

PLANNING COMMITTEE – 8 SEPTEMBER 2020

Application No:	19/02214/FULM	
Proposal:	Erection of 10 dwellings	
Location:	Land North of Esther Varney Place, Newark on Trent	
Applicant:	Mrs Judith Wise, Waterloo Housing Group	
Agent:	Mr Jason Edwards, Corporate Architecture Ltd.	
Registered:	27 January 2020	Target Date: 27 April 2020
	Extension of time agreed until 10 September 2020	
Weblink:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage	

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as this application constitutes a major development (given the site area) and Newark Town Council (host parish) raise no objections which differs from the professional officer recommendation of refusal.

The Site

Within the Newark Urban Area, this roughly rectangular shaped application site comprises approximately 0.28 hectares of vacant flat land that is overgrown with vegetation. The site includes an existing public footpath/cycle path that runs along the eastern side of the site, adjacent to the main eastern railway line which links North Gate Train Station to residential areas of the town further to the south. North Gate Train Station is Grade II listed and lies approx. 220m to the north, beyond which further to the north is the boundary of Newark Conservation Area. The site measures approx 19m at its narrowest point (excluding the footpath). A constraints plan submitted shows that there are a number of underground electricity cables that cross the site at its southern end and almost half-way along its length that lead from the nearby electricity substation.

Immediately to the south of the site is relatively new residential development of 71 dwellings that is accessed from Sleaford Road. To the west of the site, beyond the 2-3m high chain link fence, is an large electricity sub-station that is not enclosed (approx. 22m from the western boundary of the site) and a large corrugated steel shed-type building (approx. 3m from the western boundary of the site) in use for storage of tyres associated with Tanvic (tyre and vehicle service company – whose main service building is situated further north with access off Appleton Gate), beyond which is residential development. This building is accessible 24 hours a day in order for break-down vehicles to collect new tyres from it in order to assist lorries that require road side assistance day or night. To the north is a single storey brick building which may be related to the running of the electricity sub-station or railway operations, it is unclear. Beyond the railway line to the east is the Northern Road Industrial Estate.

The site is located within Flood Zone 1 of the Environment Agency Flood Maps, which means it is at low risk of fluvial flooding, although it is prone to surface water flooding. It is currently enclosed by a 1.8m high close boarded timber fence to the south, a 2m and 3m high chain link fence to the west, a 2m high metal palisade fence to the north and 2m high steel post and wire security fence adjacent to the railway line.

Relevant Planning History

None, although on the adjacent site to the south, the recent residential development on Esther Varney Place was approved under reference 14/01950/FULM for the erection of 51 houses and 20 flats affordable units, developed by the same applicants, Waterloo Housing Group.

The Proposal

Full planning permission is sought for the erection of 10 two storey dwellings (4 no. 3 bed and 6 no. 2 bed) arranged in semi-detached pairs around the site served by an access road that runs along the western boundary, the northern half of which would form a private, unadopted road and serve 6 of the proposed dwellings. Two pairs of 3-bed dwellings sit along the northern boundary facing into the site, a pair of 2-bed dwellings front to the west, directly facing onto the adjacent existing commercial building, two pairs of 2-bed dwellings face each other to the north and south either side of a turning head in the road.

The 2-bed pair measure 9m deep by 9.3m wide, 4.8m to eaves and 7.8m to ridge;
The 3 bed pair measure 9.4m deep by 10.9m wide, 4.9m to eaves and 7.9m to ridge.

The site is to be accessed by extending the road that currently serves the housing development to the south. All the dwellings are served by two parking spaces and 7 of the 10 dwellings have spaces that sit immediately in front of the properties. The houses are standard in form and design. An acoustic fence is proposed to be erected between the houses and the footpath/cycle way, to provide a buffer to the railway line, although further no details of this treatment have been provided.

Following concerns raised by the case officer, an amended plan has been submitted showing an acoustic fence running along the western boundary, supplemented by some additional hedgerow planting and amendments to Plot 6 to move the main windows from the front (west) elevation to the side (north) elevation.

The applicant is a Registered Provider of affordable housing and all 10 proposed dwellings would be for social rent.

Documents submitted:

Site Location Plan (Drawing No: 4803.WHG.19.001 Rev P1)
Proposed Site Plan (Drawing No: 4803/WH/19/004 Rev P3)
House Type 1 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/010 Rev P1)
House Type 2 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/011 Rev P1)
House Type 3 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/012 Rev P2)

Existing Site Plan – Topographical Survey (Drawing No: 4803/WH/19/002 Rev P1)
Site Constraints Plan (Drawing No: 4803/WH/19/003 Rev P1)
Underground Detection Survey (Drawing No: 25366_06_200_01)
Drainage Strategy Sheet 1 of 2 (Drawing No: FW1916-D-400 Rev A1)
Drainage Strategy Sheet 2 of 2 (Drawing No: FW19196-D-401 Rev A1)

The following documents have been deposited in support of this application:-

- Design and Access/Planning Statement by Landmark Planning dated September 2019;
- Low Impact Ecological Impact Assessment dated October 2019;
- Flood Risk Assessment by Farrow Walsh Consulting dated July 2020;
- Noise Assessment by Acute Acoustics Ltd dated 23 October 2019;
- Transport Statement by Banners Gate dated 9 September 2019; and
- Tree Survey by RJ Tree Services Ltd dated January 2020.

Departure/Public Advertisement Procedure

Occupiers of 106 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 3 – Housing Mix, Type and Density
 Core Policy 9 - Sustainable Design
 Core Policy 10 – Climate Change
 Core Policy 12 – Biodiversity and Green Infrastructure
 NAP1 – Newark Urban Area

Allocations & Development Management DPD (adopted July 2013)

Policy NUA/Tr/1 – Northgate Station Policy Area

“The District Council will work with Network Rail, the Train Operating Companies, Nottinghamshire County Council and the various landowners, transport and amenity stakeholders to prepare a comprehensive regeneration scheme for the area on the Policies Map defined as the Northgate Station Policy Area. Any scheme will contain the following element:

- Proposals to improve the physical environment of the Policy Area to recognise its important gateway role;
- Proposals to preserve and enhance heritage assets, including the Grade II listed station and the adjoining conservation area;
- Proposals to improve the linkages between the site and Newark Industrial Estate, NUA/MU/3, the wider Bridge Ward and the Town Centre; and
- Proposals to improve transport and car parking provision in the area, and further encourage walking and cycling to the station.”

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy
 Policy DM3 – Developer Contributions and Planning Obligations
 Policy DM5 – Design
 Policy DM7 – Biodiversity and Green Infrastructure

Policy DM10 – Pollution and Hazardous Materials
Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2019

Planning Practice Guidance

Developer Contributions and Planning Obligations SPD 2013 and up-dated Indexation Calculations 2016

National Design Guide – Planning practice guidance for beautiful, enduring and successful places
September 2019

Consultations

Newark Town Council – “No objection was raised to this application.”

NCC Highways Authority – Comments received 23.06.2020 – “The Highway Authority initially responded to this application back in February 2020, asking for some minor amendments which have been duly undertaken, and therefore there are no highways objections to this proposal subject to the following conditions and informative: -

Conditions: -

- 1) No dwelling forming part of the development hereby permitted shall be occupied until its associated access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: - To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

- 2) The access shall be constructed and surfaced in a bound material in accordance with the Proposed Site Plan on drawing number 4803/WH/19/004 revision P3 and no other part of the development shall be commenced until the access has been completed in accordance with those plans.

Reason: - To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general Highway safety.

- 3) No part of the development hereby permitted shall be brought into use until: -
 - a) the visibility splays shown on drawing no. 4803/WH/19/004 revision P3 are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height; and,
 - b) the parking and turning areas are provided in accordance with the approved plan 4803/WH/19/004 revision P3. The parking and turning areas shall not be used for any purpose other than parking, turning of vehicles.

Reason:- To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems in the area, to enable vehicles to enter and leave the site in a forward direction and to maintain the visibility splays throughout the life of the development all in the interests of Highway safety.

Informative: -

- 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. 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 (or District Council) in writing before any work commences on site.

Correspondence with the Highway Authority should be addressed to: - (insert as appropriate).

Highways Development Control Section
Highways North
Nottinghamshire County Council
Welbeck House, Fountain Court
Darwin Drive
Sherwood Energy Village
New Ollerton
Nottinghamshire, NG22 9GS

hdc.north@nottscc.gov.uk;

Comments received 11.02.2020 - "The Highway Authority understand that this is an application to erect 10 new dwellings on land north of Esther Varney Place in Newark. It is proposed that the site will be accessed from Esther Varney Place, by extending the existing adopted highway into the site. The new road has been designed with a 5 – 5.5m wide carriageway plus a 2m footway on the eastern side. Assuming that the western site boundary is made up of fencing, the Highway Authority would need a minimum of 0.5m service strip between the extant fence line, and new carriageway.

Whilst swept path analysis has been provided within the Banners Gate Transport Note, this will need to be revisited given the above request and account for the wagon utilised by Newark and Sherwood District Council waste services (total length for refuse freighter – 10.85 metres; total length of wheelbase (front to rear most axle) – 5.31 metres).

Four of the properties are proposed to be accessed off the new length of prospectively adoptable highway whilst the remaining six are off a private drive to the rear. It is usual for private drives to serve five dwellings or less. Each property has been provided within 2 parking spaces, which given the number of bedrooms proposed is acceptable. It is noted that the depths available for parking in front of Plots 3 and 4 for example is tight; it is usual to provide 5.5m length to ensure vehicles are not overhanging the footway.

No boundary information is shown; boundary treatments affect vehicular and pedestrian visibility. Please update the site plan showing the proposed types of boundary treatment e.g. fences, hedges and mark on clear pedestrian and vehicular visibility splays. Nothing higher than 0.6m is permitted within splays, and the splay must be within the control of the applicant (plot) and or prospectively adoptable highway. Please refer to Part 3 of the Nottinghamshire Highway Design Guide for further guidance."

NCC, Lead Local Flood Authority - Comments received 20.08.2020 – "Nottinghamshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the application which was received on the 20 Jul 2020. Based on the submitted information we have no objection in principle to the proposals and can recommend approval of planning subject to the following conditions;

Condition

No part of the development hereby approved shall commence until a detailed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
- Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm 5 l/s rates for the developable area.
- Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA
- Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- For all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.
- Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
- Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term

Reason

A detailed surface water management plan is required to ensure that the development is in accordance with NPPF and local planning policies. It should be ensured that all major developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site.

Informative

Please note the information submitted to date in the Flood Risk Assessment and Drainage Strategy does not show complete compliance with the required Conditions referred to above and the applicant must ensure these are complied with at DISCON stage.

Comments received 19.02.2020 - "In the absence of any surface water drainage information, we object to this application and recommend refusal of planning permission until a satisfactory surface water management plan has been submitted and approved.

Reason

Given the proposed scale of the development to satisfy the National Planning Policy Framework (NPPF) details should be provided to assess the application in accordance with the NPPF. Paragraph 165 of the NPPF states that all major applications should incorporate sustainable drainage systems which have appropriate operational standards; maintenance arrangements in place to ensure operation for the lifetime of the development and where possible, provide multifunctional benefits.

A detailed surface water management plan is required if the local planning authority is to make an informed planning decision. The absence of any drainage details is therefore sufficient reason for the refusal of planning permission.

Overcoming our objection

You can overcome our objection by submitting the information outlined below which demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved, we will consider whether there is a need to maintain our objection to the application.

Any proposed drainage strategy should be in accordance with CIRIA C753 and current best practice guidance. Any drainage strategy should include following information:

- Assessment of the nature of SuDS proposed to be used.
- Details of a proven outfall from site in accordance with the drainage hierarchy the follows options should be considered, in order of preference; infiltration, discharge to watercourse, discharge to surface water sewer or discharge to combined sewer.
- Justification for the use or not of infiltration, including the results of soakaway testing, in accordance with BRE 365.
- Evidence the maximum discharge is set to the QBar Greenfield run-off rate for the positively drained area of development.
- Demonstrate the site drainage system should cater for all rainfall events up to and including the 1 in 100-year event including a 40% allowance for climate change.
- Provide details for exceedance flows; surface water should be contained within the site boundary without flooding any properties in a 1 in 100year+CC storm.
- Details of approval from any water authority that may be required to accept surface water discharge.
- Show that SuDS systems will be incorporated into the surface water management scheme for the site, preference should be given to above ground SuDS which provide multi-functional benefits.
- Details of who will manage and maintain all drainage features for the lifetime of the development will be required prior to construction.

We ask to be re-consulted with the results of any FRA or Drainage Strategy. We will provide you with bespoke comments within 21 days of receiving formal re-consultation. Our objection will be maintained until adequate details has been submitted.

Informative

1. SuDS involve a range of techniques and SuDS methods can be implements on all sites. SuDS are a requirement for all major development as set out within paragraph 165 and 163 of the NPPF.
2. The LLFA does not consider oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, with a preference for above ground solutions.
3. Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage Systems (SuDS) are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off-site as quickly as possible.”

NCC, Policy – “In terms of the County Council’s responsibilities there are number of elements of national planning policy and guidance are of particular relevance in the assessment of planning applications, these include Minerals and Waste, Education, Transport and Public Health.

County Planning Context

Transport and Flood Risk Management

The County Council as Highway Authority and Local Lead Flood Authority is a statutory consultee to Local Planning Authorities and therefore makes separate responses on the relevant highway and flood risk technical aspects for planning applications.

Should further information on the highway and flood risk elements be required contact should be made directly with the Highway Development Control Team and the Flood Risk Management Team to discuss this matter further with the relevant officers dealing with the application.

Minerals and Waste

The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the saved policies of the Nottinghamshire Minerals Local Plan (adopted 2005), form part of the development plan for the area. As such, relevant policies in these plans need to be considered. In addition, Minerals Safeguarding and Consultation Areas (MSA/MCA) have been identified in Nottinghamshire and in accordance with Policy SP7 of the emerging Publication Version of the Minerals Local Plan (July 2019). These should be taken into account where proposals for non-minerals development fall within them.

Minerals

In relation to the Minerals Local Plan, there are no Minerals Safeguarding and Consultation Areas covering or in close proximity to the site. There are no current or permitted minerals sites close to the application site. Therefore, the County Council does not wish to raise any objections to the proposal from a mineral’s perspective.

Waste

In terms of the Waste Core Strategy, there are no existing waste sites within the vicinity of the site whereby the proposed development could cause an issue in terms of safeguarding existing waste management facilities (as per Policy WCS10).

As set out in Policy WCS2 'Waste awareness, prevention and re-use' of the Waste Core Strategy, the development should be 'designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.' In accordance with this, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would be useful for the application to be supported by a waste audit. Specific guidance on what should be covered within a waste audit is provided within paragraph 049 of the Planning Practice Guidance.

Strategic Highways

The County Council does not have any strategic transport planning observations to make.

Rights of Way

The Definitive Map of Public Rights of Way has been checked and the County Council can confirm that there are no recorded Public Rights of Way that cross the land edged in red on the location plan. This does not preclude unrecorded public rights being proven to exist at a later date. The rights of way team have no objection to the proposal.

Planning Obligations

Transport and Travel Services

The County Council will not be requesting any Planning Obligations/ Planning Conditions in respect of this application.

Education

Based on the proposed development of 10 dwellings on the above site, this would yield an additional 2 primary and 2 secondary aged pupils. There is currently projected to be sufficient capacity in both the primary and secondary planning area this development falls within to accommodate the additional pupils expected to arise from this proposed development. Therefore, at this time the County Council will not be seeking any contributions.

Conclusion

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

Network Rail – "With reference to the protection of the railway, Network Rail has no objection in principle to the development, but below are some requirements which must be met, especially with the close proximity to the development of an electrified railway.

Drainage

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.
2. All surface water run off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.

It is expected that the preparation and implementation of a surface water drainage strategy addressing the above points will be conditioned as part of any approval.

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a fail safe manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a fail-safe manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. possession which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

Please note we will be unable to agree to discharge of a method statement condition without direct discussion and agreement with our Asset Protection Team and the developer entering into a Basic Asset Protection Agreement (where appropriate). We would advise that the developer discuss the proposals with Asset Protection prior to applying for the discharge of condition. Contact details for Asset Protection are below.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

ENCROACHMENT

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorized access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Noise/Soundproofing

The Developer should be aware that any development for residential use adjacent to an operational railway may result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account. We note that the proposals include acoustic fencing on the boundary facing the railway which should help mitigate this issue. However, the developer should also be aware that the site is in close proximity to Newark North Gate station and the adjacent car park which also also

Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

Network Rail is required to recover all reasonable costs associated with facilitating these works.

I would advise that in particular the drainage, method statements, soundproofing and lighting should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice.”

NSDC, Environmental Health – Comments received 23.06.2020 – “From the additional information provided by the applicant I am satisfied that the additional acoustic fence should mitigate noise from business premises operating from Welbeck House, which is a 24 hour operation.

If it can be conditioned that the applicant maintains all the fencing it would be appreciated.”

Comments received 27.02.2020 - “I refer to the above application and have read the submitted noise report and design and access statement.

In summary it indicated that the site does suffer from higher noise levels so remedial measures will need to be implemented.

Can I ask that the measures required in section 8 Conclusions of the noise report are made as condition on any approval given (namely installation of upgraded glazing, acoustic ventilation).

Also that a close boarded 1.8m high timber fence be installed along the boundary with the railway.

In addition would it possible to condition that the applicant maintain in a good condition the close boarded fence?”

NSDC, Contaminated Land – “Historic mapping has identified the presence of historic railway sidings at the application site and there is the potential that contamination may be present from this former use.

The DEFRA industry guide identifies numerous potential contaminants from previous railway use including organics (PAH, TPH, PCB's pesticides etc.), metals and asbestos to name a few.

As it appears that no desktop study/preliminary risk assessment has been submitted prior to, or with the planning application, then I would request that our standard phased contamination conditions are attached to the planning consent.”

No representations have been received from local residents/interested parties.

Comments of the Business Manager

Principle of Development

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises that it is the 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. One of the core principles of the NPPF is to support and deliver economic growth to ensure that the housing, business and other development needs of an area are met. The NPPF looks to boost significantly the supply of housing.

Policy DM12 of the Allocations and Development Management DPD sets out a positive approach to considering development proposals. Where appropriate this will involve the District Council working alongside applicants to seek solutions which mean that proposals can be approved where possible and to secure development which improves economic, social and environmental conditions.

The application site is within Newark Urban Area, as defined under Spatial Policy 1 of the Amended Core Strategy as the Sub Regional Centre. Spatial Policy 2 states that 60% of overall housing growth should be located within Newark as the Sub-Regional Centre. Policy DM1 of the Allocations and Development Management DPD refers to proposals being supported for housing within the Sub Regional Centre provided it is appropriate to the size and location of the settlement hierarchy and in accordance with the Core Strategy and other relevant Development Plan Documents.

The Council can demonstrate a 5 year housing land supply in accordance with the NPPF.

There is a specific Allocations policy that relates to this site (Policy NUA/TR/1) which is set out in the Policy Framework section above, and aims to provide regeneration to this particular gateway area of the town. The proposed development accords with the general aims of this policy in that it would improve the physical environment of the area by redevelopment of a vacant overgrown site. The grade II listed train station is approx. 220m north of the application site with Newark Conservation Area boundary beyond that and this distance means that the proposed development would not be harmful to these heritage assets. The proposal would have easy access to the existing footpath/cycleway to provide good linkages to the train station and the rest of the town to the south on foot and by bicycle.

The site is a vacant, over-grown and neglected site that currently detracts from the amenity of the area and makes no positive contribution to it, and is located within a mixed use area between residential and commercial uses. However, it is clear from the re-development of a former commercial site to the south to residential use, and the difficulties of access and physical isolation from the industrial estate on the other side of the railway line, that the site is unlikely to prove attractive for any commercial re-development as new employment uses are more likely to locate onto the ample greenfield sites near good transport links towards the edge of the town to the east. However, the site is not entirely ideal for new housing development either, given its surrounding context close to a large electricity sub-station, existing commercial development and a busy railway line, which is discussed further below.

To conclude, the principle of this development is considered acceptable in this location and the redevelopment of this vacant neglected site would be a benefit to the appearance of the area, however, the other site specific factors need to be properly considered and these are set out below.

Housing Affordability, Mix, Type and Density

The scheme represents 100% affordable housing provision which exceeds the policy requirement set out in Core Policy 1 by 70% and all will be for social rent. Whilst this does not reflect the precise tenure split set out within Core Policy 1 of 60% for social rent and 40% for shared ownership, I do not consider this to be fatal to the overall scheme. Evidence from the 2014 Housing Market and Needs Assessment identifies the affordable housing need for Newark as follows:

Property Size	Affordable Need (in Nos)
1 bed	234
2 bed	458
3 bed	150
4 bed	0
Total	842

This scheme, in providing 6 no. two bed dwellings and 4 no. three bed dwellings provides for the local need identified although it is acknowledged that there is a greater need for 1 bed than 3 bed units. It is therefore considered to be largely appropriate in addressing the affordable housing need identified in Newark.

The density on the site equates to approx 33 dwellings per hectare which accords with the requirements of Core Policy 3 which provides that densities should be 30 dwellings per hectare or more. It is acknowledged that this is relatively high, however, this need not be fatal in itself, subject to other considerations. The site is within an urban setting and close to the town centre where high density development would not be out of context.

Given the very high levels of affordable housing need in Newark, it is considered that the provision of 100% affordable housing would be of considerable benefit in meeting this need. It is also acknowledged that the policy requirement of 30% affordable provision on market housing sites across the District in the last 5 years or so has not been achieved (often on viability grounds) which has led to a shortfall in affordable housing deliverability. It is also acknowledged, however, that a 100% affordable development could be seen as an undesirable, over-concentration, resulting in an exclusive, homogenous tenure community, rather than a more appropriate mix of market and affordable units. However, in the overall balance, it is considered that the provision of the much needed affordable housing weighs in favour of the development in this case and is in line with Core Policies 1 and 3, the Housing Needs Survey and the NPPF.

Impact on the Character of the Area

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. The National Design Guide states that well designed places have individual characteristics which work together to create its physical character, including its context, identity, movement, built form and good quality internal and external environments for their users promoting health and well-being. Paragraph 42 of the Guide states “Well-designed new development is integrated into its wider surroundings, physically, socially and visually.” Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 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.

The existing residential development to the south and beyond the commercial uses to the west are characterised by predominantly two storey dwellings, set out in clear linear patterns and grids at high densities. It is considered that whilst the proposed two-storey semi-detached properties reflect this in terms of their built form, however the proposed layout is poor with Plots 5 and 6 on an east-west orientation in contrast to the remaining properties which are all north-south oriented and which has also resulted in their side gables facing the front and rear elevations of other units resulting in a poor relationships, haphazard layout and no creation of any sense of place. Amenity green space to provide a soft landscaped setting is limited to a slither adjacent to the side elevations of Plots 1 and 4 with new trees squeezed between parking spaces on front forecourts.

In addition the proposal creates a very inward looking and isolated development. Given the very challenging environmental context of the site (surrounded on three sides by undesirable neighbours – electricity sub-station, large 24-hour commercial building and smaller one to the north and the main east-line railway to the east together with their security fencing), the applicant has sought to mitigate any potential harm to both the visual amenity and the protection from noise and disturbance of future occupiers by enclosing the site by acoustic fencing along both the length of the east and west boundaries of the site. In addition, the development is a cul-de-sac development which provides no through route or permeability through the site, the link to the footpath/cycleway located to the south of the site.

Although officers attempted to negotiate to seek to make improvements to the scheme, in response the agent stated that due to the underlying ground electricity cable restraints the layout could not be altered and in addition the scheme would not represent a viable option for the applicant if the quantum of units were reduced (although this has not been demonstrated by the submission of any viability evidence). The agent did, however, submit an amended plan showing the additional acoustic fence at 1.8m high along the western boundary which is shown to be softened with additional new hedgerow planting along its length within the site.

The tree survey submitted with the application reveals that all the trees on the site are either C2 (of low quality and value with mainly collective landscape qualities) or U categories and it recommends that all trees are removed from the site. It is likely that the trees on the site have been self-set and it is not considered that their loss would be detrimental to the character of the area and the scheme would allow for new structured planting (albeit very limited) on green amenity areas adjacent Plots 1 and 4, new tree planting within forecourt parking areas at the front of the houses and the new hedgerow along the western boundary.

Communal landscaping outside residential curtilages where planting would require maintenance moving forward in perpetuity and this would be provided by the Registered Provider and secured through a S106 Agreement.

Whilst the site is not highly prominent, being tucked away to the rear of the existing development on Esther Varney Place, it would be visible from the public footpath/cycleway as well as from the main railway line link to the eastern side of the country and London. The enclosure of the existing footpath/cycleway with extended lengths of close boarded timber fencing does not create an attractive environment in which to journey, as demonstrated by the development to the south, however, it is likely to prove difficult to resist this proposal on that basis. The overall design and layout of development on the site is poor and it is disappointing that negotiations have proved fruitless in terms of improving the scheme. As decision makers, weight must be given to the proposed redevelopment of a vacant piece of land whose unkempt appearance currently detracts from the visual amenities of the area. However it must also be considered whether it is appropriate to replace this with a poor, inward looking, fully enclosed (with close boarded timber fencing) and isolated layout with no permeability and consider whether this form of development provides sufficient quality of built environment both from inside and outside the site, in the context of the beautiful, enduring and successful places advocated with the National Design Guide released last year by central Government. The proposal is also considered to fail to comply with site specific policy NUA/Tr/1 which states that proposals should improve the physical environment of the Policy Area to recognize its important gateway role. This is weighed in the planning balance set out in the conclusion below.

Impact on Residential Amenity

The NPPF seeks to secure high quality design and a high standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy or light/overshadowing.

In relation to issues of noise for future occupiers of the proposed dwellings, being situated adjacent to the main railway line, the District Council's Environmental Health Service is satisfied that the recommendations set out in the submitted Noise Report would adequately protect the amenities of future occupiers from noise from the railway line. These measures include firstly walls to be constructed of solid brickwork, brick/block cavity or brick clad timber frame; secondly roofs to be tiled/slatted with 20kg/m² plasterboard ceiling and 100mm sound absorbing layer above the ceiling (e.g. mineral wool loft insulation) or roof type of equivalent performance; and thirdly for windows facing the railway line up-graded double glazing specification, and acoustic ventilation to trickle vents and all other windows specific thermal double glazed units. It is therefore considered necessary to condition that the recommendations set out in the noise report would be fully implemented as part of the scheme. The Environmental Health officer has also advised that following the insertion of acoustic fencing along both the eastern and western boundaries of the site that this would overcome any concerns in relation to potential noise and disturbance from both the railway line and the commercial building to the west of the site, provided it was conditioned to be retained for the lifetime of the development.

Whilst these comments are noted, I remain concerned that whilst the acoustic fencing may provide some level of protection for ground floor accommodation, it would offer none at all for first floor bedrooms when residents would be expecting quiet through-out the night. Whilst it is acknowledged that first floor accommodation have already been accepted on the site to the south with a similar relationship with the railway line, the addition of the potential noise and disturbance at any time during the night from the large commercial building approx. 11m away would be detrimental to night time amenities.

The nearest residential existing property to the proposed development is located immediately to the south of the application site. Its side gable would be approx. 20m from the proposed rear elevation of Plot 1, which is considered to be an acceptable relationship. The side gable of Plot 5 is approx. 9m from the rear elevation of Plot 4, which is considered to be tight, however the rear elevations of Plots 3 and 4 are set at a slight angle and away which helps to mitigate the direct overbearing impact to some degree. There is a first floor window in the side elevation of Plot 5 serving an en-suite which could be conditioned to prevent overlooking.

In order to improve the outlook of Plot 6, which originally looked directly out onto the large commercial building to the west approx 11m away and to improve the relationship of Plot 6 with the dwellings to the north, the main openings have been moved to the north elevation, with a front to front distance of approx. 14m, which again is not ideal but considered to be on the margins of acceptability in regard to the amenities of future occupiers.

Whilst the amenities of existing neighbours are considered to be acceptable and the relationship between the proposed dwellings themselves are adequate, there remains concern as to whether this is an appropriate location for new housing development in principle given that the only way to protect the amenities of future occupiers to an acceptable degree is to almost enclose such a small site completely with acoustic fencing, given its existing context. This is discussed further in the conclusion below.

Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 and DM7 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The submitted Low Impact Ecological Impact Assessment identified unlikely impacts on newts and that no further surveys were required to be undertaken. It concluded that precautionary approaches to site clearance and during the construction of the development in relation to reptiles, badgers, hedgehogs and birds should be conditioned. It advised the importance regarding lighting on bats and net biodiversity gains by providing hedgehog, insect and bat boxes and the use of native planting. Each of these issues can be controlled through condition and as such it is considered that the proposal would accord with Core Policy 12, Policy DM5 and DM7 of the Allocations and Development Management DPD and the NPPF.

Impact on Highway Safety

Paragraph 109 of the "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

A Transport Statement has been submitted in support of the application. Following amendments to the parking, visibility splays, service strips etc. within the development, the Highway Authority is now satisfied that subject to appropriate conditions, the proposed development would not result in any highway safety concerns and as such is considered to accord with Spatial Policy 7 and Policy DM5 as well as the NPPF.

Impact on Flood Risk and Drainage

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. Core Policy 9 requires new development proposals to pro-actively manage surface water.

Given that the development forms a major application, one of the validation requirements was for the submission of a Flood Risk Assessment (FRA) and Drainage Strategy. The report states that there is a slight slope in ground levels from north to south, that there is low probability of fluvial flooding given that the site is within Flood Zone 1, a very low chance of flooding from surface water but there is a high quantifiable risk from ground water sources. Despite the site's susceptibility to high ground water levels, the report states that the Environment Agency has no records of any incidents of ground water flooding.

Ground investigations have not yet been undertaken. Surface water drainage strategy currently consists of:-

- Surface water runoff from the site will be conveyed by pipes, stored within cellular storage, then discharged into an S104 network at a controlled rate
- Use of cellular attenuation to store runoff volumes in extreme storm events up to the 1 in 100 year +40% climate change storm event.

Foul drainage will be conveyed from the properties by below ground private gravity drains prior to connection into the existing Severn Trent Water sewers within Ester Varney Place (Subject to Section 104 / 106 Approval).

The FRA states the proposed residential units would be above the modelled flood level of the local watercourses and that due to the site constraints, the most feasible method for providing SuDS (Sustainable Urban Drainage Systems) is to utilise a modular system, permeable parking for the private parking spaces and water butts to all properties.

Being located within Flood Zone 1, the site is considered to pass the Sequential Test as set out in national and local planning guidelines and policies for 'more vulnerable' new housing development. The Lead Local Flood Authority initially confirmed that the first FRA submitted was inadequate and additional information was required. A further FRA was submitted in July 2020 and in response the LLFA has stated that notwithstanding the fact that the drainage strategy submitted does not show complete compliance with their requirements, they would be satisfied with a condition to be imposed requiring further revised information to be submitted and agreed via a condition. As such the proposal is considered to be compliant with Core Policy 9 and 10 as well as Policy DM5 of the Development Plan.

Other matters

As the site is adjacent to the main Newark to London railway, Network Rail has been an important consultee and their comments can be incorporated into conditions and notes to applicant as appropriate.

Given the site's past use as part of the former railway sidings, the Council's Environmental Health Service has recommended a land contamination condition be imposed so that any contamination that may be found on the site is dealt with appropriately and that the land can be made safe for its new residential occupiers.

Developer Contributions

Spatial Policy 6 'Infrastructure for Growth' and Policy DM3 'Developer Contributions and Planning Obligations' set out the approach for delivering the infrastructure necessary to support growth.

The Developer Contributions and Planning Obligations Supplementary Planning Document provides additional detail on 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.

In this case, it is likely that as a scheme of 100% affordable housing provision that the development would be exempt from paying CIL on the basis of the social housing exemption provisions. The scheme over-provides for much needed affordable housing at 100% as opposed to the policy requirement of 30%.

The Developer Contributions and Planning Obligations SPD (as updated by the Indexation Calculations 2016) advises that on the proposed development of this size, the following S106 contributions would be required:

Community Facilities –	£13, 840.70
Open Space	
Children and young people	£9,272.60
 Total	 £23,113.30

The SPD also states that an Education Contribution would normally be required, however, the Education Authority have advised that the 2 primary and 2 secondary school places that this development would require can currently be accommodated within the existing schools in the area and therefore there is no justification to insist on any education contribution at this time.

The applicant has confirmed their acceptance to fund the contributions set out above which can be secured through a S106 legal agreement, as well as the future maintenance of the landscaping in perpetuity by the Registered Provider.

Conclusion and Planning Balance

In terms of the wider area, the site specific policy NUA/Tr/1 seeks to improve the quality of development in this area particularly. The site is cut off from the main part of Brunel Road Industrial Estate by the railway line and although historically the immediate area has been more commercial in nature it is apparent from the approval of the residential development to the south that long term, this whole area may move more towards a residential character as new businesses seek more convenient out of town locations. This area therefore appears to be in a time of transition and more residential development is likely to be supported in principle, however, this should be achieved in a larger holistic way rather than through very small piecemeal sites. These matters have been discussed with the applicant.

The delivery of housing in a highly sustainable location in the form of 100% affordable housing (for which there is identifiable need) weighs heavily in favour of the proposed scheme, as does the accompanying social and economic benefits, even if the latter is just during the construction period alone. It is also noted that the Town Council raise no objection.

The application is not considered to result in any adverse impacts in relation to highway safety, ecology, heritage assets or drainage, subject to conditions and S106 contributions could be secured through a S106 legal agreement.

There are however a number of issues which are considered to be more finely balanced, such as whether the proposal creates an acceptable living environment for future occupiers of the site and the quality in the layout of the proposed scheme. Some Members may consider that the removal of an unkempt green strip of vacant land and replacement with new development would be sufficient to support this scheme however, that must be balanced against the quality with which it is being replaced. The form of development proposed would result in a poor standard of environment both from inside and outside the site, with 10 dwellings being surrounded with timber boarded fencing on all sides, with no creation of a sense of place, in relative isolation with little sense of feeling part of an attractive, wider community. The poor environment created for future residents is largely as a result of the poor layout/design of the development which has been further exacerbated by measures that seek to address the protection of the amenities of those residents within the extremely challenging surrounding context. The surrounding noisy and undesirable neighbours have been found to harm living accommodation adequately at first floor level and therefore the scheme is considered to fall below acceptable standards on environmental grounds.

Proper consideration has been given to all material planning considerations and the appropriate weight afforded to each matter. Whilst acknowledging the finely balanced nature of this recommendation, officers are not convinced in this case that all the benefits of the scheme can be outweighed by the environmental harm identified.

RECOMMENDATION

That full planning permission is refused for the following reason

01

The proposed development would, by reason of its layout and boundary treatments and context, result in an enclosed, isolated and impermeable form of development that would create a poor standard of environment, both for future occupiers of the site as well as its appearance and form from the public realm. Furthermore, future occupiers are likely to be disturbed by noise and disturbance through the night from the adjacent commercial building to the west, which cannot be acceptably mitigated.

In the opinion of the Local Planning Authority, the proposal is thereby contrary to Core Policy 9 (Sustainable Design) of the Newark and Sherwood Amended Core Policy (2019), Policy NUA/Tr/1 (Northgate Station Policy Area) and Policy DM5 (Design) of the Allocations and Development Management DPD (2013), the National Planning Policy Framework (2019) and the National Design Guide (2019) which are material planning considerations.

Refused Drawing Numbers:

Site Location Plan (Drawing No: 4803.WHG.19.001 Rev P1)

Proposed Site Plan (Drawing No: 4803/WH/19/004 Rev P3)

House Type 1 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/010 Rev P1)

House Type 2 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/011 Rev P1)

House Type 3 – Proposed Plans and Elevations (Drawing No: 4803/WHG/19/012 Rev P2)

Notes to Applicant

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

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