

PLANNING COMMITTEE – 5 FEBRUARY 2019

Application No:	18/02167/FUL	
Proposal:	Change of use of scrubland for the siting of 8 touring caravans and associated amenity block for gypsy travellers	
Location:	Shannon Falls, Tolney Lane, Newark	
Applicant:	Mr Creddy Price	
Registered:	22 November 2018	Target Date: 17 January 2019
	Extension of time agreed in principle	

This application is being referred to the Planning Committee for determination in accordance with the approved scheme of delegation.

The Site

The application site is situated west of the Newark Urban Area, within the Rural Area as defined by the Newark and Sherwood Core Strategy and within the countryside. The site sits on the north side of Tolney Lane which runs in a westerly direction from the Great North Road which leads to a dead end. It sits at a junction where Tolney Lane forks into two and the northern arm runs towards the railway line. It is located between the River Trent to the south-east and the railway line to the north-west. The application site represents the western part of a wider site known locally as Shannon Falls which is located between the larger gypsy and traveller sites known as Church View to the east and Hoes Farm to the west. The application site is situated on the southern side of a larger site known locally as Shannon Falls.

The vacant site measures 0.4 hectares in area and is roughly rectangular in shape. It measures approx 115 metres long by approx 30 metres wide. The application form describes the site as scrubland although there is evidence of recent earthworks on the site providing a flat earthed application site bounded on three side by bunds of earth whereas the boundary to the south-east (adjacent to Tolney Lane) is defined by high mature leylandii trees. Beyond the application site boundary to the north-east and north-west is the remainder of the larger Shannon Fall site which is rough land, at risk from the dumping of household waste. The south-western boundary of the site is defined by the road, although there is no existing access into the site and the earth bunds are intended to prevent access.

Approximately two thirds of the site (to the south-east) is within Flood Zone 3a (high probability of flooding) of the Environment Agency's Flood Map/Strategic Flood Risk Assessment, and the remaining third to the north-west is located within Flood Zone 2 (medium probability). The application site is outside the designated Conservation Area but the boundary of Newark Conservation Area runs along the southern side of Tolney Lane, opposite the site.

Historically, the site has been subjected to material being tipped onto the land to raise ground

levels which occurred roughly in 2001. This has never been authorised in planning terms and continues to be the subject of an Enforcement Notice as set out in the history section below.

Early in 2016, the site was also subjected to fly tipping of household and commercial waste. Following concerns raised by the Council's Environmental Health Service, the waste was removed from the site which has now been left level and clean and tidy with earth bunds around the boundaries to seek to prevent a repeat of waste dumping.

Tolney Lane accommodates a large Gypsy and Traveller community providing in excess of 200 pitches.

Relevant Planning History

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

E/1/1129 - Use of the land as a site for caravans, refused in 1959;

E/1/2531 - Construct a residential caravan site, refused in 1970;

02/02009/FUL - Use of land as residential caravan site (21 plots) and retention of unauthorised tipping on the land which raised land levels, refused on flooding grounds.

Two enforcement notices were served which sought to firstly cease the use as a caravan site and remove all caravans from the land and secondly to remove the unauthorised tipping from the land so that no part of the site is above the level of 10.5 AOD. The applicant appealed to the Planning Inspectorate but on 25 May 2006, the appeals were dismissed and the enforcement notices upheld on the land and still stand.

Whilst the site has ceased being used as a caravan site, the unauthorised tipping remains on the land, artificially raising ground levels.

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

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

17/02087/FUL - Change of Use of Land to a Private Gypsy and Traveller Caravan Site consisting of one mobile home, one amenity building and two touring caravans and associated works, approved on a permanent basis by Planning Committee in June 2018.

This application site only:

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

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

“The proposed development represents highly vulnerable development that would be located within Flood Zone 3 and therefore should not be permitted in accordance with the National Planning Policy Framework and the PPG. Whilst the Sequential and Exception Tests do not fall to be applied in this case, even if they were applicable, whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, both scenarios of the proposal (i.e. lowering the land levels in accordance with the description of development or the carrying out development in line with the Flood Risk Assessment) fail the Exception Test. The submitted Flood Risk Assessment does not comply with the requirements set out in the Site Specific Flood Risk Assessment Checklist (paragraph 68) of the Flood Risk and Coastal Change Section of the Planning Practice Guidance and therefore fails to adequately demonstrate that the development will be safe for its lifetime, without increasing flood risk elsewhere. Even with the lowering of land levels to 10.5m AOD (which has not been adequately demonstrated through the submitted FRA), the proposed use would not be safe for its lifetime.

In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to the National Planning Policy Framework and the Planning Practice Guidance, Core Policies 5 and 10 of the Newark and Sherwood Core Strategy and Policy DM5 of the Allocations and Development Management DPD.”

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

The Proposal

Planning permission is sought for the change of the site from scrubland to the creation of 8 pitches each one housing a touring caravan each with its own associated amenity building, measuring 3.5m by 4m, 2.1 m to the eaves and 4.3m to the ridge, constructed of brick with tiled roof. One parking bay will also be provided within each pitch. The applicant has confirmed that he and his family are a local family of travellers who have a good reputation within the local community and who currently reside with their wider family.

The use has not yet commenced on the site. The proposed site would be served by a 5m wide access road adjacent to the western boundary of the site, each pitch is roughly 300 square metres in area. The majority of the existing hedgerow fronting Tolney Lane would be retained. The western boundary of the site, together with fencing to sub-divide the pitches are provided by 1.8m high timber panel fencing to provide privacy. Beyond the hardstanding areas that the tourers would stand on would receive a gravel finish suitable for vehicle use.

The site would be accessed from two points, one along the western boundary and one in the south-west corner of the site in accordance with the Highway Authority's specifications.

Accompanying the application is a Design and Access Statement and a Flood Risk Assessment. The Design and Access Statement states that:

"demand for these locations is very high as it allows travellers to re-home legally on land they own and not illegally on private land which can become a nuisance. The need for Gypsy traveler sites within the local area is very high and there is minimal provision for sites within the development plan. By utilizing this unused parcel of land, reduces the demand for mobile homes within this area. It allows travellers to live together on private land designated for this land use, away from the public view, thus having minimal effect on the surrounding area."

The submitted Flood Risk Assessment states that "the development is classified as "more vulnerable" and should ideally be located in Flood Zone 1 but can be sited in Zone 2 or even as 'more vulnerable' in Flood Zone 3a, if they have flood warning systems and evacuation plans in place. A flood warning is provided by the Environment Agency and an evacuation plan will be enforced by the site management. The touring caravans are intended for use by the travelling community. Sites for such use rarely become available. The application of the Exception and Sequential tests are not appropriate as there are no alternative sites."

The FRA states that the caravans would be moved off the site before flooding occurs. It acknowledges that there is only one route from the site that floods but the formal Flood Warning provides a minimum of 2 hours warning before an over-topping event and so occupants of the site can evacuate the site in a controlled fashion prior to the overtopping event. An Evacuation Plan is included within Appendix D of the FRA.

The FRA confirms that local surfacing will be via permeable stone fill and so will not result in any changes to the area of impermeable ground and the stone fill will provide a small degree of attenuation to surface water flows and therefore will be a reduction in the rate of surface runoff.

The Assessment states that there remains a residual risk of associated infrastructure such as tanks floating in extreme flood events and to deal with this gas bottles and all other infrastructure will be securely contained to concrete pads by cages to prevent it breaking away.

In relation to the status of the applicant, the following information was provided as part of the previous appeal on this site:

"The appellant is a general dealer who mainly trades in vehicles and scrap metal and goes around vehicle repair garages touting for business. He also travels to fairs at Appleby, Stow-on-the-Wold, Kenilworth and Newcastle-upon-Tyne to buy and sell anything on which he can make a profit. The appellant travels for up to 6 months of the year and, although now 73 years of age, wishes to continue travelling for as long as he can.

Creddy and his extended family do not have their own pitches and are reliant on doubling-up on relatives' sites with inadequate facilities and no security of tenure. They have been trying to establish a home base in Newark for many years but, have not been able to find any alternative to Shannon Falls.

The appeal site is intended to accommodate the following households:

*Creddy and Rebecca Price;
Romeo (Creddy's brother) and Babs Price;
Elvis (Creddy's brother) and Dilly Price;
Beryl Price (Creddy's sister);
Sylvia Smith (Rebecca's sister); and
Andrew and Jana (Rebecca's sister) Price.*

They have a need for lawful accommodation in this area, and for a site where they can live together as a traditional family group in order to provide each other with mutual help and support."

The plans under consideration are:

- Site Location Plan (Job Ref: 12.71)
- Proposed Site Plan (Drawing No: 12.71.02)
- WC, Laundry Room Details (Drawing No: 12.71.03)

Departure/Public Advertisement Procedure

Occupiers of 18 properties have been individually notified by letter.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)

Spatial Policy 1 : Settlement Hierarchy

Spatial Policy 3 : Rural Areas

Spatial Policy 7 : Sustainable Transport

Core Policy 4 : Gypsies & Travellers and Travelling Show people – New Pitch Provision

Core Policy 5 : Criteria for Considering Sites for Gypsy & Travellers and Travelling Show people

Core Policy 9 : Sustainable Design

Core Policy 10 : Climate Change

Core Policy 13 : Landscape Character

Allocations & Development Management DPD (adopted July 2013)

Policy DM5 – Design

Policy DM8 – Development in the Open Countryside

Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2018
- Planning Practice Guidance 2014
- Publication Amended Core Strategy 2017

The Inspector examining the Amended Core Strategy has reached the view, as set out in post-hearing note 4 (issued 8th May 2018), that “the GTAA is very likely to have underestimated need which means that the number of pitches set out in Draft Core Policy 4, which is based on the GTAA, is insufficient”. In response the Council has therefore drafted main modifications to Core Policy 4 and 5, in line with the Inspectors favoured approach. Making the commitment to produce a new GTAA over the short-term (i.e. within the next two years), and to include revised pitch requirements and site allocation/allocations to meet any residual need within the Amended Allocations & Development Management DPD. The main modifications have been subject to a six week public consultation, which closed on the 21st September with no representations being received on the amendments to Core Policy 4 or 5. The Inspector is now working towards the issuing of his report, which is anticipated to be published in January 2019.

- Planning policy for Traveller sites – August 2015

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

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

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

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

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

- Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum (August 2017)

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

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

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

Consultations

Newark Town Council – No Objection was raised to this application.

NCC Highways Authority – “In highway terms, this application is the same as application 16/01884/FUL which was approved as a result of a Planning Appeal. Therefore previous comments apply.

The site plan submitted indicates that the existing access is to be improved and there are no highway objections to this proposal subject to the following condition:

No part of the development hereby permitted shall be brought into use until the alterations to the existing access have been completed and constructed in accordance with the Highway Authority’s specification.

Reason: In the interests of highway safety.

Note to applicant.

The development makes it necessary to improve a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with Nottinghamshire County Council tel: 0300 500 8080 to arrange for these works to be carried out.”

Environment Agency – “We **object** to this application on a fundamental basis for the following two reasons. Firstly, the proposed development falls within a flood risk vulnerability category that is inappropriate to the flood zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and its associated planning practice guidance (PPG). Secondly, the application fails the second part of the flood risk exception test. We therefore recommend that planning permission is refused on these basis.

Reasons

Firstly, the PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each flood zone. This site lies within flood zone 3a which is land defined by the PPG as having a high probability of flooding.

The development is classed as 'highly vulnerable' in accordance with table 2 of the flood zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this flood zone and therefore should not be permitted.

Secondly, the notes to table 3 of the PPG's flood zones and flood risk tables confirm that 'changes of use... to a caravan... site' are only appropriate in flood risk areas if the exception test is passed, alongside the sequential test.

The NPPF (paragraph 161) very clearly states that both elements of the exception test must be passed for development to be permitted. Part 2 of the test requires the applicant to demonstrate, via a site-specific FRA, that the development will be safe, without increasing flood risk elsewhere. Where possible, the development should reduce flood risk overall.

In this instance, it is our opinion that the developer's FRA fails to:

- demonstrate that the development and future occupants will be 'safe' over the lifetime of the development;
- consider whether flood risk will be increased in the surrounding area.

Overcoming our objection It is not overly clear how the applicant can overcome our objection given the primary reason for objecting is a fundamental policy matter. The NPPF and PPG clearly state that 'highly vulnerable' development should not be permitted in this location, and we strongly agree with that. Whilst we are mindful that there is an existing community on adjacent plots of land, we are not, and never have been, supportive of 'new' expansion to the site. Should planning permission be granted the development would essentially be exposing further occupants to flood risk which might otherwise have been avoided. It will also increase the potential burden on emergency services who may be required to assist with any evacuation of the site. We would also like to highlight the recent decision taken by a Planning Inspector for an application on this very same plot of land. It is our opinion that the application has not fundamentally changed since then; the type of caravan has changed from static to touring, and there is no longer an intention to alter ground levels. However, some of the Planning Inspector's other concerns do not appear to have been resolved, i.e. there will still be a loss of floodplain storage associated with the construction of amenity buildings in the floodplain, and the FRA still incorrectly states that this does not need to be mitigated as part of this development (section 5.2.1. of the FRA). Similarly, the same policy matters are still a concern, as is the potential for increased burden on emergency services.

None the less, we are mindful that it is the responsibility of the Local Planning Authority (LPA) to determine how much weight to give to the policy aspirations of the NPPF. That being said, if the LPA do in fact consider it appropriate to site 'highly vulnerable' use within an area at 'high' probability of flooding, then there are still various elements of our objection that would need to be resolved.

As stated, the development site is located in the floodplain of the River Trent and is at high risk of flooding. The flood depths across the site, when considering existing conditions, range anywhere from 200mm to 1.1metres. We understand that there is still an outstanding enforcement notice which requires land to be lowered on this site, and it's highly likely that these flood depths would increase if the land were to be lowered. The FRA states that the finished floor levels (FFL) of the

touring caravans will not be raised above the future flood depths, and even recognises that this is 'not acceptable'. It is our opinion that these flood depths present a genuine risk to life should the caravans remain on site during a flood event, for whatever reason. This is particularly important as the FRA proposes to rely on flood warning and evacuation as the only real mitigation measure. It is not our responsibility to determine the adequacy of flood warning and evacuation plans, and the PPG is quite clear that it is for the LPA to determine this in consultation with the emergency planners. None the less, it is our role to highlight the risks to the site, and so we would like to take this opportunity to highlight that the flood depths on the only access/egress route for the site reach 1.4 metres in places, and the supporting FRA has been accepted that there is no safe means of access and egress during a flood event. It is our opinion that the flood depths on the site itself and the adjacent access road will pose significant risk to life and therefore the development does not comply with the requirements of the NPPF and PPG.

Finally, we do not agree with section 5.2.1 of the FRA which concludes that there will be no loss of floodplain storage as part of the application. We do not see how this can be stated when the application includes the siting of brand new, brick built amenity buildings which have not been designed to allow the uninterrupted through flow of flood water. The cumulative impacts of losing floodplain storage can have a significant impact across catchments, and therefore any new development in the floodplain should be required to mitigate their impacts by providing level for level floodplain compensation. This view was shared by the Planning Inspector in the recent appeal hearing.

Informative to the LPA

We would like to take this opportunity to confirm that we are, once again, prepared to support your Authority at any subsequent appeal hearing should you choose to refuse planning permission for the reasons set out above."

Trent Valley Internal Drainage Board – "There are no Board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of the site drainage systems must be agreed with the Lead Local Flood Authority and the Local Planning Authority."

NSDC, Emergency Planner – "Object to the application.

I am not qualified to provide comments to either support or object to this application and my comments are to assist the planning team in their considerations.

The proposed development is sited in Flood Zones 2 and the access road is within Flood zone 3. The Tolney road area has been subject to previous significant flooding requiring evacuation. The access road can be flooded to a level designated as 'Danger to All' meaning that emergency service vehicles would also face danger during any attempt to cross the flood waters. The proposed site for the static and touring vans whilst in Flood zone 2 may still have risk and caravans are classed as 'highly vulnerable' structures.

In the event that occupants did not successfully evacuate then it is possible they would be safe within the caravans however any vulnerability or change in circumstances requiring them to leave would place significant challenges before emergency responders or cause occupants to place themselves in danger.

In addition a change in use of the site from scrubland to hard standing may further exacerbate the flooding risk.

I have not yet seen an associated Flood Risk Assessment but note that previous applications for this site refer to the fact that local lorry park currently designated as the evacuation point for caravans removed from Tolney lane is also an area subject to a flood risk. Whilst an alternative site is desirable no such site has yet been identified. Any additional number of caravans may place an unacceptable strain on resources.

In support of my comments I would draw your attention to point 1.2 of the National Planning Policy Framework ;

New developments must have access and egress routes that allow residents to safely exit their property during flood conditions.

I have not had sight of a specific emergency/evacuation plan for the proposed site. As per the National Planning Policy Framework (NPPF) I would draw attention to Section 3 highlighting emergency/evacuation plans; Developers are advised to have flood emergency plans in place for developments in flood risk areas to ensure that evacuation and flood response procedures for the development are documented and agreed. These plans should include:

- Aims and objectives of the plan
- Maps showing development and flood risk areas, including depth and velocity of flooding
- Evacuation or containment procedures, including evacuation routes
- Flood warnings (EA Flood Warning Service) and identification of local flood warden.
- Safe refuge information
- Identification of vulnerable residents
- Utility services
- Procedures (including details of any stores containing flood defences e.g. sandbags)
- Emergency contact information
- Media information e.g. local radio stations and warning processes for residents

NSDC, Planning Policy –

“National Policy

Confirms that the Framework has not changed the statutory status of the development plan as the starting point for decision-making. Proposed development which accords with an up-to-date Local Plan should be approved and proposed development which conflicts should be refused, unless other material considerations indicate otherwise.

A sequential approach to development and flood risk should be followed, with the objective of steering new development to Flood Zone 1. Where there are no reasonably available sites in Flood Zone 1, then the flood risk vulnerability of the proposed use should be taken into account and consideration given to reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, applying the Exception Test if required. Whilst general changes of use proposals are absolved from application of the tests this does not extend to those which would result in a caravan site.

The Planning Policy for Traveller Sites (PPfTS) (2015) sets out, in conjunction with the NPPF, Government policy for traveller sites. This steers LPA's towards ensuring that traveller sites are sustainable, economically, socially and environmentally. Through the policy Local Planning

Authorities (LPAs) are required to identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets. Beyond this there is an obligation for LPAs to identify the same standard of supply, or broad locations for growth, for years 6 to 10 and, where possible, years 11-15. Where an LPA cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. There is however no presumption that a temporary grant of planning permission should be granted permanently.

Assessment

The site has been subject to a recent appeal for a similar proposal (APP/B3030/W/17/3180652) – which was refused on the basis that it failed to pass the flood risk Exceptions Test. I am also aware of that permission (17/02087/FUL) for no more than 3 caravans was granted on land to the north of the application site, contrary to officer recommendation. Clearly Members are entitled to come to a different conclusion to the professional advice they have received. Whilst mindful of this decision the following represents my independent professional view.

Need for Gypsy and Traveller Pitches

Whilst as a result of the Amended Core Strategy examination the precise level of need cannot be currently defined it is clear that there is unmet need. Given the circumstances it is also the case that the Council is unable to demonstrate a five year supply of sites. Therefore the contribution the proposal would make towards meeting future need and the increasing of supply ought to weigh heavily in its favour.

Core Policy 5

I'm content the proposal would be able to satisfy criteria 1 – 5 of Core Policy 5. Criterion 6 concerning flood risk is considered below.

Flood Risk

The consideration of recent proposals on Tolney Lane has been largely framed by the 2014 Green Park appeal decisions (APP/B3030/C12/2186072, 2186073, 2186074 and 2186071). Whereby the lack of available sites to meet need weighed heavily in the balance against flood risk issues, to the extent that temporary was supported so that immediate accommodations needs could be met whilst more appropriate land was identified. With the Inspector being of the view that whilst there was a strong flood risk policy objection the sequential and exceptions tests did not strictly apply.

Through the subsequent Shannon Fall's appeal (concerning the same land as this application) the Inspector formed a different opinion, confirming that national guidance requires the sequential and exceptions tests to be applied to any proposal involving the change of use to a caravan site. The differences to the Green Park decisions (the presence of static caravans and utility blocks, the need for the raising of ground levels and for floodplain compensation) resulted in her reaching the view that significant harm from flood risk to third parties would occur – with the Exceptions Test unable to be passed. Consequently no material considerations (including the matters of need and five year land supply) were deemed sufficient to outweigh the strong policy objection in flood risk terms.

Given that permission has been refused at appeal on the same land less than 8 months ago the key question is therefore what has materially changed in the intervening period – either as part of the proposal or in the wider context – to the extent that development should now be supported. For Instance there has been no positive change to the level of flood risk the site is subject to (i.e.

being entirely located within Zone 2 and roughly two thirds in Zone 3a). Indeed on the basis of how the functional floodplain (Zone 3b) has been defined through the Strategic Flood Risk Assessment update (2016) it is now clear the south eastern corner of the site falls within this designation.

The Shannon Fall's appeal Inspector took the view that the overall aim of national policy is to steer new development to areas with the lowest probability of flooding, and it is openly acknowledged that there is an absence of available sites, capable of accommodating the development within either Flood Zones 1 or 2. However the Planning Practice Guidance (Paragraph 19, Reference ID: 7-019-20140306) is clear that application of the test should take account of the flood risk vulnerability of the land use. Table 3 'Flood Risk Vulnerability and Flood Zone Compatibility' states that highly vulnerable uses will require the passing of the Exceptions Test to be acceptable in Zone 2 and that such uses should not be permitted at all in Zone 3a or 3b. Where developments may contain different elements of vulnerability (such as Shannon Falls) then the PPG helpfully outlines that the highest vulnerability category should be used, unless development is considered in its component parts. I do not consider compartmentalising the proposed development is practical in this case, given the single highly vulnerable use proposed and that a section of the access serving the wider Tolney Lane area is situated within the functional floodplain. Following the advice within the PPG the application site should be taken as falling within Zone 3b, and so the granting of consent would be contrary to guidance.

The new application proposal does differ slightly in form to that considered at the appeal, in that it concerns touring caravans as opposed to static units. This would be beneficial from a flood risk perspective (though it should be noted that the submitted layout plan still refers to static caravans). This is also dependent on there being an appropriate evacuation plan in place (I would defer to colleagues for consideration of this aspect). Notwithstanding the merits of any evacuation plan, each pitch will still contain a permanent amenity block – and this will lead to a loss of floodplain storage. This aspect of the previous proposal contributed towards its failure to pass the Exceptions Test. Added to this there is also the issue of addressing the unlawful raising of the land, and addressing the flood risk implications from this. We will therefore need to come to a view over whether the proposal is now capable of passing the Exceptions Test, and I would suggest that input be sought from the Environment Agency to help guide your consideration.

Planning Balance

Key to your consideration will be whether the contribution that granting permanent consent would make towards meeting gypsy and traveller needs and an increase in pitch supply outweighs the strong policy objection from a flood risk perspective. In my opinion this should not be the case given the danger to people and property posed by the level of flood risk – the PPG provides clear guidance in this regard. This guidance is a material consideration, and one that ought to be afforded substantial weight given that its purpose is to support the implementation of national flood risk policy.

Nonetheless should the proposal be able to demonstrate the Exceptions Test as passed then I am mindful that it would be similar to sites elsewhere on Tolney Lane where temporary consent has been granted. It is anticipated that production of a new GTAA will occur well in advance of the two year requirement suggested by the Inspector for the Amended Core Strategy, and that the identification of a more appropriate site (or sites) will occur through the efficient review of the Allocations & Development Management DPD. Whilst there is the need to prepare a new GTAA it is not considered that this will dramatically extend the timelines involved with the review of the Allocations & Development Management DPD – with adoption of the amended DPD forecast in

the Local Development Scheme for November 2020. Accordingly I would be inclined to take the view that a temporary consent could be justifiable - in order that the applicants immediate accommodation needs can continue to be met whilst more appropriate land is identified. Should you be minded to recommend that consent be granted then it will be necessary to include a condition restricting occupation of the site to those who meet the traveller definition provided in Annex 1 of the Planning Policy for Traveller Sites.

Conclusion

The contribution which the proposal would make towards meeting gypsy and traveller needs and the inability to demonstrate a five year supply weigh heavily in its favour; I am however not convinced that these material considerations outweigh the strong flood risk policy objection to the extent that permanent consent should be granted. Subject to the Exceptions Test being passed I would however provide support for the granting of a temporary consent to allow the applicant's immediate accommodation needs to be met, whilst the extent of future need is quantified and more appropriate land identified through the Development Plan process."

NSDC, Archaeology Consultant – No archaeological input required.

NSDC, Environmental Health – "Support the application. In response to the consultation request for the above planning application I can confirm that if the application is successful the site operator will be required to submit an application to NSDC for a Caravan Site Licence under the terms of the Caravans Sites and Control of Development Act 1960. In determining any such application the Authority will have regard to any planning consent conditions regarding the duration of the planning approval and pitch numbers/occupation levels and the licence duration and conditions will mirror any such restrictions. In addition the site licence will include conditions in regard to site layout, spacing, drainage, fire safety, amenity provision etc. and the Authority will have regard to relevant model standards and design guides in determining the specifics of any such conditions."

NSDC, Environmental Health (Contaminated Land) – "Aerial photography shows large amounts of waste that appear to have been dumped on the site. There is the potential for contamination to be present in this waste and for it to contaminate the wider site. I would therefore recommend that our full phased contamination condition is attached to any planning approval."

NSDC, Access and Equalities Officer – It is recommended that the developer be advised to give consideration of inclusive access to and around the proposal. Access to available facilities and features should be carefully considered.

One representation has been received from an interested party which supports the application and states that "I would appreciate if the Council would use the opportunity to work on improving community relations e.g. by adding additional shower facilities so if true travellers do not have to use overcrowded facilities on the trucker site. Also a volunteer scheme to maintain the site(s) to make especially children proud of where they live might be a good idea. But of course this has to be done with an open mind and not from an authoritarian approach."

Comments of the Business Manager

The main planning considerations in the assessment of this proposal are the need for gypsy and traveller sites and lack of a 5 year supply, flood risk, the planning history of the site, the impact on

the appearance of the countryside and character of the area, highway issues, access to and impact on local services, residential amenity, personal circumstances of the applicant and their status.

Background and Planning History

The Council has considered the principle of a residential caravan use on this site in 2002 and it was refused on grounds of flood risk. Two enforcement notices were served which sought to firstly cease the use as a caravan site and remove all caravans from the land and secondly to remove the unauthorised tipping from the land so that no part of the site is above the level of 10.5m AOD. The applicant appealed to the Planning Inspectorate and the appeals were subsequently dismissed. The Inspector concluded:

"I fully understand that the occupants of the site would make sure they were well aware of any imminent flooding and, because of their experience of travelling, they could vacate the site quickly, if necessary. However, this does not address the concerns about the continuing availability of functional flood plain, and the consequences of development for flood control over a wider area."

The consideration of such a use in this location has already been considered and found to be unacceptable on flooding grounds both by this Council and the Planning Inspectorate in 2006.

In January 2017, the Planning Committee considered an application for the same quantum and layout of development as is currently being considered by this application, the main differences being, the previous proposal was for static mobile homes that were chained in positioned on top of stone gabions following the reduction in the ground levels on the site in part compliance with the enforcement notice. However, little information on the traveller status of the proposed occupiers was submitted and Members resolved to refuse the application on grounds of flood risk. Following the issue of the refusal decision, the applicants appealed and as part of that process additional information confirming traveller status was submitted. Prior to the appeal hearing, a report came back to Committee reporting the additional status information and Members determined that they would be minded to support the application (on a personal and temporary basis for 3 years) based on this additional information. This view was then passed on to the Planning Inspector to be considered as part of the appeal. However, the appeal was dismissed (see copy of decision attached to this report). The Inspector determined that notwithstanding identified need, the lack of a five year land supply and recent temporary planning permissions granted along Tolney Lane, the Inspector dismissed the appeal on the grounds of flood risk. Both the Committee's previous view of support and the decision of the Inspector to dismiss the appeal are material planning considerations that must be weighed in the balance.

On the adjacent site to the north, an application for a single traveller pitch which included some removal of the unauthorized tipping material was received. Notwithstanding the Environment Agency objection and the appeal dismissal on the adjoining site, the Planning Committee determined in June 2018, to grant a permanent permission. Following this decision, the applicant decided to re-apply on this site, but on the basis of touring caravans instead of static mobile homes and land levels on the site remaining as existing.

Members may also re-call that at the Planning Committee in November 2018, two further sites along Tolney Lane, Green Park and the former Abattoir (Caravan View) site where the temporary permissions for traveller use previously granted had expired, Members resolved to grant further temporary approvals for 3 years to allow alternative sites to come forward through the Plan Review process.

The Need for Gypsy and Traveller Pitches

The NPPF and the Government's 'Planning policy for traveller sites' requires that Local Planning Authorities maintain a rolling five year supply of specific deliverable Gypsy & Traveller sites together with broad locations for growth within 6-10 years and where possible 11-15 years. Government policy states that a lack of a five year supply should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission.

Core Policy 4 (CP4) set a district wide target of 84 pitches to be provided up to 2012. 93 pitches were provided over this period and since that time work has been progressing on a new assessment of need and approach to meeting this. The Council initially intended to produce a separate Gypsy and Traveller DPD but now propose to include this within the review of the Development Plan. The District Council is currently engaged in the review of its Core Strategy and Allocations & Development Management DPD. The review was initially progressed jointly, but has now had to be uncoupled on account of a proposed gypsy and traveller allocation in Newark proving to be undeliverable. The Core Strategy will be progressed first and was submitted to the Secretary of State in its amended form on the 29th September 2017, and the hearings were held on the 1st and 2nd February 2018. Core Policy 4 and 5 are proposed for amendment through this process and set out the new pitch requirements, the approach to meeting these requirements and the criteria for considering site allocations and proposals to meet unexpected demand.

However, the Inspector since the Plan Review hearing has stated that he has "formed the view that the GTAA is very likely to have underestimated need which means that the number of pitches set out in Draft Core Policy 4, which is based on the GTAA, is insufficient." In response the Council has therefore drafted main modifications to Core Policy 4 and 5, in line with the Inspector's favoured approach, making the commitment to produce a new GTAA over the short-term (i.e. within the next two years), and to include revised pitch requirements and site allocation/allocations to meet any residual need within the Amended Allocations & Development Management DPD. The main modifications have been subject to a six week public consultation, which closed on the 21st September with no representations being received on the amendments to Core Policy 4 or 5. We are still awaiting a response from Inspector in this regard.

Whilst the Plan Review will result in the need for a new GTAA to be carried out in the short term (over the next 2 years) and subsequent site allocations (in the forthcoming DPD) be based on the new GTAA, the exact level of need cannot be currently calculated. However, what is clear is that it will result in an identification of unmet need (precise quantum yet to be identified) and in determining this application now, significant weight must be afforded in favour of the application. There are currently no other alternative sites available with planning permission, and no allocated sites identified and consequently the Council does not have a five year supply of sites. This weighs heavily in favour of this proposal. The Inspector for the appeal stated "*Whatever the likely needs figures are, the evidence before me suggests at least a moderate need for pitches in the district over the plan period, including an urgent need for pitched to provide a five year supply.*" In relation to the provision through the Plan Review process she stated "*as it is unclear to me what and where that provision would be and how long it would take for it to become available and deliverable, I cannot be certain if and when sufficient sites would be brought forward and made available to address the likely scale of need. This indicates a current failure of policy. These matters carry significant weight in favour of the proposal.*"

Flood Risk

The final criterion of Core Policy 5 states that ‘in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within PPS 25: Development and Flood Risk and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site specific Flood Risk Assessment.’ A FRA has been submitted with the application and so therefore complies with this element of this policy. The NPPF states that local planning authorities should minimise risk by directing such development away from high risk areas to those with the lowest probability of flooding. Policy DM5 also states that the Council will aim to steer new development away from areas at highest risk of flooding.

The application site is mainly within Flood Zone 3a (at high risk of flooding) but partly within Flood Zone 2 (at medium risk of flooding) and this is correct on the basis of the current land levels. However, this is the case because of an artificial raising of ground levels that occurred in 2001 without any planning approval, as set out in the planning history section above and removal of fill on the site could increase flood risk on the site.

The material remains on the land today, and therefore has represented unauthorised development since the appeal decision (ie for the last 10 years). If the material was removed, land levels would reduce and the flood risk on the site would increase even further.

The retention of any of this material on this site, results in the loss of flood storage capacity within the flooding catchment area of the River Trent and therefore in a flood event, rather than allowing the site to flood, it disperses flood water away and results in increased flood impacts to other land elsewhere. Whilst this is a matter of fact, because of the width and size of the flood plain along this section of the River Trent, it is likely that this impact would not be substantial in itself, however, it would prove very difficult to model in order to quantify this increased impact or try to identify the position of the exacerbated flood impact elsewhere.

The lack of expediency for default action to remove the unauthorized fill should also not represent a material planning consideration in the determination of this application, as the test of proportionality to pursue enforcement action is an entirely different and separate consideration.

Table 2 (in paragraph 66) of the Planning Practice Guidance (PPG) states that caravans, mobile homes and park homes intended for permanent residential use are classified as “highly vulnerable” uses. Table 3 (in paragraph 67) of the PPG states that within Flood Zone 3a, highly vulnerable classifications should not be permitted.

The NPPF states that local planning authorities should minimise risk by directing inappropriate development away from high risk areas to those with the lowest probability of flooding. Whilst the Sequential Test may be considered passed, on the basis that there are no reasonably available alternative sites for this use at lower risk, the proposal fails the Exception Test. There are two parts of the Exception Test set out in the NPPF:

- It must be demonstrated that the development would provide for wider sustainability benefits to the community that outweigh flood risk; and
- It must be demonstrated that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Firstly, the accessibility of the site to services within Newark would meet the test of wider sustainability benefits and is therefore accepted.

Secondly, the NPPF states that development should only be allowed in areas at risk of flooding where it can be demonstrated that: *“the most vulnerable development is located in areas of lowest flood risk; that the development is appropriately flood resilient and resistant; it incorporates sustainable drainage systems unless there is clear evidence that this would be inappropriate, safe access and escape routes are included where appropriate as part of an agreed emergency plan, and that any residual risk can be safely managed, including by emergency planning...”*

Full details of the Environment Agency comments are outlined within the consultation section of this report, and they object firstly on the grounds that the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. Secondly, they also consider that the submitted Flood Risk Assessment fails to demonstrate that proposal passes the second part of the Exception Test, on the basis that there will still be a loss of floodplain storage because it is intended not to remove any unauthorised fill and the construction of the new amenity blocks will result in a loss of floodplain storage which would increase flood risk to the wider area and no mitigation for this has been provided. In addition, flood depths on the only access/egress route for the site reach 1.4 metres in places, and the supporting FRA has accepted that there is no safe means of access and egress during a flood event. It is the opinion of the EA that the flood depths on the site itself and the adjacent access road will pose significant risk to life of the occupants of the site. This is reflected further in the objection raised by the Council’s Emergency Planner who also raises concerns regarding the additional burden that would result on responders to flood events.

The Inspector for the appeal on this site gave great weight to the resulting loss of floodplain storage that would result for the previous application, even taking into account the proposed reduction in ground levels on the site, the Inspector considered that the loss of storage from the utility blocks and stone gabions should be mitigated, however, given the lack of ability of the applicant to compensate in any way, the cumulative additional flood risk harm that would be caused to the surrounding area resulted in a failure of the Exception test and was found to be fatal, even in the weighing up of a temporary permission. The Inspector considered this to represent a fundamental difference to the sites at Green Park and the former Abattoir sites.

The access/egress route is within Flood Zone 3 and can be classed as a “Danger to All” which puts even the emergency services at risk. Therefore this indicates (and has been acknowledged within the FRA) that in a flood event, access and egress routes will be cut off. The FRA therefore states that an evacuation plan is required which will remove occupants of the site before an overtopping event. An evacuation plan is outlined in Appendix D of the Flood Risk Assessment. This sets out what action should be taken on a Flood Alert, on a Flood Warning and on a Severe Flood Warning. The Evacuation Plan states that residents would register on the EA “Floodline” warning system which provides a 2 hour warning of a flood event, to enable residents to evacuate the site.

The Emergency Planner at NSDC objects to the application and their comments are set out in full in the consultation section above in which they state that any additional number of caravans is likely to place an unacceptable strain on resources and emergency services.

As already set out, it is considered that the Sequential Test is passed on the basis of the lack of reasonably available alternative sites for this use at lower risk of flooding. The proposal fails the Exception Test because it includes retention of the fill on the site and the addition of the utility

blocks, however no floodplain compensation is proposed, thereby increasing flood risk to others.

The proposal is contrary to both national and local planning policies and represents highly vulnerable development that should not be permitted on this site which is at high risk of flooding. Whilst the Sequential Test is passed, it is concluded that the significant flood risk harm to third parties and not all the measures necessary to mitigate that harm and meet the Exception Test, even for a temporary permission, could be achieved. This weighs very heavily against the proposal in the planning balance.

Impact on the countryside and character of the area

The first of the criteria under Core Policy 5 states that 'the site would not lead to the loss, or adverse impact on, important heritage assets, nature conservation or biodiversity sites'.

Criterion 5 of Core Policy 5 states that the site should be 'capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity'.

The site is within the open countryside. The aim of conserving the natural environment, protecting valued landscapes, minimising impacts on biodiversity and pollution is reflected in the NPPF. Whilst development exists along the majority of the Lane, only the eastern third sits within the defined Newark Urban Area. The application site is located between the sites known locally as Church View to the east and Hoes Farm to the west. Church View benefits from an authorised use for 35 residential caravans although it is currently only occupied by approximately 3 caravans. Hoes Farm has planning permission for 25 pitches. Whilst the site is located within the countryside, it is sandwiched between these two sites which are authorised for caravan use. The proposed development is for the creation of 8 pitches with 8 associated amenity blocks that would be enclosed and defined by close boarded timber fencing. However, having carefully considered this visual impact, on balance and given the existing character of the area, it is not considered that this would be so visually intrusive and incongruous to weigh negatively within the planning balance.

However, I would recommend a condition be attached to any approval for additional landscaping works to soften the appearance of the development. I also acknowledge that the site has no special landscape designation and is unlikely to lead to any significant adverse impact on nature conservation or biodiversity.

Although the Newark Conservation Area boundary runs along the south-eastern side of Tolney Lane, it is approx. 100m from the boundary and as such, it is not considered that the proposal would be harmful to the setting of the Conservation Area.

In relation to visual, countryside, biodiversity and heritage impacts, the proposal therefore has a neutral impact and is considered to broadly accord with Local Plan and National Framework Policies in this regard.

Highway Issues

Criterion 3 under Core Policy 5 requires the site has safe and convenient access to the highway network.

Spatial Policy 7 states that development proposals provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide

links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use. Proposals should provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements. Proposals should ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems.

The Highway Authority has raised no objection to this application and it is considered that the proposal would not result in any significant highway implications and the proposal accords with the Development Plan and National Framework and Practice Guidance in this respect.

Access to and impact on Local Services

The second of the criteria under Core Policy 5 is that ‘the site is reasonably situated with access to essential services of mains water, electricity supply, drainage and sanitation and to a range of basic and everyday community services and facilities – including education, health, shopping and transport facilities’.

Whilst the site lies within the countryside, it is acknowledged that it is in relative close proximity to the edge of existing development. Occupiers would have good access to existing Tolney Lane development and to existing services and facilities provided by the Newark Urban Area. The site is ideally located between two established Gypsy and Traveller sites and therefore access to long established community and social facilities associated with the historic use of Tolney Lane would be readily available for occupiers.

Taking the above factors into consideration, the application site is reasonably located in terms of access to the range of amenities and services and as such would be relatively sustainable.

Residential Amenity

Criterion 4 of Core Policy 5 states ‘the site would offer a suitable level of residential amenity to any proposed occupiers and have no adverse impact on the amenity of nearby residents’.

Policy DM5 requires the layout of development within sites and separation distances from neighbouring development to be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

The size of the proposed pitches are reasonable, measuring approx. 300 square metres in area and I am satisfied that with boundary fencing in place that the sites would offer a suitable level of amenity to proposed occupiers. There would be no negative impact on residential amenity of any existing properties.

The proposals therefore meet the requirements of Criterion 4 of Core Policy 5 and Policy DM5.

Personal Circumstances

The Government’s ‘Planning Policy for Traveller sites’ (August 2015) requires a revised assessment of Gypsy and Traveller status. Annex 1 of the document sets out the definition of gypsy and traveller for the purposes of the policy as follows:

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

The guidance states that in determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

In order for appropriate weight to be given to the unmet need for Gypsy and Traveller pitches in the consideration of these proposals, the onus is on the applicant to prove that the applicant along with any other occupier of the site, have Gypsy and Traveller status in accordance with the definition set out in the Planning Policy for Travellers Sites.

The submitted Design and Access Statement states that the applicant and his family are a local family of travellers who have lived within the local area/community for a number of years. It also states that they have been travelling from site to site for a number of years residing in some cases on land which was not designated for this land use. It confirms that the applicant wishes to accommodate himself and his wider family on this site.

Given the information submitted within the Design and Access Statement together with the details set out within the previous appeal, it is considered that the applicant’s Gypsy And Traveller status together with the remaining proposed occupiers of the site is proven.

As part of the appeal process it was further revealed that the ages of the intended occupiers of the site range from the mid 50’s to the early 70’s and two of the group have serious on-going health conditions for which they require regular hospital appointments and treatment, with a third awaiting surgery. They wish to live together to provide each other with mutual help and support and a settled base would enable them to do that and enable access to appropriate health services. However, no evidence has been provided that a base in this particular location is essential for their health needs and therefore this can only carry limited weight.

Conclusions and Planning Balance

On the basis of the current proposals, it is concluded that the proposal is unacceptable in terms of flood risk, contrary to national and local policy and this carries significant weight against the scheme. However, the unmet need for additional gypsy and traveller sites in the district, the current lack of sites for the applicant and his family and a failure of policy to meet that need all weigh significantly in support with more limited positive weight on the health and care needs of the occupants.

As the Council cannot demonstrate a five year supply of pitches, this carries significant weight in favour of a temporary permission. Although a temporary permission is not a substitute for a permanent site, it would give the occupants an opportunity to pursue a site through the DPD site allocations process or through the Council’s other options for the provision of sites. Whilst flood evacuation plans can be put in place to mitigate flood risk to the occupiers of the site on a short term basis, a floodplain compensation scheme is unlikely to be achievable, which would result in cumulative harm to others elsewhere.

Whilst the remaining material planning considerations (impact on the countryside and character of the area, residential amenity, highway considerations and access to services) assessed in this

report are neutral in the overall planning balance, it is considered that the harm caused by retaining existing land levels on the site and impact of the utility blocks on the loss of flood storage compensation and the resulting harm to other sites is the determinative factor and is not considered to be outweighed in the overall planning balance, despite the proposed provision of 8 further pitches. The “minded to approve” view of the Planning Committee on the previous application is given some positive weight (albeit for a slightly different scheme), however, more weight has been given to the more recent appeal decision in this case. It is therefore recommended that the application be refused on flooding grounds.

RECOMMENDATION ONE

That planning permission is refused for the following reason:

01

The proposed development represents highly vulnerable development that would be located within Flood Zone 3 and therefore should not be permitted in accordance with the National Planning Policy Framework and the PPG. Whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites for this use, the proposal fails the Exception Test by not adequately demonstrating that the development will be safe for its lifetime, without increasing flood risk elsewhere.

In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary Core Policies 5 and 10 of the Newark and Sherwood Core Strategy and Policy DM5 of the Allocations and Development Management DPD and the National Planning Policy Framework as well as the Planning Practice Guidance, which are material planning considerations.

Notes to Applicant

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website www.newark-sherwooddc.gov.uk/cil/

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Unfortunately these revisions have been unsuccessful in removing the harm identified through the above reason for refusal.

BACKGROUND PAPERS

Application case file.

For further information, please contact **Julia Lockwood** on ext **5902**.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Matt Lamb

Business Manager for Growth and Regeneration

Committee Plan - 18/02167/FUL

