

## COMMITTEE REPORT – 7 AUGUST 2018

<b>Application No:</b>	<b>16/01102/OUTM (MAJOR)</b>
<b>Proposal:</b>	<b>Outline application for residential development for 25 dwellings with primary access off Cinder Lane with all other matters reserved.</b>
<b>Location:</b>	<b>Land at Cinder Lane, Ollerton, Nottinghamshire</b>
<b>Applicant:</b>	<b>Ms Anne Staley</b>
<b>Registered:</b>	<b>26 June 2017 (was previously 19 July 2016) Target Date: 25 September 2017 (was originally 13 October 2016) Extension of Time Agreed until 30 September 2018</b>

This application is presented to the Planning Committee at the request of the Business Manager.

### Background

This application was originally due to be considered by the Planning Committee on 5<sup>th</sup> December 2017. However at the request of the applicant, it was withdrawn from the agenda until there was more certainty with regards the Council's 5 Year Housing Land Supply position. The applicant has now requested that the application is considered as it stands.

As this report has appeared on a printed agenda before, it has been reproduced in full with new text provided in bold and any text no longer relevant has been struck out in the interests of transparency and to allow Members to understand any changes in stance.

### The Site

The site comprises an area of approximately 0.95 hectares of land of relatively flat land outside of the main built up area of Ollerton. The application site has been amended to now include a strip of land that is currently within the curtilage of no. 1 Bottoms Row and currently comprises close boarded fencing to the front and side boundary and contains a telegraph pole covered in ivy and vegetation.

The site appears to have previously been part of a former poultry farm site (according to site history and historic maps) albeit there is little trace of this former use of the site, which visually reads as unmanaged agricultural land. The only structure I noted during my site visit was a small breeze block building which is partially covered with vegetation. Electricity apparatus (T pole) is located on the northern part of the site and crosses the site. A public footpath runs from Cinder Lane alongside the northern boundary (comprising metal fencing) to the west between the site and no. 14 Cinder Lane. A low hedgerow forms the western boundary.

Cinder Lane itself is a cul-de-sac that serves residential properties comprising pairs of semi-detached, detached and terrace properties, mainly two storey. The head of the cul-de-sac provides a turning area for the street. Cinder Lane is accessed from the south of Wellow Road. The site is surrounded by open countryside to the east, south and west.

The site lies within a SSSI Impact Zone.

### Relevant Planning History

To northern part (wedge adjacent to no. 14 Cinder Lane) the following history applies:

- 95/51318/OUT – bungalow with garage. Approved 14/02/1996. Not implemented.
- 99/51378/RMA – bungalow with garage. Approved. Not implemented.
- 03/00253/FUL – proposed bungalow with garage. Withdrawn 25/03/2003.

To southern part of the site and land adjacent, the following history applies:

- 96/51352/TEM – Retention of mobile home and septic tank. Approved 30/07/1996.
- 97/51521/TEM – Retention of mobile home and septic tank. Refused 25/07/1997.
- 97/51522/TEM – as above. Refused 17/09/1997.

### The Proposal

Outline permission is sought for residential development for up to 25 dwellings with primary access off Cinder Lane with all other matters reserved.

In support of the application the following has been submitted;

- Masterplan (drawing no. 15/1339/001)-indicative only showing how 25 dwellings might be accommodated on site;
- (Indicative) Plans for house types A to E (1, 3 and 4 bedroom dwellings)
- Design and Access Statement (includes some info on drainage and flood risk)
- Planning Statement (dated February 2016, Rev A by JDA)
- Preliminary Ecological Appraisal (dated February 2016 by Brindle & Green)
- Archaeological Statement
- Transport Statement

The application form suggests that there would be 15 x3 bedroom market houses, 6 x 4+ bedroom houses and 4 x 2 bedroom social rented houses. It is noted that the D&A Statement suggests a tenure split of 66% social rented and 34% intermediate housing.

Further information has now been provided comprising:

- Letter from ADC Infrastructure dated 7<sup>th</sup> March 2017 which includes drawing ADC1307/010 Rev A
- Draft Heads of Terms Rev A (revised 26<sup>th</sup> June 2017)
- Preliminary Ecological Appraisal, dated May 2017 by Brindle & Green
- Outline Great Crested Newt and Reptile Method Statement, dated May 2017 by Brindle & Green (received 14<sup>th</sup> June 2017 – this replaces older version dated January 2017)
- Amended Site Location Plan (showing the land that will provide the additional visibility splay) received 26<sup>th</sup> June 2017.
- Emails from the agent 1<sup>st</sup> September 2017 regarding the applicant's apparent track record of development.

## Departure/Public Advertisement Procedure

Occupiers of 39 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. Due to the amendments received including the revised application site boundary, a further full round of public consultation has taken place.

## Planning Policy Framework

### The Development Plan

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1	Settlement Hierarchy
Spatial Policy 2	Spatial Distribution of Growth
Spatial Policy 3	Rural Areas
Spatial Policy 6	Infrastructure for Growth
Spatial Policy 7	Sustainable Transport
Core Policy 1	Affordable Housing Provision
Core Policy 3	Housing Mix, Type, and Density
Core Policy 9	Sustainable Design
Core Policy 10	Climate Change
Core Policy 12	Biodiversity and Green Infrastructure
Core Policy 13	Landscape Character

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

ShAP1	'Sherwood Area and Sherwood Forest Regional Park'
ShAP 2	Role of Ollerton and Boughton
Policy DM1	Development within Settlements Central to Delivering the Spatial Strategy
Policy DM3	Developer Contributions
Policy DM4	Renewable and Low Carbon Energy Generation
Policy DM5	Design
Policy DM7	Biodiversity and Green Infrastructure
Policy DM8	Development in the Open Countryside
Policy DM10	Pollution and Hazardous Materials
Policy DM12	Presumption in Favour of Sustainable Development

### Other Material Planning Considerations

~~National Planning Policy Framework 2012~~

~~Planning Practice Guidance 2014~~

**National Planning Policy Framework July 2018**

**Planning Practice Guidance 2018**

Newark and Sherwood Affordable Housing SPD (June 2013)

Newark and Sherwood Developer Contributions SPD (December 2013)

Newark and Sherwood Landscape Character Area SPD (December 2013)

**Publication Amended Core Strategy**

**Various Appeal Decisions (as referenced within the report below)**

## Consultations

**Ollerton Parish Council** – (29<sup>th</sup> March 2017) Object on the following grounds:

- i) Outside village envelope
- ii) Land not included in Local Development Framework Allocations
- iii) Highways issues safety at junction due increased traffic on Wellow Road which is already stretched due to recent large development on opposite side.
- iv) Anticipation of use of public transport is unrealistic due to fall in already sparse service
- v) Contrary to Policy DM8 development in the open countryside
- vi) Ecology not adequately surveyed

**NCC Highways Authority** – **Comments as of 16<sup>th</sup> May 2017:**

“Further to comments dated 13 September 2016, a revised submission has been received and I refer to drawing ADC1307/010/A showing an improved visibility splay at the Cinder Lane/ Wellow Road junction that attempts to overcome previously expressed concerns,

Previous comments focused on the application of visibility standards, none of which could be fully achieved by the existing junction arrangement. However, it is now proposed that the splay can be improved from 2.4m x 40.5m to 2.4m x 52.7m. Whilst this would not meet the 2.4m x 90m standard prescribed by the Highway Agency’s ‘Design Manual for Roads and Bridges TD/42/95’ (DMRB) it would exceed the 2.4m x 44.4m standard prescribed by Dept. of Transport’s ‘Manual for Streets’ and the CIHT document ‘Manual for Streets 2’ (MfS).

I am now willing to rescind my recommendation to refuse this application due to a number of factors which include:

- The proposal now offers a recognisable and potentially justifiable standard of visibility splay using MfS.
- Cinder Lane/ Wellow Road is an existing junction serving about 30 dwellings that has functioned without any recent injury accident history.
- The improved splay will benefit existing users of Cinder Lane.
- The proposed modest-sized development of 25 new dwellings is not considered excessive given the proposed improvement.
- The Avant Homes development, about 100m to the east of Cinder Lane, will ‘urbanise’ the approach to the Cinder Lane junction from the south-east and help to naturally reduce speeds.

Notwithstanding the above, the decision to rescind the recommendation to refuse has been made only after consideration of the close balance between arguments that could be presented at an appeal (should that be an eventual course of action) particularly with regard to which highway guidance should be applied. For this reason the LPA may wish to give consideration to ensuring that further development beyond the 25 dwellings hereby sought is prevented due to the nature of the access road and junction detail.

In conclusion, no objections are raised subject to the following conditions:

No development shall commence on any part of the application site unless or until improvements have been made to the visibility splay at the Cinder Lane/Wellow Road Page No. 2 junction in accordance with drawing ADC1307/010/A to the satisfaction of the Local Planning Authority. Such

improvement will include the surfacing and dedication to the Highway Authority of the land identified to become public highway to the satisfaction of the Highway Authority.

Reason: In the interests of highway safety

No part of the development hereby permitted shall take place until details of the new access road(s) have been submitted to and approved in writing by the Local Planning Authority including street lighting, drainage, and surfacing. All details submitted to the LPA for approval shall comply with the County Council's current Highway Design Guide (6C's) and shall be implemented as approved.

Reason: To ensure the development is constructed to adoptable standards.

#### Notes to Applicant

The applicant should note that, notwithstanding any planning permission, if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and/or widened footway in this case, including 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, and/or 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 design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site. Contact with the Highway Authority should be made via [david.albans@nottscc.gov.uk](mailto:david.albans@nottscc.gov.uk)

#### **Previously Objected 13/09/16 as follows:**

"As pointed out in the submitted Transport Statement considerable time has been spent by Highway Authority Officers prior to the application being made to consider the proposal and in particular conditions at the Cinder Lane/ Wellow Road junction.

The main issue in considering this submission is the visibility splay at the junction of Cinder Lane and A616 Wellow Road. The existing splay to the right/east has been measured at 2.4m X 40.5m \*1.

Speed reading recorded by the Highway Authority on Thursday 28th April 2016 in accordance with the Highways Agency document TA22/81 'Vehicle Speed Measurement on All Purpose Roads' revealed that the 85th percentile wet weather speed of westbound traffic is 30.75mph. This equates to a stopping distance of 44.4m.

Historically, speed has been an issue of concern for local residents and there is often Police speed camera enforcement on this stretch of road. A vehicle activated speed has been erected in recent years on Wellow Road. The sign lies about 120m inside the 30mph speed restriction, and about 280m east of the Cinder Lane junction.

The Highway Authority contends that the A616 Wellow Road carries significant levels of traffic as an inter-urban all-purpose route and, accordingly, visibility standards should be applied commensurate with the Highways Agency's 'Design Manual for Roads and Bridges TD42/95' (DMRB) rather than those associated with the Dept. of Transport's 'Manual for Streets' and the CIHT document 'Manual for Streets 2' (MfS).

To compare the 2 standards; DMRB standards would seek a visibility splay of 2.4m x 90m and the MfS standards would seek 2.4m x 44.4m.

Regardless of which standard is used (and these are minimum standards) neither can be achieved at the Cinder Lane/Wellow Road junction.

In para. 3.9 of the Transport Statement it is suggested that a 2.4m x 44.4m splay could be achieved if measured to an offset of 1.36m from the kerb rather than 1.0m. (Please see note \*1) But this is *not* the way it should be measured in *any* guidance. The statement also suggests that if measured in this way the majority of a vehicle would be visible at 44.4m. However this potentially discounts cyclists and motor cyclists riding closer to the kerb. Also, the distance and the way it is measured allows drivers to recognise approaching vehicles beyond the minimum splay distance e.g. see the offside of an approaching car at, say, 60m away.

It is recognised however that Cinder Lane already serves about 30 dwellings and there is no recent history of injury accidents. In view of this, it is considered that some development may take place but that 25 dwellings would generate an unacceptably higher proportion of vehicle trips traveling through a sub-standard junction. It has therefore been suggested that a development of say 5 dwellings could be acceptable.

It is also acknowledged that an offer has been made to provide a vehicle activated sign (VAS) in an attempt to reduce speeds so that the available visibility splay distance is adequate. However, there is no guarantee that such a sign would achieve the required reduction in speed particularly since such a sign already exists only 280m away.

In addition, the Highway and Planning Authorities have seen it appropriate, in agreement with the Developer (Avant Homes), to apply DMRB visibility standards to the new housing development only 100m to the east of the Cinder Lane junction, where junction splays with a 90m 'y' distance have been used. It would be inconsistent to apply two different standards in such a short distance of road.

I continue to consider it reasonable for some development to take place but that 25 dwellings would be too many; adding significantly to the risk of an accident.

In conclusion, I recommend that this proposal be refused on the following grounds:

The traffic generated by the proposed development would be likely to result in an increase in danger to other users of the highway owing to increased use of the existing access which affords restricted visibility for drivers emerging from Cinder Lane.

Note:

\*1 It may be noted that the 'y' measurement was taken to an offset of 1.0m from the kerb line. Both DMRB and MfS describe visibility splays as being measured to the kerb line itself. The 1.0m offset is found only in the Highway Authority guidance (the 6C's design guide)"

### **NCC Strategic Policy - "National Planning Policy Framework (NPPF)**

One of the core principles of the National Planning Policy Framework (NPPF) is to support and deliver economic growth to ensure that the housing, business and other development needs of an area are met. The NPPF looks to boost significantly the supply of housing. The principles and policies contained in the NPPF also recognise the value of, and the need to protect and enhance the natural, built and historic environment and biodiversity, together with the need to adapt to climate change.

A key aspect of the NPPF is that it includes a presumption in favour of sustainable development which means that, for decision-taking, local planning authorities should approve development proposals that accord with the development plan without delay or where a development plan is absent, silent or out of date, grant permission unless any adverse impacts of the proposal outweigh the benefits, or specific policies in the NPPF indicate that development should be restricted.

The NPPF also discusses the weight that can be given in planning determinations to policies emerging as the local authority's development plan is being brought forward. The weight given to these policies will be very dependent on; their stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the NPPF.

Paragraphs 47 and 49 of the NPPF state that local planning authorities should identify sufficient deliverable housing sites to provide five years' worth of housing against their housing requirement with an additional buffer of either 5% (to ensure choice and competition) or 20% (where there has been a record of persistent under delivery) and that "...relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites".

Paragraphs 29-41 of the NPPF address the issue of sustainable transport. The NPPF requires all major planning applications to be supported by an appropriate Transport Assessment (TA) and concludes that new development proposals should only be refused on transport grounds where the residual cumulative impacts would be severe.

The NPPF seeks to promote healthy communities. Paragraphs 69-78 of the NPPF sets out ways in which the planning system can play an important role in facilitating social interaction and create healthy inclusive environments. To support this Local Planning Authorities are tasked with involving all sections of the community in the development of Local Plans and in planning decisions. Planning policies should in turn aim to achieve places which promote safe and accessible environments, high quality public spaces, recreational space/sports facilities, community facilities and public rights of way.

Paragraph 171 of the NPPF relates to Health and well-being and encourages Local Planning Authorities to work with public health leads and organisations to understand and take account of the health status and needs of the local population, including expected future changes, and any information about relevant barriers to improving health and well-being.

Paragraph 72 of the NPPF states that,

*“The Government attached great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*

- Give great weight to the need to create, expand or alter schools; and*
- Work with school promoters to identify and resolve key planning issues before applications are submitted”*

## County Planning Context

The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the Nottinghamshire Minerals Local Plan (adopted 2005) (and emerging replacement plan) form part of the development plan for the area. As such, relevant policies in these plans need to be considered.

### Waste

In terms of the Waste Core Strategy, there are no existing waste sites within the vicinity of the site whereby the proposed development could cause an issue in terms of safeguarding the existing waste management facilities (as per Policy WCS10). As set out in Policy WCS2 ‘Waste awareness, prevention and re-use’ of the Waste Core Strategy, the development should be ‘designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.’ In accordance with this, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would be useful for the application to be supported by a waste audit. Specific guidance on what should be covered within a waste audit is provided within paragraph 049 of the Planning Practice Guidance.

### Minerals

The site does not lie within close proximity to any existing or proposed mineral site or within a Mineral Safeguarding and Consultation Area. Therefore, the County Council does not wish to raise any objections to the proposal from a minerals safeguarding perspective.

## Strategic Planning Issues

### Public Health

The Nottinghamshire Joint Strategic Needs Assessment (JSNA) provides a picture of the current and future health needs of the local population. The Nottinghamshire Health and Wellbeing Strategy sets out the ambitions and priorities for the Health and Wellbeing Board with the overall vision to improve the health and wellbeing of people in Nottinghamshire. A current health profile of the area local to the proposal is provided at Appendix A. All development should take in to account local health issues and minimise the negative impacts of the development on health, whilst also seeking to deliver health benefits where possible.

Nottinghamshire County Council Health and Wellbeing Board have approved the Spatial Planning for the Health and Wellbeing of Nottinghamshire, Nottingham City and Erewash Document provides guidance on addressing the impact of a proposal or plan on the health and wellbeing of



the population and provides a planning and health checklist to be used when assessing planning applications.

#### Transport and Flood Risk Management

The County Council as Highway Authority and Local Lead Flood Authority is a statutory consultee to Local Planning Authorities and therefore makes separate responses on the relevant highway and flood risk technical aspects for planning applications. In dealing with planning applications the Highway Authority and Local Lead Flood Authority will evaluate the applicant's proposals specifically related to highway and flood risk matters only. As a consequence developers may in cases where their initial proposal raise concern or are unacceptable amend their initial plans to incorporate revisions to the highway and flood risk measures that they propose. The process behind this can be lengthy and therefore any initial comments on these matters may eventually be different to those finally made to the Local Planning Authority. In view of this and to avoid misleading information comments on planning applications made by the Highway Authority and Local Lead Flood Authority will not be incorporated into this letter. However should further information on the highway and flood risk elements be required contact should be made directly with the Highway Development Control Team and the Flood Risk Management Team to discuss this matter further with the relevant officers dealing with the application.

#### Strategic Highways

The County Council have no strategic transport planning observations to make.

#### Transport and Travel

Site access appears to be from the existing farm entry onto Cinder Lane with the closest bus stop approximately 1km away in the village centre. It is noted that two new bus stops will be installed on Wellow Road as part of the planning agreement for the 150 dwelling development in the area. This should provide bus stops approximately 250m away from the proposed development.

#### *Bus services*

The County Council has conducted an initial assessment of the site in the context of the local public transport network. Over the past three years there have been significant cuts to local bus support, and following consultation events during this period, services in this area will be revised from 1 August 2016. The current service 32 to Newark will be withdrawn and replaced by a limited service at peak time and on market days only. An off peak service to Ollerton will provide an additional shopping facility.

At this time, because of the relatively small size of this site, it is not envisaged that contributions towards local bus service provision will be sought. However, the County Council would expect all properties in the proposed development to have free introductory bus travel made available to them. This, along with other sustainable travel measures should be set out in a site Travel Plan, the details of which can be discussed with Transport Strategy.

#### *Infrastructure*

The new infrastructure to be installed on Wellow Road, as discussed above, are as follows:

- New Bus Stop 1 – polycarbonate bus shelter, solar lighting, raised boarding kerbs and enforceable bus stop clearway
- New Bus Stop 2 – polycarbonate bus shelter, solar lighting, raised boarding kerbs and enforceable bus stop clearway

Possible infrastructure improvements that could be made are as follows:

- New Bus Stop 1 – real time bus stop poles and displays, including associated electrical connections
- New Bus Stop 2 – real time bus stop poles and displays, including associated electrical connections

To this end, the County Council request that a planning condition be added to any grant of planning permission as follows:

*No part of the development hereby permitted shall be brought into use unless or until the enhancements to the bus stop on Wellow Road have been made to the satisfaction of the Local Planning Authority, and shall include real time bus stop poles and displays, including associated electrical connections.*

*Reason: To promote sustainable travel*

#### Built Heritage

The County Council has no comments to make from a historic built environment perspective.

#### Rights of Way

The proposed site impacts on Ollerton and Bougton Parish Foot Path No 2 which runs through the site, as shown on the working copy of the definitive map in Appendix B.

The County Council would require that the availability of the above path is not affected or obstructed in any way by the proposed development at this location unless subject to appropriate diversion or closure orders. The County Council's Countryside Access Team should be consulted on any re-surfacing or gating issues and developers should be aware of potential path users in the area who should not be impeded or endangered in any way by the proposed development. Any required path closure or diversion application should be made via consultation with the Countryside Access Team.

The County Council notes that the path appears to be accommodated in the proposed site layout as a hedged corridor. This should be a minimum of 2 metres clear width to take into account future hedge growth and vegetation encroachment over the path.

#### Contaminated Land/Reclamation

The applicant has introduced a certain amount of ambiguity within their application; the applicant has quite rightly addressed issues related to ecology and archaeology, however appears to dismiss the potential for land contamination.

In Section 14 of the application form the applicant has stated:

- The current use of site as being a 'brownfield site, derelict house and hard-standing to previous poultry sheds'.
- That the land is not known to be contaminated and land contamination is not suspected for all or part of the site.
- The proposed use is not particularly vulnerable to the presence of contamination.

In relation to these statements the County Council would comment that:

- By its very definition, a brownfield site or previously developed land has the potential to be contaminated until proven otherwise.
- The site is not known to be contaminated because no assessments and or investigations appear to have been undertaken.
- Contamination should be suspected as the site has had a former commercial use and as a brownfield site has the potential to be contaminated until proven otherwise, which it has not.
- The proposed use would be particularly vulnerable to the presence of contamination as the development is for residential properties with gardens.

Both the ecological and archaeological reports presented with the application make reference to on-site materials which could potentially indicate ground contamination:

- Archaeological report o Section 5.4 site – walkover survey – 'other material' 'considerable amount of fragmented ceramic building material' 'made ground'
- Ecological report o Paragraph 5.2.7 – bare ground – 'bare ground dominated the site owing to clearance works to remove former agricultural sheds', 'disturbed ground',  
o Paragraph 7.5 – reptiles

Further to these observations in the reports, examination of aerial photography of site suggests that the five demolished sheds, which comprised the former poultry farm, had asbestos cement board roofs. There is therefore the suspicion that there are potentially Asbestos Containing Materials (ACMs) within the demolition rubble, soil stockpiles and/or soils across the site. The County Council therefore considers that the applicant should provide:

- A Phase 1 Desk Top Study report that provides as assessment of the site's development and environmental context, to develop a site conceptual model assessing viable contamination sources, pathways and receptors and a preliminary risk assessment related to potential contamination on-site
- A Phase 2 Intrusive Site Investigation targeting potential contamination identified within the Phase 1 report
- Based on the findings of these reports, a viable remediation strategy should be provided to mitigate the potential contamination possibly identified, thereby making the site suitable for its intended use as a residential development with gardens.

From the aspect of Contaminated Land Management, it would appear that the applicant has not supplied the relevant assessment reports or correctly identified the site as potentially impacted by contamination associated with its former commercial use.

These assessment/investigation/remedial strategies are required to ensure that the site does not pose a threat to ground workers, future residents and the wider environment and is in fact 'fit for its intended use' as residential development with gardens.

The County Council therefore recommends that prior to the determination of the application, the applicant be required to submit a Phase 1 – Contaminated Land – Desk Top Study, including an environmental risk assessment and conceptual site model and a Phase 2 – Intrusive Site Investigation Report. Based on the findings of these reports a robust Site Specific Remediation Strategy should be submitted to and approved in writing by the local planning authority. Then, once the proposed remediation works are completed a final Validation Report would need to be submitted to prove the identified contamination issues had been properly dealt with, to be approved by the local planning authority prior to the main construction works being undertaken.

## Ecology

3<sup>rd</sup> April 2017 updated comments– ‘An Outline Great Crested Newt Method Statement (dated January 2017) has now been provided in support of the above application. I am not clear of the purpose of this, as the report states in sections 2.2 and 3.7 that “This report does not substitute the need for presence/absence surveys in accordance with guidance contained within the ‘Great Crested Newt Mitigation Guidelines’ English Nature (2001)”.

It therefore remains the case that great crested newt surveys are required, along with reptile surveys (also flagged up as being necessary in the original Preliminary Ecological Appraisal), prior to the determination of this application - It should be noted that paragraph 99 of Government Circular 06/2005 states that “It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances...”

We are entering the optimal period for these to be carried out, so I would advise that the applicant arrange for these surveys to be carried out as soon as possible.’

## Survey and results

The application is supported by an up-to-date Preliminary Ecological Appraisal (PEA) with surveys carried out on 16 February 2016. The site is not covered by any ecological designations, and no such sites are present in the immediate vicinity that would be affected by the proposals. Aerial photography indicates that the site previously housed five large poultry houses, which have since been demolished (within the last year) due to their increasingly dilapidated condition. Subsequently, the area now comprises largely of areas of bare ground (stone and soil) and some improved grassland. In addition, dense scrub, hedgerows, fencing and a single building are also present.

The PEA assesses the site as being of low ecological value. No evidence of badgers or roosting bats was found, although there may be potential for the linear vegetative features to serve as routes for foraging and commuting bats. It is stated that the site has suitable habitat for reptiles and also great crested newts, with three suitable breeding ponds located within 500m of the application site. The site, in particular the hedgerows, dense scrub, scattered trees and the building within the application site, will be suitable for supporting a range of breeding birds. In particular, there were

some species of high conservation concern present in the survey, including house sparrow (*Passer domesticus*) and dunnock (*Prunella modularis*).

*Further survey requirement, species mitigation and site enhancement*

To mitigate against the potential presence of great crested newts, the PEA states that a full great crested newt presence/absence survey should be undertaken at appropriate times of the year for all suitable ponds within 500m radius of the site (of which there are three). However, it is noted that the recent demolition of the poultry houses on the site has caused considerable disturbance on the site. Considering that the suitable times for carrying out the survey (mid-March to mid-June) have passed, the County Council would refer back to the applicant's ecologist as to the necessity of such a survey given the recent disturbance at the site.

The PEA also recommends that reptile surveys are carried out at the site, due to the presence of suitable habitat, with seven visits to be completed in the survey period of March and September.

These surveys should be required prior to the determination of the application, to comply with paragraphs 98 and 99 of Government Circular 06/2005.

Conditions should be applied to any grant of permission as follows:

- A standard condition should be used to control vegetation clearance during the bird nesting season, which runs from March to August inclusive
- A condition should require that the precautionary working methods in relation to badgers, as outlined in section 7.3 of the survey report, are adhered to
- It is assumed that the existing site boundary hedgerows to the west and north will be retained (confirmation of this would be welcomed). A condition should be used to require that the existing boundary hedgerows are protected during development, with gaps replaced with native trees and shrubs.
- A condition should require the submission of a detailed landscaping scheme, to provide species mixes, establishment methods and maintenance regimes. This should specify the establishment of a new native species hedgerow around the southern and eastern site boundary, planted with native trees. Species should be selected with reference to the species lists contained within the Nottinghamshire Landscape Character Assessment.
- As well as suitable landscaping, it is requested that a condition is used to require that bat and bird boxes are incorporated into the fabric of a proportion of the new buildings, the latter targeting house sparrow and starling.

## Landscape

Full comments on landscape and visual impact can be found in Appendix C (which is as follows)

"The proposed site is located to the southern edge of the town of Ollerton, in central Nottinghamshire; which consists of the settlements of Ollerton Village, New Ollerton and Boughton. The proposed site is located to the south of Wellow Road, which links Ollerton to the nearby village of Wellow, and is accessed off Cinder Lane. A larger site area is under the ownership of the applicant and has been promoted in the SHLAA plan (site reference 08-0103). The wider site was formerly used for poultry farming but the poultry houses have now been demolished. A single building – Bookers Stile (now semi derelict) is located within the wider site area.

There are a number of new residential developments to the north of A616 Wellow Road, including a static caravan park, and beyond this is the former Ollerton Colliery Spoil Tip. To the north west and north lie the older residential areas of Ollerton. There are arable fields to the west, south west and east. The site is at a level of approximately 55m AOD and falls gently to the west and rises gently to the east towards the village of Wellow

The proposed development sits within the larger site area and is approximately 0.95 ha in extent, the majority of this site is semi improved grassland. A combination of hedgerow, and timber and metal fencing form the western and northern boundaries of the site. The southern and eastern boundaries have no defining features.

### **Proposed Development**

It is proposed to erect 25 residential dwellings with associated access off Cinder Lane. The application includes as reserved matters - drainage infrastructure, landscape, open space, car parking and ancillary works.

The proposals for the site are shown on the following drawing - Proposed Master Plan – JDA – 15/1339/001 - December 15. This shows houses arranged along a spine road which extends to form 2 private access areas surrounded by housing. The houses are a variety of types, including detached and semi-detached properties, which are either double or single storey.

The Master Plan indicates that additional trees will be planted to supplement the existing boundary hedgerow vegetation, and the proposed landscape treatment to the site is described as high quality in the Design and Access Statement. However this statement has no value without details of the landscape proposals being provided, and further information is required from the applicant.

Although the SHLAA allocates the whole area for development, it is not clear how future development will link with the spine road in the proposed development, as the development site will be separated from the wider area by the proposed hedgerow and tree planting. The application does not include a full Flood Risk Assessment document but additional information is included in section 4.8 – 4.15 of the Design and Access Statement. This indicates that Sustainable Urban Drainage features such as attenuation basins may be incorporated into the scheme but no further details are provided, further information should be provided on this matter by the applicant.

### **Impact of the proposals on the existing physical landscape**

It appears from the aerial photographs that no mature vegetation will need to be removed in order to develop the proposed site, the physical landscape impact of the development is therefore assessed as **negligible**. However an arboricultural survey to BS 5837:2012 should be presented with the full application which includes details of how the boundary vegetation to the site, including trees and hedgerows will be protected including the root zone.

### **Impact of the proposals on the existing landscape character**

The Design and Access Statement describes the landscape character of the area with reference to Natural England Character Area 49 – Sherwood, and lists the key characteristics of this area.

The document should also make reference to the Newark and Sherwood Landscape Character Assessment (2013) which has been adopted as a Supplementary Planning Document to the Core Strategy. The site is located in Policy Zone Sherwood 27, full details of the Policy Zone are attached.

The area is defined as having a 'moderate' landscape condition and a 'moderate' landscape sensitivity, the overall landscape action for the policy zone is 'Conserve and create'.

Recommended actions include the following:-

#### **Landscape Features**

- Conserve the ecological diversity and character of woodland habitats
- Conserve existing hedgerows and seek opportunities to restore the historic field pattern with new hedgerow planting
- Seek opportunities to restore hedgerows with some hedgerow trees where appropriate to field boundaries
- Seek opportunities to restore arable land to mixed woodland, permanent pasture, and heathland

#### **Built Features**

- New development should be contained within historic field boundaries
- Conserve the historic character and setting of Walesby – new development should respect the scale, design and materials used traditionally in the Policy Zone and be contained near to the existing settlements of Walesby and Ollerton.
- Sensitive design and siting of new agricultural buildings.

The landscape proposals for the site will help to achieve the action to improve the existing hedgerows, and add additional tree and shrub planting. A landscape proposals drawing should be provided which details the landscape treatment, including a planting schedule and specification. This should make reference to the species list for the Sherwood Landscape Character area, but should avoid the use of Ash at the present time due to the prevalence of *Hymenoscyphus fraxineus* (see attached) A maintenance specification and programme of works for any soft landscape works proposed should also be provided. The section 106 agreement for the site also needs to make provision for the costs of the maintenance treatment to the proposed site.

The Planning Statement (JDA – February 2016 – Document reference 03/1339/PS revision A) paragraph 5.30, mentions that a landscape buffer and additional planting are to be included in the scheme, this landscape buffer is not shown on the Master Plan and this needs to be added to the landscape proposals drawing.

The proposal will involve the loss of 0.95 hectares of open green space which will stretch out from and form an extension to the existing village envelope. This will have a **slight adverse** impact on the landscape character of PZ 27.

#### **Visual Impact of the proposed development**

The main visual receptors are residents on either side of Cinder Lane to the north, on Griceson Close to the North West, and Maltkiln Close to the north east, who currently have views of open agricultural areas. The Design and Access statement does not include any assessment of the visual impact of the proposals on these residential areas. Visual impact is likely to range from **slight to moderate adverse** dependant on the properties orientation and distance from the proposed site.

It is essential that surrounding hedgerows are maintained and managed in order to provide additional screening of the proposed development.

There are also likely to be visual impacts on surrounding Public Rights of Way in particular Ollerton and Boughton Footpath 2, which passes along Cinder Lane and then branches to the west away from the site entrance, visual impacts at the entrance to the estate are likely to be **substantial adverse** from this path. Ollerton and Boughton Footpath 3 passes further to the east of the site and impacts are likely to be **moderate adverse** at the commencement of the path. Ollerton and Boughton Footpath 6 passes to the north of the site along the edge of the former colliery tip and views from here are likely to be partially screened by the recently developed static caravan park. The former Ollerton Colliery Spoil Tip is now a recreational area and has informal footpaths to its highest point, however the south western face is steeply sloping and densely wooded therefore the proposed site is not likely to be visible as an extension to the built edge of Ollerton, over the top of this vegetation.

### **Summary**

We recommend that the following issues are addressed before full approval is granted:-

- A detailed Landscape Proposals plan should be provided, including a planting schedule and specification which details species, size at planting, spacing and including details of planting to and the management of the existing hedgerow boundary of the site. Details should also be provided of establishment maintenance operations and the long term management of the planting,
- Native species should be used for supplementary boundary hedgerow and tree planting - attached is the recommended species list for the Sherwood Landscape Character area
- Further details about SUDs features such as balancing ponds, and associated biodiversity features to be shown on a landscape proposals plan (if applicable).
- Details of maintenance funding for hard and soft landscape treatment and any SUDS features (if applicable) to be included in a section 106 agreement.
- An Arboricultural Impact Statement should be provided to illustrate that there will be no detrimental impacts on the existing boundary hedgerow and trees
- Additional analysis of the visual Impacts on the residential receptors discussed above should be provided by the applicant, and details of how these effects will be mitigated should be shown on landscape proposals drawing. This drawing should also show how the existing footpath Boughton and Ollerton 2 will be integrated into the entrance to the site.

**Subject to the above issues being addressed, the Environmental Management and Design Team support the application in respect of landscape and visual impact issues”**

### *Summary*

The County Council recommend that the following issues are addressed before full approval is granted for the proposed development:

- A detailed Landscape Proposal plan should be provided, including a planting schedule and specification which details species, size at planting, spacing and to include details of planting to and the management of the existing hedgerow boundary of the site. Details should also be provided of establishment maintenance operations and the long term management of the planting
- Native species should be used for supplementary boundary hedgerow and tree planting – see Appendix E for the recommended species list for the Sherwood Landscape Character area
- Further details about SuDS features such as balancing ponds, and associated biodiversity features to be shown on a landscape proposals plan (if applicable)



- Details of maintenance funding for hard and soft landscape treatment and any SuDS features (if applicable) to be included in a section 106 agreement
- An Arboricultural Impact Statement should be provided to illustrate that there will be no detrimental impacts on the existing boundary hedgerow and trees
- Additional analysis of the visual impacts on the residential receptors discussed should be provided by the applicant, and details of how these effects will be mitigated should be shown on landscape proposals drawing. This drawing should also show how the existing footpath Boughton and Ollerton 2 will be integrated into the entrance to the site.

Subject to the above issues being addressed, the Environmental Management and Design Team at the County Council support the applicant in respect of landscape and visual impact issues.

#### Developer Contributions

Should the application proceed, the County Council will seek developer contributions in relation to its responsibilities in line with the Council's adopted Planning Obligations Strategy and the Developer Contributions Team will work with the applicant and the Local Planning Authority to ensure all requirements are met. Please contact Andrew Norton, Developer Contributions Practitioner in the first instance ([andrew.norton@nottscc.gov.uk](mailto:andrew.norton@nottscc.gov.uk) or 0115 9939309) with any queries regarding developer contributions.

#### *Education*

A development of 25 dwellings would yield an additional 5 primary places. The County Council would therefore wish to seek an education contribution of £57,275 (5 x £11,455) to provide primary provision to accommodate the additional pupils projected to arise from the proposed development. In terms of secondary education, the proposed housing development is in the catchment of The Dukeries Academy, for which any contributions would be covered by CIL. Further information about the contributions sought and the justification for this has been forwarded directly to the District Council.

#### *Libraries*

The County Council only requests contributions for libraries on schemes for 50 dwellings or more. As this application is below this threshold, the County Council will not be seeking a contribution for library provision.

#### **Conclusion**

The County Council raises no strategic planning objections to the proposals, however it is requested that further work is completed with regards to land contamination and ecology prior to the determination of the application. Notwithstanding this additional work, information has been provided in relation to rights of way affected by the development and improvements to bus services that the County Council would wish to see delivered. A number of conditions have been requested.

It should be noted that all comments contained above could be subject to change, as a result of ongoing negotiations between the County Council, the Local Planning Authority and the applicants. These comments are based on the information supplied and are without prejudice to

any comments the County Council may make on any future planning applications submitted for this site.”

**NCC Archaeologist** - ‘The application is accompanied by an archaeological desk based assessment which has done a fair job of summarising the archaeological implications of the development, and notes that the site is surrounded by archaeological remains which are visible as cropmarks. The assessment also point out that there has been some levelling on the site associated with the erection of the now demolished chicken housing. The impact of this groundwork on buried archaeological remains is not clear, and there has to be a likelihood that such remains will survive in at least part of the site. I therefore recommend that if planning is granted, this should be conditional upon a programme of archaeological mitigation being undertaken. The works required could either take a phased approach of archaeological evaluation followed by whatever further mitigation the evaluation demonstrates is appropriate, or a programme of strip, map and record, where topsoil from the site is stripped under archaeological supervision and the archaeological remains which are uncovered are cleaned, planned and sample excavated. A condition such as the following may be appropriate:

"No development shall take place within the application site until a written scheme for archaeological mitigation has been submitted to and approved in writing by the CPA." "Thereafter, the scheme shall be implemented in full accordance with the approved details."

I hope this is helpful, please do not hesitate to contact me should you require further comment or information.’

**NCC Lead Flood Risk Authority** – Initially commented: “Thank you for inviting the Lead Local Flood Authority (LLFA) to comment on the above application. Having examined the proposals it would appear that although required to do so the applicant appears to have failed to submit a Flood Risk Assessment. Unfortunately the LLFA is unable to consider and comment on the applicant’s proposals until it is able to view this document. Should the applicant subsequently submit the Flood Risk Assessment to you and you request a further consultation with the LLFA we will be pleased to consider and comment on it.”

Clarification was sought given that the site is under 1ha, as to whether drainage can be conditioned. The following comments were received:

“Further to your comments and in specific relation to the site being <1ha in size I confirm that we do not require a formal Flood Risk Assessment as part of the outline planning application.

A further assessment shows that we have no objection to the proposals subject to a condition being included that references the following requirements, all of which can be included in a surface water design and management proposal from the developer.

1.1 - Drainage from the site should be via a sustainable drainage system. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests.

1.2 - For greenfield areas, the maximum discharge should be the greenfield run-off rate (Qbar) from the area. For brownfield areas that previously drained to sewers, the previous discharge rate

should be reduced by 30% to allow for future climate change effects. Note that it is not acceptable to simply equate impermeable areas with discharge as it is the maximum discharge that could have been achieved by the site through the existing pipe system without flooding that is the benchmark to be used prior to a 30% reduction. An existing drainage survey with impermeable areas marked and calculations to determine the existing flow will be required as part of any justification argument for a discharge into the sewers from the site.

1.3 - The site drainage system should cater for all rainfall events upto a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.

1.4 - Consideration must be given to exceedance flows and flow paths to ensure properties are not put at risk of flooding.

1.5 - Any proposals to use SUDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.”

31/03/17 - No further comments to add.

**Nottinghamshire Wildlife Trust** – 4/07/2017 – ‘Thank you for re-consulting Nottinghamshire Wildlife Trust on the above application.

The revised PEA (Brindle and Green, May 2017) now includes information regarding the possible Sherwood pSPA. The report confirms that on site habitats are not considered suitable for either nightjar or woodlark and therefore direct impacts are not anticipated. There is no mention of potential indirect impacts, for example increased recreational pressure on nearby sites such as Ollerton Pit Wood (Ollerton Colliery LWS). There is no public open space included within the Proposed Masterplan which could help to mitigate this impact.

Regarding reptile and GCN, we welcome that the draft heads of terms (S106 agreement) makes reference to completing the necessary surveys. However, we would prefer to see these surveys completed before the application is determined, in accordance with Circular 06/2005 as previously explained. Regardless of when the surveys are undertaken, we recommend that the LPA seeks confirmation from the applicant that all of the necessary mitigation measures (for example the 3m buffer) could be accommodated within the design of the proposed development.’

**Initial comments (02/08/2016)** - “Thank you for consulting Nottinghamshire Wildlife Trust on the above application. We welcome the provision of the Preliminary Ecological Appraisal report (Brindle and Green, February 2016) as this allows consideration of protected and priority species and habitats.

The report concludes that further survey is required with respect to protected species - **great crested newt** and **reptiles** in order to establish presence/likely absence. As protected species are a material consideration, and in line with government guidance, we recommend that the LPA requests that these surveys are undertaken **before this application is determined**.

Paragraph 99 of Government Circular 1/2005 (also known as ODPM Circular 06/2005) (which accompanied PPS9, but remains in force), states that:

- It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established **before the planning permission is granted**, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.
- Additional recommendations given in Section 7 regarding **breeding birds, bats and badgers** are supported and could be secured through use of planning **conditions**.
- **Possible Sherwood potential Special Protection Area (SPA)** This site lies within the 5km buffer zone identified in Natural England's Indicative core area & RSPB's IBA boundary and within 500m of an IBA for those parts of Sherwood Forest which meet the primary criterion for designation as an SPA, by virtue of the population of nightjar and woodlark exceeding 1% of the national total. Notwithstanding the issue of whether Newark and Sherwood District Council considers that the area qualifies as an SPA or not, it is essential that the Council must pay due attention to potential adverse effects on birds protected under Annex 1 of the Birds Directive and undertake a 'risk-based' assessment of any development, as advised by NE in their guidance note dated March 2014. In this case, we recommend attention is given to the potential impact of:
  - disturbance to breeding birds from people, their pets and traffic
  - bird mortality arising from domestic pets and/or predatory mammals and birds"

**Natural England** – (23/03/17) Offer no comments but refer to Standing Advice.

"The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England."

30/06/17 – reiterate these comments.

**Ramblers** – 'The application comments on the proximity of local rights of way to Cinder Lane and they are shown on one of the maps. As long as Ollerton and Boughton Footpaths 2 & 3 remain open we have no objection to the development.'

**Severn Trent Water** – **30/03/17** - No objection subject to condition to control surface water and foul sewage disposal.

Condition:

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

Suggested Informative

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. Should you require any further information please contact us on the telephone number or email below.

**NSDC Strategic Housing** – Provide detailed comments on affordable housing. They summarize with the following:

- The total number of affordable housing units on the proposed site is 7 out of a total of 25 dwellings. I note the applicant is offering to provide 4 affordable dwellings. As far as I can see there is no evidence to support the shortfall in affordable housing provision provided.
- The Proposed tenure is 60% rent (Social or affordable) and 40% Intermediate (shared ownership) and the Council supports the provision of accommodation to meet the needs of older people in this vicinity.
- There is demand for bungalows for existing households in the Sherwood Area (408 units).

Type	Social/Aff Rent	Intermediate Housing (S/O)	Total
2 Bed	4	-	4
3 Bed		1	1
2/3 Bed Bungalow		2	2
	4	3	7

**NCC (Developer Contributions)** – “In respect of education, a proposed development of 25 dwellings would yield an additional 5 primary places. The County Council would therefore wish to seek an education contribution of £57,275 (5 x £11,455) to provide primary provision to accommodate the additional pupils projected to arise from the proposed development. In terms of secondary education, the proposed housing development is in the catchment of The Dukeries Academy, for which any contributions would be covered by CIL. Further information about the contribution sought and the justification for this can be found in the attached document.

In terms of libraries I can confirm that contributions are only requested on schemes for 50 dwellings or more. As this application is below this threshold the County Council would not be seeking a contribution for libraries provision.”

**NSDC Policy – December 2017 update on 5 Year Land Supply Position** - The Authority published its 2017 Housing Land Supply Position in July 2017. The proposed housing requirement of 454 dpa as set out in the SHMA, was included in the Preferred Approach - Strategy consultation that was conducted in July 2016 and reflected in the Sites and Settlements Paper consulted on in January 2017. It is included in the Publication version of the Plan Review Core Strategy that has now been Submitted to the Secretary of State for Independent Examination. A large amount of work has been undertaken, including consideration of a range of other issues (such as sustainability, landscape and ecology) in producing the Amended Core Strategy. Following this, and due to the progress that has been made through the Plan making process across the Nottingham Outer Housing Market Area, the Council is now confident that this is the most appropriate figure against which to assess housing land supply.

When using the annual housing requirement of 454 dwellings per annum, including a 20% buffer and meeting the shortfall (which occurred between 2013/14 and 2015/16) within the next five years, the Council can demonstrate a 6.2 year supply of housing land.

**NSDC Policy – 22<sup>nd</sup> March 2017** in response to the additional highways and ecology information (but before the applicant made their position clear in relation to developer contributions).

“The inability to demonstrate a safe standard of access at the full level of development contributed to my earlier view that the balance ought to weigh against the scheme. Whilst I would defer to the Highways Authority for consideration of this particular matter it is important that we are content that safe access can be achieved.

My comments also referred to the lack of clarity provided over the approach to affordable housing and the need for justification of any shortfall in provision. As advised the applicant may wish to present a viability case or highlight site specific issues in support of reduced affordable housing provision, I am however unaware of any additional information having been provided. In any case I would find it very difficult to see how a viability case could be made, given that the application site falls outside of the settlement boundary and so would, ordinarily, have limited development potential, and the uplift in land value which would occur from planning permission being granted.

Should the outstanding ecology and highways matters be satisfactorily resolved without the shortfall in affordable housing provision being robustly justified then my view remains that the balance ought to weigh against the scheme. In light of the pragmatic approach the Authority has adopted to boost housing supply over the short-term I recognise that there would, to varying extents, be some environmental, social and economic benefits to the proposal. However in my opinion these benefits would be outweighed by the failure to promote a mixed and balanced community. Notwithstanding this should you be minded to support the proposal then I would recommend the use of a short-term consent, this is critical if the proposal is to have the capacity to boost housing delivery over the short term. My previous comments on the use of Conditions to control the housing mix and affordable housing contribution would remain relevant in this event.”

#### **“Planning Policy Context**

##### ***National Planning Policy***

Confirms that the Framework has not changed the statutory status of the development plan as the starting point for decision making. Proposed development which accords with an up-to-date Local Plan should be approved and proposed development which conflicts should be refused, unless other material considerations indicate otherwise.

National policy also requires Authorities to maintain a supply of specific deliverable sites to deliver a five year housing land supply.

The Framework seeks the active management of patterns of growth to make the fullest possible use of public transport, walking and cycling, and the focussing of significant development in locations which are, or can be made sustainable. This is supplemented by the emphasis on an integrated approach to considering the location of housing, economic uses and community facilities and services which the Framework holds as central to the promotion of healthy communities. Accordingly it is set out that local planning authorities should avoid new isolated homes in the countryside with rural housing being provided where it would enhance or maintain the vitality of rural communities unless special circumstances are demonstrated.

### ***Development Plan***

#### *Core Strategy DPD*

- Spatial Policy 1 'Settlement Hierarchy'
- Spatial Policy 2 'Spatial Distribution of Growth'
- Spatial Policy 3 'Rural Areas'
- 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'
- ShAP1 'Sherwood Area and Sherwood Forest Regional Park'
- ShAP2 'Role of Ollerton & Boughton'

#### *Allocations & Development Management DPD*

- Policy DM3 'Developer Contributions and Planning Obligations'
- Policy DM5 'Design'
- Policy DM7 'Biodiversity and Green Infrastructure'
- Policy DM8 'Development in the Open Countryside'
- Policy DM12 'Presumption in Favour of Sustainable Development'

### ***Housing Land Supply Position***

These comments have had regard to the 'Five Year Housing Land Supply – Current Position' statement (April 2016). National policy requires Local Plans to meet the full, objectively assessed, needs for market and affordable housing in the housing market area. To this end the Authority has, with its partners in the Nottingham Outer Housing Market Area, commissioned a Strategic Housing Market Assessment. The Study has identified a lower 'objectively assessed need' (OAN) than the level of development the Development Plan currently seeks to meet, with the completion of 454 dwellings per annum (p/a) required between 2013 and 2033. The SHMA has been produced in line with Government guidance and been subject to stakeholder consultation. Importantly the assessment provides us with a clear indication of the level of housing need in the District.

In terms of the ability to demonstrate a five year housing land supply the Authority is confident that it is able to do so, when set against the OAN requirement of 454 dwellings p/a. It is however recognised that the SHMA and the OAN figure are yet to be tested through the Local Plan process.

As you will be aware the Inspector for the Southwell Road, Farnsfield appeal disagreed with an annual requirement of 454 dwellings, concluding that on balance, and that with regard to the evidence available to her a reasonable assessment of the full OAN would be in the order of 550 dwellings p/a. Whilst the Authority does not agree with the Inspectors reasoning on this matter it is still, nonetheless, a material consideration which will need to be weighed in the balance.

The Council has therefore produced five year land supply positions for three different annual requirements:

454 dwellings p/a (the SHMAA OAN): 5.62 years

500 dwellings p/a (OAN plus 10%): 4.91 years

550 dwellings p/a (the Farnsfield appeal figure): 4.31 years

In light of the above and until such time as the OAN figure provided by the SHMA has been tested and found sound through the Local Plan process the Authority has adopted a proactive approach to boost housing supply over the short term. Consequently the development of sustainable sites which fall immediately adjacent to urban boundaries and village envelopes, that are able to meet relevant Development Plan requirements in all other respects and which have the capacity to positively contribute to a short-term boosting of housing supply will be considered.

Having adopted this position it is particularly important, given the expectations of the communities involved, that any development outside of established main built up areas should provide for the appropriate level of affordable housing, open space and other social contributions required to meet the needs of the development. Given the locations of these sites it is also crucial that care is taken to respect landscape setting through design, layout and landscaping which manages the transition from the countryside.

## **Assessment**

In my view the main strategic issue is whether the site, and proposal, can be considered sustainable. Beyond this you will still need to be satisfied that the proposal is able to address any other remaining issues. To assist your consideration I would suggest that your assessment should be focussed around those factors which contribute towards the 'golden thread' of sustainable development. With the aim being to conclude whether the proposed development strikes an appropriate balance between its economic, social and environmental dimensions. Through my comments I hope to assist you in doing so.

### *Principle of Development*

The proposal is located outside of the Urban Boundary for Ollerton & Boughton and so for planning purposes is located within the open countryside, where the presumption would be against this form of development (as detailed in Policy DM8). However, as outlined above, the Authority has adopted a position whereby consideration will be given to sustainable sites, located immediately adjacent to Ollerton & Boughton's Urban Boundary. At up to 25 dwellings the proposed development would be appropriate to the size and location of the Service Centre and its status within the settlement hierarchy.



### *Design and Layout*

Given that design and layout will be matters reserved for subsequent determination you will need to be satisfied, in line with Core Policy 9 'Sustainable Design' and Policy DM5 'Design', that a good standard of design and layout can be subsequently achieved within the parameters provided by outline consent. I would underline that it is crucial, on sites such as this, that care is taken to respect landscape setting and that the transition from the countryside is appropriately managed in accordance with Core Policy 13 'Landscape Character'.

### *Housing Mix, Type, Density*

I note that the indicative layout indicates that the site could provide for a mix accommodating 2, 3 and 4 bedroom units. However the precise level, mix, type and density of development are all matters which will be reserved for later determination. It is crucial therefore that any subsequent scheme is able to provide for a mix of dwelling types which reflects the nature of local housing need. Contributing towards the creation of mixed and balanced communities should be seen as a key objective of sustainable development.

Given the circumstances which have led to the Authority to adopt a pragmatic approach over site location to boost housing supply, and the importance of housing mix and type to sustainability, I am of the view that should you be minded to support the proposal then this matter ought to be controlled by Condition. Such a Condition would require that any subsequent Reserved Matters application covering the site in whole, or part, contains a housing mix and type which reflects the housing needs of the area at the time of submission.

I note that the Design and Access Statement indicates that at the maximum 25 dwellings the proposal would have a density of 25 dph. This is below the level which Core Policy 3 requires (30dph) and as far as I can see the applicant has not provided any justification in support of this approach. Significantly any lesser level of development would also result in a density lower than 25 dph. Having said this the applicant may be able to present a case in support of 25dph, on the basis that it would likely support a layout appropriate for the edge of settlement location, and also allow for landscaping to manage the transition from open countryside.

### *Affordable Housing Provision*

At its maximum the proposal exceeds the revised affordable housing thresholds (11 units or more, or where the combined gross floorspace exceeds 1000 sqm). The Planning Statement suggests that the 30% requirement carried through Core Policy 1 would be met, with a 66% social rented and 34% intermediate housing split. However the planning application indicates only 4 x 2 bed social rented units in total. I have not been able to view the Draft Heads of Terms, which it is suggested have been submitted alongside the application. On this basis the approach to affordable housing provision appears somewhat unclear.

I would emphasise therefore that affordable housing provision makes a valuable contribution towards the creation of mixed and balanced communities, and is integral to a more sustainable form of development. Without robust justification I would therefore question the sustainability of any scheme where there is a deficit in affordable housing provision. Of course the applicant may wish to present a viability case or highlight site specific issues in support of reduced affordable housing provision. However I would find it very difficult to see how a viability case could be made,

given that the application site falls outside of the settlement boundary and so would, ordinarily, have limited development potential, and the uplift in land value which would occur from planning permission being granted.

Nonetheless should you be minded to support the proposal and consider that the information in the Draft Heads of Terms is insufficient with regards to; numbers, type, tenure and location of the affordable units, the timing of construction (particularly in relation to the overall development) and the arrangements to ensure initial and subsequent affordability - then I would suggest the use of a Condition, in line with the guidance provided at Para 3.35 of the Affordable Housing Supplementary Planning Document.

### *Transport and Highways*

In line with Spatial Policy 7, the ability to support more sustainable transport choices (public transport etc.), there being an acceptable level of impact on the highway network and providing for a safe standard of access all contribute towards site sustainability. I have no doubt that the site is likely acceptable, or could subsequently be made so, in terms of the first two points. However whilst accepting the principal of development the Highways Authority consider 25 dwellings to be too high and as adding significantly to the risk of an accident. Consequently I note that the Authority have objected on this basis.

### *Biodiversity*

Both Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets, and I note that the application is supported by a Preliminary Ecological Appraisal. In light of its findings the Wildlife Trust has made various comments, which suggest the need for more detailed assessment prior to determination of the proposal. In terms of considering impacts on the breeding population of nightjar and woodlark in the Sherwood Forest area, the Trust have identified the need for an assessment of the impact from disturbance to breeding birds by people, pets and traffic, along with the effect of predation by domestic pets and/or predatory mammals and birds. These comments should be considered in the light of the recommendations from Natural England over adopting of a precautionary approach prior to the resolution of the Special Protection Area issue.

Core Policy 12 and Policy DM7 both seek provision of Suitable Alternative Natural Green Space (SANGS) within 5km of the Birklands & Bilhaugh Special Area of Conservation, in order to reduce visitor pressure on the designation. The site falls within this radius and the Planning Statement indicates that the Section 106 agreement would be the vehicle through which this matter will be resolved, presumably via off-site provision. Policy DM7 is clear in advising that the quantity and quality of SANGS shall be developed and agreed in conjunction with the District Council and Natural England. I am unaware of any such discussions and Natural England has not commented on the proposal. Therefore you will need to be satisfied that off-site provision (if this is to be the route) is firstly acceptable and secondly what level of provision would be required.

### *Developer Contributions*

Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. This infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where

appropriate funding assistance from the District Council. It is critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure and so I would direct you to this document in the first instance.

## **Conclusion**

The application site is located in an edge of settlement location with access to public transport and employment, retail, educational, leisure and community facilities. On the basis that you are satisfied that a suitable design and layout could be achieved at the Reserved Matters stage then the proposal would be capable of addressing some of its environmental impacts. Question marks remain with respect to ecology, though these may be able to be addressed through additional work and discussion. Turning now to the economic strand of sustainable the development, the scheme would given its scale result in a modest level of economic benefit from development taking place. In addition it is acknowledged that the proposed development would contribute towards the boosting of housing supply, which would support the social element of sustainable development - albeit marginally given the numbers proposed. It should however be noted that the creation of mixed and balanced communities is a key element of sustainable development, and that the proposal is in this sense lacking as a result of a shortfall in affordable housing provision.

Taking account of the above it will fall to you to come to a view over whether the planning balance weighs in favour or against the proposal. However my own view is that the balance ought to weigh against the scheme as currently proposed. Whilst there would, to varying extents, be some environmental, social and economic benefits these would nonetheless be outweighed by the failure to promote a mixed and balanced community and critically the inability to provide for a safe standard of access at the full level of development proposed. Nonetheless should you be minded to support the proposal then I would recommend the use of a short-term consent, this is critical if the proposal is to have the capacity to boost housing delivery over the short term.

**NSDC Environmental Health** – ‘The application site was previously occupied by five poultry sheds which appear to have been of asbestos construction. Recent aerial photography shows these to be in a poor state of repair, the planning statement reports that they have now been removed. There is clearly the potential for the site to have become contaminated from the former poultry farm use and from asbestos within the poultry shed construction materials. As no phase 1 desktop study has been submitted with the planning application, I would recommend the use of our full phased contamination condition.’

**22 March 2017** - No additional comments to make.

**NSDC Parks and Amenity Manager** – “We wouldn’t normally expect to include on-site children’s playing space for a development of 25 houses. The nearest existing children’s play facilities that I’m aware of are c800m away (as the crow flies) on the central park facility. There will of course be a play area on the Ben Bailey Homes development off Wellow Rd - which is only 200m away. O&B Town Council will be adopting this facility so I guess the off-site money could be used to help improve/maintain it.”

**NSDC Community Projects** – “I have not been able to speak to the Town Clerk but I am aware that there is a project to deliver new changing facilities/clubhouse for Ollerton Town FC primarily but the building can and will be used by the wider sporting community that will utilise the planned

improvements to the Walesby Lane Sports Ground, therefore I would propose that this site and scheme be a strong contender for the S106 contribution as being proposed. The Walesby Lane site is seen as the strategic site in the locality and will hopefully link up with the Petersmith Drive development if approved to deliver a sustainable sports hub site for the wider community.”

**In relation to the scheme as originally submitted 14 representations have been received from local residents** all objecting and/or raising concerns which can be summarised as follows:

- Adverse impact on road safety:
  - Due to limited visibility at the junction of Cinder Lane/Wellow Road;
  - Volume of traffic using Wellow Road especially in the morning and evening;
  - Due to additional new homes still to be occupied north of Wellow Road, traffic diverted from the A1 when there are road works or incidents and due to speeding;
  - Road not big enough to take traffic safely, due to lane already being overcrowded with parked cars which would be made worse by the development;
  - Footways along Cinder Lane are no 2m wide for the full length so cannot cope with pedestrians;
- Outside of Settlement Boundary – site was judged to not be appropriate for housing in the recent Allocations Document;
- Contamination –former chicken sheds included asbestos;
- Disproportionate size of development not in keeping with the area, smaller number might be more appropriate;
- This could set a precedent for remainder of the former poultry unit being developed for housing;
- Query whether an ecology survey should have taken place before demolition of the sheds;
- Is infrastructure capable of taking on extra loadings?
- Detrimental impact on surrounding countryside;
- Demolition has already destroyed a colony of bats;

**A further 4 comments have been received following the amendments (March 2017) to the visibility splay/additional information** which are summarised as follows:

- The amendments do not improve visibility for traffic turning left into Cinder Lane from Wellow, it will still be a "leap of faith";
- Insufficient environmental study has been completed;
- Contamination has not been addressed;
- Worried that the developers can't distinguish between a telephone pole and a bush, as the bush indicated on the plan is a telephone pole covered with ivy, there shouldn't be this sort of oversight on initial planning;
- Previous objections were about the size of development and safety issues due to a 100% increase in car traffic onto the lane.
- The reported average traffic speed of 30.75 mph. For this to be so, a significant amount of traffic must be travelling in excess of 32 mph. Considering that when drivers see speed checks in progress they tend to slow down, the true average speed is probably significantly higher.
- Regularly witness vehicles travelling in excess of 40 mph especially early morning and evening. This even worse when the A1 is on divert and drivers (including a significant

number of HGVs) are speeding to minimise time lost due to the diversion with estimated speeds in excess of 50 mph.

- Applicant has purchased the triangular piece of land at the side of No1 Bottom Row on the Wellow Road to widen the access into Cinder Lane - To do this would mean closing the carriageway on this side of the road which result In tailbacks into Newark. Please remember Wellow Road is the A616 and official detour route for both North and South bound traffic off the A1.
- The residents of Cinder Lane each own the land to the middle of the road because they paid for it out their own money to be tarmaced and pavement installed around 1974.
- Any large delivery vehicle or refuse bin lorries have to reverse into the street off Wellow Road because they are unable to turn round in the cul de sac due to the number of cars parked there.
- The land in question has covenant on it that dates from 1787 and it can only used for agricultural purposes.
- Site is used by skylarks and badger setts

**In response to the consultation undertaken 26/06/17** (relating to the revised site location plan to include the splays, the revised draft heads of terms and the additional ecological information) the following comments have been made:

- Alterations to the junction won't make any difference to visibility and turning left off Wellow road onto Cinder Lane will not be improved due to presence of covered telegraph pole.
- Another important reason why it was turned down is that the Great Crested Newt resides on the land which can't be disturbed by law.
- Tax payers money should not be spent on this project and it should be I permanently turned down.

**In addition, Ollerton Village Residents Association** strongly object to the proposal on the grounds of:

- Contamination concerns
- Road safety (poor visibility to the east and number of parked cars along Cinder Lane)
- Location outside of settlement boundary
- Lack of public transport nearby

Comments were reiterated on **4 May 2017** with the objecting remaining; it goes on to say that:

The drawing included in the ADC letter indicates a telegraph pole in the north eastern corner of the garden to be just behind the visibility splay. This telegraph pole is covered throughout its height with vegetation which projects forward of the splay line. we note that the ADC letter fails to mention this. Unless the vegetation is removed there will not be any improvement in visibility. The letter does not make any reference to removing and preventing re-growth of this vegetation. Even if the growth was permanently removed, it is our opinion that the telegraph pole itself will obstruct visibility.

They go on to request conditions are imposed if approved to include;

- 1) Approved visibility splay prior to any on-site activity, and;
- 2) Developer to retain responsibility for maintaining visibility splay for at least 25 years.

## Comments of the Business Manager

### Preliminary Matters and Background Information

It is noted that within the Design and Access Statement and subsequent emails the agent states the land is previously developed land. I acknowledge that the site was previously a poultry farm; however the site visually reads as agricultural land that has assimilated back into its former landscape over the passage of time. The definition of previously development land within the **revised** NPPF **continues** excludes land that is or has been occupied by agricultural or forestry buildings. I therefore consider the land is a green field site and have considered the scheme in this context.

According to the Design and Access Statement the scheme is for 'Residential development of 25 dwellings (30% affordable) with associated access, drainage infrastructure, landscaping, open spaces, car parking and all ancillary works.' This is echoed in the Planning Statement (save for the reference to open spaces). On this basis, the description of development has been changed to make this clear.

It will be noted that the Highways Authority initially raised objections to the scheme. Following the initial consultation period Officers were preparing to refuse the scheme under delegated power on the grounds of highway safety, concerns regarding the failure to properly demonstrate impacts on ecology (particularly great crested newts, reptiles, breeding populations of nightjar and woodlark) and that the scheme as promoted originally did not promote any means of securing appropriate provisions of social contributions required to meet the needs of the development. It should be noted that at that time there was ~~greater~~ caution regarding the Council's ability to demonstrate a 5 Year Housing Land Supply against an OAN target to which significant weight could be attached. The application was not, at that time, proposed by officers to be refused as a matter of principle. However, the applicant requested that the scheme was held in abeyance whilst they attempted to deal with the concerns raised.

~~Some Months~~ have since passed and additional information ~~was has been~~ forthcoming (June 2017) which has dealt with the technical reasons for refusal which were previously conveyed to the applicant. I will deal with each of these technical matters in turn below. Firstly, however, one must assess the extent to which the Authority has a 5 year land supply and thus, in accordance with paragraphs ~~47-55~~ **73-76** of the NPPF, which in turn affects the degree to which policies are up to date and the 'tilted' planning balance.

### 5 Year Housing Land Supply

**Members will be well aware that** the Council's position in terms of its 5 year housing land supply has changed during the lifetime of officers discussions on this particular application, which has been in for some considerable time (at the applicants request) and has been known about prior to the formal planning application.

**The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.**

Notwithstanding the current process of Plan Review, at the current time the Adopted Development Plan for the District is the Core Strategy DPD (2011) and the Allocations and Development Management Policies DPD (2013). The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply. This has been rehearsed many times before and as such I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making. This has been confirmed by an Inspector through recent appeal decisions dating from April 2018, including a decision recovered by the Secretary of State in respect of the 2<sup>nd</sup> Farnsfield Public Inquiry which was dismissed.

### ***Lowfield Cottages Appeal***

It is important to note that one of the appeal decisions mentioned above bears some striking similarities to this application now before Members. This was in relation to a site known as Lowfield Cottages, Bowbridge Lane in Balderton. The application was for 35 new houses outside of the defined built up area of the 'Newark Urban Area' which actually formed part of the landscaping/green infrastructure (surplus land that was essentially assimilated back to countryside) for the strategic site known as 'Land South of Newark'. This was a scheme that had been lodged during the period of uncertainty with our 5YHLS with matters of concern having been addressed throughout the life of the application (alike this application). By the time the application was ready to be considered by the Planning Committee, the 5YHLS had become clearer, albeit the officer recommendation was for approval. Members however considered that the 5YHLS was clear and robust and considered that it should carry more weight, refusing the application. The decision was subject to appeal and was dismissed.

In determining the appeal, the Inspector was satisfied that a 5 year housing land supply had been demonstrated and that the titled balance did not apply. Notwithstanding the description of the development the Inspector concluded that the appeal site was green field (I have also concluded this site to be greenfield) and therefore there are no benefits associated with developing a brownfield site.

The Inspector found there to be conflict with the Development Plan due to its location in the countryside and found that no other harm such as design, highways, biodiversity and drainage had been identified '*a lack of harm with regards to these factors is neutral*' (para 13).

In the appeal, the appellant placed significant weight to the Council's assessment of the site being reasonably well placed to the settlement (not dissimilar to the application before Members) however the Inspector concluded that;

*"...However, there are likely to be many sites outside the urban area with a similar relationship to the urban area as the site and thus there is no particular advantage of development in this location. There would be some general economic benefits associated with house building in terms of additional expenditure in the area and, for a short period, construction. However, I have not been provided with any evidence to suggest that defined centres, services or facilities in the area are in need of additional development over and above that already committed or planned in order to address issues of vitality or viability. Paragraph 55 is also specific in its reference to supporting the vitality of rural communities. Newark is defined as a sub-regional centre in the plan and I have seen nothing which suggests the vitality of this community is likely to be dependent on windfall sites outside the settlement boundary."*

In the case before Members, Ollerton is a 'Service Centre' and the same can be said for this settlement.

The Inspector went on to confirm that the facilities within Newark weren't far and that it may promote some sustainable modes of transport, however concluded that as this would only be achieved through development in the open countryside it could only attract modern weight. In the balance, there was nothing to outweigh the harm.

This appeal decision carries significant weight as do the numerous appeal decisions that have confirmed that the Council does indeed have a 5YHLS.

~~This Council, as Local Planning Authority (LPA), has dealt with a number of housing planning applications in recent years. The issue as to whether an LPA has a 5 year housing land supply (HLS) is of significant importance when dealing with planning applications for housing development, particularly in terms of the weighting of Development Plan policies and the need for housing delivery when weighted against other material planning considerations, with the 'tilted balance' potentially coming into play.~~

~~As an LPA we have been challenged in the past on our ability to demonstrate a 5 YHLS, notably in January 2016 (a Public Inquiry appeal decision in Farnsfield) and November 2017 (the Public Inquiry which concluded its sitting days on the 17<sup>th</sup> November 2017 with a decision now awaited from the Secretary of State). Whilst coincidentally within the same settlement within Newark and Sherwood District both appeals, and the evidence heard at them (given the passage of time), demonstrate that things have considerably moved in terms of material planning considerations to which this Authority must have regard in its decision making.~~

~~In order to bring Members up to date (which includes some of the debate within the recent Inquiry) I can comment as follows.~~

~~The adopted Core Strategy (March 2011) details the settlement hierarchy which will help deliver sustainable growth and development within the District. As detailed in Spatial Policy 1 of the Core Strategy the intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services. The policy goes on to confirm the lowest tier of the hierarchy as 'other villages' in the District. In such areas development is considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas).~~

~~It is a matter of fact that the housing requirements set out in the Council's adopted Core Strategy (which set a target for delivery of 740 dwellings per annum) was based on the now abolished Regional Plan. It is also a matter of fact that housing delivery should now be planned, in accordance with both the NPPF and Housing White Paper, using an evidence base of Objectively Assessed Need (OAN).~~

~~It is interesting to note that it is a matter of agreement at both Farnsfield appeals and in every other 5 year land supply professional debate that officers have engaged in for ANY application in this District that the figure of 740 per annum is no longer relevant for decision making and 5 year land supply determination. It remains the OAN.~~

~~The National Planning Policy Framework promotes the principle of a presumption in favour of~~



sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

~~Within the NPPF, Chapter 6 (Delivering a wide choice of high quality homes) paragraph 47 identifies a clear policy objective to, “boost significantly the supply of housing”. Paragraph 17 states further that the planning system should “proactively drive and support sustainable economic development to deliver new homes...that the country needs. Every effort should be made objectively to identify and then meet the housing...needs of an area.” The NPPF indicates that this will be achieved first and foremost, by local planning authorities, “using their evidence base to ensure that their local plan meets the full, objectively assessed needs of market and affordable housing in the housing market area,...including identifying key sites which are critical to the delivery of the housing strategy over the plan period.”~~

~~The need for housing remains an important material planning consideration in the planning decision making of the Council, as LPA, as underlined within the National Planning Policy Framework (NPPF) and most recently the Housing White Paper and November 2017 Budget. The White Paper itself promotes a requirement to boost housing supply. The importance of a plan-led system in assisting with housing delivery is clearly identified, as is the requirement for housing targets to be based on Objectively Assessed Need (OAN) which is applied consistently nationally in terms of methodology. The White Paper clearly (re)endorses a plan-led system both in making clear for communities the quantum of development required and in how they can assist in identifying appropriate sites and densities to ensure delivery. The role that neighbourhood planning plays as part of this is also noted.~~

~~The Council has for many years been committed to ensuring that the plan-led system prevails. The Council was the first in Nottinghamshire to have a set of LDF plan documents adopted in the form of a Core Strategy (March 2011) and Allocations and Development Management Policies DPD (July 2015). The Council were also the first authority in the Country to adopt the Community Infrastructure Levy (December 2011). The Council has had 5 Neighbourhood Plan referendums, meaning that in several locations (not in Ollerton currently) a Neighbourhood Plan forms part of the Development Plan. The Council also has a track record of working proactively with applicants to secure planning permission in the right place and in the right form. This is evident in the numerous planning consents granted on a range of both allocated and non-allocated sites and the fact that national, regional, and local housebuilders are actively building across the District.~~

~~Newark is a sub-regional centre and, at the time of Core Strategy adoption, was a designated Growth Point with an allocation of c70% of the district's overall housing growth, principally in three Sustainable Urban Extensions (SUEs). There remains a commitment in spatial development terms to deliver significant housing numbers via the SUE's. By their very nature, these have taken longer to be brought to market. However, Land South of Newark (Core Strategy Site NAP2A) now has 2 no. national housebuilders involved, the first of which is building (and can build up to 599 units with the infrastructure now in). Consent will shortly be issued to a national housebuilder for the Fernwood SUE (Core Strategy Site NAP2C) for 1050 houses (S106 awaiting execution) with an application for another 2 no. housebuilders pending. NSDC are confident that the SUE's can and~~

~~will now deliver significant housing, proving that the Core Strategy and its spatial distribution of Growth is deliverable, and that previous delays have been overcome. This is a matter which has also been rehearsed recently in an appeal in Rushcliffe (Ref. APP/P3040/W/16/3143126 — an outline application for 65 dwellings in Aslockton), with the appeal having been dismissed on 25<sup>th</sup> October 2016.~~

~~In order to address its housing requirement the Council, as it is required to do under the NPPF for both objectively assessed need (OAN) and under the Duty to Cooperate, has produced a Strategic Housing Market Assessment (SHMA). The SHMA has been produced in line with Government Guidance by consultants G L Hearn, in conjunction with Justin Gardner of JG Consulting, on behalf of Ashfield, Mansfield and Newark & Sherwood District Councils who form the Nottingham Outer Housing Market Area. The SHMA has produced an OAN for NSDC of 454 dwellings dwelling per annum (dpa) (using 2013 as a base date). Although this figure is yet to be tested through an Examination In Public (EIP) this is the *only (emphasis added)* objective assessment of need (OAN) available in NSDC that has regard to the housing market area, as required by both the NPPF and the Housing White Paper.~~

~~The aforementioned Appeal in Farnsfield in January 2016 (Farnsfield 1) was allowed on the basis that this Council was deemed not have a 5 year housing land supply. This was the view of one Inspector who disagreed with the annual requirement figure, noting that the information for the whole HMA was not before them. The Inspector concluded that on the balance of the *evidence available to them at the Inquiry (emphasis added)*, a reasonable assessment of the Full OAN for Newark & Sherwood would be in the order of up to 550 dwellings per annum. The Council applied for leave to Judicially Review (JR) the Inspector's decision but this was not granted. Since the JR the Council has re-visited the OAN with its consultants and its two neighbouring Councils, all of whom are confident they can robustly defend the OAN at an EIP and that the planning appeal inspector was incorrect. This was underlined by the publication in July 2016 of a Farnsfield Appeal Statement Position Statement (see~~

~~<http://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/planningpolicy/pdfs/prefapp/HMA%20Position%20Statement%20-%20Farnsfield%20Appeal.pdf>.~~

~~Moreover, this Council has now submitted its Amended Core Strategy to the Planning Inspectorate following ratification by a special Full Council meeting on the 26<sup>th</sup> September 2017. An Examination hearing has been confirmed for the week commencing 29<sup>th</sup> January 2018. Ashfield, one of our HMA colleagues has already had its EIP, following which it has been confirmed that no main modifications have been requested by the Inspector in relation to the OAN, which together with Mansfield (also progressing their plan on the basis of their HMA OAN target) combine to create the full OAN for the whole HMA.~~

~~It is acknowledged that the OAN and consequently housing target for the District cannot attract full weight until after examination of the Development Plan. However, the OAN and issues around delivery have moved on considerably since the original Farnsfield appeal decision.~~

~~The OAN across the HMA has been reconsidered following Farnsfield 1, specifically addressing the points which persuaded the original inspector to conclude that an OAN of up to 550 would be appropriate. The OAN of 454 remains the only robustly and recently assessed figure before us as decision-makers to determine the appropriate figure against which 5 year delivery should be assessed. Indeed, Members will recall that Officers have consistently advised that a 5 year land~~

~~supply against a 454 OAN could likely be demonstrated. However, uncertainly with respect to the weight which could be attached to the OAN, together with a lack of information on in year completions (as you know at the end of each municipal year officers review and ultimately publish actual new housing completion information), a 'pragmatic' approach was recommended. This entailed an approach whereby having a 5 year land supply was accepted, but that could support schemes which fell immediately adjacent to main built up area boundaries and village envelopes, which are acceptable in all other technical and environmental respects (emphasis added) and which will demonstrably boost housing supply in the short term (including imposing shorter timeframes for implementation and demonstration of no other site impediments eg. infrastructure costs or contamination). This position was to be re-assessed as the Plan Review progresses.~~

~~The Council's position on new housing delivery was captured in July 2017 when its annual monitoring information was published. This identified that both stalled and new sites were contributing to an increased build out rate. Indeed, based on housing completions as of 31<sup>st</sup> March 2017 the authority confirmed that it has a 6.2 year supply based on a housing target of 454 dwellings per annum.~~

~~Moreover, all 3 of the HMA Council's remain fully committed to the OAN figures we have each adopted, with Ashfield having concluded Examination (and awaiting the Inspectors report), ourselves being at Examination in January, and Mansfield progressing. On this latter point Members may have noted that Mansfield have been identified in a Written Ministerial Statement dated 16<sup>th</sup> November 2017 have been identified as an Authority who has made unsatisfactory progress on Plan Review. In light of this it is likely that Mansfield will be keen to progress their Local Plan at speed, on the basis of the Preferred Approach which has recently concluded its consultation period, utilising the figures set out in the SHMA as their housing requirement.~~

~~This position has also been confirmed by a recent (August 2017) appeal hearing decision which has accepted that this Council has a 5 year housing land supply against a target of both 454 and 500 dwellings per annum. Even on a 550 OAN the Inspector in that case concluded that any shortfall would most likely be made up by windfall schemes.~~

~~Given this position the Council considers that limited weight should now be attached to the Farnsfield Inspector's decision. To the contrary the OAN of 454 remains robust and against this it is considered that there is a 5 year housing land supply. Consequently, the policies of the Development Plan are up to date (also having regard to the PAS review of the Core Strategy Policies and in attaching weight to the fact that the Allocation and Development Management DPD Policies were independently examined and found sound post NPPF adoption) for the purpose of decision making. This stance is consistent with the Council's case at the most recent Farnsfield Appeal, a decision on which is awaited (timescales unknown). This must ultimately be weighed in the overall planning balance.~~

### Principle of Development

Paragraph ~~14~~ **10** of the NPPF makes clear that at the heart of the **revised** National Planning Policy Framework is a presumption in favour of sustainable development, ~~which should be seen as a golden thread running through both plan-making and decision-taking.~~ I concur with my Policy colleagues comments in that the main strategic issue is whether the site, and proposal, can be considered sustainable and my assessment seeks to focus on factors which contribute to this in

order to assess whether the proposed development strikes an appropriate balance between its economic, social and environmental dimensions.

The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services.

It is noted that this site was promoted as a potential site for housing as part of the Strategic Housing Land Availability Assessment (SHLAA). However, the 2011 draft Allocations & Development Management Development Plan Document identified the site as not suitable, due to potential highways impact on Cinder Lane and intrusion into the open countryside and consequently it was not allocated for development. The planning statement sets out that this application is being made given that many allocated sites have not yet come forward and given the position with our 5 year housing land supply, which I have rehearsed above.

The application site is, as matter of fact and policy, located outside of the town of Ollerton. It therefore falls in the first instance to be considered against the sustainability criteria of Spatial Policy 3 relating to Rural Areas. Under this policy development away from the built up areas, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. The policy goes on to direct the decision maker to an open countryside policy in the Allocations and Development Management DPD, being Policy DM8. It is important to note that DM8 was found to be consistent with the NPPF in the adoption of the Allocations DPD. Both DM8 and the NPPF state that local planning authorities should avoid new isolated homes in the countryside unless there are specific circumstances to justify them.

I note from the submitted planning statement that the applicant acknowledges the site is within the countryside (albeit they say it is previously developed, a matter addressed above). The statement goes on to state that the Development Plan is out of date due to a recent appeal decision within the district which concluded that the authority cannot provide evidence of a 5 year housing supply, a matter which the Council is confident **has now been can be rebutted**.

Clearly given the location of the site (countryside) it is also crucial that care is taken to respect landscape setting through design, layout and landscaping which manages the transition from the countryside.

A scheme of 25 dwellings would in terms of its scale be appropriate/commensurate to the size and location of the Service Centre and its status within the settlement hierarchy. However the scheme proposed here is beyond the main built up area of the settlement. On the basis of the above, given that the site is located immediately adjacent to the settlement of a service centre (thus a very sustainable settlement) in forming a view on the acceptability of the principle of the development it is considered that a balanced view of the all of the relevant considerations needs to be reached, which is provided at the end of this report.

### Landscape and Visual Impacts

The site appears odd in plan terms relative to the settlement boundary. It follows no obvious built plan form or settlement line/boundary. That said, one must understand the impacts of the development on the ground.

The site is located in Policy Zone Sherwood 27 (Ollerton Estate Farmlands) where landscape characteristics are gently rounded topography, medium to large scale semi-irregular field patterns and occasional hedgerow trees etc. The area is defined as having a 'moderate' landscape condition and a 'moderate' landscape sensitivity, the overall landscape action for the policy zone is 'Conserve and create'. Indeed on site I noted the site is relatively flat with little by way of vegetation on site. I also noted the footpath that runs adjacent to the site where receptors would note a change, but one that is not necessarily harmful.

The applicants Planning Statement at paragraph 5.30 mentions that a landscape buffer and additional planting are to be included in the scheme, however this is not shown on the indicative Masterplan.

The County Council's Landscape Architect's comments are noted, which request further information including details of landscaping and an arboricultural survey. Given landscaping is a reserved matter and there is no mature vegetation to be removed to accommodate the proposals I do not consider it reasonable for the applicant to provide this at this stage and could be properly assessed at reserved matters stage. I also note that they support the proposal in principle.

In terms of visual impacts, I note that NCC have also commented that the main visual receptors are residents on either side of Cinder Lane to the north, on Griceson Close to the north west, and Maltkiln Close to the north east, who currently have views of open agricultural areas. Whilst no assessment has been provided by the applicant on the visual impact, I consider that it would be reasonable for the District Council to form a view on likely impacts based on the parameters known at this time. Having visited the site and having noted comments from consultees I find no reason that the site could not be developed for this level of development from a visual perspective (subject to proper demonstration and mitigation at reserved matters stage). There clearly will be landscape impact and harm from the baseline position of open land. However, that does not, in my view, mean that there a scheme cannot be designed which would allow the site to be properly assimilated. Consequently, I consider there are no grounds for refusal in respect of landscape or visual impacts alone.

#### Housing Density/Mix/Disposition

CP1 (Housing Mix, Type and Density) states that densities of around 30 dwellings per hectare or more will be set for sites other than strategic sites in the district. The submission of 25 dwellings would equate to just under 25 dph, which is lower than normally expected. No justification has been given for this. However given its position on the edge of the settlement I consider that it would be appropriate when taking into account matters such as landscape buffers around the edge of the development to manage the transition to open countryside.

CP1 also sets out that the District Council will seek to secure a mix of housing types to reflect local housing need, which will be dependent on local circumstances and viability. No viability case has been put forward. The Housing Market Needs Assessment and Sub Area Reports commissioned by this Council and undertaken independently by DCA in 2014 sets out the market needs for Sherwood Sub Area, within which Ollerton falls. This suggests that the main type of properties required by existing households would be bungalows and detached, with private rented being the most sought after tenure for concealed households. Housing need appears to be greatest for those with 3 bedrooms, 2 bedrooms and 4 bedrooms respectively with limited need identified for 1 bedroom.

The indicative layout indicates that the site could provide for a mix of 2, 3 and 4 bedroom units, including 2 bungalows albeit the precise mix would be reserved for subsequent consideration. The indicative plan suggests a mix as follows:

<b>House Type</b>	<b>No. of Houses Shown Indicatively</b>
4 bed detached	6
3 bed detached	7
3 bed semi-detached	6
3 bed bungalow	2
2 bed semi-detached	4
<b>Total</b>	<b>25</b>

The indicative mix does not reflect exactly the need identified (in that I consider it would be reasonable to have more 2 bedroom dwellings than 4 bedroom dwellings and more bungalows) based on the evidence of local need. I concur with my policy colleague in that I believe it is important that the scheme meets local need in order to create a mixed and balanced community thus contributing towards a sustainable development. The indicative mix does not; however I appreciate that this is an outline application and the matter could be controlled by condition if minded to approve the scheme. Commentary on affordable housing is set out in the developer contribution section later in this report.

In terms of disposition, I am mindful that layout is reserved. I consider that given the sites position in the countryside/on the edge of the settlement more consideration would need to be given to having stronger landscaping buffers, certainly around the periphery of the development and perhaps lower density detached dwellings located towards the edges of the development to help manage the transition towards the countryside. I do not consider the indicative layout would be acceptable. At present insufficient space appears to be available to achieve any meaningful landscaping but given the low density, I am satisfied that the site is sufficient in size to accommodate a layout that would be able to provide a scheme that is appropriate for its context.

### Highways Matters

Spatial Policy 7 indicates that proposals should minimise the need for travel, through measures such as travel plans or the provision or enhancement of local services and facilities and provides that proposals should be appropriate for the highway network in terms the volume and nature of traffic generated and ensure the safety, convenience and free flow of traffic using the highway are not adversely affected; and that appropriate parking provision is provided.

The Highways Authority initially objected to the application on the basis of inadequate visibility for vehicles at the Cinder Lane junction with A616 Wellow Road. The objection related to the visibility splay to the east onto the A616 which carries significant levels of traffic, a matter I noted on site during my site visit.

There are two highway standards that could be applied (detailed in the Highway Authority comments) but the HWA stated that this application could not achieve either (it is noted that we have applied the larger splay on the allocated site development over the road). The HWA commented that the way in which the applicant measured the visibility splay is flawed potentially discounting cyclists and motorists riding close to the kerb. Cinder Lane already serves around 30 dwellings and the HWA recognise there is no recent history of injury accidents but were clear that 25 houses would generate an unacceptably higher proportion of vehicle trips traveling through a

sub-standard junction and adding significantly to the risk of an accident. They also acknowledged that an offer was made to provide a vehicle activated sign (VAS) in an attempt to reduce speeds so that the available visibility splay distance is adequate although the HWA raised concern that there is no guarantee that such a sign would achieve the required reduction in speed particularly since such a sign already exists only 280m away. On this basis the LPA were preparing to refuse the application when the applicant requested that the applicant was held in abeyance whilst they tried to resolve matters, which the LPA agreed to.

Some months have passed, however the applicant has now presented an amendment to the scheme in an attempt to overcome the highway concerns. The applicant has now secured a legal agreement to purchase a strip of land (front and side garden) at 1 Bottom Row which would then allow the visibility splay to be improved from the originally proposed 40.5m to 52.7m in an easterly direction.

The Highways Authority have therefore reconsidered their position and comment that whilst this would not meet the 2.4m x 90m standard prescribed by the Highway Agency's 'Design Manual for Roads and Bridges TD/42/95' (DMRB) it would exceed the 2.4m x 44.4m standard prescribed by Dept. of Transport's 'Manual for Streets' and the CIHT document 'Manual for Streets 2' (MfS). On this basis they have removed their objection based on a number of factors; which include

- The proposal now offers a recognisable and potentially justifiable standard of visibility splay using MfS.
- Cinder Lane/ Wellow Road is an existing junction serving about 30 dwellings that has functioned without any recent injury accident history.
- The improved splay will benefit existing users of Cinder Lane.
- The proposed modest-sized development of 25 new dwellings is not considered excessive given the proposed improvement.
- The Avant Homes development, about 100m to the east of Cinder Lane, will 'urbanise' the approach to the Cinder Lane junction from the south-east and help to naturally reduce speeds.

They do however make clear that their decision to rescind the recommendation to refuse has been made only after consideration of the close balance between arguments that could be presented at an appeal (should that be an eventual course of action) particularly with regard to which highway guidance should be applied.

I note that some local residents have commented that the visibility splay to the east would not be improved due to the continuing presence of an existing telegraph pole within the land to be acquired. This pole is currently covered in thick ivy giving it the appearance of a tree. All of this vegetation would be removed. The proposal is actually for the additional slither of land to form part of the public highway. I am therefore satisfied that the clearance can be secured and there would be no need to require the applicant to maintain the visibility splay (free from obstruction) as this would fall to the County Council once it is provided and handed over, the provision of which is secured by recommended condition.

Based on the above it is concluded that the proposal would accord with SP7.

## Amenity

The consideration of amenity impacts is required by virtue of Policy DM5 which states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. Given the outline nature of the proposal it is not possible to assess all amenity impacts such as overbearing or loss of privacy through overlooking. These factors could be fully assessed at reserved matters stage. However suffice to say that I am satisfied that the development of 25 houses would not have an adverse impact on amenity in principle (such as through general disturbance) to existing occupiers of dwellings.

## Ecology

Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets. The application is supported by an updated Preliminary Ecological Appraisal (PEA).

### *Birklands and Bilhaugh Special Area of Conservation (SAC)*

The application site is in close proximity to the Birklands & Bilhaugh Special Area of Conservation (SAC), which is a European wildlife site (also commonly referred to as a Natura 2000 site), and therefore has the potential to affect its ecological interest. European wildlife sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').

### Habitat Regulations Assessment:

The Habitats Directive requires competent authorities to decide whether or not a plan or project can proceed having undertaken the following "appropriate assessment requirements" to:

- Determine whether a plan or project may have a significant effect on a European site
- If required, undertake an appropriate assessment of the plan or project
- Decide whether there may be an adverse effect on the integrity of the European site in light of the appropriate assessment

In the NWT consultation response they draw to this Authorities attention that the site is within the 5km zone of influence of Birklands & Bilhaugh Special Area of Conservation (SAC), therefore there is potential for recreational impacts as a result of possible increased visitor pressure, to damage the interest features (old acidophilous oak woods) of the European site. Policies within the Council's Core Strategy and Allocations and Development Management DPD set out the requirements for proposals within 5km of the SAC to provide measures in order to relieve pressure on the SAC. It should be noted that no information or mention has been made within the applicant's submission on the potential impacts on the SAC. However within the submission there is a cursory mention within the bullet point list of matters which a S106 would need to secure to SANGS being Suitable Alternative Natural Green Space and therefore it is assumed that this implies the applicant considers there may be a need for such mitigation and therefore impacts cannot be ruled out. Given the indicative masterplan it is also presumed that it would not be the intention to provide open space on site that may qualify as green space that could alleviate pressure from the SAC.



Given the substantial population of Nightjar and Woodlark in the Sherwood Forest area the site is a potential Special Protection Area ('SPA') under the EU Birds Directive. As such the provisions of the Conservation of Habitats and Species Regulations 2010 (formerly the Conservation (Natural Habitats etc.) Regulations 1994) would have to be applied for developments within a 5km buffer, which this application falls within. This precautionary regime seeks to determine whether the development is likely to have a significant effect on the pSPA (either alone or in combination with other plans or projects).

NWT have pointed out it is essential that the Council must pay due attention to potential adverse effects on birds protected under Annex 1 of the Birds Directive and undertake a 'risk-based' assessment of any development, as advised by NE in their guidance note dated March 2014. Particular attention is drawn to the potential impact of

- disturbance to breeding birds from people, their pets and traffic
- bird mortality arising from domestic pets and/or predatory mammals and birds"

Adopting a precautionary approach it is for the Council as Local Planning Authority to judge and balance the impacts in this particular case. The site itself it is not a breeding habitat and there will be no direct impact on Night Jar and Wood Lark habitat. Equally there will not be, in my submission, given the distances involved, any impact or disturbance from the anticipated lighting associated with the development.

I therefore turn to indirect or associated impacts such as pet ownership or increased activity i.e. more people going to recreational sites within the District. In terms of daily recreational activity, provision hasn't been made on site. However it would be expected that some form of SANGS would be provided off-site *if* a S106 was able to secure this. What is more difficult to assess is the specific impact of this proposal with respect to any likely increase of visitors to affected recreational areas such as Sherwood Forest.

Notwithstanding the above, in taking a precautionary approach and bearing in mind the significant distances involved my submission would be that provided potential for SANGS offsite, together with awareness messages for any future occupiers of the development, the matter would be adequately addressed especially when taken together with the overall balance of planning considerations detailed in this report.

Mitigation by way of a financial contribution to provide suitable alternative green spaces (SANGS) is therefore considered appropriate, which could be controlled by Section 106 Agreement. It is also recommended that the provision of information to all new residents in the form of a 'welcome pack' to first occupants regarding ecological value of the local area and the sensitivities of woodlark and nightjar, requesting that dog walking after dusk during the breeding season within key areas for nightjar is avoided. This pack would be required to stay with the property and handed over to subsequent residents. This could be controlled by Section 106 and the applicant has agreed to both such measures.

However, I am mindful that the public footpath is an existing right of way and the proposed development could lead to increased use of this footpath. Given that this application is made in outline, a reserved matters application would be a suitable forum to ensure that details of design such as appropriate boundary treatment and matters to assist awareness to residents such as signage could be controlled by condition.

It remains for the Council, as Competent Authority, to satisfy ourselves that the planning application contains sufficient objective information to ensure that all potential impacts on the breeding Nightjar and Woodlark populations have been adequately avoided or minimised as far as is possible using appropriate measures and safeguards. I note that Natural England have not raised any objection and in fact neither have the NWT in this regard. The County ecologist has also remained silent on the matter. In my view, there is sufficient information to enable this Authority to come to a judgement on the matter.

Given that there would be unlikely be any public open space on the development, I consider this will likely place some additional recreational pressure on the pSPA and the SAC. I consider it unlikely that the proposal would result in a direct impact on the pSPA and any impact would be indirect from recreational pressure. I consider that on balance the mitigation measures could be secured by conditions and through a SANGS contribution which the developer has agreed to.

The impact on protected species has been assessed following standing advice. The preliminary ecological survey assesses the site as being of low ecological value. No evidence of badgers or roosting bats was found, although there may be potential for the linear vegetative features to serve as routes for foraging and commuting bats. It is stated that the site has suitable habitat for reptiles and also great crested newts, with three suitable breeding ponds located within 500m of the application site. The site, in particular the hedgerows, dense scrub, scattered trees and the building within the application site, will be suitable for supporting a range of breeding birds. In particular, there were some species of high conservation concern present in the survey, including house sparrow (*Passer domesticus*) and dunnock (*Prunella modularis*). The preliminary ecological assessment makes a number of recommendations relating to avoidance of clearance works during bird breeding season, enhancements such as sparrow boxes, sensitivity external lighting and measures to protect badgers during construction all of which can be controlled via condition.

It also suggests further surveys in relation to great crested newts and reptiles which I discuss below:

#### *Great Crested Newts/Reptiles*

Due to the presence of ponds and suitable habitat within a 500m radius of the site, the preliminary ecological appraisals flags up that great crested newts and reptile surveys of the site are required and haven't been undertaken during the season (mid-March to mid-June). I note that paragraph 99 of Government Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

Both NWT and the County Ecologist have made representations that the scheme should not be granted until the surveys have been undertaken. In an attempt to allow the application to proceed the applicant has commissioned a Great Crested Newt Method Statement which sets out a worst case scenario and means of mitigation in an attempt to provide comfort to the decision maker that this matter need not stall a positive recommendation. The idea being that the mitigation proposed is based on a worst case scenario (such that the site supports a large population of GCN and a population of common reptiles) to ensure that it over mitigates any harm.

In brief the mitigation strategy compromises a 3m wide buffer zone and corridor around the site

boundary (within the application site) which would be planted with tall tussock grasses and a hibernaculum would be created as well as the retention of hedgerows. I consider that the mitigation proposals demonstrate that the impact on GCN and reptiles could be made as acceptable subject to condition.

I do not disagree with the comments of the NWT or County Ecologist, in that the applicant has neither confirmed or ruled out the presence of a reptiles or great crested newts. However I am satisfied that in either case appropriate mitigation can be provided and thus the harm will be minimised/ negated providing this is subject to a condition. Bearing in mind that harm can be minimised/avoided, I do not consider that it would be reasonable to withhold a planning permission in this instance. It should be noted that the agent has offered to secure the undertaking of the necessary surveys through a Section 106 Agreement. However I do not consider that this is necessary and it can be dealt with adequately by condition.

Based on the above, I do now consider that the application has satisfactorily demonstrated compliance with CP12, DM7 the SPD on Developer Contributions or the NPPF, a material planning consideration.

### Drainage and Flood Risk

The NPPG does not explicitly require the submission of Flood Risk Assessments for sites of less than 1 hectares which this is (just; 0.95h), in flood zone 1. The applicant has not submitted a full Flood Risk Assessment (FRA) as part of the submission although has referenced flood risk within the Design and Access Statement. According to the EA maps the site appears to be located within Flood Zone 1 and as such is assessed as having less than 1 in 1,000 annual probability of river or sea flooding. The Sequential Test does not apply to residential development within flood zone 1 and as such the location of the proposed development is considered appropriate in terms of flood risk.

I note the comments of the LLFRA who initially commented that a FRA is required (they had assumed the site was over 1ha) but whom have now clarified that surface water drainage is not a matter that is insurmountable on this site and one that could be satisfactorily controlled by condition. I therefore find there are no grounds for refusal on this basis.

### Developer Contributions

Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. This infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance from the District Council. It is critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure.

### **Affordable housing**

Core Policy 1 sets out that qualifying schemes should secure 30% affordable housing on site. It goes on to say that where the viability of the scheme is in question, the developer will be required to demonstrate that this is the case.

The proposal would exceed the revised affordable housing thresholds (11 units or more, or where the combined gross floorspace exceeds 1000 sqm) and thus is a qualifying development.

The applicants Planning Statement suggested that the 30% requirement would be met, with a 66% social rented and 34% intermediate housing split, the planning application indicated only 4 x 2 bed (16% provision) social rented units were to be provided in total. However a Draft Heads of Terms has now been submitted with the application. This shows a policy compliant (30%) offer of 7 affordable houses comprising 4 dwellings for social/affordable rent and 3 dwellings for shared ownership. The applicant has now confirmed that the mix they are offering matches the precise mix identified as being needed by Strategic Housing. Affordable housing provision makes a valuable contribution towards the creation of mixed and balanced communities and is integral to a more sustainable form of development. Given the scheme has been amended to be policy compliant and reflects the precise need identified I am now satisfied that the proposal complies with CP1, the Council's SPD on Affordable Housing and the NPPF.

### **Public Open Space**

The Design and Access Statement indicates that this obligation is to be satisfied through contributions towards off-site provision. The SPD states that the scheme would need to provide for open space in the form of provision for children and young people (18m<sup>2</sup> per dwelling) and natural and semi natural green space.

#### *Provision for children and young people*

As a development of 25 dwellings, this application should make provision for public open space. No areas of public open space have been demonstrated on the indicative site layout and it is therefore assumed that the applicant would expect provision to be made off-site.

It is useful to note that for the allocated site to the north of Wellow Road (the allocated site OB/Ho/1, 14/01533/RMAM) which is being built out by Avant Homes for 147 dwellings has some open space on site including a LEAP to its south-eastern corner. Whilst they have done what they could on-site, they by a deed of variation have also paid a commuted up to make up for a shortfall. It therefore appears to me that the LEAP would therefore be not capable of being enhanced (if it could have been, the developer would logically have done this rather than pay to provide it elsewhere) on the adjacent site.

On this basis there would be a LEAP to the north some 500m away if walking. I note that there is existing public open space within the service centre (central park is approximately 800m away but as the crow flies) that could be enhanced to accommodate the children and young people from this development. Our Parks and Amenities Manager has suggested that we wouldn't normally expect to include children's play space for this size of development and therefore an approach such as enhancing facilities elsewhere is considered reasonable. The applicant has now confirmed that they will provide a policy compliant contribution towards POS which can be secured via a Section 106 Agreement.

#### *Natural and semi-natural green space*

The Newark & Sherwood Green Spaces Strategy has set local provision standards for a number of different types of open space. Those of relevance to new housing developments are as follows:

Natural and semi-natural green spaces – 10ha per 1,000 population. However in recognition of the difficulty of achieving this standard in urban areas the Strategy recommends that all residents of the district should live within 300m of an area of natural and semi-natural green space. Given that the site is on the edge of the settlement there are fields immediately to the east, south and west of the development which I consider would meet the aspirations of the policy.

## *SANGS*

This is discussed earlier within the ecology section of this report.

## **Community facilities**

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

The site itself in my view is too small to provide community facilities on it and therefore any additional pressure upon community facilities that this scheme would place upon the community should be met off-site. In order to ascertain whether any community facilities contribution is justified consultation with the Community Sports, Arts and Culture Manager has been raised to ascertain which projects would benefit from a commuted sum. In response the Manager has suggested there are a number of projects that would benefit from enhancement to cope with the additional pressure from development of this site. It is suggested that the S106 monies be used to help deliver a new changing facilities/clubhouse for Ollerton Town football club (albeit the building is used in a wider sporting community) that will utilise the planned improvements to the Walesby Lane Sports Ground. The Walesby Lane site is seen as the strategic site in the locality and will hopefully link up with the Petersmith Drive development if approved to deliver a sustainable sports hub site for the wider community.

The contribution would be based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling equating to a maximum of £34,601.75. The applicant has confirmed that they would be willing to pay this contribution and this can be secured via a Section 106 Agreement.

## **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. Nottinghamshire County Council has reviewed the proposals and state that a development of 25 dwellings would yield an additional 5 primary places. Consequently, the County Council have requested an education contribution of £57,275 (5 x £11,455) to provide primary provision to accommodate the additional pupils projected to arise from the proposed development. In terms of secondary education, the proposed housing development is in the catchment of The Dukeries

Academy, for which any contributions would be covered by CIL. The applicant has now confirmed in their draft S106 Heads of Terms a willingness to provide this.

## Other Matters

### **Heritage**

The consultation response from the County Archaeologist states:

“The application is accompanied by an archaeological desk based assessment which has done a fair job of summarising the archaeological implications of the development, and notes that the site is surrounded by archaeological remains which are visible as cropmarks. The assessment also point out that there has been some levelling on the site associated with the erection of the now demolished chicken housing. The impact of this groundwork on buried archaeological remains is not clear, and there has to be a likelihood that such remains will survive in at least part of the site. I therefore recommend that if planning is granted, this should be conditional upon a programme of archaeological mitigation being undertaken. The works required could either take a phased approach of archaeological evaluation followed by whatever further mitigation the evaluation demonstrates is appropriate, or a programme of strip, map and record, where topsoil from the site is stripped under archaeological supervision and the archaeological remains which are uncovered are cleaned, planned and sample excavated. A condition such as the following may be appropriate...”

The County Archaeologist then goes on to suggest an appropriate condition. I concur that this would ensure that archaeology would be satisfactorily dealt with in the event that permission was granted.

### **Land Contamination**

The NPPF paragraph ~~121~~ **178** states that planning decisions should ensure that the proposed site is suitable for its new use taking account of ground conditions, including pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation. The application site was previously occupied by five poultry sheds which appear to have been of asbestos construction which have now been removed. Both our EHO and Nottinghamshire County Council have confirmed there is clearly the potential for the site to have become contaminated from the former poultry farm use and from asbestos within the poultry shed construction materials. As no phase 1 desktop study has been submitted with the planning application, they have recommended that if minded to approve a full phased contamination condition would be necessary, which I concur with.

### **Rights of Way**

The public footpath running alongside the northern boundary would not appear to be affected by the proposal.

## Planning Balance and Conclusions

It is noted that the site lies within the countryside. However, the application site is located on the edge of a settlement which is a Service Centre in the settlement hierarchy with access to public

transport, employment, retail, educational, leisure and community facilities thus in my view the site is relatively sustainable geographically.

I am satisfied that a suitable design and layout could be achieved at the reserved matters stage.

Highway safety ~~which~~ has been raised **as** a concern by many residents and indeed initially by the Highways Authority. The acquisition by the applicant of additional land to improve the visibility splay is noted. Indeed, this has been persuasive for the highway authority, who's views I attached weight to and cannot disagree with, on balance. Other harm previously identified such as adverse impacts upon ecology has been addressed and I am now satisfied that they can be mitigated.

With regard to the economic strand of sustainable the development, given its scale the scheme would result in a modest level of economic benefit from development taking place. In addition it is acknowledged that the proposed development would contribute towards the boosting of housing supply, which would support the social element of sustainable development - albeit not significantly given the numbers proposed.

The creation of mixed and balanced communities is a key element of sustainable development and that the proposal advanced is now a policy compliant proposal in that it offers 30% on-site affordable housing to the exact mix and tenure as is identified as being required, financial contributions towards public open space, community facilities, suitable alternative green space and primary education such that it should not face additional pressure on existing facilities and thus is sustainable in this regard.

In summary the scheme is acceptable (or can be mitigated to be made so) in every technical respect. The site is on the edge of a Service Centre, which is a second tier and thus sustainable settlement within this Council's settlement hierarchy. The proposals would boost housing supply and the applicant would accept an 18 month permission overall (9 months reserved matters and 9 months implementation).

That said, the proposals is outside of the settlement envelope in a context where we are **now** confident (**bearing in mind the array of appeal decisions handed down in recent months**) that this Council has ~~of~~ a 5 year supply against an OAN of 454 dwellings per annum ~~but cannot yet attach determinative weight, particularly in the absence of an Examiners report on the Amended Core Strategy and/or a decision on the most recent Farnsfield scheme and that it should now carry determinative weight. For the avoidance of any doubt the scheme is very finely balanced at the current time. If the scheme were outside the settlement hierarchy, the OAN target of 454 was confirmed, and the Council has a 5 year land supply against this target I consider my recommendation would be refusal, in attaching significant and ultimately determinative weight to a plan led system. We do not yet have such comfort albeit the direction of travel of Officers and the Council is clear. We have submitted and are defending a Plan based on a housing target that we say is robust and which the Secretary of State and Planning Inspectors alike agree with. In NPPF terms, such a target cannot attract full weight albeit the Plan is one step away from carrying such weight (assuming an Inspectors report some time at the end of Feb/beginning of March). The Examination Inspectors comments will clearly have an impact on decision making, as will a decision on the pending Farnsfield appeal. I also note that the end of March 2018 will represent the trigger for officers again revisiting all completions in order that a new 5 year land supply update can be published. In summary there will remain uncertainty between now and most likely the end of March 2018 in terms of any of the above decisions. That said, there is no evidence~~

~~before me currently to suggest that any of the above factors will rule against the Council's position on OAN and 5 year land supply. The applicant has made clear that they wish this application to be determined at the December Planning Committee meeting and on this basis, having regard to all matters in the overall balance, I conclude, on a fine balance, that planning permission should be refused.~~

**To recommend approval of a site for housing in the countryside which goes directly against the Development Plan would undermine the Plan-led system. As set out there are limited benefits to this development but these in my professional view do not outweigh the harm of undermining our own Plan and I therefore must recommend refusal.**

## **RECOMMENDATION**

**Refuse for the following reason:**

01

The Newark and Sherwood Core Strategy Development Plan Document represents the spatial framework for growth and development in the District up to 2026. The application site is, as a matter of fact, located outside the settlement boundary for Ollerton as defined by Policy DM1 and illustrated on the Policies map adopted alongside the Allocations and Development Management DPD 2013 (at Map 9 of the Allocations & Development Management Development Plan Document, 2013). The Local Planning Authority is of the opinion that it has a 5 year housing land supply against its Objectively Assessed Need (OAN), which has been produced in accordance with the Duty to cooperate in conjunction with Mansfield and Ashfield District Councils. **Appeal decisions handed down to this Council by both Planning Inspectors and the Secretary of State (in respect of the Farnsfield Public Inquiry) this year (which take into account the OAN referred to above) confirm this to be the case and in the Council's view these decisions are significant material planning considerations which carry determinative weight.** ~~Whilst it is accepted that the OAN cannot yet attract full weight, Plan Review is progressing with all of the HMA Authorities. In the case of NSDC the **Publication Amended Core Strategy** has been submitted and will be examined in January 2018. The Council maintains that the OAN represents the most robust and up-to-date evidence on which to base decisions and that the interests of a plan-led system in this regard must prevail in an overall planning balance.~~

Developing this site, which is open countryside, would constitute an unsustainable form of development which would be contrary to adopted Spatial Strategy for the district contrary to policies SP1, SP2 and SP3 of the Newark and Sherwood Core Strategy Development Plan Document (adopted 29th March 2011) and Policies DM8 and DM12 of the Allocations and Development Management Development Plan Document (adopted July 2013) which together form the Development Plan. It would also be contrary to the National Planning Policy Framework ~~(March 2012 July 2018)~~. There are no other material planning considerations that would outweigh the identified harm.



## **Informative**

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

### **BACKGROUND PAPERS**

Application case file.

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

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

**Matt Lamb**

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