



Report to Planning Committee 3 July 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Kirsty Catlow – Planning Officer

Report Summary			
Application No.	25/00573/S73		
Proposal	Application for variation of condition 01 to use land as gypsy and traveller's site, erection of amenity blocks and associated works on a permanent basis and change occupiers names attached to planning permission 21/02613/FUL.		
Location	Land At Shannon Falls, Tolney Lane, Newark On Trent, NG24 1DA		
Applicant	Messrs Price, Herne, Calladine, Coverdale, Sheppard, Dunne, Cooper, Lee, Price, Smith, Finney.	Agent	N/A
Web Link	<a href="#">25/00573/S73   Application for variation of condition 01 to use land as gypsy and traveller's site, erection of amenity blocks and associated works on a permanent basis and change occupiers names attached to planning permission 21/02613/FUL.   Land At Shannon Falls Tolney Lane Newark On Trent NG24 1DA</a>		
Registered	31.03.2025	Target Date	26.05.2025
		Extension of Time	11.07.2025
Recommendation	That Planning Permission is <u>APPROVED</u> subject to the conditions detailed at Section 10.0.		

This S73 application is being referred to Planning Committee for determination as the previous application was dealt with by Planning Committee.

## 1.0 The Site

1.1 The site sits on the north side of Tolney Lane which runs in a westerly direction from the Great North Road and which terminates in a dead end. It sits close to the junction

where Tolney Lane forks into two and the northern arm runs towards the railway line. It is located between the River Trent to the south-east (approx. 20 from the southern boundary of the site) and the railway line to the north-west. This application site measures 0.5 hectare in area and is roughly rectangular in shape.



*Original location plan submitted under 21/02613/FUL*

- 1.2 The application site represents the eastern part of a wider site known locally as Shannon Falls which is located between the larger gypsy and traveller sites known as Church View to the east and Hoes Farm to the west. The site has a central access point along its southeastern boundary with Tolney Lane and is laid out with 13 pitches (pitch 5 is shared by two individuals), each with its own single storey detached amenity block containing a day room & kitchen, and a separate bathroom & laundry room.



*Original site plan submitted under 21/02613/FUL*

- 1.3 The application site is situated west of the defined boundary of the Newark Urban

Area, within the Rural Area as designated by the Newark and Sherwood Core Strategy and within the countryside.

- 1.4 Lying both within Flood Zone 3a and 3b (functional floodplain), the site has a high probability of fluvial flooding, according to Newark and Sherwood's Strategic Flood Risk Assessment. In addition, the adjacent section of Tolney Lane itself is the first area to flood and to significant depths. The previously submitted topographical survey shows the southern boundary of the site is the lowest part, with typical ground levels of 11.1m AOD. Ground levels on the northern boundary range from 11.6m AOD and 11.9m AOD.
- 1.5 The application site is outside the designated Newark Conservation Area but the boundary of this heritage asset runs along the southern side of Tolney Lane, opposite the site.
- 1.6 The site is surrounded on three sides by existing residential caravan sites occupied by gypsy and travellers and their existing boundary treatments. The southern boundary of the site is defined by the road. Tolney Lane accommodates a large Gypsy and Traveller community providing in excess of 300 pitches.



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

## **2.0 Relevant Planning History**

- 2.1. **21/02613/FUL** - Use of land as a Gypsy and Travellers' site, erection of amenity blocks and associated works for temporary 3 year period (Retrospective) Re-submission of 21/01900/FUL. Application recommended for REFUSAL by Officers on the following grounds:-

*"The proposal represents highly vulnerable development that would be located within Flood Zones 3a and 3b (and relying on an access/egress within Flood Zone 3b) and*

*therefore should not be permitted in accordance with the National Planning Policy Framework and the Planning Practice Guidance. If appropriate, whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites at a lesser risk, the proposal fails the Exception Test by not adequately demonstrating that the development will be safe for its lifetime, without increasing flood risk elsewhere. Furthermore, no weight can be afforded to the scheme in meeting any of the significant unmet need, given the temporary nature of the proposal. Although there would be some social factors which would weigh in favour of the proposal, it is not considered that these are sufficient to outweigh the severe flood risk and warrant the granting of consent, even on a limited, temporary basis. To allow occupation of a site at such high risk of flooding would put occupiers of the site and members of the emergency services at unnecessary risk.*

*In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (2013) as well as the National Planning Policy Framework (2021), Planning Practice Guidance and Planning Policy for Traveller Sites (2015), which are material planning considerations.”*

The application was considered at Planning Committee, and Members overturned the recommendation, resolving to APPROVE the application on 15.02.2022, subject to conditions. Condition 1 read as follows:-

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

- o Pitches 1 and 2 - Robert Lowe*
- o Pitch 3 - Augustus Coverdale*
- o Pitch 4 - John Coverdale*
- o Pitch 5a - Selina Sheppard*
- o Pitch 5a - Amanda Dunne*
- o Pitches 6 and 7 - Luke Smith*
- o Pitch 8 - Mary Donohue*
- o Pitch 9 - Susan Winters*
- o Pitch 10 - Thomas Gaskin*
- o Pitches 11 and 12 - Ernest Smith*
- o Pitch 13 - Ann Ward*

*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, amenity blocks, materials and equipment brought on to the land, or works undertaken to it in connection with the use and development shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 05 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)."*

- 2.2. **21/01900/FUL** – Use of land as a Gypsy and Travellers' site, erection of amenity blocks and associated works (retrospective), refused 03.11.2021 for the following reason:

*"The proposal represents highly vulnerable development that would be located within Flood Zone 3 (and relying on an access/egress within Flood Zone 3) and therefore should not be permitted in accordance with the National Planning Policy Framework and the Planning Practice Guidance. Whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites at a lesser risk, the proposal fails the Exception Test by not adequately demonstrating that the development will be safe for its lifetime, without increasing flood risk elsewhere. Furthermore, the applicants have failed to demonstrate that occupiers of the site fall within the definition of a gypsy and traveller, as set out within Annex 1 of the Planning Policy for Traveller Sites, 2015.*

*In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (2013) as well as the National Planning Policy Framework (2021), Planning Practice Guidance and Planning Policy for Traveller Sites (2015), which are material planning considerations."*

Including the application site and adjacent land to the north and west:

- 2.3. **02/02009/FUL** - Use of land as residential caravan site (21 plots) and retention of unauthorised tipping on the land which raised land levels, refused on flooding grounds. Two enforcement notices were served which sought to firstly cease the use as a caravan site and remove all caravans from the land and secondly to remove the unauthorised tipping from the land so that no part of the site is above the level of 10.5 AOD. The applicant appealed to the Planning Inspectorate but on 25 May 2006, the appeals were dismissed and the enforcement notices upheld and still stand on the land. Whilst the site had ceased being used as a caravan site in compliance with the Enforcement Notice (prior to these retrospective works and the temporary permission approved on the remainder of the Shannon Falls site in 2019), the unauthorised tipping however, remains on the land and artificially raises ground levels.
- 2.4. **E/1/2531** - Construct a residential caravan site, refused in 1970.
- 2.5. **E/1/1129** - Use of the land as a site for caravans, refused in 1959.

On land directly to the north-west but excluding the application site:

- 2.6. **18/02087/FUL** - Change of Use of Land to a Private Gypsy and Traveller Caravan Site consisting of one mobile home, one amenity building and two touring caravans and associated works, approved on a permanent basis by Planning Committee in June 2018. Permission has been implemented.

- 2.7. **15/01770/FUL** - Change of Use of Land to a Private Gypsy and Traveller Caravan Site, consisting of One Mobile Home, Two Touring Caravans and One Amenity Building, refused by Planning Committee in May 2016 on the grounds of flood risk.

On land directly to the west but excluding the application site:

- 2.8. **22/00073/S73** - Application to remove condition 2 from planning permission 18/02167/FUL to allow the existing temporary use to become permanent – Pending Consideration.

- 2.9. **18/02167/FUL** - Change of use of scrubland for the siting of 8 touring caravans and associated amenity block for gypsy travellers was approved by Planning Committee for a 3 year temporary period until 28 February 2022. Unclear whether this has been implemented.

**16/01884/FUL** - Change of use of scrubland for the siting of 8 static mobile homes for gypsy travellers and reduce ground levels to 10.5mAOD was refused by Planning Committee on 25 January 2017 on grounds of flood risk.

This decision went to appeal and within their appeal submission, additional information was provided which gave greater clarity on the gypsy and traveller status of the proposed occupiers. Having received this additional material information, the proposal was again reported to the Planning Committee in February 2018 when Members resolved that if this further information had been submitted with the original application submission, they would have resolved to grant a temporary permission for 3 years which would have been personal to the occupiers and subject to other conditions relating to flood risk mitigation. This was duly reported to the Planning Inspector prior to the Informal Hearing which was held on 28 February 2018. However, in a decision letter dated 26 April 2018, the appeal was dismissed on flood risk grounds (a copy of this decision is attached as a link at the end of this report).

- 2.10. **12/01088/FUL** - Change of Use of scrub land for the siting of 8 static mobile homes for gypsy travellers (and 8 associated amenity blocks). Planning permission was refused by Planning Committee in July 2013 on grounds of flood risk.

### **3.0 The Proposal**

- 3.1 The application seeks permission to vary condition 01 attached to planning permission 21/02613/FUL, to allow the temporary gypsy and traveller use of the site to become permanent, and to change the named occupiers as follows:-

- Pitch 1 – Triston Price, his wife and children
- Pitch 2 – John Herne, his wife and children
- Pitch 3 – Richard Calladine
- Pitch 4 – Mrs Coverdale and children
- Pitch 5 – Amanda Dunne and children
- Pitch 5a – Selina Sheppard and daughter
- Pitch 6 – Joseph and Mary Cooper and children
- Pitch 7 – Patrick Cooper, his wife and children

- Pitches 8 and 9 – Mr Joseph Lee, his wife and children
- Pitch 10 – Sonny Price
- Pitches 11 and 12 – Ernest Smith, his wife and children
- Pitch 13 – George Finney, his wife and child

3.2 The original application, approved under 21/02613/FUL, was accompanied by the following plans and documents:

- Site and Location Plans (Drawing No: SF-21-P01 Rev B)
- Amenity Buildings (Drawing No: SF-21-P02 Rev A)
- Topographical Survey (Drawing No: 41263\_T Rev 0)
- Swept Path Assessments (Drawing No: F21179/01)
- Planning Statement
- Flood Risk Assessment dated Dec 2021
- Flood Warning and Evacuation Plan dated Dec 2021
- Supporting Text for Visibility Splays
- Additional Supporting Information in Response to Refusal dated Dec 2021
- Supporting Statements and Personal Information from Proposed Residents

3.3 In support of this application, the following supporting information has been submitted:-

- 12 letters from the occupiers of the site, detailing their local connections to the area (such as schools the children attend, and where they seek medical and dental treatment), and their familiarity with the emergency evacuation procedures, in the event of a flood.

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

4.1 Occupiers of 25 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

4.2 Site visit undertaken on 28.04.2025.

#### **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



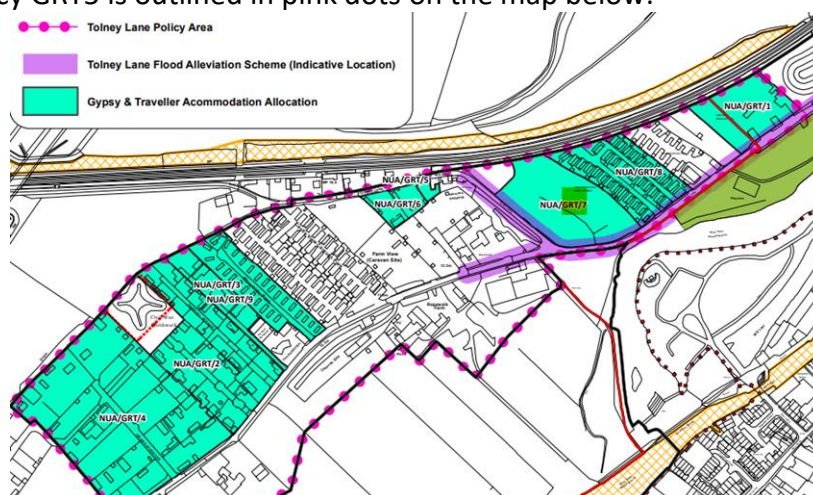
Spatial Policy 7 - Sustainable Transport  
 Core Policy 4 - Gypsies & Travellers – New Pitch Provision  
 Core Policy 5 - Criteria for Considering Sites for Gypsy & Travellers and Travelling Show People  
 Core Policy 9 - Sustainable Design  
 Core Policy 10 - Climate Change  
 Core Policy 13 - Landscape Character  
 Core Policy 14 – Historic Environment

## 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/7 – Land at Shannon Falls, Tolney Lane, which if adopted, would, together with the site to the southwest be allocated for a total of 21 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/7 allocation under Policy GRT2 is shaded in cyan, and the wider Tolney Lane Policy Area under Policy GRT5 is outlined in pink dots on the map below:-





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 (PPTS) 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 NPPF and this Planning Policy for Traveller Sites.

The PPTS 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 PPTS 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 the PPTS 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: Comments below are provided in summary - for comments in full please see the online planning file.

### **Statutory Consultations**

- 6.1. **Environment Agency** – Advised that they will not be making any formal comments on the grounds that the Environment Agency did not request the planning condition the application is seeking to vary.

The Environment Agency previously provided the following comments in response to the original planning application 21/02613/FUL, in January 2022:-

Object. The site lies within Flood Zone 3a and 3b (functional floodplain) and has a high probability of flooding. The development is classed as highly vulnerable and Tables 1 and 3 of the PPG make it clear that this type of development is not compatible with this Flood Zone and should not be permitted. The submitted FRA suggests that the impacts of climate change over this period are unlikely to be significant. The EA agree with this statement however, exclusive of the impacts of climate change the development site is still shown to experience flood depths up to 500mm in the vicinity of plot 13, and 400mm in the vicinity of plots 1 and 2 during the 1% Annual Exceedance Probability (AEP) event. Flood depths of up to 800mm are also possible during the 1% event on Tolney Lane immediately adjacent to this site. The flood risk to the site, even for a temporary permission, is clearly still significant.

They raise concern that granting of continuous temporary permissions could result in a deemed permission for permanent use.

The likely maximum flood depths on this site would be:

- 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 and including a 30% allowance for climate change
- 1.24m during the 1% AEP event and including a 50% allowance for climate change
- 1.32m during the 0.1% AEP event

Flooding to a depth of 0.6m represents DANGER FOR ALL. If the flooding is to a greater depth or involves moving water, the degree of hazard will be even higher. The above noted flood depths constitute a risk to life for any future occupants of the development.

Where there is reliance on flood warning and evacuation, the EA's preference is for dry access and egress routes to be provided in order to demonstrate the safety of the development and future occupants. In this particular location the access and egress route is the first area of the site to flood, and it floods to extremely significant depths. Absence of safe access and egress from the proposed development coupled with the lack of safe refuge during a flood event makes this an extremely hazardous location in with to locate highly vulnerable development.

The proposals are contrary to NPPF and the flood risk to the site is highly significant.

#### **Town/Parish Council**

- 6.2. **Newark Town Council** – Object due to the land being at risk of flooding with a threat to life, albeit there is no objection to the temporary permission being extended and the names in the condition being changed.

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

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

#### **Context**

- 6.4. The site was originally granted a retrospective temporary personal consent in February 2022, via 21/02613/FUL. This consent followed the previous refusal of an application (21/01900/FUL) which sought permanent Traveller pitches, in November 2021. Flood risk figured heavily in the reasons for refusal of the earlier application. With the proposal representing a highly vulnerable use located in Flood Zone 3 and possessing a single point of access/egress, subject to that same level of risk. The granting of consent in such circumstances was considered inconsistent with the NPPF and PPG. In addition, there was a failure to demonstrate the Exceptions Test as passed. The applicant was further unable to provide demonstration that the proposed occupants would have satisfied the planning definition of a Traveller – provided in Annex one to the PPTS in place at the time. The decision to subsequently grant temporary consent through the later application was made at Committee, contrary to the Officer recommendation. Temporary consent expired on the 31st January 2025.

## Plan Review Update

- 6.5. 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 been 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.
- 6.6. 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.
- 6.7. 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.
- 6.8. The application site is proposed for allocation within the Submission Amended Allocations & Development Management DPD, forming part of the larger site NUA/GRT/7 (identified for around 21 pitches in total). This would allow for the 13 pitches, formerly with temporary consent here, to become permanent. The Sequential Test undertaken for the submitted Plan identified the site to (based on the data used at that point) be split across Flood Zone 3b (57%), Zone 3A (25%) and Zone 2 (18%), and was at further indirect risk due to the single point of access/egress to Tolney Lane also sitting within Flood Zone 3b. 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.
- 6.9. As part of the Plan Review process the Council 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

- 6.10. 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.
- 6.11. 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).
- 6.12. 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

- 6.13. 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 (currently being able to show a 1.85 year supply).
- 6.14. Accompanying the publication of the new NPPF of the 12th December was an updated PTS – 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;
- 6.15. 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

#### Flood Risk

- 6.16. The site remains at substantial flood risk – having previously been identified as being largely split between Flood Zones 3b (functional floodplain) and 3a, with a smaller portion (roughly 18%) of the site being within Zone 2. It also remains the case that the single point of access/egress to the area sits within the functional floodplain. 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, I do not have access to this mapping. It is also noted that no up-to-date Flood Risk Assessment has been provided as part of the application. Under the latest (NAFRA2) EA flood mapping the site is shown as being predominantly in Flood Zone 3.

- 6.17. 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. In terms of Flood Zone 2 then Highly vulnerable uses would need to pass the Exceptions Test.
- 6.18. 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.
- 6.19. 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. In terms of the second part of the Test it was concluded as part of the now lapsed temporary consent that this had not been passed. Given the conclusions reached on the previous application, and the lack of a Flood Risk Assessment in support of the current application then as it stands there has been no demonstration that the second part of the Exceptions Test has been passed.

Were the applicant to seek to make that demonstration then we would require technical input to assist us in our determination. The Environment Agency has stated that it will not provide formal comments, as it didn't request the Condition. Notwithstanding this, it remains the relevant flood risk body and were the applicant to seek to satisfy part two of the Exceptions Test then we would require their technical input. I would therefore suggest that the position of the Agency be queried.

#### Conclusion

- 6.20. 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 predominantly located within Flood Zone 3 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 to satisfy 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.

- 6.21. Should this be concluded differently and the view be taken 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.
- 6.22. 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.
- 6.23. Accordingly, at the current time I am unconvinced that the granting of permanent pitches on a site predominantly 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.
- 6.24. 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.

- 6.25. **Environmental Health** – No objections. If permanent consent is given, the site owner will require a Caravan Site Licence within the terms of the Caravan Sites and Control of Development Act 1960. No previous application has been submitted for this site to date. The site will need to meet relevant model standards appropriate to the type of site proposed and these will form part of the licence conditions. Any site licence duration will mirror the planning consent and any limitation on the maximum number or type of caravans to be stationed on the land.
- 6.26. **Environmental Health (Contaminated Land)** – Historic mapping has identified a former railway line that crosses the site linking the Nottingham to Lincoln line with the former Parnham's Island Mill. Railway land is a potentially contaminative use and the former Department for the Environment Industry Guide for Railway Land identifies multiple possible contaminants. 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.
- 6.27. No comments have been received from any third parties or local residents.

## **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.

- 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 12th 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. In terms of the status of the current occupiers, most of the site occupiers have changed since the original application was permitted in 2022. In support of the application 12 letters have been submitted from the present occupiers, detailing the names of the occupiers and their local connections. Officers are satisfied, based upon the information provided by the applicants, and in consultation with the Council’s Community Relations Team, that the current occupiers of the site meet the definition of a Traveller as set out in Annex 1 of the PPTS 2024.
- 7.7. It is accepted that the Council 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.
- 7.8. 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

- 7.9. The site remains at substantial flood risk, as the majority of the site, approx. 80%, lies within Flood Zones 3a and 3b (functional floodplain). Furthermore, the single point of access/egress is within the functional floodplain, 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.
- 7.10. 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.
- 7.11. 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.
- 7.12. 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.
- 7.13. The application site 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.
- 7.14. The Environment Agency (EA) have been consulted in this application, but have advised that they will not be making any formal comments on the grounds that they



did not request the planning condition the application is seeking to vary. Officers have attempted to engage with the EA, to ask them to re-consider their position, but at the time of writing this report, no further response from the EA had been received. In the interests of providing the current site occupants with some certainty, the application is being progressed in the absence of their formal comments.

- 7.15. The EA did previously object to the original application, 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.
- 7.16. In terms of 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.
- 7.17. The EA previously highlighted the risks to the site should a flood event occur, particularly having regard to the increased flood levels associated with climate change. 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.
- 7.18. It is accepted that the granting of permanent pitches would pass the Sequential Test, as there are no reasonably available sites at lesser risk.
- 7.19. In terms of the Exception Test, Officers are satisfied that the proposal would pass the first part, in that there would be wider sustainability benefits to the community as a result of the contribution the site would make towards meeting the identified accommodation needs of Travellers.
- 7.20. In terms of the second part of the Exception Test (that the proposed development would be safe from flooding for its lifetime, and that it would not increase flood risk elsewhere) it was concluded under the original application that this had not been passed. Given this, and the lack of a Flood Risk Assessment in support of this application, it has not been demonstrated that the second part of the exceptions test has been passed.
- 7.21. The site is being promoted for allocation by the Local Planning Authority as a Gypsy and Traveller site, through the review of its Allocations & Development Management

DPD. However, 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.

- 7.22. Therefore, 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.
- 7.23. 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.
- 7.24. 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

- 7.25. **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, 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.
- 7.26. **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.
- 7.27. **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 – LEG2526/8307**

- 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.

## **9.0 Conclusion and Planning Balance**

- 9.1. The objection from the Town Council for a permanent permission on the site 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 largely located within Flood Zones 3a and 3b (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 previously advised that they consider the risks to this site are too significant to allow permanent 'highly vulnerable' development to proceed.
- 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 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 Zones 3a and 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, and the names are proposed to be amended to accord with the current site occupiers. Officers are satisfied, based upon the information provided by the applicants, and in consultation with the Council's Community Relations Team, 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**

- 9.13. 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.
- 9.14. Conditions 02 (maximum number of caravans on site), 03 (no commercial or industrial activities), 04 (no vehicles over 3.5 tonnes), 05 (Restoration Scheme) 06 (Flood Warning System), are all considered to remain reasonable and necessary and will be repeated again.

- 9.15. In terms of Conditions 08 (surfacing of access) and 09 (visibility splays) these do not appear to have been provided in accordance with the plan reference SF-21-P01revC, therefore, in the interests of highway safety, it is necessary to repeat these condition again.
- 9.16. With regards to Condition 10 (ground levels) it does not appear that ground levels of the site have been reduced to 10.5 AOS or lower, therefore it will be necessary to repeat this condition, in the interests of flood risk.
- 9.17. With regards to Condition 11 (site to only be occupied by those meeting the definition in Annex of the Planning Policy for Traveller Sites), as Offices are satisfied that the occupiers names under condition 1 meet the definition of a gypsy and traveller, as defined in Annex of the Planning Policy for Traveller Sites, this condition is not considered necessary.
- 9.18. It is therefore recommended that the application is approved, subject to the following conditions, including the variation of Condition 1 as detailed above.

## **10.0 Conditions**

### **01**

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

- Pitch 1 – Triston Price, his wife and children
- Pitch 2 – John Herne, his wife and children
- Pitch 3 – Richard Calladine
- Pitch 4 – Mrs Coverdale and children
- Pitch 5 – Amanda Dunne and children
- Pitch 5a – Selina Sheppard and daughter
- Pitch 6 – Joseph and Mary Cooper and children
- Pitch 7 – Patrick Cooper, his wife and children
- Pitches 8 and 9 – Mr Joseph Lee, his wife and children
- Pitch 10 – Sonny Price
- Pitches 11 and 12 – Ernest Smith, his wife and children
- Pitch 13 – George Finney, his wife and child

And shall be for a limited period being the period up to 03 July 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 03 July 2026, whichever shall first occur, the use hereby permitted shall cease and all caravans, amenity blocks, materials and equipment brought on to the land, or works undertaken to it in connection with the use and development shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 05 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 26 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 use hereby permitted shall cease and all caravans, equipment and materials brought onto the land for purposes of such use shall be removed within 18 months of the date of the failure to meet any one of the requirements set out in (i) to (iv) below:



(i) Within 3 months of the date of this decision a scheme for the restoration of the site to its condition before the development took place with ground levels at a maximum of 10.5m AOD across the site (except for beneath the amenity blocks) shall be submitted to the Local Planning Authority for approval in writing. The approved restoration scheme shall be commenced immediately from when the use hereby permitted ceases and shall be completed within 100 days of the use ceasing.

(ii) Within 6 months of the date of this decision the site restoration scheme shall have been approved in writing by the Local Planning Authority or, if the Local Planning Authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State; and

(iv) The approved scheme shall have been carried out and completed in accordance with the timetable set out in (i).

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 development hereby permitted shall cease and all caravans, amenity blocks, 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 second and third 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 second and third anniversaries of the date of this permission; and (c) any written request from the Local Planning Authority for such details;

(iv) Within 28 days of the date of this permission and 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 second and third 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**

Within 3 months of the date of this permission full details of soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The approved landscaping shall be implemented within the next planting season following the date of this permission. These details shall include:

- o a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species along the Tolney Lane frontage;

- o proposed finished ground levels or contours;

- o means of drainage;

- o minor artefacts and structures for example, refuse facilities, external lighting etc.

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).

## **08**

Within 3 months of the date of this permission, the access to the site shall be completed and surfaced in a bound material in accordance with approved plan reference SF-21-P01revC.

Reason: - To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general Highway safety.

## **09**

Within 3 months of the date of this permission, the visibility splays shown on drawing no. SF-21-P01revC shall be provided. The area within the visibility splays referred to in this condition shall thereafter for the life of the development be kept free of all obstructions, structures or erections exceeding 0.6 metres in height.

Reason: - To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network and in the interests of general Highway safety.

## **10**

Within 6 months of the date of this permission, ground levels on the site shall be reduced so that no part of the site is above 10.5m AOD (apart from those areas directly underneath the amenity blocks).

Reason:- In order to restore ground levels to reduce flood risks within the surrounding flood plain of the River Trent.

## **Informatives**

### **01**

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with 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**

The site will require a caravan licence and the applicants must comply with the site licence conditions. Please see the following link for further information [Caravan site licence | Newark & Sherwood District Council](#)

### **04**

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](http://www.gov.uk)))

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:-

[25/00573/S73 | Application for variation of condition 01 to use land as gypsy and traveller's site, erection of amenity blocks and associated works on a permanent basis and change occupiers names attached to planning permission 21/02613/FUL. | Land At Shannon Falls Tolney Lane Newark On Trent NG24 1DA](#)

Link to documents in connection with Planning Application 21/02613/FUL:-

[21/02613/FUL | Use of land as a Gypsy and Travellers' site, erection of amenity blocks and associated works for temporary 3 year period \(Retrospective\) Re-submission of 21/01900/FUL. | Land At Shannon Falls Tolney Lane Newark On Trent NG24 1GB](#)

