

## PLANNING COMMITTEE – 27 APRIL 2021

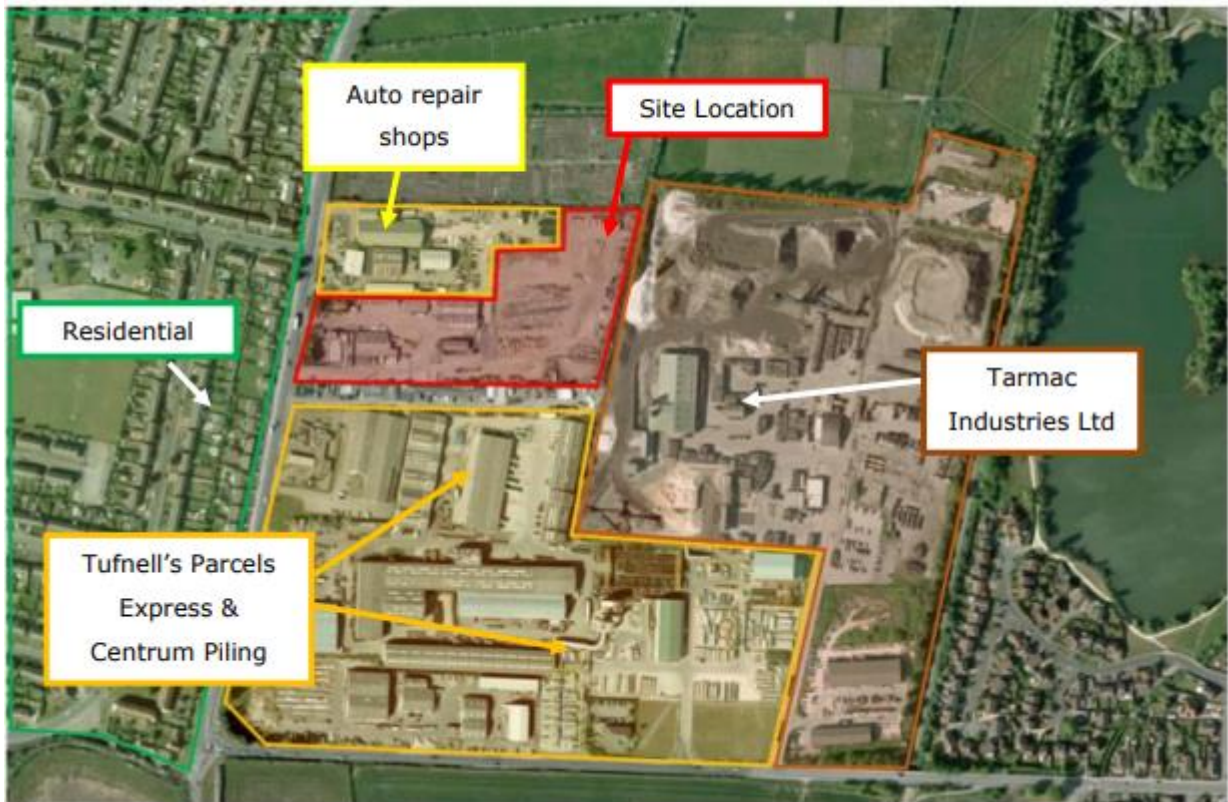
<b>Application No:</b>	20/00580/FULM		
<b>Proposal:</b>	Erection of 87 dwellings		
<b>Location:</b>	293 Bowbridge Road, Newark On Trent NG24 4EQ		
<b>Applicant:</b>	Ms Shona McKinnon – NCHA		
<b>Agent:</b>	Mr Andy Meek - Pelham Architects		
<b>Registered:</b>	21.05.2020	<b>Target Date:</b>	20.08.2020
		<b>Extension of Time Agreed Until</b> 30.04.2021	
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=Q8J0J5LBGRT00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=Q8J0J5LBGRT00</a>		

**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.**

### The Site

The application site is an L-shaped plot of land approximately 2.5 hectares in extent. The site is to the east of Bowbridge Road within the Newark Urban Area. The site is defined by the Proposals Map in the Allocations and Development Management DPD as being allocated for housing (as discussed in further detail in the appraisal below).

The site as existing is currently vacant having being previously been in an industrial use. The east of the site is overgrown undulating scrubland with a number of large stockpiles present. The stockpiles comprise, at surface, sandy gravel with metal, plastic, timber, glass and ceramic with significant ashy deposits also present. There is an existing vehicular access from Bowbridge Road. The site is surrounded by other industrial uses to the north; east and south with residential development on the opposite side of Bowbridge Road. These uses include Topblock Tarmac immediately to the east of the site who manufacture breeze blocks. There are mature trees along the western boundary with Bowbridge Road and a hedgerow along the eastern boundary. The following site context analysis is taken directly from the originally submitted noise report:



The site is within Flood Zone 1 according to the Environment Agency maps. Parts of the site towards the southern boundary are at low or medium risk of surface water flooding.

### Relevant Planning History

The site is subject to the following planning history:

**11/01814/FULM** - Erection of 64 bed care home on redundant former commercial site with internal access road (Resubmission of 11/01074/FULM).

This application affects only part of the site fronting Bowbridge Road. The application was refused in March 2012 for the following reason:

01

*The proposed development would result in the siting of sensitive residential care home development adjacent to existing general industrial uses, which produce high levels of noise and dust. In the opinion of the Local Planning Authority, the proposed residential care home use would be incompatible with existing uses in the area and create an unsatisfactory standard of residential amenity for future occupiers of the proposed development. The proposal is therefore contrary to Policy ECH5 of the Newark and Sherwood Local Plan and the guidance contained within PPG 24.*

The application was however subsequently allowed on appeal by decision dated 11<sup>th</sup> December 2012. The permission has now lapsed without being implemented.

**11/01074/FULM** - Erection of 64 bed care home on redundant former commercial site with internal access road.

This application also affects only part of the site fronting Bowbridge Road. The application was refused in November 2011 for the following reasons:

01

*The proposed development would result in the siting of sensitive residential care home development adjacent to existing general industrial uses, which produce high levels of noise and dust. In the opinion of the Local Planning Authority, the proposed residential care home use would be incompatible with existing uses in the area and create an unsatisfactory standard of residential amenity for future occupiers of the proposed development. The proposal is therefore contrary to Policies H21 and ECH5 of the Newark and Sherwood Local Plan and the guidance contained within PPG 24.*

02

*Insufficient information has been provided in order for the Local Planning Authority to assess the impact of the proposal in terms of highway safety.*

**08/00781/OUTM** - Erection of a 60 bed nursing home. 6 assisted living units and 74 residential units following the demolition of the existing buildings.

This application related to the whole site and was refused for the following reasons by decision dated 15<sup>th</sup> October 2008.

01

*The proposed development would result in the siting of sensitive residential development adjacent to existing general industrial uses, which produce high levels of noise and dust. In the opinion of the Local Planning Authority, the proposed residential use would be incompatible with existing uses in the area and create an unsatisfactory standard of residential amenity for future occupiers of the proposed development. The proposal is therefore contrary to Policies H21 and ECH5 of the Newark and Sherwood Local Plan and the guidance contained within PPG 24.*

02

*In the opinion of the Local Planning Authority, the site is too restricted in size to accommodate the proposed development in a satisfactory manner by virtue of the inadequate highway and landscaping provision. The proposal therefore represents an over-development of the site and contrary to Policies H12 and H21 of the Newark and Sherwood Local Plan.*

### The Proposal

The current application, which has been changed on several occasions during its lifetime, now seeks full planning permission for a total of 87 affordable homes (the original application was for 98) broken down into the following housing mix:

Housing Type	No. of Bedrooms	No. of Units	Notes
Flat	1	18	6 units would be supported living
Bungalow	1	6	
Bungalow	2	2	
Two Storey House	1	4	
Two Storey House	2	32	
Two Storey House	3	24	

Two Storey House	8	1	This unit would be supported living
	<b>TOTAL</b>	<b>87</b>	

The development would be rented and managed by Nottingham Community Housing Association.

The majority of the site would be accessed by a broadly central access road from Bowbridge Road at the western boundary of the development but there would also be an additional secondary access to serve the plots at the south western corner of the site. An area of on-site open space is proposed to the north of the access road. The application has been considered on the basis of the following plans and documents which includes various revised documents received during the life of the application:

- Location Plan – SK 100 dated 20/02/20;
- Proposed Site Plan – 2670 / P102 M;
- Type 1A – 1 Bed Bungalow – 2670/P 200 D;
- Type 2 – 2 Bed Bungalow – 2670/P 201D;
- Type 5A - 2B+3B Terrace Row – 2587/P 225;
- Type 6 – 2B4P House – 2670/P 206D;
- Type 6A – 2B4P House – 2670/P 234;
- Type 7 – 3B5P House – 2670/P 207D;
- Type 7A – 3B5P House – 2670/P 227B;
- Type 8 – 2B/4P House – 2670/P 228;
- Type 8A – 2B/4P Semi– 2670/P 229A;
- Type 9 – 2670/P 210C;
- Type 11 – 1B Flats Care Block – 2670/P 212G;
- Type 12 – 1B/2P – 2670/P231A;
- Type 13 – 1B Flats – 2670/P 232A;
- Type 14 &14A – 1B Flates – 2670/P 233;
- Boundaries and Hard Landscape – 2670/ P300 C;
- Boundary Enclosures – 2670/P301;
- Street Scene – View 1 – 2670/P103 C;
- Timber Shed – 2670/P 302;
- Plot Schedule – received 26<sup>th</sup> January 2021;
- Topographical Survey – 36400\_T Rev. 0;
- Acoustic Impact Assessment by Enviroconsult reference 205/NCHA;
- Acoustic Impact Assessment follow up letter by Environconsult dated 10<sup>th</sup> February 2021 (associated proposed mitigation submitted separately on plan reference ‘Plan 102 M Layout – Acoustic Mitigation’ received 25<sup>th</sup> March 2021);
- Acoustic Mitigation Requirements outlined by letter dated 9<sup>th</sup> April 2021 by Environconsult;
- Air Quality Assessment by Phlorum Ltd – 9677.S dated May 2020;
- Arboricultural Method Statement – Revision A – ) Retained Trees Shown on Proposed Layout with Protective Measures Indicated – AMS TPP Rev A dated 21.01.21;
- Arboricultural Method Statement for Trees on Land at Bowbridge Road by T Archment issued 21<sup>st</sup> January 2021 Rev. A;
- Arboricultural Impact Assessment for Trees on Land at Bowbridge Road by T Archment issued 21<sup>st</sup> January 2021 Rev A;
- Arboricultural Impact Assessment - Tree Protection Plan (TPP Rev A) Retained Trees Shown on Proposed Layout with Protective Measures Indicated – AIA TPP Rev. A dated 21.01.21;
- Arboricultural Method Statement Existing Trees Shown on Existing Layout – AMS EXI Rev. A

dated 29.05.20;

- Design & Access Statement – 2670 D-03 dated 12.01.2021;
- Flood Risk Assessment & Drainage Strategy by bsp consulting – 20-0140 - BBRR-BSP-ZZ-XX-RP-C-0001-P05\_Flood\_Risk\_Assessment dated 23<sup>rd</sup> December 2020;
- Framework Travel Plan by hsp consulting – C3191 – dated January 2021;
- Historic Environment Desk-Based Assessment – 037/2020;
- Hsp consulting Technical Note dated 5<sup>th</sup> March 2021;
- Interim Report on the Results of an Archeological Trial Trench Evaluation prepared by J.Reeves, report no. 081/2020;
- Light Intrusion Assessment by Strenger dated December 2020;
- Light Monitoring Location Plan – SK-01 dated Dec 20;
- Measured 'Light Intrusion' – SK-02 dated Dec 20;
- Phase I Geo-Environmental Assessment Report – C3191 – Bowbridge Road, Newark dated February 2020;
- Phase II Geo-Environmental Assessment Report – C3191 – Bowbridge Road, Newark dated February 2020;
- Preliminary Ecological Appraisal by absolute ecology Updated June 2020;
- S106 Draft Head of Terms;
- Transport Assessment (and associated appendices) by hsp consulting – C3191 – dated January 2021;
- Viability Assessment dated 5<sup>th</sup> January 2021;
- Viability Report for NCHA by rg + p Limited dated February 2021.

#### Departure/Public Advertisement Procedure

Occupiers of 28 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Additional rounds of consultation have been undertaken in respect to the revised plans received throughout the life of the application.

#### **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 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

NAP1 - Newark Urban Area

## **Allocations & Development Management DPD**

Policy NUA/Ho/7 – Newark Urban Area – Bowbridge Road Policy Area

Policy NUA/Ho/8 – Newark Urban Area – Housing Site 8

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM2 – Development on Allocated Sites

DM3 – Developer Contributions and Planning Obligations

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM10 – Pollution and Hazardous Substances

DM12 – Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Developer Contributions and Planning Obligations SPD
- Draft Residential Parking Standards & Design Guide SPD

## **Consultations**

**Newark Town Council** (*received 28<sup>th</sup> January 2021*) – It was AGREED to sustain the Committee’s original Objections with some revisions as follows:

- i) Traffic is a major issue on Bowbridge Road with the major development on Middlebeck underway and the Arkwood development having now been given planning permission.

It is believed that this application must be considered in the context of the cumulative impact of all these developments and it is not appropriate to consider this application in isolation.

Therefore, it considers that the highway impacts are so detrimental that the site shouldn’t be used for residential purposes.

- ii) The site itself is also unsuitable for residential development given its location being surrounded by industrial units, which would result in unacceptable noise and air pollution from the adjacent industrial premises. The residents would have no enjoyment of amenity of fresh air.
- iii) It is an over intensive development for the size of the site.

The Town Council does however; support the Tree Officer’s recommendations.

## **NSDC Environmental Health (contaminated land) (*received 26<sup>th</sup> May 2020*)–**

Following intrusive sampling, elevated levels of several soil contaminants are identified (PAH, TPH, lead and zinc). As a result of this the consultant recommends capping of rear gardens with 1000mm and front gardens with 600mm of certified clean material.

In addition to the above, elevated ground gas levels (amber 2) has been identified and appropriate remedial measures are proposed for incorporation within building foundations.

I can generally concur with the findings of the reports and would therefore recommend the use of parts C and D of the phased contamination condition.

**NSDC Environmental Health (noise)** (*received 12<sup>th</sup> February 2021*) –

- If approved it should be in accordance with the enhanced noise mitigation measures to properties in the South-east corner of the site which has been produced by Pelham Architects REF: 2670/SK 500 D and the amended recommendations made within the noise report to mitigate against noise nuisance;
- This would ensure the noise levels within the properties could be maintained to below WHO guidelines and reduce the potential for noise nuisance;
- A condition or legal agreement should be in place to maintain the acoustic fence;
- The site is surrounded on three sides by commercial enterprises some of which operate 24hours a day – occupiers may be subject to sudden short duration noise event;
- A construction method statement should be conditioned;

*Original comments requesting further surveys for noise and lighting.*

**NSDC Environmental Health (dust)** (*received 27<sup>th</sup> May 2020*) - The proposed development is within 1 km of several industrial process sites from which Environmental Health have recorded incidence of dust and noise complaints from existing residential properties near to Bowbridge Road the site of the proposed development. However, there have been no recent substantiated complaints regarding deterioration of air quality in the area. Therefore an Environmental Impact Assessment for this proposed development is not required.

Environmental Health have no objections to this proposal. Environmental Health recommend the developer implements measures to reduce dust and control traffic at the site of construction during development of the site.

**NSDC Parks and Amenities Officer** – (*received 12<sup>th</sup> June 2020 – no comments received on revised plans*):

As a development of 98 properties this scheme will need to make provision for public open space in the form of provision for children and young people (18m<sup>2</sup>/dwelling), amenity green space (14.4m<sup>2</sup>/dwelling) and natural and semi-natural green space.

The proposed site plan shows a green area of what is presumably public open space however this is not labelled at all and no details are given of its size or layout. I estimate that the area is less than 1,200m<sup>2</sup> and there would thus appear to be a significant deficit in POS provision.

Given the size of this development I believe an on-site Local Equipped Area for Play is required together with the requisite buffer zones from adjacent houses. The amenity green space should also be provided on site.

**NSDC Community Arts Manager – (received 12<sup>th</sup> April 2021):**

Community Facilities contribution in line with the current Supplementary Planning Document - Developer Contributions. Further information received stating that the contribution should be towards the replacement of the fitness kit at the Newark Sports and Fitness Centre.

**NSDC Strategic Housing – Support.**

**NSDC Tree Consultant – (received 12<sup>th</sup> January 2021):**

Latest comments no objection subject to conditions.

*Original comments raised issue with the proposed layout and impact on existing trees.*

**NSDC Archeological Advisor – (received 22<sup>nd</sup> January 2021):**

Further archaeological trenching and resulting mitigation work can be undertaken as a condition of consent if granted.

**NCC Highways Authority – (received 8<sup>th</sup> April 2021):**

Further information has been submitted in response to outstanding queries in the form of a Transport Technical Note, dated 5th March 2021 and a revised site layout, Drawing Number 2670/P102 M.

Reservations about the size of the refuse vehicle used for the tracking but as there appears to be some scope for additional movement within the turning heads, this is accepted in this instance.

All other concerns have also been addressed.

The applicant should note that commuted sums may be applicable for the parking laybys which are over and above that normally required for the safe functioning of the highway.

Reference to bus stop contribution.

No objections subject to conditions.

*Original comments sought revisions which as above have now been addressed.*

**NCC Highways Authority (Travel Plan) – (received 16<sup>th</sup> February 2021):**

The comments made in June 2020 have all been addressed with this iteration of the Travel Plan and therefore recommend it be approved.

*Original comments sought revisions which have now been addressed.*



**NCC Planning Policy – (received 22<sup>nd</sup> January 2021):**

The SE corner of the development borders the boundary of a permitted waste transfer station. Although currently inactive, extant permission remains for the site so it is possible for waste operations to recommence. If it were to do so, it is likely the facility could add to the environmental impacts detectable to on the proposed development.

The site layout now results in a loss of private open space and a lack of habitable windows for residents in the proposed apartment block on the southern boundary of the site as part of the proposed mitigation measures outlined within the Acoustic Impact Assessment. The County Council would defer to the District's own Environmental Health Officer in terms of the final noise assessment but would highlight the wider Nottinghamshire Health and Wellbeing Strategy adopted in 2018 which aims to improve the health and wellbeing of the people of Nottinghamshire.

*Requested Planning Obligations:*

- £15,500 for bus stop infrastructure;
- None for education;
- £3,064 for Libraries

**NCC Flood – (received 22<sup>nd</sup> January 2021):**

No objection subject to condition.

*Original comments raised an objection due to insufficient surface water drainage information.*

**Trent Valley Internal Drainage Board (received 29<sup>th</sup> July 2020):**

The site is just outside of the Trent Valley Internal Drainage Board district and catchment. There are no Board maintained watercourses in close proximity to the site.

**Severn Trent Water** - No comments received.

**NHS Nottingham and Nottinghamshire CCG – (received 12<sup>th</sup> January 2021):**

Contribution request of £80,040 towards Balderton Survey; Fountain Medical Centre and Lombard Medical Centre.

**Cadent Gas** – No comments received.

**Representations have been received from 1 local residents/interested parties which can be summarised as follows:**

- The development is in close proximity to Tarmac's established concrete products manufacturing site and is likely to adversely impact the business through introducing a sensitive neighbouring use;
- The business employs 24 people and operates between 05:30 and 22:30 Monday to Friday and Saturday mornings;

- No Environmental Assessment was requested in support of the application which is surprising given the proximity of the development to existing uses such as the Tarmac site;
- The development is contrary to paragraph 204 3) of the NPPF;

### Comments of the Business Manager

#### Principle of Development

The site is within the Newark Urban Area which is recognized by the Spatial Strategy as the focus for further development within the District. Moreover, the site is part of site allocations Policy NUA/Ho/7 and NUA/Ho/8.

Policy NUA/Ho/7 encourages proposals that seek to redevelop vacant brownfield sites. Albeit such redevelopment should seek to ensure that the impact of neighbouring uses is fully taken into account. This is mirrored by the site specific allocation NUA/Ho/8 which also requires appropriate archeological works to be undertaken with any application submissions. There is also a suggestion that the development would be expected at the later stages of the plan period in order for existing environmental issues to be resolved and the Southern Link Road to be constructed. These matters will be discussed in further detail in the relevant sections below.

The policy allocation expects around 66 dwellings to come forward however this was written at a time when the aforementioned application for a nursing home development was extant (and would occupy part of the site). The site allocations were not intended to be a ceiling for development and in the context of the previous permission no longer being extant, the increase to 87 units is not considered fatal in principle.

This is caveated on the basis that the application would still need to meet the remainder of the Development Plan which is assessed in detail below.

#### Housing Mix, Type and Density

The application form refers to a site area of approximately 2.5 hectares which on the basis of 87 units would represent a density of approximately 35 dwellings per hectare thereby exceeding the aspirations of Core Policy 3 which seek for densities of no lower than 30 dwellings per hectare.

The Council's evidence base on Housing Need has evolved during the life of the application. In 2020, the Council undertook a Housing Needs Assessment comprising a household survey based upon a random sample of 13,266 households and also a review of relevant secondary data as well as obtaining views and information from a wide range of stakeholders.

The 2020 data shows that, for the Newark Sub-Area, the main overall size requirement is for three bedroom houses (30.7%) followed by four or more bedroom houses (25.5%) and then 1 to 2 bedroom houses (19.5%).

However, it is material that the current application has been submitted as a wholly affordable scheme and therefore it is reasonable to assess the application purely against the needs requirements for the social sector. The units intended for supported living have been discounted since these are a different housing offer that would not necessarily have been reflected by the housing needs survey.

Housing Type	No. of Bedrooms	No. of Units	% of 80 units (i.e. discounting 7 supported living units)
Flat	1	12	15
Bungalow	1	6	7.5
Bungalow	2	2	2.5
Two Storey House	1 to 2	36	45
Two Storey House	3	24	30
Two Storey House	4	0	0
	<b>TOTAL</b>	<b>80</b>	<b>100</b>

The latest survey data does not divide overall percentage mix into market and affordable but does provide a breakdown of the number of affordable homes needed per annum. Other than a lack of 4 bed units, the proposal would provide a meaningful variety of house types and sizes. The lack of four bed units and corresponding majority of 1 to 2 bed units is not considered fatal to the scheme given that there is often a tendency for national house builders to rely on larger products.

It is relevant to note that the applicant is Nottingham Community Housing Association who would rent and manage the site. There is therefore a case to be made that their demands are known and the development seeks to respond to this accordingly.

The scheme proposes a varied mix of flats; bungalows and two storey dwellings such that the overall housing mix and type is considered acceptable.

The revised scheme includes revised house types which in some cases have increased the internal floor area in comparison to the original scheme. Whilst the vast majority of the house types are still below the national standards to some degree, the flat units on the other hand would in most cases far exceed the standards some by as much 20.4%.

#### Impact on Character and Design

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive. Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

The site is situated within a mixed use area which comprises industrial uses; leisure uses; and residential development. At present there is no existing residential urban grain immediately adjacent to the site which the site would be expected to align or take reference from. However, it is notable that the surrounding area is likely to change over the plan period with a recently granted residential scheme to the north adjacent to the existing Gladstone House and Leisure Centre.

The proposal has changed significantly during its lifetime. The original proposal was for 98 units. This was then revised to 95 units before the scheme now for consideration for 87 units.

The proposed development is predominately designed around a central spine road from Bowbridge Road creating a strong linear arrangement. There is some departure from this towards the Bowbridge Road frontage but on the whole the scheme would very much read as linear blocks of development perpendicular to one another.

In the assessment of the original scheme, Officers raised concern that this would create a somewhat cramped and bland urban grain albeit acknowledging that the shape of the site in some respects dictates the proposed layout.

On the original scheme, the dominance along the main access road into the site would have been the 'Type 5' terraced blocks of 4 dwellings (a house type no longer proposed). Specifically on the southern side of the main access road, there would have been a total of 6 blocks amounting to 20 dwellings of exactly the same design in a row. The impact of this would be exacerbated by the similarity in the design even for different house types.

The government has produced a National Design Guide which is intended partly to assist in assessing the quality of planning applications. There is an expectation for well-designed places to have recognisable streets or memorable features or groupings of buildings to create a sense of place. The proposal as originally submitted would have failed to achieve this by creating a bland and monotonous street scene.

These concerns have been taken on board during the life of the application in revising the scheme. The southern side of the main access road has now been punctuated by a variety of different house types including bungalows and two storey dwellings breaking up the monotonous building line. The exact colours / manufacturers of bricks / render would still need to be secured by condition.

Overall, the 14 different house types now proposed would allow the site to be visually attractive albeit readily interpreted as a modern housing development in its own right.

The revised plans have moved the area of proposed open space from the eastern boundary at the back of the site to the north and western boundary to the north of the proposed spine road. This creates an attractive green area at the entrance of the site and along the majority of the spine road but leaves little in the way of other meaningful areas of green space elsewhere within the site. The majority of the dwellings would be served by cul-de-sac road arrangements dominated by areas of hardstanding. There are some areas of indicative tree planting and grassed areas shown between car parking spaces and entrances (for example plots 82 – 87) but there are other areas where frontages would feature only modest shrub planting in front of the dwellings (for example plots 68 – 81 and on the southern side of the main spine road).

However, this has to be balanced against all design factors and one clear benefit of the revised scheme is that the majority of parking spaces are to the side of the dwellings and thereby would be less dominating in the street scene at least allowing the small shrub areas to be visible. Where parking spaces are provided in front of dwellings, they are generally well spaced and interspersed with landscaping.

The revised plans are considered to be a vast improvement in comparison to the original scheme and the omission of units has created more space for landscaping in between car parking which will improve the visual appearance of the street scene (subject to details which could be agreed through a landscaping condition). On the basis of the revised plans, the proposal is now considered to meet the design aspirations of Core Policy 9 and Policy DM5.

### Impact on Amenity

Policy DM5 requires a consideration of amenity impacts both in respect to amenity provision for occupiers and amenity impacts to neighbouring properties.

As stated above, there are no residential properties immediately surrounding the site (the closest being on the opposite side of Bowbridge Road at a distance of over 35m between built form). There are therefore no concerns in respect to the imposition of overbearing or overlooking of existing residents.

In terms of the amenity provision for the proposed occupiers, there is a varied approach acknowledging that some of the units are intended as supported living accommodation with an element of care. These units, rather than being served by individual areas of private amenity, would be served by a shared amenity area to the rear of the plots of over 300m<sup>2</sup> (there would also be soft landscaping forward of the principle elevations fronting Bowbridge Road). This approach is not disputed in principle and the area to the rear would still allow privacy for those plots being bounded a brick wall. Plots 37 – 42 (1 bed flats) would also have shared amenity areas for each pair of flats.

The remainder of the plots would be served by garden areas of varying size. Some garden areas are extremely modest. Plot 8 for example has a rear garden of just 38m<sup>2</sup> which includes a shed and patio leaving around 16m<sup>2</sup> of grass. There are also cases where two flats would share a modest grassed area of just 28m<sup>2</sup>. Nevertheless it is acknowledged that these examples are for the smaller 1 bed units and that overall garden sizes would be commensurate to the size of the dwellings. Most of the plots have proposed garden sheds and the level of detail on the plans shows that the plot sizes would be capable of bin storage and rotary driers. Taking these factors into account, it is not considered reasonable to resist the application solely on the case of modest garden sizes for some plots, particularly given the area of open space included within the development which would offer some respite for residents if required.

In terms of separation distances between the plots, Officers did raise concern with some of the distances on the original plans. These distances have been reviewed by the latest revisions and now show minimum side to rear distances of 12m and back to back distances of at least 21m which is considered acceptable.

The only exception to the above would be between the Type 13 1 bedroom flat units and the side gables of two storey houses. This affects Plots 14 – 17 and 30 – 31. The distance from the rear elevation (which includes kitchen windows) would be under 7m to the two storey side gable of the adjacent plots. However, the internal configuration of the flats is such that the kitchen would be part of an open plan living area which would also be served by a large window on the front elevation and two smaller secondary windows on the side elevation. The bedroom windows for the flats would be on the side elevation facing towards the highway. In the case of Plots 14/15 and 16/17 the distance between the bedroom windows would be around 13m but given that these face towards the highway in any case, this isn't necessarily considered to be a harmful amenity relationship (i.e. one would expect a certain degree of lesser privacy when a window faces onto a public highway).

## Noise Impacts

As is implied by the planning history section above and indeed the wording of the site specific policy allocation, perhaps the biggest constraint to residential development within the site is the presence of the nearby industrial uses. It may be that these uses cease to operate in the future but this cannot be guaranteed and the current submission must be assessed against the existing site circumstances.

Paragraph 180 of the NPPF outlines that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. The 'Agent of Change' principle which has been introduced at paragraph 182 of the NPPF. This paragraph states:

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

The latest revised plans represent a significant change from the originally submitted plans. Not only has the number of proposed units been reduced by 11 units, the area of open space has also moved away from its originally proposed location at the east of the site. It is understood that the crux of these amendments have stemmed from the noise report by Environconsult submitted during the life of the application (replacing the originally submitted document).

### *Existing Acoustic Environment*

The report acknowledges the industrial context of the surrounding area with noise sources including automotive repair shops, the sound of engines revving, metal grindings and the use of air-powered tools, various crashes and bangs as well as general hum of extraction fan noise can also be expected during normal working hours. To the west of the site, the noise is dominated by road traffic and vehicle movements along Bowbridge Road (as well as commercial activity from the adjacent garages).

The noise survey employed measuring equipment at various locations throughout the site. Monitoring was carried out as part of a screening assessment in March 2020 with more detailed assessments in September 2020. Points 5 and 6 showed exceedances of the relevant criteria so an additional 7<sup>th</sup> measuring point was therefore introduced and long term monitoring undertaken for key locations.

The modelling results for the existing (undeveloped) site show that the majority of the site is subject to noise levels <50dB daytime and <45dB nighttime (albeit at the higher end) but that some max events are above the maximum 60dB indicating a higher risk. The worst location affected by industrial noise was in the south east corner of the site. The noise map contours for the undeveloped site are included at Appendix 4 of the noise report. The assessments indicate that the industrial noise will likely be audible at all locations across the site, periodically.

## Proposed Noise Environment

Guidelines (BS8233:2014) states that noise levels inside habitable rooms should not exceed the the following:

Activity	Location	07:00 to 23:00 hours	23:00 to 07:00
Resting Dining Room Sleeping (daytime resting)	Living Room	35 dBA $L_{Aeq,16hour}$	
	Dining Room/Area	40 dBA $L_{Aeq,16hour}$	
	Bedroom	35 dBA $L_{Aeq,16hour}$	30 dBA $L_{Aeq,8hour}$

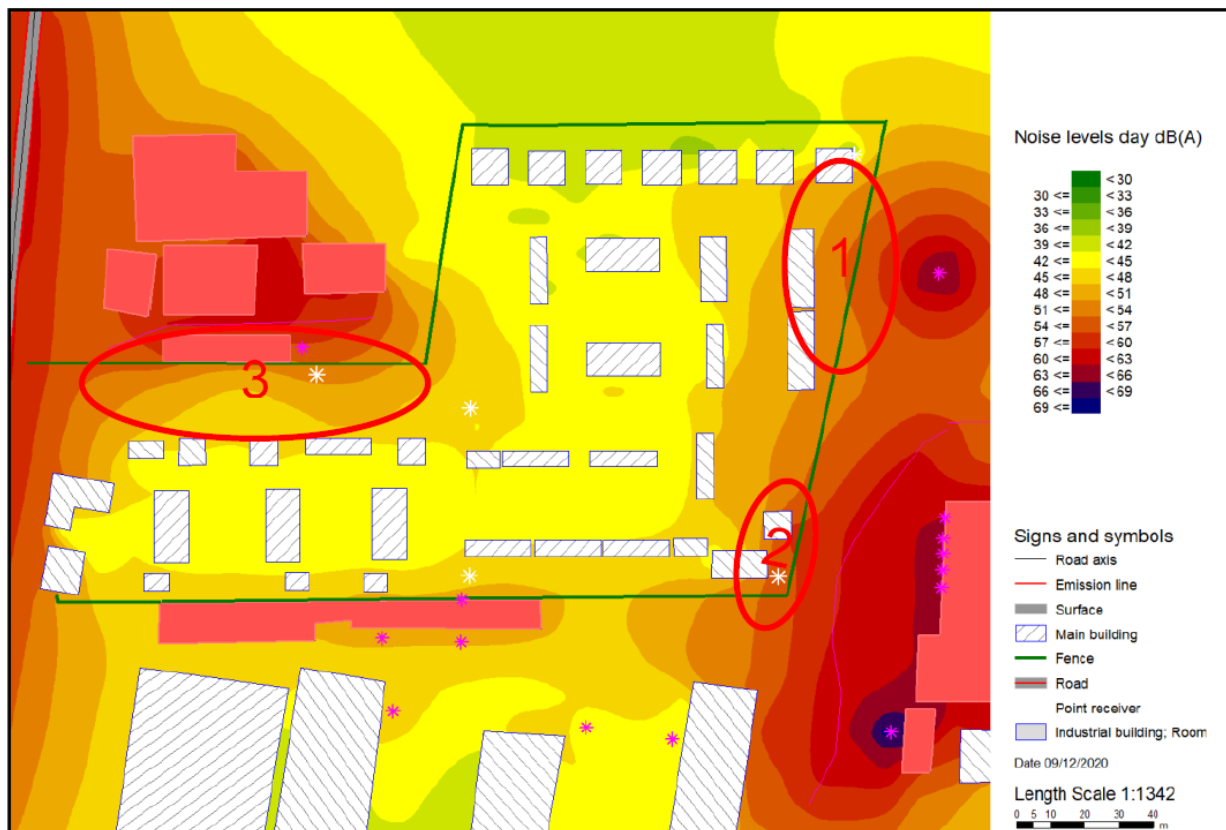
The guidelines go on to acknowledge that if relying on closed windows to meet the guide values, there needs to be an appropriate alternative ventilation.

The plans now submitted for consideration are based on the initial screening observations for the sources noted above as well as the original comments from Environmental Health Officers. One specific design intervention is the inclusion of the apartment blocks within the south eastern corner of the site which feature only modest secondary windows facing towards the site boundaries.

Two types of glazing are required to meet the WHO criteria, standard glazing and enhanced glazing. Enhanced glazing would include passive ventilation systems. Crucially the internal WHO standards for night time noise are not complied with if windows are open.

External noise levels are suggested to not exceed 50 decibels of ambient sound level with noisier urban environments given an upper guideline value of 55 decibels.

The submitted noise assessment includes a modelled noise map to show the predicted noise levels at the receptor locations. The majority of the amenity areas for the site are below predicted ambient sound levels of 50 decibels (i.e. are yellow, green and light brown):



However, the map indicates three areas of specific concern. Firstly the bungalows along the eastern edge of the site (roughly plots 82 to 87). An acoustic fence is proposed along this boundary but the report acknowledges that there may still be an exceedance of permitted maximum World Health Organisation (WHO) levels. Area 2, in the south east corner would affect the shared amenity space for the apartment blocks (roughly plots 37 to 42). The report considers that given this is not private amenity space it would not breach WHO guidelines but from a planning perspective it is clear that the use of the shared amenity space would be compromised by noise impacts. As too would the area of open space along the northern boundary of the site (area 3 on the map above).

The proposal has been subject to extensive discussions with colleagues in Environmental Health. The latest comments still point the decision maker to the likelihood that even with noise mitigation measures, occupiers may be subject to sudden short duration noise events caused by the industrial / commercial activities which surround the site.

It is clear that without significant levels of mitigation, the site would not be appropriate for residential occupation on the basis of the noise impacts of surrounding uses. The reliance on enhanced glazing creates compromises for future occupiers restricting the ability for windows to be opened (the windows are capable of being opened in order to comply with purge ventilation requirements and fire regulations). This is a matter which came up during the Highfields appeal decision (planning reference 14/01964/FULM) where the Inspector stated the following:

*“It is, however, the maximum predicted internal noise levels which are of concern. Although, with the windows closed and trickle vents open, the maximum predicted internal noise level would comply with the most stringent guidance given in BS 8233:2014, this would be exceeded when the windows of these properties are opened to allow for ‘purge’ or summertime ventilation. Although the Noise Impact Assessment considers that this would be acceptable as the sports facilities are a requirement of the scheme and would be in place when future residents occupy the most exposed*



*plots, it is apparent that these future occupiers would be likely to experience significant noise and disturbance within their homes, particularly during the summer months when the facilities would be likely to be used for a longer period and when residents would be more likely to open their windows.*

*I conclude, therefore, that the proposal would not provide satisfactory living conditions for future occupiers of the proposed dwellings with regards to internal noise levels."*

The current application is clearly materially different in that the noise sources are from industry rather than the use of a multi-use games area but nevertheless the appeal decision is a material planning consideration, the content of which has been shared with the applicant.

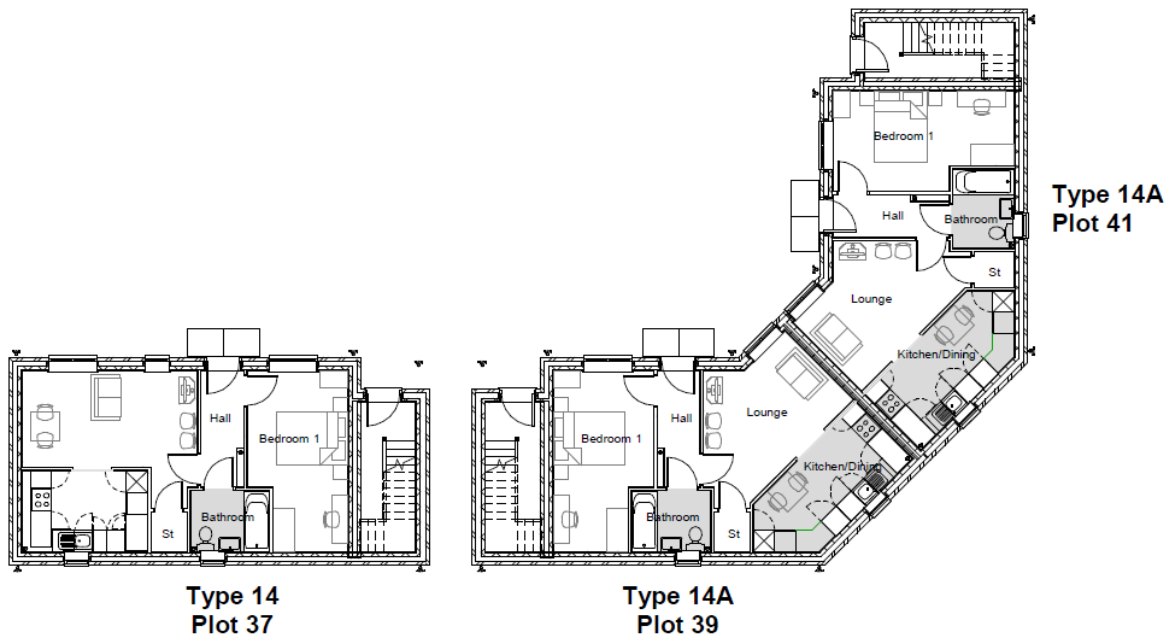
The applicant's noise consultant has responded with a detailed site layout plan showing the noise mitigation requirements for the plots. The explanatory text is useful in terms of understanding how many plots would be affected overall:

*"Dwellings marked in amber are Plots 13, 37, 38, 85, 86, 87. These dwellings are exposed to incident sound levels just above the green 45 dB threshold, plot 13 is 47 dB at night, plots 85 – 87 45 dB at night (literally just on the limit). Plot 37 is exposed to 49 dB and is more significantly effected and should be treated as red (see below). These slight increases result can be mitigated by glazing with acoustically treated passive ventilation systems that will reduce transmitted noise by >29 dB and as such achieve compliance with internal WHO levels This will substantively be the same as standard glazing with normal passive ventilation, that achieves the same outcome as plots 82 – 84 that already meet the criteria and could have a window open without issue. In practice none of the properties will be significantly impact at night.*

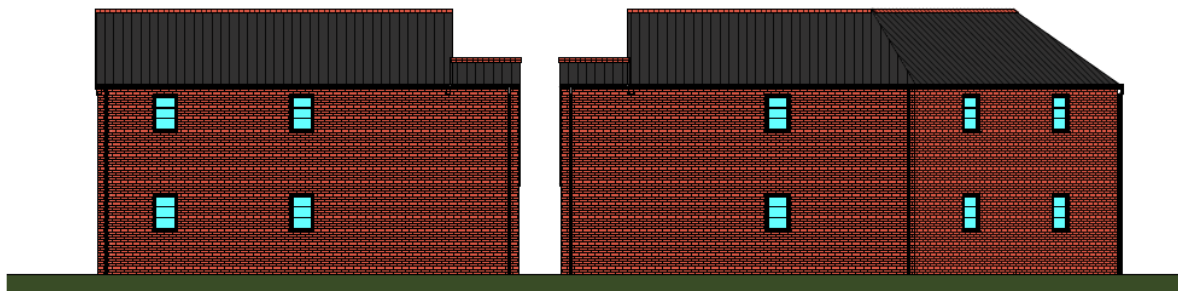
*Plot 13 is affected by road traffic noise at night. Glazing as specified in the report with passive acoustic trickle ventilation will be suitable for use at plot 13, though it is likely that the blank gable end facing the road will have no windows and the other affect façade facing the industrial source will be less affected because of orientation.*

*Plots 1 – 7, and 37 – 42 are exposed to levels of noise and impact noise requiring higher levels of noise mitigation and are marked red. As agreed with the EHO a higher level of glazing specification was required, >38 dB sound reduction, and mechanical ventilation systems were preferred to passive acoustic ventilation, however, either method used would be effective."*

Of the 17 plots affected, it is worthy of note that 8 of those (i.e. Plots 1 – 7) require additional noise mitigation due to traffic noises along Bowbridge Road. There are already numerous residential dwellings along Bowbridge Road (many presumably without any noise mitigation measures installed due to the age of the properties). Plots 13, 85, 86 and 87 are, as above at the cusp of the acceptability limit. The worst affected area of the site, in the south east corner has been subject to specific design interventions in the latest revisions to the plans. These plots are 1 bed flats which have been specifically orientated such that the windows facing towards the site boundary would be small secondary windows to kitchens; hallways or bathrooms:



**Ground Floor Plan**  
1:100



**Rear Elevation**  
1:100

BS8233:2014 offers guidance specifying that where development is considered necessary or desirable, internal target levels may be relaxed by up to 5 decibels. It is acknowledged that the site has been allocated for residential development and therefore the development proposed can reasonably be considered as desirable. However, the policy allocation was clear that the development was envisaged to come forwards towards the end of the plan period (when the industrial environment surrounding the site *may* have changed although this can or could not be guaranteed) and therefore the development of the site is not *necessary* to meet the five year housing land supply.

Notwithstanding the above, the applicant has made significant interventions to ensure that matters of noise are factored into the overall design of the scheme and it is difficult to see what more could be done to ensure the site is suitable for residential development. The compromises and mitigation requirements will need to be carefully considered in the overall planning balance below.

### *Impact of Lighting*

Another factor to residential amenity is the impact of light sources noting the mixed use nature of the area which includes the YMCA Community and Activity Village to the north of the site. This includes sporting facilities lit by floodlights. The revised application has been accompanied by a 'Light Intrusion Assessment' by Strenger. A survey of the site was undertaken in December 2020 with measurements taken during the hours of darkness with a specific focus on the floodlighting of the YMCA facility. The measured levels of light intrusion have been assessed and the report details that the outcome would be that the levels of light intrusion would be acceptable against the relevant environmental criterion. Reference is however made to the potential for plots along the western boundary facing Bowbridge Road to experience exceedances due to the floodlighting attached to Richford Motor Services. Nevertheless, the measured potential exceedances are very minor and the implementation of mitigation measures, such as suitable planting to the area of open space along the northern boundary would mitigate against such potential adverse lighting impacts. This has been accepted by colleagues in Environmental Health.

### Impact on Landscape including Trees

Given the brownfield nature of the site, there is little in the way of existing tree specimens other than those along the western boundary shared with Bowbridge Road. The submitted site plan shows areas of landscaping throughout the site with the Design and Access Statement confirming an expectation to provide detailed landscaping plans through a later approval of details of condition request.

The original application was accompanied by an Arboricultural Method Statement. The document outlined that the development would necessitate the removal of various trees (10 in total) as well as the removal of groups of trees and facilitative pruning to 6 other tree specimens. The trees marked for removal comprised 1 Category A Tree (T22 - Deodar), 2 Category B trees and the rest were Category C or U.

T22 is at the Bowbridge Road frontage to the site and is estimated as being around 12.5 tall. Other than stating that the 'tree is in conflict with the proposed design and will need to be removed to facilitate the development', there was no meaningful justification for why such a high Category Tree should be removed. In addition to this, the original comments of the Council's appointed Tree Officer raised significant concern that the majority of the trees to be retained had not had their existing and potential rooting areas / canopy spread fully evaluated leading to a proposed layout which will increased pressure on tree health.

Impact on trees has been considered in the revised plans now for consideration including through the submission of an updated Arboricultural Impact Assessment. It is now confirmed that the development would require the removal of 3 trees and various groups but notably the Grade A T22 would now be retained along the site frontage. The revised layout takes better overall account of existing specimens along the site frontage. The revised comments of the Tree Officer now raise no objections subject to protection measures being secured by condition.

### Impact on Land Contamination

As is detailed above, the policy allocation makes specific reference to the neighbouring land uses which could potentially create environmental problems which would affect the residential development of the site.

On this basis, the application has been accompanied by a Phase I Geo-Environmental Desk Study and Phase II Geo-Environmental Assessment. These documents have been appraised by colleagues in Environmental Health with the following comments offered:

*“Following intrusive sampling, elevated levels of several soil contaminants are identified (PAH, TPH, lead and zinc). As a result of this the consultant recommends capping of rear gardens with 1000mm and front gardens with 600mm of certified clean material.*

*In addition to the above, elevated ground gas levels (amber 2) has been identified and appropriate remedial measures are proposed for incorporation within building foundations.*

*I can generally concur with the findings of the reports and would therefore recommend the use of parts C and D of the phased contamination condition.”*

The identification of contaminative materials is perhaps to be expected given the previous site uses. However, the applicant has appropriately demonstrated that suitable mitigation could be put in place to ensure the site would still be suitable for residential use. Therefore subject to the condition suggested by Environmental Health, there is no objection to the proposal in respect to contaminated land issues.

#### Impact on Highways

Policy DM5 is explicit in stating 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.

The site is served by an existing vehicular access from Bowbridge Road which is intended to be used to serve the majority of the 87 dwellings proposed. The exception being Plots 1-7 which would be served by a separate access further southwards along Bowbridge Road. The access would however be subject to minor amendments to ensure it meets appropriate geometric characteristics.

The Transport Assessment has been updated through the latest suite of revisions received in January 2021. An additional Transport Technical Note has also been provided dated 5<sup>th</sup> March 2020.

The report acknowledges the existing site circumstances including by reference to other committed developments in the area. Notably the Assessment refers to the Middlebeck application for which the Southern Link Road (SLR) is associated. The SLR is specifically referenced in the policy allocation for this site with an expectation that the development of the site will be post SLR construction.

To determine the traffic generation of the proposed housing development and sheltered accommodation / supported living units, the TRICS database has been utilised to inform the assessment, selecting surveyed sites that were similar in terms of location, accessibility and parking characteristics. The Transport Assessment estimates that the proposal will lead to an additional 367 two way trips per day with 37 two way vehicle trips in the traditional am network peak (between 8 and 9am) and 38 two way trips in the pm peak (between 5 and 6pm).

In acknowledgement of the original comments of NCC Highways, the latest document includes junction capacity assessments at both the site access junction off Bowbridge Road and also the Bowbridge Road / Hawton Lane / Bowbridge Lane signalised junction. For the latter, the data relates to the data collected in support of the Flowserve application. The reports concludes that the assessments confirm the proposal will have a negligible impact on the operations of the junctions which would operate well within capacity in all assessed scenarios.

NCC Highways provided detailed comments on the original submission raising a number of concerns which the latest documents seek to address. As per the latest comments of the Highways Authority these have now largely been resolved. There is reference to reservations regarding the size of the refuse vehicle used for the tracking but given that there is scope for additional movement within the turning head no further information is required in this instance.

The conditions suggested include requirements for a bus stop upgrade in front of the site but as below, this would need to be included in any associated legal agreement and therefore it would not be necessary to impose this specific condition.

The Council is currently in the process of adopting a Residential Parking Standards and Design Guide SPD with consultation on the final draft now finished. It is notable that the current application has been pending for some time such that the evolution of the SPD has taken place concurrently with the application's consideration but clearly any decision made on the application must now be taken on account of all material planning considerations.

Parking is provided within / close to each plot with the exception of the sheltered accommodation whereby a shared parking provision is proposed to cater for the full time equivalent staff. Numerically the level of off street parking provision for the dwellings is considered appropriate (one bed units have one space each, two and three bed units would have two) such that there should not be adverse impacts to on street parking. The proposed sheds would provide cycle storage for individual plots with additional cycle parking being proposed for the apartments. The Design and Access Statement confirms that car charging points will be provided in curtilage parking bays (exact details could be secured by condition).

The SPD encourages that parking spaces should be a minimum of 3m by 5.5m with an additional 0.3m if bounded by a wall or fence etc. Where more than two parking spaces are provided side by side, spaces should be a minimum of 2.4m by 5.5m.

The standard size of the parking spaces presented for the scheme is 2.4m x 5.5m (and with a couple of exceptions these are not in rows of more than two spaces). Where spaces are bounded by a property line or a fence or hedge they are 0.5m wider. For the avoidance of doubt, the scheme as presented does not meet the requirements of the latest SPD document. This has been raised as an issue with the agent during the life of the application (albeit due to the evolution of the document towards the later stages). In response, the agent has directed attention to the wording of the SPD which in the context of the dimensions listed above includes the wording "*(or relevant measurements at the time of submission as advised by the Highway's Authority)*".

The application has been pending for some time due to ongoing discussions with the applicant and Officers in order to overcome concerns (including in relation to noise and overall design matters as already referenced). It is notable that a number of the parking spaces shown have some elements of low maintenance planting / shrubs adjacent such that it may in reality be possible to achieve slightly wider spaces for some plots. However, to insist on such would require a wholesale re-

consideration of the plans and as a consequence would potentially reduce the level of green landscape within the site which would have a negative character impact. In the absence of an objection from NCC Highways and in acknowledgement that the SPD acknowledges site specific measurements may be agreed, it is not considered reasonable to be overly prescriptive to the dimensions of parking spaces within the SPD in this case.

#### Impact on Heritage including Archeology

The site is outside of the designated Conservation Area and there are no designated assets within the site itself. The policy allocation does however make reference to a need for further archeological works prior to any development within the site. The application has been supported by a Historic Environment Desk Based Assessment. It is acknowledged that the site was in agricultural use and ploughed since the medieval or potentially Roman period which could have truncated archaeological deposits. The later commercial development would also have impacted sub-surface remains and may have further disturbed deposits. Nevertheless, the desk study reports that there is still potential for archeological remains and therefore further archeological evaluation of the site may be required.

A further interim report for trenching at the site has been submitted. This shows no evidence of the civil war defenses were observed. The Archeological Advisor has now confirmed that the remaining trenching and any further mitigation work (if required) can be controlled by condition if permission were to be forthcoming.

#### Impact on Flood Risk and Drainage

The application site is within Flood Zone 1 in its entirety albeit a small proportion of the south of the site is at a low risk of surface water flooding. The application has been supported by a Flood Risk Assessment and Drainage Strategy. The report makes a number of recommendations to reduce flood risk and promote a sustainable and practicable drainage strategy which includes discharge into existing Severn Trent Water sewers and surface water attenuation storage.

NCC Flood Team as the Lead Local Flood Authority have been consulted. As detailed, they originally raised an objection on the basis that the drainage methods proposed were not considered sustainable. The applicant has submitted a revised FRA on the basis of these comments and additional comments have been received from NCC Flood accepting the proposals subject to a condition to secure a detailed drainage scheme.

#### Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Policy DM7 states that new development should protect, promote and enhance green infrastructure to deliver multi-functional benefits and contribute to the ecological network.

The NPPF incorporates measures to conserve and enhance the natural and local environment and requires outlines a number of principles towards the contribution and enhancements of the natural and local environment within Chapter 15.

The application was validated on the basis of a Preliminary Ecological Appraisal awaiting the submission of the desk study. The updated report was subsequently received on 3<sup>rd</sup> June 2020.

The site features a number of varying habitats which could have ecological potential including scrub; scattered trees and semi-improved grassland.

In terms of bats, there are no buildings on site and the trees were assessed as being of negligible value for roosting bats such that the site as a whole offers low-moderate bat foraging opportunities. Nevertheless particular consideration of proposed lighting is recommended. Other recommendations made include the installation of bat boxes.

For birds, the existing habitats are identified as having nesting potential and therefore site clearance is recommended outside of bird breeding season unless a specific nesting bird check is carried out by a competent surveyor. An updated badger check is also recommended prior to site clearance as well as the completion of a Precautionary Working Method Statement for Reptiles.

All of the suggested mitigation measures could reasonably be secured by condition such that the ecological value does not represent a constraint to the development of the site and the proposal would comply with Core Policy 12 and Policy DM7.

#### Developer Contributions

Core Strategy Spatial Policy 6, policy DM3 of the Allocations & Development Management DPD and the Developer Contributions and Planning Obligations Supplementary Planning Document present the policy framework for securing developer contributions and planning obligations.

#### *Affordable Housing*

The District Council sets a threshold of 30% on site affordable housing delivery. This proposal would far exceed that requirement by providing a solely affordable scheme operated by NCHA. The affordable provision is not within the description of the development but it is nevertheless possible for the LPA to secure that the dwellings remain affordable for their lifetime *if* determinative weight is to be attached to their delivery.

Notwithstanding the above, an additional 87 units would clearly put pressure on other local services. The 100% affordable provision does not automatically outweigh the need for the scheme to potentially provide contributions in other aspects as outlined below.

#### *Community Facilities*

The SPD outlines that for a development of this size, a contribution towards community facilities would be expected. Community Facilities can include numerous types of development including village halls; areas for sport and activity; buildings for worship or buildings for leisure and cultural activity.

The SPD sets out a formula which equates to a contribution of £1,384.07 per dwelling plus indexation. This would amount to circa £120,414.09 for a scheme of this size. Further clarification as to where the monies would be spent has been requested during the life of the application. It has been confirmed that there is an intention to replace the fitness kit at the Newark Sports and Fitness Centre in approximately 2 year's time which would cost in the region of £600k. The contribution going towards this project is considered a reasonable request given the proximity of the site to the Leisure Centre facilities.

### *Education*

The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. NCC as the education authority have assessed the capacity of the existing primary schools to facilitate the demand from the development. It is concluded that the existing primary schools could accommodate the development and therefore no education contribution is requested.

### *Open Space*

As a development of 87 dwellings this application would need to make provision for public open space. The layout demonstrates an area of 2,335m<sup>2</sup> to the north west of the site. The application submission was not clear whether this area is envisaged to include play equipment for children and young people which has since been clarified. It has been suggested that the area would include on-site equipment such as mini tunnels; cross beams and balance beams but that the exact detail could be agreed at a later date.

As a numerical calculation the level of onsite open space would fall short of the aspirations of the SPD which amount to provision for children and young people at 18m<sup>2</sup> per dwelling (therefore a requirement of 1,566m<sup>2</sup>), amenity green space at 14.4m<sup>2</sup> per dwelling (therefore a requirement of 1,252.8m<sup>2</sup>), and natural and semi natural green space. However, it is notable that a significant proportion of the units (over 30%) are 1 bed units thus less likely to provide family homes. It would therefore be reasonable to accept a lesser area of open space for children and young people. If the one bed units were discounted from the children and young people contribution, then the level of onsite open space would meet the requirements of the SPD in area.

### *Health*

The Developer Contributions SPD details that, for a scheme of this size, a contribution to the health authority should be made. This has been requested to the sum of £80,040 by NHS Nottingham and Nottinghamshire CCG. The monies are envisaged to be spent towards facilities at Balderton Surgery and Fountain and Lombard Medical Centres.

### *Libraries*

The SPD details that library contributions can be attributed towards the costs of building / extending a library building or the costs of providing additional stock for existing facilities. NCC have commented on the need for the development to contribute towards library provisions, they have requested a contribution of £3,064 towards stock at Newark Library.

### *Transport*

The County Council have made a site specific request for a planning obligation of £15,500 for bus stop infrastructure. This would be used to provide improvements to the bus stop denoted as NS0006 Bailey Road and would include the installation of real time bus stop pole & display including associated electrical connections, a polycarbonate bus shelter, solar lighting and raised boarding kerbs.



## Viability Case

The original application was accompanied by a Section 106 document which essentially outlined an intention to submit a viability case as part of the development. This has been prompted for submission by Officers and received with the suite of revised plans in January 2021.

Using the Homes England Development Appraisal Tool, the viability assessment identified a deficit of £566,277 at completion in 2023 based on total scheme costs of £14,184,893. It is presented that, even with an intention of securing a Homes England Social Housing Grant, the scheme cannot support any additional financial contributions.

The National Planning Policy Framework states that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. Officers have commissioned (at the expense of the applicant) an independent viability expert to critically appraise the applicant's submission.

The initial response received disputed the land value figure as well as construction costs ultimately concluding that there would still be a positive viability margin even after the required developer contributions were made:

*"The principal reasons for the differing position of the applicant NCHA are the price paid for the land which exceeds the Council's benchmark land value by £460,000 and the applicant's projected construction costs which exceed BCIS based projections by £1.8Million."*

The applicant has submitted an additional report by rg+p Limited dated February 2021 which takes into account the initial independent response (giving evidence of various abnormal costs) but still identifies a deficit of circa £1.4million. The Council's independent assessor has provided a follow up response albeit the conclusion is the same – the LPA's advisor has confirmed that the scheme would be viable with the requested £219,401 worth of developer contributions. Again as is shown by the headline figures in the table below, the principle difference between the parties relates to land value:

	<b>Applicants Costings (£)</b>	<b>LPA Consultant Review (£)</b>	<b>Difference (£)</b>
<b>Land Value</b>	2,610,000	1,902,465	707,435
<b>Construction Costs</b>	8,980,840	8,602,736	378,104
<b>Abnormal Costs</b>	744,963	550,000	194,963
<b>Professional Fees</b>	1,256,276	850,942	405,344
<b>Finance Costs</b>	467,503	0	467,503

The applicant provided no evidence of 'finance costs' (for example interest and fees incurred from a bank or other external funding institution). The £467,503 allowance seemed to be an 'internal accounting' allowance for the way funds are distributed within the Housing Association organisation and were therefore disallowed. In the same way a developer profit allowance was discounted to only 2% to allow for the HA's staff/management costs.

The applicant has outlined their latest position by email dated 25<sup>th</sup> March 2021:

*“There is a significant and pressing need for affordable housing in the District due to less than 2/5 of the affordable housing requirement being delivered annually. NCHA need to respond to this, as does the district council. NCHA therefore have no choice but to agree to pay the requested s106 costs in the interests of, we hope, moving the scheme to a swift and positive determination to help boost the supply of affordable homes and supported living accommodation as soon as possible, rather than delay this for a further 12+ months.*

*However, if the planning application is refused necessitating an appeal, NCHA will challenge the viability evidence because at that point the scheme would unfortunately have been delayed through matters outside of their control and it would be appropriate to ensure an acceptable level of profit is restored as supported by national policy and practice guidance.”*

The acceptance of the payment of contributions through a Section 106 (albeit reluctantly) is welcomed. However, the stance of the applicant is unusual in that it could be perceived that the agreement to payment now (rather than at a later date if permission were refused and there were to be an appeal scenario) is in effect the applicant ‘buying a planning permission.’ To clarify, the applicant has confirmed that they agree the requests for contributions are appropriately justified. It is the ability of the scheme to pay for the entirety of those costs whilst maintaining an appropriate (5%) profit for the applicant that is in disagreement. The applicant is essentially agreeing to take a lower profit to provide a policy compliant scheme in the interest of swiftly delivering the affordable house needs. However, if the scheme is refused and delayed by an appeal process then further costs (site holding and appeal) would be incurred which would further affect the scheme’s viability. The applicant is therefore reserving their position to fully test the viability evidence at appeal in the event that the application is refused.

Notwithstanding the above it is material to note that the scheme as presented to Members would be policy compliant in respect to contributions.

### Other Matters

The site layout plan demonstrates that the units would be served by sheds. Elevation details of these have been provided during the life of the application as has clarification of boundaries and hard landscaping which are considered acceptable and show that bins will be stored behind the sheds in the most part, away from the street scene.

### Overall Balance and Conclusion

The proposal relates to the residential development of an allocated site within the Newark Urban Area. Although the quantum of development exceeds that originally envisaged by the policy allocation, as is detailed by the above appraisal, this is not considered fatal in principle.

One of the biggest constraints to the development of the site (as acknowledged by the policy allocation) is the previous industrial land uses which have clearly affected the quality of the land. Moreover, the site is surrounded by other industrial land uses which have the potential to adversely affect the amenity of any proposed occupiers. The above discussion outlines that a number of plots would require mitigating features in order to ensure a satisfactory levels of noise. Even with mitigation, there is an ongoing potential for incidental noise intrusion from neighbouring land uses.

However, the above must be balanced against the benefits of the scheme which include the delivery of a wholly affordable scheme operated by NCHA. Moreover, the applicant has accepted developer contributions to be made towards community facilities; health; libraries and transport as well as providing a meaningful area of on site open space. Officers consider that the proposal is therefore policy compliant in respect to contributions.

Of the compromises identified, none are deemed worthy of a refusal in their own right. Officers have carefully considered whether a 'compounded' reason for refusal would be appropriate but the case is not considered to be strong enough to resist planning permission and defend at appeal. The site is allocated for residential development and the applicant has worked with Officers to now present a scheme which responds to the site constraints and in doing so will bring forward the residential delivery of the site whilst addressing an identified need for affordable housing provision in the District.

## **RECOMMENDATION**

**That planning permission is approved subject to the conditions and reasons shown below and the sealing of an associated Section 106 agreement to secure contributions towards:**

- **Community Facilities** (Upgrade of facilities at Newark Sports and Fitness Centre) - £120,414.09;
- **Health** (Balderton Surgery; Fountain and Lombard Medical Centre) - £80,040;
- **Transport** (bus stop improvements for NS0006 Bailey Road) - £15,500;
- **Libraries** (stock at Newark Library) - £3,064;
- **Open Space** (specification and maintenance of on site provisions);
- **Affordable housing** (retention of minimum 30% for the lifetime of the development).
- **A Travel Plan** in accordance with Section 10 "Monitoring" of the Framework Travel Plan by hsp consulting – C3191 – dated January 2021

## **Conditions**

01

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

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

02

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

- Proposed Site Plan – 2670 / P102 M;
- Type 1A – 1 Bed Bungalow – 2670/P 200 D;
- Type 2 – 2 Bed Bungalow – 2670/P 201D;
- Type 5A - 2B+3B Terrace Row – 2587/P 225;
- Type 6 – 2B4P House – 2670/P 206D;
- Type 6A – 2B4P House – 2670/P 234;
- Type 7 – 3B5P House – 2670/P 207D;

- Type 7A – 3B5P House – 2670/P 227B;
- Type 8 – 2B/4P House – 2670/P 228;
- Type 8A – 2B/4P Semi– 2670/P 229A;
- Type 9 – 2670/P 210C;
- Type 11 – 1B Flats Care Block – 2670/P 212G;
- Type 12 – 1B/2P – 2670/P231A;
- Type 13 – 1B Flats – 2670/P 232A;
- Type 14 &14A – 1B Flates – 2670/P 233;
- Boundaries and Hard Landscape – 2670/ P300 C;
- Boundary Enclosures – 2670/P301;
- Timber Shed – 2670/P 302;

Reason: So as to define this permission.

03

No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out and retained in accordance with the approved details.

Reason: In the interests of visual amenity.

04

No development hereby permitted shall be occupied until the full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards have been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interests of visual amenity.

05

The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest, unless otherwise agreed in writing with the Local Planning Authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place.

Reasons: In the interests of visual amenity.

06

No development shall take place until a Construction Methodology and Management Plan (CMMP) has been submitted to and approved in writing by, the Local Planning Authority. The approved CMMP shall be adhered to throughout the construction period. The CMMP shall comprise the following:

- The details of temporary fencing to be erected and retained during the construction period;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;

- any measures to control the emission of noise, dust and dirt during construction;
- hours/days of proposed construction.

Reason: To protect the amenity of the surrounding area.

07

To avoid negative impacts to nesting birds, any clearance works of vegetation on site should be conducted between October to February inclusive, outside the bird breeding season. If works are conducted within the breeding season, between March to September inclusive, a nesting bird survey must be carried out by a qualified ecologist prior to clearance. Any located nests must then be identified and left undisturbed until the young have left the nest.

Reason: In order to protect biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2019).

08

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 BSP Consulting Flood Risk Assessment (FRA) and Drainage Strategy ref BBRR-BSP-ZZ-XX-RP-C-0001-P05\_Flood\_Risk\_Assessment, 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 occupation of the development.

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

09

The boundary treatments for each plot as shown on plan references Boundaries and Hard Landscape – 2670/ P300 C and Boundary Enclosures – 2670/P301 shall be implemented in full prior to the occupation of each relevant plot. The approved boundary treatments shall be retained thereafter for the lifetime of the development.

Reason: In the interests of residential amenity.

10

The remediation scheme included in documents Phase I Geo-Environmental Assessment Report – C3191 – Bowbridge Road, Newark dated February 2020 and Phase II Geo-Environmental Assessment Report – C3191 – Bowbridge Road, Newark dated February 2020 must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared and submitted for approval in writing to the Local Planning Authority.

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

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

11

Prior to the commencement of any development above slab level, an ecological walkover survey shall be undertaken by a qualified ecologist and an updated report outlining species present with mitigation measures where necessary shall be submitted to and approved in writing by the Local Planning Authority. The survey should specifically ascertain whether there is any additional evidence of badger usage on the site. The development shall thereafter be carried out in accordance with the approved details and mitigation measures set out.

Reason: To protect any ecological potential within the site.

12

The development hereby approved shall be carried out in accordance with the mitigation measures outlined by the requirements of the Preliminary Ecological Appraisal by absolute ecology Updated June 2020, specifically;

- Precautionary Working Method Statement (PWMS) is incorporated during site clearance to minimise any negative impacts on local reptiles (paragraph 5.5) and hedgehogs (paragraph 5.8);
- Incorporation of bat boxes, details of which should be submitted to and approved in writing by the Local Planning Authority and installed as agreed prior to occupation;

Reason: In order to protect biodiversity in the District in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2019).

13

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

Reason: In the interests of biodiversity specifically bats.

14

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

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers .
- c. Details and position of underground service/drainage runs/soakaways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on 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 the application site.
- f. Details of any scaffolding erection and associated ground protection within the root protection areas
- g. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.
- h. Details of timing for various phases of works or development in the context of the tree / hedgerow protection measures.

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme.

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

15

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

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on the proposal site.
- b. No equipment, signage, fencing etc. shall be attached to or be supported by any retained tree on the application site,
- c. No temporary access within designated root protection areas,
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on the application site.
- e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on the application site.

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

16

No development shall take place until a written scheme of archaeological investigation has been submitted to and approved by the Local Planning Authority. This scheme should include the following:

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

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

17

The archaeological site work must be undertaken only in full accordance with the approved written scheme referred to in the above Condition. The applicant shall notify the Local Planning Authority of the intention to commence at least fourteen days before the start of archaeological work in order to facilitate adequate monitoring arrangements.

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

18

A report of the archaeologist's findings shall be submitted to the Local Planning Authority and the Historic Environment Record Officer at Nottinghamshire County Council within 3 months of the works hereby approved being commenced.

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

19

Prior to the occupation of any plot hereby approved, in curtilage charging points for electrical vehicles shall be installed for each of the plots and thereafter retained for the lifetime of the development.

Reason: To promote the use of electric vehicles.

20

No dwelling forming part of this development hereby approved shall be occupied until its associated driveway, parking and/or turning area is surfaced in a hard, bound material (not loose gravel) for a minimum of 8 metres behind the highway boundary for shared driveways and 5 metres for single driveways, with suitable drainage to prevent the egress of surface water onto the highway. The surfaced driveway, parking or turning area shall then be maintained such for the life of the development.



Reason: To reduce the possibility of deleterious material (loose stones etc) and surface water egressing onto the public highway to the detriment of road safety

21

No part of the development hereby approved shall be occupied until its associated access on to Bowbridge Road, as shown on drawing reference Proposed Site Plan – 2670 / P102 M has been provided in full.

Reason: In the interests of general highway and pedestrian safety

22

The noise mitigation measures outlined by letter dated 9<sup>th</sup> April 2021 by Environconsult shall be implemented in full prior to the occupation of any plot hereby approved. The measures shall thereafter be retained for the lifetime of the development.

Reason: In order to provide a satisfactory means of amenity for the proposed occupiers.

### Notes to Applicant

01

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

02

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

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

03

### Section 38 Agreement (Highways Act 1980)

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

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

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

04

#### Section 278 Agreement (Highways Act 1980)

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

Contact the Highway Authority via [hdc.north@nottscc.gov.uk](mailto:hdc.north@nottscc.gov.uk)

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on extension 5907.

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**