

Application No:	18/02362/FULM
Proposal:	Erection of a Mixed-Use Development comprising petrol filling station and associated retail unit and drive through, 1 no. A3 Café/Restaurant with ancillary drive through , 1 no. electric car charging station, 2 no. offices and 103 bed hotel with associated ancillary facilities, landscaping, flood attenuation lagoon, associated engineering operations (including flood compensation measures) and sustainable drainage system (SuDS) along with associated vehicular and cycle parking and access from Fosse Way and all ancillary works.
Location:	Land Opposite 26 to 44 Fosse Road, Farndon
Applicant:	Mr Steve Hampson
Registered:	24.12.2018 Target Date: 25.03.2019
	Extension of Time Agreed Until 13.09.2019

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as the planning application involves a commercial proposal which could potentially deliver significant employment opportunities.

The Site

The application site relates to two separate parcels of land adjacent to the village of Farndon. The combination of both areas amounts to approximately 4.58 hectares in total and is currently in agricultural use. The area of the site promoted as the main development area is situated immediately to the south west of the A46 roundabout and opposite 26 – 44 Fosse Road. This part of the site is roughly triangular in shape and extends to approximately 2.26 hectares. The other area is some 160m south forming an area of land of approximately 2.32 hectares between the residential curtilages of 81 – 105 Fosse Road and the dualled A46 road. The purpose of the inclusion of this part of the site is for flood attenuation. The application site has been reduced in area (it was originally 5.44 hectares) during the life of the application through the suite of revised documents discussed in further detail in the proposal section below.

The development portion of the site (i.e. the area adjacent to the roundabout) is within the area of Open Break as defined by the Newark South Proposals Map. The entire site is within Flood Zone 3 according to the Environment Agency mapping system with some areas of the site being within the functional flood plain Flood Zone 3b. The River Devon runs on the opposite side of the A46 to the east of the site. The river forms a site of interest in nature conservation for its variable riparian features and locally diverse aquatic flora. The majority of the site is deemed as being at very low risk of surface water flooding.

There are multiple rights of way near to the site, specifically Farndon Footpath 4 and 5 on Marsh Lane to the north west and Newark Bridleway 1 and 2 along the River Trent.

This proposed development site is on a nationally significant Late Upper Paleolithic site in archeological terms.

The entire site falls within the Parish boundary of Farndon albeit the administrative boundary of Newark is close by.

Relevant Planning History

There is no planning history of relevance to the current application.

The applicant has however submitted a screening request in relation to the current proposal (18/SCR/00017) in which Officers concluded that an Environmental Impact Assessment was not required (decision dated 27th November 2018).

The Proposal

The proposal seeks full planning permission for a mixed use development comprising numerous elements. The scheme has been revised during the lifetime of the application with a suite of revised documents received 18th July 2019. The description of the proposal below makes reference to the original submission where appropriate.

Unit 1 – Petrol Station / Shop / Hot Drink Franchise

This would be positioned at the northern tip of the site adjacent to the A46 roundabout. It is proposed that the petrol station has 8 pumps with the unit being approximately 446m² in floor space internally. This would be divided into a retail area of 176.7m²; back of house facilities and a drive through facility. There would be 45 car parking spaces (including 2 disabled spaces) serving the proposed use. It is also proposed that there would be two above ground fuel tanks along the eastern boundary of the site surrounded by an approximately 4m high fence.

The building would be divided into two elements with a narrower footprint at the northern corner of the site which would be served by a slightly lower monopitch roof adjoining the larger element of the building which would also have a monopitch roof with an approximate ridge height of 6.6m. Materials proposed include orange brickwork with grey composite cladding elements. The building would also feature large elements of glazing and an ATM machine on the south elevation which would be served by a ramp access.

The application submission states that 'Blakemore' are the confirmed operator of the fuel filling station.

Unit 2 – A3 Café / Restaurant with an ancillary drive through

Unit 2 has been revised from the original proposal from a drive through facility to an A3 Café / Restaurant with an ancillary drive through facility. It would be positioned broadly centrally within the developable site. Unit 2 would be close to the north western boundary adjoining Fosse Way and equally close to the main site access. It is proposed that the unit would be approximately 167m² in internal floor space and would be served by 38 car parking spaces (again including 2 disabled spaces).

The proposed building would follow a similar design and use of materials to the petrol station at unit 1 albeit the majority of the roof would be approximately 6.1m to ridge. There would be elements of projecting cladding at a slightly increased height which would incorporate associated signage on the south and east elevations.

The application submission states that 'Costa Corporate' are the confirmed operator for the Unit 2 drive through.

Unit 3 – Electric Car Charging Station

The original proposal demonstrated Unit 3 to be a drive through facility but this has been amended to an Electric Car Charging Station. The position of this unit would be towards the eastern boundary of the site with a floor space of approximately 115m² covered by a canopy approximately 6.3m in height.

Units 4 and 5 – Office Blocks

The proposed development includes two no. three storey office blocks set towards the north western boundary of the site with their principle elevations facing inwardly towards each other in the site. Each building would have an approximate internal floor space of 1,417m² with an overall pitch height of approximately 14m (reduced from the original proposal of 15.8m). Both the north and south elevations are designed with full height projecting gables. The overall design is modern in character again with predominantly brick material with elements of cladding. There would be windows at all three floors on all four elevations serving the offices internally.

It is intended that the two office blocks would share parking provision with 61 spaces between them (including 4 disabled spaces and 6 electric charging bays).

Unit 6 – 103 bed hotel

The final element of built form within the proposal would be the proposed 103 bed hotel set towards the south eastern corner of the developable site. The building is arranged in a broadly L-plan form with a total internal floor area of approximately 3,775m². The hotel would be 3 storeys in height and follow a similar design and palette of materials to the proposed office blocks. The maximum ridge height of the building would be approximately 16.8m. The hotel is intended to be served by 102 car parking spaces (including 4 disabled spaces and 6 electric charging bays).

The application submission states that 'Holiday Inn Express' are the confirmed operator of the hotel.

Other elements

The proposal also includes other ancillary elements including areas for cycle parking and picnic tables adjacent to the drive throughs. The site masterplan also demonstrates a linear lake area to the south western boundary of the developable site which incorporates a pathway around the perimeter of the lake and a small landscaping zone adjacent to Fosse Road. The plan annotates a 'potential café location' on the lake but for the avoidance of doubt this does not form part of the current planning submission. Despite Officers request, the applicant has confirmed via their agent that they will not remove reference to this from the submitted plans.

As is referred to in the description of the site above, there would be an area for flood compensation measures on land to the south of the developable area separated by agricultural land. This parcel of land is proposed to be re-profiled to compensate for the land raising proposed in order to elevate the proposed floor levels of the proposed buildings.

The proposal has been considered on the basis of the following documents and plans, received both through the original submission on 21st December 2018 and through the revised documents received 18th July 2019:

Supporting Documents

- Applicant Supporting Statement 'Background to the Proposals and Site Selection Process' by Harlaxton Estates Limited;
- Revised Economic and Market Benefits Statement by Regeneris dated 5th July 2019 (received 18th July 2019);
- Landscape and Visual Assessment (including associated figures and appendices) by Influence Environmental Ltd. Reference INF_N0474_R01 dated December 2018;
- LVIA Addendum by Influence Environmental Ltd. Reference INF_N0474_R02 dated 15th July 2019 (received 18th July 2019);
- Preliminary Ecological Appraisal by RammSanderson dated April 2018;
- Archaeology Assessment by Allen Archaeology dated December 2018;
- Revised Transport Assessment by BSP Consulting dated 1st July 2019 (received 18th July 2019);
- Revised Travel Plan by BSP Consulting dated 1st July 2019 (received 18th July 2019);
- Revised Flood Risk Sequential Assessment by GPS Planning and Design Ltd (received 18th July 2019);
- Revised Flood Risk Assessment (Parts 1 to 4) by BSP Consulting dated May 2019 (received 18th July 2019);
- Revised Supporting Planning Statement by GPS Planning and Design Ltd (received 18th July 2019);
- Heritage Impact Assessment: Addendum to Supporting Planning Statement by GPS Planning and Design Ltd (received 18th July 2019);
- Revised Design and Access Statement by GPS Planning and Design Ltd (received 18th July 2019);
- Statement of Community Consultation by GPS Planning and Design Ltd;
- Ground Investigation Farndon Plot by Discovery CE Limited dated December 2018;
- Phase 1 Desk Study and Ground Investigation Report by Discovery CE Limited dated January 2019;
- Sequential Assessment for Town Centre Uses by Peter Brett Associates dated November 2018;
- Supplementary Sequential Assessment for Town Centre Uses by Peter Brett Associates dated July 2019 (received 18th July 2019);
- Economic and Market Benefits Statement by Regeneris dated 5th July 2019 (received 18th July 2019);
- Commercial / Agents Case in Support of this Mixed Use Development dated April 2019 (received 18th July 2019);
- Archaeology Technical Note by Allenarchaeology received 15th August 2019;

Plans

- Revised Site Location Plan - NWK 170014-BED-ST-XX-DR-A-0100 REV P03 (received 18th July 2019);
- Revised Proposed Site Plan – Building Access - NWK 170014-BED-ST-XX-DR-A-0101 REV P04 (received 18th July 2019);
- Revised Proposed Drainage Layout - NWK 170014-BED-ST-XX-DR-A-0102 REV P03 (received 18th July 2019);
- Revised Proposed Site Masterplan - NWK 170014-BED-ST-XX-DR-A-0103 REV P06 (received 18th July 2019);
- Context Plan - NWK 170014-BED-ST-XX-DR-A-0104 REV P01;
- Constraints Plan - NWK 170014-BED-ST-XX-DR-A-0105 REV P01;
- Revised Delivery Vehicle Tracking Plan - NWK 170014-BED-ST-XX-DR-A-0106 REV P04 (received 18th July 2019);
- Revised Filling Station Tracking Plan - NWK 170014-BED-ST-XX-DR-A-0107 REV P04 (received 18th July 2019);
- Revised Site Vehicular Movement Plan - NWK 170014-BED-ST-XX-DR-A-0108 REV P04 (received 18th July 2019);
- Revised Unit 1 – Filling Station Ground Floor Plan - NWK 170014-BED-FS-XX-DR-A-0111 REV P02 (received 18th July 2019);
- Revised Unit 1 – Proposed Filling Station Elevations and Sections - NWK 170014-BED-FS-ZZ-DR-A-0112 REV P02 (received 18th July 2019);
- Unit 1 Filling Station Illustrative Views - (received 18th July 2019);
- Revised Unit 1 – Proposed Filling Station Tanker Fence - NWK 170014-BED-FS-XX-DR-A-0116 REV P02 (received 18th July 2019);
- Unit 2 – A3 Café / Restaurant Floor Plans - NWK 170014-BED-OF-ZZ-DR-A-0121 REV P03 (received 18th July 2019);
- Unit 2 – A3 Café / Restaurant Elevations - NWK 170014-BED-OF-ZZ-DR-A-0122 REV P02 (received 18th July 2019);
- Unit 2 – Drive Through Illustrative Views (received 18th July 2019);
- Unit 3 – Electric Car Charging - - NWK 170014-BED-OF-ZZ-DR-A-0131 REV P04 (received 18th July 2019);
- Revised Unit 4 – Proposed Office Floor Plans - NWK 170014-BED-OF-ZZ-DR-A-0141 REV P02 (received 18th July 2019);
- Revised Unit 4 – Proposed Office Elevations and Sections - NWK 170014-BED-OF-ZZ-DR-A-0142 REV P04 (received 18th July 2019);
- Unit 4 – Office Illustrative Views - (received 18th July 2019);
- Revised Unit 5 – Proposed Office Floor Plans - NWK 170014-BED-OF-ZZ-DR-A-0151 REV P02 (received 18th July 2019);
- Revised Unit 5 – Proposed Office Elevations and Sections - NWK 170014-BED-OF-ZZ-DR-A-0152 REV P04 (received 18th July 2019);
- Unit 5 – Fosse Road and Sections - NWK 170014-BED-OF-ZZ-SK-A-0030 REV P05 (received 18th July 2019);
- Revised Unit 6 – Proposed Hotel Floor Plans - NWK 170014-BED-HT-ZZ-DR-A-0161 REV P03 (received 18th July 2019);
- Revised Unit 6 – Proposed Hotel Elevations and Sections - NWK 170014-BED-HT-ZZ-DR-A-0162 REV P03 (received 18th July 2019);
- Unit 6 Hotel – Illustrative Views - (received 18th July 2019);
- Detailed FRA FCA Map - EMD68429.

Occupiers of 105 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. For the avoidance of doubt, the original neighbour consultation process included parties who had provided comment on the aforementioned Screening Request (subject to their agreement).

A revised period of consultation was undertaken following receipt of the revised documents received 18th July 2019. All original contributors and neighbours were re-consulted.

Planning Policy Framework

The Development Plan

Newark and Sherwood 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 5 – Delivering the Strategy
Spatial Policy 6 – Infrastructure for Growth
Spatial Policy 7 - Sustainable Transport
Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
Core Policy 6 – Shaping our Employment Profile
Core Policy 7 – Tourism Development
Core Policy 8 – Retail & Town Centres
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
Core Policy 14 – Historic Environment

Allocations & Development Management DPD

Policy NUA/OB/1 – Newark Urban Area – Open Breaks
DM3 – Developer Contributions and Planning Obligations
DM4 – Renewable and Low Carbon Energy Generation
DM5 – Design
DM7 – Biodiversity and Green Infrastructure
DM8 – Development in the Open Countryside
DM9 – Protecting and Enhancing the Historic Environment
DM10 – Pollution and Hazardous Substances
DM11 – Retail and Town Centre Uses
DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2019;
- Planning Practice Guidance;
- Schedule Monuments & nationally important but non-scheduled monuments dated October 2013;

- Landscape Character Assessment Supplementary Planning Document 2013;
- Destination Management Plan for Newark March 2018.

Consultations

Farndon Parish Council – Letter submitted by SSA Planning on behalf of the Parish Council. Dated 25th March 2019:

We act for Farndon Parish Council and are instructed to make the following representation on its behalf in response to your consultation on the above-referenced planning application.

The proposed development is the erection of a petrol filling station and associated retail unit, 2 no. drive-throughs, 2 no. offices and 103-bed hotel with associated ancillary facilities, landscaping, flood attenuation lagoon, associated engineering operations and sustainable drainage system along with associated vehicular and cycle parking and access.

There are a number of discrepancies in the submitted application documents that, in our opinion, ought to have been remedied before the application was validated.

Firstly, neither the description of the proposal nor the non-residential floor space sections of the application form specify uses to which the drive-throughs will be put – these could be coffee shops, bakeries, cafés or restaurants with or without hot food takeaways, in Classes A1, A1/A3, A3 or A3/A5 – this information is important for town centre impact assessment.

Secondly, the application form provides no gross internal area (GIA) for the filling station or restaurants. The proposed site plan states that the two drive-throughs will each have a GIA of 167 sq m and the filling station shop a GIA of 446 sq m. With the hotel (3,775 sq m GIA) and offices (2,834 sq m GIA) this makes a total proposed GIA of 7,389 sq m.

Thirdly, the filling station has a drive-through lane and, despite being described only as a filling station in the description of development and application form, seems likely to be construed as including a use related to that (again, this could be any of a number of uses) under section 75(3) of the Town and Country Planning Act 1990.

Fourthly, the application form provides no opening hours for the filling station or restaurants – this information is important for assessing the likely impact on the living conditions of nearby residents and the wider landscape should lighting be kept on throughout the night. It could also be important for assessing town centre impact.

Site and Context

The site comprises previously undeveloped agricultural land in Flood Zones 3a and 3b on the edge of the village of Farndon between Fosse Road and the A46(T) dual carriageway.

Both meet at a five-arm roundabout at the north end of the site, where the B6166 Farndon Road, the A46(T) Newark Bypass and a private access road also meet.

The private access currently leads only to a farm, but was designed to serve an existing distribution centre, which there is a planning application 11/01300/OUTM to redevelop and

connect. Permission 14/01978/OUTM also exists for a strategic urban extension to Newark, including a southern bypass, which will connect to the A46(T) about 400 m south of the site.

This new bypass will both serve the urban extension, but also offer a shorter route for some A46(T) – A1(T) movements that currently use the existing bypass. In terms of pedestrian and cycle access, the subject site is 2.3 km from the Primary Shopping Area (PSA) of Newark Town Centre, the nearest centre in this case, via an underpass of the A46(T).

The nearest filling station is 650 m away on the B6166 Farndon Road. The nearest on the A46(T) are 6.3 km to the north at the A17 junction (where there is also a restaurant), 13.4 km to the south at the A6097 junction (albeit with poor access northbound) or 17.0 km to the south at the A52 junction (where this is also a coffee shop and convenience store).

The nearest restaurant is directly across the roundabout from the site and coffee shops and convenience stores are in both Farndon and Newark within a three-minute drive of the site.

Development Plan

The Development Plan for the area comprises the Newark & Sherwood Core Strategy (CS) adopted in March 2011, containing Spatial Policies, Core Policies and Area Policies, and the Allocations & Development Management (A & DM) Development Plan Document adopted in July 2013. A draft amended Core Strategy is in the latter stages of preparation.

The Policies Map shows the site in an Open Break, a Rural Area, and Open Countryside.

The following policies are relevant to the site or the proposed development:

- CS Spatial Policy 1 'Settlement Hierarchy'
- CS Spatial Policy 3 'Rural Areas'
- CS Spatial Policy 7 'Sustainable Transport'
- CS Core Policy 6 'Shaping our Employment Profile'
- CS Core Policy 7 'Tourism Development'
- CS Core Policy 8 'Retail Hierarchy'
- CS Core Policy 9 'Sustainable Design'
- CS Core Policy 10 'Climate Change'
- CS Core Policy 12 'Biodiversity and Green Infrastructure'
- CS Core Policy 13 'Landscape Character'
- DM Policy DM5 'Design'
- DM Policy DM8 'Development in the Open Countryside'
- DM Policy DM9 'Protecting and Enhancing the Historic Environment'
- DM Policy DM10 'Pollution and Hazardous Materials'
- DM Policy DM11 'Retail and Town Centre Uses'
- DM Policy NUA/OB/1 'Newark Urban Area - Open Breaks'

Material Considerations

The proposed development comprises Main Town Centre uses, as defined in Annex 2 to the National Planning Policy Framework (NPPF). The application site is not within a town centre or the edge of a town centre and is not allocated for retail uses, so that NPPF paragraph 86 requires local planning authorities to apply a sequential test to the proposed development.

NPPF paragraph 87 states that, when considering out of centre proposals, preference should be given to accessible sites which are well connected to the town centre and that flexibility should be demonstrated on issues such as format and scale, so that suitable town centre or edge of centre sites are fully explored.

NPPF paragraph 89 requires the impact of unallocated out-of-centre proposals larger than a locally set floorspace threshold on (a) investment in centres in the catchment area and (b) vitality and viability, including local consumer choice and trade, in the wider retail catchment and its town centres to be assessed.

NPPF paragraph 91 seeks places that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

NPPF paragraph 155 states: “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at 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.”

NPPF paragraph 194 states: “... Substantial harm to or loss of: b) assets of the highest significance, notably scheduled monuments ... should be wholly exceptional.” The footnote to which requires heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, to be subject to policies for them.

The Newark and Sherwood Landscape Character Assessment Supplementary Planning Document (LCA SPD) was adopted on 11th December 2013. It places the site in the Farndon Village Farmlands Policy Zone of the Trent Washlands Character Area, the condition and sensitivity of which are described as low, despite high visibility.

Analysis

On review of the proposed development, the site and its context, the Development Plan and other material considerations, the following are the main issues in this application:

- Settlement Coalescence
- Character and Amenity
- Accessibility and Parking
- Economic Impacts
- Natural Environment
- Historic Environment

Settlement Coalescence

The site is located in an Open Break and Open Countryside, where Policy NUA/OB/1, Spatial Policy 3 and Policy DM8 would not normally permit built development. There are no exceptions to Policy NUA/OB/1 and the exception to Policy DM8 for roadside services requires a justified need for a particular location, with scale limited to need.

Whilst the assertion is made in the Planning Statement that the roadside and hotel services are much needed, there is no evidence of this. The expressions of interest from operators merely

suggest that the location may be viable for them and the statements that staff, clients or visitors cannot find hotel rooms are anecdotal with no supporting analysis.

Consequently, it is not clear that the proposed development complies (or could comply in this location) with Policy NUA/OB/1, Spatial Policy 3 or Policy DM8.

Character and Amenity

The site and its surrounding landscape, comprising the floodplains of the Rivers Trent and Devon, are very flat. Whilst this causes vegetation to limit some short-range views, there is little planting to the boundary with Fosse Road and the A46(T) carriageway is higher-lying, coinciding locally with the wider LCA SPD assessment of high visibility.

The site remains the first significant parcel of open land beyond the edge of Newark and it provides a link from open land to the south-west and north-west of the town. For the same reasons it was identified as part of the Open Break, the application site is far more sensitive to development locally than the wider LCA SPD indicates.

This is also due to the contrasting character of the proposed commercial development and the existing low-density residential edge of Farndon village. This will be more apparent at night, as the A46(T) dual carriageway is not lit and the proposed development will introduce significant site lighting to a landscape that is dark to one side.

Almost all development traffic will use the section of Fosse Road from the roundabout to the proposed access. This is residential and the noise, disturbance, air quality and light impacts on the living conditions of its residents will be significant, but have not been assessed. In our view, the proposal is therefore contrary to Core Policies 7 and 13 and Policy DM5 (3-4).

Accessibility and Parking

There are several flaws in the submitted Transport Assessment, which does not provide sufficient evidence that the proposals are acceptable in highways terms, as follows:

- i. It is neither clear how pedestrians will be able to safely access the site, nor why such a large taper is provided on the exit. No assessment has been made of person trips forecast to be generated by the site to allow this to be examined in further detail.
- ii. Parking for the office element in particular appears sub-standard, which could result in an impact on local roads in the vicinity. Parking for the site as a whole will need reconsidering if indeed three drive-through units should be considered instead of the two at present.
- iii. The number of vehicle trips forecast to be generated for the office element appears to be underestimated, which could result in a greater impact on the local roads in the vicinity, and the need for further mitigation at the A46/Fosse Road roundabout. Again, trip generation for the site as a whole will need reconsidering if indeed three drive through units should be considered instead of the two at present.
- iv. A more detailed, up to date accident analysis should be undertaken to help consider the impact of the proposed development on all modes of transport in further detail.

The application does not provide transport information of sufficient adequacy, accuracy or robustness to confirm that the proposal complies with Spatial Policy 7 or Policy DM5 (1-2).

Economic Impacts

These impacts are on jobs, the town centre and tourism. The Economic and Market Benefits Statement estimate that 390 on-site jobs will be created, but the Homes and Communities Agency Employment Density Guide (3rd Edition) figures for a Professional Services office, Restaurants and Cafes and a Budget Hotel, suggest 300 full-time equivalents (FTEs).

Furthermore, there is no assessment of jobs or spend displaced from sites in Newark PSA, avoidance of which is an objective of CS Core Policies 7 and 8 and NPPF paragraph 89.

The proposed development comprises an unallocated out-of-centre proposal of more than 2,500 sq m, so should be assessed for impact on investment, vitality and viability.

The Sequential Assessment must begin with an identified need and area of search, ideally agreed with the local planning authority, but these are neither agreed nor justified. Potential for disaggregation is not fully explored and neither the link between offices and roadside facilities nor the need for so many drive-through facilities in one place is clear.

The key alternative site that clearly meets the requirements for the need in size and roadside location is the former Highways Depot on Great North Road in Newark. The Assessment dismisses this as too small, subject of a refusal for a supermarket, allocated for employment, in an out-of-centre location and of no interest to potential occupiers.

However, whilst the application site area is 5.44 hectare, only 2.26 hectare is required for the development, the rest being needed for flood compensation due to its location within Flood Zone 3. No flood compensation is required to develop the former Highways Depot and, at 2.03 hectare, it is well within the identified range for flexibility.

Furthermore, the fact that planning permission was refused for a supermarket simply means that suitable and viable sites were available for that use at that time in or on the edge of Newark PSA. It does not mean that the former Highways Depot might not now be the most accessible out-of-centre location to meet the need identified.

Indeed, it is clearly accessible to the Strategic Road Network and on foot to both Newark PSA and a range of other facilities, including council offices, a railway station, food store and leisure uses, to which the application site is quite clearly not accessible. It is also previously developed and at less flood risk than the application site.

The Assessment also suggests that there is a lack of interest in the site for the proposed use, but provides no evidence to support that assertion. The allocation, if anything, confirms that the site is suitable for the development of at least some of the proposed uses and the (limited) uncertainty as to land take for junction improvements applies to both sites.

Consequently, it is far from clear that the proposed development complies with CS Core Policies 6, 7, 8 and 9, with DM Policy DM11 or NPPF paragraph 89 with regard to the criteria for employment, tourism or retail development in those policies, or in regard to the locational acceptability of the proposed development type.

Natural Environment

These effects are on flood risk, pollution, accident risk and ecology. The submitted Flood Risk Assessment has the following key issues that would require addressing:

- i. The site is considered to be within in a high-risk flood zone, therefore inappropriate development in accordance with the NPPF and Planning Practice Guidance.
- ii. Climate change allowances have only been considered up to a 30% increase, contrary to advice for the river district published by the Environment Agency.
- iii. There is low confidence in the flood mitigation solution being effective with respect to ground levels and other issues and thus it is currently contrary to the NPPF.
- iv. Surface water drainage arrangements do not consider various scenarios, including quite likely events, and are not shown to be feasible in terms of gradients.

Appended to this letter is a more detailed analysis of these issues and why, in sum total, the site is unlikely to represent the most sustainable location for the proposal. This latter point is important for compliance with Core Policy 9, as other sites at lower risk of flooding and more capable of sustainable drainage exist that could accommodate the proposed uses.

Fuel tanks are proposed near residents and on land at high flood risk of flooding, but there appear to be analyses of neither the risk of an accident to residents nor of pollution in the event of a flood. Therefore, it remains possible that these risks could not be managed and the proposal is contrary to Core Policies 9 and 10, Policy DM5 (9) and DM10.

Furthermore, the Preliminary Ecological Appraisal is unclear as to whether further surveys are required for Great Crested Newt, a European Protected Species. Whilst it is noted that habitat suitability was found to be low, greater clarity is required to comply with the Habitats Regulations, and with Core Policy 12 and Policy DM5 (7).

It is also noted that a section of the Preliminary Ecological Appraisal is redacted and this should be disclosed to at least one other ecologist, ideally the local Wildlife Trust or Natural England, for an opinion before any decision is made in order to ensure that that decision is lawful and that appropriate weight has been attached.

Historic Environment

An Archaeological Impact Assessment (AIA) was submitted with the application, which indicates a potential for the proposed development to impact on Late Upper Palaeolithic (LUP) remains of potentially national significance. Further survey and assessment of the subsurface deposits are required for a full understanding of the implications.

Consequently, without a report of any such further survey and assessment, it would not be possible to assess whether the proposed development complies with Policy DM9 (4). In the interim, both the Historic Environment Officer serving the District and the Inspector of Ancient Monuments at Historic England has responded to your consultation.

You will be aware that both consider the archaeological characteristics of the site to be rare to the extent of national importance. Consequently, NPPF paragraph 194 requires the site to be subject to policies for a designated heritage asset. This allows substantial harm (which the Inspector considers inherent to the proposal) only in wholly exceptional circumstances.

Such circumstances clearly do not apply in this case. As the AIA itself notes, the route of the A46 dual carriageway was, in fact, realigned to avoid the site on that basis.

Other Matters

The proposal is intended to cater to passing traffic, but is in proximity to a settlement. This will mean an increase in people unknown to the area having legitimate business close to dwellings.

This makes it easier for perpetrators of crime, disorder or anti-social activity to go undetected, an issue that requires at least some form of mitigation.

Whilst the Design and Access Statement identifies the incorporation of measures to reduce crime and the fear of crime as a design objective, there is apparently no further analysis of this elsewhere within the Statement. Consequently, it is at best unclear whether the proposal complies with Policy DM5 (6) or with NPPF paragraph 91.

Conclusions

The proposal is located in an Open Break and in Open Countryside and there are no exceptional circumstances to warrant permission being granted for built development.

The site and its surrounding landscape is locally sensitive and both it and the amenity of nearby residents would be harmed by the proposed commercial development.

There are several flaws in the submitted Transport Assessment, which does not provide sufficient evidence that the proposals are acceptable in highways terms.

The economic benefits appear overstated and the impacts, in particular to Newark Town Centre and its PSA have not been appropriately or adequately assessed.

There are a number of issues with the Flood Risk Assessment and the proposed drainage strategy, which should be (and may not be capable of being) remedied.

The Historic Environment Officer and Inspector of Ancient Monuments consider the site equivalent to a Scheduled Ancient Monument, to which substantial harm will be caused.

There are other issues related to ecology and crime that have not yet been adequately assessed or for which adequate mitigation strategies are needed.

Overall, it is considered that the proposed development does not comply with the up-to-date Development Plan and there are no overriding reasons to grant permission.

CLlr Saddington – *email received 21st January 2019:*

I was able to look at the Plans, so I now feel sufficiently familiar with them to be able to make comment as the County Councillor who represents Farndon and other villages within the Farndon and Trent Division.

Over intensification and greed come to mind!

I think a hotel would have been acceptable, however, since so much has been included into the application, I have major concerns.

The Garage is at the end closest to Farndon Roundabout, the petrol tanks are adjacent to the A46, they are above ground owing to the fact the site is in Flood Zone 3, there is a shop planned within the garage.

To prevent motorists driving across the A46 towards the petrol tanks in the event of an accident, there is a 4m high fence. I can well remember not too long ago a lorry came off the road on the roundabout and fortunately just stopped short before it hit the Electric pylon.

Goodness knows what would have happened if it had driven into the Pylon!

The 17 metre high, 103 bed hotel which is planned, with Conference facilities, will be in competition for car parking space along with the 2 office blocks which, if granted, would employ 300 Employees with potentially in excess of 200 cars. I understand there are only 237 Car park spaces for the whole site which would be insufficient. This would mean that motorists would park on the Old Fosse Road, creating inconvenience and safety issues to residents both in Farndon and beyond.

In addition to the Hotel, Conference centre and Two office blocks, there are 2 planned drive through businesses, again cars and vans which will need to access the site and could even park adding more cars to the car park.

Since there is so much available land at Fernwood on the Business park and so many empty shops in town, I cannot see why there is any proven need for Offices at Farndon.

I understand McDonalds on Lincoln road in Newark serve 245 cars per hour between 8am and 9am and 4pm and 6pm.

This is a huge number, 4 cars a minute, if similar numbers visited the Farndon site, all would accessing from the Old Fosse road at a time when local residents were leaving for and arriving home from work.

All this traffic would add extra congestion on this road.

In the event Dave this application was unfortunately granted, I would request that solid yellow lines are painted along the Old Fosse Road to prevent parking outside the site.

As if all this development is not overkill, I noticed also on the plan there is Coach parking, since there is no overnight coach parking in Newark, I would ask NSDC if we are to assume this will be used by coaches not staying at the hotel?

The only positive thought about this application is there will be no HGVs on the site, other than those delivering to the businesses.

The applicant has stated there are no garages within 38 miles of Newark on the A46, this is not true.

A new garage and shop has been built at Saxon dale and at the A17/46/A1 Winthorpe island there is a garage on each side of the road, each with a shop, Waitrose or Londis.

This site is at an important entrance to Newark, it is included as one of the Open Breaks as quoted in policy NUA/OB/1.

This is to ensure that Farndon retains its separate identity and character providing an open break between Newark, particularly houses south of Newark and Farndon.

It is my understanding that land within open breaks is not normally granted for development.

Farndon Parish Council and residents, along with many of us, fought hard for the A46 bypass. Inevitably if this application is granted, traffic will increase on the Old Fosse Road, something Farndon residents= have so long wished to avoid.

In addition to this, if the A46 is blocked, then traffic is diverted down the Old Fosse Road in both directions making the road extremely busy.

Access within the site Dave appears complicated to say the least.

The access is on the West side of the A46, once in the site it appears that drivers have to drive around within the site to egress back on to the Old Fosse Road.

Finally, the congestion everyday at the Farndon roundabout is contributing towards gridlock in Newark.

I realise Highways England are working on the roundabouts over the coming weeks, however, it is my understanding that they are more health and safety measures rather than measures to ease traffic to help the motorist.

I firmly believe as a driver negotiating traffic in Newark everyday, the infrastructure should be improved before we impose more problems driving in and around Newark. In this I include the fact that the Farndon roundabout isn't even finished yet and I understand it will be sometime before it is.

To sum up, I have great concerns regarding this application, I request from both NCC and NSDC that the impact on residents in and around Farndon be considered.

I, personally, do not consider intensification of this site necessary, particularly the provision of the 2 Office blocks.

To try and appease the residents, I have noticed the provision of a path for dog walking and a café.

There is a Parish Council meeting to discuss this application next Monday January 28th.

Newark Town Council – Revised comments received 7th August 2019:

It was AGREED to sustain the original objections to this application.

Original comments received:

Objection was raised to this application on the grounds of concerns of the impact on the Town Centre Economy and the visibility of the Town from that gateway. The application ought not to be considered until such time as a full assessment of the economic impact on office and overnight accommodation in Newark Town were evidentially understood.

Hawton Parish Council – No comments received.

East Stoke with Thorpe Parish Council - The council were of the opinion that the proposals would create untold traffic problems around the area of the proposed development and the surrounding highways provision and introduce unsustainable vehicular traffic numbers through East Stoke, particularly at the time of an accident on the A46 road causing use of the Fosse Road through the parish and introducing unacceptable conditions for residents.

NSDC Planning Policy –Appended separately at Appendix 1.

Historic England – Additional comments received 16th August 2019:

The additional information and arguments submitted are noted but they do not lead Historic England to revisit our advice as set out to you in previous correspondence, I therefore refer you to our previous recommendation of refusal of consent for the reasons previously expressed.

Additional comments received 25th July 2019:

Thank you for your letter of 18 July 2019 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

Our advice remains as set out in our letter dated 8th March 2019 to which we refer you.

Recommendation

Historic England maintains its objection to the application on heritage grounds as set out in our letter dated the 8th March 2019

Original comments received 8th March 2019:

Thank you for your letter of 11 February 2019 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Summary

The submitted scheme directly affects a nationally important ancient monument, the Farndon Fields Late Upper Palaeolithic site (dating to the period approximately 14700 BCE to 12700 BCE). This is a site which as required by the National Planning Policy Framework (NPPF 2019) should be treated on parity with a scheduled monument requiring the same levels of justification and weight for all harm and tests in respect of substantial harm. We advise that the only position consistent with the NPPF in the absence of a presented case of overwhelming, site specific and wholly necessary public benefit is refusal of consent since the scheme would if consented cause substantial harm to a nationally important archaeological site.

Historic England Advice

The submitted scheme directly affects a nationally important ancient monument, the Farndon Fields Late Upper Palaeolithic site (dating to the period approximately 14700 BCE to 12700 BCE). The ancient monument comprises scatters of worked flint incorporated into topsoil and localised areas where these artefacts survive in-situ (ie where they fell). We believe these sites to represent the remains of transient but repeated hunting expeditions and camps in an Ice Age environment where the seasonal movement of animals was central to the rhythm of peoples' lives. These sites were probably never dense in the landscape and their survival and identification are both rare, this is therefore a site of national importance. The context is a complex geological environment of former river channels and pools, gravel banks and sand dunes, an undulating landscape concealed by the modern terrain. In the absence (as yet) of structural features the site falls outside the scope of the 1979 Ancient Monuments and Archaeological Areas Act, it is as set out in Government Policy one of a class of sites which should be accorded equal weight in the planning system <https://www.gov.uk/government/publications/scheduled-monuments-policy-statement>. The National Planning Policy Framework 2019 footnote 63 explicitly states that sites of demonstrable equivalent importance to scheduled monuments shall be subject to the policies for designated heritage assets in the NPPF. As written up in the report for the A46 road scheme <https://www.wessexarch.co.uk/our-work/a46-nottinghamshire> the site clearly falls into this category.

In consideration of this application great weight must be given to the conservation of the asset as required by NPPF 2019 para.193 and all harm would require clear and convincing justification (para. 194) regardless of the degree of that harm. This application would cause substantial harm to the significance of the Farndon Field Late Upper Palaeolithic Site both through the loss of the 'Northern Cluster' as a result of the main development proposed and through the loss of the cover sand deposits and buried archaeological horizon in the area proposed for surface water management to the south. In-situ deposits may survive below the cover sands or in channel and pool sides and on and in alluvial fills.

The harm is inherent to the scheme as proposed and could not be designed out through detailing, we see no NPPF compliant way in which these matters could be treated by condition to consent. Whilst the significance of the site could be better understood through boreholes, test pits and trenches, specialist geophysical work and deposit modelling, we wish to be very clear that such work does not represent in our view a pathway to rendering the submitted or similar schemes sustainable or at all likely to be consentable by your authority in conformity with the requirements of the NPPF 2019.

No overriding public interest justification is presented further to NPPF para. 195 nor are the sequential tests for such harm met. As an asset of equivalent importance to a scheduled monument, substantial harm to the Farndon Fields site should be regarded as wholly exceptional. The curve of the A46 dual carriageway at this point purposely avoids the northern scatter, but simply if it was worth in public policy terms avoiding the 'Northern Cluster' with the trunk road it

cannot be reasonably justifiable to then lose this key part of the site to ancillary constructions. The site was identified through the A46 process as of national importance on the basis of the finds scatters in topsoil, the subsequent discovery of in-situ survivals only adds to the site's importance. As set out in NPPF para.199 ... ' , the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.' The submission on behalf of the applicant suggests the site is suffering loss from cultivation (outside of the planning process) this has certainly been the case in the past but the degree of additional damage to the significance of the site which would be caused by the proposed development (even with archaeological mitigation) would far exceed the attritional effects of responsible farming practice. Securing the site under grass would clearly be a benefit and on-going cultivation can be associated with a degree of harm but removing key areas of the ancient monument to make way for a hotel, office and filling station as associated works would comprise substantial harm to its significance. It is the submitted scheme which must be the subject of determination as presented to your authority, we advise that the only position consistent with the NPPF in the absence of a presented case of overwhelming, site specific and wholly necessary public benefit is refusal of consent.

Recommendation

Historic England objects to the application on heritage grounds.

We consider that the application fails to meet the requirements of the NPPF, in particular paragraph numbers 193, 194, 195 and 199.

In determining this application you should bear in mind the statutory duty of section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

NSDC Archaeological Advisor – Additional comments received 2nd August 2019:

The additional information supplied does not alter our recommendations which is that this site is not suitable for development on archaeological grounds.

Additional comments received 12th March 2019:

My initial recommendation made on 28/1/2019 was for further information to be supplied; I have since received a copy of a geophysical survey and field walking report for this site.

This PDA is a rare example of a Late Upper Palaeolithic site, this site appears to have had two separate phases of use, and comprises of significant lithic scatters contained within the topsoil. This practice is consistent with this site being by our hunter-gather ancestors. This site would have been one that was visited many times over an extended period of time possibly on a seasonal basis. These sites are rare and sites with this level of artefactual remains even rarer. Although this site has been mostly identified by the presence of flints within the topsoil it is possible that there may be deeply buried structural remains. Structural remains of this age are notoriously difficult to identify through non-intrusive survey which is why, if they are present, they have not been identified by the geophysical survey.

This proposed development site is on an a nationally significant Late Upper Palaeolithic site, one which was identified as being so significant that the proposed route of A46 was amended so that this area could be preserved in situ. This essentially means that this site has been found to be 'demonstrably of equivalent significance to scheduled monuments' (NPPF 2018) and as such this site should be treated as if it was a scheduled site.

The proposed application would, during development, essentially destroy this monument, although it has been stated that the sites agricultural use is damaging to the site it will not be as damaging as the proposed development.

There needs to be clear justification, as per the NPPF, that the loss of this archaeological site has public benefits that outweigh the harm that the proposed development will do. The re-routing of the A46 demonstrates that the construction of the road failed this test.

There has been no appropriate surveys showing the visual impacts on any of the surrounding heritage assets.

I recommend that this application is refused on archaeological grounds, that it will cause loss of an archaeological site which has be found to demonstrably equivalent to a scheduled monument and therefore of national significance.

If this application is shown to have public benefits that outweigh the destruction of this archaeological site then it is paramount that we are re-consulted.

Original comments received 28th January 2019:

This proposed development site is in an area of known significant prehistoric archaeology.

I did previously recommend that further information be provided in advance of the determination of any forthcoming planning application. A desk based assessment/ Heritage Impact Assessment has been supplied which further identifies the significance of the potential archaeology on this site.

Ideally an evaluation stage should take place in order to inform an archaeological mitigation strategy.

However if the planning department is minded to approve this application I recommend that an appropriate archaeological condition should be applied to any consent.

Recommendation: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. The scheme of works should of a detailed mitigation strategy using a number of different techniques, including but not exclusively a strip map and sample and the creation of a robust and effective sampling strategy for areas containing lithics. This mitigation strategy should be written closely adhering to the research frameworks set out in the Research Agendas for the East Midlands.

'Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publically accessible.' Policy 199 National Planning Policy Framework (2018)'.

A brief will be produced by this department which will lay out the details above, and the specification for the work should be approved by this department prior to the commencement of works. Please ask the developer to contact this office for further details.

NSDC Conservation – The application is a major development site south of Newark, 1.5 miles from the Town Centre, located at a roundabout the junction of the new A46 and old A46, the latter being the old Fosse Road. This junction bypass Newark by carrying on north up the A46 or enter Newark along the old A46 from the west into the town centre. The site is located to the north end of Farndon and also close to an outlying part of Newark developed along Farndon Road up to the barrier created by the Trent.

The site is located on the outskirts to Farndon and Newark. Both have a conservation area designations and a number of listed buildings and scheduled ancient monuments close in proximity.

Significance of heritage asset(s)

There are no built heritage assets within the application site. However there are many designated and non-designated heritage assets within close proximity to the site. These include the following;

- Newark Conservation Area originally designated in 1968. The designation has been reviewed in 1974, 1979, 1987, 1992 and 1995. The boundary includes the historic core of Newark. As a historic Market town there is a high concentration of listed buildings around the Market Place. Listed buildings of note include Church of St Mary Magdalene and Newark Castle. Church of St Mary Magdalene is Grade I listed (LEN 1279450), designated in September 1950. Newark Castle has multiple designations including Grade I listed (LEN 1196278) designated in September 1950, the site is a Scheduled Monument (LEN 1003474) designated in February 1915 and a Registered Park and Garden Grade II (LEN 1001318) designated in November 1994.
- Farndon Conservation Area was designated in 1992. The southwestern end of the village, its nearest point to the application site is 1km away. The conservation area boundary includes the historic core of the village, containing many vernacular farming buildings. This architectural significance and rural landscape setting contribute to the historic and architectural interest of the conservation area. Building of note located within the conservation area include Church of St Peter which is grade I listed (LEN 1178470) designated in January 1967.
- Farndon Windmill is grade II listed (LEN 1196287) designated in August 1992. The building is located approximately 350m north of the application site. The listing description advises;
'Windmill, now disused. Dated 1823 on datestone over west door, with mid C19 and C20 alterations. Plinth, dentillated curb. Openings have segmental heads. Windows are cast iron casements, unglazed. Those to east replaced by smaller C20 casements. Battered round

tower, 5 stages. Doors to east and west, and irregularly staggered windows on each floor. Interior has floors but no machinery’.

- The Firs, is grade II listed (LEN 1297725) designated in August 1992. The building is located approximately 450 metres northeast of the application site. The listing description advises;
‘House. c1800, with mid and late C20 alterations. Painted brick with stone dressings and hipped concrete tile roof, with 2 side wall stacks. 2 storeys; 3 window range of 12 pane sashes. Central stone doorcase with flat hood on scroll brackets, half-glazed door and overlight. On either side, single 12 pane sashes. Georgian house off Farndon Road’.
- Church of All Saints, Hawton is grade I listed (LEN 1046031) designated in January 1967. The listing description advises;
- Scheduled Ancient Monuments within the area include; Hawton moated site, fishpond, Civil War redoubt and ridge and furrow, Civil War earthwork know as Queen's Sconce

A heritage impact assessment has now been submitted, however it is considered that the stages set out in Historic England Good Practice Advice Note 3 has not been followed correctly. As identified in the guidance document the first step is to identifying the heritage assets and their setting that are affected. This should be done through a ‘zone of theoretical influence’, which defines the area where the development has the potential to be visible. This has been submitted ZTV & Photo viewpoint locations drawing (PL)01.

The heritage statement does not mention the heritage assets identified in the 5km ZTV & Photo viewpoint locations plan and only considers heritage assets within the smaller 2km radius in the Landscape Designations & Local Policy Plan ((PL)05). The ZTV & Photo viewpoint location plan demonstrates that there are heritage assets past the 2km radius mark that could potentially have inter-visibility between themselves and the development site. The heritage impact assessment does not outline why these have been disregarded and why heritage assets within the 2km are only considered. Taller buildings such as the Church of St Mary Magdalene and Newark Castle, located outside of the 2km radius due to their designation status, potential prominence within the skyline and elevated public viewing opportunities should be considered as part of the heritage impact assessment.

Legal and policy considerations

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In addition, section 72 of the Act requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF). Section 16 advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development. LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas.

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that the main issues to consider in proposals for additions to heritage assets, aside from NPPF requirements such as social and economic activity and sustainability, are proportion, height, massing, bulk, use of materials, durability and adaptability, use, enclosure, relationship with adjacent assets and definition of spaces and streets, alignment, active frontages, permeability and treatment of setting. Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting (paragraph 41).

Assessment of proposal

As the heritage impact assessment does not reflect the quality of work expected additional assessment of the heritage assets outside of the 2km radius has been carried out to assist with commenting on this application.

While assessing the heritage assets outside the 2km, but with the 5km ZTV the following conclusions have been made. Travelling north along the A46 there are clear views of St Mary Magdalene's spire, however Newark Castle isn't visible. St Mary Magdalene's spire sits proud above Newark's built landscape signalling the arrival to the historic market town. The long ranging viewpoint no.12 of the site shows the development will sit below the skyline. However, just south of the development site St Mary Magdalene's spire is still visible and will be read with the bulk of the proposed buildings, dominating this view and detracting from St Mary Magdalene and its setting. It is considered that the scale and bulk of the development will cause harm to the setting and appreciation of Church of St Mary Magdalene.

Farndon Windmill being the closest heritage asset to the development site is not experienced with the development site. This is largely due to the existing vegetation and development around the site. Although the application cannot control the tree cover around the windmill significant tree loss will be needed to alter this.

Although there is inter-visibility between All Saints Church, Hawton due to the distance and flat landscape the height and bulk of the proposal is 'flattened' reducing any potential harm.

Although the site is not considered to be within the setting of the Newark Conservation Area and Farndon Conservation Area, the proposal will alter the character of the approach to these areas significantly. Newark town centre follows a traditional urban development with the denser development located to the core with the density and height reducing at the fringes adding to the rural character of the area. The creation of an urban hub on the outskirts will alter the approach and experience of Newark.

The landscape in the area allows for long ranging views towards and away from the development site. The proposal to substantially screen the site with trees will also significantly alter the experience of the approaches into and from Farndon and Newark.

The heritage impact assessment conclusion is vague with contradictory statements. For example, it concludes that there is some harm

‘that the scheme proposal would not bring any notable harm to any designated heritage assets’,

However, goes on to say the impact is *‘generally considered neutral’* therefore there is no harm. The assessment draws upon the ‘substantial public benefit’ suggesting that it is considered the proposal will have less than substantial harm. Clarification on the conclusion is necessary regarding if it is considered that the proposal will cause harm or not.

NSDC Environmental health (contaminated land) – I have now had the opportunity to review the Phase 1 Desk Study and Preliminary Risk Assessment report submitted by Discovery CE Limited in support of the above application. This includes an environmental screening report, an assessment of potential contaminant sources, a brief history of the sites previous uses and a description of the site walkover.

Following this initial work, an intrusive investigation was carried out by the same consultants and the findings submitted in a Ground Investigation report. Sampling has identified that there were no exceedances of screening criteria for any of the soil samples taken and that the risk to human health for the proposed use to be low.

I generally concur with this assessment but note the marginal exceedances of ground water screening criteria and would recommend that this is referred to the Environment Agency for their consideration.

NSDC Access and Equalities Officer - As part of the developer’s considerations of inclusive access and facilities for all, it is recommended that the developer be drawn to BS 8300: 2018– ‘Design of an accessible and inclusive built environment - Code of Practice’ as well Approved Documents M and K of the Building Regulations, which contain further useful information in this regard.

Access to, into and around the proposals, along with the provision of accessible features and facilities, should be considered together with access from the boundary of the site and from carefully laid out car parking provision for disabled motorists. Further details in this regard including design, layout and proportion of spaces is detailed with BS8300. Pedestrian pavement routes should be considered throughout that are traffic free with carefully designed road crossing points, tactile warnings and dropped kerbs as appropriate. A separate enquiry should be made regarding Building Regulations matters and it is further recommended that the developer be mindful of the provisions of the Equality Act.

NCC Highways Authority – Additional comments received 20th August 2019:

Our outstanding comments on this TP (from the previous review) are as follows:

- The TPCs period in post should be defined. The TPC should be in place for the lifespan of the TP (i.e. From first occupation to 5 years following 50% occupation. This is important since if the five year period triggers at the start, it may not cover the trip-intensive elements such as the office and hotel (if these are developed much later than, say, the petrol station). We don't want the TP monitoring to just cover the petrol station, in the worse case as is currently possible.
- Travel surveys still have a mix of 6 and 3 months. This should be easy to fix with a 'find and replace'.

Additional comments received 12th August 2019:

Further to comments dated 31 January 2019, a revised submission has been received that attempts to address earlier concerns.

Clearly the adjacent roundabout is the responsibility of Highways England and ultimately it is their response that offers most weight. However, here is our assessment of the modelling:

- Concerns remain over the geometry used in the Arcady modelling of the A46 roundabout. The entry widths of the A46 approaches have been slightly reduced. However, the figures in the TA Arcady input data still look too high compared with our measurements. We would have expected entry widths of around 8.0m (measured from the offside white line, perpendicular to the nearside kerb, not the 10m+ shown in the model).
- The geometry is common to all flow scenarios and so all will be affected. Our concern is that the baseline performance is lower than modelled so there is less headroom for additional flows to be added and they may take the roundabout over its practical capacity.
- Based on BSPs revised modelling the conclusion is drawn that the roundabout is still within its practical capacity with the development flows added in and so no mitigation is required. It is appreciated that the minor widening of Farndon Road has been dropped as an option as this will achieve nothing in practical terms. However, We would like to see the modelling re-run with A46 geometry reflecting the practical widths available to traffic between the offside lining and the nearside kerb.
- Remodelling will give a more realistic idea of the effects of the development on this junction. We are not sure what could practically be done to mitigate any effects but at least we will have more confidence in the results and what could be expected to happen at the junction.

In terms of the parking issues, whilst the provision has been amended there remains the possibility that insufficient is provided. A shortfall of 30 spaces is identified. Furthermore, the revised Transport Assessment suggests that there will be a sharing of spaces across the site. This assumes that the site will remain in the ownership/control of a single party and not divided up such that there would be a risk that areas of parking become allocated and protected for individual units. This should be confirmed and/or controlled by condition or legal agreement.

Notwithstanding this the major issue will be concerning the Office parking where the immediate provision of 61 spaces for an estimated 94 car-driving staff means that 33 staff will need to seek

spaces in other areas with the obvious inconvenience. This could lead to neighbour disputes and/or drivers finding it more convenient to park on the access ways and/or Fosse Road itself.

This is a location where on-street overflow parking could not be tolerated, so it is important that this is avoided by providing sufficient spaces on the site. In order to protect Fosse Road from indiscriminate parking, a Traffic Regulation Order to introduce waiting restrictions should be introduced at the expense of the developer.

In terms of the Travel Plan, this is still being assessed and a further response will be provided in due course. Should approval be offered prior to comments on this being received then it is suggested that a condition could be applied to agree the Travel Plan prior to operation/occupation.

As it currently stands, there remains doubts over the acceptability of the proposal in terms of highway capacity and parking issues. Unless these can be resolved then an objection is justified.

Should it be determined to refuse this application then the following reasons may be given:

The proposed development fails to make adequate provision for the parking of vehicles within the site curtilage resulting in an increase in the likelihood of danger to other users of the highway due to the likelihood of vehicles being parked on the public highway.

Insufficient/inadequate information has been provided to demonstrate that capacity issues will not arise at the A46 roundabout as a result of the proposed development.

Additional comments received 31st January 2019:

Further to comments dated 25 January 2019, the traffic modelling has now been assessed and the following comments need addressing:

1. At the A46 roundabout the geometry used in the Arcady model appears to have been taken from the old layout before the lining was modified; reducing the A46 approaches from 3 lanes to 2 lanes. As such the entry width on both these approaches is too wide in the models and consequently affects results.
2. Experience tells us that making a slight increase in entry width to produce a real life capacity improvement as proposed mitigation doesn't work. Therefore the mitigation suggested in the TA of strip widening the Farndon Road approach is not accepted. This aside, no drawing of the proposed widening has been submitted and we have concerns that this widening could mean that the roundabout no longer complies with DMRB guidance.

In respect of the above issues, it is concluded that the models be run again using the up to date geometric data taken from the white lining; not the kerbs. Also, it is unclear what practical measures could be implemented to mitigate the effects of the extra traffic generated by the development, but the current proposal is not expected to produce any real benefits. Alternative measures should be investigated.

Until these and previously raised matters are addressed, our 'holding objection' applies.

Original comments received 25th January 2019:

With regard to the above application the Traffic Modelling and Travel Plan are being assessed by colleagues, but we are likely to miss the consultation deadline with detailed comments on these aspects.

In the meantime I am concerned about the level of parking provision being proposed, and would want the applicant/agent to add further justification to statements like “considered acceptable” when referring to this (Paras 3.3.7 & 3.3.8 of the Transport Assessment). I am not sure I accept the concept of sharing spaces with this mix of uses and the reduction in spaces is dramatic e.g. 151 spaces to just 74 in one case, and; 94 to 61 spaces for the Offices.

This is a location where on-street overflow parking could not be tolerated, so it is important that this is avoided by providing sufficient spaces to allay fears. Amendment to the scheme may be necessary for this to occur.

I would also highlight the comments made in the NCC Policy response dated 23 January 2019, with regard to “Strategic Highways” and the importance of not compromising any improvements planned for the A46 corridor and roundabout.

In the meantime please accept this as a holding objection.

Comments in relation to the Travel Plan submission received 7th February 2019:

As a general comment, the development is split across two sites – one of which (petrol, drive thru etc) will have a high number of visitors and the latter (hotel and office) will be more staff focused. As such, we think that the some of the TP should be more clearly differentiated for these two areas. In particular, the trip generation / targets are presented for the entire development in a single row and this would be more useful (certainly with regards to eventual monitoring) if it was broken down into site component and then presented for the two areas of the site separately.

- The Travel Plan is in the form of a Framework TP. It is not however particularly clear how it will be developed amongst occupying organisations. Will each unit adopt and adapt the site-wide framework Travel Plan, or will each unit produce their own TP? Additionally, the TP states that each unit will employ a Unit TPC, however it would be beneficial to have an overarching Site TPC who could oversee the implementation of the TP across the full site. This is to ensure a synergy between the individual units and avoid duplication of measures. Some measures (such as the production of Travel Packs) could be produced on a site-wide scale, rather than each TPC producing a separate (duplicate) Travel Pack. We would note that for a framework TP it is normal to have a Site-Wide TPC, and Unit TPCs for the reasons set out here. (Indeed, the monitoring refers to a singular TPC, which we assume is the site-wide TPC, so more thought needs to be put into this).
- The NPPF (referenced in Paragraph 2.1.3) has since been updated (in July 2018). The text in the TP should be updated accordingly.
- Initial travel surveys should be conducted within 3 months of occupation of each unit, not 6 months. (This is inconsistent in the doc, with one reference to six months and another to 3 months).
- In addition to the duties identified in Paragraph 4.5, the TPC should be the first port of call for all matters relating to the Travel Plan, and should be available to anyone (staff or visitors) requiring travel advice.

- It would be beneficial to designate preferential car-sharing spaces within the car park (particularly the office spaces) to give priority to staff choosing to car share.
- The name and contact details of an interim Site Wide TPC should be identified now (who could be a representative of the developer or their agent). Details of the permanent TPC can be confirmed on appointment, and a commitment given to keeping NCC updated as to the contact details of the TPC(s) should these change (for whatever reason).
- The TPCs period in post should be defined. The TPC should be in place for the lifespan of the TP (i.e. From first occupation to 5 years following 50% occupation), unless the TP fails to meet its targets (see below).
- The TP should commit to a 3 year review and evaluation with NCC as part of the monitoring process.
- Should the Travel Plan fail to meet its targets the lifespan of the TP should be extended. The role of the TPC should also be extended to reflect this.
- Para 9.5 – targets should not be changed unilaterally, and targets should only be changed with the agreement of NCC.

Highways England – Additional comments 6th August 2019:

Referring to the planning application referenced above, and consultation dated 18 July 2019, for the erection of a mixed-use development comprising petrol filling station and associated retail unit, 2 no. drive throughs, 2 no. offices and 103 bed hotel with associated ancillary facilities, landscaping, flood attenuation lagoon, associated engineering operations (including flood compensation measures) and sustainable drainage system (SuDS) along with associated vehicular and cycle parking and access from Fosse Way and all ancillary works, located at land opposite 44 to 26 Fosse Road, Farndon, Nottinghamshire, notice is hereby given that Highways England's formal recommendation is that we:

c) recommend that planning permission not be granted for a specified period (see Annex A – further assessment required);

Annex A Highways England recommended further assessment required

HIGHWAYS ENGLAND (“we”) has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regards to 18/02362/FULM and has been prepared by Steve Freek.

Highways England previously reviewed this application and provided a holding recommendation in May 2019 advising that further information would be required relating to TEMPRO growth factors and the ARCADY assessment review as well as general comments on parking, modelling and drainage.

We have now received further information in the form of the updated Transport Assessment (TA) which we have reviewed.

Traffic impact

We have reviewed the changes made to the likely trip generation based on the revised development use detailed in the TA and presented in Tables 4-6, which we consider to be suitable.

It is now proposed as set out in Table 7 of the TA that the development traffic is made up of 60% primary trips, 10% internal, 5% pass by trips and 25% diverted trips, whilst the previous TA suggested that the assessment would consider all traffic as primary for robustness. We accept this approach however evidence to support the suitability of these proposed proportions should be provided. Also, clarity on how these diverted trips have been shared across the approaches to the A46 / Farndon Road roundabout as presented in the traffic flow diagrams, should be provided.

TEMPRO growth factors

We have reviewed the TEMPRO growth factors provided in Table 8 of the TA and can verify that they are suitable. We have checked that these have been suitably applied to the Traffic Flow Diagrams in Appendix E and find the traffic forecasts for future years of 2020 and 2028 to be appropriate.

ARCADY assessment review

We have reviewed the traffic flows used in the ARCADY modelling and compared these against the traffic flow diagrams provided in the appendices of the TA and they are consistent.

We have reviewed the geometric parameters used in the ARCADY models for the Farndon Roundabout using satellite imaging from OS Maps. Our checks show that the effective flare lengths used in the ARCADY model for A46 North, Farndon Road and Local Access approaches are 2-4 times longer than OS mapping indicates. The effective lengths should be amended to better represent the existing junction layout.

In the ARCADY modelling under 'Vehicle Mix', 10% has been used for all HGV movements in all scenarios though no justification is provided for this proportion. This HGV percentage should be based on the existing network demands and that forecast to be generated by the proposed development.

General Comments

Parking

We welcome the increase in parking spaces to 246, however the issue of HGVs and their drivers attempting to access the services has not been addressed. The traffic flow at the roundabout may soon be affected should HGVs park on Fosse Road to access the site.

We advise that the issue of HGV parking on site be addressed through parking restrictions outside of the site or by providing HGV parking within the site.

Only one coach space is proposed which is also shared with deliveries which seems low for a site with a hotel and which is also close to the visitor attractions of Newark and Lincoln. Evidence should be provided to demonstrate that a single coach space is sufficient.

Drainage

The applicant should be aware that in accordance with Department for Transport (DfT) Circular 02/2013 paragraphs 49 and 50, no water run-off that may arise from the development will be accepted into the highway drainage systems. As such no new connections into those systems from third party development and drainage systems shall be allowed. In addition, we advised that the applicant provide details of any earthworks, boundary treatment and noise avoidance strategy proposed along the shared boundary with the A46.

We previously provided comments regarding drainage details required, however through discussion with the Planning Authority it has been agreed that details of the proposed maintenance regime for the attenuation feature, flow control/pump and pollution control device can be provided following planning consent and prior to commencement of works. As such once the above comments have been addressed we will recommend the following condition be attached:

Condition: No part of the development hereby permitted shall commence until details of the proposed maintenance regime for the attenuation feature, flow control/pump and pollution control device have been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure that the A46 trunk road continue to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980, in the interest of road safety.

Recommendation

Highways England therefore recommends that the application not be approved for a period of three months from the date of this notice, pending additional information being submitted.

Additional comments received 7th May 2019:

Please find attached the formal response from Highways England in relation to the above referenced planning application. I have included drainage requirements in the attached response which are in addition to our original response dated 7 February 2019, but as discussed recently.

We have received no further information to date regarding this application, since our previous response, and as such the holding recommendation, currently in place, should be extended for a further 3 months until 8 August 2019.

Additional comments received 12th March 2019:

I refer to the above referenced planning application which is currently on hold pending the receipt and subsequent approval, of additional information. Having consulted with colleagues **drainage details** as follows should be submitted by the applicant for approval (for note, the details were not included in the drainage information submitted as part of the application).

- Pollution Control details for the site.

- Proposed maintenance regime, for the attenuation feature, the flow control/pump and the pollution control devices. This information is required to ensure the system is adequately maintained and can continue to function as proposed.

Other information as detailed in my response dated 08/02/2019 is still to be submitted (modelling, changes to Farndon Roundabout etc).

Original comments 8th February 2019:

Referring to the planning application referenced above, and consultation dated 21 January 2019, for the erection of a mixed-use development comprising petrol filling station and associated retail unit, 2 no. drive throughs, 2 no. office blocks and a 103 bed hotel with associated ancillary facilities, landscaping, flood attenuation lagoon, associated engineering operations (including flood compensation measures) and sustainable drainage system (SuDS) along with associated vehicular and cycle parking and access from Fosse Way and all ancillary works, located at land opposite 26 to 44 Fosse Road, Farndon, Newark, Nottinghamshire, notice is hereby given that Highways England's formal recommendation is that we:

c) recommend that planning permission not be granted for a specified period (see Annex A – further assessment required);

This represents Highways England's formal recommendation and is copied to the Department for Transport as per the terms of our Licence.

Should you disagree with this recommendation you should consult the Secretary of State for Transport, as per the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, via transportplanning@dft.gsi.gov.uk.

Annex A Highways England recommended further assessment required.

HIGHWAYS ENGLAND ("we") has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regards to 18/02362/FULM and has been prepared by Steve Freek.

Highways England has previously been consulted on development proposals at this site in March 2018. We provided comments on the Transport Scoping Note in April outlining concerns related to the proposed site access design, the likely trip generation and distribution calculations, and advising on the need for capacity assessment.

In January 2019 Highways England was consulted on a full planning application for the development which we have reviewed and have the following comments:

Traffic impact

We note that the several types of mixed use elements making up the full development proposal at this site remain unchanged from the information provided during the March 2018 scoping stage. However, during our review of the TRICS trip generation figures in the Transport Assessment, we note that previous figures for the fast food elements have been replaced by those from a traffic survey count undertaken at a McDonald's restaurant located off Harvest Drive, Newark, adjacent to the A46 / A1 junction. This change has resulted in an increase in the total two-way trip generation of the overall site in each of the peak periods by around 200 trips.

Reducing the overall forecast traffic impact is justified for mixed use sites such as this site, by considering diverted, pass-by and linked trips, however the assessment does not apply any such reductions. We note that it is stated in the Transport Assessment that this is in order to provide a robust assessment. We would agree that the trip generation figures adopted for the impact assessment are therefore very robust.

TEMPRO growth factors

Paragraph 5.3.2 of the Transport Assessment states that TEMPRO growth factors have been applied to the 2018 base flow data, resulting in traffic forecasts for future years of 2020 and 2028. No information has been provided to allow us to verify the suitability of the TEMPRO growth factors applied.

We have calculated growth factors by comparing the Appendix E flow diagrams, however these appear to be lower than those suggested by TEMPRO for Newark and the Sherwood 012 area where the proposed site is located. *Additional information related to TEMPRO growth factors should be provided.*

ARCADY assessment review

We have reviewed the geometric parameters used in the ARCADY models for the Farndon Roundabout. Satellite imaging from OS Maps of the A46 Farndon Roundabout has been used to determine the suitability of the model geometry. Although there are some minor differences, we consider these to have no material affect on the modelling results.

Details of the proposed improvement detailed in paragraphs 5.6.9 to 5.6.10 suggests that this will provide an increase of 0.9m to the entry width at the Farndon Road approach to the roundabout. This is consistent with the geometry parameter changes shown in Appendix F (Existing Junction Layout) and Appendix G (Revised Junction Layout). *However, suitability of this proposal cannot be determined without a scheme drawing showing how this additional lane will affect lane markings and interact with the circulatory.*

We have reviewed the O-D matrices used in the ARCADY models which match the traffic flow diagrams and correspond with the survey data provided. However, there is no data in the 'Vehicle Mix' section to inform on the HGV proportions. This should be input in line with Junctions 9 User Guide Section 8.3 which states: *'Some parts of the model work with PCUs (Passenger car Units) and others with Vehicles, and although you only need to enter one or the other, a vehicle mix is required in order for the program to convert between PCUs and Vehicles'*.

The guidance also states: *'even if you are working with PCUs, you should still enter values for the Vehicle Mix grid. This is because some parts of the traffic model, such as the queue and delay calculations, always work in vehicles and so the program always needs to be able to convert*

internally between PCU and Vehicles. (However in practise this will only make a noticeable difference when the RFC of an arm is close to 1.0.)' and 'Whether you enter your demand data in units of Vehicles or PCU, you should always work out the HV% in terms of vehicles'.

It would assist in supporting an efficient review process if the junction drawing used to inform the model geometric parameters was provided.

General Comments

Parking

- Although the LPA generally determine the level of parking provision there is a concern from HE regarding the proposed level of parking for the fast food outlets; the comparison with the McDonalds on Harvest Drive is not accepted, as a significant portion of customers use on street parking. The level of parking proposed at this site will likely lead to overspill of parking onto the local road at least and could have safety implications for Farndon Roundabout, particularly if customers park in close proximity to the roundabout.
- There is no HGV parking proposed despite the site being clearly visible from the A46 (*note that without sufficient parking including an abnormal load bay, the location would not qualify for signing on the SRN*). However, as this site will be plainly visible to pass by traffic, and is the only such facility north of Leicester, there is a risk that HGVs will park on street around the site including the grass verge of the A46. While this may appear unlikely, we have very similar issues at existing sites on the A43 at Baynards Green Roundabout and on the A14 at Rothwell Services.
- Only one Coach space is proposed which is also shared with deliveries which seems low for a site with a hotel and which is also close to the visitor attractions of Newark and Lincoln. Evidence should be provided to demonstrate that a single coach space is sufficient.
- Only one Coach space is proposed which is also shared with deliveries which seems low for a site with a hotel and which is also close to the visitor attractions of Newark and Lincoln. Evidence should be provided to demonstrate that a single coach space is sufficient.

Modelling

- The proposed widening of 0.9m is not a suitable mitigation; ARCADY uses a linear regression model which is only an approximation of real world performance. Such a limited extent of widening would only provide a minor benefit and then only if there is driver caution due to narrow lanes; given that there is already a large hatched area to allow overrun this is unlikely to have any material impact.
- The modelling does not appear to make any allowances for lane starvation which has to be applied manually within ARCADY. Given the imbalance in some of the turning flows this should be checked for and adjustments made to the model as necessary (see http://jctconsultancy.co.uk/Home/docs/tec_arcadyHealthWarning.pdf)

In addition to the above, for completeness, I shall consult with the Road Safety Team and forward their comments for your consideration to include in any forthcoming response.

Recommendation

Highways England therefore recommends that the application not be approved for a period of three months from the date of this notice, pending additional information being submitted.

NCC Strategic Planning – Additional comments received 23rd July 2019:

Thank you for consulting the NCC for strategic policy comments on the amended and revised plans for this application. Considering the further documents submitted, the County Council at this time does not have any further comments to make then those provided in January 2019 (which are attached). However, if there is any specific issue you would like us to consider, please let me know as soon as possible and I will send the application to the relevant colleagues.

Original comments received:

Ref: 18/02362/FULM – Erection of mixed use development comprising PFS and associated retail unit, 2 no. drive throughs, 2 no. offices and 103 bedroomed hotel with associated ancillary facilities, landscaping, flood attenuation lagoon, engineering operations (including flood compensation measures) and SUDs along with associated vehicular and cycle parking and access from Fosse Way and all ancillary works – Land opposite 44 to 26 Fosse Rd, Farndon

Thank you for your letter dated 7th January 2019 requesting strategic planning observations on the above planning application. I have consulted with my colleagues across relevant divisions of the County Council and have the following comments to make.

National Planning Context

In terms of the County Council's responsibilities the following elements of national planning policy and guidance are of particular relevance.

Waste

The National Planning Policy for Waste (NPPW) sets out the Government's ambition to work towards more sustainable and efficient resource management in line with the waste hierarchy. Positive planning is seen as key to delivering these waste ambitions through supporting sustainable development. This includes ensuring that waste management is considered alongside other spatial planning concerns and helping to secure the re-use and recovery of waste wherever possible.

Paragraph 8 of the NPPW states that:

'When determining planning applications, all planning authorities should ensure that:

- the likely impact of proposed non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;*
- new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the*

development, and, in less developed areas, with the local landscape. This includes providing adequate waste storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service;

- the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities and minimises off-site disposal.'

In Nottinghamshire, relevant policies are set out in the Nottinghamshire and Nottingham Replacement Waste Local Plan: Part 1 – Waste Core Strategy (December 2013).

Minerals

Section 17 of the National Planning Policy Framework (NPPF) covers the sustainable use of minerals. Paragraph 203 points out that *'It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs.'*

Paragraph 204 states that planning authorities should:

- 'safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);

- set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place'.

In Nottinghamshire, minerals safeguarding and consultation areas are defined in the emerging Nottinghamshire Minerals Local Plan (Draft Plan Consultation 2018) and supported by Policy SP8, which also covers prior extraction.

In terms of the role of local planning authorities in planning for minerals, paragraph 206 of the NPPF states that: *'Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working'.*

The national Planning Practice Guidance provides further information on the role of district councils in this regard, stating that *'they have an important role in safeguarding minerals in 3 ways:*

- having regard to the local minerals plan when identifying suitable areas for non-mineral development in their local plans. District Councils should show Mineral Safeguarding Areas on their policy maps;

- in those areas where a mineral planning authority has defined a Minerals Consultation Area, consulting the mineral planning authority and taking account of the local minerals plan before determining a planning application on any proposal for non-minerals development within it; and

- when determining planning applications, doing so in accordance with development policy on minerals safeguarding, and taking account of the views of the mineral planning authority on the risk of preventing minerals extraction.'

Transport

Section 9 of the NPPF addresses the issue of sustainable transport. The NPPF, in paragraph 111, requires all developments which will generate significant amounts of movement to provide a travel plan and the application for such a development to be *'supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed'*. It also states, in paragraph 108, that it should be ensured that *'appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of location and its location'* and *'any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree'*.

Education provision

Paragraph 94 of the NPPF states that:

'It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and*
- b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.'*

Healthy communities

Paragraph 91 of the NPPF points out that *'Planning policies and decisions should aim to achieve healthy, inclusive and safe places whichenable and support healthy lifestyles, especially where this would address identified local health and well-being needs...'*

With regard to public rights of way, paragraph 98 states that they should be protected and enhanced, *'including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks...'*

County Planning Context

Transport and Flood Risk Management

The County Council as Highway Authority and Local Lead Flood Authority is a statutory consultee to Local Planning Authorities and therefore makes separate responses on the relevant highway and flood risk technical aspects for planning applications. In dealing with planning applications the Highway Authority and Local Lead Flood Authority will evaluate the applicants proposals specifically related to highway and flood risk matters only. As a consequence developers may in cases where their initial proposal raise concern or are unacceptable amend their initial plans to incorporate revisions to the highway and flood risk measures that they propose. The process behind this can be lengthy and therefore any initial comments on these matters may eventually be different to those finally made to the Local Planning Authority. In view of this and to avoid

misleading information comments on planning applications made by the Highway Authority and Local Lead Flood Authority will not be incorporated into this letter. However, should further information on the highway and flood risk elements be required contact should be made directly with the Highway Development Control Team and the Flood Risk Management Team to discuss this matter further with the relevant officers dealing with the application.

Minerals and Waste

The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the saved policies of the Nottinghamshire Minerals Local Plan (adopted 2005), form part of the development plan for the area. As such, relevant policies in these plans need to be considered. In addition, Minerals Safeguarding and Consultation Areas have been identified in Nottinghamshire and in accordance with Policy SP8 of the emerging draft Minerals Local Plan (July 2018) these should be taken into account where proposals for non-minerals development fall within them.

Minerals

Whilst the proposed site for development does not lie within close proximity to any existing or proposed mineral site, it does lie within the Mineral Safeguarding and Consultation Area for sand and gravel. As per National Planning Policy (para. 204), the draft Minerals Local Plan (Draft Plan Consultation, July 2018) contains a policy (SP8) concerning the safeguarding and consultation areas for minerals and associated infrastructure. Although the plan is not yet adopted, its provisions should be given weight as a material consideration. In the Draft Plan, policy SP8 requires developments within the minerals safeguarding area to demonstrate it will not needlessly sterilise minerals and where this cannot be demonstrated, and there is a clear need for non-mineral development, prior extraction will be sought where practical.

In terms of this proposal, the applicant should address policy SP8, and National Policy, and consider prior extraction of sand and gravel as this will prevent sterilisation of the mineral and may also benefit the developer in terms of land preparation, if applicable. The applicant would be required to demonstrate that the feasibility of extracting sand and gravel prior to development has been considered and demonstrate, if found to be not practical nor viable, why this is the case.

Waste

In terms of the Waste Core Strategy, there are no existing waste sites within the vicinity of the site whereby the proposed development could cause an issue in terms of safeguarding existing waste management facilities (as per Policy WCS10). As set out in Policy WCS2 'Waste awareness, prevention and re-use' of the Waste Core Strategy, the development should be 'designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.' In accordance with this, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would be useful for the application to be supported by a waste audit. Specific guidance on what should be covered within a waste audit is provided within paragraph 049 of the Planning Practice Guidance.

Strategic Highways

The planning application site is located between the A46 trunk road and Fosse Road and is immediately adjacent to the A46 Farndon roundabout. The vehicular access to the site is to be taken from Fosse Road and not the A46. In strategic transport terms the traffic impact of the proposed development is not likely to have a significant detrimental impact on the operation of the local highway network however the same cannot necessarily be said for the operation of the trunk road network which is operated by Highways England (HE).

The Government has announced in the national Roads Investment Strategy that it is investigating the feasibility of upgrading the A46 Newark Northern Relief Road from the A46 Farndon roundabout to the A46/A17 junction north of the town. A scheme of improvement is planned to commence construction in the period 2020-2025. It is understood that HE is currently looking at a number of options to upgrade this corridor and it is thought very likely that the foot print of any future trunk road improvement at Farndon will extend beyond the confines of the existing public highway and have a significant and direct impact on the 18/02362/FULM planning application site. In which case the local highway authority are concerned that if planning application number 18/02362/FULM is given planning consent as submitted that this could limit the opportunities to improve the A46 at Farndon and could prejudice (e.g. add to the costs of land acquisition / CPO / demolition of built development) the delivery of a much needed upgrade to the A46 Strategic Road Network. The district council are strongly recommended not to grant planning permission until the formal position of Highways England on this application has been received and has been fully considered.

Developer Contributions

Travel and Transport

General Observations

This planning application covers an area of land to the South East of Fosse Road in the village of Farndon, this application seeks permission for the development of a petrol station, shop, two drive throughs, 2 office buildings and a 103 bed hotel.

The proposed access point appears to be from a new access onto Fosse Road, the nearest current bus stops are approximately 350 metres from the centre of the site on Long Lane.

Bus Service Support

Transport & Travel Services has conducted an initial assessment of this site in the context of the local public transport network. This development lies adjacent to the old Fosse Road in Farndon which is currently served by Marshalls of Sutton on Trent. Their service 90, which is commercially operated runs hourly between Newark and Nottingham whilst their service 91, which receives funding from this Authority, operates to Bingham every 2 hours. Additional services operated by Nottinghamshire County Council Fleet numbered 354 operate at peak times between Bingham and Newark.

At this time it is not envisaged that contributions towards local bus service provision will be sought.

Current Infrastructure

The current infrastructure observations from Transport & Travel Services photographic records are as follows:

NS0177 Long Lane –Bus Stop Pole and Raised Boarding Kerbs.

NS0191 Long Lane - Bus Stop Pole, Wooden Bus Shelter (replacing brick-built shelter shortly) and Raised Boarding Kerbs.

NS0205 Fosse Road - Bus Stop Pole in Layby.

It should be noted that buses serving the above stops pass the site along Fosse Road, therefore a pair of new stops in the vicinity of the development should be considered.

Transport & Travel Services request a contribution via a Section 106 agreement of £35,000 for Bus Stop Improvements/Installations. This will be used towards improvements to the above bus stops or the installation of new bus stops in the vicinity of the site to promote sustainable travel.

Justification

The current level of facilities at the specified bus stops are not at the standard set out in the Council's Public Transport Planning Obligations Funding Guidance For Prospective Developers. Improvements are necessary to achieve an acceptable standard to promote sustainable travel, and make the development acceptable in planning terms. The above contribution would improve the standard of bus stop infrastructure in the vicinity of the development and could be used for, but not limited to; Real Time Bus Stop Poles & Displays including Associated Electrical Connections, Extended Hardstands/Footways, Polycarbonate Bus Shelters, Solar Lighting, Raised Boarding Kerbs and Enforceable Bus Stop Clearways.

The improvements would be at the nearest bus stops or at new bus stops adjacent to the site, so are directly related to the development, and are fairly and reasonably related in scale and kind to the development.

As developer contributions are being sought in relation to the County Council's responsibilities it is considered essential that the County Council be a signatory to any legal agreement arising as a result of the determination of this planning application.

Please contact Andrew Norton, Developer Contributions Practitioner in the first instance (andrew.norton@nottsc.gov.uk or 0115 9939309) with any queries regarding developer contributions.

Conclusion

It should be noted that all comments contained above could be subject to change, as a result of ongoing negotiations between the County Council, the Local Planning Authority and the applicants. These comments are based on the information supplied and are without prejudice to any comments the County Council may make on any future planning applications submitted for this site.

NCC Ecology – No comments received.

Natural England – *Additional comments received 30th July 2019:*

Thank you for your consultation.

Natural England has previously commented on this proposal and made comments to the authority in our previous letter.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Original comments received:

No objection.

Thank you for your consultation on the above dated and received by Natural England on 7 January 2019.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes. Natural England's advice on other natural environment issues is set out below.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

Nottinghamshire Wildlife Trust - Thank you for sending over a copy of the non-redacted Preliminary Ecological Appraisal by RammSanderson (April 2018). We are generally pleased with this report, but overall feel that the scheme will not provide a net gain for biodiversity as all

developments should be aiming for, as stated within the latest revision of the NPPF (February 2019).

We therefore have the following comments and recommendations, which can also be implemented as suitability worded planning conditions:

Bats

We generally agree with the conclusions of the report and welcome the provision of a bat friendly lighting scheme as recommended in Section 6.3.3 of the report (RammSanderson, 2018). In addition to this we would also expect a number of bat boxes to be installed around the development to encourage bats and help provide a net gain for biodiversity.

Hedgehogs

Hedgehogs are a species of principle importance (Section 41 of the NERC act) and are often overlooked. We are concerned that although precautionary measures are suggested within the report, there are no specific details to these measure measures within the ecology report to protect hedgehogs during the clearance phase of the development, as suitable habitats are present within the application site. We therefore strongly recommend a suitability qualified and experienced ecologist is present on site during the site clearance works to check for hedgehogs and advice on vegetation clearance measures to avoid harming hedgehog, i.e. the ecologist should hand search and check any areas of vegetation (including the base of any scrub areas) immediately prior to the removal of this vegetation.

Nesting birds

We agree within the conclusions of the ecology report (RammSanderson, 2018) and welcome the guidance for timings of vegetation clearance outside the nesting bird season within Section 6.3.4 of the report. Additionally we would like to see different types bird boxes for a range of common and widespread bird species are incorporated into the development. These can be placed on retained and planted trees, but also the buildings around the development site which will benefit and encourage nesting birds within the area and also help provide a net gain for biodiversity.

Landscaping

There is no landscaping plan available to view on the planning page for the proposed development, but some of the plans do feature landscaped areas and a lake. We do not consider enough detail is provided within these plans and a landscaping scheme which provides a net gain for biodiversity is strongly encouraged for this application.

We recommend the following biodiversity enhancements are incorporated into any future landscaping scheme for the site;

1. Retain boundary features including trees, hedgerows and scrub, with native new hedgerow planting and enhancements. This will provide connectivity for wildlife and will help to *securing measurable **net gains for biodiversity*** (revised NPPF, February 2019).
2. We recommend the lake to feature native planting ideally sourced locally and form an area for wildlife, including wildflower meadow, log / brash piles and wildlife boxes for hedgehog and

invertebrates. This native planting would benefit a range of bird, reptile, amphibian, mammal and invertebrate species.

3. Any proposed amenity grassland areas are kept a minimum and as many wildflower meadow areas are incorporated across the development wherever possible such as along road verges or under trees.

Badgers

As badger evidence has been recorded on the site, and as from our experience badgers can build setts in unlikely places such on the edge of arable fields it is possible that badgers could move into the application site. We therefore strongly recommend an update badger survey is undertaken at least 6 months prior to the start of any development works by a suitability qualified ecologist. We also agree with the recommendations within the ecology report by RammSanderson (2018) in relation to construction precautions in Section 6.3.5.

NCC Flood – Revised comments received 7th August 2019:

Please refer to our comments dated 21 Jan 2019.

Original comments received:

No objections subject to the following:

Please note the area is shown as a flood zone and as such the EA must be consulted on the proposals.

1.1 Drainage from the site should be via a sustainable drainage system that aligns with the CIRIA Suds Manual and non-statutory technical guidance. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests (compliant with BRE365).

1.2 For greenfield areas, the maximum discharge should be the greenfield run-off rate (Qbar) from the area. For brownfield areas that previously drained to sewers, the previous discharge rate should be reduced by 30% to allow for future climate change effects. Note that it is not acceptable to simply equate impermeable areas with discharge as it is the maximum discharge that could have been achieved by the site through the existing pipe system without flooding that is the benchmark to be used prior to a 30% reduction. An existing drainage survey with impermeable areas marked and calculations to determine the existing flow will be required as part of any justification argument for a discharge into the sewers from the site.

1.3 The site drainage system should cater for all rainfall events upto a 100year + 30% climate change allowance level of severity. The underground drainage system should be designed not to surcharge in a 1 year storm, not to flood in a 30 year storm and for all flooding to remain within the site boundary without flooding new buildings for the 100year + 30% cc event. The drainage system should be modelled for all event durations from 15 minutes to 24 hours to determine where flooding might occur on the site. The site levels should be designed to direct this to the attenuation system and away from the site boundaries.

1.4 Consideration must be given to exceedance flows and flow paths to ensure properties are not put at risk of flooding.

1.5 Any proposals to use SUDS must include details showing how these will be maintained to ensure their effectiveness for the lifetime of the development.

Environment Agency – *Additional comments received 13th August 2019:*

I refer to the above application and additional information on your website from the 18 July 2019.

Environment Agency position

1. Area of development site within Flood Zone 3b

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework and its associated planning practice guidance. We recommend that planning permission is refused on this basis.

Reason

The PPG classifies development types according to their vulnerability to flood risk and provides guidance on which developments are appropriate within each Flood Zone. The hotel and attenuation pond lie within Flood Zone 3b functional floodplain, which is land defined by your Strategic Flood Risk Assessment as having a high probability of flooding. Hotels are classed as more vulnerable in accordance with table 2 of the Flood Zones and flood risk tables of the PPG. Tables 1 and 3 make it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.

Overcoming our objection

The design of the development should be reviewed and the hotel should be moved out of the functional floodplain. To ensure the efficacy of the attenuation pond in flood events this should also be relocated away from the functional floodplain.

2. Flood risk to others

We object to this application because it fails the second part of the flood risk exception test. We recommend that planning permission is refused on this basis.

Reason

This application lies within Flood Zones 3a and 3b which is land defined by the planning practice guidance (PPG) as having a high probability of flooding. As shown in the Flood Zones and flood risk tables of the PPG, development classified as more vulnerable is only appropriate in these areas if the exception test is passed alongside the sequential test.

The National Planning Policy Framework (paragraph 161) makes it clear that both elements of the exception test must be passed for development to be permitted. Part 2 of the test requires the applicant to demonstrate, via a site-specific flood risk assessment, that the development will be

safe, without increasing flood risk elsewhere. Where possible, the development should reduce flood risk overall.

In this instance the developer's flood risk assessment fails to:

- demonstrate that flood risk will not be increased elsewhere

Table 3.1 in the flood risk assessment (FRA) (ref 17-0518/FRA/Rev B, BSP Consulting, May 2019) shows that at the 1% Annual Exceedance Probability (AEP) event plus 30% Climate change flood risk to others is increased.

There should be no loss of flood stage capacity for floods up to the 1% AEP event, and an appropriate allowance for climate change must also be considered, including any storage proposals. New development should seek to create a net flood risk benefit wherever possible.

To address the risk to others, the floodplain compensation provision should be reviewed to provide appropriate storage either by increasing the storage area, or by reducing the scale of the development.

We have previously requested additional information on the flood plain compensation, including volume calculations, flow routes and how the proposed area will interact with the existing functional floodplain.

Overcoming our objection

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above.

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

Original Comments received 31st January 2019:

Environment Agency position

We object to this application because it fails the second part of the flood risk exception test. We recommend that planning permission is refused on this basis.

Reasons

This application lies within flood zones 3a and 3b, which is land defined by the planning practice guidance as having a high probability of flooding. As shown in the planning practice guidance's flood zones and flood risk tables (table 3), development classified as "more vulnerable" (the hotel) is only appropriate in flood zone 3a if the exception test is passed alongside the sequential test. In flood zone 3b, the functional floodplain, "more vulnerable" and "less vulnerable" development should not be permitted.

The National Planning Policy Framework (paragraph 161) makes it clear that both elements of the exception test must be passed for development to be permitted. Part 2 of the test requires the applicant to demonstrate, via a site-specific flood risk assessment, that the development will be

safe, without increasing flood risk elsewhere. Where possible, the development should reduce flood risk overall.

In this instance the developer's flood risk assessment fails to demonstrate that flood risk in the surrounding area is appropriately mitigated.

Overcoming our objection

Farndon Modelling Technical Note Draft v3.0, compiled by JBA Consulting, November 2018 (FRA, Appendix F) reviews the River Trent and Tributaries SFRM model (Halcrow, July 2011) and takes into account the A46 bypass to the east of the site.

The results of the model show that all of the site is in flood zone 3. The surface water attenuation pond and part of the hotel are within flood zone 3b. Neither is appropriate development in flood zone 3b.

To address this it is proposed that the entire site is raised, with buildings set at a finished floor level of 13.28 metres above Ordnance Datum (m AOD). Two areas of floodplain compensation have been proposed to mitigate for the land raising.

Figure 3.9 of the FRA shows that, post-development, in a 1% annual exceedance probability (AEP) plus 30% climate change event there is an increase in water levels of between 0.03 and 0.1 metres at properties 77 to 101 Fosse Road.

There should be no loss of flood stage capacity for floods up to the 1% AEP event, and an appropriate allowance for climate change must also be considered, including any storage proposals. New development should seek to create a net flood risk benefit wherever possible. To address the risk to others, the floodplain compensation provision should be reviewed to provide appropriate storage either by increasing the storage area, or by reducing the scale of the developing.

We also require further details of the flood plain compensation scheme, including volume calculations, flow routes and how the proposed areas will interact with the existing functional floodplain.

To overcome our objection, please submit an FRA which demonstrates that the development is safe without increasing risk elsewhere. Where possible, it should reduce flood risk overall.

If this cannot be achieved, we are likely to maintain our objection. Please reconsult us with the FRA and we'll respond within 21 days of receiving it.

Trent Valley Internal Drainage Board – The Board OBJECT to the planning application as submitted for the following reasons.

The site is within the Trent Valley Internal Drainage Board district.

The Board maintained Farndon Field, an open watercourse, exists through the development and is located to the south west of Field 1 of the site and to which BYELAWS and The LAND DRAINAGE ACT 1991 applies. A plan is enclosed for reference.

The applicant is advised that the Board's written Byelaw consent will be required prior to development commencing. Applicants should note that the Board's Byelaw consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's Byelaw consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse or the Board's machinery access to the watercourse which is required for maintenance, periodic improvement and emergency works.

The objection has been raised because the application does not comply with the Board's policy regarding new development in close proximity to Board maintained watercourse. In this instance the Board will require a minimum of 9 meters clearance between the watercourse back top and the edge of any new building or structure (including fences, walls, trees, hedges etc.)

The Board's consent is required to erect any building or structure (including walls and fences), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 meters of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert.

The Board's consent is required for any works, whether temporary or permanent, in, over or under, any Board maintained watercourse or culvert.

The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required).

Any planting undertaken at the site must be carried out in such a way to ensure that the planting does not encroach within 9 meters of any Board maintained watercourse when fully matured.

Under the Land Drainage Act the Board are permitted to deposit arising from the watercourse on adjoining land. Any occupier of adjacent land wishing to remove the spoil should note that an exemption under the Waste Management Regulations may be required from the Environment Agency.

No development should be commenced until the Local Planning Authority, in consultation with the Lead Local Flood Authority has approved a scheme for the provision, implementation and future maintenance of a surface water drainage system. The Board would wish to be consulted directly if the following cannot be achieved and discharge affects the Boards District:

- Existing catchments and sub-catchment to be maintained.
- Surface water run-off limited to the greenfield rate for other gravity systems.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

A permanent undeveloped strip of sufficient width should be made available adjacent to the bank top of all watercourses on site to allow future maintenance works to be undertaken. For access strips alongside Board maintained watercourses the access width must be at least 9 meters wide, unless otherwise agreed in writing by the Board. Where the watercourse is under riparian control suitable access arrangements to the access strip should also be agreed between the Local Planning Authority, Lead Local Flood Authority and the third party that will be responsible for the maintenance.

All drainage routes through the site should be maintained both during the works on site and after completion of the works. Provisions should be made to ensure that upstream and downstream riparian owners and those areas that are presently served by any drainage routes passing through or adjacent to the site are not adversely affected by the development. Drainage routes shall include all methods by which water may be transferred through the site and shall include such systems as "ridge and furrow" and "overland flows". The effect of raising site levels on adjacent property must be carefully considered and measures taken to negate influences must be approved by the Local Planning Authority.

Severn Trent Water – No comments received.

National Air Traffic Control - The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Newark Business Club – Support the proposal.

In respect to the original consultation period, representations were received from 199 local residents/interested parties, all of which represent objections except 1 letter of support. This includes representations from the group known as 'Farndon Residents Environment Group (FREG)' and comments from the governing body of St. Peter's Cross Keys Church of England Academy. It also includes a letter from Freeths on behalf of Newfield RBS, jointly with Nottinghamshire County Council (Estates Dept) owners of the Former Highways Depot, Great North Road/Kelham Road, Newark. All representations are summarised as follows:

Principle of Development

- There is no justification as to why development should be allowed in the open break;
- Policy NUA/OB/1 states that permission will not normally be granted for built development;
- The open break is part of a wider masterplan for supporting green infrastructure which the proposed development would threaten;
- Farndon would lose its identity as a village and become a suburb of Newark;
- The land acts as a natural lung for the benefit of the village;
- People live in the village because it reflects the quieter environment in which they want to reside;
- Allowing this development would set a precedent for other open breaks to be developed;
- The application is in direct contravention to the Core Strategy;

- The development is outside of the Newark Urban Boundary which makes the site subject to Policy DM8 and does not meet the exceptions;
- The application is not small scale employment as required by Policy DM8;
- There is no justification for the roadside services;
- The proposal would be contrary to the Council's ambitions to be cleaner, safer and greener;
- English villages need to be preserved;
- The combined effect of section 70 of the 1990 Act and section 38 of the 1994 Act is that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise;
- The Open Break policy was reviewed during the preparation of the ADMDPD particularly in the context of the growth points;
- An appeal in Derby emphasizes the importance of maintaining the different character and identity of the City's suburbs and can be considered relevant to this application in the context of the open break policy;
- The Open Break policy has been in place in some form since the 1960s and there is nothing to undermine its role;
- The application will assist the growth of the region;
- It should not be considered reasonable to assess only sites available now given the master plan for growth in Newark spans a 10+ year period;
- The Open Break is a comparatively narrow area to the south west of the main urban area;
- The application proposals would have a significant harmful impact on the Open Break between Newark and Farndon;

Principle of Site Uses

- The proposed development is not in an employment allocation;
- There are sufficient other areas around Newark to support the development including mixed use allocations in Newark;
- According to the Newark Advertiser (4th Jan 2019), 2 hotel developments are already supported in Newark;
- NCC have agreed to sell the former depot opposite the livestock market and a marketing campaign led to the County Council expressing preference for a hotel to be built;
- There is no justification for a hotel on the site;
- Sufficient sites have been identified for new office / business opportunities;
- Newark should be the focus for employment provision;
- The proposed development would threaten the retail offer of Newark;
- Newark should be the centre for retail;
- The proposal makes a speculative planning bid which is not part of the Council's coordinated plans for growth;
- The development would be better suited on the Middlebeck development;
- The creation of 400 jobs is a huge exaggeration – office jobs are likely to be relocated rather than created;
- A large proportion of the jobs will be filled by those seeking temporary work;
- It would be much better to use other sites such as the packing company site on the other side of the roundabout;
- People wanting a hotel would choose to be closer to Newark;
- There is already a petrol filling station on Bowbridge Road and a spar store and subway food outlet;

- The application has been submitted on the basis that it would satisfy the needs of Newark but the site is at least 2km away from Newark;
- Some of the criteria used by the applicant to discount the highways depot site is no longer relevant;
- The highways depot site is much closer to Newark with no residential properties opposite;
- The hotel brand does not offer dinner facilities so guests will have to leave the site which is good news for local restaurants although there are already extremely popular;
- There are empty office units to let in Fernwood;
- Footfall should be encouraged in the town;
- There are already empty offices on the site behind the Lord Ted;
- The convenience store would compete with the existing shop;
- The village does not need the drive throughs;
- There is little evidence that the employment would be sourced locally;
- There is no demonstrated need for another petrol station – it is not clear if the proposal would lead to the closure of the petrol station on Farndon Road;
- There is well over one million square ft of office space available in the area;
- The claim that there are no petrol stations on the A46 for 36 miles is untrue;
- Farndon does not need the proposed uses but needs housing and a cemetery;
- A hotel here would not be within walking distance of the town;
- Marks and Spencer have recently announced closure in Newark – new development should be directed to Town Centre;
- There are plenty of empty sites in Newark currently resembling rubbish tips which could be used for the development and enhance Newark;
- Newark has already lost so much of its Market Town appeal and this application would further reduce its appeal to visitors;
- The development would not support Newark but instead would be a budget commuter hotel service to the A46;
- Hotels in Newark are not used to capacity;
- The drive throughs will lead to an increase of litter;
- The letters from the hotel operators are not considered as contractual commitments;
- It is not clear why sites bigger than 3 ha have been discounted;
- The applicant refers to an older planning application for the former highways depot site which is out of date given recent press articles;
- The applicants sequential assessment is at odds with the rest of the application in that it refers to the need to be near the strategic road network whereas the rest of the application refers to supporting the town centre;
- It is wholly inappropriate to presume that the a development plan policy for retail has the effect of ‘turning off’ a national requirement for leisure uses (defined as town centre uses) to be subject to an impact assessment;
- The Sequential test omits several sites in Newark Urban Area which would be more edge of centre and better connected;
- The document does not include evidence of market testing for the former Highways Depot site;
- Discounting sites on the basis of their allocation is inappropriate as the LPA may take a pragmatic view;
- Some sites have been discounted for constraints that also affect the development site;
- The land at Brownhills is allocated for uses that include roadside services and a hotel but there is no reasoned discussion on the contribution this site could make;

- There is no evidence to support the figure arrived at for estimated job creation and no evidence provided to justify the way this is broken down by occupation;
- It is incorrect that no new office development have been proposed, implemented or completed in the last five years;
- At a total of 2,834m sq. the development is not small scale as required by Policy DM8;
- There is significant absence of any meaningful justification for why this site has been selected;
- No detailed analysis of existing facilities or gaps in the strategic provision of roadside services appears to have been made;
- The site's location outside but near the main urban area means that employment is likely to largely be derived from the urban area and so any rural employment opportunities seem limited;
- The former Highways Depot site is a suitable size at 1.98 ha and is better located in relation to the town centre – sequentially it is a far better site than the application site;
- Policy NUA/E/4 (Newark Urban Area – Employment Site 4) contains a number of tests which essentially permit non Class B uses, subject to suitable justification and so has flexibility;
- The statement that the former Highways Depot will be needed for junction improvements is vague and unsubstantiated and even if it was required would only require the northern tip of the site.

Impact on Heritage including Archeology

- The Farndon Archaeological Research Institute have identified that the site is one of National Significant Importance as it has clear evidence of Ice Age activity;
- The proposed area is possibly of international importance in archaeological terms;
- The archaeological work submitted with the application is inadequate;
- The buildings would detract from the quality of landscape and views across to Hawton Church;
- The site should be fully explored for archaeology before it is lost forever;
- The development would negatively impact upon the Conservation Area and nearby Listed Buildings;
- There has been extensive research conducted at the site in collaboration with Oxford University and the British Geological Survey – this shows that Farndon is particularly important as there are tools from successive occupations;
- It is not appropriate to deal with the archaeological potential by condition;
- There is no heritage assessment;
- The Executive Summary concludes that there is high potential for Palaeolithic remains to be present within subsurface deposits within the site;
- The conclusion of the archaeology assessment confirms the need for further works;
- The document acknowledges that the position of the A46 was chosen to avoid the 'north cluster' - the archaeology was considered of such potential that this nationally important project avoided the site;
- The response of LCC Archaeology fails to meet the requirements of the Framework in assessing the proposal;
- There is potential for substantial harm to archaeology.

Impact on Highways

- There is already congestion on the entrance to Newark;
- The Farndon roundabout suffers high level of congestion that would be made worse by the proposed development;
- The development would reverse the benefit of the A46 relief road;
- Traffic is bad at the roundabout daily – not just on Fridays;
- Residential developments proposed will inevitably already bring more traffic;
- At times it is already impossible to get in or out of the village due to congestion;
- At other similar sites staff park on the roads nearby due to parking restrictions which would disrupt residents;
- Queues for drive throughs block traffic;
- Farndon already has problems with inadequate parking for the existing village pubs;
- Queuing traffic would lead to greater air pollution;
- Any traffic entering the site from the North will have to cross the entry for the A546 South which is already a nightmare;
- The transport documents make no reference to the increased traffic flows;
- The uses will lead to 'boy races' using the A46 as a race track;
- There are already vehicles speeding;
- The southern relief road and full dualling of the A46 are some years away from completion;
- Residents campaigned for 30 years for the A46 diversion – a proposal of this size would reverse the benefit;
- There have been a significant number of accidents at the roundabout;
- The village will become congested as a rat run;
- The highways conclusions are based on a very limited data collection exercise (on one specific day in March) and a number of very biased extrapolations of numbers and data which supports the case of the developer;
- Traffic is already particularly busy at peak times;
- Whilst the pubs would benefit from the hotel residents, the parking is insufficient;
- There is no pedestrian access;
- The applicant has considerably understated the frequency of delays currently experienced – they do not only occur on a Friday afternoon;
- It was demonstrated that TRICS data can be unreliable;
- TRICS data has not been tested for the other services on the proposed site putting doubt to the validity of the data;
- Even on the basis of the figures given the trip generations would be one every 9 seconds at peak hours;
- There is a shown shortfall of 128 spaces;
- The site uses are by design for use by vehicles so it is difficult to conclude alternative modes of travel will have any significant effect;
- The applicant would not have any control over space sharing;
- Large and frequent farm machinery and wide loads must have clear access along Fosse Road;
- Guests of the hotel seeking to eat at the restaurants in Farndon would lead to an influx of on street parking – there is no mention of this consequence in the application submission;
- There are only 2 roads in and out of the village which both exit onto the Fosse – when that is blocked, residents are stuck;
- There is a single entrance / exit which will impact upon the ability of emergency services to access the site;
- The majority of users exiting the site will want to turn right creating an increased likelihood of accidents;

- The application should not be considered on the basis of possible road improvements as these are not guaranteed;
- Trips by walking and cycling would be minimal as the primary functions will be for car end uses;
- The 'old A46' would possibly become a busy A road once again;
- Getting into Newark is already difficult – it is sometimes easier to go to Bingham or Gamston;
- The Farndon roundabout is a pinch point;
- Traffic is worse when there are wider problems or issues with the train barriers at Newark Castle;
- Hotel conference facilities would increase the parking impact;
- Long Lane is already dangerous without the additional on street parking;
- The pedestrian crossing is not Newark side of the entrance and therefore it is doubtful that anyone will use the crossing;
- The Travel Plan shows 2km as the crow flies and not the actual distance people would have to walk;
- When the time comes to make the east / west bypass around Newark a dual carriageway, the design of the intersections around the proposed site may compromise the position;
- It should be infrastructure first, development second;
- At peak times for the roundabout it already takes approximately an extra hour to reach the A1 on a Friday;
- If staff aren't permitted to park on site then there will be an increase in on street parking;
- Newark has become a no go zone to people of Nottinghamshire because of the traffic;
- The proposal would negatively affect the bus service;
- Last year a HGV came off the roundabout and hit an electricity pylon;
- The site is a 35 minute walk from Castle Gate making the town inaccessible without a car;
- Vehicles speed along Fosse Road leading to risk of collisions;
- Drivers already leave the A46 at Flintham and use the old A46 as a rat run;
- What will happen during the Newark half marathon when there are runners on the road;
- There is the possibility that people will park in the village to consume the produce brought on site;
- The roundabout is still not finished;
- The petrol filling station has a third drive through which is not included in the description of development and is not included in the traffic modelling;
- No detailed access plan has been submitted showing visibility etc.;
- There is no details of traffic mitigation proposals;
- The Transport Assessment is unclear on a number of points including the modal share and the assumption of using sustainable transport methods;
- The highways capacity assessment does not take account of future traffic movements from the P.A Freight access;
- Traffic counts do not match the peak trip times;
- The construction of the southern relief road is not within the applicant's control and is unlikely to be constructed in the timescales of the report;
- Assumptions that 100% of the traffic will be from the roundabout is wrong;
- There is not engineered design solution for the improvement to the Farndon Road arm of the roundabout;
- Fosse Road is a main pedestrian route for many school children and increases in traffic will create safety risks;
- Submission of photographs showing traffic build up on Fosse Road;

- It is unclear if the proposals calculations are based on 3 drive throughs;
- Families walk along Fosse Road to and from the school;
- Traffic is increasingly higher already between April to October due to summer / weekend breaks.

Impact of Design

- The proposed development is completely out of scale;
- The design is utility and bulky and out of character with the area;
- The buildings do not fit the street scene along Fosse Road;
- There are no litter bins for the proposed uses;
- The design is considered off the peg rather than an appropriate bespoke design for the site;
- The offices and hotel are almost distinguishable from one another.

Impact on Landscape

- The claim to be creating measures to support green infrastructure is not credible given the planned scale of activity on the site;
- The site and the field behind the nursing home are highly valued by Farndon residents;
- The development is unattractive and oversized which will not enhance the approach to Newark;
- The character of the village will be compromised by the visual impact of unnecessarily large development;
- The proposal would make Farndon appear as a continuation of Newark rather than a separate village;
- No one will want to walk near an artificial pond next to a train station;
- The site is a valued greenfield site;
- The height of the buildings could not be adequately screened;
- The LVIA was modelled on heights from the existing ground level with maximum building height of 15.5m but finished floor levels would be between 1 and 2m higher so the LVIA methodology is flawed;
- The plans have no regard to the existing street scene on Fosse Road with landscaping shown in areas outside of the applicant's control;
- The LVIA de-values the role of the open break by suggesting that Farndon is physically and functionally connected to Newark;
- The statement in the LVIA that 'there will be a diminution in a sense of openness which will impinge on the semi-rural feel' does not make it to the Planning Statement;
- The viewpoints selected in the LVIA appear to have avoided locations in the vicinity of the site used by a large number of pedestrians and residents which skews the assessment;
- Major adverse significant affects identified in the LVIA are not referenced in the Planning Statement.

Impact on Amenity

- The submitted LVIA identified that the residents opposite the development will suffer a high degree of adverse effects;
- Franchises operating at 24hours are anti-social hours for local residents;

- Residents would be subject to extra noise, light pollution, extra traffic, reduced air quality and a reduction in property values;
- There will be a loss of privacy to residents on Fosse Road facing the site;
- Properties will be overlooked and suffer overbearing;
- The site would be raised and the 17.5m office blocks would be only 30m from the front windows of neighbouring houses;
- The office blocks would reduce sunlight until late morning to neighboring properties;
- The increase in land levels will exaggerate the height of the proposed buildings;
- After darkness, lights from the site will dominate the Fosse Road area and disturb adjacent properties as will headlights from vehicle movements;
- The development would impact upon the ability of all Farndon residents and businesses to go about their normal business of entering and leaving Farndon;
- The development will affect residents quality of sleep and healthy living;
- There will be pollution from vehicles using the drive throughs as they will not turn off the engine;
- The currently open views would vanish;
- The windows on the end of the offices would directly overlook the properties opposite;
- No details of opening hours or hours of delivery are given;
- There will be disruption to neighbours during building works;
- Delivery lorries will create more noise and traffic;
- The smell of the fast food outlets is not in keeping with village life;
- Low cloud based days have already increased pollution which are to some extent absorbed by green field sites;
- Illuminated signage would have an overbearing impact on residents;
- The application would potentially lead to 24 hr anti-social behavior – the village is only policed by one PCSO shared with other villages;
- There is a nursing home not far away from the development;
- There is no assessment of the impacts on the neighbouring properties aside from a brief reference in the LVIA;
- No mitigation measures are proposed to neighbouring residents;
- Light pollution would affect neighbouring enjoyment of gardens.

Impact on Drainage and Flooding

- Flooding is a huge problem on and around the site – at least three occasions in the last twenty years;
- Building the site up to the level of the road will cause problems for the properties opposite;
- The EA when the new A46 was being built claimed a 1 in 75 but the applicant quotes over 1 in 100 flood probability of flooding;
- There is no mention of where surplus water will go;
- Building a pond will not stop flood water affecting the area;
- There are other more sequentially appropriate sites including the highways depot;
- Adjacent properties are lower than the proposed minimum site ground level and considerably lower than the internal floor levels causing floodwater to flow off the site across Fosse Road;
- The height differences will put demand on groundworks to comply;
- There are no sustainable benefits to the community of Farndon contrary to the NPPF;
- The site forms the flood defense for neighbouring residents;
- The site is a functional flood plain and at very high risk of flooding;

- If the water table is high then a lot of capacity is already lost regardless of the proposals to create a lagoon;
- Residents on the opposite side of the road will have an increased risk of flooding by up to 30%;
- There is no strategic need for the proposed development on the site;
- The application has failed to satisfy the exception test;
- The plans show a sewage connection from a site pumping station to a new manhole in the garden on no. 26 Fosse Road (permission from the land owner has not been sought) then on to a free fall sewer – adding to the sewer will cause problems at peak times;
- The lake will essentially become an open sewer encouraging rats and vermin;
- Contaminated water will be pumped straight into the River Devon;
- It is unknown how the new A46 has affected the flood dynamics of the area;
- Planning Members will be held personally responsible when the inevitable floods hit neighbouring homes;
- Houses will become uninsurable due to flooding;
- The UK has had unprecedented storms and high winds resulting in severe flooding;
- Flood experts from the applicant have confirmed at meetings that flooding would continue;
- The proposals appear to be based on theoretical calculations rather than the real issues;
- Who has the responsibility for sustaining the drains;
- The proposed development would put pressure on the local sewers;
- The FRA does not include the 1 in 100 year plus 50% for climate change modelling of the site;
- There are no detailed plans of the flood compensation areas showing specific engineering works;
- No exception test has been submitted;
- The Sequential assessment is flawed as sites are discounted for reasons which are equally applicable to the development site;
- Despite the proposed mitigation, the evidence still shows the site at risk of flooding and that the proposal will result in increased flood levels on third party land;
- The justification for limiting the Sequential test to the Newark Urban Area is not clear and inconsistent;
- The former Highways Depot site is sequentially preferable benefiting from flood defenses and partially in flood zone 2;
- The application fails both parts of the Exception Test as the development would not bring wider sustainability benefits to the community.

Impact on Trees and Ecology

- Wildlife would be severely affected;
- There were screening trees planted for the A46 diversion which are beginning to provide a pleasant edge to the village – these are in danger of being felled;
- It would take many years for any trees planted to establish;
- Several deer have been spotted on the site;
- The application does not mention how the trees that the community planted would be protected;
- The site would be better suited to planting an assortment of trees;
- The land is home to birds; rabbits; foxes and badgers;

- Vehicle discharge and rubbish discarded from the site may go in to local waters and affect the wildlife;
- The ecology assessment requires further surveys for water vole and otter;
- Further work is required to fully understand the hydromorphology of the area and whether the proposals would affect the existing hydromorphology in the locality and consequent impact on the statutorily designated Devon Pasture LNR

Other Matters

- Drive through franchises, 24 hour garages, coffee shops and hotels have a history of leading to rubbish;
- The developers meeting in June was announced at short notice and was not good timing for those who work;
- Agricultural land is not sustainable to build on – it is needed to generate crops;
- The plastic generated from the end uses would not assist in reducing plastic usage;
- Newark is in danger of becoming characterized by chains and large consortiums and mass housing;
- The reference number has changed which appears underhand;
- Employment needs to be on the focus of quality of jobs not quantity;
- Village identity gives a sense of belonging to a village community;
- There is too much building going on in Farndon;
- The necessity for the above ground tanks is a hazard if there is an accident on the A46 and a vehicle hits the tanks;
- The development is not proportionate to the population of the village;
- Fast food outlets are linked to obesity – the Council has a duty to promote healthy living;
- Particle contamination travels from petrol station developments and they therefore should not be developed near residential properties;
- The majority of the village object to the development;
- There is no benefit to the village from the development;
- Money should be channeled into a functioning hospital with an A&E section;
- The petrol tanks would be targets for terrorism and vandalism;
- Farndon residents group already deal with litter and shouldn't have to deal with more from the development proposed;
- Car insurances have increased due to being close to an 'A46 accident hotspot';
- The village has been recognized in the best kept competition;
- The developers have tried to hoodwink villagers to get the development through by only inviting a minimum number of residents to the presentation;
- There is a local perception of money talks so this is a done deal;
- Homes were bought at a premium for their village location;
- The development will lead to a loss in home values;
- It is not clear where the escape routes are if there is a fire due to the fuel storage tanks;
- The Planning Statement omits essential wording from both local and national planning policy;
- There is no assessment of agricultural land quality;
- There are no noise / air / light pollution assessments despite the Statement of Community Involvement stating these form part of the application;
- Difficulties in accessing the village will drive parents to seek alternative schooling;
- The supporting documents appear to have cherry picked the results;
- Fast food does not accord with the healthy eating agenda.

The revised suite of documents received 18th July 2019 was subject to an additional round of re-consultation inviting comments specifically on the amended documents. 54 letters of representation all forming objections have been received through this process. This includes a letter from Freeths on behalf of Newfield RBS, jointly with Nottinghamshire County Council (Estates Dept) owners of the Former Highways Depot, Great North Road/Kelham Road, Newark. It also includes a letter from the group known as 'Farndon Residents Environment Group (FREG)'. All representations are summarised as follows:

Principle of Development

- The revised proposal has not satisfactorily addressed the Open Break constraint and therefore the scheme remains contrary to the development plan;
- The purpose of the NUA/OB/1 has never been more important as a strategic tool in the context of the sustainable urban extensions;
- Strategic allocation NAP 2A will significantly increase the urban area but will not erode the open space between Farndon and Newark;
- NAP 2A includes green infrastructure;
- Economic benefits are not sufficient to outweigh non-compliance with development plan policies;
- Farndon is a village and has no use for a mixed use development as proposed or indeed any other large scale commercial development;
- If Newark is in need of such a development then it should be in Newark;
- The design and access statement refers to policy wording but the development is contrary to this wording;
- The development will not encourage people to visit Newark;
- Once one office / retail park is built it would set a precedent for more;
- Newark tourism offer is not enough to sustain this development which will not be changed by the Buttermarket regeneration;
- The revised plans do not appear vastly different;
- The Developer has simply ignored some policies;
- It is not the case that the Open Break has not been reviewed since 2011, it was considered through Policy NUA/OB/1;
- Farndon has not merged with Newark;
- The proposal does not satisfy any of the criteria of Policy DM8;
- There is no attempt to justify why policies would support the development and would in fact contravene the cited policies;
- Residents do not wish to be a suburb of Newark;
- The development is unnecessary and would be disruptive to residents of Farndon;
- The Planning Statement omits essential wording from both local and national planning policy;
- Review of the Open Break should be taken through the planning policy process and the approval of this scheme would be premature;
- The conflict with the development plan is significant;
- The applicant appears to be relying on the economic benefits to outweigh the harm that would arise but the benefits are not sufficient to outweigh the overall harm;
- There are other brown field sites which would be more appropriate;

Principle of Site Uses

- The Supplementary Sequential Assessment Report for Town Centre Uses document makes additional observations to the Highways Depot site but there are ongoing pre-application discussions with the LPA in terms of the redevelopment of this site;
- Although the Depot Site is allocated for Class B uses the policy contains a sentence that proposals for other uses may be demonstrated as acceptable;
- The discount of the Depot Site remains flawed;
- The economic benefits could be secured at a policy compliant site;
- The hotel accommodation is now even more likely to be underused and unviable as the Robin Hood Hotel development is underway;
- There is now even more space for new office accommodation in the town centre due to increasing empty shops;
- The budget hotel chain is unlikely to appeal to families, business women or people with disabilities;
- The figures for job creation are completely made up;
- Harlaxton Estates are already advertising office space on their website;
- The hotel would be used as a business stop off;
- You would have to come off the A46 to access the petrol station;
- There are plenty of other fuel retailers along the A46;
- The office jobs would not be going to deprived members of the community;
- The letters of support are unfounded and do not set out all the circumstances;
- A hotel and offices on the south east side of the A46 with better access to the A1 via the southern relief road would be better and would take advantage of the new infrastructure for the growth point;
- Residents concerns have not been addressed in the revisions;
- Another petrol station is not necessary given the provision already in the area;
- There are already empty offices in Newark;
- There is no assessment of agricultural land quality;
- The most recent appeal decision confirms that disaggregation is not explicitly excluded from national policy;
- Additional office space is not required when there are existing unoccupied office spaces in and around Newark;
- The retail element would not be a benefit to the residents of Farndon;

Impact on Highways

- The revised Travel Plan is wholly unrealistic and ambitious – it quotes desirable statistics as if implying they are achievable and then admits it will not achieve them;
- It calculates journeys to the petrol filling station will be on foot or bike and public transport;
- The developer as the Travel Plan Coordinator is not suitable;
- The revised plans will still have an effect on the traffic into Farndon and on the adjacent roundabout;
- Journey times to Newark are underestimated;
- Most locals don't travel to Newark on a Friday;
- Hotel visitors wouldn't use the bus service;
- Farndon already has HGVs parking overnight;
- Farndon already has issues with parking for the 2 village pubs;
- Access to neighbouring driveways will be impacted;

- The increase in parking spaces will increase noise and air pollution;
- Disabled parking spaces should not be shared;
- New bus stops will compound congestion;
- The petrol tanks will be above ground and hazardous;
- There isn't enough parking so visitors will park on the main road;
- The development would encourage more traffic to bypass Newark;
- The traffic report uses 2011 census but traffic is much worse than then and incorrect information at peak times;
- Traffic at 7am is already difficult using the roundabout;
- No detailed access plan has been submitted;
- The Transport Assessment is not evidenced;
- The roads cannot handle any further traffic;
- Travel to Newark on a Friday is gridlocked;
- To alter the flood scheme at a time of global warning and increased flood risk seems bizarre and irresponsible;
- It should be shown that the development would not affect any future A46 design;

Impact of Design

- The design is out of keeping with the existing houses clad in grey colours found nowhere else in the village;
- The design is cheap and functional to build;
- The scale of the development is entirely unsympathetic to the existing homes in the Village;

Impact on Landscape

- No tree screening or foliage is going to hide the visual impact of the development;
- The suggestion that there would be negligible adverse effects is madness;
- The site is valued by Farndon residents;
- The screening proposed would be inadequate;
- One of the images in the LVIA refers to being taken from 'Long Lane' but is actually further south;
- There are no images of what the development will look like for the properties directly opposite;
- The addendum to the LVIA is based on inaccurate datum inputs;
- The images from the LVIA should not be presented to the Planning Committee as they are based on inaccurate methodologies and may result in any approval facing a legal challenge;

Impact on Amenity

- Neighbours right to light will be infringed by the office buildings at 18m high;
- Neighbouring properties have enjoyed uninterrupted light well in excess of the 20 year rule;
- The development would create a significant increase in noise;
- The office blocks will cause overshadowing –there seems to be no assessment of the impact this will have;

- The cross section shows a distance of 36.683m, this distance has been measured in Castle House car park to show what would be seen from the neighbouring window (image supplied);
- The revised windows on the offices does not stop staff on the ground floor having full view into bedrooms and living rooms or stop the light pollution;
- Young people have a tendency to park in car parks and causing noise nuisances;
- Privacy will be severely affected;
- There will be an increase in crime and disorder;
- There will be disruption from construction;
- The village fought for many years to redirect the A46 for a safe and quiet access road to the village;
- The reduction in height does not take into account that the site will be raised up by 2m or that the houses are 1m lower;
- The A3 use will still cause disruption through noise / pollution and waste;
- There is no confirmation of opening hours;
- There is no assessment of the impacts on the neighbouring properties aside from a brief reference in the LVIA;
- There is no assessment of noise/acoustic environment, air quality or illumination and light pollution;
- There does not appear to be consultation with Environmental Health to assess noise impacts and air quality and odour;
- There would be no control on the end users of the A3 users thereby not promoting healthy living;
- The reduction in height of the offices is hardly considerable and would still be significantly higher and overwhelming for the surrounding houses;
- The drive through would be totally unacceptable on the grounds of noise and congestion;

Impact on Heritage including Archeology

- Historic England maintain their objection to the application on heritage grounds;
- The level of public benefit does not outweigh the harm to the heritage asset;
- The realignment of the A46 to avoid the archeological value was not to allow this development;
- The site is repeatedly catalogued by F.A.R.I – the Farndon Archeological Research & Investigations Scheme;
- The site should be treated as a nationally important ancient monument;
- The Heritage Impact Assessment is incomplete and does not make a proper assessment of harm to heritage assets as required by the NPPF;
- The recent documents ignore the archeology issue;

Impact on Drainage and Flooding

- The restriction of the Sequential Test to the Newark Urban Area and the A46 remains unjustified;
- The site continues to fail the Sequential Test;
- Unless the Environment Agency remove their objection, the application would also fail the Exception Test;
- The application would not provide wider sustainability benefits and therefore would fail the Exception Test;

- The drainage for the whole scheme would go into one drain outlet built many years ago for domestic use of the surrounding houses only;
- Raising the land would force flood water to nearby properties;
- Whaley Bridge may focus minds on the importance of flood defense / flood plains;
- The countermeasures to mitigate the flood zone are cynical and will add further impact to surrounding houses;
- The flooding would affect the northern parts of the village as the Trent carries more substantial flood risks;
- The revised plans reduced the areas of flood defenses; there should be strong detail to justify this;
- The sewers are inadequate to take the extra burden of the development;
- The FRA does not include the 1 in 100 year plus +50% for climate change modelling for the site;
- There are no detailed plans for the flood compensation areas showing volume calculations as requested by the EA;
- There is a lack of detail to how the buildings would be built on stilts;
- The houses on the opposite side of the road are at a lower level which adds a significant risk to flooding;
- Taking away one of the proposed ponds but add risk to flooding;
- Stilts are still being considered but the finished designs are still not produced;

Other Matters

- Original objections / comments remain relevant;
- The revised plans have still not addressed the risks of fuel accidents and pollution;
- The revised plans have not addressed light pollution from advertising signs;
- The application is a cost to the taxpayers through backwards and forwards of correspondence;
- The council does not seem to be treating all objectors equally – letters were received nearly a week after email notifications;
- Many people who originally objected are yet to receive a letter;
- The revised consultation is in the summer holidays when people are away and includes 45 documents to review;
- The University of Mercia in Spain conducted studies into petrol station pollution and found that cancer causing chemicals and emissions travelled from petrol station sites travel up to 100 metres;
- Fast food outlets would be bad for health and wellbeing;
- The public consultation event was overwhelmingly negative;
- The development will affect neighbouring house prices;
- The developer has ignored the public consultation responses;
- People pay a premium to live in a village location;
- A proper understanding of the hydro morphology is necessary to determine impacts on Devon Pasture LNR;
- The documents are unprofessional and difficult to read;
- Comments have been asked at Christmas and then in peak summer holiday session;

Comments of the Business Manager

Principle of Development

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). The settlement hierarchy for the district is set out in Spatial Policy 1, whilst Spatial Policy 2 deals with the distribution of growth for the district. This identifies that the focus of growth will be in the Sub Regional Centre, followed by the Service Centres and Principal Villages. At the bottom of the hierarchy are 'other villages' which do not have defined built up areas in terms of geographically defined village boundaries.

Farndon does not feature in the settlement hierarchy as either a Service Centre or a Principle Village and therefore development within the village would be assessed against Spatial Policy 3 (Rural Areas). However, it is more relevant to note that the application site subject to consideration here is not strictly within the village. As is demonstrated by the Newark South Proposals Map, the majority of the site (save for the area for flood compensation) is within the 'Open Break' allocation between Newark Urban Area and Farndon.

Policy NUA/OB/1 is clear that where land is allocated as an Open Break, *'planning permission will not normally be granted for built development'*. Given the significant constraint which this therefore potentially presents to the principle of any development on the site, Officers consider it beneficial to structure the appraisal firstly by debating the Open Break designation.

Farndon Open Break

Members will note that 'Open Break' is not a term referenced in the NPPF but instead forms a local policy designation included within the Allocations and Development DPD adopted 2013. This type of policy designation is routinely found in Development Plans nationwide – and has been consistently upheld at appeal. In this respect I would point to a relevant appeal decision at Spondon, Derby (Ref: APP/C1055/W/15/3132386) which concerned a 'green wedge', a designation which seeks to maintain the open and undeveloped character of a key location within and around the urban area. Even though this particular authority did not have an up to date plan due to inability to demonstrate a five year land supply, the Inspector dismissed the appeal on the basis that:

"this scheme would intrude into a cohesive area of open land forming part of a 'green wedge' between Chaddesden and Spondon, undermining the perceived separation between those different places as well as the effectiveness of the 'green wedge' here".

It was accepted that the 'green wedges' served an important planning function partly by imparting distinctiveness to the place, in line with elements of the Framework.

Of even greater relevance however are recent appeal decisions (combined planning and enforcement - APP/B3030/C/18/3196972 – 3196978 (inclusive)) (April 2019) in Newark and Sherwood District where the Inspector referred to the Open Break of Winthorpe in dismissing the development for the material change of use of land to residential occupation including the stationing of caravans and the erection of a structure. The Inspector specifically identified that the land in question for the appeal scheme plays a crucial role in maintaining the individual identity of both settlements (i.e. Newark and Winthorpe). Importantly he also considered that given the

limited distance between the two settlements the aims of the policy could easily be eroded by further development, and that the area was deemed to be highly sensitive in that sense.

The above decisions confirm that the planning process can form a role in the formal separation of settlements by specific policy designations separate to the designated Green Belts which form a specific focus of national policy. The Allocations and Development Management DPD confirms that the basis of the Open Break allocations is in order to ensure that existing settlements retain their separate identities and characteristics. The areas have been identified as being areas that are under pressure for development. As is referenced above, Policy NUA/OB/1 is clear that where land is allocated as an Open Break, *'planning permission will not normally be granted for built development'*. The use of 'not normally' necessarily carries with it a high threshold, which proposals will need to be able to pass.

The Open Break designations included within Policy NUA/OB/1 have contributed towards defining the structure and form of the Newark Urban Area, being formed by predominantly open land they separate different settlements and maintain distinctions between them. Consequently the designations help maintain the identity and distinctiveness of different areas, protecting the character of those smaller settlements in close proximity to the Newark Urban Area. The designations have been and remain integral to the promotion of a sustainable pattern of growth in the Newark Urban Area. The aim of the Open Break is not simply to sterilise large tracts of otherwise developable land. Rather it represents a key strategic policy intervention, which contributes towards the promotion of a sustainable pattern of development in and around the Newark Urban Area.

The applicant makes the case that the value of the Farndon Open Break has already been degraded both by the Strategic site allocation at Land South of Newark (now known as Middlebeck) and also the recent works to the A46 and the associated roundabout. Firstly, in reference to the development at Middlebeck, it is notable that the area adjoining the Open Break designation is identified for open space (informal and formal play) which would inevitably create a soft edge ensuring that the overall impact on the Open Break would be minimized.

In reference to the presence of the A46, I would again take reference from the aforementioned Winthorpe appeal decision. Despite the presence of the A1 creating a visual and physical break, the Inspector still concluded that the land in question undoubtedly played a crucial role in maintaining the individual identity of both settlements. Despite the introduction of the new road and roundabout into the designation, the area subject to the application is still formed by intact and legible units of land which are open and undeveloped in nature. They provide physical and visual separation in a key location, ensuring that the separate identities of the two settlements are maintained. This is all the more pertinent to the Farndon Open Break given that the gap between built form is even narrower than the Winthorpe Open Break and thus in Officers submission is even more vulnerable and worthy of protection.

As is referred to by the comments of policy colleagues at Appendix 1, the Open Break designations around Newark have existed in some form in each successive Statutory Development Plan from as early as 1964 (despite the suggestion in the revised Planning Statement that they were introduced in 1994). Of course simply following policies through from previous iterations of statutory documents is not a robust planning approach without appropriate evidence and the agent makes a reasonable point that the Open Break designations have not been formally reviewed for a number of years.

With this in mind, Members will be aware that the District Council is in the process of a Plan Review. Following the adoption of the Amended Core Strategy in March 2019, the review is now focused on the Allocations and Development Management DPD which includes the Open Break allocations. In some respect, the submission of the current application has expedited the need to review the Open Break allocations and with this in mind, a piece of work from Via as the Landscape Team of the County Council has already been commissioned to ascertain whether the existing Open Break allocations are indeed still fit for purpose in their current form.

This review is anticipated to be subject to public consultation in October / November but clearly the advice given through this commission is materially relevant to the current determination. Whilst it is appreciated that this cannot hold significant weight in the context of the adopted development plan, it is nevertheless considered to form a material consideration on the basis that the advice sets out the likely direction of travel for Policy NUA/OB/1.

The draft report submitted by VIA (dated July 2019) sets out a methodology of review to ultimately determine if the land of the Open Breaks still provides its original function of retaining the separate identities and characteristics of Newark and the neighbouring settlements. Prior to site assessment, each Open Break area was then divided into small units of land with a consistent pattern of features and character. Boundaries of these areas followed physical features on the ground such as field hedgerows and roads. These unit areas were checked on site along with an assessment of surrounding visual receptors and landscape value. Each area was then given a unit (high; medium; or low) based on physical separation; perceptual separation; and landscape value.

The application site was assessed within 'Unit 6: Land west of A46 and southeast of Farndon' and given a high physical separation and medium perceptual separation and landscape value. The draft report concludes the following in respect to the Farndon Open Break:

The land between Farndon and Newark, although accommodating road and electrical infrastructure, provides a clear separation between the built edges. All the units within the existing open break in this area provide a high level of physical separation. Whilst this swathe of land is narrow it is, for the most part, undeveloped creating a visual and physical break between the two settlements.

It then goes on to suggest amendments through areas of inclusion and exclusion (shown on the figure at Appendix 2) but importantly the review concludes that the site should continue to form part of a formal Open Break designation. In fact, the area of flood compensation forming part of the site but not currently within the Open Break, would too be included in the proposed boundary suggested by Via.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states planning decisions should be made in line with the Development Plan, unless material considerations indicate otherwise. Consequently in the view of the Council to depart from the Development Plan in allowing the development within the designated Open Break by definition would represent an exceptional circumstance and one where the benefit, or benefits, from granting consent would need to clearly and demonstrably outweigh the in-principle policy objection to development. The remainder of the appraisal below will therefore assess the development against all other material planning considerations in order to reach an informed and balanced judgement.

Impact on Economy

One of the three overarching objectives of the NPPF 2019 is an economic objective, *‘to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure’* (paragraph 8). Chapter 6 goes on to confirm that planning decisions should help create the conditions in which businesses can invest, expand and adapt (paragraph 80).

At a local policy level, it is necessary to reference Core Policy 6 (Shaping our Employment Profile). CP6 outlines an intention to strengthen and broaden the diverse range of employment opportunities in the District including through *‘supporting the economies of our rural communities.’*

Firstly, I would concur with the applicant that the A1 retail use of the proposal would not exceed the relevant thresholds outlined in local policy to require the submission of a retail impact assessment.

There is no dispute that the investment attributed to the proposal (stated as being in the region of £12.5million and the creation of 390 jobs) would provide significant economic benefits. It is noted that some of the comments received during the consultation process are of the view that the employment benefits have been overestimated and would not be of a benefit to the local community. With this in mind it is worthy of note that if Members were minded to approve the application it would be in their gift to do so on the basis of insisting the applicant enters into a legal agreement to ensure the employment base is sourced through a cascade system which focuses the local population firstly. It then follows that the benefits to the local economy can be afforded positive weight in the overall planning balance.

Tourism Offer

Given that the proposal also incorporates a hotel offer, it is necessary to assess the proposals against the requirements of other relevant Core Policies, notably Core Policy 7: Tourism Development.

It should be explicitly stated that the wording of CP7 has been fundamentally altered and essentially completely re-written through the March 2019 Amended Core Strategy. However, elements of the justification text remain identical to the original wording including the acknowledgment that a healthy tourism industry within the District can help sustainable economic growth, and contribute to prosperous communities and attractive environments.

Newark is recognised as a tourism destination and development which complements or enhances this, or that addresses shortfalls in provision would be beneficial and consistent with the broad aims of CP7. Increasing the proportion of visitors who stay overnight is identified as a priority for future tourism development. The Destination Management Plan for Newark (March 2018) identifies the lack of a hotel offer suitable to support overnight coach trips as a key weakness. Addressing the shortage of accommodation/bed stock is also given as a long-term action. This requires the active seeking of appropriate hotel brands to invest in the Town, with the intention of increasing overnight stays and improving visitor spend. In this respect the redevelopment of the Robin Hood hotel (approved through application reference 18/01020/FULM) – incorporating a Travelodge- will go some way towards meeting identified tourism needs.

Colleagues in planning policy have referenced that a 'Holiday Inn Express' (the confirmed end occupier) may not neatly fit with the most significant gap in provision as it would not meet the four star aspirations of the coach tour market. I have attached this view limited weight as in my view any hotel offer must be considered to go some way to meeting overnight needs. Clearly, if approval was given, there would be nothing to prevent a change in occupier in the future. I do however agree with policy colleagues that the benefit to Newark itself would be limited given that the site is outside of the Newark Urban Area.

The revised wording of CP7 is based on a hierarchy of assessment dependent on where sites are in the overall settlement hierarchy. There is notably no reference to Open Break designations given that, as outlined by Policy NUA/OB/1, the policy stance is against any form of built form within Open Breaks. Essentially therefore, the Open Break designation is stricter than the potential allowances given for the rest of the settlement hierarchy and it would take a site specific judgement to assess whether there is an overriding need for an employment / tourism use within this site. This is my view leads neatly into an assessment of the site selection process and availability of alternative land for the proposed development.

Site Selection Process

The original application submission was accompanied by a number of documents which are considered relevant to the assessment of this matter namely:

- 'Harlaxton Estates Property Group Statement – Background to the Proposals and Site Selection Process;'
- 'Harlaxton Park, Newark - Economic and Market Benefits Statement' by Regeneris;
- 'Harlaxton Estates Property Group – Sequential Assessment for Town Centre Uses' by Peter Brett Associates.

Moreover, the suite of revised documents submitted on July 18th included the following:

- Revised Economic and Market Benefits Statement by Regeneris dated 5th July 2019 (received 18th July 2019);
- Revised Supporting Planning Statement by GPS Planning and Design Ltd (received 18th July 2019);
- Economic and Market Benefits Statement by Regeneris dated 5th July 2019 (received 18th July 2019);
- Commercial / Agents Case in Support of this Mixed Use Development dated April 2019 (received 18th July 2019);
- Supplementary Sequential Assessment for Town Centre Uses by Peter Brett Associates dated July 2019 (received 18th July 2019);

The first document above begins by outlining the background to the applicant company which is considered to be of limited relevance in the context of the current application assessment given that the development would represent a stand-alone development (albeit with some secured occupiers) rather than an expansion of existing businesses.

The basis of the application submission is that the proposed development within the site would be well related to the strategic road network and would provide a range of services to primarily serve pass-by traffic using the A46.

The site selection process document states that:

'This site only works because of its 'mixed-use' and the 'complimentary nature' of the proposed businesses on the site. Whilst not wishing to over develop the site the chosen operators are all attracted by the mix and types on site and symbiotic trading opportunities. The site is considered to be an optimum size'.

It is notable that there is no financial evidence submitted to justify this statement. Unfortunately Officers consider this to be a fundamental flaw in the application submission. I have no doubt that it may provide convenience at the application site for some customers but this is not an overriding planning argument. Put simply, Officers have not been appropriately persuaded that the overall mixture of uses presented is so inter-dependant that they could only come forward in the location being applied for. In this respect, even the scheme itself through design effectively splits the scheme into three constituent parts:

- The petrol filling station, associated retail unit and drive through; A3 café restaurant with ancillary drive-through and electric charging point;
- The two office units; and
- The hotel.

Paragraph 85 of the NPPF 2019 states that *'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.'* The NPPF goes on to confirm that LPA's should apply a sequential test to planning applications for main town centre uses which are not located in an existing centre. The overarching aim is to sustain and enhance the vitality and viability of existing centres. For the avoidance of doubt, the proposal incorporates town centre uses as defined by the glossary of the NPPF.

Core Policy 8 (Retail Hierarchy & Town Centres) is another policy which has been subjected to significant review through the Plan Review process (necessary in acknowledgment that the previous policy referred to the now replaced PPS4). The revised policy now better aligns with the national stance, and indeed the corresponding Allocations and Development Management DPD (specifically Policy DM11 'Retail and Town Centre Uses') outlines that there is clearly a necessity to assess the application on the basis of a sequential approach whereby proposals for town centre uses shall firstly be located within a centre, then edge-of-centre and only if no suitable sites are available will consideration be given to out-of-centre locations.

The originally submitted Sequential Assessment for Town Centre Uses provided an assessment of sequentially preferable sites. The report acknowledges that the application scheme would need to be disaggregated for any part of it to be delivered at a town centre site. The NPPG details at Paragraph: 010 Reference ID: 2b-010-20140306 how the sequential test should be used in decision taking. The second bullet point confirms that, *'it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.'*

The applicant has directed the LPA towards an appeal decision (ref: APP/C3105/W/16/3151655) in which the Inspector agreed that the development of roadside facilities are unlikely to be deliverable within a town centre. However, it is Officers view that this is materially different to the

current application submission insofar as the constituent parts of the development listed above do not all lend themselves to roadside services.

The original comments of policy colleagues (Appendix 1) are detailed on this matter and deemed worthy of direct repetition:

National policy requires applicants and the Local Planning Authority to demonstrate flexibility on issues such as format and scale. The recovered appeal decision (Planning Inspectorate ref: APP/A1530/W/16/3147039, Secretary of State's ref: 150239) at Tollgate Village, Stanway, Essex provides a clear steer on how this ought to relate to the matter of disaggregation. Here it was concluded that the extent of flexibility should not be constrained by policy or guidance, and that there is nothing in the Planning Practice Guidance which suggests that sub division should not be considered. Ultimately it may well be that in some circumstances disaggregation proves to be inappropriate – however this ought to be the result of objective consideration. As already stated I consider there to be scope to consider the proposal on a disaggregated basis, with a split based around its constituent parts, and different combinations thereof, representing a reasonable basis for doing so.

The revised documentation has attempted to address this point referring to various key judgements / appeal decisions on this matter (namely Dundee, Rushden Lakes, Scotch Corner, Tollgate and Aldergate). In reference to the Tollgate case referred to in policy colleagues comments above, the applicant states that the Secretary of State does not explicitly endorse disaggregation. The overall case being made is that the disaggregation or sub-division of a proposal is not part of the sequential test:

“We consider that the sequential approach test is rightly interpreted as to whether, given a reasonable degree of flexibility, an alternative site can accommodate the proposal and not some alternative scheme that is materially different in purpose or is in a disaggregated form.” (para. 4.2.6)

Whilst Officers concur that the Secretary of State does not necessary endorse disaggregation in the Tollgate decision, neither does he plainly disagree with the Inspector's point on the matter. Nevertheless I am mindful that it remains a matter of fact that the extant NPPF does not mention disaggregation. Thus, whilst Officers remain of the view that the proposed end uses lend themselves to separation, the need for disaggregation is not considered fatal in the overall sequential assessment (provided flexibility can be demonstrated).

Moving then to assess the Sequential Test undertaken (in both its original and supplementary revised form), the applicant has considered various sites including Land at Northgate; the Former Highways Depot; Newark Showground; Brownhills Motor Home; and employment allocations.

In some cases the presence of planning policy constraints (e.g. the site being allocated for an alternative use) has contributed towards the discounting of a site. This seems to ignore the significant policy constraint to which the application site itself is subject to as an Open Break.

Of the aforementioned sites above, there are two in particular where Officers continue to be unconvinced would not be sequentially more appropriate than the site.

One of the sites is mentioned numerous times through the consultation process as a suitable alternative – the former Highways depot in Newark. This has been addressed by policy colleagues in their original comments (Appendix 1):

“Perhaps of greater concern is the discounting of the former Highways Depot on Great North Road, which at 1.98a exceeds the 1.7ha threshold identified by the applicant. The site is allocated for employment use- and so the office element of the proposal would be consistent. With respect to the other elements of the scheme the adoption of a pragmatic approach towards its development may prove appropriate, in-line with the approach towards non B1/B2/B8 uses detailed in the site allocation policy. As outlined earlier I would view this marginal policy constraint as less significant than that represented by the Open Break designation.

It is not clear how the applicant has drawn the conclusion that part of the site will be required to facilitate junction improvements as part of the Newark by-pass. No proposed line for the improvement exists and there are clearly numerous different scenarios which could be pursued...”

“Whilst located in an out-of-centre location the former Depot possesses superior connections to Newark Town Centre. Greater benefit to the vitality and viability of the Centre would result by virtue of this proximity, which is after all the objective which underpins the sequential test. The site has been recently acquired and it is assumed that there would be a natural interest in bringing the site forward for development. Accordingly I don’t consider that the site has been discounted on an objective basis, and as such it represents a sequentially preferable and available alternative to the application site.”

This site is particularly pertinent as it could accommodate the proposed development in its entirety (thereby discounting the need for disaggregation in any case). The applicant continues to maintain that market testing has shown a lack of interest in the site and that the allocation for B Class uses would form a constraint to development as proposed. Reference is also made to potential visibility / highways works issues.

However, as is outlined above, the LPA have received comment on the current application by Freeths on behalf of Newfield RBS as the preferred developer partner of Nottinghamshire County Council who are seeking to bring forward the site for development putting significant doubt to the applicant’s claims of lack of market interest. Whilst there may indeed be highways constraints and the need for land take through works to the A46, the exact quantum of these are unknown and it would therefore be premature to discount the site purely on this basis. Moreover, if this were a justification, then there is an argument to say it should also be applied to the application site given that the potential future dualling of the A46 may affect the development as proposed in any case.

The other site which Officers do not consider has been robustly discounted is Newark Showground. This is a site allocation which includes a hotel and employment uses positioned in close proximity to the strategic road network. The revised comments of policy colleagues are particularly relevant to this site:

The assessment identifies that the land is within multiple ownerships and so concludes this means that ‘...the site is not likely to be available within the same timeframe as the proposal, i.e. a reasonable period of time’. In doing so the assessment presupposes that the applicant’s timeframe and what would be a ‘reasonable period of time’ for the purposes of paragraph 86 of the NPPF are indivisible. However paragraph 11 (Reference ID: 2b-011-20190722) in the Town Centre and Retail Section of the Planning Practice Guidance details that it is the scale and complexity of the proposed

scheme and of alternative sites that should be taken account of in defining would be a reasonable period of time. I do not agree that the fact that land is potentially within multiple ownerships necessarily represents a level of complexity which inevitably leads to significant increases on timelines. The land is allocated and so needs to have been considered to be 'deliverable' as part of that process, i.e. that there is a landowner committed to development.

Notwithstanding the above, Officers have identified some significant flaws in the applicants justification of the need for mixed use road side users in principle. Namely, in respect to filling stations, it is claimed that, *'there is no direct major fuel retailer with food and amenities situated on the A46 from Newark until Leicester'*. This does not appear to be the case from an assessment of aerial mapping, (I have identified a Shell 10 miles north of Leicester and a Londis 15 miles south of Newark which would be clearly visible and accessible to drivers along the A46), the statement also fails to identify that there are two filling stations on opposite sides of the A46 just 4 miles (measured as travelling on the A46) north of the application site. On top of this, there are also numerous existing petrol filling stations within Newark itself (albeit I appreciate that these would be less convenient for those wishing to avoid the town centre traffic).

In the context of the above discussion, despite the submission of additional documentation, Officers remain to have severe reservations over the sequential exercise undertaken, and deem it insufficient to demonstrate the sequential test has been passed.

Impact on Landscape Character

Core Policy 13 (Landscape Character) sets out a framework for assessing landscape character and sets expectations that development proposals should positively address the implications, aims and objectives of each landscape policy zone. The adopted Landscape Character Assessment (SPD) is a district level assessment of landscape character (that sits hand in hand with CP13) and is a useful tool in assessing local landscape character in relation to specific sites.

The site lies within the Trent Washlands Policy Zone 12: Farndon Village Farmlands. The key characteristic visual features are a predominantly large scale, flat arable landscape with small woodland plantations. Suburban influences of housing on the edge of Newark and Farndon are acknowledged. Landscape condition is defined as being poor with the landscape sensitivity being low therefore resulting in an overall policy action of create. In terms of the landscape actions, it is sought to enhance the appearance and visual unity of urban fringes and settlement edges with new tree and woodland planting.

The original application submission was accompanied by a Landscape and Visual Impact Assessment (LVIA) undertaken by Influence Environmental Ltd. Dated December 2018. The LVIA includes a detailed description of the site and numerous photographs of the surrounding area. Some of the key representative views identified include views towards the site from the properties on Fosse Road and views from public rights of way in close proximity to the site. For the avoidance of doubt, the LVIA has not assessed the activities in relation to the flood compensation measures forming part of the site in acknowledgement that once complete the field will appear as a grazed / agricultural field.

The LVIA details the landscape impacts during the construction phase but given this would be a relatively limited timescale (stating as being 2 years) it is considered more appropriate to focus assessment on the operational phase landscape impacts. These are assessed at both Year 1 and Year 15 when it is assumed that mitigation measures will have become fully established. The

greatest landscape impact is unsurprisingly identified at the application site itself with a Moderate-minor adverse impact at Year 15. All other landscape character impacts are considered minor or negligible adverse (summarized at Table 2 of the LVIA).

The LVIA moves on to assess the visual impacts of the development summarised for the operational phase detailing numerous residential receptors acknowledging that numerous residential receptors would be subject to a major adverse visual impact even at Year 15 (summarised by Table 4 of the LVIA). Impacts on other receptors at Year 15 (users of PROWs and public open space; road and rail receptors; commercial, business and institutional receptors) are all identified as being either minor or negligible adverse with the exception of users of Fosse Road north of Fossey Farm where the impact is acknowledged as moderate adverse.

The submitted LVIA makes the following conclusion:

“The proposals will have some impact on landscape character and degree of openness in the immediate area. However, effects will be localised and will generally not impinge on the quality and character of the wider landscape. Following the establishment of mitigation measures it is likely that adverse landscape effects will be moderated further. In general, visual effects will also be contained with only a limited number of immediate close range residential and recreational receptors being subject to major or moderate adverse levels of effects. In general, the development will be perceived as part of the existing peri-urban, commercial and industrial land use. In addition, topography and the presence of built form and tree cover in the wider landscape will serve to limit views from receptors located at over 1km distance. Taking these factors into consideration it is concluded that the proposed development can be accommodated in the surrounding landscape without unacceptable landscape and visual impact.”

As is common with schemes of this scale and nature, Officers have sought external advice on the landscape impacts as described by the LVIA. This commission included a site visit to verify the conclusions of the submitted LVIA and associated documents.

The initial response from Via (Nottinghamshire County Council’s Landscape Team) was received on 11th February 2019 and has been appended in full at Appendix 3. The comments raise some fundamental concerns in respect to the methodology employed by the applicants LVIA. Notably, the LVIA document has relied on a model set some 2.5m below the eventual height of the proposed development. The response in any case goes on to assess the landscape impact and visual impacts of the development making the following summary statement:

Whilst the methodology adopted is appropriate to the development and largely in line with guidance, the following inconsistencies have been identified:

- *The decision to adopt a height 2.5m less than the actual proposed development height to model ZVT.*
- *Omission of A46 south- bound and north-bound users from selected view points*
- *Omission of consideration of pedestrian and cyclist users of footway linking Farndon Road, Crees Lane and Fosse Road as receptors. These appear to be included neither as Rights of Way receptors nor in road users, which appears to focus on vehicular traffic.*

The information submitted to describe the development relies heavily on illustrative birds eye views as well as masterplan and landscape strategy which give a good idea of the proposed built development appearance however they do not help provide context of the site or show how it

interacts with the immediate surrounding area. It is therefore suggested that the following are required to better address the magnitude of effect on both landscape character and visual amenity:

- Viewpoints to be amended to show vertical and well as horizontal extent proposed development*
- Selected viewpoints to include photo montage of proposed development, to indicate view from south from A46, north from A46 and from Fosse Road.*
- Cross sections and elevations east west and north south to be provided which include anticipated height and breadth of landscape at 1 and 15 years.*
- Detail to be provided of proposed illumination, ideally with photo montages showing night time impact.*
- Landscape proposals plan to show actual numbers and extent of new planting.*

On the basis of submitted information, Via is unable to agree with the key assertion that the development will be perceived as contiguous with existing development and that there is no current perception of break between the two settlements. It is accepted that the perception of break is constrained and impacted by the A46. There is also distinction between the low rise residential and agricultural built form of Farndon village south of the A46 roundabout with more urban built form of commercial and larger mass built form north off Farndon Road comprising business park, care home and commercial pub to the north.

Despite the height, mass and urban character of the proposed development the magnitude of impact on landscape character is assessed to be of low negligible impact beyond the site itself because the stated backdrop of existing adjacent development. We are not convinced of this argument, given that the apparent lack of substantial mitigation to the periphery of the site and the difference in character of the site to the adjacent built residential development. We therefore do not agree with the conclusions in respect landscape impact particularly in respect of the application site itself, LPZ TW12, Farndon Village Farmlands and the nearby LPZ TW 34Sconce and Devon Park River Meadowlands.

In so far as impact on open break, the argument is made that because of the proximity of commercial and business uses north of the A 46 roundabout, the development will not seem out of place south of the roundabout. This argument ignores the current function of the A46 roundabout and perimeter planting to PA freight premises as a delineating boundary beyond which currently built form is either agricultural or residential in character. We do not therefore agree that the proposals will be seen as uncommon or unexpected. This is particularly the case when viewed from the south and east where the urbanising impact will be out of character with adjacent land use. The open break policy NUA/OB/1 seeks to maintain a break between settlements in order to retain the distinctiveness of character. The proposed development, which is correctly identified as is being commercial in nature will therefore not only occupy the remaining break between Newark and Farndon, but will introduce a development of commercial nature and imposing form and mass which is out of character to the village of Farndon. Therefore it is at odds with the open break policy as currently expressed.

An addendum to the LVIA has been received with the suite of documents submitted during the life of the application. The content has been subject to discussion with Via directly and includes additional representative viewpoints and photomontages. The document maintains that this type of development would not be an uncommon feature and that receptors would not consider it unexpected in this location.

The addendum has been reviewed by Via and whilst acknowledging that the additional viewpoints; montages and planting plans have been provided, the applicant has still failed to illustrate night time visual impact. In respect of the proposed planting to screen the development, Via make the following comments to which I concur:

The planting plan and masterplan confirm the modest extent of the proposed landscape and limited opportunity this will provide to mitigate the built elements of the proposals, with sporadic for the most part small trees scattered along a single hedge line.

The applicant's assessment and illustration of the screening impact of the very slender landscape around the margin of the site is overly optimistic in my opinion. View Point 8 at 10 years for example shows illustrates the impressive impact of the proposed small corner planting of trees (14 No), shown to almost completely screen the 3 storey building behind. In the foreground of the photo is a more realistic illustration of screening impact of trees that were planted as part of the A46 dualling some 10 years ago, which give a more realistic indication of the nature of screening that could be expected.

Overall the comments conclude that the additional addendum has served to reinforce the original conclusions of the comments at Appendix 3 rather than allow them to be amended.

The landscape harm identified renders the development contrary to Core Policy 13 and the associated Landscape Character Assessment. Moreover, it further compounds the harm in developing within the Open Break in principle.

Neighbouring comments have made raised concern that the LVIA addendum is based on incorrect methodology. For clarity, Officers have asked Via for a view on this allegation. The response received is that the datum levels and photo montages methodology appear to have followed the correct methodology with the exception that they have not provided the view point height above ground level but referred to camera height instead (usually around 1.5m above ground level).

There is however uncertainty as to whether the cross section has taken into account the raised floor levels which are necessary for flood mitigation. The floor level for the hotel shown on the Proposed Site Plan Building Access – A -0101 and building elevations do correspond to minimum floor levels indicated in the flood report (13.28m AOD, 0.730m above proposed site level). Plan A0101 shows an access ramp on the north of the west elevation of the hotel to achieve this raised floor level height which does not appear to be indicated in the cross section, so it would appear that the cross section may have been based on the original levels. The section is titled as illustrative, with no scale given. The applicant has been asked to clarify the point and any response will be reported to Members as a late item. In the absence of clarity, Officers recommend that Members interpret the cross section submitted with caution.

Impact of Design and Layout

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Chapter 12 of the NPPF 2019 provides guidance in respect of achieving well-designed places confirming at paragraph 124 that, *'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development,*

creates better places in which to live and work and helps make development acceptable to communities.'

This is no dispute that the scale of the proposed development is substantial with an overall floor space of over 7,300m² (albeit including the canopy area of the electric vehicular charging point) and maximum building heights of almost 17m. This has to be appreciated in the context that the proposal also includes raising of the land levels as part of the flood mitigation strategy. The proposed built form to serve the associated mixed uses is separated into 6 buildings (again counting the canopy structure as a building) of varying size and scale which are dispersed throughout the site with car parking in between. The largest scaled buildings (i.e. the proposed hotel and offices) are set towards the south of the site. There is a proposed water attenuation lake and some landscaped areas between the proposed buildings and the southern boundary of the site.

The submitted Design and Access Statement describes the development as a '*prominent mixed use scheme*' which '*will become a gateway development for Newark and has been designed to encompass high quality materials with simple building forms and carefully considered scales of structure.*'

Notwithstanding the already discussed policy position (i.e. this is an Open Break site which is not envisaged by the LPA as being a gateway site), Officers do consider that the applicant has in some way achieved their intentions of a gateway site particularly through the design of the hotel in the south east corner of the site which takes on a broadly L-plan form. This allows the development to exude an honest prominence to the users of the A46 travelling north towards Newark. There is no doubt that this would be a stark contrast from the existing scenario whereby the built form of the residential dwellings on the west of Fosse Road is discrete by both distance and scale. Equally the proposed petrol station with its varying roof designs (and associated filling station canopy) would add a degree of visual intrigue at the northern point of the site.

The design of the proposed buildings would be viewed as a comprehensive development through the use of similar materials. The use of varying materials (i.e. brick and render) is deemed appropriate in principle given that the dwellings in vicinity of the site also utilize various material palettes. Overall the proposed design is considered functional and modern in nature but with some positive elements such as projecting gables adding visual interest to the larger scaled buildings of the offices and the hotel. Nevertheless the design and layout proposed is not considered particularly innovative nor outstanding to a degree that it would have any more than a neutral impact on the overall acceptability of the scheme.

Impact on Neighbouring Amenity

Policy DM5 is clear that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. Paragraph 127 of the NPPF confirms that decisions should ensure that developments create places with a high standard of amenity for existing and future uses.

Neighbouring amenity impacts have already been inferred to above in terms of the visual impacts of the proposal in the Landscape section. Clearly the proposed development would have significant visual impacts to the residents of Farndon, both in the context of as they travel along Fosse Road but also to the closer properties having a view of the development for its lifetime from

their properties. The proposed built form and its associated scale would represent a stark contrast from the existing agricultural use of the site void of built form. However, as is well established in planning assessments, being able to view development does not automatically amount to visual amenity harm. Whilst understandably not palatable, for the majority of residents within the village, the opportunity to visually appreciate the development would be fleetingly as they travel along either the A46 or Fosse Road.

My principle concern is in respect to the potential amenity impacts to those dwellings positioned immediately opposite the site on the north west side of Fosse Road. The amenity impacts experienced would vary with the properties most likely to experience a detrimental amenity impact being those immediately opposite the gable ends of the two proposed office building due to their scale (maximum building heights of around 14m as revised) and design (windows proposed in the west elevation orientated towards the dwellings).

The greatest factor in determining whether the proposal would have an overbearing impact is the distance between the gable ends of the offices and the principle elevations of the dwellings. Owing to relatively generous setbacks from the road (and indeed the road and its associated verges itself) this distance measures at around 37m. To put this into context of an ordinary amenity assessment between residential properties, distances of around 12m are usually sought between windows and gables to avoid overbearing impacts. Clearly, this is an entirely different assessment noting that the proposed development would be around double the height of the existing residential properties. In order to better understand this relationship, Officers have sought a cross section plan during the life of the development which has been received in the revised submissions. Whilst fundamentally changing the outlook from the principle elevation of the properties, overall the distance between the built form of the development and the existing dwellings is deemed adequate such that it would not be reasonable to resist the proposal on overbearing impacts alone.

Noting that the originally submitted plans showed that the office blocks would have windows within their gable end up to the full three storey height, Officers have also carefully assessed the application in respect to impacts of direct overlooking. Again the intervening distance of the road helps to reduce the potential for overlooking but it is still the view of Officers that the number of windows originally proposed was unnecessary and would have created at the very least a perception of being overlooked. This would especially be the case in the winter months when the offices will be internally lit. It is often the case that there is little need for curtains and blinds in offices and therefore the residential properties may feel imposed by the presence of the employees who at second and third floor level would have had a vantage towards the dwellings. On this basis, Officers have sought a re-design of the office blocks to remove the windows in the gable ends. This is considered to be a reasonable request given that there are no secured occupiers for the offices yet and therefore it would not infringe on any established functional requirements. The revised plans show that the west elevations of the offices would now have their second and third floors served solely by high level windows which would reduce the opportunity for direct overlooking.

I appreciate that the development would also impose upon the properties to the east of Fosse Road and to the south of the site particularly those closest namely 77 Fosse Road. However, the distance between the built form and the boundary of the residential curtilage would be over 240m. This is considered sufficient such that no overbearing impacts warranting refusal would occur even when taking account of the significant scale of the proposed buildings. The impacts of

the wider development proposed (i.e. the flood attenuation measures) on the properties to the east of Fosse Road will be discussed further in the flooding and drainage section below.

The amendments made during the life of the application no doubt lead to improvements to the potential amenity impacts of the scheme. However, it remains the case that a select number of existing residents would have their day to day outlook fundamentally changed. Moreover, even with the reduction in window size, in the winter months particularly, lighting from the development would impose a degree of nuisance to nearby residential occupiers.

A number of consultation comments have referred to the perceived impacts arising from the end users particularly the drive throughs. Officers have some sympathy in respect to the inevitable increase in general noise and disturbance which would occur from the development of the site. Whilst this is not considered sufficiently harmful to warrant a reason to resist the proposal alone, it must weigh negatively in the overall planning balance.

Impact on Highways Infrastructure

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The original application was accompanied by a Transport Assessment (TA) and Travel Plan (TP) undertaken by BSP consulting. It is stated that the scope of the TA has been agreed with Nottinghamshire County Council as the Highways Authority and Highways England noting the proximity of the site to the strategic road network.

The report acknowledges that the proposed end uses (e.g. drive through restaurants and petrol filling stations) will necessitate a number of trips to be made by car. The TA also details how sustainable modes of transport would be facilitated including through the extension of the existing footway along Fosse Road. It is also proposed that the existing central island be upgraded to a pedestrian crossing, to provide a pedestrian connection from the site access to the residential area of Farndon. It is proposed that vehicular and pedestrian access to the site will be via a single point of access from Fosse Road.

A total of 246 car parking spaces are proposed on the site to serve the variety of mixed uses (an increase from the original proposal of 237 spaces). This would represent 89% of the maximum allowable parking provision based on NCC standards. It is suggested the reason for the shortfall is that there would be some sharing of car parking spaces between the uses. The original comments of NCC Highways did raise some concern with the predicted sharing of spaces but the revised proposal, partially through the replacement of a drive through unit with an electrical charging point has reduced the overall number of required spaces in any case. The proposal would also include parking for one coach and numerous cycle stands.

The revised TA details trip generation predicting a total of 201 trips between the morning peak (8-9am) and 194 in the evening peak (5-6pm). However, in taking account the comments received on the original scheme, the trips have been calculated to accommodate the potential for McDonalds (or similar fast food outlet) to ultimately become an end occupier (noting that even if Costa are envisaged at this stage, there would be nothing in planning terms to prevent the occupier changing in the future). This has increased trip generation to an anticipated 326 in the am peak and 315 in the pm peak. This is notably still a reduction from the originally submitted TA which

estimated 418 and 409 trips in the am and pm peaks respectively. This difference is understood to be due to the removal of one of the drive through units although not explicitly discussed.

Given the location of the site, close to the A46 and Fosse Road, and the mix of uses on the site, it is stated that it would be expected that a high number of trips to the site would be non-primary, i.e. trips that were already on the highway network, or visit more than one use on the site. Nevertheless, the TA estimates that the proposed development would result in a % increase of between 5-6% at peak hours (based on a scenario where 100% of the development traffic will travel to and from the site via the A46 / Fosse Road roundabout).

The original proposal detailed that in order to mitigate these increases, the development would include a proposed widening of the entry width of the B6166 Farndon Road (achieved by alterations to the white lining without the need for physical alterations) and that following these works, the development was considered to achieve 'nil detriment' at the junction. However, reference to such works does not appear in the revised documents. This has been queried with the agent during the life of the application. It has been confirmed by email dated August 16th that the proposal for lane widening has been removed from the proposal. It is stated that due to alterations to the development proposals, the revised TA demonstrated the improvements would not be necessary (notwithstanding that they were not accepted by Highways England in any case).

Highways England original comments dated 8th February 2019 detail an agreement that the trip generation figures adopted in the impact assessment are considered very robust. However, they did request additional information related to TEMPRO growth factors and a scheme drawing showing how the additional lane proposed at the roundabout would affect lane markings and interact with the circulatory. The comments also make general comments on other matters including parking, which concur with a number of the consultation responses that the level of proposed parking is likely to lead to overspill of parking onto the local road.

The latest comments of Highways England (dated 6th August 2019) and NCC Highways (dated 12th August 2019) acknowledge the additional work which has been done but retain the stance that further evidence is required by the TA to understand the overall traffic impacts of the proposal. Comments have been received with minor areas of concern in relation to the latest Travel Plan but these are not considered fundamental and could be easily dealt with and amended if the development were otherwise acceptable.

In respect to Highways England comments the additional information sought includes in the context of HGVS accessing the services and the justification for the inclusion of just one coach space. NCC Highways have raised issues with the overall parking provision in particular the shortfall of parking provision and risk of the site ownership being divided which could affect the ability of shared parking. These comments have been passed to the agent for completeness but Officers have not specifically insisted on further documents given the objection to the development in principle. The agent has nevertheless responded to the latest concerns by email dated 28th August 2019 but the development plans have not been amended (i.e. no further parking provision is presented). Any formal responses received by the relevant consultees will be reported to Members as a late item but at the time of agenda print the position remains that the applicant has failed to adequately demonstrate that the development would be safe and appropriate in highways safety terms. The proposal as it stands is therefore contrary to Spatial Policy 7.

Impact on Flood Risk

Sequential Test

The entirety of the site is within Flood Zone 3 according to the Environment Agency mapping system. The proposed hotel and attenuation pond lie within Flood Zone 3b functional floodplain with a high probability of flooding.

The River Devon, the River Trent, and a small open field drain are the closest watercourses to the site. The River Devon is located approx. 240m to the south-west and the River Trent is approx. 380m to the north at their closest points to the site. The River Devon and the River Trent are potential sources of flood risk to the site. The application has been accompanied by a Flood Risk Assessment (FRA) as well as a Flood Risk Sequential Test document both undertaken by BSP consulting.

Core Policy 10 of the Core Strategy requires development to be located in order to avoid both present and future flood risk. Core Policy 9 requires new development proposals to proactively manage surface water. The NPPF provides that development should be located in the least sensitive areas to flood risk through the application of the sequential test and exception test where necessary.

Paragraph 158 of the NPPF 2019 confirms that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. It goes on to state that development should not be permitted if there are reasonably available sites elsewhere at a lower risk of flooding.

The applicant has submitted a flood sequential test document (which has been revised during the life of the application). To some degree this follows the principle of the retail sequential test discussed above albeit it adopts a different site area. The study goes on to detail a number of operational and commercial considerations which dictate the survey area. These include the need to be adjacent to the A46 highway to maximise potential passing trade but also within easy reach of the Town Centre. Ultimately the test adopts the approach of considering potential sites within a 2km radius of the Newark Urban Area being between 2 and 3 ha. The following table summarises the sites selected and their subsequent reasoning for being discounted for the proposed development:

Site Name	Site Area	Flood Zone Classification	Commentary
Former Highway Depot, Great North Road	Circa 2ha	Part Flood Zone 2	<ul style="list-style-type: none">• Land ownership and availability;• Market testing revealed a lack of interest due to locational and physical characteristics and concerns over highways access and visibility;• Uncertainty over land take for proposed duelling of Newark by-pass;• High land cost.
Land north of Drove Lane	Circa 4.24ha	Flood Zone 1	<ul style="list-style-type: none">• Site in open countryside;• Detrimental noise impacts from neighbouring land uses;• Site considered too large with a

			lack of utility infrastructure.
Land north of A1133	Circa 9.64ha	Flood Zone 1	<ul style="list-style-type: none"> • Nearest bus stop 400m away; • Langford Hall Grade II* listed building nearby; • Site considered too large with a lack of utility infrastructure.
Land south of A1133	Circa 4.9ha	Flood Zone 1	<ul style="list-style-type: none"> • In designated Open Break; • Nearest bus stop 400m away; • Site considered too large with a lack of utility infrastructure.
Land north of A17	Circa 5.35ha	Flood Zone 1	<ul style="list-style-type: none"> • Site subject to extant planning permission for vehicle / plant service and repair workshop; • Forms part of NUA/MU/1 for hotel/conference facility etc. to support showground uses; • Site considered too large; • Land costs anticipated to be too high; • Close relationship to other fuel and franchise retailers.
Land south of A17	Circa 4.2ha	Flood Zone 1	<ul style="list-style-type: none"> • Employment site with planning permission; • Site considered too large; • Close relationship to other fuel and franchise retailers.
Land north and south of Southern Link Road	Not specified	Part Flood Zone 3	<ul style="list-style-type: none"> • Site in Flood Zone 3 and forms part of flood compensation for 'Newark Future' development.

For the above summarised reasons, all of the considered sites have been discounted in favour of the application site noting that the application site is deliverable, available now and actively being promoted for mixed use commercial development. However, as with the site selection process discussed above Officers have identified fundamental flaws with the approach taken in the document. Putting aside the debate as to whether the site uses should be disaggregated before even undertaking the site searches the document casts serious doubt in its robustness owing to some of the reasons for discounting other sites.

Site 4, 'Land south of A1133' has been identified as being within the Open Break designation. The commentary uses the language: *'Whilst in the designated Open Break this site has been discounted for the following reasons.'* However, Officers consider that the Open Break designation should be included within the reasons to discount the site as they equally should have been with the application site if it was a true Sequential Test.

The discussion on site 1, 'Former Highway Depot, Great North Road' refers to matters of land ownership which are not considered sufficient justification to discount the site. In this respect I would concur with comments of planning policy colleagues that,

“were such considerations taken to represent sufficient reason to determine the outcome of the sequential test then there would be little point in undertaking the exercise. It is meant to represent an objective assessment over whether there is reasonably available land at lesser flood risk.”

Doubt also arises from the discounting of site 5 ‘Land North of A17’ which is the Newark Showground site allocation. This is discounted for being too large. However, this is a site allocation for a number of uses and therefore it may be appropriate in planning terms for part of the site to come forward.

Given the identified areas of uncertainty, Officers do not consider that the applicant has adequately demonstrated that there are no other reasonably available sites at a lesser risk of flood risk capable of accommodating the proposal. On this basis the application would fail the sequential test.

Exception Test

Notwithstanding the above, paragraph 159 of the NPPF 2019 goes on to detail the requirements of the exception test if the sequential test is considered to be past. Although the above concludes that the applicant has failed to pass the sequential test, in the interest of completeness, Officers find it necessary to go on to address the exception test.

The requirements of the exception test are dependent on the level of vulnerability of the proposed development. To confirm, Table 2 of the Flood Guidance confirms that a hotel use is more vulnerable and therefore according to Table 3 should not be permitted in the functional flood plain. This is referred to in the latest comments of the Environment Agency with the explicit suggestion that the hotel and attenuation pond would need to be moved out of the functional floodplain in order to overcome their objection. Clearly this would result in a fundamental re-design of the proposal and not one that Officers are willing to advance into discussions towards given the overall objection to the site on other matters of principle.

Paragraph 3.3.2 of the applicants revised FRA ascertains that the site is *‘just outside of the functional floodplain’* but then goes on to comment at paragraph 4.3.2 that, *‘the site lies within the functional floodplain’*. Regardless of this contradiction, Officers are minded to attach weight to the comments of the Environment Agency as the relevant expertise and entirely concur that their objection to development in Flood Zone 3b is reasonable and justifiable in the context of national policy.

Notwithstanding the above, it is notable that part of the site is within Flood Zone 3a. For the exception test to be passed it should be demonstrated that the development would provide wider sustainability benefits to the community which outweigh the flood risk and the development would be safe for its lifetime and not increase flood risk elsewhere.

In terms of the former requirement, the submitted sequential test document outlines what the applicant considers to be wider sustainability benefits as follows:

Economic and Social benefits:

- *Accessible job creation for existing and future residents of both Farndon and Newark on Trent as well as the wider area.*
- *£12.5 million investment in construction*

- *Around 150 construction jobs on average per annum supported over a 15 month build period.*
- *In the region of 390 on site jobs will be created in various positions across the development as well as up to 95 additional jobs within the supply chain and induced spending.*
- *Erection of a much needed purpose-built circa 100 bedroomed “Holiday Inn Express” hotel with parking including electric car changing facilities.*
- *Construction of a petrol filling service station with ancillary shop*
- *Erection of 2,800 sq m of new office floor space*
- *£480,000 increase in annual business rates to Newark and Sherwood DC.*
- *Improving and enhancing the continued future prosperity of Newark on Trent Sub Area as a focus for sustainable economic growth.*
- *Creating a high-quality, modern design mixed-use development that makes an efficient use of land at a convenient and sustainable location.*

Environmental benefits:

- *The creation of new wildlife and biodiversity habitats.*
- *The continued preservation and securing a greater understanding of archaeological heritage features.*
- *Creation of innovative and effective flood management, flood compensation and drainage strategies*
- *Promoting sustainable travel and encouraging opportunities for sustainable modal choices.*

Some of these benefits are considered more credible than others from Officers perspective. For example, whilst it is not disputed (as already considered in the section on the impact on the economy above) that the development would bring a significant investment to the area, some of the environmental benefits are not wider benefits, but are in fact necessary to directly mitigate the development, i.e. the flood management and compensation measures. This leads neatly to the second requirement of the exception test which requires consideration of how the development can be made safe in flood risk terms. As is already alluded to in the description of the development, the application site includes an area of land solely required for flood mitigation purposes.

The comments of neighbouring parties in terms of the concern that the flood mitigation measures could have on their properties is fully appreciated and noted. In this respect it is appropriate to defer to the comments of the relevant expertise including Nottinghamshire County Council as the Lead Local Flood Authority and the Environment Agency.

NCC Flood raise no objection to the proposals subject to the consideration of drainage methods which could be secured by condition if permission were to be forthcoming.

Despite attempts made through the revised suite of documents to deal with matters of flood risk, the Environment Agency has maintained their objection to the development in their latest comments (received 12th August 2019) concluding that the applicant has failed to demonstrate that the proposal will not result in an increase in flood risk elsewhere.

The revised submission notably reduces (rather than increasing as originally suggested by the Environment Agency) the land area proposed necessary for flood compensation measures (the original scheme also had an area immediately to the south of the developable area). Moreover, the applicant has failed to address the original request of the Environment Agency to provide additional information on the flood plain compensation including volume calculations, flow routes

and how the proposed area will interact with the existing functional floodplain.

The proposal therefore fails both the Sequential and Exception Tests required by the NPPF and should be resisted on this basis.

Members attention is also drawn to the comments of Trent Valley Internal Drainage Board detailed in full above. These raise an objection to the development on the basis of the proximity of the Board maintained 'Farndon Field.' The Board require a minimum 9m clearance from the watercourse which has not been demonstrated. Again, it is not deemed reasonable to seek a re-design of the development on this basis given the overall objections in principle. It is notable that the TVIDB are not a statutory consultee and would have their own means of watercourse protection but this in any case weighs negatively against the scheme.

Impact on Land use (including contamination)

Chapter 15 of the NPPF 2019 is based on the conservation and enhancement of the natural environment with paragraph 170 confirming that planning decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital including the economic and other benefits of the best and most versatile agricultural land (land in grades 1, 2 and 3a of the Agricultural Land Classification (ALC)).

Having assessed Natural England's "*Agricultural Land Classification Map East Midlands Region (ALC005)*" the site has been graded as Grade 2 'very good' land. The 1988 MAFF Document entitled 'Agricultural Land Classification of England and Wales' confirms that Grade 2 land usually allows for a wide range of agricultural and horticultural crops to be grown.

The submitted Planning Statement acknowledges the loss of agricultural land as a negative impact of the development but not in the context of acknowledging the specific ALC category. Neither is this acknowledged through the Ground Investigation Report.

It is notable that Natural England has a statutory role in advising local planning authorities about land quality issues. Their comments are listed in full in the above consultation section but in any case do not reference matters of ALC nor the loss of agricultural land. Whilst in the context of the Districts available agricultural land the land take of the proposal is modest, the majority of the District is classified as Grade 3 with only small pockets of Grade 2 Land and no Grade 1 'excellent' quality land. The loss of Grade 2 agricultural land must therefore weigh negatively in the overall planning balance despite a lack of formal objection from Natural England.

Nevertheless Officers are conscious that part of the justification for the protection of the best and most versatile land is in recognition of potential economic benefits. As is already acknowledged above, the proposed development would contribute to the local economy (albeit in a different way) and therefore it is my view that it would not be reasonable to resist the application solely on this basis.

Policy DM10 of the DPD states that where a site is highly likely to have been contaminated by a previous use, investigation of this and proposals for any necessary mitigation should form part of the proposal for re-development. Paragraph 178 of the NPPF 2019 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

The application has been accompanied by a Phase 1 Desk Study and Preliminary Risk Assessment which includes an environmental screening report, an assessment of potential contaminant sources, a brief history of the sites previous uses and a description of the site walkover. Following this initial work, an intrusive investigation was carried out by the same consultants and the findings submitted in a Ground Investigation report. As is confirmed by the comments of Environmental Health colleagues listed above, there were generally no exceedances of screening criteria for any of the soil samples taken and therefore the risk to human health for the proposed use is considered to be low.

On the basis of the submitted documentation, I am satisfied that the site would be suitable for its proposed end uses in accordance with the requirements of the NPPF and Policy DM10 of the DPD.

Impact on Heritage (including Archeology)

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Policy CP14 of the Core Strategy requires continued preservation and enhancement of heritage assets. Local planning authorities need to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas and the setting of Listed Buildings.

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Policy DM5 also confirms that, where local distinctiveness derives from the presence of heritage assets, development will also need to satisfy Policy DM9. The policy requires that development must promote local distinctiveness and protect heritage assets (including their setting).

Section 72(1) also requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognise that a finding of harm to a listed building, or harm to the setting of a listed building, or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. The presumption is not irrefutable; it can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other, if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering. This is a matter that has been considered in a number of recent court cases (in particular: Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council (2014); The Forge Field Society v Sevenoaks District Council (2014); and Mordue (2016).

The site is just under a kilometre away from the edges of both Farndon Conservation Area to the south west and Newark Conservation Area to the north east. Given the height of the proposed buildings, there remains the potential that the proposed development could affect the setting of the nearby designated heritage assets. The application includes the submission of a Heritage Impact Assessment on this basis. However, as is noted by the comments of the Conservation Officer there are elements of the Statement that are deemed flawed on the basis it does not follow fully the recommendations outlined by Historic England guidance.

Notwithstanding the above, paragraph 190 of the NPPF requires LPA's to identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise. This has been undertaken through the assessment of the Conservation Officer detailed in full above. Travelling north along the A46 the development, due to its scale and bulk will cause harm to the setting and appreciation of the Grade I listed Church of St Mary Magdalene. The proposal (including any required tree planted screening) would also alter the character of the approach to the nearby designated Conservation Areas. Despite the contradictions of the applicants Statement, having discussed with the Conservation Officer the level of harm is considered to be at the lower end of less than substantial.

In addition to the nearby conservation areas and listed buildings, the proposed development site is in an area of known significant prehistoric archaeology. On this basis the application has been accompanied by an Archaeological Impact Assessment prepared by Allen Archaeology Limited. The report acknowledges the work which was done through the dualling of the A46 which established Late Upper Palaeolithic activity within and adjacent to the site. The works have established that there is a high potential for Palaeolithic remains to be present within subsurface deposits within the site. It is not clear if any of these remains may include *in-situ* deposits, which would be of considerable significance. Essentially it is concluded that there is a need for additional survey works and assessment prior to construction in order to establish the most appropriate means of preservation where necessary.

It is noted that the original comments of the Council's Archaeological Advisor suggested that the development may be acceptable subject to the imposition of a condition. However, since these comments, the Archaeological Advisor has reviewed a copy of a geophysical survey and field walking report for the site which has significantly changed this position to a degree that the revised comments recommend refusal. This is mirrored by the comprehensive response of Historic England (listed in full above) which ultimately strongly objects to the development as submitted.

The general thrust of the comments from relevant experts is that the site represents part of a nationally significant Late Upper Palaeolithic site dating to a period approximately 14700 BCE to 12700 BCE. Despite not being formally designated, the advice of Historic England is that the site should be considered on parity with a scheduled monument (Schedule Monuments & nationally important but non-scheduled monuments dated October 2013 and NPPF 2019 Footnote 63). The ancient monument comprises scatters of worked flint incorporated into topsoil and localised areas where these artefacts survive *in-situ* (i.e. where they fell). The development would cause substantial harm to the significance of the monument both through the loss of the 'Northern Cluster' as a result of the main development proposed and through the loss of the cover sand deposits and buried archaeological horizon in the area proposed for surface water management to the south.

The latest statement received by the applicant on 15th August does not provide Officers with any additional comfort to come to an alternative position. The attempt to use the previous archeological research works or the agricultural status for the land as justification for the development on the basis that these may have disrupted the archeological value should not be afforded any weight. Clearly agricultural practices are outside of the control of the planning application process but in any case would in no way have the same level of impact as the proposed development. The Statement itself acknowledges that:

The archaeological and geoarchaeological investigations that have been undertaken have shown that the site continues to hold significant evidence of activity, the palaeoenvironment and landscape of LUP date.

The suggestion that ground investigations may have had a damaging effect such that this development should now be allowed is completely flawed. Any investigations are with the intention of developing our understanding of the past. If this development were to be allowed then any further meaningful opportunity for understanding would be lost.

Paragraph 194 of the NPPF is clear that substantial harm to assets of the highest significance, notably scheduled monuments should be wholly exceptional. Consequently, paragraph 195 states that where a proposed development will lead to substantial harm, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm. The benefits of the scheme are already debated within the section on Flood Risk above but these are in no way considered substantial to a degree that they would outweigh the identified heritage harm.

Impact on Ecology

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

The NPPF incorporates measures to conserve and enhance the natural and local environment, including through Chapter 15. Paragraph 175 of the NPPF requires that in determining planning applications LPA's should apply principles relating to, amongst other matters, appropriate mitigation and opportunities to conserve or enhance biodiversity.

The application submission includes a Preliminary Ecological Appraisal undertaken by RammSanderson. The assessment is divided to two fields corresponding with the two separated areas of the original site location plan. Field 1 refers to where the proposed built form of the mixed uses would be positioned (as well as the previously promoted smaller area of flood compensation) and Field 2 is the field further south which would be solely developed for the purposes of flood compensation.

One of the key constraints identified by the ecological works is the presence of a wet drain forming the site boundary to the south / southwest of Field 1 and a wet drain adjacent to the southern boundary of Field 2. The report confirms that the site itself is not subject to any statutory or non-statutory ecological designations. The following summarized paragraphs outline the results and recommendations made in relation protected and notable species.

Great Crested Newts (GCN)

The wet drains have some, limited suitability for GCN however the connectivity of the drains to the River Devon increase the likelihood of fish and subsequently reduce the suitability for GCN. The site is considered to represent poor terrestrial habitat compounded by the lack of connectivity of the site given the surrounding road network. It is confirmed that the drains will be retained within the final development and should receive minimal levels of disturbance during construction. It is nevertheless recommended that a precautionary method of works document is provided for the site to reduce potential risks to individual newt. It is my Officer view that this could be conditioned if permission were to be otherwise forthcoming.

Reptiles

Two previous desk study records of grass snake were identified, the closest being 210m south of the site. The terrestrial habitats are considered sub-optimal for reptiles mainly comprising of arable land. It is nevertheless confirmed that the redirection of the drain adjacent to Field 1 will need to be preceded by an updated reptile survey prior to works commencing. Again, this could be subject to a suitable worded condition.

Birds

The small number of trees and small section of scrub are considered to be too immature to provide suitable nesting opportunities. Foraging opportunities are also considered to be limited. Works are recommended outside of bird breeding season as a precautionary measure. Nottinghamshire Wildlife Trust have also recommended the scheme incorporates different types of bird boxes.

Badgers

Some evidence of badgers were recorded including 4 previous records with 2km of the site and potential badger prints close to the site. The site is nevertheless considered to offer little in the way of sett digging opportunities. Precautionary measures are recommended to reduce the risk of impacting badgers, or any other mammals during the works. Nottinghamshire Wildlife Trust has also suggested that if permission were to be granted an updated survey be undertaken 6 months prior to works commencing.

Bats

The closest bat records apply 135m away from the site. Whilst the site may provide some very limited opportunity for foraging and commuting, the trees on site were all too immature to have developed features suitable for roosting. Given the existing lighting in the immediate site surroundings it is acknowledged that any new lighting is likely to have limited effect. It is however suggested that a dark corridor be retained to the south extent of Field 1 following standard guidelines.

Water Vole and Otter

The wet drains may provide some limited opportunities for these species although no evidence was identified during the survey. The drains were noted as being culverted at the western extent

and do join other drains to the east where it passes under the A46. The bridge did appear to have a mammal pass incorporated that would assist otters in particular in accessing the site and navigating the surrounding landscape. To ensure that the drains remain undisturbed it is recommended that a minimum exclusion buffer of 6m is installed ideally with fencing to prevent any works creep towards the drain. It is also recommended that further survey works are done prior to works commencing.

Whilst referencing other notable fauna species, the report states that due to a lack of suitable habitats, the site is not considered likely to support any other legally protected or notable species. On the basis of the above recommendations, all of which could be secured by condition without the need for further works prior to determination, I am satisfied that the proposal would not unduly affect the ecological value of the site.

I note the request from a neighbouring party that the hydro morphology of the River Devon should be explored to understand the full ecology impacts of the proposal. However, given the distance to the River (over 250m away) which is intervened by the A46; and in the context of the surveys already submitted with their associated mitigation measures, I do not consider that this would be necessary or proportionate to the development. Moreover, the nature of the proposed development which incorporates standing bodies of water and additional landscaping presents the opportunity for habitat enhancement in the long term. The proposal would therefore comply with Policies CP12 and Policy DM7 as well as the NPPF.

Other Matters

I am conscious that the proposal includes a retail offer in the form of the retail element of the petrol filling station. There is an argument to say that this could be classed as a community facility in the context of Spatial Policy 8 in that it would provide an additional shop which would be supported in principle. However, I would give this limited weight given that the retail element has clearly not been designed to specifically support the community. Indeed in order to access the retail element by foot, one would need to walk along the proposed highways access at the centre of the site and over the vehicular accesses and car parking provision to serve the units. The legibility of the petrol station therefore does not lend itself as a community benefit.

Comments during the consultation process make reference to the Statement of Community Involvement which references the submission of numerous supporting documents including a noise assessment; an air quality assessment; and a lighting assessment. These documents did not form part of the application submission and indeed the agent has confirmed that a decision was taken not to commission these documents. Officers would concur that these documents were not considered to be a validation requirement for the application but the matters are nevertheless discussed in the above appraisal sections where appropriate.

In addition to the above, comments have been received that the proposed end users would create unacceptable odours which would affect the amenity of neighbouring residents. The revised proposal now includes one A3 café use and two drive throughs (one associated with the A3 use, the other associated with the petrol station). If permission were to be otherwise forthcoming then a condition could be attached requiring details of any external plant to include odour abatement measures. It would also be reasonable to attach a condition requiring bin provision details noting the level of concern raised that the proposed end users would increase litter in the area.

Any advertisements intended for the proposed end users would need to be subject to separate

advertisement consent should development be forthcoming and it would be at this time that the impact of any proposed illumination would be assessed.

Neighbouring comments have made reference to the development affecting their right to light. For completeness this is a civil matter and is separate from daylight and sunlight as considered by the amenity assessment undertaken above.

A number of comments received have made reference to the positioning of the proposed above ground fuel tanks. The concern is that these would be a fire risk; vandalism risk or indeed could potentially lead to spillages if there is a traffic accident on the A46 which affects the site (a previous accident is referenced in the comments of Cllr Saddington). The tanks would be surrounded by a fence of over 4m in height. There are separate legislative requirements which the developer would have to comply with if the application were to be approved and therefore it is not considered justified to resist the application on the basis of the presence of above ground fuel tanks.

Overall Balance and Conclusion

The above assessment identifies that the site is heavily constrained by virtue of a number of factors, namely the Open Break designation; the flood risk classification; and its archeological value. Moreover, the site is within close proximity to the strategic road network with the A46 roundabout immediately to the north.

The proposal seeks for a mixed use scheme which, in the applicant's submission would lead to 'substantial' economic benefits including the creation of 390 on site jobs and 150 construction jobs on average. In their view, 'significant weight' should be attached to these benefits to render the scheme acceptable.

To the contrary, Officers have identified significant levels of harm amounting from the proposed development. The granting of consent would compromise the integrity of the Farndon Open Break designation affecting the landscape value of the area. It would introduce development into the functional flood plain with inadequate provisions to appropriately mitigate flood risk. It would erode archeological value of national significance. In addition, Officers remain dissatisfied that the applicant has robustly demonstrated that the proposal would be appropriate in highways safety terms or indeed that the proposed end uses are sequentially appropriate in this location noting the agenda to deliver Town Centre uses in the Town Centre. The scheme represents other notable compromises including the introduction of two office blocks totaling a height of 14m directly opposite residential properties and the loss of Grade 2 agricultural land.

Officers do not dispute that the proposal would lead to some economic benefits including the delivery of a hotel to assist in the Districts tourism needs. However, these benefits are in no way considered substantial enough to outweigh all the compounded areas of harm which force the balance firmly towards a recommendation of refusal for the several reasons outlined below.

RECOMMENDATION

That planning permission is refused for the following reasons:

Reasons

01

The developable area of the site (i.e. the site excluding the land proposed for flood mitigation to the south) falls within the Farndon Open Break designation. Policy NUA/OB/1 directs that planning permission will not normally be granted for built development within such designations. The Open Break contributes towards defining the structure and form of the Newark Urban Area giving the village of Farndon its own identity and distinctiveness. The designation therefore remains integral towards a sustainable pattern of development in and around the Newark Urban Area.

The applicant attempts to discredit the value of the Open Break partly by citing the presence of the A46 road network as severing the designation. The local planning authority wholly dispute this stance and indeed as part of the Plan Review process are currently considering the Open Break designations and their value. Whilst it is fully appreciated that the outcome of this review cannot be afforded full weight at this time, it nevertheless serves as the likely direction of travel for Policy NUA/OB/1.

Irrespective of the Plan Review process (which for the avoidance of doubt concludes the whole site should fall within the Open Break designation) the local planning authority has taken the opportunity to seek independent landscape advice on the proposal. It is confirmed that the development, as proposed, will introduce a commercial nature and imposing form and mass which is wholly out of character to the village of Farndon. The proposal would impose a major adverse visual impact even at Year 15 to numerous residential receptors.

The accepted economic benefits of the scheme are in no way considered sufficient enough to outweigh the aforementioned harm which renders the proposal contrary to Policy NUA/OB/1 (Newark Urban Area – Open Breaks) of the Allocations and Development Management DPD; Core Policy 13 (Landscape Character) of the Core Strategy DPD; the Landscape Character Assessment SPD (2013) as well as the overall Spatial Strategy for sustainable growth in the District as outlined by the Amended Core Strategy adopted 2019.

02

Both local and national planning policy are supportive of the role that town centres play requiring a sequential approach to proposals which represent town centre uses in out of centre locations. Whilst the application has been supported by a sequential test assessment, the local planning authority does not consider that this represents a robust and justifiable case for why the application site has been selected. The authority in undertaking their own assessment has identified other more sequentially preferable sites which the applicant has discounted by insufficiently evidenced reasoning. The proposal is therefore contrary to Core Policy 8 (Retail and Town Centres) of the Core Strategy DPD; Policy DM11 of the Allocations and Development Management DPD; and the NPPF (2019) and National Planning Practice Guidance, which are material considerations.

03

The site lies immediately south of Farndon roundabout serving the A46 strategic road network. The proposed end users would be served by a single access from the Fosse Road arm of this roundabout. Despite the submission of Transport Assessments and Travel Plans to accompany the application submission, the relevant highways expertise, namely Highways England and Nottinghamshire County Council as the Highways Authority remain dissatisfied that the

development could be delivered without compromising highway safety. Specifically the potential overall traffic impacts of the proposal have not been robustly evidenced and there remains cause for concern in respect to the internal parking provision and layout. The shortfall of required parking provision notably so for HGV's and coaches, could lead to an increase in on street parking detrimentally affecting the safe flow of traffic along Fosse Road which in turn is likely to impact on the operation of the A46 roundabout.

On this basis the proposal is contrary to Spatial Policy 7 (Sustainable Transport) of the Core Strategy DPD; Policy DM5 (Design) and the Allocations and Development Management DPD; and the NPPF (2019) and National Planning Practice Guidance, which are material considerations.

04

The entirety of the site is within Flood Zone 3 according to the Environment Agency mapping system. The proposed hotel and attenuation pond lie within Flood Zone 3b functional floodplain with a high probability of flooding.

The River Devon, the River Trent, and a small open field drain are the closest watercourses to the site. The River Devon is located approx. 240m to the south-west and the River Trent is approx. 380m to the north at their closest points to the site. The River Devon and the River Trent are potential sources of flood risk to the site.

The sequential test document submitted to accompany the application is fundamentally flawed in its assessment discounting sites at a lesser risk of flooding based on insufficiently evidenced reasoning.

As such the proposal fails the Sequential Test and is contrary to Core Policy 9 (Sustainable Design) and Core Policy 10 (Climate Change) of the Core Strategy DPD, Policy DM5 (Design) of the Allocations and Development Management DPD as well as the National Planning Policy Framework 2019 and National Planning Practice Guidance, which are material considerations.

05

Notwithstanding the above reason for refusal, the local planning authority has also applied the exception test as required by paragraph 159 of the NPPF (2019).

The entirety of the site is within Flood Zone 3 according to the Environment Agency mapping system. The proposed hotel and attenuation pond lie within Flood Zone 3b functional floodplain with a high probability of flooding. Table 2 of the Flood Guidance confirms that a hotel use is more vulnerable and therefore according to Table 3 should not be permitted in the functional flood plain.

In respect to the remainder of the site within Flood Zone 3a, the applicant has failed to address the original request of the Environment Agency to provide additional information on the flood plain compensation including volume calculations, flow routes and how the proposed area will interact with the existing functional floodplain.

On this basis, the applicant has failed the exception test by not appropriately demonstrating that the proposal would be safe in flood terms for its lifetime and would not increase flood risk elsewhere.

The accepted wider sustainability benefits of the scheme are in no way considered sufficient enough to outweigh the aforementioned harm which would render the proposal contrary to Core Policy 9 (Sustainable Design) and Core Policy 10 (Climate Change) of the Core Strategy DPD, Policy DM5 (Design) of the Allocations and Development Management DPD as well as the National Planning Policy Framework 2019 and National Planning Practice Guidance, which are material considerations.

06

The proposed development site is in an area of known significant prehistoric archaeological remains demonstrably of equivalent importance to a Scheduled Monument (on the basis of the advice of the LPA's own expert archaeological advisor and Historic England). The site represents part of a nationally important Late Upper Palaeolithic site dating to a period approximately 14700 BCE to 12700 BCE. Despite not being formally designated, the site should be considered on parity with a scheduled monument as defined by Footnote 63 of the NPPF 2019 and hence is subject to the policies for designated heritage assets in the NPPF.

The development would cause substantial harm to the significance of the monument both through the loss of the 'Northern Cluster' as a result of the main development proposed and through the loss of the cover sand deposits and buried archaeological horizon in the area proposed for surface water management to the south. The development would also cause less than substantial harm to the setting and appreciation of the Grade I listed Church of St Mary Magdalene and the designated Farndon Conservation Area.

Paragraph 194 of the NPPF is clear that substantial harm to assets of the highest significance, notably scheduled monuments should be wholly exceptional. Consequently, paragraph 195 states that where a proposed development will lead to substantial harm, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm.

The accepted wider sustainability benefits of the scheme are in no way considered sufficient enough to outweigh the aforementioned harm which would render the proposal contrary to Core Policy 14 (Historic Environment) of the Core Strategy DPD; Policy DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD as well as the NPPF (2019) and National Planning Practice Guidance, which are material considerations.

Notes to Applicant

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Whilst the applicant has engaged with the District Planning Authority at pre-application stage our advice has been consistent from the outset. Working positively and proactively with the applicants beyond the allowance for the submission of additional documentation would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on ext. 5907.

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

Lisa Hughes
Business Manager – Growth and Regeneration