



Report to Planning Committee 6 June 2024

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Honor Whitfield, Planner (Development Management)

Report Summary			
<b>Application No.</b>	24/00088/FUL		
<b>Proposal</b>	Proposed additional 5no pitches for gypsy/traveller use.		
<b>Location</b>	Shady Oaks, Eagle Road, Spalford		
<b>Applicant</b>	Tom Holmes	<b>Agent</b>	N/A
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/24/00088/FUL">24/00088/FUL   Proposed additional 5no pitches for gypsy/traveller use.   Shady Oaks Eagle Road Spalford (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	18.03.2024	<b>Target Date Extension Agreed</b>	13.05.2024 14.06.2024
<b>Recommendation</b>	That Planning Permission is <u>APPROVED</u> subject to the condition(s) detailed at Section 10.0		

**The application is referred to the Planning Committee at the discretion of the Business Manager.**

### 1.0 The Site

1.1 The application site, approximately 0.18ha in area, relates to the western half of a broadly rectangular parcel of land which is located to the east of the settlement of Spalford on the south side of Eagle Road. The site is set back approx. 7m from Eagle Road behind a grass verge and mature planting.

1.2 The northern, southern and eastern boundaries are bounded by a substantial belt of mature conifer trees and the eastern boundary is open to the remainder of the larger rectangular plot. The eastern half of the site is laid out for the four pitches approved under 21/02528/FUL and the access track extends through the application site to join the existing access (which is outside of the previous application site) in the north-west corner of the site which leads directly off Eagle Road (marked by brick piers and low wall supporting timber 5 bar gates).

1.3 The site extends to include the access through the eastern part of the site, onto a

private unmade single track which then leads to a junction with Eagle Road which has an existing gated access.

- 1.4 The application site is located within Flood Zone 3a and the rest of the rectangular plot to the east (beyond the red line site) is Flood Zone 2 as defined by Environment Agency data maps, which means the application site is at high risk of fluvial flooding. The site is also at risk from surface water flooding. In addition, the site (and Spalford) benefits from a flood defence (ref. 24,375) which lies to the west – this matter is explained further in the relevant section of this report.
- 1.5 To the north of the site, beyond Eagle Road is an agricultural field, to the south of the site are horse paddocks, accessed via the same private track from Eagle Road serving the application site, to the east of the site is a smaller grassed field, beyond which is a dwelling known as Sandycroft (approx. 35m away). To the west of the site is a private access road leading to Croft House to the south-west (approx. 180m away). There is also an existing property to the north-west of the site, known as Tree Tops (approx. 75m away), on the opposite side of Eagle Road.
- 1.6 Site Constraints:
- Flood Zone 3a
  - Open Countryside

## **2.0 Relevant Planning History**

- 2.1. 21/02528/FUL (relates to the land immediately to the east of this application site) - Change of use of land to provide 4 pitches (1 static and 1 touring caravan and two parking spaces on each pitch) hardstanding and associated infrastructure for members of the Gypsy and Traveller community – refused March 2022 on grounds of suitability of location in the open countryside, the effect on the character and appearance of the area and whether any harm would be outweighed by other considerations. Allowed at Appeal<sup>1</sup> 07.02.2023 – permission implemented.
- 2.2. 19/01810/FUL (relates to the application site *and* the land immediately to the east of this application site)- Erection of detached house (resubmission of 18/02010/FUL), refused 08.11.2019 on grounds of harm to open countryside and flood risk. Appeal was dismissed 12.10.2020
- 2.3. 18/02010/FUL (relates to the north-west side of the application site) – Erection of detached house, refused 07.05.2019 on grounds of harm to open countryside and flood risk.
- 2.4. 14/02071/FUL (relates to the application site *and* the land immediately to the east of this application site)- – Erection of stable block, approved 24.03.2015.

## **3.0 The Proposal**

- 3.1 The application seeks permission for the material change of use of the land to form 5

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<sup>1</sup> Appeal Decision: <https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=51135051>

gypsy and traveller pitches on a permanent basis.

- 3.2 The submitted layout shows one static and one tourer caravan to be located on each pitch in addition to hardstanding which would provide two parking spaces per pitch. The pitches range in area from approx. 354 sqm up to 393 sqm in area.
- 3.3 Two pitches are proposed on the northern side of the central access road that runs in an east-west direction and three pitches are proposed on the southern side. Access would be taken from the existing access through the eastern side of the site on to Eagle Road and a turning head would be provided within the site. The existing access onto Eagle Road in the north-west corner of the site is showing as being closed.
- 3.4 The pitches would be made up of a combination of hardstanding shingle material and grass. There are boundary treatments shown between pitches on the submitted plan (which are indicated to be formed by planting).
- 3.5 The existing (authorised) pitches are also shown on the eastern side of the site where there is also a waste/recycling bin storage area. A septic tank has also been installed on the site (to serve the authorised pitches) which would continue to be used for this proposal.

*NB: All measurements above are approximate.*

- 3.6 Documents assessed in this appraisal:
  - Application Form
  - Planning Statement (15.01.2024)
  - Flood Risk Assessment (11.03.2024)
  - Existing Site Plan and Site Location Plan – Ref. 2311-01 Rev. G
  - Proposed Site Plan – Ref. 2311-02 Rev. F

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

- 4.1 Occupiers of 12 properties have been individually notified by letter. A site notice has also been displayed near to the site.
- 4.2 Site visit undertaken on: 09.04.2024

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

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

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 3 – Rural Areas  
Spatial Policy 7 – Sustainable Transport  
Core Policy 4 – Gypsies and Travellers – New Pitch Provision  
Core Policy 5 – Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople  
Core Policy 9 – Sustainable Design  
Core Policy 12 – Biodiversity and Green Infrastructure

## Core Policy 13 – Landscape Character

### 5.2. **Allocations & Development Management DPD (2013)**

DM5 – Design

DM8 – Development in the Open Countryside

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 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

NSDC Plan Review Publication Amended Allocations & Development Management DPD, Nov 2022

Gypsy and Traveller Accommodation Assessment, Feb 2020

The Equality Act 2010

Human Rights Act 1998

Planning Policy for Traveller Sites (PPTS) – 2015 (summarised below):

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

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

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

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

Weight should also be attached to:

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

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

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

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

## **6.0 Consultations and Representations**

*Please Note: Comments below are provided in summary - for comments in full please see the online planning file.*

### **Statutory Consultations**

- 6.1. The Environment Agency – No objection subject to conditions.
- 6.2. NCC Highways Authority – No objection subject to conditions.

### **Town/Parish Council**

- 6.3. Spalford Parish Meeting – Object. Concerns raised:
  - Queries about the existing permission and number of caravans on site, concerns that there are 8 static caravans where only 4 statics were permitted with 4 touring vans. This is in breach of condition 10 of the planning permission.
  - Highways:
    - The increase in pitches will increase the traffic on the road and erode the rural character of Eagle Road.
    - Concerns that the existing site has not been laid out in accordance with the approved drawings for parking spaces.

- Concerns that the existing access to the east is unsafe as it exits onto an unmade track and that the north-west access onto Eagle Road is unsafe as it is on a bend.
- Settled Residents: concerns that the residents of Spalford need time to adjust to the changes that the original application has caused. This additional application will change the balance and demographic of Spalford.
- Infrastructure: there is no infrastructure to support additional residents in Spalford.
- Flooding: Concerns relating to the flood risk on the site and potential increase in flood risk to third parties.
- Character:
  - Concerns about the impact on the nature of the open and rural countryside.
  - Adverse visual impact on the site and Spalford.
- Policies:
  - The application does not accord with NSDCs policies and strategic planning.

### **Representations/Non-Statutory Consultation**

- 6.4. NSDC Environmental Health – No comments to make.
- 6.5. Trent Valley Internal Drainage Board - General standard comments regarding watercourses, septic tanks, when the Board's consent is required, riparian responsibilities and soakaways.
- 6.6. Comments have been received from **FOUR** third parties/local residents that can be summarised as follows:
- Queries about the existing permission and number of caravans on site, concerns that there are 8 static caravans where only 4 statics were permitted with 4 touring vans. This is in breach of condition 10 of the planning permission.
  - Highways:
    - The increase in pitches will increase the traffic on the road and erode the rural character of Eagle Road.
    - Concerns that the existing access to the east is unsafe as it exits onto an unmade track and that the north-west access onto Eagle Road is unsafe as it is on a bend.
  - Character:
    - Concerns about additional light and noise pollution.
    - The visual impact of the site upon Spalford.
    - Concerns that the gates at the Eagle Road access look commercial.
  - Flooding:
    - The potential to elevate flood risk to surrounding land and properties.
    - Concerns that existing infrastructure within Spalford such as sewerage networks will be adversely affected.
  - Sustainability:

- Lack of facilities and infrastructure within Spalford to support the site.
- Impact of expansion on the population of Spalford/over-dominance of the settled community.
- Policies:
  - The application does not accord with NSDCs policies and strategic planning.

## **7.0 Comments of the Business Manager – Planning Development**

7.1. The key issues are:

- Principle of Development
- Sustainability
- Impact on the Character and Appearance of the Area, Heritage Assets and Ecology
- Impact on Residential Amenity
- Impact on Highways Safety
- Impact of Flood Risk
- Other Matters

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 (2013).

### **Background Information & Preliminary Matters**

7.3. This application proposes the expansion of the site granted permission in February 2023 under 21/02528/FUL, following appeal.

7.4. As set out in para. 5.3 of this report, the Draft Amended Allocations & Development Management DPD (ADMDDPD) was submitted to the Secretary of State on the 18th January 2024 and is therefore at an advanced stage of preparation. Whilst the preparation of the Amended ADMDDPD has moved on since the February appeal decision this is not to the extent where the emerging Gypsy and Traveller strategy can be afforded any more weight. There remain unresolved objections against fundamental parts of the proposed strategy, without which the identified needs of the District's Traveller communities would not currently be able to be met or a five-year land supply demonstrated. Consequently, many of the judgements which the Inspector made in this recent appeal remain relevant.

7.5. Officers noted at a recent site visit that there were 8 static caravans present on the adjacent site which is in breach of one of the conditions attached to the (appeal) permission which limits each pitch to containing one static caravan and one touring caravan. Given this is on the adjacent site, outside of the application site boundary, it

will be investigated and pursued separately under the Council's Enforcement procedures.

### Principle of Development

- 7.6. The District Council, as Local Planning Authority, has a duty to provide sites on which Gypsy and Travellers (G&Ts) can live. The Gypsy and Traveller Accommodation Assessment (GTAA) for the District demonstrates a minimum requirement for 169 pitches to meet the needs of Travellers between 2013-33 (118 pitches of this overall 169 minimum requirement would be necessary to meet the needs of 'planning definition' Traveller households, as defined within Annex 1 of the National Planning Policy for Traveller Sites). Through the *Lisa Smith v The Secretary of State for Housing, Communities and Local Government and others* [2021] EWHC 1650 (Admin) legal case, the planning definition within Annex 1 was found to be unlawfully discriminatory. Due to its exclusion of Gypsies or Travellers who have permanently ceased to travel due to old age, disability or due to caring responsibilities. No amendments have been made to national policy following the legal decision, and so accordingly there is a lack of clarity over what local pitch target should form the basis for calculation of the five-year land supply test, as required as part of the Planning Policy for Traveller Sites (PPTS). Whether this should still be calculated on the basis of the planning definition, or from the overall minimum requirement.
- 7.7. Either local target would reflect a heavy skewing towards that first five-year tranche – due to the need to address unauthorised and temporary development, doubling up (i.e., households lacking their own pitch) and some demographic change within that timespan (i.e., individuals who will be capable of representing a household by the time 2024 is reached). The Council's latest monitoring data shows that since 2019 there have been 3 completed pitches, and there are a further 39 pitches with an extant planning permission<sup>2</sup> capable of being implemented (this includes those pitches on the adjacent land granted consent at appeal). In overall terms this leaves us with a residual minimum requirement for 127 pitches up to 2033.
- 7.8. Indeed, it is necessary to project forwards delivery from proposed site allocations to satisfy relevant national policy tests, and to demonstrate a five-year land supply. However, as outlined earlier it is not yet currently possible to afford meaningful weight to those emerging site allocations, and once they are removed from the five-year land supply calculation then NSDC currently has a 1.48 year supply.
- 7.9. This represents a significant unmet need under both scenarios. Provision to assist in meeting this need will be made as part of the production of the Amended Allocations & Development Management Development Plan Document (ADMDDP), which is currently awaiting examination. The amended ADMDDP seeks the allocation of specific sites for Traveller accommodation and would provide an updated Framework for the granting of consent for appropriate development on windfall sites. The Council is currently unable to identify any other sites that are currently available or deliverable for Gypsy and Travellers and in addition is unable to demonstrate a five-year land

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<sup>2</sup> 21/02528/FUL – Shady Oaks, Spalford (4 pitches, adjacent site), 23/00063/FULM - Chestnut Lodge, Barnby Road, Balderton (19 pitches), 23/00060/FUL – Appleby Lodge, Barnby Lane, Newark (8 pitches) and 22/01203/FULM – Oak Tree Stables, Sand Lane, Besthorpe (8 pitches)



supply, as required through national policy (PPTS). It is therefore accepted that the Local Planning Authority is not able to demonstrate a five-year land supply for Gypsy and Traveller pitches and has a considerable shortfall which needs to be addressed. Both the extent of the pitch requirement and the lack of a five-year land supply represent significant material considerations, which weigh heavily in the favour of the granting of consent where proposals will contribute towards supply.

- 7.10. The emerging policies within the Publication Amended Allocations and Development Management DPD demonstrates a commitment by the Council to meeting the need for pitches in the District. However, only limited weight can be given to the newly proposed allocation sites as the Plan is still going through the plan-making process and has yet to be submitted, examined and found sound. As such, in the absence of any current allocated sites and in the light of the significant unmet need, provision of pitches are only likely to come forward through the determination of planning applications on windfall sites.
- 7.11. In terms of how this site would contribute to the Council's Gypsy and Traveller need, no firm evidence of demand for inward migration into the District was found as part of the GTAA. Therefore, net migration to the sum of zero was assumed for the GTAA – which means that net pitch requirements are driven by locally identified need rather than speculative modelling assumptions. With inward and outward migration in balance with one another, this means that when a household moves into the District that movement is counterbalanced by the outward migration of another. Therefore, providing proposed pitches are addressing the needs of a Traveller household, consistent with the definition below (reflecting the Smith decision), then they would contribute supply against the local pitch target.

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

- 7.12. With regards to the current need for G&T pitches, as set out above, there have been several planning approvals over 2023/24, resulting in an additional 39 pitches gaining permission and there is one planning application pending consideration (ref. 24/00282/FULM<sup>3</sup>) for 15 pitches. However, the overall supply secured since 2019 (the published date of the Gypsy and Traveller Accommodation Assessment) still falls some way short of being able to meet either overall needs or to provide for a five-year land supply. Consequently, the absence of a sufficient land supply and of suitable and available alternative sites elsewhere is a significant material consideration in the assessment of this application, as was the case at the recent appeal on the adjacent site.
- 7.13. As this site is a new site, it did not form part of the baseline position (August 2019) for the GTAA. The Applicant has confirmed that the future occupiers of the pitches are not currently known but will be restricted to those meeting the definition of a gypsy

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<sup>3</sup> at Land to the rear of Lowfield Cottages, Bowbridge Lane, Balderton

or traveller, as provided through the PPTS. Therefore, the net additional pitches proposed would be 5.

- 7.14. Based on the information provided by the Applicant, subject to a planning condition restricting occupation of the site to those meeting the planning definition (as referred to in the recent appeal decision on the adjacent site) of a gypsy or traveller, the proposed pitches would be available to help meet existing, and future, locally identified G&T need. It could also indirectly assist in meeting identified needs at other sites within the District, such as those on Tolney Lane, should existing occupiers of these sites (with temporary consent) relocate to the Application Site. This positive contribution towards meeting the need identified through the GTAA, in the absence of a five-year land supply, is a significant material consideration in favour of the proposal.
- 7.15. The application site is located in the open countryside, but just east of the settlement of Spalford. Amongst other things, paragraph 25 of the Planning policy for traveller sites (PPTS) states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.
- 7.16. Spatial Policy 3 (Rural Areas) requires that, amongst other things, new development should be in villages with sustainable access to the Newark Urban Area, Service Centres or Principal Villages and have a range of local services to address day to day needs. Local services are identified as including, but not being limited to, post offices/shops, public houses and village halls. Spalford does not fall within any of the aforementioned categories of settlement, which are outlined in Spatial Policy 1 on settlement hierarchy. SP3 also confirms that development not in villages or settlements, but in the open countryside, will be strictly controlled and restricted to uses which require a rural setting.
- 7.17. Core Policy 4 (Gypsies and Travellers – New Pitch Provision) states that future pitch provision will be addressed through all necessary means, including amongst other criteria, the granting of planning permission for pitches on new sites in line with Core Policy 5 (Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople). Provision will be made in line with the Council's Spatial Strategy with the focus of the Council's efforts to seek to secure additional provision in and around the Newark Urban Area.
- 7.18. Beyond this, CP5 sets out a range of criteria, which proposals need to satisfy. The overall aims of this policy are identified as reducing the need for long distance travelling and possible environmental damage caused by unauthorized encampments and the contribution that live/work mixed use sites make to achieving sustainable development. Amongst other criteria, criterion 2 requires the site to be reasonably situated with access to utilities and to basic and everyday community services and facilities, including education, health, shopping and transport facilities.
- 7.19. Policy DM8 (Development in the Open Countryside) sets out types of development supported in the countryside. The proposal does not fall within Policy DM8's parameters.

- 7.20. Notwithstanding this, under some circumstances, it is accepted that gypsy and traveller sites can be acceptable in this type of location, but this is dependent on the proposal being considered against the criteria within Core Policy 5, provided the scheme would, in the absence of more appropriately located sites, contribute towards meeting the significant local need (which in this case it provides for at least one). Beyond this, then Core Policy 5 criterion 1 (landscape) and 2 (access to services and facilities) provide an appropriate way of determining what kind of locations in the countryside could be acceptable.
- 7.21. The second criteria of CP5 requires consideration of reasonable access to essential services (mains water, electricity, drainage and sanitation) and basic everyday community services and facilities – including education, health, shopping and transport.
- 7.22. It is acknowledged that Spalford itself has no services and facilities, though there does appear to be a (sporadic) bus service that would provide access to Collingham and Newark within the District. The location would fall inside the Primary School catchment for North Clifton – which is being considered for closure by the County Council. Beyond this the site would then be dependent upon accessing the limited range of services within South Clifton (church and village hall), and the closest place to carry out food shopping and access healthcare provision appears to be Collingham (around a 9-minute drive and 5.5 miles away). Consequently, this location would be largely dependent on the accessing of services and facilities some distance away, and as set out above, this would fall short of meeting the requirements in criterion 2 of Core Policy 5, which weighs against the proposal.
- 7.23. The Applicant has confirmed the site is served in terms of electricity and water supplies and is served by an existing septic tank.
- 7.24. In terms of proximity to services the Inspectors decision explained that: *“most of the housing in Spalford is located around Chapel Lane, Sand Lane and Rabbit Hill Lane. The bus stop serving Spalford is located here, with one, somewhat irregular bus service running Monday to Friday between Newark, Collingham and Harby. There are no shops, public house, or village hall. The only other community infrastructure in Spalford is a post box. Further housing, farms and a caravan park (Four Seasons Country Park) are located sporadically along Eagle Road travelling south-eastwards from Spalford and in the open countryside. Open fields, hedgerows and groupings of trees separate existing development. Eagle Road lacks both street lighting and footpaths, and has the appearance of a rural road, with grassed verges and hedges. Located on Eagle Road away from the core of Spalford, the site forms the eastern part of a rectangular paddock.*

*In terms of access to services, the nearest church and village hall are located in South Clifton, while food shopping and healthcare facilities are in Collingham, over five miles away. The nearest primary and secondary schools are two to three miles away and would be likely to be accessed by school bus. I understand that one of the nearby schools is threatened with closure. While many people now undertake banking, shopping and health consultations online, these would not negate the need for the site’s intended occupiers to travel to services and facilities.*

*Paragraph 105 of the [NPPF] acknowledges that development should be focussed on locations which are and can be made sustainable. However, it also highlights that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Even taking this and the likelihood that any gypsies and travellers living on the site would travel as an intrinsic part of their lives into account, the appeal site is located away from facilities necessary for day to day living.*

*The intended occupiers would be permanently reliant on the private car rather than sustainable transport to reach services and facilities. Walking to the local bus stop would not necessarily be safe, given the absence of street lighting and pavements. Furthermore, the limited bus service would not offer flexibility and ease of access to all likely destinations. Although transport movements will already be made on the local road network by residents of Eagle Road and nearby Spalford, the addition of a number of pitches on the site would contribute further unsustainable movements by the private car.*

*I conclude therefore that the site is not suitably located with regard to proximity to services. This is contrary to ACS Spatial Policy 3 and Core Policies 4 and 5, ADM Policy DM8, PPTS paragraph 25, and paragraph 105 of the Framework as set out above. Given the size of the site and the number of pitches proposed, this would have no more than a moderate adverse effect.”* The conclusion reached by the Inspector therefore remains valid, in that the site would not be suitably located. This therefore weighs negatively against the proposal.

- 7.25. The proposed expansion would also increase the maximum number of pitches within the overall site, from 4 to 9, and therefore it remains to be considered whether this cumulative level of development would be appropriate in this location. An assessment of this impact in relation to the character of the area will follow in a subsequent section of this report, however, through the PPTS there is also the requirement to avoid G&T sites dominating nearby communities. The only existing pitches within proximity of the village are those granted at appeal on the adjacent site, and in this case, it is considered that increasing this to a maximum number of 9 would remain at a level that would not dominate the existing settled community of Spalford.
- 7.26. Therefore, in summary, the site is not considered to be suitably located with regard to proximity to services. This is contrary to Spatial Policy 3 and Core Policies 4 and 5 of the Amended Core Strategy, Policy DM8 of the ADMDPD, PPTS paragraph 25, and paragraph 109 of the NPPF as set out above. However, given the size of the site and the number of pitches proposed, this would have no more than a moderate adverse negative effect. Balanced against this it is concluded that the District has a significant unmet need for Gypsy and Traveller pitches. The proposal would represent a small but direct contribution towards a five-year land supply of 5 pitches. This positive contribution is a small but significant benefit, and in the absence of the availability of alternative sites and emerging site allocations which cannot yet be given meaningful weight, this contribution to supply should be afforded significant positive weight as part of the overall planning balance.
- 7.27. The principle of this use in this location may therefore be considered to be acceptable in the overall planning balance, subject to assessment under the criteria set out within

Core Policy 5, which are more site specific, and these are set out and considered below.

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

- 7.28. The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 (Sustainable Design) states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 (Design) of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.
- 7.29. The first criteria of Core Policy 5 states that the site would not lead to the unacceptable loss, or significant adverse impact on the landscape character and value, important heritage assets and their settings, nature conservation and biodiversity sites. The fifth criteria of CP5 seeks that the site is capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity. Core Policy 13 (Landscape Character) of the Core Strategy addresses issues of landscape character. The Landscape Character Assessment SPD informs the policy approach identified within Core Policy 13. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape.
- 7.30. The site is identified as being within the East Nottinghamshire Sandlands and within the Landscape sub-type of Wigsley Village Farmlands (ES PZ 02) as set out within the Landscape Character Assessment SPD. This states that the condition of the landscape is poor and the sensitivity low with an outcome to create a landscape. It acknowledges characteristic visual features include numerous fragmented blocks of mixed deciduous woodland, coniferous plantations and some remnant Parkland. Specific recommendations for built features therefore encourage conservation of what remains of the rural landscape by concentrating new development around existing settlements and creating new development which reflects the local built vernacular. With regard to landscape features this seeks to create new hedgerows and conserve existing.
- 7.31. Despite houses, farms, and a caravan park nearby, the sporadic nature of development along Eagle Road leads to gaps where fields adjoin the road. Bounded by hedges and trees, these fields support the area's open character. The Inspectors assessment of the site concluded that *"the paddock, of which the site forms part, is surrounded by tall, imposing and unsympathetic conifers, and contains some hardstanding. It has two gated accesses, one at its north-western corner adjacent to Eagle Road with formal brick piers, and a further access off a shared track at the site's eastern end. Even with these features, the expanse of paddock is also of an open character and contributes positively to this part of Eagle Road."*

*The proposal would comprise four pitches with a maximum of one static caravan and one touring caravan on each pitch. Along with the pitches themselves, there would be*

*an access road to the pitches and parking and turning areas. This would erode the paddock by introducing caravans, further hard landscaping and associated domestic paraphernalia to much of its eastern half. This would in turn erode the rural character of this part of Eagle Road.”*

- 7.32. Following the conclusions of the Inspector it is accepted that the introduction of a further 5 pitches with associated hardstanding, parking and turning areas would further erode the paddock and the rural character of this part of Eagle Road. However, as set out in the Committee Report for the adjacent site, the square boundaries formed by the conifers around the site result in a very deliberate, man-made functioning feature that provide a high and successful level of screening between the inside and the outside of the site (other than the gap providing the access in the eastern boundary). Therefore, whilst acknowledging that they have a rather odd current visual appearance, they are an existing feature that would provide a successful soft screen to the additional development proposed at the site.
- 7.33. Five pitches (max. 10 caravans) are considered to be relatively small scale; however, it is accepted that 9 total pitches (max. 18 caravans) would be a more substantial development. However, the pitches would be made up of grass and hardstanding areas which would soften the development and retain a green appearance. The existing boundary treatment would also provide a green softening around the site. It is noted that these trees are not afforded any protection by virtue of being located within a Conservation Area or by Tree Protection Orders on the site. However, as concluded in the assessment of the application to the adjacent site, it is not considered to be appropriate to seek to protect the trees around the boundaries of the site through an Order. The most critical boundary would be the one along the Eagle Road frontage and given this existing boundary treatment would provide the residents of the proposed site with privacy and a buffer from the road, it is considered that there would be a very low risk of this planting being removed.
- 7.34. No designated heritage assets are located near to the site that would be affected by the proposals.
- 7.35. In terms of biodiversity impacts, given that the site is an open grassed field/paddock with areas of hardstanding, it is unlikely that the site supports any significant levels of biodiversity. There is also no intention to remove any trees or hedgerow from the site. The proposal also includes closing the existing access at Eagle Road in the north-west corner of the site with new planting which would provide a biodiversity benefit, albeit small.
- 7.36. Section 11 of the NPPF relates to making effective use of land and paragraph 123 states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding the environment. This chapter sets out that planning decisions should support development that makes efficient use of land, considering the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it and the desirability of maintaining an area’s prevailing character and setting. Core Policy 5 advises on general guidelines for pitch sizes. A pitch that is a permanent site where there are shared facilities within the overall site (e.g., the storage of waste and

sewerage disposal), should be approx. 350m<sup>2</sup>. The size of the pitches presented range between 354-393m<sup>2</sup>, which would meet the pitch size guidance.

- 7.37. Nevertheless, whilst caravans are not necessarily alien features in open countryside, it is accepted that their often white, shiny box-like form (and therefore far from reflecting local built vernacular) can somewhat detract from the surrounding rural visual amenities. Therefore, considering this and the conclusions of the Inspector at the adjacent site it is accepted that the introduction of further pitches on this land would erode the rural character of this part of Eagle Road. Whilst this would not conflict with CP5, as it would not cause unacceptable loss or significant adverse impact on landscape character and value, it is contrary to CP9, DM6 and para. 174 of the NPPF which requires, amongst other things, that planning decisions should recognise the intrinsic character and beauty of the countryside. However, given the extent of boundary screening and low level of the caravans it is considered that the extent of harm would be moderate, which would weigh against the proposal.

#### Impact upon Residential Amenity

- 7.38. The fourth criteria of Core Policy 5 states that the site would offer a suitable level of residential amenity to any proposed occupiers and not have an unacceptable adverse impact on the amenity of nearby residents particularly in rural and semi-rural settings where development is restricted overall.
- 7.39. Paragraph 97(b) of the NPPF states that planning decisions should create places that promote health and well-being with a high standard of amenity for existing and future users.
- 7.40. In terms of the proposed occupiers of the site, the size of the pitches presented would meet the size standard of 350m<sup>2</sup> set out in CP5. Given existing boundary treatments around the site and separation distances from any existing dwellings, it is considered that the needs of the privacy of proposed occupiers could be met and a condition relating to proposed boundary treatments between pitches could ensure a degree of privacy between pitches.
- 7.41. Turning now to existing residents who would live close to the site, to the east is a smaller grassed field, beyond which is a dwelling known as Sandycroft (approx. 35m away). To the west of the site is the remainder of the larger plot enclosed by mature conifers, beyond which is a private access road leading to Croft House to the south-west (approx. 180m away). There is also an existing property to the north-west of the site, known as Tree Tops (approx. 75m away), on the opposite side of Eagle Road. These would represent the nearest affected receptors of the proposed development.
- 7.42. Any new development will have some impact on the amenity of neighbouring properties. The proposal would result in increased vehicular movements causing additional noise and disturbance from associated comings and goings. It is also acknowledged that some level of new external lighting would likely be required which also has the potential for some negative impact, although existing boundary treatment would provide some mitigation to this aspect. There is also a defined waste/recycling area within the layout of the wider site which shows consideration to

matters of refuse disposal for the site.

- 7.43. Given the single storey nature of the two caravans per pitch, together with boundary treatments and the separation distance between the site and existing neighbours, together with the relative small-scale nature of the proposal for 5 additional pitches that would be well contained within the site boundary, it is not considered that the relationships would result in any unacceptable degree of harm on the amenities of existing occupiers close to the site.

#### Impact on Highways Safety

- 7.44. The third criteria of Core Policy 5 states that the site has safe and convenient access to the highway network.
- 7.45. The permission granted on the adjacent site included a requirement for the site access (which lies to the east) to be surfaced with appropriate drainage to prevent the discharge of surface water onto the public highway. These works have yet to be completed and are being pursued separately by the Council's Enforcement Team – any permission granted on this site would therefore similarly require a condition for the access works to be completed prior to occupation.
- 7.46. Nottinghamshire County Council have raised no concerns in relation to the principle of the additional pitches on the site from a highway safety perspective and consider the level of parking on site to be adequate to serve the number of pitches proposed.
- 7.47. The Highway Authority's initial comments noted that the access track through the site was shown to adjoin an existing access point in the north-western corner of the site. The Highway Officer raised concerns about the use of this historic access for the development given its proximity to an access immediately to the west which impedes visibility from this access. The plans have therefore been amended to remove the internal road link to the historic access and an annotation has been added on the plan to show the north-western access would be closed with new hedging. The plans have also been amended to include a turning head, to the required vehicle size standards of the Highway Authority, within the site so vehicles can enter and exit the site in a forward gear. The Highway Authority have therefore commented in support of the application, subject to conditions.
- 7.48. Therefore, on the basis of the assessment above, it is considered that subject to conditions the proposal would not cause any highway safety concerns and accords with Spatial Policy 7 of the Core Strategy and Policy DM5 of the A&DM DPD in this regard.

#### Impact on Flood Risk

- 7.49. Core Policy 9 requires new development proposals to pro-actively manage surface water. Core Policy 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD along with the NPPF set out a sequential approach to flood risk.
- 7.50. Criteria 6 seeks that in the case of any development proposal which raises the issue of



flood risk, regard will be had to advice contained within the Government's PPTS and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site-specific Flood Risk Assessment, applying both the Sequential and Exceptions Tests, as appropriate, to achieve safety for eventual occupiers.

- 7.51. The NPPF states that local planning authorities should minimise risk by directing development away from high-risk areas to those with the lowest probability of flooding. Core Policy 10 and Policy DM5 also reflect the advice on the location of development on land at risk of flooding and aims to steer new development away from areas at highest risk of flooding. Paragraph 13(g) of the PPTS sets out a clear objective not to locate gypsy and traveller sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
- 7.52. The Planning Practice Guidance states that caravans, mobile homes and park homes intended for permanent residential use are classified as "highly vulnerable" uses. Table 2 of the Practice Guidance states that within Flood Zone 2, highly vulnerable classification development requires the Exception Test to be applied, however in Flood Zone 3, highly vulnerable development should not be permitted. Nevertheless, CP5 explains that where flooding is found to be an issue, the Council will apply both the Sequential and Exception Tests as appropriate, to achieve safety for eventual occupiers.
- 7.53. Whilst the eastern half of the larger paddock falls within Flood Zone 2 (at medium risk of flood risk) the application site falls within Flood Zone 3a (at high risk of fluvial flooding). The site also benefits from flood defences (an embankment following the western edge of the A1133) which have the effect of minimising flood risk and allowing it to be managed.
- 7.54. A Flood Risk Assessment (FRA) has been submitted with this application which acknowledges that the wider site is within FZ2, however, as confirmed by the Environment Agency (EA) the portion of the site where the new pitches are proposed is within FZ3a. The EA's comments also explain that the defined Flood Zones do not consider the presence of flood defences and when these are taken into account, the site is not impacted by main river flooding during the 1 in 100-year event (1% annual probability). When the impacts of climate change (29% allowance) are taken into account, a shallow 150mm flood depth passes through the middle of the site. The EA confirms that "*these depths are not considered hazardous at the velocity anticipated*". Therefore, whilst strictly in Flood Zone 3a, taking account of the flood defences as directed by the EA, it is noted that the projected flood risk at the site would not be hazardous.
- 7.55. The FRA recommends that the finished floor levels of the caravans should be set no lower than 7.34 metres above Ordnance Datum (AOD) (which is above the highest predicted flood breach level), and all caravans should be chained to a secure anchor block to prevent any risk of floatation in an extreme flood event.
- 7.56. The EA Flood Warning Service is available in the area and prompt the implementation of a flood plan. Details of a flood plan are set out within the FRA where on receipt of

a flood warning (giving a min of 2 hours advance warning), the site could be evacuated.

- 7.57. Nevertheless, given the site is located within Flood Zone 3a, the Sequential Test must be applied. The NPPF states the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 7.58. National policy and guidance in relation to flood risk is clear that seeking to avoid the exposure to flood risk as a matter of first principle, via application of the Sequential Test, is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Furthermore, where a FRA shows the development can be made safe throughout its lifetime without increasing risk elsewhere, then it still remains necessary for the Sequential Test to have first been passed.
- 7.59. It is accepted that the proposal would represent an enlargement of any existing site – but it is also the case that it would extend it into an area at greater flood risk. The land subject to the current application was not covered by the earlier, now implemented, permission and as a result, flood risk was not considered on that wider basis. It is therefore important that the latest proposal is assessed on its own merits from a flood risk perspective, and it is noted that the exemptions to the Sequential Test outlined within national policy and guidance would not cover this application.
- 7.60. National guidance is also clear that the Sequential Test should consider the spatial variation of flood risk within medium and then high flood risk areas to identify the lowest risk sites in these areas, ignoring the presence of flood risk management infrastructure. Once the Test has been applied on that basis then it may prove appropriate to consider the role of such infrastructure in the variation of risk within high and medium flood risk areas. The response from the EA detailing the effect of the flood defences is noted in respect.
- 7.61. The PPG defines reasonably available sites, as those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. Potential sources of alternative land would include site allocations, existing Gypsy and Traveller sites which may have additional capacity, land with extant permission and other suitable land which may be available for the use (as considered in the Gypsy and Traveller Land Availability Assessment). The PPG outlines that the absence of a 5-year land supply is not a relevant consideration for the Sequential Test for individual applications, though it is silent on how overall pitch requirements should be considered.
- 7.62. In terms of site allocations, as outlined earlier those emerging through the Plan Review process are not currently able to be afforded meaningful weight within the planning balance. In terms of existing sites with capacity – where these are suitable (or can be made so) then that land has been proposed for allocation. The LPA also has an application pending consideration (ref. 24/00282/FULM) for 15 pitches, albeit the access of this site is within the flood zone. However, comments from the Council's

Planning Policy team explain that whilst there is land with extant permissions<sup>4</sup> for the proposed use elsewhere within the District which is at less flood risk than the application site, even coupled with the 15 pitches pending consideration (which also have an associated flood risk) this remains insufficient to fully address the District's overall pitch requirements.

- 7.63. Land included within the Gypsy and Traveller Land Availability Assessment (GTLAA)<sup>5</sup> undertaken is also mostly either that which is proposed for allocation, or sites that are not considered as being available. This is except for sites 19\_0026 'Land between Tinkers Lane and A1133, Girton' and 19\_0044 'Former Walesby Garden Centre, Brake Road, Walesby' which are not proposed site allocations but are identified as potentially available sites in the GTLAA (albeit site specific assessments have not been undertaken). The Girton site is located in Flood Zone 3 and therefore no better sequentially (indeed possibly worse once the flood defences of the application site are taken account of unless it also benefits from some). However, the Walesby site is situated in Flood Zone 1 and has a capacity of 17-34 pitches. Even if this site were to be brought forward at the expense of the application site, then the District would still fall short of being able to (currently) address its overall pitch requirements. However, given this is a potentially suitable site at a lesser flood risk the application would fail the sequential test.
- 7.64. In the context of the District's current unmet need, it is considered appropriate to have regard to **actual** flood risk presented at this site, and in this case the presence of the flood defences which the application site benefits from. This results in the land being at a lower level of risk than the standard EA mapping shows and the actual flood risk at the site is acknowledged by the EA not to be hazardous. This, together with the fact that even if the Walesby site were to be delivered the District would still be unable to demonstrate a 5-year pitch supply, is a material consideration which attracts significant weight in favour of the proposal.
- 7.65. Flood risk guidance and policies also require the application of the Exception Test where relevant. In FZ3a the PPG does not permit '*highly vulnerable development*', however in lesser Flood Zones (like FZ2) the application of the exception test is required. In this case, whilst technically in FZ3a, the site is actually at a lesser flood risk and therefore it is considered appropriate to consider whether the application could also pass the exception test which requires the:
- a. The development to provide wider sustainability benefits to the community that outweigh flood risk; and
  - b. The development to be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

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<sup>4</sup> 35 pitches under refs. 23/00063/FULM - Chestnut Lodge, Barnby Road, Balderton (19 pitches), 23/00060/FUL - Appleby Lodge, Barnby Lane, Newark (8 pitches) and 22/01203/FULM - Oak Tree Stables, Sand Lane, Besthorpe (8 pitches).

<sup>5</sup> [https://www.newark-sherwooddc.gov.uk/media/nsdc-redesign/documents-and-images/your-council/planning-policy/local-development-framework/amended-allocations-and-development-management-dpd/GRT10---GTLAA-\(Jan-2024\).pdf](https://www.newark-sherwooddc.gov.uk/media/nsdc-redesign/documents-and-images/your-council/planning-policy/local-development-framework/amended-allocations-and-development-management-dpd/GRT10---GTLAA-(Jan-2024).pdf)

- 7.66. In relation to the first part of the Exception Test, the proposal would allow the housing needs of the District to be met and would contribute to the supply of pitches within the District in the absence of a 5-year land supply. Whilst it is not ideal from a flood risk and sustainability perspective, in that the G&T needs of the District should be located on land that is at lowest flood risk, it is noted that in the absence of sufficient land to meet the Council's 5-year land supply a number of sites proposed for allocation also include areas at risk of flooding. No additional sustainability benefits have been identified by the submission, but the development would provide wider sustainability benefits to the community through contributing to the Districts pitch supply.
- 7.67. In relation to part b) of the Exception Test, the Environment Agency consider the proposed development can be made safe for its perceived lifetime through the imposition of a condition relating to minimum internal floor levels of the caravans and anchoring of the caravans to prevent buoyancy in any extreme flood events.
- 7.68. In the assessment of the 21/02528/FUL the Report detailed comments from the EA that stated *"The ground levels according to the most up to date LiDAR data range between 6.8-6.7mAOD at the west of the site and between 7.1-7.2mAOD at the East of the site where the structures will be situated. While the FRA has not used the most up to date hydraulic modelling, which did not include the most up to date climate change allowances.*

*The latest hydraulic modelling does now include the updated climate change allowances. In this case the assessment has been made against the 1 in 100 year 30% climate change allowance which would cover the perceived lifetime of the development of up to 100 years. In this case the 1 in 100 year 30% climate change allowance event including a breach of the flood defences would result in depths of 6.7mAOD. Therefore, this would not impact the site as the topography is already elevated above this level."* The EA conclude in their comments on this application that the site is not impacted by main river flooding during the 1 in 100-year event (which has a 1% annual probability) and when the impacts of climate change (29% allowance) are taken into account, only a shallow depth of 150mm would pass through the middle of the site which is not considered hazardous at the velocity anticipated. Therefore, subject to a condition requiring finished floor levels to be set appropriately to account for any minor variations in ground levels which may not have been picked up by LiDAR, the EA have concluded that the proposal would be considered safe for its lifetime without increasing flood risk elsewhere. Therefore, despite the vulnerability classification, the EA do not object to the proposals. On this basis, and in the absence of any identified flood risk harm, it is considered that the second part of the Exception Test is passed.

- 7.69. The FRA acknowledges that surface water flooding is also high on the site but considers that the proposal is not likely to unacceptably increase surface water flooding, and would not result in flooding elsewhere from surface water flooding. All proposed surfaces on the development site would be permeable (grass, gravel and permeable tarmac) and is unlikely to result in any material reduction in soakway on the site below the existing situation. However, the application form states that surface water would be disposed of in an existing water course and in the assessment of the

application on the adjacent site it was noted that there was concern locally that the ground water levels are high in this area. As such, it is considered that should planning permission be granted, a condition should be imposed requiring details of a surface water disposal scheme be submitted and approved.

- 7.70. In conclusion, notwithstanding the site's location on land within Flood Zone 3 and its failure of the sequential test, when considering the presence of flood defences, the Environment Agency have confirmed that the actual flood risk on the site would not be hazardous in the 1 in 100-year + climate change flood event resulting in an absence of actual flooding harm on the site. This, coupled with the fact that even if the other site identified as being potentially available were to be delivered the District would still be unable to demonstrate a 5-year pitch supply, are material considerations which must be weighed in the overall balance of the proposal. The proposal has also been found to pass the exception test as the proposal would be safe for its lifetime without increasing flood risk elsewhere. Therefore, given the specific circumstances of this case it is considered that the significant material considerations in this case outweigh the failure of the sequential test and the proposal would not result in an unacceptable flood risk that would warrant withholding planning permission on this basis. This is therefore considered to be a neutral matter in the overall planning balance.

#### Other Matters

- 7.71. Comments have been received from local residents which have been duly taken on board throughout this assessment. It is noted that concerns have been raised in relation to the number and dominance of caravan development in the local area. Cumulative harm of developments on a local area is a material consideration, however, there are no cumulative impacts identified with this site that would lead to unacceptable harm either in visual or landscape character grounds that would warrant refusal of this application. Concerns also relate to the impact on drainage infrastructure, however, there would be no mains sewerage and sewerage would be dealt with via a septic tank.

### **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 Conclusion**

- 9.1. The recent GTAA has identified a significant unmet need for gypsy and traveller pitches. This development would contribute five pitches to the significant unmet need and contribute towards a five-year land supply, which weighs heavily in favour of the proposal, given the current level of need. This positive contribution is a significant benefit, and one which should be afforded significant weight in the planning balance.

The lack of sufficient alternative sites to meet the Districts 5-year supply also attracts significant weight.

- 9.2. An approval would provide a settled base that would facilitate access to education and enable the families to continue their gypsy way of life. The human rights of families means due regard must also be afforded to the protected characteristics of Gypsies and Travellers in relation to the Public Sector Equality Duty (PSED) when applying the duties of section 149 of the Equality Act 2010. These factors attract significant positive weight in favour of the development.
- 9.3. In contrast, the proposal would fail to accord with SP3 and CP4 and 5 of the Amended Core Strategy and Policies DM5 and DM8 of the ADMDDP, PPTS paragraph 25, and paragraphs 109 and 180 of the NPPF by virtue of the unsustainable location and access to services and the harm to the character and appearance of the area as set out above. Officers attach moderate weight to the harm to the character and appearance of the area and to the harm in respect of location and access to services.
- 9.4. In terms of flood risk, notwithstanding the site's location on land within Flood Zone 3a and its failure of the sequential test, when considering the presence of flood defences, the Environment Agency have confirmed that the actual flood risk on the site would not be hazardous in the 1 in 100-year + climate change flood event resulting in an absence of actual flooding harm on the site. This, coupled with the fact that even if the other site identified as being potentially available were to be delivered the District would still be unable to demonstrate a 5-year pitch supply, is a material consideration which attracts significant weight in favour of the proposal. The proposal has also been found to pass the exception test as the proposal would be safe for its lifetime without increasing flood risk elsewhere. Therefore, given the specific circumstances of this case it is considered that the significant material considerations in this case outweigh the failure of the sequential test and the proposal would not result in an unacceptable flood risk that would warrant withholding planning permission on this basis. This is therefore considered to be a neutral matter in the overall planning balance.
- 9.5. No harm has been identified in relation to residential amenity and highway safety which are also therefore neutral in the overall planning balance. New hedgerow planting, controlled by condition, would also provide ecology enhancements which represents a minor benefit.
- 9.6. Weighing all of these competing considerations, it is considered that the harm in relation to location and access to services, (actual) flood risk and character and appearance would be clearly outweighed by the other considerations. These other considerations consist of the significant weight afforded to the benefits of the additional pitches where there is both a significant unmet need and a significant shortfall in five-year supply, and the lack of sufficient alternative sites. As such it is recommended that planning permission is approved, subject to conditions.

## **10.0 Conditions**

### **01**

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

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

### **02**

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

- Existing Site Plan and Site Location Plan – Ref. 2311-01Rev. G
- Proposed Site Plan – Ref. 2311-02 Rev. F

Reason: So as to define this permission.

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

### **03**

No part of the development hereby permitted shall be brought into use until the existing site access in the north-west corner of the site and as shown on the plan (Drawing ref. 2311-02 Rev F) is permanently closed by installation of the boundary hedge and the access crossing reinstated as verge.

Reason: In the general interest of highway safety.

### **04**

No part of the development hereby permitted shall be brought into use until the turning head as shown on drawing number 2311 02 Rev F is provided. The turning head shall not be used for any purpose other than the turning of vehicles.

Reason: To enable vehicles to turn within the curtilage of the site and egress onto the public highway in a forward gear.

### **05**

No part of the development hereby permitted shall be brought into use until the access is provided at a minimum width of 4.8 m within 8.0m of the highway plus 0.5m clearance on both sides and additional width for bin storage and in a bound material for a minimum distance of 5.5 metres from the rear of the highway boundary with measures to prevent the egress of surface water on to the public highway.

Reason: to ensure that vehicles entering and leaving the site may pass each other clear of the highway; to reduce the chance of transferring deleterious material and surface water on to the public highway. All in the general interest of highway safety.

## **06**

No part of the development shall be brought into use until details of the Waste & Recycling Areas have been submitted to and approved in writing by the Local Planning Authority. The approved Waste & Recycling Areas shall be installed prior to commencement of the approved use and retained thereafter for the lifetime of the development.

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

## **07**

No part of the development shall be brought into use until a Flood Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and maintained in accordance with the approved Flood Management Plan.

Reason: In the interest of flood risk management and safety of future occupiers of the site.

## **08**

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

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

## **09**

Prior to first occupation of the development, details of additional soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

Reason: In the interests of visual amenity and biodiversity.



## **10**

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

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

### ***Compliance Conditions***

## **11**

The site shall not be occupied by any persons other than gypsies and travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

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

## **12**

No more than 1 static caravan and 1 touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on each pitch at any one time. For the avoidance of doubt, this permission authorises 5 pitches in total.

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

## **13**

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

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

## 14

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

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

## 15

The development shall be carried out in accordance with the submitted flood risk assessment (ref LMX473/FRA/Rev A, dated 5th March 2024 and compiled by Lumax Civil & Environmental Ltd.) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 7.34 metres above Ordnance Datum (AOD), as detailed within Section 3.41 of the report.
- All caravans shall be chained to a secure anchor block to prevent any risk of floatation, as detailed within Section 3.42 of the report.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

## Informatives

### 01

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

### 02

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

### **03**

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/](http://www.newark-sherwooddc.gov.uk/cil/) The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated.

### **04**

The minor access reinstatement works referred to in Condition 03 above involves work on the highway and as such requires the consent of Nottinghamshire County Council. Please contact the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: [licences@viaem.co.uk](mailto:licences@viaem.co.uk) Tel. 0300 500 8080.

Any hedge/tree/shrub line on the boundary of the development land (either proposed or retained) is the responsibility of the owner/occupier (including subsequent owners/occupiers) of the adjoining land, whether or not a fence or other boundary treatment is installed behind it. It is an offence under Section 154 of the Highway Act 1980 to allow vegetation to overhang highway such that it obstructs the function of the highway and therefore owners/occupiers should make every effort to ensure that the hedge/tree line is maintained appropriately.

### **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.

