

Report to Planning Committee 6 July 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Honor Whitfield, Planning Officer, 01636 655827

Report Summary			
Application Number	23/00060/FUL		
Proposal	Change of use of paddock to provide 8 no. pitches for permanent residential occupation and 2 no. amenity buildings		
Location	Appleby Lodge, Barnby Road, Newark On Trent, NG24 2NE		
Applicant	Mr Archie Smith	Agent	David Dakin Architects Limited Mr David Dakin
Web Link	23/00060/FUL Change of use of paddock to provide 8 no. pitches for permanent residential occupation and 2 no. amenity buildings. Appleby Lodge Barnby Road Newark On Trent NG24 2NE (newark-sherwooddc.gov.uk)		
Registered	18.01.2023	Target Date	15.03.2023
		Extension To	12.06.2023
Recommendation	That Planning Permission is Approved subject to the Conditions detailed at Section 10.0 and completion of a S106 planning obligation.		

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

1.0 The Site

The application site relates to an approx. 0.51Ha paddock on the northern side of Barnby Road to the east of Newark. The site is adjacent to ‘Appleby Lodge’, a residential property to the east, beyond this are other residential properties. To the west of the site is a disused railway line, which is now the Sustrans footpath and cycle route, beyond which is a public play area. To the north is an open field and the railway line, to the south, across the highway is a large pond that is designated as a Local Wildlife Site (LWS) Biosinc 2/638 Ballast Pit. To the south-west of the site is Barnby Road Academy Primary School. A gas pipeline runs in a broadly E-W direction across the northern

portion of the site. There is an historic gated access onto Barnby Road in the south-west corner of the site, close to the railway bridge. The site is described as paddock land and is currently in a relatively overgrown state. The site does not lie within a Conservation Area or within an area at risk of flooding.

The site has the following constraints:

- To the south, across the highway, is a large pond that is designated as a Local Wildlife Site (LWS) Biosinc 2/638 Ballast Pit.
- A gas pipeline runs in a broadly E-W direction across the northern portion of the site.
- The site is part of an officially recognised migratory route for toads (Froglife Site I.D. 237 SK809532).

2.0 Relevant Planning History

No relevant planning history relating to this specific field (highlighted in red on the image below).

Site to the east (behind Appleby Lodge) – highlighted in blue in the image below:

03/02349/FUL - Change of use from paddock to site for residential caravan for two years – Refused 05.12.2003 due to being contrary to policies FS3 (as the site was not a frontage site and approval would therefore adversely affect the character of the area) and H32 (as the site was not appropriate as a location for permanent dwellings given the conflict with FS3). Appeal Dismissed 19.10.2004

05/01004/OUT - Erection of house – Refused 23.09.2005 due to being contrary to FS3 (as above) and NE8 (Mature Landscape Areas which restricts development in areas identified as MLAs as the site is important in terms of landscape value and nature conservation on the edge of Newark) and insufficient information to assess visibility splays.

05/02371/OUT - Erection of bungalow – Refused 03.02.2006 due to being contrary to FS3 (as above) and due to highways concerns in relation to substandard visibility and width.



Fig. 1 Aerial Image of Site and Adjacent Site with Planning History (Google Maps)

3.0 The Proposal

The application seeks planning permission for the change of use of the land to provide 8 Gypsy and Traveller pitches for permanent occupation. Two amenity buildings are also proposed.

The submitted layout shows space for one static and one tourer caravan to be located on each pitch along with two parking spaces. The pitches range in area from approx. 259m²-778m². There are 4 pitches proposed on each side of the central access road that is proposed in a north-south direction. The pitches are proposed to be made up of permeable brick paving and grass, separated by post and rail fencing.

Communal bin storage is proposed in the SW corner of the site along with a location for a septic tank. A soakaway grate system is annotated on the plans behind each of the proposed amenity buildings. The amenity buildings would be located broadly centrally within the site on either side of the access road and would measure approx. 8.3m x 5.3m, 4.7m to the ridge and 2.7m to the eaves, constructed in brick and pantile. The amenity buildings would comprise a kitchen, bathroom and storeroom and would be constructed in red brick and pantiles with white uPVC windows and doors.

Additional information has been received on the proposed occupiers of the pitches, including names and numbers of children. Confirmation has also been received that some of the intended occupants (for plots 1-4) were included in the most recent Gypsy and Traveller Accommodation Assessment (GTAA) and the organization that carried out that assessment determined that the proposed occupants had Gypsy status during their interview process, which means they have not ceased travelling for economic purposes, they travel for at least 2 months a year and that they have no plans to cease travelling in the future. In respect of Plots 5-8, the applicant outlines that these plots are to be retained to rent out to other recognised gypsy and traveller families.

Documents assessed as part of this application:

- Application Form
- Design and Access Statement (12.01.2023)
- Supporting statement (26.01.2023)
- Environmental Noise Assessment by PDA Acoustic Consultants (28.02.2023)
- Response to Environmental Health Officer Comments by PDA Acoustic Consultants (09.05.2023)
- Response to Highways Comments (06.03.2023)
- Tree Report by Arbtech (deposited 23.03.2023)
- Preliminary Ecological Appraisal by Arbtech Issue 4 dated 15.05.2023
- Plans:
 - Amended Site Location Plan – Rev. D (23.03.2023)
 - Existing and Proposed Plans Option 3 – Ref. L(03)03 Rev. G (23.03.2023)
 - Swept Path Analysis Plan – Ref. F22006/01 (06.03.2023)

4.0 Departure/Public Advertisement Procedure

Occupiers of 15 properties have been individually notified by letter, a site notice has been displayed and an advert has been placed in the local press.

A re-consultation was also undertaken relating to amended plans and documents received during the course of the application.

Site Visit Date: 26.01.2023

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 2 – Spatial Distribution of Growth

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

NAP1 – Newark Urban Area

Allocations & Development Management DPD

Policy DM1: Development within Settlements Central to Delivering the Spatial Strategy

Policy DM5: Design

Policy DM12: Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2021
- Planning Practice Guidance
- 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 National Planning Policy Framework (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 Local Planning Authority (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.

(a) Statutory Consultations

NCC Highways – No objection subject to conditions.

(b) Town/Parish Council

Newark Town Council – Object – Concerns raised in relation to:

- The loss of nature and biodiversity.
- The loss of an area of open natural character as observed by a planning inspector in appeal proceedings relating to previous efforts for the site to be allocated for Gypsy & Traveller (G&T) accommodation.
- Traffic surveys carried out in relation to the application site are considered to be insufficient and it is not evident over which period the assessment has been carried out and is of a period that is too short to give an accurate representation of traffic movements along the road.
- The concerns of the Environmental Health Officer (EHO) in relation to noise are noted.
- The traffic survey undertaken is insufficient.
- The Ecology survey fails to consider the cumulative impact of development in the area.
- Voluntary mitigation measures offered by the applicant to address access concerns cannot be enforced.
- NTC recognise that many of the concerns may be addressed and mitigation measures offered.

- School places in the area have not been adequately considered by the education authority.

(c) Representations/Non-Statutory Consultation

NSDC Planning Policy – Support the principle of development – “[...] the application site is located within Newark Urban Area which makes the principle of development acceptable. I also attach significant weight to the outstanding need for pitches and the lack of an adopted policy strategy, and subject to other material considerations (including access and the pipeline) being satisfied, I conclude the principle of development to be acceptable.”

Nottinghamshire Wildlife Trust – Object – “[...] The planning application is contrary to national and local planning policy and fails to provide adequate mitigation to reduce the risk of harm to common toad and grass snake (NERC SPI).”

NSDC Environmental Health Officer – No objection – “According to the noise assessment provided in support of the application, recommended internal and external noise criteria (WHO 1999 & BS 8233) can be achieved at the proposed site. This is subject to caravans being occupied on the site having an [sic] sound insulation performance at least equivalent to that identified in the assessment. The assessment does not identify the make, model or specification of the caravan used to determine the sound insulation provided by the façade of that existing caravan. As a residential site to be occupied all year round we assume that all caravans on the site should comply with BS 3632 Specification for Residential park homes and Residential Lodges.”

NSDC Environmental Health Contaminated Land Officer – No comments received.

CADENT Gas – No objection – “Looking at the amendments to the application [Plan L(03) Option 3 Rev C] which shows the 12m strip of easement demarcated with a post and rail fencing, Cadent will now remove the objection but will be grateful if an informative is raised with the applicant, Cadent must be contacted and liaised with before any work commences as we will need to attend site to mark the position of the Intermediate pressure gas pipeline and issue plant protection restrictions. Cadent will have measures and restrictions concerning the access road crossing the gas pipeline and any utility crossing (electric etc). Cadent will need to attend any work/excavations inside the gas easement and measures may need to be taken to ensure the gas pipeline can withstand the traffic loading crossing the gas pipeline. No work can commence until we have attended site and marked out the gas assets.”

Comments have been received from 41 residents/interested parties that can be summarised as follows:

OBJECT

Character Impact

- The application is contrary to policy FS3 as the site is not a frontage plot.
- The site is a transition zone between Newark and the Open Countryside – developing It would be detrimental to the open nature of the area.
- The layout appears cramped and the amenity buildings do not fit in.
- The proposal will adversely impact the character of the area as caravans are out of character.
- The paddock complements the surrounding area of greenery and nature especially when being located next to the sustrans. The proposal contains Amenity buildings and caravans, and they would be significantly different to the formality, design and the building materials

used for adjacent properties.

- The proposal is unacceptable backland development.

Highways

- Access to the site is on the blind side of the road bridge which would increase the risk of collision.
- The area is busy with school traffic and adding to this would compromise the safety of children.
- Increased traffic would also increase air and noise pollution across the site.
- The land existing for properties off Barnby Road is not of good quality and would be further eroded through increased traffic.
- Concerns over whether the roads/access are suitable to manoeuvre large vehicles.
- Concerns over traffic increases and the impact on school and pre/post school club drop off and collection times.
- Concerns over increased traffic given there are no footways over the bridge and cars that park on Barnby Road.
- Proposal to stop vehicles exiting the site towards Newark could not be enforced as no barrier could be installed.
- The adjacent bridge is only wide enough for one car and is not adequately lit.
- Proximity of the site to the train crossing will increase congestion due to vehicles queueing near the site.
- Concerns over how often caravans would be moved from the site and the risk of collision.
- Travellers tend to have large industrial vehicles which may not be able to access/exit the site safely.

Ecology

- The site forms part of a migration route for amphibians which move between the paddock and the pond to the south. If the proposal is allowed it would significantly impact frog, roads and new populations as their existing hibernation site will be lost and they will have to negotiate a substantial increase in vehicles.
- Barnby Road is a toad patrol site and populations have declined dramatically in recent years. Any development of the site needs to consider adequate toad protection and should offer mitigation such as breeding ponds, leaving a terrestrial corridor for movement between ponds and installation of amphibian tunnels in the road section most often crossed.
- Toads are a biodiversity priority species under the Natural Environment and Rural Communities (NERC) Act (2006).
- The application is not clear in detailing what trees/shrubs may be lost from the site. Any loss will impact bird breeding/nesting.
- The proposal will reduce green space within Newark.

Flood Risk

- An increase in hard surfacing on the site will reduce land drainage/increase surface water run-off.
- Increased rainfall as part of climate change should be a factor when assessing the application.
- The field is liable to flooding.
- A watercourse runs either side of the Sustrans cycle path immediately adjacent to the site.

Amenity

- There will be an increase in noise and light pollution from the site.

Other

- Concerns over the proximity to the gas mains over the site and the potential impact through vehicles moving over the pipeline.
- Grove Cottage along Barnby Road has permission to build 10 houses which will further increase traffic using Barnby Road.
- House prices will drop in the area.
- Loss of green space will adversely effect people's mental health.
- Travellers already have enough sites in Newark. There are pitches available on Tolney Lane where these families could live.
- There are no sewerage facilities on the site.
- The proposal will place strain on local infrastructure.
- There are other brownfield sites in Newark that would be more suitable.
- There was no consultation from NSDC over the proposed site allocation.
- Barnby Road school is full and oversubscribed, children of this proposal would therefore need to travel of other schools.
- Concerns over inaccuracies on the application form.
- Concerns that the site has been used for burning waste in the past.
- The site in question is, presumably, freehold land. If this is the case, how can a proposal for a fluid residential site (i.e. a site which will support the comings and goings of caravans in perpetuity) possibly be granted? What would the legal consequences be if the land was to change ownership? If the proposal is to rent sites, does this also make it a business venture?

Other comments have been received that are not material planning considerations and are considered discriminatory and are therefore not reported.

A copy of a petition signed by 160 people against the proposed development has been received. The petition incorrectly cites the application site as being within the green belt and as an area of open green space.

7.0 Comments of the Business Manager

In the assessment of this application the key issues are:

1. Principle of development
2. Impact upon Character and Appearance of the Area
3. Impact on Ecology
4. Sustainability
5. Highways Impacts
6. Impact on Amenity
7. Impact of Flood Risk
8. Personal Circumstances
9. Other Matters

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

A number of the comments received from third parties reference the site being within the Green Belt. In the interest of complete 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 also refer to the proposal resulting in the loss of green open space. For the avoidance of doubt, this privately owned paddock is not an area of publicly accessible open space, nor is it an identified Main Open Area within the Development Plan policies map.

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 meet or 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 Publication Amended Allocations & Development Management Development Plan Document (ADMDDPD), which is currently underway which will seek the allocation of specific sites, as well as through the granting of consent for appropriate development. Presently however the Council is unable to identify any other sites that are currently available or deliverable for G&Ts and in addition is unable to demonstrate a five-year land supply, as required through national policy (PPTS). It is therefore accepted that NSDC are not able to demonstrate a five-year land supply for G&T pitches and has a considerable shortfall which needs to be addressed. Both the extent of the pitch requirement and the lack of a five-year land supply represent significant material considerations, which should weigh heavily in the favour of the granting of consent where proposals will contribute towards supply. 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 DPD¹ 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/15 for 6 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 proposed in this application) is also noted to be greater than that proposed through the Plan in any event.

In terms of how this site would contribute to the Council's G&T need - as this site is a new site, it did not form part of the baseline position (August 2019) for the GTAA. However, the supporting information submitted with this application states that proposed Plots 1 to 4 would cater for the needs of individuals who formed a component of the need identified in the GTAA and who currently reside at Green Park (which has a temporary consent) and Sandhill Sconce (an authorised site) on Tolney Lane. Sandhill Sconce is a site identified in the GTAA as having existing need, 5-year need and need arising from new household formation. Therefore, based on the information provided by the Applicant, Officers are satisfied that this proposal would contribute pitches towards local need and would also likely assist in meeting needs identified at Green Park and Sandhill Sconce. 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. Information has also been submitted which adequately demonstrates that the proposed occupiers of these pitches would meet the definition of a gypsy or traveller, as provided through the PPTS.

In respect of Plots 5-8, the Applicant outlines that these plots are to be retained to rent out to other recognised gypsy and traveller families. Whilst concerns have been raised by residents about this concept, it is noted that land ownership and any rental agreement would be civil legal matters falling outside the remit of the planning process. Furthermore, it is considered that a planning condition restricting occupation of the site to those meeting the planning definition (as referred to in the recent Spalford appeal decision²) of a gypsy or traveller would ensure these pitches would be available to help meet existing and future locally identified G&T need. This positive contribution towards meeting the need identified through the GTAA and the demonstration of a five-year land supply, is also a significant material consideration in favour of the proposal.

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.

Furthermore, in addition and notwithstanding the proposed site allocation, in principle terms, the application site lies within the defined urban boundary of Newark, the District's 'Sub-Regional Centre' as defined by SP1 of the Core Strategy settlement hierarchy where there are a good range

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

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

of local facilities including schools, good public transport links and local employment. The function of the sub-regional centre is to be the focus for new housing and employment growth in the District. On this basis, the principle of residential use is acceptable subject to site specific impacts. Furthermore, Core Policy 4 states that future G&T 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 unauthorised encampments and the contribution that live/work mixed use sites make to achieving sustainable development. Given the site's location within the Newark Urban Area, in accordance with the Council's Settlement Hierarchy the proposal meets the overarching aims of CP4 and CP5 in terms of the location of the site and is therefore acceptable in principle. Furthermore, 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. Therefore, this location would meet the principles of DM1 and that of the PPTS.

Comments received from residents in relation to previous appeal decision are noted, however they do not relate to this application site. Instead, they relate to an adjacent site (to the north-east) and were refused based on planning policies and land designations within the old local plan which were not carried forward into the current Development Plan when it was updated in 2011 (and subsequently in 2019) (the Core Strategy) and 2013 (the Allocations and Development Management DPD/ADMDPD) to align with the National Planning Policy Framework (NPPF). These decisions are therefore not considered to be directly comparable to the application at hand, i.e. they are not material, as they were based on superseded planning policies.

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 sustainable location is also 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

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

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).

The site comprises a broadly triangular grass paddock devoid of built form between the Sustrans cycle route which spans the western boundary and residential ribbon development along Barnby Road to the east. Past the Sustrans route, is Barnby Road Play area and across the highway to the south-west is Barnby Road Academy. The extent of the application site does not extend as far back as the railway line to the north-east. To the southern boundary of the site is Barnby Road which passes over the Sustrans route via a former railway bridge with a high brick wall.

Given the application site is set at a lower level than the bridge (and road), views into the site when passing along Barnby Road on foot or by car are limited (unless pedestrians were to stand and look down over the bridge) or glimpsed when travelling up onto the bridge. Furthermore, given the boundaries to the site are formed by trees, hedges and shrubs, views into the site from the Sustrans route (or from the railway line) are buffered. Whilst its green surface and absence of built form gives the site a more rural character than would ordinarily be expected within the Newark Urban Area, the site is well enclosed and cut off from the open countryside by the significant transport infrastructure of the railway line. Therefore, whilst the site forms a green wedge between existing residential properties on Barnby Road to the east and the Sustrans to the west, it is not a publicly accessible area of land and overall is not considered to contribute significantly to the landscape character of the area. Whilst the importance of land that offers visual transitional characteristics into the open countryside, or green relief in urban areas is acknowledged, Officers do not consider this site to be of such significant value given it is located within the urban boundary of Newark and is physically constrained by transport infrastructure as well as existing housing development. As such 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.

Officers note the reference has been made in third party comments to a previous reason for refusal of permission on an adjacent site being due to the land being part of a 'Mature landscape Area' under policy NE8. However, as set out in a previous section of this report, these policies are no longer applicable in the assessment of planning applications, and it is noted that the site is not identified as an area of open space afforded protection in the Development Plan.

Turning now to the characteristics of the proposed development it is noted that 4 pitches are proposed on each side of the central access road. The pitches are proposed to be made up of permeable brick paving and grass, separated by post and rail fencing with two amenity blocks positioned broadly centrally either side of the internal access road. Access is proposed to be taken off Barnby Road in the SE corner via the existing access to the dwelling (Appleby Lodge) and to facilitate improved visibility splay four trees are proposed to be removed to the front of Appleby Lodge. As is explored in greater detail in the Ecology section of this report, these trees at the access to the site are not considered to be of high amenity value (to warrant protection by TPO) and their loss would not significantly impact the overall character of the area – the ecological impact (which will be explored further in a subsequent section) could also be adequately mitigated with replacement planting within the site.

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. 350m². The size of the pitches presented range between 259m² -778m², whilst some of the pitches proposed would fall below the pitch size guidance, given the site would contribute towards the unmet need of gypsy and traveller pitches, it is considered that it would be difficult to sustain a reason for refusal on this basis and it is noted that the layout of the site has been designed to avoid development over the pipeline easement to the north of the site.

The scheme would represent a single storey scaled development of up to eight caravans and two amenity blocks. The amenity blocks would be set into the site to reduce their prominence, but in any event would be constructed from vernacular materials and would be small scale. Whilst the caravans in themselves would not reflect local built vernacular, they would not be highly prominent or visible in the street scene and overall, Officers do not consider they would have a '*significantly adverse impact*' on the landscape character.

Existing planting to the south and west of the site also assists in reducing the visual prominence of the site and it is noted that the existing access onto the brow of the hill is proposed to be permanently sealed to prevent access. Given the boundary planting to the south contributes positively to the character of the site and assists in some visual mitigation it is considered reasonable to secure some additional planting to the southern boundary in place of the existing access to assist in reducing the visual prominence of the site further.

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

On the basis of the above, 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 or important heritage assets and their setting, in accordance with the requirements of policies CP5, CP9 and DM5.

Impact on Ecology

As set out above, 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 nature conservation and biodiversity sites. Core Policy 12 and Policy DM7 are also relevant and promote the conservation and enhancement of the District's biodiversity assets. The NPPF also seeks to minimise impacts on biodiversity and provide net gains where possible.

Given that the site is an open grassed field/paddock grazed by horses it is unlikely that the site supports any significant levels of biodiversity, however, in relation to designated biodiversity sites it is noted that to the south, across the highway, is a large pond that is designated as a Local Wildlife Site (LWS) Biosinc 2/638 Ballast Pit. The site is also part of a Common Toad Migratory Route and Nottinghamshire Wildlife Trust (NWT) have advised that there are also records of grass snake locally.

A Preliminary Ecology Appraisal (PEA) has been submitted to support this application which assesses the potential impacts of the development on Protected Species. The PEA provides an evaluation of the site and any ecological constraints and concludes that there would be no impact on nearby designated sites of ecological importance due to the separation distance and physical urban barriers (i.e., roads). The proposal would result in the loss of some areas of scrub on the site (see blue and

red hatched area on the Habitat Survey Plan below), however the PEA concludes that this is likely to have a minimal impact on biodiversity due to the scale of the scrub to be lost and the low ecological value of such habitats. To mitigate the low-level loss the PEA recommends habitat creation and enhancement opportunities could be incorporated into the site including new tree and hedgerow planting and creation of wildflower grassland – these measures would align with other soft landscaping/planting mitigation that has been suggested in previous sections of this report and could be secured by condition.



Habitat Survey Plan from Pg. 35 of the PEA

Amphibians and Reptiles

Common toads are recognised as being of principal importance for consideration and biodiversity under the relevant legislation and are listed as a priority species in the UK Biodiversity Action Plan, which is a material consideration. Additionally, Grass snakes are protected from killing/injury under the Wildlife and Countryside Act 1981 (as amended) and are a European Protected Species. How a development might affect protected species on or near a proposed development site is therefore a material consideration.

In respect of Amphibians, the PEA concluded that there is low potential for impact on Great Crested Newts but given the site is located within a Toad migratory route there is potential for terrestrial Toads to be present on site – the PEA explains that the majority of suitable habitat (i.e., hedgerows) would be retained, allowing the site to continue to function within the Toad Migratory Route associated with nearby water bodies and recommends that an Amphibian Mitigation Strategy (AMS) is implemented during construction. The submitted AMS sets out that ground clearance would need to be undertaken at a suitable time of the year (i.e. not between October-March) to decrease the likelihood of amphibians being present on site – a number of precautionary measures are also recommended.

Given the PEA did not identify any Grass Snakes on the application site the precautionary working methods and mitigation strategy (which cover appropriate ground clearance etc.) are considered to be sufficient. The survey has not identified reptiles on the site that would be captured, killed,

disturbed or injured by the development, it has not identified any breeding or resting places on the site that would be damaged or destroyed, nor has it identified any reptile resting or sheltering places that would be obstructed or removed. On this basis it is not considered necessary to assess whether a European Protected Species (EPS) mitigation license would be granted for this development given the results of the PEA. Nevertheless, given the removal of the small area of scrub within the site could reduce the local habitat quality and availability for Grass Snakes it is considered reasonable to require compensatory habitat creation on the site, which could be controlled by a suitably worded condition.

NWT have reviewed the PEA and the submitted AMS and have advised that it is likely that removal of vegetation from the development footprint could kill or injure amphibians and reptiles (Grass Snake) which are known to be present in this locality. However, they noted that the potential adverse impacts on amphibians and reptiles could be minimised if vegetation is removed following certain methods (as described in the AMS) and is carefully timed so as not to co-incide with sensitive times in the lifecycle of these animals, such as when they are hibernating. The measures proposed within the AMS could be controlled by a suitably worded condition in addition to a condition requiring compensatory habitat creation. The PEA also recommends provision of an additional rank grassland area to provide mitigation and enhancement measures in the land to the north of the site (owned by the applicant), given the requirement would be for this to be secured in perpetuity it would need to be secured through a S106 agreement to mitigate the impacts of the development.

Nevertheless, NWT explain that development of this site in principle and the introduction of vehicles could have a severe adverse impact on toads using the migration route through increased mortality and additional barriers (i.e., buildings, raised kerbs, gully pots). They therefore have concerns about the long-term impacts of the proposal, as they consider the development would reduce available terrestrial habitat, impact connectivity, and increase risk of killing and injuring common toads through increased traffic on the access road. NWT acknowledge that the PEA proposes an area to the north of the site (that is in the applicant's control) that will be managed specifically for amphibians, which would be a positive action, but given that the development site is currently greenfield they state that the compensation for the loss of that habitat should be provided towards achieving a positive biodiversity outcome. They also raise concerns that the updated PEA, fails to address the long-term impacts of the proposal on toads using this established migration route. The development site currently provides connectivity between land to the north and the toad breeding pond to the south. NWT note that the development features such as raised kerbs and gully pots that are part of traditional drainage systems can present a hazard for toads and therefore conclude that details should be provided as to how the development within the application site will be designed to accommodate toads to reduce the risk of harm to them – they go on to state that designs such as wildlife kerbs provide amphibians with a safe route around gully pots. Sustainable Drainage Systems (SuDS) reduce the risk to migrating amphibians associated with traditional drainage systems. They also provide corridors for movement and areas of additional aquatic and terrestrial habitat. Whilst the level of mitigation currently proposed does not incorporate these noted features, Officers consider a condition could be imposed to develop upon the amphibian mitigation measures proposed to ensure such features are incorporated into the design to minimise, as far as practicable, the impact on migrating toads.

The potential impact on Toads is an important consideration and Officers note the concerns of NWT, and indeed local residents, in this respect. It is also noted that the potential direct impacts of the development could be mitigated through appropriate working methods and habitat creation/enhancement as part of the development. Nevertheless, it is not disputed that the

cumulative development of land within the toad migratory route and the development of this site has the potential to significantly impact toads and reduce available habitats. This impact must be given considerable importance and weight in light of the species being of principal importance and a priority species in the UK Biodiversity Action Plan.

However, it is noted that Policy DM7 states that on sites of local importance, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site. In this case it is considered that 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 demonstrates that the need for this development would clearly outweigh the level of identified harm and need to conserve the nature conservation value of the site.

Bats

In respect of other protected species, no evidence of bats were found on the site, however the site could be used by foraging bats and as such mitigation, creation and enhancement measures are recommended such as the installation of bat boxes, planting to increase foraging opportunities and development of a lighting strategy to reduce light spill, all of which could be controlled by condition. In respect of birds, works are recommended to be undertaken outside of the bird nesting season and the installation of bird boxes is recommended as an enhancement opportunity. Precautionary working measures are also recommended more generally during construction to prevent any adverse impacts on protected species, which can also be secured by condition. Subject to conditions the development of this site would not result in any adverse impact on any protected species or ecology and could deliver positive ecological enhancements to benefit local wildlife.

Trees

Turning now to the potential impact on trees, as set out in the previous section, to facilitate improved visibility splays four trees are proposed to be removed to the front of Appleby Lodge. T17 (Common Lilac, Category C.2) and T18 (Lawson Cypress, Category B.2) which are either side of the access onto Barnby Road and T12 (Common Ash, Category U.2) and T13 (Common Hawthorne, Category C.2) which are to the left of Appleby Lodge, adjacent to the proposed access track (shown below).



These trees are not considered to be of high amenity value, particularly T12, 13 and 18, which are small ornamental trees within the properties garden. They are also not protected by TPO and would

not score sufficiently highly to warrant protection. The loss of these trees would not significantly impact the overall character of the area and the ecological impact would also be relatively limited (noting that the site was not identified as supporting breeding/nesting birds of any level above local importance) and could also be adequately mitigated with replacement planting within the site.

Therefore, subject to a number of conditions to safeguard the ecological interest of the site and to secure biodiversity enhancements, the scheme is considered to be acceptable in this regard would comply with the requirements of CP5, CP12 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.

Given the site is located within the Newark Urban Area, future occupiers would have the ability to enjoy a full range of basic everyday services and facilities offered within the Town. Whilst comments in relation to the alleged oversubscription of Barnby Road Academy are noted, they are not supported by any evidence, and are based on the assumption that the children of future occupiers are not already attending local schools. Furthermore, Officers note that there are many schools within Newark that children of this site could attend (and that this application would not trigger the requirement for a consultation with the County Council in relation to education, or an education contribution, given it is not proposing more than 10 residential units). Similarly, whilst comments about pressure on local services is noted, Officers do not consider the scale of development proposed would significantly compromise local services, particularly given it is known that occupiers of 4 out of the 8 proposed plots already reside in Newark (and consequently use the services within it).

Turning now to access to other essential services, the site is adequately served in terms of electricity and water supplies (new metered water connection adjacent to the dwelling to the east and electricity from the road by Western Power). The applicant has also confirmed (and indicated on the proposed site plan) 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 a grate system soak away for the amenity building and pitches is proposed to the rear of each amenity block, the precise details of which can be controlled by condition.

Overall, the site is considered to be suitably situation 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. Para. 111 of the NPPF states that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

The site would be accessed via the existing access to Appleby Lodge, off Barnby Road. To support the application detailed swept path analysis plans have been submitted followed by an amended proposed site plan and red line to facilitate alterations to the access to improve visibility (including the removal of some planting to the front boundary). Nottinghamshire County Council as the Highway Authority (HA) have reviewed the submitted plans and confirmed that they now raise no objection to proposed access, which would provide the appropriate visibility to the east and west.

Comments received from local residents in relation to the potential traffic generated by the development and the impact on the highway are noted. However, the HA have advised that it is not considered *“that the traffic associated with the proposed 8 pitches will have a severe or unacceptable impact on capacity or safety respectively in the context of the National Planning Policy Framework. For context, 50 dwellings would be the normal minimum threshold to trigger formal assessment and consideration of the severity of the impact on the adjacent highway. Whilst Gypsy and Traveller sites can exceed the trip rates of conventional dwellings due to multi-generational occupation, even if vehicle trips were doubled this would equate to just 16 conventional dwellings.”* The HA therefore conclude that it is therefore not possible to consider that the capacity impacts of the development would be ‘severe’ for the purposes of the NPPF.

A speed survey has been submitted to accompany the application – the HA have reviewed this and noted that *“whilst the normally required numbers of vehicles were not recorded, the survey took place over 3 hours and the numbers recorded therefore appear to reflect the lightly trafficked road indicated by the AADT. The 85th%ile speeds are recorded as 31mph in both directions. With amendments to the fence and existing planting, the visibility splay to the west measures 58 metres which exceeds that required (of 45m) and is protected by double yellow lines.”* Considering highway safety, the HA therefore advise that *“the measure of “unacceptable” [highway safety impact] is more subjective, however we would note that in the last 3 years there have been no reported injury accidents occurring on Barnby Road to the east (to a point beyond the level crossing) or west (the direction of the school as far as Newton Street) of the site access. Consequently, arguing that there is a highway safety problem in the wider area would prove difficult to uphold.”*

In relation to the use of the proposed site access by caravans, the HA comments explain that *“Towed caravans generated by the proposed development are likely to be relatively infrequent. Consultation responses indicate that that Barnby Road is the access route for such vehicles including tractors with trailers to the sugar beet factory, delivery vans, large lorries and buses. It is therefore not thought that the principle of infrequent towed caravans will create a severe issue in this environment which is currently capable of carrying an average of 50 HGV’s per day.”*

However, it is noted that the submitted documents with this application infer that the Applicant would impose a ‘rule’ that vehicles would not be able to turn in from the west and it is proposed that this restriction could be conditioned. However, it is not considered that a condition to prevent this manoeuvre would be enforceable and the Highway Authority have not considered this to be necessary in any event. The internal layouts and splays from the access have been amended throughout the course of the application to enable acceptable access from both directions. In terms of the access itself the Highway Authority also note that the amended plans received shows an internal layout which allows vehicles towing caravans to turn in from both the left and right. However, in addition to that shown on the drawing, the HA have advised that existing double yellow lines should be extended to discourage parking around the site access which would otherwise stymie the free passage of the vehicles likely to access the site – this would require a

Traffic Regulation Order being granted by the Highway Authority and could be secured through a S106 agreement.

Whilst local comments have raised concerns regarding the suitability of the highway, pedestrian and highway safety (particularly in relation to the proximity of the bridge and school), and the inability of the existing roads to deal with the increased level of traffic, on the basis of the comments received from the Highway Authority, it is considered that the proposal would not result in any highway safety concerns and therefore would accord with Spatial Policy 7 of the Core Strategy and Policy DM5 of the A&DM DPD in this regard.

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 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 350m² 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. Furthermore, given existing boundary treatments and distance from existing dwellings, the needs of the privacy of proposed occupiers would be met by the proposed boundary treatments between pitches which would ensure a degree of privacy between pitches. Furthermore, 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.

Considering the location of the site close to the East Coast Main Line railway line a noise level survey was undertaken at the site representative of daytime and full night-time hours. The local noise climate was concluded to be a combination of rail traffic including occasional freight on the adjacent railway line, other contributory noise sources included distant industrial humming and noise from the nearby childrens play area. The noise survey undertook measurements of the sound insulation provided by a caravan façade to evaluate internal noise levels and concludes that internal noise level criteria of WHO and BS8233:1999 would be achieved within the caravans and amenity building. The external noise levels to the proposed garden/amenity areas are also predicted to be less than 50dBA which also meets the abovementioned noise criteria guidelines. The Environmental Health Officer (EHO) has reviewed the report and following further clarification from the Noise Consultant they have concluded that they raise no objection to the proposal given internal and external noise levels can be achieved that are appropriate for residential use. This is however subject to caravans being occupied on the site having a sound insulation performance at least equivalent to that identified in the assessment. The assessment does not identify the make, model or specification of the caravan used to determine the sound insulation provided by the façade of that existing caravan. As a residential site to be occupied all year round the EHO has advised that they assume that all caravans on the site should comply with BS 3632 Specification for Residential Park Homes and Residential Lodges. The specifications for appropriate sound proofing could be adequately controlled by a suitably worded condition.

Turning now to existing residents who would live close to the site, directly to the east is Appleby Lodge, which is in the same ownership as the application site. Beyond this is Beacon View which is approx. 30m from the eastern side boundary and has other dwellings beyond it to the east. To the north of the site is a paddock and to the west is the Sustrans route (beyond which is a childrens play park). To the south is the highway and a pond. Given the site is enclosed by vegetation along all of its boundaries the proposed development and caravans would be well contained.

Any new development on this site would have some impact on the amenity of existing properties to the east given the proposal would result in increased vehicular movements causing additional noise and disturbance from associated comings and goings. It is also acknowledged that some level of new external lighting would likely be required which also has the potential for some negative impact, although existing boundary treatment would provide some mitigation 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.

Given the single storey nature of the caravans and amenity blocks, together with boundary treatments and the separation distance between the site and existing neighbours, in addition to the relative small-scale nature of the proposal for 8 pitches, it is not considered that the relationships would result in any unacceptable degree of harm on the amenities of existing occupiers close to the site which accords with the requirements of CP5, CP9 and DM5.

Impact of Flood Risk/Drainage

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 proposed site plan also includes two grate system soakaways for the amenity buildings and pitches which would manage any increase in surface water run off from the site in addition to the permeable hard surfacing proposed to the pitches. This approach is considered to be acceptable and would not result in an increase in flood risk to site users or third parties in accordance with CP5, CP10 and DM5.

Personal Circumstances

It has been confirmed that the proposed occupiers of pitches 1-4, comprise the following:-

- One married couple and their two children, one of which has learning difficulties that would benefit from additional space and proximity to family members;
- One engaged couple;
- One married couple and their two children; and
- One married couple and their two children.

Confirmation has been received that the proposed occupiers of the site fall within the definition set out within Annex 1 of PPTS. Subject to a suitably worded condition this could also be ensured for future occupiers of plots 5-8. The personal needs of the known families above require a settled base to ensure the children can attend school.

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

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

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

Other Matters

As noted in the description of the site there is an Intermediate pressure gas pipeline towards the northern end of the site which has a total easement of 12m (6m either side of the gas pipeline) in which no development would be permitted by Cadent. Following receipt of amended plans which shows the 12m strip of easement demarcated with a post and rail fencing, Cadent have removed their objection and have requested an informative note to the applicant to engage with them prior to the commencement of works on site. Officers are satisfied that the physical demarcation of the easement with fencing will deter future occupiers from storing items or parking vehicles within the easement which will protect the pipeline asset from encroachment.

In relation to proposed foul drainage, paragraph 020 of the Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications) states that when considering wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer. Where this is not feasible (in terms of cost and/or practicality) a package sewage treatment plant can be considered, which may be adopted in due course by the sewerage company. Septic tanks should only be considered if it can be demonstrated that discharging into a public sewer to be treated at a public sewage

treatment works or a package sewage treatment plant is not feasible. The agent has explained that providing a connection to the public sewer from the site would be cost prohibitive to the applicant and that the best option in terms of feasibility and practicality is to use a septic tank.

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. Other comments have been received that are not material planning considerations and are considered discriminatory.

With regard to the alleged effect on property values, the Planning Practice Guidance confirms that in general the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not a material planning consideration.

Concerns in relation to the '*loss of a green space*' have been considered in the context of the impact this would have on the character of the area, rather than the amenity of local residents (i.e., the potential impact on mental health as cited in some third-party comments), given this site is not publicly accessible and not an area of '*open space*' that is protected by the Development Plan. Furthermore, Officers note that there are other areas of green space (to the west and along the Sustrans) that are publicly accessible and provide visual amenity to local residents.

Comments received have also referenced previous incidents at the site where waste was burnt, however this is not directly related to the proposed development and was understood to be an isolated incident that has not been investigated (or indeed reported) in recent years.

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. As set out in the principle of development section of this report, the LPA has a requirement to provide a 5-year housing supply for G&T and this site is identified as being suitable for potential allocation, along with other sites in Newark and a flood resilience strategy for Tolney Lane. However, this area does have its limits and every application must be assessed on its own merits. In this case the principle of development has been found to be acceptable and the positive contribution of 8 pitches (when the Council has such a significant unmet need) is a significant benefit, and one which should be afforded significant weight as part of the overall planning balance.

In relation to the potential allocation of this site in the amended Allocations and Development Management DPD, Officers note that third parties have raised concerns about a lack of consultation with local residents and reference has been made to this site previously being considered unsuitable for allocation. In this regard it is noted that the Council has been engaged, over a number of years, in preparing a strategy to meet its Gypsy and Traveller needs. This current process began with the Allocations & Development Management Issues Paper in 2019, this detailed the outline of a Gypsy and Traveller strategy which the Council would look to further develop in subsequent stages - but did not contain any site-specific details. There was however a Gypsy and Traveller 'call for sites' which was run alongside the consultation.

Following this the Council prepared and consulted upon its Allocations & Development Management Options Report³ in 2021. This contained a more fleshed out Gypsy and Traveller strategy – with preferred approaches to various issues being set out. It also contained details of those sites which had been submitted for consideration as Traveller allocation s- with those that were considered suitable at the time being categorised as such. The document included details of the land at Appleby Lodge (Site 9 – Land at Barnby Road / Clay Lane, Newark (Ref: 19_0001)), though at this stage it was not considered suitable on account of the proposed access arrangements. However, this position changed moving into the latest stage of the process - the Publication Amended Allocations & Development Management DPD (2022), due to the demonstration of potentially suitable alternative access arrangements.

Alongside the Publication Amended Allocations & Development Management DPD the Council also made publicly available a ‘supporting paper’⁴, which detailed the Council’s proposed Gypsy and Traveller strategy and provided an explanation of the process. The next stage in the process, as currently timetabled, will be submission of the Amended Allocations & Development Management DPD to the Secretary of State. Following this an independent Planning Inspector will be appointed to examine the document, hold an examination in public and reach conclusions over whether the plan is sound and legally compliant. The timescales for this are currently unknown, however the Council anticipates being in a position to adopt the document at some point in 2024.

In terms of public consultation on the Plan Review, Officers note that there was an 8-week consultation period from July-Sept 2021 in which the public were encouraged to review and make comments on the proposed Options Report.

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 74m² of GIA (in the two amenity blocks). The CIL charge on this application is therefore £3,615.14.

8.0 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.

9.0 Planning Balance and Conclusion

Overall, Officers note that the principle of this development in Newark, a sustainable settlement, is acceptable in accordance with the principles of CP4 and CP5. Furthermore, the GTAA has identified a significant unmet need for gypsy and traveller pitches. It is known that the occupiers of at least four of the eight pitches would contribute (directly and indirectly) to the significant unmet need of the Council’s five-year land supply and all eight pitches would contribute (again, either directly or indirectly) towards the Council’s identified G&T need over the plan period. This pitch contribution carries significant positive weight in favour of the proposal.

The site is also in a highly sustainable location, in close proximity to all the facilities required for

³ [Options-Report-\(26-July-2021\).pdf \(newark-sherwooddc.gov.uk\)](#)

⁴ [GRT2---Supporting-Paper.pdf \(newark-sherwooddc.gov.uk\)](#)

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

No harm has been identified in relation to the character and appearance of the area, heritage assets, highways safety, residential amenity or flood risk which are therefore neutral in the overall planning balance.

In respect of ecology, no harm has been identified in relation to bats or trees, however the cumulative development of land within the local toad migratory route and the development of this site has been concluded to have the potential to significantly impact toads and reduce available habitats for species of principal importance in addition to the available habitats for grass snakes which are a protected species. Submitted surveys have concluded that the potential direct impacts of the development on these species could be mitigated through appropriate working methods and habitat creation/enhancement as part of the development. Nevertheless, the potential negative impacts on these species carry significant importance and weight. However, in this case Officers consider that 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 demonstrates that the need for this development would clearly outweigh the level of identified harm and need to conserve the nature conservation value of the site. Additional planting, habitat creation and ecological mitigation, controlled by condition, could also provide some ecological enhancements which could offset some of this harm as a minor ecological benefit.

Weighing all of the above factors in the overall planning balance and considering the limited adverse impacts identified, Officers therefore consider the benefits of the scheme would outweigh any identified harm. It is therefore recommended that planning permission is granted, subject to conditions and signing of a S106 agreement to secure:

- A Traffic Regulation Order to provide yellow lines to control parking on the highway in the vicinity of the access.
- Provision and retention of an area of rank grassland in the field to the north of the site (edged in blue on the Amended Site Location Plan – Rev. D (23.03.2023)) as identified on page 29 of the Preliminary Ecology Appraisal undertaken by Arbtech, dated 15.05.2023.

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:

- Amended Site Location Plan – Rev. D (23.03.2023)
- Existing and Proposed Plans Option 3 – Ref. L(03)03 Rev. G (23.03.2023)
- Swept Path Analysis Plan – Ref. F22006/01 (06.03.2023)

Reason: So as to define this permission.

Pre-Occupation Conditions

03

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.

04

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.

05

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.

06

No part of the development shall be brought into use until details of the Communal Bin Area shown on 'Existing and Proposed Plans Option 3' Ref. L(03)03 Rev. G (23.03.2023) 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.

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

07

No part of the development shall be brought into use until a detailed Biodiversity Enhancement Scheme (BES), building upon the Biodiversity Enhancement measures detailed in Table 5 (pages 18-25) of the Preliminary Ecological Appraisal undertaken by Arbtech, dated 15.05.2023, has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the BES shall include details of:

- Compensatory bat boxes/roost features to be installed on site, including their design, quantum and precise positions including the height and timings of installation
- Creation of reptile refugia and hibernacula using debris and brash from site clearance. The creation of basking areas such as rock piles or areas of cleared ground with shelter nearby.
- Creation of brash piles or installation of hedgehog houses in shady areas. Installation of gaps under boundary fencing to enable hedgehogs to move freely through the site.
- Compensatory bird boxes to be installed on site, including their design, quantum and precise positions including the height and timings of installation
- Details of wildlife kerbs to provide amphibians with safe routes around drainage features within the site
- Details of Sustainable Drainage Systems (SuDS) measures to reduce the risk to migrating amphibians associated with traditional drainage systems

The details approved in the BES shall thereafter be installed within two months of approval in accordance with the agreed details and retained thereafter for the lifetime of the development.

Reason: In the interests of maintaining and enhancing biodiversity.

08

Prior to occupation of the development hereby permitted, the land over which the visibility splays, as identified on Drawing Number 2021/143 L(03) rev G, fall shall be cleared of all obstruction greater than 0.6m above the level of the carriageway, and kept clear of such obstruction for the lifetime of the development.

Reason: In the interests of highway safety

09

Prior to the development hereby permitted being occupied, the access road as shown on Drawing Number 2021/143 L(03) rev G shall be provided and surfaced in a hard bound material for a minimum distance of 20 metres to the rear of highway, with measures to prevent the egress of surface water to the public highway and maintained such for the lifetime of the development.

Reason: To prevent the transfer of deleterious material (loose gravel/stones etc) to the public highway in the interests of general highway safety.

Compliance Conditions

10

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

Reason: In the interests of visual amenity.

11

The site 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.

12

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).

13

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).

14

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).

15

The caravans hereby permitted shall have an acoustic performance at least equivalent to that in Table 5 (page 12) of the Environmental Noise Assessment, ref. J004289-6031-LK-01, dated February 2023. All caravans (including touring caravans) on the site should also comply with BS 3632 *Specification for Residential park homes and Residential Lodges*.

Reason: In the interest of residential amenity of future occupiers.

16

The development hereby permitted shall be undertaken in strict accordance with the Recommendations detailed in Table 5 (pages 18-25) of the Preliminary Ecological Appraisal undertaken by Arbtech, dated 15.05.2023 submitted in support of this application which for the avoidance of doubt includes:

- Best practice measures to minimise the possibility of pollution and tree damage during construction.
- Precautionary Working Measures for Reptiles:
 - A toolbox talk to be given to contractors regarding the possible presence of reptiles at the site.
 - Heras fencing to be erected around the working area to prevent encroachment into retained habitats where reptiles could be present.
 - A pre-commencement inspection of the site to be undertaken for reptiles.
 - A staged approach to be adopted for vegetation clearance, whereby the vegetation is be strimmed to 15cm and left overnight to allow any reptiles to disperse. The vegetation can then be cleared to ground level and must be maintained at this level for the duration of construction to deter reptiles from the working area.
 - Any rubble piles to be dismantled by hand and debris and brash to be stored on pallets or removed from the site to prevent reptiles from utilising these areas.
 - Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.
 - If a reptile is identified, works must cease and advice must be sought from a suitably qualified ecologist.
- Precautionary Working Measures for Badgers:
 - A toolbox talk to be given to contractors regarding the possible presence of badgers at the site.
 - A pre-commencement inspection of the site to be undertaken for any new badger activity.
 - Heras fencing to be erected around the working area to prevent encroachment into retained habitats where badger setts could be present.

- Any excavations to be covered overnight, or a ramp to be installed to enable any trapped animals to escape.
- The use of night-time lighting to be avoided, or sensitive lighting design to be implemented to avoid light spill on to retained habitats which badgers could use.
- Any chemicals or pollutants used or created by the development to be stored and disposed of correctly according to COSHH regulations.
- If a badger sett is identified, works must cease and advice must be sought from a suitably qualified ecologist.
- Precautionary Working Measures for Hedgehogs:
 - Site clearance to be undertaken outside of the hedgehog hibernation season (November to March) insofar as is possible.
 - A toolbox talk to be given to contractors regarding the possible presence of hedgehogs at the site.
 - A pre-commencement inspection of the site to be undertaken for hedgehogs.
 - Heras fencing to be erected around the working area to prevent encroachment into retained habitats where hedgehogs could be present.
 - Any excavations to be covered overnight, or a ramp will be installed to enable any trapped animals to escape.
 - The use of night-time lighting to be avoided, or sensitive lighting design to be implemented to avoid light spill on to retained habitats which hedgehogs could use.
 - Any chemicals or pollutants used or created by the development should be stored and disposed of correctly according to COSHH regulations.
 - If a hedgehog is found then this should be moved by gloved hand to an undisturbed and sheltered area of the site or adjacent land.
- Precautionary Working Measures for Birds:
 - Works to be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the vegetation should be undertaken immediately, by a qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged.

Reason: To ensure that wildlife and habitats are retained and protected, in the interests of nature conservation.

17

The development hereby approved shall be undertaken in strict accordance with the Amphibian Mitigation Strategy detailed in Table 6 (pages 26-29) of the Preliminary Ecological Appraisal undertaken by Arbtech, dated 15.05.2023 submitted in support of this application.

Reason: To ensure that wildlife and habitats are retained are protected, in the interests of nature conservation.

18

For the avoidance of doubt, Amenity Building A and B as annotated on the approved Existing and Proposed Plans Option 3, ref. L(03)03 Rev. G shall only be used ancillary to the approved caravan pitches and shall not be occupied as independent dwellinghouses.

Reason: To ensure the buildings are retained for their intended purpose.

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

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/ or from the Planning Portal: 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>

06

Notes from Nottinghamshire County Council Highways:

- The permission requires the making of a Traffic Regulation Order. Please contact VIAEM who manage highways on behalf of NCC to commence this process by emailing businessdevelopment@viaem.co.uk or by telephone (0300 500 8080)
- Planning permission is not permission to work on or from the public highway. In order to ensure all necessary licenses and permissions are in place to make the alterations to the access you must contact licences@viaem.co.uk
- It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

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 - 23/00060/FUL

