

## **PLANNING COMMITTEE – 4 JUNE 2019**

<b>Application No:</b>	<b>19/00551/FULM (MAJOR)</b>	
<b>Proposal:</b>	<b>Creation of a Fish Farming Facility at Wigsley from Agricultural Land as a Farm Diversification Business (resubmission of 17/02043/FULM).</b>	
<b>Location:</b>	<b>Field Reference 7600 Off, North Scarle Road, Wigsley, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Float Fish Farm - Mr Dale Hudson</b>	
<b>Registered:</b>	<b>01 April 2019</b>	<b>Target Date: 01 July 2019</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Wigsley Parish Meeting has previously objected to the application (which has not been withdrawn) which differs to the professional officer recommendation.**

### The Site

The site lies in the open countryside to the south-east of Wigsley village, a small rural settlement to the north of our district. The landscape is low lying and relatively flat. The site is located on the eastern side of the B1133 North Scarle Road and extends to the border with North Kesteven District Council.

The site is located c4.3km west of the River Trent and following recent modelling works undertaken by the Environment Agency the entire site falls within flood zone 2 (as it was previously) and part of the site (3.65h or c14%) to the north-east is now also within flood zone 3. The area is locally identified as being prone to surface water flooding.

The site comprises c26 hectares of arable fields and scrub land which was formally part of a former airfield and agricultural land to the east. Grassland in the north west of the site has areas of exposed hard standing; a large sedum mat has formed on one area. To the west of the strip there is a large (0.5 ha) spoil heap which has been wrapped in plastic. Scrubland in the central north of the site has developed on made ground with rubble piles; this is raised from the surrounding area. The scrub in the north west of the site is on the former air strip. There are trees and hedgerows within the site, mainly around the periphery of the site boundaries but also a hedgerow that runs east to west through the centre of the site.

A biological SINC (Site of Important Nature Conservation) known as 'Wigsley Dismantled Airfield' lies to the south-west with a very small part of the designation forming part of the application site. This is recognised as a mosaic of diverse habitats on an abandoned airfield.

There are a number of deep field drains and ponds in the local area, including Wigsley Drain which forms the eastern boundary of the site. This is a steep sided, 3m deep drain with slow flowing water. There is a broken hedge line along the top of the bank which is on the site side of the ditch.

The nearest property is approximately 200m away to the north.

## Relevant Planning History

**17/02043/FULM** – ‘Creation of a Fish Farming Facility at Wigsley from Agricultural Land as a Farm Diversification Business’ on same site as the current proposal. This application was refused by the Planning Committee in March 2019 (contrary to officer recommendation) for the following reason:

*“As a matter of fact the amount of material to be removed from the site during the construction period of the development has changed substantially during the lifetime of the application; from over 102 tonnes to less than 2 tonnes without a compelling explanation. In the opinion of the Local Planning Authority the application has failed to demonstrate credibility and enforceability regarding this, the consequences of which could give rise to significant impacts on the environment including the associated vehicle movements which may not be properly mitigated. The application has given rise to uncertainty regarding the impact of the sports fishing taking place on site (and whether this did indeed form part of the final proposal or not) and whether proper regard had been had in terms of the cumulative assessment of traffic and disturbance impacts associated with this element. The application also failed to demonstrate that the scheme could be appropriately phased, or its implementation be guaranteed in order to avoid a part completed development and avoid visual harm to the landscape. The application also fails to demonstrate how the scheme passes the sequential flood risk test. Taking all matters into account, it is concluded that the development has failed to demonstrate its acceptability in terms of the following policies of the Development Plan. These are from the adopted Newark and Sherwood Core Strategy; Spatial Policies 3 (Rural Areas) & 7 (Sustainable Transport), Core Policies 9 (Sustainable Design), 10 (Climate Change) 12 ( Biodiversity and Green Infrastructure) and 13 (Landscape Character) and from the adopted Allocations & Development Management DPD; Policies DM5 (Design), DM7 (Biodiversity and Green Infrastructure), DM8 (Development in the Open Countryside) and DM12 (Presumption in Favour of Sustainable Development) as well as the National Planning Policy Framework 2019 and its associated Planning Practice Guidance. There were no material considerations that outweighed the failure to demonstrate the above matters.”*

**18/SCR/00012** - The application has been screened against The Town & Country Planning (Environmental Impact Assessment) Regulations 2017 and it has been determined that an Environmental Statement is not required in this instance.

**12/00757/FULM** - Replacement of an extant permission 08/02274/FULM for the creation of lake and growing ponds with utility building for use as a fish farm. Approved 3<sup>rd</sup> August 2012. The scheme has not been implemented and has now time expired.

**08/02274/FULM** - Creation of lake and growing ponds with utility building for use as a fish farm. Approved 3<sup>rd</sup> June 2009. This related to land that set back from the highway and approximately 1/3 of the land that forms this latest planning application.

**07/01794/FUL** - Erection of 3 utility buildings and excavations for ponds in connection with use of land as a fish farm. This application relates to a smaller part of the site now being considered to the site frontage. Application withdrawn 31<sup>st</sup> March 2008.

**06/01597/FULM** - Fish farm development for ornamental, angling and food purposes comprising erection of 3 utility buildings, new vehicular access, engineering works to provide fish stock pools and moat and landscaping. This matter was referred to the County Council given that it transpired

that it would constitute a county matters application due to the amount of land being removed from the site.

### Background and Proposal

Members will recall the planning application under reference 17/02043/FULM was refused at the March 2019 Planning Committee. There are a number of matters that have changed which are material to you as decision makers in this resubmission for the creation of a fish farming facility.

Firstly the site was previously identified as being in flood zone 2 (at medium risk of flooding) and in an area prone to surface water flooding according to Environment Agency (EA) maps. However following recent modelling works undertaken by the EA, new data has been released showing that 3.65h of the north-eastern part of the site is also within flood zone 3 (at highest flood risk) and it continues to be located in an area prone to surface water flooding. This matter will be discussed further in the relevant section of this report.

Secondly the amended Core Strategy has now been adopted and carries full weight. This will be discussed where necessary throughout the report.

### The Proposal

The applicant already operates a fish farm (Float Fish Farm, which started trading in 2007) which is located at Farcet near Peterborough comprising 8 lakes on a 21ha site which has a mix use of fish farm and leisure fishing. The applicant has stated that business has outstripped capacity and a second site is needed in the East Midlands area to focus the core business (the fish farm) which would allow the Peterborough site to focus on the company's leisure arm.

Full planning permission is now sought to create a fish farm. The fish farm would breed and rear freshwater species of fish to supply the ornamental and sport fishing market. The applicant has clarified that there is no leisure or sport use in the proposal and has advised that once fully operational, at year 6 the facility would be capable of supplying around 11,500kg of live fish per annum.

Three single storey utility buildings towards to the site entrance would be located on site which would house breeding/hatching tanks and a water circulation plant. These would each measure approximately 15.56m in length by 5.58m in depth to a height of 5.38m to ridge and 2.48m to the eaves. The proposed buildings are finished with timber cladding on the walls and shingle tile on the pitched roof.

This development would involve the creation of a range of engineered growing ponds, fish stock ponds/lakes and a reed bed filtration pond which would act as a natural water cleaning system.

Four fishing lakes (from 9,251m<sup>2</sup> to 1.89ha) to depths of 1.5m with varying bank gradients and eleven fish growing ponds (for rearing the fish bred on site) ranging from 2450m<sup>2</sup> to 484m<sup>2</sup> in size with depths of between 0.9m and 1.5m are proposed. The development would involve engineering operations to dig and clay line the growing ponds that can be filled, drained and netted and sterilized each season. The applicant indicates that no minerals or waste material will need to be exported from the site and only excess topsoil will be sold off with the income used to balance the cost of excavation and earth moving around the site.

Access to the site is from the B1133. Stone access tracks would be laid that weave around the proposed engineered lakes and ponds with the provision of hardstanding areas provided for car parking around the site.

A range of enhanced and new habitat, including woodland is proposed as part of this proposal which equates to c20% of the site.

The applicant has now indicated that the farm would take up to four years to complete.

The applicant envisages that once fully operational the farm would provide employment for around 8 people; 5 full time people and 3 additional part time seasonal workers during busy summer months.

A phasing plan shows the scheme would be developed in 4 phases (in broad quarters);

- Phase 1 would comprise of the access point and access road leading centrally through the site to the south-eastern part of the site where one fish stock pond (FP2) would be created along with reed beds and a growing pond (GP11), 1 area for vehicle parking plus the 3 x utility buildings towards the site frontage;
- Phase 2 to the north eastern part of the site would comprise retained scrubland habitat, 10 growing ponds (GP1 – GP10) and one area of parking;
- Phase 3 to the southwestern part of the site would comprises two fish stock ponds and associated reed bed, scrub habitat and 3 areas for vehicle parking;
- Phase 4 to the north-west part of the site would comprise a fish stock pond (FP1), a reed bed (feeding into FP3 and FP4) and scrub habitat.

The application is accompanied by the following plans and additional information which has been updated on several occasions during the application. For the avoidance of doubt the application has been assessed on the basis of the following list of submissions:

- Drawing Number: DH/400/17 – Location Plan – dated 6 September 2017;
- Drawing Number: DH/401/17 Rev C – Site Layout dated 12 March 2019;
- Drawing Number: DH/402/17 – Plan of the Proposed Buildings, dated 5 September 2017;
- Drawing Number: DH/403/17 – Cross Sections, dated 8 June 2018;
- Drawing Number: DH/404/17 – Cross Sections, dated 8 June 2018
- Drawing Number: DH/405/17 – Topographical Survey, dated 19 February 2018;
- Drawing Number: DH/407/17 – Cross Sections, dated 7 June 2018;
- Drawing Number: DH/408/17 Rev A – Phasing Plan, dated 12 March 2019
- Supporting Statement (including Design and Access Statement) – dated 12 March 2019 with the following appendixes:
  - Construction Management Plan;
  - Documents relating to excavation;
  - Flood Risk Assessment – updated May 2018 (author: Geoff Beel Consultancy), submitted 29.11.2018;
  - Ecological surveys;
  - Agricultural Land Classification – dated November 2018 (author: Soil Environment Services, Reference: SES/FFF/WFF/#1); and,
  - Landscape & Visual Assessment – dated March 2018 (author: Collington Winter, reference CW067-RPT-001).

## Departure/Public Advertisement Procedure

Occupiers of four 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 expiring on 2<sup>nd</sup> May 2019.

## **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

Spatial Policy 7: Sustainable Transport

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 11: Rural Accessibility

Core Policy 12: Biodiversity and Green Infrastructure

Core Policy 13: Landscape Character

### **Allocations & Development Management DPD**

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM8 – Development in the Open Countryside

Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance
- Landscape Character Assessment SPD
- Agricultural Land Classification: protecting the best and most versatile agricultural land, Natural England, TIN049, 19/12/2012

## Consultations

### **Wigsley Parish Meeting – (22.04.2019)**

Objection approved at Wigsley Parish Meeting on 09/04/2019

“It is noted that the previous planning application 17/02043/FULM was refused but only contrary to officer recommendation. Wigsley Parish Meeting thanks Councillors on the Planning Committee for their careful consideration of the refused application and the uncertainty about many aspects of the application which they recognised. This is a very significant major application adjacent to a small village and there is no room for any uncertainty about what is proposed because of the potential impact on residents.

In addition, having reviewed the committee report for the refused application and assessed the

resubmitted scheme, we continue to object to the application on the following grounds:

1. Noise and disturbance from excavations over a 4 year time period on 6 days per week. There is still no proper noise assessment. This would be quite simple to carry out. First of all, measure existing background noise levels. Then set up noise monitoring equipment at the nearest noise-sensitive premises and carry out some excavations at the closest point over the course of a day using the actual excavators. There are many companies that the applicant could engage to produce such a report which the District Planning Authority could then check. Alternatively, Environmental Health Officers at the District Council should be capable of doing the same.

The response of the District Council Environmental Health Officers in the committee report is simply not detailed enough. The proposed Construction Management Plan is of no value if the actual excavations are too noisy and result in disturbance to the residential amenity of villagers. There is no empirical evidence upon which the Environmental Health Officers have based their response.

It is also noted that the Construction Management Plan put forward by the applicant does not take account of the recommendations of the Environmental Health Officers in terms of hours nor the condition recommended in the committee report. Thus, the suggested hours by the District Council were:

07:30 to 18:00 on Mondays to Fridays

In contrast the applicant proposes:

07:00 to 17:50 on Mondays to Fridays

Clearly, there is greater potential for noise and disturbance at 7:00 am in the morning and so we again object to the applicant's suggested hours of construction.

Although the applicant states that favourable weather conditions may reduce the construction period to 2.5-3 years, it has to be recognised that the site is within the Flood Zone.

Consequently, during winter months the water table is invariably very high with very heavy ground as a result, so the Parish Meeting has little confidence that the construction period will be reduced.

It is also noted that, although the overall levels of projected vehicle movements are modest, there could be peaks and troughs which may add to the noise and disturbance from the scheme to the further detriment of residential amenity.

2. Flood Risk - Sequential Test still not carried out. The Parish Meeting highlighted this issue previously and it formed one of the reasons for refusal of the previous application. However, the applicant has again failed to address the matter. The protestations of the applicant in the committee report are far too vague and it has to be acknowledged that North Scarle Road/ former Wigsley Airfield has been notable for its flooding at times of heavy rain.

3. Limited scope for frontage landscaping. Whilst there are some modest improvements in this regard, extending the development close to North Scarle Road means that the landscaping will have an artificial, unnatural quality in this countryside location. Given the very large size of the site, avoiding fish ponds close to the road would allow for a greater depth of planting allowing the scheme to be more sensitively assimilated into the landscape."

### **NCC Highways Authority – (17.04.2019)**

The NCC Highway comments dated 17 December 2018 contained within the Applicant's supporting statement (Appendix 5, document 5.7) which raised no objection to the amount of proposed lorry movements was based on information entitled 'Wigsley Site Lorry Movements Proposed' that suggested:

- Total Loads to export from site = 167 Loads over 4 years
- Year 1 – Nil loads
- Year 2 April - October 13 weeks x 5 loads Out;
- Year 3 April - October 8 weeks x 5 loads Out
- Year 4 April - October 12 weeks x 5 loads Out plus 1 week x 2 Loads Out

This is approximately 1 load, or 2 HGV trips (1 in & 1 out) per day, but only during certain periods. This is not considered excessive and is not perceived to significantly compromise highway safety or capacity.

Therefore, the highway Authority raises no objection to the application subject to a condition for the submission and approval of details of the site access and for a schedule of construction lorry routing arrangement should be agreed by planning condition.

### **NCC Planning; Minerals and Waste/Ecology - (09.04.19)**

Our comments would remain the same as the previous comments made on the 17/02043 application, with our latest comments on further information provided in December 2018. The previous comments are noted below.

#### ***NCC Minerals***

Following concern raised in the previous consultation response in relation to Minerals and Waste-extraction activity and the now additional information the County Council now has the following comments to make.

In relation to excavating material, the supporting statement and muck balance calculation/spreadsheet/lorry movements set out the quantities of materials that would be excavated and how they would be used within the development. It confirms that most materials would be retained for re-use within the application site with approximately 2,511 tons of top soil removed from the site which would be sold. It confirms sand and gravel (mineral) would be removed from the site. For the purposes of mineral planning, the soils removed from the site are a surplus spoil material and not a mineral resource. Cross sections have also been supplied which identifies the depths of the excavation which was previously unclear.

On the basis of this information the County Council is satisfied that the development does not need a separate planning application for minerals extraction, but the County Council would recommend that Newark and Sherwood District Council impose a planning condition to ensure that the level of material excavation/re-use and off-site disposal accords with the information that has been submitted.

It is considered the additional information addresses the concerns that have previously been raised by Nottinghamshire County Council and therefore consider we can withdraw our mineral planning objection to the development.

### ***NCC Ecology***

Some, further, ecological information has been provided, specifically in relation to great crested newts. Comments as follows:

- A Great Crested Newt Mitigation Report (dated October 2018) has been submitted, which proposed a precautionary approach in the absence of surveys of 'Pond B', to which access Nottinghamshire County Council, County Hall, West Bridgford, Nottingham NG2 7QP was not obtained. It is unclear if it is proposed that further surveys of this pond are expected to take place (which could negate the need for a mitigation strategy). However, the approach set out in the Great Crested Newt Mitigation Report appears to be appropriate.
- However, it is assumed that no further ecology report has been provided to address the other, previous comments about gaps in the original ecology report – it cannot be seen on the NSDC website. Questions remain about the presence (or otherwise) of reptiles on the site, and it is unclear whether the existing badger setts are to be directly affected by proposals or not.
- The site layout has been amended, showing the retention of the existing hedgerow which bisects the site in an east-west direction, which is welcomed.
- It remains unclear about the raising of land in areas that currently support scrub (to be retained) – the note on the Site Layout plan does not really clarify this.
- As before, standard conditions will be required in relation to the control of vegetation clearance during the bird nesting season, and the use of temporary protective fencing to protect retained areas of vegetation and watercourses during construction.
- A condition should be used to require the submission of a detailed landscaping scheme, to include the use of native species of tree and shrub, establishment methods, and the provision of a wildlife pond (in the event that a great crested newt pond is not required).

### **NCC Lead Local Flood Authority – 05/04/2019:**

Having considered the application the LLFA will not be making comments on it in relation to flood risk as it falls outside of the guidance set out by Government for those applications that do require a response from the LLFA.

### **Natural England – (05.04.2019):**

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published under the [Standing Advice](#) for protected species for local authorities. However, advice can be sought from ecology services available.

### **Nottinghamshire Wildlife Trust – 08.04.2019:**

Our comments are based on the following ecological information:

- Ecological Scoping Survey (Prime Environment January 2018)

- Float Fish Farm Lt., Great Crested Newt Mitigation Report (Prime Environment October 2018)
- eDNA Survey Report, Float Fish Farm Ltd (Prime Environment 21/07/2018)

### *Amphibians*

The Ecological Scoping Survey reveals that a second pond, 39m north-west of the site on private land could not be accessed during the survey. The applicant's ecologist states that a survey for great crested newts should be undertaken in spring to determine the presence or absence of newts. In the event that ponds in proximity to the site support great crested newts, mitigation will be required to ensure that newts are not harmed during works and that the newt population can be sustained in the long term. Great crested newts are European Protected Species (EPS) and are protected under the Conservation of Habitats and Species Regulations 2010, and the Wildlife and Countryside Act 1981, as amended by the Countryside & Rights of Way Act 2000. The legislation provides protection to great crested newts, their breeding ponds and terrestrial habitat. Within the Float Fish Farm Ltd. Supporting Statement (revised 12th March 2019) Section 3.3 Ecology states: *"We have therefore provided a Newt Mitigation Strategy so as to deal with any newt habitats that might exist and during the spring of 2019 we will commission a Newt DNA survey for this additional pond area not on our site"*. Ideally, the updated Newt eDNA survey results should have been submitted with this application. The results of this survey may have a bearing on the design of the proposed development site. Without these results we are of the opinion that the Local Planning Authority is not in a position to make an informed decision about the ecological impacts of this proposal. The presence of great crested newts would be a material planning consideration.

**The Nottinghamshire Wildlife Trust** have had sight of the Newt eDNA survey and provides the addendum comments:

We fully support the mitigation proposed for great crested newts in the ecological report Prime Environment, Float Fish Farm (October 2018). Mitigation is required because in the event that it's not possible to survey a pond, Pond B in this instance, it has to be assumed that a small population of great crested newts could be present. Mitigation is required to ensure that newts are not harmed during works and that the newt population can be sustained in the long term. Great crested newts are a European Protected Species (EPS) and are protected under the Conservation of Habitats and Species Regulations 2010, and the Wildlife and Countryside Act 1981, as amended by the Countryside & Rights of Way Act 2000. The legislation provides protection to great crested newts, their breeding ponds and terrestrial habitat. The methodology given in Section 3 of the report should be secured by way of planning **condition**, should the application be approved. You may wish to use the following wording:

*"All mitigation works shall be carried out in accordance with the details contained in Section 3 of Prime Environment, Float Fish Farm (October 2018) already submitted with the planning application and agreed in principle with the local planning authority prior to determination."*

The newt mitigation should ideally be incorporated into the Construction Plan or attached to it so that all site personnel are familiar with it.

### *Reptiles*

The applicant's ecologist considers the site suitable for grass snake, slow worm and common lizard. In order to establish whether reptiles are present at this site a survey to industry standard should be undertaken prior to the commencement of work. If reptiles are found, mitigation will be required. Surveys should be undertaken between March and September and require a minimum of seven survey visits (and one visit to set up survey refugia across the site). These species are protected via part of Section 9(1) of the Wildlife & Countryside Act 1981 (as amended) against intentional killing and injuring. We strongly recommend that the LPA ensures that this survey is undertaken before the planning application is decided.

### *Water Vole*

The applicant's ecologist considers that the bank and watercourse of Wigsley Drain and the wet ditch to the north of the site could support a population of water voles. The internal ditches were not considered suitable for water vole at the time of survey, but it is stated that they could be colonised if they regularly hold water. If work is proposed within 5 m of the bank, a survey should be conducted to establish whether water vole burrows are present. If they are, appropriate mitigation may be required. Water voles and their places of shelter are protected under the Wildlife and Countryside Act 1981 (as amended).

### *Badgers*

Signs of badger activity were recorded within the Site. Sett 1 (Figure 2) was recorded on the site-side bank of the ditch in the north east corner (SK 86665 69554). One of the sett holes had fresh earth around it with scrapings and 'snuffle holes' close by. Sett 2 was recorded in the south west corner (SK 85813 69532), where the applicant's ecologist considers that badgers have been using a wide drain pipe as a sett. Several latrines were noted in the field close by and a significant number of tracks were recorded through the long grass at this location, plus scrapings and snuffle holes. In order to protect badgers from disturbance 30m buffer zones are required around both setts to provide protection to them. Prior to works commencing, the site should be subject to a further survey for active badger setts because it is possible that animals will dig new setts, or abandon existing ones. Where a sett is within 30m of the proposed works (including movement of vehicles, storage of materials and excavation work) the applicant should consult their ecologist and Natural England because a protected species licence may be required. Under the Protection of Badgers Act 1992 it is a criminal offence to wilfully kill, injure, take, possess or cruelly ill-treat a badger, or to attempt to do so; to intentionally or recklessly interfere with a sett. Sett interference includes disturbing badgers whilst they are occupying a sett, as well as damaging or destroying a sett or obstructing access to it.

### *Bats*

All trees within the site were considered to have low bat roost potential. However, this does not mean that they have no potential for roosting bats and further inspection of these trees will be necessary should they be impacted by the development. All bat species are statutorily protected from reckless killing, injuring and disturbance, and damage and obstruction to roost sites by the Wildlife and Countryside Act 1981 (as amended) and by the Conservation of Habitats and Species Regulations 2010 (as amended). Note that even if bats are not present, their roosts are protected all year round. The Countryside and Rights of Way Act 2000 strengthens the protection afforded to bats by covering 'reckless' damage or disturbance to a bat roost.

### *Breeding Birds*

No vegetation clearance works to be conducted during the bird breeding season (March to mid-September inclusive) except under the guidance of a suitably qualified ecologist. All birds, their eggs and nests are protected by the Wildlife and Countryside Act 1981 (as amended).

This level of survey work is required in order to allow the LPA to make a fully informed decision, as stated in Paragraph 99 of Government (ODPM) Circular 06/2005 (which accompanied PPS9, but remains in force): 'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.' The Natural Environment & Rural Communities (NERC) Act 2006 places a duty on authorities to have due regard for biodiversity and nature conservation during the course of their operations.

### *Protection of Local Wildlife Site*

We have lingering concerns about the impacts of this proposal on Wigsley Dismantled Airfield Local Wildlife Site (LWS 5/205). When comparing the Phasing Plan to the location of the LWS it would appear that the northern tip of the LWS will be adversely impacted by the proposal. We ask the LPA to ensure that the whole of the LWS is protected from development.

<https://maps.nottinghamcity.gov.uk/insightmapping/#>

If this proposal will lead to the loss or damage to the LWS then we would have to reconsider our position. In addition, there possible indirect effects that will need to be addressed to ensure protection of the LWS. We are concerned about the potential impacts from run-off from areas of impermeable surface. Run-off from roads and hard standing can be contaminated by oil, rubber, chemicals, etc. We request assurances that the issue of run-off from the site will be thoroughly assessed and appropriate mitigation put in place as it is of the utmost importance that contaminated water does not enter and degrade nearby water courses, ponds and the adjacent LWS. LWS are selected for their substantive nature conservation value. Their selection takes into consideration the most important threatened species and habitats within a national, regional and local context.

LWS receive protection within Newark and Sherwood's Amended Core Strategy (March 2019).

Core Policy 12 Biodiversity and Green Infrastructure states:

*"The District Council will seek to conserve and enhance the biodiversity and geological diversity of the District by working with partners to implement the aims and proposals of the Nottinghamshire Local Biodiversity Action Plan, the Green Infrastructure Strategy and the Nature Conservation Strategy. The District Council will therefore: • Expect proposals to take into account the need for continued protection of the District's ecological, biological and geological assets. With particular regard to sites of international, national and **local significance**, Ancient Woodlands and species and habitats of principal importance identified in Section 41 of the Natural Environment and Rural Communities Act 2006 and in the Nottinghamshire Local Biodiversity Action Plan."*

### ***Landscape Proposals (General)***

A Site Layout plan (Drg No. DH/401/17) has been submitted and general landscaping proposals are included in the Supporting Statement. (See sections 2.2.10 – 2.2.31). In **Section 2.2.16** it states *'Float Fish Farm Ltd propose to provide an establishment aftercare provision for the woodlands, wetlands and species rich grassland. These habitats will be managed sensitively for nature conservation for 5 years.'* We are of the opinion that a detailed **"Landscape Design Plan" and Ecological Management Plan (EcMP)** are required so that it is absolutely clear what landscaping will be implemented and the management work that will be undertaken in the future. Within the EcMP we would expect to see details of habitat retention, creation (including methodology and species), any additional enhancements, as well as detailed information of the long term management of these habitats to a high standard in order to maximise biodiversity opportunities. Critical to the scheme delivering real biodiversity benefits is that retained and created habitats should be **managed in perpetuity in accordance with the agreed EcMP** and that a monitoring strategy be implemented that includes a summary of management undertaken to date, an assessment of the effectiveness of the management against plan objectives, together with any recommendations for any amendments to the management prescriptions. We are happy to discuss the precise level of effort required for monitoring with the applicant's ecologist. Production and implementation of the EcMP should be secured through the planning system by way of a suitably worded condition.

Plant stock used in the landscaping scheme should be of guaranteed native genetic origin and ideally of local provenance, in order to maximise the nature conservation benefits of the proposal. The following species are suitable for this part of the county;

Woodland – Pedunculate oak *Quercus robur*, silver birch *Betula pendula*, Scots pine *Pinus sylvestris*, crack willow *Salix fragilis*, rowan *Sorbus aucuparia*, small-leaved elm *Ulmus minor*, wych elm *Ulmus glabra*. Shrub layer – blackthorn *Prunus spinosa*, hawthorn *Crataegus monogyna*, dogwood *Cornus sanguinea*, holly *Ilex europaeus*, hazel *Corylus avellana*, guelder rose *Viburnum opalis*

Carr woodland – goat willow *Salix caprea*, grey willow *Salix cinerea*, Osier *Salix viminalis*, hawthorn *Crataegus monogyna*, guelder rose *Viburnum opalis*, dog wood *Cornus sanguinea*

Reed bed establishment could be aided through the introduction of rhizomes/plant material that could be obtained through the local Internal Drainage Board as a result of their routine ditch management work. This strategy would hasten the benefits to wildlife and the operation of the reedbed filter system. We are of the opinion that plant material from garden ponds is not suitable as this may contain non-native invasive plant species that could colonise rapidly to the detriment of native species.

We also request that newly created grassland areas are seeded with a grassland/wildflower mix in order to enhance the biodiversity of the site. The following seed supplier will be able to provide an appropriate native wildflower seed mix of local provenance for this part of Nottinghamshire.

Naturescape  
Maple Farm  
Coach Gap Lane  
Langar  
Notts  
Tel: 01949 860 592  
Web: [www.naturescape.co.uk](http://www.naturescape.co.uk)

Paragraph 109 of the NPPF states that the planning system should look to provide net gains in biodiversity where possible, whilst Paragraph 118 advises that opportunities to incorporate biodiversity in and around developments should be encouraged.

We also note that an area of the LWS (but outside the planning application area) is under the applicant's control. We would be happy to provide advice on appropriate management for this area if that would be helpful.

Please do not hesitate to contact Nottinghamshire Wildlife Trust if you wish to discuss our comments. I would be grateful if you would keep us informed about the progress of this planning application."

### **Environment Agency - (15.04.2019)**

The proposed development will only meet the National Planning Policy Framework's requirements if the following planning condition is included.

#### Condition

The development shall be carried out in accordance with the submitted flood risk assessment (ref GCB/HUDSON and dated May 2018 compiled by Geoff Beel Consultancy) and the following mitigation measures it details, namely:

1. Finished floor levels are set no lower than 6.30m above Ordnance Datum (AOD).
2. Resilience measures must be utilised to a minimum of 6.60m AOD.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

#### **Advice to LPA**

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Technical Guide to the National Planning Policy Framework (paragraph 9) states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions."

### **Trent Valley Internal Drainage Board – (02.04.2019)**

The site is outside of the Trent Valley Internal Drainage Board district and catchment. There are no Board maintained watercourses in close proximity to the site. No comments to make in respect of this consultation.

### **Upper Witham Internal Drainage Board - (18.04.2019)**

The Board has no objection to the proposed development provided it is constructed in accordance with the submitted details and Flood Risk Assessment. However should anything change in relation to the method of surface water disposal and/or in relation to the flood risk assessment then this Board would wish to be reconsulted. It is noted:

- an access strip of at least 6m has been left adjacent to Wigsley Pump Drain (Board maintained watercourse, 23000)
- any discharges will be limited to the greenfield rate
- Board Byelaw consent will be required for any proposed temporary or permanent works or structures in, under, over or within the byelaw distance (6m) of the top of the bank of a Board maintained watercourse (Wigsley Pump Drain)

**North Kesteven District Council** – No comment received

**NATS** – (10.04.2019) no safeguarding objection.

**NSDC (Environmental Health)** – No observations in relation to contaminated land.

**NSDC (Environmental Health)** – comments relating to 17/02043/FULM:

(10.12.2018) – ‘I have looked at the Construction Management Plan and provided they implement it, I do not for see any problems.’

Previous comments (in respect of earlier CMP) 24.09.2018 – ‘I would comment that section 2.3.6 deals with construction hours, the quoted hours are too long. We would expect 07:30 till 18:00 Monday to Friday, 08:00 till 13:00 Saturday with no Sunday or bank Holiday working.’

**One representation has been received (forwarded on by the applicant) which states:**

“In response to your conversation regarding the drainage on Wigsley Old Air Field. We have farmed either side of your land, that you are trying for planning permission on, since 1996 and have never had the fields flooded. In response to the highway flooding, it was quite severe in the winter of 2011/2012. This has been rectified by Notts Highway by cleaning out the old taxiway drains at the side of the road, And by digging a new ditch system to join onto the existing ditch network. I cannot see any problems going forward as long as the ditch, that you now own, is kept well maintained.”

### Comments of the Business Manager

The main issues for consideration in this application assessment are:

- The Principle of Development including the Loss of Agricultural Land;

- Excavation Impacts/Viability/Engineering Operations;
- Effect of Phasing;
- Traffic implications & Highway Impacts;
- Impact on Residential Amenity;
- Impacts on the Countryside and Landscape;
- Impact on Trees;
- Impact on Ecology;
- Flood Risk; and,
- Planning Balance and Conclusions.

### The Principle of Development including the Loss of Agricultural Land

Section 336 of the Town and Country Planning 1990 Act defines agriculture to include:

“...the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins, fur, or for the purpose of the farming of the land)...”

The proposal seeks full planning permission for a fish farm at the site. According to the information submitted by the applicant the proposed development would produce fish for sports fishing, angling and ornamental purposes.

As such it is considered the proposal is not an agricultural use as defined by the Act. However, Policy DM8 makes clear that development in the countryside will be strictly controlled and limited to certain types of development which includes rural diversification. More specifically Policy DM8 states Proposals to diversify the economic activity of rural businesses will be supported where it can be shown that they contribute to the local economy. DM8 continues by advocating proposals should be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible.’

The existing site does not appear to form an active farming business, albeit some of the land is arable. Part of the land is a former airfield which has assimilated back to agricultural use over a number of years. There is no existing business as such to diversify. On the face of it, the proposal fails this element of the policy. However the NPPF, which is a material consideration (at paragraph 83) supports both the ‘sustainable growth and expansion of all types of business in rural areas, through conversion of existing buildings and well-designed new buildings’ and ‘the **development** and diversification of agricultural and other land-based rural businesses (emphasis added).

It is recognised that agricultural land is an important natural resource and how it is used is vital to sustainable development. The Agricultural Land Classification system classifies land into 5 grades, with Grade 3 subdivided into sub-grades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a (as defined by the NPPF) and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non-food crops for future generations. This is a method of assessing the quality of farmland to assist decision makers.

Estimates in 2012 suggest that Grades 1 and 2 together form about 21% of all farmland in England; Subgrade 3a also covers about 21%. The vast majority of land within the Newark and Sherwood District is Grade 3. There is no Grade 5 land and very limited amounts of Grade 4 land which is located north of Girton and Besthorpe and near North Clifton. Of the Grade 3 land, there is no database to distinguish between whether a site is formed by Grades 3a or 3b land. However the

applicant has at our request undertaken a soil analysis which shows the site to be within Grade 3a, falling within the best and most versatile land.

The NPPF sets out at paragraph 170 that planning decisions should contribute to the natural and local environment by ‘ (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – *including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.*’ emphasis added.

The loss of c26ha of Grade 3a agricultural land is a negative factor in the overall planning balance. However without knowing what proportion of other land within the district is 3a and 3b it is difficult to quantify its true impact. Nevertheless, the proposal is a new business which is supported by the NPPF and is a land based business requiring a rural area which would contribute to the local economy through providing jobs and diversifying the rural economy. Notwithstanding the ecological implications (discussed later in the report) it is considered the proposal accords with the spirit of both national and local level policy objectives.

#### Excavation Impacts/Viability/Engineering Operations

It is noted the development involves excavation of material to create the fish and growing ponds. The applicant has confirmed and it has been corroborated by a Chartered Quantity Surveyor that the amount of material to be brought off site would equate to 2,511 tonnes which would comprise primary material (screened top soil).

The NCC Minerals and Waste Team commented on the previous application and assisted with calculating the volume of materials to be removed and were broadly satisfied. Given this application proposes to remove the same amount of material from the site it would be reasonable to consider their view would remain in broad satisfaction.

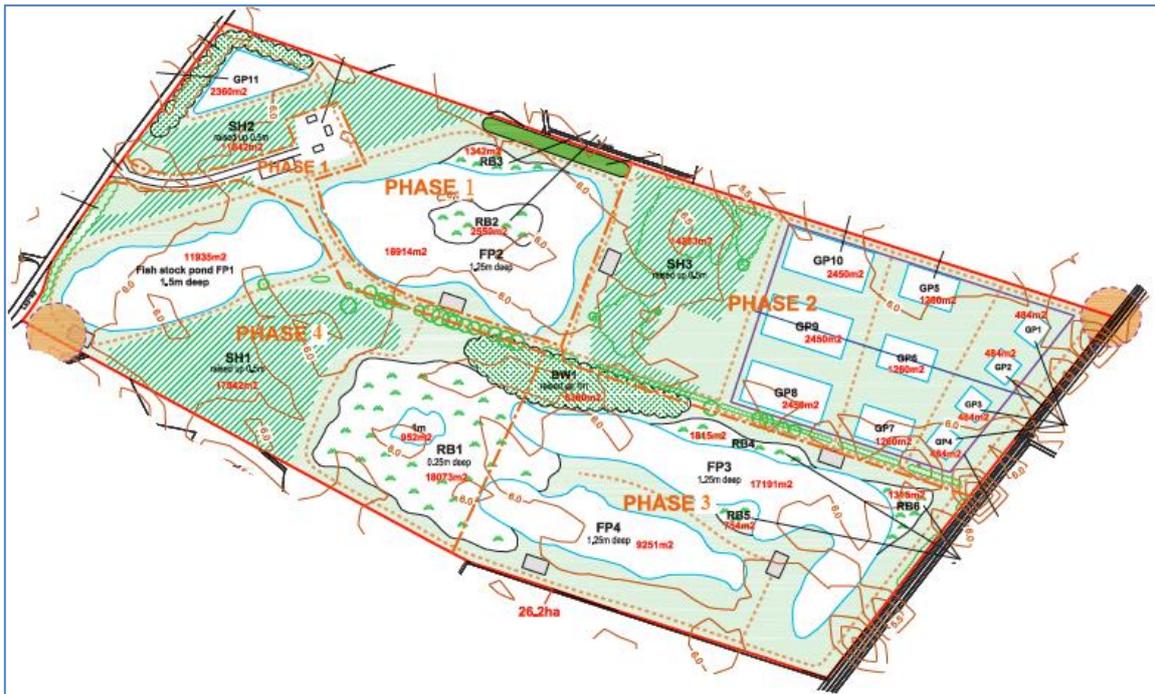
To reiterate NCC confirmed that they were satisfied that the previous proposal would not constitute a minerals or waste operation but rather given the depths involved would amount to an engineering operation that is a district planning matter. This application involves the same amount of excavation and as such it would be difficult to reach a different view other than an engineering operation which would still rest with the District Planning Authority. However, taking into account the previous comments and the depths of the digging it is considered expedient to control this matter by planning condition to avoid extraction of minerals such as sand if Members are minded to support the scheme.

In respect of the completion of the works to avoid a despoiled site which would be harmful to the environment it is noted the development sees a reduction in the amount of material taken off the site compared with previous schemes. Given the development would be undertaken in four phases this cumulatively reduces the cost and ultimately the risk to the site being completed. The application proposes that none of the material will need to be removed, other than sold and through a planning condition can ensure the development is completed in phases (with not more than one phase being developed until the previous is substantially complete) which would minimise the risk of leaving the site in an state which would harm the environment.

This application now proposes a significantly lower level of excavated material to be taken off site, which inevitably reduces the amount of traffic movements. On the basis of the level of excavation over the four year construction period, it is expected to result in an average of 1 HGV tipper load per week. In addition, given the control on the phasing of the development this is unlikely to be significant.

### Phasing

A phasing plan shows the scheme would be developed in 4 phases (in broad quarters);



Developing in phases is sensible in order to control the level of excavation. The proposed phasing would follow a natural clockwise direction where the development would commence near to Scarle Road providing the buildings, small growing pond (GP11) and a fish pond. This would then set the direction of the service roads enabling the continuation of the site over the three remaining phases, finishing back at the site's entrance. Although the RB1 which is mainly in Phase 4 crosses over into phase three, it is envisaged that FP3 and FP4 can be completed before incorporating RB1. Nevertheless, this matter can be rectified through a planning condition which would require a detailed phasing plan is submitted prior to works commencing on the site.

### Traffic implications & Highway Impacts

SP7 requires development to provide safe and convenient accesses, be appropriate to the highways network in terms of the volume and nature of traffic generated, ensure that the safety of, convenience and free flow of traffic using the highway are not adversely affected, provide appropriate and effective parking provision and ensure that the traffic generated would not create or exacerbate existing issues amongst other things. Policy DM5 reflects this.

The number of lorry loads taking soil off the site is set out in the section above and this is not considered to be significant. In terms of materials to be brought on to the site, the applicant has confirmed that the ponds do not require clay lining as the soil composition is heavy and clay based to adequately line the ponds. Given the water table in the whole area is relatively high and there

would not be excessive downward pressure enticing water to escape and therefore the retained on site sub soils will hold water.

Once fully operational the development is expected to employ around 5 full time members of staff plus additional seasonal workers when required. Deliveries would likely be made by courier two or three times a week. Deliveries out by their own vehicle will be two or three times a week increasing to four times a week during spring, when demand is higher. Parking for visitors would be made within each phase at appropriate points off the access track around the site such that adequate parking provision on site would be provided.

NCC Highways Authority have commented the number of lorries and profile is not excessive and they raise no objection subject to lorry routing being agreed and details of the vehicular access including visibility splays. The suggested lorry routing condition has been reworded from a pre-commencement condition, which are to be avoided where possible given the applicant does not need to bring materials on to the site and that it would still achieve the required outcome by agreeing the routing prior to any materials from being taken off site.

Overall it is considered that the volume of traffic created by this development is unlikely to be excessive or to cause disturbance and annoyance to neighbouring occupiers by HGV's travelling through the village. The Highways Authority has raised no objections to the scheme and overall it is considered that the traffic implications are acceptable in line with Policy SP7 and DM5.

#### Impact on Residential Amenity

CP9 sets out an expectation that development is of a high standard and that contributes to a compatible mix of uses. Policy DM5 requires that all proposals be assessed to ensure that the amenity is not adversely affected by surrounding land uses and where this cannot be mitigated should be resisted.

The nearest residential dwelling is located north of the site c185m away from the nearest point of the site. Once fully operational, there would be a small number of deliveries per week and it is not anticipated that the activities would have a detrimental impact on residents. It is not anticipated there to be any odour from live fish at this farm.

The main impact to residential properties is likely to arise from the construction phase of the development in terms of noise and general disturbance. To this end the applicant has provided a Construction Management Plan.

This sets out the proposed construction practices with the construction hours indicated as 0700 to 1900 Mondays to Fridays and 0800 to 1300 Saturdays with no construction work to take place on Sundays or Bank Holidays.

Taking into account open nature and the comments from the Environmental Health Section on the previous application it is considered the construction hours would lead to a loss of amenity given the noise associated with the machinery to excavate the site. It is therefore considered more appropriate for works to commence from 0730 Hours until 1800 Hours on weekdays and from 0800 Hours to 1300 hours on Saturdays. A condition can be imposed to restrict construction to during these hours. The Parish Meetings comments on the matter of noise have been noted, however this is a matter that officers are satisfied can be made acceptable through planning condition and noise was not a matter that Members raised as a concern in their refusal reason in

March.

There is no associated external security lighting and as such there would be no light impacting on amenity.

Therefore it is considered that the scheme accords with CP9 and DM5 in terms of amenity and allowing existing residents acceptable living conditions during both the construction and operational phases.

### Impacts on the Countryside and Landscape

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 states that the rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design materials and detailing of proposals for new development.

Core Policy 13 requires the landscape character of the surrounding area to be conserved and addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.

The District Council has undertaken a Landscape Character Assessment (LCA) to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

The landscape character of the area is very flat and open. A key consideration is therefore the impact of the development upon the character of the area visually. The site falls within the East Nottinghamshire Sandlands. Policy Zone 02 (Wigsley Village Farmlands with Plantations) of CP13 applies which gives landscape condition as poor with low sensitivity resulting with a policy action of 'create'.

The materials dug out of the proposed ponds are largely to be re-used on the site by raising land levels across the site. A number of sectional drawings have been provided to show the impacts on this. These show that much of the regrading and levelling works will be imperceptible across such a large site. From long distance views the proposed ground works would assimilate into the wider setting and given that the landscape is poor and the sensitivity is low, there is scope to develop the site in this manner. The areas of woodland and habitat that will be created also comply with the policy action of 'create' for this area. It is therefore considered the development would have an acceptable visual impact upon the landscape character and appearance of the area in compliance with the above identified policies.

The applicant has submitted a Landscape and Visual Assessment Impact in support of the scheme and concludes that *'whilst the sensitivities of the visual public receptors are considered to be high from the public rights of way to the west of the site, the site is seen within the context of its wider landscape setting and once developed, it is considered that the nature of the development and*

*proposals to reduce likely visual effects by the planning of native tree and hedgerow species within the site and along the boundary, will reduce any adverse effects upon public visual amenity.'* Taking into account the application site and its setting it is considered the visual amenity of the area would not be adversely affected by the proposed development.

The scheme proposes three single storey utility buildings to be grouped together from the roadside. The applicant advises that these are required to house the site office, breeding/hatching tanks (of varying shapes and depths) and a water circulation plant. The proposed buildings are domestic in scale and the general design is considered appropriate in its setting. Notwithstanding the details described on the application form, it is considered expedient to require the submission of the finishing materials by planning condition to ensure they complement the visual amenity of the surrounding area.

The appearance and scale of the 3 buildings, subject to the use of appropriate materials, is considered acceptable per se. However I remain concerned that given these buildings are needed within phase 1 and they are of domestic scale that should the business fail for any reason, there would be 3 domestic scale buildings in a countryside location that could be converted to dwellings in an unsustainable location where they would normally be resisted. If Members are minded to approve the scheme I consider that either the application should enter (1) into a Section 106 Agreement to agree that in the event that the scheme is no longer operational or where they has been no activity on site within a 6 month period that these buildings are removed from the site; or (2) that the scheme is amended to propose a single agricultural-style building instead. Members give not give a view on this at the last meeting and the scheme remains as previously presented in this regard.

### Impact on Trees

Policy CP12 and DM5 seeks to protect and enhance natural features where possible. CP9 requires proposals *'to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District.'*

An Arboricultural Survey and Impact Assessment have been submitted in support of the scheme. The survey identifies 40 individual trees and 25 groups of trees or hedgerows are present on site with good native species diversity and a mix of ages. Of these 1 is categorised as retention category 'A' (very high quality and value with good life expectancy) 20 are 'B' category (good quality and value with significant life expectancy) and 44 are category 'C' (low or average quality and value).

The vast majority of the trees and hedgerows would be retained as part of this scheme. One tree (T4 – an early mature Hawthorn) plus sections of two groups of wooded vegetation; G45, an early mature hedgerow of Hawthorn & Elder and G63 semi-mature Willow Oak Elm would be lost as a direct result of the proposals. However in all 3 cases the wooded vegetation are categorised as C, which have a lower level of significance and in the case of the group vegetation only small sections are to be removed, to allow for access roads for example. Whilst the losses of trees are regrettable, it is considered the losses are acceptable given the size of the application site. The subsequent loss can adequately be compensated by appropriate re-planting within the site and can be secured through a soft landscaping scheme.

It is acknowledged that the health of trees can suffer if the soil around the trees and roots are

significantly changed. The site plan shows the central track and BW1 would be raised by 1 metre above the existing ground level. However, the plan does annotate that an area around the existing trees would be kept at the existing level. Clearly, this would require further investigation. In order to protect the retained trees, root protection fencing is proposed during the construction phase and a no-dig type of construction method with porous surface is also suggested in order to safeguard the trees from the laying of the proposed stone access roads where they encroach close and to the edge of retained trees. It is considered these matters are reasonable and necessary and as such can be controlled by condition.

### Impact on Ecology

Policy DM7 specifies that: "On sites of regional or local importance, including previously developed land of biodiversity value, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site. All development proposals affecting the above sites should be supported by an up-to date ecological assessment, involving a habitat survey and a survey for protected species and priority species listed in the UKBAP."

The proposed construction works will disturb most of the site. Although the hedgerow and most trees will be retained, areas of scrub and grassland will be lost. Meadow grassland as denoted on the plans is not intended to be disturbed. Most of the scrub falls within areas where the levels will be raised. The woodland would be raised by 1 metre above the existing ground level.

The site currently comprises arable fields, scrub, rough grassland, hedgerows and trees as well as some exposed hardstanding with Wigsley Drain (3m deep with slow flowing water) to the eastern boundary. As such an ecological scoping survey was submitted with the application.

Mitigation is proposed by removing the habitat that would be lost during construction (such as removal of long grass, scrub, shrubs and trees) outside of the bird breeding season and also by replacing this, which would also need to be secured through condition. Subject to a condition there is no objection to the proposal in this respect furthermore it would bring some longer term ecological enhancements as more habitats (as opposed to arable fields) would be created.

The impact on protected species has been considered. There is the potential for Great Crested Newts to be present on site; particularly in Pond B. Best practice requires consideration of ponds within 500m of a development that may be able to support a population of newts. In this case two ponds are within 250m of the site; an accessible pond 25m to the south and a pond 39m north-west on third party land.

The southern pond was considered to be unlikely to be a suitable habitat given it is well stocked with fish. An eDNA test of the water within this pond has been provided which shows the pond does not support GCN, a matter accepted by the LPA and NWT. However the north-western pond could not be ruled out as providing suitable habitat and as such further information was requested resulting in the submission of a Great Crested Newt Mitigation Report (dated October 2018) which proposes a precautionary approach and mitigation strategy in the absence of surveys for this pond. The County Ecologist has confirmed that the approach set out in the Great Crested Newt Mitigation Report appears to be appropriate which should be conditioned. Subject to a condition that assesses the impacts upon GCN it is considered the impact on the protected species has been fully considered and adequately mitigated. Reptiles could be present on the site and it is

recommended that further surveys are undertaken of the site prior to commencement of development.

Water voles and otters have also been considered, given the wet habitat of the Drain to the north of the site. Water voles could be supported although was not present at the time of the survey. In order to ensure that adequate protection is made, it is recommended that before any works are undertaken within 5m of the bank, a survey should be conducted to establish if water voles are present which could be controlled by condition. This is acceptable and can be secured by planning condition.

The impact on badgers has been found to be acceptable. It is recommended that prior to works commencing on site, a fresh survey be undertaken for active badger setts which can be secured by a suitable condition which also requires mitigation where necessary.

The trees on site were assessed for bats and found to have low potential.

The creation of wetlands within the arable landscape is likely to result in a net gain in biodiversity. The ponds themselves will be well stocked with fish, which will naturally reduce the ecological benefit of the ponds, but measures can be undertaken to provide genuine benefits to wildlife from the scheme. For example, the open water areas of the ponds will provide opportunities for natural colonisation by a variety of aquatic flora and fauna. This process could be augmented by the addition of indigenous plant material generated from the routine maintenance of local ponds. The wetlands will be shaped to provide a range of bank angles and heights. Gradients will vary from 15°-35° from horizontal and will be enhanced by the excavation of embayments and spurs. This will create differing conditions of light and temperature and will thus encourage diversification in the flora and associated fauna. Water depth will vary thus warm shallows for the developing larvae of amphibians created. The shallowest areas will grade into an expanse of seasonally wet mud that may encourage feeding by a variety of wildlife.

In line with Core Policy 12 and DM7 it is recommended that the landscaping and management plan is written with a wildlife conservation focus which can be conditioned. The project provides an opportunity to secure a net biodiversity gain once impacts are mitigated and compensated, by providing additional wildlife habitats and sensitive management.

Therefore in summary it is considered that the impact of the tree and vegetation loss to be low and can be mitigated through the planting of native species elsewhere. The impact on ecology is also found to be acceptable and can deliver enhancements which is a positive for the scheme.

### Flood Risk

Core Policy 9 requires new development proposals to pro-actively manage surface water. Core Policy 10 and Policy DM5 along with the revised NPPF set out a sequential approach to flood risk.

Paragraph 155 of the NPPF states that: 'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 158 of the NPPF states that 'The aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding. Development should be not allocated or permitted if

there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide a basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.'

The site now lies primarily within Flood Zone 2 (being at medium risk of flooding) with parts of the eastern area in Flood Zone 3 according to the Environment Agency Flood Maps. The applicant has submitted a Flood Risk Assessment (FRA) in support of their application. The FRA is supported by an addendum statement which sets out the following:

1. After applying a sequential approach the FRA confirms the development is water compatible and suitable for location in Flood Risk 2. Therefore there is not a requirement to carry out the exception test. In any event when the exception test is applied it results in a form of development that is in an appropriate location under NPPF flood risk policy.
2. 11 agencies have been contacted in the Nottingham Area enquiring whether land is available in parcel lots of around 80 acres. The Agents have confirmed that size of land was not coming up for sale and when parcels of this size did come up they were mostly sold prior to coming to the open market.
3. Using searches through Right Move website the land available as of 12/03/19 were too small in size except one which then shows to be in a NVZ (Nitrate Vulnerable Zone) This negates this land in this area as it is not compatible with fish breeding and rearing.

In this instance it is considered the applicant has demonstrated a sequential approach taking into account the size of the application site. Where the sequential test has been passed, the NPPF advises local planning authorities in their decision making to take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

In terms of flood vulnerability, it is considered the proposed use would fall under the 'less vulnerable' category of developments which relates to land and building used for agricultural or forestry where development in FZ2 is considered appropriate. Therefore the Exception Test is not required. Notwithstanding this, the development needs to be safe for its lifetime.

The proposal has been assessed in relation to flood risk with the EA raising no objections to the proposal subject to conditions. Upper Witham Drainage Board has requested a condition to ensure that drainage does not contribute to flooding which is reasonable. It is therefore concluded that the development would be safe for its lifetime in terms of flood risk and it would not increase flood risk elsewhere.

### Planning Balance and Conclusion

It is acknowledged that the loss of c26ha of Grade 3a agricultural land is a negative that weighs against the scheme.

The level of material to be excavated from the site remains as was previously reported to the Planning Committee in March. A Chartered Quantity Surveyor continues to corroborate that this is accurate and NCC Minerals and Waste team were also satisfied that this was reasonable.

The application has demonstrated the scheme passes the Sequential Test in terms of flood risk. Given the proposed use is 'less vulnerable' in flood risk terms, the exception test is not required and that the scheme would be safe for its lifetime as demonstrated through a FRA.

The proposal is a new business which is supported by the NPPF and is a land based business requiring a rural location. The business would contribute to the local economy through providing jobs and diversifying the rural economy which in my view accords with the spirit of both national and local level policy objectives. As such substantial weight must be given to the economic role of sustainability.

Whilst the loss of grade 3a agricultural land is a negative, the scheme will bring some ecological gains which also weigh in favour of the scheme. No other harm that cannot be mitigated has been identified.

Taking all the factors into account it is considered the proposal tips the balance towards an approval and as such it is recommended that the permission is granted subject to the attached conditions.

## **RECOMMENDATION**

**Approve, subject to the following condition(s) and the applicant either:**

**(a) entering into a Section 106 Agreement to agree that in the event that the scheme is no longer operational or where they has been no activity on site within a 6 month period that the 3 utility buildings are removed from the site;**

**or**

**(b) that the scheme is amended to propose a single agricultural-style building instead. It is requested that officers to be given delegated authority to resolve this issue with the applicant, and impose suitable associated conditions as appropriate.**

## **Conditions**

### **01 (Time for Implementation)**

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

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

### **02 (Require Revised Phasing Scheme)**

Notwithstanding the Phasing Plan (Drawing Number: DH/408/17 Rev A) submitted 29.11.2018, no development shall commenced unless and until, a detailed phasing plan has been submitted to and approved in writing by the Local Planning Authority.

The development thereafter shall be implemented in accordance with the approved phasing plan with not more than one phase being implemented until the previous phase has been substantially complete.

Reason - In order to safeguard the land against being blighted by the development in the event that the scheme is not completed and in order to show fish pond number 3 being within a single phase.

### **03 (Approved Plans)**

Unless otherwise specified within a separate condition, the development hereby permitted shall not be carried out except in accordance with the following approved plans:

- Drawing Number: DH/400/17 – Location Plan – dated 6 September 2017;
- Drawing Number: DH/401/17 Rev C – Site Layout dated 12 March 2019;
- Drawing Number: DH/402/17 – Plan of the Proposed Buildings, dated 5 September 2017;
- Drawing Number: DH/403/17 – Cross Sections, dated 8 June 2018;
- Drawing Number: DH/404/17 – Cross Sections, dated 8 June 2018
- Drawing Number: DH/405/17 – Topographical Survey, dated 19 February 2018;
- Drawing Number: DH/407/17 – Cross Sections, dated 7 June 2018;

Reason - For the avoidance of doubt and to ensure a satisfactory standard of development

### **04 (Details of the Access)**

No part of the development hereby permitted shall commence until details (to include visibility splays, access width, drainage, and radii) of the vehicle access have first been submitted to and approved in writing by the Local Planning Authority.

The approved access shall thereafter be constructed in accordance with the approved details prior to the development being brought into use. The visibility splays shall thereafter be kept free from obstruction for the lifetime of the development.

Reason - In the interests of highway safety.

### **05 (Lorry Routing – Phase by Phase)**

No material shall be removed from any phase of the development (pursuant to Condition 2) until details of construction lorry routing has been first been submitted to and approved in writing by the Local Planning Authority, and such details adhered to during the construction period.

Reason - In the interests of highway safety.

### **06 (Levels of Excavation)**

The level of excavation of the site shall not exceed the details and depths as shown on drawing number Site Layout, DH/401.17 Rev C.

Reason - In order to ensure that no minerals are extracted from the site in the interests of amenity and to ensure that the impact upon the highway network is as has been mitigated for.

## **07 (Bird Breeding Season Restrictions)**

There shall be no pruning, the removal of hedgerows, vegetation or trees during the bird breeding season (March to September inclusive) unless an ecological survey has first been submitted to and approved in writing by the Local Planning Authority which demonstrates that the vegetation to be cleared is not utilised for bird nesting.

Should the survey reveal the presence of any nesting species, then no clearance of any vegetation shall take place during the bird nesting season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the Local Planning Authority. Nest site protection shall thereafter be provided in accordance with the duly approved methodology.

Reason - In order to afford protection to breeding birds which are protected by the Wildlife and Countryside Act 1981 (as amended).

## **08 (EA Flood Risk Condition)**

The development shall be carried out in accordance with the submitted flood risk assessment (ref GCB/HUDSON and dated May 2018 compiled by Geoff Beel Consultancy) and the following mitigation measures it details:

1. Finished floor levels are set no lower than 6.30m above Ordnance Datum (AOD).
2. Resilience measures must be utilised to a minimum of 6.60m AOD.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason - To reduce the risk of flooding to the proposed development and future occupants.

## **08 (EA Evacuation Plan)**

No part of the development shall be brought into use until a flood warning and action plan has been submitted to and approved in writing by the local Planning Authority. The plan should include provisions for signing up to the Environment Agency's Flood Warning Service for early warning of potential flood events, details of how information would be disseminated and how users of the site would be evacuated.

Reason - To safeguard future users of the site against the risk of flooding.

## **09 (Construction Hours)**

Notwithstanding the Construction Management Plan contained within the Supporting Statement revised 12 March 2019, construction or development (including excavations) shall only take place between the hours of 0730 Hours until 1800 Hours on Mondays to Fridays inclusive and between 0800 Hours and 1300 Hours on Saturdays.

Reason - In the interests of residential amenity.

### **010 (Construction Environmental Management Plan)**

No development within each phase of the site pursuant to Condition 2 shall take place unless and until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This shall include:

- Details of any lighting required during the construction phase;
- Details of how areas of retained habitats will be demarked on site and safeguarded (with relevant buffer zones) to prevent extracted soil from being stored within these areas;
- Details of the precise areas and their extent of where extracted soil from each phase will be stored so that it is not located on the local wildlife site, SINC or affects any existing habitat.

The development shall thereafter be carried out in accordance with the approved CEMP.

Reason - In order to ensure the protection of retained habitats within the site, the adjacent LWS and to ensure that development work is carried out in accordance with protected species legislation.

### **011 (Water Vole Survey)**

No development shall take place within 5 meters of the bank of the water body/drain to the north of the site until a Water Vole Survey has been carried out by a suitably qualified person or body to establish if water voles and their burrows are present. The Survey, its findings together with the means of any required mitigation and its timings shall be submitted to and approved in writing by the Local Planning Authority prior to development within 5m of the bank taking place. The mitigation measures approved shall be carried out in accordance with the agreed details and timetable.

Reason - To protect the water vole and its habitat within and adjacent to the development site.

### **012 (Reptile Survey)**

No development shall commence within any phase pursuant to Condition 2 until a Reptile Survey has been carried out by a suitably qualified person or body to establish if reptiles are present. The Survey, its findings together with the means of required mitigation and its timings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development within that phase. The mitigation measures approved shall be carried out in accordance with the agreed details and timetable.

Reason - To protect the reptiles that may be present on site and in accordance with the Ecological Scoping Survey, PRJ423 Rev 1 by Prime Environment January 2018, which forms part of the submission.

### **013 (Great Crested Newts Survey)**

In the event that Great Crested Newts are found to be present on site, development shall cease immediately and shall not recommence until the mitigation measures set out in the Great Crested Newt Mitigation Report (author: Prime Environment, Project No. 423) V1 October 2018 have been carried out in full on site.

Reason - In order to provide adequate protection adopting a precautionary approach to GCN.

#### **014 (Badger Survey)**

No development shall commence within any phase pursuant to Condition 2 until a Badger Survey has been carried out by a suitably qualified person or body to establish if any active badger setts are present on site. The Survey, its findings together with the means of required mitigation for any development within 25m meters of proposed works and its timings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development within that phase. The mitigation measures approved shall be carried out in accordance with the agreed details and timetable.

Reason - To protect the badgers that may be present on site.

#### **015 (Ecological Enhancements)**

Prior to the development within each phase pursuant to Condition 2 being first brought into use, an Ecological Enhancement Strategy together with timings for implementation shall be submitted to and approved in writing by the Local Planning Authority. This could include but is not limited to:

- Creation of vegetated shallows within the ponds where invertebrates and amphibians may be safe from large fish
- Light management of areas of the Site to create a mosaic of rough grassland and scrub (in particular in the areas which will be raised to compensate for losses during construction).
- Seeding and management of areas at the periphery of the Site for wildflowers.
- Selection of native species for all landscape plants.
- Erection of bird and bat boxes on retained trees and / or on ancillary buildings (12 of each). Boxes should include a range of shapes made from long lasting materials (i.e. Woodcrete or Stonecrete).

The development shall be implemented on site in accordance with the approved details and timetable embedded within it.

Reason - In order to provide ecological enhancements which are required and which have been given weight to in the determination of this application, without which permission may not have been granted.

#### **016 (Arboricultural Method Statement)**

No works or development within each phase that contains retained trees, pursuant to Condition 2, shall take place until an Arboricultural Method Statement and scheme for protection of the retained trees/hedgerows identified within the Arboriculture Survey and Impact Assessment, PRJ423 Rev 1 by Prime Environment has been agreed in writing with the District Planning Authority. This scheme shall include:

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers.
- c. Details and position of measures (including sections where necessary) to protect the trees from soil being tipped onto tree roots working methods to protect the root protection area of any retained tree/hedgerow on or adjacent to the application site.

- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed (such as no-dig type) for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of 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.

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

### **017 (Surface Water Disposal)**

No development shall be commenced within any phase pursuant to Condition 2 until a scheme for the provision, implementation and maintenance of regulation system for any surface water discharge to the surrounding drains/watercourses has been submitted to and approved by the Local Planning Authority. The development should not increase flood risk to existing properties or put the development at risk of flooding.

- Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
- SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
- Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.
- The maximum discharge rate should not exceed that of a green field site. The approved scheme shall thereafter be implemented on site to an agreed timescale. All drainage routes through the site should be maintained both during the works on site and after their completion

Reason - To prevent an increased risk of flooding and to prevent adjoining land and property from having an increased risk of flooding.

### **018 (Hard & Soft Landscaping and Long Term Management Regime)**

Prior to the development being first brought into use within each phase pursuant to Condition 2, a hard and soft landscape scheme together with an associated management plan including the long-term design objectives, management responsibilities and maintenance schedules for all areas of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- Detail the extent of new native planting (to include the proposed species, their numbers, density, disposition and establishment measures);
- Be designed having considered all of the sites external ground surfaces, and the treatment proposed for these surfaces (including any materials);
- Detail the treatment of site boundaries and/or buffers around water bodies;

- Detail the maintenance/management regimes
- Detail all hard landscaping (which should be permeable where possible) including vehicle parking areas and boundary treatments;
- Detail minor artefacts and structures for example, any furniture, refuse bins, signage, etc.

The scheme shall be implemented on site in accordance with the timetable set out in Condition 19 and shall thereafter be maintained for the lifetime of the development in line with the regime, which shall also be agreed as part of this condition.

Reason - This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with the NPPF and CP12 and to enhance the appearance of the development.

### **019 (Landscaping Implementation)**

The soft landscaping for each phase 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 of that phase unless otherwise agreed in writing by the LPA.

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

### **020 (Materials of proposed building(s))**

Notwithstanding any description of materials in the application and the requirements of condition 3 of this permission, no above ground works shall take place until samples or full details of all materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The development shall thereafter be implemented in accordance with the duly approved materials.

Reason - To ensure use of appropriate materials which are sympathetic to the character of surrounding area in the interests of visual amenity

### **021 (Storage of Material)**

No excavated materials shall be stored on site for a period of more than 12 months.

Reason - Should works cease on site, the material should be removed in the interests of visual amenity.

## Note to Applicant

01

In order to carry out the access works you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need Highway Authority authorisation to carry out the works and such works will need to comply with Highway Authority standards/specification. Please contact [hdc.north@nottscc.gov.uk](mailto:hdc.north@nottscc.gov.uk) for further details.

02

This site is within the River Trent at Spalford, Wigsley and Harby Flood Warning Area which can be signed up to at: <https://www.gov.uk/sign-up-for-flood-warnings>. Information regarding appropriate flood resilience measures can be found here: <https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>.

03

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

04

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

## Background Papers

Application case file.

For further information, please contact Richard Byrne on [richard.byrne@nsdc.info](mailto:richard.byrne@nsdc.info)

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Director Growth & Regeneration**

Committee Plan - 19/00551/EULM

