



Report to Planning Committee 6 June 2024

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Clare Walker, Senior Planner, 01636 655834

Report Summary			
Application Number	23/01514/OUTM (Major)		
Proposal	Proposed residential development (9 units)		
Location	Former Allotments, Barnby Road, Newark		
Applicant	Mr Len Bateman	Agent	Guy Taylor Associates Architects
Web Link	23/01514/OUTM Proposed residential development (9 units). Former Allotments Barnby Road Newark On Trent (newark-sherwooddc.gov.uk)		
Registered	31.08.2023	Target Date	24.11.2023 Extension of Time Agreed 07.06.2024
Recommendation	Approve, subject to conditions and entering into a section 106 agreement		

This application has been referred to the Planning Committee by Cllr D Moore at the request of Newark Town Council (NTC). The material planning reasons for the request are the 5 points set out in the NTC comments contained within this report. The request was made prior to the recently adopted changes to the Planning Protocol.

1.0 The Site

- 1.1 The site comprises 1.15 ha in extent and lies on the northern side of Barnby Road to the south east of Newark-on-Trent within the Newark Urban Area, as defined by the Development Plan.
- 1.2 The site is bound along its frontage with Barnby Road by mature native hedgerows. Access to the site is currently via a gap in the hedgerows which also runs alongside what is essentially a pedestrian grassed pathway into the site bounded by hedgerow

and vegetation. There are many trees on site which take the form of an old orchard and woodland in parts. There is also a small ornamental pond on site. The majority of the site is unmanaged, overgrown and inaccessible by foot.

- 1.3 The western part of the site was formally a private allotment (albeit has not been used as such for around 10 years) and this area is shown in the Development Plan as being designated currently as 'public open space'. There are some dilapidated sheds on site once associated with the allotment. The site extends north from Barnby Road to the east coast railway line which bounds the site to the north.
- 1.4 The site lies adjacent to a property known as The Gables (to the south-west) and behind (north of) a row of seven modern two storey detached dwellings which front onto Barnby Road. The garden of Meadow Lodge forms the eastern site boundary.
- 1.5 Boundaries to the site comprise post and wire fence, trees and metal sheet fencing to the north alongside the railway and timber fencing alongside the rear gardens of properties that back onto the site, with trees and vegetation elsewhere.
- 1.6 A Biological SINC (Ballast Pit) local wildlife site lies to the southwest (just on the other side of Barnby Road) which is recognised for 'a long-dis-used ballast pit supporting open water and carr communities'. To the south (also on the other side of the highway) are public allotments which appear well used.
- 1.7 The site lies within Flood Zone 1 according to Environment Agency maps albeit is prone to superficial deposit flooding but within an area at low risk of surface water flooding.

2.0 Relevant Planning History

- 2.1 PAFU/00213/21 – Follow up advice to PREAPP/00210/19. Advice offered 05.08.2021.
- 2.2 PREAPP/00210/19 – Residential development scheme for 19 dwellings. Advice offered 19.09.2019.

Western part of the site

- 2.3 **16/01245/FUL** – An application to 'Erect detached dwelling and detached garage' (on land east of The Gables) including the relocation of allotments elsewhere was refused 07.11.2016 by the Planning Committee due to failure to appropriately demonstrate impacts on ecology including (but not limited to) mitigation for the common toad migration route that crosses this site and upon grass snakes and due to impact from loss of green space/break to development and harm to character and appearance of the area.

Land south (now forming 7 detached dwellings fronting Barnby Road between The Gables and Meadow Lodge)

- 2.4 **93/50945/OUT** – Residential development granted on outline basis 23.12.1994.

- 2.5 **97/51095/OUT** – Residential development granted (renewed) on outline basis 17.12.1997.
- 2.6 **00/00678/FUL** – Erection of seven dwellings and garages, approved 21.02.2001
- 2.7 **02/00244/FUL** – Substitution of house types from previous approval 00/00678/FUL approved 30.09.2002.

3.0 The Proposal

- 3.1 Outline permission is sought for residential development, with the means of access and layout for consideration. Matters reserved for subsequent approval are appearance, landscaping and scale albeit the quantum of units is specified as 9 dwellings within the description of development (reduced down from 10 following amendment) and is also confirmed on the layout plans.
- 3.2 Vehicular access is shown as being taken off Barnby Road between two detached dwellings known as The Gables to the west and Ascot House to the east. The road (to be adopted) would extend into the site and then sweep around to the east parallel with the railway line to provide a cul-de-sac access to the proposed dwellings.
- 3.3 The layout plan shows an area of managed traditional orchard alongside the western side of the access (adjacent to The Gables) that would be open space. Beyond that is a larger area containing an attenuation and wildlife pond and an area of habitat (with no public access) to the north-western corner of the site adjacent to the railway line. Land to the north-east, alongside the railway line, would be a managed traditional orchard.
- 3.4 The dwellings would be located in a broad line to the rear of the existing ribbon development of Barnby Road. Plots 1, 2, 7, 8 and 9 are depicted as detached dwellings with Plots 3 to 6 shown as semi-detached dwellings. None of the plots have garages or outbuildings shown. All dwellings are two storey except for Plot 9 which would be a bungalow.
- 3.5 The application sets out a housing mix of 2x2 beds, 3x3 beds and 4x 4+beds.
- 3.6 The application has been considered on the basis of the following:
- Application form
 - Drawing no. (08) 101 Rev H (Site Plan as Proposed)
 - Drawing no. (09) 101 (Proposed Vehicle Tracking Plan)
 - Drawing no. 0001 Sheet 1 of 2 (Topographical Survey)
 - Drawing no. (00)100 Rev A (Site location plan)
 - Arboricultural Report and Impact Assessment Rev B, by Watson Lindsey Arboriculture, received 28.03.2024
 - Design and Access Statement, July 2023
 - Flood Risk Assessment and Drainage Strategy, BSP July 2023
 - Noise Assessment, RP Acoustics Ltd, 28th March 2024

- Preliminary Ecology Appraisal, CGC Ecology, December 2022
- Reptile Survey and Ground Level Bat Roost Assessment of Trees, Emec Ecology, August 2023
- Submission Amendment Statement, received 28.03.2024
- Outline Sustainable Drainage Strategy, by Roy Lobley Consulting, March 2024

4.0 Departure/Public Advertisement Procedure

- 4.1 Occupiers of 28 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 visits have been undertaken during the application with the latest visit 17.05.2024.

5.0 Planning Policy Framework

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

Spatial Policy 1 - Settlement Hierarchy
 Spatial Policy 2 - Spatial Distribution of Growth
 Spatial Policy 6 – Infrastructure for Growth
 Spatial Policy 7 - Sustainable Transport
 Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
 Core Policy 1 – Affordable Housing Provision
 Core Policy 3 – Housing Mix, Type and Density
 Core Policy 9 -Sustainable Design
 Core Policy 10 – Climate Change
 Core Policy 12 – Biodiversity and Green Infrastructure
 NAP1 - Newark Urban Area

5.2 Allocations & Development Management DPD

DM1 – Development within Settlements Central to Delivering the Spatial Strategy
 DM3 – Developer Contributions and Planning Obligations
 DM5 – Design
 DM7 – Biodiversity and Green Infrastructure
 DM12 – Presumption in Favour of Sustainable Development

- 5.3 The Draft Amended Allocations & Development Management DPD was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage of preparation albeit the DPD is yet to be examined. There are unresolved objections to amended versions of the above policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

5.4 Other Material Planning Considerations

National Planning Policy Framework 2023

Planning Practice Guidance (online resource)

National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019

Residential Cycle and Car Parking Standards & Design Guide SPD June 2021

SPD's on both Developer Contributions and Affordable Housing

Second Publication Plan Review for Allocations and Development Management DPD, September 2023

NSDC Open Space Assessment and Strategy, Knight, Kavanagh & Page, January 2022

6.0 Consultations

6.1 Full consultation comments are available to review on the planning file as the following is a summary position unless otherwise stated:

(a) Statutory Consultations

6.1 **National Highways** – No objection. The development does not share a common boundary with the strategic road network therefore there is no objection to this outline application.

6.2 **NCC Highways Authority** – (16.05.2024) Previous objection removed, development now acceptable from highway safety perspective following amendments (road widening/changes to turning head etc) to the scheme.

Point out that hedge in front of Ascot House will have to be removed or significantly reduced in depth to provide for visibility splays.

Request the footway to the northwest of the site frontage is increased in width to the same 2m that is required along the frontage, to reach the existing crossing point (approx. 25m). This is a busy section of footway at school pick up and drop off times and the additional width would accommodate the increased demand from pedestrians as a result of the development.

Conditions recommended require (1) the provision of the visibility splays prior to development commencing, (2) details of the new road to be submitted for approval (including longitudinal and cross-sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any proposed structural works), (3) no occupation until driveway/access is provided in a bound surface and (4) that the footway to the north-east is widened prior to first occupation.

6.3 **NCC Lead Flood Authority** – Notwithstanding the latest drainage strategy submitted, there is no objection subject to the imposition of a condition to require a detailed drainage scheme.

6.4 **Network Rail** – No objection in principle. A number of conditions and informatives are required in the event of an approval. An initial query relating to land ownership has since been resolved.

6.5 **Environment Agency** – No comments to make, does not fall within remit.

(b) Parish/Town Councils

6.6 **Newark Town Council** – (03.04.2024) Sustains its previous objection. (27.09.2023) strongly object on following grounds

1. The development is not allocated for Housing
2. Loss of green ecologically valuable land is not justified especially when having high toad population on this site
3. Impact on highway, highway safety issues on road already under pressure from cumulative development impacts
4. Land to north earmarked for future housing and if this happens the green space will even more valuable to wildlife
5. Too close to railway line, noise and air quality impacts would be unacceptable

(c) Representations/Non-Statutory Consultation

6.7 **NSDC Tree and Landscape Officer** – No objection. Comments in response to amendments.

- Protective fencing needs to be at edge of Root Protection Area (currently in question according to Appendix 7 of Arboricultural Impact Assessment)
- Points out shading to gardens will occur, particularly plots 1, 6 and 8.
- Landscaping between parking spaces insufficient for trees.

6.8 **NSDC Biodiversity and Ecology Lead Officer** – (18.04.2024) No objection. Summary of comments:

- Appropriate assessments of the potential impacts on protected, and priority species has been undertaken, and the resulting recommendations for precautionary working methods to protect such species is acceptable;
- Traditional Orchard (Habitat of Principal Importance) is present. Scheme and Preliminary Ecological Appraisal (PEA) has been amended, submitted, and whilst the applicant's agent continues to refute the presence of Traditional Orchard HPI, the response has been positive with an amended scheme design reducing the area of orchard that would be lost, and with the creation of a new area of traditional orchard as compensation for that area lost.
- Agree there is no potential impacts on sites designated for their nature conservation interest;
- Proposal will result in loss of Traditional Orchard but is now compensated for by the creation of a new orchard area and bringing this and existing areas into long-term positive management. In principle this is acceptable level of mitigation but securing the proposed required management and ensuring its delivery is necessary for the proposal to be acceptable in terms of impacts on important habitats.
- Orchard to be retained and enhanced should be protected from damaging impacts during the construction phase.

- The PEA has identified that the hedgerow along the south-west site boundary, and the one adjacent to the allotment area represent the priority habitat Hedgerow HPI.
- There will be a need to require compensation for loss of hedgerows within the site
- Mitigation measures set out for impacts on foraging bats, avoidance measures for impacts on reptiles, nesting birds and badgers are acceptable.
- A mitigation and compensation strategy is required for amphibians but as the location is shown the detail can be left for reserved matters
- Section 5.7 of the PEA sets out recommendations for ecological enhancement. These include details regarding new hedgerows (additional to those required to compensate loss), tree planting, flower borders, grassland, wetland habitat in the form of a wildlife pond, provision of nesting bricks for swift and bat bricks. The proposal being to capture this within a Biodiversity Management Plan.

Two important documents are required to ensure that the necessary mitigation, compensation, and enhancement measures to make the proposed development acceptable in respect of impacts on important ecological features:

Construction and Environment Management Plan (CEMP)

The CEMP should capture the aforementioned species mitigation measures and protection of retained habitats during construction, and the BMP should set out the detail for creation of new habitats, works to enhance existing habitats, and then the long-term management and monitoring of the new and retained habitats. The CEMP should form a pre-commencement planning condition.

Biodiversity Management Plan (BMP)

Monitoring of the delivery and outcomes of the BMP over the long-term will be important, and this might be best secured by a section 106 planning agreement. I would advise that the BMP and monitoring should extend for 30-years, and that we should seek a financial contribution to cover its anticipated costs for monitoring. Monitoring fees are proposed over a 30 year period indexed links, which would be sought as part of the s.106 agreement.

6.9 **NSDC Strategic Housing** - Comments that there is no affordable housing, notes the market mix is all two storey and would have liked to see ground storey dwellings to help demand for bungalow accommodation in the district.

6.10 **NSDC Environmental Health** –

With regard to **land contamination**, no desktop study has been undertaken. Given the site is a former allotment (which are potentially a contaminative use from fertilizers, pesticides, fungicides and localised waste disposal) it is requested that the standard phased condition is imposed.

With regard to **noise**, no objection has been raised subject to a condition being imposed requiring mitigation either through a suitable barrier or glazing/mechanical

ventilation to a minimum standard be installed on bedroom windows facing the railway.

6.11 **NCC Policy/Developer Contributions** – Initial comments were submitted in respect of a scheme for 10 units, triggering a requirement for securing bus stop infrastructure. As the scheme has been reduced to 9 units this provision is no longer required nor can be justified.

6.12 **Six representations** have been received from third parties/neighbours raising objections, comments or concerns. These are summarised as follows:

- There are currently 7 houses being built between the cycle track and level crossing, a plan for 7 traveller plots and 11 houses south of Barnby Road and this is for 10 more; totalling 36. Existing number of houses is 32 so it will more than double traffic movements on this stretch of road;
- Road is also a bus route, very narrow in places and in poor condition yet no mention of upgrading the road itself;
- Encircling traveller site with new housing not logical as on outskirts of Newark;
- Vegetation (hawthorn and brambles) around properties needs to be retained to protect privacy;
- Query regarding if the boundary hedge maintenance and by whom;
- Can new build properties be fully insulated and include solar panels and ground source heat pumps as makes sense to plan for the future not just for today;
- 10m depth between rear of gardens of the new houses facing Barnby Road but no such distance between site and Meadow Lodge;
- Loss of privacy - currently house/garden is private but anyone walking down the new road would be able to look over the fence and new houses would overlook gardens;
- Concern at loss of view;
- Would make sense to angle the houses so that upper floor rear windows aren't staring directly into rear windows and gardens of existing houses to afford more privacy;
- Although the plan shows trees cover, this is patchy and would provide little screening in winter;
- Noise and light pollution will be greatly increased, decreasing quality of life and reduce value of property;
- Trees currently offer some mitigating noise reduction so if ripped out this will impact on noise to existing residents;
- When houses were first built there was an order that ensured there was woodland at bottom of gardens for at least 10 years. If approved, can consideration be given to having new equivalent woodland/green wedge where houses back onto houses;
- No mention of fox den nor of monk jacks or owls in wildlife survey;
- Area is rich in wildlife (bats, rabbits, hedgehogs, owls, foxes, frogs, newts, grass snakes and many species of birds) which development will destroy;
- Barnby Road is a registered toad patrol site with amphibians migrating from the north to the Ballast Pit on the southern side of the road. Common Toads are no longer common as numbers have been in decline for years;

- Fully support the recommendations of the preliminary ecological appraisal.
- Queries regarding the proposed wildlife pond and attenuation, will it be ensured that only rain/clean water will be allowed to enter the wildlife pond and during dry/draught conditions how will the water level be maintained? Pond side will need to slope for wildlife to safely enter and leave, what is the depth?
- Will the pond be partitioned off for public/child safety? If this is to be done I would like to have access to continue monitoring/recording amphibians presence.
- Moving away from the pond there is always the risk where amphibians become trapped in drains and die unless freed therefore consideration should be given to gully pots and drain covers in order to prevent this from happening.
- Do not want fencing to be a barrier to the free movement of amphibians, reptiles and hedgehogs for foraging, hibernation etc.
- would like to see the remaining natural landscape protected with sensitive maintenance. It is important to retain and support all of our existing wildlife and to protect the ecological and biodiversity of this area.
- Birds should be taken into account along with their suitable nesting sites and healthy Ash trees should certainly remain.
- Object to the suggestion that the hardcore pathway is widened by removing the grass area in front of The Gables. It has been there for 40 plus years and diligently maintained by ourselves. Within the grass we allow spring flowers and other manageable plants to grow for pollinating insects throughout the year.
- Concerns with new layout as the large house at the rear of Ascot House is now only 10m away from our boundary fence that will significantly impact our light, privacy and will take out most of the established shrubs and trees. Can it be moved?
- Can you also confirm that the toad corridor is fenced off from the neighbouring field to ensure the wildlife is protected?
- Can you clarify where the pumping machinery will be pumping the actual water to as there are no sewage mains down this stretch of Barnby Road. Can you also clarify how much noise that machinery will produce as it is right at the end of a garden.
- Where the sewage treatment pits will be for each house?
- Can you also clarify who will be maintaining the wildlife / grassy areas and maintaining the pond?

7.0 Comments of the Business Manager – Planning Development

7.1 The key issues are:

1. Principle of Development
2. Appropriateness of the Development, including Character
3. Housing Type, Mix and Density
4. Impact on Trees and Biodiversity
5. Highway & Parking Impacts/Railway Safety
6. Residential Amenity
7. Flooding and Drainage

7.2 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 'Presumption in Favour of Sustainable Development' of the Allocations and Development Management DPD.

Principle of Development

- 7.3 The Council is able to robustly demonstrate a 5 year housing land supply and the Development Plan is up to date for decision making. In accordance with DM12 and the NPPF, the starting point for decision making is with the statutory Development Plan.
- 7.4 Spatial Policies 1, 2 and NAP1 of the adopted Amended Core Strategy, identify Newark as a Sub Regional Centre where the focus, as a sustainable settlement, is for housing and employment growth.
- 7.5 The site is located within the defined main built up area of Newark as identified on Map 2 of the Allocations and Development Management DPD. Policy DM1 states that within the urban areas of the Sub Regional Centre will be supported for housing appropriate to the size and location of the settlement.
- 7.6 Part of the application site (see red arrow on extract below) is currently designated as an area of Public Open Space (POS) currently protected by Spatial Policy 8 of the Core Strategy. SP8 states that the loss of existing community and leisure facilities will not be permitted particularly where it would reduce the communities ability to meet its day to day needs unless (1) it can be clearly demonstrated that its continued use as a community facility or service is no longer feasible having had regard to appropriate marketing and the demand, usability etc, (2) there is sufficient provision elsewhere or (3) that sufficient alternative provision has been or will be made elsewhere which is equally assessable and of the same or better quality than that being lost.



- 7.7 It is understood that the site was previously a private allotment but that it has been inaccessible for years. Furthermore it is not shown at all in the Council's Open Space Strategy (published January 2022). The A&DM Plan Review Policy Map currently still identifies the site as POS; however this is an error that only the examining Inspector

can modify. The site will no longer be promoted as POS and the matter will be rectified on the policy proposals map as soon as we are able to. As such the proposal would not result in the loss of an actual allotment in real terms and there would be no conflict with the emerging policy.

- 7.8 In principle therefore, housing development could be appropriate subject to other considerations which are discussed below.

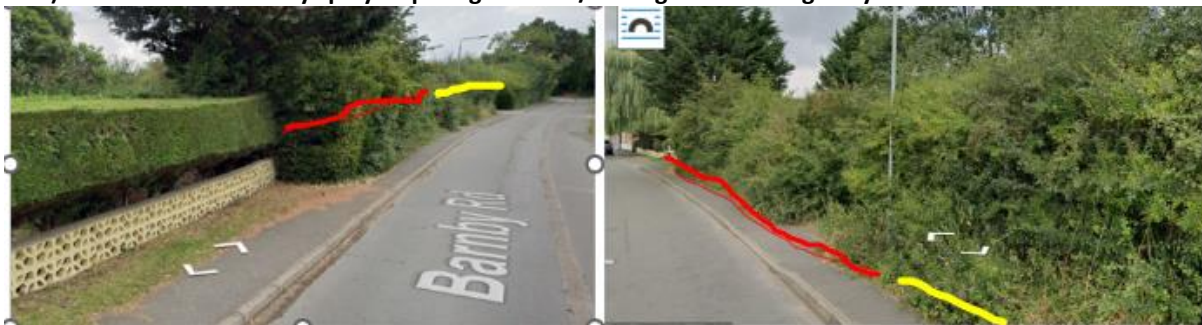
Appropriateness of the Development, including Character

- 7.9 As it is only the means of access and layout that are to be considered by this outline application, consideration is confined to whether the scheme at this quantum is capable of being developed without detrimental impacts.
- 7.10 The site is located on Barnby Road with part of the site fronting the highway and the remainder falling behind existing ribbon development between the highway and the railway line. Development in the area is generally low density ribbon development interspersed with areas of open green space giving it a semi-rural visual appearance.
- 7.11 The proposed development would sit behind the existing 7 detached dwellings (Ascot House being the western most house and Newbury House being the eastern most) that front Barnby Road. Other than the access road, there would be no built form fronting onto Barnby Road.
- 7.12 Policy DM5 (Design) states: *'Proposals creating backland development will only be approved where they would be in-keeping with the general character and density of existing development in the area, and would not set a precedent for similar forms of development, the cumulative effect of which would be to harm the established character and appearance of the area. Inappropriate backland and other uncharacteristic forms of development will be resisted.'*
- 7.13 In considering whether the proposed layout is capable of meeting the above policy requirements, it is noted that there are some limited examples of backland development along the northern side of Barnby Road, notably the terraces forming numbers 1 to 4 Barnby Cottages to the west. It is also noted that there is extant outline consent for up to 10 dwellings at Grove Bungalow to the southern side of Barnby Road (south-east) which would take the form of backland development and modern development in depth has been erected to the south-east adjacent to 'Beacon Hill View'. Given this context it is not considered that the proposals for backland development in principle would be harmful. Aside from the application site, there are no other parcels of land that would have sufficient depth to allow for backland development such that development of this land is unlikely to set a precedent for similar development elsewhere.
- 7.14 In terms of character and appearance, much of the built form would not be visible from Barnby Road given the proposed set back distances of c70m from the road. The main change would be the creation of an adoptable access road (5.5m wide with 2m

wide footpath adjacent) which would necessitate the removal of part of the frontage hedge.



Images from Google streetview showing approximate position of site frontage in red (looking from west and east) and extent of visibility splay requiring removal/cutting back of hedge in yellow.



- 7.15 In addition to the removal of the hedgerow to create the new access, NCC Highways Authority initially pointed out the hedgerow in front of Ascot House (approximate position shown in yellow on above images) would have to be removed or significantly reduced in depth to provide for visibility splays. The agent has clarified through an ordnance survey plan (see para.7.47 and the image below it) that the hedgerow is likely to be able to remain but will need a trim.
- 7.16 Whilst the loss/reduction of this hedgerow is regrettable, the hedgerow is currently unmanaged and the visual appearance of the development (which would be primarily the new access road) would be softened by the greenery on either side of the access which would be kept undeveloped, whilst opening up views of the site from the public realm. There would be opportunities for additional, compensatory planting within the site. Overall, the changes to the character and appearance would be limited and are considered to be acceptable, subject to details of the built form being considered at reserved matters stage along with detailed landscaping which is also a reserved matter. The impact upon trees is discussed below at para. 7.22 onwards.

Housing Mix, Type and Density

- 7.17 Core Policy 3 sets out that average densities should normally be no lower than 30 dwellings per hectare but should be justified taking into account individual site circumstances.
- 7.18 This scheme promotes a scheme that is less than 10 dwellings per hectare, considerably lower than policy expectations. However in this case, the low density is justified in order to retain areas of the orchard and habitat and in order to reflect the lower density of its surroundings. The density is therefore considered acceptable in this case.
- 7.19 CP3 also sets out the expectation of seeking to secure a housing mix that adequately reflects the housing needs of the District including family housing, smaller homes and housing for the elderly and disabled population. Paragraph 60 of the NPPF (December 2023) also states that the overall aim of delivering a sufficient supply of homes should be to meet as much of the area's identified housing need as possible, including with an appropriate mix of housing types for the local community.
- 7.20 The District Council commissioned a District wide housing needs survey undertaken by ARC4 in 2020 which represents the most up-to-date housing needs information available. In the Newark Sub Area (within which this scheme falls) the housing need is for family housing of 3 and 4 bedrooms, then 2 bed roomed dwellings, then bungalows followed by flats.
- 7.21 The table below shows how this proposed mix compares with the identified local housing needs:

House Types	Newark Sub Area Housing Need	Proposed Scheme as Amended
3 bedroom house	30.7%	33.3% (3)
4+ bedroom house	25.5%	33.3% (3)
1/2 bed houses	19.5%	22.2% (2)
2 bed bungalows	7.4%	
3+ bed bungalows	6.7%	11.1% (1)
2 or more bed flats	4.9%	
1 bed flat	4%	
Other	1.3%	
Totals	100%	100% (9)

- 7.22 As can be seen from the table above, the housing mix (which has been amended during this application) closely reflects the housing needs for the area and in my view offers an appropriate mix to help meet the identified local housing need. Given that the number of units equates to less than 10 and the floor space would be less than 1,000m², the trigger for affordable housing provision embedded in Core Policy 1 is not engaged and need not be provided. It is proposed to secure the mix and maximum internal floor space by condition to ensure that this is what comes forward.

Impact on Trees and Biodiversity

- 7.23 The starting point for development is that trees and features such as hedgerows should be retained where possible as set out in CP12 and DM7.
- 7.24 The site comprises a currently unmanaged area of green space and habitat including trees and hedgerows. As such an Arboricultural Report and Impact Assessment, a Preliminary Ecological Appraisal, a Reptile Survey and a Ground Level Bat Roost Assessment of Trees have been submitted in support of the submission.

Trees

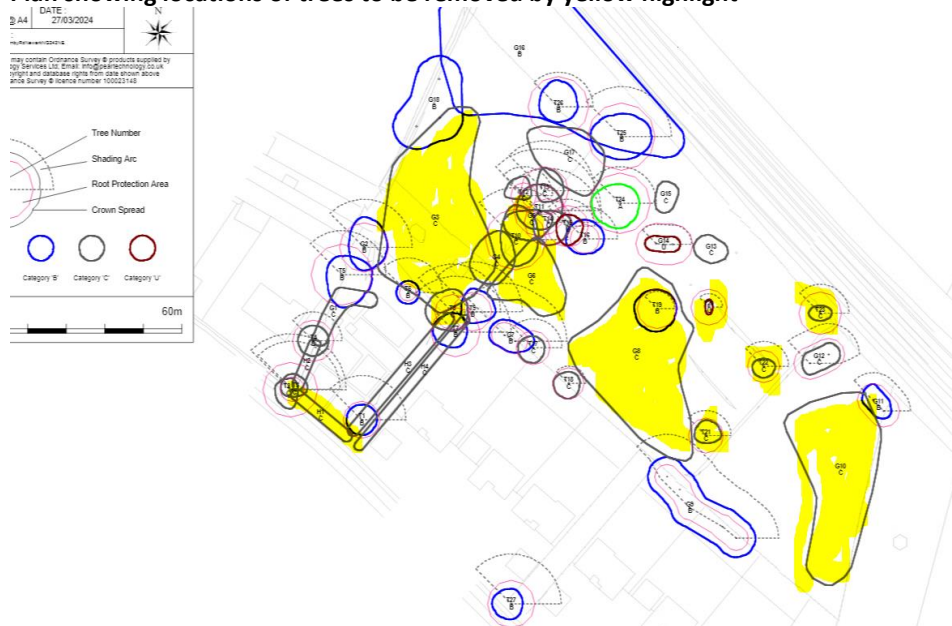
- 7.25 The Arboricultural Report surveyed 27 individual trees, 18 groups of trees and 4 hedgerows. Some of the trees on site form a significant part of the local treescape and give a moderate visual amenity value. These are primarily located to the site frontage visible from Barnby Road and those to the north of the site which are visible from the railway and land beyond.
- 7.26 This application would require the removal of:

8 individual trees; T8 & T10 (Common Ash, C1/2), T19 (Common Hazel, B1/2), T20 (Orchard Apple, U), T21, T22, T23 (Orchard Apple, C1)

6 groups of trees; G3 (young to semi-mature trees comprising ash, blackthorn, elder and lawson's cypress, C2), G4 (semi mature hawthorn, elder, blackthorn and mature apple, C2), G5 (line of 4 Ash, C2) G6 (semi mature hawthorn, elder, blackthorn and a mature apple, C2), G8 (group of hazel, elder, hawthorn, C2), G10 (blackthorn interspersed with fruit trees, C2)

1 hedgerow: H1 (3.5m high privet hedge with occasional hawthorn, C2)

Plan showing locations of trees to be removed by yellow highlight



- 7.27 The majority of the tree loss are relatively low graded/poor specimens except for T19 which is unable to be retained. The trees do not meet, individually or cumulatively, the threshold required to warrant their protection. Whilst this loss is regrettable these trees could be compensated for as there would be space to do so. This would be controlled by condition/a section 106 agreement.
- 7.28 The proposal would also require minor pruning to trees and hedgerows (T1 (Common Ash, B1), T7 (Common Ash, B1/2) H3 (4.5m high privet, hawthorn and ash hedgerow, C2) along the eastern boundary to facilitate the new access road and footpath. New hard surfacing would be required within the root protection area (RPA) of T1, T7 & T9 for the proposed access road and footpath albeit this would be less than 10% of the RPA and provided the surface is permeable the survey indicates the impact would be acceptable. Tree group G14 would also require work within the RPA which amounts to c5% of RPA affected. The laying of drainage would require excavations within RPA of T2. All works within the RPA would need to be undertaken by hand. Tree protection fencing around the RPA's is recommended and is reasonable. The acoustic fence (which could double as a trespass fence as required by Network Rail) would need to be installed on hand dug intermittent posts to avoid root damage to retained trees. However subject to these controls the impacts on retained trees could be acceptable an unlikely to cause tree failure of trees capable of protection.
- 7.29 Shading cast by retained trees has been considered by the AIA which shows significant shading to the gardens of plots 1, 6, 7 and 8. The layout has since been amended to provide Plot 1 with more garden not shaded by trees to help reduce pressure for tree loss/and or works and this amendments now means that all affected plots have more than half of their gardens unaffected by shading. Given all gardens have the benefit of being south facing and there would be opportunities to maximise light through the house design at reserved matters stage, I am now satisfied that this is acceptable from an amenity aspect and that it will limit the need for tree works.
- 7.30 Landscaping is a reserved matter. However the proposed layout plan and application does indicate areas of new, compensatory planting within the site and I am satisfied that this matter can be adequately secured.

Biodiversity/ Ecology

- 7.31 This application was lodged prior to mandatory Biodiversity Net Gain coming into effect and therefore does not need to advance a 10% net gain.
- 7.32 Policy DM5 of the Allocations & Development Management DPD states in relation to ecology that: *'Where it is apparent that a site may provide a habitat for protected species, development proposals should be supported by an up-to date ecological assessment, including a habitat survey and a survey for species listed in the Nottinghamshire Biodiversity Action Plan. Significantly harmful ecological impacts should be avoided through the design, layout and detailing of the development, with mitigation, and as a last resort, compensation (including off-site measures), provided where significant impacts cannot be avoided.'*

- 7.33 The site comprises a currently unmanaged area of dense scrub, broad-leaved woodland, a small ornamental pond, orchard, semi-improved grassland (some species rich) and an allotment area. Amongst the scrub and woodland are piles of debris and rubbish. The former allotment area is overgrown and unused, scattered with some small apple trees.
- 7.34 The Council's Biodiversity and Ecology Lead Officer has raised that a significant part of the site qualifies as a Traditional Orchard of Principle Importance that is a priority habitat and included on the UK Biodiversity Action Plan. This is not accepted by the applicant's appointed ecologist, but regardless of the differing expert opinions, the applicant has chosen to retain a proportion of the orchard and provide new provision which could be secured along with their long term management and monitoring. The Council's ecologist is comfortable with that approach acknowledging the benefits of bringing large portions of the site into management on these currently unmanaged and unprotected habitats. The level of mitigation is therefore considered to be acceptable.

Habitat and Plant Species

- 7.35 The hedgerow to the site frontage comprises 80% native woody species so is a priority habitat. This would be lost to facilitate the new access road and visibility splays. With regard to this, the Council's Biodiversity and Ecology Lead Officer states that: *'Whilst acknowledging that this is a Habitat of Principal Importance, most hedgerows in the wider countryside in the UK meet the criteria that define Hedgerow HPI, so this is a common, widespread and abundant habitat type; however, as noted in the PEA any loss will require adequate compensation by planting an equal (as a minimum) length of new hedgerow to that lost. I'm not aware that the location for this is currently showing in the proposed layout plan, but it should be possible to find a suitable location within the proposed development greenspace, so could be secured as part of a wider planning condition.'*
- 7.36 The area to the north is to be retained for habitat creation and restoration of some of the original orchard, by removing scrub and the self set trees that are crowding the existing mature fruit trees and planting new heritage fruit trees to ensure continuity of habitat and tree succession. Overall it is considered that there is ample space here or elsewhere within the site to secure compensation for the lost hedgerow and habitat.

Great Crested Newts

- 7.37 The site has potential to provide habitat for Great Crested Newts (GCN; a protected species) although the Local Wildlife Site 39m to the south has poor suitability for this species and they are unlikely to use it for breeding if they are present in the immediate area. The surveys undertaken found no presence of GCN on site and no mitigation is required.

Common Toad

- 7.38 The common toad is listed as a species of principal importance under the Natural Environment and Rural Communities Act (2006) and have been declining in recent years. There is a known common toad crossing point between the site and the LWS to the south. Froglife have been monitoring this since 1995 and it appears that toads use the survey site to hibernate and forage returning to the Ballast Pit LWS in Spring to breed. Given this, it is necessary to retain suitable habitat for hibernation and foraging and to retain a corridor to allow toads to continue to migrate between the site and the LWS to the south. An Amphibian Mitigation and Compensation Strategy is required to secure this. The proposed layout shows this indicatively in the location recommended by the ecologist and therefore at this stage it has been adequately planned for with further detail to be secured at reserved matters stage. It would be expected that the toad corridor be fenced off during construction phase.

Common Reptiles

- 7.39 Native reptiles are protected under the Wildlife and Countryside Act 1981 (as amended). Grass snakes have been recorded within the area with many of them recorded at the Highfields School site 280m to the south. The site has good potential for use by grass snakes, slow worms and has low potential for common lizard. Surveys undertaken show a low population of grass snakes at the site. Noting that the north-west corner will be left and retained for wildlife, the impacts can be mitigated by precautionary working methods as set out in section 4.3.1 of the Reptile Survey dated August 2023 which would be suitably secured by condition.

Bats

- 7.40 There is good connectivity between the site and the wider area with excellent foraging and commuting opportunities for bats. The sheds on site, given their dilapidated state, are considered to have a negligible potential for roosting bats. Most of the apple trees on site are mature and have features highly suitable for roosting bats and therefore additional surveys of the trees has been undertaken.
- 7.41 The removal of trees assessed as offering a 'low roost potential' could result in damage or destruction of bat roosts if mitigation isn't put in place as well as result in a reduction in bat roost opportunities and increasing light spill into the site and thereby reducing the suitability of the site for foraging and commuting bats. Recommendations therefore include the soft felling of trees in the autumn (September to November inclusive) under a precautionary approach as set out in 4.3.3 of the BRA and a carefully designed lighting scheme adopting the principles of paragraph 4.3.4 of the same report. These measures will be secured.

Birds

- 7.42 The site comprises good nesting opportunities for common birds which are protected under the Wildlife and Countryside Act. To avoid harm to nesting birds it is recommended that clearance is undertaken outside of bird breeding season or that a search for nests is first undertaken by a suitably experienced ecologist. This can be

controlled by condition.

Badgers

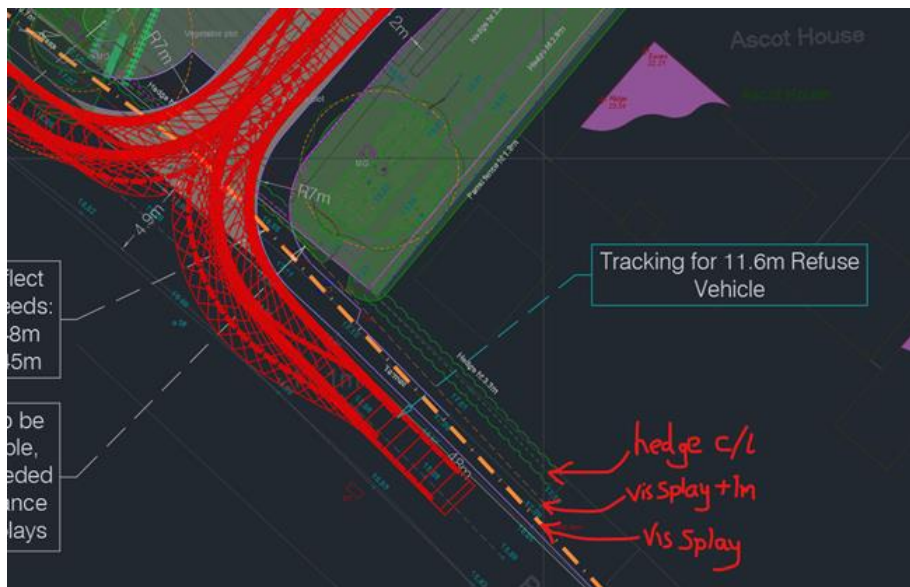
- 7.43 The proposal has been assessed but due to sensitivities on this matter the result have not been published.

Compensation and Enhancements

- 7.44 In order to make the development acceptable, mitigation, compensation and enhancement will be required and the applicant proposes new tree planting, habitat creation and bringing area's outside of the residential gardens into a management regime which would also include ongoing monitoring to ensure the site delivers on expectations. A Biodiversity Management Plan would need to be secured via a s.106 Agreement to enable long term management and monitoring (with fees payable for our role in that monitoring). This s.106 Agreement would need to secure specifications for enhancement/habitat creation, management and maintenance and arrangements for monitoring. It is expected that a management company will need to be set up to look after the land in question which will be secured through the agreement.
- 7.45 The Council's Biodiversity and Ecology Lead Officer has advised that a Construction and Environment Management Plan should be imposed as a pre-commencement condition to avoid harmful impacts from the construction phase. Subject to these measures being secured through suitable means, the proposals would meet the requirements of the policy context set out.

Highways and Parking Impacts/Railway Safety

- 7.46 Policy DM5 requires that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.
- 7.47 Part of Barnby Road has an 'advisory' 20mph limit due to its proximity of Barnby Road Primary School, however, these are not legally enforceable. This section of Barnby Road is restricted to 30mph. The proposal seeks to take access from the northern side of Barnby Road, located centrally within the land they control to provide a single point of access and egress for all 9 units. Amendments (widening) to the road have been made during the application to address concerns initially raised by the Highways Authority. Appropriate visibility splays at the access point have now been demonstrated such that vehicles emerging could do so safely.
- 7.48 As previously noted, the Highways Authority have stated that the hedgerow to the south-east of the access would need to be removed/cut back. The agent has queried this and provided a ordnance survey plan extract (see image below) with the topographical survey overlaid which appears to show the hedgerow wouldn't need removing. The HA have indicated that it would need to be trimmed so that any growth is not within a metre of the rear of the visibility splay.



- 7.49 The agent has queried the Highway Authority requirement to provide the access prior to commencement of development, noting that there is already a maintenance access point which would be used for site clearance etc. However the HA have responded that the use, including by construction vehicles needs to be in place before that starts for highways safety reasons.
- 7.50 In relation to the requested condition requiring details of the highway (no. 16 in the suggested conditions) the agent has queried the need for this given that such details would need to be agreed with the Highways Authority as part of a section 278 agreement. However the Highways Authority has advised that in theory the developer may not apply for adoption (there is not requirement for them to do so) and therefore the condition is necessary to ensure the road and its associated infrastructure is appropriate, fit for purpose and has some longevity.
- 7.51 It is noted that local residents have raised highway safety and capacity as an issue, however this is not a matter that NCC as the Highways Authority have raised a concern regarding.
- 7.52 In the interests of sustainable transport and noting the emphasis on non car modes of transport, the Highways Authority have requested that the footway to the northwest of the site frontage is increased in width to the same 2 metres that is required along the site frontage, to reach the existing crossing point (approximately an additional distance of 25 metres). The agent has queried the reasonableness of this request and suggested that if it is necessary, 2m appears impossible to achieve in places so the condition should be amended so that it is widened insofar as the space is available up to 2m. In response the Highways Authority have advised that this is a busy section of footway at school pick up and drop off times and the additional width would accommodate the increased demand from pedestrians as a result of the development. This would mean that the narrow grass verge would be lost on this side of the road in front of 'The Gables' as indicated by the red line on the image below. This would have a minor impact upon the character but a positive impact in terms of pedestrian safety. This area in front of the wall is adopted highway. The Highways Authority suggest the

works are estimated to cost in the region of £2K which would be proportionate to the development. The Highways Authority agree with the applicants suggested amendments to the condition. Overall it is considered to be a reasonable request and can be secured by a Grampion condition.

Image from streetview showing area denoted by red line of requested footpath widening



- 7.53 As the layout is to be fixed alongside the housing mix, parking provision does need to be considered at outline stage. The Council has adopted a SPD on Residential Cycle and Car Parking Standards & Design Guide which sets out expectations for residential parking quantum's, designs and sizes types across the district.
- 7.54 As the site lies within the Newark Urban Area, the number of parking spaces for a 2 or 3 bedroom dwelling is 2 spaces and is 3 spaces for houses with 4 or more bedrooms. Visitor parking is encouraged where the developer has not met the above standards. The layout shows that all of the dwellings meet the expected quantum of parking with parking provided either alongside the dwellings or directly in front of them. No provision is currently shown for the covered cycle provision as is required by the SPD. However this is a matter that can be controlled by condition at reserved matters stage if none of the dwellings were to include integral garages or storage.
- 7.55 In terms of railway safety, Network Rail as statutory consultee, raise no objection to the scheme subject to 1) to the developers agreeing the construction methodology with them, 2) surface water to flow away from the railway, 3) no ponds or attenuation within 30m of the railway unless agreed in advance, 4) provision of trespass proof fencing 1.8m high adjacent to the railway boundary, 5) consideration of the landscaping and species to be planted alongside the railway and 6) details of any external lighting to be provided. In respect of these requirements, all are reasonable and can be secured either by condition or in the case of the landscaping, is a reserved matters in any case so would be considered at that stage and does not need to be conditioned separately. The attenuation pond is 33m away from the railway so wouldn't be in breach of Network Rail's requirements.
- 7.56 For the reasons set out above, subject to conditions, the proposal would cause no adverse impact on highway or railway safety and the parking provision is adequate to meet the needs of the development in accordance with the identified policies.

Residential Amenity

- 7.57 Safeguarding the residential amenity for both existing and any new dwellings will be paramount in order to comply with policies CP9 (Sustainable Design) and DM5 of the Development Plan. Given that the layout is to be fixed, this needs to be considered at outline stage.

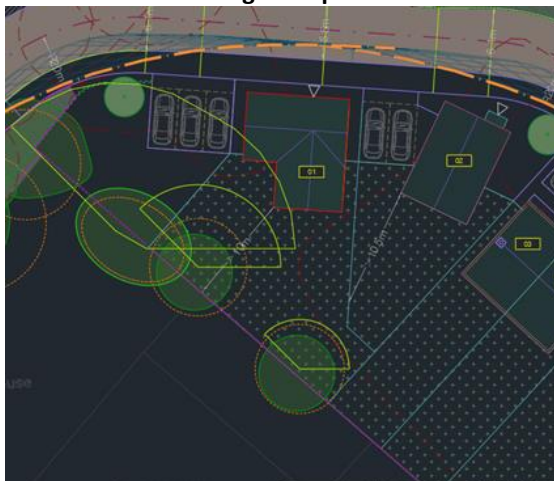
Existing Residents

- 7.58 All 9 dwellings would be set north of the existing dwellings fronting Barnby Road with the closest relationship being 35m back to back. This distance is considered to be acceptable in meeting the needs of privacy. The appearance and siting of window positions etc is a matter for reserved matters but I am satisfied that the layout and substantial distances involved would enable a suitable scheme to be submitted without causing loss of amenity for existing residents. As Plot 9 is now proposed as a bungalow, the impact on the property to the east is considered to be acceptable and would avoid any issues of overlooking or perception of such.
- 7.59 Representation has been made questioning the location of the drainage pumping equipment and whether this would cause adverse noise impacts. An indicative location is shown on the layout plan which is a considerable distance from existing and proposed occupiers (at least 38m) such that this would be unlikely to cause any adverse noise impacts to residents, but this can be explored as necessary as part of the reserved matters application.

Proposed Residents

- 7.60 The proposed layout and housing mix information provided, indicate that all dwellings would likely meet the nationally described space standard in terms of internal floor space. Externally all proposed dwellings have a reasonable sized gardens commensurate with their size. Amendments have been made in respect of plot 1 to provide more private amenity space that isn't shaded by trees which is now considered acceptable.

Extract of tree shading in respect of Plot 1



- 7.61 Given the proximity of the East Coast railway line, consideration of noise impacts for the proposed dwellings (which are located c40m away) is necessary. A Noise Assessment has been provided. This concludes that daytime ambient noise levels are relatively low but that mitigation is desirable for night time noise. This could be in the form of an acoustic barrier adjacent to the railway or enhanced sound insulation and ventilation (acoustic glazing and ventilation) to the external fascades of the bedrooms overlooking the railway line. The Council's Environmental Health Officer has advised that a Noise Mitigation Strategy should be provided with a reserved matters application and this can be required by condition. Subject to securing this, I am satisfied that noise need not be a constraint to granting an outline consent here.
- 7.62 In conclusion, having regard to the matters for consideration, I am satisfied that the site is capable of the quantum of development envisaged without detrimental impacts to the living conditions of either existing or proposed residents in accordance with the policy expectations.

Flooding and Drainage

- 7.63 Core Policy 9 requires developments to be pro-actively manage surface water and Policy DM5 builds upon this requiring developments to include, where possible, appropriate surface water treatments in highway designs and Sustainable Drainage Systems. Core Policy 10 requires development to positively manage surface water run-off and ensure there is no unacceptable impact to surrounding areas or the existing drainage regime.
- 7.64 According to the Environment Agency Flood Maps the site lies within Flood Zone 1 (at lowest risk of flooding) albeit is in an area identified as being prone to superficial deposit flooding and within an area at low risk of surface water flooding.
- 7.65 The application has been accompanied by Flood Risk Assessment and Drainage Strategy to show how both surface water would be managed and foul sewage would be disposed of given the lack of public sewers along Barnby Road.
- 7.66 The national drainage hierarchy sets out the aim to discharge as high up the drainage hierarchy as reasonably possible as follows;

	Surface Water Disposal	Foul Waste Disposal
1	Into the ground (infiltration)	Public sewer
2	To a surface water body	Private sewer
3	To a surface water sewer, highway drain or another drainage system	Septic tank
4	To a combined sewer	Cesspool

- 7.67 The strategy appears to rule out infiltration with discharge proposed into a surface level watercourse to the south. An on-site attenuation pond with a surface area of 315m² (volume of 198m³) is proposed which would store water below that required to provide ecological enhancements and stored water would need to be pumped to

the watercourse due to the distance. The pumping station is proposed to be located close to the attenuation pond some 57m back from the site frontage.

- 7.68 The Lead Local Flood Authority raised objection to the latest strategy submitted, but this is on the basis that the Strategy has ruled out infiltration without evidence of BRE65 testing (percolation tests to measure the absorption rate of the soil to ascertain if ground conditions are appropriate for soakaway to a certain standard) having been undertaken, and then assuming discharge to a surface water body. Their position is that the application hasn't shown evidence to rule out infiltration (the testing involves multiple tests and insufficient testing has been done to comply with the BRE65 standard) and move to the next tier within the drainage hierarchy. However they have confirmed that notwithstanding the drainage submission their position is a 'no objection' subject to a suitable strategy being submitted which should evidence how the strategy has followed the national drainage hierarchy and that this should be controlled by condition, which is acceptable. With the layout being considered and fixed by this outline, the fact that the scheme does include a layout/location of a pumping station on site is helpful as this would be the worst case scenario and there would be no additions at reserved matters stage.
- 7.69 Foul water would be disposed of via a public sewer located at the junction with John Gold Avenue approximately 215m to the west which has capacity. To reach this, waste would need to be pumped for 145m to the high point of the bridge when gravity would then take over. This form of disposal meets the drainage hierarchy expectations and is acceptable in principle.

Developer Contributions/Planning Obligation

- 7.70 As the scheme is for 9 dwellings, it doesn't meet the triggers for the provision of affordable housing or any other developer contribution that might have otherwise been required by Spatial Policy 6, Policy DM2 and Policy DM3.
- 7.71 However as discussed above, a Biodiversity Management Plan (BMP) is needed to make the development acceptable. In order to cover the costs of the Local Planning Authority monitoring the obligations of the BMP, a monitoring fee schedule has been drafted. This has been based on a proportionate 3.5 hours of officer time (at £332.50) to allow for a site visit, a review of the monitoring report submitted and a response at years 1, 2, 3, 5, 8, 11, 14, 17, 20, 25 and 30, totalling £2,612.50 which would be index linked. This would need to be captured and secured within a section 106 planning obligation.

8.0 Implications

- 8.1 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

- 9.1 Being located within the Newark Urban Area, locationally the principle of residential development is acceptable, subject to site specific matters being considered. It has been established that whilst part of the site is shown in the current Development Plan as being protected public open space, the former private allotment has not been used as such for a decade and, subject to the plan being found sound and adopted, will not enjoy protection in the plan moving forwards. This should not be a constraint to development therefore.
- 9.2 The development of the site would take the form of backland development but has been judged not to be an inappropriate form of development taking into account the site context. There would be some impact to the character and appearance of the area but this is limited to impacts involving the loss of the frontage hedgerow to gain safe access into the site and to the widening of a section of footway to make the development as sustainable as possible.
- 9.3 The proposal offers a housing mix that would help meet the identified needs of the area and the provision of 9 dwellings would make a modest contribution to the housing stock and in terms of temporary construction roles that can carry some weight.
- 9.4 No adverse impacts have been identified in respect of highway safety nor upon the living conditions of existing or proposed residents.
- 9.5 The proposal would involve the loss of trees, hedgerows and vegetation that are currently unmanaged. The ecological impacts have been given careful consideration. Given the retention of a large part of the site for habitat and given the areas available for enhancements, on balance it is considered that subject to conditions and securing a biodiversity management plan that would see favourable management for a 30 year long period, that the scheme would meet the requirements of the NPPF and Core Policy 12.
- 9.6 Having weighed all matters in the balance, I am satisfied that the limited visual harm identified would be outweighed by the provision of additional needed housing and that securing the long term management of the retained and new habitat sufficiently off-sets the harm arising from the loss of the site to be developed. The proposal accords with the provisions of the Development Plan and the recommendation is for approval subject to the applicant entering into a section 106 agreement to secure the Biodiversity Management Plan along with a monitoring fee and the conditions that follow.

10.0 Conditions & S106 Requirements

- 10.1 It is recommended that planning permission is granted subject to the completion of a **section 106 agreement** to secure a Biodiversity Management Plan for a 30 year period. This shall include monitoring fees as set out. Whilst the precise wording is to be

agreed/finalised in conjunction with legal colleagues, the following is an example of what this would seek to achieve:

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 agreed intervals.*

and the following conditions:

01

Application for approval of reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

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

02

Details of the appearance, landscaping and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

03

Development shall not commence until a construction methodology has been submitted to and approved in writing by the Local Planning Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology-

Reason: To ensure that development is undertaken safely and without impact to operational railway safety. For contact details of the Asset Protection Project Manager see informative note number 1 below.

04

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall capture all mitigation and avoidance measures required in one single document and should include annotated plan(s) summarising the key elements, which will then provide a rapid visual assessment of what should be implemented that can be distributed to construction workers on the site. The CEMP shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of "biodiversity protection zones";
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs;
- i) Hours of construction activities, which should not be during the hours of darkness that necessitate external lighting.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: This condition is necessary in the interests of ensuring all mitigation and avoidance measures are clear in order to safeguard the biodiversity of the site.

05

Save for the construction of the visibility splays themselves, the development shall not be commenced until the visibility splays as shown on drawing number (08)101 rev H are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height above carriageway level to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

06

The development shall not be commenced until the footway to the northeast of the site access is widened between the existing kerb edge and the front boundary of The Gables, up to a maximum width of 2 metres, in accordance with a drawing to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of pedestrian safety and to ensure that this is provided within a timely manner. For clarity site clearance, the installation of tree protection measures and matters such as soil sampling are not considered to constitute a start to the development.

07

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

Part A: Site Characterisation

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

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

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

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the

natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part C: Implementation of Approved Remediation Scheme

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

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

Part D: Reporting of Unexpected Contamination

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

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

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

08

Notwithstanding the drainage strategy submitted which is not approved, no part of the development hereby approved shall commence until a detailed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753 and National Planning Policy Framework paragraph 169.

- Limit the discharge generated by all rainfall events up to the 100 year plus 40% (climate change) critical rain storm to QBar rates for the developable area.
- Provide detailed design (plans, network details, calculations and supporting summary documentation) in support of any surface water drainage scheme, including details on any attenuation system, the outfall arrangements and any private drainage assets.

Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods.

- o No surcharge shown in a 1 in 1 year.
 - o No flooding shown in a 1 in 30 year.
 - o For all exceedance to be contained within the site boundary without flooding properties in a 100 year plus 40% storm.
- Evidence to demonstrate the viability (e.g Condition, Capacity and positive onward connection) of any receiving watercourse to accept and convey all surface water from the site.
 - Details of Severn Trent Water approval for connections to existing network and any adoption of site drainage infrastructure.
 - Evidence of approval for drainage infrastructure crossing third party land where applicable.
 - Provide a surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site.
 - Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.
 - Evidence the decision to not use infiltration with site specific infiltration testing to BRE365 standards.

Reason: A detailed surface water management plan is required to ensure that the development is in accordance with National Planning Policy Framework and local planning policies. It should be ensured that all major developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site.

09

No works or development shall take place until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the Local Planning Authority. This shall build upon and consolidate the recommendation of the Arboricultural Report and Impact Assessment by Watson Lindsey dated 21st July 2023. The scheme shall include

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers.
- c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.

- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. Details of any scaffolding erection and associated ground protection within the root protection areas
- h. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme. 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.

010

The submission of any reserved matters application pursuant to this Outline consent shall be accompanied by a Noise Mitigation Scheme that builds upon the findings and recommendations of Noise Assessment, RP Acoustics Ltd, 28th March 2024. This scheme shall detail mitigation measures to appropriately mitigate noise impacts from the operational railway line to the north. The approved scheme shall be implemented on site prior to first occupation of any dwelling subject of the reserved matters application and retained thereafter.

Reason: To ensure that noise levels, specifically from the railway line and level crossing are appropriately mitigated and that the mitigation measures are implemented in a timely manner in the interests of residential amenity.

011

The submission of any reserved matters application pursuant to this Outline consent shall be accompanied by an Amphibian Mitigation and Compensation Strategy. This shall include:

- Details including a corridor linking the north-eastern edge of the survey site to Barnby Road, running along the north-western edge and provide details of how this will be separated from the development site during construction phase;
- A retained area of habitat to include dense scrub/trees and purpose-built amphibian hibernacula
- Demonstration of a mosaic of habitats to increase invertebrate prey, including a new wildlife pond.

Reason: In order to afford adequate protection to amphibians given the presence of

amphibians on site and in the vicinity of the site. It should be noted that compliance and the timetable for the implementation of such a scheme will be controlled at reserved matters stage.

012

The submission of any reserved matters application pursuant to this Outline consent shall be accompanied by details of the provision of integral bird nest boxes and integral bat boxes based upon the principles set out the Reptile Survey and Ground Level Bat Roost Assessment by Emec Ecology dated August 2023.

Reason: These particular enhancements have been separated from the other enhancement, compensatory and mitigation requirements as these must be installed during the construction phase as they must be incorporated into the walls – as such details need to be submitted within a timescale that is appropriate and in order to properly meet the policy tests.

013

Trees identified of low bat roost potential (as shown on Figure 3 of the Ground Level Bat Roost Assessment by EMEC Ecology dated August 2023 as T14, T20, T21, G8C, G10C, G14C, G17C) shall only be removed in the Autumn (September to November inclusive) in strict accordance with the following soft fell precautionary approach:

- Immediately prior to the felling works, the trees shall be inspected with an endoscope by a suitably licensed ecologist, to ensure that no bats are present within the trees prior to them being felled;
- The ecologist will remain on Site to supervise the felling works and advise as to what to do in the event bats are encountered;
- The trees shall be sawn in sections and each section carefully lowered to the ground with any PRFs identified during the works on the uppermost surface;
- Any observable PRFs, such as lifted bark, knot holes, splits and crevices, shall avoid being sawn through;
- Following this, they will undergo another detailed inspection by the supervising ecologist to check for the presence or likely absence of bats;
- The sawn sections shall then remain on the ground in suitable location for 24 hours to allow bats to disperse in the unlikely event that any are present but undetectable

Reason: In order to provide suitable avoidance measures to protect bats that may be present in line with the recommendation of the submission.

014

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 District 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 District Planning Authority.

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

015

Prior to first occupation of any dwelling hereby approved, precise details (including exact location and design) of a trespass proof fence to be erected alongside the northern boundary with the railway line shall be submitted to and agreed in writing by the Local Planning Authority. The approved fence shall then be erected on site prior to first occupation and shall be maintained and retained for the lifetime of the development.

Reason: Due to the increased risk of potential trespassers from opening up the site, this condition is necessary to protect against damage to the railway infrastructure and to protect from injury and loss of life.

016

Prior to first occupation details of any external lighting (except for street lighting which is covered by condition 17) 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 in terms of nocturnal wildlife and the operational railway line. 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 visual and residential amenity, ecology and railway safety.

017

No part of the development hereby permitted shall take place until details of the new road have been submitted to and approved in writing by the Local Planning Authority. Details shall include longitudinal and cross-sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any

proposed structural works. The development shall be implemented in accordance with the approved details.

Reason: To ensure the development is constructed to safe and suitable standards.

018

Each dwelling shall not be occupied until the access and driveway associated with that dwelling is constructed in a bound material with means to prevent the egress of surface water to the public highway, details of which shall be first be submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce the chance of deleterious material and surface water entering highway, in the general interests of highway safety.

019

The reserved matters application(s) shall comprise a housing mix of two x 2-bed dwellings, three x 3-bed dwellings and 4 x 4 bed-dwellings one of which (Plot 9) shall be single storey. The combined gross internal floor space of all dwellings hereby approved shall be not more than 1,000 square metres.

Reason: This condition is necessary to secure the mix advanced at outline stage, in order to provide a housing mix that responds to the identified local housing need and address the fact that no affordable housing contribution has been advanced which would be triggered by Core Policy 1 if the combined floor space exceeds 1,000m².

020

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

- Drawing no. (08) 101 Rev H (Site Plan as Proposed)
- Drawing no. (09) 101 (Proposed Vehicle Tracking Plan)
- Drawing no. 0001 Sheet 1 of 2 (Topographical Survey)
- Drawing no. (00)100 Rev A (Site location plan)

Reason: So as to define this permission.

Informatives

01

This permission should be read in conjunction with the Planning Obligation (section 106 agreement) which secures a Biodiversity Management Plan for compensation, mitigation and enhancements and their management for a 30 year period which require agreement prior to commencement of development.

02

For enquiries, advice and agreements relating to construction methodology, works in proximity to the railway boundary, drainage works, or schemes in proximity to railway tunnels (including tunnel shafts) please email assetprotectioneastern@networkrail.co.uk. Please also see the attached note to applicant provided by Network Rail.

03

With regard to drainage, Network Rail advise that it is imperative that drainage associated with the site does not impact on or cause damage to adjacent railway assets.

Surface water must flow away from the railway, there must be no ponding of water adjacent to the boundary and any attenuation scheme within 30m of the railway boundary must be approved by Network Rail in advance. There must be no connection to existing railway drainage assets without prior agreement with Network Rail. Please note, further detail on Network Rail requirements relating to drainage and works in proximity to the railway infrastructure is attached for your reference. It is expected that the preparation and implementation of a surface water drainage strategy should address these points as part of condition 08.

04

Network rail have advised with regards to landscaping that it is imperative that planting and landscaping schemes near the railway boundary do not impact on operational railway safety. Where trees and shrubs are to be planted adjacent to boundary, they should be position at a minimum distance greater than their height at maturity from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Any hedge planted adjacent to the railway boundary fencing for screening purposes should be placed so that when fully grown it does not damage the fencing, provide a means of scaling it, or prevent Network Rail from maintaining its boundary fencing. Below is a list of species that are acceptable and unacceptable for planting in proximity to the railway boundary;

Acceptable:

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear, (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorn (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata “Zebrina”

Not Acceptable:

Acer (Acer pseudoplatanus), Aspen – Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea)

05

In respect of Condition 4 (CEMP) it is expected that this should build upon Preliminary Ecological Appraisal - V2. (CGC Ecology – 20 October 2023) and Reptile Survey and Ground Level Bat Roost Assessment of Trees (EMEC Ecology -04 August 2023) including matters such as all precautionary working method statements and reasonable avoidance measures etc.

06

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.

a) The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the HA with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the HA as early as possible.

b) It is strongly recommended that the developer contact the HA at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance. It is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site.

Correspondence with the HA should be addressed to hdc.north@nottscc.gov.uk

In order to carry out the off-site works required, the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. In order to undertake the works, which must comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks, the applicant will need to enter into an Agreement under Section 278 of the Act. The Agreement can take some time to complete as timescales are dependent on the quality of the submission, as well as how quickly the applicant responds with any necessary alterations. Therefore, it is recommended that the applicant contacts the Highway Authority as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties.

The applicant should email hdc.north@nottscc.gov.uk to commence the technical approval process, prior to submitting the related discharge of conditions application. The Highway Authority is unlikely to consider any details submitted as part of a discharge of conditions application prior to technical approval of the works being issued.

Planning permission is not permission to work on or from the public highway. In order to ensure all necessary licenses and permissions are in place you must contact licences@viaem.co.uk

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

07

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

08

You are advised that you will require building regulations approval in addition to the planning permission you have obtained. Any amendments to the permitted scheme that may be necessary to comply with the Building Regulations, must also be approved in writing by the Local Planning Authority in order that any planning implications arising from those amendments may be properly considered.

East Midlands Building Control operates as a local authority partnership that offers a building control service that you may wish to consider. You can contact them via email at info@eastmidlandsbc.com via phone on 0333 003 8132 or via the internet at www.eastmidlandsbc.com.

09

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

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved. The actual amount of CIL payable will be calculated when a decision is made on the subsequent reserved matters application.

BACKGROUND PAPERS

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

Application case file.

Committee Plan - 23/01514/OUTM

