

## PLANNING COMMITTEE – 27 APRIL 2021

<b>Application No:</b>	<b>20/02394/S73</b>	
<b>Proposal:</b>	<b>Variation of condition 1 attached to planning permission 18/01430/FUL to make the temporary permission permanent</b>	
<b>Location:</b>	<b>Park View Caravan Park, Tolney Lane, Newark</b>	
<b>Applicant:</b>	<b>Messrs Bower</b>	
<b>Agent:</b>	<b>Murodch Planning Ltd – Dr Angus Murdoch</b>	
<b>Registered:</b>	<b>9 December 2020</b>	<b>Target Date: 3 February 2021</b>
		<b>Extension of time agreed until 28 April 2021</b>
<b>Website link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>	

**This application is being reported to the Planning Committee as the specifics of the application warrant determination by the Planning Committee in line with the Council's Scheme of Delegation.**

### The Site

The application site is located on the northern side of Tolney Lane at its eastern end, just beyond the public car park. The site lies within the Newark Urban Area, as defined within the Allocations and Development Management DPD. The site is closely located to the town and its centre. The site is located within Zone 3b on the Environment Agency Flood Maps and as such forms part of the functional floodplain. The site is also located within Newark's designated Conservation Area.

The north of the site abuts the main railway line linking Nottingham and Lincoln. Open amenity land exists to the south, on the opposite side of Tolney Lane, adjacent to the River Trent. To the east is a local authority operated public car park, while finally to the west an open field/paddock beyond which is another Gypsy and Traveller site.

Comprising just under 0.6ha the site includes the former abattoir building, a single storey structure which remains, oriented gable end on and adjacent to Tolney Lane. The site is relatively flat and is in temporary use as a gypsy and traveller caravan site for up to 15 caravans. Access to the site is taken at two points off Tolney Lane, although previously approved plans show one central access point with one secondary access off the Lane serving a single pitch.

The southern boundary is walled, at a height of approx. 1.6m. Palisade fencing forms the rear boundary with trees situated beyond, outside the application site. Other boundaries treatments comprise of vertical timber boarding along the north-east boundary and timber post and rail fencing along the south-west boundary.

Tolney Lane accommodates a large Gypsy and Traveller community providing approx 300 pitches.

## Relevant Site History

**18/01430/FUL -** Change of use of former abattoir site and paddock to gypsy and traveller site – Approved 05.12.2018, subject to a number of conditions including condition 1 which reads:-

The use hereby permitted shall be carried on only by the following and their resident dependents:

- Mr. Harold William Bower and/or Mrs. Donna Bower – wife of Mr. H.W. Bower
- Mr. David Bower and/or Mrs. Deborah Bower
- Mrs. Elizabeth Salmon and/or Mr. Paul Salmon

And shall be for a limited period being the period up to 30 November 2021, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 30 November 2021, whichever shall first occur, the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 5 hereof.

Reason: In the recognition of the current need for gypsy and traveller sites within the district and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10.

**17/00949/FUL -** Application to remove conditions 1 and 5 of planning consent 15/00354/FUL to make the personal and temporary permission permanent and general (Re-submission of 16/1879/FUL), refused 07.11.2017 for the following reason:

“The application site lies within Flood Zone 3b where the NPPF states that inappropriate development should be avoided by directing it towards areas at lower risk of flooding. When temporary permission was first granted on this site there were no available Gypsy & Traveller sites in areas at lower risk of flooding. Whilst the Local Planning Authority cannot currently demonstrate a five year supply of pitches, the shortfall of 2 pitches is not considered significant or severe. The purpose of granting temporary consent was to cater for the applicants immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding. The temporary consent still has almost a year to run (up to 30th September 2018) and the Authority is pro-actively pursuing the identification of a suitable site to meet future gypsy and traveller needs within, or adjoining, the Newark Urban Area. Although there would be some social, economic and environmental factors which would weigh in favour of the proposal it is not considered that these, in combination with the supply position, are sufficient to outweigh the severe flood risk and warrant the granting of permanent consent. To allow permanent occupation of a site at such high

risk of flooding would therefore be contrary to the aims of the NPPF and put occupiers of the site and members of the emergency services at unnecessary risk.”

**16/01879/FUL -** Application to remove conditions 1 and 5 of planning consent 15/00354/FUL to make the personal and temporary permission permanent and general – Application refused 04.01.2017 on grounds of flood risk.

**15/00354/FUL -** Variation of Conditions 6(i) and Condition 5(i) of Planning Permission 14/01106/FUL - Change of use of former abattoir site and paddock to gypsy and traveller caravan site – Approved 15.05.2015 to extend the time scales within which to comply with conditions.

**14/01106/FUL -** Change of use of former abattoir site and paddock to gypsy and traveller caravan site – Approved 02.09.2014 on a temporary basis until 30 September 2018 and on a personal basis with named occupiers

### The Proposal

This application seeks a variation to the wording of condition 1 attached to the existing planning permission, which currently allows the use on a temporary basis until 30 November 2021, and to remove this restriction and allow the use to be granted on a permanent basis.

Condition 1 currently reads:-

“The use hereby permitted shall be carried on only by the following and their resident dependents:

- Mr. Harold William Bower and/or Mrs. Donna Bower - wife of Mr. H.W. Bower
- Mr. David Bower and/or Mrs. Deborah Bower
- Mrs. Elizabeth Salmon and/or Mr. Paul Salmon

And shall be for a limited period being the period up to 30 November 2021, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 30 November 2021, whichever shall first occur, the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 5 hereof.”

In support of the application the agent has stated that this site has been in use for gypsy and travellers since 2014 and the current application approved under 18/00430/FUL was approved for a temporary 3 year period. The agent states that the only reason a temporary rather than a permanent permission was granted was because unmet need was still unquantified at that time and therefore flood risk was considered to outweigh that unquantified need.

Since then the 2020 Gypsy and Traveller Accommodation Assessment (GTAA) has been published in June 2020 which discloses a substantial unmet need of some 169 pitches. The need is therefore now quantified and no alternative sites have been identified and no allocations made to meet these considerable needs. The agent concludes that each of these factors attract substantial weight.

In terms of flood risk, since the 2018 permission, the Applicant's agent and flood risk expert were involved in an appeal for a Travellers site that was, like this site located within FZ3b and where mitigation was by way of evacuation (as proposed here since 2014). The Secretary of State granted a permanent, non-personal planning permission. Need in that case was just 21 pitches, unlike the 169 pitches required in Newark.

The agent states that it is now clear that the material consideration have changed significantly since the 2018 approval:-

1. Need was unquantified in 2018; the 2020 GTAA establishes an unmet need of 169 pitches;
2. The 2018 Report indicated that allocations to meet need would be in place by November 2020; currently (2nd December 2020) no such allocations have been made;
3. The position in 2018 was that flood risk outweighed an unquantified need; there is recent authority from the Secretary of State that Traveller sites can be permanently located in FZ3b.

The agent confirms that this is a well run site of long standing and that the officer's report accepts is in a sustainable location. In the 6 years the site has been occupied, residents have become part and parcel of the local community and have demonstrated by their actions that they are good neighbours. Approving the application would resolve the needs of 15 Traveller families on a previously developed site, whilst reducing unmet need and making a meaningful contribution to the 5 year supply.

For all these reasons, the proposals should be supported by the Council, the agent contends.

No Flood Risk Assessment has been provided with this application and it is assumed reliance is therefore on the FRA submitted with the previous 2018 application, which contains no mitigation measures and relies wholly on site evacuation following a Flood Alert warning from the Environment Agency.

The application has been supported by the following:-

- A copy of an appeal decision for Horton Road, Datchet dated 23 January 2020 (link to access attached to Background Papers listed at the end of this report);
- Newark and Sherwood Gypsy and Traveller Accommodation Assessment 2013 - 2028

#### Departure/Public Advertisement Procedure

No occupiers 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 7 (Sustainable Transport)

Core Policy 4 (Gypsies & Travellers – New Pitch Provision)

Core Policy 5 (Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople)

Core Policy 9 (Sustainable Design)

Core Policy 10 (Climate Change)  
Core Policy 14 (Historic Environment)  
NAP1 – Newark Urban Area

### **Allocations & Development Management DPD (adopted July 2013)**

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM5 – Design  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM12 – Presumption on Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework 2019  
Planning Practice Guidance  
Planning Policy for Traveller Sites (PPTS) – August 2015

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

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

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

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

The document goes on to state that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan and sites in rural areas should respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on local infrastructure.

Annex 1 of this policy provides a definition of "gypsies and travellers" which reads:-

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

- Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum (August 2017)

This document states: “New developments in flood risk areas must not increase the burden on emergency services. The Emergency Services are in heavy demand during flood incidents. The Fire and Safety Regulations state that “people should be able to evacuate by their own means” without support and aid from the emergency services. The emergency services and local authority emergency planners may object to proposals that increase the burden on emergency services.”

“New development must have access and egress routes that allow residents to exit their property during flood conditions. This includes vehicular access to allow emergency services to safely reach the development during flood conditions. It should not be assumed that emergency services will have the resource to carry out air and water resources during significant flooding incidents; therefore safe access and egress routes are essential.....

The emergency services are unlikely to regard developments that increase the scale of any rescue as being safe...”

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990;  
Newark and Sherwood Gypsy and Traveller Accommodation Assessment, 2020

### Consultations

**Newark Town Council** – Object as follows:-

1. The site should be appropriately landscaped;
2. There could be a flood risk which could impact significantly on any touring caravans on the site in periods when flooding occurs;
3. This application should not be in conflict with the Allocations and Development Management Options Report for designating Traveller and Gypsy sites in Newark;
4. If permission was to be given for this application, Members of the Town Council Planning Committee would like to see a relevant boundary environmental screening put in place in order to make it less visible from the A46.

**The Environment Agency – Object** – the proposed use falls within a ‘highly vulnerable’ flood risk vulnerability category that is inappropriate to the Flood Zone in which the application is located (Flood Zone 3b – functional floodplain). Tables 1 and 3 of the PPG make it clear that this type of development is not compatible to this Flood Zone and therefore should ‘not be permitted,’ and is contrary to the NPPF and PPG. The EA therefore object and recommend planning permission is refused.

Given the proposal is contrary to the NPPF and PPG, there is no requirement for an exception test to demonstrate that the development should be permitted, nor is there a requirement for a Flood Risk Assessment to demonstrate that flood risk can be managed appropriately. The NPPF is clear that this development should not be permitted, without exception.

However, they are mindful that this application is not for ‘new’ development as such; the application is to change a temporary permission into a permanent permission. None the less the EA would not recommend the variation of Condition 1 to allow a permanent permission due to the site lying within FZ3b and the flood risk to the occupants of the site.

That being said, the EA state they are aware that NSDC are starting to identify potential options to reduce the flood risk at the Tolney Lane community. Whilst they are supportive of this work, the reality is that it's at a very early stage in the process and there is therefore no 'certainty' over what might come forward. It's the EA's opinion that the planning process should only consider the benefits of schemes which are either currently in situ, or have some degree of certainty over their future delivery.

The EA acknowledges that the Authority may not have an adequate supply of pitches at this time, which may present some difficulty in finding alternative options to accommodate the outstanding need. Ultimately, that is something for the Authority to consider alongside the significant issue of flood risk.

In the event of a flood, all areas surrounding the site will be inundated with water with flood depths of the access routes adjacent to the site are 1.4m ('danger for most' hazard rating, including children, the elderly, the infirm and general public) during a 1 in 100 year plus 20% estimate for climate change and 1.71m ('danger for all' hazard rating, including emergency services) during a 1 in 1000 year event.

The proposal, if approved, will result in residential property being permanently located where the residents will be at a very high hazard from flood risk from flood waters up to between approximately 1m and in excess of 2m deep at various points across the site during a 1% Annual Exceedence Probability (AEP) event, including an allowance for climate change. The current hydraulic model which this information is taken from has not been updated to reflect the new requirements for 30% and 50% climate change allowances to be considered. Therefore the risk to the site during a 1 in 100 year including the increased climate change allowances is likely to have increased.

If this Authority are minded to approve the application contrary to their advice, the EA have requested that written confirmation that the LPA is satisfied the flood risks to the site can be adequately managed should be submitted to the EA.

In addition, the EA have made comments on the appeal decision from Datchet that has been included for consideration by the agent, as follows:-

"Horton Road, Datchet

- The EA's objection was solely a policy objection because of the 'highly vulnerable' development in Flood zone 3.
- The site is in both flood zones 2 and 3, so the applicant planned to raise some of the land to the flood zone 2 height, and put the caravans on the raised areas, with the finished floor levels raised further. This would mean that the caravans are a safe space during periods of flooding.
- The site had an achievable and effective floodplain compensation scheme for the proposed land raising, to replace the lost floodplain storage
- The access road is in Flood Zone 3, there is therefore a warning and evacuation plan to evacuate the caravans in advance of flooding. This is a well-established plan with an on-site warden to manage the evacuation and receive the warnings etc."

## Comparison with application 18/01430/FUL at Tolney Lane

Application 18/01430/FUL at Tolney Lane didn't have an accompanying Flood Risk Assessment, so no mitigation measures were proposed. We (the EA) responded with a policy objection for the same reasons as the EA did at the Horton Road site; a policy objection because of the PPG/NPPF. At the Horton Road appeal the Inspector went against this policy and approved the site because of the 'very special circumstances' of the application. As EA consultees we don't have the authority to declare there to be very special circumstances, we apply the PPG/NPPF to our responses as it stands. The weight given to our comments etc. is a planning decision.

With the Horton Road site, the EA had the assurance that there was a very robust evacuation plan, with an on-site warden. The caravans were also high enough to be a safe refuge if for some reason a person wasn't evacuated in time. The appeal documents also state that the required land raising could be effectively mitigated through a floodplain compensation scheme. All of the above meant that the EA could be fairly assured that the occupants were likely to be safe in the event of flooding, and the scheme would not increase flood risk elsewhere.

At this stage we haven't had any of this detail for the Tolney Lane site; we don't know what height the caravans' finished floor levels will be compared to the flood levels, we don't know if there is a safe refuge on site above flood levels, we don't know the details of the warning and evacuation plans for the site and we haven't seen any details of floodplain compensation schemes for any land raising which may be required. We can't therefore say that aside from the policy objection, we know that the occupants of the site will be safe from flooding, nor that flood risk won't be increased elsewhere. Looking at the flood levels in the Tolney Lane area, we suspect they are higher than those at Horton Road, although we don't have any figures for Horton Road to compare.

If the LPA and the applicant want the EA to 'reduce' their objection to a sole policy objection, with no technical objections (as in the Horton Road appeal) we need further details. However it may not be possible to raise floor levels sufficiently, to provide a safe refuge, to provide the required floodplain compensation or to have a sufficiently robust evacuation plan. However if these details can be resolved, then we may be able to object on a sole policy objection, as the EA did with the Horton Road appeal. The LPA or Inspector etc. may then overrule the policy objection on other grounds, with the assurance that there were technical solutions to the flood risk issues."

**NSDC, Environmental Health** - several requests have been made to get the site owners to submit a caravan site licence which they have failed to do. Is it possible to make it a condition of any permission granted.

**No representations have been received from local residents/interested parties.**

## Comments of the Business Manager

The main considerations in the assessment of this application relates to the significant unmet need and the absence of a 5 year land supply for gypsy and traveller pitches, and flood risk.



## Need

The Gypsy and Traveller Accommodation Assessment demonstrates a need for 118 pitches to meet the needs of those who were established to meet the planning definition between 2013-33 (this figure rises to 169 to take account of undetermined households and those who do not meet the definition – but who may require a culturally appropriate form of accommodation). The requirement of 118 pitches forms the basis of the five year land supply test, as required as part of the PPTS. Helpfully the GTAA splits this need across 5 year tranches – with 77 pitches needing to be delivered or available within the first period (2019-24) for a five year supply to be achieved. This reflects a heavy skewing towards that first tranche – due to the need to address unauthorised and temporary development, doubling up (i.e. households lacking their own pitch) and some demographic change within that timespan (i.e. individuals who will be capable of representing a household by the time 2024 is reached).

It was considered that the recent Chestnut Lodge permission near Balderton had the effect of creating an available supply of 1 pitch towards the current five year requirement (as well as having the potential to meet a further pitch required towards the end of the plan period). The Authority however has a considerable shortfall in being able to demonstrate a five year land supply, and a sizeable overall requirement which needs to be addressed. Both the extent of the pitch requirement and the lack of a five year land supply represent significant material considerations, which should weigh heavily in the favour of the granting of consent where proposals will contribute towards supply.

The new GTAA (with a baseline of February 2019) recorded 15 pitches on the application site, of which 8 were occupied permanently and an additional 7 transit pitches. 7 households were established to meet the planning definition, with a further household being present who did not meet the test. The current and future need for those households meeting the definition consisted of 8 pitches (1 to meet a need falling within the first five year tranche, and 7 to resolve the needs of those currently accommodated on temporary pitches).

Accordingly the granting of permanent consent for this site would allow for the needs identified as part of the GTAA to be met. As outlined above this should weigh heavily in the favour of granting permanent consent, with robust and justifiable reasons needed to depart from that course of action. Officers consider, given the potential risk to people and property, flood risk has the potential to form such a reason.

## Flood Risk

Paragraph 13 (g) of the PPTS sets out a clear objective not to locate gypsy and traveller sites in areas at high risk of flooding, including functional floodplains, given particularly vulnerability of caravans. Caravan sites are considered inappropriate in Flood Zone 3 as they are classed by the PPG as highly vulnerable because of the risk to the safety of residents and/or to emergency services which may be required to rescue occupiers. Core Policy 5 requires the completion of a site specific Flood Risk Assessment, applying both the Sequential and Exception Tests, as appropriate, to achieve safety for eventual occupiers. Core Policy 10 states that where the wider Exception Test is not required proposals for new development in flood risk areas will still need to demonstrate how the safety of the development and future occupants from flood risk can be provided for, over the lifetime of the development.

The site occupies a location within the functional flood plain, which also affects the single point of access/egress to the wider area. It is accepted that the granting of permanent pitches would pass the Sequential Test, (which is appropriate to be applied here), as there are no reasonably available sites at lesser risk. The application of the full Exception Test is not appropriate in this case, as the NPPF is clear that this development should not be permitted, without exception. This illustrates the high bar that flood risk represents for highly vulnerable uses in Flood Zone 3b. However, as set out in CP10, demonstration is still required to show the safety of the development and future occupants from flood risk over the lifetime of the development.

No updated Flood Risk Assessment accompanies this application. The applicant is therefore presumably relying on that submitted in support of the 2018 application. This FRA does not address the technical ability of the site itself to be safe for its proposed use and its occupants over its lifetime but instead relies wholly on the ability to evacuate the site on receipt of a Flood Alert warning from the EA prior to a flood event occurring. Notwithstanding the absence of mitigation measures on the site itself, this evacuation process is required as the access and egress route along Tolney Lane is also at high risk of flooding.

In allowing the appeal decision at Green Park on Tolney Lane (for touring caravans that would evacuate the site at the Environment Agency's flood warning as is set out within this proposal), the Inspector considered that that whilst Gypsy and Traveller development would usually be inappropriate in a high risk Flood Zone, balanced against all the other considerations that weighed positively including significant unmet need, a temporary permission was appropriate in that instance. Indeed, the reasoning behind the Inspector's granting of a temporary consent continue to remain valid at this time. Whilst flood evacuation plans can be put in place to mitigate flood risk to the occupiers of the site, this should be minimized over a finite and temporary period only as the PPG advises that the use of planning conditions indicates that temporary permission may be appropriate where it is expected that the planning circumstances may change by the end of the relevant period. There is at least a realistic prospect of safer, more suitable sites being allocated through the development plan process. There has been little material change to planning considerations since that decision was reached.

The EA is clear and would not recommend the variation of Condition 1 to allow a permanent permission due to the site lying within FZ3b and the flood risk to the occupants of the site.

The applicant has provided details of an appeal decision at Datchet, Berkshire which is suggested as having parallels from a flood risk perspective (the appeal decision can be accessed by clicking on the link listed in the Background Papers list at the end of this report). The Environment Agency has reviewed the decision, and conclude that several significant differences exist and furthermore the existing FRA for the site is wholly inadequate in terms of technical details (height of the caravans' finished floor levels compared to flood levels, or floodplain compensation scheme etc.). As a result their technical objection remains in place. There also appears to be a fundamental difference in terms of scale between the two proposals with the appeal concerning a small-scale isolated site- whereas Park View forms part of a larger collection of sites accommodating some 317 individual pitches, with a single point of access/egress which also lies within the functional floodplain. The modelling shows this access to flood before much of the land accommodating the gypsy and traveller pitches. This therefore presents a far more complicated picture from an emergency planning perspective. No comments have been received from the Council's Emergency Planner.

Flood risk weighs heavily against the proposed permanent use as national policy and guidance states that this highly vulnerable form of development should not be allowed in the functional floodplain and as such it is contrary to policy and puts the occupants and their property at an unacceptable level of risk.

### Other Matters

The remaining material planning considerations – heritage, ecology, within the Newark Urban Area, highway safety, residential amenity and visual amenity, remain unchanged from the previously considered application and as such do not require further consideration in this instance. The Gypsy and Traveller status of the occupants of the site have already been established through past applications. For information, the full officer report from the previous 2018 application can be viewed by clicking on the link attached to the Background Papers listed at the end of this report.

### Planning Balance and Conclusion

Both the extent of future pitch requirements and level of shortfall towards a five year land supply are acknowledged, as is the fact that these weigh heavily in favour of granting permanent consent.

Crucially the purpose of the temporary consent was to allow the space for the Authority to conclude production of its new GTAA, establishing the level of need, and to formulate a strategy towards site allocation to ensure that those needs can be met. Whilst simultaneously allowing the immediate accommodation needs of the applicant to be met, the temporary consent does not expire until the 30th November, and so there remains a level of time until this is reached. Production of the new GTAA has been concluded, and progress towards a detailed site allocation strategy has been made – to the extent that public consultation is anticipated this summer. It therefore remains appropriate to allow this strategy to reach a more detailed stage of production before any positive decisions over additional permanent pitches at Tolney Lane are made.

However flood risk represents a significant material consideration, and one which is not considered to have the potential to outweigh matters of supply. Particularly given the potential risk to people and property.

The continued policy and technical objection from the Environment Agency, in this regard, is also clear and unambiguous. It is therefore considered that the established need set out in the recent GTAA publication does not in itself tip the balance sufficiently in support of a permanent permission by outweighing the substantial harm and risk to occupants of this type of development being situated within wholly inappropriate locations such as the highest flood risk zone (functional floodplain) of the River Trent.

The temporary consent has over 7 months to run, and there is the prospect of a more detailed site allocation strategy being publically consulted on in the summer.

Accordingly, officers are unable recommend support for the granting of a permanent consent, which is what this application seeks. However, if this application had been submitted for a further temporary period of 2-3 years then officers would likely have supported this to enable land to be allocated and delivered for use.

However, should Members be minded to grant permanent permission then it is recommended that the permission should restrict occupation of 8 of the pitches to those who meet the planning definition of a traveller, and dependents thereof. In order to ensure that the proposal contributes towards the meeting of the needs identified through the GTAA. This would afford greater flexibility over the remaining 7 pitches.

A recommendation of refusal is therefore presented for the permanent use of this gypsy and traveller site.

## **RECOMMENDATION**

### **That planning permission is refused for the following reason**

01

The application use falls within a 'highly vulnerable' flood risk vulnerability category that is inappropriate to the Flood Zone in which the application is located (Flood Zone 3b – functional floodplain). Tables 1 and 3 of the PPG make it clear that this type of development is not compatible to this Flood Zone and therefore should 'not be permitted.'

The purpose of granting temporary consent was to cater for the applicants' immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding. The temporary consent still has seven months to run (up to 30th November 2021) and the Authority is pro-actively pursuing the identification of suitable sites to meet future gypsy and traveller needs within, or adjoining, the Newark Urban Area through the Development Plan process.

Whilst the proposal would assist in the supply of pitches position it is not considered that this is sufficient to outweigh the severe flood risk and warrant the granting of permanent consent. To allow permanent occupation of a site at such high risk of flooding would therefore be contrary to Core Policy 5 and 10 of the Newark and Sherwood Amended Core Strategy 2019 and Policy DM5 of the Allocations and Development Management DPD 2013 together with the aims of the NPPF and PPG, which are material planning considerations.

### **Notes to Applicant**

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

## BACKGROUND PAPERS

Application case file.

Link to Committee Report for application 18/00430/FUL -

[https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/72EDBB9F2DE47A3326616583B2CC84FC/pdf/18\\_01430\\_FUL-COMMITTEE\\_REPORT-927289.pdf](https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/72EDBB9F2DE47A3326616583B2CC84FC/pdf/18_01430_FUL-COMMITTEE_REPORT-927289.pdf)

Link to appeal decision from Horton Road, Datchet -

[https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/D8CD01F4619523DEC8665906D250DE00/pdf/20\\_02394\\_S73-APPEAL\\_DECISION\\_FOR\\_HORTON\\_RD\\_DATCHET-1146499.pdf](https://publicaccess.newark-sherwooddc.gov.uk/online-applications/files/D8CD01F4619523DEC8665906D250DE00/pdf/20_02394_S73-APPEAL_DECISION_FOR_HORTON_RD_DATCHET-1146499.pdf)

For further information, please contact Julia Lockwood on ext 5902.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Lisa Hughes**  
**Business Manager – Planning Development**