

PLANNING COMMITTEE – 2 MARCH 2021

Application No:	20/02499/OUTM (MAJOR)	
Proposal:	Residential development of 10 dwellings (following removal of Grove Bungalow and existing outbuildings)	
Location:	Grove Bungalow, Barnby Road, Newark-on-Trent, NG24 2NE	
Applicant:	Richmond and Pritchett	Agent: Grace Machin Planning & Property
Registered:	31 December 2020	Target Date: 22 March 2020
Link to Website:	http://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage	

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Newark Town Council has objected to the application which differs to the professional officer recommendation and given that Members have refused two previous schemes for up to 19 dwellings and then up to 17 dwellings on this site at Planning Committee in August and November 2020 respectively.

The Site

Located on the southern side of Barnby Road, the site comprises a well-proportioned attractive brick built bungalow set centrally within its long plot. Vehicular access to the site is from the eastern side of the frontage via a gravel/brick track. There are mature attractive trees that front the remainder of the highway. Mature vegetation and hedgerows bound the large front garden area.

To the rear of the bungalow is a lawn area with a number of mature trees which take on the appearance of an orchard. There are a number of low lying outbuildings to the east of the bungalow within its curtilage.

The remainder of the site to the east of the bungalow (outside of its curtilage) and to the rear of the dwellings fronting Barnby Road, is overgrown, vacant and accommodates a number of trees and vegetation.

Compared to surrounding dwellings, the host bungalow is set back within its plot. A detached modern dormer bungalow lies to the north-west, whilst to the north-east is a row of historic two storey cottages (Grove Cottages) which sit gable end on with the highway and have windows facing the site. On the other side of the highway (north) are a number of large modern dwellings and beyond that is the east coast railway line.

A Biological SINC (Ballast Pit) lies circa 200m to the west across fields which is recognised as ‘a long disused ballast pit supporting open water and carr communities’.

The site lies within the defined built up part of Newark Urban Area.

Relevant Planning History

20/01720/OUTM - Residential development of up to 17 no. new dwellings (following removal of Grove Bungalow and existing outbuildings) (Resubmission of 19/02158/OUTM). Refused at committee in November 2020 for the following summarized reasons:

- 1) *Failure to demonstrate the maximum quantum of development proposed would be in keeping with the character, general grain or density of development in the surrounding area. As such, the proposal is considered to represent over intensive development of the site and would lead to a cramped development compared with surrounding plot sizes and does not minimise the loss of trees/hedgerows with a consequential detrimental impact on the visual amenity of the area; and*
- 2) *Failure to secure an appropriate drainage scheme/solution for the site as it relies on the crossing of third-party land outside of the red line boundary which has not been secured by way of a S106 Agreement. No mechanism at the time of decision making to secure the developer contributions needed to mitigate the harm.*

19/02158/OUTM - Residential development of up to 19 No. new dwellings (following removal of Grove Bungalow and existing outbuildings). This was presented to the Planning Committee in August 2020 with a recommendation for approval (subject to conditions, a section 106 agreement and a resolution to the drainage) however the application was refused for the following (summarized) reasons:

- 1) *Failure to demonstrate the maximum quantum of development would be in keeping with the character, general grain or density of development in the surrounding area representing an over intensive development of the site, leading to a cramped development compared with surrounding plot sizes and wouldn't minimise the loss of trees/hedgerows with a consequential detrimental impact on the visual amenity of the area; and*
- 2) *The proposal fails to secure an appropriate drainage scheme/solution for the site as it relies on the crossing of third-party land outside of the red line boundary which has not been secured by way of a S106 Agreement. In addition there was no mechanism at the time of decision making to secure the developer contributions needed to mitigate the harm.*

20/000006/TPO – A (blanket) group Tree Preservation Order (no. N376) was made in June 2020. Following full inspection only two cherry trees to the site frontage were found to meet the criteria for protection and the Order was confirmed on that basis in December 2020.

PREAPP/00239/19 – Pre-application advice was sought for a scheme of around 20 dwellings. The advice was positive albeit a lower density was suggested.

Adjacent Site

There have been 3 notable applications located on land immediately to the south; known as land at Highfields School. In brief these were for:

- 17/00357/FULM – Residential development comprising 95 houses and associated infrastructure including removal of 26 TPO trees, Refused 15.09.2017. Issues related to impacts (visual and crime/disorder) from MUGA and viability having regard to dis-

proportionate development costs and that the development couldn't mitigate the impact it would have upon infrastructure. Appeal Dismissed.

- 16/01134/FULM - Residential development comprising 89 dwellings and associated infrastructure, including the relocation of the school access, car parking area and sports pitches, the provision of a Multi-Use Games Areas (MUGA) and the removal of 8 TPO trees. (Resubmission of 14/01964/FULM). Refused 15/09/2019. Issues related to ecological impacts and viability having regard to dis-proportionate development costs and that the development couldn't mitigate the impact it would have upon infrastructure. Appeal Dismissed.
- 14/01964/FULM - Residential development comprising 91 units and associated infrastructure, including the relocation of the existing school car park and sports pitches, the provision of a MUGA and the removal of 8 TPO trees. Refused 14.07.2015 on grounds that the number of compromises (such as noise from MUGA, privacy, failure to maximise community use, lack of infrastructure including affordable housing) meant it was unsustainable development. Appeal Dismissed.

Land immediately to the east (of the southern part of the site)

- 19/01331/FUL - Proposed development consisting of 3 no. detached dwellings together with associated outbuildings and landscaping. (Resubmission of application 18/01609/FUL). This was approved under delegated powers on 1st April 2020.

The Proposal

Outline planning permission with all matters reserved, except for the means of access, is sought for residential development. The quantum of development now sought is for 10 dwellings.

An indicative block plan has been submitted to demonstrate how this quantum of dwellings might be achieved on site.

The Submission

- Covering letter dated 18th December 2020
- Existing Elevations of Grove Bungalow
- Highway Ownership Extent Plan
- Site Block Plan – drawing no. 1506G/003 Rev G
- Site Block Plan – 1506G-001 Rev H
- Site Location Plan – 1506G-004
- Topographical Survey – Job No. 3394
- Arboricultural Report & Impact Assessment, by AWA Tree Consultants dated January 2020
- Combined Planning and Design & Access Statement, September 2020 (NB. relates to 17 dwellings)
- Ecological Appraisal Report by JJH Consulting, November 2019
- Flood Risk Assessment, Rev A by Dice Consulting Engineers Ltd, November 2019
- Supplementary Bat Report, JJH Consulting Ltd, May 2020
- Photographs of the site
- Amphibian Mitigation Strategy, JJH Consulting Ltd, May 2020

- Proposed Drainage Strategy, Sheet 1 of 1, drawing no. 100334-01-0500-01

Departure/Public Advertisement Procedure

Occupiers of eleven 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.

Planning Policy Framework

The Development Plan

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

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

Allocations & Development Management DPD

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

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance
- Affordable Housing SPD 2013
- Developer Contributions and Planning Obligations SPD 2013
- District Wide Housing Needs Assessment, by ARC4 December 2020

Consultations

Newark Town Parish Council – Object for reasons as follows:

- 1) Over-intensive;
- 2) 10 dwellings would be detrimental to character of the area and existing properties near the site;
- 3) Would have significant negative impact on amphibian migration route and the mitigation strategy is believed to be inaccurate and insufficient;
- 4) Lack of visual amenity for residents of the new dwellings;

- 5) Unsuitable for this type of development due to drainage issues which haven't been addressed.

NCC Highways Authority – (18.01.21) Based on the plan ref. drawing no. 1506G/001 rev. G, titled: Site Block Plan, dated November 2019, the Highway Authority has no objection to the proposed access detail submitted with this outline application subject to conditions. The conditions would require; 1) details of the internal road layout, including turning facilities, lighting, structures and drainage; 2) provision of an appropriate bound access and 6m radius kerbs, 3) provision of visibility splays, 4) provision of new footway along Barnby Road, 5) provision of pedestrian dropped kerb crossing on Barnby Road and 6) measures to prevent debris from entering the public highway during the construction period.

NCC Lead Local Flood Authority – Whilst they have no concerns in principle to the drainage strategy advanced, they are unable to recommend approval as it relies on crossing third party land outside of the application site and recommend that the LPA withhold the permission until an agreement is reached between the applicant and third-party land owner that allows the drainage strategy to be implemented in perpetuity. They also recommend a condition should an agreement be reached and permission is granted.

Environment Agency – No objection. For added clarity the site lies fully within flood zone 1 and therefore we have no fluvial flood risk concerns. The applicant also confirmed, in the 2019 application and in the 2020 application that foul sewage will be disposed of via the Severn Trent Water mains network. This is also confirmed for this latest application and therefore we have no further comment to make.

NCC Policy/Developer Contributions – Make general comments and set out justification for a Transport and Travel Services Contribution of £13,000 for new bus stops on Barnby Road and confirm no education contribution is being sought. They also comment that archaeological potential is high and that if permission is granted it should be conditional on mitigation which should focus on strip, map and record exercise.

Cadent (Gas) – Previously advised that an assessment has been made and request a note to applicant be included in the event of an approval.

Network Rail – No objection in principle but there are requirements that must be met. They go on to request that an informative is added to any approval which is included in the 'note to applicant' section of this report.

NSDC, Tree Consultant – 'The amended proposal is broadly acceptable. I have some reservations that the proposed pruning back to boundary of vegetation on north and south boundaries is achievable without detriment to these trees and may result in loss of valuable screening. Sympathetic pruning would be the preferred option in these cases. Any reserved matters will need to include robust mitigation soft landscaping options for removals with ample room give in any final layout to allow for full tree development.' Conditions are then recommended to protect the trees which are captured in the recommendation section below.

Natural England – No comments received and previously referred the LPA to Standing Advice.

Nottinghamshire Wildlife Trust – Previously confirmed that their comments of 15/09/20 still stand, that the reports remain up to date and provided the mitigation and site enhancements are secured and implemented there should be no negative impact upon wildlife species.

Trent Valley Internal Drainage Board – Previously advised that the site is outside of the Trent Valley Internal Drainage Board district but within the Board's catchment. There are no Board maintained watercourses in close proximity to the site. Other general observations were made.

NSDC – Parks and Amenities – Previously advised that a commuted sum towards off-site provision/improvement and maintenance will need to be provided. The nearest appropriate site for such provision is Barnby Road Community Park however this site is c500m away along a fairly busy road.

Representations have been received from 3 local households raising the following summarized concerns:

- Development still too intense for the area;
- Not complimentary to surrounding housing development;
- Concern that hedgerows might not be preserved, important for habitat and privacy;
- Concern about flooding and drainage with no form plan in place to deal with water from the development;
- Concern about impact on privacy and overlooking;
- Concern about traffic noise and pollution;
- Barnby Road itself is narrow, in a state of disrepair and large vehicles have to mount the footpaths or verges – fear it would worsen if development goes ahead without improvements
- Concern about the extra traffic;
- Plan doesn't show hedge along northern boundary;
- The Arboricultural Report is inaccurate as it indicates two trees (T42 and T43) are within the development site when they are owned by a third party.
- G41 is more extensive than shown, it would not be acceptable to fence and replant this.
- Object to loss of G41 due to loss of habitat for wildlife if lost and for privacy reasons
- Trees are subject to a preservation order;
- Concerned at impact on wildlife observed on the site boundaries including grass snakes, weasels, bats, toads, frogs and birds;

Comments of the Business Manager

Preliminary Matter

This scheme is based on the same site area and is similar to the two schemes previously considered save for the reduced quantum of proposed development. Members will therefore note that the assessment undertaken below remains largely as previously presented.

The Principle

The Council is able to robustly demonstrate a 5 year housing land supply and the Development Plan is up to date for decision making. In accordance with DM12 and the NPPF, the starting point for decision making is with the statutory Development Plan.

Spatial Policies 1, 2 and NAP1 of the adopted Amended Core Strategy, identify Newark as a Sub Regional Centre where the focus, as a sustainable settlement, is for housing and employment growth.

The site is located within the defined main built up area of Newark as identified on Map 2 of the Allocations and Development Management DPD. In principle therefore, housing development could be appropriate subject to other considerations which I shall discuss below.

The proposal also seeks to demolish the existing bungalow. This was present on site in 1965 according to historic maps and is an attractive bungalow. However I do not consider this to be of such architectural or historical merit that its loss could reasonably be resisted. The principle of its demolition is therefore accepted.

Appropriateness of the Development, including Character, Density and Housing Need & Mix

As all matters except for the means of access are reserved for subsequent approval, consideration is confined to whether in the view of Members, the scheme at this reduced quantum is capable of being developed without detrimental impacts. To aide with this assessment the applicant has provided an indicative layout plan to demonstrate how 10 units could successfully be accommodated on the site.

Below are extracts of the 2 refused schemes and the proposal now before members so that you can appreciate the likely impacts and see how the proposal has evolved.

Indicative Layout for 19 dwellings (Refused)



Indicative Layout for 17 dwellings (Refused)



Proposed Indicative Layout for 10 dwellings



The site is located on Barnby Road with part of the site fronting the highway and the remainder falling behind existing ribbon development that is a main characteristic of the area/suburb. Development in the vicinity is generally low density interspersed with areas of open green space giving it a semi-rural feel and visual appearance.

I am aware that planning permission has been granted (our reference 19/01331/FUL) on land to the east for residential development comprising 3 detached dwellings. I am also aware that 3 applications have been submitted relating to land immediately to the south (land rear of Highfields School) which have been refused and subsequently dismissed on appeal. More detail is contained within the site history section of this report. None of the reasons for refusal related to an 'in principle' concern or one relating to the character and/or appearance of the backland type of development.

As indicatively shown, Plot 1 would be broadly aligned with the neighbouring dwellings fronting Barnby Road which I consider would help retain the ribbon development character and grain, with the other units tucked back into the site. Whilst developing the site would introduce a new type of development character, this need not be fatal and I remain of the view that a carefully designed scheme could be successfully assimilated into the area. The retention of the mature frontage trees helps to retain this rural open feel to the street-scene and on the revised indicative layout more space has been shown around the retained trees.

The quantum of development would now be a maximum of 10 dwellings in an attempt to demonstrate to Members that the scheme is of an appropriate quantum for the site. Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. It goes on to say that development densities below this will need to be justified, taking into account individual site circumstances. At c0.65 hectares in area, the density proposed is lower than the 30 dph advocated by the Development Plan. However given the low density of development in the area and its suburban area and character, I consider that this level is acceptable for the context.

The latest drainage strategy now indicates the need for a foul pumping station to the site frontage, behind the trees which are to be retained. No details as to what this would look like have been provided, however I am satisfied that a scheme could be designed to be sensitive to its prominent position within the site which could include additional landscaping to soften its impact. This would be a matter to resolve at reserved matters stage.

The most up-to-date housing need information for Newark is contained within the 2020 HNA by ARC4 and indicates that the greatest need is for 3 bedroom dwellings (30.7%) followed by 4 or more bedroom dwellings (25.5%) followed by two bedroom dwellings (19.5%) with the remainder of the need being for 2 or more bedroom bungalow (7.4%) 3 or more bed bungalows (6.7%), 2 or more bedroom flats (4.9%), 1 bedroom flats (4%) with 1.3% being 'other'.

This outline application is not considering the mix per se, but it is important that an appropriate layout and mix to meet local need could be accommodated. I note the plan for 10 units indicates a mix to comprise 2 x 3 bed units (20%), 6 x 4 bed units and 2 x 5 bed units (80% combined).

Whilst this indicative layout does not align with the newly published housing need, nevertheless I am satisfied a similar layout of a different mix could be capable of achieving a mix to meet the amended local housing need. This will need to be carefully considered at reserved matters stage. The applicant has been made aware of the newly published housing need and doesn't wish to amend the indicative layout given that this is a reserved matter.

Taking all of this into account, I am satisfied that development could be undertaken sensitively with an appropriate mix to meet the housing need in such a way that the character and appearance of the area is not unacceptably affected in line with the requirements of CP3, CP9 and DM5.

Residential Amenity

Safeguarding the residential amenity for both existing and any new dwellings will be paramount in order to comply with policies CP9 and DM5 of the Development Plan. Given that the layout and appearance are reserved, this is a matter best considered in detail at reserved matters stage.

Grove Cottages to the east have windows facing the application site at first floor level and are located relatively close to the boundary. Any development to the west of these would need to be carefully designed in order to safeguard against loss of privacy and overlooking issues. The indicative layout does however suggest that a scheme is capable of being achieved that would avoid unacceptable impacts on these dwellings. Given the distance between the remainder of the site and the existing dwellings on Barnby Road, which have generous sized gardens, I am satisfied that a scheme could be achieved that adequately respects the living conditions and privacy of existing dwellings.

Given the proximity of the railway line, consideration would need to be given to managing noise levels. As such I would expect a reserved matters application to be accompanied by a noise assessment and mitigation scheme. I would expect this would likely comprise any identified mitigation by way of the types of glazing to be used in windows for plots nearest to the railway line. This can be controlled by condition.

Highway Impacts

Policy DM5 requires that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

Part of Barnby Road has an 'advisory' 20mph limit due to its proximity of Barnby Road Primary School, however, these are not legally enforceable. This section of Barnby Road is restricted to

30mph. The proposal seeks to take access from the eastern side of the frontage and would provide access and egress for all 17 units. Appropriate visibility splays at the access point have now been demonstrated such that vehicles emerging could do so safely.

NCC Highways Authority in their response have raised some issues with the internal road layout in that vehicle tracking information would need to be submitted as well as internal footways. As the layout is not for formal consideration however, these are matters that can be resolved at reserved matters stage. NCC Highways raise no objections to the proposed new access to the site subject to conditions which are included within the recommendation section albeit some have been amended for clarity and to ensure they pass the tests of the NPPF.

Parking is a matter best considered at reserved matters stage but it is anticipated that the off-street parking quantum is capable of being met on site without risk of leading to on-street parking elsewhere.

The comments by residents of the proximity to bus stops and indeed the requirement of SP7 to minimise the need to travel and to enhance local services and facilities are noted. In order to serve the development hereby proposed (and indeed better the provision for the wider community) NCC previously requested a developer contribution towards bus stop infrastructure on Barnby Road. The requested £13,000 would go towards provision of new bus stops for both Newark and Lincoln bound routes. I consider this request to be reasonable and it would assist with compliance with SP7 in terms of mitigation and in terms of sustainability.

There are no reasons to resist the application on highway safety grounds.

Flooding and Drainage

Core Policy 9 requires developments to be pro-actively manage surface water and Policy DM5 builds upon this requiring developments to include, where possible, appropriate surface water treatments in highway designs and Sustainable Drainage Systems.

The site lies within Flood Zone 1 (at lowest risk of flooding) according to the EA Flood Maps albeit is in an area identified as being prone to surface water flooding.

The application has been accompanied by Flood Risk Assessment and Drainage Strategy to show how both surface water would be managed and foul sewage would be disposed of given the lack of public sewers along Barnby Road and the failure of infiltration testing to sufficiently drain surface water away.

The strategy proposes a foul pumping station to the site frontage (indicatively located behind the existing frontage trees (which are to be retained and are now protected) which would pump waste south to a public sewer on London Road in Balderton via the Highfields School site referred to in the site history section of this report.

The surface water drainage strategy comprises a system of surface water sewers (tanks are indicatively shown under the gardens of plots to the west of the site) that will collect run off from the developable area, drain into an existing pond to the west as well as permeable paving below parking areas and some of the un-adopted private driveways. The scheme has been designed so as not to increase flood risk elsewhere.

Members may note that as with both previous schemes NCC LLFA have raised concern that there is currently no viable means of draining surface water from the site. This is because the drainage strategy relies on land not within the application site nor within land currently within the applicant's control. Officers have been advised by the LLFA that if this were resolved, there would be no reason to object to the drainage strategy otherwise.

The applicant has been in negotiations with the relevant third party land owners to secure this drainage route and there appears to be an informal agreement in principle/progress on this matter. The agent has confirmed they have absolute confidence this agreement can be secured but that solicitors won't be instructed until there is a resolution to grant. This is a matter that can be dealt with through an appropriate s106 legal agreement (thus within the Council's control) which the third party land owners would need to enter into requiring the drainage strategy to be undertaken before any development takes place on site. This would need to be in place before any planning permission is granted.

If the relevant land owners/parties do not join in to the agreement within a reasonable timeframe (I would suggest a long stop date of four months from the date of committee) the application should be refused on the grounds that the scheme is unable to provide satisfactory surface water drainage scheme. This is included within the recommendation to you, set out below.

It is worthwhile noting that the drainage route across the third party land would require an easement over which no built development could take place. However no planning permission currently exists on this land (see the site history section of this report - planning permission has been refused and dismissed on appeal for major housing schemes on land at Highfields School) and the land owners are aware of this so as not to blight any future plans for the site.

The drainage strategy would require its ongoing maintenance to be put into the control of an appropriate management company which can be secured by s106 agreement. Subject to a reserved matters approval being developed in accordance with the strategy, which can be secured by the s106 agreement, I am satisfied that the proposal would accord with the policy requirements. It should also be noted that the Environment Agency raise no objection to the proposal.

Impacts on Trees and Landscaping

The starting point for development is that trees and features such as hedgerows should be retained where possible as set out in CP12 and DM5.

There are a number of trees and hedgerows within the site. As such an Arboricultural Report and Impact Assessment has been submitted in support of the application. This identifies 40 trees and 8 groups of trees and hedges as being present on site. The majority of these trees are graded as C quality (low to average), 2 are U graded (poor trees) and 9 are B graded (good quality and life expectancy). The most significant trees are two early mature Cherry trees (T4 and T5) located at the site frontage which are B graded and now protected by preservation order. These are shown to be retained on the indicative layout plan which is welcomed. The other good quality trees are all located around the periphery of the site and are indicated as being retained.

A number of trees (C and U graded) mainly to the rear of the existing outbuildings would likely need to be removed to facilitate the development shown. It is possible that a less intense development could see more of the trees retained albeit some of the C graded trees will

ultimately not be worthy of on-going protection. The blanket Tree Preservation Order that was initially made to protect the trees pending assessment by our independent tree consultant has now been amended to include only the trees to the site frontage. However this is not to say that other trees will be not be retained; indeed it appears to be the applicant's intention to retain the majority of the trees.

The Council's tree consultant has raised no objection subject to conditions.

Having considered the outline nature of the scheme and the indicative layout, notwithstanding that there are some reservations regarding the level of pruning along the boundaries (a matter which can be dealt with by the reserved matters application), I consider that a layout similar to that presented would be acceptable in terms of the impact on trees. It would be necessary to require mitigation and compensation for lost trees with replacement planting which could be secured via a condition at reserved matters stage.

Ecological Impacts

The site itself has the potential to provide habitat for wildlife and as such the application was supported by an Ecological Appraisal and further surveys and strategies have been provided upon request. These remain up to date.

CP12 (Biodiversity and Green Infrastructure) seeks to conserve and enhance biodiversity whilst Policy DM7 specifies that: "On sites of regional or local importance, including previously developed land of biodiversity value, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site. All development proposals affecting the above sites should be supported by an up-to date ecological assessment, involving a habitat survey and a survey for protected species and priority species listed in the UKBAP."

The scheme has been assessed against Natural England's Standing Advice.

Amphibians

Common toads are recognised as being of principal importance for consideration and biodiversity under the relevant legislation and are listed as a priority species in the UK Biodiversity Action Plan, which is material for planning decisions.

A common toad migratory route and toad patrol access is located c400m to the north-west of the site. A further migratory route to Balderton Lake is located 900m to the south-west. Therefore upon request, an amphibian mitigation strategy has been submitted which seeks to mitigate any impacts upon local populations of amphibians.

The submitted mitigation strategy sets out that ground clearance would need to be undertaken at a suitable time of the year (either early spring/late autumn or during winter) to decrease the likelihood of amphibians being present on site. If clearance is undertaken in active season, this would be undertaken east to west to direct toads towards suitable habitat. A number of precautions are also recommended. The mitigation strategy is acceptable (NWT have raised no objection to this) and provided the development proceeded in accordance with it, I am satisfied that adequate mitigation would have been employed. This can be subject of a condition.

Bats

The ecological appraisal undertaken in 2019 identified potential for bats to utilise the site and a need for further surveys during the bat season. This has resulted in a delay to the consideration of this application in order that the appropriate surveys be carried out.

Nocturnal bat surveys have been undertaken in May 2020 and no bats were observed entering or leaving the existing building on site and bat activity within the vicinity of the site was low, with two bats observed foraging in an adjacent garden during the emergence survey and only one bat noted as being in the vicinity during the dawn survey. The findings therefore suggest that bats should not be a constraint to the development. However demolition would need to proceed with caution and any delays of longer than 12 months would require a repeat survey given the transient nature of bats. I am satisfied that this could be controlled and suitably mitigated with an appropriately worded condition. Other mitigation in the form of retaining trees along the periphery of the site is recommended and low level lighting should be employed to prevent any unnecessary light spill on adjacent habitats.

Badgers and Reptiles

No evidence of badgers or reptiles on the site was found and there is a lack of suitable areas and habitat for badger sett creation or habitat suitable for reptiles in the area. No mitigation is therefore necessary.

Breeding Birds

Existing hedgerows, trees and scrub on site offer resources for breeding birds which would have a minor negative impact but mitigation in the form of avoiding clearance during breeding season would afford some protection.

Great Crested Newts

Some habitat suitable for GCN was noted within the site albeit no breeding ponds are present and its isolation from potential breeding sites by roads were considered a barrier to movement. The ballast pit 200m from the site is unlikely to be suitable for GCN and no mitigation is considered necessary.

Ecological Enhancements

In line with the requirements of the Development Plan and the NPPF, consideration of how the scheme would contribute towards habitat creation and improvement has been considered.

The ecologist recommends that grassland areas within the development should be seeded using a species rich meadow or neutral grassland seed mix in preference to a species poor amenity grassland seed.

Existing unmanaged hedgerows could be managed and enhanced by being gapped up using native species that provide fruit and nectar sources for birds, small mammals and insects. Suggested species include holly, hazel *Corylus avellana*, field maple *Acer campestre* and elder. This planting will improve the diversity and structure of the hedgerow. In addition, the hedgerow could be

extended along the rest of the southern site boundary and along the western boundary both of which are currently delineated by a wire fence. This would improve the wildlife corridor across the site and buffer the site from the grassland to the south and west. Other recommendations were also suggested are best considered at reserved matters stage.

It is noted that NWT raise no objection to the scheme now that the additional mitigation strategy for amphibians has been received. Subject to a number of conditions to safeguard the ecological interest of the site and to secure enhancements, I consider that the scheme is acceptable and complies with the Development Plan.

Developer Contributions

Spatial Policy 6 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. They states that infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance from the District Council. It is critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure.

Contributions required by this development are set out below. For the avoidance of doubt the applicant has agreed to these being secured through a section 106 agreement.

Affordable Housing

No affordable housing is required for a scheme of 10 units; Core Policy 1 is clear that the requirement relates to schemes of 11 or more dwellings.

Public Open Space (Provision for children and young people)

Applicable to scheme of ten or more dwellings, this application would ordinarily need to make provision for on-site public open space at 18m² per dwelling as set out in the Developer Contributions SPD. However I would not expect this to be provided on site given its modest size and instead would expect that a financial contribution should be provided in lieu of this which would be spent to upgrade the existing parks in the area. This is based on £927.26 per dwelling based on 2016 indexation (which would need to be uplifted).

Community Facilities

Community facilities are defined as including Community Halls, Village Halls, Indoor areas for sport, physical activity, leisure and cultural activity and Halls related to places of worship. The Council's SPD provides where existing infrastructure exists or where small scale developments do not warrant new infrastructure, a contribution may be appropriate to support the existing infrastructure such as a village or community hall or other community asset. It goes on to say that 'it is further recognised that some community facilities are not fulfilling their potential to meet the needs of residents and thus may appear to be underused. In such circumstances qualitative improvements to such facilities would increase their ability to make a positive contribution to meeting the needs of the community.'

The site itself is too small to provide community facilities on it and therefore any additional

pressure upon community facilities that this scheme would place upon the community should be met off-site by way of a financial contribution. This contribution is triggered at 10 units or more and therefore a financial contribution toward community facilities which is based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling is sought.

Primary Education

The Developer Contributions and Planning Obligations SPD indicates that development of 10 or more dwellings which generate a need for additional primary school places will be secured via a legal agreement. The number of primary places required is based on a formula of no. of dwellings x 0.21 to establish the number of child places required. The Local Education Authority have confirmed there is existing capacity available to accommodate occupiers of the dwellings and therefore no education contribution is necessary. In terms of secondary education, the development would be covered under CIL regulations.

Other Matters

NCC have now advised that the site has a high archaeological potential and say that the RCHME identified the Line of Circumvallation as running through the site in their volume on the Civil War siegeworks of Newark. There has been limited opportunities of identifying this earthwork, which would probably be of national significance once firmly located. The County Council strongly recommend that if planning permission is granted this should be conditional upon a scheme of archaeological mitigation which is captured within the conditions set out below.

Planning Balance and Conclusions

The site lies within the defined built up part of Newark, where the principle of residential development is acceptable in accordance with the spatial strategy.

I have concluded that the quantum of up to 10 dwellings could be accommodated on site without unacceptable harm to the character, appearance or density of the area and that this could be achieved whilst retaining the best quality trees. The ecological value of the site, with appropriate mitigation strategies in place secured by conditions, would be safeguarded and enhanced overall.

The applicant has demonstrated there is a safe means of vehicular access from Barnby Road with appropriate visibility splays and subject to relevant parties entering into a s106 agreement an acceptable means of draining the site for both surface water and foul sewage can be achieved.

I am also satisfied that an appropriate housing mix could be secured and that the pressure on infrastructure (such as bus services, community facilities etc) from the development could be mitigated by developer contributions to enhance existing local facilities. The living conditions of existing residents could be safeguarded with a carefully designed scheme advanced at reserved matters stage.

RECOMMENDATION

That outline planning permission is approved subject to:

- a) the conditions and reasons shown below; and**

- b) **the completion of a section 106 legal agreement within 4 months of the date of this Planning Committee (failure to do so would result in a refusal on the grounds that the scheme fails to secure an appropriate drainage scheme and developer contributions):**

Summary of Matters to be secured via a s.106 Agreement	
Bus Stop Infrastructure	£13,000 for 2 new bus stops on Barnby Road
Community Facilities	£1,384.07 per dwelling (£13,840.70)
Children's Play Space	£927.26 per dwelling (£9272.60)
SUDS/drainage features	To be maintained for the lifetime of the development and that drainage strategy be implemented on third party land (with relevant land owners joining in) prior to any other development being carried out on the site
Monitoring contributions for all contributions will also be sought along with appropriate standard triggers for all	As per SPD

Conditions

01

Application for approval of reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

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

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

02

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

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

03

No development shall be commenced until a scheme for archaeological mitigation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out by a qualified archaeologist or archaeological body approved by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, within 3 months of completion of the excavation works, a summary report shall be submitted to The Local Planning Authority and the results of the 'Watching Brief' shall also be made available for inclusion in the archive of information of Nottinghamshire County Council's 'Sites and Monuments Record'.

Reason: To ensure that satisfactory account is taken of the high potential archaeological interest of the site.

04

Any reserved matters application pursuant to this outline consent shall either be accompanied by a new Arboricultural Impact Assessment or be made in accordance with the Arboricultural Impact Assessment by AWA Tree Consultants (dated November 2019) and in either case shall be accompanied by an Arboricultural Method Statement (AMS) which 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 working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. Details of any scaffolding erection and associated ground protection within the root protection areas
- h. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be thereafter be carried out in full accordance with the approved AMS.

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

05

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

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

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

06

No site clearance, hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive).

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

07

The development shall proceed in full accordance with the Amphibian Mitigation Strategy dated May 2020 by JJH Consulting Ltd.

Reason: In order to afford adequate protection to amphibians.

08

Unless the bungalow is demolished before 18th May 2021, no demolition shall take place until repeat bat surveys are undertaken by a suitably qualified ecologist or organization and details of the findings and any required mitigation strategy have been submitted to and approved in writing by the Local Planning Authority. The demolition shall thereafter be undertaken in line with the agreed mitigation scheme.

Reason: In line with the recommendations of the Supplementary Bat Report undertaken by JJH Consulting Ltd in the interests of protecting bats that could be present on site.

09

Prior to first occupation of any dwelling hereby approved, a Habitat Creation and Enhancement Scheme (HCES) shall be submitted to and approved in writing by the Local Planning Authority. This scheme should build upon the ecological and arboricultural reports submitted with the outline permission and shall contain details of long term management plus a timetable for implementation. The approved HCES shall be implemented on site in accordance with an agreed timetable and retained for the lifetime of the development.

Reason: In the interests of maintaining and enhancing biodiversity.

010

Prior to first occupation of any dwelling hereby approved, details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution for nocturnal wildlife and amenity such as low level lighting. The approved external lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity and nocturnal wildlife such as bats.

011

Prior to commencement of any development, the formal written approval of the Local Planning Authority is required with regard to road layout, parking and turning facilities, street lighting, structures, and drainage (hereinafter referred to as reserved matters). 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 the development is constructed to adoptable standards.

012

No part of the development hereby permitted shall be brought into use until the access to the site show on drawing no. 1506G/001 rev. D, titled: Site Block Plan, dated November 2019 has been completed and surfaced in a bound material for a minimum distance of 5 metres behind the highway boundary with 6.0m radius kerbs on both sides of the access.

Reason: To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general highway safety.

013

No part of the development hereby permitted shall be brought into use until the new footway fronting the site along Barnby Road has been designed and installed along the whole width of the site's frontage, to the width of the area from the back of the carriageway to the site's boundary, with no planting permitted in this area in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In the interest of pedestrian and general highway safety.

014

No part of the development hereby permitted shall be brought into use until a new pedestrian dropped kerb crossing has been provided on Barnby Road, as shown for indicative purpose only on drawing no. 1506G/001 rev. D, titled: Site Block Plan, dated November 2019, in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of pedestrian safety and to promote sustainable travel.

015

No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided in accordance with details to be first submitted and approved in writing by the Local Planning Authority. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

016

No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Dice Flood Risk Assessment (FRA) ref 100334/LD/November-19/01 Rev A and Drainage Strategy dwg. Ref 100334_01_0500_01, has been submitted to and approved in writing by the Local Planning

Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753. (note at present the proposals do not demonstrate this requirement)
- Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm 5 l/s rates for the developable area.
- Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. 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 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- For all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.
- 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

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.

017

The submission of any reserved matters application pursuant to this outline consent shall be accompanied by an up to date Noise Assessment to be undertaken by a suitably qualified person or company. This shall include background noise modelling data where appropriate and where necessary, a Noise Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority which considers noise arising from the railway in close proximity to the site and how this can be mitigated for the proposed occupiers of the dwellings hereby approved. The approved scheme shall be implemented on site prior to first occupation of any dwelling subject of the reserved matters application.

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

Notes to Applicant

01

This application should be read in conjunction with the section 106 legal agreement which secures a range of contributions to mitigate the impacts of the development.

02

Network Rail advice of the following:

Barnby Level Crossing

The site entrance will be in proximity to Barnby Level Crossing which has in excess of 250 trains a day crossing through, many at high speed (125mph). The Signaller at the location from where the

crossing is controlled has an obligation to initiate the Barrier Lowering Sequence in sufficient time (at least three minutes) ahead of the arrival of a train at the crossing without compromising its punctuality at maximum operating line speed.

The safety of railway level crossings and of all crossing users is of paramount importance to us. We would ask that level crossing safety leaflets are included in information/welcome packs provided to the new homeowners at the site. These can be provided by ourselves upon request from the developer. Alternatively, information is available online at <http://lxresource.co.uk/campaigns/distraction-campaign>.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. In particular, during construction work, the crossing must remain clear and unobstructed at all times to ensure crossing users can enter and leave the crossing area safely. Vehicles associated with works must not be parked in a way that obstructs the crossing approaches or warning signage/lights at any time.

03

Cadent Gas advise the following in relation to Low and Medium Pressure Assets. You may be contacted separately by our engineers regarding High/Intermediate Pressure Pipelines.

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance. If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays. If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: plantprotection@cadentgas.com Tel: 0800 688 588

04

The applicant is reminded that bats are protected species and this means a criminal offence would be committed if anyone:

- Deliberately takes, injure or kill a wild bat
- Intentionally or recklessly disturbs a bat in its roost or deliberately disturb a group of bats.
- Damages or destroys a place used by bats for breeding or resting (roosts) (even if bats are not occupying the roost at the time)
- Possesses or advertises/sells/exchanges a bat of a species found in the wild in the EU (dead or alive) or any part of a bat.
- Intentionally or recklessly obstructs access to a bat roost.

05

Nottinghamshire County Council Highways Authority wish to make the applicant aware of the following:

Reference to other documents

Reference in any condition contained in this permission to any Statute, Statutory Instrument, Order, Regulation, Design Guide or other document shall be taken to include any amendment, replacement consolidation or variation that shall from time to time be in force and any reference to anybody or organisation (public or private) shall be taken to include any successor-body or organisation exercising relevant functions in place of or alongside the body named.

Works in the highway / Section 278 Agreement (Highways Act 1980)

In order to carry out the off-site works required the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. In order to undertake the works the applicant will need to enter into an agreement under Section 278 or obtain appropriate licence to carry out any works in the highway. Please call 0300 500 8080 to enquire about installation/amendments to vehicular access.

Building Works shall not project over the highway

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

Prevention of Mud on the Highway

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

Network Co-Ordination

The applicant must contact Nottinghamshire County Council as the Highway Authority on 0300 500 8080 for road space approval prior to any works commencing.

Private street information

As a private street, the Advance Payments Code (APC) under the Highways Act 1980 will apply unless an exemption is made. To be exempt the following conditions should be met:

- The deposit of a map with the Highway Authority under Section 31 (6) of the Highways Act 1980 identifying the roads which are to remain private.
- The erection and maintenance of a road sign(s) indicating that the road is private.
- The provision of evidence that potential purchasers of the dwellings have been/will be made aware of the unadopted status of the road and what this will mean to them in practice;
- The provision of evidence that future maintenance of the road has been secured. For example, a unilateral undertaking under Section 106 of the Town and Country Planning Act to set up a maintenance company; the boundary between the private road and the publicly-maintained highway should be clearly marked by a concrete edging, boundary posts or similar.

Please seek further information in Nottinghamshire Highway Design Guide available online on <https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide> - For the APC procedure, please see Part: Adopting new roads and the advance payment code section. - For Section 278 works, please see Part 6: Working on existing highways – Section 278 and Section 184 procedures. - For the highway design, please see Part 3: Design Guidance.

06

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

07

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

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

BACKGROUND PAPERS

Application case file.

For further information, please contact Clare Walker on ext 5834.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/02499/OUTM

