

## PLANNING COMMITTEE – 15 MARCH 2022

<b>Application No:</b>	<b>21/02528/FUL</b>
<b>Proposal:</b>	<b>Change of use of land to provide 4 pitches (1 static and 1 touring caravan and two parking spaces on each pitch) hardstanding and associated infrastructure for members of the Gypsy and Traveller community</b>
<b>Location:</b>	<b>Shady Oaks, Eagle Road, Spalford NG23 7HA</b>
<b>Applicant:</b>	<b>Mr T Holmes</b>
<b>Agent:</b>	<b>BFSGC – Joseph Jones</b>
<b>Registered:</b>	<b>2 December 2021</b> <b>Target Date: 27 January 2022</b> <b>Extension of Time agreed until 17 March 2022</b>
<b>Website Link:</b>	<b><a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a></b>

The Parish Council have commented in objection to the proposal, which is contrary to the Officer recommendation. As a result Councillor Mrs Linda Dales has requested to call in this application to Planning Committee on the grounds that the development would be contrary to Core Policy 4 which states that new provision should be located in and around Newark and contrary to Core Policy 5 which confirms that this land has not been assessed as being suitable and was not put forward under the recent Open Spaces Options categorisation process. The site is unsuitable because:-

1. Previous development on the site has been refused and dismissed at appeal because of its location within open countryside, its access being via a rural road which is unlit and without footpaths, the effect that it would have on the character and appearance of the surrounding area and its flood zone location;
2. It lies within Flood Zones 2/3 and as such does not fall within the parameters of acceptability for new development. Mobile homes are already classed as Highly Vulnerable;
3. Spalford does not have the necessary infrastructure to support such a development as it has no facilities of any kind (no pub, shop, village hall, school, church);
4. It has the potential to double the size of the village, with the impact that that would cause to the population of Spalford and reference is also made to other mobile home provision already surrounding Spalford. This development would have the effect of substantially altering the nature of this village.

### The Site

The application site, approximately 0.15ha in area, relates to the eastern half of a broadly rectangular greenfield parcel of land which is located to the east of the settlement of Spalford on the south side of Eagle Road. The site is set back approx. 7m from Eagle Road behind a grass verge and mature planting.

The northern, southern and eastern boundaries are bounded by a substantial belt of mature conifer trees and the western boundary is open to the remainder of the larger rectangular plot. There is some limited hardstanding in the north-east corner of the site, but the rest of the ground is grassland. The red line site is rather odd in shape with a narrow projection away to the west which appears to lead to a septic tank that is on the site.

The site has an access in the centre of the eastern boundary (enclosed by a metal gate) which leads onto a private unmade single track which then leads to a junction with Eagle Road. Outside the red line application site, there is an existing access point in the north-west corner of the wider rectangular plot which leads directly off Eagle Road (marked by brick piers and low wall supporting timber 5 bar gates).

The application site is located within Flood Zone 2 and the rest of the rectangular plot to the west (beyond the red line site) is Flood Zone 3a as defined by Environment Agency data maps, which means the application site is at medium risk of fluvial flooding. The site is also at risk from surface water flooding.

To the north of the site, beyond Eagle Road is an agricultural field, to the south of the site are horse paddocks, accessed via the same private track from Eagle Road serving the application site, to the east of the site is a smaller grassed field, beyond which is a dwelling known as Sandycroft (approx. 35m away). To the west of the site is the remainder of the larger plot enclosed by mature conifers, beyond which is a private access road leading to Croft House to the south-west (approx. 180m away). There is also an existing property to the north-west of the site, known as Tree Tops (approx. 75m away), on the opposite side of Eagle Road.

### Relevant Site History

**19/01810/FUL** - Erection of detached house (resubmission of 18/02010/FUL), refused 08.11.2019 on grounds of harm to open countryside and flood risk. Appeal was dismissed 12.10.2020

**18/02010/FUL** – Erection of detached house, refused 07.05.2019 on grounds of harm to open countryside and flood risk.

**14/02071/FUL** – Erection of stable block, approved 24.03.2015.

### The Proposal

Planning permission is sought for the material change of use of the land to form 4 gypsy and traveller pitches on a permanent basis. The submitted layout shows one static and one touring caravan to be located on each pitch and served by two parking spaces. The pitches range in area from approx. 257 sqm up to 325 sqm in area. There are 2 pitches on each side of a central access road that runs in an east-west direction. The pitches are made up of a combination of hardstanding shingle material and grass. There are boundary treatments shown between pitches on the submitted plan but no indication of what those boundary treatments would be. A waste/recycling area is also defined. A septic tank appears to have been installed to the west of the site.

Additional information has been received on the proposed occupiers of the pitches, including names and numbers of children. Confirmation has also been received that the intended occupants were included in the most recent GTAA and the organization that carried out that assessment

determined that the proposed occupants had Gypsy status during their interview process, which means they have not ceased travelling for economic purposes, they travel for at least 2 months a year and that they have no plans to cease travelling in the future.

The following plans and documents are being considered by this application:

- Site Location Plan (Drawing No: LP-01-2021)
- Block Plan (Drawing No: BP-01-2021)
- Proposed Access Plan
- Design and Access Statement
- Flood Risk Assessment

#### Departure/Public Advertisement Procedure

Occupiers of 7 properties have been individually notified by letter and a site notice has been displayed at the site.

#### **Planning Policy Framework**

##### **The Development Plan**

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 3 – Rural Areas

Spatial Policy 7 - Sustainable Transport

Core Policy 4 – Gypsies and Travellers – New Pitch Provision

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

Core Policy 9 - Sustainable Design

Core Policy 10 – Climate Change

Core Policy 13 – Landscape Character

##### **Allocations & Development Management DPD**

DM5 – Design

DM8 – Development in the Open Countryside

DM12 – Presumption in Favour of Sustainable Development

##### **Other Material Planning Considerations**

National Planning Policy Framework 2021

Planning Practice Guidance

Landscape Character Assessment SPD 2013

GTAA, Feb 2020

The Equality Act 2010

Human Rights Act 1998

Planning Policy for Traveller Sites (PPTS) – 2015 (summarised below)

When determining planning applications for traveller sites, this policy states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Government's overarching aim is to ensure fair and

equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community.

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

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

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

Weight should also be attached to:

- Effective use of previously developed (Brownfield), untidy or derelict land;
- Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- Not enclosing a site with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

If a LPA cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. There is no presumption that a temporary grant of planning permission should be granted permanently.

Annex 1 provides a definition of “gypsies and travellers” and states:-

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

## Consultations

**Spalford Parish Meeting** – Object on the following grounds:-

1. Flood zone, other sites would present lower risks and concerns relating to Environment Agency comments on anchoring of caravans to the ground, which will only mitigate against movement or floating away with no mention of tourer caravans;
2. Open and Rural Countryside;
3. Local Amenities and Infrastructure;
4. Impact of unplanned population expansion;
5. Existing numbers of caravans in the area;

6. Planning Precedence;
7. Non-alignment of application with Amended Core Strategy;
8. Inconsistencies with the submission and lack of detail which could lead to enforcement issues in the future, as experienced by mistakes made in the past on the Spalford Caravan and Leisure site;
9. New application has recently been submitted for 25 caravans/lodges on land less than 300m from this site;
10. NSDC needs to conduct a specific review of caravan applications in Spalford as the critical mass of caravans is having a profound and damaging impact on the surrounding area and Spalford Parish Meeting requests a realistic assessment is carried out to ascertain if it is practicable to monitor and enforce planning permissions;
11. Indication of the number of people is not provided or how many of the sites are permanent or transient;
12. Drainage concerns in relation to both the septic tank, rising water table and potential to increase water flow on neighbouring land;
13. Trees/planting around the site could be easily removed and grass verges carved up;
14. Highway safety concerns when caravan traffic combined with existing HGV traffic and tractors on narrow sections of road with blind bends causing conflict with pedestrians, cyclist and horse-riders;
15. Planning Decision 21/01907/FUL dated 6 January 2022 for two dwellings is relevant and germane to this application as the same criteria for refusal equally applies. If this application were successful it would represent a huge departure from the prevailing planning policies and strategic direction; and
16. Photographs showing pluvial flooding.

The full Spalford Parish Meeting objections can be found in full on the link below (received 29.12.2021, 28.01.2022, 03.02.2022, 04.02.2022, 14.02.2022 and 21 February 2022)

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R3FCU0LBIJ100>

**NCC, Highway Authority** – No objection. “This is a proposal for four pitches. One static and one touring caravan on each pitch. All pitches will have two parking spaces. The site itself is set back from the highway along a track. There is an access gate from Eagle Road, and this is set back for vehicles to wait off the carriageway whilst opening it.”

**The Environment Agency** – No objection, the proposal has met the requirements of the Exceptions Test and can be made safe for its perceived lifetime, subject to a condition relating to finished floor levels.

Advisory note – residual flood risk, relating which suggests securely anchoring the dwellings to the ground to minimize the risk of the dwellings becoming mobilised during a flood event.

Advisory note – foul sewage disposal

**Trent Valley Internal Drainage Board** – General standard comments regarding watercourses, septic tanks, when the Board’s consent is required, riparian responsibilities and soakaways.

**NSDC, Environmental Health** – I have noted on the application that sewage is to be disposed of via a septic tank. I have concerns that the water table is quite high in the area and that a septic tank may not be suitable for the discharge of sewage from 8 caravans. I understand a percolation test

has not been carried out as yet. If the land fails a percolation test there are other ways of treating waste water, which could include installation of a cesspit or mini-sewage treatment plant. Request informative regarding the need for a caravan site licence.

**Representations have been received from 26 local residents/interested parties (the majority of which were on the same pre-printed letters and 2 anonymous) which can be summarised as follows:**

- **Flood risk on this site;**
- **Elevating flood risk to surrounding land and properties;**
- **Effect upon the nature of the open and rural countryside;**
- **The visual impact of the site upon the Spalford amenity;**
- **Lack of local facilities and amenities within Spalford;**
- **The distance from local amenities – Collingham is 5.5 miles away;**
- **The impact of immediate and relative size of population expansion on Spalford;**
- **The oversupply of existing caravans in the area;**
- **The rejection of past applications on the site and related area;**
- **Lack of fit with NSDC's policies and strategic plan;**
- **It would increase traffic flow on already poorly maintained roads;**
- **It would be close to a bend in the road where the road narrows;**
- **Not a suitable site for use – no mains gas, no footpaths, no drainage, no street lighting, no public transport, no open green areas for play – only police force, fire service and a post box.**
- **Absence of mains sewerage and the high water table can cause problems with soak aways and septic tanks;**
- **Would have a negative impact on local wildlife; and**
- **It would de-value the village and de-value properties.**

#### Comments of the Business Manager

##### *Principle of Development*

Section 38(6) of the Planning and Compulsory Purchase Act 2004 state that planning applications shall be determined in accordance with the development plan unless material considerations indicate otherwise, this is consistent with Paragraph 11 of the NPPF.

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

It is accepted that the Authority has a considerable shortfall in being able to demonstrate a five year land supply, and a sizeable overall requirement which needs to be addressed. Both the extent of the pitch requirement and the lack of a five year land supply represent significant material considerations, which weigh heavily in the favour of the granting of consent where proposals will contribute towards supply. Importantly, the GTAA assumed a net zero contribution from inward migration into the District - meaning that pitch requirements are driven by locally identifiable need.

As this site is a new site, it did not form part of the baseline position (August 2019) for the GTAA. The supporting information submitted states the needs of all proposed occupiers were included within 2019 survey, however, this has not been able to be verified. However, the case officer, is aware at least one pitch of the four would cater for the needs of individuals who formed a component of the need identified through the Assessment – but happened to be living on a site elsewhere in the District at the time. As such, it is considered that the proposed development would provide some positive contribution towards meeting the need identified through the GTAA, or the demonstration of a five year land supply, which is a significant material consideration in favour of the proposal. Additional information has been submitted which adequately demonstrates that the proposed occupiers of the site would meet the definition of a traveller, provided through the Planning Policy for Traveller Sites.

There are currently no other alternative sites available with planning permission, and no allocated sites identified and consequently the Council does not have a five year supply of sites. These matters carry significant weight in favour of the proposals where they contribute towards supply.

The application site is located in the open countryside, but just east of the settlement of Spalford. Core Policy 4 states that future pitch provision will be addressed through all necessary means, including amongst other criteria, the granting of planning permission for pitches on new sites in line with Core Policy 5. Provision will be made in line with the Council's Spatial Strategy with the focus of the Council's efforts to seek to secure additional provision in and around the Newark Urban Area.

Beyond this, Core Policy 5 sets out a range of criteria, which proposals need to satisfy. The overall aims of this policy are identified as reducing the need for long distance travelling and possible environmental damage caused by unauthorized encampments and the contribution that live/work mixed use sites make to achieving sustainable development.

As referenced in the 2020 appeal decision on this site, the location is in the open countryside, and in line with the Planning Policy for Traveller Sites - Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. It goes on to state that local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure. The approach in the Development Plan reflects this approach, and development is strictly controlled in this location through Spatial Policy 3 and Policy DM8. The proposed development is located within open countryside and therefore inconsistent with the forms of development that Policy DM8 would allow.

Notwithstanding this, under some circumstances, it is accepted that gypsy and traveller sites can be acceptable in this type of location but this is dependent on the proposal being considered against the criteria within Core Policy 5, provided the scheme would, in the absence of more appropriately located sites, contribute towards meeting the significant local need (which in this

case it provides for at least one). Beyond this, then Core Policy 5 criterion 1 (landscape) and 2 (access to services and facilities) provides an appropriate way of determining what kind of locations in the countryside could be acceptable.

Both Spalford Parish Meeting and local residents have raised concerns regarding the site's countryside location and their concerns regarding the negative impact of the proposal on the local infrastructure and its scale dominating Spalford village. Located in the countryside but on the edge of an existing, albeit small village, is not considered to be totally unacceptable in principle. Furthermore a development of 4 pitches (max of 8 caravans) is considered to be relatively small scale and it is not considered that 4 additional families would represent a domination of the existing village community or would exert an unacceptable degree of pressure on Spalford's local infrastructure.

In summary, the District has a significant unmet need for Gypsy and Traveller pitches. The proposal would represent a small but direct contribution towards a five year land supply of at least one pitch. This positive contribution is a small but significant benefit, and one which should be afforded considerable weight as part of the overall planning balance.

The principle of this use in this location is therefore considered to be acceptable subject to assessment under the criteria set out within Core Policy 5, which are more site specific, and these are set out and considered below.

#### *Impact on the character and appearance of the area, heritage assets and ecology*

The first criteria of Core Policy 5 states that the site would not lead to the unacceptable loss, or significant adverse impact on the landscape character and value, important heritage assets and their settings, nature conservation and biodiversity sites. The fifth criteria of CP5 seeks that the site is capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity. Core Policy 13 of the Core Strategy addresses issues of landscape character. The Landscape Character Assessment SPD informs the policy approach identified within Core Policy 13. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape.

The site is identified as being within the East Nottinghamshire Sandlands and within the Landscape sub-type of Wigsley Village Farmlands (ES PZ 02) as set out within the Landscape Character Assessment SPD. This states that the condition of the landscape is poor and the sensitivity low with an outcome to create a landscape. It acknowledges characteristic visual features include numerous fragmented blocks of mixed deciduous woodland, coniferous plantations and some remnant Parkland. Specific recommendations for built features therefore encourage conservation of what remains of the rural landscape by concentrating new development around existing settlements and creating new development which reflects the local built vernacular. With regard to landscape features this seeks to create new hedgerows and conserve existing.

It is clear that conifers do play some part in the existing soft landscaping features of this area, in coniferous plantations. On this site, their careful positioning around the square boundaries produce a very deliberate, man-made functioning feature to provide a high and successful level of screening between the inside and the outside of the site (other than the gap providing the access in the eastern boundary). However, having acknowledged its rather odd current visual appearance, it is an existing feature and would indeed provide a successful soft screen. Whilst caravans are not necessarily alien features in open countryside, it is accepted that their often

white, shiny box-like form (and therefore far from reflecting local built vernacular) can somewhat detract from the greens, browns and golds of the surrounding rural visual amenities. However 4 pitches (max of 8 caravans) is considered to represent a relatively small scale site and it is therefore considered that although rather engineered in appearance the existing boundary treatment would provide a green softening around the proposed caravan site and it could be conditioned that appropriate new soft boundary planting be undertaken along the western boundary of the site, to soften potential views from the existing Eagle Road access point to the north-west of the site. The pitches would still retain some grass within them. The mature trees along the back edge of the grass verge of Eagle Road adjacent to the site in this location would also be retained and so the mature treed and soft setting to the site from Eagle Road would be retained. It is noted that local residents have raised concerns that these trees could be cut down at any time. This is true as the site is not in a Conservation Area and there are no Tree Protection Orders on the site. It is not considered to be appropriate to seek to protect the trees around the boundaries of the site through an Order. The most critical boundary would be the one along the Eagle Road frontage. Given that this existing boundary treatment would provide the residents of the proposed site with privacy and a buffer from the road, it is considered that there would be a very low risk of this planting being removed.

No designated heritage assets are located near to the site that would be affected by the proposals.

In terms of biodiversity impacts, given that the site is an open grassed field/paddock with areas of hardstanding, it is unlikely that the site supports any significant levels of biodiversity. There is also no intention to remove any trees or hedgerow from the site. Should planning permission be granted, a condition to plant a new native hedgerow along the western boundary of the site would provide additional biodiversity enhancement.

Section 11 of the NPPF relates to making effective use of land and paragraph 117 states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding the environment. Paragraph 122 states that planning decisions should support development that makes efficient use of land, taking into account: a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it ...d) the desirability of maintaining an area's prevailing character and setting. Core Policy 5 advises on general guidelines for pitch sizes. A pitch that is a permanent site where there are shared facilities within the overall site (e.g. the storage of waste and sewerage disposal), the policy advises the pitch should be approx. 350 sq m. The size of the pitches presented fall slightly below this standard (being between 325 sqm and 257 sqm). Whilst it is acknowledged that the proposed pitches are on the smaller side, given the site would contribute towards the unmet need of gypsy and traveller pitches, it would be difficult to sustain a reason for refusal on this basis.

Overall, the current scheme represents a single storey scaled development of up to eight caravans. The existing mature conifer trees that exist around 3 of the site boundaries provide a soft landscaped boundary in this countryside location. The general impact on the visual amenities of the area and roadside is found to be acceptable with new hedgerow planting along the western boundary of the site, which can be conditioned, to provide some additional softening/screening to the appearance of the caravans along this boundary, along with the additional biodiversity benefit. It is acknowledged, however, that the Spalford Parish Meeting and local residents have a contrary view and conclude the development would be harmful to the local area. The comments received have been taken into account.

However, for the reasons outlined, it is considered it would be difficult to sustain grounds of

unacceptable detriment to the landscape character and appearance of the area, of this relatively small and compact site, subject to the imposition of appropriate conditions, including new boundary landscaping and its associated biodiversity enhancements. This criteria of CP5 is therefore considered to be met.

#### *Impact on residential amenity*

The fourth criteria of Core Policy 5 states that the site would offer a suitable level of residential amenity to any proposed occupiers and not have an unacceptable adverse impact on the amenity of nearby residents particularly in rural and semi-rural settings where development is restricted overall.

Paragraph 127(f) of the Framework states that planning decisions should create places that promote health and well-being with a high standard of amenity for existing and future users.

In terms of the proposed occupiers of the site, the size of the pitches presented fall slightly below this standard of 350 sqm set out in Core Policy 5 (being between 325 sqm and 257 sqm in area). Whilst it is acknowledged that the proposed pitches are on the smaller side, it is not considered that this needs to be fatal to the scheme. Given existing boundary treatments and distance from existing dwellings, the needs of the privacy of proposed occupiers could be met and a condition relating to proposed boundary treatments between pitches could ensure a degree of privacy between pitches.

Turning now to existing residents who would live close to the site, to the east is a smaller grassed field, beyond which is a dwelling known as Sandyacre (approx. 35m away). To the west of the site is the remainder of the larger plot enclosed by mature conifers, beyond which is a private access road leading to Croft House to the south-west (approx. 180m away). There is also an existing property to the north-west of the site, known as Tree Tops (approx. 75m away), on the opposite side of Eagle Road. These would represent the nearest affected receptors of the proposed development.

Any new development will have some impact on the amenity of neighbouring properties. The proposal would result in increased vehicular movements causing additional noise and disturbance from associated comings and goings. It is also acknowledged that some level of new external lighting would likely be required which also has the potential for some negative impact, although existing boundary treatment would provide some mitigation to this aspect. The inclusion of a defined waste/recycling area within the layout of the site indicates consideration to matters of refuse disposal for the site.

Given the single storey nature of the two caravans, together with boundary treatments and the separation distance between the site and existing neighbours, together with the relative small scale nature of the proposal for 4 pitches, it is not considered that the relationships would result in any unacceptable degree of harm on the amenities of existing occupiers close to the site.

#### *Impact on Highway Safety*

The third criteria of Core Policy 5 states that the site has safe and convenient access to the highway network.

Notts County Council as Highway Authority has raised no objection to the application, following the submission of a detailed plan showing improvements where the existing private access road

that leads to the site entrance, joins the public highway on Eagle Road. A new area of tarmac will need to be laid and as it represents work being carried out in the highway, these works need to be carried out by Via, the County Council's contractor. This can be included within any informative, should permission be granted. They are satisfied with the level of parking provided on each pitch and the internal layout of the proposed access.

Whilst local comments have raised concerns regarding the bend and narrowing in the road and the inability of the existing roads to deal with the increased level of traffic, on the basis of the comments received from the highway authority, it is considered that the proposal would not cause any highway safety concerns and accords with Spatial Policy 7 of the Core Strategy and Policy DM5 of the A&DM DPD in this regard.

### *Sustainability*

The second criteria of CP5 requires consideration of reasonable access to essential services (mains water, electricity, drainage and sanitation) and basic everyday community services and facilities – including education, health, shopping and transport.

Whilst it is acknowledged that Spalford itself has no services and facilities, though there does appear to be a bus service that would provide access to Collingham and Newark within the District. The location would fall inside the Primary School catchment for North Clifton – which is being considered for closure by the County Council. Beyond this the site would then be dependent upon accessing the limited range of services within South Clifton (church and village hall), and the closest place to carry out food shopping and access healthcare provision appears to be Collingham (around a 9 minute drive and 5.5 miles away). Consequently, this location would be largely dependent on the accessing of services and facilities some distance away, and therefore would fall short of meeting the requirements in criterion 2 of Core Policy 5, which weighs against the proposal. The comments received on this matter from the Parish Meeting and local residents have been taken into account in reaching this view.

The applicant has confirmed the site is served in terms of electricity and water supplies and is to be served by a septic tank. The Environment Agency have advised an informative should be added to any permission granted to advise what is required in this regard outside the planning process.

### *Flood Risk*

Criteria 6 seeks that in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within the Government's PPTS and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site specific Flood Risk Assessment, applying both the Sequential and Exceptions Tests, as appropriate, to achieve safety for eventual occupiers.

The NPPF states that local planning authorities should minimise risk by directing development away from high risk areas to those with the lowest probability of flooding. Core Policy 10 and Policy DM5 also reflect the advice on the location of development on land at risk of flooding and aims to steer new development away from areas at highest risk of flooding. Paragraph 13 (g) of the PPTS sets out a clear objective not to locate gypsy and traveller sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.

Table 2 of the Planning Practice Guidance states that caravans, mobile homes and park homes intended for permanent residential use are classified as "highly vulnerable" uses. Table 3 of the

Practice Guidance states that within Flood Zone 2, highly vulnerable classification development requires the Exception Test to be applied. Whilst the western half of the larger paddock falls within Flood Zone 3a (at high risk of fluvial flooding), the area of land where the caravans are to be sited is within Flood Zone 2 (at medium risk of flood risk). Table 3 of the Practice Guidance states that within Flood Zone 2, for highly vulnerable classification development, the Exception Test is required to be applied. A Flood Risk Assessment has been submitted which states that the results from the Tidal Trent SFRM Model indicate that the development site is only at risk in the 1 in 1000-year scenario, with a predicted flood level of 7.7mAOD. In the 1 in 100+CC% breach scenario the flood levels at the development site range between 6.7mAOD and 6.64mAOD.

The FRA proposes that the caravan floor levels are set at 7mAOD, 300mm above the highest predicted breach flood level of 6.7mAOD. It is also recommended as a precaution that the static caravan be anchored to avoid become buoyant in an extreme flood event.

The EA Flood Warning Service is available in the area and prompt the implementation of a flood plan. Details of a flood plan are set out within the FRA where on receipt of a flood warning (giving a min of 2 hours advance warning), the site could be evacuated.

The NPPF states the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. There are also two parts of the Exception Test that need to be passed:

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

Through Core Policy 5, the proposal will also need to satisfy the Sequential and Exception Tests. Even though the proposal has been demonstrated as contributing towards the meeting of at least one locally identified need, the criterion based approach provided by Core Policy 5 is sufficiently flexible so as to provide the reasonable prospect of finding land at least flood risk. However, it is accepted that as the Council is currently unable to point to any reasonably available sites at lesser risk of flooding, the Sequential Test is considered to be passed in this case.

In relation to the first part of the Exception Test, it is not clear how sustainability benefits to the community would outweigh flood risk. However, the proposal would allow housing needs of the District to be met and is therefore modestly contributing to the supply of pitches. Whilst it is not ideal from a flood risk and sustainability perspective, in that the development should be located on land within Flood Zone 1, at lowest risk, but there are no sites at lower risk of flooding reasonably available for this use. No additional sustainability benefits have been identified by the submission.

In relation to part b) of the Exception Test, the Environment Agency consider the proposed development can be made safe for its perceived lifetime through the imposition of a condition relating to minimum internal floor levels of the caravans. Their original comments also included a condition requiring anchoring of the caravans to the ground, but later comments clarified that this should just be a 'Note To Applicant' rather than a condition.

The EA considers “the ground levels across the entire site indicated by the red line boundary slopes down from its highest point to the east of the site to the west of the site. The proposed siting of the dwellings will be located on the highest ground levels to the East of the site.

The ground levels according to the most up to date LiDAR data range between 6.8-6.7mAOD at the west of the site and between 7.1-7.2mAOD at the East of the site where the structures will be situated. While the FRA has not used the most up to date hydraulic modelling, which did not include the most up to date climate change allowances.

The latest hydraulic modelling does now include the updated climate change allowances. In this case the assessment has been made against the 1 in 100 year 30% climate change allowance which would cover the perceived lifetime of the development of up to 100 years.

In this case the 1 in 100 year 30% climate change allowance event including a breach of the flood defences would result in depths of 6.7mAOD. Therefore this would not impact the site as the topography is already elevated above this level.”

The EA conclude that subject to a condition requiring finished floor levels to be set no lower than 7mAOD to account for any minor variations in ground levels which may not have been picked up by LiDAR, that the second part of the Exception Test is passed.

The FRA acknowledges that surface water flooding is also high on the site, but considers that the proposal is not likely to unacceptably increase surface water flooding, and would not result in flooding elsewhere from surface water flooding. All proposed surfaces on the development site would be permeable (grass, gravel and permeable tarmac) and is unlikely to result in any material reduction in soakway on the site below the existing situation. However, the application form states that surface water would be disposed of in an existing water course and there is concern locally that the ground water levels are high in this area. As such, it is considered that should planning permission be granted, a condition should be imposed requiring details of a surface water disposal scheme be submitted and approved.

In conclusion, notwithstanding the site’s location on land within Flood Zone 2, for the reasons set out above, the proposal is considered to accord with the requirements of the NPPF and Core Policies 5 and 10 and Policy DM5, the proposal is considered to pass both the Sequential and Exception Tests. As such, flood risk and surface water drainage is considered to be a neutral matter in the overall planning balance.

#### *Personal Circumstances*

It has been confirmed that the proposed occupiers of the pitches, comprise the following:-

- One married couple and their two children;
- One married couple and their three children;
- One married couple and their single child; and
- One married couple.

Confirmation has been received that the intended occupants were included in the most recent GTAA (July 2019) and the organization that carried out that assessment determined that the proposed occupants had Gypsy status during their interview process, which means they have not ceased travelling for economic purposes, they travel for at least 2 months a year and that they have no plans to cease travelling in the future. On this basis, there is no reason to doubt that the proposed occupiers of the site fall within the definition set out within Annex 1 of PPTS.

The personal needs of the families require a settled base to ensure the children can attend school.

Members will need to be aware of the relevant case law regarding the Human Rights of Gypsies and Travellers set out in the Rafferty and Jones V SSCLG and North Somerset Council. A refusal of permission is likely to have significant consequences for the home and family life of the families involved and it is clearly a circumstance where Article 8 Convention Rights are engaged. Article 8 imposes a positive obligation to facilitate the Gypsy way of life and, as a minority group, special consideration should be given to their needs and lifestyle. In that respect, the occupants have a clear preference for living in caravans and the option of living in bricks and mortar accommodation would not facilitate that lifestyle.

In addition, Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of children must be a primary consideration in all actions made by public authorities. The Article 8 rights of the children in that context must be considered. No other consideration can be treated as inherently more important than the best interests of the children.

Significant positive weight needs to be attached to the personal circumstances of the occupiers of the site, particularly the benefits associated with schooling arrangements for the children that a permanent base would provide.

#### *Other matters*

Spalford Parish Meeting and local residents have raised a number of other issues of concern. They state that the application is contrary to the Amended Core Strategy and to approve this application would set a planning precedence. Core Policy 5 sets out the criteria against which windfall sites, such as this, that come forward for gypsy and traveller sites should be assessed. As set out above, the proposal is considered to perform reasonably well against the criteria but it is acknowledged it falls short against criteria 2, given it would be completely reliant on the private car to access day to day living facilities. This criteria based policy allows each application to be considered on its merits and as such, it is not considered that any grant of planning permission on this site would set a precedence.

Concerns have also been raised in relation to the number and dominance of caravan development in the local area. Cumulative harm of developments on a local area is a material consideration, however, there was no cumulative impacts identified with this site that would lead to unacceptable harm either in visual or landscape character grounds that would warrant refusal of this application.

Locals consider that as planning permission has been refused on this site for market housing on grounds of flood risk and being located in the open countryside, that it falls to reason that this application should be considered in the same way and be refused. Gypsy and traveller sites cannot be considered in the same way. This is for a number of reasons including, there is a significant unmet need for gypsy pitches and an absence of a 5 year land supply which carry substantial positive weight for any gypsy and traveller proposal. Furthermore there are no allocated sites as yet within the Development Plan for future provision. This lack of supply means that such residents have no choice of site on which to legally reside. In contrast, the District can demonstrate over a 5 year land supply of market housing and numerous allocated site where new housing can be built for the settled community. So whilst the ability to build new market houses in the countryside and in areas of flood risk is more strictly controlled by both national and local planning policy, there is no need or requirement to build in these locations because the supply of market housing provides a sufficient alternative choice. As the supply of gypsy and traveller pitches is so deficient, there are no reasonably available alternative site on which to reside. This.

Therefore sets out why it is possible to come to a sound and robust positive recommendation on a site where a market house has been refused permission.

Some respondents have also commented on the potential of a loss of value in their properties. Members will be aware that this cannot be considered as part of this, or any application as this is a private matter and planning decisions are made in the public interest.

### *Planning Balance and Conclusion*

The recent GTAA has identified a significant unmet need for gypsy and traveller pitches. It is known that the occupiers of at least one of the four pitches would contribute to the significant unmet need and contribute towards a five year land supply, which weighs heavily in favour of the proposal, given the current level of need. It may be that one or more of the other three pitches also contributes to supply, but without being able to verify this, positive weight has not been afforded to the other 3 pitches. The single pitch would directly contribute towards meeting this need requirement – either as part of a five year land supply or in terms of wider need across the plan period as a whole. This positive direct contribution is a significant benefit, and one which should be afforded considerable weight in the planning balance.

An approval would provide a settled base that would facilitate access to education and enable the families to continue their gypsy way of life. The human rights of the family means due regard must also be afforded to the protected characteristics of Gypsies and Travellers in relation to the Public Sector Equality Duty (PSED) when applying the duties of section 149 of the Equality Act 2010. All of those factors attract significant weight in favour of the development.

In terms of flood risk, the proposal is considered to pass both the Sequential and Exception Tests and the Environment Agency raises no objection, subject to a condition relating to finished floor levels being above a certain level. Surface water disposal can also be controlled by condition and as such matters of flood risk and drainage are neutral in the planning balance. No harm has been identified in relation to the character and appearance of the area, residential amenity and highway safety which are also therefore neutral in the overall planning balance. New hedgerow planting, controlled by condition, can provide ecology enhancements which represents a minor benefit.

Whilst on the edge of the village of Spalford, the village offers no services and facilities, though there does appear to be a bus service that would provide access to Collingham and Newark within the District. Consequently, this location would be largely dependent on the accessing facilities required for day to day living and the requirements of families would be some distance away and only be accessible by private vehicles. Therefore it would fall short of meeting the requirements in criterion 2 of Core Policy 5 and is not considered to be locationally sustainable. This weighs against the proposal in the planning balance.

Weighing all these competing considerations in the overall planning balance, it is considered that the positive benefits outweigh the harm identified. As such a recommendation of approval is offered to Members, subject to conditions.

### **RECOMMENDATION**

**That planning permission is approved subject to the conditions and reasons shown below**

## Conditions

01

The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites or its equivalent in replacement national policy.

Reason: To ensure that the site is retained for use by gypsies and travellers only, as it is located in an area where new residential development would not normally be acceptable.

02

No more than 2 static caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on each pitch at any one time.

Reason: In order to define the permission and protect the appearance of the wider area in accordance with the aims of Core Policy 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

03

No commercial or industrial activities shall take place on this site, including the storage of materials associated with a business.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

04

No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

05

The development shall be carried out in accordance with the submitted flood risk assessment (ref WtFR-FRA-2021/08/Q19, dated 21st October 2021 and compiled by WtFR Ltd) and the following mitigation measures it details:

- Finished floor levels of the proposed caravans shall be set no lower than 7.00 metres above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

06

Prior to first occupation of the development hereby approved, 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 reducing light pollution in this sensitive countryside location.

07

Prior to first occupation of the development hereby approved full details of additional soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species, with particular emphasis along the western boundary of the site.

Reason: In the interests of visual amenity and biodiversity.

08

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

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

09

No development shall be commenced until details of the means of surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and retained thereafter in accordance with the approved details.

Reason: To ensure the provision of satisfactory means of surface water disposal.

010

No part of the development shall be brought into use until details of the waste and recycling area shown on the Block Plan (Drawing No: BP-01-2021) has been submitted to and approved in writing

by the Local Planning Authority. The approved waste and recycling area shall be installed prior to the commencement of the approved use, and retained thereafter for the lifetime of the development.

Reason: To ensure that appropriate provision is secured for litter disposal in the interest of amenity.

011

No part of the development shall be brought into use until the proposed access shown on the Proposed Access Plan received 21 December 2021 has been fully installed. The approved access shall be retained for the life of the development.

Reason: In the interests of highway safety.

012

No part of the development hereby permitted shall be brought into use until the access road is constructed with provision to prevent the unregulated discharge of surface water onto the public highway, a scheme for which shall first be submitted to and approved by the Local Planning Authority in writing. The approved provision to prevent the unregulated discharge of surface water to the public highway shall be retained for the life of the development.

Reason: In the interests of highway safety.

013

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

- Site Location Plan (Drawing No: LP-01-2021);
- Block Plan (Drawing No: BP-01-2021);
- Proposed Access Plan.

Reason: So as to define this permission.

#### Notes to Applicant

01

Advisory note from Environment Agency – residual flood risk

We would like to point out that the site would be impacted by the 1 in 1000 year (0.1% chance in any given year) event which is a residual risk to the site. In this instance the flood depths across the site would reach 7.7mAOD.

Therefore in the unlikely event of a 0.1% chance event the dwellings could be inundated to depths of 700mm.

Please note that while this should not be considered when determining the application we are including this as an advisory note for the occupants. We wish to make the occupants aware that damage could be experienced should the site experience this residual risk flood event.

This is another reason why we would suggest securely anchoring the dwelling to the ground to minimize the risk of the dwellings becoming mobilised during such an event.

## Advisory Note from Environment Agency – foul sewage disposal

A septic tank is not the optimum method of dealing with the disposal of foul sewerage waste. Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank

Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2010 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, in addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.

Further advice is available at: <https://www.gov.uk/permits-you-need-for-septic-tanks> and <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>

The site will require a caravan site licence and the applicants must comply with the site licence conditions. Please see the following link for further information <https://www.newarksherwooddc>.

[gov.uk/caravansitelicence/#d.en.125914](http://gov.uk/caravansitelicence/#d.en.125914)

04

Any works within the highway will be required to be carried out by VIA EM Ltd.

05

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

06

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

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

#### BACKGROUND PAPERS

Application case file.

Spalford Parish Meeting comments in full

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

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

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

Committee Plan - 21/02528/FUL

