



Report to Planning Committee 9th November 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Julia Lockwood, Senior Planner, 01636 655902

Report Summary			
Application Number	22/01203/FULM		
Proposal	Use land as residential caravan site for gypsy/traveller families (8 No. pitches) and conversion of existing stable to form amenity building and warden's office		
Location	Oak Tree Stables, Sand Lane, Besthorpe		
Applicant	Mr J Metcalfe Birtle	Agent	Mike Sibthorp Planning
Web Link	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>		
Registered	28 September 2022	Target Date	28 December 2022
		Extension of time	13 November 2023
Recommendation	That full planning permission is APPROVED, subject to conditions set out in Section 10 in the report		

**This application is being referred to the Planning Committee for determination by the Local Ward Member, Councillor Linda Dales, who considers the application is:-**

- 1. contrary to CP4 of Amended Core Strategy which states pitch provision should be in and around Newark and the site was not put forward under the recent calls for Open Space options categorisation process;**
- 2. CP5 of Amended Core Strategy confirms this land has not been assessed as being suitable;**
- 3. Impact on the small village of Besthorpe must be considered as development should respect the scale and must not dominate the nearest settled community;**
- 4. Contrary to SP3 of Amended Core Strategy as Besthorpe is an 'other village' and dwellings must be focussed in sustainable, accessible villages and Besthorpe does not fit this category;**

5. **Contrary to Policy DM8 of the Allocations and Development Management DPD as loss of open rural character which makes a positive contribution to the landscape, the current agricultural/equestrian use sits well within the definition of appropriate land use in this location;**
6. **Conflicts with CP13 of Amended Core Strategy and Landscape Character Assessment SPD as the 8 pitches (16 dwellings) and domestic accoutrements, light, traffic and activity will erode rural character of this part of the road.**

**In addition, Besthorpe Parish Meeting Object to the application, which is contrary to the Officer's Recommendation to Approve.**

## **1.0 The Site**

The application site is a 1.1ha rectangular shaped grassed field on the south side of Sand Lane, approx. 220m east of its junction with the A1133, opposite the village of Besthorpe which sits on the western side of the A1133, just south of the junction with Sand Lane. The site is occupied by three main buildings, an L-shaped stables (red brick and pantile) located at the north-west corner and two barn-type buildings (green metal clad) located adjacent to the southern boundary, one in each corner of the site. The remainder of the site is largely open apart from the north-western corner which accommodates a number of mature trees. Seven trees (6 Oak and 1 Silver Birch) in the northern part of the site (and one on land to the east) are protected by a Provisional Tree Preservation Order (23/00018/TPO). There is also rows of conifers (Cypress) in the south-western corner of the site. Apart from the north-east corner of the site which is loose gravel, the surface of the site is rough grassland.

There is a vehicular access point with Sand Lane in the north-east corner of the site, defined by 2m brick walls with end piers supporting a setback 2m high solid vertical close boarded timber fence. The road frontage with Sand Lane has a narrow grass verge and is then bounded predominantly with mature tree and hedgerow planting, although the hedgerow thins further to the west where it is bounded by a timber post and rail fence. A metal gate appears to have been inserted within this part of the fencing. There is a raised embankment approx. 5-6m wide running along the western boundary within the site and a similar feature along parts of the eastern boundary. The western and eastern boundaries are defined with 1.2m high post and wire fences although at its northern end, the east boundary changes to a retaining wall and 1.8m high close boarded timber fence. The southern boundary comprises a 1.8m high close boarded timber fence with a row of 4 hawthorn trees on the outer side of this fence.

To the south, west and north of the site are open fields and to the east is a deciduous woodland, very dense to the north, closer to the road but trees are more sparsely spaced out further to the south. Besthorpe Footpath 4 runs along the western boundary of the site. The nearest residential properties are approx. 50m to the east and approx. 100m to the west, both on the north side of Sand Lane.

In terms of heritage assets, there are none present on the site, however, there a number of designated assets nearby, including a Scheduled Ancient Monument known as 'Mound South of Sand Lane', located on land immediately to the east approx. 47m from the site boundary, approx 200m to the east sits the boundary of Besthorpe Conservation Area which runs just to the east of the A1133 and within the Conservation Area itself on the east side of the A1133 are three Grade II listed Buildings including Chaise House and its associated Stable Block and

Myrtle Cottage, the nearest of which is 240m to the south-west of the site.

There are two nationally designated sites for nature conservation within a 2km radius of the site. On the opposite side of Sand Lane, approx. 15m to the north, is Besthorpe Warren, a Site of Special Scientific Interest (SSSI) which supports an important mosaic of dry acid grassland vegetation and approx. 9.5km to the south-west is Besthorpe Meadows SSSI which consists of two unimproved alluvial grasslands within the flood plain of the River Trent. There are 8 non-statutory sites for nature conservation (Local Wildlife Sites) within a 1km radius of the site, the nearest being Primrose Hill (coarse acidic grassland developed on periglacial drift deposits) immediately to the east of the site.

The site is located within Flood Zone 1 which means it is at low risk of main river flooding and is predominantly at very low risk of surface water flooding, with no medium or high risk surface water designations. The land is Grade 4 on the Agricultural Land Classification which means it is poor quality agricultural land.

The site currently accommodates 2/3 small touring caravans and a larger caravan immediately to the west of the stable building, indicating that the site is already accommodating some low-key occupation.

## **2.0 Relevant Planning History**

09/00590/FUL – Erection of barn, approved 30.06.2009 (for storage use of fodder and bedding associated with the keeping of horses in the site - implemented and situated in south-west corner of site)

07/00476/FUL – Erection of 4 No, stables and store (Resubmission), approved 17.05.2007 (implemented – stable block in north-east corner of site)

06/01662/FUL – Erection of 4 No. stables and store and the widening and alterations to the existing field access, approved 28.12.2006

05801337 – One dwelling, refused 13.01.1981

0578140 – Erection of saw mill workshop, approved 11.04.1978

0577634 – Erection of bungalow and workshed, approved 08.11.1977

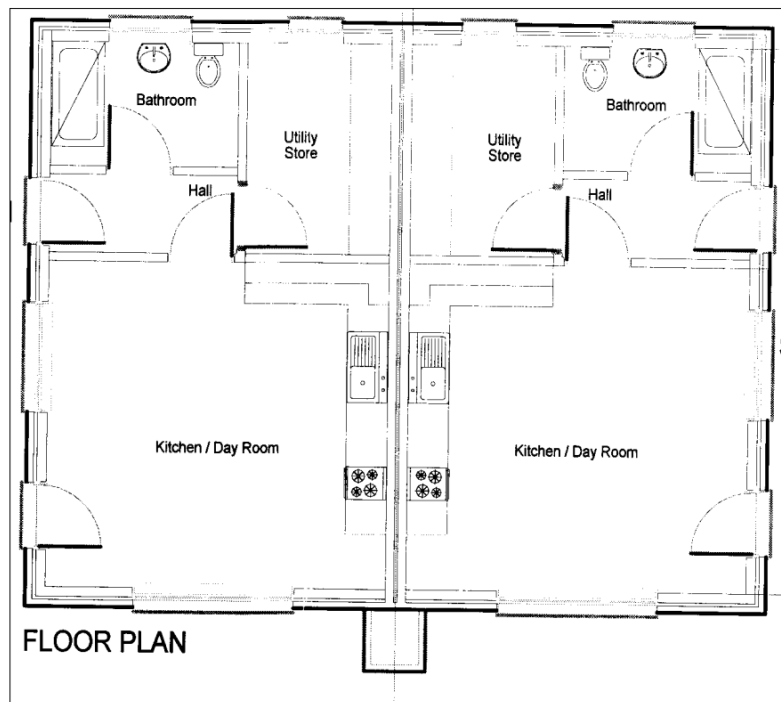
## **3.0 The Proposal**

Planning permission is sought for the change of use of the land to a residential caravan site for gypsy/traveller families (8 pitches) and conversion of the existing stable to form an amenity building and warden's office. The proposed layout shows four pitches each side of a central access road ending in a turning head with two green amenity areas incorporating 6 new silver birch trees along its length, below which would be planted night scented flowers.



Each pitch accommodates one static caravan, two touring caravans, a day room and two parking spaces on a compacted hardcore with gravel surface. A note on the Block Plan states that the static caravans will be based upon the legal definition of a caravan (ie 20m x 6.8m) and the day room dimensions will be based upon Annex B.6 Department for Communities and Local Government: Designing Gypsy and Traveller Site: Good Practice Guidance, see below. The submitted plan shows the floorplan for the dayroom to measure 9m x 6m but no elevation details have been submitted. The play area would be retained as a grassed surface with some bark mulch in the north-west corner.

## Annex B.6 Pair of amenity buildings – permanent site (see para 7.19)



The southern two pitches retain the existing barn structures for use as amenity blocks. The pitches range in size from 1340sqm to 665sqm. The northern part of the site represents a communal area which includes the amenity/warden building, external play area and bin store. The amenity building would comprise separate male and female toilet and showers, a store room, laundry room and a warden office. Proposed external alterations to the building include insertion of 4 new small windows within the existing brickwork and installation of 5 new doors within existing openings. The two retained small agricultural-type structures will be used for ancillary storage in association with the plots in which they sit. The agent has confirmed that should planning permission be granted, the existing large caravan sited to the west of the stable block will be moved to one of the consented pitches. The block plan shows a package treatment plant to be located towards the north-east corner of the site (and not a septic tank as stated on the application form).

The proposed pitches are set approx. 6m away from the western boundary and defined by a new 1.2m high post and rail fence to define the boundary of the pitches which would sit at the foot of the existing raised bank, but this diverts further into the site at the northern end in order to protect the area of acid grassland (within Plots 7 and 8). The proposed plan shows the planting of new native hedgerow and 5 new English Oak trees along the western boundary. The eastern boundary is to be defined by a 1.8m high dark green coated mesh fencing supported by timber posts. There is an area adjacent to the eastern boundary where the siting of static caravans and day rooms have not been sited in order to prevent conflict with mature trees on the adjacent site along this boundary. No changes are proposed to the southern boundary of the site where there are some existing trees that will be retained. The existing row of conifers in the south-west corner of the site would be removed. The submitted plan shows no significant changes in ground levels is proposed, other than is reasonable for levelling purposes.

The proposed access road would be tarmacked within the first 10m from the public highway and beyond that is stated as being compacted hardcore base with gravel or planning surface dressing. The existing entrance brick wall would be widened to 6m by moving the westernmost pier/wall 1m to the west. In order to create the required visibility splay, all existing smaller planting forward of the existing post and rail fence would need to be removed (but no trees). It is proposed to plant a new native hedgerow to the rear of the post and rail fence to provide a green planted frontage along the majority of the Sand Lane frontage.

Some concern has been raised that a metal fence has appeared in the north-east corner of the site frontage and that the applicants may therefore be intending to create a further access point. However, the proposed Block Plan indicates that any potential access here is to be 'stopped up.'

The trees indicated in green circles on the Block Plan are identified in the Arboricultural report as Grade A trees. The trees indicated in blue as defined as Grade B trees. The solid lines show the extent of canopies and the dashed lines show the extent of Root Protection Areas, of individual trees and groups.

Plans and Documents submitted and considered:-

- Site Location Plan (Drawing No: MSP.1901 001)
- Stable Building: Existing plan and elevations (Drawing No: MSP.1910 003)
- Proposed Block Plan (Drawing No: MSP.1910 002 Rev J)
- Amenity Building : Proposed plan and elevation (Drawing No: MSP.1910 003)
- Site Survey (Drawing No: MDS – MSP sand lane 001)
- Visibility Splays (Drawing No: 001A)
- Swept Path Analysis of Large Refuse Vehicle (Drawing No: 006)
- Swept Path Analysis of Large Refuse Vehicle (Drawing No: 003)
- Swept Path Analysis of a 4 x 4 with Caravan (Drawing No: 007)
- Speed Surveys undertaken 28 and 29 November 2022
- Flood Risk Assessment by Mike Sibthorp Planning
- Planning Statement by Mike Sibthorp Planning
- Foul Drainage Assessment
- Heritage Impact Assessment by The Heritage Advisory
- Archaeological Desk Based Assessment by Archaeological Project Services
- Archaeological Evaluation by Archaeological Project Services
- Preliminary Ecological Appraisal by Archer Ecology
- Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Report by East Midlands Tree Surveys Ltd
- Tree Constraints Report by East Midlands Tree Surveys Ltd
- BS5837 – Trees in relation to design, demolition and construction. AIA, AMS & TPP in relation to trees at Sand Lane, Besthorpe by East Midlands Tree Surveys Ltd
- Phase 1 Environmental Assessment Report by GDP
- Unexploded Ordnance Report by Brimstone
- Information on Site Occupants

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

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

Site visit undertaken 13.10.2022

## **5.0 Planning Policy Framework**

### **The Development Plan**

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

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 3 – Rural Areas

Spatial Policy 7 – Sustainable Transport

Core Policy 4 – Gypsies and Travellers – New Pitch Provision

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

Core Policy 9 – Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

Core Policy 14 – Historic Environment

#### **Allocations & Development Management DPD (adopted July 2013)**

Policy DM5: Design

Policy DM7: Biodiversity and Green Infrastructure

Policy DM8: Development in the Open Countryside

Policy DM9: Protecting and Enhancing the Historic Environment

Policy DM10: Pollution and Hazardous Materials

Policy DM12: Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2023
- Planning Practice Guidance
- Landscape Character Assessment SPD 2013
- Gypsy and Traveller Accommodation Assessment, Feb 2020
- Section 66 of Planning (Listed Buildings and Conservation Areas) Act 1990
- The Equality Act 2010
- Human Rights Act 1998
- Planning Policy for Traveller Sites (PPTS) – 2015 (summarised below)

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

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

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

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

Weight should also be attached to:

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

Paragraph 25 states that “Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community and avoid placing undue pressure on the local infrastructure.”

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

## **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 Highway Authority** – No objection, subject to conditions.

**NCC Lead Local Flood Authority** – No bespoke comments provided but just general advice offered.

**The Environment Agency** – No objection.

**Historic England** – No comments offered but suggests seeking the views of specialist conservation and archaeological advisers.



**Natural England** – No objection.

**(b) Town/Parish Council**

**Besthorpe Parish Meeting – Clarify – 2 abstained and remainder (37 on electoral roll of Besthorpe) voted to oppose. The Parish agreed to present residents’ objections as set out below.**

- Core Policy 4 states provision of pitches must be in line with Council’s Spatial Strategy, which is to place pitches in and around the Newark Urban Area and thus reflect current main locations of existing provision;
- Core Policy 5 confirms land has not been assessed as suitable and was not put forward under the recent Open Spaces Options categorisation process;
- While in the open countryside, the development is adjacent to residential village properties and as such is inconsistent with the forms of development that Policy DM8 allows;
- Sites in a rural area should respect the scale of, and must not dominate, the nearest settled community:
  - Assuming each of the 8 pitches hosts one family of 4, this would bring 32 new residents in a village of 155, an increase of over 20%;
  - While the application is for 8 pitches, it is for 24 caravans (1 static and 2 tourers on each pitch) and there appears to be no restriction preventing a family from living in each. Complete occupation could bring up to 96 new residents, an increase of over 61%;
  - The Parish sees no guarantee the development could not be used as a mixed-use site;
- Besthorpe is an ‘other village’ in the settlement hierarchy policy and development proposals must be considered under Spatial Policy 3 which states that local housing needs be addressed by focusing housing in sustainable, accessible villages.
  - NSDC has advised previous planning applicants that Besthorpe is considered to be an unsustainable settlement;
  - NSDC has advised previous planning applicants that it seeks to direct new development towards the main settlements where there is less reliance on the use of the private car;
  - Besthorpe does not have the necessary infrastructure to support the lower estimated increase in residency;
  - Besthorpe has no facilities (no shops, schools, libraries, dentists or health centres);
  - Besthorpe has no provision for teenagers or the elderly;
  - Besthorpe has limited access to public transport;
  - Besthorpe is dependent on private car use to access key services and facilities;
- Access to the location is via Sand Lane, an unlit 60mph rural road close to a blind bend and frequently used by large commercial lorries;
- Brick walls at the development’s entrance constrain sight lines for traffic entering and exiting;

- Unclear if fire engines would be able to access the site, given narrow entrance and hedgerow opposite;
- Sand Lane is unlit and has no footpaths, posing a potential danger to pedestrians accessing the site;
- Local access and roads are already stretched, and further vehicular use due to no local facilities would have a detrimental impact upon the environment, traffic and road usage;
- The site is outside the village boundary and far exceeds the reasonable expansion of the village;
- The proposed site is immediately adjacent to the village's conservation area and development outside its boundary would have a detrimental impact;
- The proposed site is not in keeping with the existing or nearby dwellings and is not in keeping with the general layout and form of the village's residential properties;
- Planning applications within the village boundary have previously been rejected;
- Residents expressed concern about the increase in crime within the village that would naturally follow a 20% or 61% increase in population;
- Residents expressed concern about the negative impact on local businesses such as the pub that an increase in crime would bring;
- The site would be visible from the main road unless high walls are constructed. Such walls are undesirable as they could create the impression that the site is a citadel and impede integration with the existing population;
- There are sensitive sites directly opposite and next to the proposed site, including a Site of Special Scientific Interest (SSSI);
- Site lighting would be intrusive in the open countryside, especially given the proximity to the conservation area, SSSL and adjacent private woodland housing bats, owls and other wildlife;
- Residents are concerned that the provision for emptying soil is unclear as the plans show toilets but no sluice.

**(c) Representations/Non-Statutory Consultation**

**NCC Rights of Way** – No objection.

**NSDC Archaeology Consultant** – No objection.

**NSDC Tree and Landscape Officer** – provided advice which has been incorporated into the tree section below.

**NSDC Biodiversity and Ecology Officer** – provided advice which has been incorporated into the ecology section below.

**NSDC Conservation** – No objection.

**NSDC Environmental Health, Contaminated Land** – No objection.

**39 letters of objection have been received (15 of which are anonymous and not considered although the matters raised reflect many of the comments below) which are summarised**

below:

#### *Principle of development*

- Although the need for gypsy and traveller site is recognised, this is a totally inappropriate place for this use – it is outside the village boundary and Besthorpe has been listed in previously refused applications as a non-sustainable area for development;
- Scale of new sites should not dominate the nearest settled community. Besthorpe has a settled population of 155. With 8 static and 16 touring caravans proposed, at an average of 4 residents per unit, the development could constitute a community of 96 people which would be 62% of the current settled community residents. This represents a disproportionate number of new residents forming a separate community; it would seem to represent a level of expansion that the village would not be subjected to under existing expansion policy for the area;
- It would break all previous planning precedence for the area where Girton and New Lane have had smaller similar applications rejected;
- There is no historical precedent for occupation of the site;
- It is not an allocated site and would not match any of the criteria for such a development site and is therefore contrary to local plan policy;
- If it were an application for 8 bungalows, it would and should be similarly refused;
- These are the same reasons that a similar smaller scale application was recently refused in Spalford;

#### *Character/Appearance*

- Proposed development is too substantial for the site and poorly designed;
- The development is not in keeping with existing nearby dwellings or the general layout and form of the village's residential properties;
- The full side view of the site would be on prominent display from the main road A1133 and nearby properties and would be visually intrusive and change the appearance of the village and landscape significantly;
- Putting a screen/wall up will also be a blight on the landscape as there are currently views across the fields;
- There is already another caravan park 1 mile away, known as 'Duck Ponds.' The granting of this would over saturate this type of accommodation in the area;

#### *Highways*

- Sand Lane is a narrow poorly maintained country lane with 60mph speed limit and is very busy with no footpath or street lighting;
- Traffic exiting Sand Lane to join the A1133 is confronted by a blind spot and the increase in traffic from the site would only increase the problem constituting unacceptable danger to road users;
- This junction is used frequently by articulated lorries from the egg factory in Scarle;
- The entrance is too narrow to admit fire engines/tankers;
- The access into Sand Lane is blind to the left hand side;
- There is no pedestrian crossing across the A1133;
- The lane has no bus service, the nearest bus stop being on the A1133;

- Extra traffic will result in road damage and extra pollution;
- Development will cause difficulty for people using the footpath right of way both opposite and along the edge;
- Main A1133 suffers with speeding traffic and this will add more, making the road more dangerous with vehicles pulling trailers/caravans;

### *Infrastructure*

- No increase in village infrastructure is proposed;
- The village has no facilities for additional families, therefore to get to facilities, it would increase number of vehicles on the quiet country roads;
- Concern that the emergency services would not be able to cope with that level of increase in population;
- We are at capacity and pride ourselves on our care of our community;
- Besthorpe village has no amenities – just the public house, church, village hall and small children’s play area;
- North Scarle has post office and school, nearest shop is 3 miles away in Collingham, nearest fuel station is 8 miles away;
- There is no direct access to the listed criteria – no healthcare, education, employment or infrastructure to cope with the number of additional residents this site could accommodate;
- Nearest doctors surgery is in Collingham and this practice is already under pressure from the current population and adding a further 24 households will increase the burden;

### *Ecology*

- It would be completely out of character for the area with woodland to the east being a private nature reserve and an SSSI on opposite side of the road to north, it will damage the ecological area associated with the development site and adjacent bordering area;
- Two of the four edges of the proposed site contain areas important for biological diversity and will be sensitive to change. Development of this site as proposed will increase light levels, noise levels, traffic movements and associated pollution. This will impact on biodiversity (owls, bats, door mice and butterflies) and species abundance and impact the SSSI. Attempts to plant trees to mitigate light and noise pollution may change the species ecosystem balance and increase shading on the acid grassland, a habitat that needs open space to allow the unique flora to thrive;
- Concerned wildlife would be disturbed by scramble tracks for motor vehicles to shoot wildlife with catapults and guns and hunting with dogs;
- No site lighting is shown but if proposed it would have harmful impact and be intrusive to bats, owls and other wildlife and on the whole delicate ecosystem of the area;
- A bull dozer has been on site ripping out gorse and levelling the site and fires have occurred;

### *Flood/Drainage/Waste*

- In heavy rain the A1133 floods adjacent to the site and if the pitches were to have concrete bases, that would increase the chances of flooding on a more frequent basis;

- Two onsite sewage soakaways are located too far away from the site road to be reached by tanker and is inadequate and out of date (unless it has been changed);
- A septic tank would not be appropriate as the Besthorpe area has a very high ground water table;
- A cesspit would not be adequate as part H of the Building Regulations which would require 150ltrs/person/day, equating to 7500ltrs of effluent per day based on 50 people on site and rising to 75000ltrs at 100 people on site, requiring a cesspit of 7.5m<sup>3</sup>/75m<sup>3</sup> required per day, which would require the constant pumping of the cesspit to remove the waste and increasing the number of trucks at the site to remove this amount of waste on a daily basis;
- Plans do not show where septic tank would be located;
- Mains water pressure is inadequate and this level of additional draw would only make it worse;
- There is a bronze age historical mound which needs to be protected from unwanted pollution, such as insufficient sanitary provisions on the proposed site;

#### *Amenity*

- Noise nuisance from 7am to 9pm has been unbearable and constant – children screaming; dogs barking; adults yelling; dirt bikes revving engines; cars pipping horns;
- A large amount of rubbish has been amassed on the site already which can be easily blown by the wind onto neighbouring land;

#### *Other*

- There are low employment opportunities with people needing to commute for work;
- The spoil for the archaeology survey was not sieved and no hand digging was carried out – survey states nothing was found but experience in the area shows pottery, charcoal, 303 bullets and once a musket ball;
- The site was a bomb dump during World War II;
- Site has been occupied in a caravan hidden in one of the southern barns since 2022 and 5 touring caravans have come and gone from the site and one new static has been sited;
- The application is for 8 statics but there will be 10 altogether as there are 2 already on site without planning permission;
- Planning is being asked for a container that is already there illegally and there are currently residents living on the site which does not increase our confidence in the intentions of the applicant to adhere to regulations in the future and showing they have no respect for the rules of the Council;
- Levels of crime in the village are currently low for a rural setting, the significant increase in population of the village is likely to lead to a proportionate rise in crime levels;
- The interests of the settled community in the village must be understood and protected according to the UK Human Rights Act 1988, Articles 8 and 14 and their rights to enjoy a quiet life;
- There is a Deed of Covenant on the land preventing development of the site until 2031;
- We have received no direct information on this application and thus limited time in

which to object within the deadline;

- There has been no early engagement within surrounding villages about the application.

## **7.0 Comments of the Business Manager**

In the assessment of this application the key issues are:

1. Principle of development
2. Sustainability
3. Impact upon Character and Appearance of the Area
4. Impact on Heritage Assets
5. Impact on Residential Amenity
6. Impact on Highway Safety
7. Impact on Ecology and Trees
8. Impact of Flood Risk and Drainage
9. Personal Circumstances
10. 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.

As the application concerns the setting of a listed building, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') is particularly relevant. Section 66 outlines the general duty in exercise of planning functions in respect to listed buildings stating that the decision maker "shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The duty in s.66 of the Listed Buildings Act does not allow a local planning authority to treat the desirability of preserving the settings of listed buildings as a mere material consideration to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm considerable importance and weight.

### **Principle of Development**

The site is Grade 4 in the Agricultural Land Classification which means it is poor quality and does not represent the Best and Most versatile Land to which a sequential test should be applied in order to direct the development to land of poorer quality and does not need to be retained for agricultural purposes.

The District Council, as Local Planning Authority, has a duty to provide sites on which Gypsy and Travellers can live. The Gypsy and Traveller Accommodation Assessment (GTAA) for the District demonstrates a minimum requirement for 169 pitches to meet the needs of Travellers between 2013-33 (118 pitches of this overall 169 minimum requirement would be necessary to meet the needs of 'planning definition' Traveller households, as defined within Annex 1 of the National Planning Policy for Traveller Sites). Through the *Lisa Smith v The Secretary of State for Housing, Communities and Local Government and others* [2021] EWHC 1650 (Admin) legal case, the planning definition within Annex 1 was found to be unlawfully discriminatory. Due to its exclusion of Gypsies or Travellers who have permanently ceased to travel due to old age, disability or due to caring responsibilities. No amendments have been made to national policy following the legal decision, and so accordingly there is a lack of clarity over what local pitch target should form the basis for calculation of the five-year land supply test, as required as part of the Planning Policy for Traveller Sites (PPTS). Whether this should still be calculated on the basis of the planning definition, or from the overall minimum requirement.

Either local target would reflect a heavy skewing towards that first five-year 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 Gypsy and Traveller sites, the supply must meet or exceed the five-year need figure of 77 pitches if the test is restricted to the needs of planning definition households, but this would rise to 103 pitches where the needs of all Travellers are taken account of for the same period.

This represents a significant unmet need, under both scenarios. Provision to assist in meeting this need will be made as part of the production of the Amended Allocations & Development Management Development Plan Document (ADMDDP), which is currently at its second Regulation 19 ('Publication') stage. The amended Development Plan Document seeks the allocation of specific sites for Traveller accommodation and would provide an updated Framework for the granting of consent for appropriate development on windfall sites. The Council is currently unable to identify any other sites that are currently available or deliverable for Gypsy and Travellers and in addition is unable to demonstrate a five-year land supply, as required through national policy (PPTS). It is therefore accepted that the Local Planning Authority is not able to demonstrate a five-year land supply for Gypsy and Traveller 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 weigh heavily in the favour of the granting of consent where proposals will contribute towards supply.

The emerging policies within the Publication Amended Allocations and Development Management DPD demonstrates a commitment by the Council to meeting the need for pitches in the District. However, only limited weight can be given to the newly proposed allocation sites as the Plan is still going through the plan-making process and has yet to be submitted, examined and found sound. As such, in the absence of any current allocated sites and in the light of the significant unmet need, provision of pitches are only likely to come forward through the determination of planning applications on windfall sites.

In terms of how this site would contribute to the Council's Gypsy and Traveller need, no firm evidence of demand for inward migration into the District was found as part of the GTAA. Therefore, net migration to the sum of zero was assumed for the GTAA – which means that net pitch requirements are driven by locally identified need rather than speculative modelling assumptions. With inward and outward migration in balance with one another, this means that when a household moves into the District that movement is counterbalanced by the outward migration of another. Therefore, providing proposed pitches are addressing the needs of a Traveller household, consistent with the definition below (reflecting the Smith decision), then they would contribute supply against the local pitch target.

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.

The supporting information submitted with this application states that the intended occupants of all the pitches would fall within the definition of a 'Gypsy and Traveller' (this is discussed further in the Personal Circumstance section below) and specific information of the occupants of 4 of the 8 pitches have been provided.

It is considered that a planning condition restricting occupation of the site to those meeting the definition of a gypsy or traveller (as referred to in the recent Spalford appeal decision) would ensure that the 8 pitches would be available to help meet the need identified through the GTAA and demonstration of a five year land supply. Given the lack of land supply this weighs heavily in the favour of the granting of consent.

Since the GTAA was undertaken in 2019, permanent planning permission has been granted for 26 new pitches as set out below:

- 1 Land north of Cross Ways, Main Street, Bathley (18/02219/FUL);
- 2 at Chestnut Lodge, Barnby Road, Balderton (21/00027/FUL);
- 4 at Shady Oaks, Spalford (21/02528/FUL);
- 19 at Chestnut Lodge, Barnby Lane, Balderton (23/00063/FULM).

A further 8 pitches at Appleby Lodge, Barnby Lane, Newark (23/00060/FUL) have been minded to be approved by the Members but the issue of the decision is pending the completion of a S106 planning obligation, but which would increase the number to 34.

Taking the overall pitch requirement of 169, then there is currently a shortfall of some 143 pitches against the overall requirement (135 were the Appleby Lodge decision to be issued). Even were the planning definition requirement retained as the local target, then there still remains a substantial shortfall (92-84 pitches following the same calculations). Whilst under the separate five-year land supply test there is currently an insufficient land supply for this to be demonstrated. The target for the first five-year period (2019-2024) would be either 103 (under the overall pitch requirement) or 77 pitches (planning definition) tranche which would mean a shortfall of further 69, or 43 pitches needing to be provided by the 1st of April next year in order for a five-year land supply to be demonstrated. These identified needs carry



significant weight in favour of proposal as the pitches proposed would contribute supply towards meeting this requirement.

Whilst Core Policy 4 states that future pitch provision for Gypsy and Travellers will be provided in line with the Spatial Strategy focussed on securing provision in and around the Newark Urban Area, it also states that the Council will address future Gypsy and Traveller pitch provision for the District through all necessary means, including, amongst other things the granting of planning permission for pitches on new sites, in line with Core Policy 5. Indeed, an Inspector in the determination of an appeal on a site for the same use at Spalford earlier this year concluded that notwithstanding the Council's preference for sites around Newark, the absence of suitable or alternative sites provides significant weight in support of proposals outside the Newark area.

Core Policy 5 sets out criteria for considering sites for Gypsy and Travellers which come forward anywhere within the District.

Spatial Policy 1 of the Amended Core Strategy sets out the settlement hierarchy for the District and this site falls within the 'Rural Areas.' Spatial Policy 3 covers the Rural Area states that in the open countryside development will be strictly controlled and further details of permitted uses within the open countryside is set out in Policy DM8.

The application site is located in the open countryside, to the east of the village of Besthorpe. In line with the Planning Policy for Traveller Sites (PPTS), local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Notwithstanding the absence of Gypsy and Traveller uses in Policy DM8, under some circumstances, it is accepted that gypsy and traveller sites can be acceptable in this type of location. The context around whether the proposal would, in the absence of more appropriately located sites, contribute towards meeting local need is crucial, and this application would in this case. Beyond this then, criterion 1 (landscape) and 2 (access to services and facilities) in Core Policy 5 (Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople) provides an appropriate way of determining what kind of locations in the countryside could be acceptable. This approach was taken in the appeal decision at Spalford.

It is acknowledged that both the Parish meeting and a number of local residents have raised concerns about the scale of the proposal relative to the current size of Besthorpe. The Parish meeting state if 8 pitches hosts one family of 4, this would bring 32 new residents in a village of 155, an increase of over 20%. However, they then go on to state that 24 caravans would be permitted and there appears to be no restriction preventing a family from living in each one and complete occupation could bring up to 96 new residents, an increase of over 61%. The Gypsy and Traveller culture and way of life includes different genders within one family residing in separate caravans. As such when travelling in tourer caravans, a minimum of two vans are required. On this basis, it is considered that the concerns of local residents in relation to scale would not be realised in practice and the proposed 8 pitches would allow 8 new

families to reside in the area which would not represent the domination of the existing community. The number of caravans to be sited on each pitch at any one time can be controlled by condition.

In summary, the District has a significant unmet need for Gypsy and Traveller pitches. The proposal would represent a direct 8 pitch contribution towards both the overall pitch requirements and a five year land supply. In the absence of the availability of alternative sites and emerging site allocations which cannot yet be given meaningful weight, this contribution to supply should be afforded considerable weight in the overall planning balance.

The principle of this use in this location may therefore be considered to be acceptable in the overall planning balance, subject to assessment under the criteria set out within Core Policy (CP) 5, which are more site specific, and are set out and considered below.

### *Sustainability*

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

Whilst it is acknowledged that the facilities offered by Besthorpe are limited to the Lord Nelson Public House, the church and village hall, the application site is within reasonable proximity of Collingham – which as a Principal Village has a good range of day to day facilities – primary school, food shop, health facilities, employment and good access to the Sub-regional Centre of the Newark Urban Area via rail and bus connections. There appears to be a good level of connectivity between Besthorpe and Collingham via bus – with journey times taking as little as 5 minutes along the A1133. Even where such journeys are made by car then they would be limited in duration and reflects a level of access to services and facilities which would be superior to that available to many rural Gypsy and Traveller sites. Consequently, given the lack of more appropriate alternative provision elsewhere, the application site can be considered reasonably situated in terms of access to a range of basic and everyday community services and facilities and is considered to meet Criterion 2 of Core Policy 5. The comments received on this matter from the Parish Meeting and local residents have been taken into account in reaching this view.

The site is adequately served in terms of electricity and water supplies. The application confirms that the site will be served by a septic tank and as such, the Environment Agency has advised an informative be added to any decision notice to advise what is required in this regard outside the planning process.

### Impact on the 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 (Design) of the Development Plan Document (DPD) states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

Criterion 1 of Core Policy 5 states that the site would not lead to the unacceptable loss, or significant adverse impact on the landscape character and value, important heritage assets and their settings, nature conservation and biodiversity sites. The latter three considerations are considered in later sections below. Criterion 5 of CP5 seeks that the site is capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity. Core Policy 13 of the Core Strategy addresses issues of landscape character. The Landscape Character Assessment (LCA) Supplementary Planning Document (SPD) informs the policy approach identified within Core Policy 13. The LCA provides an objective methodology for assessing the varied landscape within the district and contains information about the character, condition and sensitivity of the landscape.

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

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 rectangular field, predominantly of open grassland, with a concentration of mature trees at its northern end, adjacent to Sand Lane. Three buildings currently occupy the site, two green steel-clad agricultural type barns in the south-east and south-west corner and one brick and pantile L-shaped stable building towards the north-east corner. The site is largely enclosed by trees and hedgerow along its northern and eastern boundary, the southern and western boundaries are more open and the western boundary in particular allows views across to the main A1133, approx. 215m to the west. There is also a Public Right of Way (Besthorpe FP4) that runs in a north-south direction adjacent to the western boundary.

It is acknowledged that whilst caravans are not necessarily alien features in open countryside and are single storey in scale, it is accepted that their often white, shiny box-like form (and therefore far from reflecting local built vernacular) can somewhat detract from the greens, browns and golds of the surrounding rural visual amenities. It is clear that this impact would be felt most keenly from the west and as a result of concerns raised, the scheme has been amended along its western boundary to provide a distance of 5-6m between the development and this boundary to allow for new oak trees and native hedgerow to be

planted. The impact of this will be increased by being placed on top of an existing embankment. However, 8 pitches (max of 24 caravans and 8 day rooms – the details of which have not been provided and so would have to be conditioned should permission be granted) is considered to represent a relatively low density considering the overall size of 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), the policy advises that pitches should be approx. 350 sq m. The size of the pitches presented are considerably larger than this general guide (being between 1340sqm to 665sqm). Whilst it is acknowledged that the proposed pitches are larger than the guidelines, it is considered this lower density is appropriate to the site's rural setting. Given the site would contribute towards the significant unmet need of gypsy and traveller pitches, it is not considered that this is fatal and would warrant refusal of the application on this basis.

It is therefore acknowledged that although rather engineered in appearance and the required removal of some smaller existing planting along the road frontage (but no mature trees) to allow for a visibility splay, a combination of both existing boundary treatment and proposed (including new native hedgerow planting along the road frontage boundary) would provide a green softening around the proposed caravan site that would soften the views into the site from the A1133, the public footpath and Sand Lane. Furthermore, additional planting has also been provided within the site, including silver birch trees and other native flora planting to the proposed play area in the north-west corner to provide additional biodiversity benefits. Seven of the existing trees at the northern end of the site are also protected by a provisional Preservation Order and thus must currently be retained.

The only trees proposed to be removed are a small row of conifers (approx 24m in length within the site) but also along some of the western boundary situated in the south-west corner of the site. Given the species and positioning, there is no objection to their removal. Some trim back and loss of smaller vegetation (but no mature trees) is also likely to be required to existing planting along the road frontage to provide the required visibility splays.

The site would not lead to the unacceptable loss, or significant adverse impact on landscape character and value. Whilst there would be a marked contrast in the appearance of the site when within it, this impact could largely be contained within the boundaries of the site. It is acknowledged that the proposal would not accord with the requirement of the landscape character policy for new development to reflect the local vernacular and therefore would likely to result in moderate harm to the rural amenities and appearance of the area. However, with additional planting along the western and northern boundaries and new planting within the site, this would be tempered and softened to a certain extent. This negative impact is weighed in the overall planning balance below.

#### Impact on Heritage Assets

The proposed siting of caravans and day rooms on this site is capable of affecting the historic environment both in terms of the setting of Besthorpe Conservation Area (CA) and the setting of the Grade II listed buildings within the Conservation Area boundary. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is therefore applicable and

requires that special regard be paid to the preservation of the setting of listed buildings. The proposal site is not within the CA boundary. There is no legal protection for the setting of Conservation Areas under section 72 of the Act, but paragraphs 199-200 and 202 of the NPPF ensure that Local Planning Authorities must give proper consideration to the setting of designated heritage assets. As set out above, Criterion 1 of Core Policy 5 also states that when considering sites for Gypsy and Traveller sites should not lead to the unacceptable loss, or significant adverse impact on important heritage assets and their settings.

The importance of considering the setting of designated heritage assets, furthermore, is expressed in Section 16 of the NPPF and the accompanying Planning Practice Guidance (PPG). The NPPF advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 8.c).

The NPPF defines the setting of a heritage asset as: “The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surrounding evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

Core Policy 14 and DM9 of the Council’s LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

Like many estate villages, the CA encompasses a historic core of buildings typically dating to the 18th and 19th century. Open spaces, trees and other features contribute positively to this significance. The CA was designated in 2008, so includes a relatively up-to-date review in its associated Appraisal document. This Appraisal highlights the importance of setting with respect to the Heath Sandlands and the Trent Valley. It does not identify any special views towards or from the proposal site however, despite the position of nearby footpaths. There appears to be no intrinsic special interest in the development site or adjacent fields in the context of the CA, furthermore, and otherwise conclude that no special interest had been identified when it was reviewed in 2007/8, explaining why it had not been included in the boundary designation at that time.

The northern part of Besthorpe village includes modern housing of no interest (this is outside of the CA boundary). The ribbon development along the main road does include some interesting period properties, including three listed properties, but their setting is broadly limited to the roadway and their immediate environs.

The rural backdrop of the village is indeed important, and change within that landscape could impact on the significance of the CA. The footpath network here also gives important impressions of the CA as one approaches the village. In this case however, the modest scale of the development (notably in terms of the limited heights of caravans), its distance away from the CA and the reinforcement of green infrastructure at the edge of the site suggest that development could have a negligible impact on the setting of the CA. In this regard, there is general agreement with the applicant’s heritage specialist in their submitted Heritage Impact Assessment.

The Council's Conservation team consider that the distance between the proposal site and the CA ensures that it will not cause harm to the special character and appearance of the CA or the setting of the listed buildings within it. Subject to mitigation in the form of landscape planting to the boundary of the site, the proposal will cause no heritage harm. The concern that linear rows of statics might appear above hedges is acknowledged, but at this distance with landscape softening, it is not considered the proposal would be unduly prominent.

In relation to archaeology interest, Historic England were consulted in relation to the impact of the proposal on the setting of the Scheduled Monument to the east of the site. They raised no objection.

The site lies in an area of high archaeological potential associated with Palaeolithic, Mesolithic, Neolithic and Bronze Age funeral activity. A barrow is recorded adjacent to the east of the site and is protected as a Scheduled Monument. Neolithic pottery has been recovered from the surface of the mound. Mesolithic artifacts have been recorded in the field to the west of the site. It is highly likely that further activity consistent with that noted above is present within the site boundary and if present would be considered regionally significant. Earthwork banks of indeterminate date from the eastern and western boundaries of the site. The Council's Archaeological consultant therefore advised that the proposed groundworks to include a new road, surfaces for caravan pitches, drainage as well as landscaping have the potential to significantly impact any surviving archaeology remains present on the site and therefore requested that trial trench evaluation was required pre-determination of the application.

However, following submission of the results of the trial trenching when no archaeological features were recorded during the evaluation, the Council's Consultant has advised that so no further archaeological work is recommended for this application.

In summary, the proposed development would preserve the special interest and setting of nearby listed buildings in accordance with S66 of the Act as well as the setting of the nearby Scheduled Monument to the east and the impact on the setting of the CA to the west and no archaeological interest has been discovered on the site. As such, it is considered that the proposal accords with the policy and advice contained within Section 16 of the NPPF, Criterion 1 of Core Policy 5, Core Policy 14 of the Amended Core Strategy and Policy DM9 of the Allocations and Development Management DPD. The proposal is therefore considered to cause no harm to heritage assets.

#### Impact on Residential 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. Criterion 4 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, the sizes of the pitches presented exceed the recommended standard of 350m<sup>2</sup> as set out in Core Policy 5. Whilst this over allowance 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 (although no details have been submitted and so will need to be conditioned) which would ensure a degree of privacy between pitches.

Turning now to existing residents who would live close to the site, the nearest residential properties are approx. 50m to the east and approx. 100m to the west, both on the north side of Sand Lane. Given the site is either enclosed by existing vegetation or proposed to be enclosed by new proposed planting along all of its boundaries, it is considered the proposed development and caravans would be well contained.

Any new development on this site would have some impact on the amenity of existing nearby properties on Sand Lane 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 and proposed 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 day rooms, 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 would accord with the requirements of Core Policy 5, Core Policy 9 and DM5.

### Impact on Highway Safety

Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision echoed by Spatial Policy 7. Criterion 3 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 the site in the north-west corner. To support the application, a speed survey and detailed swept path analysis plans have been submitted followed by an amended proposed Block Plan to facilitate alterations to the access (including moving the western brick wall and pier 1m further to the west) and demonstrating visibility splays required (including limited cutting back of existing planting to the front boundary west of the access). 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,

although a condition has been requested requiring precise details to be submitted and approved.

Comments received from local residents in relation to the potential traffic generated by the development and the impact on the highway are noted. Whilst local comments have also raised concerns regarding the suitability of the highway, pedestrian and highway safety (particularly in relation to the junction with the A1133), 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, subject to conditions, would accord with Core Policy 5 and Spatial Policy 7 of the Core Strategy and Policy DM5 of the Allocations & Development Management DPD in this regard.

### Impact upon Ecology and Trees

As set out above, Criterion 1 of Core Policy 5 also states that when considering sites for Gypsy and Traveller sites should not lead to the unacceptable loss, or significant adverse impact on nature conservation and biodiversity sites. Core Policy 12 states that the Council will seek to secure development that maximises the opportunity to conserve, enhance and restore biodiversity. Policy DM7 also seeks to promote the conservation and enhancement of the District's biodiversity assets. It states that development proposals on, or affecting, Sites of Special Scientific Interests (SSSIs), planning permission will not be granted unless the justification for the development clearly outweighs the nature conservation value of the site and that all proposals affecting designated sites should be supported by an up-to-date ecological assessment, involving a habitat survey and a survey for protected species and priority species listed in the UKBAP (the UK Biodiversity Action Plan which identified those most threatened and requiring conservation). The NPPF also seeks to minimise impacts on biodiversity and provide net gains where possible.

A Preliminary Ecology Appraisal (PEA) was requested to support this application which assesses the potential impacts of the development on priority habitats and protected and priority species. The PEA provides an evaluation of the site and its surroundings and identifies any ecological constraints.

In relation to designated biodiversity sites the PEA has identified that to the north, across the highway, is Besthorpe Warren Site of Special Scientific Interest (SSSI) which supports an important mosaic of dry acid grassland vegetation and Primrose Hill, a non-statutory designated Local Wildlife Site which supports coarse acidic grassland developed on periglacial drift deposits is located immediately to the east of the site.

The PEA has identified the broad habitats present and shown these on a Habitat Map as copied below.





The habitat map above shows that the application site is formed mainly by semi-improved neutral grassland which the PEA has assessed to be of low species-diversity and therefore of low biodiversity value. There is a small area of acid grassland adjacent to the western boundary, which the PEA did not consider to be indicative of a Priority Habitat type. To the north there is an area of semi-natural broadleaved woodland, which the PEA has considered to represent a Priority Habitat 'Broadleaved Woodland'. In the northeast corner there is a brick and tile building (former stables) with associated hardstanding and some ancillary buildings to the south.

In relation to species, the PEA considered that the habitats present were potentially suitable to support amphibians, reptiles, badgers, nesting birds, and foraging and commuting bats, with the stable block having 'low' potential to support roosting bats. However, none of these species, or species-groups were confirmed as being present.

Mitigation and enhancement measures within the PEA are summarised as follows:

- any new introduced landscaping onto the site should incorporate a combination of native plants and tree shrubs of local provenance, and non-native species known to be of value for pollinators and other aerial invertebrate to offer a greater food source for locally foraging bats, mammals, avifauna and herpetofauna;
- As a precautionary measure to mitigate the potential to harm single and/or small populations of reptiles and amphibians, during site preparatory works, it is advised that the reptile and amphibian method statement is followed (Appendix V of the report);
- As a precautionary measure, works resulting in disturbances to habitats of potential value to nesting birds should be completed outside the main nesting bird season (March - August inclusive), where practicable. Alternatively, all suitable habitats should be firstly checked by a suitably experienced ecologist in advance. If active nests are found, these must be safeguarded and left undisturbed until all chicks have fledged;
- In view of the suitability of the former stable block to sustain roosting bats, it is advised that this building is subject to a single, nocturnal bat activity survey during the main

bat activity period (May to August, inclusive) should any potential intrusive works be required to the loft space and roof structure. The PEA states "However, it is understood that no significant modifications to this building are proposed;" The planning officer has followed this up with the agent and it has been confirmed in writing that "The conversion of the existing building to an amenity building will not involve any works in the roofspace or any part of the roof structure of the existing building."

- To avoid impacts upon nocturnal bat activity, dark and unlit corridors should be maintained around and across the site, allowing bats to pass through the site unhindered by artificial lighting. Should any artificial lighting be introduced on the site, this should be directed away from potential foraging features, including tree lines, hedgerows and woodland established along the site peripheries. Introduced lighting should be positioned a min of 7m from any such habitats. Mercury or metal halide lamps must also be avoided. The hours of illumination should be restricted to provide a min of 8 hours of darkness per night. Introduced lighting should further comprise a max of 1 lux which is comparable to moonlight conditions;
- All excavations should be covered at night to avoid the accidental trapping of foraging badgers and other terrestrial mammals, such as hedgehogs. It is further advised that pre-works checks for badger activity is completed in advance of any ground penetrating activities;
- Given the lack of suitable habitat, riparian fauna, including otters, water voles and white-clawed crayfish (all protected species) have been scoped out of the assessment.

It is noted that the most ecologically sensitive area is the SSSI to the north of the site and Natural England, the statutory consultee, has commented that based on the plans submitted, the proposed development will not have significant adverse impacts on designated site Besthorpe Warren Site of Special Scientific Interest and will not damage or destroy the interest features for which the site has been notified.

The PEA acknowledges that the Local Wildlife Site to the east of the site is also designated on the basis of its acid grassland characteristics. On the basis that the proposed development does not encroach into this designated area, it can be assumed that as the conclusion reached by Natural England in relation to the SSSI, the proposal will similarly not damage or destroy the interest features for which the site has been designated.

Given the existence of stables on the site, it was likely that it was previously used as a horse paddock, however, it is not clear when the site was last used for this purpose and the grassland has not been managed by grazing animals recently.

Although the survey did not identify any biodiversity constraints on the site that could not be managed through precautionary approaches, it is noted that the survey was undertaken at a sub-optimal time of the year.

The proposal would result in the loss of much of the semi-improved neutral grassland on the site; however the PEA concludes that this is likely to have a low impact on biodiversity due to the sward being relatively species-poor and therefore of low ecological value. 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.

Given the timing of the PEA survey, it is considered that a precautionary approach should be taken, particularly in relation to the acid grassland which has the potential to possibly be of higher ecological importance than identified by the PEA. As such, the site layout Block Plan has been amended to show the layout of the proposed development avoiding this area completely and resulting in no encroachment. This would protect this area from any disturbance and reduce the likely biodiversity harm to a negligible level. This protection can be conditioned for the lifetime of the development. The Council's Biodiversity and Ecology Officer is content with this precautionary approach.

The woodland habitat is considered below.

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 the site itself is not afforded any conservation designation but supports priority habitat (the woodland, and potentially the acid grassland). Impacts on these areas have been mostly mitigated by the scheme layout, to leave relatively minor residual impacts. This result in minor negative impacts that will need to be weighed in the overall planning balance.

Turning now to the potential impact on trees, the applicant was requested to submit an arboricultural survey and impact assessment during the course of the application. The majority of the trees on the site are situated in the northern section of the site, in close proximity to Sand Lane. Following the submission of the tree survey, officers' concerns were raised in relation to a photograph that showed damage to the base of a tree trunk within G3 (adjacent to the northern boundary) and the addition of a metal gate to the existing fence along the Sand Lane boundary, in the north-east corner of the site. As a result of this and in the knowledge that none of the trees on the site were protected in any way, officers considered it was pertinent to seek a provisional preservation order on the larger trees in this northern area of the site. This Order has now been served which protects 6 oaks and 1 silver birch, as shown on the plan below, due to the significant contribution they make to the amenity of Sand Lane. The Tree Report sets out that there would be a requirement to crown raise the tree on the right hand side of the access (protected by the Order) to 4m over the entrance to allow access without damaging the tree. This is acceptable and can be approved as part of this application.



In fact, it is submitted in the PEA that areas of woodland are retained and fully safeguarded throughout all phases of the development. Following advice contained within British Standard 5837 – Trees in Relation to Construction, the PEA acknowledges the need for protective fencing to be installed immediately outside of the Root Protection Areas which should remain in situ during the development works. The PEA goes on to state that Root Protection Areas chiefly represent the full canopy cover of individual trees and should be suitably protected during the development of the site. The PEA also states there must also be no raising or excavating of the ground within these zoned areas.

There is a row of conifers (approx. 24m in length within the site) as well as along the western boundary in the south-west corner of the site that is proposed to be removed and no objection is raised to this. The provision of the visibility splay will also require removal of some smaller planting along the site frontage (but no mature trees), which is regrettable, but which would be compensated for by a new native hedgerow behind the splay.

The other trees that have the potential to be affected by the proposed development is the deciduous woodland to the east of the site and in particular those trees in close proximity to the eastern boundary which have canopies and root protection areas that extend into the application site itself. The Council's Tree and Landscape Officer has stated that unfortunately, the submitted tree survey has not covered this potential impact or the risk that would be created by placing flimsy static caravan structures in close proximity to trees that still have to potential to grow into larger more mature specimens over time, either through branch failure or tree topple.

As a result of the concerns raised by the Council's Tree and Landscape Officer, the proposed site layout Block Plan has been amended to show that the static structures (caravan and day rooms) on the two northernmost plots adjacent to the eastern boundary, have been moved away a minimum of 12.5m from the eastern boundary to provide an adequate distance from trees adjacent to this common boundary.

As a result of the amended layout of the scheme moving development away from the western and eastern boundaries of the site, and subject to a condition requiring a Biodiversity Management Plans to be submitted to safeguard the ecological interest and secure biodiversity mitigation and enhancements, and conditions relating to protection of existing trees/hedgerows during construction, schedule of implementation and maintenance for new planting, the scheme is considered to be acceptable in this regard and would comply with the requirements of Core Policy 5, Core Policy 12 and Policies DM5 and DM7.

### Impact of Flood Risk and 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 (Climate Change) 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 (compacted hardcore with gravel or planning surface dressing) and as such, surface water will discharge to soakaways and are unlikely to result in any unacceptable impact on the site or neighbouring sites over and above the existing scenario. The proposed site plan also includes a communal drainage system to a package treatment plant discharging to ground via a drainage field.

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 there are no public sewers on Sand Lane and although there are assumed to be mains drainage in Besthorpe, the distances involved would exceed the 30m x unit number calculator set out in the Foul Drainage Assessment Calculator. The Environment Agency grant permits for such installations and have requested an informative be attached to any permission granted.

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 Core Policy 5, Core Policy 10 and Policy DM5.

### Personal Circumstances

It has been confirmed that four of the proposed plots would be occupied by:-

- One single gentleman with a health condition;
- One gentleman with his partner;
- One gentleman with his partner;
- One gentleman with his partner and three children (aged 6, 10 and 11).

Annex 1 of the PPTS 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.”

However, this has recently been the subject of a court judgement which held that in that particular case, a decision made by a Planning Inspector was discriminatory and with no legitimate aim by excluding travellers who have ceased to travel permanently from the occupation of the site through the imposition of the definition set out in PPTS 2015. As a result of this, and as set out in the appeal decision on the site at Spalford, it is considered the above definition should be amended for the purposes of a planning condition so as not to exclude travellers who have ceased to travel. As such the above definition has been amended to insert the following words after temporarily “or permanently,” as set out in Condition 16 in Section 10.0 below.

Information has been received in relation to the proposed occupiers of 4 of the proposed pitches and the agent has confirmed they, and all occupiers, fall within the definition set out within Annex 1 of PPTS. The imposition of a suitably worded condition would ensure that the occupiers of the 4 other pitches, together with all future occupiers of all the pitches would have to meet the definition set out in Condition 16. The personal needs of two of the known families above require a settled base to ensure the children can attend school and on health grounds.

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 2009. 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 and considerations on health grounds that a permanent base would provide.

### Other Matters

A number of local residents have raised concerns that the site had been used for the storage of mustard gas and ammunitions from the Second World War. As a result, the Local Authority felt that it was their duty to ensure that the site could reasonably be occupied for residential purposes without unnecessary risk to future occupiers. The application has therefore been supported by requested reports demonstrating investigations on the site, including a Phase 1 Environmental Assessment Report by GDP and an Unexploded Ordnance Report by Brimstone. The Council's Contaminated Land Officer has commented that on the basis of the report from Brimstone, the risk from Unexploded Ordnance on the site is as low as reasonably practicable and has been assessed by persons qualified to make that judgement. No further contamination investigations are required, however, as with all agricultural land, there is potential for things such as asbestos or waste to have been buried and so it is recommended that a condition be imposed to set out what is required if any contamination is found on the site at any time. In line with Policy DM10: Pollution and Hazardous Materials, officers are satisfied that this concern has been sufficiently investigated to reduce any risk of danger to a minimum, subject to the imposition of a precautionary condition.

Concerns have also been raised in relation to the number and dominance of caravan development in this 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. 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.

### **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**

The Gypsy and Traveller Accommodation Assessment undertaken in 2019 has identified a significant unmet need for gypsy and traveller pitches. Subject to being appropriately controlled through condition, this application would represent a contribution towards supply which, in the absence of the availability of alternative sites and emerging site allocations

which cannot yet be given meaningful weight, this contribution to supply should be afforded considerable positive weight in the overall planning balance. The proposal provides 8 pitches which would contribute to the significant unmet need and contribute towards a five-year land supply. Given the current level of need, any positive contribution is a benefit, and one which should be afforded significant positive weight in the balance.

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

No harm has been identified in relation to the relative sustainability of the site, the impact on heritage assets, residential amenity, flood risk, highway safety and trees which are therefore neutral in the overall planning balance. However, moderate harm has been identified to the rural appearance and landscape character of the area given the loss of the green field and the impact of a loss of some smaller planting along the road frontage. Furthermore, some residual harm has been identified in relation to impacts on biodiversity which also weighs negatively to a minor extent. However, with the proposed additional planting along the western and northern boundaries and new planting within the site, the landscape and visual harm would be tempered and softened to a certain extent, although not necessarily removed altogether. Even with mitigation (already obtained in the site layout and enhancements that can be secured by condition), the acknowledged residual ecology harm represents a minor negative weighting in the planning balance.

Overall, weighing all these competing considerations in the overall planning balance, it is considered that the wider benefits of the proposal, which would contribute towards the significant unmet need for gypsy and travellers pitches as well as contributing to a 5 year land supply within the District carries significant positive weight which is considered to outweigh the minor landscape and ecology harm identified. As such a recommendation of approval is recommended, subject to the conditions set out below.

## **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:



- Site Location Plan (Drawing No: MSP.1901 001)
- Proposed Block Plan (Drawing No: MSP.1910 002 Rev J)
- Visibility Splays (Drawing No: 001A)

Reason: So as to define this permission.

03

Prior to commencement of the development, scaled floor plans, all elevations and all external materials of the proposed day rooms shall be submitted to and approved in writing by the Local Planning Authority. All day rooms on the site shall accord with the approved details.

Reason: In the interests of visual amenities of the area and the character of the surrounding countryside.

04

Prior to first occupation of the development hereby approved, details of any external lighting to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. The details shall ensure dark and unlit corridors are maintained around and across the site and be directed away from potential foraging features, including tree lines, hedgerows and woodland established along the site peripheries. Mercury or metal halide lamps shall be avoided and luminance levels shall be a maximum of 1 lux. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.

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

05

No development shall take place until a schedule of landscape maintenance for a minimum period of 7 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Reason: In the interests of visual and biodiversity.

06

The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development. Any trees/shrubs which, within a period of seven 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 before or during the first planting season.

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

07

No part of the development shall be brought into use until details of the means of enclosure around the Communal Bin Area shown on Proposed Block Plan (Drawing No: MSP.1910 002 Rev J) 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.

08

Prior to the commencement of the development, a Biodiversity Management Plan (BMP) shall be submitted to and be approved in writing by the Local Planning Authority.

The content of the BMP shall include the following:

- a. The location and summary description of the features to be maintained and/or enhanced, or created;
- b. The proposed actions to maintain and/or enhance or create the features, and the timing of those actions;
- c. The proposed management prescriptions for those actions;
- d. If appropriate, an annual work schedule covering a 5 year period (with the view that the management proposals would be reviewed every 5 years);
- e. Identification of who will be responsible for implementing the BMP; and
- f. A schedule for monitoring the implementation and success of the BMP, this to include monitoring reports to be submitted to Newark and Sherwood District Council at appropriate intervals. The provision of the monitoring reports shall then form part of the planning condition.

The approved BMP shall then be implemented in accordance with the approved details therein.

Reason: To secure development that protects the District's ecological and biological assets, with particular regard to priority habitats, and which maximises opportunities to conserve and enhance biodiversity in accordance with the Newark and Sherwood Amended Core Strategy, Core Policy 12 Biodiversity and Green Infrastructure (2019).

09

No part of the development hereby permitted shall commence until the detailed design of the site access arrangements, based on the layout illustrated on Mike Siphthorp Planning Drawing No MSP.1910 002J, has been submitted to and approved in writing by the Local

Planning Authority. The site access shall then be completed in accordance with the approved details prior to the occupation of the development.

Reason: In the interests of highway safety.

010

The implementation of the scheme shall accord with the submitted document entitled BS5837 - Trees in relation to design, demolition and construction. AIA, AMS & TPP in relation to trees at Sand Lane, Besthorpe by East Midlands Tree Surveys Ltd, but as amended by the Block Plan Drawing No MSP.1910 002J. The protection measures shall be retained during the development of the site.

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

011

During the construction period the following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

012

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the details set out within Parts A – C below, and where remediation is

necessary, a remediation scheme must be prepared in accordance with the requirements set out below, which is subject to the approval in writing of the Local Planning Authority.

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

#### Part A: Site Characterisation

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

(i) a survey of the extent, scale and nature of contamination.

(ii) an assessment of the potential risks to:

- human health;
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
- adjoining land;
- ground waters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### Part B: Submission of Remediation Scheme

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

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

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

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

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

013

No more than 1 static caravan and 2 touring caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on each pitch at any one time.

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

014

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 Development Plan Document (July 2013).

015

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 Development Plan Document (July 2013).

016

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 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 Local Planning Authority's 5-year housing supply.

### Informatives

01

The applicant should be aware that a Provisional Tree Preservation Order has been served on 7 trees in the northern part of the site (6 oak and 1 silver birch) under reference 23/00018/TPO. Please contact Newark and Sherwood District Council if further details are required. Any unauthorised works to these trees would constitute a criminal offence.

02

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

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

03

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).

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

As the work to improve the site access will be necessary within the highway, the applicant will need to liaise with the Highways Area Office prior to commencement of works.

06

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 Permitted 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 the EA will carry out an assessment. It can take up to 4 months before the EA 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 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 the EA decide whether to vary a permit.

#### BACKGROUND PAPERS

Application case file.

21/02528/FUL – Application and appeal decision at Shady Oaks, Eagle Road, Spalford.

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

Case Law on discrimination of definition of Gypsy and Traveller in PPTS 2015

<https://caselaw.nationalarchives.gov.uk/ewca/civ/2022/1391>

Committee Plan - 22/01203/FULM

