

COMMITTEE REPORT – 8 SEPTEMBER 2020

Application No:	20/00711/S73M	
Proposal:	Vary Condition 19 (to allow unrestricted servicing/delivery times to Retail Units A, B and C) imposed on planning permission 19/01352/S73M	
Location:	Land Off North Gate, Newark On Trent	
Applicant:	Mr Phil Rowe, Merchant City Ltd	
Agent:	Mr Ross Bowen, WYG Planning and Environment	
Registered:	5 May 2020	Target Date: 4 August 2020 Extension of Time agreed until 9 September 2020
Website Link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q9TB9ELBH5100	

This application is being considered by the Planning Committee as it represents a Major Section 73 application that raises new material planning impacts arising from the condition variation in accordance with the Scheme of Delegation.

The Site

The site, within the Newark Urban Area, constitutes an area of vacant land approximately 1.65 hectares in extent accessed via North Gate which runs along its eastern boundary. The site abuts the edge of the River Trent to the west and forms part of the wider North Gate development site which, as discussed below, has been subject to an extensive planning history.

Situated within Newark Conservation Area, it is adjacent to the former malting of Northgate Brewery (which is Grade II listed) and the substantial former offices and brew house which fronts North Gate (also Grade II listed) to the north. The proposal site was formerly part of the Wellington Foundry, being part of an extensive industrial landscape along the river. The Millennium Bridge is located to the south-west of the site and Kings Marina is located to the north-west on the opposite side of the riverbank. To the south are offices and car parking belonging to No. 67 North Gate, together with a BP petrol filling station to the south-east which fronts North Gate. There is also a row of Almshouses adjacent to the north-east of the site that also front North Gate, which are not listed but they contribute positively to the character and appearance of the Conservation Area.

The surrounding area has a mixed commercial and residential character, comprising modern, edge of centre retail stores on the existing North Gate Retail Park, the former maltings building, adjacent to Unit C that has extant planning permission for a bar/café/restaurant use but is currently vacant, a 24 hour petrol-filling station, office development, vehicle repair garage with Edwardian and Victorian terraced dwellings opposite the site as well as the residential Almshouses and flat units within the upper floors of the converted former office brewery building.

The majority of the site is within Flood Zone 2 and a small proportion immediately adjacent to the River Trent is within Flood Zone 3 according to the Environment Agency maps.

The site, including the Warwick and Richardson's Brewery site is identified in the Allocations and Development Management DPD Map 1 - Newark North Proposals map as R/Ho PP which stands for 'retail/housing site with planning permission.'

Relevant Site History

The site has been subject to an extensive planning history which has been detailed below.

- 19/01352/S73M - Variation of condition 2 and 23 attached to planning permission 18/01137/OUTM to vary the phasing of the development and the disposition of the type of goods which can be sold around the site. Approved 13.03.2020. This permission is extant and must begin no later than 29 March 2021.
- 18/01137/OUTM - Variation of condition 25 attached to planning permission 13/00997/OUTM for Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Proposal submitted to allow the use of Unit B as A1 (non-food). Approved 6 June 2019. This permission is extant and must begin no later than 29 March 2021.
- 16/01958/RMAM - Reserved Matters Application for the erection of retail development Bulky Goods/Open A1/Open A1 Convenience uses and provision of associated parking pursuant to outline permission 13/00997/OUTM. Approved 29 March 2019.
- 15/01858/OUTM - Application to vary condition 25 of planning permission 13/00997/OUTM for Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Proposal submitted to allow the use of Unit B as A1 (non-food). Approved 9 September 2016 on appeal but the time period for applying for reserved matters approval pursuant to this outline planning permission has now expired, and this outline permission has therefore now lapsed.
- 13/00997/OUTM - Proposed Erection of Retail Development Bulky Goods/ Open A1/ Open A1 Convenience uses and provision of car parking to serve same. Application approved by Committee in December 2013 (sought to amend the retail layout on the site of 11/01067/OUTM).
- 11/01067/OUTM
(Appeal Reference APP/B3030/A/12/2174284) – Proposed erection of retail development comprising bulky good/open A1/open A1 convenience uses and provision of car parking to serve same. Appeal allowed 8 February 2013.

The Proposal

Full planning permission is sought to vary condition 19 attached to the existing outline planning permission under reference 19/01352/S73M. The existing condition 19 states:-

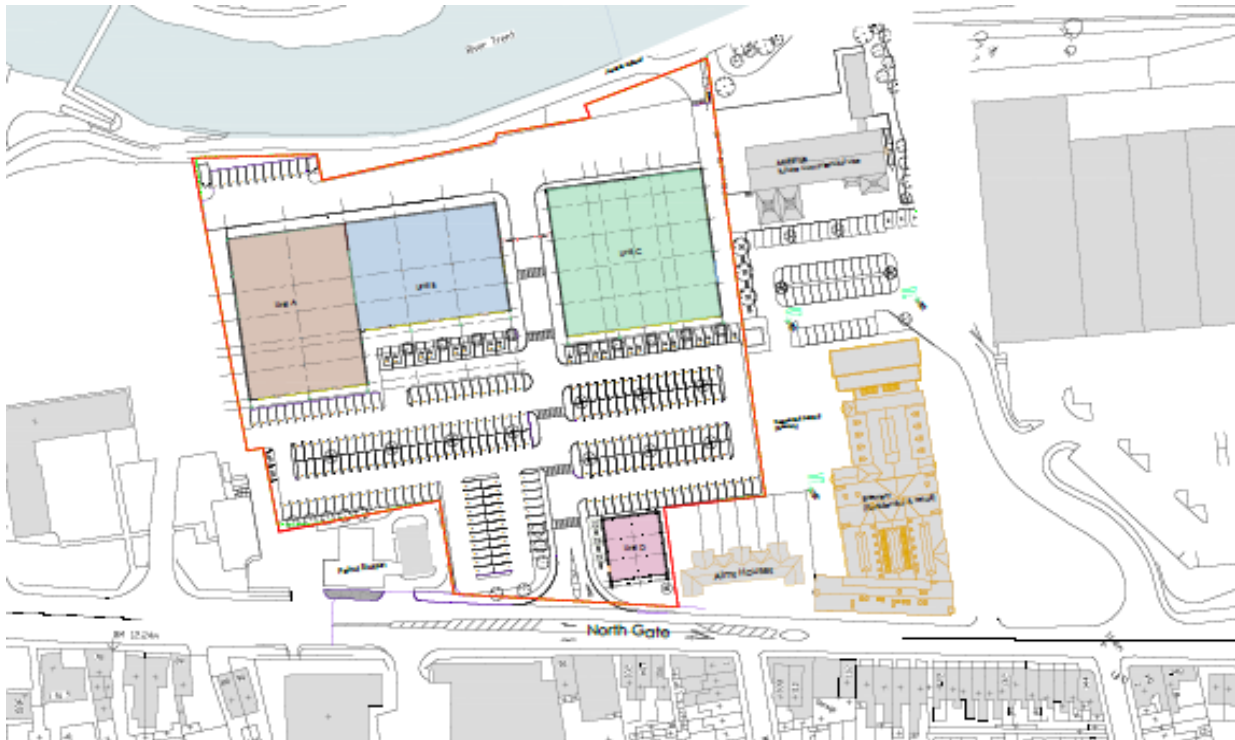
“Servicing of Units A to D of the development hereby approved shall not take place outside the following times: 9.00 am - 10.30 am and 19.00 pm- 21.00 pm.

Reason: In order to reduce conflict between customers/pedestrians and service vehicles.”

This application seeks to vary the wording of the condition to the following:-

“Servicing of Unit D of the development hereby approved shall not take place outside the following times: 9.00am – 10.30 am and 19.00 pm – 21.00pm.”

Such a revision will effectively result in no restriction times for servicing/deliveries for Units A (brown), B (blue) and C (green), as identified on the approved site layout shown below.



The supporting information initially submitted with the application states that the site has secured support from an anchor retailer in the form of Marks and Spencer, who are committed to occupying Unit C. Marks and Spencer will be unable to trade from the site within the restrictions of the delivery hours currently set out within Condition 19. The information states that the retailer is bound by operational requirements to ensure fresh food is delivered, unloaded and stock displayed prior to the store opening in the morning. Early morning deliveries are therefore required to enable Marks and Spencer to offer a fully stocked store with fresh produce prior to opening.

The statement goes on:- *“At present, deliveries into the site would not be permitted until 9.00am at the earliest (with the Marks and Spencer store opening from 8.00am) – thereby preventing the necessary day to day operation of the store from taking place. The current delivery hours are highly restrictive (i.e. just 1.5 hours in the morning and 2 hours in the evening) – if a delivery driver just misses these very narrow permitted delivery slots, there would be significant implications for the produce and the store. Essentially the commitment of Marks and Spencer to the occupation of Unit C is dependent upon the removal restricted delivery hours.”*

Additional information was requested by the Council’s Environmental Health officer during the course of the application, which has confirmed the following:-

“At present there is only one retailer committed to the scheme (Marks and Spencer) and therefore it is not possible to provide details with any certainty as to the arrangements required by Units A and B. So purely in the interests of assisting the Council, the agent has confirmed that the current expectation for Unit C is as follows:

Deliveries

- Two artic vehicles (early AM and PM) would be required each day to deliver chilled and ambient stock, this would increase at Peak trading times;
- Frozen vehicles three instances a week (artic, usually late morning or afternoon);
- Shop your way (online order) usually transit van/rigid, usually after 7am and usually one per day.
- 1 or 2 early morning newspaper deliveries by van/rigid vehicle.

Waste

A network of contractors collect the waste and typically waste collections are as follows, but do vary from store to store: -

- Food Waste (stored in wheelie bins) – twice per week
- Dry Waste (stored in cages) – three to four times per week
- Glass – once per week
- Ceramics (stored in drums) – 6 months”

It would stand to reason that Units A-B would be expected to have lower delivery requirements based on the product types that would be sold (Bulky Goods at Unit A and Comparison Goods at Unit B).

A Delivery Service Management Plan which provides details relating to the arrangements and management of deliveries has also been submitted which has been attached as Appendix A to the end of this report.

The agent has also confirmed that there are no plans for the installation of speed humps at the site.

The application was originally submitted to remove Condition 19 completely from the whole development, however, during the course of the consideration of the application, this has been amended to vary Condition 19, so that the existing restrictions would still apply to Unit D, but would be removed from Units A, B and C.

Submission Documents

- Site Location Plan (Drawing No: SW146-100)
- Covering Letter from Agent dated 30 April 2020
- E-mail from Agent sent 30 July 2020
- Delivery Service Management Plan received 30 July 2020

Departure/Public Advertisement Procedure

Occupiers of 83 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Planning Policy Framework

The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy
Spatial Policy 2 - Spatial Distribution of Growth
Spatial Policy 6 - Infrastructure for Growth
Spatial Policy 7 - Sustainable Transport
Core Policy 6 - Shaping our Employment Profile
Core Policy 8 - Retail & Town Centres
Core Policy 9 - Sustainable Design
Core Policy 10 - Climate Change
Core Policy 14 - Historic Environment
NAP1 - Newark Urban Area

Allocations & Development Management DPD

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy
Policy DM3 – Developer Contributions and Planning Obligations
Policy DM5 – Design
Policy DM9 – Protecting and Enhancing the Historic Environment
Policy DM10 – Pollution and Hazardous Materials
Policy DM11 – Retail and Town Centre Uses
Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Considerations

National Planning Policy Framework 2019
Planning Practice Guidance, on-line resource
Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Consultations

Newark Town Council – “The Town Council has considered this planning application and objects as follows: The removal of this Condition restricting delivery times will have an adverse impact on residents of nearby flats in the former brewery building. The noise arising from deliveries will

disturb the residents it is important that these are neither too late nor too early and should not be during the hours most people will be resting and sleeping.”

NCC Highways Authority – “The Highway Authority has only concerns about the servicing of Unit D which has no specific service area. Therefore, servicing for this unit will take place from the access road or from the customer car park. So, we wish to see servicing for Unit D restricted to avoid busy customer periods, but can see no reason to restrict servicing to other units.”

NSDC, Environmental Health – Following receipt of additional information and Delivery Service Management Plan received 30 July 2020, comments received 10.08.2020 – “It seems okay with me.”

Comments received 03.06.2020 – “Has the applicant provided any further information?

I would have reservations about no delivery times, especially throughout the night time due to the risk of noise and disturbance to residents in the area.

I would prefer some degree of restrictions during the night in the absence of further details as below:

1. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen), before the hours of 06:00 nor after 22:00 Monday to Sunday.

Reason: To protect the amenities of nearby residents.”

Three letters of representation have been received from two local addresses that can be summarised as follows:-

- Welcomes the development of the waste ground that backs onto his property;
- Raise objection to extension of deliveries times due to how loud the reversing beacons are on articulated trailers and other heavy vehicles, noise of trolleys being rolled on and off the vehicle or lowered on a tail lift;
- This noise would resonate around surrounding area, especially during the night time;
- Accepting deliveries after 22.00 hours and before 06.00 is totally unacceptable;
- Unrestrained traffic would create noise nuisance for neighbouring residents and if permitted, this application could be used as a precedent.

Comments of the Business Manager

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions imposed on a planning permission. In determining such an application the local planning authority is only able to consider the question of the conditions subject to which planning permission should be granted, and—

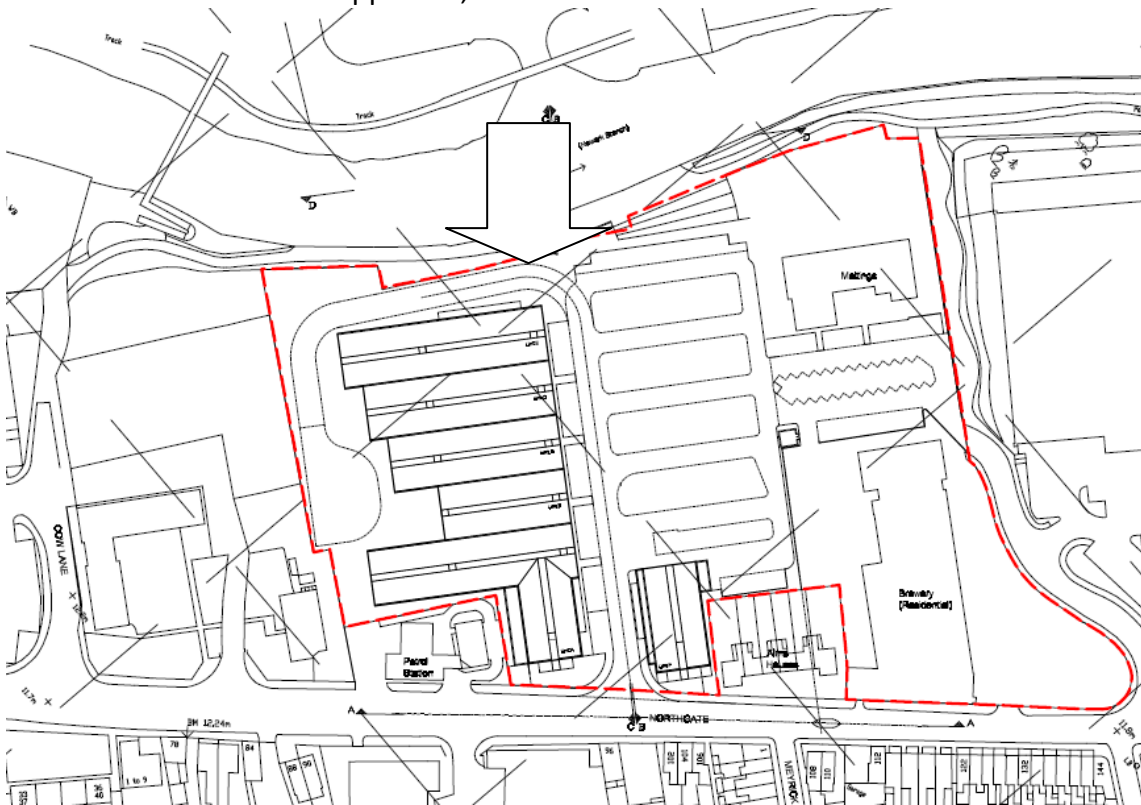
- (a) if the authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and
- (b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

Whilst the application has defined the conditions that are sought to be varied, the local planning authority has the power to vary, remove and add other conditions if minded to grant a new planning consent.

Application 19/01352/S73M was granted outline planning permission for 4 retail units on the site on 13 March 2020 subject to 36 conditions, including Condition 19 that restricted the delivery times of every retail unit to 9.00am to 10:30am and 19.00pm to 21.00pm only. It is of interest to note the reason why the condition is imposed, which is “In order to reduce conflict between customers/pedestrians and service vehicles.” It is important to fully understand the reason for the condition being imposed from previous applications.

The original planning application for the retail development was granted on appeal under reference 11/01067/OUTM. The Inspector granted permission subject to restricting the servicing of the main 5 retail units (positioned at 90 degrees to the road along the south-western half of the site – see layout plan below) to between 9.00 to 10.30 and 19.00 to 21.00 only and the reason for this condition was, “To reduce conflicts between customers and deliveries/servicing of the units and safeguard the living conditions occupiers of nearby dwellings.” The delivery times imposed are very restrictive and the timings appear to be somewhat unusual and it is not clear from the appeal file why the Inspector considered these timings were necessary, other than the fact that the then layout of this scheme showed the delivery access road to the rear of the units that would be used by delivery lorries crossed the pedestrian link between the site and the Riverside Walk (identified by large arrow on layout plan).

In relation to the small stand-alone unit between the proposed access point and the Almshouses, a condition was imposed to require a Service Management Plan in relation to the servicing of this unit to be submitted and approved, for the same reason as that set out for the main units.



Application 13/00997/OUTM then approved permission for a retail scheme consolidated down to 4 units; Units A-C re-positioned along the rear (north-western side) of the site and Unit D positioned adjacent to the access point and Almshouses. Although the committee report for this application stated:- *“The main servicing yard would lie behind the proposed units and, subject to the same limitations to servicing hours imposed by the Inspector previously I consider that there would be no loss of residential amenities for occupiers in the Almshouses or Brewery or the properties opposite the site through noise and general disturbance from comings and goings at unsocial hours from heavy goods vehicles.”* The same two conditions were indeed imposed, however, the reasons stated for the conditions were:- *“In order to reduce conflict between customers/pedestrians and service vehicles”* and *“In the interests of safety and convenience of the public using the adjacent parking area.”*

The amenity reasons for imposing the conditions were inadvertently removed in error by the officer dealing with the application at the time and as a result, these reasons have been repeated on the two S73 applications that have been approved since this 2013 consent.

In any event, it is clear that the main planning considerations that need to be assessed as part of this application would relate firstly to the potential issues of conflict between all users of the site and secondly the impact on the residential amenities of nearby occupiers.

User Conflicts

Spatial Policy 7 of the Core Strategy states development proposals should provide safe, convenient and attractive accesses for all.

The proposed layout of the extant development on the site separates the pedestrian link between the site and the Riverside Walk from the access road that would be used by delivery vehicles. As such, the potential conflict between pedestrian customers and delivery vehicles would be reduced by the latest approved layout of the development.

It is also considered that restricting the delivery of goods to between 9.00am to 10.30am and 19.00pm and 21.00pm only, is likely to serve to increase conflict between service vehicles and customers/pedestrians, rather than reduce it. Condition 18 sets out the opening hours of the retail units (8.00am to 20.00pm). On this basis, customers will be accessing the site during the specified delivery hours (other than for an hour beyond 20.00pm) when the retail units would be closed to customers – thereby resulting in a one hour slot in which delivery vehicles could gain access to the site without any conflict with customers/pedestrians. The agent therefore presents the case that by removing the servicing/delivery restrictions, delivery vehicles would be able to access the site outside the core times in which members of the public visit the site.

The Highway Authority has confirmed that they would raise no objection to the removal of the delivery restrictions for Units A, B and C and therefore the proposal is not considered to result in any highway safety harm.

The agent states that the proposal would also reduce traffic/highway congestion as well as pollution/air quality aspects and that his client would be willing to require any permission to be subject to compliance with the Delivery Service Management Plan attached to the end of this report, which seeks to manage and monitor the service/deliveries at the site.

It is therefore concluded that the proposal is likely to reduce conflict between users of the site, however this also needs to be weighed against the impacts on amenities.

Amenity Impacts

The NPPF at paragraph 127 states that development should create places with a high standard of amenity for existing and future users. Policy DM5 of the Allocations and Development Management DPD states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact and new development that cannot be afforded an adequate standard of amenity or creates an unacceptable standard of amenity will be resisted.

The servicing yards of Units A, B and C would be located to the rear of these buildings, behind which is the Riverside Walk that runs along the bank of the River Trent, and on the other side of which, is the marina to the north-west. The nearest residential dwellings to these yards would be on the other side of the retail building in the upper floor flats in the former officer brewery building to the south-east of the site, which are approx. 65m away. The comments of concern raised by two local residents have been noted and taken into account and any impact on their residential amenity must be carefully considered in line with the NPPF which seeks a high standard of amenity.

The mass of the building of Unit C is considered likely to reduce the direct transmission of noise to the south-east of the site, where the nearest residential units are located. These flats have a similar relationship with the retail units and their rear service yards at the existing retail park to the north of the application site, where there are no servicing or delivery restrictions imposed. The Council's Environmental Health officer has confirmed that they have received two noise complaints (one of which related to a group of people congregating at the site under the influence of alcohol); and one when the end unit was occupied by Big W approx. 10 years ago, however, it is also acknowledged that this might be that the units are predominantly occupied by comparison good uses where there is unlikely to be the same pressures for deliveries during unsociable hours.

It is also recognized that the site is located on a busy thoroughfare road within a mixed use area of the town where residential properties are already in very close proximity to the adjacent 24 hour petrol filling station on one of the busiest routes through the town.

The agent states that boundary treatments would act to screen out light overspill and headlights from delivery vehicles on entering and exiting the site (e.g. 1.8m high venetian hit and miss fencing to the boundary with the Almshouses) and that a condition that requires compliance with the submitted Service Delivery Management Plan (attached) for Units A, B and C would be acceptable to his client and Environmental Health officers have confirmed that this could be adequately enforced by them and that should any issues arise regarding disturbance that they could serve a Community Protection Notice or Abatement Notice to deal with the matter.

Some information has also been submitted regarding the numbers of vehicles that would be required to service Unit C on a weekly basis but very approximate rather than precise timings for comings and goings have been given. The agent has confirmed that the main daily deliveries would be by two artic vehicles (early AM and PM) which would increase at "peak trading times." Further clarification has been sought from the agent on more precise timings and what is meant by peak trading which will be reported to the Committee on late items. It is considered that a condition seeking to enforce the number of vehicle deliveries to Unit C, whilst maybe desirable, is unlikely to be an enforceable one in reality.

Whilst it is acknowledged that an approval of this application as it stands would mean deliveries could take place in the middle of the night, it is considered that a combination of the distance between the rear service yard and residential properties, the likely noise buffer offered by the built form of the building, together with the character of the surrounding area and a condition requiring compliance with the Service Delivery Management Plan would lead to an on-balanced support for the proposal. This is also offered in light of the fact that Units A and B would be occupied by a bulky goods and comparison goods uses where deliveries are unlikely to require unsociable hour deliveries and would therefore unlikely to result in any cumulative impacts on the site.

The retention of the limited servicing/delivery restrictions on Unit D is considered to be appropriate given its different positioning on the site and its closer proximity to residential living accommodation.

Other material planning considerations such as impact on the vitality and viability of the town centre, impact on heritage assets, highway safety, flood risk, archaeology and contaminated land matters have all been considered within the applications already approved on the site. Given that the current proposal relates to servicing/delivery arrangements, there is no reason to deviate from the approval of previous applications and therefore it is found that the scheme is acceptable in relation to all other material planning considerations.

Just for additional clarification, it has been established through the consideration of previous applications that the reserved matter approval granted under reference 16/01958/RMAM although specifically pursuant to the 13/00997/OUTM outline consent in the description of the proposal, can inure for the benefit of any subsequent S73 outline consent provided that outline is approved and implemented before the time limit set out within the existing reserved matter approval, which is stated as 29 March 2021.

Conclusion and Planning Balance

It is considered that the proposal is likely to result in reduced conflict between all different users within the site, to the benefit of highway safety. The proposed impact on amenity is considered to be much more of a balanced decision, however, taking into account the distance of approx. 65m to the nearest residential properties, the built form of Unit C that would offer a buffer from noise and the general characteristics of the area, together with the submitted Service Delivery Management Plan that can be conditioned to control operational activities, it is considered that the proposal is unlikely to result in unacceptable impacts from noise and disturbance to other nearby uses. It is therefore recommended that the revised wording of Condition 19 would read:-

“All servicing/delivery arrangements to Units A, B and C of the development hereby approved shall be carried out in strict accordance with the submitted Service Delivery Management Plan. Servicing of Unit D of the development hereby approved shall not take place outside the following times: 9.00 am - 10.30 am and 19.00 pm- 21.00 pm.

Reason: In order to reduce conflict between customers/pedestrians and service vehicles and safeguard the living conditions of occupiers of nearby dwellings.”

RECOMMENDATION

That outline planning permission is approved subject to the conditions and reasons shown below

Conditions

01

The development hereby permitted shall begin not later than 29 March 2021.

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

02

The development hereby approved shall be built out in a single phase or in no more than two phases in accordance with Phasing Plan SW146-PH1 001. In the case of the latter, the first phase shall include:-

- all surface water attenuation works (as set out in Conditions 5 part (1), 6 and 7) across the areas identified as Phase 1 and Phase 2;
- all archaeological works (as set out in Condition 3) across the areas identified as Phase 1 and Phase 2;
- all land contamination works (as set out in Condition 4) across the areas identified as Phase 1 and Phase 2;
- all provision of compensatory flood storage (as set out in Condition 5 part (2));
- the pedestrian link between the development and the Riverside Walk identified within Phase 1 (as set out in Condition 9).

Reason: In the interests of the proper development of the site and in compliance with previously imposed conditions.

03

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 (defined by Condition 2) in full accordance with:

- SW146-001 Archaeology Statement;
- Method Statement for the Archaeological Excavation and Recording at the Former Warwick's and Richardson's Brewery, Northgate, Newark by Archaeological Project Services Nov 2008;
- Archaeological Evaluation and Watching Brief on Land at the former Warwicks & Richardsons Brewery, Northgate, Newark by Archaeological Project Services Report No: 34/11 dated March 2011;
- 1 March 2018 submission of revised Mitigation Strategy and Method Statement for Archaeological Monitoring and Recording at North Gate, Newark by Peak and Trent Archaeology dated February 2018;

comprising the written scheme of investigation submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. The developer shall afford access to the site at all reasonable times to any archaeologist nominated by the local planning authority and allow the archaeologist to observe the excavations and record items of interest and finds.

Reason: In order to afford appropriate protection for the potential archaeological significances of the site.

04

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

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 in full accordance with:

The scheme shall be implemented in full accordance with the Detailed Quantitative Risk Assessment at The Maltings Retail Park, Northgate, Newark, Report No: NE2711F, October 2016 by Sub Surface North East Limited submitted to discharge Parts A and B of this condition, and approved on 8 January 2019 under application reference 18/02320/DISCON.

Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

05

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) 03/09/13-NWT/1500/FRA Rev C-BWB Consulting (D Harvey) and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1:100 critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
2. Provision of compensatory flood storage on a level for level basis as detailed in Appendix D and the revised Floodplain Compensation Plan (Drawing No: MNN-BWB-DDG-XX-DR-D-1500 Rev P5) which was approved as a non-material amendment on 28 December 2018 under reference 18/01160/NMA.
3. Finished floor levels are set no lower than 11.87 m above Ordnance Datum (AOD). (The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 (defined by Condition 2) of points 1 and 2 set out above. Point 3 shall be fully implemented prior to occupation of any of the buildings pursuant to each Phase as defined by Condition 2.

Reason: 1) To prevent flooding by ensuring the satisfactory storage of disposal of surface water from the site. 2) To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided. 3) To reduce the risk of flooding to the proposed development and future occupiers.

06

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 (defined by Condition 2) in full accordance with:-

- BWB Statement Summary - WJ/NTH2312 - dated 23 Nov 2016;
- 500 - P1 - Existing Catchment Areas Layout;
- 501 - P1 - Proposed Catchment Areas Layout;
- 550 - P1 - Proposed Drainage Layout;
- 560 - P1 - Drainage Details Sheet 1 of 2;
- 561 - P1 - Drainage Details Sheet 2 of 2;
- WJ 25.11.16 BWB Micro-Drainage Model;
- WJ25.11.16 Micro-Drainage Network Details;

before the development of both Phases is completed which comprises the surface water drainage scheme submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.

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 system.

07

Phase 1 shall include the full implementation across both areas identified as Phases 1 and 2 (defined by Condition 2) in full accordance with:-

- BWB Summary Statement - WJNTH2312 - dated 23 November 2016;
- Proposed Drainage Layout (dated 24.11.2016 ref: NTW/2380/550) incorporating the separators into the drainage plan;

Submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.

Reason: To protect ground and surface water from pollution.

08

No part of the development hereby permitted shall be brought into use until:

- a) details of (i) the permanent closure of existing site accesses that have been made redundant as a consequence of this permission and (ii) the reinstatement of the access crossing as a footway, have been submitted to, and approved in writing by, the Local Planning Authority.
- b) The works have been carried out in full accordance with the approved details.

Reason: In the interests of Highway safety.

09

The approved scheme (to provide a pedestrian link between the development and the Riverside Walk) shall be implemented in full accordance with Drawing Nos: 03/360/16 Rev A and SW146-405A submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON prior to first occupation of any buildings pursuant to Phase 1 as defined by Condition 2.

Reason: To provide adequate and safe access to neighbouring developments and promote sustainable transport links.

010

No part of the development hereby permitted shall be occupied within each Phase pursuant to Condition 2 until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority (LPA). The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the LPA and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the local planning authority.

Reason: To promote sustainable transport.

011

The approved measures (to prevent the deposit of debris upon the adjacent highway) shall be implemented in accordance with Drawing No: SW146- 101A and SW146-CM01 Issue A submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON prior to any other works commencing on site within each Phase pursuant to Condition 2.

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

012

No part of the development hereby permitted shall be brought into use within each Phase pursuant to Condition 2 until provision has been made within the application site for parking of cycles in accordance with Drawing No: SW146-400B submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. That area shall not thereafter be used for any purpose other than the parking of cycles. No part of the development hereby permitted shall be brought into use until provision has been made for the parking of cycles in accordance with the approved scheme within each Phase pursuant to Condition 2.

Reason: To promote sustainable transport.

013

No part of the development hereby permitted shall be occupied or brought into use within each Phase pursuant to Condition 2 until the parking/turning/servicing areas are provided in accordance with the approved plans (Proposed Site Plan - Drawing No: SW146-102 Rev C). The parking/turning/servicing areas shall not be used for any purpose other than parking/turning/loading and unloading of vehicles.

Reason: To ensure that adequate off-street parking, servicing and turning provision is made to reduce the possibility of the proposed development leading to on-street parking in the area, and in the interests of safety and convenience on the site.

014

Development shall be undertaken in accordance with the approved building details approved on 29 March 2019 under reference 16/01958/RMAM and listed below.

- Proposed Units A, B, C Elevations (Drawing No: SW146-300 Rev B) received 4 February 2019;
- Proposed Units A, B, C Elevations Sheet 2 (Drawing No: SW146-301 Rev B) received 4 February 2019;
- Proposed Units A, B, C Elevations Sheet 3 (Drawing No: SW146-302 Rev B) received 4 February 2019;
- Proposed Unit D Elevations Sheet 4 (Drawing No: SW146-303 Rev A) received 4 February 2019;
- Proposed Visuals (Drawing No: SW146-304 Rev A) received 4 February 2019.

Reason: In the interests of visual amenity.

015

Development shall be undertaken in accordance with the hard and soft landscaping details approved on 29 March 2019 under reference 16/01958/RMAM and listed below,

- Detailed Landscape Proposals (Drawing No: 01/360/16 Rev B) received 4 February 2019;
- Detailed Landscape Proposals 1 of 3 (Drawing No: 02/360/16 Rev B) received 4 February 2019;
- Detailed Landscape Proposals 2 of 3 (Drawing No: 03/360/16 Rev B) received 4 February 2019;
- and
- Tree Grilles added to Carpark 3 of 3 (Drawing No: 03/360/16 Rev B) received 4 February 2019.

Reason: In the interests of amenity and biodiversity.

016

The approved soft landscaping shall be completed during the first planting season following the commencement of the development within each Phase pursuant to Condition 2, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping shall be implemented in full prior to each Phase pursuant to Condition 2 being first brought into use.

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

017

No raw materials, equipment, finished products or waste materials shall be stored outside buildings other than in accordance with Drawing Nos: SW146-102 Rev C, SW 146-WM01, SW146-103 Rev A and the Waste Removal, Management and Recycling Statement submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON. Any external storage shall be located in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

018

The premises (Units A to D) hereby approved shall not be open to members of the public outside the following times: 08.00 a.m. to 20.00 p.m. on any day.

Reason: In the interests of amenity and to reduce conflicts between customers and deliveries/servicing of the units.

019

All servicing/delivery arrangements to Units A, B and C of the development hereby approved shall carried out in strict accordance with the submitted Service Delivery Management Plan. Servicing of Unit D of the development hereby approved shall not take place outside the following times: 9.00 am - 10.30 am and 19.00 pm- 21.00 pm.

Reason: In order to reduce conflict between customers/pedestrians and service vehicles and safeguard the living conditions of occupiers of nearby dwellings.

020

Unit D shall be serviced only in accordance with the agreed Plan set out on Drawing Nos: SW146-103 Rev A and SW 146-SM01 submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON.

Reason: In the interests of safety and convenience of the public using the adjacent parking area.

021

No part of the development hereby permitted within each Phase pursuant to Condition 2 shall be occupied or brought into use until full details of any proposed air conditioning equipment or other external plant has been submitted to and approved in writing by the local planning authority. The approved equipment and plant shall be installed strictly in accordance with the approved details.

Reason: In the interests of residential amenity.

022

The approved details (security measures) approved on Drawing No: SW146-104 Rev C submitted to the Local Planning Authority and approved on 8 January 2019 under application reference 18/02320/DISCON, shall be installed on site prior to first occupation within each Phase pursuant to Condition 2.

Reason: In the interests of designing out crime and in order to fulfil the duties under Section 17 of the Crime and Disorder Act.

023

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and provisions of the Town and Country Planning (Use Classes) Order 1987 as amended (and any order revoking, re-enacting or modifying either of these Orders):

Unit A on Drawing SW146-102 Rev C shall not exceed 1,520 square metres gross floorspace and shall not be used for the sale of any goods (including convenience goods) other than those within the following categories:

- (a) Electrical goods and other domestic appliances
- (b) Bathroom suites - furniture and accessories; kitchen units - furniture and accessories, floor and wall tiles
- (c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles
- (d) Motor and cycle goods
- (e) Furniture, bedding, floor coverings, soft furnishings and textiles;

Unit B on Drawing SW146-102 Rev C shall not exceed 2,225 square metres gross floorspace and shall not be used for the sale of convenience goods;

Unit C on Drawing SW146-102 Rev C shall not exceed 2,480 square metres gross floorspace. Of this floorspace, no more than 1,520 square metres shall be permitted to sell an unrestricted range of convenience and comparison goods. The remaining floorspace shall only be used for the sale of comparison goods within the following goods categories:

- (a) Electrical goods and other domestic appliances
- (b) Bathroom suites - furniture and accessories; kitchen units - furniture and accessories, floor and wall tiles
- (c) DIY products, materials, tools and machinery for repair maintenance and improvement of the home, the garden and of motor vehicles
- (d) Motor and cycle goods
- (e) Furniture, bedding, floor coverings, soft furnishings and textiles;

Unit D on Drawing SW146-102 Rev C shall not exceed 528 square metres gross floorspace and shall not be used for the sale of convenience goods, but may be used for the bulk sale of wine and spirits.

Reason: In order to protect the vitality and viability of the town centre from significant harm, to ensure that the range of goods sold is appropriate for the sites location and layout and to control the character of the development.

024

No retail unit shown on Drawing SW146-102 Rev C shall be subdivided to create a unit with a gross floorspace of less than 523 square metres.

Reason: In order to protect the vitality and viability of the town centre from significant harm and to control the character of the development.

025

No development shall commence on any part of the application site unless or until a priority junction on Northgate has been provided as shown for indicative purposes only on drawing BMT/120/TT/001 Rev P3 to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and capacity.

026

The development hereby permitted shall not be commenced unless or until improvements to the Northgate/Queens Road junction has been made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety and capacity.

027

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 7, Class A of the Order in respect of:

- The extension or alteration of a shop (including the insertion of mezzanine floors)

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

Reason: In order to protect the vitality and viability of the town centre from harm.

028

Otherwise than in the circumstances set out below, for a period of five years from the date on which the development is first occupied, no retail floor space hereby approved shall be occupied by any retailer who at the date of the grant of this permission occupies retail floor space which exceeds 400 sqm [Gross External Area] within Newark Town Centre.

Such occupation shall only be permitted where such retailer as identified above submits a scheme which commits to retaining their presence as a retailer within Newark Town Centre for a minimum period of 5 years following the date of their proposed occupation of any retail floorspace hereby approved, and such scheme has been approved in writing by the Local Planning Authority.

Reason: To safeguard the vitality and viability of Newark Town Centre in accordance with the NPPF and Core Policy 8 of the Newark and Sherwood Amended Core Strategy (2019) together with Policy DM11 of the Allocation and Development Management DPD (2013).

029

At no time shall the gross floorspace of open, unrestricted A1 use exceed 1,520 square metres across the whole development.

Reason: To safeguard the vitality and viability of Newark Town Centre in accordance with the NPPF and Core Policy 8 of the Newark and Sherwood Amended Core Strategy (2019) together with Policy DM11 of the Allocation and Development Management DPD (2013).

030

The development hereby approved shall be carried out in accordance with the Reserved Matters approval under reference 16/01958/RMAM dated 29 March 2019.

Reason: The time limit for the submission of reserved matters approval has now expired and this is the only detailed matters approval that can be granted within the timescale set out under the 13/00997/OUTM consent.

031

This permission shall not be exercised in addition to the extant planning permissions Ref No 13/00997/OUTM granted by the Local Planning Authority on 4 December 2013 and Ref No 18/01137/OUTM granted by the Local Planning Authority on 6 June 2019, but shall be an alternative to these permissions.

Reason: To safeguard the vitality and viability of Newark Town Centre in accordance with the NPPF and Core Policy 8 of the Newark and Sherwood Amended Core Strategy (2019) together with Policy DM11 of the Allocation and Development Management DPD (2013).

032

The development authorised by this planning permission shall not be commenced if at any point prior to the date of commencement the development authorised by:

- (i) planning permission Ref No 13/00997/OUTM granted by the Local Planning Authority on 4 December 2013; and/or
- (ii) planning permission Ref No 18/01137/OUTM granted by the Local Planning Authority on 6 June 2019,

has already been commenced.

Reason: To safeguard the vitality and viability of Newark Town Centre in accordance with the NPPF and Core Policy 8 of the Newark and Sherwood Amended Core Strategy (2019) together with Policy DM11 of the Allocation and Development Management DPD (2013).

033

Prior to any of the Phase 2 of the development hereby approved being first brought into use, the palisade fencing shown on Drawing No: SW146-SHO-01 Rev B, shall be removed from the site.

Reason: In the interests of the visual amenity of the area.

034

Notwithstanding the details on the approved plan, the palisade fencing shown on Drawing No: SW146-SHO-01 Rev B shall not have an aluminium finish, but shall be powder coated in green prior to installation and shall be retained as such whilst it remains on the site.

Reason: In the interests of the visual amenity of the area.

035

Prior to the installation of the 3.1m high mesh fencing shown on Drawing No: SW146-SHO-01 Rev B, details of the design and appearance of the anti-climb mechanism to be installed at the top of the fence shall be submitted to and approved in writing by the Local Planning Authority. Only the anti-climb details that have been agreed shall be installed.

Reason: In the interests of the visual amenity of the area.

036

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

- Location Plan (Drawing No: SW146-100);
- Proposed Site Plan (Drawing No: SW146-102 Rev C);
- Proposed Site Plan Phasing Plan (Drawing No: SW146-PH1 001);
- Site Hoarding Layout Plan (Drawing No: SW146-SHO- 01 Rev B).

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.

Notes to Applicant

01

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

02

An advisory booklet is available Developing Land in Nottinghamshire: A guide to submitting planning applications for land that may be contaminated. This is available from Planning Services, the Proactive Team of Environmental Services or the NSDC website using the following link:
<http://www.newark-sherwooddc.gov.uk/pp/gold/viewGold.asp?IDType=Page&ID=7895>.
Prior to undertaking an intrusive site investigation the applicant is advised to consult with:

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

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

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

to prevent damage or harm to the historic environment.

03

The Environment Agency advises that further information on SUDS can be found in:

The CIRIA C697 document SUDS manual

HR Wallingford SR666 Use of SUDs in high density developments

The Interim Code of Practice for Sustainable Drainage Systems. The Interim Code of Practice provides advice on design, adoption and maintenance issues and a full overview of other technical guidance on SUDS.

The Interim Code of Practice is available on www.environment-agency.gov.uk and CIRIA's website at www.ciria.org.uk

04

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 01623 520735 for details see www.leics.gov.uk/index/htd.htm

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

Advice regarding travel plans can be obtained from the travel plans officer at Trent Bridge House, Fox Road, West Bridgford, Nottingham NG2 6BJ, tel 0115 9774523.

05

The applicant is advised that under the CIL Regulations improvements to the Northgate/Queens Road junction will be made to provide MOVA traffic signal control and nearside pedestrian detection facilities (or similar arrangements to provide the same effect) and a priority junction shall be provided on Northgate.

06

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

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development and is being sought under the reserved matters approval under reference 16/01958/MRAM.

07

The applicant is advised that a public sewer is located within the 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 the proposal further.

08

"The applicant is advised to contact the Works Engineers team of the Canal and River Trust at the Fazeley office (contact Jonathan Pritchett on 01827 252052) to ensure that any necessary consents are obtained and the works are compliant with the current Code of Practice for Works affecting the Canal & River Trust."

"The application documents indicate that surface water is to be discharged to the waterway. The applicant is advised that such discharge will require consent from the Canal & River Trust. Please be advised that canal and River trust is not a land drainage authority and that such consent is not granted as of right, and will be subject to completion of a commercial agreement where it is granted. Please contact Nick Pogson at the Newark office on 01636 675719 for further advice. Please note that it is likely that a silt trap/oil interceptor will be required."

09

The application as submitted is acceptable. In granting permission the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

BACKGROUND PAPERS

Application case file.

For further information, please contact **Julia Lockwood** on ext **5902**.

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

Lisa Hughes
Business Manager – Planning Development