

## PLANNING COMMITTEE – 5 NOVEMBER 2019

<b>Application No:</b>	<b>19/00584/FULM</b>
<b>Proposal:</b>	<b>Proposed development of 52 residential units including associated infrastructure (resubmission of 17/00865/FULM)</b>
<b>Location:</b>	<b>Field Reference Number 0790, Top Street, Rainworth, Nottinghamshire</b>
<b>Applicant:</b>	<b>Chevin Homes Ltd – Mr D Stack, D &amp; J Parker &amp; P I King</b>
<b>Agent:</b>	<b>Chris Calvert – Pegasus Group</b>
<b>Registered:</b>	<b>22.03.2019</b> <b>Target Date: 21.06.2019</b>
	<b>Extension of time agreed in principle</b>
<b>Link to Application Documents:</b>	<b><a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a></b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation because the recommendation is contrary to the response received from the Parish Council.**

### The Site

The site is a 1.35 hectare roughly rectangular parcel of land situated on the northern side of Rainworth, within the defined urban boundary. The site measures approximately 200m long by an average of 75m wide but is wider to the west and tapers to the east. The northern boundary is defined by the main A617 dual carriage way (the Rainworth by-pass), the southern boundary is defined by existing residential development in Top Street and dwellings fronting Kirklington Road served by a private rear access (known as Garden Avenue) and informal parking/garaging facilities on its northern side.

To the east of the site is a recently built residential development (known as Davidsons development around Hayfields – this development has a children’s play area immediately adjoining the east boundary of this application site) and there are allotments to the west of the site. Existing boundaries are defined by post and rail fencing to the north and predominantly hedge and tree planting to the other boundaries. The sole vehicular access to the site is via Top Street which runs from Kirklington Road to the site and which currently forms a dead end. Top Street has 11 existing residential properties on either side, approx. 7 of which have off-street parking provision within their residential curtilage. The rest rely on existing on-street parking.

The main body of the site was previously undulating, grassed scrubland, sloping down from east to west with a gradual fall of approx. 11m. While in recent years there have been informal footpaths that traverse the site, construction of the approved scheme is now underway. The existing housing to the south of the site (Top Street and Kirklington Road) forming part of the layout of the original colliery village is locally listed. The site is also within the Impact Risk Zones of the Rainworth Heath

SSSI (Site of Special Scientific Interest) which is also a nature reserve (approx 0.5km to the north-west of the site) and Rainworth Lakes SSSI (approx. 0.8km to the south-west of the site). Closer to the site on its western side are two Sites of Interest in Nature Conservation (SINC). The site is within Flood Zone 1 according to the Environment Agency flood maps.

Rainworth is a Service Centre within the defined settlement hierarchy and has a range of facilities and acts as a focus for service provision for a large population and rural hinterland. The site is allocated for new housing development under Policy RA/HO/1 of the Allocations and Development Management DPD.

### Relevant Planning History

**17/00865/FULM:** Proposed development of 52 residential units including associated infrastructure – *permitted 07.11.2017; development has already commenced on the site.*

**18/02357/NMA:** Application for non-material amendment to planning permission 17/00865/FULM to allow removal of detached garages to plots 18, 19, 26 and 27, amendment to house types on plots 2,17,21 and 24 and to relocate front elevation 225mm forward and flush with adjacent attached house type - Proposed development of 52 residential units including associated infrastructure – *approved 17.01.2019*

### The Proposal

Full planning permission is sought for 52 dwellings and associated infrastructure. As approved in the original scheme and amended via a non-material amendment, this comprises:

- 18x two-bed houses (including 8x two-bed bungalows)
- 29x three-bed houses
- 5x four-bed houses.

The proposal provides a mix of detached, semi-detached and terraced houses which are all to be two-storey, but also includes eight bungalows. The development comprises 18x two-bed units, 29x three-bed houses and 5x four-bed houses. The eight two-bed bungalows are situated in the north-east corner of the site. The ridge heights of the dwellings vary between 7.6 and 8.1m in height with eaves levels consistently at 4.8m. The maximum ridge height of the proposed bungalows would be 5.7 metres. Although the external appearance of the houses may be described as traditional in terms of their overall mass, form, and principally being constructed from red brick, the choice of other materials creates a more contemporary appearance. Features include grey brick detailing around doorways; horizontal, composite timber cladding between ground floor and first floor windows and in 'feature' patches wrapping around the principal and side elevations at first floor level; black UPVC rainwater goods; and smooth grey roof tiles.

There are two main public open space areas within the development, one measuring approximately 320sq m and the other 765sq m, the latter of which acts as an extension to the play area on the adjacent recent housing development to the east and is joined to it by a footpath link. There is also a smaller informal open area just to the east of the junction with Top Street. There is an access link to the allotments to the west and a footpath link to the north-west corner of the site which joins the footpath that runs along the northern boundary of the site. There is a proposed planted buffer to the western and northern boundaries as well as along the majority of the southern boundary. There is already existing hedge and tree planting along the eastern boundary.

The northern boundary adjacent to the A617 also includes an acoustic reduction scheme, the detail of which is to be agreed.

The sole vehicular access to the site is proposed from Top Street. The submitted Transport Statement outlines how the carriageway of Top Street would be widened to a minimum of 5.5m and the footway widened to 2m along the eastern side of the road, within the highway boundary. The internal roadways provide a circular loop on the western side and a cul-de sac on the eastern sides. An internal roadway runs along the southern boundary of the site and potentially allowing for future access to the narrow strip of land to the rear of the houses fronting Kirklington Road, which is within the defined allocation site but has not been included within the red line of this application. The development is served by a combination of on-site and courtyard parking (2 spaces per 2/3 bed units and 3 spaces per 4 bed unit) as well as providing for 11 parking spaces in the south-east corner of the site for use by the occupiers of Top Street. There are 10 visitor spaces provided in the south-west corner of the site.

In a change to the existing approved scheme, as detailed above, this application is seeking to provide 100% affordable housing, compared to no affordable housing provision in planning application ref. 17/00865/FULM. The proposed development would be carried out by Dukeries Homes with Nottingham Community Housing Association (NCHA) as the Registered Provider for the affordable housing.

NCHA is aware of the strong local demand for affordable housing and view this site as ideal for a range of rented/rent to buy and low cost home ownership tenures in a range of house types from 2/3/4 bed houses and 2-bed bungalows. Discussions with NSDC agreed the mix and tenure, while suitable funding has been agreed with Homes England to deliver a high quality affordable rent and sale sustainable community. The tenure mix has been identified as 25x units for affordable rent; 8x units for rent to buy (shared ownership); and 19x units for shared ownership.

The application is accompanied by the following supporting documents:

- Design & Access Statement,
- Revised Planning Statement,
- Landscape Plan
- Ecology Report,
- Topographical Survey,
- Flood Risk Assessment and up-dated Flood Risk Assessment Rev A received 25 July 2017,
- Geo-Environmental Report,
- Heritage Desk Based Assessment,
- Transport Statement, and
- Viability Report.

#### Departure/Public Advertisement Procedure

Occupiers of 55 properties were individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

#### Planning Policy Framework

#### The Development Plan

## **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

- Spatial Policy 1 Settlement Hierarchy
- Spatial Policy 2 Spatial Distribution of Growth
- Spatial Policy 6 Infrastructure for Growth
- Spatial Policy 7 Sustainable Transport
- Spatial Policy 9 Site Allocations
- Core Policy 1 Affordable Housing Provision
- Core Policy 3 Housing Mix, Type, and Density
- Core Policy 9 Sustainable Design
- Core Policy 10 Climate Change
- Core Policy 12 Biodiversity and Green Infrastructure
- Core Policy 13 Landscape Character
- MFAP1 Mansfield Fringe Area

## **Allocations & Development Management DPD (adopted July 2013)**

- Policy Ra/Ho/1 Rainworth - Housing Site 1
- Policy DM1 Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM2 Development on Allocated Sites
- Policy DM3 Developer Contributions and Planning Obligations
- Policy DM5 Design
- Policy DM7 Biodiversity and Green Infrastructure
- Policy DM12 Presumption in Favour of Sustainable Development

## **Other Material Planning Considerations**

National Planning Policy Framework 2019

National Planning Practice Guidance PPG

Newark and Sherwood Affordable Housing SPD (July 2013)

Newark and Sherwood Developer Contributions and Planning Obligations SPD (December 2013)

## **Consultations**

**Rainworth Parish Council:** *Maintain their objection to original application, with additional comments (Received 15.04.2019):*

Strongly object to the application. Objections/observations to the proposals are as follows:

- Over intensification of the site;
- The residents of Top Street rely on off-street parking outside their properties; this very small street cannot cope with the onslaught of the amount of traffic that will use this small road if the development proceeds;
- The DPD 5 year land allocation is already meeting its target; further development in Rainworth would exceed the Core Strategy target of 425 dwellings by 2026 by 77 extra dwellings already in 2017;
- Rainworth does not need another large development, 3 large developments been built in the last 5 years;
- The proposal will put more strain on already over-subscribed schools and doctors surgeries. Rainworth residents already have a monumental task in getting a doctor's

appointment at present, a further new development in Rainworth will only exasperate this problem even further;

- There are minimal employment opportunities in Rainworth. Rainworth does not have sufficient employment prospects to meet the need of local residents seeking employment at present and no potential employment projects from businesses have been brought to the attention of the Council that would support further development in Rainworth;
- Object to the pathway which leads to the existing play area (due to Rainworth Parish Council taking over maintenance of the children's play space on the completed adjoining site. The Parish Council do not wish the proposed 765 sqm open space to be linked by a footpath as they do not capacity to take on any further open space provision.
- To protect the privacy of the residents living on Hayfields to keep each development as individual areas of open space and play provision, the surrounding fence must be kept intact to ensure that there is no thoroughfare which may lead to anti-social behavior.

**Natural England:** Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

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

**Severn Trent Water:** *No comments issued further to those on the current approved scheme.*

**The Environment Agency:** *No comments issued further to those on the current approved scheme*

**NCC Highway Authority:**

This proposal is for residential development and is a resubmission of application 17/00865/FULM, however, the whole of the site is now being considered as 100% affordable housing.

As part of application 17/00865/FULM, a condition was recommended to ensure that improvement works to Top Street, subject to a suitable Section 278 agreement, were carried out prior to works commencing on site. These improvement works have not yet commenced, however, construction of the dwellings within the application site is currently ongoing, despite the details relating to Condition 7 of the planning permission not yet having been agreed with the Highway Authority.

Similarly, other pre commencement conditions have also been disregarded, however, in order to be consistent I have worded the conditions below in a similar manner to those of 17/00865/FULM. As Planning Authority you may consider whether this is the correct approach.

As such, the following conditions are recommended for this proposal:

1. No part of the development hereby permitted shall take place until details of the access within the site, from Top Street, have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any proposed structural works, visibility splays, within the development as shown for indicative purposes on drawing no. 334-PE-XX-00-DR-A-

0001 Rev. P01. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.

Reason: To ensure the development is constructed to adoptable standards and in the interests of highway safety.

2. No development shall commence unless or until the improvements to Top Street, i.e. carriageway widening to 5.5m, widening of the existing footpath on the eastern side of Top Street to provide a 2m width, and the minor improvements to the existing junction with Kirklington Road, are carried out in accordance with details to be first submitted to and agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety.

3. No development shall commence on any part of the application site unless or until a suitable access within the site has been provided from Top Street as shown for indicative purposes on drawing no. 334-PE-XX-00-DR0A-0001 Rev. P01.

Reason: In the interests of highway safety.

#### Notes to applicant

##### *Section 38 Agreement (Highways Act 1980)*

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

- a) The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.
- b) It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (and District Council) in writing before any work commences on site.

##### *Section 278 Agreement (Highways Act 1980)*

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact David Albans tel: 0115 80 40015 for details.

**NCC Rights of Way:** I have checked the Definitive Map for the area and can confirm that there are no recorded Public Rights of Way that cross the site marked in red on the Site Layout Plan.

The Rights of Way Team have no objection to the development. However strong evidence of use on site suggests that there are routes on the ground that are very well used. In not accommodating public access on this particular route the applicants face the potential risk of a claim for public rights to be acquired through usage. A claim could be triggered if public use is obstructed and it can be subsequently demonstrated by user evidence that the route has been used by members of the public for a minimum uninterrupted period of 20 years, in the belief that the use is public (without force, secrecy or with the landowner's permission). This could result in the route being legally recorded on the Definitive Map subsequent to development work commencing or being completed, which would require the claimed route, or a reasonable alternative (subject to an appropriate diversion order), to be made publicly available. In order to mitigate this risk, the applicants are advised to seek to formally divert or extinguish all routes across the proposed development site, under the provisions of Section 257 of the Town and Country Planning Act 1990. This would enable the applicants to formally dedicate the routes that they wish to accommodate on the site for public access and to formally extinguish any routes that they wish to retain as private accesses.

The Rights of Way team acknowledges that the applicant has accommodated footpath links from the site which will help to accommodate the locally desired access. The applicant will need to consider the future status of the footpath links and make sure they are constructed to the correct standard for the desired status– e.g. are they intended to be part of the adopted highway? or the applicant will need to make provision for the ongoing maintenance of any footpath links

**NCC Lead Local Flood Authority:** *Comments received 01.04.2019:*

No objections subject to the following:

No construction should start until:

1. A sustainable approach to maintenance of soakaways and SUDS features is agreed by the LPA. The current proposal for maintenance of the shared soakaways is unacceptable and must be reconsidered. Consideration should be given to the use of a management company or similar to provide a long term sustainable approach to maintenance of the SUDS features.
2. The detailed design for the surface water proposals is approved by the LPA.
3. Evidence to show no properties are put at risk of flooding from exceedance flow paths (necessary due to the sloping nature of the site) is provided.

**LCC Archaeology:** *No archaeological input required (04/04/2019)*

**NCC (Policy):**

*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 13 of the National Planning Policy Framework (NPPF) covers the sustainable use of minerals. Paragraph 142 points out that minerals are *‘essential to support sustainable economic growth and our quality of life.’*

Paragraph 143 requires that, in preparing Local Plans, local planning authorities should:

- ‘define Mineral Safeguarding Areas and adopt appropriate policies in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-minerals development, whilst not creating a presumption that resources defined will be worked; and define Mineral Consultations Areas based on these Minerals Safeguarding Areas;*
- set out policies to encourage the prior extraction of minerals, where practicable and environmentally feasible, if it is necessary for non-mineral development to take place’.*

In Nottinghamshire, these areas are defined in the emerging Nottinghamshire Minerals Local Plan and supported by Policy DM13, which also covers prior extraction.

In terms of the role of local planning authorities in planning for minerals, paragraph 144 of the NPPF states that:

*‘When determining planning applications, local planning authorities should:*

- not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes’.*

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

Paragraphs 29-41 of the NPPF address the issue of sustainable transport. The NPPF requires all developments which generate significant amounts of movement to be supported by an appropriate Transport Assessment and a Travel Plan. It also states that it should be ensured that such developments are *'located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'*.

### Education provision

Paragraph 72 states that: *'The Government attaches great importance to ensuring 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:*

- *give great weight to the need to create, expand or alter schools; and*
- *work with schools promoters to identify and resolve key planning issues before applications are submitted.'*

### 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.

### Ecology

In support of the application, a Preliminary Ecological Appraisal conducted by Ramm Sanderson Ecology Ltd. has been submitted, dated March 2017 along with a subsequent Addendum dated June 2017. These include an Extended Phase 1 Habitat Survey and a Reptile Survey.

The Preliminary Ecological Appraisal indicates that the site is dominated by poor semi-improved grassland, with areas of dense and scattered scrub along with a number of hedgerows and scattered broadleaved trees.

There are no existing buildings on the site. Overall, the site is of limited nature conservation value, however it does lie within the Impact Risk Zone for the Rainworth Heath SSSI and within 5km of the Sherwood Forest potential SPA. As such, Natural England should be consulted.

In terms of protected species:

\_ No bat survey of the site was conducted due to the retention of the majority of trees and hedgerows on site. One mature tree onsite was identified as having low bat roost potential. However, it is not clear from the plan ('Site Plan Layout') which areas of hedgerows and scrub are being retained, so NCC request clarification of this, prior to the determination of the application (see also below).

\_ The Preliminary Ecological Appraisal suggests a number of measures which could be included to mitigate against any impacts upon bat species. These are detailed in section 6.3.3.ix. NCC request the inclusion of such measures be secured through a **condition**.

\_ No bird survey of the site was conducted. Due to the implied removal of sections of hedgerow and scrub from the site, we request a standard **condition** controlling vegetation clearance during the bird nesting season (which runs from March to August inclusive).

\_ Due to the site being within 5km of the Sherwood Forest potential SPA, the site was assessed for Woodlark and Nightjar potential. It was deemed 'highly unlikely' that these species would use the area.

\_ The reptile survey addendum found no evidence of reptiles on site. However, the addendum recommends a precautionary approach to site clearance. As such, NCC request a **condition** specifying a precautionary approach to site clearance, as detailed under the Evaluation section, page 4. of the Addendum. \_ No badger survey was conducted of the site. However, due to the desktop survey finding records of Badgers within the search area, they recommend a precautionary approach to site works as detailed in section 6.3.5. xiv. NCC request this be secured through a **condition**.

\_ The Preliminary Ecological Appraisal specifies that no evidence of any Schedule 9 species were found on site (section 5.4.8.). However, the species list documented in Appendix 2, includes *Heracleum mantegazzianum* (Giant Hogweed). NCC therefore request clarification as to whether Giant Hogweed was present on site.

The proposals submitted do not include a landscaping plan for the development. NCC welcome the inclusion of two Public Open Space Areas within the development. NCC request a **condition** providing further details of the landscaping plan, in particular:

\_ A more detailed plan highlighting the hedgerows and scattered trees which are proposed to be retained and those which are to be removed.

\_ Measures to protect retained trees and hedgerows during construction.

\_ A planting plan, labelling the proposed trees with the intended species. In particular, we recommend that only native trees are planted within the Public Open Spaces and around the site boundaries (especially along the southern boundary).

\_ The use of a flowering lawn mixture (such as N14F or EL1) within the POS areas.

\_ A more detailed outline of the intended species proportions for use within any areas of hedgerow planting. The species used should be in keeping with the Sherwood Landscape Character Area.

<http://cms.nottinghamshire.gov.uk/home/environment/landimprovements/landscapecharacter.htm>

\_ The Preliminary Ecological Appraisal details possible species for inclusion in a planting plan in Section 6.4.i. However, horse chestnut (*Aesculus hippocastanum*) and whitebeam (*Sorbus aria*) should NOT be included in any planting scheme for the site. Suitable species for the area can be found following the above link.

\_ Details of establishment methods.

NCC would also request the inclusion of integrated bat and bird boxes within the development, as suggested in section 6.4.iii of the Preliminary Ecological Appraisal, and request that this is **conditioned**.

### 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 Planning Obligations Officer:** The following sets out the Planning Obligations that are being sought by Nottinghamshire County Council to mitigate the impact of the above development. Further information about the County Councils approach to planning obligations can be found in its Planning Obligations Strategy which can be viewed at:

<https://www.nottinghamshire.gov.uk/planning-and-environment/general-planning/planning-obligations-strategy>

If the Council has any queries regarding this request please contact Andrew Norton, the County Councils Developer Contributions Practitioner on 0115 993 9309 or email:

[andrew.norton@nottscc.gov.uk](mailto:andrew.norton@nottscc.gov.uk)

### NCC Education

#### Primary

The development is located in the Rainworth Primary Planning Area and would generate 11 places. As can be seen in the table below, based on the current projections, there is insufficient capacity to accommodate these pupils. As a result, the County Council would seek a contribution of £150,216 (11 places x £13,656 per place). The County Council currently intends to use this contribution to expand provision at Python Hill Primary School.

School	Planning Area	Net Capacity	Average 5 Year Projection	Housing	Local Plan Housing 5 yrs	Local Plan Housing 6-10 years	Local Plan Housing 10+ years	Surplus or Insufficient Places
Heathlands Primary School and Nursery	Rainworth	188	128	2	17	23	0	20
Blickworth Oaks Primary and Nursery School	Rainworth	315	341	7	15	18	9	-65
Lake View Primary and Nursery School	Rainworth	210	178	34	0	0	0	-2
Python Hill Primary School	Rainworth	338	307	11	0	0	1	15
	Total:	1047	954	54	32	41	11	-33

Table 1: Rainworth Primary Planning Area: School Capacity (11/04/2019). Source: NCC

#### Secondary

The provision of secondary education places will be delivered utilising the District Councils Community Infrastructure Levy. 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 application.

### NSDC Planning Policy

#### National Planning Policy

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

*Development Plan Documents:*

**Amended Core Strategy DPD**

Spatial Policy 1 'Settlement Hierarchy'  
Spatial Policy 2 'Spatial Distribution of Growth'  
Spatial Policy 6 'Infrastructure for Growth'  
Spatial Policy 7 'Sustainable Transport'  
Core Policy 1 'Affordable Housing Provision'  
Core Policy 3 'Housing Mix, Type and Density'  
Core Policy 9 'Sustainable Design'  
Core Policy 10 'Climate Change'  
Core Policy 12 'Biodiversity & Green Infrastructure'  
MFAP1 – Mansfield Fringe Area

**Allocations & Development Management DPD**

Policy Ra/Ho/1 'Rainworth Housing Site 1'  
Policy DM1 'Development within Settlements Central to Delivering the Spatial Strategy'  
Policy DM2 – 'Development on Allocated Sites'  
Policy DM3 'Developer Contributions and Planning Obligations'  
Policy DM5 'Design'  
Policy DM7 'Biodiversity and Green Infrastructure'  
Policy DM12 'Presumption in Favour of Sustainable Development

*Commentary*

This application is a resubmission of application 17/00865/FULM which was approved for 52 dwellings. This permission has been commenced and the principle of residential development on this allocated site is acceptable.

This application differs from the original purely in terms of the tenure of the housing. The original application was accompanied by a viability assessment which indicated that no affordable housing provision could be supported and the permission was granted with an accompanying Section 106 Agreement which secured a contribution towards necessary education provision in accordance with Policy DM3 Developer Contributions and Planning Obligations. The current application is also accompanied by a Viability Assessment which concludes that as the development is now for 100% affordable provision, no other contributions can be accommodated without rendering the site unviable.

The County Council calculate that this development would generate 11 primary places and are seeking education contributions accordingly. Evidence is provided that based on current projections there is insufficient capacity to accommodate these pupils.

The main issue in this application is therefore the balance to be struck between the provision of affordable housing and the contribution towards education provision which is required to make the development acceptable.

In order to be in conformity with the Development Plan the allocated site should provide for 30% of the dwellings as affordable units in accordance with Core Policy 1 Affordable Housing Provision and any necessary infrastructure which is required to support the development in accordance with DM3 Developer Contributions and Planning Obligations. Any Viability work should be independently tested.

Whilst the provision of 100% affordable dwellings is to be welcomed, this should not be at the expense of necessary infrastructure provision. There is already a deficit of primary places in the Rainworth catchment and this development would exacerbate that situation. As the only change between this current application and the extant permission relates to the tenure of the housing, consideration should be given to amending the proposal to incorporate a level of market housing which could improve the sites viability.

**NSDC Environmental Health:** From the defra noise mapping, part of the site appears to sit within the 60-64.9dB and 55-59.9 dB Lden noise contours. As such we would need a detailed noise assessment to ensure that noise exposure is not excessive both inside and outside the proposed dwellings.

**NSDC Community Projects Manager:** *No comments issued further to those on the current approved scheme*

**NSDC Parks and Amenities:** *No comments issued further to those on the current approved scheme*

**NSDC Access and Equalities Officer:** – An application for Building Regulations approval would be required and the developer should give proper attention to Approved Document M of the Buildings Regulations.

**NSDC Strategic Housing:**

Summary	
Qualifying Thresholds for Rainworth	10 units and above. Proposal sets out 52 dwellings. 30% affordable housing required.
No of affordable housing units	15 as per policy. However, the scheme is now submitted as a 100% affordable housing proposal. I note from the application that a viability assessment has been submitted stating that the scheme will be unable to provide any S106 contribution. In my view, whilst the affordable housing need is significant, the loss of an education provision would have a detrimental effect on the school, given that over 30 of the units are intended for family occupation. Therefore weight to an application that does not meet the Council’s policy requirements in this respect should be considered carefully.
Type of units i.e. an	There is demand for smaller 1 and 2 bedroom homes, particularly ground floor accommodation for older

appropriate mix of house/flat/bungalow	people. The proposed mix includes a significant amount of family housing and the Council's housing register information (see below) supports the proposal.																								
Tenure Mix	The proposed tenure mix is acceptable and provides shared owners, a tenure that is currently absent from the housing offer in Rainworth.																								
Housing Need - Register	<p>The Council has the following applicants registered for a property with a preferred area as Rainworth:</p> <table border="1"> <thead> <tr> <th>Property Type</th> <th>Number of Applicants</th> </tr> </thead> <tbody> <tr> <td>1 bedroom general needs</td> <td>81</td> </tr> <tr> <td>2 bedroom general needs</td> <td>81</td> </tr> <tr> <td>3 bedroom general needs</td> <td>72</td> </tr> <tr> <td>4 bedroom general needs</td> <td>35</td> </tr> <tr> <td>Supported Housing</td> <td>117</td> </tr> </tbody> </table> <p>Average bids for the following properties during the last 12 months:</p> <table border="1"> <thead> <tr> <th>Properties types</th> <th>Average bids</th> </tr> </thead> <tbody> <tr> <td>1 bedroom bungalow – general needs</td> <td>13</td> </tr> <tr> <td>2 bedroom flat – general needs</td> <td>8</td> </tr> <tr> <td>3 bedroom house – general needs</td> <td>26</td> </tr> <tr> <td>1 bedroom bungalow – supported housing</td> <td>4</td> </tr> <tr> <td>2 bedroom bungalow – supported housing</td> <td>19</td> </tr> </tbody> </table>	Property Type	Number of Applicants	1 bedroom general needs	81	2 bedroom general needs	81	3 bedroom general needs	72	4 bedroom general needs	35	Supported Housing	117	Properties types	Average bids	1 bedroom bungalow – general needs	13	2 bedroom flat – general needs	8	3 bedroom house – general needs	26	1 bedroom bungalow – supported housing	4	2 bedroom bungalow – supported housing	19
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2 bedroom bungalow – supported housing	19																								
Occupancy and Nominations	The Council will seek 100% nomination rights on the first lets of all affordable homes, potentially dropping to 75% for subsequent re-lets																								
Local Connection Criteria/ Cascade	To apply local connection to Rainworth followed by Blidworth, Rainworth, Farnsfield and Bilsthorpe and then to the rest of the district																								
Ownership and management	The Council expects developers to work with Registered providers for the purposes of delivering and managing the affordable housing																								

### Housing Need Summary

The District Council commissioned David Couttie Associates (DCA) to undertake a housing market and needs assessment (2014). (The Council is currently in the process of tendering for a new district wide survey). As part of the study a sub area report was provided that looked at need at a localised level. Rainworth is part of the Mansfield Fringe Sub area and provides evidence of housing need for:

- Property type: The survey states that there is demand for 83 flats/maisonettes, the highest level of need and for 44 semi-detached houses, the second highest demand for any type of property.
- Property size: 1 and 2 bedrooms account for total need for affordable housing, totalling 333 homes. 83 households require 1 bedroom and 250 households require 2 bedrooms. These numbers account for both existing and concealed households. However, the Council's housing register demonstrates there is a high demand across all types of property and in also demand for 3 bedroom family homes in this location and therefore the proposal accords with evidenced housing need.
- The adopted Local Development Framework (LDF) Core Strategy identified that there is a clear strategic need for affordable housing and the Council therefore considers that developing new affordable housing will deliver council priorities in terms of housing need. There is a breadth of evidence to support need for smaller affordable homes in this location.

### **Independent Viability Consultant:**

This Viability Appraisal Report has been produced on the instruction of Newark and Sherwood District Council to review the financial viability appraisal submitted by HEB Surveyors on behalf of Dukeries Homes Ltd.

The site has been the subject of two recent planning applications the first being approved in March 2018 (ref: 17/00865/FULM) which proposed 52 dwellings and associated works. Affordable housing was exempted from the approved application in accordance with a viability assessment submitted in support of the application, but was subject to a section 106 agreement which set out a contribution of £137,460 towards education provision.

The second application submitted on the site is the current pending application 19/00584/FULM. This application is a resubmission of application 17/00865/FULM as varied by a non-material amendment. The approved layout plan under application 17/00865/FULM is the same as the layout plan submitted under application 19/00584/FULM. However, the applicant is now proposing that 100% of the proposed dwellings are completed as affordable housing being pre sold to Nottingham Community Housing Association (NCHA) compared to none in the original approved scheme. The application is supported by a Viability Assessment produced by HEB Chartered Surveyors, dated 19 March 2019, which considers the viability of the scheme in light of the 100% affordable and the required planning obligations being the Education Contribution.

A market value scheme with no affordable or S106 contributions using a residual land value reflecting the approved permission would deliver a development profit of 20% meeting planning guidance and industry standard expectations.

If the Education contribution is introduced using the market values and all other development costs outlined above this would reduce the residual profit to 18% of GDV and therefore still be regarded as viable.

We have then appraised the proposed scheme where all of the units are to be sold to NCHA for the fixed sum of £7,053,600 inclusive of £770,000 for the site (a point we have received confirmation on from the Applicant). The reduction in the GDV impacts directly on the appraisal and reduces the profit to approximately 4% of GDV (compared to 6.6% in the submitted viability)

which does not achieve the level of profit generally expected and published in viability practice and policy guidance to be considered viable. This is without any Education contribution.

If in the above appraisal the S106 Education contribution (now revised to £150,216) is included this would further reduce the profit to 2% of GDV and again would not represent a viable scheme.

A summary of the above appraised scenarios is given below, and detailed appraisal summaries are included in Appendix B.

Sensitivity	MV		NCHA	
	With S106	No S106	With S106	No S106
GDV	£ 8,940,000	£ 8,940,000	£ 7,016,311	£ 7,016,311
TOTAL COSTS	£ 7,302,429	£ 7,131,419	£ 6,861,725	£ 6,710,695
RESIDUAL PROFIT	18% £ 1,637,571	20% £ 1,808,581	2% £ 154,586	4% £ 305,616

Table 2: Independent Viability Assessment Summary Table. Source: Independent Viability Assessment, RLB, Sep 2019

Notwithstanding the above references to normal profit requirements to prove viability the Applicant in their submission recognises that a reduced profit would be acceptable to the Developer to proceed in this particular case by virtue of the forward sale of all the units reducing their risk compared to a market value scheme.

In reviewing the outcomes and comparing the discounted values against open market values for the various house types based on the appraised values (with the higher price point value of the 2 bed semis) and leaving all other NCHA values as proposed it would take 4 Nr 2 bed semi-detached units to be sold at full market value to provide sufficient additional value to meet the Education contribution. This can be demonstrated as follows:

Values		MV	NCHA	Cost	To meet S106
Units	Nr				
2B semi	10	£ 155,000	£ 109,360	£ 45,640	4
3B semi	29	£ 180,000	£ 146,000	£ 34,000	
4B Det	5	£ 210,000	£ 174,000	£ 36,000	
2B bungalow	8	£ 140,000	£ 107,000	£ 33,000	
	52				
S106		£ 150,216			8% 4 MV
					92% 48 NCHA

Table 3: Market values of dwellings proposed on site. Source: Independent Viability Assessment, RLB, Sep 2019

Whilst it can be seen above that the proposed scheme for 100% affordable units is unviable with the Education contribution included it is also unviable if the contribution is excluded, therefore the contribution itself is not changing the viability of the scheme from one which is viable without the



contribution to one which isn't when it is included. We submit therefore that it could be regarded that the case for relief from the education contribution is not made on the grounds of viability.

**Neighbours/interested parties:** Seven letters of objection have been received. The main issues raised include:

- Frustration at loss of their view and of access across the field to the bypass;
- An extra 52 homes will cause a strain on already over stretched local infrastructure, including doctors and schools;
- Pedestrian road safety concerns raised in light of increased traffic coming in and out of Top Street;
- Noise levels on Top Street increasing as a result of increased traffic;
- Concern about car parking arrangements on Top Street and the dedicated parking spaces to be provided on the site itself – how will these be protected for residents to use?
- Top Street and Python Hill are already extremely busy at the beginning and end of the school day. Increased traffic will make the situation worse.

### **Comments of the Business Manager, Planning Development**

#### **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 adopted Local Development Framework (LDF) Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District, with the intention directing new residential development to the most sustainable locations, which are well served in terms of infrastructure and services. Spatial Policies 1 (Settlement Hierarchy) and 2 (Spatial Distribution of Growth) respectively identify Rainworth as a Service Centre with a growth strategy focused on regeneration of the community, delivering 10% of the Service Centre housing growth target, which comprises 30% of the District's overall housing target.

The National Planning Policy Framework (NPPF) promotes a presumption in favour of sustainable development, recognising that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the Framework and sees sustainable development as a golden thread running through both plan making and decision taking. This principle is reiterated in the District Council's development plan, in Policy DM12 of the Allocations and Development Management DPD.

The LDF Allocations & Development Management DPD (adopted in July 2013) identifies this site as a residential development allocation (Rainworth Housing Site 1: Policy Ra/Ho/1), providing around 54 dwellings. The DPD confirms the site as one of the two sites allocated for housing development in Rainworth. Policy Ra/Ho/1 sets out a detailed approach for the bringing forward of the site, stating that development on the site will be subject to the following:

- Preparation of an appropriate Transport Assessment as part of any planning application to identify the impact of the development on the highway network and the provision of appropriate mitigating measures;
- The provision of off-street car parking for existing residents of Top Street as part of the design and layout of any planning application to address the issue of on street parking in this location;
- The incorporation of footpaths within the layout of development that link to other areas of Rainworth and the adjoining allotments;
- Provision of suitable screening between the residential development and the allotments as part of the design and layout of any planning application;
- Developer funded improvements to ensure sufficient capacity within the public foul sewer system and wastewater treatment works to meet the needs of the development;
- The investigation of the potential impact arising from the legacy of former coal mining activities within Rainworth and the implementation of any necessary mitigation measures; and
- The investigation of potential archaeology on the site and any necessary post-determination mitigation measures secure by condition on any planning consent.

LDF Policy DM1 refers to proposals being supported for housing within the Service Centres that are appropriate to the size and location of the settlement, its status in the settlement hierarchy and in accordance with the Core Strategy and other relevant Development Plan Documents. Policy DM2 refers to development within allocated sites being supported for the intended use, provided that they comply with the relevant Core and Development Management policies relating to site specific issues.

On the basis of the site being allocated for residential development and having an extant permission (17/00865/FULM), the principle of development is accepted. However, it is still important that the detail of the proposal satisfies the relevant aspects of the development plan, addressing the requirements of the allocation policy being of particular importance in this respect. It is noted that the application site does not cover the whole of the allocation area as set out in the Allocations & Development Management DPD, with a small strip of land to the south of the application site excluded from the red line plan. However, this land is also understood to be in NCHA ownership.

### Housing Mix, Type and Density

LDF Core Policy 3 indicates that developments on allocated housing sites should achieve at least 30 dwellings per hectare (dph) and provide an appropriate mix of housing types to reflect local housing need. The housing mix, type and density will be influenced by the council's relevant development plan policies at the time and the housing market at the time of delivery. Core Policy 3 'Housing Mix, Type and Density' sets out, subject to individual site circumstances, an expectation for a minimum density of 30dph for housing sites. Whilst an appropriate mix of housing types reflecting local housing need is also sought, again subject to site circumstances, viability and localised housing need information.

Core Policy 1 states that on allocated housing sites, the District Council will require the provision of Affordable Housing, as defined in national planning policy, which is provided to eligible households whose needs are not met by the market. The District Council will seek to secure 30% of new housing development on qualifying sites as Affordable Housing, but in doing so will consider the nature of the housing need in the local housing market; the cost of developing the site; and the impact of this on the viability of any proposed scheme. In this regard the NPPF (para.64) states that where major development involving the provision of housing is proposed,

planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.

### *Mix and Type*

The following housing mix is indicated:

<b>Type</b>	<b>Tenure</b>	<b>No. of units</b>
2 bed houses	Affordable rent	9
2 bed houses	Rent to buy - shared ownership	1
3 bed houses	Affordable rent	12
3 bed houses	Rent to buy - shared ownership	7
3 bed houses	Shared ownership	10
4 bed houses	Shared ownership	5
2 bed bungalows	Shared ownership	4
2 bed bungalows	Affordable rent	4

Table 4: Housing mix and tenure breakdown

Ordinarily on a development site of 52 units the 30% affordable housing requirement would be expected to deliver 15 units on site. In this instance, the application proposes 100% of the site as affordable housing, with a split of affordable types comprising 48% as affordable rent and 52% as affordable home ownership methods (37% shared ownership and 15% rent to buy). Comments received from NSDC Strategic Housing suggest that evidenced housing need correlates with the proposal, acknowledging that the affordable housing need in Rainworth is significant. The Council's housing register demonstrates high demand across all types of property, including three bedroom family homes in this location. With the existing permission on this site as a prime example, land values and competing infrastructure demands can often dictate that affordable housing is not viable, meaning that this development would undoubtedly make a significant contribution to the District's supply of affordable homes.

### *Density*

The proposed layout of the current submitted application replicates that which was approved under planning application 17/00865/FULM and the subsequent non-material amendment 18/02357/NMA. As such, for the purposes of this report I consider that this matter satisfactorily complies with policy and does not require further consideration by the Committee.

### Impact on Visual Amenity (including the Character of the Area)

Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable

design that both protects and enhances the natural environment, supported by Policy DM5 which requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. Additionally, Policy Ra/Ho/1 requires the provision of suitable screening between the residential development and the allotments as part of the design and layout of any planning application.

The site lies on the northern outskirts of the village on land which has small undulations and slopes down from east to west. While the development would inevitably change the landscape and the character of the surrounding area by virtue of the fact that a predominantly greenfield site would become a housing site, the layout of the site corresponds with that which was approved under the original permission, therefore is determined to be in accordance with the above policy requirements. Although it is acknowledged that there appears to be limited green infrastructure within the application development itself, all the boundaries of the site show much greater planting which will assist in reinforcing the existing field boundaries and provide an appropriate soft edge to the development.

The Newark and Sherwood Landscape Character Assessment SPD (2013) describes the site as lying within the Sherwood County character area and *Blidworth and Rainworth Wooded Estatelands* SH18 policy zone. The landscape condition for this policy zone has been described as moderate, with moderate sensitivity; giving an overall landscape strategy for this area of *conserve and create*. There are two specific landscape actions for the Blidworth and Rainworth Wooded Estatelands applicable to this application: 1) To conserve and reinforce field boundary and road hedgerows where these have become degraded or lost; and 2) To create opportunities for restoring areas of heath land where appropriate. Based on the information submitted with the application it is concluded that reinforcing the vegetation planting around the perimeters of the site would reinforce the field boundary and road hedgerows.

The applicable actions for the built environment include conserving the integrity and rural character of the landscape by concentrating new developments around the existing urban fringe of Blidworth and Rainworth; creating small scale woodland/tree planting to soften new development; and conserve the existing field pattern by locating new small scale development within the existing field boundaries. Again, in this context, the built development proposed in this application largely adheres to these landscape policy zone actions.

The submitted details state that the new housing would be mostly 2-storey houses and a small number of bungalows. This corresponds with the predominant house types in the surrounding area, therefore is considered appropriate to the character of the area. It is apparent that the somewhat contemporary appearance of the proposed dwellings provides a contrast to more traditional styles seen elsewhere in Rainworth, however, it is notable amongst new-build properties that more modern materials and design features are of increasing prevalence. Subsequently, acknowledging that the proposal broadly respects existing local character, it aligns with the NPPF's objective (para. 127) of establishing a 'sense of place' through the building types and materials to create attractive, welcoming and distinctive places to live. Although permission should be refused for development of poor design, the NPPF (para. 130) is clear that where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

In design and visual amenity terms therefore, I consider that whilst the proposed development is of relatively high density, due to limited access and topography, the development will not be

visually prominent due to the proposed boundary treatment reinforcing the edges of the site to provide an appropriate landscaped setting in accordance with the aims of Policy Ra/Ho/1, Core Policy 9 and DM5.

### Impact on Highway Safety

Policy Ra/Ho/1 requires an assessment and identification of the impact of development on the highway network with mitigation measures being provided where necessary.

As per comments on the previous application, the Highways Authority raises no objection to all 52 dwellings being served off Top Street through the existing housing development and the extent of road to be adopted, along with widening of the carriageway and footway in Top Street to be controlled through a condition. I am therefore satisfied that the proposed access arrangements would meet the requirements of Policy Ra/Ho/1 in being suitable to serve the level of development and would not result in any unacceptable adverse impact upon highway safety in accordance with Spatial Policy 7 of the Core Strategy.

### Rights of Way

Comments provided by the NCC Rights of Way team indicate that there is strong evidence suggesting there are well used routes across the site. This is supported by a brief reference to 'access to the bypass' in one of the local resident's comments. While NCC notes that no formal rights of way are recorded on the Definitive Map for the area, in not accommodating public access on this particular route the applicants could potentially risk a claim for public rights to be acquired through usage. In addition it is noted that the Parish Council explicitly object to the proposed open space to the southeast of the site being connected to the play area on the adjoining site on grounds of maintenance concerns.

It is noted from the previous application that no comments were raised by the Rights of Way team. In light of this and there being no formal claims for rights of way being submitted at this stage, it would appear unreasonable to insist upon mitigation measures being introduced to the scheme as submitted.

While the Parish Council's objection to the site's connection to the play area on the neighbouring site is noted, this was based on concerns about maintenance of the site. However, NCHA has since confirmed that they will maintain the public open space on site. This will be conditioned accordingly. In addition, connectivity of non-vehicular routes is a critical component of reducing car-dependency, increasing local accessibility and delivering and sustaining high quality green infrastructure. As such, the proposed connection to the neighbouring site is considered to be in accordance with Spatial Policy 7 (Sustainable Transport) and Core Policy 12 (Biodiversity and Green Infrastructure) and is therefore supported.

### Drainage

It is acknowledged that drainage features in relation to surface water management are proposed through soak aways within the road network and therefore would be adopted and maintained by NCC through a section 38 agreement. I am advised that having pursued this through the discharge of conditions on 17/00865/FULM, a commuted sum is being prepared. NCHA have also confirmed that they will be responsible for the future management and maintenance of SUDS features on the site.

## Other Matters

For matters relating to:

- Residential Amenity;
- Ecology;
- Archaeology;
- Flooding; and
- Contaminated Land and Coal Mining,

with no change to the scheme approved under 17/00865/FULM and 18/02357/NMA I have no further comments to add to those of the committee report and delegated officer report.

## Developer Contributions

Spatial Policy 6: Infrastructure for Growth and Policy DM3: Developer Contributions and Planning Obligations, underpinned by the Developer Contributions and Planning Obligations Supplementary Planning Document, set out the Council's approach for delivering the infrastructure necessary to support growth. The SPD details the Council's policy for securing planning obligations from new developments and how this operates alongside the Community Infrastructure Levy (CIL). The SPD is a useful starting point for the applicant in setting out the approach to resolving negotiable elements not dealt with by the CIL and of the site specific impacts to make a future development proposal acceptable in planning terms.

A Viability Report has been submitted as part of the application stating that in delivering a 100% affordable housing scheme the burden of any Section 106 contributions would substantially hinder the financial viability of this development and prevent delivery.

The main areas for which developer contributions should be sought are considered below:

### *Community Facilities*

The SPD sets out that a development of 52 dwellings would equate to a community facilities contribution of £61,425 plus indexation (£1,181.25 per dwelling). The community facility contribution could be used to support community facility infrastructure improvements. However, the application does not propose any contribution towards off site community facilities due to the viability of the development overall. In this respect, as per advice from the Council's Viability Officer on the previous application, I am satisfied that the case presented remains a fair assessment of the site and the market circumstances.

### *Libraries*

The Developer Contributions SPD sets out that residential developments of 10 dwellings or more may trigger the need for a contribution towards libraries based on need. However, in respect of libraries, Nottinghamshire County Council is not seeking a developer contribution through this application.

### *Open Space*

As the proposal remains in line with that which was agreed under planning application 17/00865/FULM, whilst the contributions towards children's play space fall short of being policy compliant, the level of other open space provision is considered acceptable. With the site remaining in the ownership of the applicant (NCHA), they themselves will maintain the 1.085m<sup>2</sup> of on-site open space provision.

### *Education*

The NPPF (para.94) 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.

Furthermore, NPPG (007 Reference ID: 23b-007-20190315) indicates that Government provides funding to local authorities for the provision of new school places, based on forecast shortfalls in school capacity. There is also a central programme for the delivery of new free schools. Funding is reduced however to take account of developer contributions, to avoid double funding of new school places. Government funding and delivery programmes do not replace the requirement for developer contributions in principle. Plan makers and local authorities for education should therefore agree the most appropriate developer funding mechanisms for education, assessing the extent to which developments should be required to mitigate their direct impacts.

At the local level the Council's adopted Developer Contributions and Planning Obligations SPD (2013) states that provision of education infrastructure is an integral part of new residential development and is an important element in achieving sustainable communities. It may be a requirement of any development to make an appropriate contribution towards enhancing existing education facilities where there is insufficient capacity to support the development. It should be noted that the CIL will be used to help fund secondary education whilst the primary education needs of new development will continue to be addressed through S106 contributions. Contributions may be required for every pupil place required in excess of the projected capacity, so if the County Council calculate that spare places will exist in the catchment primary school by the time the development can reasonably be expected to generate new demand for places, their requirement will be adjusted accordingly.

In this instance, the County Council calculate that a development of 52 dwellings would generate 11 primary places and are therefore seeking education contributions accordingly. Evidence is provided that based on current projections there is insufficient capacity to accommodate these pupils. Although there is capacity in Python Hill Primary which is the closest school to the development site it should not be assumed that children from households residing on the new estate would attend this school. In line with the updated cost of primary education places set out in NCC's revised planning obligations strategy this represents an increase of £12,756, from £137,460 to £150,216 for the Rainworth Primary Planning Area.

The main issue in this application is therefore the balance to be struck between the provision of affordable housing and the contribution towards education provision. Whilst the provision of 100% affordable dwellings is to be welcomed, ideally this should not be at the expense of necessary infrastructure provision. Given that over 30 of the proposed housing units are intended

for family occupation the lack of contributions towards education is perceived to have a detrimental impact on education provision in the community.

### *Affordable Housing*

LDF Core Policy 1, along with the Council’s Affordable Housing SPD and Developer Contributions and Planning Obligations SPD seek to secure the provision of 30% on site affordable housing where the thresholds are met. As a wholly affordable housing scheme, in spite of not being completely aligned with the 60% social rented/affordable rented/40% affordable home ownership products split specified in Core Policy 1, the proposal would make a significant contribution to the affordable housing need identified in Rainworth and the District as a whole.

To some extent, being more akin to a ‘design and build contract’, the current proposal does not represent a normal development as a reduced level of risk (where the whole development is effectively pre-sold). This means that the developer is prepared to accept a reduced profit level, which in this instance is reflected in the applicant’s viability appraisal suggesting that 6.5% profit represents a reasonable commercial return. Consequently, including an education contribution at a revised figure of £150,216 reduces the profit to around 4.4%, which is below the usual expected return rate for this type of development. The independent viability appraisal confirms that if built out for the private market the scheme could withstand the education payment, but as a 100% Affordable scheme it cannot. In contrast to the applicant’s appraisal, however, the independent viability appraisal identifies a difference in the profit level, concluding at 4% (which in a scheme of this nature would typically be regarded as unviable). As such, irrespective of whether a 4% or a 6.5% profit on the scheme is accepted, it is clear that the education contribution stipulated by the County Council would render the scheme unviable.

While it is noted that the independent appraisal suggests that it is not necessarily on viability grounds that relief from the education contribution is sought and considers the potential of selling a small number of units on site at market value to fund the education contribution, NCHA has made clear its commitment to delivering a fully affordable scheme, having aligned the proposal with the Local Authority’s housing strategy and obtaining Board approval and Homes England support. In response to the above assertion NCHA has indicated that a variation to the proposed offer (i.e. inclusion of some private sale units) is not considered appropriate and would potentially hinder the drawdown of Homes England funding.

### *Summary Developer Contributions*

A summary of the policy compliant developer contributions/S.106 requirements and the anticipated level of contributions that could be accommodated within the available funds for the development to remain viable are set out below:

<b>Developer Contribution Requirement</b>	<b>Expected based on SPD for a scheme of 10 dwellings</b>	<b>Proposed contribution offer as a result of development viability</b>
<b>Affordable Housing</b>	<b>30% on site provision</b>	<b>100% affordable housing</b>
<b>Open Space / Children's Play</b>	On site provision of children’s play space of 18 sq m per	No on-site provision of children’s play space and no commuted sum



<b>Area</b>	<p>dwelling (1,008 sq m required) or off-site commuted sum of £903.22 per dwelling which equals £50,580.</p> <p>On site provision of amenity green space of 14.4sq m per dwelling (806.4sq m required).</p> <p>Maintenance of on-site site amenity green space (£275.47 per dwelling)</p> <p>Natural and Semi-natural Green Space – all residents should live within 300m of an area of between 0.2ha and 1ha in size.</p>	<p>towards off-site provision.</p> <p>On site physical provision of 1,085 sqm of amenity green space and Natural and Semi-natural green space.</p> <p>NCHA will maintain the on-site provision.</p>
<b>Education</b>	<b>£137,460</b> (equivalent of 12 primary school places)	<b>£0</b>
<b>Community Facilities</b>	£1,181.25 per dwelling = <b>£66,150</b>	<b>£0</b>
<b>Libraries</b>	<p>New library accommodation – £202.10 per dwelling</p> <p>New stock only - £45.96 per dwelling</p>	<b>£0</b> (The County Council has not requested a contribution.)
<b>TOTAL</b>		<b>Amenity green space and natural and semi-natural green space.</b>

Table 5: Developer contributions summary

The proposed contributions are limited to 1,085sqm on-site green amenity space and Natural and Semi-natural Green Space.

The Viability Report identifies a number of abnormal costs that relate to provision of an electricity substation, regrading of the levels on site and the need for retaining walls and gabion walls required in order to create an acceptable site topography necessary to achieve highway and disabled access gradients. As a result, in addition to the site being developed as a wholly affordable housing scheme and therefore not achieving full market values for the properties, no further contributions are considered viable.

In any event the viability appraisal has been independently assessed. The outcome of this report suggests that the scheme is unviable, compared to the marginal viability shown in the appraisal submitted with the application. While I therefore do not challenge the viability conclusions, the proposal falls short of the policy requirement to secure the required level of contributions towards

education, children's play space and community facilities. This is a negative of the scheme and needs to be weighed in the planning balance.

### Planning Balance and Conclusion

As a Local Development Framework housing allocation with an extant permission, the principle of development on this site is accepted and the presumption in favour of sustainable development within the NPPF and reflected in Policy DM12 is also acknowledged. In terms of decision making this presumption means approving developments that accord with the development plan without delay. The substantive matter for consideration under this application is therefore the level of compliance achieved with the policy requirements of Policy Ra/Ho/1 and the other development plan policies.

The Core Strategy settlement hierarchy (Spatial Policy 1) recognises Rainworth as a Service Centre because of the range of services and facilities it sustains, making it self-sufficient for daily needs. Nonetheless, as part of the Mansfield Fringe Area, the strategic objectives focus upon securing new employment opportunities and regeneration of vacant land and the provision of new housing. Evidently the extant permission on this site was deemed to make a valuable contribution to these objectives, despite the apparent lack of affordable housing. Conversely, the current proposal would provide substantial on-site affordable housing provision, yet would fall short of other policy requirements; namely primary education, community facilities and children's play space, as required by the Developer Contributions and Planning Obligations SPD. As such, the prevailing characteristic of this site which is effectively illustrated in both this application and 17/00865/FULM is that a compromise is required to support the delivery of this site.

Strictly speaking, in order for the current proposal to be in conformity with the Development Plan it should provide 30% of the dwellings as affordable units and any necessary infrastructure which is required to support the development in accordance with Core Policy 1 and Policy DM3 respectively. Although the education contribution sought by NCC in this instance would support provision of more school places within the catchment (some of the need for which would be generated by this development), it should be recognised that this contribution in itself would not resolve the overall shortage of available school places within the catchment. On the other hand, however, the development would provide a significant contribution of the types of affordable housing that are required and are not currently available in this area of identified need.

In considering the merits of this application, I am also mindful that the policies for housing development underpin the overarching vision and objectives of the LDF, which is to deliver 'balanced' communities. The committee must therefore also consider the desirability of clustering a concentration of affordable housing in one location versus acceptance of the fact that even as a primarily market housing scheme it is demonstrably unviable to deliver any affordable housing on site in this location.

Noting that the construction of the site is well underway, with many of the conditions on the earlier application discharged, taking into account the other infrastructure requirements (site levelling) and the overall site viability, on balance, I consider it reasonable to accept that there is no scope to provide further contributions. Although not ideal, insistence upon a contribution towards primary education would inhibit the delivery of an otherwise sustainable housing development.

Based on the site layout plan submitted with the application it is considered that the highways, flood risk, drainage, archaeology and design impacts of the proposal are acceptable subject to planning conditions.

On balance, considering the challenges affecting delivery of this site, it is considered that subject to conditions the proposal complies with the requirements of Policy Ra/Ho/1. In line with Policy DM12 and the NPPF it should be regarded as sustainable development it is recommended that full planning permission be approved.

## **RECOMMENDATION**

**That full planning permission is granted subject to the conditions shown below**

### **Conditions**

01

The development hereby permitted shall not begin later than 3 years from the date of this permission.

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

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

1695-01 A – Revised Landscape Plan

VED578 10 Rev 5 – Revised Site Plan (Received 27/09/2019)

VED578 01 Rev 1 – Revised Plot Type 2a – Hawksmoor 2-bed terrace (Received 27/09/2019)

VED578 02 Rev 1 – Revised Plot Type 2BB – Wesseden 2-bed bungalow (Received 27/09/2019)

VED578 03 Rev 1 – Revised Plot Type 3A/3C – Brackenfield/Filburn 3-bed semi (Received 27/09/2019)

VED578 04 Rev 1 – Revised Plot Type 3B – Errwood-Corner Block Variation 3-bed semi (Received 27/09/2019)

VED578 05 Rev 2 – Revised Plot Type 4A – Fernlee 4-bed detached (Received 27/09/2019)

VED578 06 – Revised Plot Type 3d – Greenfield 3-bed terrace (Received 27/09/2019)

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

Reason: So as to define this permission.

03

The proposed finished floor levels for all dwellings shall be in accordance with the details set out in plan 'Detailed Landscape Proposals c-1695-01' (Received 16 May 2019), submitted as part of 19/00927/DISCON unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential and visual amenity in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

04

The materials to be used in the construction of the external surfaces of the dwellings hereby permitted shall be as stated in the application unless otherwise agreed in writing by the local planning authority through an application seeking a non material amendment.

Reason: In the interests of visual amenity

05

Within 1 calendar month of the date of this permission, drainage plans for the disposal of foul sewage shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution in accordance with the requirements of Policy Ra/HO/1 and Core Policy 9.

06

Notwithstanding the details submitted for the maintenance of the shared soakaways, which are not hereby approved, within 1 calendar month of the date of this planning permission, a sustainable approach to the maintenance of soakaways and SUDS features together with a detailed design for the surface water proposals, which shall include evidence to show no properties are put at risk of flooding from exceedance flow paths, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full accordance with the approved details prior to any occupation of the site and retained for the lifetime of the development.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures in accordance with the requirements of Policy Ra/HO/1 and Core Policy 9.

07

None of the dwellings hereby permitted shall be occupied until details of the access within the site, from Top Street, have been completed on in accordance with the following plans:-

- General Arrangement (Drawing No: SC122/200E/P Rev E);
- Road & Sewer Sections (Drawing No: SC122/201C/P Rev C);
- Pavement Details (Drawing No: SC122/202/P);
- Drainage Details (Drawing No: SC122/203/P);
- Typical Manhole Soakaway Detail (Drawing No: SC122/213/P);
- Typical Manhole Soakaway Detail (Drawing No: SC122/215/P).

And until details of street lighting have been submitted and approved in writing by the Local Planning Authority of street lighting, which shall be implemented in full prior to any occupation of the dwellings hereby approved.

Reason: To ensure the development is constructed to adoptable standards and in the interests of highway safety.

08

None of the dwellings hereby permitted shall be occupied until the improvements to Top Street, i.e. carriageway widening to 5.5m, widening of the existing footpath on the eastern side of Top Street to provide a 2m width, and the minor improvements to the existing junction with Kirklington Road, are carried out in full in accordance with the following plans:-

- S278 Works General Arrangement (Drawing No: SC122/100/P);
- S278 Works Site Clearance & Pavement Layout (Drawing No: SC122/101/P);
- S278 Works Levels with Drainage and Contours (Drawing No: SC122/102/P);
- S278 Works – Pavement Details (Drawing No: SC122/103/P);
- Section along proposed channel alignment (Drawing No: SC122/104/P).

Reason: To ensure the development is constructed to adoptable standards, in the interests of highway safety and convenience in accordance with Spatial policy 7 and Policy Ra/HO/1 of the DPD.

09

None of the dwellings hereby permitted shall be occupied until details of the provision of the four car parking spaces within the public open space as shown on Site Plan – as proposed (Drawing No: VED578 10 Rev 5) have been submitted to and approved by the Local Planning Authority in writing. The car parking spaces shall be provided in accordance with the details approved prior to occupation of any dwellings.

Reason: To ensure the development is constructed to adoptable standards, in the interests of highway safety and convenience in accordance with Spatial policy 7 and Policy Ra/HO/1 of the DPD.

010

To avoid negative impacts to nesting birds, any clearance works of vegetation on site should be conducted between October to February inclusive, outside the bird breeding season. If works are conducted within the breeding season, between March to September inclusive, a nesting bird survey must be carried out by a qualified ecologist prior to clearance. Any located nests must then be identified and left undisturbed until the young have left the nest.

Reason: In order to protect biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2019).

011

The development shall be implemented in accordance with the details set out in the 'Construction Health & Safety Plan & Construction Method Statement' (Received 16/05/2019) (with additional

information received 12/09/2019) and the report 'Dust, Noise and Nuisance at Top Street, Rainworth (Received 16/05/2019) and shall be adhered to throughout the construction period.

Reason: In the interests of residential amenity.

012

No construction work, including site clearance and delivery of materials, shall be carried out except between the hours of 7.30 -18.00 Monday to Friday and 08.30 - 13.00 on Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

013

None of the dwellings hereby permitted shall be occupied until the acoustic screen as set out in the email '19/00584/FULM Proposed development (resubmission of 17/00865/FULM) | Field Reference Number 0790 Top Street Rainworth Nottinghamshire' (dated 02/10/2019) is fully installed along the northern boundary of the site and retained thereafter for the lifetime of the development.

Reason: In the interests of residential amenity.

014

None of the dwellings hereby permitted shall be occupied until details of all external lighting to serve the development hereby approved has been submitted to and approved by the local planning authority in writing. This should follow the guidelines set out in Bats and Lighting in the UK (BCT, 2009). The approved lighting shall be installed prior to the occupation of any of the dwellings hereby approved and retained as approved thereafter for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of biodiversity on the site.

015

The precautionary approach to ecology during construction works as outlined in paragraph 1.15 of the Preliminary Ecological Appraisal by Ramm Sanderson dated March 2017 submitted in support of this application shall be adhered to in that:

Prior to construction a pre-commencement check should be made by an ecologist to confirm that no new badger setts have become established within 30m of the site

During construction open trenches should be closed overnight or if left open include a sloping end or ramp to allow any badgers or other animal that may fall in to escape; and

Any pipes over 200mm in diameter should be capped off at night to prevent animals entering.

Reason: In the interests of protecting ecology of the site.

016

No dwellings hereby approved shall be occupied until the 4 bat boxes, 4 bird boxes and 4 hedgehog boxes as shown on plan VED578 10 Rev 5 – Revised Site Plan (Received 27/09/2019) have been installed in accordance with the agreed details prior to occupation and retained thereafter for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of maintain and enhancing biodiversity.

017

All hard and soft landscape works as shown on 1695-01 A – Revised Landscape Plan shall be carried out in accordance with the approved implementation and phasing plan. The works shall be carried out before any part of the development is occupied or in accordance with a programme agreed with the local planning authority in writing.

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

018

The approved boundary treatment shown on 'VED578 10 Rev 5 – Revised Site Plan' for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

019

The development hereby approved shall be provided in accordance with the definition of affordable housing in Annex 2: Glossary of National Planning Policy Framework or any future guidance that replaces it. The affordable housing provision shall comprise the following split:

Type	Tenure	No. of units
2 bed houses	Affordable rent	9
2 bed houses	Rent to buy - shared ownership	1
3 bed houses	Affordable rent	12
3 bed houses	Rent to buy - shared ownership	7
3 bed houses	Shared ownership	10
4 bed houses	Shared ownership	5

2 bed bungalows	Shared ownership	4
2 bed bungalows	Affordable rent	4

The affordable housing provision shall remain as such for both first and subsequent occupiers of the approved dwellings and be retained for the lifetime of the development.

Reason: To provide for an evidenced affordable housing need.

020

Prior to first occupation a scheme detailing maintenance of all external areas (including SUDS features) that are not within a defined residential curtilage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall specify the nature and frequency of the works to be undertaken and shall be maintained thereafter as agreed for the lifetime of the development.

Reason: To ensure the ongoing maintenance of public open space within the site.

**Notes to Applicant**

01

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

03

*Section 38 Agreement (Highways Act 1980)*

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

- a) The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on



which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

- b) It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (and District Council) in writing before any work commences on site.

#### *Section 278 Agreement (Highways Act 1980)*

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act.

Please contact David Albans tel: 0115 80 40015 for details.

04

The proposed development lies within a coal mining area. In the circumstances applicants should take account of any coal mining hazards to stability in their proposals. Developers must also seek permission from the Coal Authority before undertaking any operations that involve entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on Tel; 0845 7626848 or at [www.coal.gov.uk](http://www.coal.gov.uk).

05

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

#### BACKGROUND PAPERS

Application case file.

Committee Report for application 17/00865/FULM.

For further information, please contact Tim Dawson (ext. 5769).

All submission documents relating to this planning application can be found on the Council's website.

Lisa Hughes

Business Manager – Planning Development

Committee Plan - 19/00584/FULM

