



Report to Planning Committee 5<sup>th</sup> June 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Kirsty Catlow – Planning Officer

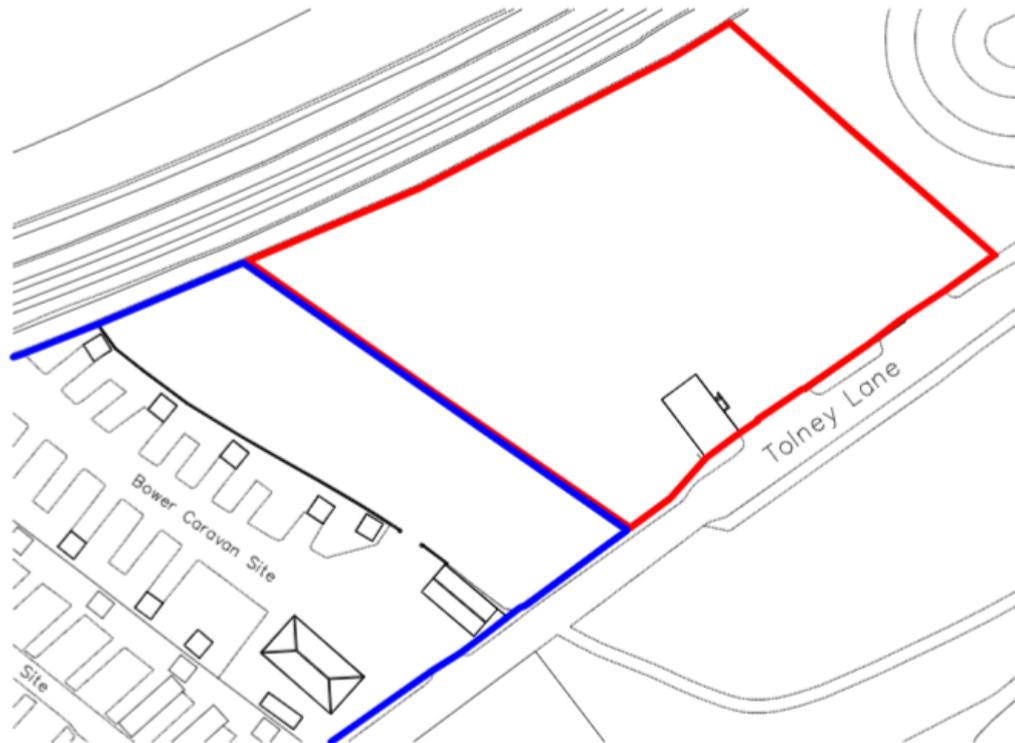
Report Summary			
<b>Application No.</b>	25/00131/S73		
<b>Proposal</b>	Application for variation of conditions 01 and 05 to make temporary and personal permission permanent attached to planning permission 21/02492/S73; Change of use of former abattoir site and paddock to gypsy and traveller caravan site.		
<b>Location</b>	Park View Caravan Park, Tolney Lane, Newark-On-Trent		
<b>Applicant</b>	Mssrs D & W Bower	<b>Agent</b>	Dr Angus Murdoch
<b>Web Link</b>	<a href="#">25/00131/S73   Application for variation of conditions 01 and 05 to make temporary and personal permission permanent attached to planning permission 21/02492/S73; Change of use of former abattoir site and paddock to gypsy and traveller caravan site.   Park View Caravan Park Tolney Lane Newark On Trent</a>		
<b>Registered</b>	28.01.2025	<b>Target Date</b>	25.03.2025
		<b>Extension of Time</b>	16.05.2025
<b>Recommendation</b>	That Planning Permission is <u>APPROVED</u> subject to the conditions, including the variation of Condition 01 (as opposed to its removal) and Condition 05.		

**This S73 planning application is being referred to Planning Committee for determination as the previous application was dealt with by Planning Committee, and the recommendation is one of approval (subject to conditions), contrary to a response received from the Environment Agency (a Statutory Consultee).**

**The Site**

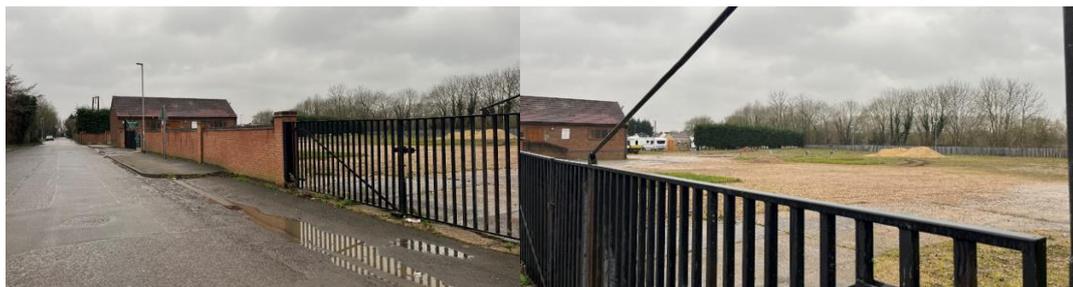
1.1 The application site is located on the northern side of Tolney Lane at its eastern end, just beyond the public car park. The site lies within the Newark Urban Area, as defined within the Allocations and Development Management DPD. The site is closely located to the town and its centre. The site is located within Zone 3b on the

Environment Agency Flood Maps and as such forms part of the functional floodplain. The site is also located within Newark's designated Conservation Area.



*Original location plan submitted under 18/01430/FUL*

- 1.2 The north of the site abuts the main railway line linking Nottingham and Lincoln. Open amenity land exists to the south, on the opposite side of Tolney Lane, adjacent to the River Trent. To the east is a local authority operated public car park, while finally to the west an open field/paddock beyond which is another Gypsy and Traveller site.



- 1.3 Comprising just under 0.6ha the site includes a single storey former abattoir building, with its gable end oriented to face and front Tolney Lane. The site is relatively flat and is in temporary use as a gypsy and traveller caravan site for up to 15 caravans. Access to the site is taken at two points off Tolney Lane, although previously approved plans show one central access point serving 14 pitches, with one secondary access off the Lane serving a single pitch.



*Original site layout plan submitted under 18/01430/FUL*

- 1.4 The southern boundary is walled with robust metal gates, at a height of approx. 1.6m. Palisade fencing forms the rear boundary, with trees situated beyond, outside the application site. Other boundary treatments comprise vertical timber boarding along the north-east boundary and timber post and rail fencing along the south-west boundary.



*Aerial view of the application site taken from Google maps*

- 1.5 There are numerous sites off Tolney Lane which accommodate a large gypsy and traveller community, comprising of approx. 300 pitches.

## 2.0 Relevant Planning History

- 2.1. **21/02492/S73** - Variation of condition 1 attached to planning permission 18/01430/FUL to make the temporary permission permanent (Change of use of former abattoir site and paddock to gypsy and traveller caravan site). Granted, subject to condition 1, which the current application seeks to vary, and which reads as follows:

*'The use hereby permitted shall be carried on only by the following and their resident dependents:*

*o Mr. Harold William Bower and/or Mrs. Donna Bower - wife of Mr. H.W. Bower*

*o Mr. David Bower and/or Mrs. Deborah Bower*

*o Mrs. Elizabeth Salmon and/or Mr. Paul Salmon*

*And shall be for a limited period being the period up to 31 January 2025, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 31 January 2025, whichever shall first occur, the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 5 hereof.*

*Reason: In the recognition of the current need for gypsy and traveller sites within the District and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10 of the Newark and Sherwood Amended Core Strategy (March 2019).'*

Condition 5 of this approval, which the current application also seeks to vary, read as follows:

*'The Site Restoration Scheme (Drawing No: 01565/2) dated 01.03.2019 submitted and approved under Reference 19/00433/DISCON shall be carried out and completed in accordance with the timetable set out within this approved scheme.*

*Reason: In order to protect the long term appearance of the 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).'*

- 2.2. **20/02394/S73** - Variation of condition 1 attached to planning permission 18/01430/FUL to make the temporary permission permanent, refused 29.04.2021 for the following reason:

*"The application use falls within a 'highly vulnerable' flood risk vulnerability category that is inappropriate to the Flood Zone in which the application is located (Flood Zone 3b - functional floodplain). Tables 1 and 3 of the PPG make it clear that this type of development is not compatible to this Flood Zone and therefore should 'not be*

permitted.'

*The purpose of granting temporary consent was to cater for the applicants' immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding. The temporary consent still has seven months to run (up to 30th November 2021) and the Authority is pro-actively pursuing the identification of suitable sites to meet future gypsy and traveller needs within, or adjoining, the Newark Urban Area through the Development Plan process.*

*Whilst the proposal would assist in the supply of pitches position it is not considered that this is sufficient to outweigh the severe flood risk and warrant the granting of permanent consent. To allow permanent occupation of a site at such high risk of flooding would therefore be contrary to Core Policy 5 and 10 of the Newark and Sherwood Amended Core Strategy 2019 and Policy DM5 of the Allocations and Development Management DPD 2013 together with the aims of the NPPF and PPG, which are material planning considerations."*

- 2.3. **18/01430/FUL** - Change of use of former abattoir site and paddock to gypsy and traveller site – Approved 05.12.2018, subject to a number of conditions including condition 1 which read:-

*"The use hereby permitted shall be carried on only by the following and their resident dependents:*

- *Mr. Harold William Bower and/or Mrs. Donna Bower – wife of Mr. H.W. Bower*
- *Mr. David Bower and/or Mrs. Deborah Bower*
- *Mrs. Elizabeth Salmon and/or Mr. Paul Salmon*

*And shall be for a limited period being the period up to 30 November 2021, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 30 November 2021, whichever shall first occur, the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 5 hereof.*

*Reason: In the recognition of the current need for gypsy and traveller sites within the district and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10."*

- 2.4. **17/00949/FUL** - Application to remove conditions 1 and 5 of planning consent 15/00354/FUL to make the personal and temporary permission, permanent and general (re-submission of 16/1879/FUL), refused 07.11.2017 for the following reason:

*"The application site lies within Flood Zone 3b where the NPPF states that inappropriate development should be avoided by directing it towards areas at lower risk of flooding. When temporary permission was first granted on this site there were no available Gypsy & Traveller sites in areas at lower risk of flooding. Whilst the Local Planning Authority cannot currently demonstrate a five year supply of pitches, the*

*shortfall of 2 pitches is not considered significant or severe. The purpose of granting temporary consent was to cater for the applicants immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding. The temporary consent still has almost a year to run (up to 30th September 2018) and the Authority is pro-actively pursuing the identification of a suitable site to meet future gypsy and traveller needs within, or adjoining, the Newark Urban Area. Although there would be some social, economic and environmental factors which would weigh in favour of the proposal it is not considered that these, in combination with the supply position, are sufficient to outweigh the severe flood risk and warrant the granting of permanent consent. To allow permanent occupation of a site at such high risk of flooding would therefore be contrary to the aims of the NPPF and put occupiers of the site and members of the emergency services at unnecessary risk.”*

- 2.5. **16/01879/FUL** - Application to remove conditions 1 and 5 of planning consent 15/00354/FUL to make the personal and temporary permission permanent and general – Application refused 04.01.2017 on grounds of flood risk.
- 2.6. **15/00354/FUL** - Variation of Conditions 6(i) and Condition 5(i) of Planning Permission 14/01106/FUL - Change of use of former abattoir site and paddock to gypsy and traveller caravan site – Approved 15.05.2015 to extend the time scales within which to comply with conditions.
- 2.7. **14/01106/FUL** - Change of use of former abattoir site and paddock to gypsy and traveller caravan site – Approved 02.09.2014 on a temporary basis until 30 September 2018 and on a personal basis with named occupiers.
- 2.8. **13/01167/FUL** - Change of use of former abattoir site and paddock to gypsy and traveller caravan site – Refused 14.11.2013. Appeal Withdrawn.
- 2.9. **11/01509/FUL** - Change of use of former abattoir site and paddock to form site for touring caravans – Refused 24.01.2012. Appeal Dismissed.

### **3.0 The Proposal**

- 3.1 Planning permission is sought to vary Conditions 01 and 05 attached to the current permission under reference 21/02492/S73, to allow the temporary gypsy and traveller use of the site to become permanent.
- 3.2 No Planning Statement or supporting information has been submitted with the application. The original application, approved under 18/01430/FUL, was accompanied by the following documents:
  - Location Plan Scale 1:1250 received 24 July 2018
  - Site Plan (Drawing No: 20/48/2009) dated 28 June 2013
  - Topographical Survey dated 11 November 2009
  - Flood Risk Assessment dated May 2018
- 3.3 For the avoidance of doubt, the agent has been requested to provide an up-to-date list of all current occupiers of the site. The agent has confirmed in writing that the

occupiers of the site have not changed since the previous application was permitted.

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

4.1 A site notice has also been displayed near to the site and an advert has been placed in the local press.

4.2 Site visit undertaken on 10.02.2025.

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

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

##### **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 7 - Sustainable Transport

Core Policy 4 - Gypsies & Travellers – New Pitch Provision

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

Core Policy 9 - Sustainable Design

Core Policy 10 - Climate Change

Core Policy 13 - Landscape Character

Core Policy 14 – Historic Environment

NAP1 - Newark Urban Area

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

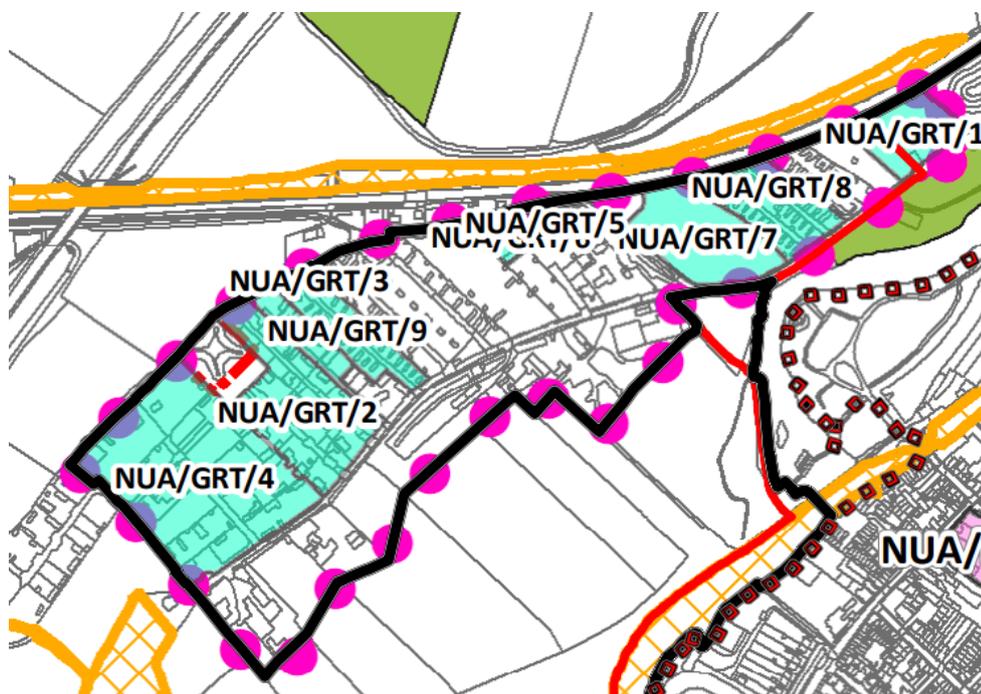
DM9 – Protecting and Enhancing the Historic Environment

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 and was examined in public in November. However, the outcome of the examination is not yet published and whilst the plan is at an advanced stage of preparation, there are unresolved objections to amended versions of the above policies and new content around Gypsy and Traveller provision emerging through that process. Therefore, 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. It is however considered necessary to draw Members' attention to the fact that within the emerging DPD, Policy GR2 (Additional Provision on Existing Sites) identifies the application site as NUA/GRT/1 – Park View, Tolney Lane, which, if adopted, would be allocated for 13 pitches for Gypsy Roma Travellers. The site also falls within the wider Policy GRT5 (Tolney Lane Policy Area) designation, which, if adopted would bring the area into the Urban Boundary for the Newark Urban Area, support additional pitch provision on existing sites, in association with the delivery of flood alleviation

improvements to Tolney Lane. The proposed allocations are shown on the map below. The NUA/GRT/1 allocation under Policy GRT2 is located to the north east of the map shaded in cyan, and the wider Tolney Lane Policy Area under Policy GRT5 is outlined in pink dots:-



5.5. Following the close of the hearing sessions, as part of the examination of the Submission Amended Allocations & Development Management DPD, the plan Inspector issued a number of questions around Tolney Lane, the Tolney Lane Flood Alleviation Scheme and delivery in this location. The Council has responded to these questions and is currently awaiting further instruction from the Inspector.

#### 5.6. Other Material Planning Considerations

- National Planning Policy Framework 2024 (as amended in 2025)
- Planning Practice Guidance (online resource)

The Court of Appeal recently considered the status of, and relationship between, Planning Practice Guidance (PPG) and the National Planning Policy Framework (NPPF) in *Mead Realisations Ltd v Secretary of State for Housing Communities and Local Government and another* [2025] EWCA Civ 32. The Court held that the NPPF and PPG are of the same status, and subsequently the PPG can amend the policy guidance contained within the NPPF. Both the guidance in the PPG and the policies in the NPPF are capable of being material considerations in decision-making, and the weight to be given to them is a matter for the decision-maker.

- Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72 of the Act places a duty on Local Planning Authorities, when considering development on land within Conservation Areas, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

- Planning Policy for Traveller Sites – December 2024

When determining planning applications for traveller sites, the Planning Policy for Traveller Sites states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. It goes on to state that applications should be assessed and determined in accordance with the presumption in favour of sustainable development, in accordance with the guidance contained within the NPPF and this planning policy for traveller sites.

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

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

The document goes on to state that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan and sites in rural areas should respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on local infrastructure. When considering applications, Local Planning Authorities should attach weight to the following matters:

- Effective use of previously developed (brownfield), untidy or derelict land
- Sites being well planned or soft landscaped
- Promoting healthy lifestyles
- Not enclosing sites with high walls or fencing, giving the impression its occupants are isolated from the rest of the community.

In terms of housing land supply, Para 28 advises that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Local planning authorities should consider how they could overcome planning

objections to particular proposals using planning conditions or planning obligations including:

- limiting which parts of a site may be used for any business operations
- specifying the number of days the site can be occupied by more than the allowed number of caravans
- limiting the maximum number of days for which caravans might be permitted to stay on a transit site.

**Annex 1** of this policy provides a definition of “gypsies and travellers” which reads:-

*“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 or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organized group of travelling show people or circus people travelling together as such.”*

- Newark and Sherwood Gypsy and Traveller Accommodation Assessment 2020
- Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum (August 2017)

This document states: *“New developments in flood risk areas must not increase the burden on emergency services. The Emergency Services are in heavy demand during flood incidents. The Fire and Safety Regulations state that “people should be able to evacuate by their own means” without support and aid from the emergency services. The emergency services and local authority emergency planners may object to proposals that increase the burden on emergency services.”*

*“New development must have access and egress routes that allow residents to exit their property during flood conditions. This includes vehicular access to allow emergency services to safely reach the development during flood conditions. It should not be assumed that emergency services will have the resource to carry out air and water resources during significant flooding incidents; therefore safe access and egress routes are essential.....*

*The emergency services are unlikely to regard developments that increase the scale of any rescue as being safe...”*

## **6.0 Consultations and Representations**

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

## **Statutory Consultations**

- 6.1. **Environment Agency – Object**, due to the flood risk posed to the site, and recommend the LPA refuse the application on this basis.

## **Town/Parish Council**

- 6.2. **Newark Town Council – Object**, due to the high level of risk of flooding at the site.

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

- 6.3. **NSDC Planning Policy Team** (comments in full)

## **Context**

The site was originally granted temporary personal consent in September 2014, via 14/01106/FUL. Subsequently there have been a number of applications which have sought permanent consent through the variation of relevant conditions- and which have been resisted on the grounds of flood risk. Consequently, the situation is one where temporary consent has continued to be permitted on a personal basis. This is within a context where the District Council has been seeking to progress provision for Gypsy and Traveller accommodation through its Plan Review process. The most recent temporary consent was granted through 21/02492/S73, which expired on 31st January 2025.

## **Plan Review Update**

Since the last temporary consent was granted, the Authority has continued to progress the review of its Allocations & Development Management DPD. Submission of the Draft Amended DPD to the Secretary of State occurred in January 2024 and the Hearing Sessions as part of the Examination in Public were concluded on the 12th November. Further correspondence from the Plan Inspector has now been received, including questions to the Council around Tolney Lane, the Tolney Land Flood Alleviation Scheme and delivery in this location. Further correspondence from the Plan Inspector was received, including questions to the Council around Tolney Lane, the Tolney Land Flood Alleviation Scheme and delivery in this location. The Council has responded to these questions and now awaits further instruction from the Inspector.

This represents an advanced stage in the plan-making process, and the Council continues to be of the view that it has submitted what it considers to be a sound, robust and comprehensive strategy to address Traveller accommodation requirements over the plan period.

This incorporates a range of site allocations in the Newark and Ollerton Areas, and the designation of a 'Policy Area' to provide for the future management of the Tolney Lane area. Taken alongside completions and commitments post-2019 these new site allocations will allow for the minimum requirements of the Planning Policy for Traveller Sites (PPTS) to be exceeded, and a five-year land supply established. Through the Policy Area – those parts of Tolney Lane at least flood risk and sites where additional pitch allocations have been identified would be brought inside the Urban

Boundary. There would be a presumption against further outward expansion beyond this boundary. Central to the Strategy is the design and delivery of a 'Flood Alleviation Scheme' (FAS) for Tolney Lane – intended to increase the flood resiliency of the single point of access/egress up to a 1% AEP flood event and provide site-level reductions in flood risk along its length.

The application site is proposed for allocation within the Submission Amended Allocations & Development Management DPD and has been identified for 13 pitches (addressing the full need shown for the site through the Gypsy and Traveller Accommodation Assessment). The Sequential Test undertaken for the submitted Plan identified the site to (based on the data used at that point) sit entirely within the functional flood plan (Zone 3b) and was at further indirect risk due to the single point of access/egress to Tolney Lane also sitting within the same Zone. Due to a combination of the lack of suitable land at lesser risk elsewhere, and the benefits from the proposed Flood Alleviation Scheme (FAS) it was considered that the allocation of the land would pass the Test. With the FAS both directly reducing the level of flood risk to the site itself and delivering broader improvements to the flood resiliency of the area by addressing the vulnerability of the Tolney Lane access/egress. Clearly, delivery of the FAS was fundamental to the reaching of this conclusion.

As part of the Plan Review process the Council has entered into a Statement of Common Ground with the Environment Agency. Through which the Agency welcome the principle of the FAS and its ability to deliver significant betterment. Further agreement was reached over the benefits from taking a plan-led approach to development in the area and allowing for its regularisation. Both parties seek an end to the cycle of Environment Agency objections to proposed new pitches in locations at greatest flood risk, with temporary permissions then being granted at appeal due to a lack of alternative provision in more suitable locations.

### **Traveller Accommodation Need and Supply**

The Gypsy and Traveller Accommodation Assessment (GTAA) for Newark & Sherwood identifies a total need for 169 pitches for Gypsies and Travellers for the period 2019 – 2034. This comprises need from Travellers who met the 2015 PPTS planning definition of a Traveller (118 pitches); from households that did not meet the 2015 PPTS planning definition of a Traveller (30 pitches); and from undetermined households where it was not possible to complete an interview with residents (21 pitches). Since the GTAA was published in February 2020 there have been changes made to the PPTS as a result of the Lisa Smith Court of Appeal Judgement, relating to the planning definition of a Traveller for planning purposes.

The Council's consultants Opinion Research Services (ORS) have carefully considered the implications on the assessment of need in the GTAA, reviewing the outcomes of household interviews. Concluding that 134 pitches of the overall 169 pitch requirement reflects the needs of Traveller households meeting the revised definition in Annex 1. Whilst the Council recognises 169 pitches as its overall pitch target, it is the lower 134 pitch need which provides the relevant local target for calculation of the five-year land supply – in line with the PPTS. This need has been broken down into 5 year periods, and there is an adjusted requirement for the current five-year period

(2024-2029) of 100 pitches (taking account of completed pitches and the residual unmet requirement from the previous five-year period).

It remains necessary to forecast delivery from proposed site allocations to identify a five-year land supply. Paragraph 48 in the NPPF details the tests applicable to emerging policy in order to determine how much weight it can be afforded within the Development Management process. Until such time as the Inspector issues their report it will not be clear how the emerging Traveller strategy performs against tests b and c. These concern the extent to which there are unresolved objections to relevant policies, and the degree of consistency of the relevant policies in the emerging plan to the Framework. Accordingly, an up-to-date assessment of supply without forecast delivery from site allocations is provided below.

<b>First Five-Year Period (2019-24)</b>	
Five Year Pitch Requirement	85
Completed Pitches within period	3
Residual Requirement	82
<b>Second Five Year Period (2024 - 29)</b>	
Five Year Pitch Requirement	24
Residual Requirement 2019-24	82
Completed Pitches within period	6
Adjusted Requirement	100
Annualised Requirement	20
<b>Supply</b>	
Pitch Supply from Unimplemented Permissions	37
Pitch Supply from Allocated Sites	0
Total Supply	37
<b>No Years Supply</b>	
Against Requirement	37/20=1.85

Despite a number of permissions having been granted the Authority remains in a position where it lacks sufficient identifiable and deliverable sites to address either its overall pitch requirements, or to demonstrate a five-year land supply (being currently able to show a 1.85 year supply).

Accompanying the publication of the new NPPF of the 12th December was an updated PPTS – this makes clear at paragraph 28 that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, then the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Consequently, the ‘tilted balance’ towards decision-making which this requires has become engaged. This means that;

*Where the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- j. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

## **Flood Risk**

The site remains at substantial flood risk – directly in having previously been identified as being wholly within Flood Zone 3b (Functional Floodplain), and with the single access/egress to the area also being within the same zone. However, at the time of writing the Agency has not signed off the District Council’s latest Strategic Flood Risk Assessment for use beyond the Plan Review process – and so there is no up-to-date local definition of the Functional Flood Plain. Under the new Environment Agency flood mapping, released through NAFRA2, it is my understanding that the flood risk information for the 1 in 30 year defended flood event ought to be used in such circumstances. With the mapping for this event being a starting point for identifying where functional floodplain may be present, and additional site-level work being necessary from an applicant to refine the understanding of risk. However, the mapping for this event is not yet available and indeed it is noted that an up-to-date Flood Risk Assessment has not been provided as part of the application. Under the latest (NAFRA2) EA flood mapping the site is shown as being in Flood Zone 3.

Applying the Sequential Test there is a lack of reasonably available and suitable land at lesser risk elsewhere, and so the proposal would pass the Test on this basis. The Planning Practice Guidance states that the Sequential Test should be applied prior to having regard to Table 2 ‘Flood Risk Vulnerability and Flood Zone Incompatibility’ of its Flood Risk section. Though it should be noted that Table 2 deems a highly vulnerable use (such as that proposed here) to be incompatible with either Flood Zone 3a or 3b, and details it should not be permitted.

Through the *Mead Realisations Ltd v Secretary of State for Housing Communities and Local Government and another [2025] EWCA Civ 32* judgement the PPG was found to hold the same legal status as the NPPF, in that they are both statements of national policy issued by the Secretary of State. Both the guidance in the PPG and the policies in the NPPF are capable of being material considerations in decision-making, and the weight to be given to them is a matter for the decision-maker. This provides a helpful steer over the status of Table 2 in the Flood Risk section of the PPG.

With regards to the Exception Test, I’m content that regarding its first part- there would be wider sustainability benefits to the community via the contribution towards meeting the identified accommodation needs of Travellers. However, I note the objection from the Environment Agency over the second part of the Test. Given the failure to pass both parts of the test, and in-line with national policy, the proposal ought to be refused.

## Conclusion

There is a significant unmet need for Traveller accommodation – with the Council in the position where it cannot currently identify sufficient land to meet either its overall requirements or demonstrate a five-year land supply. This results in the ‘tilted balance’ outlined at paragraph 11(d) of the NPPF becoming engaged. Part 1 of the paragraph identifies a range of areas where the application of policy in the Framework for their protection provides a strong reason for refusing the development proposed, this includes ‘areas at flood risk’. The application site is at a high level of flood risk – being located within Flood Zone 3 (and potentially the functional floodplain) and with a single point of access/egress at the same level of risk. Whilst the proposal can be considered to have passed the Sequential Test, it has not demonstrated satisfaction of the Exceptions Test. Under Part 1 of paragraph 11 d) national policy concerning the Exceptions Test would in my view provide a ‘strong reason’ for refusing the proposal.

Were one to conclude differently and take the view that the Exceptions Test fell short of providing that required ‘strong reason’, then the decision-maker would proceed onto part 2. Through which, permission ought to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Clearly there remains the need to continue to also have regard to parts of the Development Plan which are up-to-date and in your judgement relevant to the determination of the proposal.

It is recognised that the proposal would make a contribution towards pitch supply, and there is a lack of reasonably available and suitable land at lesser flood risk elsewhere. The site is also proposed for allocation through the Submission Amended Allocations & Development Management DPD, and the Council has proposed the delivery of the Flood Alleviation Scheme-delivering flood risk reduction and resiliency benefits to the site. However, this emerging strategy is not at a stage where meaningful weight can be afforded to it yet – and there remains a difference in position over the phasing of pitch delivery between the District Council and Environment Agency which requires resolution.

Accordingly, at the current time I am unconvinced that the granting of permanent pitches within Flood Zone 3 would be consistent with the purpose of the presumption to promote ‘sustainable development’, and it would fail to direct the proposed development to a sustainable location. The highly vulnerable use is incompatible with the level of flood risk the application site is subject to, with the PPG setting out that it should not be permitted. Furthermore, there has also been a failure to demonstrate the Exceptions Test as passed. Consequently, the adverse impact of granting permanent consent would in my view significantly and demonstrably outweigh the benefits – when assessed against the policies in the Framework and up-to-date parts of the Development Plan.

Whilst there are factors which weigh heavily in the favour of granting consent these would fall short of outweighing the significant flood risk concerns, to the extent that

the granting of permanent consent would currently be justified – even with paragraph 11 d) of the NPPF engaged. However, I would raise no objection to a further short term temporary consent of up to a year, in order to allow the site allocation process to conclude and provide the applicants with certainty over that period. Though we would need to be in the position where the Exceptions Test had been fully passed, and the necessary details for the permission to be made personal provided. To be acceptable these individuals would need to meet the definition for planning purposes of Gypsy and Travellers provided in Annex 1 to the Planning Policy for Traveller Sites.

- 6.4. **NSDC Environmental Health (Public Protection) – No objections**, to the proposed variation to permanent consent although the applicant will be required to submit a Caravan Site Licence application if planning approval is given. Any such licence will mirror the planning approval in terms of any limitation on caravan numbers etc. If the planning approval does not specify numbers, then the licence conditions will take into account relevant model standards when determining the maximum caravans permitted on the site.
- 6.5. **NSDC Environmental Health (Contaminated Land) – No objections**, however the previous use of this site has been identified as an abattoir, this is a potentially contaminative use. As it appears that no desktop study/preliminary risk assessment has been submitted prior to, or with the planning application, then I would request that our standard phased contamination conditions are attached to the planning consent.
- 6.6. **NSDC Emergency and CCTV Planning Co-ordinator – Objects**, whilst I have experience of flooding risk NCC and the EA are the subject experts, and I accept their position. Emergency Planners for the Local Resilience Forum for Nottingham and Nottinghamshire have agreed that the development of additional in areas at high risks of flooding should be resisted.
- 6.7. **No representations have been received from any third party/local resident.**

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

- 7.1. The main considerations in the assessment of this application relates to the significant unmet need and the absence of a 5-year land supply for gypsy and traveller pitches, and flood risk.

### **Need**

- 7.2. The Gypsy and Traveller Accommodation Assessment (GTAA) for Newark and Sherwood identifies a total need for 169 pitches for Gypsy and Travellers for the period 2019-2034. Since the GTAA was published in February 2020 there have been changes made to the PPTS as a result of Smith v Secretary of State for Levelling Up, Housing & Communities & Anor 9 [2022] EWCA Civ 1391], relating to the planning definition of a Traveller for planning purposes. Having reviewed the assessment of 'need' in light of this appeal judgment, it has been concluded that 134 pitches reflects the needs of Traveller households meeting the revised definition. Therefore, whilst the Council recognises 169 pitches as its overall pitch target, it is the lower 134 pitch

need which provides the relevant local target for calculation of the five-year land supply – in line with the PPTS. This need has been broken down into 5 year periods, and there is an adjusted requirement for the current five-year period (2024-2029) of 100 pitches (taking account of completed pitches and the residual unmet requirement from the previous five-year period).

- 7.3. It remains necessary to forecast delivery from proposed site allocations to identify a five-year land supply. Paragraph 48 in the NPPF sets out the tests applicable to emerging policy, in order to determine how much weight it can be afforded within the Development Management process. In this case, until such time as the Inspector issues their report on the emerging plan and the proposed site allocations, it is not clear how these allocations would impact the five-year land supply. An up-to-date assessment of supply is set out below, which excludes the forecast delivery from site allocations.

<b>First Five-Year Period (2019-24)</b>	
Five Year Pitch Requirement	85
Completed Pitches within period	3
Residual Requirement	82
<b>Second Five Year Period (2024 - 29)</b>	
Five Year Pitch Requirement	24
Residual Requirement 2019-24	82
Completed Pitches within period	6
Adjusted Requirement	100
Annualised Requirement	20
<b>Supply</b>	
Pitch Supply from Unimplemented Permissions	37
Pitch Supply from Allocated Sites	0
Total Supply	37
<b>No Years Supply</b>	
Against Requirement	37/20=1.85

- 7.4. Despite a number of permissions having been granted for gypsy and traveller sites, the Authority remains in a position where it lacks sufficient identifiable and deliverable sites to address either its overall pitch requirements, or to demonstrate a five-year land supply (being currently able to show a 1.85 year supply).
- 7.5. An updated PPTS was published on 12<sup>th</sup> December 2024, alongside the updated NPPF, which makes clear at paragraph 28 that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, then the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Consequently, the presumption in favour of sustainable development towards decision-making is engaged. This means that;

*Where the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination'*

The application of the above paragraphs to this proposal are discussed further in the Conclusion and Planning Balance section below.

- 7.6. It is accepted that the Authority has a considerable shortfall in being able to demonstrate a five-year land supply, and a sizeable overall requirement which needs to be addressed. Both the extent of the pitch requirement and the lack of a five year land supply represent significant material considerations, which should weigh heavily in the favour of the granting of consent where proposals will contribute towards supply. Importantly, the GTAA assumed a net zero contribution from inward migration into the District - meaning that our pitch requirements are driven by locally identifiable need.
- 7.7. Accordingly, the granting of permanent permission would allow for the current planning definition need, picked up as part of the GTAA, to be met and contribute progress towards a five-year land supply. This weighs heavily in the favour of granting permanent permission, and robust and justifiable reasons are needed to depart from a permanent approval on this basis. In this case, Officers consider that given the potential risk to people and property, flood risk has the potential to form such a reason.

#### Flood Risk

- 7.8. The site remains at substantial flood risk, both directly through its location in Flood Zone 3b (functional floodplain), and indirectly as a result of the single point of access/egress to Tolney Lane also being within the same Flood Zone, and modelled to flood early in an event of a sufficient magnitude. Whilst there are proposals through the Publication of the Amended DPD, for the delivery of a 'Flood alleviation Scheme' (FAS) for Tolney Lane, which is intended to increase the flood resiliency of the single point of access/egress up to a 1% AEP flood event, and provide site level reductions in flood risk along its length, as outlined above, further instruction is awaited from the Plan Inspector over the delivery of the Tolney Lane Flood Alleviation Scheme and additional proposed pitch allocations in this location.
- 7.9. The final criterion of Core Policy 5 states that 'Proposals for new pitch development on Tolney Lane will be assessed by reference to the Sequential and Exception Tests as defined in the Planning Practice Guidance. These will normally be provided temporary planning permission.' 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. National guidance/policy relating to flood risk since 2014 has introduced new guidance in relation to climate change that increases the bar in relation to the assessment of new development. Core Policy 10 and Policy DM5 also reflects 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.

- 7.10. 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.
- 7.11. Annex 3 (Flood risk vulnerability classification) of 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 (Flood risk vulnerability and flood zone incompatibility) of the Practice Guidance states that within Flood Zone 3a or b, highly vulnerable classification development should not be permitted. The Planning Practice Guidance make it clear that this type of development is not compatible within this Flood Zone and should therefore not be permitted.
- 7.12. Park View forms part of a larger collection of sites along Tolney Lane accommodating some 317 individual pitches. The site occupies a location in the highest risk, within the functional floodplain (Flood Zone 3b), with a single point of access/egress (along Tolney Lane to the Great North Road) and which also lays within the functional floodplain. The modelling shows this access to flood before much of the land accommodating the gypsy and traveller pitches.
- 7.13. The Environment Agency (EA) objects to the proposal to allow the current temporary permission to be made permanent, on the grounds that the development is classed as Highly Vulnerable and this type of development is not compatible with this Flood Zone and should not be permitted.
- 7.14. Furthermore, the EA object because the application fails the second part of the flood risk exception test. The NPPF and PPG clearly state that change of use applications, where the proposed use is a caravan site, are not exempt from application of the exception test. The NPPF makes it clear that both elements of the exception test must be passed for development to be permitted. Part 2 of the test requires the applicant to demonstrate, via a site-specific flood risk assessment (FRA), that the development will be safe, without increasing flood risk elsewhere. Where possible, the development should reduce flood risk overall. In this instance no FRA has been provided with the application.
- 7.15. The Environment Agency also wish to highlight the risks to the site should a flood event occur, particularly having regard to the increased flood levels associated with climate change, particularly for permanent permissions. For example, comparison of their modelled data against recent topographical survey indicates likely maximum flood depths of 0.25m during the 5% Annual Exceedance Probability (AEP) event (the event used to determine the functional floodplain); 0.78m during the 1% AEP event; 1.08m during the 1% AEP event (including a 30% allowance for climate change); 1.24m

during the 1% AEP event (including a 50% allowance for climate change); and 1.32m during the 0.1% AEP event. Such flood depths constitute a risk to life for any future occupants of the development. Where a development relies on flood warning and evacuation, the preference is for dry access and egress routes to be provided, but in this particular location the access and egress route is the first area of the site to flood.

- 7.16. It is accepted that the granting of permanent pitches would pass the Sequential Test, as there are no reasonably available sites at lesser risk. No updated Flood Risk Assessment accompanies this application. The applicant is therefore relying on the Assessment submitted in support of the 2018 application. This FRA does not address the Exception Test or the technical ability of the site itself to be safe for its proposed use without increasing flooding elsewhere (and as such is inadequate) but instead relies wholly on the ability to evacuate the site on receipt of a Flood Alert warning from the EA prior to a flood event occurring. Notwithstanding the absence of mitigation measures on the site, this evacuation process is required as the only access/egress route along Tolney Lane also lays within the functional floodplain. It has already been acknowledged that this places additional pressures on emergency services during a flood event as stated by the Council's Emergency Planner in the Non-statutory Consultation section above, to check that the site has indeed been vacated, but this is still considered to be an acceptable mitigation on the basis that it would be for a finite period of time.
- 7.17. In relation to the first arm of the Test, whilst it is accepted that the development would provide some wider sustainability benefits to the community, in terms of the occupants of the site being able to access schools, hospitals and other services within the Newark Urban Area, this does not outweigh the severity of the harm caused to that same community by the high flood risk at the site.
- 7.18. Furthermore, both officers and the EA are clear that the proposal has not demonstrated compliance with the second arm of the Exception Test, which requires 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.
- 7.19. In support of the application, the agent has referred to the fact that the site is considered to be suitable by the Local Planning Authority for Gypsy and Traveller accommodation, given that it is being promoted for allocation through the review of its Allocations & Development Management DPD. Whilst the review of this document is now at an advance stage since the previous temporary permission was granted, as outlined above, there remain outstanding issues to be resolved through the examination process, particularly in relation to the allocation of Tolney Lane, and the Tolney Lane Flood Alleviation Scheme.
- 7.20. Therefore, notwithstanding the passing of the Sequential Test, the use is considered highly vulnerable in flood risk terms and national policy is very clear that it should not be permitted in either Flood Zones 3a or 3b, and also fails to demonstrate compliance with the second part of the Exception Test.

- 7.21. It is therefore considered that the proposal continues to be contrary to the NPPF and PPG, Core Policies 5 and 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD as well as the guidance within the NPPF, PPG and PPTS.
- 7.22. Flood risk therefore continues to weigh significantly against the proposal for a permanent permission, and this is considered further within the Conclusion and Planning Balance set out below.

### **Other Matters**

- 7.23. **Other material planning considerations** – Whilst the comments of the Council's Environmental Health officer are noted regarding land contamination, a condition to deal with this matter should have been imposed on the original grant of temporary permission and officers consider it would not be reasonable to add such a condition on to this permission at this stage. The impacts upon Newark Conservation Area, ecology, close to facilities and services within the Newark Urban Area, Gypsy and Traveller status, highway safety, residential amenity and visual amenity, remain unchanged from the previously considered application and as such do not require further consideration in this instance. The Gypsy and Traveller status of the occupants of the site have already been established through past applications. For information, the full officer report from the previous 2021 application can be viewed by clicking on the link attached to the Background Papers listed at the end of this report.
- 7.24. **Community Infrastructure Levy (CIL)** – The proposed development has been assessed, and it is the Council's view that CIL is not payable in this instance, as the mobile homes are classed as caravans, as opposed to buildings, and do not therefore create any additional floor space.
- 7.25. **Biodiversity Net Gain (BNG)** – In England, BNG became mandatory (under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)) from February 2024. BNG is an approach to development which makes sure a development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development. This legislation sets out that developers must deliver a minimum BNG of 10% - this means a development will result in more, or better quality, natural habitat than there was before development. However, there are some exemptions to where BNG is applicable – these are set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024. This includes section 73 planning permissions where the original planning permission, to which the section 73 planning permission relates, was subject to exemption. The original FUL application was submitted and approved in 2014, prior to Biodiversity Net Gain becoming Mandatory. This application seeks permission to vary Condition 1 relating to the occupation of the site. As a result, the proposal would be exempt in terms of BNG, as the application merely seeks to amend an original planning application, which itself was exempt from mandatory BNG.

## **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.

#### **Legal Implications - LEG2425/6333**

- 8.2. Planning Committee is the appropriate body to consider the content of this report. A Legal Advisor will be present at the meeting to assist on any legal points which may arise during consideration of the application

#### **Conclusion and Planning Balance**

- 9.1 The objection of the Town Council has been duly noted and taken into account in the recommendation put before Members.
- 9.2 There is a significant unmet need for Traveller accommodation within Newark and Sherwood, with the Council in the position where it cannot currently identify sufficient land to meet either its overall requirements or demonstrate a five-year land supply. The current five-year supply currently stands at 1.85 years. This results in the presumption in favour of sustainable development, outlined at paragraph 11d) of the NPPF, becoming engaged.
- 9.3 However, Paragraph 11 (d) (i), at footnote 7, of the NPPF identifies policy exceptions within the Framework that protect areas or assets of particular importance that provide a strong reason for refusing the development proposed. One of the exceptions listed include 'areas at risk of flooding.' As such, part (d) (i) represents the relevant assessment and the application of the presumption in favour of sustainable development no longer takes precedence in decision-taking and the application of (d) (ii) also falls away.
- 9.4 The application site is at the highest risk of flooding, being located within the functional floodplain, with national policy requiring development to pass both the Sequential and Exceptions Test.
- 9.5 In terms of the Sequential Test, it is recognised that the proposal would make a contribution towards pitch supply, and there is currently a lack of reasonably available and suitable land at lesser flood risk elsewhere in the District. Consequently, the proposal has passed the Sequential Test.
- 9.6 However, it has not been demonstrated that the proposed development would pass the Exceptions Test. The granting of permanent pitches within the functional floodplain would not be consistent with the purpose of the presumption to promote 'sustainable development', and it would fail to direct the proposed development to a sustainable location. The highly vulnerable use is incompatible with the level of flood risk the application site is subject to and would not be adequately mitigated. As a result, under paragraph 11 (d) (i) of the NPPF, this would provide a 'strong reason' for refusing the proposal and the presumption in favour of sustainable development no longer overrides.

- 9.7 Whilst there are factors which weigh heavily in the favour of granting a permanent consent, these continue to fall short of outweighing the significant flood risk concerns, to the extent that the granting of permanent consent would be justified.
- 9.8 The plan-making process is now at an advanced stage, and there is the real prospect of site allocations at lesser flood risk being adopted in 2025, which would provide reasonably available and suitable land, at lesser flood risk than the application site.
- 9.9 The Environment Agency have advised that if, as the Local Planning Authority, NSDC is minded to approve the application on a permanent basis, they would consider instigating the 'call-in' direction, as they consider the risks to this site are too significant to allow permanent 'highly vulnerable' development to proceed, without further work to reduce flood risk to the site beforehand.
- 9.10 Whilst it is not considered appropriate to support the granting of a permanent consent on this site, it is considered reasonable to allow a further short term temporary consent of a year, in order to allow the site allocation process to conclude and provide the applicants with certainty over that period.
- 9.11 To allow a further temporary permission, Condition 1 would need to be varied as opposed to being removed. It is therefore recommended that the condition be varied to allow a further 12 months residential occupation.
- 9.12 In terms of the personal element of Condition 1, the application site remains within Flood Zone 3b and is only acceptable on a further temporary basis to provide the current occupiers some certainty over the next 12 months as to their living arrangements. For these reasons, it is considered necessary for the permission to remain personal to those currently residing on the site.
- 9.13 The Agent has confirmed that the occupiers of the site have not changed since the current temporary permission was granted, which will be repeated. Officers are satisfied that the current occupiers of the site meet the definition of a Traveller as set out in Annex 1 of the PPTS 2024.

### **Remaining Conditions**

- 9.14 The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
- 9.15 Conditions 02 (maximum number of caravans on site), 03 (no commercial or industrial activities), 04 (no vehicles over 3.5 tonnes), 06 (Flood Warning Service), 07 (ancillary structures) and 09 (gates) are all considered to remain reasonable and necessary and will be repeated again.
- 9.16 The application also seeks to vary/remove condition 05 (site restoration) on the basis that the applicants are seeking a permanent permission on the site, however in order to protect the long term appearance of the area it will still be necessary to secure the

restoration of the site at the end of the temporary consent, and this condition remains necessary.

9.17 With regards to Condition 08 (reinstatement of footway and access works on Tolney Lane), having viewed the site, the works required by this condition do not appear to have been undertaken, therefore it will be necessary to repeat this condition, in the interests of highway safety.

9.18 In terms of Condition 10 (implementation of landscape scheme), again having visited the site, it does not appear that the landscaping scheme has been implemented, therefore, in the interests of visual amenity and bio-diversity, it is necessary to repeat this condition again.

9.19 It is therefore recommended that the application is approved, subject to the following conditions, including the variation of Condition 1, as opposed to its removal.

## **10.0 Conditions**

### **01**

The use hereby permitted shall be carried on only by the following and their resident dependents:

- Mr. Harold William Bower and/or Mrs. Donna Bower - wife of Mr. H.W. Bower
- Mr. David Bower and/or Mrs. Deborah Bower
- Mrs. Elizabeth Salmon and/or Mr. Paul Salmon

And shall be for a limited period being the period up to 30 June 2026, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 30 June 2026, whichever shall first occur, the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 5 hereof.

Reason: In the recognition of the current need for gypsy and traveller sites within the District and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10 of the Newark and Sherwood Amended Core Strategy (March 2019).

### **02**

No more than 15 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which none shall be a static caravan, shall be stationed on the site at any time.

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

### **03**

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).

### **04**

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).

### **05**

The Site Restoration Scheme (Drawing No: 01565/2) dated 01.03.2019 submitted and approved under Reference 19/00433/DISCON shall be carried out and completed in accordance with the timetable set out within this approved scheme.

Reason: In order to protect the long-term appearance of the 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).

### **06**

The use hereby permitted shall cease and all caravans, equipment and materials brought onto the land for the purposes of such use shall be removed within 6 months of the date of any failure to meet any one of the requirements set out in (i) to (vii) below:

(i) Within 28 days of the date of this permission, each of the residents named in condition 1 hereof (hereafter referred to as the residents) shall (a) register with the Environment Agency's Floodline Warnings Direct Service (hereafter referred to as the Flood Warning Service which expression shall include any replacement for that Service provided by the Environment Agency); and (b) provide the local planning authority with confirmation from the Environment Agency that they have done so;

(ii) Each of the residents shall maintain their registration with the Flood Warning Service (or any replacement service) throughout the life of this permission and shall provide the local planning authority with further confirmation from the Environment Agency that they are registered within 28 days of each of the following: (a) the first and second anniversaries of the date of this permission; and (b) any written request from the local planning authority for such confirmation;

(iii) Each of the residents shall notify the Local Planning Authority in writing of the locations to which they could evacuate in the event of a Flood Alert, together with their current telephone contact details within 28 days of each of the following: (a) the date of this permission; (b) the first and second anniversaries of the date of this permission; and (c) any written request from the local planning authority for such details;

(iv) Throughout the life of this permission, no less than 3 of the residents shall be nominated as Flood Wardens for the site. Details of the first nominated Flood Wardens including names and telephone numbers shall be provided within 28 days of the date of this permission. Thereafter, the names and telephone numbers of the Flood Wardens shall be confirmed in writing to the local planning authority within 28 days of each of the following: (a) any change to the identity of any of the nominated Flood Wardens; (b) the first and second anniversaries of the date of this permission; and (c) any written request from the local planning authority for such details;

(v) Within 8 hours of a Flood Alert, this being the first alert issued through the Flood Warning Service, all of the residents will evacuate the site, bringing all caravans and vehicles with them;

(vi) Within 10 hours of a Flood Alert the Flood Wardens, or any one of them, will confirm to the local planning authority that all of the residents have evacuated the site; and

(vii) None of the residents shall return to the site until notice is issued through the Flood Warning Service that the Flood Alert is at an end and the all clear has been given.

Reason: In the interests of reducing flood risk in accordance with the aims of Core Policies 5 and 10 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).

## **07**

Prior to any installation, details of any ancillary structures including those that might be required to meet separate Caravan licensing legislation shall be submitted to and approved in writing by the Local Planning Authority. Once approved any such ancillary structures shall only be kept on the site in accordance with the approved details and once use of the proposed site ceases shall be removed in accordance with any scheme for the restoration agreed under Condition 5 of this consent.

Reason: In order to ensure any proposals are of an appropriate design in accordance with the aims of Core Policy 9 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).

## **08**

Within six months of the date of this permission the footway reinstatement and access works on Tolney Lane shall have been carried out in accordance with the Site Development Scheme & Landscape Plan (Drawing No: 01565/1) submitted and approved under Reference 19/00433/DISCON, to the specification and standards of the Highway Authority.

Reason: In the interests of pedestrian safety and convenience, and to promote sustainable travel in accordance with the aims of Spatial Policy 7 of the Newark and Sherwood Amended Core Strategy (2019).

## **09**

The gates at the single vehicular access point shall either be removed or left open at all times. Alternatively, the gates shall be set back a minimum of 5 metres from the highway boundary, within six months of the date of this permission.

Reason: In the interests of highway safety.

## **10**

The Site Development Scheme & Landscape Plan (Drawing No: 01565/1) submitted and approved under Reference 19/00433/DISCON shall be carried out within the first planting season after the date of this permission.

Reason: In the interests of visual amenity and biodiversity in accordance with the aims of Core Policies 5 and 12 of the Newark and Sherwood Amended Core Strategy (2019) and Policies DM5 and DM7 of the Allocations and Development Management DPD (2013).

## Informatives

### **01**

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

### **02**

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/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 in this instance, as the temporary accommodation is provided by caravans, and not buildings.

### **03**

From the information provided as part of the application, the development granted by this notice is considered exempt from the biodiversity gain condition.

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the condition "the biodiversity gain condition" that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
  - b) the planning authority has approved the plan;
- OR
- c) the development is exempt from the biodiversity gain condition.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission is Newark and Sherwood District Council (NSDC).

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Details of these exemptions and associated legislation are set out in the planning practice guidance on biodiversity net gain ([Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain))

Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because the following reason or exemption is considered to apply – The application is a section 73 planning application, where the original planning application was exemption from BNG.

#### 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.

[25/00131/S73 | Application for variation of conditions 01 and 05 to make temporary and personal permission permanent attached to planning permission 21/02492/S73; Change of use of former abattoir site and paddock to gypsy and traveller caravan site. | Park View Caravan Park Tolney Lane Newark On Trent](#)

Link to documents in connection with Planning Application 21/02492/S73

[21/02492/S73 | Variation of condition 1 attached to planning permission 18/01430/FUL to make the temporary permission permanent \(Change of use of former abattoir site and paddock to gypsy and traveller caravan site\) | Park View Caravan Park Tolney Lane Newark On Trent](#)

Link to documents in connection with Planning Application 18/01430/FUL

[18/01430/FUL | Change of use of former abattoir site and paddock to gypsy and traveller caravan site | Park View Caravan Park Tolney Lane Newark On Trent Nottinghamshire](#)

Committee Plan - 25/00131/S73

