to be required, they are possible and therefore a condition is considered appropriate.

Furthermore, whilst the applicant has stated that there is no requirement for internal access tracks, clearly there is a need so that vehicles can access and egress the construction compound. This requirement is covered by the LPA's proposed CEMP condition.

This access is too narrow to accommodate 2-way vehicle movements and was initially demonstrated by the swept paths submitted to be also too narrow for one-way construction vehicles. Improvements to the width of this to enable 2-way traffic would mean removal of lengths of established hedgerow to enable use for only up to 8 weeks, and as such the applicant has forwarded widening of the access by removal of the existing gate and a length of fencing to enable a width suitable for one-way traffic.

Whilst the applicant has suggested that the use of stop/go boards are to mitigate visibility, suitable visibility is available subsequent to trimming of hedges and the stop/go boards are in fact to mitigate against the access being suitable for one-way traffic only. An indicative layout has been proposed for temporary stop/go boards to control the use of this access, but details will need to be agreed with the Highway Authority at the time.

It is noted that a temporary gate is to be erected. This is required to be left open during working hours or details provided with regards to its re-siting and setback from highway and its management. The response to this should be dealt with under Condition 3.

It is also required that the bus stop within the layby is suspended for the duration of its use as a construction access. This is deemed acceptable for the stated 6-8 weeks and will be subject to formal arrangements made with Nottinghamshire County Council's Public Transport team. We would advise the applicant to make contact as soon as possible, to ensure that any required notification periods do not delay construction commencing.

However, it should be noted that it may not be acceptable for the bus stop suspension to continue for more than 8 weeks, and the applicant should factor in measures to enable the ditches to be crossed from Access 1 should the build programme exceed 8 weeks. (It is noted that the LPA have included a condition for the works via this access to be restricted to 8 weeks, which we would endorse for the above reason).

Access 3 – NGET Compound (gated)

This further access is an existing minor access point to Staythorpe Power Station. Similar to Access 2, this access now appears to be proposed for more traffic than initially suggested and would also require access to the compound via Access 2. However, swept paths have not been submitted. These would be required to be submitted in response to a CEMP condition with traffic management measures put forward if the turning manoeuvres are constrained by the existing layout. It is currently gated and intended to be left closed and opened by a banksman when required. There is no apparent reason for this but it is not acceptable as the gate is set back approximately 9m from the edge of carriageway and any larger vehicles waiting for the gate to be opened will obstruct highway. The CEMP condition requested

includes for details of gates to be submitted, to include locations and any management.

Whilst there are a number of issues highlighted, it is considered that all can be addressed with suitable pre-commencement conditions, as would normally be the case for construction of development, and so in consideration of this the Highway Authority have **no objections** to the development subject to the following conditions:

1. No development shall take place until the layout of site Access 1 has been submitted to and approved by the Local Planning Authority and shall include details of necessary vegetation clearance and culverts. The approved works shall be carried out prior to any works commencing.

Reason: to ensure a safe and suitable access is available in the interests of highway safety.

2. No development shall commence until the visibility splays as shown on Drawing Numbers 23065/IN/02 rev A and 23065/IN/04 are provided and kept clear for the duration of construction.

Reason: In the interests of highway safety.

3. 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 **broadly** in accordance with the Outline Construction Traffic Management dated October 2024 by Optima and shall contain the following details **as a minimum**:

- 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 2 and **layout of the** compound area, including new boundary treatments, permeable hard surfacing;
- vi) Details of Access 3 including swept paths and traffic management measures if necessary;**
- vii) Details of gating along with their management at all accesses;**
- viii) Proposed numbers of site operatives;**
- ix) Full details of any temporary external lighting;**
- x) A construction stage flood incident plan;**
- xi) Construction stage emergency response plan and incident response system(s), including responsible persons and lines of communications;**
- xii) Full dimensions, design and materials of any temporary buildings required to be sited during the construction;**

xiii) a programme of the number of HGV and Articulated Indivisible Load (AIL) movements, identifying the associated access; and

xiv) wheel washing facilities to prevent mud and debris from migrating on to the adjacent highway alongside details of deployment of road sweepers if required.

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.

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. Further comments have been received stating the area containing the above ground works (the substation infrastructure) is outside the relevant flood event – 1 in 100 year plus 20% climate change. The EA have therefore confirmed that they have no fluvial flood risk concerns with this element of the development. They state their previous comments and condition remain relevant.

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.

An additional letter from the Parish Council was received raising concerns regarding the previous consultation arrangements, which have now been superseded by the Member's deferment of the consideration of the application to the December Planning Committee meeting,

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. A further comment has been received stating that the officer report recommends that any outstanding arboricultural issues can be resolved with the implementation of a landscaping condition. With this measure in place, there should be no further outstanding issues from an arboricultural perspective.

6.13 17 comments have been received from 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;
- Unresolved issues of contradictory and confusing information in the revised plans, Transport Note and Outline Construction Management Plan relating to highway safety and traffic are critical and must be addressed before any approval is granted;
- The high speeds of some traffic traveling along this stretch of road around bends with limited visibility, is also a concern with all the extra traffic. Any accidents could be difficult for the emergency services to attend to when the roads are congested. Just over the railway crossing is a particularly bad bend referred to locally as crash corner;
- 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;
- Suspension of a vital bus stop is unacceptable and not even a re-positioning;
- It is unfair to make changes to the bus stop, however temporary, as this means local residents (elderly/disabled/school children) will have to walk further, possibly in the dark and in some cases along pavements which have been badly maintained;
- Given that the site is subject to flooding, the applicant’s estimate of 6-8 weeks for construction is extremely optimistic and the withdrawn bus stop is likely to be out of service for a much longer period and the taxi service offered may extend to several months;
- The cumulative effect of this and all the developments locally on Staythorpe Road. Staythorpe BESS, Averham BESS, Averham BESS Cabling, Kelham Solar & BESS, Staythorpe PS Carbon Capture, and also the A46 dualling works will all have a cumulative negative impact on the traffic in the area. Each of these developments will have a serious detrimental effect on road users in the area and if the road is blocked, residents face an 11-mile diversion.
- 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;
 - if the works are carried out simultaneously consideration should be given to the noise, light, and dust pollution for the period, including the darker winter months.
 - 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 works, including offices, site compounds of materials and equipment, vehicles, and heavy machinery, could potentially increase the risk of flooding in Staythorpe village.
 - 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?
 - On consideration of the BESS development there was considerable reference to minimise loss of hedgerows but this application appears to be destroying more hedging without officer concern and any planning condition to replant hedging would take years to grow and be seriously detrimental to existing visual rural environment;
 - 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;
 - An apparent flexible interpretation by the Council’s use of their own policies – Core Policy 10 quoted as a need for the approved BESS development, however, the recent education building built by and adjacent to the Council’s own offices does not adhere – not a solar panel on the roof – CP10 can impact the environment of local villages but not NSDC;
 - 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;
 - Officers and the applicant must have forgotten that at the appeal hearing for the BESS development, pictures showing the presence of otters were shown by a member of the public and accepted by the Inspector in his report;

- The planning department's disregard for the concerns of Staythorpe residents is causing significant negative impact on the wider community, residents feel their legitimate concerns are being ignored, leading to increased frustration and eroding trust in the planning process, which undermines community confidence and risks overlooking critical issues that could affect the overall well being of the community;
- concerns have been raised regarding the previous consultation arrangements, which have now been superseded by the Member's deferment of the consideration of the application to the December Planning Committee meeting,

A letter of objection has been received from The Staythorpe BESS Action Group stating the information provided by the applicant is deficient in both clarity and detail and the process by which the application is being brought to Committee is flawed. The lack of resident comments on this application has been purely driven by the profound distress, dejection and disheartenment following the appeal outcome for the Staythorpe BESS (22/01840/FULM). The entire process demonstrated that the influence of organisations with the money and resources to nullify genuine, researched and proven evidence, mitigating through words in reports, making non-evidence based assumptions and agreeing to comply with conditions that will inevitably be modified or revoked at a later date, leaves so many completely despondent about the future. Concerns regarding noise emission have also been raised stating that the Council's Environmental Health officer is completely wrong to 'assume the proposed development once operational will be captured by those routine noise surveys' that are carried out by Staythorpe Power Station and submitted annually to the District Council for monitoring purposes. Separate noise surveys will be required to monitor both the construction and operational phase of this project, as a whole. Enquiries should be made to the Power Station to understand how these surveys work. Traffic has significantly increased in recent months due to work starting on additional projects within the Staythorpe Power Station. This must be surveyed and taken into account before any additional construction works start in the area as this will start to seriously impact our local roads.

A letter has been received from Councillor Peter Harris raising concern about the closure of the bus stop without a temporary replacement, which is unacceptable. If there cannot be a better access to the site, such as an alternative with a culverted section of ditch elsewhere, then there must be a temporary stop close to Pingley Lane – the destination for most of the passengers. He raised disappointment in relation to the failure to sort out visibility splays for the access and lack of requirement for temporary surfacing for the HGVs and the requirement to reinstate matters on completion of the project. I do hope the agent, who was in the public gallery listens to the local community and promotes better amended plans in the light of the partial debate at the last Committee meeting and look forward to hearing of these next month.

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 evaluation¹.
- 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 and some trial trenching has already been completed on the wider BESS 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 – Proposed Construction Access (Drawing Ref 23065-GA-03) in Transport Note;

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

as set out on the plan below:

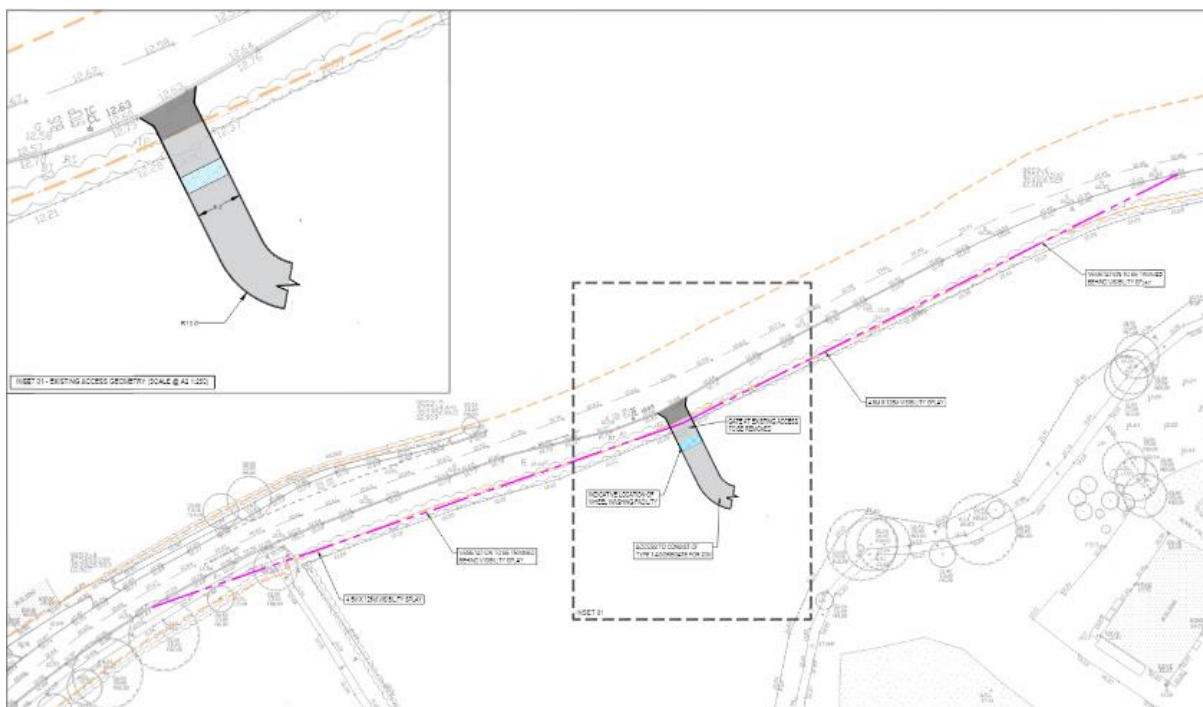


- 7.46 A Transport Note has been prepared to provide an overview of the cable installation works with regard to traffic and provides assessment of the impact of these works on local traffic and transportation. The nature of the proposed development means that the key transport related effects are associated with the construction stage, rather than once the cable is operational. This document sets out delivery routes for HGV/abnormal loads, normal loads and proposed access arrangements. Although swept path analyses have been included in this document for Access 2, it only shows vehicles entering and leaving from/to the south-west direction only and fails to account for the fact that all delivery routes to/from the access would be travelling in the opposite direction.
- 7.47 An Outline Construction Traffic Management Plan has also been submitted, the purpose of which is to ensure that the impact of construction traffic and delivery vehicles on the surrounding highway network is minimised during the construction phase. This is achieved by identifying the main highway issues associated with the construction of the scheme and introducing mitigation measures to minimise the impact on existing highway users. This document also refers, therefore to the 6-8 week construction phase and the instalment and removal of the proposed development compound at each end of this process.
- 7.48 The Transport Note states that vehicular trips 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;

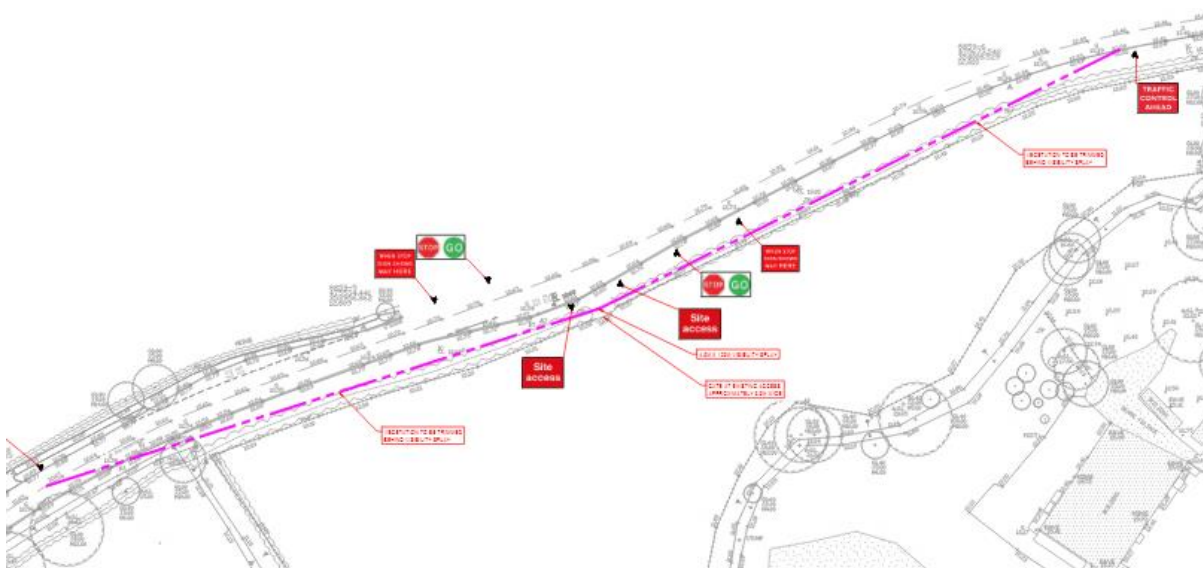
Access 3 – 4 two-way HGV and a total of 150 two-way vehicle movements over the 6-8 week period.

Assuming a 26-day working month, this will result in 260 car/light van movements per month in total.

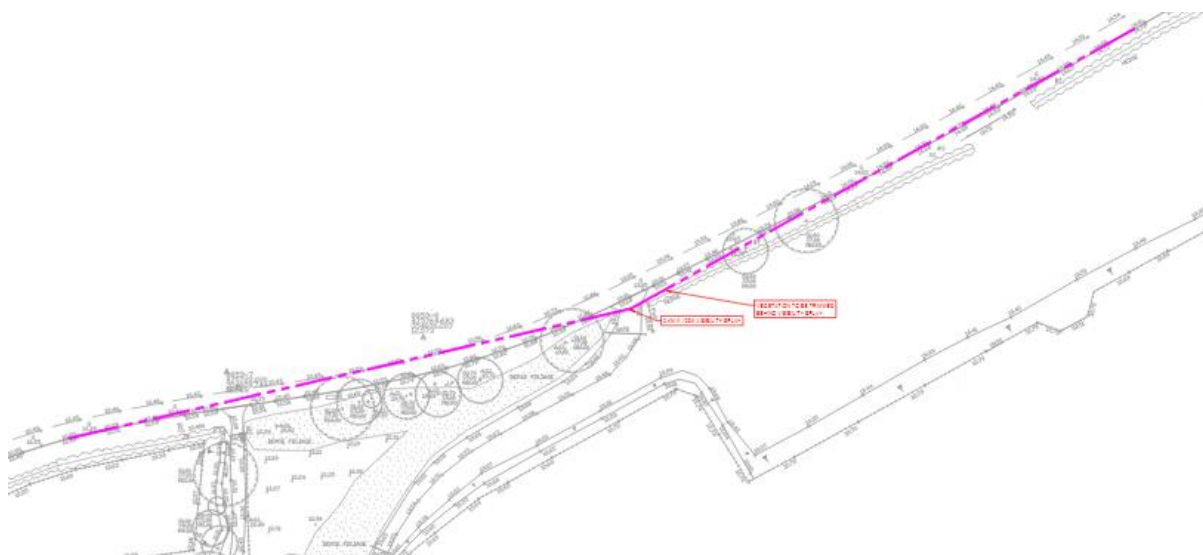
- 7.49 The main access to the site (Access 1) will be via a new simple priority junction off Staythorpe Road onto a newly formed track which runs parallel to the existing agricultural track/public right of way (Staythorpe FP1) through the middle of the site. Based on the above, Access 2 and 3 will each 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.
- 7.50 The drawing below shows the proposed new Access 2 via the existing field gate, that would need to be approx. 5.2m wide (the gate at existing access is approx. 3.6m wide). The existing gate and fence either side would be removed and 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 to exit safely from this access, manually controlled "STOP/GO" signs would be used operated by a qualified Traffic Banksman to control entry/exit in this location using radio link. This plan also shows required visibility splays. It is clear from this drawing that at least half of the majority of the existing hedgerow along the Staythorpe Road frontage will have to be trimmed back to allow for safe visibility in both directions. However, the majority of this hedgerow is proposed to be translocated further back into the site as part of the proposed BESS development, and therefore it would be important to secure the translocation of the hedgerow prior to the use of Access 2 for the cable construction.
- 7.51 Access 3 is provided into the National Grid substation compound which is existing and secured by a gate. Due to the lack of intensive construction, the gate to Access 3 would be closed during the construction phase and opened by the Banksman as required to enable access for construction materials, delivery of machinery, equipment and site operatives. The visibility splay shows that very little of the hedgerows would need to be trimmed back at this point.



Proposed Construction Access 2



Proposed "STOP/GO" signage



Visibility Splay for Access 3

- 7.52 However, the Note goes on to state that final details of the installation works and staffing requirements will be confirmed once a contractor has been appointed, as the approximate number of construction vehicle movements cannot be finally established until a final construction programme is available. However, it concludes that the temporary change in traffic volume on routes approaching the Site with regards to the installation of the cable is likely to be minor when considered against existing traffic flows on the adjacent local highway network.
- 7.53 Although a recently revised Transport Note and Outline Construction Traffic Management Plan has been submitted, it is clear from the comments of both the Highway Authority, the Parish Council and those of local residents that these documents contain inconsistencies between them. The detailed comments of the Highway Authority are set out in full in the Consultation Section above and notwithstanding the inconsistencies identified, the Highway Authority is satisfied that subject to conditions that require details to be submitted and approved, the proposed development, and particularly through its construction phase, can be carried out without harm to highway safety. A condition requiring a Construction Environment Management Plan are often imposed on planning permissions, and was considered an appropriate way of dealing with access/construction details on the BESS scheme approved at appeal.
- 7.54 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 consider that this is a reasonable approach for the limited 6-8 week period and raise no objection to this temporary closure in highway safety terms.
- 7.55 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

- 7.56 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.
- 7.57 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.
- 7.58 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.
- 7.59 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.
- 7.60 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.”
- 7.61 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.
- 7.62 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.

- 7.63 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.
- 7.64 In relation to part a) the development assists in providing broader sustainability advantages to the community by enabling renewable energy provision.
- 7.65 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.
- 7.66 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.
- 7.67 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.
- 7.68 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

- 7.69 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.

7.70 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.

7.71 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;

7.72 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).

7.73 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.

7.74 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.

7.75 **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

One local resident has raised the fact that a photograph of an otter was produced at the appeal for the BESS to demonstrate that otters have been observed in local watercourses. The Inspector acknowledged that through records and ongoing surveys that otter is relatively widespread in the local area and generally associated with larger watercourses, including the River Trent. However, the Inspector also recognised that there were no pre-existing records of otters within the BESS site and surveys have recorded no evidence of the species on the site and only suboptimal aquatic habitat. The Ecological Impact Assessment predicted negligible and unlikely effects from the BESS development and proposes mitigation measures in line with standard good practice, which can be included within a Construction Environmental Management Plan (CEMP), which was made the subject of a condition.

To summarise the findings on this application site, 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.

7.76 **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.

- 7.77 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.

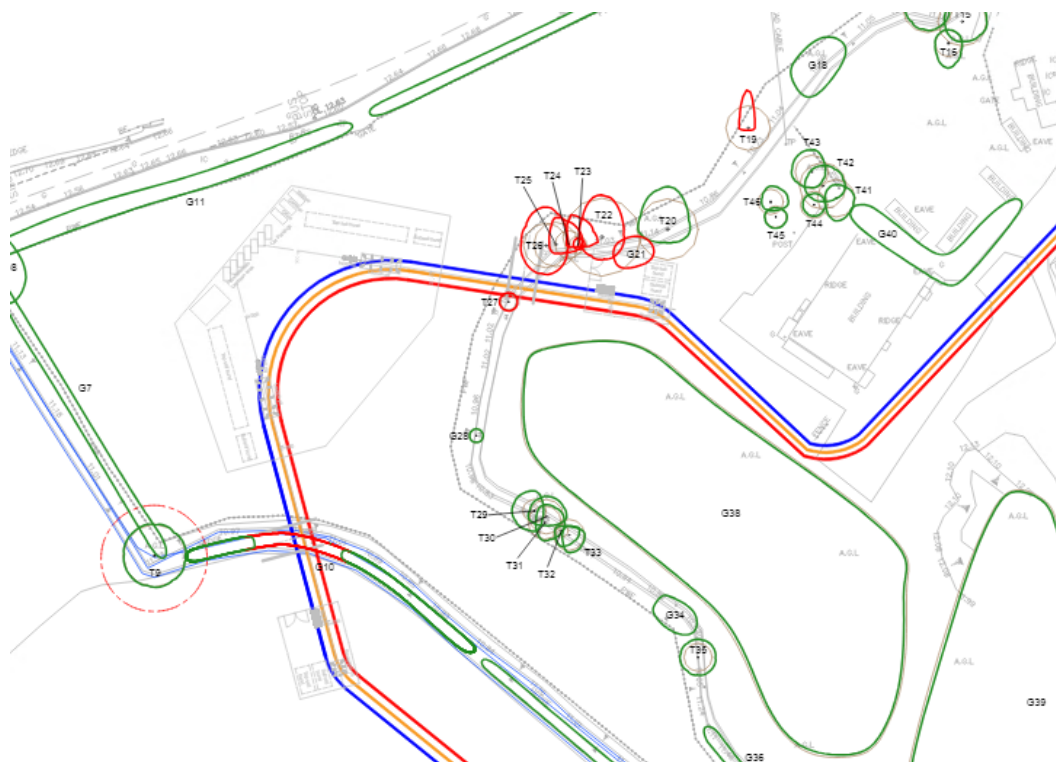
Trees

- 7.78 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

- 7.79 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.



- 7.80 The trees/hedgerow to be removed are shown in red on the attached plan above and are classed as Category C or U.
- 7.81 The latest comments of the Council's Tree and Landscaper Officer state that they recognised the officer report recommends that any outstanding arboricultural issues can be resolved with the implementation of a landscaping condition. The Trees Officer has therefore confirmed that with this measure in place, there should be no further outstanding issues from an arboricultural perspective.
- 7.82 As such, 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

- 7.83 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

- 7.84 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. The applicant has stated that they consider the BNG requirement can be adequately controlled by condition rather than through a S106, however, officers disagree.

Community Infrastructure Levy (CIL) -

- 7.85 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 shall be prepared in accordance with the Outline Construction Traffic Management dated October 2024 by Optima and shall contain the following details as a minimum:

- 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 2 and layout of the compound area, including new boundary treatments and permeable hard surfacing;
- vi) Details of Access 3 including swept paths and traffic management measures if necessary;
- vii) Details of gating along with their management at all accesses;
- viii) Proposed numbers of site operatives;
- ix) Full details of any temporary external lighting;
- x) A construction stage flood incident plan;
- xi) Construction stage emergency response plan and incident response system(s), including responsible persons and lines of communications;

- xii) Full dimensions, design and materials of any temporary buildings required to be sited during the construction;
- xiii) a programme of the number of HGV and Articulated Indivisible Load (AIL) movements, identifying the associated access; and
- xiv) wheel washing facilities to prevent mud and debris from migrating on to the adjacent highway alongside details of deployment of road sweepers if required.

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 the layout of site Access 1 has been submitted to and approved by the Local Planning Authority and shall include details of necessary vegetation clearance and culverts. The approved works shall be carried out prior to any works commencing.

Reason: To ensure a safe and suitable access is available in the interests of highway safety.

010

No development shall commence until the visibility splays as shown on Drawing Numbers 23065/GA/03 and 23065/IN/04 are provided and kept clear for the duration of construction.

Reason: In the interests of highway safety.

011

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.

012

No development shall take place until an Archaeological Mitigation Strategy, informed by works carried out in relation to condition 11 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 12 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 11 and 12 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

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.

07

Planning permission does not include permission to work within the public highway. Please contact licences@viaem.co.uk to ensure all necessary licences and permissions are in place. The proposals involve the suspension of a bus stop. Please email PTDC@nottsc.gov.uk with regards to commencing the process for this.

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 of the 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 deleterious material is transferred 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.

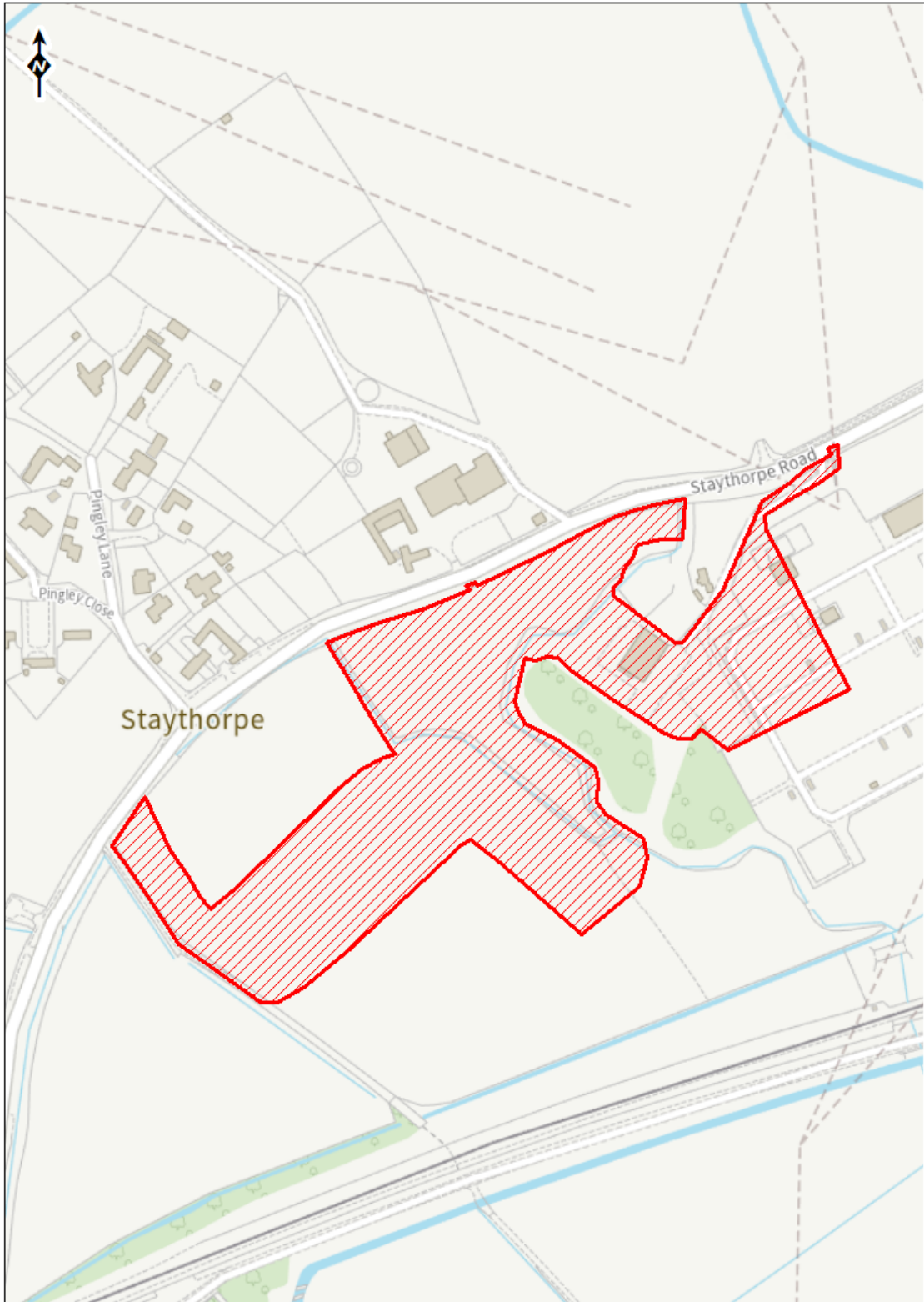
BACKGROUND PAPERS

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 5 December 2024

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Laura Gardner, Senior Planner x5907

Report Summary			
Application No.	23/01283/OUTM		
Proposal	Outline Planning Permission for up to 12,008sqm employment development (use class B2, B8 and E(g) i, ii and iii) with associated internal access roads, landscaping and drainage (all matters reserved).		
Location	Land At Overfield Park, Winthorpe, Newark On Trent		
Applicant	Lindum Group Ltd	Agent	Mr Andrew Pettifor - Aspbury Planning Ltd
Web Link	<u>23/01283/OUTM Outline Planning Permission for up to 12,008sqm employment development (use class B2, B8 and E(g) i, ii and iii) with associated internal access roads, landscaping and drainage (all matters reserved). Land At Overfield Park Winthorpe Newark On Trent NG24 2UA (newark-sherwooddc.gov.uk)</u>		
Registered	24.07.2023	Target Date / Extension of Time	23.10.2023 / TBC
Recommendation	Approve, subject to the conditions set out in Section 10.0 and the signing and sealing of a Section 106 agreement		

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as the proposal represents a departure from the Local Plan.

1.0 The Site

- 1.1 The site comprises 3.47 hectares of land between the A17 Sleaford Road (to the south) and Godfrey Drive (to the north) which serves the development on what is known as Overfield Park. The site was historically part of the Winthorpe Aerodrome used during the war.
- 1.2 Land to the east is occupied by Farol Ltd, an agricultural machinery dealership and further to the east is the Wirtgen Group House. To the west is a Starbucks coffee house

and drive thru. To the south (beyond the A17) is Newlink Business Park occupied by the Currys/Knowhow Distribution Centre.

- 1.3 The site itself is relatively flat and largely undeveloped, albeit there are the remnants of the former runway located centrally. The northern boundary with Godfrey Drive is bunded (estimated around 1 to 2m in height) and overgrown. Vegetation also forms the boundary alongside the A17. A metal gate/access point located centrally along the A17 is evident although appears redundant.
- 1.4 The site is within Flood Zone 1 and at very low risk of surface water flooding according to the Environment Agency maps.
- 1.5 The site is within the Newark Showground Policy area to the north of, and outside of, the Newark Urban Area.
- 1.6 The proposal site is partially within the former RAF Winthorpe site, which is identified on the Notts Historic Environment Record as being a heritage asset. Winthorpe Conservation Area is also approximately 335m away to the northwest of the site boundary.
- 1.7 The site has the following constraints:
 - Allocated site – NUA/MU/1 (Newark Urban Area – Mixed Use Site 1).

2.0 **Relevant Planning History**

- 2.1. The development has been screened against the Environmental Impact Assessment Regulations 2017 and it has been determined that the development does not require the submission of an Environmental Statement. (SCR/23/00005).
- 2.2. No planning history on the application site itself.
- 2.3. *Land to the north*
 - 23/02281/OUTM - Outline Planning Permission (all matters reserved save for means of access) for up to 41,806sqm of Employment land (use class B2, B8 and E(g) (i), (ii) and (iii) with associated internal access roads, landscaping and drainage. *Pending Consideration.*
- 2.4. *Land to east (now occupied by Farol Ltd)*
 - 21/01736/S73M- Request for variation of condition 02 to replace approved landscaping plans and addition of drainage drawings attached to planning permission 20/01219/FULM; Erection of an agricultural machinery dealership comprised of maintenance, sale and repair with associated infrastructure. *Approved 15.10.2021*
 - 20/01219/FULM – Erection of agricultural machinery dealership comprised of maintenance, sale and repair with associated infrastructure. *Approved 12.10.2020.*
- 2.5. *Land to further east (now occupied by Wirtgen)*

- 16/01796/FULM - Erection of a three storey building to accommodate vehicle/plant servicing and repair workshop, storage and ancillary office accommodation, external storage and sales display area, associated car parking, lighting, access roads and landscaping. *Approved 27.01.2017*

2.6. *Land to west (now occupied by Starbucks)*

- 20/00217/FUL – coffee shop with drive thru. *Approved 06.04.2020.*

2.7. *Land to south-east*

- 22/02427/RMAM – RMA pursuant to 20/1452/OUTM Erection of one distribution building (Use Class B8) together with ancillary offices, plot access, car parking and landscaping. *Approved 17.03.2023*
- 20/01452/OUTM- Development of site for distribution uses, including ancillary offices and associated works including vehicular and pedestrian access, car parking and landscaping. *Refused by Members (contrary to Officers) due to impact on open countryside 03.11.2021 but subsequently allowed at appeal by decision dated 29.11.2022.*

2.8. The site is also close to the A46 and the proposed bypass which is currently being considered by the Planning Inspector as a Development Consent Order.

3.0 The Proposal

3.1 The proposal seeks outline permission for up to 12,000m² of employment land (use class B2, B8 and E(g) i, ii and iii)¹ with associated internal access roads, landscaping and drainage.

3.2 All matters are reserved. Nevertheless, an indicative masterplan has been submitted showing the site could be split into three units each served by associated car parking areas and various access points from Godfrey Drive to the north. It is suggested that building heights could be around 16m.

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

- Outline Site Plan – 17983 dated March 03 2023;
- Location Plan – 17857-THP-SITE-XX-DR-A-100 Rev. A;
- Existing Site Plan – 17857-THP-SITE-XX-DR-A-101 Rev. A;
- Existing Constraints Plan – 17857-THP-SITE-XX-DR-A-102 Rev. A;
- Masterplan – 17857-THP-SITE-XX-DR-A-110 Rev. B;
- Proposed Site Plan – 17857-THP-SITE-XX-DR-A-111 Rev. C;
- Constraints Overlay Plan – 17857-THP-SITE-XX-DR-A-112 Rev. C;
- Parameters Plan – 17857-THP-SITE-XX-DR-A-113 Rev. A;
- Parameters Overlay Plan – 17857-THP-SITE-XX-DR-A-114 Rev. C;

¹ B2 (General Industrial Use), B8 (Storage and Distribution Use), E(g)(i) (Offices to carry out any operational or administrative functions use), E(g)(ii) (Research and development of products or processes use) and E(g)(iii) (Industrial processes use)

- Units 3-4 Finished Level Scheme – Y21177 D101 Rev. 3;
- Units 4-5 Finished Level Scheme – Y21177 D102 Rev. 3;
- Units 2 & 3 Drainage Layout – Y21177 D201 Rev. 4;
- Units 1 & 2 Drainage Layout – Y21177 D202 Rev. 4;
- Indicative Site Usage Plan – L5 / 586 – 90 Rev. E;
- Arboricultural Report – AWA5154 dated April 2023;
- Archaeological Evaluation Report – 2597 dated June 2022;
- Design and Access Statement – 17857 – DA01;
- Ecological Impact Assessment – 18-0902.03/87023.543988 dated April 2023;
- Flood Risk Assessment & Drainage Strategy – AMF/FRADS/Y21177v3 dated March 2023;
- Ground Conditions & Contamination (unreferenced received 21st July 2023);
- Spatial Planning Statement – AJP/LINDU/23/1869 dated May 2023;
- Transport Assessment dated September 2023;
- Letter from Newark & Nottinghamshire Agricultural Society dated 3rd October 2023;
- Technical Note – Additional Information 2201-012/TN/02
- Geo-Environmental Assessment – Phase 1 – 96385.587715 dated February 2024;
- Heritage Statement received 11th June 2024;
- Project Overfield Indicative Elevational Treatment received 11th June 2024;
- Detailed UXO Risk Assessment dated 17th March 2020;
- Email dated 13th November 2024 in relation to highways matters including the following documents and indicative plans:
 - Proposed Roundabout Improvements – 2201-012.SK02(B);
 - Alternative Roundabout Improvements & Tracking – 2201-012.SK03;
 - Tracking HGV – 2201-012.SP01(B);
 - Tracking HGV – 2201-012.SP02(A);
 - Proposed CW Widening & Ped-Cycle Infrastructure – 2201-12.SK01(B);
 - Junction 10 Arcady Roundabout Module dated 11/11/2024.

4.0 Departure/Public Advertisement Procedure

- 4.1 Occupiers of 14 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 September 2023.

5.0 Planning Policy Framework

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

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 6 – Infrastructure for Growth
- Spatial Policy 7 - Sustainable Transport
- Core Policy 6 – Shaping our Employment Profile
- 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)**

- Policy NUA/SPA/1 – Newark Urban Area – Newark Showground Policy Area
- Policy NUA/MU/1 – Newark Urban Area – Mixed Use Site 1
- DM2 – Development on Allocated Sites
- DM3 - Developer Contributions and Planning Obligations
- DM5 – Design
- DM7 – Biodiversity and Green Infrastructure
- DM9 – Protecting and Enhancing the Historic Environment
- DM12 – Presumption in Favour of Sustainable Development

5.3. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and has just completed 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 (apart from DM12) 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 all policies from the adopted Development Plan, other than DM12.

5.4. **Other Material Planning Considerations**

- National Planning Policy Framework (NPPF) 2023
- Planning Practice Guidance (online resource)
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Developer Contributions and Planning Obligations SPD 2013
- Landscape Character Assessment SPD 2013

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

Statutory Consultations

6.2. **National Highways** – No objections subject to conditions.

- 6.3. **NCC Highways** – No objections subject to conditions and obligations.
- 6.4. **Active Travel** – No objections subject to condition.
- 6.5. **Environment Agency** – No objections subject to conditions.
- 6.6. **NCC Flood** – No objections subject to condition.

Town/Parish Councils

- 6.7. **Winthorpe Parish Council (host Parish)** – No comments received.
- 6.8. **Coddington Parish Council (neighbouring Parish)** – Coddington Parish Council objects to this application on the grounds that it is inconsistent with the Adopted Allocations Development Plan Document in several respects. The proposed development falls in Policy Area NUA/MU/1 Newark Urban Area – Mixed Use Site 1 which is part of Policy Area NUA/SPA/1 Newark Urban Area – Newark Showground Policy Area.

Policy NUA/SPA/1 states that new development which supports and complements Newark & Nottinghamshire Agricultural Society Showground and other leisure uses on site will be supported provided it meets wider strategy and policy requirements. Development proposals must address factors including:

- The need to address access constraints relating to the A1/A46/A17 junctions
- The need to adequately screen new development

Policy NUA/MU/1 states that development on this site will be subject to:

- The requirements of the Newark Showground Policy Area
 - o Screening of the existing developments in this Policy Area is completely inadequate. The boundary hedging is regularly cut down to around one metre high along both the A17 and A46, and illuminated signs on existing developments in this Policy Area are kept lit 365/24/7. Both of these are in conflict with the report of the Planning Inspector for the appeal on the Wirtgen site which commented on the good screening in place and the need to limit illumination of signs to periods when the facilities are in use. There is no confidence that adequate screening will be restored nor maintained for this proposed development.
- The preparation of a site specific Master Plan for the allocation setting out the location of various land uses and a phasing policy for new development
 - o Where is the site specific Master Plan for this allocation in the application documents for this proposed development, which simply refers to a separate application with limited details provided?
- Until appropriate improvements have been made to the A1/A46/A17 junctions, employment development will not be considered appropriate. Any proposed development will need to demonstrate that it will not generate significant a.m. and p.m. peak traffic as part of any planning application
 - o This proposal is for employment development without any improvements in place to the A1/A46/A17 junctions so should be rejected. There are already significant

queues occurring on the A17 leading to additional traffic volumes through Coddington village and past the school crossing.

This proposal should be rejected due to the significant conflicts with several Policies in the Adopted Allocations Development Plan Document

- 6.9. **Newark Town Council (neighbouring Town Council)** –Newark Town Council has no objection to the principal of the development but does comment as follows:

-Existing hedgerows on site must be retained.

-That by way of S106 contributions or planning conditions, the Developer is required to provide new, improved and enhanced pedestrian and cycle access to the site for the benefit of employees living in Newark who may work at the site and also residents of Newark wishing to walk or cycle to the Showground.

Representations/Non-Statutory Consultation

- 6.10. **NCC Planning Policy – Transport and Travel Services** – Request submission of a Public Transport Delivery Strategy and bus stop details.

- 6.11. **NSDC Environmental Health (contaminated land)** – Intrusive sampling and ground water and ground gas monitoring and have been completed. There were no exceedances of soil sample screening criteria for the proposed use. Whilst elevated methane was identified during one monitoring event, this has been further evaluated during the risk assessment and has been revised down to CS1. This assessment however is based on only five ground gas monitoring events when ordinarily we would expect six to be the minimum. I remain to be convinced that the ground gas regime has been adequately characterised. Recommend the use of the full contamination condition.

- 6.12. **NSDC Archaeological Officer** - The site is located in an area of high archaeological potential associated with late Iron Age and Roman settlement activity. Ongoing excavation work to the south-east on the other side of the A17 has identified extensive Roman settlement remains. Recent non-intrusive evaluation work to the north, adjacent to the A46, has identified similar activity as has work to the south of the A1.

The applicant has already undertaken a trenched evaluation of the site and the report accompanies this application. It has identified one area of archaeological sensitivity around trench 17 which will be impacted by the development. These features are likely associated with the extensive late Iron Age and Roman settlement currently being excavated to the south-east, although it is evident from the trenching that there has been some truncation from the construction of the WW2 airfield.

Given the above, further mitigation work in the form of a small open area excavation around Trench 17 is recommended. This work can be secured by a condition of consent.

- 6.13. **NSDC Tree Officer** - It is suggested that without significantly reducing the level of development:

1. The density of the development will not allow for reasonable mitigation (landscaping).
 2. The development is not in keeping with the character of the local area.
 3. The proposal will have a strong negative impact on the character of the local area.
 4. The proposal will have strong negative impact on biodiversity, and climate change.
- 6.14. **NSDC Ecology Officer** - considered that the proposal aligns with the requirements of NSDC Amended Core Strategy (Adopted March 2019) Core Policy 12 – Biodiversity and Green Infrastructure, but I would advise that if outline approval is granted, at Reserved Matters stage the soft landscaping scheme should maximise its value for biodiversity through its design, and demonstrate how this has been done.
- 6.15. **Newark Business Club** – Support the proposal which would add to the commercial and employment opportunities in the Newark locality.
- 6.16. **NSDC Conservation** – The proposal would result in less than substantial harm to the setting of Winthorpe Conservation Area and some of the Listed Buildings on the eastern edge of the settlement, albeit the lower end of the scale of harm. It is acknowledged that some of the harm could be minimised by landscaping and palette of materials, which could be agreed at a reserved matters stage. It would be for the decision maker to weigh up any public benefits from the proposal against the heritage harm identified.
- 6.17. **Arqiva** – No adverse effect on operations.
- 6.18. **One letter of representation has been received:**
- Great idea for the future success of the Newark town centre and its surrounding villages;
 - The planning decision must have the flexibility to save as many of the existing trees as possible and the size of units must be of a smaller/medium size for small and medium sized enterprises.

7.0 Comments of the Business Manager – Planning Development

- 7.1. The key issues are:
1. Principle of Development
 2. Impact on Visual Amenity
 3. Impact on Highway Safety
 4. Impact on Trees and Ecology
 5. Impact upon Residential Amenity
 6. Flood Risk and Drainage
 7. Land Contamination
 8. Impact on Archaeology
 9. Developer Contributions
- 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

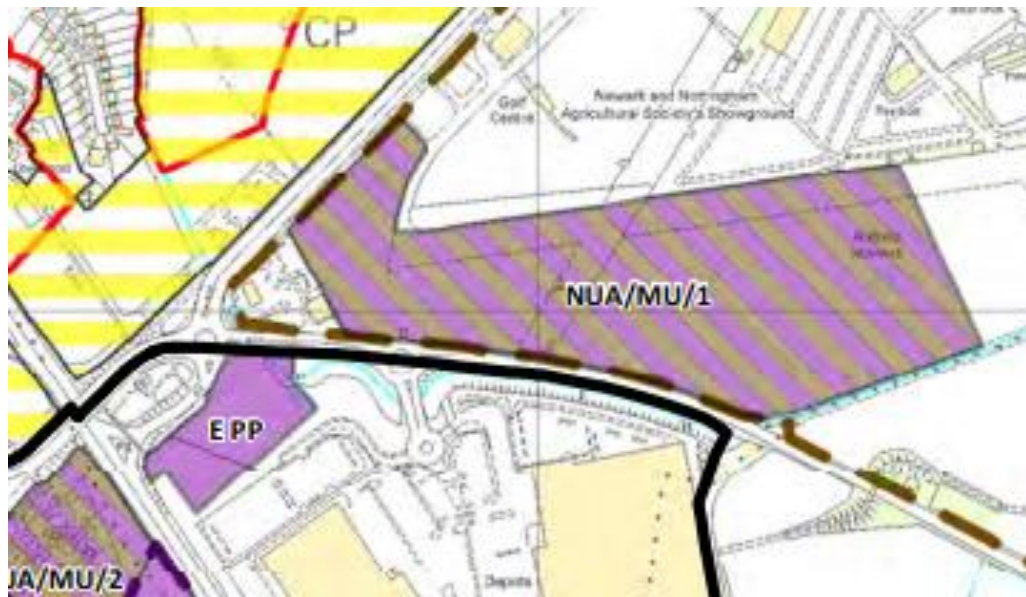
development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden 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 sets out the Settlement Hierarchy for the District, identifying the Sub Regional Centre as the Newark Urban Area and setting out that the function of it is to be the main focus of housing and employment growth in the District over the Development Plan period. Core Policy 6 provides that the economy of the District will be strengthened and broadened to provide a diverse range of employment opportunities by maintaining and enhancing the employment base of towns, providing most growth at the Sub Regional Centre of Newark. The NPPF places significant weight on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 7.4. Whilst the site is located outside of the defined Newark Urban Area, the site is within policy NUA/MU/1 – Newark Urban Area – Mixed Use Site 1 within the adopted Allocations and Development Management DPD. Policy DM2 states that within sites allocated by the DPD, proposals will be supported for the intended use where they comply with the remainder of the Development Plan and the site-specific issues set out within the allocation.
- 7.5. The premise of this policy area is to accommodate a hotel/conference facility, restaurant facilities to support the wider showground uses and employment uses. The application site also sits within the Newark Showground Policy Area (NUA/SPA/1), which seeks to facilitate new development which will support and complement the East Midlands Events Centre (Newark & Nottinghamshire Agricultural Society Showground) and other leisure uses on the site.
- 7.6. In addition to general policy requirements development on the site shall be subject to the requirements of the Newark Showground policy area (NUA/SPA/1) notably;
- Addressing access constraints relating to the A1/A46/A17 junctions;
 - Need to adequately screen new development;
 - Investigation of potential archaeology on site;
 - Address any issues regarding potential impact on neighbouring amenity.
- 7.7. Policy NUA/MU/1 further states that development on site will be subject to the following:
- The preparation of a site-specific master plan for the allocation setting out the location of various land uses and a phasing policy for new development;
 - Until appropriate improvements have been made to the A1/A46/A17 junction employment development will not be considered appropriate. Any proposed

development will need to demonstrate that it will not generate significant am and pm peak traffic as part of any planning application.

- 7.8. As set out in the planning history section above, this application is not the first to come forwards within the mixed-use site allocation which covers a substantial area:



- 7.9. As per the policy requirements, applications within the allocation are required to prepare a site-specific Masterplan for the allocation setting out the location of various land uses and a phasing policy for new development. The application has submitted an indicative usage plan showing the parts of the site which are already in use in purple:



- 7.10. Both the application site and all remaining land within the allocation are annotated as being for Class E (G) (i) (ii) (iii); B2, B8 Business, General Industry, Distribution. Crucially this would leave no available land with the policy area of NUA/MU/1 for the delivery of a hotel/conference facility or restaurant facilities as envisaged by the policy allocation.

- 7.11. This was raised with the agent during the application and in response a supporting letter has been provided by Newark & Nottinghamshire Agricultural Society (the charity that operates the activities from Newark Showground). The full detail of the letter is available to view on the planning file but essentially it seeks to comment on the provision of hotel facilities on or adjacent to the Showground.
- 7.12. It is stated that discussions regarding the requirement for a hotel close to the Showground have been ongoing for many years but that one of the biggest drawbacks is that the Showground is so well located geographically that many users typically make the journey in a day without staying overnight. Moreover, the nature of the events at the Showground has not historically been seen to support a consistent demand for hotel accommodation with demand typically being sporadic. The Showground has limited facilities in the immediate vicinity (albeit it is appreciated that these have in part come forwards through the site allocation, for example the now operational Starbucks). This means that users of the hotel would potentially need to travel further afield in order to access shops, restaurants and entertainment. These are all deemed as negative factors in considering a prime location for a hotel.
- 7.13. The supporting letter presents a persuasive argument in that it is in part based on previous studies for potential demand and viability of a hotel which have to date concluded that there is unlikely to be sufficient demand to attract a hotel developer / operator to consider the location. Clearly, this runs contrary to the aspirations of policy NUA/MU/1 and the application is considered to represent a departure to the Local Plan on that basis.
- 7.14. Officers have carefully considered whether or not a lack of a hotel proposal should be fatal to the application which seeks only to provide employment uses. In reaching a judgement, it must also be considered that there are potential alternative locations for a hotel in the area which could be acceptable in planning terms should a future demand arise. The supporting letter from the Newark & Nottinghamshire Agricultural Society considers that it would be more appropriate for a hotel to be located with direct access onto the A46 (which would also promote associated visibility). It is explicitly stated that the Society would be receptive to proposals for an accommodation only hotel facility and would be supportive of its location along land, peripheral to the Showgrounds main activities. Whilst this is not a short-term prospect it does offer some comfort that the policy aspirations of NUA/MU/1 could be realised nearby if a demand presents itself in the future. In the absence of the Council having robust evidence to demonstrate that a hotel would be viable within the policy zone, it is not considered appropriate to resist the current application purely on the basis that it does not include a hotel.
- 7.15. It is stated within the Planning Statement that the scheme can anticipate providing at least 120 warehouse operative jobs as well as employment in other supporting roles (albeit the exact levels of proposed employment are unknown noting the outline nature of the proposals). This must weigh positively in the overall balance of the scheme in the context of Core Policy 6 (Shaping our Employment Profile).

- 7.16. Despite finding that the proposal would be contrary to policy NUA/MU/1 in part, the application must be assessed against all material planning considerations in order for an appropriate balancing exercise to be taken.

Impact on Visual Amenity

- 7.17. Core Policy 9 of the Core Strategy requires a high standard of sustainable design that protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District. Policy DM5 echoes this stating that the District's landscape and character should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. Policy NUA/SPA/1 also refers to screening of any development, which I take to mean securing appropriate siting, landscaping/and or boundary treatment being secured.
- 7.18. Core Policy 13 requires the landscape character of the surrounding area to be conserved and created. The site is situated within Landscape Character Zone: ES PZ 4 Winthorpe Village Farmlands. The landscape condition here is defined as moderate and landscape sensitivity is also described as moderate. The policy zone has a landscape action of conserve and create. This includes promoting new hedgerows, enhancing tree cover and landscape planting generally and conserving what remains of whilst and reflecting the local built vernacular.
- 7.19. The site as existing comprises poor semi-improved grassland with tall ruderals, species-poor intact hedgerow and hardstanding. The site previously formed part of RAF Winthorpe airfield and has been 'prepared' for development. The land immediately surrounding the site comprises a variety of uses including large scale industrial buildings.
- 7.20. The proposal is for outline permission and therefore the exact visual impacts of the development cannot be known at this stage. However, the proposal relates to a significant amount of proposed floor space and there is a suggestion that the buildings would have a considerable scale of around 16m. Clearly, a development of this scale would alter the character of the current site from predominantly arable land to an industrial development. The site also occupies a relatively prominent position close to heavily trafficked road networks.
- 7.21. The site is allocated and therefore there is an explicit acknowledgement that the visual characteristics of the site are expected to change. There is nothing to suggest that the level of development proposed could not be accommodated within the site and the visual impacts appropriately mitigated through landscape planting. A suggested landscape buffer along the southern boundary of the site is welcomed, exact details of which would need to be submitted at reserved matters stage if outline consent were to be forthcoming.
- 7.22. I note the concerns of the Council's Tree Officer that the density of the development would not allow for reasonable mitigation but in the absence of detailed plans showing the exact development form proposed, it is my view that it would be premature to reach such a conclusion.

- 7.23. Subject to appropriate landscaping details being submitted to mitigate the exact layout and scale of the development proposed, I do not consider that the proposal would result in any detrimental visual impact in accordance with Policy NUA/MU/1 and Policies CP9 and DM5.

Impact on Highway Safety

- 7.24. Spatial Policy 7 of the Core Strategy amongst other things requires proposals to minimise the need for travel through measures such as travel plans or the provision or enhancement of local services and facilities; provide safe, convenient and attractive accesses for all; be appropriate for the highway network in terms of volumes and nature of traffic generated and avoid highway improvements which harm the environment and character of the area. DM5 mirrors this. Policy NUA/MU/1 requires development to be acceptable in respect of the A1/A46/A17 junctions.
- 7.25. A Transport Assessment (TA) has been submitted with the application. There was some discrepancy in the original submission as to whether access was a matter sought for consideration or not. The TA refers to access being a reserved matters consideration, but the application form and original description of development referenced seeking approval of access. It has since been clarified that access *is* intended as a reserved matter and the description of development has been updated accordingly.
- 7.26. The original TA used 2019 traffic surveys on the basis that they were undertaken pre-covid when traffic flows were likely to be higher than post covid conditions (due to more flexible working practises). The TA states:

“The results presented in Table 6.2 indicate that during the traditional morning peak hour, the site is forecast to attract 17 two-way vehicle trips, with a total of 8 two-way vehicle trips forecast during the evening peak hour. Whilst the forecast trips may be considered to appear to be low during the traditional morning and evening peak hour periods, this is a reflection of the proposed development likely operation that would schedule journeys to and from the proposed development outside of the traditional peak periods.”

- 7.27. It is further stated that:

“Highway capacity junction analysis has revealed that an imperceivable change will occur on the local highway network as a result of the proposed development therefore indicating that there is no reason for the proposed development to be refused on highways grounds.”

- 7.28. Noting the comments from Newark Town Council (included above), the TA states the following in relation to pedestrian and cycle movements:

“The main pedestrian access to and from the site is via Godfrey Drive which benefits from a shared use footway / cycleway on both side of the road, which are approximately 3m in width. From Godfrey Drive, access towards the centre of Newark is possible firstly by crossing the Godfrey Drive / A17 / Long Hollow Way roundabout on its western arm onto the southern footway of the A17. The crossing at this arm of

the roundabout is characterised by dropped kerbs and tactile paving with a pedestrian island in the centre of the carriageway.

From this point, Newark can be accessed by:

- *Following the A17 footway in a westerly direction towards the Friendly Farmer (A17 / A46) roundabout junction; and/or*
- *Following the Long Hollow Way shared footway/cycleway towards the A46.”*

- 7.29. National Highways have commented on the proposals and raise no fundamental objections albeit do request a condition for a construction management plan in order to access the construction impacts of the proposal given the proximity of the site to the A46 and the A1.
- 7.30. NCC on the other hand did however raise significant issues in their original comments relating to numerous issues including:
- Lack of drawings showing the proposed widening of Godfrey Drive;
 - Lack of drawings showing visibility splays from accesses;
 - Lack of swept path drawings for HGVs;
 - Inappropriate use of distribution trip rates data (given was based generally on large B8 units);
 - Flows from 2019 not including both the John Deere and Starbucks sites which are now operational;
 - Parking ratios inappropriate for use proposed.
- 7.31. The applicant has been working with NCC Highways during the application in an attempt to resolve the issues raised. The latest comments from NCC raise no objections subject to conditions and the need for an associated legal agreement.
- 7.32. Junction assessments have now been carried out using suitable trip rates for both this application and the pending Phase 2 scheme (reference 23/02281/OUTM). Ultimately the assessments show that this application does not have a severe highways impact in its own right but that should this and the Phase 2 development come forwards, then the capacity at the A17 roundabout would be exceeded by some margin (depending on the end users which come forwards in the Phase 2 application). The assessments are based on a specific quantum of office space and therefore it would be necessary to restrict the level of office space to come forwards by condition.
- 7.33. A roundabout scheme which mitigates the impacts when considering both applications has been submitted which includes a return to a 2-lane ahead approach for eastbound vehicles, alongside improvements to the eastbound merge. This would not require land within this development site to be delivered and given the mitigation would not be triggered by this application alone, it is not necessary to further control securing any mitigation through this Phase of the development. Any potential mitigation would fall to the Phase 2 application (if approved and if required based on the detail of the scheme which comes forwards).

- 7.34. Despite matters of access being reserved, there are potential impacts of the development which legitimately must be considered at outline stage as set out by NCC Highways in their latest comments:
- 7.35. *Godfrey Drive is constructed as a 6.75m road suitable to serve the light industrial uses at its easternmost end. On the development side of the road there is a 4m verge with 2m of which containing a filter drain. However, this current application includes major industrial use under B8, requiring a 7.3m carriageway width which would encroach into the developable land. It is also required to extend the existing 3m shared route between any reserved matters application site and the A17, to support travel by sustainable means.*
- 7.36. *As it is not known what uses will occupy which area within the development site, it is essential that the land which would be required for any widening for both the carriageway and the extension of the shared route is protected from being developed, to enable suitable widening to be delivered as part of any of the reserved matters applications.*
- 7.37. Based on the above, it would be reasonable and necessary to condition that the land associated with the potential widening required is safeguarded pending the exact nature of the development which comes forward at reserved matters stage. It is noted that NCC comments also requested this to be secured through a legal agreement given the uncertainties as to the final occupiers. However, the permission would go with the land and therefore the condition would be applicable whoever the end user is.
- 7.38. In addition to the above, Active Travel England originally raised concerns in the absence of a formalised Travel Plan and provision for cycle parking (which also links to the concerns raised by the Town Council in relation to the provision for enhanced cycle and pedestrian accesses). It has since been agreed that this could be a matter dealt with by condition (as has been the case for other similarly scaled industrial developments in the District).
- 7.39. Nottinghamshire County Council have made a specific request for a 'Public Transport Delivery Strategy' to be secured by condition with details to include an enhanced bus service to connect the development and travel hubs such as Newark's train stations and the main bus stops within Newark. This is intended to allow the development to align with the Governments 'National Bus Strategy' (2021) which requires Local Transport Authorities to implement ambitious bus priority scheme and Bus Service Improvement Plans (BSIPs).
- 7.40. The agent has responded to this request on behalf of the applicant contending that given the outline nature of the development, it is not possible to determine whether the level of patronage of any bus service would be sufficient to justify and support a viable service diversion. They do not consider that the proposed development is of a scale which would clearly justify bus service provision. They have however stated that the applicant *may* at an appropriate time be prepared to consider making land available for a bus stop at a later date (partially in line with the wider operations at the Showground).

- 7.41. The condition suggested by Active Travel is very similar in wording to that requested by Nottinghamshire County Council and has been included in condition 11 of the recommendation. It is noted that the applicant does not consider this to be a reasonable request, but Officers disagree and do consider it meets the required tests and would be necessary to make the development acceptable in terms of sustainable means of travel. The condition is worded as a 'pre-occupation' condition and therefore does not require the agreement from the applicant in the same way a pre-commencement condition would. The applicant would have the ability to appeal any condition imposed on the decision.
- 7.42. It has been carefully considered whether or not it would be necessary to also have an associated legal agreement to control any potential financial implications of the required bus provision. However, having discussed with legal colleagues, Officers are comfortable that the ability to control the delivery of the service would set within the approval of the implementation of the condition (which would require discharge). It is also notable that a very similarly worded condition was used on the scheme referred to in the planning history (20/01452/OUTM) which was imposed by a Planning Inspector appointed by the Secretary of State.
- 7.43. It is however required that there would be a legal agreement for the monitoring of the Travel Plan (not necessarily related to bus stop delivery). NCC request a financial contribution of £15,000 for the monitoring of the Travel Plan with a further £1,200 per annum for subsequent years beyond year 5 up to and including the year after the end of construction.
- 7.44. In conclusion the proposal, subject to conditions and obligations, is considered to have no adverse impacts in terms of highway safety and would comply with NUA/MU/1, SP7 and DM5.

Impact on Trees and Ecology

- 7.45. Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM7 states that new development, in line with the requirements of Core Policy 12, should protect, promote and enhance green infrastructure to deliver multi-functional benefits and contribute to the ecological network both as part of on site development proposals and through off site provision.
- 7.46. An Ecological Impact Assessment has been submitted with the application. This identifies that the habitats present on site are widespread in both a local and national context. Furthermore, it is stated that whilst there is likely to be a delay in achieving the biodiversity objectives for the site (i.e. whilst new habitats become established, it is anticipated that in the long term there be no significant residual effects on habitats or protected species resulting from the proposed development. For the avoidance of doubt, the application was submitted some time before Biodiversity Net Gain legislation coming into force and therefore there is no statutory requirement for the proposal to deliver a 10% net gain.

- 7.47. With the Appraisal, precautionary measures are suggested which could be secured by condition were permission to be forthcoming. The Council's Biodiversity and Ecology Lead Officer has assessed the submitted details and confirmed that the proposal would align with Core Policy 12. It is suggested that any landscaping presented through a reserved matters application (when the precise detail of where the buildings would be is known) should maximise its value for biodiversity through its design. Similarly, the design of the proposed surface water attenuation ponds provides an opportunity to maximise biodiversity which again could be appropriately demonstrated through a reserved matters submission.
- 7.48. The submitted Tree Survey identifies a dense roadside boundary hedge bordering the sites southern boundary comprising predominantly of Hawthorn and Field Maple with occasional Elder, Blackthorn and Hazel. This hedgerow is of low Arboricultural value but provides established screening between the site and the adjacent road.
- 7.49. There is no suggestion that the existing Category C hedge along the southern boundary would need to be removed to facilitate the development so it is likely that any vegetative removal would be limited to pruning works.
- 7.50. As above, the Councils Tree Officer has raised concerns that the proposed density of the development would not allow for adequate mitigating landscaping, but this would be a matter for consideration at reserved matters stage.
- 7.51. Overall, it is not considered that the proposed development would detrimentally impact upon biodiversity on the site and the proposal would accord with Core Policy 12 and Policy DM7.

Impact upon Residential Amenity

- 7.52. 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 Newark Showground policy (NUA/SPA/1) details that developments should address any issues arising from proposals which may adversely affect nearby residents.
- 7.53. There are no residential properties located within close proximity to the site. The closest residential accommodation to the site would be the properties at the southern edge of Winthorpe to the northwest (over 400m away). Given the degree of separation and the intervening road network it is not considered that the proposed development would result in a loss of neighbouring amenity. The proposal is therefore considered to comply with policy DM5 & policy NUA/SPA/1.

Flood Risk and Drainage

- 7.54. Core Policy 9 (Sustainable Design) provides that development should 'through its design, pro-actively manage surface water, where feasible, the use of Sustainable Drainage Systems.' Core Policy 10 (Climate Change) seeks to mitigate the impacts of climate change whilst Policy DM5 also seeks to ensure development is safe for the

intended users without increasing flood risk elsewhere. This broadly reflects the advice in the NPPF.

- 7.55. The site lies within Flood Zone 1 which is at lowest risk of fluvial flooding however small parts of the site are subject to low levels of surface water flooding.
- 7.56. A Flood Risk Assessment (FRA) and Drainage Strategy has been submitted as well as drainage layouts being referred to on the indicative plans. This confirms that on site surface water attenuation will be required in the form of underground cellular tanks and open basins. Foul drainage is proposed to be discharged to a public foul sewer to the southeast of the site subject to a capacity review by Severn Trent Water. NCC Flood as the Lead Local Flood Authority have reviewed the application and raise no objections subject to the imposition of a condition requiring the submission of a detailed surface water drainage scheme which could come forwards through a reserved matters submission once the detailed design of the proposals is known.
- 7.57. Based on the above I do not consider there would be any adverse impacts relating to flooding or surface water run-off and I conclude that the proposal accords with CP10 and the NPPF in flood risk terms.

Land Contamination

- 7.58. A brief summary document (Delta Simons) describing anticipated ground conditions has been included with the application. This is based on information gathered from other investigations from the wider site. The summary report goes on to recommend that a site-specific risk assessment will be required and considers possible remedial measures.
- 7.59. Colleagues in Environmental Health have reviewed the document and have commented that there is doubt that the ground gas regime has been adequately characterised (being based on five monitoring events when ordinarily six would be the minimum). They have therefore suggested the inclusion of a full phased land contamination condition which has been agreed by the applicant.
- 7.60. The Environment Agency have commented in respect to groundwater and contaminated land acknowledging that previous land uses could lead to potential contamination. Based on the information provided by the applicant, it is agreed that the risk to controlled waters is low. There are no objections to the development subject to conditions which are considered reasonable. The first condition suggested would essentially repeat the wording of the wider contamination condition and so can be incorporated within.

Impact on Heritage and Archaeology

- 7.61. The proposal site is partially within the former RAF Winthorpe site, which is identified on the Notts Historic Environment Record. Winthorpe Conservation Area is also approximately 335m away to the northwest of the site boundary. Core Policy 14 (Historic Environment), along with Policy DM9, require the continued conservation and enhancement of the character, appearance and setting of the District's heritage

assets and historic environment, in line with their identified significance as required in national policy.

- 7.62. Paragraph 209 of the NPPF states that the effect of an application on the significant of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 7.63. The former airfield has been significantly altered by later 20th Century operations and includes more recently approved development of a similar nature. It is therefore considered that little weight should be afforded to the identification and there is no direct conflict with the relevant non-designated heritage asset policies. The nearest designated assets would be listed buildings within Winthorpe and the Conservation Area.
- 7.64. A Heritage Statement has been submitted during the application which essentially sets out that the visibility of the site from the Conservation Area is severely limited due to the mature tree lines and woodland that characterises the immediate setting and surroundings of the Conservation Area. Reference is also made to the existing industrial 'backdrop' which surrounds the site concluding that the impact on the setting of the Conservation Area would be neutral.
- 7.65. The Heritage Statement has been assessed by colleagues in Conservation. Their view is that the scale and massing of the building(s) would dominate and detract from the character of the buildings in the Conservation Area and the industrial character would detract from the rural and parkland character of the eastern fringe of the Conservation Area boundary. Overall, there is an identification of less than substantial harm 'albeit the lower end of the scale of harm'.
- 7.66. Paragraph 208 of the NPPF is clear that where a proposal will lead to less than substantial harm, this will need to be weighed against the public benefits of the proposal.
- 7.67. In this case the public benefits relate primarily to the significant employment opportunities. Noting that this is an allocated site, and noting the level of harm identified, it is considered that the economic benefits would be enough to outweigh the heritage harm in this instance. There would be opportunity to mitigate further the level of harm at reserved matters stage through appropriate landscaping but also a sensitive external palette of materials.
- 7.68. In accordance with the requirements of the Newark Showground policy (NUA/SPA/1), an Archaeological Evaluation Report has been submitted in support of the application (this includes both the site and the remainder of the allocated site land to the northwest). The evaluation confirms the presence of buried remains across the site. Primarily composing of ditches on varying alignments and scattered pits and postholes, the character of these features is interpreted as generally agricultural with likely multiple phases represented however dating evidence is very limited.

- 7.69. The report has been reviewed by the Councils appointed archaeological Officer. Their comments acknowledge that the site is located in an area of high archaeological potential associated with late Iron Age and Roman settlement activity. Subject to a condition requiring further work in the form of a small open excavation around Trench 17, no objections are raised to the proposals.
- 7.70. As such it is not considered that the proposed development would not adversely impact on archaeological remains in accordance with Policy NUA/SPA/1, Core Policy 14 and DM9.

Developer Contributions

- 7.71. Spatial Policy 6 (Infrastructure for Growth) seeks to ensure that local infrastructure and served that are essential for a development to take place are secured through an associated legal agreement. Policy DM3 (Developer Contributions and Planning Obligations) states that the delivery of planning growth set out in the Core Strategy is dependent upon the availability of infrastructure to support it.
- 7.72. For a development of this nature, there are no 'automatic' contributions triggers which would be hit in terms of the Developer Contributions SPD. As set out in paragraph 7.43, a legal agreement would be required solely for the monitoring of the Travel Plan.

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 site forms part of a mixed-use site allocation originally envisaged as delivering a variety of commercial uses including hotel and restaurant facilities. As set out above, the lack of delivery of a hotel (and the lack of ability of the remainder of the site allocation to do so) renders the application a departure from the Local Plan.
- 9.2. However, this must be balanced against all other material planning considerations including the significant employment benefits which would be secured by a commercial development of this scale.
- 9.3. The majority of impacts from the development could be appropriately mitigated (for example, the visual impacts by landscaping, the highways impacts by controlling means of access and proportion of end uses). These factors can therefore hold neutral weighting in the planning balance.
- 9.4. It is notable that less than substantial heritage harm has been identified in the context of the setting of the nearby Conservation Area. However, the public benefits

associated with the development would outweigh this harm being at the 'lower end of the [less than substantial] scale of harm.'

- 9.5. No other specific harm has been identified and therefore the delivery of an allocated site and the associated employment and economic benefits hold determinative weight. The development is therefore recommend for approval subject to conditions (and a legal agreement for the monitoring of the Travel Plan).

10.0 Conditions

01

Applications for approval of reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.

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

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

02

Details of the access, appearance, landscaping, layout and scale ('the reserved matters') for each phase or sub phase of the development (pursuant to condition 03) shall be submitted to and approved in writing by the Local Planning Authority before development in that phase or sub phase begins and the development shall be carried out as approved.

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

03

Each reserved matters application for each phase or sub phase of the development shall be accompanied by an up to date phasing plan and phasing programme. The approved phasing plan shall be adhered to throughout the construction period.

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

04

Prior to the commencement of the development in any relevant phase or sub phase, a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority for the A1 and A46 trunk roads.

The Plan should include details on the following:

- a) Construction site layout showing clearly designated areas for the parking of vehicles for site operatives and visitors; areas for the loading and unloading of plant and materials (i.e. deliveries/waste); storage of plant and materials used in constructing the development; areas for managing waste, and wheel washing facilities;
- b) the hours of construction work and deliveries;
- c) Construction phasing
- d) An HGV routing plan to include likely origin/destination information, potential construction vehicle numbers, construction traffic arrival and departure times, and construction delivery times (to avoid peak hours)
- e) Clear and detailed measures to prevent debris, mud and detritus being distributed onto the Local highway and SRN.
- f) mitigation measures in respect of noise and disturbance during the construction phase including vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
- g) a scheme to minimise dust emissions arising from demolition/construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
- h) waste management;
- i) protection measures for hedgerows and grasslands.
- j) Details of the responsible person (e.g. site manager/office) who could be contacted in the event of complaint;

Thereafter, all construction activity in respect of the development shall be undertaken in full accordance with such approved details.

Reason: To ensure that the A1 and A46 Trunk Roads continue to serve their purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980, and in the interests of road safety.

05

Development other than that required to be carried out as part of an approved scheme of remediation or for the purposes of archaeological or other site investigations linked to this permission must not commence in any phase or sub phase until Parts A to D of this condition have been complied with in relation to that phase or sub phase. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

Part A: Site Characterisation

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

is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

Part B: Submission of Remediation Scheme

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

Part C: Implementation of Approved Remediation Scheme

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

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Part D: Reporting of Unexpected Contamination

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

remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. The site is located above a Secondary A Aquifer and the above condition will ensure that the risks to the aquifers and surface water are adequately assessed and mitigated. To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 180 of the National Planning Policy Framework.

06

No part of the development hereby approved shall commence for any phase or sub phase until a detailed surface water drainage scheme based on the principles set forward by the approved RWO Flood Risk Assessment (FRA) and Drainage Strategy ref AMF/FRADS/Y21177.v3 dated March 2023, has been submitted for that phase or sub phase 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 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.

07

Part 1

No development or demolition shall take place in any phase or sub 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

08

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.

09

Part 3

A report of the archaeologist's findings for each phase or sub 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.

10

No works or development within any phase or sub phase, other than site investigations, shall take place until an Arboricultural method statement and scheme for protection of the retained trees/hedgerows for that phase or sub phase 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/drainage runs/soakaways 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 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 Arboricultural method statement and tree/hedgerow protection scheme.

Reason: To preserve and protect existing trees which have and may have amenity value that contribute to the character and appearance of the area.

11

Each reserved matters application for each phase or sub phase of the development shall be accompanied by a Travel Plan. The Travel Plan shall set out proposals (including targets, a timetable and implementation) 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. For the avoidance of doubt, the Travel Plan shall include the following proposals:

- prior to the occupation of the development, if found to be required through the Travel Plan, details of a daily or more frequent return shuttle bus service to connect the development and travel hubs such as Newark's train stations and the main bus stops within Newark shall be submitted and approved in writing by the Local Planning Authority. This bus service shall be operational upon practical completion of the unit(s) and reviewed after at least three months, six months and after twelve months, and thereafter every twelve months and maintained for a period for a minimum period of 10 years from the commencement of the use unless, either a commercial bus service passing within 400 metres of the site comes into operation, or the bus service is proven to be no longer viable. If a commercial service does come into operation, or the bus service is shown to be no longer viable, then the applicant shall seek the written approval of the Local Planning Authority that the service is no longer required;
- car usage minimisation including the provision of electrical charging points for cars and other vehicles and the use of car sharing.
- details of the ride home facility for members of staff travelling to the site by sustainable modes of transport.

The Travel Plan for each phase or sub phase shall be implemented in accordance with the timetable set out in that plan.

Reason: To promote sustainable travel.

12

Each application for reserved matters for any phase or sub phase shall be accompanied by a Biodiversity/Landscape Environmental Management Plan (LEMP). This shall include:

- a) purpose, aims and objectives of the scheme;
- b) a review of the site's ecological potential and any constraints;
- c) description of target habitats and range of species appropriate for the site;
- d) selection of appropriate strategies for creating/restoring target habitats or introducing target species. This shall include but not be limited to the provision of bat boxes;
- e) selection of specific techniques and practices for establishing vegetation;
- f) sources of habitat materials (e.g. plant stock) or species individuals;
- g) method statement for site preparation and establishment of target features;
- h) extent and location of proposed works;
- i) aftercare and long term management;
- j) the personnel responsible for the work;
- k) timing of the works;
- l) monitoring;

m) disposal of wastes arising from the works.

All habitat creation and/or restoration works shall be carried out in accordance with the approved details and timescales embodied within the scheme.

Reason: In the interests of maintaining and enhancing biodiversity.

13

Each application for reserved matters for any phase or sub phase shall be accompanied by the submission of a detailed lighting scheme for that phase or sub phase. The detailed lighting scheme shall include site annotated plans showing lighting positions for the external spaces, facades, and structures they illuminate; a horizontal and vertical illuminance plan to include:

- Details of light intrusion, source intensity, and upward light; and
- Details of the lighting fittings including their design, colour, intensity and periods of illumination.

No external lighting works shall be installed within any part of that phase or sub phase other than in accordance with the approved details.

Reason: in the interests of visual amenity and biodiversity.

14

Each application for reserved matters for any phase or sub phase shall be accompanied by details of parking and turning facilities, access widths, visibility splays, gradients, surfacing, structures and drainage. All details submitted to the Local Planning Authority for approval shall comply with the County Council's current Highway Design and Parking Guides and shall be implemented as approved.

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

15

The land required for purposes of highways improvements, as shown on a drawing to be first submitted to and approved in writing by the Local Planning Authority, shall then be safeguarded from development and remain available for highways improvement works for the lifetime of the development. For the avoidance of doubt, the full extents of the land required on Godfrey Drive required are as shown on Drawing Number 2201-012 SK01 rev B.

Reason: To ensure that the development can be delivered with safe and suitable access.

16

An access strategy shall be submitted with each reserved matters application and shall include details of provision of a 3m shared route linking to the A17 and the widening of Godfrey Drive (if required).

Reason: In the interests of highway safety.

17

The overall gross floor area hereby approved shall not exceed more than 30% of use class E(g)i (office).

Reason: To ensure that the capacity and safety of the surrounding highway network is acceptable.

18

No part of the development hereby permitted shall be brought into use in any phase or sub phase until provision has been made within the application site for parking of cycles for that phase or sub phase in accordance with details submitted to and approved in writing by the Local Planning Authority. The cycle stands shall be located near to the main entrance to the development, be covered and that area shall not thereafter be used for any purpose other than the parking of cycles.

Reason: In the interest of promoting sustainable travel.

19

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 180 of the NPPF.

20

No site clearance works including 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 September 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 nesting birds on site.

21

The development hereby approved shall be carried out in accordance with the 'Avoidance and Mitigation' measures set out in Section 5.0 (Assessment of Effects) of the Ecological Impact Assessment – 18-0902.03/87023.543988 dated April 2023. This includes but is not limited to:

- Protection of existing retained hedgerow;

- Use of bat sensitive lighting to minimise impacts on foraging and community bats;
- Pre-commencement walkover to confirm absence of a badger sett;
- No open pits or trenches to be left uncovered or without a mammal escape ramp overnight.

Reason: In the interests of maintaining and enhancing biodiversity.

22

The development hereby permitted shall be carried out in accordance with the following plan:

- Location Plan – 17857-THP-SITE-XX-DR-A-100 Rev. A;

Reason: To ensure the development comes forwards as envisaged.

Notes to Applicant

01

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

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

02

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

03

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

04

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

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works, you will need to enter into an agreement under Section 278 of the Act. Please contact Highways Development Control Team (Newark & Sherwood) by phoning Nottinghamshire Customer Services on 0300 500 8080.

Should any subsequent amendment be required to the approved access plans referred to in Conditions 16 and 17, an amendment application under Section 73 or Section 96A of the Town and Country Planning Act 1990 would be required.

05

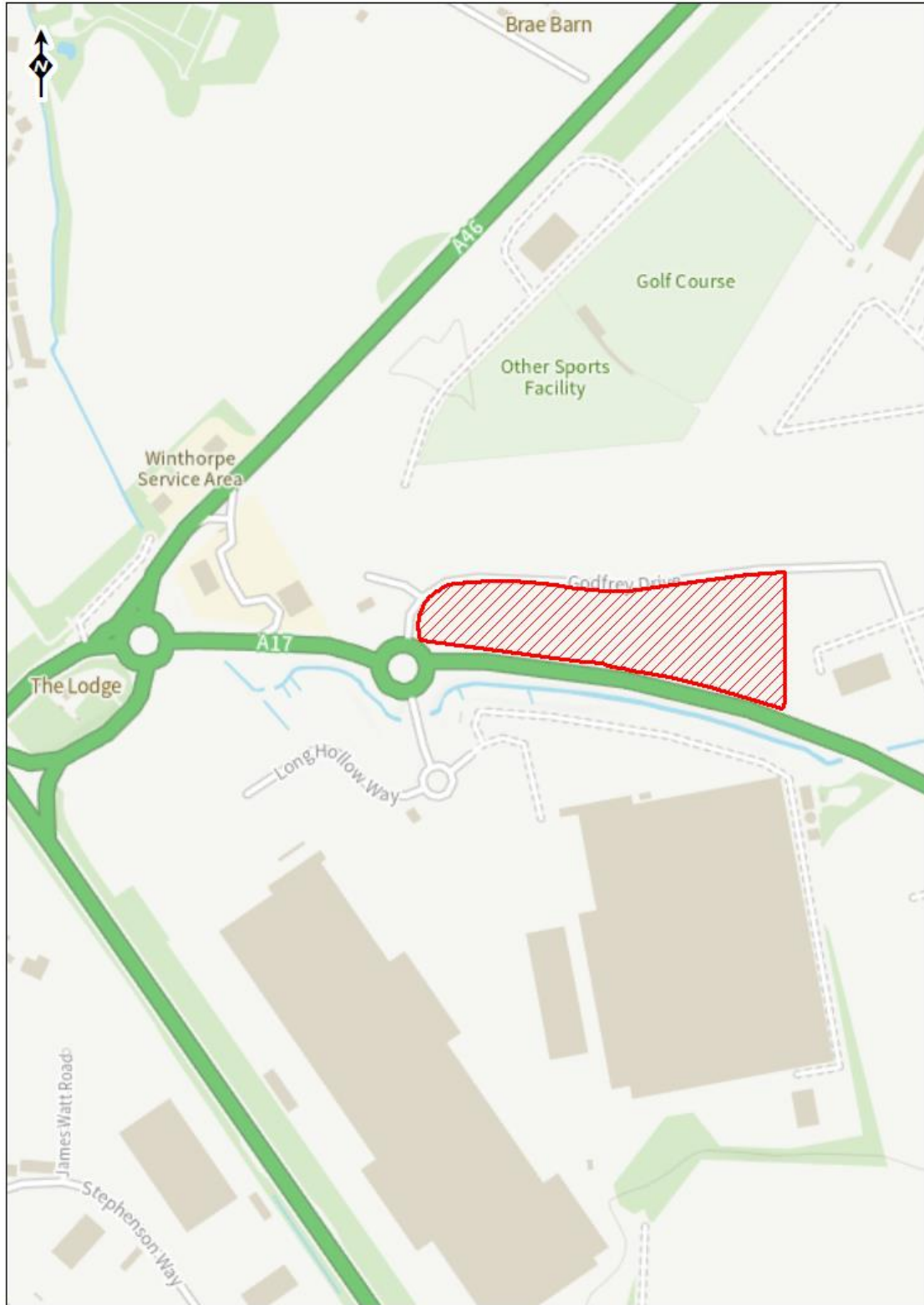
Biodiversity Net Gain is not applicable to this application because it was made before 12th February 2024.

BACKGROUND PAPERS

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

Application case file.

Committee Plan - 23/01283/OUTM



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Report to Planning Committee 5 December 2024

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Megan Atkinson, Planner (Conservation), 01636 655455

Report Summary			
Application No.	24/01140/LBC		
Proposal	Removal and replacement of rooftiles, replacement of roof membrane and re-pointing of chimney stacks with lime mortar		
Location	87-89 Mill Gate, Newark		
Applicant	Mr Gary Bruce	Agent	N/A
Web Link	24/01140/LBC Removal and replacement of rooftiles, replacement of roof membrane and re-pointing of chimney stacks with lime mortar		
Registered	25 th October 2024	Target Date	18 th December 2024
Recommendation	That Listed Building Consent is <u>APPROVED</u> subject to the conditions detailed at Section 10.0		

This application is being referred to the Planning Committee for determination as the properties are in Newark & Sherwood District Council ownership.

1.0 The Site

- 1.1 The application site comprises two properties – no.87 and 89 Mill Gate – which form part of a group of three terraced houses. The row of houses are Grade II listed and situated in Newark Conservation Area.
- 1.2 The buildings are 3-storeys, constructed in red brick walling and a pitched pantile roof. The row of buildings has an underpass between no. 89 and 91 (the latter property falls outside the boundary of this application). The houses have a relatively uniform appearance with traditional vertical sliding sash windows aligned on the ground, first and second floors and an off-centre front door. No.87 and 89 each have a chimney stack.

1.3 The site has the following constraints:

- Newark Conservation Area
- Listed Building, Grade II, listing ref: 1196402

2.0 Relevant Planning History

2.1 There is no relevant planning history.

3.0 The Proposal

3.1 The application seeks listed building consent for the complete replacement of the roof and re-pointing of chimney stacks to no.87 and 89 Mill Gate.

3.2 Documents assessed in this appraisal:

- Application Form – received 25th October 2024
- Heritage Impact Statement – received 21st October 2024
- Preliminary Bat Roost Assessment – received 21st October 2024
- Updated Specification – received 14th November 2024

4.0 Departure/Public Advertisement Procedure

4.1 Occupiers of seven 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 A site visit was undertaken on 31st October 2024.

5.0 Planning Policy Framework

5.1. The Planning (Listed Buildings and Conservation Areas) Act 1990 provides a presumption in favour of the preservation of Listed Buildings and preservation or enhancement of the character and appearance of Conservation Areas.

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

- National Planning Policy Framework 2023
- Planning Practice Guidance (online resource)
- Historic England (2016) Making Changes to Heritage Assets: Advice Note 2

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

Core Policy 12 – Biodiversity and Green Infrastructure
Core Policy 14 – Historic Environment

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

DM7 – Biodiversity and Green Infrastructure
DM9 – Protecting and Enhancing the Historic Environment

- 5.5. 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 has recently completed its Examination process. There are unresolved objections to the amended versions of policies DM7 and DM9 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.

6.0 **Consultations and Representations**

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

Town Council

- 6.1. No objection was raised by Newark Town Council.
- 6.2. No comments have been received from any third party or local resident.

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

- 7.1. The key issues are:

- Impact on the Historic Environment
- Impact on Ecology

- 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 a designated heritage asset of a listed building, section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) is particularly relevant. Section 16(2) requires the decision maker in considering whether to grant listed building consent for any works, to “*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.”

Summary of Significance of Heritage Asset(s)

- 7.4. The site forms part of a small terrace of three houses (no.87-91 Mill Gate) which are Grade II listed under one designation. The buildings date c.1820 and are constructed in brick with stucco dressings and a pitched pantile roof under a continuous ridge. The terrace has a relatively uniform appearance with traditional vertical sliding sash windows.
- 7.5. The significance of the buildings relates to their retention of historic fabric and plan form, association with the residential development of Newark in the late-Georgian period, illustrative Neo-Classical detailing and construction influenced by the availability of local materials.
- 7.6. The buildings are also situated in Newark Conservation Area.

Impact on the Historic Environment

Replacement roof

- 7.7. The proposal seeks the full replacement of the roof to no.87 and 89 Mill Gate. No.91 falls outside the boundary of the proposed works as this is in separate private ownership. The existing roof is a pitched roof, constructed in a traditional clay pantile with half round clay ridge tiles and lead flashings.
- 7.8. The replacement tiles would be new and, in comparison to the existing weathered tiles, these would have a visually stark appearance. The loss of historic fabric and patina of age may erode some of the historic character of the Listed Building and, as a result, harm its significance.
- 7.9. The updated specification of works (received 14th November 2024) sets out the replacement roof tiles would be a traditional non-interlocking clay pantile and the proposed materials and detailing would be sympathetic to the vernacular construction of the building.
- 7.10. Whilst, initially, the replacement roof would have a stark visual appearance, the proposed Sandtoft Old English pantile would be sympathetic to the building's historic construction and would eventually weather and be less visually obtrusive.
- 7.11. Clear and convincing justification has been provided for the need for the full replacement of the roof as the existing is in a poor and deteriorating condition and the tiles are beyond repair and reuse. The proposed works would secure the long-term conservation and reuse of the designated heritage asset.

Re-pointing chimney stacks

- 7.12. In addition to the above, it is proposed to re-point the chimney stacks with a natural hydraulic lime mortar. The proposed lime mortar would be sympathetic to the

traditional masonry construction of the building and would contribute to the long-term maintenance and conservation of the Listed Building.

Impact on Ecology

- 7.13. A Preliminary Roost Assessment (PRA) has been provided with the application, which has concluded the building has a negligible habitat value for roosting bats and no foreseen impacts on nesting birds as a result of the proposed works. The Assessment recommends no further surveys are required to be undertaken.

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 summary, the proposed works would cause a minor degree of harm to the special interest of the Listed Building through loss of historic material and patina of age. This would be contrary to Section 16 of the Act. With reference to the planning policies, this would be 'less than substantial harm' to the designated heritage asset (par.208 of NPPF and policy DM9 of the local development framework). There has been clear and convincing justification provided for this level of heritage harm (par.206 of NPPF) and the proposed technical details and materials for the re-roofing have been designed sympathetically to the architectural interest of the Listed Building. The proposed works would also contribute to the long-term maintenance of the heritage asset and sustain its significance for future generations (par.195 and 203 of NPPF). Therefore, the works should be approved.

10.0 Conditions

01

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

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

02

The works hereby approved, for re-roofing and re-pointing of chimney stacks, shall be carried out in accordance with the following approved plans and associated documents:

- Application Form – received 25th October 2024
- Heritage Statement – received 21st October 2024

- Updated Specification – received 14th November 2024

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

Compliance Conditions

03

The raking out of mortar for the purpose of re-pointing the chimney stacks shall be carried out by tools held in the hand and not by power-driven tools.

Reason: To preserve the special architectural and historic interest of the Listed Building.

04

Mortar for the purposes of re-pointing and re-bedding ridge tiles shall be carried out using hydraulic lime or lime putty. The sand mix, colour, texture and pointing finish shall match as closely as possible the historic pointing found elsewhere on the building.

Reason: To preserve the special architectural and historic interest of the Listed Building.

05

Any scaffolding used in the re-roofing shall not be tied into the brickwork of the building.

Reason: To preserve the special architectural and historic interest of the Listed Building.

Informatives

01

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

02

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

- a) Any variation from the approved plans and specifications following commencement of the works, irrespective of the degree of variation, will constitute unauthorised works, would be a criminal offence under the Planning (Listed Building and Conservation Areas) Act 1990 and would be liable for enforcement action.
- b) You and your agent or any other person responsible for implement this consent should inform the Local Planning Authority immediately of any proposed variation from the

approved plans and ask to be advised as to the best method to resolve the matter.

- c) The applicant is advised that the proposed works may require approval under the Building Regulations. Any amendments to the hereby permitted scheme that may be necessary to comply with the Building Regulations must also be approved in writing by the Local Planning Authority in order that any planning implications arising from those amendments may be properly considered.

03

REASONS FOR APPROVAL IN ACCORDANCE WITH THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (ENGLAND) (AMENDMENT) ORDER 2015

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consent since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of the other material planning considerations in determining such matters, such as the National Planning Policy Framework (Revised December 2023).

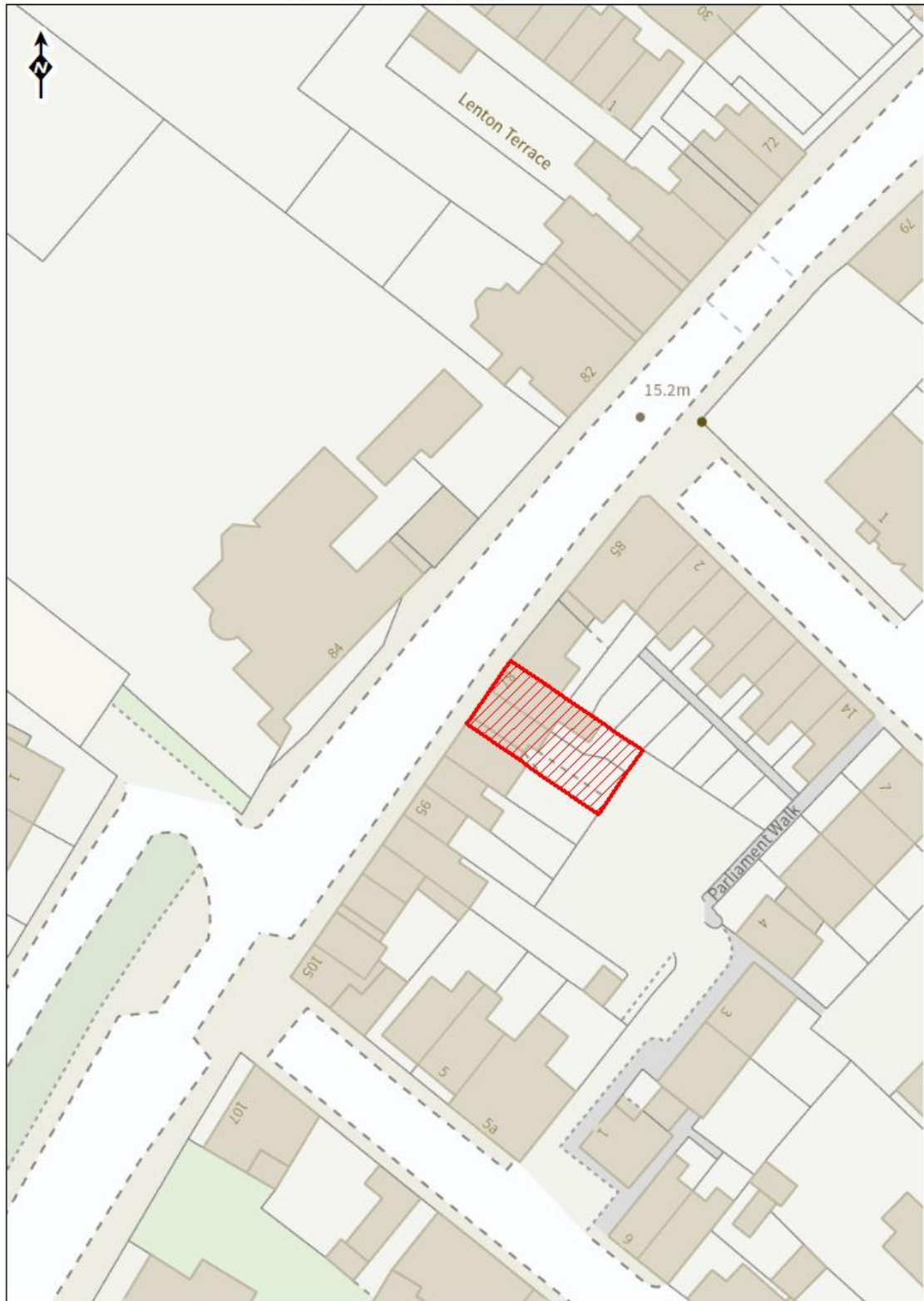
04

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

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 5 December 2024

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Oliver Scott, Business Manager – Planning Development, x5847

Report Summary	
Report Title	Review and update of the Planning Committee Protocol and Scheme of Delegation
Purpose of Report	The report provides: (a) a review of public speaking for Planning Committee; and (b) Suggested amendments to the Planning Committee Protocol and Scheme of Delegation.
Recommendations	It is recommended that: 1) Committee approves the amendments to the Planning Committee Protocol and Scheme of Delegation; and 2) Confers delegated authority to officers to format, update and publish the amended Planning Committee Protocol and Scheme of Delegation.

Background

- 1.1 Public speaking was introduced to Planning Committee earlier this year. A report was first presented to Full Council on 13 February 2024 to allow changes to the Constitution to facilitate wider public participation, followed by a resolution at Planning Committee on 14 March. It was agreed that public speaking would commence from 8 April, and that a review would be undertaken within 6 months.
- 1.2 A Planning Committee Member workshop was held on the 9th October to review and discuss public speaking. It was broadly agreed that the arrangements were working well, and that public speaking had added a positive dynamic to the decision-making process. Key observations included:
 - Beneficial to hear directly from people impacted by development, including parish councils.
 - That the current 3-minute limit is about right and avoids grandstanding.
 - Recognition that some people are more confident than others when undertaking public speaking.

- That allowing the applicant to speak is appropriate and provides balance.
- Concerns that items lower down the agenda can be unfairly impacted by too much public speaking.
- Several Members had indicated initial scepticism of the benefit of public speaking but now saw the virtue of it.
- Concern about the number of Members allowed to speak and the perception of balance. A key issue identified was the arrangements for determining which Member could speak when several were eligible to register but only one allowed to speak. Members felt that relying on speed of registration or proximity to the proposal were not necessarily fair, particularly in wards represented by different political representatives. A solution proposed at the workshop for multiple Members with the same view wishing to speak was to allow lots to be drawn.
- The Council's Legal Officer raised several issues with the wording of the Protocol, including use of headings, inconsistency in wording (particularly with regard to substitute speakers and parish councils) and potentially unclear meanings. An omission in reference to dealing with planning appeals was also identified in the scheme of delegation, as well as cross-referencing inconsistencies between the two documents.

1.3 As a result of the workshop, officers have suggested potential amendments to the Protocol and Scheme of Delegation to ensure clarity and fairness.

1.4 Overall, the suggested amendments respond to the outcomes of the workshop and provide clarifications on the Planning Committee public speaking arrangements. The use of drawing lots provides an element of fairness when considering which Member might speak when several have the same view and might otherwise be eligible to register.

1.5 The suggested amended Scheme of Delegation and Planning Protocol are attached as Appendices to this report.

2.0 Implications

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

Legal

2.2 Legal Services have worked with Planning Development in relation to the review of the Scheme of Delegation, Planning Protocol and this report and are happy with the contents and will be available for any queries or questions at Planning Committee.

Human Rights

2.3 Articles 6 'Right to a fair trial' and Article 10 'Freedom of expression' of the Human Rights Act 1998 both apply in respect to this report. Those wanting to be involved in the planning process should be given a fair opportunity to take part alongside anyone

else. The suggested amendments within this report and as set out within the appendices would comply with these requirements.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972. Any documents that contain confidential information or personal information about individuals should not be included in this list.

Appendices

Draft amended Scheme of Delegation – Appendix 1

Draft amended Protocol for Planning Committee – Appendix 2

- The Local Government Association ‘Probity in planning: Advice for councillors and officers making planning decisions’
- Adopted Planning Committee Scheme of Delegation to Officers
- Adopted Statement of Community Involvement
- Adopted Protocol for Members in Dealing with Planning Matters – Updated April 2024

Planning Committee Scheme of Delegation to Officers

Effective from [INSERT]



Version Control	Adopted
v.1	9th June 2022
v.2 Addition of paragraphs 1.8 – 1.17 inclusive and 1.46i) Amendments to paragraphs 1.28, 1.42, 1.46i), 1.46k) and 1.51	11 th August 2022
v.3 – full review of document.	08 April 2024
v.4	[INSERT]

Planning Committee Scheme of Delegation to Officers

The Council's Constitution permits a Schemes of Delegation to be approved by Planning Committee including the ability for District Councillors to reserve matters to Committee in circumstances prescribed by the Scheme; the Scheme to be reviewed as necessary and at least annually. Additionally, the Constitution contains the Officer Scheme of Delegation which delegates responsibility to the Director of Planning and Growth in relation to planning related matters.

This Scheme of Delegation is supplementary to the delegation contained within the Constitution. All of the following delegated powers relating to planning can also be exercised by the Business Manager – Planning Development, who may also delegate to other suitable qualified and/or experienced officers in accordance with an agreed Scheme of Delegation.

1. Business Manager – Planning Development shall have authority to:

1.1. To determine applications for planning permission, conservation area consent, consent for the display of advertisements and listed building consent in respect of all listed and the determination of, or response to, any other application or matter received in respect of the town and country planning function subject in each case to the proviso that any member of the Council may bring the application before the Planning Committee for decision in accordance with the adopted Protocol for Planning Committee.

1.2. To exercise all functions in relation to planning and planning enforcement including, but not limited to, applications, approvals, section 106 planning obligations under the Town and Country Planning Act 1990, Planning (Listed Buildings and Conservations Areas) Act 1990, and associated legislation (as amended or may be amended).

1.3. To exercise planning and related functions including service and withdrawal of notices and making, varying or revoking orders under, but not limited to, the following legislation (or as may be amended) and any other enabling powers:

Town and Country Planning Act 1990

Town and Country Control of Advertisement Regulations 2007

Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended)

The Proceeds of Crime Act 2002 (or as amended).

Planning (Hazardous Substances) Act 1990

Community Infrastructure Levy Regulations 2010 (as amended).

Licensing Act 2003.

Conservation of Habitats and Species Regulations 2017 (as amended).

Part 4 Chapter 1 of Anti-social Behaviour, Crime and Policing Act 2014

Levelling-up and Regeneration Act 2023

1.4. Formulate and issue decision notices following consideration by the Planning Committee in accordance with the resolution of the Planning Committee and as required to make

amendments to planning conditions, Section 106 legal agreements or reasons for refusal prior to issuing a decision notice, where the decision has been made by the Planning Committee, where those changes are minor and non-material and subject to the change(s) having no impact on the substance and terms of the planning decision in order to provide precise and robust conditions or reason(s) for refusal.

- 1.5. In consultation with the Planning Committee Chairman and/or Vice Chairman, issue a grant of permission without a Section 106 agreement first being signed, where the original Planning Committee resolution requires the prior completion of a Section 106 legal agreement or payment of Community Infrastructure Levy, but where a consultee who required the agreement no longer considers an agreement is necessary and a planning condition can be used to cover their requirements.
- 1.6. Power to make minor alterations to the Planning Application Validation Checklist and Planning Enforcement Plan.
- 1.7. To decide whether the Councils case at planning appeal should be by way of written representations, hearing or public inquiry and to agree the nature and extent of the case to be presented or defended.
- 1.8. Power to authorise payments or provide other benefits in cases of costs awarded against the Council in respect to planning and related appeals, maladministration and in respect of the local settlement of complaints in respect of matters falling within the remit of the planning function.
- 1.9. Determine all applications in accordance with the scheme of delegation with the exception of the following:
 - a) Environmental Impact Assessment - Applications where an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been provided.
 - b) Major Developments - All major (defined as 10 or more dwellings, where new floor space would be 1,000m² or greater or have a site area of 1 hectare or greater) applications where the recommendation is one of approval, contrary to the response received from a Statutory Consultee as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 in respect to that application.
 - c) Major Developments (S73 and/or Reserved Matters following Outline) - Major applications made under Section 73 of the Act where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed and where the previous application was dealt with by Planning Committee.
 - d) Parish or Town Council/Community or Voluntary Organisation Application- The application has been submitted by a community or voluntary organisation, a town or parish council/meeting and could in the opinion of the Authorised Officer, in

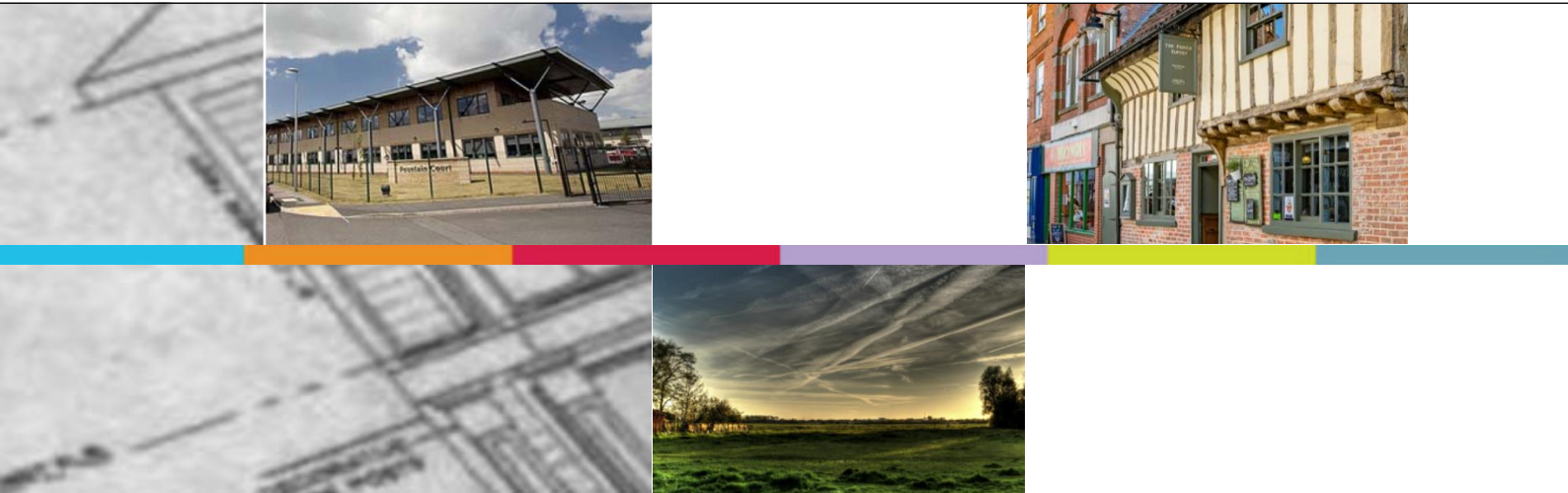
consultation with the Chairman and Vice-Chairman of the Planning Committee, result in a significant community benefit and would otherwise be recommended for refusal.

- e) Authorised Officer Referral - Any application which raises significant issues such that in the opinion of the Authorised Officer, it would be prudent to refer the application to Planning Committee for decision.
- f) Departure - Applications where the principle of development would represent a material departure from any policy within the Development Plan where the recommendation is for approval.
- g) Ward member referral – when referred to Planning Committee for decision as set out within the [Protocol for Planning Committee](#)

The “Authorised Officer(s)” for the purposes of this part of the Constitution and relevant legislation shall be the Director whose remit for the time being includes responsibility for planning, the relevant Business Manager with responsibility for the discharge of the development management function or an Officer authorised in writing by them to act on their behalf.

Protocol for Planning Committee

Effective from [INSERT]



Version Control

Version	Date	Change
v1	14 th March 2024	Protocol Adopted
v2	[INSERT]	Amended Protocol adopted

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16.0	Deferral	Error! Bookmark not defined.
17.0	Biennial Review of Decisions.....	Error! Bookmark not defined.
18.0	Complaints	Error! Bookmark not defined.

Interpretation:

Working Day – means any day Monday to Friday which is not a public or bank holiday from time to time in England.

Reference to Town & Parish Councils shall include Parish Meetings

Agenda Page 120

1.0 Introduction

- 1.1 One of the key purposes of the planning system is to regulate the development and use of land in the public interest.
- 1.2 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. Planning necessarily affects land and property interests and as a consequence decision can often be highly contentious.
- 1.3 The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- 1.4 The aim of this Protocol is to ensure that the planning process is undertaken in a fair, impartial and transparent way and so there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.5 This Protocol applies at all times when Members, Council Officers and the public are involved in the planning process. This includes meetings of the Planning Committee, meetings of the Council when exercising the functions of the Planning Authority and less formal occasions, such as meetings with Officers or the public and consultative meetings. It applies to planning enforcement matters, to site specific policy issues and to the making of compulsory purchase orders on planning grounds.
- 1.6 This protocol does not constitute legal advice.

IF YOU HAVE ANY QUERIES OR CONCERNS ABOUT THE APPLICATION OF THIS PROTOCOL TO YOUR OWN CIRCUMSTANCES YOU SHOULD SEEK ADVICE EARLY FROM THE MONITORING OFFICER OR DEPUTY MONITORING OFFICER AND PREFERABLY WELL BEFORE ANY MEETING TAKES PLACE

2.0 Relationship to the Members Code of Conduct

- 2.1 The Council has adopted a local Member Code of Conduct which reflects the seven principles of public life, also known as the Nolan Principles. These principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership. This Code of Conduct for Members can be found in the Council's Constitution.
- 2.2 This Protocol is intended to supplement the Code of Conduct for Members where Members are involved in the planning process.
- 2.3 The rules set out in the Code of Conduct for Members must be applied first and must always be complied with.
- 2.4 Where a Member does not abide by the Code of Conduct for Members and/or this Protocol when involved in the planning process it may put the Council at risk of challenge on the legality of any decision made or at risk of a finding of maladministration.
- 2.5 The failure is also likely to be a breach of the Members Code of Conduct and may be the subject of a complaint to the Standards Committee.

3.0 The General Role and Conduct of Members and Officers

- 3.1 Members and Officers have different but complementary roles. Both serve the public, but Members are responsible to the electorate whilst Officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members. A successful relationship between Members and Officers will be based upon mutual trust, understanding and respect of each other's position. The Council has adopted a Protocol giving guidance on relationships between Officers and Members which can be found in the Council's Constitution.
- 3.2 Both Members and Officers are guided by their respective codes of conduct contained in the Council's Constitution. The Code of Conduct for Members and its relationship to this Protocol are set out in section 2 above.
- 3.3 Planning Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct breaches of which may be subject to disciplinary action by the Institute. Officers from the Legal Team who are qualified solicitors are regulated by the Solicitors Regulation Authority (SRA) and must uphold the SRA Principles.
- 3.4 In addition to these codes, the Procedure Rules found in the Council's Constitution set down rules which govern the conduct of Council business.
- 3.5 Members and Officers should view with extreme caution any offer of gifts or hospitality, with a view to not only avoiding impropriety but also any perception of impropriety. The Council has adopted separate protocols for Officers and for Members giving guidance on gifts and hospitality and outlining specific requirements in relation to the acceptance of gifts or hospitality.
- 3.6 Serving Members who act as agents for people pursuing planning matters within the District should not be Members of the Planning Committee.
- 3.7 Members and particularly those serving on the Planning Committee are required to receive training on planning when first appointed to the Planning Committee and before they can take any planning decisions. Members should then receive training a minimum of once annually thereafter.
- 3.8 Care needs to be taken in the use of social media by Members and Officers, especially where any posts could relate to decision making functions. Members should be mindful that posts or comments made on social media, in any capacity by Members, could be perceived by Members of the public that a Member is predetermined or biased. The Social Media Protocol for Members can be found in the Council's Constitution.
- 3.9 Members should not participate in social media or exchanges by texting as a Member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

4.0 Registration and Disclosure of Interests

- 4.1 The Code of Conduct for Members sets out detailed requirements for the registration and disclosure of disclosable pecuniary interests and details of other interests. This Protocol should

be read as supplementary to these requirements for registering interests. Members should not participate in any decision and should leave the meeting where they have a disclosable pecuniary interest unless they have first obtained a dispensation.

4.2 In addition, unless they have obtained a dispensation they should: -

- **NOT** participate or give the appearance of trying to participate in the making of any decision on the matter by the Council as Local Planning Authority
- **NOT** get involved in the processing of the application
- **NOT** use their position to discuss the proposal with Officers or Members when other Members of the public would not have the opportunity to do so or in any other way seek or accept any preferential treatment or give the appearance of so doing.

4.3 In addition, the Code requires Members to consider whether they have any Other Registrable Interests or Non-Registrable Interests

4.4 In the event that a Member considers that they have an Other Registrable Interest or Non-Registrable Interests in any matter, they should disclose the existence and nature of the interest at or before the consideration of that item of business or as soon as the interest becomes apparent.

4.5 The Member then needs to consider very carefully whether it would be appropriate to participate in discussion and voting on the matter and the requirements in the Code. They should think about how a reasonable Member of the public, with full knowledge of all the relevant facts would view the matter when considering whether their participation would be appropriate.

5.0 Predisposition, Predetermination or Bias

5.1 Planning issues must be assessed fairly and on their planning merits, the decision-making process must be seen to be fair and impartial from the perspective of an external observer. To protect the rights of planning applicants and to preserve the integrity of committee decisions, it is vital that Members do not make up their minds before they have all relevant materials and arguments before them at the Planning Committee meeting.

5.2 Members must not come to a meeting with a closed mind or appear to have a closed mind. Members must maintain an open mind whilst they hear any speakers, the Officer's presentation and other evidence at the Planning Committee when the matter is considered. This is particularly important if a Member is contacted by an external interest or lobby group.

5.3 If a Member has made up their mind prior to the meeting and is not able to reconsider their previously held view then they are predetermined. They will not be able to participate in the decision making of the matter by the Planning Committee because if they did take part in the discussion or vote it would put the Council at risk in a number of ways. Firstly, it would probably, in the view of the Local Government Ombudsman, constitute maladministration. Secondly, the Council could be at risk of legal challenge and leave a decision of the Planning Committee vulnerable to Judicial Review.

5.4 Predisposition is where a Member may have a pre-existing opinion or attitude about the matter under discussion but remains open to listening to all the arguments and changing their mind in

light of the information presented at the meeting. Members are able to feel predisposed towards a particular decision but must still be able to consider and weigh relevant factors before reaching their final decision. Predetermination arises when Members' minds are closed, or importantly, reasonably perceived to be closed, to the consideration and evaluation of the relevant factors. Section 25 of the Localism Act 2011 provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. For example, a Member who states "*wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before committee*" has a closed mind. A Member who states "*many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area*" does not have a closed mind although they are predisposed towards opposing such applications.

5.5 Members may take part in the debate on a proposal when acting as part of a consultee body (i.e., where they are also a Member of the County or host Parish Council as well as being a Member of the Council) provided that: -

- They make clear during discussion at the consultee body that: -
 - (i) Their views are expressed on the limited information before them only; and
 - (ii) They will reserve judgement and the independence to make up their own mind on each separate proposal when it comes before the District Council's Planning Committee, and they have heard all the relevant information; and
 - (iii) They will not in any way commit themselves as to how they or others may vote when the proposal comes before the District Council's Planning Committee.

5.6 In the interests of transparency, the Member should, in such circumstances, disclose the personal interest regarding their Membership of the consultee body when the District Council's Planning Committee comes to consider the proposal.

5.7 Where a Member has already made up their mind ("fettered their discretion") and therefore declines to speak or vote on a proposal, they do not also have to withdraw (unless required due to an interest and have not obtained a dispensation) but it is preferable to do so.

5.8 If a Member decides to stay in the meeting, they should explain that they do not intend to speak and vote because they have (or could reasonable be perceived as having) judged the matter elsewhere, and why they have decided not to withdraw, so that this may be recorded in the minutes.

5.9 Members who have participated in the development of planning policies and proposals need not and should not normally exclude themselves from decision making on individual applications for that reason.

6.0 Consideration of matters reserved to Planning Committee

6.1 Matters reserved to the Planning Committee are contained in the Planning Scheme of Delegation and the Constitution.

- 6.2 Proposals submitted by serving and former Members, Officers or their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.
- 6.3 Such proposals must be handled in a way that gives no grounds for accusations of favouritism. In particular: -
- If a Member or Officer submits their own proposal to the Council, they should play no part in its consideration.
 - The Council's Monitoring Officer should be informed of any proposal submitted by any Member, or any Officer employed by the Council on the grade of Business Manager or above or any Officer who could otherwise have been involved in processing or determining the application.
 - Such proposals should be reported to the Planning Committee and not dealt with by Officers under delegated powers.
- 6.4 A Member will have a disclosable pecuniary interest in their own application and should not participate in its consideration. They have the same rights as any applicant in seeking to assist in the consideration of their application but the Member, as applicant, should also not seek to improperly influence the decision.
- 6.5 Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

7 Lobbying of and by Members

- 7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Member or to a Member of the Planning Committee. The Nolan Committee's 1997 report stated: *"it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the Members themselves"*.
- 7.2 Lobbying can, however, lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved.
- 7.3 When being lobbied, Members and Members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.
- 7.4 In such circumstances, Members should consider restricting themselves to giving advice about the process and what can and cannot be taken into account.
- 7.5 Members can raise issues which have been raised by their constituents with Officers.
- 7.6 If a Member does express an opinion to objectors or supporters, it is good practice to make it clear that they will only be in a position to make a final decision after having heard all the

relevant arguments and having taken into account all relevant material and planning considerations at Planning Committee.

- 7.7 If any Member, whether or not a Planning Committee Member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once the opportunity to make representations has been completed in order to counter any suggestions that Members of the Committee may have been influenced by their continuing presence.
- 7.8 In no circumstances should planning decisions be made on a party-political basis in response to lobbying. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- 7.9 Planning Committee Members and Members of the Planning Policy Board in general should avoid organising support for or against a planning application and should not lobby other Members.
- 7.10 Members should not put pressure on Officers for a particular recommendation or decision and should not do anything which compromises, or is likely to compromise, the Officer's impartiality or professional integrity. This would be contrary to the Member Code of Conduct.
- 7.11 Members should pass any lobbying correspondence received by them to the Business Manager – Planning Development at the earliest opportunity.
- 7.12 Any offers made of planning gain or restraint of development, through a proposed S106 Agreement or otherwise should be referred to the Business Manager – Planning Development.
- 7.13 Members should not accept gifts or hospitality from any person involved in or affected by a planning proposal.
- 7.14 Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches, including inappropriate offers of gifts or hospitality, who will in turn advise the appropriate Officers to follow the matter up.

8.0 Requests to Refer Items to Planning Committee

- 8.1 District Members may wish to request the referral of sensitive or controversial planning applications, that would otherwise be delegated to Officers, for decision by the Planning Committee. Members can submit a referral request for any planning applications within their Ward in accordance with paragraph 8.3. Adjoining Ward Members may also refer applications where the application site is within 100 metres of the Ward boundary and/or would have significant impact upon that adjoining Ward. Applications subject to strict time limits for determination are excluded and include prior notification and/or approvals, works.
- 8.2 Referrals should be made, in writing and setting out the reasons for the referral, as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications, but within 15 Working Days of the distribution of the weekly list or within 8 Working Days of notification of significant amendments to applications. Referrals can only be made once an application has been validated.
- 8.3 A referral request **must be** based on the following circumstances:-

- a) The application has attracted an unusually high level of public interest raising material planning considerations to the development being considered, which might be reflected in the number of letters or emails, or a petition received in connection with the application;
- b) There has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case;
- c) The application has wider ramifications of more than just local interest;
- d) Any other reasons based on individual planning merits and circumstances of the application;
- e) For referrals by Adjoining Ward Members where the application, in their opinion, would have a material planning impact on the whole or part of their ward (8.1) the referral request shall include a reason or reasons as to how the application will have a material planning impact on their Ward.

8.4 A referral **should not** be made in the following circumstances:-

- a) To resolve a disagreement between an applicant and the objector(s) to an application; or
- b) Because the applicant considers that there is more likelihood of a grant of permission if the application is referred to the Committee for a decision; or
- c) Because the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to the Committee for a decision; or
- d) Because the applicant/objector does not agree with the advice given by a Planning Officer.
- e) Ward (or Adjoining) Members who have referred an application to Planning Committee are able to speak to the Planning Committee in accordance with the procedures set out at Section of Business on the Public Agenda.

8.5 Referral requests by the Ward Member should set out in writing, preferably email:

- a statement outlining material planning reasons why the proposal needs to be considered by Committee i.e. how it falls within the criteria set out in 8.3;
- a list of related Development Plan policies (or part of) and, where applicable, national planning policies (including paragraph numbers).

8.6 Referral requests by Adjoining Ward Members must, in addition to the criteria in 9.5, also set out how:

- in their opinion the application would have a material planning impact on the whole or part of their ward (or the District as a whole or part) having regard to the nature of the development, and
- shall notify the relevant host Ward Member(s) prior to the referral.

Should amendments be received including plans/documents that are subject to re-consultation/notification which result in new material planning impacts not previously notified of, the relevant Ward Member or adjoining Ward Member may refer the application to Planning Committee within 10 days of the notification and subject to the referral criteria set out within this Protocol.

Exceptions to the referral process are those applications which are subject to strict time limits for determination including, but not limited to, Works to Trees in a Conservation Area, Prior Notifications, Prior Approvals and Certificate of Lawfulness proposals.

9.0 Pre-Application Discussions

9.1 Pre-application discussions between a potential applicant and the Council can benefit both parties and are therefore encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

9.2 Members have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving Members can help identify issues early on, helps Members to lead on community issues and helps to ensure that issues do not come to light for the first time at Planning Committee. Officers must therefore consider involving the local Ward Member(s) particularly in relation to major applications and where a Development Consultation Forum does not apply (refer paragraph 9.3 below). However, in order to avoid perceptions that Members might have fettered their discretions, such discussions should take place in accordance with the following guidelines: -

- (i) It should be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- (ii) It should be acknowledged that consistent advice should be given by Officers based upon the development plan and material planning considerations.
- (iii) Officers should be present with Members in pre-application meetings. Members should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage.
- (iv) Members should not become drawn into any negotiations which should be done by Officers (keeping interested Members up to date) to ensure that the Council's position is co-ordinated.
- (v) A written note should be made of all meetings. An Officer should make the arrangements for such meetings, attend, and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised, or advice given can still normally be placed on the file to reassure others who are not party to the discussion.

(vi) Care should be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to Committee could appear to be advocacy.

- 9.3 Some pre-application and pre-decision proposals are of a scale or complexity, for example, whereby engaging with Members, Town/Parish Councils and Meetings as well as the public can be of benefit to enable wider understanding. Such proposals will be, with the agreement of the Business Manager – Planning Development, Chairman and Vice Chairman of Planning Committee in consultation with the Ward Member(s), recommended to be presented via a Development Consultation Forum (“DCF”). Such Forum’s will enable wider engagement in accordance with the Council’s Statement of Community Involvement. They will not be a decision-making meeting. The purpose, process and schemes that might be eligible are detailed within the document [‘Development Consultation Forums, Guidance for Developers and Public’](#). The Chairman of the DCF will be agreed prior to the meeting being held and will be either a District Member or Officer of the Planning Development department.
- 9.4 Although the term “pre-application discussions” has been used, the same consideration should apply to any discussions which occur before a decision is taken.
- 9.5 Common sense should be used by Members in determining the scale of the proposals to which the guidelines set out in 9.2 above will apply. Members talk regularly to constituents to gauge their views on matters of local concern. Keeping a register of such conversations would be neither practical nor necessary. If for example a Member is approached by an applicant or an objector in respect of what could reasonably be considered to be a minor application, it would be more appropriate for the Member concerned to give advice on process only and what can and cannot be taken into account (see paragraph 16.4) and to refer the constituent to a planning Officer if they need planning or technical advice.

10.0 Officer Reports to Committee

- 10.1 Officer reports to Committee should be comprehensive and should include a summary of the substance of any objections and other responses received to the consultation. Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations and any other material planning considerations.
- 10.2 Reports should have a written recommendation for a decision to be made and should contain technical appraisals which clearly justify the recommendation.
- 10.3 Reports should be read in full by the Members sat on Planning Committee ahead of the meeting.
- 10.4 If the reports recommendation is contrary to the provisions of the development plan the reasons must be stated clearly. Determinations must be made in accordance with the development plan unless material considerations indicate otherwise¹.
- 10.5 Any oral updates or changes to the report should be recorded within the minutes.

11 Consideration of Business on the Public Agenda

¹ S.38(6) of the Planning and Compensation Act 2004 c.5*

*Subject to amendments under s.93 of the Levelling-up and Regeneration Act 2023 c.55

11.1 All applications to be decided by the Planning Committee will be dealt in line with the Committee Procedure Rules contained within the Council's Constitution and as follows:

- i. Members who have pre-determined the proposal or have a Disclosable Pecuniary Interest (DPI) will be required to leave the meeting whilst the relevant agenda item is debated. Officers with a DPI will also be required to leave.
- ii. The Chairman will announce the agenda item number.
- iii. The Planning Officer will introduce the application with any relevant updates and provide a visual presentation to aid Members' understanding of the context of the application.
- iv. The Chairman will propose and another Member of the Planning Committee, usually the Vice Chairman will second the Officer recommendation (noting that this does not fetter their ability to vote to the contrary after taking all relevant matters into account).
- v. The Speakers will then be invited by the Chairman to address the Committee from an allocated desk in the following order:
 - i. Objector(s)
 - ii. Statutory Consultee
 - iii. Parish/Town Councillor
 - iv. Applicants or their Agent, or supporter
 - v. Ward Member

Each speaker will be limited to a maximum of 3 minutes.

- vi. The Chairman will invite Officers to respond to any points raised by the speakers for clarification.
- vii. The Chairman will then ask Members if they have technical questions of Officers.
- viii. The Planning Committee will then discuss/debate the application.
- ix. Members may seek further clarification of: -
 - a) particular points from Officers, regarding the application; or
 - b) on points raised by speaker(s), in the main debate, through the Chairman. Officers will respond to issues and questions raised by Members.
- x. The Committee will then make a decision by vote.
- xi. Refusals, contrary to Officer recommendation will, alongside recording each Member's vote, also record the proposer and seconder for the refusal.

11.2 In most cases the debate is heard in public. However, occasionally, the Committee may need to go into closed session, which excludes the press and public, to consider information that is confidential or exempt from publication. If this happens, the Committee will pass a resolution to that effect and any participant who is not a Member of the committee or Officer of the Council will be asked to leave the meeting.

Public Speaking at Planning Committee

12.0 General Principles

- 12.1 The primary intention is to allow members of the public, agents, Parish/Town Councillors, and Newark and Sherwood District Members to speak to the Planning Committee on a specific planning application before the Committee and bring to the Committee's attention concerns already raised during the statutory consultation process.
- 12.2 In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the Council in writing.
- 12.3 Although Planning Committee meetings are held in public, they are not public meetings; as a result, a person, who is not attending as a Member or Officer of the committee, may only speak to the committee if they have registered to speak as shown below.
- 12.4 Please note that this Protocol does not interfere with the right of a Member, who is attending as a Member of the Committee, to address the Committee on any application submitted for consideration.
- 12.5 Speakers are expected to make verbal presentations only. Speakers may not circulate statements, papers, photographs or other documents or make slide presentations at meetings of the Committee.
- 12.6 Messages should never be passed to individual committee Members, either from other Members or from the public. This could be seen as seeking to influence that Member improperly and could create a perception of bias that would be difficult to overcome.
- 12.7 Speeches made at the Committee will not be recorded in the minutes of the meeting verbatim.

13 Who May Speak to a Planning Committee Meeting

- 13.1 All Speakers:
- (1) Speakers must submit a request to address a specific Planning Committee meeting in line with the requirements outlined below in 14. A request will only be accepted if it relates to a planning application included in the agenda for that meeting.
 - (2) No speaker is allowed to address the Committee more than once or for more than 3 minutes except where reasonable adjustments are required and additional time may be given at the discretion of the Chair of the Planning Committee.

Members of the Public, Agents, and Applicants:

- (3) Any member of the public, agent, and/or applicant may address the Committee subject to the rules of this Protocol. Only Members of the public who have made representation to the application at the time of the agenda being printed will be permitted to speak unless otherwise agreed by the Business Manager - Planning Development in consultation with the Chairman and/or Vice-Chairman of Planning Committee.

Ward Members (subject to the provisions [at\[\]](#) below):

- (4) A Newark & Sherwood District Ward Member, who is not attending the Committee as a Member of the Committee and represents the Ward within which the application site is wholly or partially situated may address the Committee.
- (5) A Ward Member shall also have the right to make representations on applications adjoining their Ward area in circumstances where the application site is within 100m of the Ward boundary and it can clearly be demonstrated to the satisfaction of the Business Manager – Planning Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their ward area.

Parish/Town Councillor (subject to the provisions below):

- (6) Any Parish/Town Councillor or the Clerk who represents the Parish or Town Council within which the application site is wholly or partially situated may address the Committee. As such they will be bound by their own Authority's rules on conduct. Any professional agent or other third party appointed by the Town/Parish Council shall have no right to speak at Committee.
- (7) An adjoining Parish/Town Councillor or Clerk wishing to speak to Planning Committee may do so when it can be demonstrated to the satisfaction of the Business Manager – Planning Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their parish/town area and the host Parish/Town Councillor or Clerk is not registered to speak.

Statutory Consultees/Internal Consultees

- (8) Any statutory consultee to the application as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) or Business Unit or Council Officer/consultant who has made representations may be permitted to speak with the agreement of the Business Manager – Planning Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee.

14 Registering to Speak

14.1 All Speakers:

- (1) All requests to address the Committee should be in writing. These should be via completion of the following [online form](#). It is strongly recommended that speakers submit requests via the online form as these can be picked up more quickly.
- (2) General enquiries may be sent to the Democratic Services Team by emailing:

committees@newark-sherwooddc.gov.uk

or by letter sent to:

Democratic Services Team, Newark & Sherwood District Council, Castle House,
Great North Road, Newark, NG24 1BY

- (3) Where additional support or assistance may be needed in registering to speak please contact the Democratic Service Team on 01636 650000
- (4) Requests to speak at the Committee must be received by Democratic Services Team by no later than 12pm three Working Days before the date of the meeting.
- (5) If you have a disability within the meaning of the Equality Act 2010 please contact Democratic Services as soon as possible to provide details and any adjustments we may need to consider.

14.2 Members of the Public, Agents, Applicants, Supporters, Parish/Town Councillors and/or Statutory Consultees:

- (1) The following information is required when registering to speak at the Committee:
 - Contact details, including email address, of the person(s) or organisation(s) who will be addressing the meeting
 - application number and details of the relevant application
 - whether the speaker is supporting or opposing the application
 - that the speaker is happy for their details to be shared with others who register the same request to speak.

14.3 Ward Members:

- (1) The following information is required when registering to speak at the Committee:
 - application number and details of the relevant application
 - whether their representations are in support or opposition of the application
 - if the application site is outside their ward area but within 100m of the boundary, the reasons why they consider that the application will have a material impact on the whole or part of their ward area.

14.4 Failure to Register to Speak – if a speaker does not register in full accordance with 14.1 to 14.3 above, they will not be allowed to speak, and the Committee will decide the application without their involvement.

15 Limit on the Number of Speakers

15.1 Members of the Public, Agents, Applicants and Parish/Town Councillors:

- (1) In the event that more than one person wishes to speak as an objector, with consent, we will arrange to put them in touch with the other interested people so that they can agree between them who should speak on behalf of all the objectors. In the event that agreement cannot be made, the person in closest proximity to the application site will have the right to speak. Should those wishing to speak be the same distance from the application site, the first person to register as an objector will have the right.

- (2) Only one person can speak in support of an application. Priority will be given to the applicant or their agent. In the event that more than one person wishes to speak and they are not the applicant or their agent, the same process as set out in 15(1) will take place.
- (3) Only one Parish/Town Councillor will be able to speak to the Committee on each application. The host Parish/Town Councillor will have the right to speak in the event more than one wishes to speak. In the event that an application site straddles more than one Parish or Town Council then a maximum of two speakers will be allowed to speak on the application: one in support of and one objecting to an application. Otherwise lots will be drawn by Council Officers to establish which Parish/Town Council shall be able to speak should more than one register.

15.2 Ward Members

- (1) Subject to 12.8 **Error! Reference source not found.**, only one Ward (or Adjoining) Member can speak on each application except where there are opposing views, either in support of or objecting to an application, then a maximum of two Ward Members may speak. The Ward Member will have the right to speak in the event that the Ward and an Adjoining Ward Members wish to speak. In the event that more than one relevant Ward Member wishes to speak, then Officers will draw lots to allocate who will speak.

15.3 Statutory Consultees/Internal Consultees

- (1) One representative for each Statutory Consultee is able to speak.

16 Notification of speaking and speaking at Committee

16.1 All those who have registered to speak will be notified by 4pm two Working Days in advance of the meeting by Democratic Services, except in exceptional circumstances where it may not be possible. The notification will confirm whether or not the request has been accepted i.e. whether it complies with the criteria above and where appropriate, if the speaker has been selected where multiple requests have been submitted.

16.2 Speech Texts

All Speakers

- (1) Speakers are permitted to make verbal representations only; slides or any other audio or visual presentations are not permitted.
- (2) Speakers may, if they wish, send a written copy of their proposed speech to the Democratic Services Team before the start of the meeting. Subject to below, such texts will not be circulated to Members or Officers of the Council but will be referred to in the minutes of the meeting and published after the meeting has ended as shown in paragraph 16.2(3) below.
- (3) Speeches are not recorded verbatim in the minutes of the meeting. A speech will be recorded as follows:

Where a speaker does not submit a copy of their speech to the Council before the start of the meeting:

“The Committee was addressed by XXX, who spoke in support/against the application”

Where the speaker submits a copy of their speech prior to the start of the meeting:

“The Committee was addressed by XXX, who reiterated the issues set out in the summary text of their speech submitted prior to the meeting, which had been published on the Council’s website”

- (4) If a speaker does not attend the meeting, any written text summarising the intended speech submitted by, or behalf of the speaker will not be considered by the Committee or referred to in the minutes, unless it is received prior to the closing of receipt of late representations, refer paragraph 17.1.

16.3 What should be included in a speech

All Speakers:

- (1) It is important to remember that the Planning Committee can only consider certain issues when deciding a planning application. To help speakers make the most of the time they have been allocated to speak, we have provided examples below of what can and cannot be considered, this is not an exhaustive list.

MATERIAL PLANNING CONSIDERATIONS	NON-MATERIAL CONSIDERATIONS
Design and visual impact	The applicant or agent
Privacy / daylight / sunlight	Land ownership
Noise, smell, pollution	Private rights e.g. access/covenants
Access / traffic	Need (with some exceptions)
Health / health and safety	Property value
Ecology, landscape	Competition
Crime (and fear of)	Loss of view
Economic impact	“moral” issues (e.g. gambling)
Planning history / related decisions	Numbers of representations
Fallback position e.g. PD Rights	Change from previous scheme
Cumulative impact	Building regulation issues
Viability of the development “	“better” use or “better” site

- (2) We strongly recommend that speakers prepare a speech in advance so that they are able to make all their points in the time available.
- (3) Speakers should avoid defamatory comments in their speech or speech text. If a speaker says or writes something defamatory in public, they may be at risk of legal action.

Parish/Town Councillors

- (4) A Parish/Town Councillor or Clerk shall put forward views or representations which reflect the views of the Parish Council which they are representing. They shall not be entitled to put forward personal views or opinions or views which differ from those of the Parish Council which they represent.
- (5) A Parish Meeting representative shall have the same rights to speak as a Parish Council provided that they are able to evidence that they are reflecting the views of the Parish Meeting (for example as recorded in the minutes of the Parish Meeting) rather than their personal views.

Statutory Consultees

- (6) A statutory consultee shall put forward views or representations which reflect the views of the Consultee which they are representing. They shall not be entitled to put forward personal views or opinions or views which differ from those of the Consultee which they represent.

16.4 Time Limits for Speakers

All Speakers

- (1) The time limit of three minutes for each speaker will be strictly followed and cannot be exceeded. All speakers must stop when requested to do so by the Chairman.

Ward Members

- (2) Ward Members are encouraged to contact the Planning Officer prior to the Committee meeting to clarify any factual issues with the planning application and raise any queries relating to the content of the report to Committee.

16.5 Right to Appoint a Representative

Members of the Public, Agents, Applicants, Supporters, Parish/Town Councillors-and Statutory Consultees

- (1) A speaker may appoint another person to speak in their place subject to the provision of this Protocol if they notify the Democratic Services Team of the change at least 24 hours before the meeting is due to start. The other party appointed must have made a representation prior to the agenda being published or be either the applicant or the agent on the application. Changes within 24 hours of the start of the meeting will be permitted at the discretion of the Chairman.

Ward Members

- (2) A Ward Member may appoint another Ward Member to speak in their place provided that:
 - (a) the Member is not attending as a Committee Member;
 - (b) they notify the Democratic Services Team of the change at least 24 hours before the meeting is due to start. Changes within 24 hours of the start of the meeting will be permitted at the discretion of the Chairman.

16.6 Failure of Speakers to attend the Committee

All Speakers

- (1) If a registered speaker or their representative does not arrive at the meeting before the Committee begins, the Committee will continue to consider and determine the application in their absence.

16.7 Deferral of an Application

All Speakers

- (1) If an application is deferred to be considered at a later meeting, any person wishing to speak will need to register to speak again in accordance with paragraph 14.

16.8 Procedure for Speakers at the Meeting

- (1) Committee meetings will start at the time and be held at the venue advertised on the Council's website.
- (2) All speakers are recommended to arrive 10 minutes before the start of the meeting. A Member of the Democratic Services Team will be there to greet speakers and explain the procedure, including how to use the microphone.
- (3) No written material, photographs or diagrams or other papers may be distributed by speakers at the meeting itself.
- (4) Speakers cannot give slide or video presentations at the meeting.
- (5) All speakers will be requested to return to the public seating area after they have made their representation. Once the speakers have returned to the public seating area, they are not permitted to enter the debate further. Following the speeches, the Chairman will invite the case Officer to provide any further comments.

17 Late Representations

- 17.1 All representations received up to 12pm two Working Days before the Planning Committee meeting will be reported to Planning Committee by means of a late paper summarising any late representations received in respect of items on the agenda for the Committee. Representations received after this time will be considered by Officers as to whether they raise any new material planning considerations not considered as part of the agenda report. Should any representation raise new material planning considerations, the Business Manager – Planning Development or other Authorised Signatory will consider whether the item (development proposal) should be withdrawn from the agenda to enable the matter(s) to be properly considered and addressed in a future report.

17.2 New documents should not be circulated to the Committee. Members may not be able to give proper consideration to the new information and Officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

18 Decisions Which Differ from an Officer Recommendation

18.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the National Planning Policy Framework (NPPF)) indicate otherwise ². **This currently has a pending amendment as follows:** "... determination must be made in accordance with the development plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise"³. Decisions will then be required to be considered in accordance with this, once it is in force.

18.2 This applies to all planning decisions. Any reasons for refusal and any approval must be justified against the development plan and other material considerations.

18.3 The courts have expressed the view that the Planning Committee's reasons should be clear, convincing and substantiated with evidence. The personal circumstances of an applicant or any other non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.

18.4 Planning Committees can, and often do, make a decision which is different from the Officer recommendation. Sometimes this will relate to conditions or requirements of a S106 obligation. Sometimes it will change the outcome from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

18.5 The Planning Committee should take the following steps before taking a decision which differs from an Officer recommendation: -

(i) Record the detailed reasons as part of the mover's motion

(ii) If necessary, adjourn for a few minutes for those reasons to be discussed and then agreed by the Committee

(iii) Ensure that a recorded vote is taken, recording the individual names of those voting for and voting against the motion and the names of those abstaining.

18.6 If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the Committee's reasons shall be made, and a copy placed on the application file. A number of appeals are confined in the documents that can be used to defend it (Officer report and Committee minutes only). Members should be prepared to explain in full their planning reasons for not agreeing with the Officer's recommendation. The precise wording of such conditions or s106 obligations or reasons for refusal shall be delegated by the Planning Committee to the Authorised Officers.

18.7 The Officer(s) shall also be given an opportunity to explain the implications of the contrary decision should one be made.

² s.38 Planning and Compulsory Purchase Act 2004 c.5

³ Section 93 of [Levelling-up and Regeneration Act 2023](#)

- 18.8 Applications which are refused contrary to Officer recommendation and subsequently appealed may be required to be defended by either and/or both the proposing or seconding Member to the resolution or any other Member who is willing to defend the Council's decision.
- 18.9 All applications that are clearly contrary to the development plan and constitute notifiable departures must be advertised as such and are known as "departure" applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- 18.10 The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed (S77 of the Town and Country Planning Act 1990). If the Officer's report recommends approval of such a departure, the justification for this should be included, in full, in that report.

19 Committee Site Visits

- 19.1 Committee site visits do not constitute formal meetings of the Council but rather their purpose is to enable Members to observe the site and to gain a better understanding of the issues. Accordingly, attendance by Members at Committee site visits is not essential and non-attendance will not preclude a Member from discussing and voting on the relevant matter at the Planning Committee meeting. Notwithstanding this, Members should make every effort to attend where it is considered that a site visit is necessary and appropriate. In addition, any relevant information which Members have gained from the site visit will be reported back to the Committee so that all Members have the same information.
- 19.2 Site visits should only be conducted where the benefit is clear and substantial. Officers will have visited the site and assessed the scheme against policies and material considerations already. A site visit should not take place unless:
- 19.2.1 There are particular site factors which are significant in terms of the weight attached to them relative to other factors if they would be difficult to assess in the absence of a site inspection; or
 - 19.2.2 There are specific site factors and/or significant policy or precedent implications that need to be carefully addressed; or
 - 19.2.3 The impact of the proposed development is difficult to visualise; or
 - 19.2.4 The comments of the applicant and/or objectors cannot be expressed adequately in writing; or
 - 19.2.5 The proposal is particularly contentious, and the aspects being raised can only be viewed on site.
- 19.3 A record should be kept of the reasons why a site visit is called. It is important that the Council adopts a clear and consistent approach on when and why to hold a site visit and how to conduct it to avoid accusations that visits are arbitrary, unfair or a covert lobbying device.
- 19.4 Only Members of the Planning Committee and Officers should participate in site visits. Planning Committee Members should not attend a site visit where they have either an interest in the site as set out in Section of and by Members of this Protocol and within the Council's

Constitution and/or will not be taking part in the debate or the vote for reasons set out within Sections 4.0 Registration and Disclosure of Interests or Section 5.0.

- 19.5 The applicant or third party may be present on site but should be kept a discreet distance away from the Planning Committee Members and Officers so that they cannot be a party to any comments or questions raised. Upon the refusal of the applicant to respect this requirement, the Committee shall leave the site immediately.
- 19.6 Members should not express opinions or views at the site meeting but may ask Officers present questions or seek clarification from them on matters which are relevant to the site investigation.
- 19.7 Under no circumstances should the site visit Members hear representations from any party. If any Member present at a site visit is approached by the applicant or a third party, they should advise them that they should make representations in writing to the Council and should direct them to, or inform, the Officer present. Any late correspondence received will be dealt with as set out in paragraph 17.1.
- 19.8 Once a Member becomes aware of a proposal, they may be tempted to visit the site alone. In such a situation, a Member is only entitled to view the site from public vantage points, and they have no individual rights to enter private property. Any request by the owner/occupier of a site to enter on to a premise or by a neighbour to view a site from their premise should be strongly resisted to avoid the risk of the owner/occupier/neighbour trying to influence that Member improperly, potentially creating a perception of bias and risk of legal challenge or allegation of maladministration.

20 Voting at Committee

- 20.1 Any Member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter. For clarity, the '*whole of the presentation and debate*' comprises only the presentation of the Case Officer, any speakers and debate on the day the application is determined. It does not include any previous presentation and/or debate of the item for either referrals or resolutions to approve subject to '...' which might include completion of a s106 planning obligation, consultations, or notifications to expire or other matter.

21 Deferral

- 21.1 Members should not seek to defer consideration of any item put before the Planning Committee unless there are clear and demonstrable reasons for doing so such as a relevant planning issue arising for the first time not having been previously considered and needing further investigation.
- 21.2 Where a Member might otherwise be minded to seek deferral of an item by reason that they wish to seek clarification on a particular issue and/or consider that further material information is required on a particular matter or for any other substantial reason, they should seek to obtain such clarification or additional information from the relevant Business Manager or the relevant Case Officer at least two hours prior to the commencement of the Planning Committee meeting.

22 Biennial Review of Decisions

- 22.1 It is good practice for Members to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.
- 22.2 Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

23 Complaints

- 23.1 Complaints relating to planning matters will be dealt with in accordance with the Council's complaints procedures.
- 23.2 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by Committee and under delegated powers, and to applications, enforcement, and development plan matters.



Report to Planning Committee 5 December 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		

This report is for information purposes only.

- 1.1 Members may recall this application was presented to the Planning Committee on 11th November 2024 with a recommendation of refusal. Following a site visit and debate at committee, Members resolved to approve this unanimously, and conditions were delegated to officers.
- 1.2 As the application was contrary to the advice of the Environment Agency, clarification was sought regarding the need to notify them of the Council’s intent to issue a permission. However, as the application was a non ‘major’ development there was no such requirement.
- 1.3 Members may recall that Nottinghamshire County Council requested the imposition of two conditions; 1) to upgrade the access verge to the bypass (onto a road maintained by National Highways and officers noted that National Highways did not request such a condition) in order to protect their position as they don’t yet know who would be responsible for the road following the dualling, and 2) to provide a bound internal access road within the site, which as Members will have noted is

already in situ. Officers considered that these highway conditions were unreasonable and not necessary, failing the soundness tests set out in the NPPF. These conditions were not therefore imposed.

1.4 Conditions were shared with the applicant, and they confirmed these are reasonable and achievable for them.

1.5 The following conditions were therefore imposed and the decision was issued on 14th November 2024.

Conditions:

01

Within 28 days of the date of this permission, a resident of each pitch shall:

- (a) register with the Environment Agency's Floodline; and
- (b) provide the local planning authority with confirmation from the Environment Agency that they have done so.

A resident of each pitch shall maintain their registration with Floodline throughout the life of this permission and shall provide the local planning authority with further confirmation from the Environment Agency that they are registered within 28 days of any written request from the local planning authority for such confirmation.

Reason: In the interests of managing and reducing flood risk in accordance with the aims of Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (2013).

02

Within 3 months of the date of this permission, a Flood Management and Evacuation Plan shall be submitted to and be approved in writing by the Local Planning Authority. The approved Flood Management and Evacuation Plan shall be implemented and kept up-to-date for the lifetime of the development.

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

03

The finished floor levels of the mobile homes on each pitch shall be raised by 700mm in line with the levels set out in Table 8.1 of the Flood Risk Assessment by SLR Consulting Limited dated 1st July 2024.

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

04

The voids under the caravans on each pitch shall be kept clear (and not used for storage) at all times, for the lifetime of the development.

Reason: In the interests of ensuring flood storage is not lost, to ensure flow routes are kept clear and to protect the residents' properties from flooding dangers.

05

Within 3 months of the date of this permission, a landscaping scheme shall be submitted to and be approved in writing by the Local Planning Authority. The 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 and shall focus on the south-western boundary of the site.

Reason: In the interests of biodiversity and visual amenity with particular regard to mitigating the impact on the designated Open Break.

06

The landscaping approved by condition 5 shall be completed during the first planting season following that approval (of condition 5), or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 - 1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The landscaping shall then be maintained 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 particularly the Open Break) and biodiversity.

07

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

Reason: To ensure that the site is retained for use by gypsies and travellers only in order to contribute towards the LPAs 5-year housing supply. Planning Application: 24/00548/FUL

08

The numbers of pitches hereby approved by this permission is limited to 6 as shown on drawing number Site Plan as Proposed, drawing no. JOO4777-DD-03.

Reason: To ensure that the provision is made for existing residents only, in the interests of visual amenity and for the avoidance of doubt.

Informatives

01

The application was considered on the basis of the following plans and documents.

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

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 hereby approved as the development type proposed is zero rated in this location.

03

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.

04

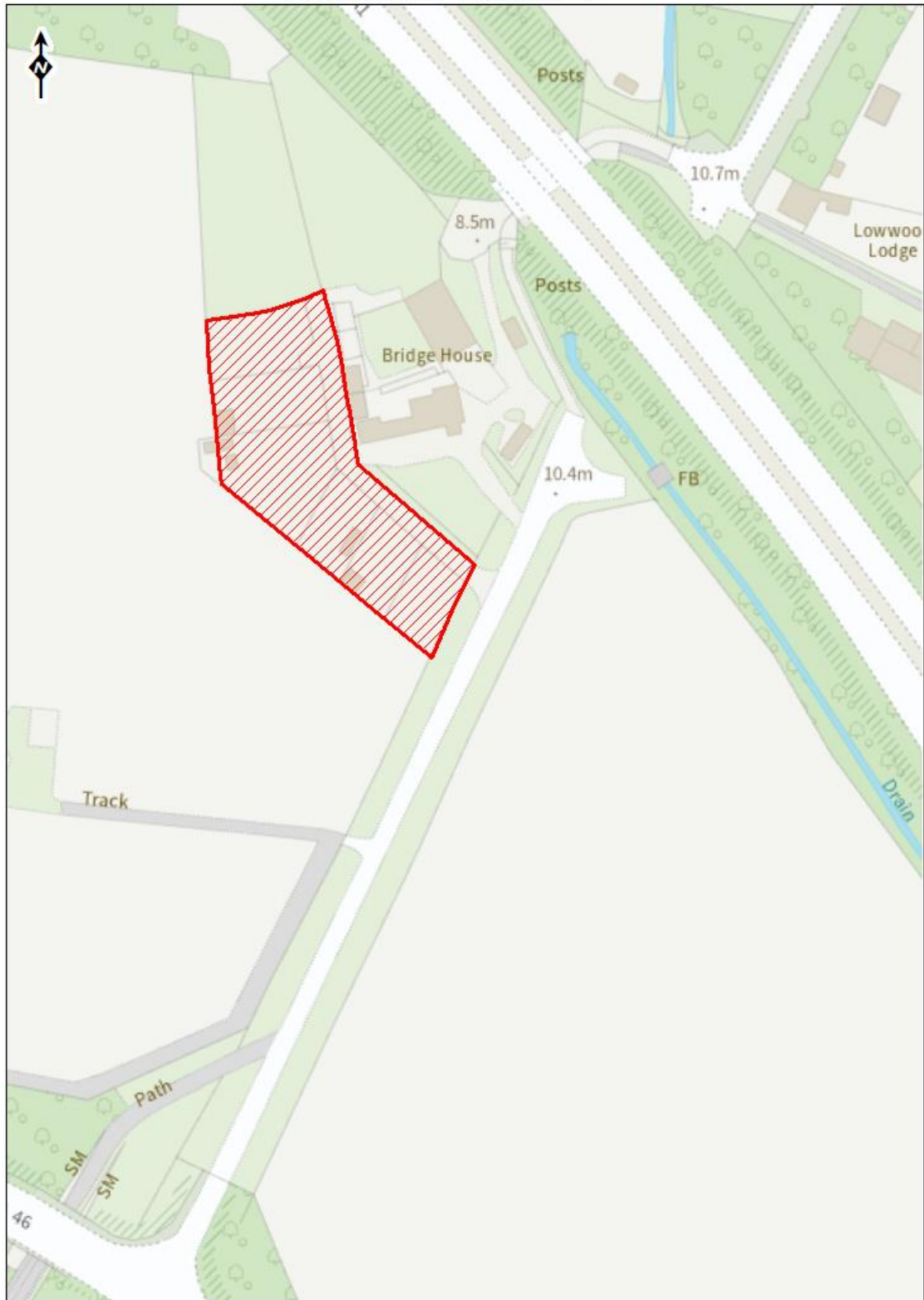
This application has been the subject of discussions during the application process. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord Town and Country Planning (Development Management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

BACKGROUND PAPERS

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

Application case file.

Committee Plan - 24/00548/FUL



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Report to Planning Committee 5 December 2024

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Simon Betts, Planner (Major Projects)

Report Summary	
Report Title	Nationally Significant Infrastructure Projects (“NSIP”) – Update Report
Purpose of Report	To provide an update on the status of the One Earth Solar Farm (“OESF”) and Great North Road (“GNR”) NSIP Projects.
Recommendations	None. For information Purposes.

1.0 Background

- 1.1 This report seeks to provide an update on the current status of the OESF and GNR NSIP projects and for members to note the activities undertaken by officers in recent months and to provide information on the up-and-coming milestones for these projects.
- 1.2 Members will recall that in a report to the Planning Committee on the 6th June 2024, it was agreed that quarterly updates would be provided, including on the Council’s inputs, where there were substantive updates to be reported. Members will also recall the report, provided for information to the 1st August Planning Committee, which detailed the Council’s response to the pre-application statutory consultation on the OESF project.

2.0 Update

- 2.1. On both projects, there is ongoing informal engagement with the applicant(s) and their representatives. This is in addition to the statutory consultation processes that the applicant(s) must discharge with the Council as a statutory consultee during the pre-application stage, in accordance with the requirements of the Planning Act 2008. The informal engagement includes project updates from the applicant(s) and covers ongoing discussions around the methodology for the environmental assessment work on both projects.
- 2.2. Members may also be aware that the applicant on the GNR scheme has put forward a potential community benefit fund that would be available in the event that permission was forthcoming and the Development Consent Order (“DCO”) was granted by the Secretary of State (who make a final decision on NSIPs, following a

recommendation from the Examining Authority). In this regard, members should also be aware that there is no legal requirement for community benefit to be offered, but nor is there a mechanism by which it can be secured through the planning process and therefore it cannot be afforded weight as a material planning consideration by the decision maker. It is therefore offered on a voluntary basis and there is no means by which financial community benefit can be guaranteed. This is a point that is subject to ongoing debate at government level with a recent Parliamentary debate on this matter, further information can be found here: [CDP-2024-0127.pdf](#).

- 2.3. An update is provided on both the OESF and GNR projects below, including a recap of milestone stages undertaken to date and future stages of the projects.
- 2.4. The OESF project is at a more advanced stage than GNR, having completed the key statutory responsibilities that the applicant needs to discharge with the Council, which has included consultation on the Statement of Community Consultation (“SOCC”) (which details how the applicant will undertake their statutory consultation) and delivery of the statutory consultation events themselves which took place between May and July of this year. The applicant has also recently written to the Council requesting a response on the adequacy of consultation milestone. The Adequacy of Consultation Milestone (AoCM) is a relatively new requirement for an applicant and was introduced as a result of guidance published by the Planning Inspectorate in April 2024.
- 2.5. The AoCM is a written document provided to the Planning Inspectorate setting out the consultation undertaken to date, confirming that the approaches set out in the SOCC have been met and providing a summary of consultation responses received and how these responses are shaping the proposed application. An applicant is obliged to seek the views of the LPA before providing a response to the Inspectorate.
- 2.6. It should be noted that the AoCM is a non-statutory requirement, and it does not preclude the ability of the Council to respond to the formal request from the Planning Inspectorate under Section 55(4) (b) of the Planning Act 2008, which will take place once the application is submitted. Accordingly, the formal and final view of the Council on the adequacy of consultation will be provided after the application is submitted.

One Earth Solar Farm (OESF) – Summary of Milestone Dates.

Activity	Dates	Status
Consultation on Statement of Community Consultation (SOCC)	Response issued 3.5.24	Complete
Response to Applicant’s Statutory Consultation	Response issued 22.7.24	Complete
Informal engagement with applicant on technical issues.	Ongoing	Ongoing

Adequacy of Consultation Milestone.	Written response requested by 22.11.24.	Ongoing
Submission of Application to Planning Inspectorate	Programmed for 31.1.25.	Not complete.

2.7. Turning to GNR, the applicant is not at as an advanced stage as OESF, but with the Council having provided a response to the SOCC consultation in August. The next key stage for the applicant is the delivery of the statutory consultation which is planned to take place in January and February 2025. In the meantime, there are various informal update meetings that are taking place, with the application planned to be submitted in August 2025. There is also a possible member briefing that the applicant has been advised to consider before the statutory consultation commences.

Great North Road Solar Farm (GNR) – Summary of Milestone Dates.

Activity	Dates	Status
Consultation on Statement of Community Consultation (SOCC)	Response issued 23.8.24	Complete
Response to Applicant's Statutory Consultation	Consultation planned for January – February 2025.	Not complete.
Informal engagement with applicant on technical issues.	Ongoing	Ongoing
Adequacy of Consultation Milestone.	Planned for May 2025.	Not complete.
Submission of Application to Planning Inspectorate	Programmed for August 2025.	Ongoing

3.0 Implications

3.1 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

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.

Planning Committee – 5 December 2024

Appeals Lodged

- 1.0 Members are advised that the appeals listed at Appendix A to this report have been received and are to be dealt with as stated. If Members wish to incorporate any specific points within the Council’s evidence please forward these to Planning Development without delay.
- 2.0 Recommendation
That the report be noted.

Background papers

Application case files.

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

Oliver Scott
Business Manager – Planning Development

Appendix A: Appeals Lodged (received between 01 November and 25 November 2024).

Appeal and application refs	Address	Proposal	Procedure	Appeal against
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
23/00013/ENFNOT	Appeal against Tree Replacement Notice	Hearing – date to be confirmed	Micheal Read

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

Planning Committee – 5 December 2024

Appendix B: Appeals Determined (between 01 November and 25 November 2024)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
23/00640/OUT	Land To The Rear Of The Grange Kirklington Road Hockerton	Outline planning application for residential development of up to 5 no. Dwellings, with means of access submitted for approval	Delegated Officer	Not Applicable	Appeal Dismissed	4th November 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=RSZYJVLB13X00						
22/01742/FUL	Land At Wood Lane Kersall	Siting of park home/lodge for use as a rural worker's dwelling in connection with existing livery business.	Delegated Officer	Not Applicable	Appeal Dismissed	11th November 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=RHQPP6LBMJS00						
22/00360/TPO	142 Winthorpe Road Newark On Trent NG24 2AP	Undertake work to Cedar tree identified as T5 protected under TPO N282: T5 Cedar as identified on schedule attached to N282. Remove tree.	Delegated Officer	Not Applicable	Appeal Allowed	12th November 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=R7NIMQLBJO300						
23/01667/LDCP	High Park Farm Cross Lane Blidworth NG21 0LX	Lawful development certificate for proposed first floor rear extension, including the addition of photo-voltaic solar panel(s) to the detached garage roof, replacing french door with Bifold doors, widening existing access gateway	Delegated Officer	Not Applicable	Appeal Dismissed	21st November 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=S18LNXLBKJJ00						

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 5 December 2024

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Oliver Scott, Business Manager – Planning Development, x5847

Report Summary	
Report Title	Development Management Performance Report
Purpose of Report	This report relates to the performance of the Planning Development Business Unit over the three-month period July to September 2024 (Quarter 2).
Recommendations	For noting.

1.0 Background

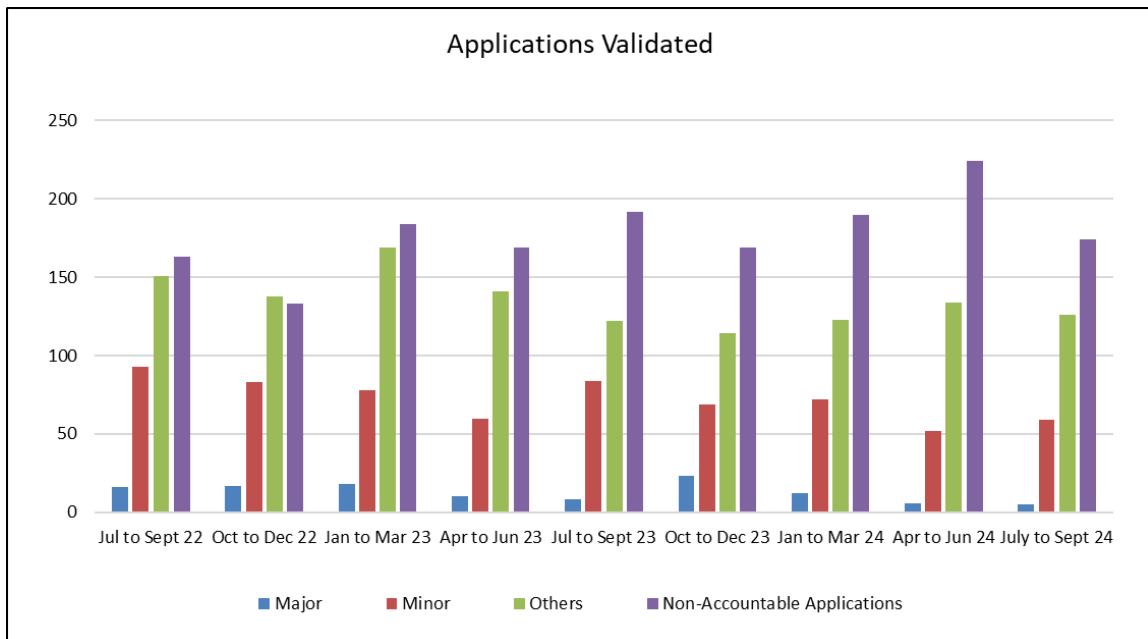
1.1 The Planning Department undertakes a range of activities including the processing of planning applications and associated appeals, planning enforcement, conservation and listed building advice, tree applications, pre-application advice as well as other service areas including land charges, street naming and numbering and management of the building control service for the Council. This report relates to the planning related functions of the service area.

2.0 Performance

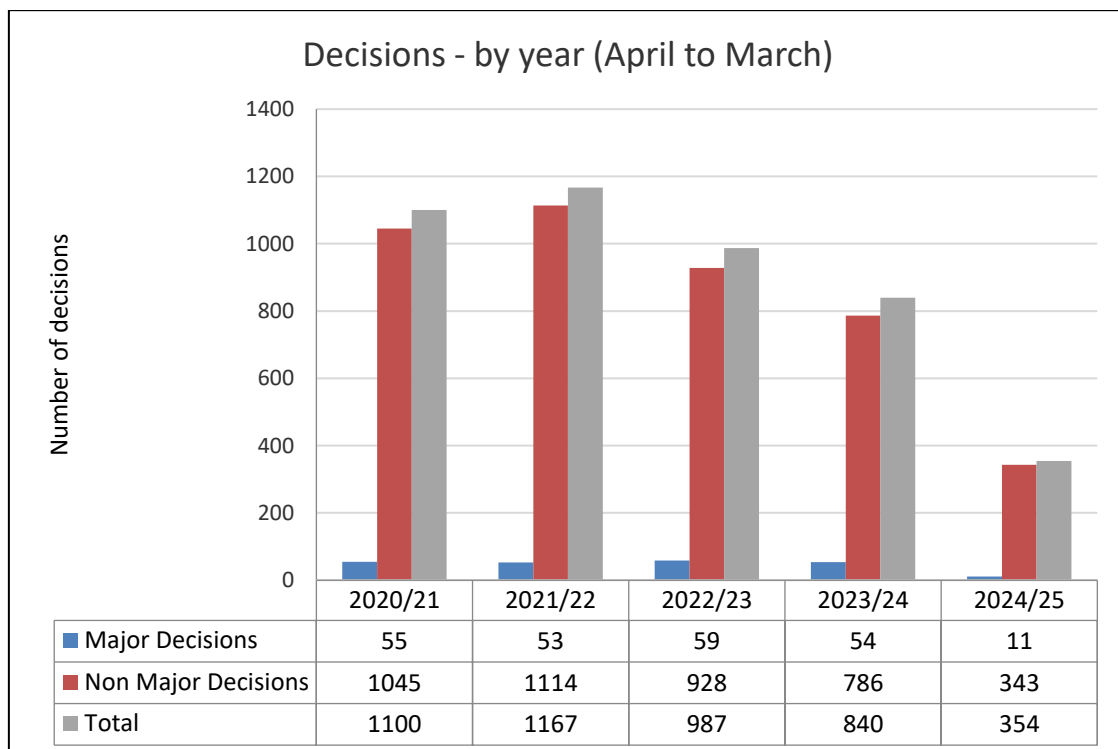
2.1 The table and graph below shows the number of applications that have been received as valid each quarter from July 2022 up until September 2024. They are presented in line with the Council's reporting to Government.

Category	Jul to Sept 22	Oct to Dec 22	Jan to Mar 23	Apr to Jun 23	Jul to Sept 23	Oct to Dec 23	Jan to Mar 24	Apr to Jun 24	July to Sept 24
Major	16	17	18	10	8	23	12	6	5
Minor	93	83	78	60	84	69	72	52	59
Others	514	466	529	485	494	471	526	538	519
Total	623	566	625	555	586	563	610	596	583

2.2 In the final quarter of 2023/24, a total of 610 applications were validated. This compares to 596 in the first quarter of this year and 583 in the second quarter. In the 2nd quarter of last year, the corresponding figure was 586. These numbers are broadly consistent and not radically divergent. Major applications however continue to be low.



2.3 Potential factors for the reduction in majors could relate to the impact of Biodiversity Net Gain requirements. There has also been a change in government and a raft of policy announcements. However, there are signs of major development picking up again. Combining potential planning reform next year and likely fee increases, there is reason to be optimistic about planning income over the next 6-12 months.



- 2.4 Government monitor planning authorities on their speed of making decisions in relation to major and non-major applications. Planning performance is considered annually based on a defined previous 24-month assessment period and separately measures the speed and quality of decision-making. Speed of decision-making is measured by the proportion of applications that are decided within the statutory determination period (8 weeks for non-major applications or 13 weeks for major applications), or an agreed extended period of time. Quality of decision-making is measured by the proportion of total decisions, or non-determinations, that are allowed at appeal.
- 2.5 For authorities who under-perform against their national target, they will be classed as ‘poorly performing’ and applications for major development may be made by developers directly to the Planning Inspectorate. The Council would not receive the fees for these but would be expected to deal with all the associated administration.
- 2.6 Performance at NSDC remains positive, with majors determined beyond the national threshold in both quarter 1 and quarter 2. Minors and all others also surpass the national target.

Year	Q1 Apr to Jun	Q2 Jul to Sept	Q3 Oct to Dec	Q4 Jan to Mar
Majors – target 60% in 13 weeks				
2024/25	100%	86%		
2023/24	100%	93%	85%	92%
Minors – target 65% in 8 weeks				
2024/25	95%	87%		
2023/24	94%	89%	92%	97%
Others – target 80% in 8 weeks				
2024/25	95%	97%		
2023/24	94%	96%	86%	92%

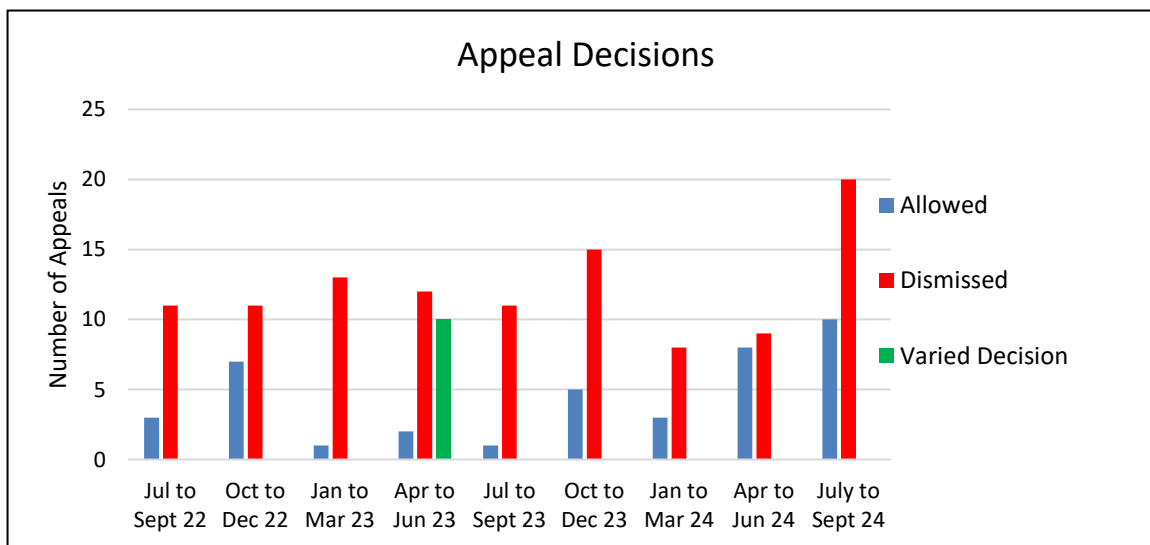
- 2.7 This performance should also be understood in the context of staffing changes. This is discussed in more detail further down the report.
- 2.8 Members will recall that there is further nuance to these figures in the context of government data and exclusion of extensions of time. Extension of time agreements are not uncommon. They allow applicants further time (beyond the statutory limit) to submit additional information, and the same goes for authorities in deciding a planning application. With an extension of time in place, an appeal for non-determination cannot be lodged. In December 2023, Michael Gove, announced the Government’s plans to limit Council’s use of extension of time agreements to prevent Local Planning Authorities using them to obscure underperformance. The use of extension of time agreements has significantly increased in recent years. For the reporting period of 2 years leading up to the end of quarter 2, we have determined 104 major applications, 46 of which have been

within 13 weeks (a performance of 44%). This is slightly up from the last report (39%) and shows some improvement. The overall percentage agreed within statutory timescales and agreed extensions of time is 91.3%, well above the requirement.

2.9 There is a right of appeal against most local authority decisions on planning permission and other planning decisions, such as advertisement consent, listed building consent, prior approval of permitted development rights, and enforcement. The table and graph below highlight the number of appeals and whether or not they were allowed or dismissed. In general, appeals are determined on the same basis as the original application. The decision will be made taking into account national and local policies, and the broader circumstances in place at the time of the decision.

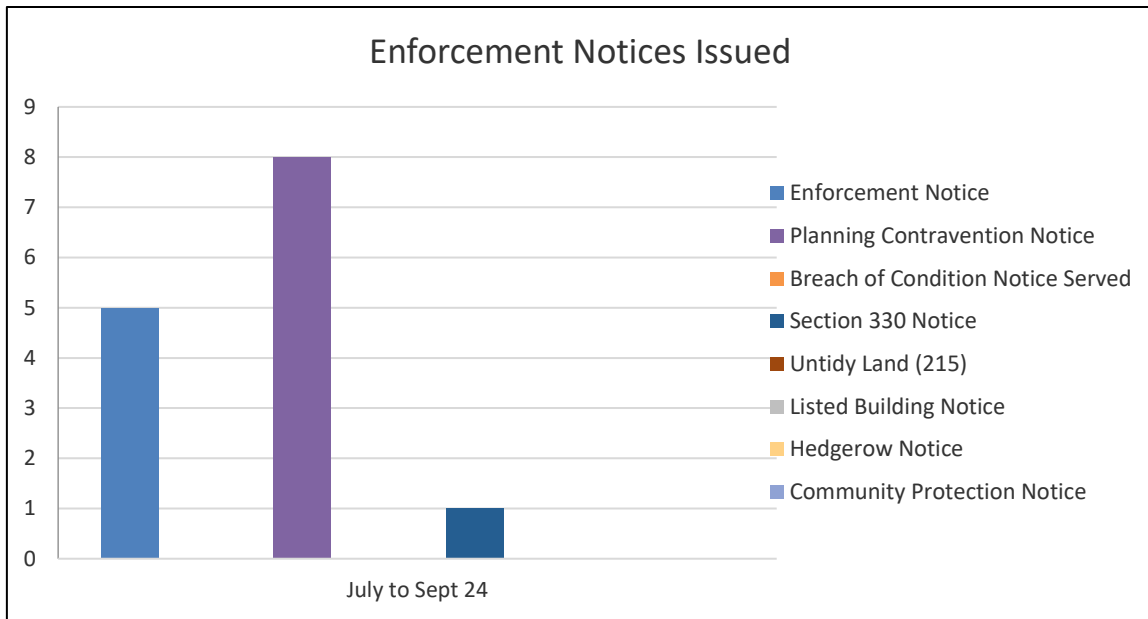
2.10 The appeal will be determined as if the application for permission had been made to the Secretary of State in the first instance. This means that the Inspector (or the Secretary of State) will come to their own view on the merits of the application. The Inspector will consider the weight to be given to the relevant planning considerations and come to a decision to allow or refuse the appeal. As Inspectors are making the decision as if for the first time, they may refuse the permission on different grounds to the local planning authority. Where an appeal is made against the grant of permission with conditions, the Inspector will make a decision in regard to both the granting of the permission and the imposition of conditions.

Appeal Decision	Jul to Sept 23	Oct to Dec 23	Jan to Mar 24	Apr to Jun 24	July to Sept 24
Allowed	1	5	3	8	10
Dismissed	11	15	8	9	20
LPA success rate	92%	75%	73%	53%	67%

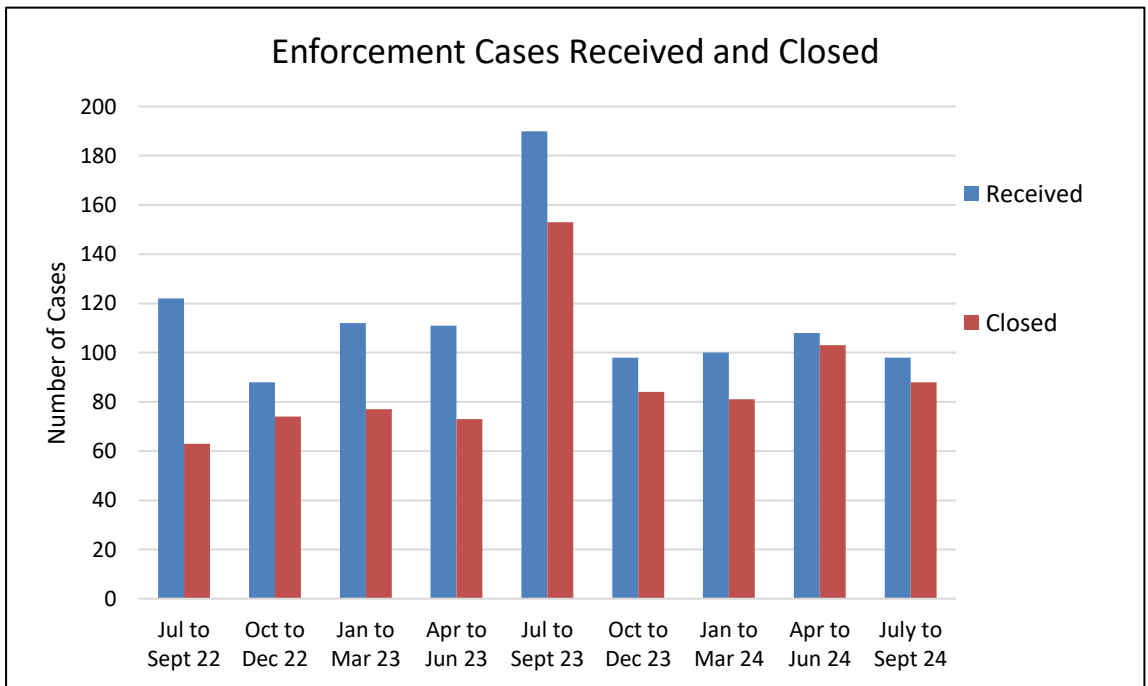


2.11 Quarter 1 saw a drop-in success rate which was an outlier. This improved in Q2. To give a regional comparison, over a 24-month period until June 2023, Newark and Sherwood saw 76 appeals decided, with 19 allowed (a win rate of 75% for the Council). This was third best in Nottinghamshire.

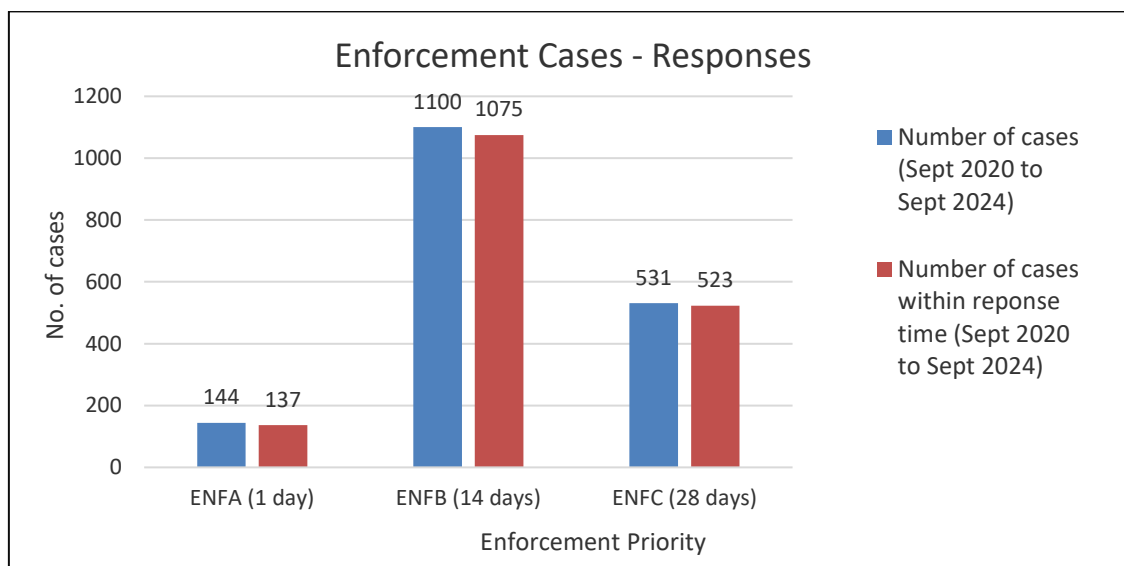
2.12 During the second quarter of this year, Enforcement have served 14 Notices. 18 were served in the previous quarter. 59 Notices were served during 2023/24. The last Committee report (November 11th) included some examples of recent enforcement activity and the active work of the Team.



2.13 The graph below shows the relationship between cases raised and cases closed.



2.14 The speed of investigation is defined by the enforcement protocol. The graph below correlates the categories with their response times.



2.15 Since the last report, there has been considerable change in the Planning Team. Three incredibly experienced staff have been appointed to the Planning Inspectorate, whilst four others have taken up or been offered positions in either the private sector or other LPAs. The Business Manager has also changed. Proactive recruitment has enabled us to fill some of those posts but not all. We currently have one vacant senior planner post, and one planner for example. We are currently looking to recruit a replacement conservation specialist as well. Two agency planning specialists have been appointed to assist with current workloads. We have recruited a new ecologist (this is a new supplementary role rather than replacement).

2.16 We put on record our sincere thanks to all outgoing staff, and warmly welcome new starters. The next 12 months are likely to be challenging with recruitment needs set against a backdrop of planning reform.

3.0 Implications

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

4.0 Conclusions

4.1 Performance has continued to be met and exceeded, despite challenges within and without the organisation.