



Report to Planning Committee 3 July 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Craig Miles, Senior Planner x5865

Report Summary			
Application No.	24/01878/FUL		
Proposal	Proposed Retail Unit with associated parking		
Location	Land Adjacent to Tesco Express, Kirklington Road, Rainworth, NG21 0AE		
Applicant	Mr K Nijjar	Agent	Alan McGowan Architects
Web Link	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SG3SB3LBH5Z00		
Registered	07.11.2024	Target Date	20.12.2024 EoT: 12.05.2025
Recommendation	That planning permission is approved subject to the conditions at Section 10.0 of the report		

This application has been referred to the Planning Committee at the request of Councillor Penny, a Ward Member for Rainworth North & Rufford highlighting that there is a high level of public interest especially given that the proposals are similar to the former application submitted that went to Appeal and the council's decision was upheld.

1.0 The Site

- 1.1 The application site comprises a vacant, disused area of land of approximately 0.2 hectares located on the prominent corner of Kirklington Road and Southwell Road East, Rainworth.
- 1.2 The land was formerly part of the car park for the Robin Hood public house, which has since been converted into the adjacent Tesco Express supermarket. The site is L-shaped and wraps around the existing Tesco store, adjacent to the existing car park that serves the Tesco Express supermarket. It is otherwise bounded by Kirklington

Road to the south, Southwell Road East to the west, and two-storey residential properties to the north and east. The site is located within the built-up area of Rainworth and is in Flood Zone 1 (low probability of flooding).

2.0 Relevant Planning History

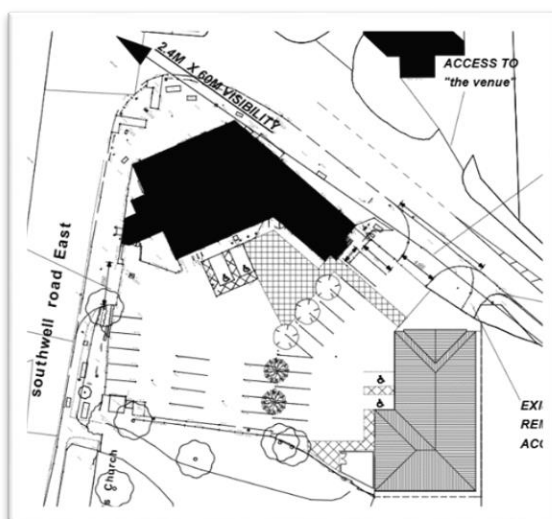
- 2.1. **22/01298/FUL** – A proposal for a similar retail unit was refused by the Planning Committee on 7th September 2023. The reason for refusal was that the proposed layout, with insufficient parking and no through-route, would likely cause conflicts between pedestrians and vehicles, representing an unsafe form of development.
- 2.2. **Appeal Ref: APP/B3030/W/23/3330745** – This refusal was subsequently dismissed at appeal by a Planning Inspector on 24th May 2024. The Inspector's main issue was "the effect of the development on highway safety". The Inspector concluded that the internal circulation of the car park was substandard and would result in significant harm to highway safety.
- 2.3. **20/02209/FULM** - Conversion of the first floor of the existing building into 4 apartments, comprising 1x3 bed unit, 2x2 bed units and 1x studio, plus the erection of a two storey apartment building to the east side of the existing building to provide a further 8 x 1 bed apartments. The proposed new building would include a hip roof with slightly elevated eaves and would be linked to the existing building by a double height glazed entrance. Application Withdrawn.
- 2.4. **19/02237/FUL** - Conversion of first floor space into 6 apartment units, 5 x one Beds and 1 x Studio, external entrance and fire exit staircase introduced on the facade facing the existing car park. Refused 30.04.2020.
- 2.5. **11/01795/FUL** – *Former Robin Hood Hotel building (ground floor)* External alterations to facilitate permitted change of use (A4 to A1). Approved 16.02.2012.

3.0 The Proposal

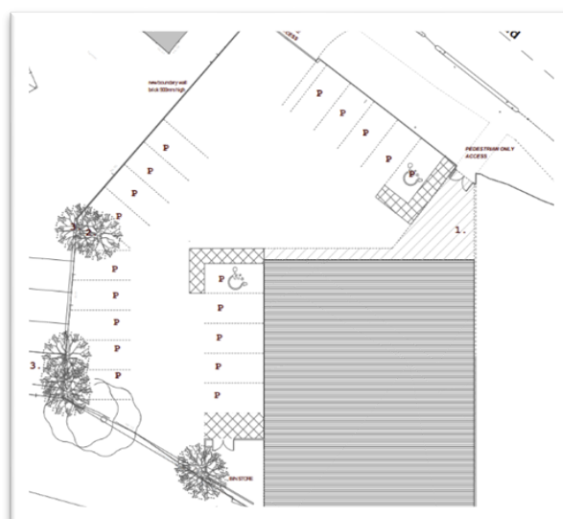
- 3.1 This is a full planning application for the erection of a single-storey retail unit with a gross internal floor area of 266 sq. m, together with the formation of a shared car park, associated access arrangements, and landscaping on underused brownfield land adjacent to the existing Tesco Express. The key elements of the proposal as detailed in the Design and Access Statement and supporting plans are as follows:
- 3.2 Retail Unit: The proposed building is a contemporary, single-storey, flat-roofed retail unit. The Design and Access Statement explains that the scale and character are intended to be in keeping with the adjacent Tesco Express store and the commercial nature of this prominent corner site. The elevations are to be finished in a simple palette of materials including brickwork and cladding, which is considered functional and appropriate for the proposed use and location.
- 3.3 Layout, Parking and Access: The proposal seeks to reconfigure the site to create a formal car park providing 19 spaces, including two disabled bays. The scheme would utilise a new and improved vehicular access from Kirklington Road. A dedicated

servicing bay is located to the rear of the proposed unit, and the application is supported by a Delivery Management Plan and vehicle tracking diagrams to demonstrate safe access for delivery and refuse vehicles.

- 3.4 **Landscaping and Biodiversity:** The scheme includes a landscaping strategy to soften the appearance of the development. This includes the planting of seven new trees within the car park area and new boundary treatments, including a 900mm high brick wall along the public frontages. Further ecological enhancements, including the provision of swift nest boxes on the new building, are also proposed.
- 3.5 The application is supported by a comprehensive suite of documents including a Design and Access Statement, a Flood Risk Assessment, an Arboricultural Impact Assessment, a Preliminary Ecological Appraisal, a Biodiversity Net Gain report, and a detailed Highways Report. The proposed layout is shown below side by side alongside the previously refused development:



Refused development (22/01298/FUL)



Proposed development

4.0 **Public Advertisement Procedure**

- 4.1 The application has been advertised by way of a site notice. Neighbour notification letters have been sent regarding the original proposal and the amended proposals. In total 23 letters of representation have been received comprising 6 letters of objection, and 17 of support.

- 4.2 A Site visits undertaken on 12.12.2024 and 12.12.2024

5.0 **Planning Policy Framework**

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

The Development Plan

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

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Spatial Distribution of Growth
 Spatial Policy 9 – Sustainable Design
 Core Policy 8 – Retail & Town Centres
 Core Policy 12 – Biodiversity and Green Infrastructure
 MFAP1 – Mansfield Fringe Area

Allocations & Development Management DPD

Policy Ra/DC/1 – Rainworth District Centre Boundary
 Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy
 Policy DM5 – Design
 Policy DM7 – Biodiversity and Green Infrastructure
 Policy DM10 – Pollution and Hazardous Materials
 Policy DM11 – Retail and Town Centre Uses
 Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2024
 Planning Practice Guidance (online resource)
 National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
 Nottinghamshire Highway Design Guide –
<https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide>

The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and has been accepted for examination (November 2024). There are unresolved objections to amended versions of policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

6.0 Consultations and Representations

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

(a) Statutory Consultations

- 6.2. **NCC Highways Authority** –The Highway Authority initially submitted a holding objection to the proposal on 31st January 2025. The reasons for this objection included an insufficient number of parking spaces (19 proposed against a requirement for 23), concerns that the internal aisle widths could not safely accommodate the proposed layout, an unenforceable Delivery Management Plan, and the inclusion of security gates which would be detrimental to highway safety.
- 6.3. In response to these detailed concerns, the applicant submitted a Rebuttal Report in April 2025 which included amended plans showing an increased provision of 19 parking spaces, and detailed swept-path analysis demonstrating that delivery and

refuse vehicles could safely manoeuvre within the site.

- 6.4. Following review of this new information, the Highway Authority issued a final response on 6th May 2025, formally withdrawing their objection. They are now satisfied that the proposal is acceptable in terms of highway safety, subject to conditions requiring the removal of the proposed gates and the implementation of a Traffic Regulation Order.

(b) Parish Council

- 6.5. **Rainworth Parish Council:** The Parish Council objects to the application. Their letter dated 14th January 2025 raises the following key concerns:
- 6.6. Highway Safety: They believe the access and egress are unsuitable and pose a "great risk" to highway users and pedestrians, particularly children using the nearby play area and Youth Club.
- 6.7. Traffic Data: The validity of the applicant's traffic data is questioned, suggesting it is from other locations and may not accurately reflect conditions in Rainworth.
- 6.8. Internal Site Safety: They maintain concerns regarding conflict between vehicles and pedestrians within the site, and the safety of reversing from two specific parking bays adjacent to the bin store.
- 6.9. Deliveries: They are concerned about potential clashes between delivery vehicles for the new unit and the existing Tesco, and state that the swept path analysis for delivery lorries "doesn't work".

(c) Non-Statutory Consultation

- 6.10. **NSDC Ecology Officer:** Following initial concerns regarding the Biodiversity Net Gain (BNG) assessment, the applicant submitted an updated Preliminary Ecological Appraisal and BNG Report in April 2025. In a response dated 19th May 2025, the Council's Ecology Officer confirmed that they are now satisfied that the proposals will deliver a measurable 20.59% net gain in habitat units and a 100% net gain in hedgerow units, which exceeds the statutory 10% requirement. They therefore raise no objection, subject to a condition securing the implementation of the associated Habitat Management Plan for a period of 30 years.

(d) Representations

- 6.11. Following public notification of the application, a total of 23 representations have been received. Of these, 6 are in objection to the proposal and 17 are in support.
- 6.12. In terms of the objections, the key issues raised in the letters of objection are summarised as follows:
- 6.13. Highway and Pedestrian Safety: This is the primary concern. Objectors state that the access is on a dangerous and overly congested junction, close to traffic lights. They believe the proposal will increase hazards for pedestrians, particularly children using

the nearby schools, play area, and youth club.

- 6.14. Traffic and Parking: It is argued that the existing car park is already inadequate and causes traffic to queue on the main road. Objectors believe the proposal will exacerbate congestion and that the number of proposed parking spaces is below the required standard.
- 6.15. Deliveries: Concerns are raised that delivery lorries for the existing Tesco already cause a hazard and that an additional retail unit will increase this problem.
- 6.16. Need for the Development: Some objectors feel there are already enough shops in the village.
- 6.17. Previous Refusal: The objection from the Ward Councillor notes that the application was previously dismissed at appeal and suggests the new proposal does not address the original concerns (note: this comment was made prior to the Highway Authority withdrawing its objection to the amended plans).
- 6.18. The representations in support of the application raise the following points:
- 6.19. Need and Affordability: This is the most common theme. Supporters state the store would be a "great asset for Rainworth" and would provide "quality affordable produce for struggling family[s]" and the elderly, arguing that existing shops in the village are expensive.
- 6.20. Traffic and Parking Context: Several supporters argue that traffic and parking issues already exist at other locations in the village and that this proposal would be no worse. It is suggested that many customers would be local pedestrians. One resident provides a detailed counterargument, stating that there is no accident data to prove the junction is more dangerous than other areas in the village where irresponsible parking is unchallenged.
- 6.21. Economic and Community Benefit: The proposal is welcomed for providing jobs and competition. One resident noted that they are a pensioner who "would gladly like to use a herons food shop on my doorstep". Another lifelong resident notes it would benefit the many residents who do not have cars.

7.0 Comments of the Business Manager – Planning Development / Appraisal

- 7.1. The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

7.2. The following matters have been identified as key issues:

- The Principle
- Housing Need, Mix and Density
- Landscaping, Trees and Public Open Space
- Impact on Ecology
- Design and Character
- Residential Amenity
- Off Street Parking Provision
- Drainage and Flood Risk

7.3. These matters shall be discussed in turn. However, before doing so, preliminary matters need to be dealt with first as follows.

Principle of Development

7.4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

7.5. The site is located within the defined built-up area of Rainworth. Spatial Policy 1 of the Amended Core Strategy identifies Rainworth as a Service Centre, which is a focus for housing and employment growth in the District. The planned growth for the village is expected to increase demand for local services and facilities, such as the retail unit proposed, to meet the community's day-to-day needs.

7.6. Crucially, the site also lies within the District Centre Boundary as defined by the Allocations and Development Management DPD. Both Core Policy 8 of the Core Strategy and Policy DM11 of the Allocations DPD support new and enhanced retail provision within existing centres. This reflects the 'town centre first' approach advocated by national policy. As the proposal is for a new retail unit within a defined centre, it complies with this core principle. Because the site is located within a defined centre, there is no policy requirement for the applicant to undertake a sequential test to assess alternative sites or to provide a retail impact assessment.

7.7. Furthermore, the principle of a retail unit on this site has already been robustly tested. In dismissing the previous appeal, the Planning Inspector explicitly stated that the proposal "would accord with the development plan in a number of respects, including the provision of retail and employment within settlements". The appeal was dismissed solely on highway safety grounds.

7.8. Therefore, the proposal to bring a vacant, brownfield site within a defined District Centre back into active economic use is considered acceptable in principle and is strongly supported by the policies of the Development Plan.

Design and Layout

7.9. Core Policy 9 'Sustainable Design' of the Amended Core Strategy requires new development proposals to, amongst other things, "achieve a high standard of

sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments". In accordance with Core Policy 9, all proposals for new development are assessed with reference to the design criteria outlined in Policy DM5 'Design' of the Allocation and Development Management DPD.

- 7.10. The application site is a vacant and disused area of land, formerly part of the Robin Hood public house car park. For a number of years, it has been fenced off and has become unkempt, which has a negative impact on the visual amenity of this prominent corner location within Rainworth.
- 7.11. This new proposal seeks to address the design and safety failings of the previously dismissed scheme. The proposed building is a contemporary, single-storey, flat-roofed retail unit. The Design and Access Statement explains that the scale and character are intended to be in keeping with the adjacent Tesco Express store and the commercial nature of the junction.
- 7.12. The layout of the car park and pedestrian routes has been significantly amended. The new layout provides a formal through-route for vehicles between Kirklington Road and Southwell Road East and includes clearly defined pedestrian footways leading from the public highway to the entrances of both the new unit and the existing Tesco store. This provides a much safer and more legible environment for pedestrians than the previously refused scheme. The proposal also incorporates new landscaping to soften the development's appearance, including the planting of seven new trees within the car park area and a new 900mm high brick wall to the site frontages.
- 7.13. Notwithstanding the submitted details, it is considered appropriate, should permission be granted, to impose conditions requiring final details of all external facing materials to be submitted to and approved in writing by the Local Planning Authority to ensure the building takes the form and quality envisaged. Subject to such conditions, the proposed development would be successfully assimilated with the site and surrounding area, and sensitively redevelop a vacant and prominent site within the village.
- 7.14. Overall, the proposed development would accord with the relevant provisions of Core Policy 9 and Policy DM5 of the DPD and is considered acceptable in this regard.

Residential Amenity

- 7.15. Policy DM5 of the Allocations & Development Management DPD requires development proposals to have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. The NPPF also requires that development should mitigate and reduce to a minimum potential adverse impacts resulting from noise.
- 7.16. The application site is located on a corner plot, with the nearest residential properties located to the north and east. However, there is a significant separation distance between the proposed retail unit itself and these dwellings. This distance, combined with the existing commercial character of the adjacent Tesco store and the ambient

noise from the busy road junction, means the development is unlikely to result in an unacceptable loss of amenity through noise and disturbance.

- 7.17. The proposed opening hours for a new retail unit of this type would typically fall comfortably within the existing opening hours of the adjacent Tesco Express. The proposed hours would be 08.00am to 08.00pm Monday to Saturday, and 09:00am to 4:00pm on Sundays and Bank Holidays. Therefore, the new unit will not introduce new activity at unsociable hours. To further protect the amenity of residents, a condition can be imposed to control the hours of deliveries.
- 7.18. Concerns were raised by Rainworth Parish Council and local residents regarding the safety of pedestrians, particularly young children using the nearby facilities, due to vehicle movements in and out of the site. The layout for this new application has been fundamentally redesigned to address these concerns. The provision of a formal through-route for vehicles and clearly defined pedestrian footways from the public highway to the store entrances creates a much safer and more legible environment than the previously refused scheme. The Highway Authority is now satisfied that the revised layout is acceptable in terms of access and road safety.
- 7.19. In summary, given the separation distances and existing commercial context, the proposal is not considered to result in any significant adverse impact on residential amenity. The revised layout has addressed previous safety concerns. Subject to a condition controlling delivery hours, the proposal is considered to comply with the aims of Policy DM5.

Impact on Highway Safety, Parking and Access

- 7.20. Spatial Policy 7 of the Amended Core Strategy seeks to ensure that development proposals are appropriate for the highway network and do not adversely affect safety, while Policy DM5 of the Allocations & Development Management DPD requires the provision of safe access and appropriate parking provision. At a national level, the NPPF advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.21. Spatial Policy 7 of the Amended Core Strategy seeks to ensure development proposals are appropriate for the highway network and do not adversely affect safety. Policy DM5 of the Allocations & Development Management DPD requires safe access and appropriate parking provision. The NPPF advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or severe residual cumulative impacts.
- 7.22. This matter is the key determining issue for the application. The previous, similar proposal on this site (ref: 22/01298/FUL) was refused by the Planning Committee and subsequently dismissed at appeal solely on the grounds of highway and pedestrian safety. It is therefore essential to assess how this new application overcomes the specific failings identified by the Planning Inspector.
- 7.23. As a reminder, the Planning Inspector's decision from May 2024 clearly outlines the reasons for dismissing the previous appeal. The main issue was *"the effect of the*

development on highway safety, with particular regard to parking, and pedestrian and vehicle movements". The Inspector's key findings were:

- a. Internal Layout and Circulation: The previous dead-end car park layout was found to be "substandard". The Inspector concluded that the lack of a through-route would lead to "conflict between vehicles trying to enter and leave parking spaces, and those circulating or queuing to leave the site" and would be "detrimental to highway safety".
 - b. Pedestrian Safety: The Inspector was not satisfied that the previous layout provided a safe environment for pedestrians, who would have had to navigate through areas where cars were manoeuvring and reversing with no defined, safe route to the store entrances.
 - c. Parking Shortfall: The previous proposal for 26 spaces was deemed a "significant shortfall" against the Council's standards, with the Inspector concerned this would lead to vehicles queuing on the highway, causing obstruction.
- 7.24. The Inspector concluded that these factors would result in "significant harm" to highway safety, which was contrary to the development plan and not outweighed by the benefits of the scheme. This revised application has been specifically redesigned to address the reasons for the appeal dismissal.
- 7.25. In terms of access and internal layout, the new layout would provide a space for vehicles to enter the site from Kirklington Road safely circulate through the car park, and exit onto Kirklington Road (or vice-versa). This fundamental change addresses the Inspector's concern regarding the need for dangerous reversing manoeuvres.
- 7.26. In terms of Delivery and Service Vehicles, the applicant has submitted further information including detailed vehicle tracking drawings for various large vehicles, including a delivery lorry and a refuse truck. These plans demonstrated that an HGV vehicle can safely enter the site from Kirklington Road, that it can manoeuvre into the dedicated servicing bay at the rear of the new unit without conflicting with the proposed parking bays and crucially, that the vehicle can then turn around on-site and exit in a forward gear onto Kirklington Road.
- 7.27. This was a critical improvement, as it proved that large vehicles would not need to undertake dangerous reversing manoeuvres onto or off the public highway, which was a key safety concern with the previously dismissed appeal.
- 7.28. An updated Delivery Management Plan was also provided, setting out a clear framework for how servicing would be managed. This included protocols such as requirements that all deliveries taking place outside of the store's opening hours to avoid conflict with customers in the car park, a requirement for all vehicle manoeuvres on site being supervised by a trained banksman; protocols for quiet operation to protect the amenity of nearby residents, such as switching off refrigeration units when stationary and not slamming vehicle doors and a formal complaints procedure to be managed by the store manager.

- 7.29. This new technical evidence was reviewed by the Highway Authority and was sufficient to resolve their safety concerns, contributing to the withdrawal of their objection.
- 7.30. In respect of parking provision, it is proposed that 19 parking off street car parking spaces be formed within the application site (that includes 2 disabled spaces). The Highway Authority highlighted in their initial response, that would be below the LHA's technical guidance that requires 23 spaces.
- 7.31. The applicant's transport consultant used is an analysis of the TRICS (Trip Rate Information Computer System) database which highlighted that for a 'Food Discount Store' of this size, the 85th percentile parking accumulation (which represents the likely peak demand for spaces at the busiest time) would only result in a need for 12 off-street car parking spaces, noting that the proposals are for a smaller retail unit than previously proposed. Based on this data, the applicant concludes that providing 19 spaces is "more than sufficient to accommodate the likely demand" and that the 23 spaces required by the technical guidance would not be necessary in this specific instance.
- 7.32. Essentially, the applicant argues that the council's standard is a blanket requirement that overestimates the actual parking demand for this specific type of retail operation, and that their proposal is based on more specific, evidence-based demand forecasting.
- 7.33. In respect of pedestrian safety, the revised layout now incorporates clearly defined pedestrian footways from the public pavement on Kirklington Road to the store entrances that provides a safe, segregated route for pedestrians that was missing from the previous scheme and directly addresses the concerns raised by objectors and the Inspector.
- 7.34. As a result of these comprehensive design changes, the statutory technical consultee, the Nottinghamshire Highway Authority, has formally withdrawn its objection to the proposals and are now satisfied that the revised scheme provides for a safe and acceptable access and parking arrangement for all users, subject to conditions to include:
- a. Access Construction Details: A condition requiring the submission and approval of detailed engineering drawings for the new access works on Kirklington Road before development starts, to ensure they are built to an appropriate standard.
 - b. No Gates: An explicit condition stating that no gates are to be erected across the vehicular accesses, as this would be detrimental to highway safety.
 - c. Parking and Turning Areas: A condition to ensure all parking and manoeuvring areas are surfaced in a hard, bound material (not loose gravel) before the store opens, to prevent loose material from being deposited on the public highway.
 - d. Visibility Splays: A requirement to provide and permanently maintain clear visibility splays at the site accesses, which must be kept clear of any obstruction above 600mm.

- e. Traffic Regulation Order (TRO): A condition requiring the applicant to make a formal application for a Traffic Regulation Order to manage and restrict obstructive on-street parking before the store is occupied.
 - f. Construction Traffic Management Plan (CTMP): A pre-commencement condition requiring the submission and approval of a detailed CTMP to manage all aspects of construction, including operative parking, loading/unloading areas, storage, wheel washing, and vehicle routing, to minimise disruption and danger to the public highway.
- 7.35. In these circumstances, and noting the representations made against the proposed development, it is acknowledged that the applicant has comprehensively redesigned the scheme to directly address and resolve each of the specific safety failings identified by the Planning Inspector in the dismissed appeal. This is demonstrated by the technical evidence submitted and, crucially, is confirmed by the withdrawal of the Highway Authority's objection. It is therefore concluded that the proposal now provides a safe and acceptable arrangement and accords with Spatial Policy 7, Policy DM5, and the principles of the NPPF, subject to the range of restrictive conditions required by the Highway Authority.

Landscaping and Trees

- 7.36. Core Policy 12 of the Amended Core Strategy DPD seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the Allocations & Development Management DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. The NPPF also requires planning decisions to minimise impacts and provide net gains for biodiversity.
- 7.37. The application is supported by an Arboricultural Impact Assessment (AIA), Method Statement and Tree Protection Plan prepared by RammSanderson dated August 2024.
- 7.38. The AIA identifies that the proposal will require the removal of fifteen individual trees and six groups of trees to facilitate the development. The report confirms that the majority of these are of low quality (Category C) or are unsuitable for retention (Category U). As such, the proposal will result in a low to moderate reduction in amenity value on the site. To compensate for this loss, the submitted landscaping plan shows the provision of seven new trees to be planted within the car park and along the site boundaries, which will soften the appearance of the development.
- 7.39. Based on the information within the submitted AIA, it is considered that the impact on trees is acceptable, subject to conditions. The AIA provides a detailed Tree Protection Plan and Method Statement to ensure that the trees identified for retention are protected during construction.
- 7.40. It is considered appropriate, should permission be granted, to impose conditions requiring the development to be carried out in strict accordance with the approved tree protection measures, and to secure full details of the new tree planting, including species and a long-term maintenance plan. Subject to these conditions, the proposed

development would meet the relevant aims of Core Policy 12 and Policy DM5 of the DPD and is therefore acceptable in this regard.

Ecology and Biodiversity Net Gain

- 7.41. Core Policy 12 of the Core Strategy seeks to conserve and enhance biodiversity, and Policy DM7 requires development to be supported by up-to-date ecological information. Furthermore, the proposed development triggers the biodiversity net gain (BNG) requirements set out in the Environment Act 2021, which mandates a minimum 10% net gain in biodiversity for new developments.
- 7.42. To assess these matters, the applicant has submitted a Preliminary Ecological Appraisal Report (PEA) and a Biodiversity Net Gain Report, both prepared by Elton Ecology and dated April 2025. The PEA confirms that the site is of low existing ecological value, comprising mainly dense bramble scrub and areas of sealed hardstanding. No significant ecological features, such as priority or irreplaceable habitats, were identified within the site boundary. The development will result in the loss of the majority of this existing scrub habitat.
- 7.43. To compensate for this habitat loss and achieve the required biodiversity net gain, the following on-site enhancements are proposed:
- The planting of seven new trees (*Pinus Pinea*) within the car park and along the site boundaries.
 - The creation of new native shrub and hedgerow planting areas.
 - The provision of integrated swift nest boxes on the eastern elevation of the new building to provide a specific enhancement for this species.
- 7.44. The proposed development triggers the Biodiversity Net Gain (BNG) requirements set out in the Environment Act 2021, which mandates a 10% net gain in biodiversity for new developments. In terms of providing Biodiversity Net Gain (as set out in Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended), a calculation using the statutory Biodiversity Metric has been provided to demonstrate that the scheme achieves at least a 10% gain. The submitted Biodiversity Metric calculation tool was used to assess the pre-development and post-development biodiversity units. The submitted assessment indicates that the proposed enhancements would result in a +20.59% net gain in habitat units and a +100% net gain in hedgerow units. This significantly exceeds the statutory requirement.
- 7.45. The Biodiversity Net Gain is achieved by removing the existing low-value habitats on site and replacing them with a variety of new habitats and features that are of a higher value for wildlife.
- 7.46. The Preliminary Ecological Appraisal Report identifies the existing habitats as primarily: (a) Dense Bramble Scrub: An area of unmanaged scrubland; (b) Sealed Hardstanding: Disused tarmac areas from the former car park, and (c) Lowland Mixed

Deciduous Woodland: A small area of self-seeded trees. These habitats are assessed as being of low ecological value and condition.

- 7.47. To compensate for the loss of the existing habitat and deliver a net gain, the following specific enhancements are proposed on the site plans:
- New Tree Planting: The proposal includes the planting of seven new trees (species: Pinus Pinea) within the reconfigured car park and along the site boundaries. This introduces new canopy cover and long-term habitat structure to the site.
 - New Hedgerow and Shrub Planting: The landscaping scheme includes the creation of new native shrub planting areas and the planting of a new hedgerow, which provides a valuable corridor and nesting/foraging resource for wildlife.
 - Integrated Swift Boxes: The plans explicitly show the provision of integrated "Shwegler" swift nest boxes to be installed on the eastern elevation of the new retail building. This provides a specific, targeted enhancement for a priority bird species.
- 7.48. It is the combination of creating these new, higher-value habitats (trees, shrubs, hedgerows) and adding specific features for wildlife (swift boxes) that results in the calculated +20.59% net gain in habitat units and +100% net gain in hedgerow units, as verified by the Council's Ecology Officer.
- 7.49. The Council's Biodiversity and Ecology Officer has reviewed the submitted reports. Following initial concerns regarding the baseline habitat classifications in the original submission, the officer has confirmed in their final response that the revised reports and BNG calculations are now acceptable. The officer is satisfied that the development will deliver the required Biodiversity Net Gain, subject to the enhancements being secured and managed long-term. To ensure this, they recommend a condition be imposed requiring the development to be carried out in strict accordance with an approved Habitat Management Plan (HMP) for a minimum of 30 years.
- 7.50. In conclusion, the application has been supported by a detailed ecological assessment. The proposal will deliver a significant biodiversity net gain of over 20%, exceeding the statutory minimum. The Council's Ecology Officer has raised no objection, subject to a condition securing the long-term implementation and management of the on-site habitat enhancements. The proposal is therefore considered to be acceptable and accords with the aims of Core Policy 12 and the Environment Act 2021.
- 7.51. An Agreement (through Section 106 of the Town and Country Planning Act 1990) would be required to ensure future monitoring of on-site enhancements. On this basis, it is considered that the statutory biodiversity gain condition is capable of being discharged.

Flood Risk and Drainage

- 7.52. The application site is located within Flood Zone 1, as shown on the Environment Agency's Flood Map for Planning and is therefore at low risk of fluvial flooding.

- 7.53. The proposal involves the erection of a building on an existing area of hardstanding and would result in no significant increase in surface water run-off. Condition 07 requires all new hard surfaces to be constructed with provision to prevent the discharge of surface water to the public highway (i.e., appropriate drainage) as well as being permeable. The application form indicates wastewater would be appropriately disposed of via the existing drainage system, which is considered an acceptable drainage solution for this site.

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 – LEG2526/9032

- 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 Planning Balance and Conclusion

- 9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2. The proposed development is considered acceptable in principle and would enhance retail provision and choice within the defined centre of Rainworth, bringing a vacant and untidy brownfield site back into beneficial economic use. The proposed new building has been appropriately sited and designed, and overall, the proposed development would have a positive visual impact on this prominent corner. Given the significant separation distance to the nearest residential properties and the existing commercial context, there would be no unacceptable adverse impacts on residential amenity in accordance with Policy DM5 of the Allocations & Development Management DPD.
- 9.3. The key consideration for this application was highway safety, which was the sole reason for the dismissal of the previous appeal. This revised application has comprehensively addressed the specific failings identified by the Planning Inspector through a redesigned layout which provides a safe access and agrees for customer and delivery vehicles, defined pedestrian walkways, and robust servicing arrangements. Following detailed review of this new information, the Nottinghamshire Highway Authority has formally withdrawn its objection and now considers the scheme acceptable on safety grounds. While a shortfall in parking provision against technical guidance remains, the Highway Authority is satisfied that this does not create an unacceptable or severe safety issue.

- 9.4. Furthermore, the proposal delivers a significant biodiversity net gain of over 20%, which is a tangible environmental benefit. The benefits of the scheme, including the regeneration of a vacant site and the resolution of the previous highway safety refusal, are considered to outweigh the concerns raised in objections.

Recommendation

- 9.5. It is recommended that this application be **APPROVED** subject to the applicant entering a Section 106 Agreement to secure the future monitoring of the on-site biodiversity net gain enhancements, together with the following conditions:

10.0 Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. No development, including any site clearance, shall take place until a detailed Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include, as a minimum, details of operative and visitor parking, loading/unloading areas, storage areas, wheel washing facilities, and the routing of construction vehicles. The development shall be carried out in strict accordance with the approved CTMP.

Reason: To minimise disruption and in the interests of public and highway safety during the construction phase, in accordance with the recommendations of the Highway Authority.

3. No part of the development hereby permitted shall be brought into use until the site access onto Kirklington Road, including visibility splays, footway and dropped kerb facilities, is provided in accordance with the details illustrated on drawing numbers 0013 Rev C and 0014 Rev E.

Reason: To ensure the works to the public highway are constructed to an appropriate and safe standard.

4. No development above ground level shall take place until details and samples of all external facing and roofing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a high-quality finish in the interests of visual amenity, in accordance with Policy DM5 of the Development Plan.

5. . No part of the development hereby permitted shall be brought into use until all on-site access, parking, and turning areas are surfaced in a hard bound material and are demarcated in accordance with details to be first submitted to and approved in writing

by the Local Planning Authority. The access/driveway/parking/turning areas shall not be used for any purpose other than parking/turning/loading/unloading of vehicles. The surfaced areas and demarcations shall then be maintained for the life of the development.

Reason: To ensure the development is constructed to a safe standard and to reduce the possibility of deleterious material being deposited on the public highway.

6. The development hereby permitted shall not be brought into use until a binding application has been made for the introduction of a Traffic Regulation Order to restrict obstructive car parking in the vicinity of the site, as required by the Highway Authority.

Reason: In the interests of highway safety.

7. The development hereby permitted shall be carried out in complete accordance with the approved plans and documents, that include:

Drawing reference number: 3033.19.L 01 Location Plan

Drawing reference number: 3033.19.2010- D Site Plan

Drawing reference number: 3033.19.2110-P2 GF Plan

Drawing reference number: 3033.19.2121-P2 FF and SF Plan

Drawing reference number: 3033.19.2130-P1 Roof Plan

Drawing reference number: 3033.19.2140-P3 Elevations

Reason: For the avoidance of doubt and to ensure the development is carried out in accordance with the approved plans.

8. The development shall be carried out in strict accordance with the measures and the Habitat Management Plan detailed in the Biodiversity Net Gain Report (Elton Ecology, April 2025) to secure the delivery of the 20.59% biodiversity net gain. The approved habitats shall be created, managed and maintained for a period of not less than 30 years from the first operational use of the development.

Reason: To ensure the development delivers the promised ecological enhancements and achieves a net gain for biodiversity in accordance with Core Policy 12 and the Environment Act 2021.

9. All soft landscaping shall be carried out in the first planting season following the first opening of the store. Any trees or plants which within a period of five years die or are removed shall be replaced in the next planting season with others of similar size and species. All retained trees shall be protected during construction in accordance with the approved Arboricultural Impact Assessment and Tree Protection Plan.

Reason: To ensure the landscaping scheme is implemented and established and that existing trees are protected, in the interests of visual amenity and biodiversity.

10. Notwithstanding the details on the submitted plans, no gates shall be erected or installed across either of the vehicular accesses.

Reason: In the interests of highway safety, to prevent vehicles queuing on the public highway.

- 11.** The visibility splays at the site accesses shall be provided in accordance with the approved plans before the development is brought into use and shall thereafter be kept free of all obstructions above 600mm for the lifetime of the development.

Reason: In the interests of highway safety.

- 12.** No deliveries shall be taken at or dispatched from the site outside the hours of 07:00 to 21:00 Monday to Saturday and 09:00 to 18:00 on Sundays and Bank Holidays.

Reason: To protect the amenity of nearby residential properties in accordance with Policy DM5.

- 13.** The hours of use shall for the development hereby approved be limited to between the hours would be 08.00am to 08.00pm Monday to Saturday, and 09:00am to 4:00pm on Sundays and Bank Holidays.

Reason: To define the permission and limit the hours of operation to those applied for and in the interested of protecting neighbouring amenity

- 14.** No development shall commence until a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 relating to the land subject of this consent has been entered into and completed by all parties with an interest in the land and has been lodged with the Council. The said obligation is to secure Biodiversity Net Gain monitoring.

Reason: In order to secure the necessary contribution to mitigate the impacts of the development in the interests of achieving a sustainable development.

- 15.** The gross floor area of the proposed store shall be limited to no more than 266 sq m.

Reason: To ensure that adequate car parking provision can be provided within the site in accordance with the minimum requirements stipulated in the Nottinghamshire Highway Design Guide in the interest of highway safety.

- 16.** No part of the development hereby permitted shall be brought into use until provision has been made within the application site for secure, covered cycle parking, secure cycle equipment storage, and electric vehicle charging facilities in accordance with details to be first submitted Page 4 of 5 to and approved in writing by the Local Planning Authority. The approved facilities shall not thereafter be used for any other purpose and shall be maintained for the life of the development. Reason: In the interest of furthering travel by sustainable modes.

- 17.** Notwithstanding the submitted details, no part of the development shall be brought into use until a delivery and servicing management plan (the Plan) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include a timetable for implementation and an enforcement mechanism. The Plan shall be

implemented in accordance with the timetable set out in the plan unless otherwise agreed in writing by the Local Planning Authority. The approved Plan shall operate for the life of the development.

Reason: In the interest of highway safety

Note to Applicant

01

The development granted by this notice must not begin unless:

- a) A Biodiversity Gain Plan has been submitted to the planning authority, and
- b) The planning authority has approved the plan.

Details about how to comply with the statutory condition are set out below.

Biodiversity Net Gain - 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

- b) 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))

Based on the information available, this permission is considered by NSDC to require the approval of a biodiversity gain plan before development is begun, because none of the statutory exemptions or transitional arrangements are considered to apply.

To discharge the requirements of this condition, it is likely that the applicant and / or interested parties will be required to enter into a s106 agreement for onsite and / or off-site gains, and biodiversity credits together with requirements for costs for future monitoring of enhancements.

02

The applicant's attention is drawn to the comments of the Nottinghamshire Highway Authority, dated 6th May 2025, which states:

- The development makes it necessary to alter a vehicular crossing on Kirklington Road. These works shall be constructed to the satisfaction of the Highway Authority at the developer's cost. The developer is required to contact the Highway Authority's agent, VIA East Midlands (Tel. 0300 500 8080), to arrange for these works to be designed/approved and implemented under a Section 278 Agreement of the Highways Act 1980.
- Planning consent is not consent to work on or adjacent to the public highway. Prior to any works commencing on site, the developer must contact Highways Network Management at licences@viaem.co.uk to ensure all necessary licences and permissions are in place.
- It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud or other deleterious material on the public highway. The applicant/developer must ensure that nothing is deposited on the highway from the site.

03

For the purposes of the Biodiversity Net Gain condition, the 'completion of development' and therefore the start of the 30-year management period is defined as the first operational use of the approved retail unit.

04

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

05

The applicant is advised that this planning permission may be subject to the Community Infrastructure Levy (CIL). A CIL Liability Notice will be issued separately, detailing the amount payable and the process for payment.

06

You are advised that you may require Building Regulations approval in addition to the planning permission you have obtained. Any amendments to the permitted scheme that may be necessary to comply with the Building Regulations must also be approved in writing by the Local Planning Authority.

BACKGROUND PAPERS

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

Government Act 1972.

Application case file.

Committee Plan - 24/01878/FUL

