



Report to Planning Committee 15 January 2026

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Simon Betts, Planner (Major Projects)

#### Report Summary

<b>Application Number</b>	23/02274/OUTM		
<b>Proposal</b>	Outline Planning Application for up to 184 Dwellings (All Matters Reserved apart from Access)		
<b>Location</b>	Land On West Side of Newark Road Ollerton		
<b>Applicant</b>	Telereal (Caledonian) Ltd	<b>Agent</b>	Harris Lamb - Mr John Pearce
<b>Weblink</b>	<a href="#">23/02274/OUTM   Outline Planning Application for up to 184 Dwellings (All Matters Reserved apart from Access)   Land On West Side Of Newark Road Ollerton</a>		
<b>Registered</b>	4th January 2024	<b>Target Date</b>	4th April 2024 EOT agreed.
<b>Recommendation</b>	Approve subject to conditions and completion of Section 106 Agreement.		

**This application is being presented to Planning Committee due to referral by the local ward members, Councillor Brazier and Councillor Pringle. Both Members have raised concerns alongside the Town Council in relation to highways and impact on local character and appearance due to the scale of the development.**

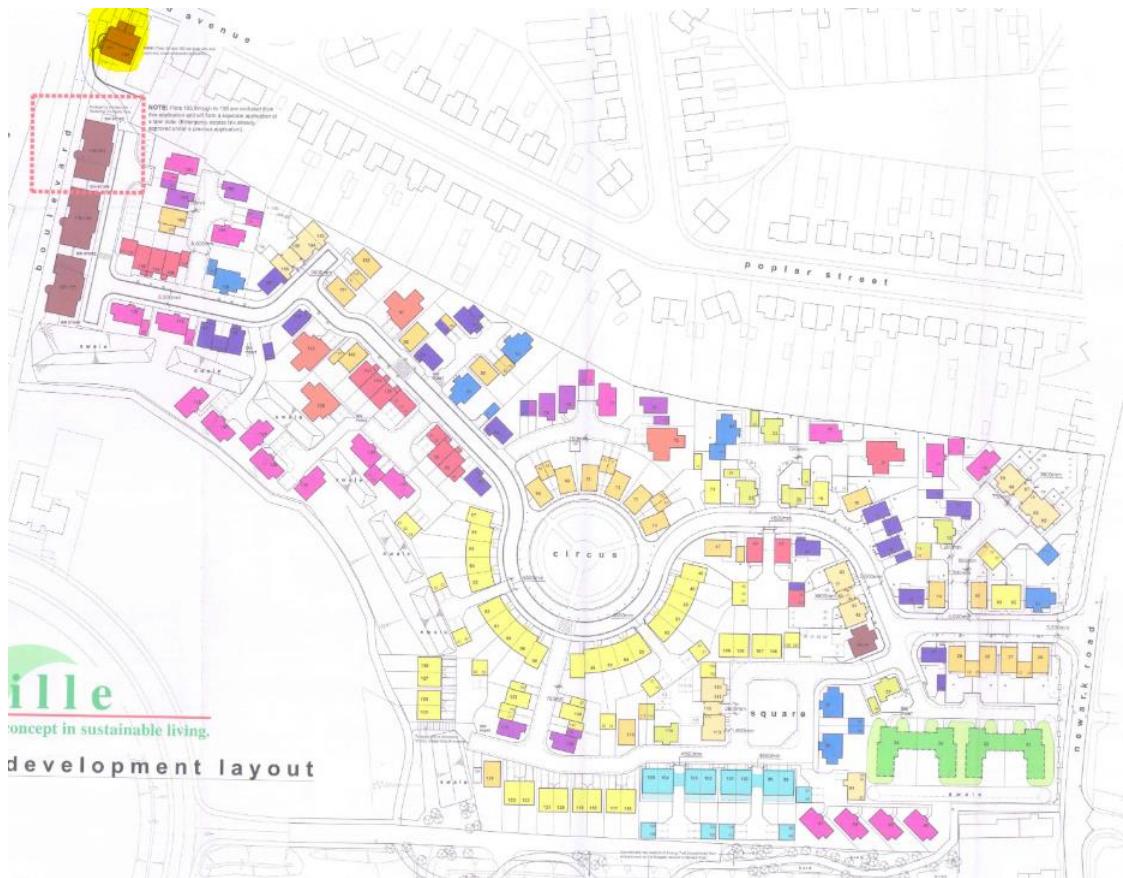
#### 1.0 The Site

1.1 The site comprises 5.64 Ha (approx.) of undulating semi natural grass land located to the west of Newark Road and containing a number of trees and vegetation. The site is currently vacant and has no active authorised use. The site is bounded by residential properties fronting Poplar Street to the north and a small pocket of 14 new residential properties to the north-eastern corner, centered around Lavender Close served by an access from Newark Road along Culpepper Avenue. To the south and south-west is the remainder of the Sherwood Energy Village with a mix of commercial buildings, offices and care home uses centered around Darwin Drive. The site is crossed by a number of footpaths, mostly informal though there is a tarmacked path (partly lit with lighting columns) that follows the curved line of the south-western boundary of the site and one that leads from this to the east. There is also a line of swales that follow the curved line of the south-western boundary.

- 1.2 The northern boundary of the site is defined by houses fronting Poplar Street, the eastern boundary is defined by Newark Road, the southern boundary is largely defined by a private road that leads from Darwin Drive and relatively new commercial development within an estate known as Sherwood Network Centre. The curved south-western common boundary is shared with a large care home complex and two storey office building. The western boundary of the site is defined by a public footpath, beyond which is the large white box building which forms the rear of Tesco supermarket.
- 1.3 The site is located within the defined urban boundary for Ollerton and Boughton and is identified on the proposals map within the Newark and Sherwood Allocations and Development Management DPD as being a 'Housing site with planning permission.' The site is situated within Flood Zone 1.
- 1.4 The site has limited policy and/or other environmental designations. As noted above, it is in Flood Zone 1 and there are no other specific environmental designations, although the site forms part of the historic Ollerton Colliery Site and therefore, contaminated land is a consideration, as referred to later in this report. Other than that, the site supports various trees and vegetation as already noted above.

## **2.0 Relevant Planning History**

- 2.1 The site benefits from a historical planning permission (05/02273/FULM) for the erection of 134 houses, 23 bungalows and 27 apartments (184 units). This was previously part implemented through the construction of the houses on Culpepper Avenue and Lavender Close, as is referred to in more detail below. An extract of the original layout from this permission (*03/1297/2.01 Rev H*) is provided below.



2.2 This original planning permission included an unusual planning condition (7) which sought to remove permission for 8 of the units stating as follows.

*'Notwithstanding the details shown on the submitted plans, Plots 185-193 (8 no. units) are hereby not approved and shall be the subject to a separate planning application. The Emergency Access Link/Pedestrian Footpath shown on the amended Site Plan - overall layout drawing number 03/1297/2.01 Rev H received 28 June 2006 is approved and forms part of the application.'*

2.3 As such, it is understood (as mentioned above) that 14 of the approved dwellings have been built out and occupied to the northeastern corner of the site (Culpepper Avenue and Lavender Close). Two houses that were originally included in this consent in the north-west corner of the site have been built out under a separate permission (highlighted yellow in the above plan extract). There is therefore currently an extant permission for a total of 170 units on the remainder of the site (Plots 185-193 were additional to the 184 dwellings approved in total).

2.4 It is further understood that the extant scheme did not require the provision of any affordable housing contribution. It appears that this was based on two factors at that time; firstly that the development would be an exemplar in sustainable design, built to high standards of environmental design (through the then BREEAM "Ecohomes" rating system) to seek to ensure reduced running costs for owners/occupants and these design benefits were proposed in lieu of affordable housing provision; and secondly the fact that the former

colliery site required significant remediation works to remove contamination on the ground and enable safe residential occupation.

2.5 It also appears that all other on-site and off-site open space requirements were provided as part of the scheme at the time consent was granted. Condition 21 of this planning permission states that no more than 50 houses shall be occupied until the children's play area, public open space and sports pitches have been provided on the overall Sherwood Energy Village and landscaped in accordance with Policies R4 and R5 of the Newark and Sherwood Local Plan 1999, unless otherwise agreed in writing by the Council. However, it would appear that the Unilateral Undertaking dated 7 November 2011 then sought to supersede part of this condition by confirming agreement for a financial contribution in lieu of on-site (sport pitches) open space provision to the sum of £220,000 which has previously been received by the Council.

2.6 The site was also subject to an EIA Screening Opinion as per (24/SCR/00002) which confirmed a negative Screening Opinion i.e. that the proposals did not trigger EIA Development.

### **3.0 The Proposal**

3.1 This application seeks outline planning permission for the construction of up to 184 dwellings, with all matters other than access reserved for future consideration. As such the submitted Framework Plan (Ref: SK01 Rev F) is for illustrative purposes only and those matters reserved for subsequent approval include appearance, layout, landscaping and scale.

3.2 Documents assessed in this appraisal include the following.

- Planning Statement.
- Design and Access Statement.
- Viability Assessment.
- Site location plan and associated Topographical Survey Plans.
- Framework Plan.
- Flood Risk Assessment and Drainage Strategy.
- Transport Assessment and Travel Plan.
- Arboricultural Assessment.
- Ecology Impact Assessment Report (Including various species-specific surveys).
- Landscape Strategy Report.
- Contaminated Land Assessment.

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

4.1 Occupiers of 86 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 26.4.24.

### **5.0 Policy Planning Framework**

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

Spatial Policy 1 - Settlement Hierarchy;  
Spatial Policy 2 - Spatial Distribution of Growth;  
Spatial Policy 5 – Delivering the Strategy;  
Spatial Policy 6 – Infrastructure for Growth;  
Spatial Policy 7 - Sustainable Transport;  
Core Policy 1 – Affordable Housing Provision;  
Core Policy 3 – Housing Mix, Type and Density;  
Core Policy 9 -Sustainable Design;  
Core Policy 10 – Climate Change;  
Core Policy 12 – Biodiversity and Green Infrastructure;  
Core Policy 13 – Landscape Character;  
Core Policy 14 – Historic Environment;  
ShAP2 – Role of Ollerton & Boughton.

**5.2 Allocations and Development Management DPD (2013)**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy;  
DM3 – Developer Contributions and Planning Obligations;  
DM5 – Design;  
DM7 – Biodiversity and Green Infrastructure;  
DM9 – Protecting and Enhancing the Historic Environment;  
DM10 – Pollution and Hazardous Substances;

DM12 – Presumption in Favour of Sustainable Development.

**5.3** The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage of preparation and the plan is subject to Main Modifications consultation. Policies DM3, DM5(b), DM10 are not subject to Main modifications and therefore, these policies can be afforded substantial weight, albeit they typically carry forward the thrust of the equivalent policies within the current ADMDPD.

**5.4** There are unresolved objections to amended versions of policies DM7, DM9 and DM12 emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

**5.5 Other Material Planning Considerations**

National Planning Policy Framework 2023;  
Planning Practice Guidance (online resource);  
National Design Guide - Planning practice guidance for beautiful, enduring, and successful places September 2019;  
Residential Cycle and Car Parking Standards & Design Guide SPD June 2021.

**6.0 Consultations and Representations**

- 6.1. Nottinghamshire County Council (Highways) – Original comments dated 30.1.24 objecting to the proposed development on the basis of insufficient information being made available. Following the provision of a Technical Note (March 2024) additional comments provided on 19.12.24 confirming no objections to the proposed development, recommending planning conditions in the event that planning permission is granted. The first of these conditions states that the residential development shall be limited to provide 184 dwellings, but this is considered superfluous, as permission is sought for up to 184 dwellings in any event and additional units beyond this would generate the need for a separate planning permission. In addition, NCC transport and Travel Services provided comments dated 18.12.24 providing a response to the Applicant's Technical Note and seeking to justify the position for bus stop provision/infrastructure (see the discussion of this below in the appraisal).
- 6.2. Nottinghamshire Lead Local Flood Authority – Original comments dated 13.2.24 objected on the grounds that the FRA was insufficient. Updated comments provided 27.2.24, confirming no objection to the proposed development, subject to a single condition requiring the provision of a detailed surface water drainage strategy.
- 6.3. Environment Agency – Original comments dated 12.2.24 objecting to the proposed development on the basis of insufficient information on impact of potential pollution on controlled waters. Comments made on 14.2.24 offering no new observations based on re-consultations undertaken. Comments on 6.3. 24 maintaining an objection to the proposed development, similar to previous concerns, despite the provision of further information. Following the provision of additional information, comments dated 27.3.24 confirming no objection to the proposed development, subject to conditions related to contaminated land.
- 6.4. Natural England – Comments dated 9.2.24, offering no objections to the proposed development, but making recommendations on the Landscape Strategy Plan and Soft Landscaping (see appraisal below in relation to these comments).
- 6.5. Active England – Comments dated 19.1.24, offering no objections to the proposed development and referring to the Standing Advice.
- 6.6. Ollerton Town Council – Object to the proposed development on the 6.2.24 on Highways Grounds, in line with (at that time) NCC Highways Objection.
- 6.7. NCC Rights Of Way – Comments made on the 18.1.25 offering no objection to the proposed development.
- 6.8. Coal Authority – Comments dated 11.1.24 offering no objection to the proposed development and confirming the proposed development lies outside of the high risk area.
- 6.9. NHS (Nottingham and Nottinghamshire) – Comments dated 10.1.24 offering no objections to the proposed development but seeking financial contributions via a Section 106 Agreement (see the below).
- 6.10. EHO (Contaminated Land and Noise) – Comments dated 11.1.24, offering no objection to the proposed development, but recommend full contaminated land planning condition, given historical use of the site. Similarly, no objection on noise grounds, but standard conditions relating to noise in respect of a CEMP and a 'suitable' noise condition relating to

existing business premises near to the site.

#### Representations/Non-Statutory Consultation

- 6.11. NSDC Tree and Landscape Officer – Comments dated 24.1.25 offering no objections to the proposed development but seeking further information. See response below on this topic area in the appraisal.
- 6.12. NCC Strategic Planning – Comments dated 31.1.24, summarising and/or referring to technical responses (e.g. LLFA) but seeking financial contributions in relation to both highways and education, so as to mitigate the impacts of the proposed development.
- 6.13. NSDC Ecology Team – Original comments dated 8.11.24 – No objections but commenting that the provision of OMH Habitat of Principal Importance in an offsite location would unlikely be achievable but note the ‘fallback’ position of the extant permission. Updated comments provided 1.7.25 , following the updating of the BNG Metric, presents a more accurate account of the baseline. Advice provided is that in the absence of off-site provision, proposals are considered non-compliant with NPPF and local planning policy considerations. In the event that planning is granted (taking account of the planning balance) planning conditions are recommended in relation to potential impacts on protected and priority species. Final comments dated 14.10.25 with recommended planning conditions.
- 6.14. NSDC Sports, Community Facilities and Events – Comments dated 18.3.24 - request off site community/sports provision contribution (see appraisal below).
- 6.15. Comments have been received from 14 third parties/local residents that can be summarised as follows:
  - Lack of infrastructure/facilities locally to support new housing.
  - Development on a former colliery site.
  - Impacts of traffic/highways and access considerations.
  - Housing mix.
  - Impact on wildlife
  - Impact on neighbour amenity.

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

- 7.1 The key issues are:

- Principle of development;
- Development Viability and Planning Obligations;
- Impact on Biodiversity (Including BNG);
- Impact on Neighbour Amenity;
- Impact on the Character and Appearance of the Area;
- Impact on Highway Safety;

- Housing Mix;
- Ground conditions;
- Flood Risk and Drainage.

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

7.3 Principle of Development

7.4 Spatial Policy 1 sets out the Settlement Hierarchy for the District, identifying Ollerton as a Service Centre. Whilst it lies below the Newark Urban Area as the main focus of housing and employment growth in the District over the Development Plan period, service centres play a supporting role in allowing development in the main built-up area as defined by the Urban Boundary.

7.5 Whilst not being an allocated site, the land is located within the defined settlement of Ollerton and is identified as a 'HoPP' on the proposals map for the ADMDPD i.e.. as an 'existing site with planning permission.'

7.6 Spatial Policy 2 notes that service centres will provide for 30% of the overall housing growth within the district and of this proportion, 30% will be provided within Ollerton and Boughton. Further aligned to this approach, is Policy DM1 of the ADMDPD, which notes that within the urban boundaries of service centres, proposals for new housing will be supported, appropriate to the size and location of the settlement and its status within the settlement hierarchy.

7.7 In respect of national planning policy Para.11a of the NPPF is also engaged in that the presumption in favour of sustainable development is engaged in that the application site constitutes vacant land in an existing urban area, with access to services and infrastructure that can best serve the proposed development.

7.8 It is also material to the consideration of the proposed development, that the site has an extant planning permission, for a similar number of units, which is capable of being implemented, (in the event that planning permission was not forthcoming). Albeit this 'fallback' position as described by the Applicant is discussed in more detail below, in the context of the viability position presented.

7.9 As such, the location of the proposed development is considered to be a suitable and sustainable location to support new housing, aligned to and consistent with the principal aims of the NPFF on delivering new housing and the strategic policies of the Amended CS

and ADMDPD as summarised above and weight is also afforded to the fact that the site benefits from an extant planning permission, that is capable of being implemented.

#### Development Viability and Planning Obligations

7.10 Spatial Policy 6 of the Core Strategy and Policy DM3 of the Allocations and Development Management DPD set out the approach for delivering the infrastructure necessary to support growth. This sits alongside the Community Infrastructure Levy, albeit this area is zero rated for CIL so is not relevant. More specifically, Spatial Policy 6 sets out that this includes strategic infrastructure (which in this case covers secondary education provision via CIL) and the mitigation of local infrastructure impacts. Policy DM3 notes that required infrastructure to support new development shall include a combination of CIL, planning obligations/developer contributions. Policy DM3 refers to the Developer Contributions SPD that provides the methodology for calculating the delivery of appropriate infrastructure.

7.11 The Developer Contributions and Planning Obligations Supplementary Planning Document (SPD) provides additional detail on the Council's policy for securing planning obligations from new developments and how this operates alongside the Community Infrastructure Levy (CIL). Part One of the SPD sets out the context for seeking planning obligations, which includes at paragraph 6.16 that '*The Council recognises that the application of planning policy targets should not introduce such a significant burden that development becomes economically unviable for appropriate development.*' Part two of the SPD sets out the contribution types that will typically be sought.

7.12 In respect of affordable housing provision, Core Policy 1 sets out that the council will require the provision of affordable housing as defined in national policy, seeking 30% provision on qualifying sites, although the policy also goes on to state that '*In circumstances where the viability of the scheme is in question, the developer will be required to demonstrate, to the satisfaction of the District Council, that this is the case. Viability will be assessed in accordance with Policy DM3 – Developer Contributions and Planning Obligations.*'

7.13 The Applicant set out at the point of submitting the application concerns around development viability, with particular regard to the delivery of affordable housing. Following the normal process and the guidance as set out in Core Policy 1, Policy DM3 and the Planning Obligations SPD, the applicant has prepared a viability submission, setting out the basis for their position. This submission has been subject to independent review and advice to NSDC from a specialist consultant. The independent advice received has confirmed that should the development be asked to deliver affordable housing in accordance with Core Policy 1 (in addition to the other planning obligations sought) the development would be in a financial deficit and therefore would be unviable.

7.14 The independent advice provided by AMK Planning confirmed in their updated report in November 2024 as follows:

*'In conclusion it is considered the scheme is not capable of providing any Affordable Housing provision, primarily due to the abnormal costs associated with the development of £3Million but can make a S106 contribution of £1,000,000 towards infrastructure against the policy target of £1,961,592.'*

7.15 Following the provision of this report and sharing its contents with the Applicant, extensive discussions have taken place. This resulted in a proposed without prejudice 'offer' by the Applicant in August 2025 which presented the following.

- A financial contribution of £800,000 to cover the S106 financial contributions, with delegated approval within the next 2 months.
- Any S106 financial contributions to be payable no sooner than 50% of the way through occupation.
- A 5-year permission, rather than 3.

7.16 This was considered too insufficient as a financial offer, based upon the independent viability advice provided. Moreover, a 5 year, rather than a 3 year implementation was not considered justifiable for a moderate scale development such as the one proposed and that combined with the suggestion to include a trigger point 50% of the way through completion, raised questions about the deliverability of the proposed development. Finally, it was also considered non-compliant with the preferred policy position, as guided by the Planning Obligations SPD and as referred to in the financial sums summarised in Table 2 below.

7.17 The approach that was sought was aligned with Part Two of the SPD which sets out the types of planning obligations that the council will seek and the policy basis for this. Part two sets out the following usual obligation requirements that will be sought:

- Affordable Housing
- Community Facilities
- Education Provision
- Health
- Libraries
- Open Space
- Transport (Excluding projects on the CIL list).

7.18 Accordingly, other than the provision of affordable housing, which as already confirmed would make the scheme unviable (and development viability is noted as a potential concern in Part One of the SPD, as already summarised above) contributions were sought in relation to all of the remaining topic areas as highlighted above, informed where necessary (e.g. Health, Transport) by consultation responses as summarised in Section 6 above.

7.19 Aligned to the Developer Contributions SPD, the Council have an Infrastructure Delivery Plan (IDP) that was last updated in September 2023. Part 5 of the IDP covers the Sherwood area and sets out an overall ambition to strengthen the role of Ollerton as a sustainable settlement for its residents, including through new and improved community infrastructure (education and healthcare) and securing the resolution of traffic and transport issues in and around the town.

7.20 In the case of the proposed development, it contributes positively to the aims of the IDP, in that it will provide contributions to a bus service/infrastructure, and a contribution towards local GP surgeries, which are currently operating at capacity. Furthermore, whilst there is no requirement for a contribution towards local primary schools (as they have a surplus of

spaces) and secondary school provision is funded via the central collection of CIL, a contribution will also be provided towards SEND.

7.21 Accordingly, this offer (as summarised in paragraph 7.13 above) was declined and a counter offer was proposed to ensure a position that was aligned more closely to a policy compliant position as discussed in more detail below. The original financial contribution request to the Applicant as presented in Table 1 below and noted in the Independent viability report, was based upon the policy requirements of NSDC and that as advised by NCC and the NHS and amounted to circa £1.9m.

Contribution Type	Requirement based on maximum quantum of 184 dwellings
<b>Affordable Housing</b>	30% on site equating to 55 Dwellings. ( <b>Not being provided, based on viability</b> ).
<b>Community Facilities</b>	£227,000
<b>Education- Secondary and SEND</b>	£972,880
<b>Health</b>	£180,688
<b>Libraries</b>	£6,480
<b>Open Space (children's play amenity and sports)</b>	£306,544
<b>Transport</b>	£268,000
<b>Total</b>	<b>£1,961,592.00</b>

**Table 1 – Original Financial Planning Obligations Sought**

7.22 Following further discussions with NCC, it was agreed that the more substantial secondary education contributions could not be reasonably be sought, based upon the fact that the site is located in a Zero CIL Charging area. In further advice provided NCC stated that:

*'Following our further discussions, I am emailing to confirm that the County Council is not seeking a secondary education contribution through the Section 106 Agreement for this proposal. Whilst this site is not eligible for the CIL, we recognise that CIL is collected and utilised on a district wide basis and will be available to support expansion of school places within Ollerton as necessary, as set out within the NSDC Infrastructure Funding Statement and therefore a planning obligation from this development is not required to make the proposal acceptable in planning terms. The County Council does however seek a contribution towards special education which is not covered under the CIL. Please refer to our letter dated 31st January 2024 for further details.'*

7.23 In addition, it was agreed that given (as noted at paragraph 2.5 of this report) that a previous sum of **£220,000** was paid to NSDC in November 2011 for the extant permission (that only delivered a fraction of the original housing numbers) which was based on the maximum number of dwellings permitted, a further contribution for offsite sports pitch provision could not be reasonably requested as part of the overall financial planning obligations package.

This has the effect of reducing the combined open space offsite provision sum by **£116,104.00** and this is reflected in the figures presented below within Table 2.

Contribution Type	Requirement based on maximum quantum of 184 dwellings
<b>Affordable Housing</b>	30% on site equating to 55 Dwellings. ( <b>Not being provided, based on viability</b> ).
<b>Community Facilities</b>	£254,668.88* (original sum was incorrect as shown in Table 1).
<b>Education- (SEND only)</b>	£95,050
<b>Health</b>	£180,688
<b>Libraries</b>	£6,480
<b>Open Space (children's play, amenity, with sports removed)</b>	£222,676.80
<b>Transport</b>	£268,000
<b>Total</b>	<b>£1,028,163.68</b>

**Table 2 – Revised Financial Planning Obligations Agreed**

7.24 As such, the Applicant has agreed in writing, on a without prejudice basis to the total financial contribution figure presented above in Table 2. Other than affordable housing (which is considered further below) the scheme is considered to be policy compliant, providing the necessary planning contributions that are reasonably necessary to mitigate the impacts of the proposed development, taking account of the other explanations provided above.

7.25 Turning to affordable housing, there is some direct conflict with the CS and Core Policy 1, with regard to the provision of affordable housing, the proposed development would ordinarily necessitate the provision of 30% affordable housing. However, Core Policy 1 also states that in considering 30% provision '*the cost of developing the site; and the impact of this on the viability of any proposed scheme. In circumstances where the viability of the scheme is in question, the developer will be required to demonstrate, to the satisfaction of the District Council, that this is the case.*' The policy also goes on to state that '*Viability will be assessed in accordance with Policy DM3 – Developer Contributions and Planning Obligations.*'

7.26 In that regard, the justification text associated with policy DM3 states at paragraph 7.6 that '*In facilitating the delivery of new development it will be necessary to ensure that new development is not made unviable because of infrastructure and planning obligation requirements. Central to this approach will be the Council, Developers and Infrastructure Providers working together to support the delivery of new development.*' A three-stage approach is recommended which includes establishing detailed infrastructure needs, viability issues and a negotiated solution.

7.27 Given the viability position presented by the Applicant an approach has been followed of securing independent advice on the Applicant's viability case and the results of this provides

very clear advice that securing affordable housing provision at any level would render the scheme unviable, but that if affordable housing was removed from the scheme, the scheme could deliver up to £1m pounds of financial contributions for other necessary obligations.

7.28 Overall, it is considered that the scheme is unable to afford all of the required infrastructure or commuted sums required to mitigate the schemes impacts, this has been demonstrated through a Viability Appraisal which has been independently appraised and found to be sound.

#### The Fallback Position

7.29 The Applicant has maintained throughout that a legitimate fallback position exists with the extant planning permission. This is judged to be a relevant material consideration in coming to a conclusion on development viability. Whilst it is difficult to conclude with certainty whether the extant permission would be built out if the current application was refused, on the basis of the lack of affordable housing, it is a risk to be considered.

7.30 It is considered that there are some doubts about whether this would occur on the basis that:

- Preparing a further outline planning application is a time and cost investment, which whilst providing an alternate option and flexibility, would only come forward if there was a level of doubt with the extant permission.
- The Applicant has sought more favourable/flexible terms such as increasing the length of time by which implementation would occur/reserved matters would be submitted.
- The whole purpose of the application is to provide for a different mix of housing that is seen as more commercially attractive in the current market.

7.31 Notwithstanding the above, even with some doubts about the likelihood of the fallback position being implemented, it remains a legitimate planning consideration, and it could nonetheless occur, particularly if a specialist housebuilder was to come forward that develops schemes that other developers may consider unviable or unattractive.

7.32 In addition, whilst there are some doubts about implementation as highlighted above, it is otherwise considered that the fallback position in this case represents a 'real prospect' as established by most recent case law<sup>1</sup> in that it is capable of occurring as a matter of fact.

7.33 The main betterment that will result between the extant permission (fallback position) and the current application relation is the planning obligations that can be secured as part of the overall financial sum as set out in Table 2 above. There are related benefits to biodiversity that will help to mitigate impacts during the construction and operational phases, though the imposition of planning conditions, as recommended by the Council's biodiversity officer and as referred to below.

7.34 Taking things into the overall planning balance, a new outline planning permission brings with it significant planning gain (in comparison to the fallback position), by virtue of the

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<sup>1</sup> [ac0155825cacivdiv5107.pdf](http://ac0155825cacivdiv5107.pdf)

agreed financial planning obligations of **£1,028,163.68** which is considered should be afforded substantial weight, particularly as the agreed sum is circa £28,000.00 more than the £1m figure that the Independent Viability advice suggests the scheme can sustain and covering off all remaining planning obligation requirements.

#### Impact on Biodiversity (including BNG)

7.35 The issue of BNG has also been considered within the context of the fallback position, as has been described above. The NSDC ecology team originally expressed concern regard the accuracy of the BNG metric, in how it recorded baseline habitat value, with particular regard to Open Mosaic Habitat (OMH), a habitat of Principal Importance. The update of the ecological assessment work is now considered to provide an accurate reflection of the impact of the proposed development. Notwithstanding this, concerns remain with the NSDC ecology team that without the provision of offsite replacement habitat (comprising 46.02 habitat units) to ensure a 'no net loss' scenario, conflict exists with both the NPPF and local plan policy, although it is acknowledged that this must be 'weighed in the balance' with other matters.

7.36 The starting point for the consideration of this issue is that the proposed development is not one (based on the timing of when the application was submitted) which triggers the need for mandatory BNG 10% provision. As such, this consideration does not form part of the onward decision-making process (the BNG Condition) and could not reasonably be requested in relation to the proposed development.

7.37 It is then relevant to consider the policy context for the impacts that would result on biodiversity, as a result of the proposed development. The NPPF provides strategic guidance on the achievement of BNG, with Paragraph 187 d) stating that decisions should contribute to and enhance the natural environment by '*minimising impacts on and providing net gains for biodiversity.*'

7.38 Whilst noting the strategic aspirations of the NPPF in seeking to deliver biodiversity net gains, this does not provide a basis for a 'pass/fail' scenario in that it does not advocate that permission should be refused on each and every project on this basis but rather suggests a strategic objective to seek out opportunities to deliver net gains in decision making. There is a 'tension' with the NPPF in this regard, but it is not considered that this is sufficient to withhold permission, based on the wording of the NPPF alone.

7.39 Turning to local planning policy considerations, Core Policy 12 of the Amended CS sets out various actions to conserve and enhance biodiversity including amongst other things to '*Seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.*' Policy 12, does not, however set a specific requirement that each development should secure a net gain in biodiversity.

7.40 In respect of the ADMDPD policy DM7 relates to Biodiversity and Green Infrastructure and states that '*significantly harmful ecological impacts should be avoided through the design, layout and detailing of the development, with mitigation, and as a last resort, compensation (including off-site measures), provided where they cannot be avoided.*' Furthermore, DM7 also states that:

*“On sites of regional or local importance, including previously developed land of biodiversity value, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site”.*

7.41 In this case, the most important impacted biodiversity is the OMH, which the NSDC ecology team have identified to be at the least of regional importance. Accordingly, given it is not considered that there is an explicit requirement to deliver a net gain in biodiversity on this site, careful consideration needs to be given to whether the need for the development outweighs the need to safeguard the nature conservation value of the site. In this respect, consideration also has to be given to the fallback position and in this regard, the NSDC ecology team note that there is limited provision within the extant permission (by way of planning conditions) to secure the protection and enhancement of the existing habitat value. As noted above, while there is some doubt about whether the extant permission would be fully implemented, this remains a possibility and if it did occur there would be no further controls over the mitigation of impacts on biodiversity.

7.42 Whilst the impacts of the development on OMH are unfortunate, the current application provides a further opportunity to exercise control through the imposition of planning conditions including a CEMP, LEMP and lighting strategy. The Council’s Biodiversity Officer also considers that the wider potential impacts on protected species can be suitably controlled through the proposed planning conditions. Moreover, the proposed development is not a mandatory BNG scheme, and the proposals provides for significant financial planning obligations to mitigate the impacts of the proposed development, which is considered to carry significant weight. The proposed development would also deliver new housing in an otherwise appropriate and sustainable location for residential development. Taking these points in the round, it is considered that the presence of a fallback position also tips the balance in favour of the proposed development.

7.43 In the absence of the implementation of the proposed development as presented within the current application, should the extant permission be implemented, the impacts upon biodiversity would be worse and the wider mitigation by way of financial planning obligations would also fall away, increasing pressure on the local community by way of increased demands on infrastructure, that would not be properly mitigated for. As such and after careful consideration, (with the documented development scenario as discussed above) it is considered that the need for this development, within the framework of the current application outweighs the need to safeguard the nature conservation value of the site.

7.44 This conclusion has also been reached on the basis that there is no realistic prospect of securing either an ‘onsite’ or ‘offsite’ net gain in biodiversity based on the viability case presented by the Applicant. Following independent advice received on viability, the circa £1m figure to be provided in financial planning obligations is the maximum the scheme can afford. As such, the proposed development would be unable to sustain a further financial planning obligation on top of the agreed sum, which would likely run into several hundred thousand pounds for implementation and long-term monitoring. The only other alternative would be for some of the other planning contributions to be removed from the overall sum

and by comparison these other planning obligations are considered to more directly meet the 3 tests for planning obligations under Regulation 122 of the CIL Regulations<sup>2</sup>. Accordingly, in this case it is not considered that a further planning contribution can be reasonably sought in respect of offsite biodiversity and as also noted later in this report, the more paramount point for consideration from the perspective of the local community is whether local infrastructure and amenities can account for the impacts of the proposed development.

7.45 In respect of the advice provided by Natural England, they have no objection to the proposed development, subject to suitable planning conditions to cover recreational disturbance mitigation and surface water drainage mitigation. These form part of the recommended planning conditions.

#### Impact on Neighbour Amenity

7.46 As part of the consultation process for the application, some neighbouring properties (mainly on Poplar Street) have raised issues of neighbouring amenity impacts. At this stage, layout is not a formal part of the consideration and is a matter reserved for subsequent consideration. Notwithstanding this, the relationship of the site, with the nearest residential properties on Poplar Street is not considered to be particularly sensitive.

7.47 In this regard, the rear garden areas of properties along Poplar Street are typically between 20-25m in depth, which should allow for adequate 'back-to-back' distances between these existing dwellings and the proposed dwellings. Some neighbouring properties have raised comments in respect of maintenance and responsibility of the shared northern boundary of the site, but this is a matter of detailed design that can be clarified at the reserved matters stage.

7.48 The properties currently served by Lavender Close (the properties initially built as part of the extant permission) are orientated in a different way and the layout at reserved matters stage will have to give more careful consideration to the relationship between these existing and any new dwellings. Whilst this relationship will require more careful consideration, there are considered no insurmountable constraints in this regard and no special restrictions are considered necessary to impose at the outline stage. Accordingly, the proposals are considered to comply with policy DM5 of the ADMDPD and any reserved matters layout should be considered within the context of the Residential and Parking Standards Design Guide SPD.

#### Impact on Character and Appearance of the area

7.49 Policy DM5 under the heading of 'Local Distinctiveness and character' states that '*The rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.*' Whilst the application is made in outline form and design, appearance and landscaping are a reserved matter, the following overall points are made at this stage.

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<sup>2</sup> [The Community Infrastructure Levy Regulations 2010](#)

7.50 The application site lies within the main built-up area of Ollerton and within a mixed-use area, where the predominant land use is both residential and commercial. The site does not fall within a conservation area and is not subject to any other local landscape or other designation, that means it is particularly sensitive. Nonetheless, consideration will need to be given to the design and scale of development at the reserved matters stage. The character of the surrounding area consists of (typically) simple red brick two storey dwellings with either slate or interlocking concrete tiled roofs, with this being the predominant built form in the immediate surroundings on Newark Road and Poplar Street. Further afield, St Peters Close, supports a number of existing red brick bungalows. There are also a small number of examples of more modern dwellings in the area, with the main example of this being on Culpepper Avenue, and Lavender Close which consists of a mix of 2 and 3 storey dwellings of varying styles and with a mix of materials and finishes. Whilst the 'indicative' Framework Plan accompanying the application contains limited information on scale and design, it does provide an indication of 'development' areas, potential public open space and landscaping and the 'nodal' and 'focal' points. It is considered that the redevelopment of the site can be satisfactorily integrated within its surroundings, albeit with these details to be interrogated at reserved matters stage.

7.51 Whilst there is some visual appeal in the condition of the site, that supports a mix of planting and grassland, with informal access (with no specific PROW, other than F24 which runs adjacent to the site's western boundary) much of the tree coverage is of younger to medium maturity specimens and the majority is self-seeded. The Arboricultural Impact Assessment (AIA) submitted with the application notes that much of the trees are assessed as Category C, based upon a significant number of them being 'young' species. There are some Category B trees, but these tend to be located towards the exterior boundaries of the site and therefore with a greater potential (subject to the imposition of a suitable planning condition) to retain such trees for their screening potential and amenity value. Whilst it is noted that Natural England make initial comments on the landscape strategy plan, landscaping remains a reserved matter and therefore, this detail will be considered at the next stage, once further information is available.

7.52 In their original comments, the NSDC Tree Officer questioned whether the AIA had been produced in accordance with the appropriate British Standard. Whilst this issue has not been directly addressed by the Application, removal of Trees from Group G1 (as identified in the AIA) which are of moderate (Category B) quality and some trees from Group G34 which are of poor (Category C) is considered to be acceptable, in order to facilitate a safe means of vehicular and pedestrian access into and out of the site. Additional replacement tree planting can form part of the proposed landscaping scheme for this part of the site.

7.53 Taking account of the site area of 5.69ha, the density of development is around 32dph, comprising the (up to) 184 dwellings that permission is sought for. Whilst this is, perhaps, at the lower end of density of development for a more urban site, it is not to the extent that it is considered to be an underdevelopment of the site. Equally, if the development was laid out in a similar way to that as envisaged in the framework plan, that would provide a softer transition between the existing business park/commercial area to the south, linking the more built-up part of the site with the existing housing on Poplar Street.

7.54 Ultimately, the redevelopment of the site for residential development is considered to be an appropriate reuse of under-utilised land within an urban environment and the standard conditions requiring details of layout, design and landscaping at reserved matters stage, will enable specific consideration of the integration of the proposed development into the surrounding environment.

#### Impact on Highway Safety

7.55 Spatial Policy 7 sets out that the council will encourage and support development proposals which promote an improved and integrated transport network and an emphasis on non-car modes as a means of access to services and facilities.

7.56 Policy DM5 sets out the criteria by which new development will be assessed and in relation to access states that '*Provision should be made for safe and inclusive access to new development. Where practicable, this should make use of Green Infrastructure and as many alternative modes of transport as possible.*'

7.57 Access forms part of the proposed development and the single point of access into the site (connecting with the public highway) would be via Culpepper Close. Culpepper Close forms the original access for the extant planning permission and serves the properties that were built out from that original planning permission.

7.58 As part of the proposals, Culpepper Avenue would be widened and off-street parking bays would be added at either side of the widened road, whilst providing a standard 5.5m width carriageway with a new footway that will extend to the southern side of Culpepper Avenue (currently there is only one footway to the northern side).

7.59 Whilst noting some of the local community objections expressed regarding traffic impacts associated with the proposed development, the modified means of access into the site via Culpepper Avenue, makes provision for some existing on street parking (for the dwellings served by Culpepper Avenue) through the provision of parking bays, designed to keep access unimpeded into and out of the site, with a footway that will also be provided to the southern side of the road, ensuring safe pedestrian access into and out of the site also.

7.60 The original comments of NCC as highway authority raised objections, not in relation to the means of access into the site, but in relation to traffic movements on the network as presented in the Transport Assessment. In response, the Applicant prepared a Technical Note (dated March 2024) in response. As a result of this, NCC as highway authority removed their objection to the proposed development, subject to the imposition of planning conditions. As such, NCC are therefore satisfied that the proposed traffic movements associated with the proposed development can be reasonably accommodated onto the highway network, whilst maintaining highway safety. In respect of the suggested condition 1, this is not considered to be necessary, as the development seeks permission for 184 dwellings as an upper limit and any increase in that number, would be subject to a separate planning application in any event.

7.61 There were some discussions about the need for bus stop infrastructure improvements during the determination period, but the provision remains accounted in the planning obligations financial sum as referred to earlier in this report.

### Housing Mix

7.62 In accordance with Core Policy 3 of the Amended CS, new housing should accommodate an appropriate mix of housing to account for family housing of 3 bedrooms or less, smaller housing of 2 bedrooms and less and housing for the elderly and disabled population.

7.63 As the application is made in outline form, layout is a reserved matter and therefore housing mix has not been determined at this stage. In order to ensure the proposed development reflects local housing needs, it is considered necessary that an appropriate condition is set at outline stage, requiring this detail to be provided at reserved matters stage.

7.64 As per the explanatory text associated with Core Policy 3 the starting point for consideration of housing mix will be as per the below:

*'In general terms, the indicated split in the study is that 50% of all new dwellings should be 1 or 2 bedroom dwellings and 50% should be of 3 bedrooms and above. An appropriate mix will depend on the local circumstances and information on local need in the particular part of the district where development is proposed,'*

### Ground conditions

7.65 Policy DM10 relates to Pollution and Hazardous Materials and requires that development involving the potential for pollution should take account of and address impacts on health, the natural environment and general amenity also stating that '*Where a site is known, or highly likely to have been contaminated by a previous use, investigation of this and proposals for any necessary mitigation should form part of the proposal for re-development.*'

7.66 The application site has historic use as part of the colliery site and therefore there is potential for impacts from both ground conditions (although the response from the Coal Authority confirms the site is not in an area of high risk). The EHO has reviewed both the Phase 1 and Phase 2 investigative reports prepared in support of the application.

7.67 Whilst investigative work has been carried out, the EHO comments as follows:

*'I have now had the opportunity to review the Phase I Geoenvironmental Site Assessment completed by Ramboll dated Sep 21 and the Phase II Geo-Environmental Site Assessment completed by Omnia submitted on behalf of the developer. These documents describe the site history and consider previous historic investigations carried out. Sampling has identified exceedances of multiple determinants, and the report recommends further investigation of these. I note however that the sample holding time for all samples has been exceeded and the data can therefore not to be relied upon. Whilst I welcome the additional sampling that has been recommend, I would expect that the sampling work that has been carried out in this investigation to be repeated due to these errors. Due to the above I would recommend continued use of the full phased contamination condition.'*

7.68 As such, there appears to be some discrepancy based upon the advice of the EHO on the reliability of the samples for the previous Phase 2 investigative work carried out. As such, following a precautionary approach and given the vulnerability of the proposed end use to contamination, the standard contaminated land condition is considered a reasonable

approach in the circumstances, particularly given this approach is also recommended by the Environment Agency.

#### Flood Risk and Drainage

- 7.69 Policy DM5 relates to design and amongst various other criteria sets out that the council will seek to steer new development away from areas at higher risk of flooding and that development proposals should wherever possible include measures to proactively manage surface water.
- 7.70 In respect of flood risk and drainage, NCC as LLFA have provided advice, as the risks around flooding and drainage relate to surface water rather than fluvial flooding. Originally, the LLFA objected on the basis that the FRA was insufficient. Following an update (which also provided more information on the outline drainage proposals) the LLFA removed their objection.
- 7.71 As such, the LLFA recommend the imposition of the standard condition relating to provision of a detailed surface water drainage scheme and this approach is considered reasonable and aligned to the further information that will be made available at the reserved matters stage.

#### **8.0 Legal Implications - LEG2526/7693**

- 8.1 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. Legal Services have been instructed in respect of the drafting and negotiation of the Section 106 Agreement.

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

- 9.1 Further to the assessment above, the proposals will deliver a new residential development within the built-up area of Ollerton and as such represents an appropriate and sustainable location to support new housing growth.
- 9.2 The application seeks to bring forward an alternate mix and form of development (differing to the extant 'full' planning permission) hence a new standalone outline application is sought, to link to a new RM application where the original mix can be varied, to make it more commercially attractive (as explained by the Applicant).
- 9.3 As part of the new outline application, a viability case has been presented and independent advice received by NSDC has confirmed that the scheme cannot sustain the provision of affordable housing. Whilst this is unfortunate, various discussion have resulted in the provision of a significant financial sum, to be provided through planning obligations of over £1m pounds.
- 9.4 These contributions will secure financial provision towards community, education, health, transport open space and library provision. When compared to the 'fallback provision' they represent a significant gain to be secured to mitigate the impacts of the proposed development. Whilst the scheme will result in the loss of important OMH habitat, this

represents a habitat type that is challenging to provide on an offsite basis. Whilst the proposed development does not provide for a 'no net loss' scenario, such provision cannot be realistically delivered in the context of the viability position associated with the development and the final offer made by the Applicant, which will provide various other contributions as highlighted above. On balance and taking account of the 'fallback' provision which could result in a scenario of very limited controls over biodiversity impacts and no other financial contributions that would be provided (beyond what has been provided historically) the scheme offers the opportunity to secure a 'planning gain' in respect of the risk of the implementation of the fall back position, which whilst far from being certain, is an eventuality that cannot be dismissed. Taking all matters into account and noting the areas of conflict, on balance, it is considered that the proposals accords with the Development Plan and the NPPF as a whole. The recommendation is to approve the application subject to conditions and the completion of a Section 106 Agreement, so as to secure the financial contributions. There are no material considerations to indicate otherwise.

## **10.0 Conditions**

Application permitted subject to the following Section 106 financial provisions and the following planning conditions.

### **01**

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

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

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

### **02**

Details of the appearance landscaping layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The layout shall include (amongst other information on the layout of dwellings) details of parking and turning facilities, gradients, surfacing, street lighting, structures, visibility splays and drainage and shall comply with the County Council's current Highway Design and Parking Guides.

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

### **03**

No dwelling shall be occupied until bin storage facilities have been provided for that dwelling in accordance with design, siting, and materials details, which have been first submitted to and approved in writing by the Local Planning Authority. The bin storage facilities shall be provided prior to occupation of that dwelling in accordance with the approved details and retained for the lifetime of the development.

Reason: To ensure that adequate bin storage is provided for occupiers in the interests of residential and visual amenity.

**04**

Prior to the commencement of development, details of the proposed housing mix, shall be submitted to and approved in writing by the local planning authority

Reason: To ensure an appropriate mix of housing across the site in accordance with housing need and Core Policy 3 of the Amended Core Strategy.

**05**

No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design, and materials, have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained thereafter.

Reason: In the interests of residential and visual amenity.

**06**

No works or development shall take place until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include:

- a. A plan showing details and positions of the root protection areas.
- b. Details and position of protection barriers.
- c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

f. Details of any scaffolding erection and associated ground protection within the root protection areas

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme. The protection measures shall be retained during the development of the site.

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

07

The development hereby approved shall not be occupied until the site access road as shown on Drawing Number 107771-PEL-HGN-XX-DR-D-0001 P05 has been completed.

Reason: In the interests of highway safety.

08

No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Hexa Consulting Flood Risk Assessment (FRA) and Drainage Strategy ref 600570 dated 13 December 2023., has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753 and NPPF Paragraph 169.
- Limit the discharge generated by all rainfall events up to the 100 year plus 40% (climate change) critical rain storm to QBar rates for the developable area.
- Provide detailed design (plans, network details, calculations and supporting summary documentation) in support of any surface water drainage scheme, including details on any attenuation system, the outfall arrangements, and any private drainage assets.

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

o No surcharge shown in a 1 in 1 year.

o No flooding shown in a 1 in 30 year.

- o For all exceedance to be contained within the site boundary without flooding properties in a 100 year plus 40% storm.
- Evidence to demonstrate the viability (e.g Condition, Capacity, and positive onward connection) of any receiving watercourse to accept and convey all surface water from the site.
- Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
- Evidence of approval for drainage infrastructure crossing third party land where applicable.
- Provide a surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site.
- Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.

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

09

## **Part A: Site Characterisation**

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

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

## **Part B: Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

## **Part C: Implementation of Approved Remediation Scheme**

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

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

## **Part D: Reporting of Unexpected Contamination**

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

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

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

construction period unless otherwise agreed in writing by the Local Planning Authority. The Statement shall provide for:

- days and hours of working (excluding Sundays and Bank Holidays)
- the parking of vehicles of site operatives, existing residents and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works.
- measures to minimize the transfer of mud and detritus to the public highway including wheel washing facilities for construction traffic and arrangements for road sweeping.
- a layout of the construction access including a drawing showing visibility splays and method statement for the use of banksmen;
- details regarding parking provision for construction workers and plant on the site.
- the development build route. Once approved, the Construction Management Plan shall be adhered to at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, sustainability and highway safety.

11

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall be informed by the recommendations within the Ecological Impact Assessment Report (FE273/EcIA01) dated October 2023, and produced by Futures Ecology, and shall include the following:-

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).

- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs. i) An annotated plan providing a summary of the elements covered by items b), c), d), e) and h).

Reason: To minimise impacts on biodiversity, particularly protected and priority species in accordance with the NPPF and Policy DM5 of the Allocations and Development Management Plan Document. And to protect the District's ecological and biological assets in accordance with Amended Core Strategy Core Policy 12.

## 12

Prior to the commencement of the development, a Biodiversity Management Plan (BMP) shall be submitted to and be approved in writing by the Local Planning Authority. The BMP should be prepared in accordance with the mitigation measures summarised in Table 5 and Section 10 of the Ecological Impact Assessment Report (FE273/EcIA01) dated October 2023, and the onsite habitat provisions within the Biodiversity Impact Assessment (FE273/BIA01\_RevB) dated 19 November 2024, both produced by Futures Ecology. The content of the BMP shall include the following:

- a. The location and summary description of the features to be maintained and/or enhanced, or created;
- b. The proposed actions to maintain and/or enhance or create the features, and the timing of those actions;
- c. The proposed management prescriptions for those actions;
- d. If appropriate, an annual work schedule covering a 5-year period (with the view that the management proposals would be reviewed every 5 years) for at least 30 years following completion of the development;
- e. Identification of who will be responsible for implementing the BMP; and
- f. A schedule for monitoring the implementation and success of the BMP, this to include monitoring reports to be submitted to Newark and Sherwood District Council at appropriate intervals. The provision of the monitoring reports shall then form part of the planning condition.

g. An annotated plan providing a summary of the elements covered by items a), b) and c), The approved BMP shall then be implemented in accordance with the approved details therein.

Reason: To mitigate harmful ecological impacts on protected species as required by Policy DM5 and to conserve biodiversity in accordance with Core Policy 12.

**13**

The development shall not commence until, a “lighting design strategy for biodiversity” for the proposed development has been submitted to and approved in writing by the local planning authority. The strategy shall:

- a) identify those areas/features on site, or immediately adjacent to it, that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans showing lux levels and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To mitigate harmful ecological impacts on protected species as required by Policy DM5 and to conserve biodiversity in accordance with Core Policy 12.

**14**

Prior to the commencement of development, a noise impact assessment shall be submitted to and approved in writing by the local planning authority, to include for:

1. An assessment of noise levels from existing commercial / industrial premises in the vicinity of the proposed development and the likely impact on future occupiers of the proposed dwellings.
2. Details of any noise mitigation measures determined as being necessary at the proposed, to safeguard the residential amenity of future occupiers to include the level of noise reduction to be achieved by those noise mitigation measures.

Once approved in writing by the local planning authority, any mitigation measures deemed as being necessary by the noise impact assessment, shall be implemented in full and retained in perpetuity thereafter.

Reason: To protect the residential amenity of the future occupiers of the proposed dwellings and in accordance with Policy DM5 of the ADMDPD.

**BACKGROUND PAPERS**

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

Application case file.

Committee Plan - 23/02274/OUTM

