

PLANNING COMMITTEE – 4 JUNE 2019

Application No:	19/00681/FULM (MAJOR)	
Proposal:	Application to vary condition 23 of planning permission 18/00973/FULM to allow amendment of house types to plots 39 - 42, 23 - 24 and 43 - 44 (Previous application was for the Erection of 62 residential dwellings including new vehicular access road and removal of eight TPO trees (TPO N313))	
Location:	Site of The Bearings, Bowbridge Road, Newark on Trent	
Applicant:	Countryside Properties	
Registered:	15th April 2019	Target Date: 15th July 2019

The original scheme (18/00973/FULM) was unanimously approved (as recommended) by the Planning Committee in January 2019. Given the committee's previous involvement and the anticipated objection from Newark Town Council (based on their previous comments) this application is being presented to the Planning Committee for consideration.

Given that the changes to the scheme are narrow in scope the previous report has been utilised below, with changes shown in bold italics for ease of reference.

The Site

The site comprises a brown field site (previously developed land) that lies within the built up part of Newark.

The site is approximately 1.6 hectares in area that forms a basic rectangular shaped parcel of land. It was formerly occupied by 'RHP The Bearings' and used for commercial industrial use and for conferences and training. The two buildings that were on site have been demolished and the land is now a flat site covered in concrete hard standing although it is overgrown.

There are two access points into the site from Bowbridge Road.

There are various protected trees within the site, most of which are along the western and northern boundaries which provide a mature visual screen with existing residential properties. There are also protected trees to the north eastern and south eastern corners of the site. The southern boundary comprises established conifers which also provide a good level of screening. The frontage of the site with Bowbridge Road is bounded by metal railings, which are now looking unkempt because the paintwork is peeling off.

The site lies in a predominantly residential area with the terrace dwellings of Lime Grove to the west, Jubilee Street/Bowbridge Road to the north and Bowbridge Road to the east. Immediately to the south of the site is a terrace of commercial properties comprising 2 retail units and a café. With Newark Hospital and its associated buildings beyond.

The existing area is characterised largely by traditional Victorian terraces fronting the back edge of the footpath with long thin gardens. The rows of terraces together with the linear street form of the surrounding area create a strong grid-like character.

Relevant Planning History

19/00133/ENF – A number of trees were felled at the site at the beginning of April 2019. This constituted a breach of two conditions attached to planning permission 18/00973/FULM.

- **Condition 6 of this permission required that no works were to commence on site until a scheme of protection for trees/hedgerows to be retained on site had been submitted to and approved by the LPA; and**
- **Condition 7 stated that that no works or removal of trees should take place during bird breeding season.**

No details of tree protection had been submitted to the LPA prior to the works being undertaken. The works had also been undertaken during the bird breeding season without the prior agreement of the LPA.

A Temporary Stop Notice and Breach of Condition Notice (taking effect 28 days later) were served on the 2nd April 2019. The Temporary Stop Notice expired on the 30th April 2019. The Breach of Condition Notice remains extant. Works have ceased on site.

19/00662/DISCON - Request for confirmation of discharge of conditions 2 and 6 attached to planning permission 18/00973/FULM was deposited in April 2019 – determined 21.05.19

19/00663/DISCON - Request for confirmation of discharge of conditions 3, 9B, 13 and 15 attached to planning permission 18/00973/FUL was deposited in April 2019 – this is currently under consideration.

18/00973/FULM – conditional planning permission was granted in January 2019 and the decision issued in March 2019 following the signing and sealing of a S106 agreement for the erection of 62 residential dwellings including new vehicular access road and removal of eight TPO trees (TPO N31).

10/01699/FULM – Full planning permission was granted on the 30 November 2011 for the demolition of existing building and erection of 89 units of residential accommodation (renewal of extant planning permission). This secured 30% Affordable Housing on site comprising 10 x shared ownership (1x1 bed apart, 3x2bed apart, 4x2bed houses, 2x3 bed houses) and 16 Social Rented Housing (11x1 bed apartments, 3x2bed apartments,1x2 bed house,1x3bed house), Community Facilities contribution of £110,137.50, Integrated Transport Contribution of £24,800 and Libraries contribution of £18,020.

07/01331/FULM – Full planning permission was granted on the 19 December 2007 for the Demolition of existing buildings and erection of 89 units of residential accommodation.

The Proposal

Full planning permission is now sought for the erection of 62 no. dwellings (5 single storey and 77 two storey buildings) comprising:-

12 no. 1-bed flats;

33 no. 2-bed dwellings;

13 no. 3-bed dwellings; and

4 no. 4-bed dwellings.

A revised tenure type of 32 intermediate properties and 30 affordable rent properties has been deposited with the latest Viability appraisal on the 26 October 2018.

The development comprises 5 single storey properties the remainder being maximum 2 storey height properties. The majority of the units are semi detached although there are a few terraces of 3 units.

The scheme is served by a central access road which runs the full length of the site in an east to west direct with private drives running to the south and north western corner. There are three main pockets of open space together with smaller areas landscaped space within the site.

The application has been accompanied by the following documents:-

- Design and Access Statement;
- Planning Statement
- Affordable Housing Statement;
- Tree schedule
- Flood Risk Assessment
- Phase II Site Appraisal
- Transport Statement
- The following plans have been submitted for consideration:-
- 41040 001N – Revised site layout deposited 23.08.18
- 41040 02A – Amended Public Open Space Plan – deposited 02.07.18
- 41040 004 House type H57 Pair
- 41040 005 House type H68 Pair
- 41040 006 House type H98 Pair
- 41040 007 House type H82Pair
- 41040 008 House type H68 H75 Pair
- 41040 009 House type H68 H75 Pair Handed
- 41040 0010 House type H82 H75 Pair
- 41040 011 House type M46 Flats
- 41040 012 House type M46 Flats Side Entrance
- 41040 013 House type H68 H68 H75 Terrace
- 41040 014 House type 57 Terrace
- 41040 017B External Materials
- 41040 019 House type H68 H 82 Pair
- 41040 016C – Revised Boundary Treatment Plan deposited 17.12.18
- 41040 018C – Revised Street scene deposited 17.12.18

Current Proposal

This application seeks permission to vary condition 23 (the plan condition) of planning permission 18/00973/FULM which relates to the approved drawing numbers.

Since the granting of the permission in January 2019 it has become apparent that the previously approved elevation and floor plans for plots 39-44 did not correspond to the footprint of these plots as shown on the approved layout plan as detailed below:-

Figure 1 -Previously approved site layout (18/00973/FULM)



Figure 2 - Currently Proposed Layout (showing trees along boundary with Lime Grove to be retained)

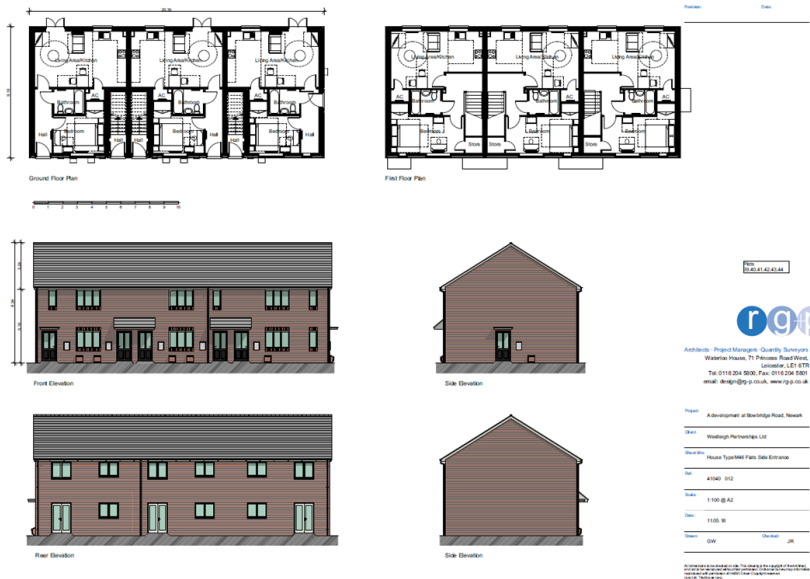


Below I list each amendment:

1. PLOTS 39-44 (south western corner of site) circled on the revised site layout plan;-

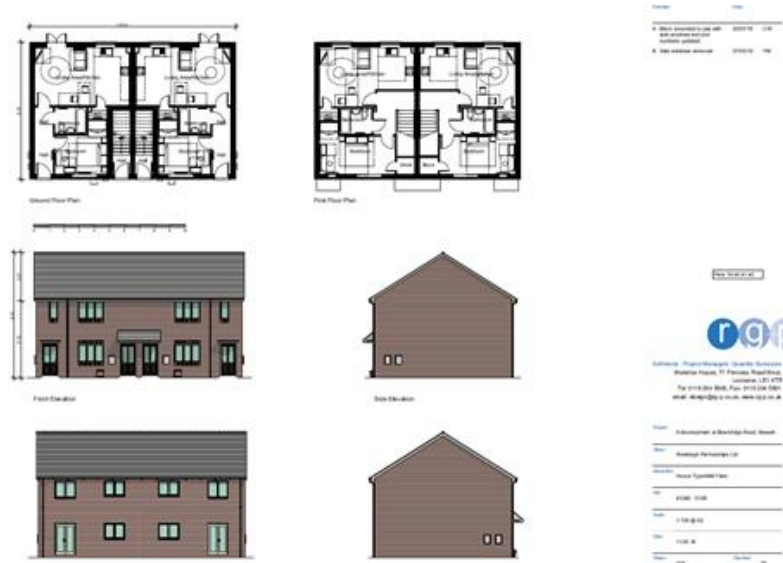
The approved scheme (18/00973/FULM) shows the elevation of Plots 39-42 to be a terrace of 3 properties (1 bed flats with dimensions of 20.35m wide, 9.1m deep, eaves height 5.1m and ridge height 8.34m) with a door to side elevation; see Figure 3.

Figure 3



However the current proposal before Members corrects an error as plots 39-42 should be a pair of semi-detached (1 bed flats with dimensions of 13.72m wide x 9.10m deep with eaves height 5.1m and ridge height 8.31m) with the side door removed; as shown below in Figure 4.

Figure 4



For plots 43-44, an additional plan showing a pair of semi-detached 1 bedroom flats (with dimensions of 13.72m wide, 9.1m deep, eaves height 5.1m and ridge height 8.31m) has been provided. This has principal room windows to front and rear and one side elevations; see Figure 5 below.

Figure 5



In respect of Plots 23 and 24, the approved scheme shows 2 bedroom dwellings which have had their internal layout handed. This does not affect the external appearance of these units.

The proposed site layout plan (see Figure 2) has also been revised to include the retention of a row of leylandii trees along the western boundary of the site with the rear gardens of Lime Grove.

This current application seeks to regularise corrections with regards to the revised house type and floor plans.

The following accommodation schedule of properties remains as approved under 18/00973/FULM, as does the proposed tenure type of 32 intermediate properties and 30 affordable rent properties (which all meet the definition of 'affordable'):-

- 12 no. 1 bed
- 33 no. 2 bed
- 13 no. 3 bed and
- 4 no. 4 bed

The plans and details under consideration with this current application are as follows:-

- **Revised layout Plan – drg. no 41040 001P**
- **Revised tree protection plan – drg. no. RSE_1511_TPP Rev V5**
- **Revised Arboricultural Impact Report (RammSanderson Dated May 19)**
- **House type H82 H75 Pair Plan – drg. no. 41040 010A**
- **House Type M46 Flats – drg. no. 41040 012B**
- **House Type M46 Flats Side Entrance – drg. no. 41040 022A**
- **All other details remain as previously approved.**

Departure/Public Advertisement Procedure

Occupiers of 140 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.

Planning Policy Framework

The Development Plan

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

Spatial Policy 1 – Settlement Hierarchy
Spatial Policy 2 – Spatial Distribution of Growth
Spatial Policy 3 – Rural Areas
Core Policy 9 - Sustainable Design
Core Policy 10 - Climate Change
Core Policy 12 - Biodiversity and Green Infrastructure
Core Policy 14 - Historic Environment

Allocations & Development Management DPD

Policy DM4 – Renewable and Low Carbon Energy Generation
Policy DM5 – Design
Policy DM7 – Biodiversity and Green Infrastructure
Policy DM8 – Development in the Open Countryside
Policy DM9 – Protecting and Enhancing the Historic Environment
Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework ~~2012~~ 2019
- Planning Practice Guidance 2014
- SPD: Conversion of Traditional Rural Buildings, adopted November 2014

Consultations

Newark Town Council – Comments awaited in respect of this scheme. However previous comments received during the original scheme were as follows:

(Received 28.06.18) - It was decided to OBJECT to this application on the potential traffic and parking impact on Bowbridge Road, the concern of 3 egresses within close proximity of one another onto an already very busy road, the removal of trees on the site boundary with no plans to replace them and the need for better boundary landscaping.

Comments received 02.08.18 - Members felt that none of the issues raised in their previous comments from 27th June, 2018 had been addressed and therefore wish to raise Objection to this application on the same grounds as before:

'It was decided to OBJECT to this application on the potential traffic and parking impact on Bowbridge Road, the concern of 3 egresses within close proximity of one another onto an already very busy road, the removal of trees on the site boundary with no plans to replace them and the need for better boundary landscaping'.

Environment Agency– (received 31.05.18) The site falls in Flood Zone 1 and the LLFA should be consulted.

Nottinghamshire County Council Lead local Flood Authority (received 18.06.18) - No objections to the proposals based on the submitted documents.

Comments received 23.05.19 - This application looks to amend house types and as such we have no comments to make.

Severn Trent Water – No comments received.

Trent Valley Drainage Board 24.05.19 – The site is outside of the Trent Valley Internal drainage Board district but within the Boards Catchment. There are no Board maintained watercourses in close proximity to the site.

No comments in respect of this consultation. .

Natural England – *Comments received 01.05.19 Natural England currently has no comment to make on the variation of condition 23. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us any further consultations regarding this development, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.*

NSDC Environmental Health Contamination – No new comments received. Previous comments made in relation to original application are set out below:

Received 08.06.18- I have now had the opportunity to review the Phase I Site Appraisal (Desk Study) and Phase II.

Site Appraisal reports submitted by GRM in support of the above planning application. The desktop includes a detailed description of the site, a review of the earlier site investigation report (Grontmij 2007), consideration of the site history and includes an Environmental Screening report. The report then goes on to propose an appropriate preliminary conceptual site model.

Following this work, intrusive sampling has identified areas where further works will be required which include completion of the gas monitoring program and remediation of the asbestos containing materials amongst several other recommendations.

I generally concur with the reports findings and shall await the submission of the suggested Remediation Strategy and Gas Verification Plan prior to commenting further at this stage. I would therefore recommend the use of our full phased contamination condition.

Comments received 12.08.18 – Please refer to previous comments dated 08.06.18

Latest comments received 05.12.18 - I have now received the Additional Contamination Report (21/5/18) and Gas Addendum Letter (16/6/18) submitted by GRM in support of the above application and can comment as follows:

Additional Contamination Report - Confirms the elevated hydrocarbon contamination in an area of the site (TP104, TP105 & TP108). Due to the depth of the contaminated material (>2m) the risk to human health is deemed acceptable providing site levels remain unchanged. I can concur with this

assessment however I would expect the validation report to confirm that sufficient depth to be protective remains post development. I would also expect hydrocarbon resistant water pipes are used in this area of the site.

The risk to controlled waters is significant and a remedial method statement is proposed, I look forward to receiving this which should also be forwarded to the Environment Agency for comment.

Gas Addendum Letter - I can concur with the proposed Characteristic Situation 2 (CS2) gas protection measures for plots 15 to 20 and 24 to 25 due to the elevated CO2. I look forward to receiving the validation documentation for this work.

In addition to the above the earlier reports identified asbestos contamination and recommended specialist contractors were used to remove it. I would expect submission of documentation confirming that this has been completed successfully.

Any material imported for use in garden or landscape areas will need to be certified as clean.

As the site characterisation has now been completed with submission of the phase 1 and 2 reports, I can accept the discharge of part A of the contamination condition. However due to the above outstanding matters I would recommend the continued use of the subsequent parts as copied below:

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 (referred to in PPS23 as a validation 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.

Notes to Applicant.

An advisory booklet is available – “A guide to Developing Land in Nottinghamshire”. This is available from NSDC website using the following link:

<http://www.newark-sherwooddc.gov.uk/landpollution/>

Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

Natural England
Block 6 & 7 Government Buildings
Chalfont Drive
Nottingham
NG8 3SN
Tel: 0115 929 1191
Fax: 0115 929 4886
Email: eastmidlands@naturalengland.org.uk

English Heritage
Ancient Monuments Inspector
44 Derngate
Northampton,
NN1 1UH
Tel: 01604 735400
Fax 01604 735401
E-mail: eastmidlands@english-heritage.org.uk

Heritage Planning Specialists
Nottinghamshire County Council
Trent Bridge House
Fox Road
West Bridgford
Nottingham
NG2 6BJ
Tel: +44 (0)115 977 2162
Fax: +44 (0)115 977 2418
E-mail: heritage@nottscc.gov.uk

to prevent damage or harm to the historic environment.

NSDC Environmental Heath - Confirm that they have no comments to make.

Arboricultural Consultant - *Latest comments received 10.05.19 - Revised layout and associated revised Arboricultural Impact Assessment/Method Statement and Tree Protection Plan are acceptable.*

Previous comments (received 08.06.18) - Although the submitted tree report broadly addresses the requirements for tree survey/constraints and protection purposes I do have some concerns on the proposed layout.

Several plots are likely to be in direct conflict with retained trees subject to TPO which will only increase as these trees mature with resultant repeat applications for removal or repeat pruning to alleviate lack of light/seasonal nuisance issues.

Of particular concern are trees T20-24,T32,T4 and T1/2. Similar issues are also likely but to a lesser degree with trees T7,T8,T9 and T34.

Trees T4 and T34 also have areas of hard standing within RPAS which while this impact can be reduced by no-dig this option is rarely followed through due to the differences in ground height and edging required between standard and geoweb construction.

I also have some concerns that there is little in the way of mitigation planting proposed across the site, especially given the high number of proposed tree removals. Proposed planting areas leave little room for trees of any large species size or scope for future full development I,e enclosed next to hard surfacing and/or directly adjacent to new builds.

Comments received 13.07.18 - No further comments. Previous issues raised are still considered pertinent.

Nottinghamshire County Council Highway Authority – No response received (and comments are not considered essential)

Previous comments received 13.06.18 - The proposal shown on drawing 41040-015A and supported by a Transport Statement is acceptable subject to a few minor amendments which are sought below:

A couple of more visitor car spaces should each be provided in relation to plots 1-6 and plots 39-44.

Car spaces allied to plot 52 are remote and the tendency will be for on-street parking to occur on the road in front of that property.

The private drive serving plots 10-18 should be 4.8m wide at least for the first 10m or so (currently it appears to be 4.25m).

The traffic calming feature may not be necessary. Assuming this is not a critical 'planning matter', this could be discussed further at the time when a Section 38 Road Adoption Agreement is being pursued.

A waiting restriction should be introduced on the west side of Bowbridge Road to protect junction visibility splays in the interests of safety and the protection of two-way traffic flow. This is due to the amount of parking that can take place on the section of road.

Subject to these matters being addressed, it would appear that a scheme can be offered a conditional permission. Suitable 'highway' conditions will be offered once revised plans are received.

Latest comments received 31st July 2018 - Further to comments dated 13 June 2018, revised drawing 41040-015B has been submitted which seeks to address the issues previously raised.

Whilst a couple of more visitor car spaces were sought in relation to each of the parking areas related to plots 1-6 and plots 39-44, one additional space has been provided at each.

Plot 52 now has one car space in front of the dwelling and a remote visitor/2nd space which is unlikely to be used.

In view of the above, there remains therefore a risk of on-street parking occurring.

Notwithstanding the above, it is considered that the application could be approved subject to the following conditions....**NCC then went on to list a number of recommended conditions which were imposed in full on the original application so are not repeated here (these are in the recommendation section below).**

NSDC Strategic Housing - No comments received

NSDC Community, Sports and Arts Development – No comments over and above those made previously

NSDC Parks and Amenities – No comments over and above those made previously.

Nottinghamshire County Council Policy – *Comments received 17.04.19 - Considering the variation and documents for this application, the NCC policy team would have no comment to make on this application. However, if there is any specific issue or query you would like NCC to consider, please do let me know as soon as possible and I will contact the relevant colleagues.*

NSDC Access - No further comments received over and above general comments previously provided. (received 05.06.18) -

NSDC Emergency Planner - I have no comments to add concerning this application.

Representations

During the original scheme 11 representations were received from local residents/interested parties. The representations were summarised as follows:-

- Some support for the construction of houses but with some concerns outlined below
- Loss of protected trees
- Overlooking and loss of privacy
- Ecological and Environmental Impact
- The position of the road in relation to neighbouring properties
- Lack of off street parking and impact on highway which would exacerbate existing congestion issues and impact on emergency vehicles
- Impact of access drives and road on highway and pedestrian safety
- Increased traffic
- Proximity of proposed dwellings to neighbouring properties
- Overshadowing and loss of light
- Potential contamination

In relation to the scheme now being considered by Members 3 representations have been received from local residents/interested parties, some of which are from the same respondent and some of which reiterate previous comments on the 2018 application. The representations can be summarised as follows:-

- ***Loss of green open space.***
- ***Loss of trees.***
- ***Impact on ecology.***
- ***Impact on drainage.***
- ***Increased traffic and impact on highway and pedestrian safety.***
- ***The development will exacerbate existing highway conditions and surfaces.***
- ***Impact on amenity from construction noise.***
- ***Impact on amenity from overlooking and loss of privacy and loss of light.***

Members will be aware that a petition has been received by the Council in its wider sense expressing concern with regards to the loss of trees within the site which is perceived by local residents as open space. This was heard at Full Council on 21st May 2019.

I am also aware that concern has been raised by local residents with regards to potential land contamination of the site.

A response to the petition was provided by the Leader of the Council at the Full Council meeting on the 21st May 2019 broadly as follows:

“Taking first the issue of the timing of tree removal I am advised by Officers that works to the trees did indeed commence before they should have done, contrary to planning conditions to erect tree protection fencing and to undertake works outside of the bird nesting season.

I can assure you works such as this which clearly flout planning conditions are deeply frustrating and concerning to Members and Officers alike. In fact, if breaching planning controls were to be made a criminal offence, a scenario which successive governments have not chosen to follow, much of this behaviour would cease overnight. That said, we are where we are and there are certain guidelines and processes to follow if and when a breach of planning control occurs.

In this particular case the Council was notified of works taking place. Officers visited the site and immediately issued a Temporary Stop Notice (to stop all works for 28 days) and Breach of

Planning Condition Notice. All works have since ceased. As I explore below in terms of next steps it is likely that replacement planting will be secured over and above those originally permitted to be removed. Notably this will be the leylandi with properties on Lime Grove. In terms of the ecology matters I can confirm that a qualified ecologist was on site and has confirmed that no bird nesting was present at the time of works.

Since the issuing of the Council notices I am informed that Officers have been negotiating with the developers. The current position is as follows:

- 1) Save for the importation of some topsoil to the site the developers have agreed that no further works will take place until after a revised planning permission is considered by the Planning Committee; and**
- 2) That the trees which are subject to this petition (which are largely leylandi on the boundary of the site with properties on Lime Grove) are proposed to be retained, as captured in a retrospective planning application which is likely to be considered by the Planning Committee on the 4th June 2019. I am conscious that member colleagues who will be sitting on the Planning Committee may feel they cannot comment on any specific details on the appropriateness of this pending planning application given their upcoming role as decision-makers.**

The proposed changes will secure additional planting. There will remain a net loss of 4 trees, a loss which will be replaced by: greater formal landscaping; the redevelopment of a long vacant, previously developed site; and the delivery of a 100% affordable housing scheme. Whilst the scheme would have delivered a successful outcome in any event following the grant of planning permission I do thank the residents and latterly Officers for their work in securing, via lobbying and negotiation, significant retention of the trees that are referred to in the petition.

The Council's role in being able to protect trees is as:

- 1). regulatory decision maker (through Tree Preservation Orders, trees in Conservation Areas (which are protected by virtue of their Conservation Area status), and planning applications more generally; and**
- 2). as landowner (most notably the parks and open spaces).**

There are other Councils also responsible for trees, notably the County Council (who also have responsibility for highway trees) and Town/Parish Councils.

In terms of the regulatory side the Council has processes in place to assess 'protected' trees (TPO and CA's). Each and every application to fell a protected tree is assessed by a qualified arborist on behalf of the Council. If a TPO tree is to be removed it must be replaced (accepting that any replacement will take time to establish). In terms of the planning process any tree loss must be justified and adequate replacements secured as part of landscaping schemes.

The Council as landowner manages and plants trees as part of its management and maintenance of a range of land assets. Indeed, as some of you may recall from the final Economic Development meeting of the previous Council we are one of the authorities to have responded to the Governments recent consultation on 'Protecting and Enhancing England's Trees and Woodlands'. The Council will adhere to any monitoring and reporting on overall tree loss and replacements as may be set out as a result of this consultation.

To offer some comfort I can give some facts on the issue of the Council's management of trees. In 2018 and 2019 we have planted 18 large trees and 770 whips in our parks and open spaces. Species include oak, rowan, beech, silver birch, hawthorn and field maple.

To conclude, I agree that we should always look to keep trees, replacing them if their loss is necessary or required. I equally agree that we should look to plant more, either as a Council or in encouraging others. We have been doing all of this, I can assure you. We will need to strive to always do more, assessing each and every case carefully.”

Comments of Business Manager

Preliminary Matters

This application seeks to vary condition 23 (the plan condition) of planning permission 18/00973/FULM which was for 100% affordable housing. This application is to rectify discrepancies associated with a small number of plots (39-44 and changes to 23 and 24) in line with the approved site layout and to enable the retention of a line of leylandii trees along the boundary of the site with Lime Grove which were previously shown to be removed.

An application under Section 73 is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. The principle of the approved development cannot be revisited as part of this application and the scope of considerations is narrow.

The NPPF is clear that any new permission should set out all previously imposed conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

The consideration of principle that was presented to Members previously is set out in italics below for completeness.

Principle of Development

The principle of residential development on the site has previously been established through the grant of planning permission for 89 dwellings in 2007 and 2010 (albeit the 2010 permission was never implemented and consequently expired). That's said, there is a new Development Plan and National Planning Policy Guidance now in place which request a fresh consideration of the proposals.

The National Planning Policy Framework 2018 (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises that it is the duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the development plan they will be approved without delay unless material considerations indicate otherwise. One of the core principles of the NPPF is to support and deliver economic growth to ensure that the housing, business and other development needs of an area are met. The NPPF looks to boost significantly the supply of housing. The principles and policies contained in the NPPF also recognise the value of encouraging the effective re-use of previously developed land (provided it is not of high environmental value).

The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed within the Development Plan by Policy DM12 of the Allocations and Development Management DPD which sets out a

positive approach to considering development proposals. Where appropriate this will involve the District Council working alongside applicants to seek solutions which mean that proposals can be approved where possible and to secure development which improves economic, social and environmental conditions. The policy further details that applications which accord with the District's Development Plan will be approved without delay, unless material considerations indicate otherwise.

The application site is within a sustainable location within Newark Urban Area, as defined under Spatial Policy 1 of the Core Strategy as the Sub Regional Centre. Policy DM1 of the Allocations and Development Management DPD refers to proposals being supported for housing within the Sub Regional Centre provided it is appropriate to the size and location of the settlement hierarchy and in accordance with the Core Strategy and other relevant Development Plan Documents. The site is cleared, has a history of residential permissions (which themselves assessed and accepted the residential as opposed to employment re-use), and is a significant vacant brownfield site that and makes no positive contribution to the amenity of the area. On this basis the principle of the residential redevelopment of the site is acceptable.

Current 5 Year Land Supply

The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply which has been confirmed by a number of recent appeal decisions including the dismissal of the Farnsfield appeal (at Public Inquiry) by the Secretary of State in April 2018. I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making and thus carry significant weight in an overall planning balance. This scheme will contribute to the Council's supply, representing a winfall site.

Housing Affordability, Mix, Type and Density

The density, bed-spaces per dwellings and tenure split proposed in this current application remains as previously approved and as detailed in the proposal section of the this report. Whilst the Amended Core Strategy has now been adopted, this does not change the acceptability of the overall mix.

For completeness, the assessment of these matters during the original scheme as set out below in italics:

Core Policy 1 of the Core Strategy (which has been amended to reflect recent changes from Central Government which have set new thresholds) states that for all housing proposals of 11 or more dwellings and which have a combined gross floorspace of more than 1000 sq metres, a level of 30% affordable housing will be sought. The tenure mix of the affordable housing provision should reflect a 60% social rented and 40% intermediate mix.

Core Policy 3 goes on to state that housing densities should normally be no lower than an average of 30 dwellings per hectare net and should seek to address the housing need of the District, namely:

- *family housing of 3 bedrooms or more;*

- smaller houses of 2 bedrooms or less;
- housing for elderly and disabled population.

The mix will be dependent on the local circumstances of the site, the viability of the development and any localised housing need information.

Section 11 of the NPPF is entitled “Making effective use of land” (para 117) states that planning policies and decision should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Para 118 goes on to state that planning policies and decisions should, amongst other criteria, give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs and support appropriate opportunities to remediate derelict land as well as promote and support the development of under-utilised land and buildings. Section 11 then goes on to refer to achieving appropriate densities and should support development that makes efficient use of land, taking into account a range of criteria including, the desirability of maintaining an area’s prevailing character and setting, or of promoting regeneration and change and the importance of securing well designed, attractive and healthy places.

The NPPF states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the need of groups with specific housing requirements are addressed.

Annex 2: Glossary of the NPPF defines affordable housing as being ‘housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following..’. This includes affordable housing for rent, starter homes, discounted market sales housing or other affordable routes to home ownership including shared ownership.

The scheme represents 100% affordable housing provision which exceeds the 30% policy requirement by 43 dwellings.

The revised tenure split proposed for the development is 32 intermediate houses and 30 affordable rent.

Evidence from the 2014 Housing Market and Needs Assessment identifies the affordable housing need for Newark as follows:

Property size	Affordable Need (in Nos)	Proposed by this application
1 bed	234 (27%)	12 (19%)
2 bed	458 (55%)	33 (53%)
3 bed	150 (18%)	13 (20%)
4 bed	0	4 (8%)
TOTAL	842	62

It is shown in the table above that the type of housing provided by this scheme does mirror local need. This is reflected in the comments made by the Council's Strategic Housing Officer.

The density across the site is 38 dwellings per hectare. Core Policy 3 provides that densities are no lower than 30 dwellings per hectare. The proposal therefore complies with this policy. The site is within an urban setting and close to the town centre where such a density of development would not be out of context.

Given the very high levels of affordable housing need in Newark, it is considered that the provision of 100% affordable housing would be of considerable benefit in meeting this need, a benefit to be weighed significantly in an overall planning balance. It is also acknowledged that the policy requirement of 30% affordable provision on market housing sites across the District in the last 5 years or so has not been achieved (often on viability grounds) via individual planning applications.

It is acknowledged, however, that a 100% affordable development could be seen as an undesirable, over-concentration, resulting in an exclusive, homogenous tenure community, rather than a more appropriate mix of market and affordable units. However, in the overall balance, it is considered that the provision of the much needed affordable housing weighs heavily in favour of the development in this case and is in line with Core Policies 1 and 3, the Housing Needs Survey and the NPPF. This is especially the case within the Newark Urban Area, which has a many and varied tenure type and mix-

Impact on Character of the Area

The proposed changes to house types on Plots 39 – 42 and 43 – 44 in terms of the revised footprint of the building and elevational details are detailed in the proposals section of this report. The footprint of the buildings is reduced to correspond to that shown on the approved layout plan. The heights of plots 39-42 are reduced by 0.04m which would be imperceptible. Given that these plots are located within the site, the revised house types are considered to sit well within the context of the site and the surrounding properties. The plots would not be viewed from the public realm and as such it is not considered that there would be any resultant harm to the immediate street-scene nor the wider area.

The revisions to plots 23 and 24 relate to the reconfiguration of the internal layout. Elevational details remain as previously approved. This therefore will have no impact on the character or appearance of the area.

Considering all of the changes it is therefore considered that the proposal remains to be in accordance with aims of the NPPF, Core Policy 9 and Policy DM5 of the Allocations and Development Management DPD.

For completeness, officers previous comments are set out below in italics.

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

The surrounding area to the north east and west is predominantly high density 2 storey terraced properties. It is considered that the proposed development would sit well within this context in terms of appearance, scale and layout. It is acknowledged that there are a small number of single storey dwellings proposed within the site. However this is not considered to be fatal to the application given their location and relationship to adjoining properties.

The amount of hard surfacing within the site to accommodate the access road, private drives and off street parking spaces particularly to the front of the proposed dwellings is a design necessity to address. A revised site layout plan has been deposited which does show landscaping along the central access road and around the parking areas which does help soften the impact and which can be secured by condition to ensure that proposed planting is sufficiently robust and well established to ensure that the development does not have such a car dominated frontage to be completely dominated by hard surfacing.

Overall, and subject to conditions relating to materials, boundary treatments and landscaping details, it is considered that the scheme makes an acceptable contribution to the area, according with the aims of the NPPF, Core Policy 9 and Policy DM5 of the Allocations and Development Management DPD.

Impact on Trees and Ecology

There has been strong representation from local residents both verbally and by correspondence and petition to the loss of trees and greenery within the site. The site formerly had a commercial industrial use and the buildings were demolished some time ago. Subsequently the vacant site has now become overgrown. As noted within the previous appraisal, a number of trees are proposed to be felled either as they are unsuitable for retention and in the interests of good arboricultural management given their poor health and condition or to facilitate the development.

In April this year, local residents notified the Council that trees were being felled on the site which was within the bird breeding season and contrary to condition 17 of the planning permission previously granted. The Council immediately issued a temporary stop notice and a breach of condition notice and tree works ceased on site and no further tree works have been undertaken.

Notwithstanding this the condition restricting the felling of any trees on the site to be outside of the bird breeding season unless otherwise approved by the Local Planning Authority will continue to be attached should Members be minded to grant the S73 permission.

Some of the trees that were previously agreed to be felled along the boundary with Lime Grove are not native to the area, being leylandii trees and their removal was previously considered to be acceptable.

Notwithstanding this, and given local concerns, officers have continued to negotiate with the agent and have secured the retention of the group of leylandii trees along the western boundary of the site with Lime Grove. These will be crown reduced by a maximum of 25% (approximately 3.5m) and cut back along the boundary on the application site boundary as shown on the revised site layout plan, the revised Arboricultural Assessment and tree protection plan

submitted with this S73 application. This is acceptable and betterment from the previous approval.

The agent has also confirmed that there are 35 trees on site in varying states of health, species and age, 27 of which are protected by TPOs. 14 trees within the site (plus 2 trees within the hedgerow) together with an expanse of conifer hedgerow to the southern boundary of the site are to be removed. However, 21 trees within the site and the leylandii hedgerow along the western boundary are proposed to be retained which will be appropriately protected during the construction phase as stated in the revised Arboricultural Statement deposited with this application. The tree officer has been consulted on the revised scheme who is satisfied with the proposed protection methods outlined within the revised Arboricultural Survey deposited with the application.

Although the loss of some trees to facilitate the development is regrettable, there will remain a number of trees retained within and around the site and in terms of replacement planting and landscaping, details of which are to be submitted to and approved in writing by the Local Planning Authority. The agent has confirmed in writing that it is proposed to plant 1,630 shrubs/plants, 8 new trees and 836 hedgerow plants. The condition attached to the previous permission requiring the submission of precise landscape details prior to occupation of any dwelling will remain on the permission should Members be minded to approve this S73 application.

Officers consider that this will ensure that proposed planting will be of appropriate species and sufficiently robust and well established to provide landscaped areas within the development and retain a sense of green space.

The previous appraisal is provided for completeness below.

Policy DM5 of the DPD requires that natural features such as trees and hedges should be protected and enhanced, reflecting Core Policy 12 of the Core Strategy.

The application has been accompanied by an Arborecultural Impact Assessment. It is acknowledged that the proposed development would result in the loss of trees some of which are protected by a TPO (N313) mainly to its south western corner along the boundary with properties on Lime Grove and 2 no. groups of Ileyalndi trees within the site towards the norther boundary. Six of these trees are proposed to be removed as they are unsuitable for retention in the interests of good arborecultural management given that they are in poor health and condition. Nine trees are proposed to be removed to facilitate the development. These trees have been inspected and are classed within the Arborecultural Assessment as being as category C and predominantly in poor condition.

Turning to the comments of the tree consultant it is accepted that plots 1-4 would directly face tree T1 to the front of the site. However works are pruning are proposed to this tree as part of this application which would improve the amenity of the occupiers of these flats.

With regards to Plots 48, 49, and 51 I consider that likely impacts on amenity would not in themselves be so significant as to justify refusal on these grounds. Any future applications to carry out works to trees on the site would need to be assessed on their own merits. Moreover, in this case all plots will be taken on by a registered provider who will be aware of the situation and ongoing management requirements for occupiers and the site itself,

with a single umbrella management vehicle in place in relation to future maintenance works.

With regards to the areas of hardstanding which fall within tree protection routes I note the comments of the tree consultant with regards to the proposed no dig option. A condition is recommended with respect to protection during construction of retained trees.

It is considered that on balance the proposal would accord with Core Policy 12 of the Core Strategy and Policy DM5 of the DPD.

Impact on Residential Amenity

The impacts arising from the amended plans has been considered and found to be acceptable in terms of separation distances, privacy and amenity.

The revised house type proposed at Plots 43 and 44 of the new development would have ground and first floor windows to the elevation facing 59 and 61 Lime Grove. These would serve kitchen/lounges. Officers are mindful that there is a separation distance of circa 17m between these existing and proposed dwellings. Following officer discussions with the agent, the agent has confirmed that the first floor windows to the elevations of plots 43 and 44 will be obscure glazed as confirmed in drg. no. 41040 22A deposited 21st May 2019. Being mindful of separation distances, this together with the retention of the leylandii's along this boundary (which will remain at such a height to provide additional screening between both the existing and proposed properties) would result in a relationship which is on the cusp of acceptability.

As such it is considered that the variation of conditions as proposed would not result in undue impact on residential amenity to justify refusal on these grounds.

The previous appraisal is provided for completeness below.

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development.

The site is immediately adjoined by residential properties to the north and west.

The comments received with regards to impact on the amenity of the occupiers of neighbouring dwellings are acknowledged. The separation distances between proposed and existing dwellings meet best practice separation distances.

In terms of relationships between the proposed and existing dwellings along the western boundary of the site, there is a separation of circa 15m between the rear elevations of the two storey dwellings to the west on Lime Grove (Nos 45-51) which have rear windows facing the blank gable of the proposed two storey flats in the southwestern corner of the site (plots 41-42) This would in officer opinion be an acceptable relationship with no windows to the side gable of the flats and thus no overlooking of these existing properties and that this would not create undue overbearing or overshadowing impact to justify refusal on these grounds. There would be first floor windows to front and rear elevation of

these plots which may have glimpses into garden areas but these would be from an acute angle and this is not such an unusual situation in an urban area.

There is circa. 17m separation between the gable of the semi-detached 2 storey properties at plots 43 and 44 of the proposed development and the windows to the rear elevations of numbers 59 and 61 Lime Grove. A first floor bathroom window is proposed to the side gable of the new dwellings which would face these existing dwellings. However a condition requiring obscure glazing would safeguard the occupiers of the existing dwellings from any undue overlooking.

There is between c20m separation between plots 45, 46, and 48 of the proposed development and the windows to the rear elevations of nos 63-77 Lime Grove directly to the west. There is 18m separation between plot 47 and no. 71 Lime Grove; however this plot is single storey. It is considered that these separation distances are acceptable.

Bearing this in mind it is considered these plots would not result in undue overlooking, overbearing or overshadowing impact.

In terms of relationships with properties to the north on Jubilee Street these are sited at least 54 m from the boundary with the application site and as such the development would not unduly impact upon the amenity of the occupiers of these properties.

Given the garden depths of circa 10m serving plots 57-59 it is considered that occupiers of the adjoining property 80 Bowbridge Road together with properties to the north on Jubilee Street would continue to enjoy reasonable amounts of day light and sunlight with limited overshadowing of their rear garden.

It is noted that there is circa 17m between the side gable of plot 60 and the side boundary of the adjoining property to the north at no. 80 Bowbridge Road. This existing dwelling has first floor windows to its side elevation overlooking the site and a single storey side extension with windows facing a small courtyard adjoining the application site. I am mindful that there are mature trees to the south eastern corner of the site which partially obscure these windows. Furthermore the first floor window to the side gable of plot 60 would serve a bathroom and obscure glazing to this window could be secured by condition.

Turing to the development itself I am satisfied that the relationships between the proposed dwellings are acceptable and that they would be served by private amenity areas proportionate to their size.

Having carefully assessed the scheme I am satisfied that the proposal would have no unacceptable impacts upon the amenity of future occupiers of the proposed dwelling or dwellings adjacent to the application site in accordance with the Policy DM5 of the Allocations and Development Management DPD.

Highway Matters

The proposal does not seek to alter the approved road layout of the site nor the level of off street parking to be provided within the development and therefore raises no additional material highways matters to those previously considered.

The previous appraisal is provided for completeness below.

The NPPF requires all major planning applications to be supported by an appropriate Transport Assessment (TA) and concludes that new development proposals should only be refused on transport grounds where the residual cumulative impacts would be severe. Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The comments received with regards to highway safety and parking issues are acknowledged.

A Transport Statement has been submitted with the application. The Highway Authority originally sought amendments to the scheme in relation to the location of parking spaces, width of private drives and the introduction of waiting restrictions to protect the visibility splay.

A revised layout has subsequently been deposited. The Highway Authority has not raised any significant objection to the revised scheme but it is noted that they still consider that there may be a risk of on street parking resulting from the location of the parking space for plot 52 and a visitor parking space. They have however suggested conditions as noted in the consultation section of this report should Members be minded to grant permission which are considered to be reasonable. However, the risk of on street parking is not considered to be so significant in this particular instance given that it relates to the location of one space to serve a dwelling and one visitor spot to justify refusal on these grounds, particularly as the Highway Authority have recommended conditions.

I note the comments and request received from Nottinghamshire County Council with regards to developer contributions for possible infrastructure improvements in the form of bus stop improvements. However, as discussed within the Viability of Development and Developer Contributions that applicant has put forward a viability argument that the development could not viably deliver such contributions.

It is therefore considered that the proposed development would not result in any significant parking issues or lead to a significant impact on highway safety subject to the approval of details reserved by condition in accordance with the requirements of Spatial Policy 7 and DM5 of the DPD.

Impact on Ecology

Officers are satisfied that the revised layout raises no additional material ecology matters to those previously considered.

The previous appraisal is provided for completeness below.

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The submitted Preliminary Ecological Appraisal has identified the potential for impacts on possible reptiles, birds and bats.

The Survey makes the following conclusions and recommendations:-

The habitat on site has limited biological interest and poor species diversity;

Given the distance from nearest strategic sites (Devon Park Pasture and Farndon Ponds LNR) between 970m and 2.8km it is considered that the proposal would be unlikely to have any direct impacts.;

With regard to bats, there is one tree (proposed to be felled) which has low potential to support roosting bats – soft fell method should be used.

The existing substation on site has low potential to support roosting bats but no potential for hibernating bats. Any works should therefore be undertaken during winter hibernating months;

Trees and shrubs have low potential to provide foraging for bats; there are some low quality foraging and commuting resources and no further surveys are required.

Any lighting to be provided on site should be bat friendly.

With regards to birds, the scattered trees and shrubs on site provide suitable nesting habitats, although it is unsuitable to support schedule 1 species such as birds. Any works to trees and shrubs should therefore be undertaken outside of bird nesting season.

Although no badgers were found some part so the site does have the potential. There should be a pre commencement check of the site and precautions such as mammal ladders, capping off pips at the end of the day, covering of open holes, safe storage of harmful substances and avoidance of night work are recommended.

The survey also recommends that post development the site should make provisions for invertebrates through the incorporation of suggested plant materials.

I am of the opinion that the above recommendations and enhancements can reasonably be secured through condition to safeguard the ecological interest within the site.

Nottinghamshire County Council Ecology have commented that the site is not considered to have significant ecological interest, given its location and previous use and also recommend conditions in relation to vegetation clearance, appropriate landscaping and the incorporation of bat and bird boxes within the development which are considered to be reasonable should Members be minded to grant permission.

I am therefore of the opinion that it has been demonstrated that the proposed development would not adversely impact on the potential habitat of a protected species, in accordance with the guidance within Core Policy 12 and Policy DM5 of the DPD.

Drainage/Flooding

The revised layout raises no additional material drainage matters to those that have previously been considered. The applicant has submitted drainage details as required by condition 15 of the original permission as part of the current Discharge of Condition application ref. 19/00663/DISCON which are currently under consideration.

The previous appraisal is provided for completeness below.

Core Policy 9 (Sustainable Design) provides that development should 'through its design, proactively manage surface water, where feasible, the use of Sustainable Drainage Systems.' CP10 seeks to mitigate the impacts of climate change whilst Policy DM5 also seeks to ensure development is safe for the intended users without increasing flood risk elsewhere. This broadly reflects the advice in the NPPF.

The site lies in Flood Zone 1 which is at lowest risk of flooding. The application is accompanied by a flood risk assessment which concludes that the site is at low risk of fluvial flooding, overland flow, surface water run-off, ground water sources or the sewerage network.

The Environment Agency has advised that the Lead Local Flood Authority are consulted, The Lead Local Flood Authority have stated they do not wish to make comments given the sites low risk of flooding.

I am therefore satisfied that subject to a condition requiring the submission of precise details of foul and surface water drainage disposal the proposal would accord with Core Policy 9, Core Policy 10 and DM5 of the Development Plan. CP10 and DM5 of the Development Plan.

Other Matters

Given the site's historic use, the Council's Environmental Health Service has, following the submission of a Phase 2 Site appraisal, recommended a revised land contamination condition so that any contamination that may be found on the site is dealt with appropriately and that the land can be made safe for its new residential occupiers.

The applicant has submitted details of remediation strategy and additional information, following concerns raised by local residents about potential contamination on site which they consider had not been addressed in the contamination reports submitted with application ref. 18/00973/FUL.

The additional information and reports are currently under consideration by officers and Environmental Health Technical Officer under discharge of condition application 19/00663/DISCON.

Viability of Development and Developer Contributions

This S73 application does not revise the number of dwellings proposed and as such does not raise any additional material considerations in terms of viability or developer contributions to those previously considered.

S106 Agreement

Clause 8 of the signed and sealed S106 agreement attached to the original permission 18/00973/FULM states that any permission pursuant to S73 which varies or releases any condition attached to the associated planning permission the covenants and provisions of the Agreement will bind to the new planning permission. A Deed of Variation is therefore not required in this instance.

The previous appraisal is provided for completeness below.

Spatial Policy 6 'Infrastructure for Growth' and Policy DM3 'Developer Contributions and Planning Obligations' set out the approach for delivering the infrastructure necessary to support growth.

Paragraph 57 of the NPPF (2018) which explains that: 'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'

In line with the requirements of the Viability Guidance Note (Ref ID 10-007-20180724) of the NPPG and paragraph 57 of the revised NPPF the weight to be given to a viability assessment is a matter for the decision maker.

The applicant has sought to challenge the level of developer contributions by way of Infrastructure provision on the basis that the level of contributions proposed would render the development economically unviable.

An independent viability assessment has been commissioned to determine whether the policy based contributions are viable and, if not, the level of contributions that can be delivered whilst maintaining economic viability.

The Developer Contributions and Planning Obligations Supplementary Planning Document 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). The SPD is a useful starting point for the applicant in setting out the approach to resolving negotiable elements not dealt with by the CIL and of the site specific impacts to make a future development proposal acceptable in planning terms.

Contribution	Expectation	Based on 62 dwellings
Affordable Housing	30% on site for 10 houses or more usually with a tenure split of 60% social rent/40% shared ownership as per CP1.	19 affordable dwellings
Community Facilities	£1,384.07 per dwelling (figure includes indexation as at 2016) likely to be spent on Sports Hub further along Bowbridge Road	£85,812.34
Education	Triggered at 10 dwellings; this scheme would generate a projected need for 13 primary school places at £11,455 each	£148,915
Library	Provision triggered at 10 dwellings £236.86 (indexed at 2016) per dwelling	£14,685.32

Library	(Stock) Triggered at 10 dwellings £47.54 (indexed at 2016) per dwelling	£2,947.48
Amenity Open Space	Triggered at 30 dwellings, AOS of 14.4m ² per dwelling would normally be expected on site. Where this is not possible (or only provided in part on site) a financial contribution for the shortfall would be expected based on £282.94 (indexed at 2016) per dwelling.	SUFFICIENT ON SITE PROVISION SUBJECT TO PARKS AND AMENITIES COMMENTS REGARDING THE PROVISION OF 2 OR 3 LAPS - THE AGENT HAS CONFIRMED THAT THE DE VELOPMENT IS UNABLE TO PROVIDE LAPS GIVEN PROXIMITY OF DWELLING AND TREES
Amenity Open Space (Maintenance)	Triggered at 30 dwellings £282.79 (indexed at 2106) per dwelling	Management Plan to be secured by S106 as agreed with the applicant
Children's Play Space	Triggered at 10 dwellings, 18m ² of CPS for dwellings with 2 or more bedrooms would be expected in site. Where this is provided off-site the contribution would £927.26 (indexed at 2016) per dwelling	SUFFICIENT ON SITE PROVISION SUBJECT TO PARKS AND AMENITIES COMMENTS REGARDING THE PROVISION OF 2 OR 3 LAPS – THE AGENT HAS CONFIRMED THAT THE DEVELOPMENT IS UNABLE TO PROVIDE LAPS GIVEN PROXIMITY OF DWELLINGS AND TREES
Bus Stop Improvements	(requested by NCC)	£ 20,000
TOTAL		£272,360.14
OVER PROVISION OF AFFORDABLES	30% = 19 DWELLINGS Over provision of 43 dwellings	43 dwellings at £46k = £1,978,000

In this case, a scheme of 100% affordable housing provision will be exempt from paying CIL on the basis of the social housing exemption provisions. That's said; affordable housing schemes and families who occupy them still generate the need for education spaces in local schools and pressure on community and open space facilities in the area. There is often therefore a need for balance between over provision affordables (over provision for this scheme but not in terms of overall affordable needs for Newark) and lack of provision for some other contributions. The Council has applied such a balance in the past, notably at Sleaford Road whereby the provision of 100% affordable housing was consider most important against a shortfall of other contributions on viability grounds.

In this case there is an unusual situation. The scheme, in monetary terms, very significantly overprovides for affordable housing (to the tune of £1.9m, far outweighing the total S106 contribution level of £272,360.14). However, even with this the Council's viability consultant reports that the scheme can also afford all other developer contributions. Whilst the applicant strongly disagrees with this the Council must attached weight to its specialist and independent advice. That said, whilst a viability case does not exist in my view to not provide all contributions there is a careful benefits case to assess in coming to a final view on acceptability. The scheme will provide for all affordables and the full requirement of £148,915 towards education provision. In such circumstances I consider a case can and should be made for not refusing the scheme for the failure to provide other contributions.

Assessment of conditions

The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged. For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent parts of the condition no longer required and bolded text used to indicate new wording. The conditions have been reworded where details have been provided through the discharge of conditions or revised plans. Commentary is also provided where this is considered necessary.

Conclusion and Planning Balance

The site is located within Newark Urban Area and the principle of residential development on this site is considered to be acceptable. The delivery of 100% affordable housing in an area of high need is a significant material planning consideration as is the contribution this site would make towards the Council's five year housing supply. The development would provide for some developer contributions in the form of education and would also bring back into use significant previously developed land. The scheme does contain design compromises and a shortfall in full S106 contributions however it is considered that in overall terms the scheme is acceptable and should be approved.

It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. In this instance this relates to the revised house types at plots 39-42, 43 and 44 and the revisions to plots 23 and 24 together with the revised layout which shows the retention of the leylandi trees along the western boundary with Lime Grove.

Officers have not identified any unacceptable harm from the proposed revised wording of condition 23, which does not the acceptability of the scheme in a planning balance. As such the S73 application is recommended for approval.

RECOMMENDATION

That full planning permission is granted subject to:

(a) the conditions set out below but request that delegated authority to given to revise the wording of conditions 3, 9, 13 and 15 should the discharge of condition application ref. 19/00663/DISCON be determined before this permission is determined.

Conditions

The development hereby permitted shall be begun ~~within three years from the date of this permission~~ **by 15th March 2022.**

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

02

~~No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish of the dwelling and garage hereby approved) have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.~~

The development hereby approved shall be carried out in accordance with the following external materials approved by the LPA in correspondence dated 20th May 2019 details unless otherwise agreed in writing by the Local Planning Authority.

The following details of materials shown on drawing no. 4140 017D deposited on the 2nd April 2019 pursuant to this condition:-

- ***Bricks - Mercia Antique***
- ***Roof Tile - Sandtoft Dual Calderdale Dark Grey***
- ***Ridge tile - to match roof tile***
- ***Munster Upvc Casement Secured by Design Window - colour white***
- ***AJB Secured by Design Front Doorset - black, Kensington***
- ***Brick Cill/ Head to match main brick colour***
- ***GRP flat or gable porch canopy with tiles to match main roof and lead flashing***
- ***Upvc bargboards - colour white***
- ***Upvc fascia & soffit - colour white***
- ***Upvc gutters & downpipes - colour black***
- ***Upvc french door set - colour white AJB Secured by Design Rear Doorset - colour - white, Angel***

Reason: In the interests of visual amenity.

03

No development shall be commenced until details of the existing ground levels and proposed finished floor levels have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity.

04

Prior to first occupation/use of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;

car parking layouts and materials;

other vehicle and pedestrian access and circulation areas;

hard surfacing materials;

minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, lighting etc.

proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);

Reason: In the interests of visual amenity and biodiversity..

05

The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

06

~~No works or development shall take place until a scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority. This scheme shall include [include pertinent sections]~~

~~a.—— 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.~~

~~b.—— Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations~~

~~c.—— 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.~~

~~d. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.~~

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

~~f. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.~~

~~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.~~

The tree protection measures detailed within the submitted Arboricultural Impact Assessment, Method Statement and Tree Protection Plan produced by RammSanderson dated February 2019 and associated Tree Protection Plan drg. no. RSE_1511_TPP deposited on the 2nd April 2019 and approved by the Local Planning Authority in correspondence dated 20th May 2019 shall be fully implemented on site prior to the commencement of development and retained for the lifetime of the construction phase.

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

07

During the construction period the following activities must not be carried out under any circumstances.

a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.

b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,

c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.

d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.

e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

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

08

The approved boundary treatments for each individual plot on site (41040 016C – Revised Boundary Treatment Plan deposited 17.12.18) shall be implemented prior to the first occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

09

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts B to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

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

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.

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 (referred to in PPS23 as a validation 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.

11

No dwelling forming part of the development hereby permitted shall be occupied until its associated access/driveway/parking area is surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the Highway boundary. The surfaced drive/parking area shall then be maintained in such hard bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

12

No part of the development hereby permitted shall be occupied until the existing site access that has been made redundant as a consequence of this consent is permanently closed and the access crossing reinstated as footway in accordance with Highway Authority standards.

Reason: In the interests of highway safety.

13

No dwelling forming part of the development hereby permitted shall be occupied until its associated access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

14

No development shall commence until the off-site traffic management works comprising of waiting restrictions on the west side of Bowbridge Road are approved by the Highway Authority in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter, such restrictions are to be implemented prior to occupation of the first dwelling.

Reason: To protect adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network; in the interests of highway safety.

15

No part of the development hereby permitted shall be commenced until visibility splays of 2.4m x 47m {minimum} are provided at the junction with Bowbridge Road.

Reason: In the interests of Highway safety.

16

No development shall be commenced until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

17

The ecological mitigation recommendations detailed in Section 6 of the Preliminary Ecological Appraisal (prepared by RammSanderson) dated May 2018 shall be implemented in accordance with those recommendations unless any variations have previously been agreed in writing by the Local Planning Authority.

Reason: In the interests of safeguarding interests of ecological importance in accordance with the requirements of Policies DM5 and DM7 of the DPD.

18

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site

19

No building on site shall be occupied until details of integrated bat boxes, bird boxes (targeting swift, house sparrow and starling) and hedgehog boxes have been submitted to and approved in writing by the local planning authority. The bat and bird boxes shall then be installed, prior to occupation, in accordance with the approved details and retained thereafter for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of maintain and enhancing biodiversity.

20

Prior to first occupation details of any external lighting to be used in the development shall be submitted to and approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity.

21

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 unless otherwise agreed in writing by the local planning authority.

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

22

The first floor bathroom window openings shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which they are installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

23

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.

Unless consent has firstly be granted in the form of a separate planning permission.

24

The development hereby permitted shall not be carried out except in accordance with the following approved plans, reference [insert] unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

~~Site Layout Plan drg. no. 41040 001N~~

Site Layout Plan drg. no. 41040 001P

House Type B57 PAIR drg. no. 41040 004

House Type H68 PAIR Drg. No. 41040 005

House Type H98 PAIR Drg. No. 41040 006

House Type H82 PAIR Drg. No. 41040 007

House Type H68 H75 PAIR Drg. No. 41040 008

House Type H75 PAIR HANDED Drg. No. 41040 009

~~House Type H82 H75 PAIR Drg. No. 41040 010~~

House Type H82 H75 PAIR Drg. No. 41040 010A

House Type M46 FLATS Drg. No. 41040 011

~~House Type M46 FLATS SIDE ENTRANCE Drg. No. 41040 012~~

House Type M46 FLATS SIDE ENTRANCE Drg. No. 41040 012B

House Type M46 Flats Side Entrance – drg. no. 41040 022A

House Type H68 H68 H75 Terrace Drg No. 41040 13

House Type B57 Terrace Drg. No 41040 14

House Type H68 H82 Pair Drg. No. 41040 019

External Materials Drg. No 41040 017b

Tree Constraints Plan Drg. No. Rse-1511-Tcp V2

~~Tree Protection Plan Drg. No. Rse-1511-Tpp V2~~

Tree Constraints Plan Drg. No. Rse-1511-TPP V4

Reason: So as to define this permission.

Informatives

01

The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's understanding that CIL may not payable on the development hereby approved as the development is made up entirely of Social Housing provided by local housing authority, registered social landlord or registered provider of social housing and shared ownership housing. It is necessary to apply for a formal

exemption to confirm this view, which must be made to the Council prior to the commencement of development on CIL 4 form which is also available on the Councils website.

03

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.

04

The minor access reinstatement works referred to in the conditions involve work in the public highway and as such require the consent of the County Council as highway Authority. The traffic management works referred to in the conditions require a Traffic Regulation Order before the development commences to provide safe access.

The developer should note that the Order can be made on behalf of the developer by Nottinghamshire County Council at the expense of the developer. This is a separate legal process and the Applicant should contact mike.barnett@viaem.co.uk. Please note this process can take 9-12 months.

05

Your attention is drawn to an advisory booklet which is available – "A guide to Developing Land in Nottinghamshire". This is available from NSDC website using the following link: <http://www.newark-sherwooddc.gov.uk/landpollution/>

Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

Natural England
Block 6 & 7 Government Buildings
Chalfont Drive
Nottingham
NG8 3SN
Tel: 0115 929 1191
Fax: 0115 929 4886
Email: eastmidlands@naturalengland.org.uk

English Heritage
Ancient Monuments Inspector
44 Dergate
Northampton,
NN1 1UH
Tel: 01604 735400
Fax 01604 735401
E-mail: eastmidlands@english-heritage.org.uk

Heritage Planning Specialists
Nottinghamshire County Council

Trent Bridge House
Fox Road
West Bridgford
Nottingham
NG2 6BJ
Tel: +44 (0)115 977 2162
Fax: +44 (0)115 977 2418
E-mail: heritage@nottscc.gov.uk

BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on ext. 5840

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

Matt Lamb
Business Manager Growth and Regeneration

Committee Plan - 19/00681/FULM

