

## **PLANNING COMMITTEE – 23 JULY 2019**

Application No:	19/00981/FUL		
Proposal:	The installation of 5 x 4000 litre underground tanks with associated Secondary Regulator Housing Cabinet and amendments to the already approved equipped play area.		
Location:	Land to the rear of 9 to 18 Hounsfields Way, off Hemplands Lane, Sutton-on-Trent, Nottinghamshire		
Applicant:	Persimmon Homes East Midlands		
Registered:	24 May 2019	Target Date: 19 July 2019	
	Extension of Time: 24 July 2019		

**This application is referred to the Planning Committee for determination by the local ward member (Cllr Michael) due to concerns raised by the Parish Council on the grounds of loss of open space.**

### **The Site**

The application site forms part of a wider site that is allocated for a mixed use development that is currently under construction (by Persimmon/Charles Church) for 50 dwellings, off Hemplands Lane in Sutton-on-Trent. Whilst the majority of the scheme under construction falls within the allocated mixed use site, part of the scheme also falls within the designated 'Main Open Area' (MOA) as identified on the proposals map. The site is located c300m from Hemplands Lane, and includes part of the land identified as public open space with the approved residential development (application no 14/00161/FULM).

The site lies within the Sutton-on-Trent Conservation Area, on an allocated site for mixed use and close to a number of public footpaths that cross the wider site. This majority of the site lies within Flood Zone 2, with a small part of the site being within Zone 1.

### **Relevant Planning History**

19/00424/FUL The installation of 5 x 4000 litre underground gas tanks – application refused 18.04.2019 under delegated powers for the following reason:

*'In the opinion of the Local Planning Authority the servicing arrangements are considered inadequate which would lead to harm to users of the highway by virtue of delivery vehicles having to park on the highway causing an increased danger and due to pipes running across the footway. In addition the proposal would lead to the loss of public open space that would serve the adjacent residential development as well as causing harm to the character and appearance of the Sutton-on-Trent Conservation Area. It is not considered that mitigation could be provided to make the development acceptable. In addition the proposal has been poorly planned and falls short of the Health and Safety Executive (HSE)*

*guidelines (a material consideration) in terms of safety and security arrangements. In particular the LPG tanks are considered to be sited too close to its site boundaries which includes public footpaths and the proposed means of enclosure (bollards) would not keep members of the public away from the tanks, leaving the tanks exposed to interference in an area where the risk of this is not considered low and where pedestrians could be walking past smoking at an unsafe distance. All of these factors combine to a level of unacceptable harm that is not outweighed by the positives of the scheme and there are no material considerations that outweigh this harm.*

*The proposal is therefore considered to be contrary to Core Policy 9 (Sustainable Design), Core Policy 14 (Historic Environment) and Spatial Policy 7 (Sustainable Transport) of the Newark and Sherwood Amended Core Strategy DPD (adopted March 2019) and policies DM5 (Design), DM9 (Protecting and Enhancing the Historic Environment) and DM10 (Pollution and Hazardous Substances) of the Allocations & Development Management DPD (2013) which together form the Development Plan. In addition the proposal is contrary to the NPPF 2019, the Planning Practice Guidance and the document entitled 'Safe use of liquefied petroleum gas (LPG) at small commercial and industrial bulk installations', by HSE which are material planning considerations'.*

19/00971/FULM - Application for the variation of Conditions 9 (hard and soft landscaping), 17 (external materials), 19 (boundary treatment) and 25 (approved plans) attached to planning permission 14/00161/FULM (the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car park spaces). The variation includes the addition of a sub station and fibre box cabinet plus amendments to the landscaping, open space, play area, boundary treatments and materials – pending determination.

19/00911/ADV Erection of 5 non-illuminated fascia signs – pending determination.

14/00161/FULM – Planning permission was granted on 24 January 2019 for the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car parking spaces on this site. It was granted under delegated powers following confirmation from the NPCU that they did not wish to call in the application. The application was accompanied by an s106 Agreement which secured a range of developer contributions.

NPCU/EIASCR/B3030/74541 – A request for a screening direction was made to the Secretary of State for the development. On 19<sup>th</sup> November 2014, the Department for Communities and Local Government on behalf of the SoS confirmed that the development is not EIA development within the meaning of the EIA Regulations 2011.

14/SCR/00050 – The planning application has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the LPA has adopted an opinion that the proposal is unlikely to have complex or significant environmental effects that would have more than local significance to constitute EIA development. An Environmental Statement is therefore not required. The opinion was formally issued on 29<sup>th</sup> September 2014.

### The Proposal

Full planning permission is sought for the installation of 5 x 4000 litre gas tanks which would be buried underground on part of a site that is currently under construction for 50 dwellings. These

tanks would be located on an area of amenity open space (once the wider development is completed) towards the rear of the site approximately 300 metres from Hemplands Lane, at the end of the new road which would also serve the adjacent pumping station.

The underground gas tanks area would be cordoned off with a 450mm high knee rail fence and surrounded by a hedgerow. A 1200mm gap to provide access would be provided adjacent to a proposed grasscrete parking area. The LPG tank area would occupy an area of 107m<sup>2</sup>. The surface of the ground would be grass with only the green colour secondary regulator housing equipment box (measuring 0.730m by 0.425 m by 0.830m high) and gas lids visible above the surface. The proposal also includes installation of the entire on-site pipeline network and the installation of meters on the properties.

A proposed informal play area is located within the area of amenity open space beyond the proposed tanks. To mitigate for the small loss of open space, both an upgraded climbing frame and an extra piece of balancing play equipment are proposed within the layout already approved under application on 14/00161/FULM. In addition, the Applicant is proposing that an off-site commuted sum towards the provision of open space is provided at a rate of £38.27 which amounts to £4,095 (taken from the Developer Contributions SPD) to compensate for the loss of the open space above the proposed tanks. These measures are to be secured by way of a Deed of Variation to the S106 Agreement attached to 14/00161/FULM as part of pending planning application 19/00971/FULM.

The applicant has advised that the Liquefied Petroleum Gas (LPG) tanks are required as a source of gas to the 50 dwellings approved as there is no piped gas in the area.

### The Submission

The following documents were submitted in support of the application:

- Application form dated 20.05.2019
- Supporting Statement May 2019
- Covering Letter Dated 26 June 2019
- Site Location Plan, drawing no. SOT/LP/001 A
- DRG.NO.04-C28-10619-D101A 12600Kgs Propane Vessel
- Underground Storage Vessel, drawing no. 18428-1
- Generic Semi-Mounded Install, drawing no. 21390 Rev A
- Proposed Gas Layout, Drawing No. 21613
- Proposed play area, Drawing No. Q4027\_D
- Block Plan, drawing no. SOT/BP/001 Rev A
- Tracking Plan, drawing no. SOT/TP/001A
- Calor 'The smart choice for rural off-grid developments'
- Document entitled 'Groundworks; Excavations for below ground tanks'
- Document entitled 'Installation of Below Ground Tanks'
- Gas Metre Housing Details (Mitras)
- UKLPG Code of Practice 1 Bulk LPG Storage at Fixed Installations Part 4:2008 Buried/Mounded LPG Storage Vessel
- Written Scheme of Investigation for Archaeological Monitoring and Recording at Hemplands Lane, Sutton-on-Trent (APS)
- Photograph – example of warning sign

- Photograph – example of underground tank with knee rail and hedgerow
- Photograph – example of tanks adjacent to dwellings
- Photograph – example of underground tanks with grass and bollards
- Flood Risk Assessment including Sequential Test
- Grasscrete Detail Type GC2
- Letter from Calor Dated 19<sup>th</sup> June 2019
- SUT-CP-01 Rev O Charter Plan
- Detailed Soft Landscaping Proposals, drawing no. JBA 13/350-02 Rev N (East and West)

#### Departure/Public Advertisement Procedure

Occupiers of 12 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 giving an expiry date of 27<sup>th</sup> June 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 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 9 -Sustainable Design

Core Policy 10 – Climate Change

Core Policy 11 – Rural Accessibility

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

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

Policy ST/MU/1 – Sutton-on-Trent Mixed Use Site 1

Policy ST/MOA – Sutton-on-Trent Main Open Areas

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM2 – Development on Allocated Sites

DM4 – Renewable and Low Carbon Energy Generation

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM9 – Protecting and Enhancing the Historic Environment

DM10 – Pollution and Hazardous Substances

DM12 – Presumption in Favour of Sustainable Development

##### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance
- UKLPG Code of Practice 1 Bulk LPG Storage at Fixed Installations Part 4:2008 Buried/Mounded LPG Storage Vessel

- Developer Contributions and Planning Obligations SPD (2013)

### Consultations

**Sutton-on-Trent Parish Council** – At a meeting of the Parish Council held on Tuesday 11<sup>th</sup> June, the members voted unanimously to object to this proposal on the grounds of loss of open space. The Design & Access Statement submitted in 2014 states ‘the public open space will ensure the development will have a minimal impact on the distinctive environment of Hemplands Lane.’ The Council believes that the loss of part of this designated public space reduces the amenity available to the community.

**Environment Agency** - We have reviewed the submitted documents and on this occasion the Environment Agency will not be making any formal comment on the submission for the following reason:

Although the proposal is for underground tanks, should they rupture the liquefied gas would evaporate and as such would not be an issue in terms of risks to controlled waters (groundwater).

**NCC Highways Authority** – The ‘red-edge’ site does not include all the land required by the vehicle movements shown on the ‘Tracking Plan’ SOT/TO/001. Other than this there are no highway-related comments, since all deliveries will take place off the public highway.

**NSDC Environmental Health (Contaminated Land)** – No observations.

**NSDC Environmental Health (Reactive)** – No comment.

**LCC Archaeologist** – Our original recommendations are still appropriate with these alterations. I see that an updated archaeological specification has been submitted to reflect these alterations. I can confirm that should this application be approved that the amended specification is acceptable and I look forward to the work beginning.

**NSDC Conservation** – The application is for a site within Sutton on Trent Conservation Area. From a site visit and a review of the plans we do not wish to make any formal observations in this case, but refer you to advice and guidance contained within CP14 and DM9 of the Council's LDF DPDs, section 16 of the NPPF (revised 2019) and the legal duties with respect to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In reaching any view, the local planning authority must pay special attention to the desirability of preserving or enhancing the character and appearance of the CA, and preserving the setting of a non-designated heritage asset. Preservation is achieved by causing no harm, and might include maintaining the existing contribution made by the host building to the character and appearance of the CA.

**Representations have been received from 4 local residents/interested parties (more which can be summarised as follows:**

- All of the reasons for refusal of 19/00424/FUL still apply to this application;
- Security has not been addressed;
- The site is within 100m of the Cuckstool Dyke and more susceptible to flooding;
- The pumping station already encroaches upon the Public Open Space;
- A suitable alternative should have been found before now;
- The proposed siting is more appropriate than the previously refused siting;

- If approved the LPA should secure through a suitable s106 Planning Obligation a suitable 24/7 gas emergency number and response service for the reporting of leaks etc. to ensure adequate public safety. Such an emergency number and response service could probably not be secured under a planning condition, particularly given that the proposed operator is not the applicant;
- HSE guidance requires LPG tanks of up to 12.5 tonnes must be at least 7.5m from buildings, boundary, property lines, or any source of ignition. However the proposed siting adjacent to the car park for the village hall would not appear to meet the 7.5m separation from potential sources of ignition in the car park. However a reading of the Code of Practice appears to suggest the 7.5m distance may be from the valve and a 3m distance is required from the tank edge. I would suggest that clarification on this point should be obtained with a detailed plan obtained showing these precise separation distances and how these relate to the car park area;
- knee rail fence and hedgerow planting removed this entire area from the open space;
- no details are given as to how people should be kept away from the tank and tanker while the transfer of LPG is taking place;
- the land in which the LPG tanks are proposed is open space which the s106 Planning Obligation for 14/00161/FULM requires to be transferred to the ownership of the management company. If the ownership of the tanks are to be vested in Calor then a Deed of Variation to the Planning Obligation will be required;
- use of alternative energy options such as heat pumps would be better;
- The proposed siting will require the approved landscaping scheme under 14/00161/FULM to be amended. As you will be aware the developer has already submitted an amended landscaping scheme under 19/00971/FULM. The LPG tanks will require at least 2 of the approved trees (and potentially up to 4 of the approved trees) not to be planted. Given the loss of the existing mature vegetation in the western area of open space any loss of further planting is considered unacceptable. As such the trees should be relocated and secured in a revised landscaping scheme;
- it is possible that the proposed underground tanks may be sitting in the water table, plus at times of flooding access to the tanks may not be possible. A flood risk assessment needs to demonstrate that they can be safe from flooding for their proposed lifetime. Potential flooding which could lead to gas escape;
- application 14/00161/FULM was granted as a balanced judgement on the basis of the public benefits that arose. These public benefits have been eroded with the proposed tanks removing further open space – an additional item of play equipment is not considered to be an equitable trade. There is a major shortfall in relation to the delivery of the village hall - it would be more appropriate to compensate the loss of open space through an additional financial contribution (or some form of contribution in kind) towards the village hall rather than an extra item of play equipment;
- Agreed public open space has been significantly eroded already, with areas removed to construct the electricity substation, telephone distribution cabinets, the water pumping station and the surface water holding area. The tanks can't be done because of the water level;
- An adequate alternative already exists (Oil) and there can be no reason other than financial as to why the developer cannot follow that route to provide heating;
- Gas is a dangerous fuel and unhealthy if it blows up;
- The proposed site for these gas tanks is too close to the proposed village hall/village hall car park and the play area with concerns regarding public safety.

## **Comments of the Business Manager**

### **The Principle**

Spatial Policy 1 identifies that Sutton-on-Trent is a principal village in the settlement hierarchy. Its function is to support service provision in these locations to assist rural accessibility. In terms of assessing the scheme against the Development Plan, the proposal does not fall particularly neatly into any policy as it's a standalone application for the gas tanks. I do not consider that the development can be considered as a community facility whereby Spatial Policy 8 would apply; rather it is private facility for the benefit of the new estate only. Neither is it an employment use as such.

Core Policy 9 sets out that development proposals are expected to achieve a high standard of sustainable design and provide for development that is resilient in the long term, taking into account climate change and the varying needs of the community. Core Policy 10 seeks to encourage reductions in the districts carbon footprint by various means.

The proposal is to provide 5 buried tanks to enable the consented dwellings the ability to access liquid petroleum gas given that the locality is not connected to the gas mains grid. This is not a renewable source of energy albeit it is clean burning and produces less emissions than coal (by 33%) and oil (by 15%). I am of the view therefore that providing the residents with the ability to access LPG in this locality would assist in meeting the needs of the community and help to reduce the carbon emissions compared with the alternative of electricity via a coal powered station or via oil, which is a positive to be weighed in the planning balance. Whilst a renewable source of energy would have been preferable, there is no requirement in planning policy to insist upon this. The principle is therefore considered to be acceptable in this location subject to a consideration of site specific issues as set out below.

### **Impacts on the Environment**

Core Policies 9, 10 and DPD Policies DM5 and DM10 all seek to protect the environment from unacceptable harm. DM10 in particular requires developments involving hazardous materials to take account of and address their potential impacts in terms of health, the natural environment and general amenity on neighbouring land uses, the wider population, ground and surface water, air quality and biodiversity.

### ***Public Safety Considerations***

Health and Safety Executive (HSE) guidelines, which I consider are a material consideration, provide guidance on the siting of LPG tanks. Part of the reason for refusal of the previous tanks application stated that:

*'...the proposal has been poorly planned and falls short of the Health and Safety Executive (HSE) guidelines (a material consideration) in terms of safety and security arrangements. In particular the LPG tanks are considered to be sited too close to its site boundaries which includes public footpaths and the proposed means of enclosure (bollards) would not keep members of the public away from the tanks, leaving the tanks exposed to interference in an area where the risk of this is not considered low and where pedestrians could be walking past smoking at an unsafe distance.'*

Since this refusal, it has come to light that the HSE guidance referred to in the Officer Report for the previously refused application referred to above ground/commercial vessels as opposed to underground LPG vessels to serve domestic properties and was not therefore directly relevant to the planning application being considered. The correct HSE guidance document relating to this proposal is 'UKLPG Code of Practice 1 Bulk LPG Storage at Fixed Installations Part 4:2008 Buried/Mounded LPG Storage Vessels Feb 2008' (Code of Practice). A full copy of this document has been submitted with this application.

In this case each tank is 2.04 tonnes equating to 10.2 tonnes overall. HSE guidance suggests that where there is no firewall (there is none proposed here) LPG tanks of this capacity require a minimum distance of 3 metres from buildings, boundaries, property line or fixed sources of ignition with 1m between each vessel. A letter from Calor Gas (Dated 19.06.2019), who would undertake, maintain and own the tanks confirms that the proposal would fully comply with the requirements of this document and that the required separation distances would be complied with.

I note that the Code of Practice further requires *'the installation, including any above-ground equipment, should be protected to minimise interference by trespassing, tampering or accidental impact. At sites other than individual domestic premises this should be achieved by a combination of site demarcation, physical barriers and warning signs'*.

Concern was raised with the previously refused planning application (application no. 19/00424/FUL) that it did not meet these security requirements laid out by the HSE in that only low bollards would surround the tanks so would not keep people away from the tanks leaving them exposed to potential interference with pedestrians also potentially walking past smoking at an unsafe distance. However, the submitted Block Plan amends the design and layout of the proposed tank area so that it be cordoned off with a 450mm high knee rail fence and surrounded by a hedgerow. A 1200mm gap to provide access would be provided adjacent to a proposed grasscrete parking area. I am satisfied that the requirement for warning signs to be displayed at the site could be controlled by condition.

Whilst any leak would not contaminate, as it is heavier than air it can settle and may accumulate in low spots such as drains, which could represent a fire or explosion risk. For this reason, the HSE state there should not be any drains or gullies near to the tank unless a water trap is provided to prevent gas entering the drains. The submitted plans indicate that there would be no drain and/or gullies within the area of the gas tanks. In addition the letter received from Calor Gas (Dated 19.06.2019) provides additional comfort that the proposal would fully comply with HSE requirements in this respect.

### *Contamination*

It is noted that the tanks are to be buried underground and therefore the impacts in terms of contamination are of relevance. One of the advantages of LPG is that in the event of a spill, LPG doesn't cause contamination to the water or the environment. This is a matter that has been confirmed by the EA in their comments. The land as existing has not been exposed previously to land contamination such that no remediation works are necessary, a matter confirmed by our Environmental Health Officer.



## Drainage and Flood Risk Impacts

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. Para.163 of the NPPF states that when determining planning applications the Local Planning Authority should ensure flood risk is not increased elsewhere. It is stated that decision makers should only consider development appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the sequential test, and if required the Exception Test, it can be demonstrated that development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant.

The vast majority of the site falls within Flood Zone 2 (medium risk of flooding) other than the site access which is located within Flood Zone 1 (low risk of flooding). A Flood Risk Assessment (FRA) including Sequential Test have been submitted with the application.

PPG states *“the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed...When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere”*.

Given that the LPG tanks are required to serve the wider housing development currently under construction, it would be impractical to suggest that the development should take place off site. However, there are more sequentially preferable locations for the development in flood risk terms for the development to take place, particularly adjacent to the site frontage which is located within flood zone 1. However, I note that the previously refused application (19/00424/FUL) was refused in this location due to harm to the character and appearance of the Sutton-on-Trent Conservation Area. As such, the site is considered to be more suitable away from the frontage of the site, outside of the flood Zone 1 area and it is therefore considered that the sequential test is passed on this basis.

The proposed development is classed as ‘less vulnerable’ according to the Flood Risk Vulnerability Classification table set out in Planning Practice Guidance. This type of development is appropriate in Flood Zone 2. The proposed gas tanks themselves would have no effect upon flood storage because there are no proposed changes to ground levels proposed. However, the submitted FRA states the ground level above the tanks would be 8.1 mAOD and could therefore be at risk of flooding and it is therefore advised that the gas supplier and management company should sign up to receive flood warnings, disseminate the site flood management plan to staff that manage the site, familiarise themselves with the site access route onto Hemplands Lane and review flood resilience of the proposed infrastructure and consider the reliability of service during a flood event. It is considered that details of the actions can be controlled via planning condition.

Overall, the development can be operated safely in flood risk terms, subject to a condition as specified above, without increasing flood risk elsewhere in accordance with Core Policy 10 and Policy DM5.

## Visual Impacts including impact on the Character and Appearance of the Conservation Area and Loss of Public Open Space

Core Policy 9 requires that development achieves a high standard of sustainable design that

sustains the rich local distinctiveness of the district and is appropriate in scale and form to its context. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. Policies Core Policy 14 and DM9 also apply where the requirement is to either preserve or enhance the character and appearance of the Conservation Area. The NPPF continues to state that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping.

Policy ST/MU/1 goes on to say that *'Consideration will be given to a comprehensive mixed use scheme of development on the site extending into the Main Open Area to the east where it can be demonstrated that this is necessary to deliver community facilities within the site and provide access to other parts of the Main Open Area.'* Complementing this, Policy ST/MOA states that *'on the Main Open Area to the east of site ST/MU/1 consideration will be given to allowing development where it forms part of a comprehensive mixed use scheme that demonstrates it is necessary to deliver community facilities within the site and provide public access to other parts of the Main Open Area'.*

The proposed tanks being buried underground would be overlaid with grass with only a small part of the tank valve visible in the public realm, retaining an open appearance. In this case, the proposed tanks would be located to the rear of the site in a less visible location than the previously refused planning application (application no. 19/00424/FUL) where they were located in a prominent position at the entrance to the housing site. In addition, a knee rail with hedge would now surround the siting of the tanks which I consider to overcome the previous concerns raised by the Conservation Officer in relation to the use of bollards which were considered to be an incongruous landscape feature harmful to the character and appearance of the Conservation Area.

The proposal would incur the loss of an area of public open space approved as part of application no 14/00161/FULM. Part of this area is also designated Main Open Area. The proposed loss at (approximately 107m<sup>2</sup> excluding parking area) amounts to a relatively small area of the overall quantum proposed/retained with an area of. The Committee Report for 14/00161/FULM states that the Council's SPD requires 1,620m<sup>2</sup> in relation the development proposal and noted that the proposed layout showed *'the provision of c 9,994m<sup>2</sup> (also taking into account the areas to the front and centre of the site) and is well in excess of the policy requirements, albeit that part of the site was already designated as a Main Open Area. However, it would open up the space to the public where the network of existing footpaths traverse the site. This is important in my view because it helps solidify and improve the already well used network of footpath linkages through the village to what would become the new local centre (the area which would include the doctors surgery and possible retail unit etc) and to Main Street to the east where a bus stop is located. The POS could become a focal/meeting point and would contain natural play features (to be secured through planning condition) that would provide a valuable addition to village provision'.*

Whilst the loss is small, it represents a loss nonetheless. To compensate for this, the Applicant is proposing both an upgraded climbing frame and an extra piece of balancing play equipment within the layout already approved under application on 14/00161/FULM. In addition, the Applicant is proposing that an off-site commuted sum towards the provision of open space is provided at a rate of £38.27 which amount to £4,095 (taken from the Developer Contributions SPD) to compensate for the loss of the open space above the proposed tanks. These measures are to be secured by way of a Deed of Variation to the S106 Agreement attached to 14/00161/FULM as part of pending planning application 19/00971/FULM.

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Overall, I consider that the compensation measures proposed by the Applicant would adequately mitigate against the small loss of open space proposed by this application. In addition, its current position and design, it is not considered that the proposed development would result in any harm to the character or appearance of the Conservation Area in accordance with Core Polies 9 and 14 and Policies DM5, DM9 and ST/MOA.

### Highway Impacts

Spatial Policy 7 of the Core Strategy seeks to secure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision. Part of the previous reason for refusing the previous gas tanks application was because:

*'...In the opinion of the Local Planning Authority the servicing arrangements are considered inadequate which would lead to harm to users of the highway by virtue of delivery vehicles having to park on the highway causing an increased danger and due to pipes running across the footway....'*

There would be approximately 6-7 deliveries per year. The deliveries are made by 7.5t mini-bulker (specification provided). The revised siting of the proposed oil tank area means that the tankers would be able pull off the highway onto a dedicated parking area (laid with grasscrete).

This overcomes reason for refusing the previous application as there would be a dedicated parking area for the tankers to deliver the LPG. Nor has the NCC Highways Authority raised any concerns in relation to the proposal. As such, it is not considered that the proposed development would result in an increased danger to other users of the highway in accordance with Spatial Policy 7 and DM5.

### Impact on Amenity

CP9 requires that developments contribute to a compatible mix of uses particularly in town and village centres. Policy DM5 of the DPD requires that developments should ensure that neighbours do not suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy and that they should have regard to their impact on amenity and mitigate for any impact. It goes on to say that development that creates an unacceptable standard of amenity will be resisted.

It is not anticipated that the scheme would give rise to unacceptable residential impacts given the distances of the tanks to dwellings and their gardens.

### Archaeology

An Archaeological Desk Based Assessment and Geophysical Survey were submitted in support of the consented application for 50 dwellings which included this site. Advice sought at that time confirmed that the information provided was acceptable and a condition was imposed for archaeological mitigation and its implementation. A Written Scheme of Investigation (WSI) has subsequently been approved for the wider development site and updated to include consideration of the proposed gas tanks area. As such, the Councils archaeological advisor has confirmed that the condition should be extended to cover these proposals and therefore in the event of an approval a condition would need to be imposed to ensure compliance with this WSI.

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## Other Matters

### *Maintenance and Management of Tanks*

In terms of future maintenance of the LPG compound, the tanks would be owned and maintained by Calor Gas Ltd. However, the Applicant has confirmed that the grass above the tanks, knee rail and native hedgerow which surround the compound would fall within the area to be managed and maintained by the Residents Management Company. This is secured by the S106 attached to 14/00161/FULM which requires details of the future management and maintenance of the open space through a management plan to be submitted to the Council for approval prior to the first occupation of dwellings on site.

### *Further linkages to 19/00971/FULM*

Approval of this scheme would affect the ability of the applicant to implement the approved landscaping scheme under 14/00161/FULM in full. This is a matter which is being dealt with through the concurrent application 19/00971/FULM which seeks to vary the approved plans and conditions relating to landscaping (among other variations to the approved scheme).

### *The need for Hazardous Substance Consent*

Hazardous substance consent (HSC) is required for the presence of certain quantities of hazardous substances. LPG is defined as a hazardous substance for the purposes of the regulations. Consent is needed if specified hazardous substances are stored or used at or above specified controlled quantities. Schedule 1 to the Planning (Hazardous Substance Regulations) 2015, Part 2 (Named hazardous substance) sets out that in respect of LPG the threshold is 25 tonnes. The Applicant has confirmed that the Hazardous Substance Consent would not be required as the total amount of LPG stored within the 5 tanks and across the site including the pipework would be 10.2 tonnes.

## Planning Balance and Conclusion

The principle of the development is acceptable and the provision of an alternative source of energy supply to the 50 new dwellings could help to reduce carbon emissions. A similar scheme in a different location within the wider housing development site was previously refused due to its adverse impact on the character and appearance of the Conservation Area and for highway and public safety reasons.

However, this resubmission represents an improved scheme located to the rear of the site with a dedicated parking area for deliveries. The LPG area would be largely screened from public access/view by a knee rail and hedge. The application is accompanied by evidence to demonstrate that the proposal would not result in any adverse impact upon public safety or highway safety. The revised design and siting of the development is not considered to result in any adverse impact upon the character or appearance of the Sutton-on-Trent Conservation Area.

Nor would the proposal result in any adverse impact on flood risk, contaminated land or archaeology, subject to conditions.

The small loss of public open space is regrettable, however I consider that the proposed mitigation measures proposed by the Applicant in the form of additional and upgraded children's play

equipment in addition to an off-site commuted sum (equivalent to the area to be lost) would provide adequate compensation for this loss. Overall I find that the limited harm in this case is outweighed by the benefits of the scheme and it is recommended that planning permission is approved subject to the Recommendation set out below.

## **RECOMMENDATION**

**That full planning permission is approved subject to:**

**(a) the conditions shown below; and**

**(b) the signing and sealing of a Deed of Variation to the S106 attached to 14/00161/FULM (for the erection of 50 dwellings) to require an off-site commuted sum towards open space provision and an additional item of play equipment.**

### Conditions

01

The development hereby permitted shall not begin later than 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

The development hereby permitted shall not be carried out except in accordance with the following approved plans and documents, reference

- Site Location Plan, drawing no. SOT/LP/001 A
- DRG.NO.04-C28-10619-D101A 12600Kgs Propane Vessel
- Underground Storage Vessel, drawing no. 18428-1Generic Semi-Mounded Install, drawing no. 21390 Rev A
- Proposed Gas Layout, Drawing No. 21613
- Proposed play area, Drawing No. Q4027\_D
- Block Plan, drawing no. SOT/BP/001 Rev A
- Tracking Plan, drawing no. SOT/TP/001A
- Document entitled 'Groundworks; Excavations for below round tanks'
- Document entitled 'Installation of Below Ground Tanks'
- Gas Metre Housing Details (Mitras)
- Grasscrete Detail Type GC2
- Letter from Calor Dated 19th June 2019

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

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The development permitted by this planning permission shall be carried out in full accordance with the Written Scheme of Investigation for Archaeological Monitoring and Recording by APS Archaeological Project Services dated September 2017 (Updated May 2019). The mitigation measures shall be fully implemented in accordance with the timing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure that satisfactory account is taken of the potential archaeological interest of the site.

04

Prior to the installation of the gas tanks hereby approved, a scheme of mitigation to protect against flood risk as set out in the Flood Risk Assessment (by Amazi Received 27.06.2019) shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, this scheme shall include identification of safe routes into and out of the site; details of flood resilient measure to be incorporated into the final design of the development; consideration of the implications of the reliability of service during a flood event and provisions for the signing up to the Environment Agency's Flood Warning Service for early warning of potential flood events and details of how this information would be disseminated.

The mitigation measure set out in the approved scheme shall be fully implemented in accordance with the timing/implementation arrangement embodied within the scheme, or within any other period as may subsequently be agreed in writing by the local planning authority.

Reason: to ensure safe access and egress to and from the site and to safeguard against the risk of flooding.

05

Prior to the first delivery of LPG to the tanks hereby approved, full details (including dimensions, precise location, design, materials etc) of a warning sign including emergency contact details shall be submitted to and approved in writing by the Local Planning Authority. The approved sign shall thereafter be erected adjacent to the gas tank area and retained for the lifetime of the development prior to the development being brought into use.

Reason: in the interests of public safety and in order to ensure that the details are appropriate for the conservation area location.

06

The approved soft landscaping shown on drawing no. SOT/BP/001 Rev A shall be completed during the first planting season following the first delivery of LPG to the site, 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.

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

#### Notes to Applicant

01

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).

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](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 given that there is no net additional increase of floorspace as a result of the development.

#### Background Papers

Application Case File

For further information, please contact Helen Marriott on ext. 5793.

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**

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## Committee Plan - 19/00981/FUL

