

Report to Planning Committee 20 April 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Honor Whitfield, Planner, 01636 655827

Report Summary			
<b>Application Number</b>	23/00058/FULM (MAJOR)		
<b>Proposal</b>	Proposed change of use to residential caravan site for gypsy/travellers (19 No. pitches), relocation of 2 no. existing pitches, construction of 1 no. managers dwelling, an amenity building and creation of new access		
<b>Location</b>	Chestnut Lodge, Barnby Road, Balderton, Newark On Trent, NG24 2SN		
<b>Applicant</b>	Mr Tom Holmes	<b>Agent</b>	N/A
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/23/00058/FULM">23/00058/FULM   Proposed change of use to residential caravan site for gypsy/travellers (19 No. pitches), relocation of 2 no. existing pitches, construction of 1 no. managers dwelling, an amenity building and creation of new access   Chestnut Lodge Barnby Road Balderton Newark On Trent NG24 2SN (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	02.03.2023	<b>Target Date</b>	01.06.2023
<b>Recommendation</b>	That Planning Permission is APPROVED subject to the Conditions detailed at Section 10 and subject to the no new material planning considerations being raised between the resolution and the expiration of the consultation period advertising the application as a departure from the Development Plan		

**This application is before the Planning Committee at the request of Cllr J Lee who is opposed to the development (which differs from the officer recommendation) due to concerns about impact on the open countryside, inclusion of a manager’s dwelling, access and egress, enforcement cases on the site, lack of local services and impact on Barnby in the Willows village.**

### **1.0 The Site**

The application site lies on the south side of Barnby Road. Approximately 500m to the west of the site is the junction with Balderton Lane (which links Balderton with Coddington), and beyond which is the A1. East of the site, Barnby Road eventually leads to Barnby in the Willows. The site mostly sits between two properties, Chestnut Lodge to the east and Chestnut House to the north-

west (which is understood to also be in use as a transportation company). To the north of the site, between Chestnut Lodge and the newly proposed access is a gas valve compound. On the opposite side of the site is Moorhouse, a dwelling with equestrian facilities.

The site includes land to the west, south and south-west of the gas compound and Chestnut House and includes Chestnut Lodge and the land that surrounds it. The main portion of the site relates to a field to the rear of an existing site with consent for 2 gypsy and traveller pitches – two static caravans are on site, one adjacent to the southern boundary and one to the west of the gas compound. Beyond the confines of the site is open countryside. The site is flat and was previously predominantly a grassed field/paddock but some of which has been hard surfaced as part of the aforementioned consent. Boundaries to the south and west with the open countryside comprise existing hedgerows with close boarded timber fencing in front, but within the site the boundaries between Chestnut Lodge and the wider site are bound by post and rail fencing. On site, to the north of Chestnut Lodge two caravans were observed on site being stored.

As well as the application site, the applicant also owns Chestnut Lodge and the land that surrounds it (to the east). The southern portion of the site currently has a former agricultural building along the eastern boundary and land to the NW, around Chestnut House, contains a number of structures.

To the east of Chestnut Lodge is a vehicular access from Barnby Road that runs down the side of the Lodge (enclosed along its eastern boundary and then turns 90 degrees adjacent to its rear boundary, which then stretches into the application site. This access serves both the Lodge, the application site, the two authorised pitches and the agricultural buildings beyond the site to the west.

Situated in the open countryside, the site is located to the east of the main built-up area of Balderton. The application site is located within Flood Zone 1 of the Environment Agency Flood Maps, which means it is at low risk of fluvial flooding but is susceptible to surface water flooding.

Two underground gas pipelines run across part of the site which both have 6m wide easements where no structures should be sited. These gas pipes connect to the gas valve compound running to the south; one pipe then turns 90 degrees and runs along the southern boundary of the application site.

Barnby Road has a deep grass verge on its southern side in this location, some of which is planted with mature trees, but no footways are provided along Barnby Road.

## **2.0 Relevant Planning History**

**22/01424/LDC** - Lawful Development Certificate for the formation of one access for outbuilding – Certificate not issued 03.10.2022 due to the works not complying with the permitted development legislation.

**21/00027/FUL** - Change of use of the land for the siting of caravans for residential purposes for 2no. gypsy pitches and hardstanding ancillary to that use (retrospective) – Permitted 01.04.2021 (by Planning Committee in line with officer recommendation) and conditions discharged under 21/01252/DISCON.

**03890470** – Erection of agricultural workers dwelling and garage – approved 03.08.1989 (this

related to land to the north of Chestnut Lodge but does not appear to have been implemented).

**88/1154** - Erection of agricultural dwelling, approved 30.01.1989 (this related to Chestnut Lodge)

**FUL/990739** - Removal of agricultural occupancy condition, approved 19.01.2000

### **3.0 The Proposal**

The application seeks planning permission for the change of use of the land to provide 19 Gypsy and Traveller pitches for permanent occupation, the relocation of 2 existing pitches (21 total pitches), the erection of one associated amenity building and one manager's dwelling in addition to the creation of a new access onto Barnby Road.

The submitted layout shows the manager's dwelling would be broadly central within the site, approx. 8m to the south-west of the Gas Valve Compound, in place of one of the existing static caravan units. The dwelling would be a large 5-bed dwelling approx. 16m wide, x 12m deep, 10.7m to the ridge and 5.3m to the eaves. It would be positioned approx. 50m back from the front boundary with the highway and approx. 86m from Chestnut Lodge to the east and 80m from Chestnut House to the west. The dwelling would be accessed from the new access to the north (to the west of the Gas Valve Compound) and would overlook both the proposed access and the land to the rear where the new pitches are proposed. It would be constructed in red brick (Hampton rural blend facing brick) and Marley Modern anthracite roof tiles with uPVC windows and doors.

The existing 2 pitches are proposed to be relocated to the north of Chestnut Lodge along with 2 new pitches in a row of four along the northern boundary. 17 new pitches are then proposed to be positioned in the southern field and each pitch has been shown with space for one static and one tourer caravan. Additional parking spaces are proposed to the north-west. The pitches range in area from approx. 160m<sup>2</sup>-216m<sup>2</sup> and in the southern field are proposed to be laid out in two rows. The pitches are proposed to be made up of hardstanding and grass. Communal bin storage for waste and recycling is proposed broadly central at the front of the 17 pitches. Foul sewerage disposal would be via septic tanks.

The amenity building would be located on the eastern side of the site in place of an existing caravan pitch and would measure approx. 15.1m x 8.1m, 5.9m to the ridge and 2.7m to the eaves, constructed in brick and anthracite roof tiles. The amenity building would comprise 8 shower rooms, 2 separate w/cs and a kitchen/utility room and would be constructed in red brick (Hampton rural blend facing brick) and Marley Modern anthracite roof tiles with uPVC windows and doors.

Additional information has been received from the Applicant in relation to the proposed occupiers of the pitches which states that the future occupiers of the pitches are not currently known but will be restricted to those meeting the definition of a gypsy or traveller, as provided through the Planning Policy for Traveller Sites. The Applicant states that future occupiers are likely to be from Tolney Lane where there are a number of pitches without permanent consent.

Documents assessed as part of this application:

- Application Form
- Planning Statement (12.01.2023)
- Supporting statement (12.01.2023)
- Flood Risk Assessment (02.03.2023)

- Plans:
  - Existing Site Plan – Ref. 2208-06
  - Proposed Site Plan – Ref. 2208-01 E
  - Proposed Floor Plans – Ref. 2208-02 D
  - Proposed Second Floor Plan and North Elevation – Ref. 2208-03 C
  - Proposed Elevations and 3D Views – Ref. 2208-04 C
  - Proposed Amenities Block – Ref. 2208-05
  - Proposed Access and Visibility Splays – Ref. JG01
  - Swept Path Analysis Plan – Ref. JG02

#### **4.0 Departure/Public Advertisement Procedure**

Occupiers of 5 properties have been individually notified by letter, a site notice has been displayed and an advert has been placed in the local press.

Site Visit Date: 15.03.2023

#### **5.0 Planning Policy Framework**

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

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

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 3 – Rural Areas

Spatial Policy 7 – Sustainable Transport

Core Policy 4 – Gypsies and Travellers – New Pitch Provision

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

Core Policy 9 – Sustainable Design

Core Policy 12 – Biodiversity and Green Infrastructure

*Allocations & Development Management DPD*

Policy DM5: Design

Policy DM8: Development in the Open Countryside

Policy DM12: Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework 2021
- Planning Practice Guidance
- NSDC Plan Review Publication Amended Allocations & Development Management DPD, Nov 2022
- Gypsy and Traveller Accommodation Assessment, Feb 2020
- The Equality Act 2010
- Human Rights Act 1998
- Planning Policy for Traveller Sites (PPTS) – 2015 (summarised below)

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

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

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

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

Weight should also be attached to:

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

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

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

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

## **6.0 Consultations**

*NB: Comments below are provided in summary and relate to the latest comments received from consultees. For comments in full please see the online planning file.*

**Barnby in the Willows Parish Council – Object – Concerns raised:**

- Other sites proposed for allocation are better placed than this site.
- Site Capacity – concerns that each pitch having one static and one touring caravan would be occupied by two families meaning potential for 38 families on site.
- Road Safety concerns due to increased vehicle movements, types of vehicles using the roads, safety of pedestrians/cyclists/horse riders. Poor condition of the road surfaces and increase in traffic flows.
- Loss of privacy – neighbouring properties would be overlooked. The site has potential for expansion which would exacerbate privacy concerns.
- Light pollution – erection of floodlighting at the site has increased light pollution which impacts neighbours and natural habitats.

- Impact on landscape and character of the area – the loss of hedgerows and trees as a result of new fencing has impacted the character of the area and local wildlife. The managers dwelling would not be in keeping with the surrounding area.
- Managers dwelling - A managers dwelling is not required, particularly at such a scale.
- Flooding - Increase in hardstanding will impact flooding. Insufficient detail has been given about how water, waste and waste water is to be managed on site in terms of being connected to mains, or septic tank facilities. Concerns that the drainage ditch has been infilled to facilitate the new access.
- Site and facilities management – no details have been provided as to how the site will be managed, concerns whether the site would be council-led and how this would work in practice.
- Facilities – Barnby does not have sufficient amenities so future occupiers would not have access to schools, medical provision etc. They will strain existing facilities.
- Alleged breaches of condition – two caravans were put on the site and applied for retrospectively, and concerns that more caravans are on the site than previously stated.
- Inconsistency of application of planning review guidelines – previous applications for a caravan site, a bungalow and for a log cabin, as well as matters relating to the site’s access - have been refused in the past so granting permission for a scheme of this size and scale would be inconsistent and contrary to previous policy decisions in the area. This is in addition to it being inconsistent with policy for green belt land.
- Petition and resident feedback – the Parish has received a petition signed by 121 people.

**Balderton Parish Council – Object – Concerns raised:**

- The proposal fails to provide a safe means for pedestrians and cyclists to link with footways or cycleways to the village amenities; Coddington Road is a very busy, narrow road with no pavement or cycle track.
- The site falls within the countryside and the proposed development is considered to be out of keeping, creating a detrimental impact upon neighbouring properties.
- Chestnut Lodge is not a designated G&T site and members would prefer alternative options to be explored such as Bowbridge Lane Ironworks location.
- The presence of the gas line running through the site poses a safety concern should the site be developed further.

**Coddington Parish Council – Object – Concerns raised:**

- The planning officer should assess the need for an Environmental Impact Assessment. The development is clearly defined in Schedule 2 of the EIA regs and is triggered as the site is over 1Ha. The applicant should provide an EIA.
- The ancillary building has windows close to the boundary of the adjoining land and this contravenes building regulations as it has fire safety implications.
- There are no details submitted as to how the land contamination issues of the development as highlighted within the reports will be dealt with.

**NSDC Planning Policy – Support the principle of development.**

**NCC Highways – No objection subject to conditions.**

**NSDC Environmental Health Officer – No objection – “The applicant should be aware that should permission be granted, the site is likely to require a site license [...].”**

**NSDC Environmental Health Contaminated Land Officer** – No objection subject to imposing the full phased contaminated land condition due to previous potentially contaminative land-use on the site.

**CADENT Gas** – No objection – “The applicant has reassured us on the issues with the intermediate and high pressure gas assets and we are happy the integrity of the Cadent gas assets will be adequately protected.”

**Nottinghamshire Police Designing Out Crime Officer** – Comments reference ‘Secured by Design’ which relates to the design and build of new homes to reduce opportunity for crime and fear of crime.

**Trent Valley Internal Drainage Board (TVIDB)** – No comments received.

**Comments have been received from 60 residents/interested parties that can be summarised as follows:**

## **OBJECT**

### *Principle*

- The number of pitches is excessive for the area and would expand the village to the detriment of local infrastructure (quality of roads and local amenities). The quantum should be reduced.
- Previous owners approached NSDC for a new dwelling on the site and were turned away as the site is in Green Belt.
- Site allocations are still out for consultation and therefore carry little weight.
- There are no exemptions for Travellers in the open countryside policies.
- The site does not comply with CP5.
- No justification as to why a new house of such size is required and an additional access when a house and access is already on the site - Chestnut Lodge with its access.
- A condition was attached recently to limit the site to 2 pitches, this position should not change.
- The scale of development is disproportionate and will dominate the local community.

### *Character Impact*

- The development would be significantly out of character with the surrounding area.
- The fencing around the site is harmful to the character of the area.
- The proposed site would be out of scale and character with the surrounding area and would urbanise the countryside.
- A three-storey house would be highly visible and out of character with the surrounding area.
- The development would harm the natural beauty of the countryside.
- Landscape character impact cannot be assessed as an LVIA has not been submitted.

### *Highways*

- Concerns over the increase in traffic due to the condition of the roads and lack of footway and streetlights.
- The site is adjacent to an equestrian yard. Many horse riders use Barnby Road and the increase in traffic will increase the risk of collision and compromise the safety of horses and riders. Extra traffic would also increase noise and air pollution.

- A previous application for a new access at the site was refused by highways as it is not suitable for additional traffic.
- There would be an increase in pedestrian traffic and there are no footpaths.
- Concerns in relation to safety of pedestrians and cyclists.
- Concerns in relation to adequate visibility from the proposed access.
- The site is not sustainable as there is a reliance on the private car.
- Traffic generated by G&T sites will damage the condition of the roads.
- The site is on a blind bend.
- There seems to be a clash with the proposed access and the one for the existing business.

#### *Ecology*

- Bats, birds and Owls are rarely seen any more due to the floodlights that have been installed.
- The site would harm local biodiversity.
- Within the environmental statement there is no mitigation for the increased light pollution caused by such an increase in properties and site lighting on the local environment.

#### *Flood Risk*

- The applicant has infilled the adjacent ditches along the highway which controls flooding – this has exacerbated flooding of surrounding fields.
- The flood risk assessment doesn't take into account the lack of road drainage within the area and the flow of water into the agricultural drainage and the effect on wildlife.

#### *Amenity*

- The site would have a detrimental impact on local guest house businesses and the newly opened public house.
- The proposal would diminish the standard of living of local residents.
- The light pollution from the site adversely impacts local residents.
- Erection of additional flood lighting and CCTV installation is going to prove an added environmental problem to the habitats of the local wildlife.

#### *Other*

- Concerns over the proximity to the gas mains over the site and the potential impact through vehicles moving over the pipeline.
- Concerns over the provisions for waste and whether local infrastructure can accommodate a septic tank and additional waste and whether this will pollute local water sources.
- There is a lack of local infrastructure in place to accommodate additional residential properties. The development triggers the requirement for developer contributions.
- The area has an issue with low water pressure which would be exacerbated with this development.
- The site has large fires and burning through the year.
- Two caravans per pitch is unnecessary and excessive.
- The increase in caravans would result in the site spreading past the boundaries of the site.
- The proposal would result in more littering in the area.
- 19 pitches could result in 76 additional people residing in the village meaning a 30% increase in the Barnby in the Willows population (based on 2011 census data).
- The application is a major development as the number of dwellings applied for is 21. Planning application requirements for major applications therefore needs to be met and a number of documents are therefore missing from the application.
- There are currently 5 vans on site and not 2 as stated in the application.



- Tolney Lane is not full and should be occupied in preference to this site.
- Traveller sites in Balderton have been approved and are now not being used.
- Consultation with local residents has been insufficient.
- There has already been an increase in door knocking, leaflet dropping and cold calling in the village and this anti-social behaviour will increase.

## **7.0 Appraisal**

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development 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.

### Procedural Matters

Many of the comments received from third parties reference the site being within the Green Belt. In the interest of clarity and for the avoidance of doubt, the site is not located within the Nottinghamshire-Derby Green Belt as this broadly covers the south-west side of the District (as shown in Figure 2, pg.30 of the Amended Core Strategy). Green Belt policies are therefore not applicable.

Comments from third parties also reference the fact the application has been registered as a 'major' planning application as the proposal is for the "*provision of 21 dwellings*". However, Officers note that the application is for only **one** dwelling (the manager's dwelling) and 19 pitches. G&T pitches do not meet the definition of a '*dwellingshouse*'. '*Major development*' is defined under Section 2(1) (Interpretation) of Part 1 of The Town and Country Planning (Development Management Procedure) (England) Order 2015. In this case the application constitutes major development as the development would be carried out on a site that is greater than 1 hectare in size (para. E, Section 2(1), Part 1).

The Council has considered comments made in relation to the alleged requirement for additional reports and surveys to be submitted with the application given it constitutes '*major development*'. However, Officers are satisfied that the necessary documents have been submitted to accompany this application, and where they have not, these have been requested throughout its course.

Comments received also refer to permission being refused for a new access point into the site. However, Officers note that a Lawful Development Certificate application was refused ref. 22/01424/LDC for the formation of a new access due to the works not complying with the permitted development legislation rather than it not being acceptable in principle/highways safety terms. The refusal of the LDC merely indicates that express planning permission is required.

### Principle of Development

The District Council, as Local Planning Authority, has a duty to provide sites on which Gypsy and Travellers (G&Ts) can live. The Gypsy and Traveller Accommodation Assessment (GTAA)

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

This represents a significant unmet need. Provision to help meet this need will be made as part of the production of the Amended Allocations & Development Management DPD, which is currently underway which will seek the allocation of specific sites, as well as through the granting of permission for appropriate development. Presently however the Council is unable to identify any other sites that are currently available or deliverable for Gypsy and Travellers and in addition is unable to demonstrate a five-year land supply, as required through national policy (PPTS). Both the extent of the pitch requirement and the lack of a five-year land supply represent significant material considerations, which should weigh heavily in the favour of the granting of consent where proposals will contribute towards supply. Importantly, the GTAA assumed a net zero contribution from inward migration into the District - meaning that NSDCs pitch requirements are driven by locally identifiable need.

The emerging policies within the Publication Amended Allocations and Development Management DPD<sup>1</sup> demonstrates a commitment by the Council to meeting the need for pitches in the District and this emerging strategy seeks to allocate the application site for gypsy and traveller pitches (ref. NUA/GRT/12 for 20 pitches and a new dwelling to assist in the management and operation of the new pitches). In the absence of an adopted strategy, any need is required to be met through the determination of planning applications on an ad hoc basis with limited direction from adopted planning policies beyond Core Policy 5 (Criteria for Considering Sites for Gypsies & Travellers and Travelling Showpeople). Furthermore, while only limited weight can be given to the proposed allocation as the Plan has yet to be submitted and found sound and the unresolved objections to the broad G&T strategy from the publication stage, the contribution towards supply as a windfall site could nevertheless contribute towards the District's current unmet need.

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

As this site is a new site, it did not form part of the baseline position (August 2019) for the GTAA. The supporting information submitted states that future occupiers of all of the pitches are not currently known but will be restricted to those meeting the definition of a gypsy or traveller, as provided through the PPTS. The applicant states that future occupiers are likely to be from Tolney Lane where there are a number of pitches without permanent consent, however this is not

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<sup>1</sup> <https://democracy.newark-sherwooddc.gov.uk/documents/b2647/Newark%20Sherwood%20Plan%20Review%20-%20Amended%20Allocations%20and%20Development%20Management%20Development%20Plan%20Docu.pdf?T=9>

reinforced by any expressions of interest from families wanting to relocate to the site. It is also noted that two authorised pitches currently exist on the site, both of which are proposed to be retained but relocated to the north of Chestnut Lodge – the occupiers of one of the existing pitches would move into the Manager’s dwelling and the occupiers of the other pitch would be relocated to the north of the site - therefore, the net additional pitches proposed would be 20.

Based on the information provided by the applicant, subject to a planning condition restricting occupation of the site to those meeting the planning definition (as referred to in the recent Spalford appeal decision<sup>2</sup>) of a gypsy or traveller, the proposed pitches would be available to help meet existing, and future locally identified G&T need. It could also indirectly assist in meeting identified needs at sites on Tolney Lane should existing occupiers of these sites relocate to the application site. This positive contribution towards meeting the need identified through the GTAA and the demonstration of a five-year land supply, is a significant material consideration in favour of the proposal.

The proposal includes a manager’s dwelling on site to support the operation of the site – whilst comments from third parties reference consent having been refused for a new dwelling on this site, Officers have not been able to identify any planning history in relation to this. Nevertheless, it is accepted that new market dwellings in such a rural location would ordinarily be resisted under policy DM8 which seeks to strictly control new development in the Open Countryside and wouldn’t meet any of the exceptions envisaged in DM8. It is therefore necessary to consider if there are any other material considerations that allow for a decision to be made contrary to the Development Plan.

In this case the dwelling is required for the site to function as a G&T site, to ensure its smooth operation and to manage any potential issues with anti-social behaviour. Officers note that the proposal allocation allows for the inclusion of a manager’s dwelling, subject to it being of an appropriate scale and siting (which will be discussed further in the subsequent section of this report). Therefore, the benefits of a manager’s dwelling to be occupied by a family that meets the definition of a gypsy and traveller as set out in the PPTS are noted and is therefore considered to be acceptable in this instance, subject to a site-specific assessment and planning conditions firstly restricting occupation of the dwelling to the identified site manager and their family, who must also meet the planning definition (as referred to in the recent Spalford appeal decision) of a gypsy or traveller, and secondly to prevent its occupation until at least the 17 no. pitches proposed to the rear of the site are provided and made available for occupation.

The application site is located in the open countryside, approx. 700m east of the boundary of the Newark Urban Area, as defined by the Allocations and Development Management DPD. Core Policy 4 states that future pitch provision will be addressed through all necessary means, including amongst other criteria, the granting of planning permission for pitches on new sites in line with Core Policy 5. Provision will be made in line with the Council’s Spatial Strategy with the focus of the Council’s efforts to seek to secure additional provision in and around the Newark Urban Area. Beyond this, Core Policy 5 sets out a range of criteria, which proposals need to satisfy. The overall aims of this policy are identified as reducing the need for long distance travelling and possible environmental damage caused by unauthorized encampments and the contribution that live/work mixed use sites make to achieving sustainable development.

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<sup>2</sup> <https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=51135051> or 21/02528/FUL

The PPTS expects LPAs to strictly limit new traveller site development in the open countryside *'that is away from existing settlements'* or outside areas allocated in the development plan. Notwithstanding the site's location in the Open Countryside, given the site's relatively close location to the Newark Urban Area, leaves the proposal reasonably well-placed to satisfy the above overarching aims and would be more suitable than other more isolated countryside locations which would align with the aim of the PPTS.

In summary, the District has a significant unmet need for Gypsy and Traveller pitches. The proposal would represent a direct and indirect contribution towards the Council's five-year land supply. This positive contribution is a significant benefit, and one which should be afforded significant weight as part of the overall planning balance. The principle of this use in this location is therefore considered to be acceptable in accordance with the principles of the abovementioned policies subject to an assessment of the remainder of the criteria set out within Core Policy 5, which are more site specific and are set out and considered below in turn.

#### Impact upon Character and Appearance of the Area, Heritage Assets and Ecology

Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. The first criteria of Core Policy 5 also states that when considering sites for G&T, sites should not lead to the unacceptable loss, or significant adverse impact on the landscape character and value, important heritage assets and their settings, nature conservation and biodiversity sites (which will be covered in the subsequent section of this appraisal). The fifth criteria of CP5 seeks that the site is capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity. The emerging site allocation (NUA/GRT/12) also requires that the proposed pitches and manager's dwelling be appropriately sited to ensure they are acceptable in landscape and visual terms, with the impact on the open countryside being appropriately managed.

The Landscape Character Assessment (LCA) SPD informs the policy approach identified within Core Policy 13. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The site is identified as being within the East Nottinghamshire Sandlands and within the Landscape sub-type of Winthorpe Village Farmlands (ES PZ 04). The policy approach for this area is to 'Conserve and Create', identifying it as being of moderate condition and of moderate sensitivity. The characteristic visual features within this area are smaller field sizes adjacent to villages with pasture. Specific recommendations for built features therefore encourage conservation of what remains of the rural landscape by concentrating new development around existing settlements and creating new development which reflects the local built vernacular. With regard to landscape features this seeks to create new hedgerows and conserve existing, seek opportunities to conserve field pattern where feasible, contain new development within historic boundaries as well as to seek opportunities to conserve existing pastoral fields and historic field patterns and conserving and enhancing tree cover and landscape planting generally.

The northern portion of the site is occupied by the two existing (authorised) static caravans and areas of grass with hardstanding. This portion of the site has been enclosed to the north and south by close boarded fencing in front of existing hedgerows. The southern portion of the site comprises an open grassed field/paddock with a large former agricultural building adjacent to the eastern

boundary that is in a dilapidated state. This field has also been enclosed by close boarded fencing with planting behind. The highway boundary is relatively well bound by established trees and hedging which lie outside of the application site boundary, save for the location of the proposed access to the west of the Gas Valve Compound which itself is enclosed by metal palisade and timber fencing.

Considering first the proposed pitches, no detail of the proposed caravans has been submitted, however it is acknowledged that caravans would not reflect the local built vernacular. The pitches proposed in the rear portion of the site would not be highly prominent from the surrounding countryside given the site has been enclosed by fencing, and given the set back from Barnby Road, and screening afforded by existing development (Chestnut House to the NW) and it is not considered that they would be readily visible from passers-by travelling along Barnby Road. Given the paddock is already part of the wider site and has been separated from the wider agricultural landscape for many years, it is not considered that the loss of the paddock would lead to an unacceptable loss, or significant adverse impact on landscape character and value in accordance with CP5. Furthermore, the pitches proposed to be located to the front of Chestnut Lodge would be well screened by the existing boundary fencing and vegetation along the highway boundary which limit any views into the site and would be screened from the surrounding countryside by the existing dwelling itself such that they would not have any significant adverse impact on the local landscape.

It is not exactly clear what vegetation/planting has been removed from the site to facilitate the installation of the boundary fencing, but it appears that any removal is likely to have taken place around the site boundaries to the rear, where new planting is proposed in any event in addition to planting to the north of the site. Whilst vegetation removal is regrettable from both a landscape character and ecology point of view, a matter reflected by the comments from local residents, the vegetation was not protected in any way. The mature trees within the grass verge of Barnby Road in this location have been retained and are not proposed to be removed as part of this application, so the mature trees and soft setting to the site from Barnby Road would remain. No designated heritage assets are located near to the site that would be affected by the proposals.

In relation to ecology, given that the southern portion of the site is an open grassed field/paddock it is unlikely to support any significant levels of biodiversity, however any removal of hedgerow or trees from the site may have offered potential opportunities for foraging bats and nesting and foraging birds. Should planning permission be granted, therefore, it is considered reasonable to impose a condition to require some biodiversity enhancements to provide two bat and two bird boxes on the site. Following clarification and amendments to the plans, the applicant wishes to retain the existing building in the rear portion of the site, as such no ecological investigation on this building has been requested. Therefore, subject to a condition to secure biodiversity enhancements, the scheme is considered to be acceptable in this regard would comply with the requirements of CP5, CP12 and DM7 which seek to protect ecology and the natural environment.

Section 11 of the NPPF relates to making effective use of land and paragraph 117 states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding the environment. Paragraph 122 states that planning decisions should support development that makes efficient use of land, taking into account: a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it and [...] the desirability of maintaining an area's prevailing character and setting (d). Core Policy 5 advises on general guidelines for pitch sizes. A pitch that is a permanent site where there are shared facilities within the overall site (e.g. the storage of waste

and sewerage disposal), should be approx. 350m<sup>2</sup>. The size of the pitches presented range between 160m<sup>2</sup> -216m<sup>2</sup>, which would fall significantly below the pitch size guidance. However, Officers note that the proposed amenity block would offer a large space for shared facilities which would meet the needs of future occupiers. Furthermore, grassed space is proposed within the site which would provide communal external amenity space. Future occupiers would also be aware of the size constraints of the pitches prior to choosing to locate on this site. Given the site would contribute significantly towards the unmet need of gypsy and traveller pitches, it is considered that it would be difficult to sustain a reason for refusal on the basis that the pitches are substandard in size, and it is noted that the layout of the site has been designed to avoid development over the pipeline easements to the north and east of the proposed pitch areas.

Turning now to the characteristics of the proposed pitches, it is noted that the majority of these would be located in the southern portion of the site, in two rows either side of the access road. These pitches, and those proposed to the front of Chestnut Lodge, are proposed to be made up of hardstanding and grass with an amenity block to the east with an area of proposed intervening planting. Access to serve the main area proposed for pitches is proposed to be taken off Barnby Road to the north, past the proposed manager's dwelling and access for the pitches adjacent to Chestnut Lodge would be taken via the existing (authorised) access to the east. Fully occupied, the scheme would represent single storey development of up to 19 additional caravans (21 in total given two authorised pitches exist on the site). The amenity block, broadly positioned in the location of an existing caravan on site, would be constructed from vernacular materials, single storey and set against a backdrop of the Gas Valve Compound when viewed from the countryside to the south (and partially screened by it and surrounding vegetation when viewed from the highway) such that it would not become highly prominent or visible in the street scene – whilst there would inevitably be some adverse impact as a result of additional permanent development in the open countryside, the level of impact on the landscape character is not considered to be '*significantly adverse*'.

Turning now to the proposed managers dwelling, this is proposed to be located broadly centrally within the site to increase passive surveillance opportunities around the site. The positioning of the dwelling, set well into the site, would reduce its visual prominence in the street scene when travelling along Barnby Road and its offset from the rear boundary, and positioning clustered with existing built development on the wider site, would assist in mitigating the visual impact of the development in the open countryside. Nevertheless, it is undisputable that a large 5-bed dwelling on the site, which is within the open countryside, would have an impact on the open character of the site both visually and spatially.

Following negotiations, the scale of the dwelling has been marginally reduced in height, width and depth. Nevertheless, whilst the dwelling would be larger than the property to the west, it would not be dissimilar in footprint to the dwelling across the highway to the north and would be set well into the site which would reduce its prominence in the street scene. Officers have discussed a further reduction in scale with the Applicant, however the amended scheme reflects what the Applicant considers to be their minimum requirements to cater for their existing and future family requirements and to oversee the management of the wider site. Officers note that comments from 3<sup>rd</sup> parties question why Chestnut Lodge could not be used as the managers dwelling for the site, however this property is already occupied by members of the Applicant's family which would be displaced if this was the case. Furthermore, having the managers dwelling centrally within the site, overseeing the main access and the majority of the pitches to the south would assist in the surveillance and running of the site. It is noted that planting is also proposed to the front of the site which would provide some additional visual relief, although would unlikely screen the property in

full from the surrounding countryside. Whilst the dwelling would undeniably have an impact on the character of the open countryside, given the amendments made and when compared to surrounding development, it is not considered that this element of the proposal would have a '*significantly adverse impact*' on the landscape character given similarly scaled residential development exists to the north and east. Nevertheless, the degree of visual harm that would arise from introducing a permanent two storey dwelling into this site would be a negative impact of the proposal that would weigh against the scheme. However, the benefits of having a managers dwelling on site to support its operation and reduce potential crime and anti-social behaviour equally weighs in favour of the proposal. Furthermore, the wider benefits of the proposal, which would contribute significantly towards the unmet need of gypsy and travellers within the District carries significant positive weight and would outweigh this level of identified harm.

Overall, the general impact on the visual amenities of the area and roadside is found on balance to be acceptable with new hedgerow planting along the new fencing to soften its appearance. To conclude, whilst some harm has been identified to visual amenity from the proposed managers dwelling and to biodiversity from the removal of vegetation to facilitate the installation of fencing around the site, it is considered that mitigation could be provided, and for the reasons outlined it would be difficult to sustain a reason for refusal on the basis that the proposal would result in an unacceptable impact on the landscape character and appearance of the area. In any event, it is also considered that the limited harm identified would be demonstrably outweighed by the wider benefits of the proposal too. Therefore, whilst comments received from local residents have been duly taken on board, it is not considered that the proposal would lead to an unacceptable loss, or significantly adverse impact on landscape character and value, important heritage assets and their setting or ecology, in accordance with the requirements of policies CP5, CP9, CP12, DM5 and DM7.

### Sustainability

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

Whilst it is acknowledged that the site is not located within the Newark Urban Area, it is only a relatively short distance away from the boundary (700m) and also has the ability to enjoy the full range of basic everyday services and facilities offered within Balderton. The site is adequately served in terms of electricity and water supplies. The applicant has also confirmed that the site will be served by septic tanks and as such, an informative can be added to any decision notice to advise what is required in this regard outside the planning process. In relation to drainage, it is noted that the site is proposed to be drained with soakaways, the precise details of the drainage strategy can be controlled by condition.

Overall, the site is considered to be suitably situated with access to essential services and a range of basic and everyday community services and facilities in accordance with the requirements of CP5.

### Highways Impacts

Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision echoed by SP7. The third criteria of Core Policy 5 also states that sites should have safe and convenient access to the highway network. The emerging site allocation (NUA/GRT/12) also requires the provision of the new vehicular access to be appropriate in

highways terms, providing for a safe standard of access and having regard to the location and operation of other existing points of vehicular access in the immediate area.

It is noted that during the previous application for two pitches at this site the County Council objected to the proposal on the basis that the site was not considered to offer reasonable and practical way of accessing the site other than by private car/van. In the assessment of this application the Officer noted that the nearest pavement to which the site could be connected is either approx. 2.1km to the west along Barnby Road towards Newark, 1.5km to the south-west along Balderton Lane towards Balderton or 1.9km to the north-west along Balderton Road towards Coddington. It was not therefore considered to be reasonable to insist that the applicant would be required to provide any of these lengths of footway.

Paragraph 108 of the NPPF states that in assessing applications for development, it should be ensured that:- “a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.” Part c) of this paragraph refers to ensuring that any significant impacts from the development on highway safety can be “cost effectively mitigated to an acceptable degree.” This appears to acknowledge that there could be cases where mitigation is considered to go beyond being “cost effective” and may therefore not be appropriate to pursue.

Officers note that the Highway Authority have not raised concerns in the assessment of this current application in relation to accessibility/sustainable transport, neither have they raised any concerns in relation to potential highway conflict with pedestrians, cyclists, horse riders etc. Following receipt of highways tracking and visibility plans for the new central access point the Highway Authority have also raised no objection in relation to the suitability and safety of the new access, subject to conditions relating to its surfacing, setting the access gates back from the carriage way (to allow vehicles to pull off the highway when entering the site) and provision of drainage infrastructure to prevent the discharge of surface water on to the highway.

Whilst local comments have raised concerns regarding the suitability of the site in highways safety terms, on the basis of the comments received from the Highway Authority, it is considered that the proposal would not result in any highway safety concerns and therefore accords with Spatial Policy 7 of the Core Strategy and Policy DM5 of the A&DM DPD in this regard. Furthermore, it is also considered that whilst the proposed site is not currently able to be accessed safely by any other form of transport other than by private vehicles use, it would not be reasonable on the basis of cost, to require the applicant to provide a footway link between the site and the nearest existing footway, which is approx. 1.5km away from the site. Nevertheless, this lack of a safe and more sustainable option for accessing the site therefore weighs against the proposal in the overall planning balance.

#### Impact on Amenity

Core Policy 9 of the Core Strategy and Policy DM5 of the DPD state that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The fourth criteria of Core Policy 5 also states that sites should offer a suitable level of residential amenity to any proposed occupiers and not have an unacceptable adverse impact on the amenity of nearby residents particularly in rural and semi-rural settings where development is restricted overall. Paragraph 127(f) of the NPPF also states



that planning decisions should create places that promote health and well-being with a high standard of amenity for existing and future users.

In the assessment of a recent application on this site, the Council's Environmental Health Officer (EHO) assessed the potential impact of noise from existing uses adjacent to the site – namely the gas valve compound and the potential of noise from the adjacent transportation company and was satisfied that occupiers of the site would be adequately protected from these noise sources by the close boarded timber fencing erected around the boundaries. Officers note that the EHO has also reviewed this application and has raised no objection in this respect.

In terms of the proposed occupiers of the site, as explored in a previous section, some of the sizes of the pitches presented fall below the recommended standard of 350m<sup>2</sup> as set out in Core Policy 5. Whilst this shortfall is acknowledged, it is not considered that this needs to be fatal to the scheme. However, acknowledging the size of the proposed pitches and to promote reasonable living conditions, Officers consider the number of caravans allowed to be stationed on the land should be limited by condition to two per pitch, of which no more than one should be a static caravan.

Turning now to existing residents who would live close to the site, Moorhouse, a two-storey dwelling on the opposite side of Barnby Road is positioned approx. 51 m from the northern boundary of the application site. Chestnut Lodge (in the same ownership as the site) is also approx. 86m to the east of the proposed managers dwelling and Chestnut House is approx. 80m to the west. Given the separation distance proposed (from both the managers dwelling, amenity block and proposed pitches), it is not considered that any adverse amenity impact would arise to existing occupiers through overlooking, overbearing or overshadowing. Whilst the relationship of the four pitches to the north of Chestnut Lodge would be closer than the 17 no. pitches to the SW, the separation distance would be in excess of 25m and given the dwelling is in the same family ownership as the remainder of the site it is not considered that any adverse amenity impact would arise.

Any new development on this site has the potential to have some impact on the existing property to the west given the proposal would result in increased vehicular movements causing additional noise and disturbance from associated comings and goings, however, given the separation distance from the proposed access and location of the pitches this is unlikely to be of such a level that would result in an adverse impact on their amenity.

There are five external lighting columns (that have the appearance of streetlights), approx. 3m high; two are situated adjacent to the boundary with Barnby Road and three more within the site. Concerns regarding the current levels of illumination coming from the site has been raised by local residents. However, Officers note that the recent application on this site included a planning condition requiring the installation of a back plate to be fitted to each of the columns adjacent to the road to mitigate any potential light spill. However, it is acknowledged that some level of new external lighting would likely be required which also has the potential for some negative impact, although existing boundary treatment and intervening buildings would provide some mitigation in this respect and the precise details of the lighting (to reduce light spill etc) can be controlled by condition. The inclusion of a defined communal bin area within the layout of the site also indicates consideration to matters of refuse disposal.

Overall, given the site context and degree of separation from existing properties, together with general single storey nature of the development, boundary treatments and the separation distance between the site and existing neighbours, it is not considered that the relationships would result in

any unacceptable degree of harm on the amenities of existing occupiers close to the site which accords with the requirements of CP5, CP9 and DM5.

### Flood Risk

Criteria 6 of Core Policy 5 states that in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within the Government's PPTS and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site-specific Flood Risk Assessment, applying both the Sequential and Exceptions Tests, as appropriate, to achieve safety for eventual occupiers.

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

Notwithstanding comments that have been received from third parties in relation to flooding concerns, it is noted that the site is within Flood Zone 1 on the Environment Agency flood maps, which means it is at low risk of fluvial flooding. In terms of surface water drainage, all pitches would be served predominantly by areas of permeable ground surfaces and as such, are unlikely to result in any unacceptable impact on the site or neighbouring sites in the regard. The proposal also includes soakaways for the dwelling, amenity building and pitches which would manage any increase in surface water runoff from the site in addition to the permeable hard surfacing proposed to the pitches – precise details of which can be controlled by condition. This approach is considered to be acceptable and subject to a condition requiring the precise drainage strategy to be provided would not result in an increase in flood risk to site users or third parties in accordance with CP5, CP10 and DM5.

Comments received have also referenced the infilling of a drainage ditch adjacent to the site, however it is noted that this ditch lies outside of the red line of the application site. In any event, TVIDB have been consulted on the application and have not made any comments. Upon visiting the site, Officers also did not observe any works to facilitate the creation of an access at the proposed access point.

### Other Matters

As noted in the description of the site there are two pressurised gas pipelines within the site which have a total easement of 12m (6m either side of the gas pipeline) in which no development would be permitted by Cadent. The emerging site allocation (NUA/GRT/12) requires the siting of the new pitches and dwelling (and any associated amenity buildings) to be kept outside of the easements to the underground gas pipelines which pass through the site – this has been adhered to with the submitted plans. The plans show that the access road to the field to the south would cross over the pipeline easement and space for parking would be provided to the west, also over the easement. The remainder of the easement would be kept free from obstruction/physical development. It is noted that CADENT initially issued a holding objection pending a site visit due to concerns about the clearance of the easement and the potential for additional loading over the pipeline, however following a site visit on 06.04.2023 their revised comments have withdrawn their objection and

confirm that they are satisfied that the integrity of the gas assets would be adequately protected. As such there are no concerns in relation to the safety and integrity of the gas assets.

As can be noted from the Consultation of this report, the proposal has received strong local opposition. Matters relating to character, highways safety, ecology, food risk and amenity have been duly taken on board throughout this assessment. Reference has been made from third parties to the potential risk of increased crime and anti-social behaviour. However, there is no evidential basis of any potential criminal or anti-social activity. Similarly, no detailed evidence has been provided to indicate how the living conditions or safety of local residents would be impacted by future occupiers of the application site. Comments received have also referenced previous incidents at the site where waste was burnt, however the council does not hold any records of complaints of such activities taking place. Matters relating to building regulations/fire regulations in respect of windows proposed in the amenity building are also not material planning considerations, but in any event the arrangement proposed is not considered to be unusual.

Concerns have also been raised in relation to the number and dominance of caravan development in the Newark area. Cumulative harm of developments on a local area is a material consideration, however, Officers do not consider there to be any cumulative impacts identified with this site that would lead to unacceptable harm either in visual or landscape character grounds that would warrant refusal of this application. It is noted that Newark as a town has a high population of G&Ts which are predominately focussed at Tolney Lane, however this comes with its own set of challenges and constraints, particularly in relation to Flood Risk.

Comments made also reference the alleged requirement of the site to provide developer contributions towards local infrastructure. However, given the application is for transient pitches and not dwellings (in excess of 10), developer contributions are not required for this type of development.

Officers note that comments also reference the need for an Environmental Impact Assessment (EIA) for this application – Officers have considered whether the development constitutes EIA development requiring submission of an Environmental Statement, however Officers do not consider this to be the case, particularly given any impacts of the development would be at the local level and *not significant* in EIA terms.

CIL - The site is located within the Medium Zone of the CIL charging schedule where the CIL rate is £45. The proposal would result in 442m<sup>2</sup> of residential GIA (in the managers dwelling). The CIL charge on this application is therefore £21,593.12.

## **8.0 Planning Balance and Conclusion**

Overall, the recent GTAA has identified a significant unmet need for gypsy and traveller pitches. The net addition of 20 pitches proposed would contribute directly and indirectly to the significant unmet need of the Council's five-year land supply and identified G&T need over the plan period. This pitch contribution carries significant positive weight in favour of the proposal.

The site is in a relatively highly sustainable location, as although located in the open countryside, the site is in close proximity to all the facilities required for day to day living and the requirements of a growing families (although only accessible by private vehicles). No harm has been identified in relation to heritage assets, residential amenity and flood risk which are therefore neutral in the overall planning balance. Additional planting, controlled by condition, could provide some

ecological enhancements which would represent a minor benefit. Harm has been identified on the character and appearance of the area as a result of the managers dwelling proposed on the site. In highway safety terms, harm has been identified with regard to the lack of facilities to access the site other than by private vehicles, without the provision of a significant length of new footway, which is considered to be an unreasonable cost in this case. These factors weigh against the proposal in the planning balance.

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

Weighing all of the above competing factors in the overall planning balance and considering a limited number of adverse impacts have been identified, Officers consider the benefits of the scheme would outweigh the identified harm. It is therefore recommended that planning permission is granted, subject to conditions.

## **9.0 Implications**

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## **10.0 Conditions**

### **01**

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

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

### **02**

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

- Proposed Site Plan – Ref. 2208-01 E
- Proposed Floor Plans – Ref. 2208-02 D
- Proposed Second Floor Plan and North Elevation – Ref. 2208-03 C
- Proposed Elevations and 3D Views – Ref. 2208-04 C
- Proposed Amenities Block – Ref. 2208-05
- Proposed Access and Visibility Splays – Ref. JG01
- Swept Path Analysis Plan – Ref. JG02

Reason: So as to define this permission.

### ***Pre-Commencement Conditions***

## 03

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

### **Part A: Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's ['Land contamination risk management \(LCRM\)'](#)

### **Part B: Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

### **Part C: Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

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

#### **Part D: Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

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

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

#### ***Pre-Occupation Conditions***

##### **04**

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

Reason: In the interests of reducing light pollution in this location.

##### **05**

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

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

- car parking layouts and materials;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials.

Reason: In the interests of visual amenity and biodiversity.

## **06**

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

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

## **07**

Prior to first occupation of the development hereby approved full details and the precise positioning of 2 bat boxes and 2 bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The approved boxes shall then be installed within two months of first occupation in accordance with the agreed details and retained thereafter for the lifetime of the development.

Reason: In the interests of maintain and enhancing biodiversity.

## **08**

No part of the development shall be brought into use until details of the Waste & Recycling Area shown on 'Proposed Site Plan – Ref. 2208-01 E' have been submitted to and approved in writing by the Local Planning Authority. The approved Bin area shall be installed prior to commencement of the approved use and retained thereafter for the lifetime of the development.

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

## **09**

No part of the development shall be brought into use until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details.

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

## **10**

No part of the development hereby permitted shall be brought into use until the new access driveway is constructed with provision to prevent the discharge of surface water from the driveway to the public highway. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

## **11**

No part of the development hereby permitted shall be brought into use until the parking, turning, and servicing areas are provided in accordance with the approved drawing no. 2208-01 rev. E, titled: Proposed Site Plan. The parking, turning, and servicing areas shall not be used for any purpose other than parking, turning, loading and unloading of vehicles.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems in the area and enable vehicles to enter and leave the site in a forward direction, all in the interests of Highway safety.

## **12**

The Managers dwelling hereby permitted shall not be occupied until the 17 no. pitches approved on the southern portion of the site have been provided and made available for use for gypsies and travellers. Thereafter the occupation of the dwelling shall be limited to a person solely or mainly working or last working as the manager of the associated gypsy and traveller site or a widow or widower of such a person, and to any resident dependents.

Reason: To ensure that the benefits of the scheme (providing pitches for gypsies and travellers) are delivered to justify the requirement of the managers dwelling that would otherwise be inappropriate in this location and to ensure that the occupation of the dwelling continues to meet the needs upon which it was justified.

### ***Compliance Conditions***

## **13**

The amenity block hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application.

Reason: In the interests of visual amenity.

## **14**

The Managers Dwelling and Pitches hereby permitted shall not be occupied by any persons other than gypsies and travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but



excluding members of an organised group of travelling showpeople or circus people travelling together as such.

Reason: To ensure that the site is retained for use by gypsies and travellers only in order to contribute towards the LPAs 5-year housing supply.

## **15**

No more than 1 static caravan and 1 touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on each pitch at any one time.

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

## **16**

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

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

## **17**

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

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

## **18**

The new access shall be constructed and surfaced in a bound material in accordance with drawing no. JG01, titled: Proposed Access and Visibility Splays, dated: 29/03/2023 and no other part of the development shall be commenced until the access has been completed in accordance with those plans.

Reason: To allow the vehicles to enter and leave the highway in controlled manner; to protect structural integrity of the highway and allow for maintenance; in the interest of highway safety.

## **19**

The gates at the new access point shall open inwards only and be set back 15 metres from the edge of carriageway. The approved gates shall then be retained for the life of the development.

Reason: To enable vehicles to stand clear of the highway whilst gates are opened/closed. In the interest of highway safety

### **Informative Notes to Applicant**

#### **01**

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

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

#### **02**

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

#### **03**

##### **NOTES FROM CADENT GAS:**

The apparatus that has been identified as being in the vicinity of your proposed works is:

- High or Intermediate pressure (above 2 bar) Gas Pipelines and associated equipment
- Electricity Transmission overhead lines
- Above ground electricity sites and installations

**BEFORE** carrying out any work you must:

- Ensure that no works are undertaken in the vicinity of our gas pipelines and that no heavy plant, machinery or vehicles cross the route of the pipeline until detailed consultation has taken place.
- Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.
- Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of

danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>

- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

#### 04

The Council must issue licenses for sites to be operated as a recognised caravan, mobile home or park home site. This is to ensure proper health, safety and welfare standards are maintained. A caravan site includes anywhere a caravan (including mobile or 'park' home) is situated and occupied for human habitation including on a permanent, touring or holiday basis. Further information is available by contacting the Environmental Health and Licensing Team at the Council on 01636 650000, or by visiting the Council's website at <https://www.newark-sherwooddc.gov.uk/caravansitelicence/>

#### 05

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

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

Where this is not possible, under the Environmental Permitting Regulations 2010 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, in addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters. Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

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

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

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

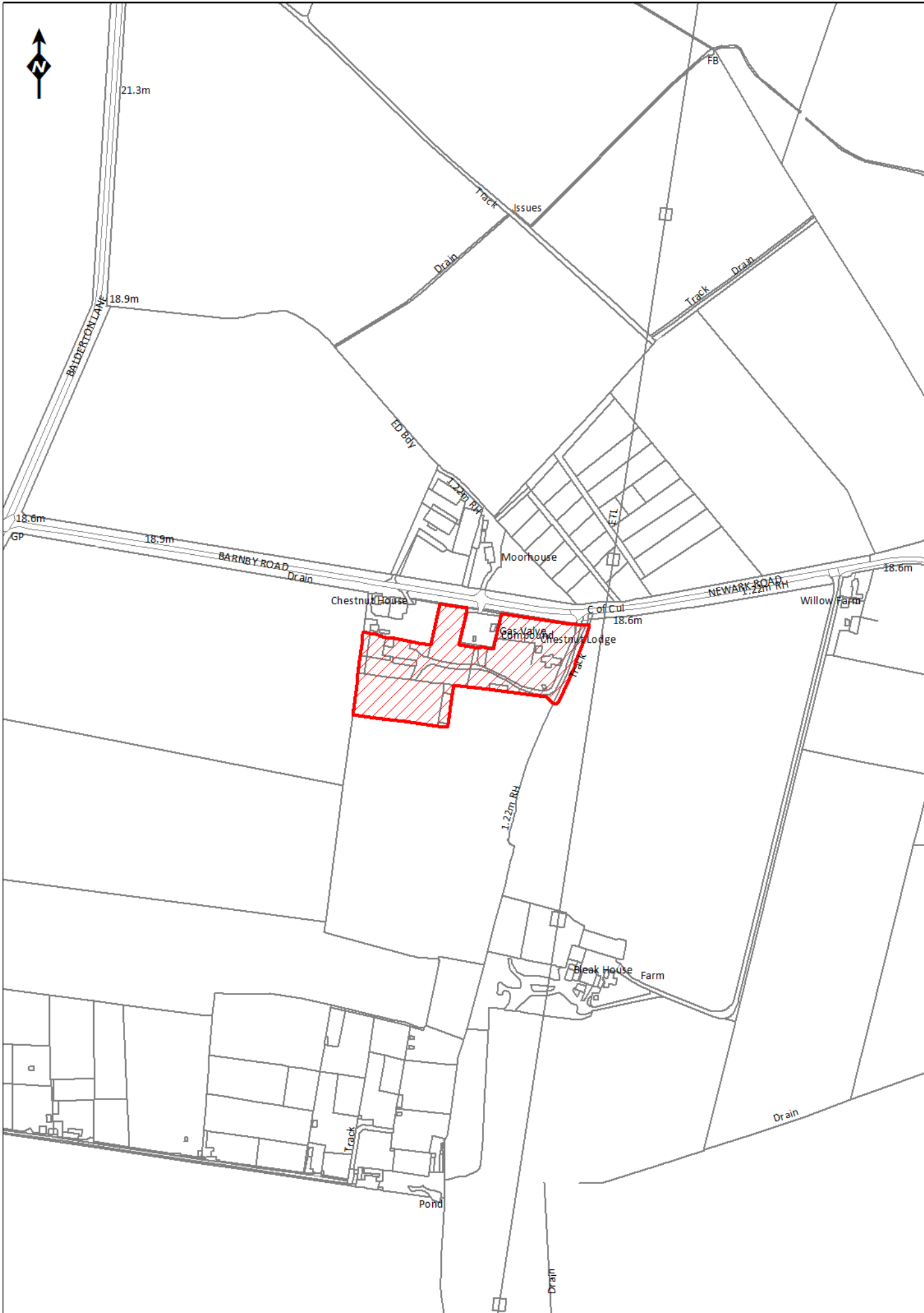
Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit. Further advice is available at: <https://www.gov.uk/permits-you-need-for-septic-tanks> and <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>

#### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 23/00058/FULM





Committee Plan - 23/00058/FULM

