

Date: 25th January 2016

Dear Sir/Madam,

PLANNING COMMITTEE

Notice is hereby given that a meeting of the **Planning Committee** will be held in the Council Chamber, Kelham Hall, Newark on Tuesday, 2nd February 2016 at **4.00 pm**.

Yours faithfully,



A.W. Muter
Chief Executive

AGENDA

	Page Nos.
1. Apologies	
2. Declarations of Interest by Members and Officers	
3. Declaration of any Intentions to Record the Meeting	
4. Minutes of the Planning Committee held on 5 th January 2016	3 - 8
<u>PART 1 - ITEMS FOR DECISION</u>	
5. Glebe Farm, Caunton Road, Norwell, NG23 6LB (15/02142/FUL) (Site Visit: 9.20am – 9.30am)	9 - 18
6. Oakham Farm, Forest Lane, Walesby (15/01198/FULM) (Site Visit: 10.00am – 10.10am)	19 - 40
7. Land at 65A Church Street, Bilsthorpe, NG22 8QR (15/02022/FUL) (Site Visit: 10.20am – 10.30am)	41 - 55

8.	Marehill Service Centre, Lowdham Road, Gunthorpe (15/02132/FUL) (Site Visit: 11.00am – 11.10am)	56 - 62
9.	72 Appleton Gate, Newark (15/02074/FUL) (Site Visit: 11.40am – 11.45am, drive-by)	63 - 71
10.	Land off North Gate, Newark, NG24 1HD (15/01858/OUTM) (Site Visit: 11.50am – 12.00pm)	72 - 97
11.	Land to the South East of Former A46 (15/00912/FULM)	98 - 117
12.	Co-op Supermarket, Lakeside Shopping Centre, London Road, Balderton (15/02104/FULM)	118 - 136
13.	Land at Junction Between Wellow Road and Newark Road, Wellow, NG22 0EH (15/00457/FUL)	137 - 182
14.	The Old Vicarage, Epperstone Road, Lowdham, NG14 7BU (15/01908/FUL)	183 - 191

PART 2 – ITEMS FOR INFORMATION

15(a).	Appeals Lodged	192 - 193
15(b).	Appeals Determined	194 - 220

PART 3 - STATISTICAL AND PERFORMANCE REVIEW ITEMS

None

PART 4 - EXEMPT AND CONFIDENTIAL ITEMS

The following items contain exempt information, as defined by the Local Government Act, 1972, Section 100A(4) and Schedule 12A, and the public may be excluded from the meeting during discussion of these items.

None

NOTES:-

A Briefing Meeting will be held in Room G21 at 3.00 pm on the day of the meeting between the Business Manager - Development, the Chairman and Vice-Chairman of the Committee to consider late representations received after the Agenda was published.

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of the **PLANNING COMMITTEE** held in the Council Chamber, Kelham Hall, Newark on Tuesday, 5th January 2016 at 4.00pm.

PRESENT: Councillor D.R. Payne (Chairman)

Councillors: D.M. Batey, Mrs C. Brooks, D. Clarke, R.A. Crowe, G.P. Handley, N.B. Mison, Mrs P.J. Rainbow, Mrs S.E. Saddington, I. Walker, B. Wells and Mrs Y. Woodhead.

ALSO IN

ATTENDANCE: Councillors: K. F. Girling and J.D. Lee

115. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor R.V. Blaney, Mrs M. Dobson and Mrs L.M.J. Tift.

116. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

NOTED that the following Members declared an interest in the items shown below:

<u>Member/Officer</u>	<u>Agenda Item</u>
Councillors R.A. Crowe and I. Walker	Agenda Item No. 6 – Former Piano School, Mount Lane, Newark (15/01260/FULM). Personal interest as they are representatives of the Council for St. Leonards Trust.
Councillor D.R. Payne	Agenda Item No. 6 – Former Piano School, Mount Lane, Newark (15/01260/FULM). Personal interest as his professional partner is Clerk to St. Leonards Trust which is operated through his office.

117. DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting.

118. MINUTES OF THE MEETING HELD ON 9TH DECEMBER 2015

AGREED that the Minutes of the meeting held on 9th December 2015 be approved as a correct record and signed by the Chairman.

119. BALDERTON HYDRO POOL, GILBERT WAY, FERNWOOD (15/00846/OUT)

The Committee considered the report of the Deputy Chief Executive, following a site inspection held prior to the meeting, which sought outline planning permission for the residential development of the site with all matters reserved.

Members considered the application and it was raised that, due to objections from residents regarding the location and massing of the proposed development, an informative note should be provided to the applicant advising that a 1 metre distance to the neighbouring property would be a material matter for consideration when approval of reserved matters was sought.

AGREED (unanimously) that outline planning permission be granted subject to the conditions contained within the report and an informative note to the applicant to make clear that a 1 metre distance to the neighbouring property would be a material factor in considering the approval of reserved matters.

120. FORMER PIANO SCHOOL, MOUNT LANE, NEWARK ON TRENT (15/01260/FULM)

The Committee considered the report of the Deputy Chief Executive, following a site inspection held prior to the meeting, which sought full planning permission for the conversion of the existing buildings to form a residential development comprising 15 no. rooms with shared kitchen facilities and some shared bathroom facilities, 6 no. self-contained studio, 2 no. 1 bedroom apartments and a 1 no. 2 bedroom apartment.

A schedule of communication was tabled at the meeting which included correspondence received after the agenda was published from the Planning Officer.

Councillor K.F. Girling, local Member for Newark Castle Ward spoke against the application for the following reasons: He had never known an application to have so many objections. The proposed development was over intensification. He was surprised that the Fire Authority had not commented due to there only being one access into the building. He commented that the report suggested that the accommodation would be for professionals whom he felt would not want shared facilities and raised concern that the accommodation would be more suitable for students or sheltered housing, which may raise concern with neighbouring properties. Clarification was sought as to who would manage the development if there were problems. Concern was also raised regarding the waste arrangements and storage for the site. He suggested that the building be developed for luxury accommodation for professionals.

Members considered the application and it was commented that the proposals would be sympathetic to the building, keeping the original windows and features. The proposals would also prevent the building from falling into disrepair. Concern was raised regarding the area already having problems with anti-social behaviour. The question as to who would be responsible for management of the building was also raised. It was also commented that the development was over intensified and may increase car parking problems within Newark. It was suggested that the development should have less bedrooms allowing for rooms to have their own facilities. Concern

was also raised regarding fire safety as Members felt that one access was not adequate for the number of residents within the proposed building and potential anti-social behaviour. It was also commented that the police Authority had not submitted their comments.

The Business Manager Development suggested that the condition for waste management as contained within the report could be amended to cover the management of the building; however that could not be specific to any person.

A vote was taken to grant planning permission including the additional condition for the management of the building which was lost with 3 votes for and 9 votes against.

Members proposed that the item be deferred to clarify a number of points detailed below.

AGREED (with 8 votes for and 4 votes against) that the application be deferred to the 2nd February 2015 Planning Committee, to clarify the following:

- (i) To ascertain if the applicants would be willing to reduce the overall number of units;
- (ii) How far out in percentage terms the self-contained units are from being policy compliant;
- (iii) Confirm that the fire and police have no objections;
- (iv) Confirm details of the waste scheme;
- (v) Explain why there are no postal deliveries/addresses; and
- (vi) Provide examples of where arrangements have operated successfully with particular examples of how management/supervision operates in similar scenarios.

121. LAND TO THE SOUTH EAST OF FORMER A46, SYERSTON (15/00912/FULM)

The Committee considered the report of the Deputy Chief Executive, which sought full planning permission for two agricultural storage buildings.

Members considered the application and it was commented that the scale and size of the two proposed sheds was required due the large machinery and grain that needed to be stored. The large sheds would not impact on the battle of Syerston site or on Syerston Hall. Concern was however raised regarding the size of the two sheds on the proposed site in the open countryside.

The Chairman commented that he had requested that the application be considered by the Planning Committee due to the employment aspect.

Members asked whether any other sites had been considered for the sheds. It was confirmed that there was difficulty with other sites in the applicant's ownership due to the Syerston battlefield, flood zone and closer proximity with Eden Hall.

Another Member commented on the need for farmers and food and that the Committee should support the application.

A vote was taken to grant planning permission and was lost with 6 votes for and 6 votes against. The Chairman did not exercise his right to use his casting vote.

A further vote was taken to refuse planning permission and was lost with 5 votes for, 6 votes against and 1 abstention. Due to the Planning Committee being unable to determine the application, the application was deferred to the 2nd February 2016 Planning Committee, where the application would be considered again by Members of the Committee.

AGREED that the application be deferred to the 2nd February 2016 Planning Committee, where the application would be considered again by Members of the Committee.

122. UPDATE ON PLANNING COMMITTEE WORKING PARTY

The Committee considered the Planning Committee Working Party Minutes. Members discussed the recommended actions from the Minutes and the following discussion and proposals were made.

The Deputy Chief Executive informed Committee that the intention of the Planning Committee Working Party was to review the planning process as there had been an increase in the number of applications, particularly major applications and therefore an increase in the volume of work being undertaken by the Planning Business Unit and Planning Committee. The Working Party's role was to review and make suggestions as to how that work could be efficiently managed. In terms of minor applications and the right of Town and Parish Councils able to refer them to Committee, if their response was contrary to the officer recommendation the Working Party had recommended that this right be removed on a trial basis with a full explanation to Town and Parish Councils of the proposed changes. The right for Members to refer an application to Committee would remain.

Members were advised that substitution was not available for all Committees; under the Council's Constitution substitution was only currently available for the operational committees. The Council could lawfully operate substitution for any committee provided the Constitution was amended to provide for it; however that would be a matter for the Council and not for the Planning Committee to decide. The Planning Committee could make a recommendation to the Councillors' Commission which could in turn make a recommendation to Council. Members were further advised that the Council had previously used substitution as a means of preserving political balance on the operational committees. The purpose of the Planning Committee was to make decisions based on the planning merits of an application and not to operate, or be perceived to operate in a political way.

The Business Manager Development informed the Committee that planning applications had increased by circa 10-12% in overall terms, major applications had increased by 55%, which was a positive indicator that the building industry was moving. The Government had made two changes in the last few years, the first being a target that 'minor' and 'other' applications being determined within 8 weeks, unless an extension of time was agreed by the applicant. The second was that at present only performance in determining 'major' applications was monitored nationally.

However the Housing Bill had stipulated that monitoring of the levels of performance would be extended to 'minor' and 'other' applications. This would be introduced in October 2016. The Planning Authority therefore needed to ensure they could deliver the statutory planning service, which would be monitored retrospectively on a two year basis. When an application was submitted, the Authority needed to have the capacity to react, which would have an impact on Planning Officer's and Democratic Services time.

The Chairman disagreed with the change to the proposed arrangements for Town and Parish Council's. He felt that the proposal may place a Member in a one Member ward in a difficult position as they may not agree with the Town or Parish Council on a matter and may be asked to refer an application for Committee consideration where they did not personally disagree with the officer recommendation. Members of the Planning Committee may also be compromised by calling in an item.

The Deputy Chief Executive confirmed that there was not an automatic right for a Member to refer an item to Planning Committee. The request would be considered by the Business Manager Development or the Deputy Chief Executive in consultation with the Chairman of the committee to determine if there were valid grounds for referral. It may assist if Members first discussed their concerns with the planning case officer before referring a matter to committee.

Some Members commented that there was no need for any major change to the scheme of delegation. The Authority was currently meeting their targets and when major applications were submitted to the Council a special meeting of the Planning Committee could be convened. It was suggested that Members should all be briefed/trained to promote awareness of the weekly planning list as it was important for them to get involved at an early stage. The planning officer's committee presentations were considered too lengthy and could be condensed as Members had a comprehensive reports circulated to them before the meeting. It was further commented that there was no need to have additional scheduled meetings as it could not be predicted when they would be required. The introduction of substitutes was also raised and it was commented that the Planning Committee membership was constituted according to political balance and the introduction of substitutes would be maintaining that status quo.

It was suggested that the principle of appointment of substitutes to Planning Committee be discussed by the political groups.

AGREED (unanimously) that:

- (a) all Members of the Council be made aware of the current scheme of delegation including the weekly lists (which should be split to make clear which applications were major and which were minor);
- (b) Members be encouraged to liaise with the relevant Town or Parish Council and with the planning case officer before requesting that an item be referred to the Planning Committee;
- (c) where appropriate the Planning Officers presentation to the

Planning Committee be shortened to include reference to key issues only; and

- (d) the principle of appointment of substitutes to the Planning Committee be referred to the political Groups for further discussion and debate.

123. APPEALS LODGED

NOTED that the report be noted.

124. APPEALS DETERMINED

NOTED that the report be noted.

The meeting closed at 6.38pm

Chairman

Application No:	15/02142/FUL	
Proposal:	Formation of new vehicular access, demolition of existing workshop and alterations to redundant farm buildings to form two dwellings	
Location:	Glebe Farm, Caunton Road, Norwell, NG23 6LB	
Applicant:	Mr E M Batty	
Registered:	4 December 2015	Target Date: 29 January 2015

This application is being referred to Planning Committee as the Officer recommendation is contrary to the response received from Norwell Parish Council and the application relates to the creation of 2no. new dwellings.

The Site

Glebe Farm is located within the open countryside approximately 750m south west of the village of Norwell. The application site lies to the west of Caunton Road and comprises 2no. barns situated around a courtyard which is currently used in connection to the farm. The larger of the barns (plot 4) lies to the north of the courtyard and is a threshing barn with a modern single storey side extension whilst the other barn (plot 3) is a single storey building located to the west of the courtyard, adjoining residential accommodation associated with Glebe Farm Farmhouse. The courtyard currently accommodates a large metal-clad building which is proposed to be demolished.

The application site is surrounded by agricultural buildings associated with the farm; the closest dwellings are located to the south (the farmhouse) and The Beeches to the SW of the farmhouse.

Relevant Planning History

02/02618/FUL - Proposed garage (granted planning permission 27.01.2003)

01/01876/FUL - Proposed extension to private dwelling and rebuild of fire damaged outbuilding. (granted planning permission 28.11.2001)

The Proposal

The proposal is for the conversion and alteration of 2no. barns to form 2no. dwellings including the demolition of an existing outbuilding to form a courtyard and the creation of a new access from Caunton Road to serve the properties.

Plot 3 is the smaller of the two barns and is proposed to be extended to create first floor living accommodation, which will include raising the ridge height of the building. The property is proposed to have 2 bedrooms, bathroom, living room and a kitchen/diner. Private amenity will be created to the east of the property off the communal courtyard.

Plot 4 comprises a threshing barn which is proposed to be converted to a 3 bedroom dwelling with living room, kitchen and dining room on the ground floor. Various new openings are proposed on the south west and western elevations, with 4no. Velux rooflights proposed along the north west elevation. The garden area will be split along the south of the building by the parking area for the property.

The demolition of the metal-clad outbuilding will result in a larger courtyard for the properties which will be serviced by the new access from Caunton Road. Alterations are also proposed to the amenity space of the existing dwelling including a new parking area and new 1m high boundary wall to the east.

Departure/Public Advertisement Procedure

Occupiers of two properties have been individually notified by letter. A site notice has also been posted close to the site.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy Adopted March 2011

Core Policy 9: Sustainable Design

Allocations and Development Management DPD Adopted July 2013

Policy DM5: Design

Policy DM8: Development within the Open Countryside

Other Material Planning Considerations

National Planning Policy Framework 2012

Planning Practice Guidance 2014

Conversion of Traditional Rural Buildings SPD 2014

Consultations

Norwell Parish Council – Support the proposal

NSDC Conservation Team – No comments received to date

NSDC Access and Equalities Officer – Separate enquiry should be made to Building Control

NSDC Waste, Litter and Recycling Team – ‘There is insufficient information regarding waste management for me to comment on the suitability. I cannot support this application on waste management grounds until further information is supplied.’

NSDC Environmental Health Officer – ‘This application includes the demolition of a workshop and conversion of agricultural buildings to residential dwellings with gardens. Agriculture is a potentially contaminative land-use and such land can possibly be used for a wide variety of potentially contaminative activities including: non-bunded fuel storage, repair and maintenance of agricultural machinery/vehicles, storage of silage and other feed, slurry tanks/lagoons, disposal of animal waste and disposal of asbestos. There is clearly the potential for the site to have been contaminated from this former use. 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.’

NCC Highways – No objections subject to conditions. Requiring a vehicular crossing over the existing verge and the access to the site being surfaced in a bound material.

Nottinghamshire Wildlife Trust – ‘The report gives details of a single daytime survey carried out on the site and buildings subject to the above application. The majority of the site was considered to consist of buildings and hardstanding and our concerns would therefore be focussed on bats and birds.

No signs of bats were recorded in buildings 2 and 3 and these were considered to be either subject to high levels of disturbance or offered limited potential features to support roosting bats. Buildings 2, 3 and 4 were able to be thoroughly surveyed and bats are not thought to pose a constraint to their development.

Building 1 was considered to be of a type which could contain features suitable for roosting bats and some evidence of bat use was found. The report suggests that a small number of bats may have entered and flown around the barn but that the evidence does not point towards a maternity roost. The potential presence of other types of roost is not entirely discounted in the report. We would normally expect to see a minimum of one emergence and/or re-entry survey carried out to support a daytime inspection where evidence of bat use was found. However, the roof lights and likely levels of disturbance from machinery would likely reduce suitability for roosting bats. In addition, the report states that niches were accessed by ladder and searched using an endoscope with no evidence of bat use recorded.

In the absence of further survey work, it would be **imperative** that **all contractors would be fully briefed in the procedure to follow should a bat be discovered**. Works to the roof and associated structures of Building 1 (the barn) should be carried out carefully by hand. Should any bat/s be found under any aperture, **work must stop immediately**. If the bat/s does not voluntarily fly out, the aperture is to be carefully covered over to provide protection from the elements whilst leaving a small gap for the bat to escape should it so desire. **The Bat Conservation Trust should be contacted immediately on (0845) 1300228** for further advice and they will provide a licensed bat worker to evaluate the situation and give advice. Failure to comply is an offence under the

Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 which makes it an offence to kill, injure or disturb a bat or to destroy any place used for rest or shelter by a bat (even if bats are not in residence at the time). The Countryside and Rights of Way Act 2000 strengthens the protection afforded to bats by covering 'reckless' damage or disturbance to a bat roost.

We support the recommendation for provision of artificial roost opportunities into the redeveloped buildings. This could compensate for loss of potential features and would also be an example of making **biodiversity enhancements**, as encouraged within the NPPF.

The survey was carried out outside of the bird breeding season and therefore as a precaution we recommend a **thorough check of the buildings for active nests** immediately before any works commence if this occurs between March and August inclusive.'

Natural England – No comments to make

No other representations have been received to date.

Comments of the Business Manager, Development

There are a number of matters that require consideration in the assessment of this application which are discussed in turn below.

Principle of Development

Glebe Farm lies some 750m from the village of Norwell and therefore lies within the open countryside where development is strictly controlled by Policy DM8 of the Council's DPD. Policy DM8 of the ADMDPD states consideration should be given to the conversion of existing buildings before proposing replacements, and that alternative uses should be explored, and a case should be put forward for the most beneficial one. Planning will only be granted for residential where it can be demonstrated that the architectural or historical merit of the building warrants their preservation, and its conversion would not involve substantial rebuilding, alteration or extension. The barns are examples of traditional agricultural buildings and therefore I consider them to hold historical merit, particularly with regards to the threshing barn. Given the location of the buildings in close proximity to existing residential uses, I consider that the re-use of these buildings for residential development to be an acceptable and appropriate use in principle.

Policy DM8 also states that a structural survey is required to demonstrate that the buildings can be converted without the need for substantial rebuilding; the structural survey submitted with the application suggests that the barns could be converted with only minimal work to the external fabric.

The Council's Conversion of Traditional Buildings SPD also provides guidance of acceptable development involving historic and traditional buildings. Within the guidance, detailed advice is

offered in respect of retaining traditional features, limiting the creation of new openings and what would be considered an appropriate extension to a traditional building.

In addition to the proposal's impact upon the open countryside, Policy DM5 of the DPD requires development to ensure that there is no adverse impact upon the amenities of the surrounding land uses in terms of overlooking, overshadowing and overbearing impacts. It is also expected that development will respect the design and character of the surrounding area, as well as provide sufficient parking provision which has no adverse impact upon the public highway; this latter requirement is also reiterated by Spatial Policy 7 of the Core Strategy.

Impact on the Open Countryside and the Visual Amenities of the Area

The barns form part of a complex of agricultural buildings at the entrance to Glebe Farm, resulting in them being highly visible from the public realm. The two barns that are subject of this planning application are traditional in appearance and as such, as many of the traditional features should be retained as possible.

Policy DM8 and the Council's Conversion of Traditional Buildings SPD make it clear that the conversion of rural buildings will only be permitted where alterations to the building are kept to a minimum, ideally without the need for extension. Additionally, Policy DM5 of the DPD requires new development to respect the local distinctiveness of the District's built form and its character should be reflected in the design, scale, layout, form, mass and detailing of proposals. The proposed conversion of the threshing barn involves no extension to the building, which I consider to comply with Policy DM8 and the SPD. The single storey barn, however, is proposed to include a first floor extension, raising the eaves and ridge height of the barn, significantly altering the appearance of the building. This significant alteration in my opinion fails to meet the criteria set out in Policies DM5, DM8 and the SPD as the extension would significantly alter the appearance of the building and dominate the overall courtyard setting, as well as have a harmful impact upon barn's the historical relationship with the adjoining barn conversion which is also single storey in height.

I am mindful that the structural survey submitted with the application suggests there was originally a first floor to this barn however there is no evidence of this; in any event the SPD gives little weight to the reconstruction of previously demolished sections of buildings unless the applicant can provide compelling evidence of the previous existence and scale of the demolished structure and its restoration contributes significantly to the viability or character of the development.

In addition to extensions to barns, the Council's SPD also states that alterations to existing fabric must be kept to the minimum necessary and should not obliterate or remove essential features such as ventilation holes, with new openings limited to existing openings unless it is unavoidable. Having visited the site, I note there are several breathers located along the elevations of the threshing barn which are not shown on either the existing or proposed plans. It is therefore not known whether these are to be retained as part of the development; in accordance with the

guidance from the SPD, these features should be retained. In addition, the development proposes various new openings across the two barns, some of which do not have regard for the traditional buildings, most notably the openings along the south west elevation of the threshing barn and the 4no. rooflights to the north west elevation of the threshing barn. As a result, I do not consider the design of the proposal to fully respect the traditional appearance of these agricultural buildings and therefore the proposal does not accord with the SPD or Policy DM5 of the DPD.

Impact upon Residential Amenity

Policy DM5 of the DPD states the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

The two proposed dwellings are set at a right angle to each other and as such the first floor windows of the properties afford views over the courtyard and over the private amenity spaces of the dwellings; the proposed windows within the threshing barn would also overlook the garden area for the existing dwelling within the site. As such, I do not consider the proposal to have fully considered issues relating to privacy as part of the proposal and therefore does not comply with Policy 5.

Having regard to the private amenity space allocated to each dwelling, the proposed garden area for plot 3 is approximately 40m² (excluding parking area) compared with the building's proposed floorspace of 110m². The Council does not have specific guidelines on the proportion of private amenity space required for a dwelling, however I have taken guidance from other local authorities who recommend a minimum of 50-60m² for the size of property proposed. On this basis, I am of the view that the proposed amenity space is unlikely to offer the amenity space required by a 2-bedroom property and their privacy is likely to be compromised by the close proximity to the adjoining dwellings.

In terms of overshadowing, I am mindful of the layout of the plots and note the east-facing garden for plot 3 which is unlikely to benefit from much sunlight after midday; additional overshadowing is likely to occur as a result of the proposed first floor extension. Similarly, given the proximity of the barns, the garden of plot 4 is likely to be overshadowed after midday by the proposed first floor extension to plot 3. I am therefore of the view that the amenity of the new properties is unlikely to reach the standard expected by the Council when considering new residential development in accordance with DM5 of the DPD. I attach weight to the re-use of buildings which may limit the capability for the developer to achieve the highest standard of amenity for all occupiers and neighbouring land uses, however in this instance I do not consider that the re-use of the buildings to outweigh the harm upon amenity.

Impact upon Highway Safety

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

The Highways Authority have advised that the site will have an insignificant impact on the public highway and access visibility will be adequately provided with the new access given the width of the highway verge, along with parking and turning provision within the site. The Highways Authority have recommended conditions relating to the new access should members be minded to approve the application. Subject to these conditions, the proposal is not considered to impact significantly upon the public highway and therefore I do not consider the proposal likely to have a detrimental impact upon the highway.

Impact upon Ecology

The proposal involves the conversion and alteration of two agricultural buildings which have the potential for bat roosts. The application was accompanied by a protected species survey which concluded that there were no recordings of bats within the buildings. As part of the consultation process for the application, Nottinghamshire Wildlife were consulted on the application who have recommended various precautions are followed on site and should be included as notes for the applicant should members be minded to approve the application.

Other Matters

As part of any planning application for residential development, information regarding waste management, including bin storage between and on collection days, should be assessed. No information regarding this has been submitted with the application and therefore the internal Waste Management Officer has stated that they cannot support this application without further information. Given the issues with the development detailed earlier in this assessment, I have not considered it necessary to request this information in this instance. However, the information could be sought prior to determination, or conditioned, should members be minded to approve the application.

The proposal site lies within an agricultural unit. Agriculture is a potentially contaminative land use and as such, the land within the site could be contaminated or include the removal of asbestos. No desktop study/preliminary risk assessment has been submitted with the planning application, and therefore should the application be approved, phased contamination conditions should be attached to the planning consent in accordance with the advice received from the internal Environmental Health Officer.

Conclusion

Policy DM8 of the DPD sets out clear criteria for the conversion of rural buildings to residential uses including that they must have architectural or historical merit. It is concluded that the barns under consideration fit within this stipulation and therefore their conversion is thought acceptable in principle. However, the proposal includes the addition of a large first floor extension to a single storey barn and the creation of unsympathetic openings within the barns, which are not supported by Policies DM5 and DM8 or the Council' SPD for the conversion of rural buildings.

In terms of amenity, it is not considered the proposal provides a sufficient level of private amenity/garden space for plot 3 nor allows for sufficient light to enter the new gardens created. Additionally, the layout of the properties would allow significant overlooking in these garden areas from either of the new dwellings which would not afford an acceptable standard of amenity for residential properties as required by Policy DM5 of the DPD.

Turning to issues relating to highway safety and ecology, no objections have been raised by the Highways Authority or Nottinghamshire Wildlife Trust respectively subject to conditions should the application be approved. Conditions relating to contaminated land have also been recommended. In terms of waste management, further information is required but has not been requested at this stage given the issues raised with regards to design and amenity.

Overall, the significant alterations to the buildings as part of the conversion are not considered to comply with local policies as set out above. Additionally, the impact upon amenity for the new and existing occupiers within Glebe Farm has been assessed and it is concluded that they are likely to be adversely impacted by the development, again contrary to local policies. The merits of the scheme are not thought to outweigh these issues and therefore it is recommended to the Planning Committee that planning permission for this application is refused.

RECOMMENDATION

That full planning permission is refused for the reason below.

Reason for Refusal

01

In the opinion of the District Council the proposed alterations to the buildings involve a significant extension to the existing barn and unsympathetic alterations to the buildings which do not reflect the character or appearance of these traditional rural buildings. The proposed development would therefore be contrary to Policies DM5 and DM8 of the Newark and Sherwood Allocations and Development Management DPD (2013) and the Newark and Sherwood Conversion of Traditional Buildings Supplementary Planning Document (2014).

02

In the opinion of the District Council the proposed development would not afford the standard of amenity required for two new dwellings or the existing dwelling at Glebe Farm with regards to privacy, overshadowing or overbearing impacts as well private amenity space available. The proposed development would therefore be contrary to Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (2013).

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 for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal.

BACKGROUND PAPERS

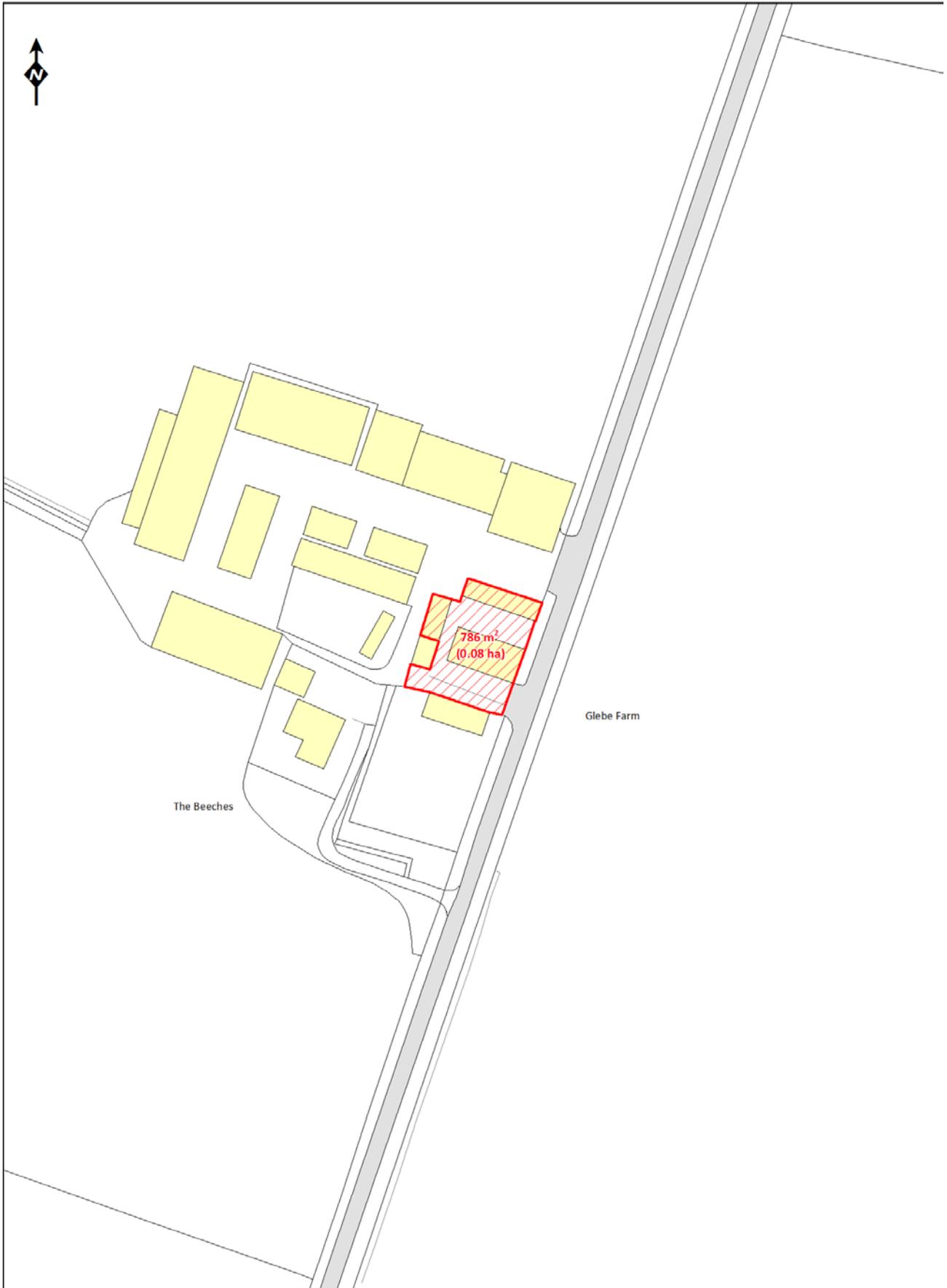
Application case file.

For further information, please contact Nicolla Ellis on ext. 5833.

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/02142/FUL



© Crown Copyright and database right 2015 Ordnance Survey. Licence 100022288. Scale: Not to scale

Application No:	15/01198/FULM	
Proposal:	Change of use of unit 2 of the former poultry farm to develop and indoor motorbike training facility	
Location:	Oakham Farm, Forest Lane, Walesby, Nottinghamshire	
Applicant:	Mr Ryan Wilson	
Registered:	7th July 2015	Target Date: 2nd November 2015
	Extension of Time Agreed in principle	

The Site

The application site forms part of a large former egg packing and distribution centre complex located to the north west of and on the periphery of the village of Walesby. The complex comprises 3 no. very large modern dark green profiled metal clad buildings which are sited in a line extending east west across the complex with large and open areas of hardstanding and vehicular turning. The complex also comprises a number of smaller wooden structures and detached brick buildings with associated hard surfacing with parking to the south of the complex. The site falls within open countryside.

The site is accessed via Forest Lane, a private shared road serving residential properties and a further poultry farm located to the south west. It is bounded to the north east and west by mature trees and small areas of woodland and is immediately adjoined by agricultural land to the north and west. To the east, the site is separated from the residential properties on Retford Road by an open field. The boundaries of these properties are approximately 335 metres from the application site. Residential properties also exist along Forest Lane approximately 205 metres from the main part of the application site.

This application relates specifically to Unit 2, the centrally located unit of the three modern very large buildings together with an area of land comprising areas of grass and hardsurfacing immediately between Unit 2 and Unit 1 to the east.

Unit 2 has maximum dimensions of 130 metres length, 25 metres width and 24 metres min height. There is a lean to structure which has maximum measurements of 14 metres length and 8.2 metres width.

Planning History

Conditional planning permission was granted in October 2012 for the change of use of former egg production sheds to storage and distribution use (B8) – application ref. 12/00795/FULM. This permission related to Units 1, 2 and 3. This permission remains extant and has not yet been implemented.

The Proposal

Full planning permission is sought for the change of use of the building identified as Unit 2 to an

indoor motor bike training facility relating to motorcross. The proposed facility will accommodate a maximum of 30 motor bikes (limited in size to 450cc) per session with a maximum of 150 bikes expected per day.

The proposal involves internal alterations to the building and the construction of an indoor track comprising banked corners and various jumps ranging from 1.5 metres to 2 metres high.

No external alterations are proposed to the building.

Parking spaces for up to 12 staff members and 64 visitors will be provided in the open space between the application unit and the adjacent unit 1 which will be would be resurfaced.

The hours of operation are proposed as:

Monday and Wednesday – closed

Tuesday and Thursday - 1000 to 2100 hours

Friday to Sunday – 1000 to 1600 hours

The following documents have been deposited with the application;

Planning Statement

Design and Access Statement

Noise Impact Assessment

Transport Statement

A Supplementary Planning Statement has been deposited which comments on need, location, sustainability and comprehensive approach.

Confirmation has also been received that no racing will take place. Additional information has also been deposited with regards to the marketing of the site, need for the development, noise, no outdoor riding or maintenance, optimum use and which also comments on other criteria within policy DM5.

Departure/Public Advertisement Procedure

Occupiers of 33 neighbouring 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 Core Strategy Adopted March 2011

- Spatial Policy 1 – Settlement Hierarchy
- Spatial Policy 3 – Rural Areas
- Spatial Policy 7 – Sustainable Transport
- Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
- Core Policy 9 – Sustainable Design
- Core Policy 6 – Shaping our Employment Profile

Allocations and Development Management DPD Adopted July 2013

- Policy DM1 – Development within Settlements Central to Delivering Spatial Strategy
- Policy DM5 – Design
- Policy DM8 – Development in the Open Countryside
- Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

Consultations

Walesby Parish Council – Objections are raised on the grounds that the proposal would be an inappropriate use due to the noise and air pollution caused by high revving motorbikes and the close proximity of residential properties, not to mention the increase in traffic down a track.

NSDC Policy – ‘NPPF Sets the requirement for planning policies to support economic growth in rural areas including:

- Supporting the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings.
- Promoting the development and diversification of agricultural and other land based rural businesses.

Core Strategy Spatial Policy 3 –Rural Areas, states that development away from the main built up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Commits to the production of Policy DM8 set out below.

Spatial Policy 8 - Protecting and Promoting Leisure and Community Facilities, states; The provision of new and enhanced community and leisure facilities will be encouraged, particularly where they address a deficiency in current provision, and where they meet the identified needs of communities, both within the District and beyond.

Allocations & Development Management DPD Policy DM8 :

- Criterion 5 – Conversion of existing buildings, states; in the interests of sustainability, consideration should be given to the conversion of existing buildings before proposing replacement development. Proposals should investigate and assess alternative uses for buildings in accordance with the aims of the Spatial Strategy and present a case for the most beneficial use.
- Criterion 9 – Community and Leisure Facilities, states; Community and recreational uses requiring land in the countryside will be supported on sites in close proximity to settlements. In accordance with Spatial Policy 8, proposals will be required to demonstrate they meet the needs of communities and in particular any deficiencies in current provision.

Policy DM5 – Design.

ASSESSMENT

The proposal inherently complies with some aspects of policy by involving the re-use of an existing building that is in close proximity to a settlement. The other assessments that need to be made in determining the suitability of the change of use are:

- Demonstration of the use meeting the needs of communities.
- Demonstration of most beneficial use of building.

The application states that there are very few similar facilities in the UK and nothing comparable in the area, and due to the longstanding concerns about the dangers to people from riding motor bikes it is considered that there is a demonstrable need to provide a facility which offers suitable training. The proposal is therefore clearly aiming to provide for a market both inside and some way outside of the district. Spatial Policy 8 does allow for this, but I think to defensibly support the need, more information is required. The application does not explore alternative uses as required by Policy DM8 and so does not satisfy the policy as it stands. I note the approval for storage & distribution use in 2012 which presumably was not taken up and so it may be the case that other uses have been investigated, but not referenced in the application. As above, more information is required. I defer to your and the relevant consultees assessment of the relevant criteria of Policy DM5.

It is concluded that the proposal has the potential to comply with the development plan if it can be shown that:

- The use meets the need of communities – I would suggest this could be addressed through more information on the nearest comparable facility and what the catchment area for this facility is expected to be.
- This is the most beneficial use of the building – I would suggest this could be addressed through more information on other uses that have been investigated.
- The relevant criteria of DM5 are addressed.

In response to the additional information submitted in respect of these applications I can comment as follows:

The applicant has set out a credible case for the proposal being relatively unique thereby meeting a deficiency in current provision and meeting the needs of communities within and far beyond the District. This would satisfy Spatial Policy 8 and would also contribute to the aims of Core Policies 6 & 7 by attracting economic and tourism development to the district. The information submitted in respect of the marketing of the site as evidence of the most appropriate use is also credible. Given the amount of time that has lapsed since the grant of various permissions by this Council and in the knowledge that former poultry buildings have limited re-uses I consider that criterion 5 of Policy DM8 would be satisfied. I consider that if the other relevant DM policies can be satisfied the proposal would be in accordance with the development plan.

Nottinghamshire Wildlife Trust - As advised in pre-application response to the applicant, it appears that the building is of a type which is less suitable for bats, although the possibility that they may be present cannot be entirely ruled out. As no changes are proposed to the roof then NWT would be satisfied that a survey is not required. However, if during works a bat is discovered, work must stop immediately. If the bat/s does not voluntarily fly out, the aperture is to be

carefully covered over to provide protection from the elements whilst leaving a small gap for the bat to escape should it so desire. The Bat Conservation Trust should be contacted immediately on (0845) 1300228 for further advice and they will provide a licensed bat worker to evaluate the situation and give advice. Failure to comply is an offence under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 which makes it an offence to kill, injure or disturb a bat or to destroy any place used for rest or shelter by a bat (even if bats are not in residence at the time). The Countryside and Rights of Way Act 2000 strengthens the protection afforded to bats by covering reckless damage or disturbance to a bat roost.

It is also recommended that consideration is given to any external lighting which may be required, keeping it to a minimum and ensuring it is directed downwards and away from any boundary features.

To avoid any disturbance effect on wildlife populations due to increased noise, the recommendations in the noise assessment report for keeping doors closed and sealing other openings should be secured via condition.

Paragraph 109 of the NPPF states that the planning system should look to provide net gains in biodiversity where possible, whilst Paragraph 118 advises that opportunities to incorporate biodiversity in and around developments should be encouraged. With this in mind, plans for biodiversity enhancements on and around the development site would be welcomed. These could include enhancing existing habitats, for example planting/landscaping the car park area with native species, as well as creating new habitats, such as installing bat and bird boxes.

NSDC Environmental Health Contaminated Land – No observations are made.

NSDC Environmental Health – No objections are raised in principle subject to an understanding that the following matters can be conditioned:

The specification of the ventilation is not provided, however I would be grateful if a condition is placed on any approval to provide a suitable ventilation system capable of removing exhaust gasses from the indoor facility, without the need for opening any doors/windows during the race operations. The ventilation system should also be designed or attenuated to ensure it does not exceed 36dBA as detailed in the noise assessment.

That all doors and other openings are kept closed during operation and only opened when all engine noise from inside has ceased. Where possible lobbies should be installed to entrances to prevent the escape of noise.

No motor repairs/servicing should be undertaken outside.

Noise monitoring should be undertaken on each day the facility is operating and during a time when a race is progress (peak operation), with a calibrated sound level meters and a written record of the results shall be kept for inspection by Environmental Health. Where readings are recorded which are higher than The World Health Organisation Guidelines for Community Noise (1999) (the outdoor sound level from steady, continuous noise should not exceed 50 LAeq), then corrective action must be taken to abate the noise within a time period agreed with Environmental Health.

Hours of opening as described in the application should be strictly adhered to.

Traffic calming measures shall be introduced to restrict speeding to and from the venue.

Additional comments have been received with regards to the impact on the local residents from dust, fumes and odour in connection with the proposal, I am of the opinion that the ventilation system and distance from dwellings to be sufficient for dust, fumes and odour to have no impact on residents. Furthermore the facility will have its doors and windows closed during training.

Environment Agency – The site is low risk. No comments are therefore raised.

NSDC Access and Equalities Officer - As part of the developer's considerations of access for all, with particular reference to access and facilities for disabled people, it is recommended that the developer's attention be drawn to BS 8300: 2009 'Design of Buildings and their approaches to meet the needs of disabled people – Code of Practice' which contains useful guidance. Approved Document M of the Building Regulations contains further useful information in this regard. It is recommended that car parking includes appropriate carefully laid out and signed provision for disabled motorists. BS 8300:2009 gives details of layout and proportion of spaces. A safe accessible pedestrian route should be considered from parking and to, into around available facilities which should contain provision for disabled people and be carefully designed and equipped so as to be accessible to all users. Stair access to facilities precludes wheelchair users and those unable to negotiate this barrier. The proposal should be carefully designed to be equally convenient to access and use by everyone through inclusive design. It is recommended that the developer be mindful of Equality Act 2010 requirements and that a separate enquiry be made regarding Building Regulations Approval.

NCC Highways Authority – The application site was previously a poultry farm unit served by Forest Lane which is 'unadopted'.

This proposal is expected to accommodate 30 bikes per session with a maximum of 150 riders on any given day. Bikes will be transported to the site in vans or cars/trailers.

Parking will be provided within the site for 12 employees (3-4 ft are proposed at present), 42 trainee riders and 20 spectators – a total of 74 spaces. The track is expected to be utilised all day by the same group of riders, with occasional changeover at midday.

In view of the above, and taking into account the previous use of the site, it would appear that sufficient parking is provided, therefore, there are no highway objections to this proposal subject to the following:

No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the approved plan. The parking areas shall not be used for any purpose other than the parking of vehicles.

Reason: To ensure that all parking for the development remains within the site curtilage.

The applicant should note that Forest Lane is a bridleway and consultation should take place with NCC Rights of Way section for advice/approval.

NCC Rights of Way – The private road that provides the access to the former poultry site also carries Walesby Bridleway 9. This road is also used as access to other properties and land. Users of the bridleway are used to traffic, but it would be wise to display an advisory sign on entering the

lane & exiting the site – especially as many horses are afraid of or spooked by motorbikes. The signage could be something along the lines of Caution – Public Bridleway – please drive slowly & give way to horses would be appropriate.

The road is un-adopted, therefore any maintenance required above the standard required for a rural bridleway, would fall to the private users. I would imagine that there is already an agreement in place with the current users as the poultry farms generated significant traffic. The developer would need to investigate this.

Neighbours/Interested Parties – 26 representations have been received from local residents or other interested parties raising objections to the proposal and 28 have been received in support. These comments can be summarised as follows:-

Objections

- The description of the proposal is inaccurate. It refers to motor bike training facility and not motocross
- It is inappropriate development – the building is in good order and is not suitable for such a use
- The proximity to residential properties – the measurements to the nearest residential properties are inaccurate
- Impact on residential amenity outlined as follows:-
- The existing facility at Beavercotes already impacts on amenity
- The application relates to a metal building which would amplify noise and the building is not soundproofed
- There is no provision shown for the repair/testing/test riding within the building
- The Noise Assessment is incomplete and inaccurate
- The applicant has stated that the planning officer has accepted the noise level test. It is requested that all residents are invited to take part in noise testing
- The proposal will result in fumes which will be carried to nearby residential properties
- The proposal will result in a risk to health by virtue of pollutants
- Loss of privacy due to proximity to residential properties
- Hours of operation will cause disturbance
- There are no details of ventilation or any assessment of the levels of heat that would be generated;
- The proposal will contravene the Human Rights Act

- Impact on character of the area
- The proposal fails to respect or enhance the village or the area
- It will be detrimental to the peace and quiet of the area
- The proposal would be detrimental to the environment
- It fails to support low carbon emissions or make any contribution to reducing pollution
- Impact of pollution on trees
- Impact on flora/fauna/wildlife
- The proposal would have a detrimental impact on highways
- The proposal would result in an increase in traffic
- Impact on highway safety as there are no pavements or street lighting on Forest Lane
- The access is unsuitable for the proposed levels of traffic
- The speed of traffic using the site would impact on highway safety
- The proposal has no economic, social or environmental role in Walesby. It will not promote tourism, users will not use local facilities
- The proposal contravenes policy. It fails to take account of local strategies or improve health and does not deliver on any key issues or objectives
- The proposal fails to promote rural diversification
- The proposal will impact on other uses that take place on the site and the users of the sports pitch
- There is a conflict of interest for the operator

A further letter has been received from the local Member of Parliament raising the following concerns:-

- The potential for the hours and days of use of the facilities to be extended to weekends and evenings – reassurance is requested that should permission be granted there will be strict monitoring of the number quota of riders and visitors and how this will be implemented.
- Impact on the tranquil village in terms of noise and traffic and motor bikes being ridden outside.
- Reassurance is sought that the distances between the site and residential properties will be rigorously looked into, that highways are consulted with regards to volume of traffic and

that noise levels will be investigated by the Council. It is questioned as to whether this type of facility is allowed in the Green Belt.

Support

- The re use of the building provides an all-weather facility and a safe environment
- It will attract tourism to the area
- It will help the local economy
- It provides a national facility and encourages the growth of a family sport
- It allows young riders to do so legally and give them skills for the future
- It will create employment
- The applicant will have a positive impact on the operation of the business
- Potential use by a school for core PE lessons or as a reward trip
- It is innovative and would provide a facility for young people who are interested in motorsport with a legal and accessible venue.

Comments of the Business Manager – Development

Principle of Development

A presumption in favour of sustainable development is at the heart of the National Planning Policy Framework (NPPF) and is identified as being seen as a golden thread running through decision taking. This means approving development proposals that accord with the development plan without delay.

Paragraph 7 of the NPPF advises that there are three dimensions to sustainable development, having an economic, social and environmental role by:-

- contributing to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth;
- supporting strong vibrant and healthy communities by creating a high quality built environment with accessible local services that reflects the needs of the community; and
- contributing to protecting and enhancing the natural built and historic environment and to adapt to climate change including moving to a low carbon economy.

Paragraph 8 of this document advises that these roles should not be seen as being independent of each other but that to achieve sustainable development these gains should be sought jointly through the planning system which should play an active role in guiding development towards sustainable solutions.

At paragraph 17 the NPPF identifies 12 core planning principles which should underpin planning decisions. Of particular relevance to this application are the principles that planning should proactively drive and support sustainable economic development, should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings, should encourage and support the transition to a low carbon future (taking account for example the conversion of existing buildings). Moreover planning should contribute to conserving and enhancing the natural environment reducing pollution, encourage the effective use of brownfield land, promote mixed use developments and encourage multiple benefits from the use of land in urban and rural areas by actively managing patterns of growth and focusing significant development in locations which are or can be made sustainable and should deliver sufficient community facilities and services to meet local needs.

The NPPF goes on to recognise that significant weight should be attached to supporting economic growth through the planning system. Paragraph 28 relating to supporting a prosperous rural economy advises that planning should support economic growth in rural areas in order to create new jobs and prosperity by taking a positive approach to sustainable development by supporting sustainable growth and expansion of all types of businesses together with sustainable rural leisure and tourism developments in appropriate locations where identified needs are not met by existing facilities and which respect the countryside.

At a local policy level, Core Policy 9 of the Core Strategy discusses Sustainable Design. This policy outlines that the District Council will expect new development to achieve a high standard of sustainable design and layout that is capable of being accessible to all and is of an appropriate form and scale to its context, complementing the existing built and landscape environments. New development should demonstrate an effective and efficient use of land that, where appropriate, promotes the reuse of land and optimises the site potential at a level suitable to local character. Development should also contribute to a compatible mix of uses.

Policy DM12 of the Allocations and Development Management DPD further reflects the guidance and the presumption in favour of sustainable development identified in the NPPF. Planning applications which accord with the policies of the Development Plan will be approved without delay unless material considerations indicate otherwise. Account should be taken as to whether the impacts of granting of permission would significantly or demonstrably outweigh the benefits of the proposal when assessed against the policies in the NPPF.

The proposal would reuse an existing large vacant building sited within a much larger vacant brownfield site. The existing building and associated land would require little external alteration or extension to facilitate the proposed use. It is acknowledged that some weight should be given to the consideration as to whether the proposal might be likely to compromise any possible future more comprehensive development of this wider site and a compatible mix of uses. The land and buildings to which this report relates together with the wider site has been vacant for a number of years and more recent marketing and planning permissions issued have not resulted in any land or buildings being brought into use. I am also mindful that the wider poultry farm site has not been identified or allocated for development in any current development plan documents.

I consider that the proposal will meet the economic, social and environmental role by contributing to the economy, providing a service not already available in the region and moving towards a low carbon economy through the conversion of an existing building. In these respects the development can be viewed as being relatively sustainable under the guidance in the NPPF. The NPPF states that planning should proactively drive and support sustainable economic

development such as this. Whilst the proposal would not result in a comprehensive development of the site which would help in better understanding the future cumulative impacts of uses on the site and the relationship with the area, the NPPF also promotes mixed use developments and encourages multiple benefits from the use of land including in rural areas and in this sense this standalone proposal would not necessarily prejudice such an approach.

When considering the principles set out in Core Policy 9 above, the development would make effective use of the existing large former poultry building and therefore the impact on the existing built and landscape environment would be reduced. Given the development only relates to a single building, the proposal does not necessarily optimise the potential of the wider site but as stated above would not prejudice other proposals coming forward where consideration can be given as to whether they would result in a compatible mix.

The site falls outside of the main built up area of Walesby and therefore under the criteria of Spatial Policy 3 falls to be assessed against Policy DM8 of the Development Management and Allocations DPD (Development in the Open Countryside). Development away from the main built up areas of villages, in the open countryside is to be strictly controlled under these policies and Policy DM8 sets out 12 types of development considered to be appropriate in the open countryside. In the interests of sustainability, one such type of development is the conversion of existing buildings. The sub text of this policy recognises that there are many buildings within the district which are no longer needed or are suitable for their original purpose. Proposals for the conversion of buildings should investigate and assess alternative uses and present a case for the most beneficial use of the site.

Details of marketing of the three buildings which form part of the wider former poultry farm complex have been deposited with the application. This outlines that the former poultry units have been marketed by WA Barnes LLP continuously since November 2012. A 'V' angle advertising board has been erected on Retford Road and the units have been listed on the advertising websites of WA Barnes, Rightmove, Zoopla, Movehut, Novaloca, Costar and the EGI/Property Link.

It is noted from the Supplementary Planning Statement submitted with this application that the site has been vacant for approximately 15 years, although no evidence has been put forward as to whether or how the site was marketed prior to 2012.

However, from the information provided I am satisfied that it has been demonstrated that the building has been unsuccessfully marketed for the last 3 years with only one successful approach for an alternative use resulting in planning permission being granted for a B8 storage use in October 2012. This permission, however, has not been implemented and has now expired and the buildings remain vacant.

Supporting information has also been deposited with regards to the possible reuse of the buildings for agricultural purposes. This states that the buildings are designed for egg production and changes in technology and processes have resulted in it not being financially viable to upgrade the buildings in order to continue this use. I acknowledge that the scale and form of the building does limit potential alternative uses.

Policy DM8 also identifies rural diversification, employment uses, community and leisure facilities and visitor based tourism development as being other types of appropriate development within the countryside. These are subsequently discussed within the report.

Taking these issues into consideration I am also mindful that the NPPF states that significant weight should be attached to supporting such economic growth in rural areas in order to create new jobs and prosperity. It is acknowledged that some weight should be given as to whether the proposal might be likely to compromise any possible future more comprehensive development of this wider site, however I am mindful that the NPPF encourages mixed use and any future applications would need to be considered on their own merits including whether they would contribute to a compatible mix. On balance I therefore consider that the significant weight to be attached to supporting sustainable economic growth would weigh in favour of the proposal and on this basis the principle of the proposal would be acceptable. However, other site factors and local and national policy considerations need to be weighed in the planning balance and these are set out and assessed below.

Impact On the Character of the Open Countryside

Policy DM8 states that all proposals will need to satisfy other Development Management Policies, take account of potential visual impact they create and in particular address the requirements of landscape character in accordance with Core Policy 13.

Core Policy 13 of the Core Strategy addresses issues of landscape character. A Landscape Character Assessment (LCA) was adopted as a Supplementary Planning Document in December 2013 to inform the policy approach identified within Core Policy 13. The LCA provides an objective methodology for assessing the varied landscape within the district and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

The site is identified in the LCA as falling within the Sherwood character area and within character zone S PZ 27 Ollerton Estate Farmland, a landscape considered to be of moderate condition and moderate landscape sensitivity. The LVA identifies the policy action in this zone to conserve and create.

Given that the proposal seeks to reuse an existing vacant building and immediately adjoining land without the need for any extension or substantial alteration to either and that the building is adjoined by other vacant commercial buildings which are set within a brown field site formally occupied by a poultry farm business, I am satisfied that the proposal would not result in any undue physical impact on the landscape character of the area or the open countryside.

I have carefully considered the potential impact of the proposed use and levels of activity generated on the character of the area. Although it is accepted that the use of the single building would result in some change in the relationship of the site with the character of the area by virtue of the nature and level type of activity I am of the view that the proposed use would not generate such a significantly greater level of activity than either the previous use as a poultry farm or the B8 use previously approved in 2012 to adversely impact on the character of the countryside setting of the site or the wider area to justify refusal on these grounds.

I therefore consider that the proposed use would not result in such an impact on the landscape or character of the area to justify refusal on these grounds.

Impact on Amenity

Consideration of the impact of development on the amenity of neighbouring land uses is a long standing consideration in the planning process. Indeed Policy DM5 states that development proposals should have regard to their impact on the amenity of surrounding land uses and where necessary mitigate for any detrimental impact.

I note the discrepancies raised in relation to accuracy of the distances between the application site and the nearest residential properties particularly on Retford Road which form the boundary of the village stated in the Design and Access and Planning Statements. These distances have been measured and from my calculations the rear boundaries of the properties to the east of the site are some 335m from the building. The distance to the boundary with the nearest property on Forest Lane equates to some 245m. Notwithstanding this, in visiting the site and assessing the proposal very careful consideration has been given to these distances I am satisfied that the proposal would not result in any overlooking or loss of privacy in this instance, particularly given that there are existing buildings which would obscure any views.

Taking account of the volume of traffic identified in the Transport Statement deposited with the application I am of the opinion that the levels of vehicular traffic generated would be unlikely to result in adverse impact particularly on the occupiers of the residential properties on Forest Lane given the unrestricted levels of traffic and the types of vehicles that were associated with the previous and previously approved B8 storage use of the site, which were substantial commercial enterprises.

With regards to noise nuisance Paragraph 123 of the NPPF makes reference to amenity in terms of noise. It states inter alia that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development.

I note the comments received with regards to noise and the quality and accuracy of the Acoustic Assessment carried out by Acoustic Associates and deposited with the application. This has been reviewed by the NSDC Environmental Health Officer. The Assessment states that background noise levels have been monitored at representative locations and that noise from a specific model of motorbike has been measured and the effect of noise of 30 similar bikes has been calculated. It also states that roller shutter doors will be kept closed during all sessions and existing ventilation opening will be adequately sealed. It concludes that noise from the development will not exceed the No Observed Adverse Effect Level guidance contained within the Noise Policy Statement for England 2010.

Having taken the professional advice of the Environmental Health Officer, I have no reason to question the assessment and its conclusions and am satisfied taking account of the distances to the nearest residential properties and provided the suggested conditions in relation to details of ventilation, noise mitigation and monitoring measures, no racing or outdoor maintenance and repairs to take place, and hours of opening are attached should members be minded to grant permission; the proposal would not have a detrimental impact in respect of noise. As such the proposals would accord with Policy DM5 in terms of impact on amenity, the NPPF and guidance outlined in the Noise Policy Statement for England 2010.

With regards to comments received in relation to pollution, I am mindful that specific details of any proposed ventilation systems have not been deposited with the application. Having sought the advice of the Environmental Health Officer I am of the opinion that any emission, fumes or dust generated within the building can be mitigated by the installation of efficient ventilation systems which would be the subject of condition should members be minded to grant planning permission.

I note the comments received with regards to impact on the amenity of other users of the site and of the nearby sports pitch. The remainder of this former poultry site remains vacant and there are no current proposals for any alternative uses. The application before members has to be assessed on its own merits in relation to impact on the current uses of the site. The compatibility and mix of uses would need to be assessed as and when any further proposals come forward. Furthermore I do not consider that the proposal would unduly impact on the operation or users of the sports pitch facility to the east of the site at the junction of Forest lane and Retford Road given the separation distances.

Taking very careful account of the above considerations I am of the view that, on balance, the proposal would not have such an impact on the amenity of local residents or users of other facilities in the village to justify refusal on these grounds. I am also satisfied that amenity can be safeguarded by restrictive conditions as outlined above. The proposal would therefore comply with Policy DM5 of the DPD.

Transport Impacts

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 and Policy DM4 seeks to ensure no detrimental impact upon highway safety.

I note that the Highways Officer has raised no objection to the proposal in terms of parking provision or impact on the public highway from an engineering perspective and I consider it would be reasonable to attach the suggested conditions should members be minded to grant permission.

I also note the comments of the Rights of Way officer suggesting appropriate signage to assist reduction of speeds on the public bridleway. I am mindful that the applicant would not have control of land outside the application site and the highway officers have not raised any safety concerns. However I consider it would be reasonable to attach a condition requiring details of a traffic calming scheme to be submitted to and approved in writing by the district council in liaison with NCC Rights of Way. This could include signage on exiting the site and if signage at the entrance to Forest Lane cannot be secured alternative measures could be put forward for example through publicity for the motorcycle training facility e.g. on their website and any information leaflets they send out. An informative providing additional suggestions for a traffic calming scheme and bridleway maintenance could also be attached should members be minded to grant permission.

Therefore overall, taking account of the comments of the highway authority and subject to conditions, it is not considered that the proposed development would have an adverse impact upon highway safety in accordance with Spatial Policy 7 of the Core Strategy and Policy DM4 of the DPD.

Rural Diversification

Policy DM8 identifies that proposals which diversify the economic activity of rural businesses will be supported but should seek to re use existing buildings wherever possible. Particular and careful consideration should be given independent businesses which may be more sustainably located elsewhere. The applicant has put forward an argument that no suitable sustainable alternative or viable locations have been found for the proposed use in the north Nottinghamshire urban area. The building to which this application relates is of an appropriate scale and form and is in a relatively sustainable location with good links to transport links to other major road networks and towns and cities within the region to meet the requirements of the proposed use. Its reuse would negate the need for any construction of new buildings or development of Greenfield sites.

I therefore consider that, on balance, the proposal would keep the building in a viable use and contribute to the local economy and thus meet the aims of Policy DM8 of the DPD.

Leisure and Tourism

Spatial Policy 8 of the Core Strategy identifies that new community or leisure facilities will be supported where they address a deficiency in current provision and where they meet the needs of communities within the District and beyond.

Core Policy 7 states that significant attractions and facilities should be located within or on the edge of town or sub regional centres. In rural areas such development will only be supported where a rural location is necessary to meet the tourism need, which can support local employment and where rural regeneration is promoted through the re use and conversion of existing buildings which are soundly constructed and are adaptable without the need for rebuilding or extension. Policy DM8 reflects this guidance.

I am mindful that the supporting information deposited with the application identifies the proposed use as being a unique attraction which would serve both the local community and wider district together with providing a national facility. The facility would therefore attract visitors from a substantial catchment area supporting an all year round economy within the area.

I have no evidence to dispute that this facility would serve a national and regional rather than a local need (i.e.the village of Walesby) and thus I would conclude and attach weight to the proposals addressing a deficiency in current provision of such a facility within the District in line with Spatial Policy 8.

The application site does not fall within or on the edge of town or sub regional centres and lies within the open countryside, outside of the built up area of the village of Walesby. The proposed use clearly relies on significant indoor space which the application site provides in the form of a substantial building which requires no major external adaptation or extension.

Taking the account of the above, I am of the opinion that the proposal is likely to address a deficiency in current provision of such a facility through provision of a substantial building suitable for the proposed use in accordance with the above aims of Policy CP7 of the Core Strategy and policy DM8 of the DPD.

Employment

In considering the principle of the development regard has been given to the NPPF which states significant weight should be attached to supporting such economic growth in rural areas in order to create new jobs and prosperity. Core Policy 6 of the Core Strategy identifies that the economy of the district will be strengthened and broadened to provide employment by a number of factors including supporting the rural economy by rural diversification that will encourage tourism providing the proposal meets local need and is small scale in nature to ensure acceptable scale and impact. Additionally the economy will be strengthened by providing and retaining sites that can meet the needs of modern businesses in existing employment areas. However, proposals for uses wider than B Use Classes should have regard to how proposals respond to local needs, the lack of suitable alternative sites and the need to safeguard the integrity of neighbouring uses.

Policy DM8 of the DPD reflects the aims of Core Policy 6 and supports small scale employment proposals in rural areas only where it can be demonstrated that there is a particular need for a rural location and that the proposal will contribute to sustaining rural employment.

Whilst the proposal does not specifically address a local need in terms of the nearest settlement the applicant has put forward an argument that no suitable sustainable alternative or viable locations have been found for the proposed use in the north Nottinghamshire urban area. I am mindful that a number of full and part time jobs are proposed by the applicant and that the proposal would bring back into use a vacant building and part of a wider site providing employment opportunities. Furthermore, the applicant has demonstrated that there are no other comparable facilities to that proposed both regionally and nationally. I am of the view that a building of a such a scale and in a more sustainable location such as within the urban area and separated from residential properties may be difficult to find and such buildings are likely to be located in rural locations, as is this case.

I am therefore of the opinion that, on balance, the proposal meets the criteria contained with Core Policy 6 and Policy DM8.

Other Matters

The majority of the concerns raised by both the Parish Councils and neighbouring residents have already been addressed, however the outstanding matters that were raised are answered below;

I am mindful of the comments in relation to the description of the proposal. However, I am satisfied that the documents deposited with the application clearly outline the details of the proposed use and allow full consideration of the proposal.

I note the comments received with regards to contravention of human rights. I am satisfied that the processes and practices undertaken in the determination of this application are compatible with the Human Rights Act 1998. It is an integral part of the decision-making process for the District Council to assess the effects that a proposal will have on individuals and weigh these against the wider public interest in determining whether development should be allowed to proceed.

With regards to ecological impacts and impact on flora and fauna I am mindful that the Nottinghamshire Wildlife Trust have raised no objections to the proposal.

I note the issue raised with regards to the proposal failing to support low carbon emissions or make any contribution to reducing pollution. I am conscious Paragraph 7 of the NPPF includes a requirement to adapt to climate change including moving to a low carbon economy. The nature of the use proposed means that there will be an increase in emissions when compared to the existing situation, however, this is not to a degree that has raised specific objections from Environmental Health. The reuse of an existing building in itself helps to support the transition to a low carbon future as opposed to the environmental impact of a new build elsewhere and needs to be considered within the planning balance. Environmental Health have requested a ventilation system is installed to ensure emissions are suitably controlled.

Conclusion and Balancing Exercise

The NPPF states that significant weight should be attached to supporting economic growth in rural areas in order to create new jobs and prosperity. The applicant has demonstrated that alternative uses been explored for the building and has provided marketing evidence. It is considered the proposal represents an appropriate use bearing in mind former poultry buildings have limited re-uses. The proposal would re-use this building which has been vacant for some time without significant external alteration, it would provide a unique facility and attract visitors to the area and offer support to the local and the rural economy. The facility would have also have a wider community benefit in encouraging safer motorcycle riding. It is acknowledged that some weight should be given as to whether the proposal might be likely to compromise any possible future more comprehensive development of this wider site but it is considered that this should only be limited weight being mindful that the NPPF encourages mixed use and any future applications would need to be considered on their own merits including whether they would contribute to a compatible mix. The proposal would result in some impact on the character and amenity of the area but not to a degree that would warrant a refusal of planning permission.

On balance I therefore consider that the significant weight to be attached to supporting sustainable economic growth as well as the other benefits of the proposal weigh in favour of the proposal and on this basis it is recommended that planning permission be granted.

RECOMMENDATION

That full planning permission is approved subject to the following conditions:

1.

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

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

2.

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

Revised site location plan (amendment dated 21.08.15) - drg no. UKSD – SA- 08 – 0001

Proposed ground floor layout - drg no. UKSD – SA- 08 – 0008

Proposed first floor layout - drg no. UKSD – SA- 08 – 0009

Proposed elevations -drg no. UKSD – SA- 08 – 0010

Proposed Section – drg no. UKSD – SA- 08 – 0011

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

Reason: So as to define this permission.

3

Noise monitoring should be undertaken on each day the facility is operating and during a time when a race is progress (peak operation), with a calibrated sound level meters and a written record of the results shall be kept for inspection by Environmental Health. Where readings are recorded which are higher than The World Health Organisation Guidelines for Community Noise (1999) (the outdoor sound level from steady, continuous noise should not exceed 50 LAeq), then corrective action must be taken to abate the noise within a time period agreed with Environmental Health.

Reason: In order to safeguard the amenities of residential properties in accordance with the aims of the NPPF and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

4

All doors and other openings are kept closed during operation and only opened when all engine noise from inside has ceased.

Reason: In order to safeguard the amenities of residential properties in accordance with the aims of the NPPF and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

5

No external motor repairs/servicing should be undertaken at any time.

Reason: In order to safeguard the amenities of residential properties in accordance with the aims of the NPPF and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

6

Before development is commenced precise details of a ventilation system capable of removing exhaust gasses from the indoor facility shall be submitted to and approved in writing by the Local Planning Authority. The ventilation system should also be designed or attenuated to ensure it does not exceed 36dBA as detailed in the noise assessment.

Reason: In order to safeguard the amenities of residential properties in accordance with the aims of the NPPF and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

7

The means of ventilation shall be installed and maintained at all times in accordance with the details approved under condition 6 of this permission.

Reason: In order to safeguard the amenities of residential properties in accordance with the aims of the NPPF and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

8

Before development is commenced precise details of any lobbies at the entrances to the building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the lobbies retained for the lifetime of the development.

Reason: In order to safeguard the amenities of residential properties in accordance with the aims of the NPPF and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

9

The development hereby approved shall not operate outside the hours of 10:00 to 21:00 Tuesday and Thursday and 10:00 to 16:00 hours Friday to Sunday.

Reason: In order to safeguard the amenities of residential properties in accordance with the aims of the NPPF and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

10

The development hereby approved shall be operated on a booking only system at all times and development shall be carried out in accordance with details of the operation of the facility stated within the Design and Access Statement dated July 2015 deposited with the application.

Reason: In order to safeguard the amenities of residential properties in accordance with the aims of the NPPF and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

11

Before development is commenced precise details of external lighting and any CCTV cameras shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall be kept to a minimum and directed downwards away from boundary features. The development shall be undertaken in accordance with the approved details and all must be so maintained for the lifetime of the development.

Reason: In the interests of visual amenity and to protect neighbouring residential amenity in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD.

12

Before development is commenced details of a traffic calming scheme to reduce speeds to and from the venue on Walesby Bridleway 9 shall be submitted to and approved in writing by the Local Planning Authority in liaison with NCC Rights of Way. Once approved the traffic calming scheme

shall be implemented in accordance with the approved details prior to the use of the building hereby approved first being brought into operation.

Reason: In the interests of highway safety.

13

No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the approved plan. The parking areas shall not be used for any purpose other than the parking of vehicles.

Reason: To ensure that all parking for the development remains within the site curtilage

14

Before development is commenced details of planting or landscaping of the car park area with native species shall be submitted to and approved in writing by the Local Planning Authority. The planting/landscaping shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and biodiversity

15

Before development is commenced details of bat boxes and bird nest boxes to be incorporated into the development and a timetable of implementation shall be submitted to and approved in writing by the District Council. Once approved the bat boxes and bird nest boxes shall be erected in accordance with the approved details.

Reason: In order to enhance habitats on the site in accordance with the aims of Paragraph 118 of the National Planning Policy Framework (2012).

Informatives

1

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

2

Your attention is drawn to BS 8300: 2009 'Design of Buildings and their approaches to meet the needs of disabled people – Code of Practice' which contains useful guidance. Approved Document M of the Building Regulations contains further useful information in this regard. It is recommended that car parking includes appropriate carefully laid out and signed provision for disabled motorists. BS 8300:2009 gives details of layout and proportion of spaces. A safe accessible pedestrian route should be considered from parking and to, into around available facilities which should contain provision for disabled people and be carefully designed and equipped so as to be accessible to all users. Stair access to facilities precludes wheelchair users and those unable to negotiate this barrier. The proposal should be carefully designed to be equally convenient to access and use by everyone through inclusive design. It is recommended that the

developer be mindful of Equality Act 2010 requirements and that a separate enquiry be made regarding Building Regulations Approval

3

If during works a bat is discovered, work must stop immediately. If the bat/s does not voluntarily fly out, the aperture is to be carefully covered over to provide protection from the elements whilst leaving a small gap for the bat to escape should it so desire. The Bat Conservation Trust should be contacted immediately on (0845) 1300228 for further advice and they will provide a licensed bat worker to evaluate the situation and give advice. Failure to comply is an offence under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 which makes it an offence to kill, injure or disturb a bat or to destroy any place used for rest or shelter by a bat (even if bats are not in residence at the time).

4

The applicant should note that Forest Lane is a bridleway and consultation should take place with NCC Rights of Way section for advice/approval

5

With regards to Condition 12 of this permission, NCC Rights of Way have suggested an advisory sign on entering the lane & exiting the site – especially as many horses are afraid of or spooked by motorbikes. The signage could be something along the lines of Caution – Public Bridleway – please drive slowly & give way to horses would be appropriate. In the event that signage at the entrance to Forest Lane cannot be provided, alternatives to encourage reduced speeds on the approach to the site should be considered including information on any publicity for the site including the website and/or information leaflets.

6

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

BACKGROUND PAPERS

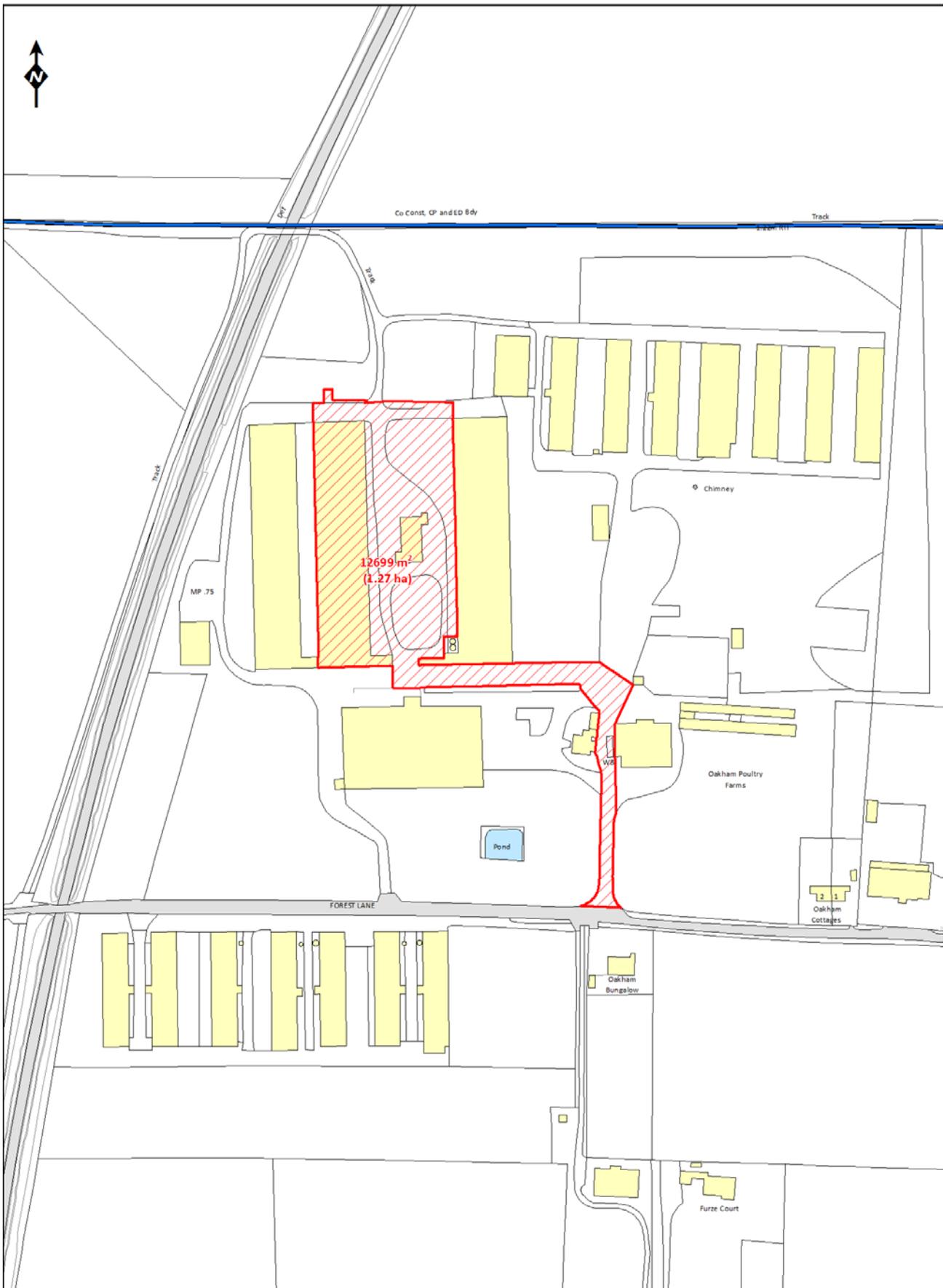
Application case file.

For further information, please contact Bev Pearson on ext 5840.

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/01198/FULM



© Crown Copyright and database right 2015 Ordnance Survey. Licence 100022288. Scale: Not to scale

Application No:	15/02022/FUL	
Proposal:	Residential development of 7no. bungalows.	
Location:	Land at 65A Church Street, Bilsthorpe, Nottinghamshire, NG22 8QR	
Applicant:	Jackson Design Associates	
Registered:	12/11/2015	Target Date: 07/01/2016
		Extension of Time Agreed:05/02/2016

This application is presented to the Planning Committee for determination due to an objection from Bilsthorpe Parish Council.

The Site

The application site is a 0.18ha roughly triangular shaped piece of land located on the southern side of Church Street, within the main built up area of Bilsthorpe as defined within the Allocations and Development Management DPD.

The site is bounded by Crompton View Primary School to the south and east of the site and residential properties on Church Street to the north and west.

The application site previously comprised two buildings on the southern and western edges of the site with car parking to the centre. The buildings were utilised as workshops and have been demolished prior to the submission of this application.

There are some trees within the site mainly to the southern and eastern parameters.

The only access to and from the site is from Church Street to the north of the site between no.65 and 67 Church Street. These are two storey semi-detached properties.

The site is not located within a conservation area or flood zone as defined by the Environment Agency.

Description of Proposal

Planning permission is sought for the erection of 7no. single storey bungalows. The proposal comprises 6 semi-detached units providing 6no. two bedroomed units and 1no. one bedroomed unit. The development would be served via the existing access which will form a private drive through the centre of the site terminating in a turning head. The proposed built form sit either side of the access road and are situated close to the site boundaries (less than a metre in the tightest place) with parking positioned more centrally on the site.

All roofs are hipped and have ridge heights ranging from 4.5m to 5.6m high. Materials proposed comprise red brick and grey roof tile. The private rear amenity areas to serve the proposed units are relatively modest, the smallest of which is approx. 36 sq metres. Existing trees in the southern most corner part of the site are to be retained whereas trees on the eastern side of the site are proposed to be felled and new tree planting proposed.

The following supporting information has been submitted with the application:

- Design and Access Statement;
- Protected Species Survey;
- Tree Survey; and
- Phase I and II Environmental Investigation Report, relating to land contamination.

Site History

09/01848/FUL - Revised scheme for the demolition of existing buildings and construction of 8 no Two and One Bedroom dwellings for occupation of persons over 55 years of age – Approved by planning committee 11.02.2010

09/00752/FUL - Demolition of existing buildings and erection of 8 No. Dwellings – application was withdrawn following a recommendation for refusal by Members at the December 2009 Committee meeting.

08/01774/FUL - Demolition of existing buildings and construction of 4 No. 4 bed detached dwellings – Approved 09.10.2008

07/00370/FULM - Demolition of two semi-detached dwellings and erection of two semi-detached dwellings and 12 No. apartments altered site access parking court and landscaping – Withdrawn.

06/01869/FULM - Erection of 1 pair of semi-detached houses and 12 No. apartments with associated parking area and landscaping and alterations to access and drive – Withdrawn

03/00352/FUL - Renewal of consent for change of use to office and storage. – Approved 16.04.2003

02/02591/FUL – Proposed three residential dwellings – Approved 28.10.2003

00/01806/FUL - Change of use of building yard to office and storage use. – Approved 28.02.2001

00/00753/FUL - Change of use from offices and workshops to form offices and storage only. Demolition of existing workshop buildings. – Refused 19.09.2000

Departure/Public Advertisement Procedure

Occupiers of 34 neighbouring properties have been individually notified by letter.

Planning Policy Framework

The Development Plan

Newark and Sherwood District Council Core Strategy DPD (adopted March 2011)

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

Spatial Policy 7: Sustainable Transport

Core Policy 1: Affordable Housing Provision

Core Policy 3: Housing Mix, Type and Density

Core Policy 9: Sustainable Design

Allocations and Development Management DPD (adopted July 2013)

Policy DM1: Development within Settlements Central to Delivering the Spatial Strategy

Policy DM5: Design

Policy DM12: Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework (NPPF) 2012

Planning Practice Guidance (PPG) 2014

Consultations

Bilsthorpe Parish Council – Object

The access to the site is too narrow. Further safety issues were raised as visibility would be restricted and there would be a likelihood of increased traffic congestion on Church Street.

NCC – Highway Authority - The access point onto Church Street has been previously approved under ref. 09/01848/FUL.

The parking bays shown on plan 14/1992/002 Rev. B are required to have dimensions of 2.4m x 4.8m to adequately accommodate a parked vehicle. However, most of the bays fall short of this and whilst a parked vehicle overhanging the private access driveway does not affect the public highway, the width of the driveway is reduced for emergency vehicles, in particular. Also, on-site parking provision is minimal and there is no provision for visitors to the site. As such, could the layout be amended to address the above issues.

Following the submission of an amended plan.

Amended site layout plan

The on site parking provision is minimal, with two parking bays per two bedroom bungalow and 1 parking bay for Plot 5, with one bedroom. It is preferred that visitor parking be incorporated within the site, however, the Highway Authority would not raise strong objection to the layout as submitted.

The access into the site is to remain private. As such, there are no highway objections subject to the following being imposed:

1. No part of the development hereby permitted shall be brought into use until the improved access into the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with the approved plan ref. 14/1992/002 Rev. D. **Reason:** In the interests of highway safety.

2. No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan 14/1992/002 Rev. D. The parking/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 possibilities of the proposed development leading to on street parking in the area.

Notes to applicant

In order to carry out the off-site works (access onto Church Street) 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 (01623) 520735 for details.

Natural England - No comments to make on this application.

Nottinghamshire Wildlife Trust - We are pleased to note the inclusion of the Protected Species Survey report (CBE Consulting, October 2015) as this allows consideration of protected and priority habitats and species in the determination of the application.

We have reviewed the report and are generally satisfied with the methodology and conclusions. Provided that vegetation clearance works (where required) are timed to avoid the bird breeding season, significant ecological impacts are considered unlikely.

We support the recommendation for use of native, locally appropriate species for new planting. A suitable list of trees and shrubs (Sherwood) can be found at:

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

Paragraph 109 of the NPPF states that the planning system should look to provide net gains in biodiversity where possible, whilst Paragraph 118 advises that opportunities to incorporate biodiversity in and around developments should be encouraged. With this in mind, we would welcome plans for biodiversity enhancements on and around the development site. These could include enhancing existing habitats, for example gapping up and strengthening hedgerows, as well as creating new habitats, such as installing bat and bird boxes.

NSDC - Waste management - It would appear that the container capacity is sufficient however the collection point needs to be addressed. The new private drive is too narrow to be accessed by refuse freighters but it would appear that the plans call for the bins to be fetched and returned to a specified collection point. It is not clear if there are any kerbs to the edge of the private drive, however the prescribed maximum distance is 10 metres from the road side. The containers could be presented to the road side but it would be wise to look into the difficulties with access on collection day. Until further discussions are held re the above I cannot support this application as far as waste management is concerned.

Following the submission of amended plans I am happy with the new proposals for waste management that have been put forward on the above application.

NSDC - Environmental Health - No comments to make.

NSDC - Environmental Health (contaminated land) - With reference to the above development, I have received a Phase I & II Geo-Environmental Investigation report (Ref: N08273, dated Nov 2008) submitted by the Abatech Consulting Engineers acting on behalf of the developer. This document provides a detailed account of the sites environmental/historical setting and defines an appropriate conceptual site model.

Following sampling and statistical modelling, the report concludes that the site is suitable for the proposed residential use, providing that:

asbestos is safely removed and disposed of (the report recommends a type III asbestos survey, now called HSG264 refurbishment/demolition survey is carried out) any topsoil imported is approved by Environmental Health prior to placement.

I generally concur with this assessment and would recommend continued use of the contamination condition until the above issues are addressed to the satisfaction of Environmental Health.

NSDC - Strategic Housing - In terms of demand the DCA Housing needs survey (2014) indicates that the highest demand is for bungalows (408) for existing households and over 35% of respondents are seeking the tenure of owner occupation (existing households). The most popular size in the market sector is for 2 bedrooms. This information is for the Sherwood area of which Bilsthorpe is a part of.

In terms of a commuted sum, assuming the affordable housing provision is for one unit, this would be approximately £42,000.

NSDC - Access and Equalities Officer - As part of the developer's considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visit able, accessible and adaptable, and wheelchair user dwellings, and that consideration be given to incorporating accessible dwellings within the development. The requirements of a dwelling's occupants can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users' access to, into and around the dwellings be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards to ensure that they provide suitable clear unobstructed access to the proposals. In particular, step-free access to and into the dwellings is important and an obstacle free suitably surfaced firm level and smooth traffic free accessible route is essential to and into the dwellings from facilities such as car parking and from the site boundary. Any loose laid materials, such as gravel or similar, can cause difficulty for wheelchair users, baby buggies or similar and should be avoided. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, all carefully designed to facilitate easy access and manoeuvre are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the dwelling together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations approval requirements.

One letter of objection has been received from local residents/interested parties which is summarised as follows:

This is a very narrow driveway and the width of the driveway is not suitable for the traffic to build and also the traffic that will be caused once the development is finished. This will be a hazard. The

people that have had businesses on that land previously have demolished their wall 3 times and have cracked the side of their building and nearly ran them over on various occasions with the speed. This would interfere with their way of life and they feel this development is unnecessary when there are properties already being built in the village that are not yet sold.

Comments of the Business Manager

Principle of development

The site lies within the main built up area of Bilsthorpe which is defined as a Principal Village within Spatial Policy 1 and 2 of the Adopted Core Strategy (CS). Within Spatial Policy 2, it defines the strategy for Bilsthorpe as focussing on Regeneration through *“new employment opportunities, the regeneration of vacant land and the provision of housing”*. The application site is brownfield land, located in a residential area. The site has a long history of planning applications for residential development with the last permission granted by Members of the Planning Committee in 2010 for 8no. one and two bedroomed units.

Policy DM1 of the ADMDPD refers to proposals being supported for housing within the Village Envelopes of the Principal Villages that are appropriate to the size and location of the settlement, its status in the settlement hierarchy and in accordance with the Core Strategy and other relevant Development Plan Documents.

I therefore consider the principle of residential development on this site is acceptable, subject to a site specific assessment of the impact which in this case will relate to the design of the proposal and its impact on the character of the surrounding area, highway safety, amenity of occupiers of neighbouring land uses and ecological assessments.

Affordable Housing

The proposed development comprises 7 no. dwellings. In accordance with Core Policy 1 of the Core Strategy the District Council is required to seek the provision of affordable housing. However I am mindful that a Ministerial Statement issued in November 2014 revised the threshold for affordable housing requirements, and that the triggers for Newark and Sherwood District Council outlined in Core Policy 1 of the Core Strategy, were accordingly revised to 11 dwellings or more.

Prior to the submission of this application, the District Council provided Pre Application advice to the agent and specified in writing that no affordable housing contribution was therefore required. I am also mindful that the Ministerial Statement was successfully challenged and that following the High Court judgement the implementation of the revised thresholds were quashed on the 31st July 2015. It is noted that a subsequent appeal has now been made with regards to the High Court judgement and is still pending.

Ordinarily current adopted policy would seek a 30% provision of affordable housing on site which would equate to 2 units in this case. The Council's Strategic Housing business unit has contacted Registered Providers who would not be able to take on the two speculative units at this time due to their programming and would seek instead an off-site financial contribution in lieu. However due to the timing of the pre application discussions and the written advice given, it is considered that it would be unreasonable for the Council to insist on this contribution in this instance as the agent and his client have pursued an application based on the Council's earlier advice and hence made a financial commitment to the project. I consider on balance therefore, that this, together

with the current level of uncertainty with regards to the High Court challenge, has been given weight, and in this particular and unusual instance a contribution for affordable housing has not been pursued in relation to this specific application.

Members will also note that preceding planning applications have included a specific requirement (from the agent) for the bungalows to be for over 55s only. The agent has removed the specification for this application. Whilst there is a demand for bungalows within the local ageing population as shown within the DCA Housing Needs Survey (2014), in this case, where open market housing would be acceptable in any event, I do not consider it necessary to impose such an occupation restriction.

Impact on the character of the area

The site is located to the rear (south) of existing two storey residential properties on Church Street. The visibility of the proposed built form within the public realm would be minimal and fleeting when viewing the site from Church Street along the existing private driveway.

Policy DM5 states back land development will be resisted and would only be approved where it would be in-keeping with the general character and density of existing development, and would not set a precedent for similar development. The application site is a unique brownfield back land site within the immediate vicinity and its development to residential is not likely to give rise to similar such development. In addition the general character of the surrounding area is two-storey houses with relatively long rear gardens. However, the restricted shape and size of the application does not allow this layout to be repeated and any two-storey development would likely result in harm to the amenities of occupiers of existing surrounding houses. Given this and the restricted views of the site from the public realm, it is considered that the higher density, smaller plot sizes and single storey nature of the proposed development is unlikely to cause harm to the character of the existing area or the visual amenities of the street scene. This view has been reflected in the past with the approval of similar schemes on this site.

The impact, with regard to design and character, would be acceptable and would accord with the principles of Policy DM5 of the ADMDPD. Whilst the proposal would not accord strictly with the surrounding layout and densities of the area, it would not cause any detrimental impacts to visual amenities.

Impact on residential amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity.

The development is single storey only with no accommodation within the roof spaces. Units 1-4 are located between 19-21metres from the rear of no.4-6 Cul-de-Sac. Units 5-6 are situated approx. 21metres from the rear of no.63 and 65 Church Street and unit 7 is sited approx. 34metres from the rear of no.61 Church Street. I consider the proposed dwellings are sited acceptable distances from existing neighbouring dwellings and the proposal would not result in unacceptable amenity issues from overlooking, overbearing impacts or loss of light to the surrounding dwellings on Church Street and Cul-de-sac.

It is accepted that the proposal will utilise the existing access between no.65 and 67 Church Street, and the occupiers of such properties have enjoyed the site being vacant for a significant

period since business operations on the site ceased. However use of the access is existing and would be restricted to residents and visitors of the 7 units proposed. I do not consider the number of units and the level and sporadic vehicular movements along the access would cause such significant unacceptable impacts to those neighbours adjacent to it.

I therefore consider the proposal would result in acceptable distances from neighbouring occupiers and would not cause significant detrimental impacts upon their amenity in accordance with Policy DM5 of the ADMDPD. However, given the restricted nature of the site and the surrounding residential properties, I have recommended that certain permitted development rights be removed that would potentially impact negatively on the amenity of neighbours.

Impact on highway safety

The plans have been amended following the initial comments from NCC Highways due to the dimensions of the parking bays. The amended dimensions are now acceptable to the Highway Authority. Highways also raised concern on the lack of visitor parking provision on the site. Nonetheless they state this is not a strong objection and not sufficient to cause a significant detrimental impact upon highway safety. They therefore raise no objection subject to conditions relating to access improvements and parking/turning spaces and which are set out in the conditions at the end of this report.

One resident has raised a concern over the impact on access and highway safety in relation to the proposed development. Whilst I appreciate their concerns of safety from passing vehicles, the Highway Authority do not consider the existing access, which was previously used by a business, as a cause for highway safety concern, subject to conditions being imposed for improvements to its junction with the public highway. The width of the access is adequate for a vehicle to use and incorporates a rumble strip to reduce speed. I therefore consider, based on the amended plan submitted and the comments received from the Highway Authority, that the proposal would not cause any significant detrimental impact upon the highway network and is acceptable with regards to highway safety. The proposal therefore accords with Policy DM5 of the ADMDPD and Spatial Policy 7 of the Core Strategy.

Impact on ecology and trees

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity and Policy DM5 seeks to ensure no detrimental impact upon the ecology of the local or wider area.

A protected species report has been submitted with the application which states a full survey of the site has not identified any evidence of protected species, however an assumption that protected species such as bats may occasionally forage along the tree lined southern boundary. Subsequent comments have been received from Nottinghamshire Wildlife Trust (NWT) on the report who state they are satisfied with the methodology and conclusions. They continue to state that *“provided that vegetation clearance works (where required) are timed to avoid the bird breeding season, significant ecological impacts are considered unlikely.”* They support the recommendation made within the report to use native and locally appropriate species for new planting and suggest a link to find appropriate species within their comments.

The NPPF (Paragraph 109) states impacts on biodiversity should be minimised and net gains should be provided where possible, and Paragraph 118 encourages opportunities to incorporate

biodiversity in and around developments. With this in mind, NWT suggest the incorporation of biodiversity enhancements on and around the development site, such as enhancing existing habitats, for example gapping up and strengthening hedgerows, as well as creating new habitats, such as installing bat and bird boxes.

The submitted tree report states that some trees within the site are proposed to be felled. These however are classified at C2 or U in their quality and value. Category C means trees which are considered in adequate condition and these apply to a Sycamore. Category U means trees which are considered to have no significant landscape value and these apply to two groups of Poplar, and one group of Sycamores. The above trees proposed to be felled are sited along the southern and eastern boundaries and therefore provide no general public amenity value. A landscape condition should be imposed to accord with NWT comments and to improve the biodiversity of the site. I therefore consider the loss of the trees, which are not considered worthy of protection through TPO, is acceptable, with new planting proposed.

On the basis of the information submitted and comments received I consider the proposal would not result in significant detrimental impacts upon ecology within the site and conditions should be imposed to ensure the recommendations as stated within NWT comments are carried out and adhered to on the site to improve the biodiversity.

Other issues

Comments have been received and plans have been amended accordingly to incorporate advice from the Council's Waste, Litter and Recycling Business Manager. A central collection point for bins has been created, the speed hump changed to a cobbled rumble strip and part of the access (from Church Street to the rumble strip) laid to concrete as opposed to tarmac to suit the refuse vehicles. Due to the length of the driveway, the refuse lorry would back into the site to the rumble strip. A central collection point ensures the lorry does not have to fully enter the site and manoeuvre which would be awkward and cumbersome. The amended plan has been confirmed as acceptable by the Waste Business Manager.

In relation to land contamination, I concur with the comments of the District Council's Environmental Health officer and recommend a condition be imposed to ensure all contaminants are removed and the site made safe for human habitation prior to occupation of the bungalows.

Conclusion

Having fully considered all the material planning considerations and given them appropriate weight, it is concluded that the proposal is broadly in line with the Development Plan and as such, I recommend that planning permission be granted subject to the conditions outlined below.

Recommendation

That full planning permission is approved subject to the following conditions

01

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

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

02

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

14/1922/LP
14/1992/002 Rev D
14/1992/003 Rev A
14/1992/004 Rev A
14/1992/005 Rev B

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

03

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include;-

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.
- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.
- all hard surfacing material.

Reason: In the interests of visual amenity and biodiversity.

05

The approved landscaping shall be completed during the first planting season following the commencement of the development, 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.

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

06

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.

Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems;
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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 (referred to in PPS23 as a validation 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.

07

No part of the development hereby permitted shall be brought into use until the improved access into the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with the approved plan ref. 14/1992/002 Rev. D.

Reason: In the interests of highway safety.

08

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan 14/1992/002 Rev. D. The parking/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 possibilities of the proposed development leading to on street parking in the area.

09

The development hereby approved shall be undertaken in complete accordance with the proposed measures as stated within the Protect Species Report dated 5 October 2015 carried out by CBE Consulting (report ref:P951/1015/02).

Reason:

In the interests of maintaining and enhancing biodiversity.

10

No building on site shall be occupied until details of bat/bird nest boxes and or bricks have been submitted to and approved in writing by the local planning authority. The nest boxes/bricks shall then be installed, prior to occupation, in accordance with the approved details and retained thereafter for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of maintaining and enhancing biodiversity.

11

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse.

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

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) Order 2015 (or any amending legislation) and in order to safeguard the amenity of neighbours.

Note to Applicant

01

In order to carry out the off-site works (access onto Church Street) 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 (01623) 520735 for details.

02

The proposed development lies within a coal mining area. In the circumstances applicants should take account of any coal mining hazards to stability in their proposals. Developers must also seek permission from the Coal Authority before undertaking any operations that involve entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and

proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on Tel; 0845 7626848 or at www.coal.gov.uk.

03

Please note that the District Council no longer provides wheeled bins for residential developments free of charge. Wheeled bins can be purchased from the District Council or any other source provided they conform to appropriate standards and requirements of the Council. Enclosed is a leaflet from the District Council's Waste Management Section entitled 'Guidance for New Development – Waste Storage and Collection' which sets out these standards and requirements. If you wish to purchase wheeled bins or discuss this matter further please contact the Waste Management Officer on 01636 655677 or email: waste.management@nsdc.info.

04

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

05

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

BACKGROUND PAPERS

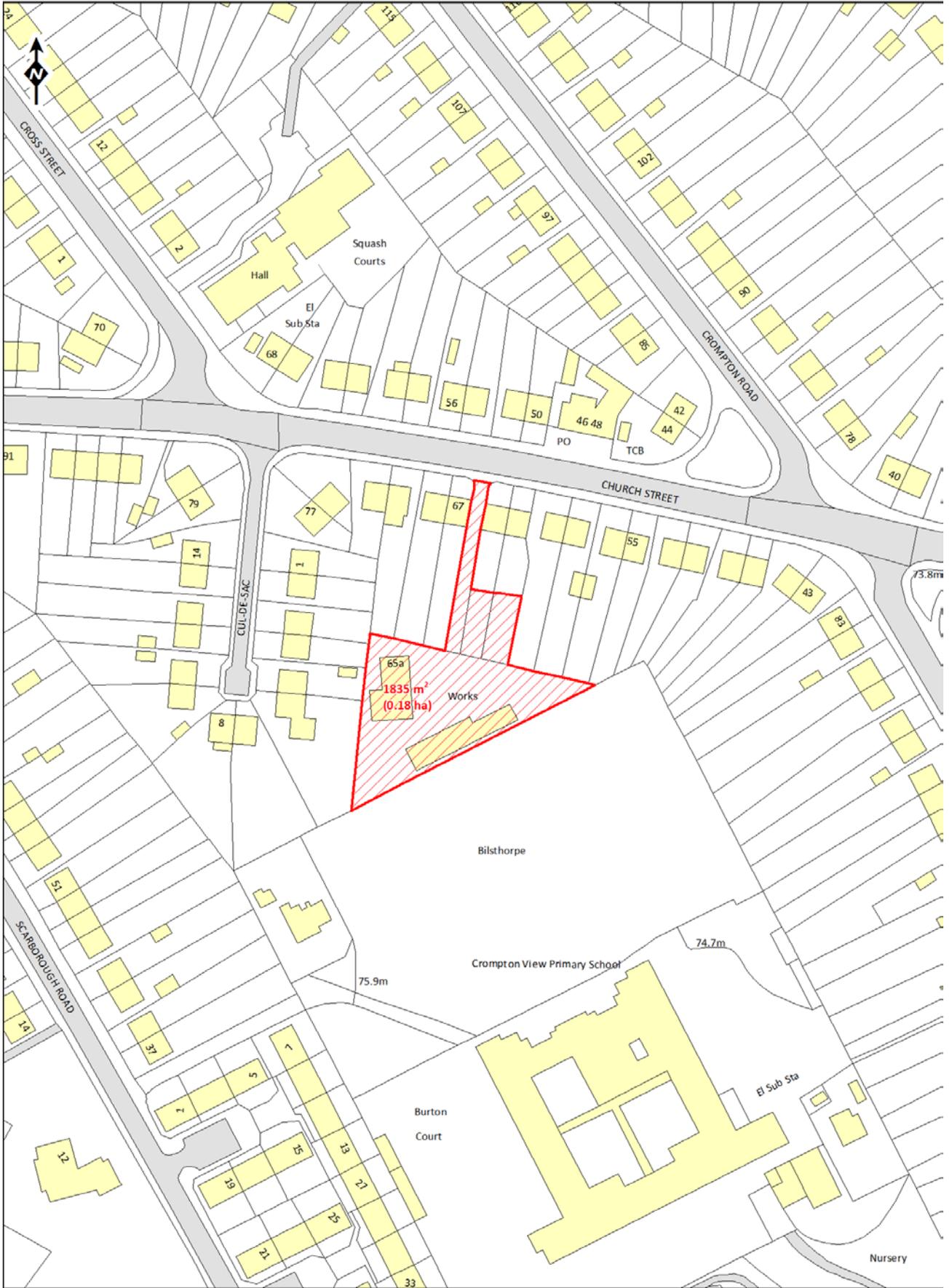
Application case file.

For further information, please contact Lynsey Tomlin on ext 5329.

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/02022/FUL



© Crown Copyright and database right 2015 Ordnance Survey. Licence 100022288. Scale: Not to scale

Application No:	15/02132/FUL		
Proposal:	Change of use of existing premises to display and sale of motorhomes (retrospective)		
Location:	Marehill Service Centre, Lowdham Road, Gunthorpe		
Applicant:	Affordable Motorhomes Ltd		
Registered:	02/12/2015	Target Date: 27/01/2016	
		Extension of Time Agreed: 05.02.16	

This application is presented to the Planning Committee for determination at the request of Cllr Jackson in support of the views of the Parish Council.

The Site

The site is located on Lowdham Road, beyond the built-up area of Gunthorpe. The site is situated within a ribbon of mixed development which is washed over by the Nottingham Derby Green Belt.

The area immediately around the site is typified by similar business uses with the land to the south occupied by motorhome retail, the land on the opposite side of the road appears to be predominantly used for car sales and repair. Further to the south is Lowdhams; a large motor home sales site. Further to the north of the site predominantly open fields occupy the western side of the road and residential properties on the eastern side. The nearest residential properties are Prospect Villas, situated approx. 45metres to the north-east of the site.

It is understood that the current use has been ongoing since December 2014, with the site previously being used for auto vehicle servicing. The access to the site is set back from the roadside and gated. A low dwarf hedge marks the boundary of the site from the roadside grass verge. The access to the site is tarmac with the land beyond that composed of compacted gravel. There is a steel portal building situated on the site and a fenced compound to the rear. Parking is available to the front of the building.

The site is also situated within Flood Zones 2 & 3 in accordance with the Environment Agency Flood Zone mapping.

Relevant Planning History

13/01812/FUL - Erection of Single Storey Extension to Existing Garage Workshop (Resubmission of 13/01325/FUL). Approved February 2014

12/00994/FUL - Erection of new building for office, storage and vehicle valeting (re-submission) – Refused September 2012. The development, by way of its location within the Green Belt, represented inappropriate development and would be harmful to the openness of the Green Belt.

12/00037/FUL – Extension of existing commercial curtilage and erection of single storey building for office and vehicle storage – Refused April 2012. The development, by way of its location within

the Green Belt, represented inappropriate development and would be harmful to the openness of the Green Belt.

The Proposal

Retrospective planning permission is sought for the change of use of the site from a vehicle service centre, which included repairs, servicing and MOT's to the display and sale of motorhomes. As set out in the submitted Planning Statement there are no servicing, MOT's or mechanical repairs to be carried out on the site within the motorhome use. The only repairs that are carried out on site are to the habitation parts of the vehicles. It currently employs 3 local people on a full site basis. Eight motorhomes are to be displayed at the front of the site with customer and staff parking to the rear. The showroom accommodates 7/8 motorhomes. The Planning Statement also confirms that no motorhomes would be delivered to site on large transportable lorries, but would be driven independently to the site.

A Flood Risk Assessment and Planning Statement have been submitted in support of the application.

Departure/Public Advertisement Procedure

Occupiers of 6 neighbouring properties have been individually notified by letter.

Planning Policy Framework

The Development Plan

Newark and Sherwood District Council Core Strategy DPD (adopted March 2011)

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 3: Rural Areas

Spatial Policy 4B: Green Belt Development

Spatial Policy 7: Sustainable Transport

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Newark and Sherwood District Council Development Management DPD (adopted July 2013)

Policy DM5: Design

Policy DM8: Development in the Open Countryside

Other Material Planning Considerations

National Planning Policy Framework (NPPF) 2012

National Planning Practice Guidance (NPPG) 2014

Chief Planner Planning Policy Statement published 31st August 2015

Consultations

Gunthorpe Parish Council – Object

Any planning proposal within this area contravenes flood planning being sited within a designated flood corridor, an area that cannot be blocked (contravention of PPS25 REF 1.5)

Any building within this area also contravenes PPS25 ref 1.4 in that The EA must manage flood risk to existing properties. By allowing planning the EA would be putting existing property at greater risk. Any building in this area would also contravene PPS25 ref 1.7 by increasing flood risk to others. Also contravention of PPS 25 ref 1.6 increasing flooding elsewhere.

Also contravention of PPS25 ref 5.15 etc whereby any development would compromise the flood plain both storing and assisting flood water flows within the KNOWN and designated flood plain. Also contravention of PPS 25ref 4.23 ,local surface water management plan, whereby the flood corridor will be locked and flows compromised creating greater risk to existing properties. This area is green belt the area is now saturated with car van motor home sales outlets creating nuisance to car users who slow to look at vehicles. The verges along this road side are used for the sale of vehicles creating obstruction and distraction to motorist vision. At roadway peak usage times, vehicle using sales outlets are unable to exit. GPC have requested Cllr Jackson to call in this application.

NCC Highways – No objection

This is a retrospective application for the display and sale of motorhomes which has been operating since December 2014. The previous use of the site was vehicle repair and restoration business.

There are 3 full time staff on site, and the 3 staff parking bays at the rear of the site are located in an area previously allocated for an extension to the garage workshop, approved under a previous planning application, ref. 13/01812/FUL. From the information submitted, it is assumed the workshop was required under the previous use and will now not be implemented. It would be beneficial if this could be clarified by the applicant. Should this be the case, the Highway Authority would raise no objection to this application.

Trent Valley Internal Drainage Board – No objection

The site is within close proximity to Cocker Beck drain which is a board maintained open watercourse and to which byelaws and the Land Drainage Act 1991 applies. The board's consent is required to erect any building or structure whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of any Board maintained watercourse/the edge of any board maintained culvert. Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

NSDC Environmental Health Officer - I have no comments to make.

NSDC Access Officer – Observations.

Neighbours/Interested Parties – no letters of representation have been received.

Comments of the Business Manager

Appropriateness of Development and Impact on the Openness of the Green Belt

The National Planning Policy Framework (NPPF) advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 87 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be

approved except in very special circumstances. Paragraph 90 sets out that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. Of particular relevance to this application is 'the re-use of buildings provided that the buildings are of permanent and substantial construction.' It is understood that the site has been in use for motorhome sales for the past year. The change of use involves re-using the building and facilities on the site previously occupied by the servicing centre and there is nothing to suggest that they are not of permanent and substantial construction.

The NPPF supports sustainable economic growth. Paragraph 28 states that *planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development, through amongst other things the conversion of existing buildings.*

The use of the site for motorhome sales has resulted in the reuse of the existing building contained on the site and no new built form is proposed.

As such it is not considered that the proposed change of use would result in any further loss to the openness of the Green Belt and the proposal is considered to accord with the NPPF.

Impact on Highway Safety

The site is served by an existing access from the A6097 which is wide enough to allow 2 vehicles to pass. The Highway Authority has raised no objection to the proposed change of use but requested a letter of comfort from the applicant that there was no intention to build out the existing extant permission for an extension approved under reference 13/01812/FUL as this area is proposed to be used for staff parking. The agent has confirmed that this permission would not be implemented and this area would be used for staff parking. The Highway Authority has also confirmed that it does not require the extant permission to be removed through a S106 agreement to make the scheme acceptable in highway terms, as even if the extension is built, there is sufficient space elsewhere on site to provide staff parking. As such it is not considered that the proposal would result in any detriment to highway safety and the proposal would accord with Spatial Policy 7 of the Core Strategy.

Impact on Flood Risk

The applicant has submitted a Flood Risk Assessment in support of the application. The comments from Gunthorpe PC in relation to the proposed change of use are noted. With reference to these comments; if the site in question was currently open land, it may be that the use of the site for motorhome sales may not be considered an appropriate use and may result in increased flood risk through the creation of new hard standing. However, the change of use of the site from vehicle servicing to motorhome sales would result in no change to the area occupied by existing built form situated on neither the site nor the existing hard standing.

The change of use would result in no discernible change to the flood profile of the site and as such the proposal is not considered to detrimentally impact upon flooding concerns on the site nor the wider area.

The comments from the drainage board are noted and an advisory will be added to any forthcoming decision.

Impact on the Visual Appearance and Character of the Area

The change of use would re-use the existing facilities and hard standing on the site, for which an authorised permission exists for a vehicle-associated use. The predominantly commercial character of the area is recognised with a number of vehicle-associated uses already in the vicinity. For example, a garage and vehicle repair business opposite the application site, an existing motorhome sales site immediately to the south of the application site and beyond that further to the south is the large Lowdhams motorhome site. Whilst it is acknowledged that the new use is likely to have a greater reliance on displaying vehicles close to the frontage of the site (measuring approx. 24 m in width), it is likely that the site in its previous use is also likely to have been dominated by parked vehicles. As such there is not considered to be such a material change to the impact of the motorhome use on the visual amenities of the area to raise significant concerns. It is acknowledged that the use and character of the area around the application site is already characterised by similar types of uses. However, the extent of the site frontage itself is relatively limited (approx. 24m in width) and as such it is not considered that the proposed motorhome use when viewed within the existing character of the area would result in such a detrimentally worse cumulative visual impact to the area to warrant refusal of planning permission in this instance.

Impact on Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in residential amenity. The nearest residential properties are Prospect Villas, situated approx. 45metres to the north-east of the site. The previous vehicle servicing use is likely to have resulted in noise being generated from that use. The display of motorhomes for sale is therefore likely to result in a general decrease in noise from the site, although it is acknowledged that there may be some noise produced from the internal refurbishment of the vans, it is likely to be less intense than the previous use. The Environmental Health officer has no comments to make in relation to noise, despite the fact that the use has already been in operation for some time. It is therefore concluded that the proposed change of use would not have any further detrimental impact upon the amenity of neighbouring properties, compared to the previous authorised use.

Conclusion

This proposal seeks retrospective permission for this existing use. Reference is therefore made to the Chief Planner Planning Policy Statement published on 31st August 2015 relating to Green Belt protection and intentional unauthorised development which makes unauthorised development within the Green Belt a material planning consideration. The LPA needs to be mindful of the policy statement in determining this application.

Whilst it is noted that the site is located within the Nottingham Derby Green Belt and on land situated within Flood Zones 2 & 3 the proposal is considered to be acceptable. The change of use would not result in any greater built form than that currently in situ; it would not alter the flood profile of the site nor detrimentally impact upon highway safety. The impact of the use on the visual and residential amenities have been carefully assessed and found to be acceptable. There are not considered to be any further material considerations which would warrant refusal of the application. In accordance with the Planning policy Statement referred to above, the retrospective nature of this application has been taken into account however, is not considered to outweigh the acceptability of the scheme in all other respects. Given the existing commercial character of the area and the fact that the use has been operating for some considerable time without complaint, I do not consider it necessary to impose any restrictive operating conditions on the use.

Recommendation

The full planning permission is approved, subject to the following conditions:

01

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

- Proposed site plan drwg no 2098/1 received 30/11/15
- Site Location Plan received 1/12/15

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

Note to Applicant

01

The comments received from Trent Valley Internal Drainage Board dated 17th December should be noted.

02

The application as submitted is acceptable. In granting permission the District Planning Authority is implicitly working positively and proactively with the applicant.

BACKGROUND PAPERS

Application case file.

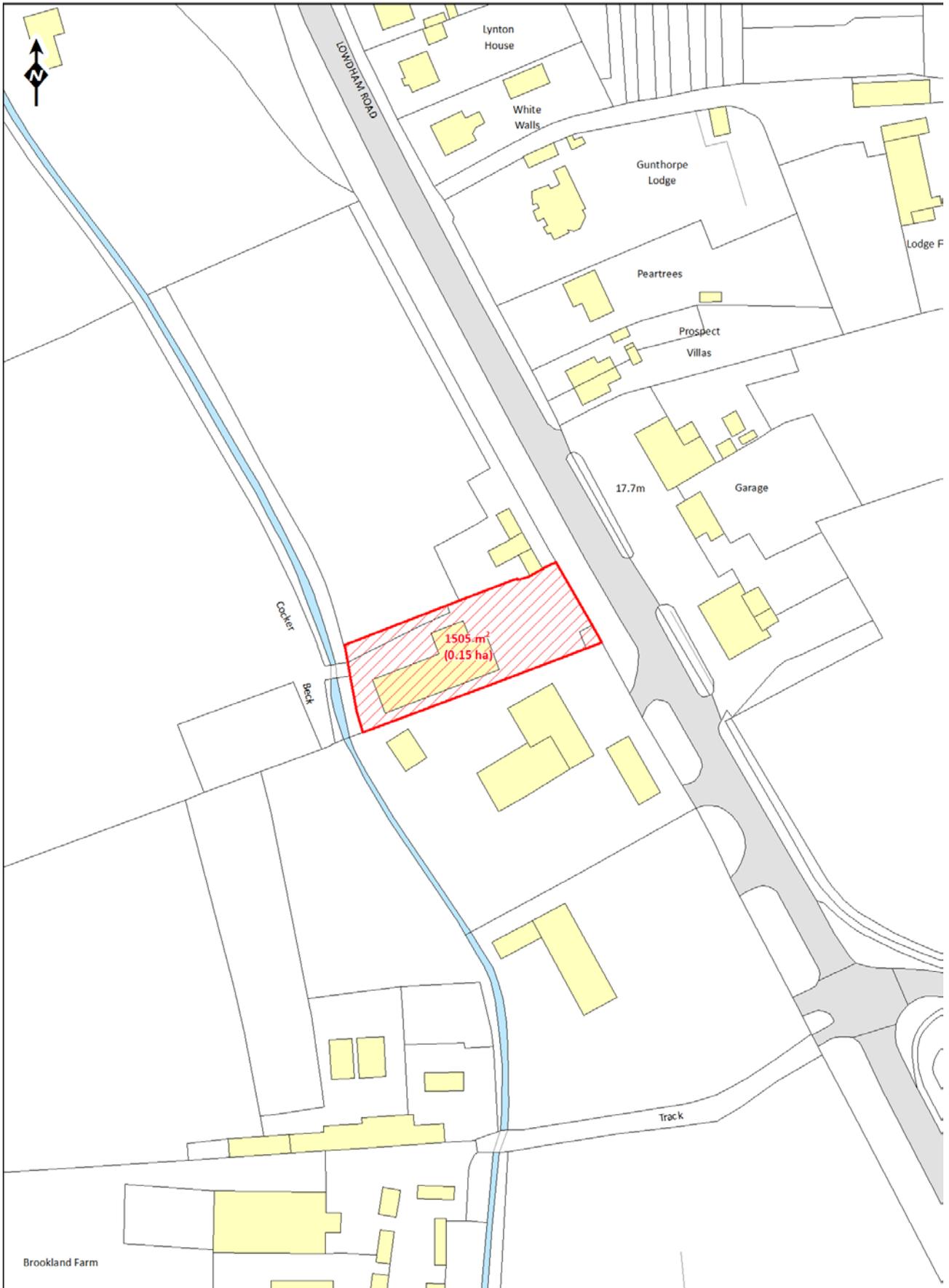
For further information, please contact James Mountain on ext 5841.

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

Kirsty Cole

Deputy Chief Executive

Committee Plan - 15/02132/FUL



© Crown Copyright and database right 2015 Ordnance Survey. Licence 100022288. Scale: Not to scale

Application No:	15/02074/FUL	
Proposal:	Erection of rear single storey extension and conversion of dwelling into House of Multiple Occupancy	
Location:	72 Appleton Gate Newark On Trent Nottinghamshire	
Applicant:	Mr & Mrs D. Burke	
Registered:	24.11.2015	Target Date: 19.01.2016 Extension of Time Agreed

This application is presented to the Planning Committee for determination at the request of Cllr Roberts.

Description of Site and Surrounding Area

The application site lies on a residential road, in a largely residential area, within the Newark Urban Area, as defined on the Proposals Map. It is an end-terraced three storey property adjoined to a two storey row of terraced properties. The properties on the eastern side of Appleton Gate appear to be largely residential in their appearance. On the western side a pub and gym are visible within proximity to the development site. Appleton Gate lies in close proximity to Newark Northgate Station to the north and the town centre to the south.

The property is a red brick, slate roofed building with bay windows on the frontage. To the rear is an existing single storey extension which also spans the rear of the neighbouring dwelling. Amenity space is provided in a yard area to the rear. The space is gravelled and paved and bound by C.1.8m high brick walling with coping and close boarded fencing on the northern elevation.

Parking is provided on the roadside and is largely resident permit parking only, with a small section on the opposite side of Appleton Gate being 1hr parking.

Description of Proposal

Planning permission is sought for the construction of a single storey extension to the rear of the dwelling. In addition it is proposed that the use of the dwelling change from that of a residential dwelling to a 7 bed House of Multiple Occupancy for students. Originally it was proposed to provide 8 bedrooms, however amended plans were received on 2/12/15 reducing the number of bedrooms to 7 in line with comments received from colleagues in Environmental Health.

Site History

No relevant site history

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy Adopted March 2011

Spatial Policy 1 – Settlement Hierarchy
Spatial Policy 7 – Sustainable Transport
Core Policy 9 – Sustainable Design

Newark and Sherwood Allocations and Development Management DPD Adopted July 2013

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy
Policy DM5 – Design

Other Material Planning Considerations

- National Planning Policy Framework
- National Planning Practice Guidance
- Amenities and Space in HMOs - Decent and Safe Homes East Midlands: A Landlords Guide

Publicity and Representations

Eleven neighbours were notified individually by letter

8 letters of representation have been received raising the following issues:

- Concern that the proposal could result in a further 14 vehicles parking outside the site resulting in highway safety concerns and a lack of parking for other properties.
- Concern regarding evacuation of residents should there be a fire given the three storey nature of the building
- Concern regarding the street drainage and the extra load that would be placed upon it
- The proposal would result in excessive noise in a usually quiet residential area
- The proposal would result in a loss of privacy to neighbouring properties given the potential increase in people present on the site
- The proposal would devalue the attached property and dwellings within proximity
- The proposal would result in yet another 'business' in a residential area to accompany the pub, gym, 2 nurseries, train station and Jacksons.
- The dwelling is a family home designated for limited occupation unsuitable for change of use to a multiple occupancy.

Consultations

Newark Town Council – raised no objection subject to there being no neighbouring objections

Further comments

In light of the objections raised the town council have requested the application be called in for determination at committee by Cllr Roberts.

Notts County Council Highways – No objection

This proposal is for the conversion of a dwelling into a house of multiple occupancy suitable for 7 occupants. The agent has confirmed that this proposal will likely appeal more to students rather than young professionals. There is a residents parking scheme along Appleton Gate.

The application site, as existing, is a dwelling of sufficient size to expect that two vehicles would be parked. It is considered that as students are the main aim of this development, the minimal parking provision is not expected to impact significantly on the public highway.

Therefore, there are no highway objections to this proposal.

Newark and Sherwood District Council Environmental Health Officer – No objection

‘Having viewed the plans my comments are:

Clearly the proposals will result in the property becoming subject to a licence from Environmental Health – see <http://www.newark-sherwooddc.gov.uk/hmollicence/>

This will require that specific measures are taken in relation to fire safety, space and amenity standards due to the increased risk/usage at the dwelling.

Fire Safety – the layout shows an adequate protected escape route and the fire legend on the plan suggests that all necessary fire precaution measures (fire doors/detection/emergency lighting) are to be installed. I would need to clarify any escape means from the kitchen areas – is there an escape window?

Amenity Provision – bathroom and washing facilities appear adequate, additional cooking equipment/storage may be required given the number of occupants.

Space Standards – the proposed layout is poor, I would need to confirm the measurements but I doubt it will allow for the granting of a licence, there is a lack of kitchen and dining space (min 8 occupants = 16m²) and in the absence of this, the bedrooms 1/4/7/8 look small (standard is 10m²).

In order to grant a licence, Environmental Health would need further discussion with the landlord and most probably require changes to the layout to reach the standards (as quoted above and attached).’

Comments based on revised plans

‘Given the revised layout, this would overcome the main issue by increasing the dining space thereby also allowing smaller bedrooms.

In terms of space standards, I expect the property would be suitable for granting a licence.’

Newark and Sherwood District Council Access and Equality Officer – Observations made from a Building Regulations perspective.

Comments of the Business Manager, Development

The application site lies within a primarily residential area close to the centre of Newark. Spatial Policy 1 – Settlement Hierarchy and Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy states that development will be focused within the Newark Urban Area and that such development should be appropriate to the size and location of the settlement and accord with other relevant policies of the Core Strategy and Development Plan Documents.

The key issues to consider in this case are the acceptability of this type of development in this location, particularly in relation to the amenities and character of the existing neighbouring residential properties; the amenities of any future occupants of the proposed house in multiple occupation; and highways impacts.

Impact on Amenity

Core Policy 9 – Sustainable Design and Policy DM5 – Design, set out the requirement for development proposals to demonstrate a high standard of sustainable design, to protect the amenities of existing neighbouring land users and to ensure that the proposed development itself affords an acceptable standard of amenity to future occupiers. It is therefore necessary to assess both the level of amenity for the proposed occupants of the property and the impacts on the amenities of the existing neighbouring residential properties.

Whilst not forming part of the development plan, the document Amenities and Space in HMOs - Decent and Safe Homes East Midlands: A Landlords Guide is a material consideration in relation to this application and is referred to by the Environmental Health Officer in his correspondence with the applicant. This sets out the minimum amenity and space requirements in relation to Houses in Multiple Occupation (HMO) and is therefore a useful guide in the assessment of the acceptability of the proposed development on the amenities of potential future occupiers of the property. The current proposal is for a seven bedrooled HMO and as such the following minimum requirements are set out within this document:

- One person bedroom with adequate lounge or dining space elsewhere and cooking facilities not provided in bedroom – minimum of 8m²;
- Minimum of 3 shared wash hand basins; 2 shared WCs; and 2 shared baths or showers. At least one WC should be in its own compartment or in an additional bathroom;

- A kitchen of a minimum of 13m²;
- A dining space of a minimum of 14m².

The proposed bedrooms range in size from approximately 8.5m² to 9.5m². A shower room is proposed on the ground, 1st and 2nd floors, along with 2 ensuite bathrooms. Each contains at a minimum; a wash hand basin, WC and shower. The kitchen area would be approximately 15.5m² and the dining area 14m². The proposed bedrooms, bathrooms, kitchen area and dining area would therefore be in accordance with the document Amenities and Space in HMOs - Decent and Safe Homes East Midlands: A Landlords Guide. The Environmental Health Officer has reviewed the proposed layout and has stated that the amended proposals are acceptable and has not raised an objection to the proposed development. Given that the Environmental Health Officer has not raised an objection in this regard, it would not be justifiable to refuse planning permission on the grounds of the lack of amenities for future occupants of the building.

Under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) a change of use from a dwelling house (Use Class C3) to a use falling within Class C4, houses in multiple occupation, is classed as permitted development. Class C4 relates to small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. Houses in multiple occupation for more than six unrelated individuals are classed as large houses in multiple occupation and are *sui generis*, that is, they don't fall within any specific use class.

This application relates to a proposal for a seven bedroomed house in multiple occupation and as such would have a *sui generis* use and hence planning permission is required for this proposed change of use. One of the reasons that houses occupied by more than 6 unrelated individuals do not fall within Class C4 relates to the intensification of the use. Such properties can have a different character to family dwellings.

The proposed use of this dwelling as a house in multiple occupation with seven bedrooms would intensify the use of the property in comparison to its existing use. Houses in multiple occupation can have different impacts on the surrounding area than large family dwellings as they generate more comings and goings than dwellings occupied by a large family, as the residents are far more likely to go to and from the property individually than a family unit would. As a result, the increase in movements can lead to detrimental impacts in relation to noise and disturbance on neighbouring residential properties. In this case, the provision of seven bedrooms would allow for at least seven separate individuals to occupy the property all of whom may live completely separately from each other.

No initial objection to the proposed development was raised by Newark Town Council to the proposed development, however in light of the level of neighbouring objection it has been requested by the ward member to be heard at planning committee.

A number of local residents have expressed concerns regarding the potential for noise disturbance relating from the proposal, the Environmental Health Officer has noted that this could happen just

as readily in a non HMO property. The Environmental Health Officer has not objected to the proposal in relation to noise and disturbance.

Whilst the objections regarding the potential impacts of the proposal on the amenities of the existing residential properties in the surrounding area have been taken into consideration, it is also necessary to consider that there is no objection on these grounds from the Environmental Health Officer and the property could be changed to a small HMO with six bedrooms without requiring express planning permission. In relation to this latter point, it is not considered that the intensification from six to seven bedrooms would be to such an extent as to justify a refusal of planning permission in this case. On balance, given that the Environmental Health Officer has not raised any objection to the development, it is also concluded that there is insufficient evidence of noise and disturbance to justify a refusal of planning permission in this case, despite the concerns of local residents.

With regards the proposed single storey extension; the ridge of the extension would be no higher than that of the existing structure and one new window would be proposed on the eastern elevation which would offer views over the existing yard area for the property. It is considered that the extension is small in scale and would not result in a loss of neighbouring amenity through overlooking, overbearing or loss of light.

Taking the above issues into consideration, I consider the proposal would not conflict with Core Policy 9 and Policy DM5.

Highways

Core Policy 9 – Sustainable Design and Policy DM5 – Design seeks to ensure that appropriate car parking provision is made in accordance with new development proposals whilst also encouraging access by a range of modes of transport.

At present parking is provided on the roadside outside the property. Parking on the roadside is resident permit parking Monday to Saturday 0900-1700. The comments from neighbouring properties regarding parking are noted. However the applicant has confirmed that the likely residents of the house would be students and as such any additional parking demand is not considered to significantly impact on the public highway. Nottinghamshire County Council Highways Authority have reviewed the proposal and have raised no objection. Notwithstanding that the applicant has stated that the proposed tenants would be students, it would not be reasonable for the Local Planning Authority to impose a condition to restrict this usage. However, it must be noted that the property is situated in a relatively central location within the settlement of Newark and as such the need for motorised transport should be reduced.

Whilst sympathy can be had with neighbouring residents regarding a perceived detrimental impact on the current parking on Appleton Gate should permission for the change of use be granted, no objection has been raised to the proposal by Nottinghamshire County Council Highways Authority and it is not considered it would be possible to justify the refusal of planning permission on the grounds of detrimental impacts on highway safety.

Impact on the Character of the Area

The proposal would result in no visible change to the existing building frontage. A small single storey extension is however proposed to the rear to provide additional kitchen facilities. The extension is proposed to be small in scale and constructed of materials to match the existing dwelling. As such it is not considered that the proposed change of use nor rear extension would detrimentally impact upon the character of the surrounding area and the proposal would comply with the requirements of Policy DM5 in this respect.

Other Issues Raised by Local Residents

Most of the issues raised by local residents have been addressed above; however, there are a few which remain outstanding. In response to the concern regarding the perceived impact on the sewerage network resulting from the additional tenants; this is noted and Severn Trent Water have been consulted; however no comments have been received. Furthermore, it is considered that this additional load could result through the occupation of the house by a large family and as such would not warrant refusal of the application. With regard the comments received relating to fire safety; the applicant has indicated fire escapes, fire doors and fire extinguishers on the submitted plan. However, this is not something that would be regulated by the planning authority but by colleagues in building control as part of a separate application.

In the responses received from local residents, a number of issues have been raised which are not planning issues, including the marketability or mortgage-ability of neighbouring housing. However, these issues are not considered to be material and as such, cannot be taken into consideration in the determination of this application.

Overall Conclusion

Overall, it is concluded that on balance, and given that the Environmental Health and Highways officers have not raised any objections, the proposed development would be acceptable in relation to the impacts on the character and amenities of the surrounding residential area. In this instance particular regard has also been given to the fact that the property could be changed to a six bedroom HMO without the need for express planning permission.

Recommendation

It is recommended that planning permission be approved subject to the following conditions:

Conditions

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

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

2. The development hereby permitted is for a seven bedroom house in multiple occupation and shall not be carried out except in complete accordance with the following approved plans reference:

- Location Plan Drg No. DB 509 A100
- Proposed Plans & Elevations Drg No. DB 509 – A103 Rev P4

Reason: So as to define this permission and in the interests of the amenities of neighbouring residential properties.

3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building in terms of type, colour, texture, size and profile unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

Informatives

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less 100 square metres

02

The application as submitted is acceptable. In granting permission the District Planning Authority is implicitly working positively and proactively with the applicant.

BACKGROUND PAPERS

Application case file.

For further information, please contact James Mountain on ext 5841.

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

Kirsty Cole

Deputy Chief Executive

Committee Plan - 15/02074/FUL



© Crown Copyright and database right 2015 Ordnance Survey. Licence 10002288. Scale: Not to scale

Application No:	15/01858/OUTM	
Proposal:	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).	
Location:	Land Off North Gate, Newark On Trent, Nottinghamshire, NG24 1HD	
Applicant:	Newark Property Developments Ltd - Mr Philip Rowe	
Registered:	14.10.2015	Target Date: 13.01.2016

The Site

The application site forms an area of vacant land approximately 1.65 hectares in extent accessed via North Gate. The site abuts the river edge and forms part of the wider North Gate development site which as discussed below has been subject to an extensive planning history.

The proposal site is situated within Newark Conservation Area and is adjacent to the former malting of Northgate Brewery (which is Grade II listed) and the substantial former officers and brew house which front North Gate (also Grade II listed). 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-west are offices and car parking belonging to No. 67 North Gate, together with a BP petrol filling station which fronts North Gate.

The surrounding area has a mixed commercial and residential character, taking in modern edge of centre retail stores, a petrol station and office development intermixed with Edwardian and Victorian terraced dwellings.

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 ‘retail housing site with planning permission.’

Relevant Planning History

The site has been subject to an extensive planning history which has been detailed below. The applications highlighted in bold text are considered most relevant to the determination of the current application.

14/01864/OUTM - Proposal consists of 28 semidetached townhouses/mews houses with 56 integral car parking spaces, these intended to occupy a site currently consented for 99 apartments and two retail units. Application withdrawn.

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.

11/01607/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.

10/01489/OUTM - Application for replacement outline planning permission for residential development in order to extend the time limit for implementation. The application was withdrawn.

07/01608/RMAM - Erection of 90 dwellings and 116 car parking spaces. Approved 16th April 2008 under delegated powers. This related to the south-eastern part of the wider site (adjacent to the Almshouses and brewery). According to the applicants this approval was commenced on site within the lifetime of the application and is therefore extant.

05/02004/OUTM - Residential development was approved on 6th December 2005 by Committee as recommended. This related to the south-eastern part of the site (adjacent to the Almshouses and brewery).

05/01984/FULM - Erection of 99 apartments with integral parking and creation of 2 retail units and public piazza space. Approved under delegated powers on 6th December 2005. This application is considered an extant application due to a lawful commencement in December 2008. Crucially the application was subject to a legal agreement which connected to the outline scheme considered on the wider site at the same time (05/02004/OUTM). The S106 required the works in application 04/01241/FULM for the Brewery and Maltings Building to be completed. These have been done and as such the terms of the S106 have been met.

04/03092/OUTM - Residential Development relating to the south-eastern part of the site adjacent to North Gate was refused on 16th June 2005 by Committee due to lack of affordable housing and inadequate play facilities.

04/01241/FULM – The refurbishment and extension of adjacent Warwick & Richardson Brewery & Maltings to form 49 residential units and 3 retail units and the refurbishment and extension of Maltings to form bar/café/ restaurant plus associated parking was approved 23rd December 2004. This permission has been implemented.

03/02997/FULM - Erection of 99 apartments with integral parking and creation of 2 retail units and public piazza space. This application was refused on 16th June 2005 by Committee on the grounds of a lack of affordable housing and play facilities and detrimental impact on the Conservation Area and Listed Brewery building.

The Proposal

In December 2013 outline planning consent was granted for the erection of a retail development comprising 6 units. The units comprised a total gross floor space of 6754m² and were broken down as follows:

Unit No.	Use	Proposed Floor Space (gross)
A	Open A1/Open A1 Convenience	1,520 sq m
B	Bulky Goods	1,325 sq m
C	Bulky Goods	1,850 sq m
D	Open A1	264 sq m
Mezzanine Space	Bulky Goods/Open A1/Open A1 Convenience	1,794 sq m details of the units to be provided with mezzanines is not specified
		Total of 6,753 sq m

The application relied on the submission documents of the 11/01067/OUTM application which was allowed at appeal.

The development was laid out with the access and spine road located in the position previously approved under 11/01067/OUTM. The remainder of the site was reconfigured with the units, other than Unit D being towards the rear of the site (riverside boundary). Units A and B were positioned in the western quarter of the site whilst Unit C was located in the northern quarter abutting The Malting's building. Units A and B were separated from Unit C by the access road which serves the customer parking to the front. A shared servicing area was shown to the rear of Units A, B and C extending across the rear of the site. Unit D was proposed located adjacent to the Almshouses and is significantly smaller than the approved building in the same position under 11/01067/OUTM. Unit D was not provided with a service area and would be serviced from the customer parking area.

Parking for a total of 228 vehicles would be provided in a parking area to the front of the three main units. Disabled spaces are to be provided (18 in number) to the frontage of the three larger units together with motorcycle and bicycle parking.

The application was permitted subject to numerous conditions. The current proposal seeks to vary the wording of Condition 25 which originally read as follows:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 as amended and the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended:

Unit A on Drawing PL08 Rev K shall not exceed 1,520 square metres gross floorspace;

Units B and C on Drawing PL08 Rev K shall not in aggregate exceed 4,705 square metres gross floorspace and shall not be used for the sale of any 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 D on Drawing PL08 Rev K 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.

The purpose of the current application is to revise the wording of the above condition to essentially remove the restriction in points a) to e) from Unit B thus allowing a less restrictive A1 use within Unit B. The applicant has stated the following within the application form:

Our clients wish to make application for a condition to be varied to provide an allowance of A1 (non-food), in addition to the consented Open A1 / A1 convenience which is intended to remain limited as per the existing consent.

The purpose of requesting the variation is to allow take up of retail demand which currently lies between the classifications as currently described within the consent conditions. Our clients wish Condition 25, paragraph commencing "Units B and C", to be amended such that:

Unit B and C on Drawing PL08 Rev K shall not in aggregate exceed 4,705m² gross floorspace. Unit B shall not exceed 1987m² gross floorspace, (including mezzanine), and uses permitted shall be A1 (non-food). Unit C shall not be used for the sale of goods other than those within the following categories: [these categories as currently listed (a) - (e) in the existing condition]

Departure/Public Advertisement Procedure

Occupiers of fifty nine 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 Core Strategy DPD (adopted March 2011)

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 Hierarchy

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 DM7 – Biodiversity and Green Infrastructure

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 Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

Consultations

Newark Town Council – At Newark Town Council's Planning & Regeneration Committee meeting on 28th October, 2015, an Objection was raised to this application for the following reason:-

The relaxation of the current Condition would permit a much wider category of shop to be permitted on the site which would have a detrimental impact on the town centre retail economy and was not in accordance with Planning Policy SP6.

The Town Council have been re-consulted on receipt of additional information received during the life of the application. At the time of writing no further comments have been received. The overall date for the revised consultation expiry is 2nd February 2016.

NCC Highways Authority – The proposed change to the Condition 25 to allow unrestricted A1 non-food retail use of Unit B will not affect the previous assessment of the traffic & transport

submissions made with application 13/00997/OUTM. The submissions took account of unrestricted A1 non-food retail use. Therefore, there will be no additional impact on the public highway resulting from this application should it be approved. No objections.

Environment Agency – No comments.

Canal and River Trust – No comments.

NSDC Planning Policy Team – No objection. *Detailed comments included below in the appraisal.*

NSDC Conservation - I understand this is purely a change of use issue of a new-build structure with no associated change of plans. As such Conservation has no comments to make.

NSDC Environmental Health Contaminated Land – The original application (13/00997/OUTM) is subject to a contaminated land planning condition for which matters are still outstanding. This latest application appears to be for variation of conditions which are not related to contamination, we would therefore have no comments to make, providing that the requirements of the contamination condition on 13/00997/OUTM are still in place

NSDC Environmental Health Noise – No comments

NSDC Access and Equalities Officer – No observations.

One letter of representation has been received objecting on the grounds that the resultant change of use would be detrimental to the immediate surrounding area and to that of the town centre.

Comments of the Business Manager

The application has been submitted as a Section 73 variation of condition application. In determination of such an application the decision maker must have regard to the entire proposal albeit it is acknowledged that there exists an extant permission on the site which must be afforded appropriate weight. Essentially the principal assessment will be the impacts that would arise from the variation of condition proposed, notably on the retail impact on Newark Town Centre. Nevertheless, much of the discussion from the 2013 approval will be reiterated below. For clarity text from the 2013 committee report has been included in italics.

Principle of Retail Development

In policy terms the application site is classed as 'out of centre'. It lies outside the defined boundaries of the Newark Town Centre, identified on the Allocations and Development Management DPD Map 1 – Newark North Proposals but has the benefit of a very recent extant planning permission, allowed on appeal in February 2013 after the Inspector's Examination had closed and proposed modifications had been published.

The Inspector's appeal decision letter made clear that the Council and the appellant, both of whom had undertaken a detailed assessment of the retail capacity of Newark for bulky goods provision and a town centre Retail Impact Assessment.

The Inspector advised in paragraph 17 and 18 of his letter under the Statement of Common Ground that:

"The parties agree that the appeal proposal would have no significant adverse impact on the vitality and viability of Newark town centre, subject to the imposition of appropriately worded conditions that have been agreed."

In assessing the proposal the Inspector commented:

Paragraph 54 "Finally, I turn to consider the factors that weigh in favour of the appeal site as a sequentially preferable out of centre location for a retail warehouse development. The Framework at paragraph 24 states that "When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre."

Paragraph 55. "The principle factor in favour of the appeal site is its location on a main road between the town centre and Northgate Retail Park. It enjoys good accessibility and good visibility to the passing public."

Paragraph 56. "It is adjacent to Northgate Retail Park, a well-established retail warehouse location that serves the Newark catchment area. While the profile of this retail park has strengthened in recent years, the profile of some solus retail warehouses elsewhere has declined. The appeal site would benefit from the profile of the retail park and the clustering effect that comes from close proximity to it, as have the solus retail units of Aldi and Halfords. It would therefore be well placed to take advantage of the customer base that the retail park attracts."

Paragraph 57. "I consider that the appellant company has applied the appropriate degree of flexibility to the appeal proposals. I conclude on the first main issue that there are no suitable or available sequentially preferable locations for this type of retail development in Newark."

The Inspector went on to conclude in paragraph 62 of his letter that "There is no evidence to show that it would have a materially adverse impact on nearby centres, including the town centre, or that there is a better location in Newark for retail warehouse development of the type proposed. It would therefore assist, not undermine, the objectives of Core Strategy Policies CS8 and NAP1."

Paragraph 64. "Moreover, it would assist the regeneration of under-used land that is close to Newark town centre and on an important arterial route to it. It would also assist in securing the retention and the effective use of 'The Maltings', a listed building which is in urgent need of restoration."

Paragraph 70 summarizes the Inspector's assessment as "I believe that significant benefits would arise from the appeal proposal and they should be realized sooner rather than later. Having regard to the presumption in favour of sustainable development, which is at the heart of the Framework,

and the exhortation that decision making “means approving development proposals that accord with the development plan without delay” (paragraph 14), it is clear to me that planning permission should be granted.”

Since the Inspector’s decision, the site has been subject to an extant permission for retail development noting the scheme has evolved through the approval reference 13/00997/OUTM. It is a material consideration that the site has an extant permission for retail development at this quantum of development and therefore the principal of development is already established.

Notwithstanding this, the variation in condition sought would have potential implications to the occupiers of the units proposed and thus could potentially impact upon the retail offer of the Town Centre. The original application submission included no justification or retail impact assessment (RIA) in connection with the current proposal. Subsequently this was requested and has been received during the life of the application. The applicant has instructed Peter Brett Associates LLP to undertake a RIA in support of the current proposal.

The RIA confirms that the purpose of the current application is to meet the requirements of NEXT, who are currently located adjacent to the site at the Northgate Retail Park. It is intended that if condition 25 is to be varied, it would allow the unrestricted non-food retail sale of goods including clothing, footwear, fashion accessories and homewares. The RIA goes on to detail the turnover and trade draw of the proposed development before moving on to outline the Town Centre impacts. The RIA concludes that the proposed development would not lead to any significant adverse impacts on the vitality and viability of the Town Centre.

The submitted RIA has been independently assessed by Alyn Nichols acknowledging his familiarity of the site through the previous appeal process. The substance of Mr Nichol’s response deals with each of the points raised in the RIA. In addition to this, further correspondence following the initial response has provided clarity on other matters, notably sequential issues in terms of the pending Sainsbury’s application.

Requirement for an Impact Assessment

Whilst there has been some debate over the need for the applicant to prepare a RIA, the letter from Peter Brett has essentially undertaken an assessment in summary form. The RIA is based on the RIA submitted with the 2011 application (the appeal application). At the time of the appeal, various criticisms and reservations were raised in regard to the RIA. Nevertheless, for the purposes of the planning appeal it was accepted that the appeal proposal would not have a significant adverse impact on the vitality and viability of the town centre so long as a condition was imposed to ensure that the character of retail uses on the site did not change from that proposed at that time.

Turnover of the Proposed Development

It is suggested that the sales density figures provided by NEXT with regard to Unit B are lower than the generic figure of £5,000/m² utilised in the RIA for the original scheme and that this original figure would actually be a more appropriate basis to assess the current application.

Table 1 of the PBA letter estimates the turnover of the current scheme (Units B to D) at 2020 would be about £13.6 million. The turnover of the proposed scheme is estimated at about £14.8 million, an increase of about £1.2 million. It is considered that these estimates are too low. The PBA estimates of turnover also assume that Unit A would be occupied by a foodstore.

For the approved development, an independent review undertaken on behalf of the LPA estimates that the potential turnover at 2020 is actually about £21.5 million. The potential uplift in turnover arising from the occupation of Unit B by NEXT is a little under £3.5 million.

Trade Draw to the Proposed Development

It is considered that the trade draw discussion outlined within the RIA has underestimated the trade diversions likely to arise from the Town Centre failing to take account of shopping patterns as evidenced by the 2010 household shopper survey.

In order to overcome this, a separate impact assessment undertaken on behalf of the LPA has been completed adopting the same set of information and analysis as utilised in the assessment of the appeal proposal. It is concluded that the existing scheme diverts about -£7.8 million of expenditure from the town centre which amounts to an impact of -5.3%. The proposed scheme may divert -£9.26 million which represents an impact of -6.1%.

Other Considerations

I am mindful of the pending application at the County Council Depot for a new Sainsbury's superstore. Members will be aware that the site as existing is vacant and would be large enough to accommodate NEXT. It has therefore been carefully considered as to whether a sequential test should be applied in the determination of the current application in light of this site becoming available since the extant permission was granted. The District Council has been receiving advice from Martin Tonks Town Planning (MTTP) on the Sainsbury's application, whilst the applicant has submitted retail evidence through Aylward Town Planning (ATP). Given the level of difference between the two parties Carter Jonas have been commissioned to conduct a review of all material submitted by MTTP and ATP in order that a robust recommendation over the retail implications of the application can be reached (including the sequential approach for completeness). The most recent input from MTTP reconfirms previous advice that Northgate is sequentially preferable to the former depot site. The case presented by ATP puts forward that there is little difference distance wise between the two sites, and that there are on-site constraints which mean that the specific requirements of the Sainsbury's proposal cannot be met. Accordingly on this basis I am content that the former depot site cannot be considered as sequentially preferable for the purposes of this proposal.

The mixed use allocation NUA/MU/3 includes comparison retail of around 4,000 m². In terms of the current proposal it is necessary to assess whether the relaxation of the condition as proposed would inhibit the later delivery of the comparison element of the allocation or indeed the wider allocation. Officers consider that this is unlikely to be the case. The delivery of the allocation is only likely to be feasible over the longer term as it requires the relocation of the NSK factory to another site in the Newark Urban Area. It is also worth noting that the policy requires the phasing

of the retail development to fall in the latter part of the Plan Period (post 2019). Accordingly it would, in officers' view, be unreasonable to resist the current proposal on the basis that it could inhibit the later delivery of NUA/MU/3.

Town Centre Impacts

There is no guidance or rule of thumb as to the level of impact on a town centre that would be unacceptable. Each case has to be assessed on the particular circumstances arising at that time. An impact of -6.1% of town centre turnover is not insignificant. However, in this case it represents a "worst case" scenario where a foodstore does not occupy Unit A and the unit is occupied by a non-food retailer (there is no condition in the current planning approval that limits the use of Unit A to a foodstore). Irrespective, the difference between the approved development and the proposed development is not significant in my opinion. Having regard to the extant permission, the proposal would not undermine existing investment such as to justify refusing planning permission in terms of paragraph 27 of the NPPF.

Layout and Scale

The current proposal does not alter the layout and scale of the extant permission and thus much of the discussion from the previous committee report remains of relevance:

Whilst the application is made in outline, access, layout and scale are matters which form part of this application with only detailed design and landscaping being reserved. The proposed layout of the site has been significantly reconfigured to extend the units across the rear of the site, other than the smaller Unit D and to locate the car parking to the front. The access remains in the position originally approved and the car parking area extends to the front boundary and abuts the adjoining petrol filling station. This is a similar layout arrangement to the nearby Northgate Retail Park and the Aldi supermarket off Cow Lane where the front boundary is delineated by a feature brick wall and railings. It is considered that provided careful consideration is given to the treatment of the front boundary to Northgate in order to provide screening to the car park and to respect the relationship of the development to the adjacent Brewery building the arrangement of parking to the front of the buildings is acceptable.

The proposal retains a dual use of the access by customers and service vehicles. However, the applicant previously provided opening and delivery hours which remain unchanged and were conditioned by the inspector in the allowed planning appeal. Opening hours would be from 0800 until 2000 with deliveries taking place between the hours of 0900-1030 and 1900-2100 for Units A-C and between the hours of 1900-2100 for Unit D. I am satisfied that these restrictions limit the opportunities for conflict between customers and delivery vehicles. No separate serving area is proposed to serve Unit D, which was the case with the larger Unit F which previously was approved on this part of the site. This unit, as previously would be serviced from the customer car park which the Inspector considered acceptable.

Pedestrian linkages and crossings from the car parking to the shops are direct and disabled bays are provided outside the units.

I turn now to the scale of the units. In accordance with the conditional planning permission the scale of the building adjacent to the Almshouses (Unit D) is up to 7 m in height whilst the remaining units Units A, B and C are shown up to 14m (including any chimneys). The scale and footprint of Unit D, which is smaller than the approved scheme is considered to respect the setting of the imposing Brewery building and will be read in relation to the Almshouses rather than as an integral part of the larger Units to the rear. It should be noted that the detailed design is reserved for subsequent approval. However the submitted Drawing Number PL10_12 Rev C in my view demonstrates that buildings of the scale parameters set out could fit into the site context without significantly affecting the surrounding character of the area or the adjacent heritage assets. In coming to this view I am also mindful of the scale and massing of the extant residential scheme which allows for a three storey block to be located immediately adjacent to the Alms houses.

Given that the current proposal relates to the change of use restricted by condition, I see no reason to deviate from the above conclusions that the scheme is acceptable in terms of its layout and scale. There have been no material alterations to the site surroundings which would affect this conclusion and once again the detailed designed of the units would be deferred to a reserved matters application.

Impacts on Heritage Assets

The impact of the scheme upon the character and appearance of the Newark Conservation Area and upon adjacent listed buildings has been assessed in relation to the layout and scale.

Having regard to the similarities between the scale and configuration of the current layout and the allowed scheme on appeal it is our view, the proposal would preserve the character and appearance of the surrounding area. We are also satisfied that a detailed design could come forward that would safeguard the character and appearance of the area in line with Policy DM9 and the NPPF.

The comments and recommendations of the County Archaeologist are noted, however, the proposal is, effectively a reconfiguration of the approved scheme under 11/01067/OUTM and the Inspector in granting consent for the development did not consider it necessary to require a detailed programme of archaeological investigation and mitigation to be agreed prior to determination. A pre commencement condition was, however, attached requiring a written scheme of investigation to be submitted and implemented setting out a programme of archaeological work for the site. Having regard to this it is considered that to require this to be agreed prior to determination of the application would be unduly onerous and unjustified taking into account the approach taken by the Inspector. It is therefore considered that it is sufficient to replicate the archaeology condition attached to the planning permission granted on appeal.

It is noted that usually outline applications in Conservation Areas and adjoin Listed Buildings will be required to be accompanied by substantial design detail. However such details were not provided with the appeal proposal and it is therefore considered that the submitted details, layout, cross sections and perspective drawings is sufficient in this case. In this case I consider that we have sufficient information, given that layout particularly is not reserved, to come to a considered view

on the acceptability of the proposal. I therefore do not consider that the proposal conflicts with the intentions of this policy.

Highway Matters

Despite lengthy debate throughout the previous applications on the site, the retail development has been deemed acceptable in highways safety terms demonstrated by the existence of an extant permission on the site. Members will note from the consultation section above that the Highway Authority do not consider that the current proposal will materially affect the highways network in comparison to the extant permission. On this basis no objections have been raised.

Flood Risk

The site is within Flood Zones 2 and 3. The NPPF therefore requires LPA's to apply the Sequential Test with the aim of steering new development to land at lowest risk (zone 1) of flooding. Where there are no reasonable available sites in Flood Zone 1, regard should be had to flood risk vulnerability and decision makers should consider sites within Zones 2 and 3 applying the Exception Test if necessary. The previous application for development of this site sequentially tested the site in relation to flooding and it was concluded, and accepted by the Inspector at appeal that retail development of the site would not be inappropriate subject to recommended conditions by the Environment Agency.

Amenity Issues

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. In respect of customers and the proximity of the car park to adjacent residential occupiers again limitations to the opening hours which replicate those imposed by the Inspector previously are considered appropriate and proportionate. In addition the current proposal introduces tree planting along the boundary with the rear of the Almshouses and the common boundary with the Brewery, an element not previously proposed. This is considered to provide added benefits by way of assisting in screening out light overspill from car headlights in the car park and will be dealt with through the detailed landscaping scheme at reserved matters stage.

Conclusion

The concluding paragraphs of the independent retail assessment commissioned to assist in the determination of the current application are concurred with entirely by officers.

It is my view that the proposal requires assessment as to the impact of development on the town centre. In this regard it should be borne in mind that a condition to control the ranges of goods sold from the site was accepted by the applicant and imposed by the Planning Appeal Inspector because it was necessary.

I reach the conclusion that the proposal would not have a significant adverse impact such as to justify refusing planning permission. An important factor in reaching that conclusion is that the difference between the scheme as approved and the development as proposed is not significant.

Despite an estimated potential increase in adverse impacts on Town Centre retail (-6.1% rather than -5.3%) on balance the proposal is considered to maintain compliance with Policy DM11. As a consequence it is recommended that planning permission is approved subject to the following conditions. Given that no conditions have been discharged since the 2013 approval which this application seeks to vary, the only condition to be amended is no. 25.

RECOMMENDATION

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

Conditions

01

Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters.

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

02

No development shall be commenced on site until details of a phasing scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme shall also detail how the phases that are not developed out in the early stages, will be secured and treated. The development shall thereafter be constructed in accordance with the approved phasing scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

03

Details of the appearance and landscaping (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins pursuant of its respective phase and the development shall be carried out as approved.

Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

04

Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and illustrated in the following documentation, unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the consent.

Maximum scale parameters for the buildings are; Buildings A to c would be a maximum height of 14m (including any chimneys) whilst Building D would have a maximum height of 7m.

Drawing No. PL01 (Location Plan)

Drawing No. PL02 (As Existing Site Plan)

Drawing No PL03-05 Rev A (As Existing Site Sections AA, BB, CC, DD)

Drawing No. PL07 Rev A (Site Layout)

Drawing No. PL08 Rev K (Proposed Ground Floor Plan)

Drawing No. PL09 Rev A (Proposed Roof Plan)

Drawing No.PL10-12 Rev C (Proposed Site Sections AA, BB, CC)

Drawing No. BMT-120-TT-001 RP3 (Proposed access arrangements)

Design and Access Statement (dated July 2013)

Reason: The application is in outline and the Local Planning Authority wishes to ensure that the details which have not yet been submitted are in accordance with the scale parameters set out in the outline application.

05

No development shall take place within the application site until details of a scheme for archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in full accordance with the approved details. 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.

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.

Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include the matters i) to iii) below:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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.

07

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 Appendix E.
3. Finished floor levels are set no lower than 11.87 m above Ordnance Datum (AOD). The mitigation measures shall be fully implanted 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.

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.

08

Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- The utilisation of holding sustainable drainage techniques;
- The limitation of surface water run-off to existing rates with a reduction in rates where practicable;
- The ability to accommodate surface water run-off on site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and
- Responsibility for the future maintenance of drainage features.

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.

09

The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To protect ground and surface water from pollution

10

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.

11

The development hereby permitted shall not be commenced until details of the pedestrian link between the development and the Riverside Walk and the adjacent Maltings in accordance with

drawings PL08 Rev K and PL09 Rev A have been submitted to and approved in writing by the local planning authority. These details shall include a full specification of surface treatment and any means of enclosure. The approved scheme shall be implemented in full prior to first occupation.

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

12

No part of the development hereby permitted shall be occupied 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.

13

No development shall be commenced until details of measures to prevent the deposit of debris upon the adjacent public highway shall be submitted and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to any other works commencing on site.

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

14

No part of the development hereby permitted shall be brought into use until provision has been made within the application site for parking of cycles in accordance with details submitted to and approved in writing by the Local Planning Authority. The details shall include the design, materials, amount and specification. The cycle stands shall be located near to the main entrance to the development, be covered and 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.

Reason: To promote sustainable transport.

15

No part of the development hereby permitted shall be occupied or brought into use until the parking/turning/servicing areas are provided in accordance with the approved plans. 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.

16

The development hereby permitted shall not be commenced until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 of the matters listed a) to e) below been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- a) external windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.
- b) treatment of window and door heads and cills
- c) verges and eaves
- d) rainwater goods and
- e) extractor vents

Reason: In the interests of visual amenity.

17

Any application for Reserved Matters shall be accompanied by a detailed scheme for both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species. The details shall include:

- a) a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities.
- b) proposed finished ground levels or contours;
- c) proposed means of enclosures (including noise attenuation measures adjacent to the service yard);
- d) car parking layouts and materials;
- e) other vehicle and pedestrian access and circulation areas;
- f) hard surfacing materials;

- g) minor artefacts and structures for example, furniture, refuse units, signs, lighting etc.)
- h) retained historic landscape features and proposals for restoration, where relevant.

Reason: In the interests of amenity and biodiversity.

18

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, 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.

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

19

No raw materials, equipment, finished products or waste materials shall be stored outside buildings other than in accordance with details to be approved in writing by the local planning authority prior to the commencement of such storage. Thereafter 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.

20

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.

21

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.

22

The development hereby permitted shall not be commenced until a Service Management Plan in relation to the servicing of Unit F of the development has been submitted to and approved in

writing by the local planning authority. Thereafter Unit F shall be serviced only in accordance with the agreed Plan.

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

23

No part of the development hereby permitted 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.

24

The development hereby permitted shall not be commenced until a scheme detailing security measures for designing out crime at the site has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include the provision of CCTV covering the public spaces within the curtilage of the site, appropriate external lighting and details of any physical barriers to lock off areas when the premises are closed. The approved details shall be installed on site prior to first occupation.

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

25

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 as amended and the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended:

Unit A on Drawing PL08 Rev K shall not exceed 1,520 square metres gross floorspace;

Units B and C on Drawing PL08 Rev K shall not in aggregate exceed 4,705 square metres gross floorspace

Unit B shall not exceed 1987m² gross floorspace, (including mezzanine), and uses permitted shall be A1 (non-food).

Unit C shall not be used for the sale of any 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 D on Drawing PL08 Rev K 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.

26

No retail unit shown on Drawing PL08 Rev K 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.

27

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.

28

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.

Note 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 Bridgeford, 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/cil/

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved. The actual amount of CIL payable will be calculated when a decision is made on the subsequent reserved matters application.

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 amended is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

BACKGROUND PAPERS

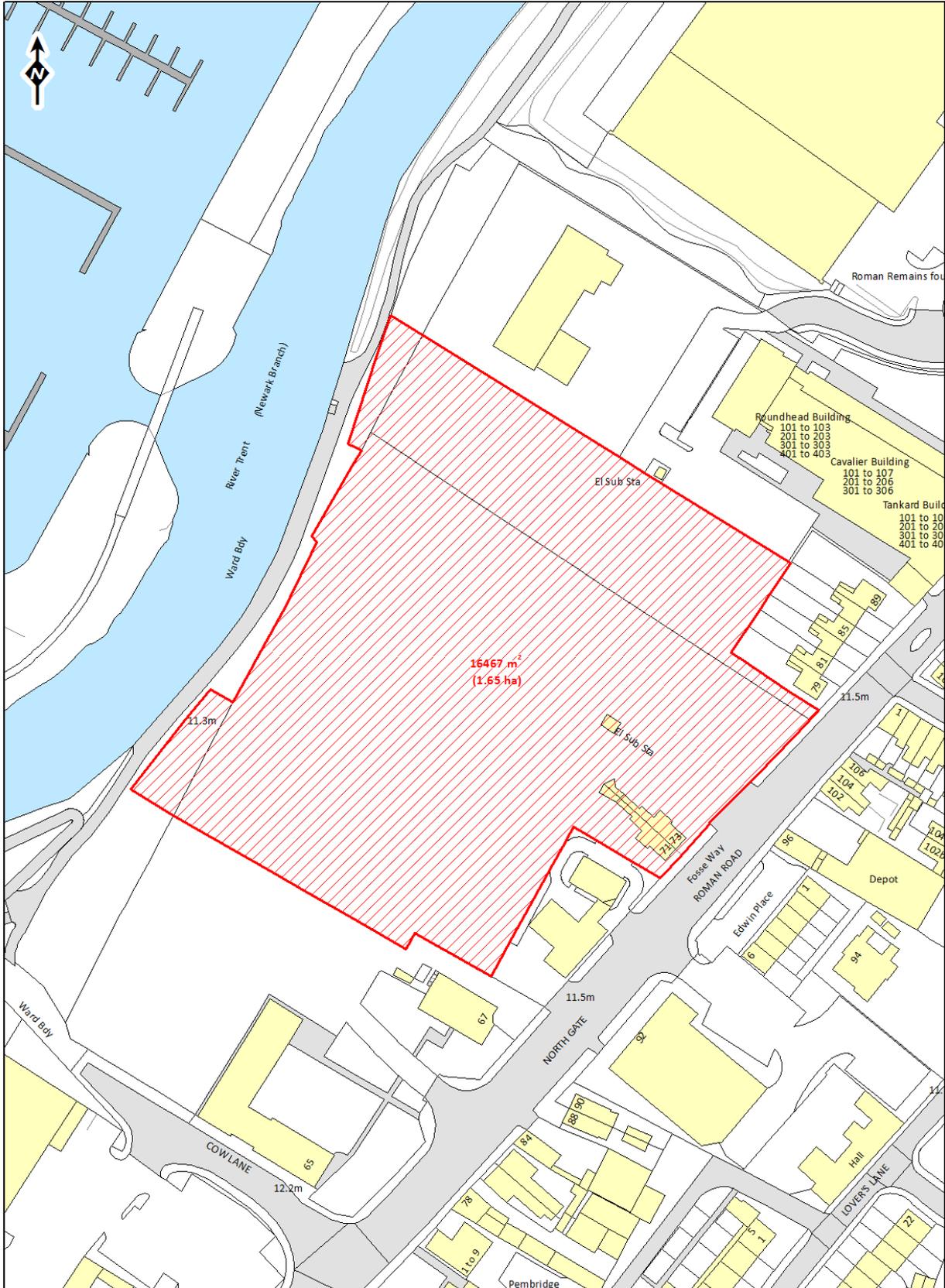
Application case file.

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

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/01858/OUTM



© Crown Copyright and database right 2015 Ordnance Survey. Licence 100022288. Scale: Not to scale

Application No:	15/00912/FULM	
Proposal:	Erection of two agricultural storage buildings	
Location:	Land to the South East Of Former A46	
Applicant:	M and C Sheldon	
Registered:	27th May 2015	Target Date: 22nd July 2015
An extension of time has been agreed in principle		

Members will recall that this application was deferred at the January Planning Committee as no decision was reached.

The application has been called in at the request of Councillor Ivor Walker.

The application is before the Committee at the request of the Business Manager, Development in consultation with the Planning Committee Chair and Vice Chair on the basis that local employment could be affected if planning permission is refused as recommended.

The Site

This application site lies within the open countryside and relates to an area of relatively level agricultural land situated on the south eastern side of the former A46 Fosse Way between this highway and the new A46 to the south east and opposite the Lady Pitt Farm complex.

The site is currently used for arable purposes, with some livestock present and is bounded by paddock fencing and hedgerow.

There are a number of designated heritage assets which are nearby or adjoin the application site. The verge and boundary of the proposal site just falls within the designated Battle of Stoke Fields battlefield to the north. The Grade II* listed Elston Towers (now known as Eden Hall, and formerly Middleton House) lies to the north east and The Grade II listed Syerston Hall and surrounding former parkland which is non designated lie to the south west of the site.

Relevant Planning History

None of relevance

The Proposal

Full planning permission is sought for the erection of 2 large agricultural sheds with associated hardstanding.

Shed 1, the larger of the two buildings would be located a minimum of 13m from the boundary of the site with the former A46 and would have maximum dimensions of 45.6m depth and 30.7m width. The building would have an eaves height of 7.6m and a ridge height of 12.5m. Roller shutter

doors are proposed to the south western and south eastern elevations which measure 7.5m in height and 7.3m in width and 6.5m in height and 6.1m in width respectively.

Shed 2 would be located at right angles to Shed 1 and would have maximum dimensions of 39.4m in depth and 22.9m in width. The building would have an eaves height of 4.2m in height and a ridge height of 8.4m. Roller shutter doors are proposed to the western elevation of the site measuring 6.4m in height and 6.8m in width and 4m in height and 6m respectively. The building incorporates an open area for storage of machinery to the western elevation.

The existing access from the former A46 is to be retained and widened to serve the proposed buildings and the neighbouring field to the south west. A secondary access is proposed to be created to the north western corner of the field also accessed from the former A46.

Approximately 4056sq.m of hardsurfacing to create a hardstanding and turning areas is proposed to the front of the buildings.

A Design and Access Statement has been deposited with the application.

Additional information and photographs have been deposited on the 10th September 2015 with regards to operational requirements and the physical impact of the building on the visual amenity of the landscape.

The applicant reports that this submission has arisen following notice being served to vacate land on which the buildings are currently located at Hall Farm East Stoke. There is a need to re-provide the buildings close to the existing land holding and having explored all options within the existing land within the applicants control, the application site represents the best available in terms of its impact.

Further additional information has been deposited on the 11th November 2015 which outlines the operational need for the development in terms of safe storage of valuable agricultural equipment and material and crops. This includes an employment and viability impact assessment together with a sequential assessment of alternative sites. It concludes that the cost of not being able to secure a new site for the yard would result in the likely reduction in the number of jobs provided by the applicant. The business would have to downsize operations as a result and thus long term viability would be threatened and the business may fold. The applicant is not a large local employer but nonetheless (along with other smaller local farmers) plays their part in supporting the district's rural economy. The new yard would provide safe and secure storage for expensive vital machinery and also produce off the field ensuring that profits remain at a level that would sustain the operation of the business in the longer term.

An email received on the 13th November 2015 confirms that the applicant has undertaken a Written Scheme of Investigation as requested by Historic England and that a further survey is to be carried out.

Following the deferral of the application at planning committee on the 9th December 2015 pending further clarification of the proposal, additional details have been submitted to the Council in the form of aerial photographs, photographs and details of the machinery to be stored within the proposed buildings together with photographs of the extent of grain storage and a statement which reiterates previous comments in relation to need, location and archaeology and which outlines the following matters:-

Shed 1

The larger building identified as Shed 1 was purchased some time ago to replace a dual pitched roof building on the Hall Farm site (identified as building C on the aerial view photograph) lost through storm damage. Shed 1 is currently stored in Building A (identified on the aerial view photograph). It has been confirmed in writing by the agent that the design and scale of this dismantled Shed 1 is as shown on the layout and elevation drawings deposited with the application. (Drg. Refs L-SHE-075-PAS#1FPS Rev C and L-SHE-075-PAS#1E Rev C).

Shed 2

The smaller of the 2 buildings identified as Shed 2 comprises the two wings (shown on the aerial photograph as E and F) attached to the main body of building A. It has been confirmed in writing by the agent that the design and scale of Shed 2 when erected would be as shown on the layout and elevation drawings deposited with the application.(Drg. Refs L-SHE-075-PAS#2E Rev B and L-SHE-075-PAS#2FPS Rev A).

The lower sections of both building would comprise concrete panels between steel columns. The upper sections would be reclad in corrugated metal profile sheeting with a Jupiter green finish.

Departure/Public Advertisement Procedure

Occupiers of 2 neighbouring properties have been individually notified by letter. A site notice has also been displayed near to the site and a press notice published.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 14: Historic Environment

Allocations & Development Management DPD

Policy DM5 – Design

Policy DM8 – Development in the Open Countryside

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Newark and Sherwood Landscape Character Assessment SPD 2013

Consultations

Syerston Parish Council – The Syerston Consultation Meeting believes that app. 15/00912/FUL should not be approved. It wished the Development Committee to consider the adverse impact of proposals on the rural community; to reject the notion that the former A46 can become an even greater hazard to walkers, cyclists and horse riders, in part, because it used to be a busy trunk road. It was felt that the introduction of a large commercial enterprise (albeit agricultural) in that location is inappropriate and potentially completely unnecessary.

Members are asked to take account of the adverse impact that warehouses, of this size, will have on views from buildings and sites of significant interest and to consider the adverse impact on nearby dwellings and wildlife throughout the day and especially at night.

The Syerston Consultation meeting respectfully requests that the application be rejected on clear planning grounds and that the open countryside is protected from such a large scale development.

The minutes of the meeting have also been deposited which detail the following concerns:-

The Syerston Planning consultation meeting was not content that the statement made in support of the application properly or fully addressed the requirement for a considered Design and Access Statement or the concerns of the rural community affected by the proposal. There had been no consultation.

The meeting felt that the mass and scale of the proposed buildings were out of proportion to the rural setting. In particular but not exclusively;

- i. The height of the buildings and the surface area of the hardstanding are completely inappropriate.
- ii. The impact of the proposal on the visual aspect from, for instance, the nearby listed Eden Hall and the site of the battle of East Stoke are ignored completely in the PDAS or are dismissed unacceptably.
- iii. The application takes no real account of the impact of the assumed associated activity on the highway and neighbouring domestic dwellings.
- iv. There is no acceptable reference to the level or timing of vehicle movements and, unlike in their present location, there is neither any automated traffic control nor any reduction proposed or required from the national speed limit, and
- v. The meeting saw no evidence to confirm that “a lease was coming to a cessation”.

The meeting was not persuaded that the application necessarily contributed to requirements of The National Planning Policy Framework (NPPF 2012) in so far that there is no immediate and measurable beneficial effect on social, environmental and economic sustainability. The question posed by the lack of evidence regarding the lease (v. above) left open the future of the extant site and its possible intended use, if this application were to be approved.

The Parish of Syerston, in general and the proposed site in particular should not, the meeting felt, become part of a planning policy framework justification for some unstated economic advantage to be achieved elsewhere. In short the meeting queried in respect of the net community economic gain, the alternative uses for the land that it is proposed to vacate.

The meeting felt that this application will clearly have an adverse effect on the environment. Visual aspects will be compromised, a significant area of land will be lost and boundary hedges will be grubbed up, initially to provide a large access gateway and then potentially later, and more significantly, as security fencing and maintenance become difficult to manage. It was felt that lighting and the inevitable night time use of the site will create disturbance to neighbours and to wildlife and that the PDAS failed to address these issues adequately or at all.

The meeting noted that the PDSA made no mention of the development's use being limited to storage of only the product of the applicant's own holding (as is said to be required by a neighbouring authority in similar circumstances) or that there would be any restrictions on the maintenance of vehicles parked on the site. The meeting also expressed concern that there was no written undertaking to restore the land and to dismantle and take away the buildings, when they are no longer required.

Decision

The Syerston Planning Consultation Meeting did not believe that application 15/00912/FUL should be approved and asked the Chair of the Meeting to convey that view to the Council.

It wishes Newark and Sherwood Development/Planning Committee to consider carefully, the adverse impact that the proposals will have on the rural community and to reject the notion that a road that was formerly the A46 can once more become an even greater hazard to walkers, cyclists and horsemen and horsewomen, in part, simply because it used to be a busy trunk road. The consultation meeting felt that the introduction of such a large commercial enterprise (albeit agricultural) in that location is and will be inappropriate and potentially completely unnecessary.

It wants members of the committee to take account of the adverse impact that warehouses, of the size proposed, will have on views from buildings and sites of special or significant interest. And, it wanted Councillors to consider carefully the adverse environmental impact on nearby dwellings and wildlife throughout the day and especially at night.

The Syerston Consultation meeting respectfully requests that the application be rejected on clear planning grounds and that the open countryside is protected from such a large scale development.

NCC Highways Authority – The application site is located on the former A46 single carriageway, on which traffic flows have significantly reduced due to the construction of the A46 dual carriageway. The information submitted indicates that the proposed access into the site is an existing access, however, from my site visit it appears to have not been used for some considerable time.

The layout as shown on drawing. No. L-SHE-075-SLPP is acceptable to the Highway Authority. Therefore, there are no highway objections to this proposal subject to the following condition being imposed requiring the access to be constructed and surfaced in a bound material in accordance with the site layout plan (L-SHE-075-SLPP) and no other part of the development shall be commenced until the access has been completed in accordance with that plan. The applicant should be advised that 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.

Highways England – No objections are raised.

NSDC Access – No observations are raised.

NSDC Conservation – By virtue of its scale, form, location and appearance, the proposed development is capable of affecting a number of heritage assets within the vicinity, including:

- The Battle of Stoke Fields, a Registered Battlefield. The verge and boundary of the proposal site appears to be included within the Battlefield designation (see attached);
- The Grade II* listed Elston Towers (now known as Eden Hall, and formerly Middleton House). The associated coach house is Grade II listed;
- Syerston Hall. The Hall is Grade II listed, as is the associated dovecote and stable range. The surrounding former parkland is identified on the Notts Historic Environment Record (HER) as an unregistered Park & Garden (a non-designated heritage asset therefore).

Preliminary

The proposal may affect the wider setting and experience of Elston Towers, a Grade II* listed building. The proposal is also likely to affect a Registered Battlefield. In accordance with Regulation 5A(3) of the Town and Country Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended) and Schedule 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, Historic England must be notified of the proposal.

Legal and policy considerations

In accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'), special regard must be given to the desirability of preserving the special architectural and historic interest of listed buildings, including their setting. In this context, the objective of preservation means to cause no harm, and is a matter of paramount concern in the decision-taking process.

A designated Battlefield is a site included on the non-statutory Register of Battlefields in England, maintained by Historic England. Registered battlefields are designated heritage assets and subject to the planning policies within the National Planning Policy Framework (NPPF). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be. Paragraph 132 of the NPPF states that significance can be harmed or lost through alteration or development within the setting of a heritage asset. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Fundamentally, the NPPF makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development within the setting of designated heritage assets (paragraph 137).

The setting of a heritage asset is defined in Annex 2 of the NPPF. Setting is the surroundings in which an asset is experienced, and its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not (see paragraph 13 of the PPG for example (ref: 18a-013-20140306)). The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between

places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. In addition, please note that the contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. Additional guidance on development affecting the setting of heritage assets is contained within The Historic Environment Good Practice Advice in Planning Note 3: *The Setting of Heritage Assets*.

In addition, the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application (paragraph 135 of the NPPF). In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Policies CP14 and DM9 of the Council's LDF Core Strategy and Site Allocations DPDs are also relevant in this context. These policies seek, amongst other things, to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals affecting heritage assets are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

Significance of the heritage assets

Battle of Stoke Fields

The Battlefield was Registered on 6th June 1996.

East Stoke is first mentioned in the Domesday Book of 1086 where it is recorded that 'Stoches' belonged to Ilbert de Laci and Berenger de Toden and was worth a total of 25 shillings. 'East' was added to the name by 1340. East Stoke is perhaps best known as being the site of the last pitched battle of the Wars of the Roses the victory of which finally established King Henry VII and the Tudor dynasty. On 16 June 1487, King Henry VII offered battle to Yorkist rebels at East Stoke. Stoke, not Bosworth, was the last pitched battle of the Wars of the Roses, and therein lies its significance. Victory strengthened the grip of the Tudor dynasty on the crown.

The 1796 Enclosure map for East Stoke gives an indication of how the landscape had looked at the time of the battle. The village of East Stoke extended along Church Lane towards St. Oswald's church, which had been built in the 13th and 14th centuries. The remains of the former village survive as earthworks on both sides of the lane, where they are surrounded by the ridge-and-furrow topography of the open fields. Close by stood an almshouse, the Hospital of St. Leonard, which was founded in the early 12th century and not dissolved until 1573. The land extending from the top of the escarpment to the Fosse Way was largely unenclosed, forming arable open fields for the villages of East Stoke, Elston and Syerston. The escarpment and the gully known as 'Red Gutter' were not wooded but were more open with scrub woodland.

The prominent roads would have been the Fosse Way and, connecting it with the River Trent, Longhedge Lane, Trent Lane and Church Lane. By 1796 there is no evidence as to whether or not the Upper Foss was still in use.

Enclosure by hedges increased in intensity from the late 18th century. The landscape had assumed much of its modern appearance by 1850. Stoke Hall was built close to the church in the late 18th century and with it an area of parkland was created on either side of Church Lane, which included Red Gutter and the escarpment now known as Stoke Wood. Syerston Hall (listed Grade II) was also

built at this time to the south-west of the battlefield area. The village of East Stoke had shrunk back to Humber Lane by 1887.

The battlefield area boundary defines the outer reasonable limit of the battle, taking into account the positions of the combatants at the outset of fighting and the focal area of the battle itself. From the River Trent in the west the south-western edge of the battlefield area follows the former line of Longhedge Lane to the Fosse Way. The Battlefield encompasses the Earl of Oxford's deployment (King Henry VII's forces) off the Fosse Way a safe distance from the rebels on the hill to the north. Oxford's men also approached the rebels along the edge of the Trent Hills to the north (i.e. across the length of Syerston Airfield), but that the vanguard approached along the Fosse Way. The south-eastern boundary to the battlefield follows the line of the Fosse Way into the centre of modern East Stoke (the spring at Willow Rundle, by Elston Lane, where legend has it the Earl of Lincoln was buried, is excluded from the battlefield area). Proceeding north-west from East Stoke along Church Lane, the battlefield area boundary incorporates part of Stoke Hall Park where, in 1825, Sir Robert Bromley, the then occupant, informed Richard Brooke that mass graves had been recently discovered. Thereafter the line of the battlefield area follows the footpath along the foot of the steep slope to re-join the river. This means that the Red Gutter, focal point of the rout of the rebels, is included in the battlefield area but the extended line of retreat towards Fiskerton Ford, where Lord Lovell, amongst others, is reputed to have either drowned or escaped, is not.

During the widening of the modern A46 a burial pit was discovered in the field to the west of the road and opposite Foss Way Farm. The pit contained the entangled remains of at least 11 articulated inhumation burials which are thought to date to the time of the battle.

Elston Towers

Eden Hall (historically known as Middleton House, then Elston Towers) is Grade II* listed. Grade II* buildings are particularly important buildings of more than special interest in the context of all listed buildings, noting that they comprise only 5.5% of all listed buildings.

The principal building at Eden Hall dates to the 1870s when it was built for Robert Middleton. The architecture is predominantly Tudor Gothic with quirky Italianate detailing. The result is a hugely unique building. Robert Middleton was born near Thirsk in Yorkshire in 1814 and died at Elston on 2nd June 1885. The house was built from stone salvaged from the old Trent Bridge at Newark and its furniture included tables from the Tuileries Palace originally used by Napoleon III. It was constructed at a cost of nearly £30,000 and contained a Baptist chapel in the centre, complete with organ and baptistery. There was a tower in the courtyard with 10 bells and a clock which chimed the quarters. A clockwork mechanism operated the bells, which played popular tunes, and was still in working order in 1925. The clock was removed altogether in the 1960s following a fire. The conservatory at the south end once held 2000 plants and was accidentally destroyed in 1942 together with the clock when a Lancaster bomber exploded on Syerston airfield. The conservatory was rebuilt in 2005 (this is a prominent feature at the southern end of the building).

The house has had many varied uses over the years starting as a private house, and being at various times since, a chicken farm, the offices of a water softening firm, of the British Sugar Corporation, of a Rolls Royce motor agents, kennels, an electronics and communications research centre, a maggot breeding factory, the Coeur de Lion restaurant, and now Eden Hall health spa.

Syerston Hall

Syerston Hall is a large country house with attached outbuildings and garden walls. The main building is Grade II listed, and is red brick with ashlar dressings and hipped slate roofs. The original

building dates to 1793-6 and was built for the Fillingham family who were agents of the Duke of Rutland. The rear extensions date to 1812. The stable block, adjacent pump and attached hen house, which are also Grade II listed, are early 1800s, and in red brick with hipped slate roofs. The detached pigeoncote to the east of the Hall is also Grade II listed, and is contemporary with the early 19th century phasing of the Hall, and is likewise red brick. The pyramidal slate roof topped with a single central glazed lantern is a distinctive feature. The structure is single storey, 2 bays and set on a plinth. There were entrances for birds around the base of the west side. The architectural form of the building references the classical detailing of the house complex with the double round arched blind recessed panels with archivolt and continuous impost band. The brick detailing includes dentil eaves. The north side, left panel, has a doorway under a segmental arch, the west side left panel has a doorway under cambered arch with panelled door and the right panel a single louvered wooden opening with glazing bar over light under a cambered arch. The east side right panel has a single similar louvered opening.

The hall, rear service outbuildings and wider parkland are intrinsically linked. The park is identified on historic mapping and has been identified on the HER. The dovecote and the land around it, including the woodland to north and east form part of the historic park. Historic buildings appear to have been located to the east of the dovecote, although there is no physical remains to demonstrate what these might have been. Given the location and context, agricultural or animal structures might have stood here (e.g. deer barns etc).

Assessment of proposal

The proposal seeks to erect 2 detached pre-fabricated agricultural storage sheds on agricultural land to the south of the Fosse Way at Syerston (this is the former A46). Shed 1 measures approximately 13m to the ridge, and has a foot print of approximately 30m by 47m. Shed 2 is smaller, being 8.5m to the ridge, and with a foot print of 40m by 23m. Shed 1 is orientated perpendicular and back from the road (with gable facing the Fosse Way). Shed 2 is laid out towards the south east end of the site. The sheds will be utilitarian in design comprising a steel frame with grey concrete and corrugated metal profile sheet cladding. The roof will be fibre cement sheeting. The landscaping around the site will largely be maintained as existing other than changes to the access and potential security measures. The application states that the sheds are necessary to relocate farm machinery from sheds at Hall Farm, East Stoke.

Having reviewed the submitted plans and visited the site and surrounding area, Conservation objects to the proposed development.

The Registered Battlefield at Stoke Field was the site of the last pitched battle of the Wars of the Roses and the royal victory finally established King Henry VII and the Tudor dynasty. The site is of significant national importance. The Fosse Way is an important element of the Battlefield, and the designated site includes the Roman road adjoining the proposal site. In this context, I disagree with the applicant's assertion that the road provides a break from the landscape of the Battlefield. The Lancastrian forces marched along the Fosse Way before engaging with the Yorkists, and the route offers an important means of experiencing the Battlefield. Moreover, the landscape in 1487 was one of open fields crossed by lanes and few trees, much as it is today. The proposal site, therefore, provides setting to the designated area. By virtue of its huge scale, modern manufactured appearance and layout in close proximity to Stoke Field, the proposal will harm the significance of the Battlefield. Shed 1 is over 12m in height, which combined with such a large foot print and a further large shed, will result in a dominating and incongruous development when viewed from the Fosse Way.

It is acknowledged that the nearby Lady Pitt Farm, which is a 20th century farmstead and located within the Battlefield, contains modern portal structures of this type (although not as large in scale (as expressed in height, length and width)). Since these structures predate the Battlefield designation, I do not consider them to provide a basis for further encroachment into the Battlefield or its setting. The proposed development, furthermore, does not sustain or better reveal the significance of the Battlefield, and must otherwise be seen as an alien landscape feature within this particular context.

Although separated by a small field to the north, the proposal is also proximal to Eden Hall (Elston Towers). This Grade II* listed building is an important large polite house which enjoys prominence along Fosse Way. Despite intervening tree coverage, the proposal will be moderately inter-visible with the Hall in aspect along Fosse Way, and the proposed sheds will otherwise be a dominant landscape feature within the wider setting and experience of the Hall.

Due to extensive tree coverage at Syerston Hall along the Fosse Way and on its north-easterly boundary, the proposal is not likely to be significantly adverse to the Hall, although when the trees are at their most denuded, the Hall will potentially be inter-visible with the sheds from Fosse Way. The trees, furthermore, form part of the unregistered park and garden around the Hall, and in this context, the proposal will be unduly prominent.

The recently constructed new A46 is a major highway just to the southeast of the proposal site. It is accepted that the cutting of this new road ensures that views of the proposal will be limited from the south and south east other than in longer views and from the bridge over the A46. No significant receptors have been identified in this aspect.

Summary of opinion

Overall, the proposed development is harmful to the significance of Stoke Fields Battlefield, a designated site of unique national interest. The proposal is also considered to be harmful to the setting of Eden Hall, and moderately harmful to the setting of Syerston Hall. As such, the proposal is considered to fail to preserve the setting of listed buildings in accordance with Section 66 of the Act. Harm to the setting and significance of designated heritage assets is not sustainable, and is therefore contrary to the objective of conservation as advocated within CP14 and DM9 of the Council's LDF DPDs and within Section 12 of the NPPF (notably paragraphs 131, 132, 134, 135 and 137). Whilst it is recognised that removing large portal buildings from Hall Farm at East Stoke is potentially beneficial to heritage assets there, this is not considered to provide a sufficiently clear and convincing justification that might otherwise outweigh the perceived harm identified above. Whilst we recognise that agricultural development is an intrinsic part of the rural countryside of the District, it must be recognised that Stoke Field is a truly unique and nationally significant heritage asset. It should be noted that whilst we recognise that reducing the scale of the proposed sheds will likely lessen the harm identified, it is likely that industrial scale sheds of any type will likely cause harm in this particular context.

In addition, the Battlefield has archaeological interest. Due to its proximity and the inclusion of at least the roadside boundary within the Battlefield designation, the proposal site has the potential to include heritage assets with archaeological interest. In accordance with paragraph 128 of the NPPF, the developer may be required to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Further advice should be sought from the County Archaeology Team and/or Historic England.

Historic England - The principal of new functional agricultural buildings in this location appears uncontentious, however the placing of such structures in relation to below ground archaeological

remains requires some knowledge of the presence and position of features contributing to the significance of the adjacent registered battlefield (Stoke Field 1487) and associated Roman Roman Road (Fosse Way). If harm to the nationally important designated heritage asset is to be managed on the basis of sufficient information, then knowledge is required pre-determination since this is an application for full consent.

The Battle of Stoke Field at very end of the War of the Roses was crucial to the cementing of Tudor power, the landscape of the battlefield and associated remains including shot, arrows and of those themselves who fought and died, all contribute to the significance of the asset. Burials on the margins of the Fosse Way are known from the County Historic Environment Record and the risk of new works disturbing human or other important remains should be appropriately managed, most readily in this case by locating buildings and access to avoid harm. As set out in National Planning Policy Framework paragraphs 128 / 129 there should be sufficient information provided by the applicant and used by the Planning Authority to underpin evidence based decision. We do not believe that there is as presented sufficient information to tell whether the proposed layout is or is not harmful to the significance of the Battlefield and associated remains, hence the requirements of Para's 128/9 are not fulfilled and Para's 132,133, 134, 135 and 139 cannot be properly engaged with by the decision maker. We do not consider that a post consent condition could appropriately address these matters in the absence of pre-determination archaeological investigation to inform design and access.

It is therefore recommended that the applicant is invited to withdraw the application pending with the detailed advice of the county archaeologist towards a programme of archaeological investigation to inform the location of new buildings and access such that harm to significance of the designated heritage asset and associated features is minimised and mitigated. Should sufficient information to inform appropriate revised plans not be forthcoming we recommend refusal on the basis of Para's 128/129 of the NPPF.

Further comments have been received which are outlined as follows:-

Further to our planning advice on this case we suggest the following solution to ensure that sufficient archaeological understanding (NPPF 128/9) is in place in advance of the case going to committee. The risk we are seeking to manage is that the agricultural buildings fall upon sub-surface remains or artefact scatters associated with the Battle of Stoke Field (including roadside burial pits whose removal would require Ministry of Justice Licence) , Roman or later remains associated with the Fosse Way (whose line may have shifted) or prehistoric remains / deposits associated with the River Trent.

As this is a full consent application the locations of the buildings would, should it be consented, be broadly fixed by the application and whilst small shifts in location and issues such as service lines and footing / roadway bed / floor detailing may be adjusted post determination on the basis of archaeological investigations, the actual building positions cannot as I understand it be significantly adjusted post-consent by use of a condition.

So, we advise the best way forwards given time constraints may be for the applicant to secure the services of a professional archaeological contractor, to in advance of the case doing to committee carry out the following work on the basis of a Written Scheme of Investigation (WSI) including details of reporting and archiving of finds.

We would be happy to comment upon a draft WSI.

- 1) Conduct metal detector survey of the field at 10m transect intervals (treating finds in a manner set out in the WSI – all finds to be individually point located and numbered).

- 2) Carry out a magnetometry survey of the field (this would not be a substitute for metal detector survey and area stripping (see items 1 & 4), but having this additional information upfront would assist in finding alternative locations for the proposed buildings as quickly as possible if that becomes necessary.
- 3) If significant finds are recovered locally at 10m transects re-detect the proposed building footprints and areas for spoil stacks (see item 4) at 2m intervals.
- 4) Supervise and control the machine stripping of the proposed building footprints with a smooth ditching bucket to a depth where any archaeological features are visible, mapping and sampling those features as set out in the WSI, excepting in the case of human remains which should be retained and protected in context and in situ, and the county archaeological curator and coroner informed.
- 5) Rapidly submit an initial report on the archaeological significance and importance of archaeological remains with regard to the proposed building footprint locations such that the LPA can take advice on, and form a view as to, the sustainability of the building positions and whether or not alternative locations within the field should be sought (with suitable further investigations) ideally in advance of the determination the application with appropriate amendments.

Nottinghamshire Wildlife Trust - NWT reviewed the documents available and provides the following advice:

Additional Information

Whilst it is noted that the proposed development is of a small footprint, it is not possible to fully determine ecological constraints regarding protected species due to a lack of information provided. From aerial photography, the photographs provided and brief descriptions within the Planning Statement, the proposed site appears to be arable farmland with a native hedgerow boundary. Arable farmland is generally considered to be of lower ecological value, however, field margins, grasslands and hedgerows do provide habitats for a variety of species. Therefore, we would advise a Phase 1 and/or Preliminary Protected Species Survey, if the development is to impact field margins, grassland or hedgerows. Arable farmland also has the potential to support UKBAP species such as brown hare, and priority species listed under the Natural Environment and Rural Communities (NERC) Act 2006, which should be considered during the planning process. A survey would allow the LPA to be fully informed of onsite habitats and of any ecological constraints.

Conditions

If the proposal does not significantly affect hedgerows, habitat margins or adjacent habitats, and you therefore do not believe the proposed warrants an ecological survey (due to its small footprint), we would advise the following to be set as conditions:

- Clearance of vegetation shall be undertaken between September to February inclusive, outside of the bird-breeding season. If it is not possible to carry out works during this time, then a suitably qualified ecologist will need to be on site to survey for nesting birds, with a copy of the survey undertaken at the site to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development at the site.
- No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations

and/or pipe and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include the creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and open pipework greater than 150 mm outside diameter being blocked off at the end of each working day.

Enhancements

Under paragraph 118 of the National Planning Policy Framework, developments are to prevent a decline in biodiversity and should be encouraged to contribute to the enhancement of the natural world. BS42020 also advises developments to seek a net gain in biodiversity.

We note within the Planning Statement that the applicant wishes to seek the opportunity to include enhancements. This could be achieved by planting native species of a local provenance, the creation of a new native hedgerow and/or the installation of bird/bat boxes.

No individual representations have been received from local residents or other interested parties.

Comments of the Business Manager

Principle of Development

Given that the application site is located in the open country side the proposal therefore falls to be considered against the sustainability criteria of Spatial Policy 3 relating to Rural Areas. This policy makes clear that development away from the built up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. It refers to policy detail being provided within the Allocations and Development Management DPD.

Policy DM8 of the Development Management and Allocations DPD contains guidance on such applications and focuses on strictly controlling and limiting development in the open countryside to certain types of development. Agricultural and forestry development requiring planning permission falls within such types of development. Criterion 1 of this policy requires that proposals need to explain the need for the development and its siting and scale in relation to the use it is intended to serve.

The sub text of this policy recognises that those proposals for agricultural development not dealt with under the prior approval procedure will often be large or intensive and will therefore have the potential for visual or environmental impact. Whilst it is accepted that a degree of impact is inevitable, in order to minimize this, the scale of proposals should be limited to that necessary to sustain the operation it is intended to serve. The operational requirement for such proposal will need to be evidenced in order to balance agricultural need against any visual impact. Furthermore development should be so sited and designed to minimize its impact on the surrounding countryside wherever possible. It is the degree of impact, given the size and siting of the units which is of concern in this instance.

Supporting information has been deposited with regards to the operational need for the proposed relocation of these buildings with regards to the operation and viability of the business. The buildings are currently sited within a yard at East Stoke, to the north east of the application site. The tenancy for the land on which the yard is located is nearing expiry and therefore a new site is required. The buildings are existing pre made structures which would be difficult to be structurally

altered. They are used to securely store crops, expensive agricultural machinery, chemicals and fertilizers and need to be of such a scale to allow safe clearance height for the larger agricultural machinery. Although the buildings are utilitarian in design and appearance the applicant would consider alternative treatments to the external walls.

With regards to need in terms of the viability of the business supporting information has also been deposited which outlines that the business employs five staff. Being able to store crops from the fields for preparation and sell from the building is more profitable than selling directly from the field. If this storage space were not available this would affect the income of the business and it is likely that jobs would be lost if profit were affected in this way. An increased risk of vandalism or theft of agricultural machinery if the storage buildings were to be lost would also have a financial consequence on the viability of the business. It is also noted that fertilizers and other chemicals used by the business mandatorily have to be stored inside a secure building.

Clarification has been received with regards to the proposal. The proposed buildings comprise one currently dismantled building stored at Hall Farm whilst the smaller of the two will comprise two sections of one building attached to the body of another existing building on the site. Notwithstanding this, the scale of the buildings remains as indicated on drawings deposited with the application.

Whilst it is accepted that agricultural buildings would fall within a category considered appropriate within the open countryside, given their significant scale, the impact of the proposal on the countryside and landscape, nearby heritage assets, amenity and highways must be balanced against the operational need for such development. These are matters are assessed in entails below:-

Visual impact

Core Policy 13 of the Core Strategy addresses issues of landscape character. A Landscape Character Assessment (LCA) was adopted as a Supplementary Planning Document in December 2013 to inform the policy approach identified within Core Policy 13. The LCA provides an objective methodology for assessing the varied landscape within the district and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

The site is identified within the LCA as falling within the South Nottinghamshire Farmlands character area, and character zone SN PZ 07, Elston Village Farmlands, a landscape area considered to be of moderate condition and sensitivity.

In ecological terms the area provides a moderate habitat for wildlife, with a relatively intensive arable land use with good hedgerow networks. Cultural integrity is variable in that the field pattern is generally intact, with hedgerows sometimes fragmented, although generally well maintained.

The landform is apparent with intermittent tree cover giving a generally moderate visibility value within the Policy Zone. Views are intermittent due to the networks of generally mature hedgerows. The LVA identifies the policy action in this zone to conserve and restore.

Taking account of the above policy aims, given the nature and scale of the proposal, its impact on the open countryside, which in my opinion would be substantial, has to be balanced against the

evidence put forward to justify that the operational and economic need for the relocation of both buildings would clearly outweigh any undue impact.

In terms of the intended use, and as per the questions posed by DM8, it is noted from the supporting documentation deposited with the application that the proposals have been borne out of the need to relocate two existing large agricultural buildings which are currently sited on land at Hall Farm in East Stoke as a result of the existing lease coming to an end. The relocation of the buildings is required to provide continued secure storage space for machinery and other farm equipment as well as grain and to enable the existing agricultural business to be fully operational.

I am mindful that supporting information has been deposited which identifies a sequential assessment that has been undertaken to identify possible alternative site and that these have been discounted for reasons of impact on important heritage assets, flood risk and operational issues.

It is acknowledged that large scale agricultural buildings are not uncommon within the countryside. It is also accepted that the A46 to the south east significantly impacts on the rural landscape setting of this area. However, in this instance the proposed buildings and associated areas of hardstanding are set within a proportionately fairly modest sized field. I am mindful that the buildings will be set at a slightly lower than the level of the former A46 and that it is proposed that the site will be excavated to make it the same level for the yard and vehicles to turn. Furthermore there are existing boundary hedgerows etc which in parts would partially obscure views of the buildings, although I do not consider this to be so substantial that it would significantly reduce the visual impact of the development. Given the scale of the buildings the development would be clearly visible from a number of view points to the south and southwest and from nearby highways serving the village of Syerstone. I note that it has been suggested that existing boundary landscaping could be enhanced to further screen the development, but consider that this would need to be so substantial in height that it may further impact on the fairly open landscape character along this stretch of the former A46 and the immediately adjoining landscape to the north east towards East Stoke. I also note that the use of alternative external treatments could be considered to soften the utilitarian design of the buildings. However, given the scale of the buildings I do not consider that this would significantly or sufficiently reduce the impact of the structures on the landscape area and rural setting of the site.

Photographs to demonstrate the visual impact of the proposal have been deposited in support of the application. However, these have been taken from viewpoints looking from the A46 looking northwards and do not in my opinion take account of the impact of the buildings when viewed from the former A46. I note that comment has been raised by the agent who considers that the extent of the visual impact from the former A46 would not be extensive. I would contend that given the height and design of the buildings this would not be the case.

Taking this into account I am of the view that the siting of such large scale buildings in this location together with the associated areas of hardstanding would have a significant and adverse impact upon the open countryside and landscape character of the area.

It therefore remains to balance this impact against operational need. Taking account of the supporting information deposited as part of the application outlined above, I am of the view that, on balance, a clear justification has not been evidenced that the operational and economic need for the alteration of one existing building the erection of a further existing dismantled building and their to the application site would clearly outweigh the identified harm.

The proposal therefore fails to accord with policies SP3 and CP13 of the Core Strategy and DM8 of the Development Management and Allocations DPD.

Impact on Heritage Assets

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Sections 66 and 72 states in determining any planning application, special attention shall be paid to the desirability of preserving listed buildings and preserving or enhancing the character or appearance of conservation areas as set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

I note the comments of both the NSDC Conservation Officer and Historic England. By virtue of the setting of the application site and the scale of the agricultural buildings it is considered that the proposal has the capacity to impact upon a number of heritage assets in the area which include a registered Battlefield and Grade II Listed Buildings at Eden Hall and Syerston Hall. The significance of these heritage assets are noted in the comments of the Conservation Officer.

It is noted that the application site, by virtue of its proximity, is considered to provide an historical setting for the Registered Battlefield and therefore by virtue of the scale of the buildings and layout of the site, the development would not sustain or reveal the significance of the Battlefield and would appear an alien feature within the context of this landscape. The proposal is therefore considered to cause harm to the significance of this asset.

Moreover, the Battlefield also has archaeological interest. Due to its proximity and the inclusion of at least the roadside boundary within the Battlefield designation, the proposal site has the potential to include heritage assets with archaeological interest. I note that Historic England have recommended that the application should not be determined without the detailed advice of the county archaeologist towards a programme of archaeological investigation to inform the location of new buildings and access such that harm to significance of the designated heritage asset and associated features is minimised and mitigated. Historic England has subsequently advised by email that they are to take the lead on this application from the County Council. A metal detector survey of the site has been undertaken and a Written Scheme of Investigation (WSI) including details of reporting and archiving of finds has been deposited with Historic England. Given that the survey has uncovered some pits a further detection exercise has been requested and is to be carried out and an additional WSI is to be submitted. At the time of writing this report the comments from Historic England with regards to further surveys have not been received. Any additional comment will be verbally reported to members at Planning Committee.

Notwithstanding this should the findings of the survey result in the change in the orientation of the buildings which may mitigate any impact on the Battlefield, given the extent of the application site and the scale of the buildings, I do not consider that this would so materially alter the proposal to require further consultations to be carried out. Moreover I do not consider that this would change my opinion with regards to the impact of the proposal on the landscape character of the site and the surrounding area as outlined above.

With regards to other heritage assets within the vicinity of the site, I note that the proposal is considered to be harmful to the setting of Eden Hall by virtue of its dominance within the wider setting and moderately harmful to the setting of Syerston Hall. Although a reduction in the scale of the proposed buildings may reduce the level of harm in this situation, the agent has advised that given that the buildings are existing pre made structures it would be very difficult for them to be

structurally altered.

Paragraph 134 of the NPPF states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including its optimum viable use. I acknowledge that by virtue of their siting and scale the proposed buildings would result in a level of harm upon nearby heritage assets. However, when weighed against their agricultural design and appearance and taking account of the A46, whilst there would be resultant harm, this would be considered to be less than substantial in this instance. Whilst the harm is considered less than substantial in the context of paragraph 134 of the NPPF, I am not convinced that sufficiently clear and convincing justification has been demonstrated in this instance that might otherwise outweigh such harm.

Taking account of the above comments, it is considered that the proposal fails to preserve the setting of listed buildings in accordance with Section 66 of the Act. Harm to the setting and significance of designated heritage assets is not sustainable, and is therefore contrary to the objective of conservation as advocated within the NPPF and policies CP14 and DM9.

Impact on Highways

Spatial Policy 7 indicates that development proposals should be appropriate for the highway network in terms of the volume and nature of traffic generated and ensure the safety, convenience and free flow of traffic using the highway are not adversely affected; and that appropriate parking provision is provided. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

It is acknowledged that the Highway Authority have raised no objections to the proposal. I therefore consider it reasonable that should permission be granted that the suggested conditions requiring the access to be constructed and surfaced in a bound material in accordance with the site layout plan (L-SHE-075-SLPP) and no other part of the development shall be commenced until the access has been completed in accordance with that plan.

It is therefore considered that the proposal accords with policies SP7 and DM5.

Impact on Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity upon neighbouring development.

Although of substantial scale, I am mindful of the agricultural setting of the site and given the distance between the application site and the nearest dwellings and buildings I am satisfied that the proposal would not result in any undue impact on the amenity of the occupiers or uses of nearby sites.

The proposal therefore accords with Policy DM5.

Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity and Policy DM4 seeks to ensure no detrimental impact upon the ecology of the local or wider area.

The comments of the Wildlife Trust are noted. I am mindful that although arable farmland is generally considered to be of lower ecological value the adjoin hedgerow may provide some ecological habitats. Given the overriding concerns with regards to the impact on the rural landscape setting of the site and the impact on the significance of the Battlefield and other heritage assets ecological surveys have not been requested.

However, being mindful that the development does not propose any significant hedgerow removal I do not consider that the proposal would have an adverse impact on the ecological habitat of the site. Any impact could be adequately mitigated to safeguard any ecological habitats.

Overall it is considered that the proposal would not have any adverse impact upon protected species in accordance with the requirements of Core Policy 12 and Policy DM12 of the DPD.

Other Matters

I note the comments received with regards to evidence of the cessation of the lease at Hall Farm where the buildings are currently stored/sited and the potential redevelopment of the Hall Farm site should the buildings be relocated. The termination of the current lease has been referenced in a number of supporting documents deposited as part of the application. The Hall Farm site does not form part of this planning application. Any proposal to redevelop this site would be a separate application and would be considered entirely on its own merits.

Considerations in relation to restricting the use of the site by virtue of conditions, landscaping, lighting and boundary treatment details have not been taken further given the overriding concerns outlined above.

Balancing Act and Conclusions

Taking account of the above considerations, I am of the view that the proposed buildings by virtue of their substantial scale and footprint together with the associated areas of hardstanding would result in an adverse impact on the open countryside and that, on balance, the supporting evidence put forward with regards to operational need and the sequential assessment of other areas of land does not in my opinion sufficiently override or outweigh such harm. Furthermore, notwithstanding the results of the surveys and WSI in relation to the East Stoke Battlefield and any subsequent mitigation measures, the proposal is considered to have less than substantial harm to the setting of Eden Hall, a Grade II* Listed Building, and be moderately harmful to the setting of Syerston Hall, a Grade II Listed Building, by virtue of its scale and its dominance within the wider setting. I am of the opinion that that sufficiently clear and convincing justification has not been demonstrated that might otherwise outweigh such harm in this instance.

The proposal would in my opinion therefore be contrary to the National Planning Policy Framework and its associated Guidance, Spatial Policy 3, Core Policy 13 and Core Policy 14 of the Core Strategy, and Policy DM8 and DM9 of the Allocations and Development Management Development Plan Document.

RECOMMENDATION

That full planning permission is refused for the reasons set out below.

In the opinion of the Local Planning Authority, the proposed buildings would result in an adverse impact upon the open countryside by virtue of their siting, scale and appearance. The operational

and economic requirements of the proposal are not considered to sufficiently override or outweigh such harm. The proposal therefore fails to accord with the requirements of the National Planning Policy Framework, the aims policy SP3 and CP13 of the Newark and Sherwood Core Strategy and policy DM8 of the Newark and Sherwood Development Management and Allocations DPD and would directly contradict the landscape actions of the Newark and Sherwood Landscape Character Assessment. Furthermore the Local Planning Authority considers that the proposal would erode and result in less than substantial harm to the significance of nearby designated heritage. Sufficiently clear and convincing justification that might otherwise outweigh such harm has not been demonstrated. As such the proposal is therefore also contrary to CP14 of the Newark and Sherwood Adopted Core Strategy DPD and policy DM9 of the Newark and Sherwood Adopted Allocation and Development Management DPD and the National Planning Policy Framework.

BACKGROUND PAPERS

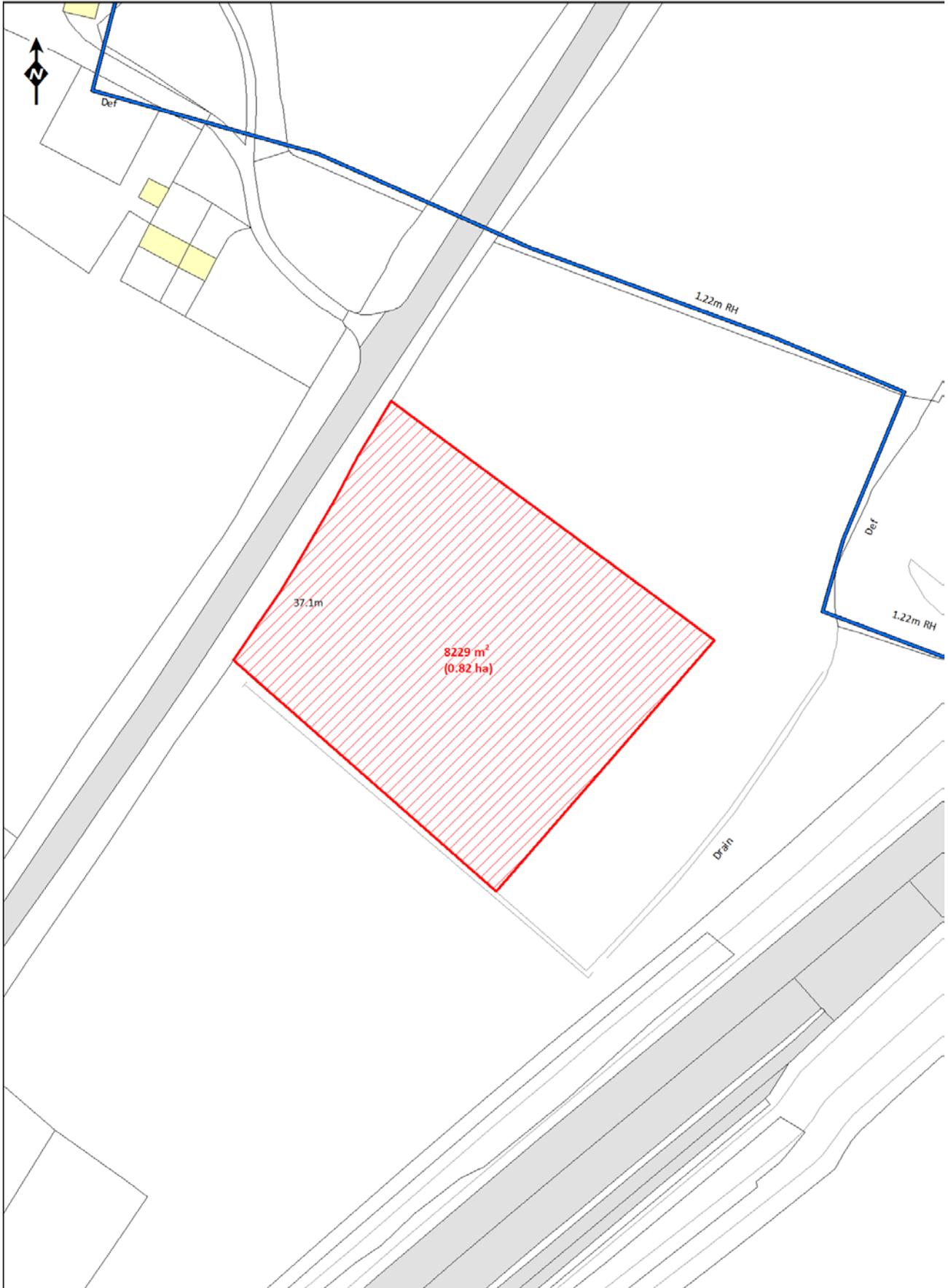
Application case file.

For further information, please contact Bev Pearson on ext. 5840.

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/00912/FULM



© Crown Copyright and database right 2015 Ordnance Survey. Licence 100022288. Scale: Not to scale

Application No:	15/02104/FULM	
Proposal:	Demolition of existing buildings (including the Total Petrol Filling Station) and the erection of a new Lidl foodstore (Class A1), relocation of existing electricity sub-station and formation of a new access to servicing area, new car parking spaces and associated landscaping.	
Location:	Co-op Supermarket, Lakeside Shopping Centre, London Road, Balderton	
Applicant:	Lidl Uk GmbH	
Registered:	26/11/2015	Target Date: 25/02/2016

The Site

The application site is situated on the western side of London Road, within the Newark Urban Area, as defined in the Allocations & Development Management DPD which also defines the site as a Local Centre. London Road forms a key arterial route (B6326) linking the local area of Balderton with Newark Town Centre to the north but also connecting Newark with the A1 corridor to the south.

The site comprises a 0.98 hectare parcel of land accessed off London Road and currently occupied by an arcade of 5 retail units together with associated servicing and parking arrangements. A former Co-Op food store and 3 smaller retail units have recently been demolished. The service yard for the former large store is situated in the south western corner of the site and the service route for the smaller units leads from this along almost the entire length of the southern boundary. A surfaced parking area takes up the northwestern corner of the site and the application site also includes a petrol filling station located along the London Road frontage in the northeast corner of the site. The application site is bounded by residential development of varying age and design to the north, south and west with two storey terraced dwellings facing the application site located on the eastern side of London Road. Boundary treatments to the residential development are a mix of vegetation, both in and outside the application site, and timber fences of differing heights.

Relevant Planning History

Planning permission was granted in 1987 for the development as it now exists under the description of 'Local centre comprising supermarket and freezer centre or non food unit and 8 unit shops'. Of particular relevance were conditions attached requiring that:

- No more than two units at any one time be used for hot food takeaway.
- At least four units be in A1 use at any one time.
- No amalgamation of units taking place without prior consent.

There were no conditions controlling hours of operation or delivery times.

There have been various other consents for signage and small scale development that are not relevant to the determination of this application.

More recently planning permission (reference no. 14/01433/FULM) was granted for the demolition of existing Co-operative foodstore and three adjacent connected units and the erection of a new Lidl foodstore (Class A1) and formation of a new access to servicing area, new car parking spaces and associated landscaping.

The Proposal

This application seeks permission for the demolition of existing buildings (including the Total Petrol Filling Station) and the erection of a new Lidl foodstore (Class A1), relocation of existing electricity sub-station and formation of a new access to servicing area, new car parking spaces and associated landscaping.

This application whilst submitted in full essentially seeks permission for an amended redevelopment scheme for the site to that granted permission in 2014. The proposed scheme now incorporates the removal of the petrol filling station and subsequent re-siting and enlargement of the proposed Lidl retail store. As observed on site in December 2015, the demolition of the large store and three connecting smaller units, has now taken place.

The proposed Lidl store would be sited along the northern boundary of the site, running lengthways roughly east to west. The proposed Lidl foodstore would be 2,470 square metres in gross internal floor area in comparison to the previously approved 2,004 square metre store. The proposed building would approximately 6 metres from the northern boundary and 4 metres from the western boundary of the site at its closest point. The mature vegetation on the west boundary is shown as retained and pruned as necessary to allow development.

The space previously occupied by the former Co-Op store building and the three retail units now demolished is shown as a parking area for 130 cars including spaces specifically for disabled and family users plus 20 cycle parking facilities. Servicing for the retained retail units leads off from this along the southern boundary, with the servicing and delivery area for the Lidl Store located towards the rear and west boundary of the site.

The proposed scheme would result in the loss of a total of 1354 square metres of nett internal floor area. This would be replaced by a sales area of 1424 square metres in the replacement store together with 1046 square metres of storage, warehouse and delivery, administration and welfare facilities.

The replacement store would be of modern design incorporating a mono pitch roof approximately 7.5 metres high at its southern edge (closest to the car park) falling to approximately 5 metres in height at its northern edge (closest to dwellings to the north). By way of comparison, the highest part of the previous Co-Op store was around 10 metres above ground level. It would have a contemporary appearance utilising full height glazing along the full extent of the east facing elevation with a section of glazing on the return along the southern facing the car park. The remainder of the south facing elevation, north and west facing elevations would be faced with white render to the lower half with silver coloured aluminium cladding to the upper half.

Opening hours are proposed as 0700 to 2300 Monday to Saturday and 0900 to 1700 on Sundays and Bank Holidays. Servicing is proposed by a single daily delivery.

The proposed landscaping scheme shows much of the existing vegetation to the boundaries retained and supplemented with new planting to the site boundaries. The applicant has

specifically confirmed a willingness to supplement this vegetation where it is sparse in order to provide screening for neighbouring residents. An acoustic fence would be erected along the north and west boundaries of the site. A mix of hard surfacing materials is proposed including grey block paviors for the parking spaces and pedestrian circulation areas, concrete paving slabs for footpaths around the building with vehicular circulation areas being tarmac.

Supporting information accompanying the application acknowledges the loss of jobs provided by the three units to be demolished and states that the development would result in the creation of 27 full time equivalent jobs. There is no comparative data available from the former Co Op store.

The submission also includes information on Lidl's operating practices, including environmental policies, a Transport Assessment, Travel Plan and Ground assessment.

Public Advertisement Procedure

Surrounding neighbours notified individually by letter on 1st December 2015.

Site notice posted on 21st December 2015

Press notice published 10th December 2015

Planning Policy Framework

The Development Plan

Newark and Sherwood District Council Core Strategy DPD (adopted March 2011)

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Spatial Policy 2 – Spatial Distribution of Growth

Spatial Policy 6 – Infrastructure for Growth

Spatial Policy 7 – Sustainable Transport

Core Policy 8 – Retail Hierarchy

Core Policy 9 – Sustainable Design

Allocations and Development Plan Development Plan Document (DPD) Adopted July 2013

Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy

Policy DM3 – Developer Contributions and Planning Obligations

Policy DM5 – Design

Policy DM11 – Retail and Town Centre Uses

Other Material Planning Considerations

National Planning Policy Framework (NPPF) 2012

Planning Practice Guidance (PPG) 2014

Consultations

Balderton Parish Council – Support proposal.

NSDC Environmental Health – Request that should permission be granted details of any exterior lighting, delivery hours and any external plant be required to be approved by way of condition.

NSDC Environmental Health (Contaminated Land) – There is clearly the potential for contamination to be present on the site and therefore request condition requiring full phased investigation of any contamination and implementation of any necessary mitigation.

Access and Equalities Officer - Requests consideration of inclusive access and facilities for all.

NCC Highways – Whilst this new proposal is slightly larger in scale it also includes the removal of the existing petrol filling station. The access arrangement remains unchanged and the general layout of the car parking and servicing appears to be satisfactory. The traffic modelling that considers the impact of the proposal on the London Road junction has been checked and found to satisfactorily demonstrate that there will be no significant detriment to the highway operation in this area. The submitted Travel Plan has also been vetted and whilst some issues remain outstanding, it is considered that a suitable planning condition may be applied to allow these to be resolved prior to the store opening. Contributions requested towards bus infrastructure improvements in the vicinity of the site.

No objections subject to conditions securing the submission and implementation of a Travel plan, completion of approved, access, parking and manoeuvring areas, replacement of disused petrol station access with footpath along western side of London Road.

Case Officer Note:

It is noted that NCC Highways, as was the case during the consideration of the previous planning application, have requested the provision of financial contributions towards improvements to bus service infrastructure. However, it is noted that in consideration of the previous application these were not considered to meet the relevant tests set out in the CIL Regulations. The situation has not changed and therefore it is not considered reasonable to secure these via an appropriate legal agreement.

Neighbours/Interested Parties – 2 communications received raising the following objections/issues:

- Impact on amenity from parking and trolley stores near to boundaries of site.
- Concerns regarding existing anti-social behaviour at the site.
- Concerns regarding surface water drainage in the car park also due to the ground sloping down from London Road excess water may drain from the road.
- Existing hedgerows and trees cause loss of light to surrounding dwellings.
- Location of servicing and delivery areas within close proximity to residential properties.
- The design of the new building, with its mono-slope roof and materials would be totally unsuitable for the location, failing to acknowledge or respect the local vernacular or style and materials of existing buildings both on and close to the site.
- Severe traffic problems at the junction of the Lakeside complex access and London Road, and conflict with adjacent pedestrian crossing. The cost of any highway improvement measures should be borne by the developer.
- The demolition of the petrol filling station would remove Balderton's last remaining facility which would be detrimental to the availability of facilities.
- However, overall the parking layout seems to be vastly improved with more thought this time put into Disabled parking.

Comments of Senior Planner

Principle of Development

Spatial Policy 1 of the Core Strategy sets out the settlement hierarchy for the distribution of growth, and Spatial Policy 2 highlights that the sub-regional centre of the Newark Urban Area should be the focus for new housing and employment growth. The site being located within Balderton and the Sub-Regional Centre of the Newark Urban Area is therefore considered an appropriate location for investment in new services and facilities in the district. Policy DM1 facilitates development proposals, including retail, within the area subject to assessment against other relevant development plan policies. As the principle of development is supported by these policies it follows to assess the specific economic, environmental, and social considerations against the relevant policies as set out below.

Impact on Vitality and Viability of Town and Local Centres

The site forms one of the two local centres in Balderton, as defined on the Policies Map, where Policy DM11 states that new and enhanced convenience retail development that serves the community in which it is located and is consistent with its size and function will be supported. The principle of a replacement store and re-modelling of existing units accords with this policy and consequently it follows to assess any physical and operational differences.

As noted above planning permission (14/01433/FULM) has recently been granted at the site for a similar scheme to that currently proposed, being a Lidl convenience retail store and the demolition of 3 of the retail units at the site. Given the similarity of the two schemes, this is considered to be a material consideration that has been given significant weight in the consideration of this application.

As in the previous planning application the applicant is Lidl who intend to occupy the new retail store. Lidl present themselves as a Limited Assortment Discounter (LAD) which is defined as the type of store that carries a limited range of grocery products and base their retail offer on selling those products at very competitive prices. This type of operation fits within the definition of convenience retail facilitated within Local Centres by Policy DM11. In order ensure the Local Centre continues to serve its function, and in acknowledgement that the site could be occupied by a different retailer in the future, it would be necessary to limit the Lidl store to the sale of convenience goods and also ensure there was an appropriate mix of uses in the retained units as part of any approval.

The demolition of the existing Co-Op store and three connected units has resulted in the loss of 1354 square metres nett internal area. As the 1987 enabling planning permission did not restrict the use of this floor space in any way, all the internal space could have been used as sales area. In this instance, whilst the previous floorspace of the Co-Op store and 3 units no longer exists, the presence of an existing planning permission for a very similar scheme on the site which could be implemented and offer 1,286 square metres of retail floorspace is a material planning consideration which can be given significant weight. In terms of retail impact the current proposed sales area of 1424 square metres within the revised scheme would result in a slight increase of 138 square metres in net sales area over this existing permission. However, given the small increase in retail floor space it is not considered that this would have any significant impact on the vitality and viability of Newark Town Centre and nearby centres over and above the previous permission.

As the proposed Lidl store has an overall gross internal area of 2470 square metres, which is made up of delivery, warehouse, preparation management and welfare areas, it would be necessary to control the future use of this as part of any approval in order to allow for assessment of the impact of a greater sales area at any point in the future.

As there are currently 2 hot food takeaway uses operating, the applicant has asked that this be reflected in any condition controlling mix of uses. Whilst this would give rise to a greater proportion of hot food takeaways than the 1987 enabling permission (taking into account the loss of three units) it is not considered that the impact would be sufficiently harmful to warrant resisting, particularly given that to allow one such use would effectively force the closure of a local business.

In summary of retail matters, as in the previous application it is considered that subject to conditions controlling the mix of smaller units within the site, the convenience use of the large store and the amount of retail sales area the proposal would preserve the vitality and viability of the Local Centre and have no detrimental impact on Balderton's other Local Centre or Newark Town Centre, in accordance with the policies in the NPPF and Core Policy 8 of the Core Strategy.

Traffic and Highway Safety Implications

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Access to, and servicing of the retained units during the construction phase raises highway and pedestrian safety issues and is therefore a material consideration. Assuming these units continue trading whilst the new store is being built there needs to be provision for staff, customers and delivery vehicles to access and leave the site safely without compromising highway safety on London Road. As the application contains no such information a condition has been recommended requiring the submission and approval of a construction traffic management plan.

The Highways Authority have confirmed that given the limited additional floor space proposed over the extant planning permission and previously approved scheme, there would be no unacceptable impact on the highway network. Accordingly the local Highway Authority has raised no objections to the proposed development subject to conditions.

Having regard to the above, it is considered that subject to conditions, the proposed development would make satisfactory arrangements for vehicle access, manoeuvring and parking, and would facilitate safe access to and from the site. Therefore, it is considered that the proposed development would provide safe and secure access and would not result in any strategic highways implications, in accordance with the requirements of policy DM5 of the Local Development Framework.

Design and Impact on Visual Amenity

Policy DM5 of the Development Management DPD requires that new development reflects the character and distinctiveness of the area and the scale, form, layout, massing and design, of the built environment of the District.

The site is located within a mixed use part of Balderton and the site currently comprises a post-war brick faced retail arcade, large areas of surfaced parking, and a modern and industrial looking

petrol filling station and forecourt. Beyond this the character and grain is finer characterised by streets of traditional two storey terraced houses, inter-war suburban semi-detached houses and more modern infill cul-de-sacs of two storey dwellings.

The site is located in a prominent location along London Road which as noted above is a busy arterial route and the site currently, as a result of the vehicular access and petrol filling station forecourt, forms a significant gap in the built frontage. The streetscene further to the north and south along London Road is characterised by a strong built frontage of predominantly traditional two storey dwellings and town houses converted to commercial premises. The proposed Lidl store within this revised scheme would be sited within close proximity to London Road with a mono-pitch glazed gable fronting at an angle on to the carriageway. As a result the proposed building would have a far greater presence along this key arterial route of London Road than the previous retail store and permitted store. Nevertheless given the similar height to surrounding buildings and the frontage being splayed this would ensure that the front gable would not appear over oppressive in the streetscene. In terms of materials, the provision of a fully glazed front elevation is considered to be an appropriate response to the importance of the London Road frontage.

Indeed as noted by objectors the appearance of the Lidl store would be different to that of the existing store and the surrounding largely residential built form due to its use of a contemporary roof design and materials. However, within an area of mixed use development it is commonplace for buildings of different functions to have different appearances and this in itself adds variety and contributes to the character of our urban areas. Indeed, it is noted that the use of different materials would ensure that the buildings different function would be easily read and together with its overall shape would form a landmark and give the local centre a greater presence within the townscape. Given the context of an established Local Centre and existing buildings it is therefore considered to be acceptable. Furthermore, the proposed retail unit would help infill a large gap in the built frontage, and through siting the main access and circulation areas towards the frontage would encourage activity, movement and use along this part of London Road.

Therefore, having regard to the above, it is considered that the proposed scheme would not cause any significant harm to the character and appearance of the streetscene along London Road nor to the visual and architectural qualities of the surrounding townscape. The proposed development is considered to accord with Core Policy 9 and Policy DM5 and the NPPF.

Impact on Residential Amenity

Paragraph 123 of the NPPF states that decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Policy DM5 states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. 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.

The main impacts on residential amenity would arise from the siting of the new store and its mode of operation including opening hours and delivery times. In assessing these, it is necessary to balance likely impacts against those existing, or capable of occurring on the site under the existing permission.

The proposed Lidl store within this revised scheme would be sited towards the north and west boundaries of the site which is open and has been used for parking. Therefore, whilst the current proposed scheme has moved away from the southern part of the site and represents a significant improvement to those dwellings located to the south and southwest, the proposal would have a greater impact on the outlook and amenity of the occupants of neighbouring dwellings to the west at Willow Road and north along London Road.

A distance of approximately 19 metres would be retained between the rear elevations of nos. 26 and 27 Willow Road and the proposed building. Given the domestic height of the proposed building and that there would be no overlooking from windows subject to additional landscaping to soften the appearance of the building and provide screening it is considered that the scheme would not cause unacceptable long term impacts on the living conditions of the occupants of these dwellings. Accordingly a condition has been recommended requiring the submission and approval of a scheme of additional planting and landscaping along the western boundary.

With regards to the impact on the dwelling at nos. 24 and 25 Willow Road whilst the proposed scheme would retain the landscaping along the west boundary and includes the provision of an acoustic barrier along the northwest corner of the site, due to the proximity and height of the building it is considered that the proposed building would have some impact on the outlook and daylight currently experienced by the occupants of these dwellings. However, the angle of these two dwellings would ensure that views and outlook is retained to the north, and due to their northeast aspect direct sunlight would only be impacted on during a short period in the early morning. As a result, it is considered that the adverse impact would not cause significant over-riding harm to the living conditions of neighbouring properties.

Due to the siting, separation distance and aspect it is not considered that the proposed building would cause significant loss of outlook, and daylight to the dwelling at no. 28 Willow Road or any other remaining dwellings on Willow Road. With regards the dwellings located along London Road to the north, whilst the northern boundary is open above a 2 metre high fence, given aspect of the rear elevations of the nearby dwellings and the separation distance from the dwellings to the side elevation of the store building it is not considered that the proposed building would appear overbearing from these dwellings.

With respect to implications of noise and disturbance it is noted that the site has historically been used for retail purposes with a similar Co-op food store operating from the site for a number of years. Given their similarity the activities associated with the proposal are therefore not considered to give rise in principle to any significant additional harm to the amenity of the surrounding area. However, given the site is bordered on all sides by residential dwellings, the scale of the store, and proximity of the proposed delivery area to private dwellings and gardens, it is considered necessary to include controls over the timing of deliveries and opening hours on the grant of planning permission.

Whilst Lidl operate a very specific business model involving only one delivery per day as any planning permission is granted on the site the end user could change over the life of the development to one with different operating practises to Lidl which, without control, could have a detrimental impact on the amenity of neighbouring residents. Given that the loading area would be substantially enclosed as part of the proposed development, it is considered reasonable to allow one delivery per day on Sundays and Bank Holidays. It is also noted that the Environmental Health Officer has raised no objections subject to conditions limiting delivery times, control over any plant, and exterior lighting.

The proposed additional opening hours allowing for an extra hour from 07:00 am and up to 11:00pm proposed within this current application are not considered to have a significant increased impact on residential amenity over the existing permission and lawful use of the site.

Servicing areas for the Co-Op occupied the southern part of the site over which there were no controls over hours or frequency of use. Under the proposed scheme it is proposed to provide parking area along the southern boundary and servicing areas for the retained units along the southern boundary where there are existing servicing areas.

With regards to the retail units retained at the site, given that the 1987 enabling permission does not have any conditions controlling deliveries or trading hours and there are no recorded problems as a result of this, and that the scheme does not propose any significant alterations to this part of the site, it is not considered necessary or reasonable to impose any conditions on the existing businesses within the existing retail units at the southern end of the site as there would be no increased impact over and above the previous use of the site.

With regards to servicing arrangements for the replacement store, it is noted that the 1987 enabling permission does not have any conditions controlling hours or frequency of deliveries. The new store presents an opportunity for improvement by allowing these to be considered now and appropriately controlled. It is noted that the proposed scheme would provide for an improved situation for a number of dwellings to the south when compared with the permitted scheme but would have an adverse impact on a small number of dwellings to the northwest corner of the site. However, subject to conditions including securing the provision of additional planting, the provision of an acoustic barrier, controls on opening hours and deliveries, controls over plant, and exterior lighting, it is considered that on balance the revised proposed scheme would not result in significant impact on the amenity and living conditions of the surrounding residents, and nor would this be to a sufficient degree to outweigh other benefits of the scheme.

Overall I am therefore satisfied that an acceptable relationship with neighbouring amenity can be achieved and the proposal therefore complies with the aims of the NPPF and Policy DM5.

Crime and Anti-Social Behaviour

Core Policy 9 requires that new development should take account of the need to reduce the opportunities for crime and fear of crime, disorder and anti-social behaviour, and to promote safe living environments. This reflects the NPPF's requirement to achieve places which promote safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life.

During the previous application following concerns and reports of crime and anti-social behaviour within the site, the applicants offered to ensure external lighting is switched off after closing time thereby discouraging such behaviour in the evening and night time. In addition to this, during the course of the application process, the applicants undertook to install bollards that can be used to control vehicular access to the car park outside of opening hours. Concerns regarding anti-social behaviour have been raised by surrounding residents but it is noted to a much reduced degree than during consideration of the previously approved application.

The current scheme is not considered to raise any new security and safety concerns over and above the previously approved scheme, and it is noted that the cycle parking and trolley store are to be located towards the frontage of the site in a prominent and open location thereby benefiting

from natural surveillance from the retail units and London Road. In order to ensure the provision of appropriate lighting throughout the site a condition is recommended requiring the submission and approval of a lighting scheme. A condition has also been recommended to ensure that the existing pole and CCTV equipment located adjacent to the site access is retained throughout construction and for the lifetime of the development once completed. Subject to these conditions it is considered that the proposed development would be appropriately safeguarded from crime and measures would be secured to discourage anti-social behaviour in accordance with the Core Policy 9 and the NPPF.

Contaminated Land

Paragraph 121 of the NPPF indicates that planning policies and decisions should ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;
- after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- adequate site investigation information, prepared by a competent person, is presented.

The application site comprising a petrol filling station, surfaced car park and retail store has the potential for contamination to be present on the site. The Council's Contaminated Land Officer is satisfied that any contamination and ground condition issues which may exist on the site can be adequately identified and addressed by the imposition of a condition requiring the submission and approval of detailed intrusive site investigations and where necessary the implementation of any appropriate remediation measures required before development takes place.

Therefore, subject to a condition securing the submission and approval of an intrusive site investigation report and risk assessment, and the approval and subsequent implementation of a scheme of remediation works and enabling ground works, it is considered that the proposed site would be suitable for the proposed residential development and the guidance contained within the NPPF would be met.

Flood Risk and Drainage Implications

Paragraph 100 of the NPPF states that "inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk".

The application site falls within flood zone 1 and is therefore at a low risk of flooding (less than 1 in 1000 or 0.1% annual probability of river or sea flooding in any year). The proposals would retain the retail use of the site which is considered to be a less vulnerable type of use as set out by table 2 of the NPPF Planning Practice Guidance, it is considered to be appropriate in principle within the site given the low risk of flooding predicted by all forms of flooding.

With regards to surface water management, it is noted that the proposals involve the provision of large areas of hardstanding to form parking and manoeuvring areas, pedestrian circulation areas, and that land levels slope slightly downwards from London Road. It is noted that concerns have been raised regarding the implications for surface water drainage from the proposals. However, it is noted that the amount of the site covered by hard surfaces within the proposed scheme would not be any greater than the existing and previous use of the site. Therefore, subject to approval of

details of the measures to manage surface water, it is considered that the proposed development would not be at significant risk of flooding and subject to adequate on site attenuation measures being put in place it is considered that the proposed development would not cause unacceptable risk of flooding elsewhere in accordance with the requirements of the NPPF. Accordingly a condition has therefore been recommended requiring the submission and approval of a surface water and foul water drainage scheme.

Conclusion and Balancing Exercise

The principle of the proposed development accords with the development plan, and it is considered that the redevelopment of the site would enhance the vitality and viability of the Balderton Local Centre whilst not harming the viability of nearby centres, and would bring about significant physical improvements to the appearance of the site and local centre. The proposals would not have any significant impacts on highway safety, and subject to conditions would be adequately safeguarded from flood risk, drainage and contamination issues. Furthermore, the proposal would assist with the implementation of the Spatial Strategy for the District by contributing to local employment opportunities in the long term, and delivering immediate investment into the local area in the short term during construction.

Whilst it is acknowledged that the proposed scheme would have some impact on the amenity of a small number of residents of dwellings to the northwest, when balanced against the mitigation that can be controlled through condition, improvements to neighbouring properties to the south and southwest, and the other economic and physical benefits of the proposed development, it is not considered that this harm would be sufficient to outweigh the benefits of the scheme overall. The proposed scheme is therefore considered to be a sustainable form of development in accordance with the NPPF and Development Plan as a whole and is therefore recommended for approval subject to conditions.

RECOMMENDATION

That full planning permission is approved subject to the following conditions:

Conditions

01

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

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

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans, reference B5787 PL201, B5787 (PL) 202 Rev A; B5787 (PL) 203 Rev A; B5787 (PL) 204 Rev A; B5787 (PL) 205; Landscape Proposals, 14-69-01 Rev C; unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

No development shall be commenced above slab level until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.
- An implementation and phasing programme.
- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.
- means of enclosure;
- car parking layouts and materials;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, lighting etc.)
- proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)
- retained historic landscape features and proposals for restoration, where relevant.

Reason: In the interests of visual amenity and biodiversity.

05

All hard and soft landscape works shall be carried out in accordance with the approved implantation and phasing plan. The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the local planning authority.

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

06

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.

Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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 (referred to in PPS23 as a validation 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.

07

No part of the development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter 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.

08

The new store hereby permitted shall not be open to members of the public outside the following:-

0700 to 2300 Monday- Saturday
1000 to 1700 Sundays, Public or Bank Holidays

External lighting to the car park shall be turned off no later than 30 minutes after the store closes to the public.

Reason: In the interests of residential amenity.

09

There shall be no deliveries to the site outside the following:-

0700- 1900 Monday –Saturday

There shall be no more than one delivery per day on Sundays, Bank or Public Holidays which shall not be outside the hours of 0700-1900.

Reason: In the interests of residential amenity.

10

The retained shop units numbered 4-9 on drawing number B5787 (PL) 202 Rev A shall not be subdivided internally unless consent has first been granted for such works by the local planning authority.

Reason: To allow the LPA to assess the impact of the creation of larger units in the interests of maintaining the viability and vitality of the Local Centre.

11

Within the retained shop units numbered 4-9 on drawing number B5787 (PL) 202 Rev A there shall be no more than 2 units within use class A5 (Hot Food Takeaways) at any one time unless consent has first been granted by the local planning authority.

Reason: To allow the LPA to assess the impact of a greater number of A5 uses in the interests of maintaining the viability and vitality of the Local Centre and the amenities of neighbouring residents.

12

The new store hereby permitted shall be only be used for the sale of convenience goods unless consent has first been granted by the local planning authority.

Reason: To allow the LPA to assess the impact other types of retail development in the interests of maintaining the viability and vitality of the Local Centre and the Town Centre.

13

Within the new store hereby permitted the nett sales area shall be no greater than 1424 square metres unless consent has first been granted by the Local Planning Authority.

Reason: To allow the LPA to assess the impact of a greater amount of retail floorspace on the vitality and viability of the Local Centre and the Town Centre.

14

No development above slab level shall be commenced on site until a scheme for the provision and implementation of surface water drainage works has been submitted to and approved in writing by the local planning authority. The approved works/scheme shall be carried out prior to first commencement of the use hereby approved and shall then be retained for the lifetime of the development in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the provision of satisfactory means of drainage.

15

No development above slab level shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a

scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- The acoustic barrier to be erected along the north and west boundaries of the application site.
- Any external plant and equipment to be installed at the site.
- Means of access control to the perimeter of the building.

Reason: In the interests of residential amenity.

16

No development shall be commenced until a scheme for vehicular and pedestrian access and vehicular parking and servicing of the site during the construction phase has been submitted to and approved in writing by the Local Planning Authority. Access and parking shall be provided in accordance with such scheme as approved.

Reason: In the interests of highway safety and residential amenity.

17

No part of the development hereby permitted shall be brought into use until the parking/turning/servicing areas are provided in accordance with the approved plan (B5787 (PL) 202 Rev A, Proposed Site Plan). 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 facilities are provided to reduce the risk of parking and servicing taking place on the public highway to the detriment of highway safety.

18

The new retail convenience store (Use Class A1) hereby permitted shall be brought into use until the existing petrol filling station accesses that have been made redundant as a consequence of this consent are permanently closed and the accesses reinstated as footway/cycleway in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of highway safety.

19

The new retail convenience store (Use Class A1) hereby permitted shall not be brought in to use until a Travel Plan has been submitted to and approved in writing by the local planning authority. 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 local planning authority 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 travel.

20

No development above slab level shall be commenced until details of any external lighting have been submitted to and approved in writing by the local planning authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual and residential amenity.

21

The existing CCTV pole and equipment located to the north of the site access shall be retained at all times during construction of the development hereby approved and thereafter throughout the lifetime of the development, unless a scheme for the replacement provision of CCTV equipment at the site has first been submitted to and approved in writing by the Local Planning Authority. The convenience foodstore hereby approved shall not be brought into use until either the existing CCTV equipment has been retained and is operational or any approved replacement CCTV scheme has been implemented in accordance with the approved details.

Reason: In order to provide necessary security of the open spaces within the site, in the interests of discouraging crime and anti-social behaviour and the safety of members of the public.

Informatives

01

REASONS FOR APPROVAL IN ACCORDANCE WITH THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (ENGLAND) (AMENDMENT) ORDER 2003

In the opinion of the local planning authority, the development hereby permitted accords with the policies listed below and there are no other material issues arising that would otherwise outweigh the provisions of the Development Plan.

From the Newark & Sherwood Core Strategy 2011, Spatial Policies 1, 2, 6 and 7 and Core Policies 8 and 9

From the Newark & Sherwood Allocations & Development Management DPD 2013, Development Management Policies 1, 3, 5 and 11

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential

annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: www.newark-sherwooddc.gov.uk/cil/ or from the Planning Portal: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

03

This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

04

You are advised that any signage may require separate advertisement consent and you should seek the advice of the Local Planning Authority prior to the erection of any signage.

BACKGROUND PAPERS

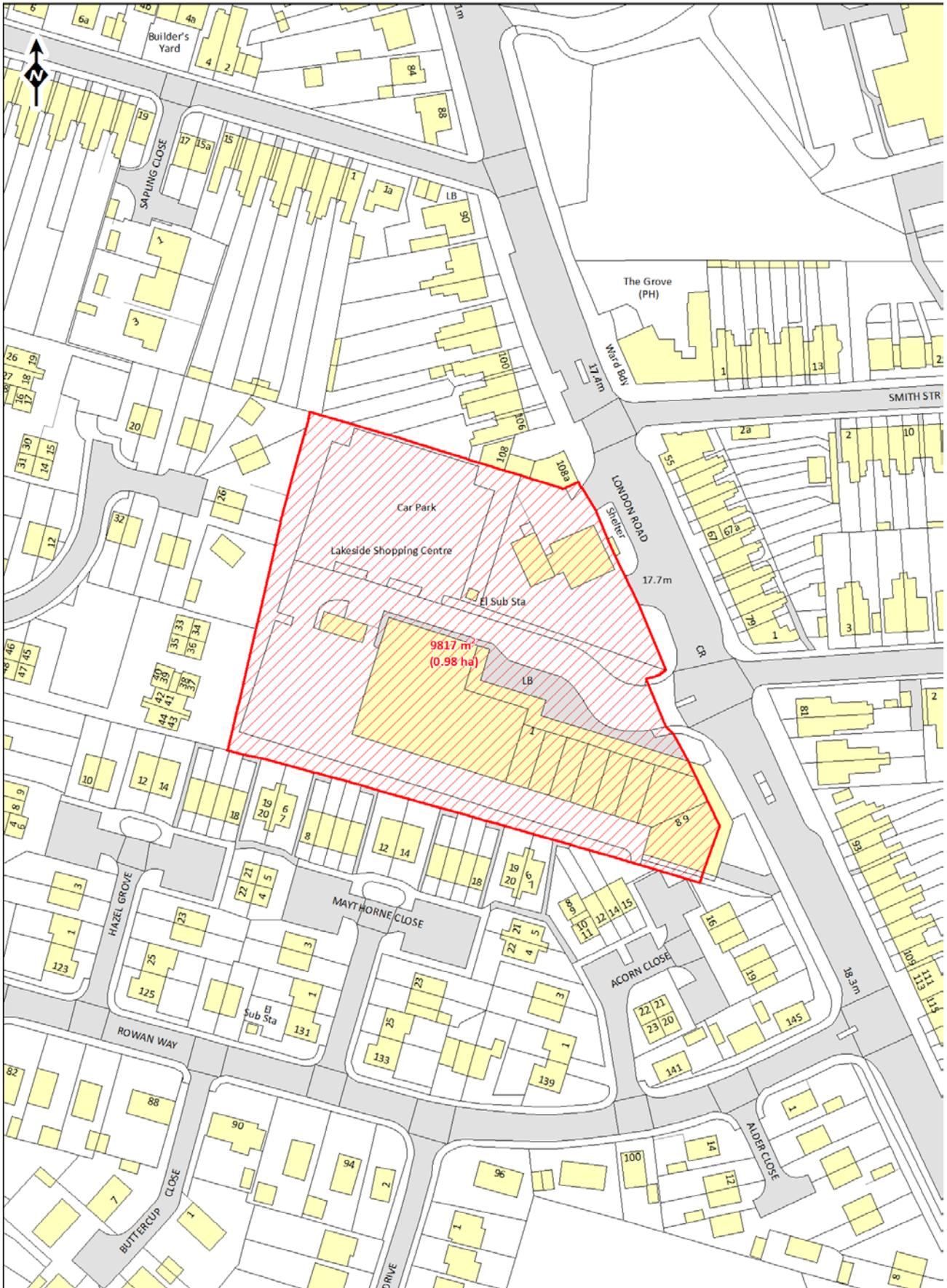
Application case file.

For further information, please contact Richard Exton Ext 5859

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

K Cole
Deputy Chief Executive

Committee Plan - 15/02104/FULM



© Crown Copyright and database right 2015 Ordnance Survey. Licence 100022288. Scale: Not to scale

Application No:	15/00457/FUL	
Proposal:	Proposed traveller site including short term transit pitches and utility block	
Location:	Land at junction between Wellow Road and Newark Road, Wellow Nottinghamshire, NG22 0EH	
Applicant:	Mr William Calladine	
Registered:	21.05.2015	Target Date: 16.07.2015
Ext. of time:	Agreed in principle	

Members will recall that this application was deferred at the December 2015 Planning Committee in order to allow further consideration of impact on the designated Conservation Area and investigate if any other gypsy and traveller sites have been allowed in the CA nationwide, either by Local Planning Authorities or on appeal in order to judge whether less than substantial harm impact on a Conservation Area has been determinative.

Officers have now concluded a search on post NPPF decisions, both within the District and at a National level. For awareness there are 326 Local Planning Authorities in the Country and thus it is not possible to search them by reference to constraint (in this case Conservation Area) and type (Gypsy and Traveller accommodation). The ability to search appeal decisions is assisted by the fact that information is held centrally by the Planning Inspectorate (PINS). PINS confirmed that since the NPPF there have been circa 400 Gypsy and Traveller Appeals allowed. Of course this does not offer sufficient detail on if and how a particular scheme is material and thus relevant to the current application.

Members are reminded that a decision on this pending application must be made on its own merits, against the provisions of the Development Plan and any other material planning considerations. For the avoidance of doubt the previous Officer report remains extant (appended below) and additional written representations received since the December agenda was published have been added to the 'Consultations' section and are shown in bold text. This includes a consultation with Historic England who do not wish to offer any comments on the proposal and have advised that the application should be determined in accordance with national and local policy guidance and on the basis of the council's specialist conservation and archaeological advice. I consider that this stance indicates Historic England do not have significant concerns over the proposal. I have supplemented this below in summarising a number of issues, including any decisions on Gypsy and Traveller accommodation either within a Conservation Area or affecting the setting of a heritage asset.

Harm to the Conservation Area

It is a matter of fact from the previous report that the Officer view is that there is harm to the Conservation Area from the development proposed. Such harm is less than substantial, again as previously set out. Whilst not categorised within national or best practice guidance there are clearly levels of harm within the less than substantial category. This is an issue which has come up in appeals, sometimes being categorised as “upper” or “lower” ends of less than substantial harm (as for our own Hawton/Fox Covert Public Inquiries) or indeed a “staircase of harm” (as for Appeal Ref: APP/J0405/W/15/3002218 Land off Station Road, Ivinghoe, Buckinghamshire – The development proposed was described as “outline application for up to 70 residential units, associated infrastructure and defined access with all other matters reserved”). In order to assist Members deliberations the Conservation Officer has been asked to qualify the overall position within the less than substantial harm category. The Conservation Officer has stated that in overall Conservation Area terms, providing mitigation in the form of planting is secured, harm is at the lower end of LTS. This is especially given the transitory nature of the site and the ability to keep it open if ever unoccupied. This qualification is helpful in decision making terms albeit I would again remind Members, as the original report did, that any harm in CA terms must carry significant legal weight in accordance with s72 – fails to preserve and enhance as the starting point. Harm is also identified in open countryside terms, albeit this is limited.

Applying a planning balance

In making planning judgements Members are aware that it is necessary to weight and balance all material planning considerations. Harm is identified above which must be weighted against the acceptability of the scheme in other respects (see headings in the original report, including highways) but also against the benefits of any scheme. In this case it is a matter of accepted fact that the Authority has accepted that it does not have a 5 year land supply of Gypsy and Traveller sites. This proposal would contribute towards meeting 8 no. pitches (38 %) of the overall (21no. pitch) shortfall in this supply. The issue for Officers in making a recommendation and Members in coming to a view is where to strike the planning balance.

As a District we have been required to weight planning harm against pitch need in G&T terms on several occasions. The most tested of which was at the Tolney Lane Public Inquiry, decided on the 10th June 2014. Here the Inspector identified significant harm in terms of flood risk (the Inspector used the term “serious risk”, both to occupiers and to spreading risk elsewhere. They also identified harm, albeit limited (as in this case) to open countryside. At that time there was also a clear lack of a 5 year land supply for Gypsy and Traveller provision (as in this case) and stalled progress on the identification of allocated and/or acceptable alternative sites to provide any shortfalls in such provision (as is also currently the case here). The Inspector in this case, having weighted the need and harm, concluded that harm did not outweigh need. A temporary planning permission should be permitted. This was predicated on the ability for other more suitable sites to meet a 5 year supply being identified. At the time of writing, as detailed above, the need remains and there are no other sites allocated or with planning permission within the District.

The other case where the LPA has been required to balance planning harm and benefits is at Tolney Lane (the abattoir), a site also within the Conservation Area. This decision was made by the Planning Committee in August 2014 (planning ref.14/01106/FUL). Here Officers and Members concluded that any harm was outweighed by the need for pitch provision.

Beyond the District balancing exercises.

There are a number of examples where Inspectors have concluded that significant weight should be attached to any unmet need in an overall planning balance. There are also examples where the Secretary of State has come to a different view. In the interests of completeness details of appeals considered are provided below (including applications for other types of development where less than substantial harm to the significance of the designated heritage asset has been weighed against the public benefits of the proposal):

- **Halifax 2215561 SOS Decision – West View Stables, West View, Holywell Green, Halifax HX4 9EW - Change of use from agricultural land to a mixed use of agricultural land with stable block and container and yard area for stationing of caravans for residential occupation by Traveller family with associated works (shed, septic tank, access track, hard standing, fencing & container for storage)**

The Inspector considering the appeal concluded the proposal failed to preserve the setting of Stainland conservation area, causing less than substantial harm to its significance but considered the public benefits resulting from the provision of the traveller pitch outweighed the less than substantial harm to the setting of the conservation area. The Inspector concluded that the appeal should be allowed.

The Secretary of State (Eric Pickles MP at the time of the decision) recovered the appeal because it involved proposals for a Gypsy and Traveller site in the Green Belt. The Secretary of State disagreed with the Inspector's recommendation and dismissed the appeal and refused planning permission. The Secretary of State agreed with the Inspector that the harm to the conservation area would not be substantial and attached considerable weight and importance to the harm caused to designated heritage assets in the planning balance. The Secretary of State did not agree in that instance that the public benefits from the provision of that pitch outweighed the harm to the setting of the conservation area. (Date of SoS decision 2nd December 2014).

- **St Albans 2153741 SOS Decision - Tullochside Farm, Little Revel End Lane, Redbourn, Herts, AL3 7AJ - retention of use of land as a residential caravan site for 10 gypsy families each with two caravans, including retention of existing hardstanding, boundary walls/fencing and associated operational development**

The appeal was allowed and in reaching their decision the Secretary of State (Eric Pickles MP at the time of the decision) confirmed they agreed with the Inspector's recommendation which was based on very special circumstances existing to justify inappropriate development in the Green Belt. Whilst this did not relate to a conservation area the SoS decision referred to 'significant weight should be attached to

both the unmet need for gypsy sites in the District, and the failure of the development plan to meet the need, and that personal need of the families now resident on the site for pitches and the lack of available alternative sites add further significant weight' (Date of decision 15th December 2011)

- In Appeal Ref: APP/A3010/A/11/2149227 relating to Land at Manor Farm, Oldcotes, Nottinghamshire S81 8JB for showpeople's permanent quarters, the Inspector in that instance states that the impact of the development would detract from the open rural character of the outskirts of the village and would therefore harm the setting of the adjoining Conservation Area. The Inspector weighs the matters for and against and in that particular case and concludes that the harm that would be caused to the character and appearance of the surrounding area in that particular instance would be so great that it was not outweighed by other matters. (Date of decision 29th November 2011)
- Appeal Ref: APP/H1840/A/14/2215896 Land between Springfield Lane and Averill Close, Broadway, Worcestershire - The development proposed is erection of 70 dwellings incorporating vehicular access from Averill Close, earthworks to facilitate surface water and foul water drainage, landscaping, car parking and other ancillary and enabling works. (Decision date 9th February 2015)

The Inspector dismissed the appeal on the grounds that the proposed development would be contrary to the development plan; there would be harm to the landscape and scenic beauty of an AONB, to which the Framework advises that great weight should be given; and some less than substantial harm to the setting of the Conservation Area and that taken together, this amounted to a considerable degree of harm not outweighed by the other material considerations. However as part of the Inspectors assessment of the appeal they acknowledged that 'Paragraph 134 of the Framework says that where a development will lead to less than substantial harm to the significance of the designated heritage asset, the harm should be weighed against the public benefits of the proposal.'

- APP/U1430/A/14/2217525 Gristmill Pine, Winchelsea Road, Rye, East Sussex, TN31 7EL - The development proposed is a commercial unit at ground floor level for B1, A1, A2, A3 or D1 uses (or any combination thereof) and one residential unit at first and second floor levels. (Decision date 11th March 2015)

As part of the Inspector's assessment of the appeal they state 'I nonetheless accept that the harm to the CA would be less than substantial. In those circumstances NPPF Paragraph 134 advises that the harm should be weighed against the public benefits of the proposal.' In this instance the Inspector concluded the collective sum of the public benefits was not sufficient to outweigh the harm to the significance to the conservation area.

- APP/Q3305/A/13/2196679 Marston View, Marston Bigot, Frome, Somerset BA11 5BD - The development proposed is 2 mobile homes, 2 caravans and 1 day room for residential occupation. (Decision date 9th January 2014)

Amongst the considerations in their report, the Inspector considered the effect of the scheme on the character and appearance of the area with particular regard to the site being within the grade II Registered Historic Park and Garden to the grade II* Listed Building, Marston House. The Inspector considered the harm to the heritage assets would be less than substantial but applied greater weight to other considerations including that the LPA did not have a five year supply of deliverable sites and allowed the appeal granting a temporary planning permission in that particular instance.

Clearly a delicate balancing exercise needs to be applied given significant weight needs to be applied both to *any (emphasis added)* identified of harm to a heritage asset (in this case the Conservation Area) in terms of s72 responsibilities. One must also have regard to any other harm, in this case on open countryside (albeit this has been found to be limited).

Balanced against such harm is the fact that the development is considered to be acceptable in all other respects and that the scheme will meet an identified and considerable (in percentage terms) unmet need. A previous consent has been granted in this District for such a use within a Conservation Area and even an issue of flood risk and risk to life has not been persuasive to outweigh the lack of an identified need. Recent appeal Inspectors have also weighted the issue of need as determinative.

On this basis the Officer recommendation of approval does not change. In arriving at this decision, considerable importance and weight has been given to the desirability of preserving the setting of the conservation area. It is nevertheless considered that the public benefit in provision of 38% of the identified need for traveller pitches in the district outweighs the less than substantial harm to the heritage asset in this particular instance.

Following correspondence from the National Planning Casework Unit, Officers have responded to confirm that irrespective of any resolution of the Planning Committee, the Council will not issue a Decision Notice until such time as confirmation is received from the Secretary of State as to whether the matter will be called-in.

The Site

The application site is located adjacent to the junction between Wellow Road and Newark Road, Wellow approximately 200m to the North West of the built up area of Wellow Village and 450m to the south of Boughton. The urban boundary at Ollerton (as defined in the policies maps for the Local Development Framework) is situated some 450m to the west of the site. Given the site is located outside these neighbouring settlements; the land is defined as open countryside in the Development Plan.

Comprising an area of vacant greenfield scrubland of approximately 0.43ha, the site is roughly triangular in shape and substantial woodland screening exists to the southern and western boundaries the latter of which is a disused railway. The existing access point is located to the eastern boundary onto Newark Road and a significant number of trees also exist adjacent to this boundary although there are gaps allowing views into the site. The application site is located

within the Wellow Conservation area and the Wellow Village Farmlands with Ancient Woodlands Policy Zone (MN PZ 22) as defined in the Landscape Character Assessment SPD.

The site sits on a similar level to Newark Road and there is a slope within the site towards the south western boundary. Wellow Road sits at a significantly higher level to the application site and its south western point.

The site is adjoined by existing gypsy and traveller sites beyond the woodland screen to the north western boundary, one of which is in the ownership of the applicant.

The nearest Local Wildlife Sites (LWSs) to the site are Wellow Dam, (recognised as a mosaic of scrub and damp, species rich grassland with notable species around a fishing pond) which is situated approximately 40m to the east of the site and Boughton Railway banks with notable sections of habitat along the embankment some 30m to the north of the site. Other sites in fairly close proximity include Ollerton Colliery LWS (approx. 230m) and Wellow Park SSSI (approx 400m). The Site is also located centrally within the ppSPA for nightjar and woodlark, with Ollerton Colliery considered an Important Bird Area of the ppSPA.

Description of Proposal

The application proposes a traveller site including short term transit pitches and utility block. A revised site layout has been submitted following the initial comments of the Highway Authority. The revised plan shows the proposed access point onto Newark Road to be located further north and therefore further from the junction with Wellow Road.

The plans illustrate that there would be a total of 8 caravan pitches with room for parking adjacent to each pitch and an area of grass separating each pitch. The pitches would be laid out adjacent to the perimeter of the site and accessed of a triangular internal access road with turning area. The remaining land to the centre of the site would be retained as an open play area and a bin store is also located within this area. A utility block is proposed to the south western corner of the site. Existing site levels and site sections have been provided.

The Design and Access Statement submitted with the application confirms that the applicant has lived on the neighbouring site with their extended family for the last 7 years. In order to plan for the future and meet the current accommodation needs of the growing family, the applicant would like to extend the site into the adjacent land and would like to offer part of the site for short term, transit pitches for travellers who may be moving in and around the District. The statement includes that the family are well established as part of the local community accessing local services such as schools. The applicant is keen to follow the correct procedures thus why this application has not been made retrospectively.

An Extended Phase 1 Habitat Survey has also been submitted in support of the application.

During the course of the application the applicant has responded to consultation comments and requests of the case officer and has submitted the following additional supporting information:

- Heritage Statement and Archaeological Impact Assessment
- Arboricultural Method Statement with Tree Protection and Tree Constraints plans.

Relevant Site History

<u>Reference</u>	<u>Proposal and Decision</u>
15/00306/OUT	Proposed Traveller site including short term transit pitches and utility block. Application withdrawn.

Publicity

Press Notice:	Published 10.06.2015
Site Notice:	Posted 12.06.2015
Earliest Decision Date	13.07.2015

Consultations

Wellow Parish Council – ‘The Parish Council are opposed to this application on a number of grounds.

1. The need for additional Gypsy and Traveller pitches is unproven as there are empty pitches on nearby sites and the District Council does not currently have a five year supply of Gypsy and Traveller pitches. The application itself contains confusing information regarding whose needs are being met by this application as it refers to both the need for the applicant to ‘meet the current accommodation needs of his growing family’ and also the offers the site as ‘commercial, short term, transit pitches for Travellers’.
2. There are a disproportionately large number of pitches in the surrounding area compared to size of the population of Wellow. Planning policy states that Local Planning authorities should ‘relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population’s size and density’ which would clearly not be case here. If these additional pitches were to be approved on top of what is already provided in the adjacent area the scale of the traveller sites would start to dominate the settled community.
3. There are concerns over the size and number of vehicles using the site. A new housing development is under construction nearby and taking this into account the cumulative effect of the extra traffic on the junction will be significant and potentially dangerous.
4. If this application were to be approved there would be erosion of the gap between the nearby urban area and rural village of Wellow. The distance that currently exists

between the two has been cited as important and development of this site would encroach upon that distance.

5. Strain on the local health services – the Parish Council consider that the District Councils process of not taking into account the cumulative effect of all local development is flawed as there is a new housing development under construction and the two together will impose a significant burden on an already stretched local health service.
6. There will be an increase in surface runoff from hard standing areas which will create a hazard on the adjacent road. The land falls towards the revised site entrance which will exacerbate this problem.
7. The development outlined in this application is inappropriate development in a conservation area close to the ancient open space of Wellow Dam.
8. The Habitat Survey states that no sign of Japanese knotweed was noted on/around the site, and only general recommendations are made in relation to this plant due to the existence of previous records from the area. This is incorrect and there is evidence of this plant next to the site entrance (photographic evidence can be provided) and it is essential to prevent the spread of this plant.'

NSDC (Planning Policy) – Comments included within the appraisal section of this report.

NSDC (Strategic Housing) – 'The Council is required to regularly assesses future accommodation needs for Gypsy and Traveller pitches within the district, alongside those of the settled community. The most recent assessment set out in the Local Plan Review Issues paper (referenced elsewhere in the Committee report) identifies the need for 21 pitches up to 2018. I understand that at present there are no allocated sites or permissions in place to meet this need. Therefore providing the site satisfies other relevant planning considerations Strategic Housing would support this application as the appropriate provision of gypsy and traveller sites. I understand the site includes the provision of transit pitches which provide for a specific housing need often overlooked.'

NSDC (Environmental Health) – Notes that the applicant has a caravan site close by which does benefit from a site licence.

This new site would appear to be subject to the requirements of Caravan site Licensing and as such a Caravan site licence would be required. Conditional within the site licence would be such issues as spacing between caravans, firefighting provision, site access water supply and waste disposal.

From the original site plan submitted the Environmental Health Officer advised that there were issues which would require re-design of the scheme. These were as follows:

- The separation distance between caravans is 6m where they are in separate occupation. The site plan shows caravans at less than 4metres separation.
- Caravans must be more than 3 metre from the site boundary. This is not clear from the site plan.

- Caravans must be more than 2 metre from a road. The site plan shows them to be less than 2 metre.
- The site road must be a minimum of 3.7metre wide. The site plan shows the road at 2.3 metre wide.
- The sanitary provision in the toilet block has not been quantified.
- Firefighting provision is not marked.
- Waste disposal facilities are not shown.
- Water supply and foul water disposal are not shown.

Following submission of a revised plan and clarification of measurements, the Environmental Officer has confirmed this addresses their initial concerns. The Environmental Health Officer has advised that a Caravan site Licence would be required.

Nottinghamshire Fire Brigade – No comments received.

Historic England – Do not wish to offer any comments. Recommend the application should be determined in accordance with national and local policy guidance, and on the basis of the council’s specialist conservation and archaeological advice.

NSDC (Conservation Officer) – The proposal site is situated within Wellow Conservation Area. To the south, on the west side of Rufford Lane, is the Grade II listed Chailey House. The surrounding landscape has strong associations with medieval enclosure, noting the remnants of Gorge Dyke (much of the earthworks visible on the eastern side of the village are scheduled) and former manorial elements. The proposal site therefore may possess potential archaeological interest (defer to County Archaeology on the matter).

In determining this application, the decision maker should consider whether the proposal preserves or enhances the character and appearance of the Wellow Conservation Area (CA) in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'). The objective of preservation is to ensure that development does not harm the special character and appearance of the CA, and is a matter of paramount concern in the planning process.

It is accepted that the topography of the site and landscaping ensures that the proposal is unlikely to affect the direct setting of Chailey House, although there may be some impact on the wider landscape setting of the listed building when on approach from the road junction with Newark Road (in accordance with the definition of 'setting' within the PPG and Historic Environment Good Practice Advice Note (GPA3: setting of heritage assets)). In this context, special regard should be given to the objective of preserving the setting of listed buildings in accordance with section 66 of the Act.

Policies CP14 and DM9 of the Council's LDF DPDs are also relevant in this situation. Section 12 of the NPPF is also relevant.

Having reviewed the submitted plans and details, Conservation has the following observations:

- i) The submission does not include a Heritage Impact Assessment. As set out under paragraph 128 of the NPPF, the applicant is required as a minimum to describe the significance of any designated heritage assets affected by the proposal and the affect of the proposal on that significance. Although a matter for County Archaeology to clarify, proposals that affect archaeological interest may be required to submit a desk-based archaeological assessment, and in some situations field assessment. The applicant should be required to address this matter before the scheme is determined;
- ii) The disused railway embankment to the western edge of the site forms an effective barrier from existing caravans on the Ollerton side and ensures that the historic landscape setting of Wellow CA remains well-defined. The change of use and associated physical elements proposed are a departure from the existing landscape characteristics. As such, the proposal is likely to have some harmful impacts on the character and appearance of the Wellow CA. The harm identified is less than substantial for the purposes of the NPPF;
- iii) It is accepted that green infrastructure is capable of mitigating some of the harm identified above. In this context, the decision-maker is entitled to weigh harm against any identified public benefits;
- iv) The development is not likely to harm the setting of any listed buildings provided that the development is well-screened to Newark and Wellow Road.

Following the submission of the Heritage Statement and Archaeological Impact Assessment the Conservation Officer confirmed that the report is very comprehensive, and that they broadly concur with its findings. They still feel that the proposal has a moderately negative impact on the character and appearance of the Conservation Area, although they fully recognise that mitigation is possible (with planting/screening) and that the land usage might have public benefits in terms of meeting an identified need. In this case, the decision-maker is entitled to weigh these matters using paragraph 134 of the NPPF.

Notts County Council (Highways) – Initially advised that the existing access is not sufficiently far away from the A616 Wellow Road/Newark Road junction to be safe. Bearing in mind the speed and volume of traffic on Newark Road the Highway Authority considered that the access should be about 100m from the central refuge at the mouth of the junction i.e. about 25m north of the existing access position.

Following the submission of a revised plan (drawing no.410-104-2) which relocates the access further north the Highway Authority confirmed that they had no objection to the proposals subject to conditions being attached to any planning permission requiring the proposal to be completed in accordance with the play with measures to prevent surface water discharging to the highway, the existing site access being permanently closed and reinstated as verge and the private access being surfaced in a bound material for a minimum distance of 5.0m from the

boundary with the highway. The Highway Authority have also requested that a note be attached to any permission with regards to the applicant being required to enter into a Section 278 Agreement to undertake the works to reinstate the verge at the point of the redundant access.

Notts County Council (Archaeology) – Requested a desk based assessment looking at map regression to work out previous landuses of the site, and also considering views in and out of the site, would be a good idea to give some confidence that a) no buried remains will be affected, and b) no visual impacts will arise from the proposal. In terms of the visual impacts, much depends on the existing hedges around the site, but it is not at all clear to me how tidying these and maintaining them might have a greater chance of impacts occurring. A good DBA with lots of maps and photos of existing views in and out, would be a useful tool to be able to provide confidence in the outcome of the development.

The County's Archaeologist was reconsulted following the submission of the Heritage Statement and Archaeological Impact Assessment. And has made the following comments:

'I have caught up with the HIA submitted in respect of this application, and have read it with interest. They assess the potential of the area as low, but I am far from convinced this is correct. The historic mapping copied in the HIA shows an unusual field system to the north, of which this site is part. The fields appear to radiate out from the properties to the north, and the corner of one of these radiating fields has a peculiar kink, that suggests it was taking note of a now vanished landscape feature. That field boundary, with the odd corner, lies within the proposed development site. My experience of these kind of radial field systems in Sherwood leads me to suspect an early date for their origin, so I think it would be worth ensuring that if the development proceeds, any groundworks required are undertaken under archaeological supervision so that we have a chance to date previous property boundaries and identify the nature of the feature responsible for the odd corner. A standard two part condition would be appropriate along the lines of;

"No development shall take place within the application site until a written scheme for archaeological mitigation has been submitted to and approved in writing by the LPA."

"Thereafter, the scheme shall be implemented in full accordance with the approved details."

Natural England – Statutory nature conservation sites – no objection

This application is in close proximity to the Wellow Park; and Birklands West and Ollerton Corner Site of Special Scientific Interest (SSSI).

Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. Natural England therefore advise that this SSSI does not represent a constraint in determining this application.

Natural England have not assessed this application and associated documents for impacts on protected species and refer to their standing advice.

With regards to 'Local sites', if the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Natural England also refer to 'Biodiversity enhancements' and advise that this application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Natural England advise that the Council should consider securing measures to enhance the biodiversity of the site, if it is minded to grant permission. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, Natural England draw attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Nottinghamshire Wildlife Trust – Welcome the Extended Phase 1 Survey undertaken and are generally satisfied with the methodology, results and recommendations provided. The Trust wish to draw attention to the following:

Local Wildlife Sites (LWS), Site of Special Scientific Interest (SSSI) and possible potential Special Protection Area (ppSPA)

As highlighted within the Phase 1 Survey Report, the Site is within 30m of two LWSs (Wellow Dam and Grassland LWS and Boughton Railway Banks LWS), as well as being in close proximity to Ollerton Colliery LWS (approx. 230m) and Wellow Park SSSI (Approx 400m). The Site is also located centrally within the ppSPA for nightjar and woodlark, with Ollerton Colliery considered an Important Bird Area of the ppSPA.

Although it is stated in Section 5.1. of the Phase 1 Survey Report that access to the LWSs are restricted, we note that there are public footpaths through Boughton Railway Banks, Ollerton Colliery LWS and Wellow Park SSSI, and what appears to be a footpath/track through Wellow Dam and Grassland LWS, with limited barriers to this area. Although the Trust accept that the proposed development is of a small footprint, they strongly advise the LPA to consider this application in conjunction with other residential development proposals in close proximity of the Site (e.g. Wellow Road ref 14/01533/RMAM) in order to consider the cumulative indirect impacts (e.g. increase recreational disturbance) to the surrounding LWSs, SSSI and to the ppSPA.

The Trust wish to remind the Local Planning Authority of the following:

“Notwithstanding the likelihood of the designation of an SPA, nightjar and woodlark are protected wherever they occur, even if outside any designated site, as under Article 4 (1) of the Birds Directive, Annex I species are to be “the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution” and under 4(4) member states “shall also strive to avoid pollution or deterioration of habitats”. This duty on member states applies anywhere that these species occur, even where they are outside any designated site. This is transposed into UK Law as the Conservation of Habitats and Species (Amendment) Regulations 2012, in which Regulation 9A(8) states that “So far as lies within their powers, a competent authority in exercising any function in or in relation to the United Kingdom must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds...”.

Therefore, the Trust strongly agree with Recommendation 1 within Section 5.2. of the Phase 1 Survey report, in which all new residents should be provided with a leaflet informing them of the value of the Sherwood Forest Area to woodlark and nightjar and of the impact of recreational disturbance, particularly from dogs. The Trust agree that the leaflet should request residents to stay to marked footpaths and to keep dogs on leads during the bird breeding season. The Trust strongly advise that this is set as a condition.

The Trust also welcome the proposed open play area within the current proposed site layout. By providing an area of open space, this could provide some form of mitigation to deter residents from using neighbouring habitats for recreational purposes, thereby reducing impacts to some extent. The Trust would advise that an open space is included within the final landscape designs.

Nesting Birds

It is noted that the scrub onsite is likely to support nesting birds. The Trust would strongly advise that the scrub onsite is retained and they welcome the retention of the scrub within the current proposed site plan. We would advise that this habitat is kept within the final landscape plan.

As suggested within Recommendation 2 of Section 5.2. of the Ecological Report, the Trust would strongly advise that the removal of vegetation during works occur outside of the bird breeding season, in order to prevent damage or disturbance to nesting birds. If this is not possible, then the site should be checked for nesting birds immediately prior to works commencing, with written confirmation sent to the LPA to inform of measures which will be undertaken to protect breeding bird interest onsite. This should be set as a condition under a full planning application. As you will be aware, all birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 (and as amended).

Badgers

The Trust note that no evidence of badgers was found onsite, but the onsite and surrounding habitats were considered suitable. Recommendation 3 of Section 5.2. of the Phase 1 Survey Report suggests following best practice guidelines (BS42020:2013) in which trenches should be covered overnight during the working phase. The Trust agree with these suggestions, but would also advise checking for any active badger setts onsite and within 30m (if possible) immediately prior to works commencing as a precautionary measure. This is due to the transient nature of badgers. Under the Badger Protection Act 1992, it is an offence to disturb an active badger sett. The use of heavy machinery within 30m of a site could be considered a form of disturbance. The Trust advise that these suggestions are set as a condition under a full planning application.

Sensitive Lighting

Due to the location of the site adjacent to broadleaf woodland, the Trust strongly advise that a sensitive lighting plan is provided under a full application. This is to prevent deterioration of habitats to nocturnal protected species, such as bats. This was also suggested under Recommendation 4 of Section 5.2. of the Phase 1 Survey Report.

Invasive Plant Species

Although Japanese knotweed or other invasive flora species were not found onsite, the desk top search did highlight records within close proximity. Therefore the Trust agree with Recommendation 5 of Section 5.2. of the Phase 1 Survey Report, in which site workers should be made aware of the species. If any is found, works must stop immediately and an appropriate treatment plan implemented. This should be set as a condition under a full planning application.

Retention of Habitats

The Trust strongly agree with Recommendation 6 of Section 5.2. of the Phase 1 Survey Report, in which it is suggested that the broadleaf woodland is retained. This would meet the requirements of the NPPF in which to halt the decline, and to contribute to the enhancement of, biodiversity. The Trust would also strongly advise that the broadleaf woodland is appropriately protected (e.g. fencing) to prevent disturbance and/or damage by residents. The Trust note that under current plans, the woodland will be retained, and the Trust advise this to be the case under the final landscape design.

Enhancements

The Trust advise that any landscape planting should be native species of a local provenance, as suggested within Recommendation 6 of Section 5.2. of the Phase 1 Survey Report.

Severn Trent Water – No objection.

Advise that there is a public sewer located within the application site and any works to build close to, directly over or divert a sewer requires their consent.

Police Architectural Liaison Officer – No comments received.

Nottinghamshire Fire Service – THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005

The Regulatory Reform (Fire Safety) Order 2005 imposes a duty upon the owner and responsible person for the above site to take general fire precautions. This requires them to undertake a fire risk assessment for the site and act on its findings and recommendations.

This should include the provision of fire points, fire fighting equipment and a means of raising the alarm in the event of a fire on the site, as determined by the fire risk assessment. There are number of published documents that may support you with this matter which are listed below.

Guide 3 - Sleeping accommodation, ISBN: 978 1 85112 817 4 provides information for the responsible person about the Regulatory Reform (Fire Safety) Order 2005.

Designing Gypsy & Traveller Sites: Good practice guide. This is available from <https://www.gov.uk/government/publications/designing-gypsy-and-traveller-sites-good-practice-guide>

Case Officer comment - This Committee report refers to Designing Gypsy & Traveller Sites: Good Practice Guide and considers that the proposed layout accords with the guidance. A note advising the applicant that a fire risk assessment for the site should be undertaken could be attached to any planning permission.

Neighbours/Interested parties – 51no. written representations have been received including the comments of the Wellow Toft Holders' and Owners' Association. Objections to the proposals can be summarised as follows:

Need for and distribution of Gypsy and Traveller sites

- The area already has the District's second largest concentration of Gypsy and Traveller sites.
- Traveller sites should be dispersed throughout the district and country to avoid concentration in one location. Newark and Sherwood and Wellow and Ollerton in particular have more than their share of G&T sites.
- There should be a total number of traveller sites to be provided and if that number has been reached the application should be rejected.
- Sites are needed in other areas so that travellers can travel.
- Already sites in the immediate area not being used to full capacity. There is no need for extra sites and approval could set a precedent.
- What does 'short-term' transit pitch mean? There are other caravan site where permission

- was only granted for travellers but they are occupied by static caravans. What measures would be taken to monitor 'short-term transit' pitches on the application site?
- The decision should be delayed until the Council's Gypsy and Traveller DPD has been adopted.
 - Content with existing traveller neighbours, however an increase would be unsettling for traveller and settled residents.
 - The area carries the District's second largest concentration of traveller and gypsy sites and this is disproportionate.
 - Difficulties at Tolney Lane are well known. It might seem like a good idea to transfer some volumes across from Tolney Lane – it is not.
 - Disturbed to hear that within thirteen years pitches required in the District will double from 84 to 168, whereas this doubling of requirements will not trouble other Districts within the County.
 - The owner of the site is planning on putting family members on the site as permanent residents which is not 'travelling' at all.
 - An FOI request in 2012 showed only Newark and Ollerton have any real pitches with Ollerton having significantly more mobile plots than Newark.
 - Several written representations state that they are content with the existing traveller sites in the area but additional provision would be a step too far.
 - Existing sites are seasonal and there is spare capacity particularly between January and April.
 - Wellow currently has 36 permanent pitches available for travellers with a further 12 temporary pitches. The additional 8 pitches proposed would take this to 56 pitches.
 - Contrary to advice in Planning policy for traveller sites which states that number of pitches should be related to the surrounding settled population size and density. Wellow is a small village of just over 200 homes. With the additional pitches it would mean that within half a mile radius of the village, there would be a quarter of the population or more as travellers.
 - The Newark and Sherwood Document 'Planning to meet the needs of gypsy and traveller communities. Preferred strategy Feb 2015' states under 4.1 Location of future pitches provision 'Ollerton and Boughton are already on a scale proportionate to the population of settlements' and that 'the balance of pitch provision has been higher in percentage terms in this area than envisaged in the core strategy'.
 - It appears it is not so much a need for the travelling community but more of a want for the applicant's ever increasing family.
 - Fears that the 'short term transit' pitches will become permanent pitches.
 - Newark and Sherwood have failed to identify other sites the emphasis being that the onus will always fall on existing sites – is this equitable?
 - The information supporting the application suggest the Council approached the applicant which raises concern alternative sites have not been considered.
 - There are no requirements from Central Government to provide sites, it is up to each Council. Has the whole of the County been considered?
 - How has need been established?
 - At a recent meeting Council Officer's advised it is policy not to share traveller sites throughout the District but instead to add sites where they already exist.

- It is clear that having a duty to provide traveller sites the planning department will provide them where there is least resistance i.e. near small communities.
- The applicant is trying to get the application through before the Gypsy and Traveller DPD is in place.
- Suspicions about the real reason for the site. Just a commercial venture on the back of an apparent need to provide more room for the applicant's extended family – the two needs are unrelated.
- It is understood that the applicant owns other land in the area, would this also become an easy option for similar sites in the future.

Impact on the character of the area

- The site is outside of the Wellow village envelope
- The location is rural and would result in urban spread with Ollerton and Boughton.
- There are already 3 traveller sites in the immediate area. The scale of sites adjacent to Wellow are beginning to dominate the settled community and are out of scale.
- Another 'Tolney Lane' is being created adjacent to a much smaller community than Newark and villages should not be used to shift the 'Tolney Lane problem' on smaller communities with less infrastructure.
- Undue impact on the Conservation Area. The proposal would neither enhance nor preserve the Conservation Area and would conflict with policies in the development plan.
- Undue impact on heritage assets including setting of nearby listed buildings.
- Impact on attractive rural setting and tourist appeal with associated history of Wellow dam and its open space, the Gorge Dyke and the village which is unique for having a permanent maypole. Several premises in the area offer tourist accommodation in addition to a 'thriving public house'. Other local businesses in horse riding and leisure pursuits are growing. The trade and employment offered by these businesses relies on the character of the conservation area for its appeal. An inappropriate traveller site in a prominent position will jeopardise the appeal and thus trade and employment in the area.
- The village would lose its status being merged into Ollerton/Boughton.
- The site is in a prominent position at the entrance to the village, a village which is unique in the country having a permanent Maypole.
- Wellow will lose its individuality with the traveller site and the new estate on Wellow Road.
- Loss of ancient meadow and bat habitat.
- There are other areas in the District less densely populated where such development would cause less detriment and fewer problems to established communities.
- Increasing the size of the Gypsy and Traveller site means it will be far out of proportion when compared to the size of Wellow village and will dominate the community.
- If granted this would be the first traveller site in Wellow Parish and may set a precedent.
- Loss of green space, mature trees and natural habitat.
- The land is ancient meadow and will be lost forever.
- Will trees be replaced?
- The site is physically split from the existing traveller sites – could the applicant's extended family be accommodated within the existing sites already created?

- The layout goes against guidelines in 'Designing Gypsy and Traveller Sites – Good Practice Guide'
- There is nothing on the plans showing which plots are static and which are mobile.
- The popularity of the village cannot be underestimated to local walkers and tourists.
- The area between Ollerton and Wellow is being extensively developed including a new housing estate, industrial estate on the old colliery site, the new crematorium and the current traveller site.
- It is understood the applicant has applied to use the field opposite the Shannon site but it was turned down due to bad access. If this site is allowed they could go under the bridge on Wellow Road and will have access to that large field creating the largest site in the Midlands.
- Does the proposal comply with the development plan regarding building within the village boundary and ensuring non encroachment of green space?
- The site is inappropriate due to its small footprint abutting two major routes.
- The proposed site effectively fills in the space between Wellow, Ollerton and Boughton whilst not being part of any of them.
- What does the term pitches mean? Occupiers are likely to have static caravans plus a touring caravan.
- The proposals will impact on the visual amenity of the area.
- Concern about possibility of encroachment on the Wellow Toft Holders' Common land, part of which lies on the other side of the road from the application site.
- Leaving the site 'to nature' will keep the distinct brake between toft holders' land and private land.

Impact on the environment

- There is Japanese knotweed on the site
- Concrete bases will have an adverse impact on surface runoff. Drainage problems in the area particularly on nearby fields. Also the old railway line drainage empties into the drain in the middle of the application site and access is needed by Severn Trent Water at all times.
- Wellow is a small village with Conservation status, a site of SSSI as well as unique historical features including the Wellow Dam. The village has limited amenities.
- Protected species and endangered flora are known to be found in the area.
- Impact on the delicate ecosystem of Wellow Dam.
- The Wildlife Trust's suggestion for leaflets to be distributed to residents regarding the sensitivity of local sites is likely to break down quickly given the likely short term usage of pitches.
- Potential for noise from the site.
- The Environmental Health Officer has raised some alarming concerns regarding the suitability and size of the site and the planned development.
- Wellow will be overshadowed and overlooked.
- The application site supports newts and frogs from the neighbouring Dam.
- The Environmental report submitted does not take into account breeding and migration

periods of the Great Crested Newt.

- Existing flooding problems would be exacerbated.

Highway impact

- Impact on highways safety and traffic congestion.
- Increase in traffic including probable significant element of commercial.
- The site demands car ownership.
- Will exacerbate exiting traffic problems when traffic from the A1 is diverted onto the A616.
- The revised access is at the lowest point of the land and stormwater runoff will go directly onto the highway.
- This is also the main route to Sherwood Crematorium which is used by a large number of vehicles.
- Increased traffic could endanger ramblers, children and dog walkers.
- There are insufficient parking spaces particularly if visitors and additional vehicles for touring caravans are taken into account.
- There is no restriction on the total number of vehicles permitted to park or be stationed on the site.

Health and safety

- There is an electrical sub-station adjacent to the site and it does not seem safe for caravans to be located adjacent to it.
- The access/egress and turning arrangements do not meet the requirements for Fire Engines

Other matters

- The application refers to a utility block. The 'euphemism 'utility block'' has been used to construct an illegal bungalow on a neighbouring site. How has this been allowed to happen?
- Would other residents in NSDC be allowed to get permission for caravans and a utility block? It is unlikely an application for a house on the site would be granted, why is this?
- Added strain on health and education facilities bearing in mind 150 houses being constructed close by. No additional infrastructure is being provided.
- It does not inspire confidence to see on the application forms that the applicant was 'approached by NSDC'. Despite a robust defence of the process by Council officers at a recent Parish Meeting, it might appear a done deal.
- Site design does not follow government guidelines.
- The applicant is planning to mix family with complete strangers which goes against common sense.
- The proposed utility block suggests the site will be for mobile caravans.
- Concern about the application procedure in that the original application was withdrawn and this application then submitted. Concern people will not realise this and will miss the

opportunity to comment.

- Too many vague parts to the proposals which if granted permission will allow the applicant to make the site into whatever configuration they want.
- Request that the Council take on board 'the overwhelming wishes of the majority of the population who expressed their objection to this application in their petition'.
- Increase in the traveller population will inundate the two public houses in Wellow.
- Nothing was done to stop the illegal site 50 feet from the new site that was only four static caravans. The worry is residents from Tolney Lane will be moved here.
- There are conflicting statements within the submission e.g. the application forms state the site is not adjacent to a watercourse yet there is a stream nearby. Also the forms state no gain next to residential units – does a static or mobile caravan not count as a residential unit?
- The proposal will cause unrest in the local community.
- There is another strip of land off Newark Road which has caravan storage and there is a brick house there without planning permission – this should be investigated.
- The traveller community at Shannon Park do not interact with people outside their own community.
- Why is the application even being considered?
- Voluntary work to look after the village and local pride will decrease if the application is approved.
- The proposal could impact on annual social events such as the Maypole Day and Christmas festivities.
- The application includes provision for transient trailers yet the plans show no provision for administration.
- Potential for nuisance behaviour including door-to-door callers and unauthorised use of loudspeakers by scrap metal collectors.
- The application does not identify who will be responsible for boundary hedge maintenance and existing grass verges.
- The boundaries of the site are not clearly defined.

Petition

A copy of a petition with 139 signatures has been received opposing all applications to increase the number of pitches for travellers in the Wellow and Ollerton area. The petition states that the area will have a disproportionate number of pitches and sites compared to other areas of the District. Any increase would alter and unbalance the mix of communities and there would be an adverse impact upon amenities and the environment for both communities. The increase would also put at risk the excellent community relations that currently exist.

Letter from MP

A letter has also been received from the local MP offering support to the comments made by Wellow Parish Council and asking that the Council consider rejecting this application if there are grounds to do so. The MP has also written to request that a representative of the Wellow

Residence Society be allowed to speak against the proposal at Planning Committee.

Letter from Campaign to Protect Rural England (CPRE)

A letter was received on 24th December 2015 raising the following concerns:

- CPRE struggle to see how the establishment of a traveller site could either preserve or enhance the conservation area.
- Are not persuaded that this site is suitable for a traveller site.
- Noteworthy that Wellow Parish Council recognise the need to make provision for travellers as there are already sites in the area to which there is no objection.
- They understand that there is a local belief that existing sites are under utilised and the Council has been less than forthcoming in producing evidence of need.
- CPRE are opposed to discrimination of Gypsy and Travellers. However, they are also opposed inappropriate development on land in the countryside
- CPRE has reason to believe travellers prefer smaller sites with a small number of pitches to accommodate immediate and extended family as supported by the Governments best practice guidance which suggests smaller sites (up to a maximum 15 pitches) are conducive to providing a comfortable environment which is easy to manage.
- Appreciate the applicant wants to extend their existing site but ownership might not be everlasting.
- This site combined with the existing site to the north would effectively become one larger site adding 8 pitches.
- The dividing line between the site to the north is the dismantled railway line forming part of the protected habitat 5/312 of the Boughton railway tracks. It is not difficult to image children/youths from the site being attracted to this area.
- They consider the recommendation in the Extended Phase 1 Habitat Survey submitted for new residences to receive an ecological information leaflet to be somewhat naïve in any expectation that its content will receive close attention and achieve its objectives.
- Despite the fact the site is in close proximity to several sites that deserve protection, including the Wellow Dam, and despite the arguments that the proposal may not have an immediate and significant adverse effect, the matter should be considered in the context of the local concentration of traveller sites around the Wellow area.
- Smaller sites are better than larger ones in that they provide greater potential to integrate with the settled community, the same applies to a concentration of a number of sites in the same area.
- Avoiding further concentration of traveller sites would mitigate against any harm to the surrounding landscape and neighbouring amenities as sites would be less inclined to dominate their surroundings in line with Planning policy for traveller sites.
- There is a strong argument in favour of this application being called in by the Secretary of State and CPRE urge the Council to take steps to that end, unless it is minded to reject the application.
- Designation of a travellers' site in a conservation area could set a precedent and the

Council's Conservation Officer accepts the proposal would have an adverse effect on the conservation area.

- Should the application be approved (which CPRE believe would be ill-advised), conditions suggested by other consultees including archaeological mitigation, wildlife protection and a requirement to consult Severn Trent Water with regards to protection of the public sewer should be attached.
- The Council should find sites for travellers outside the Conservation Area.

Written representation on behalf of the Governors and Trustees of Wellow House School - received on 4th January 2016 updating their comments of 8th December 2015.

They have not been able to find any evidence of another traveller site being approved in a Conservation Area in the UK and whilst it is possible that one might exist, having looked at the policies of a number of local authorities including those of Newark and Sherwood DC they appear to take the very sensible approach that the harm caused needs to be weighted against the public benefit as is set out by the NPPF. They therefore consider that unless a scheme is of exceptional quality and design, it is unlikely to be approved in a heritage environment. This coupled with the unsustainable location, over allocation at the site and the contents of the Council's own policies, they cannot find a compelling case to support an application of this nature. They object to the proposals and their comments can be summarised as follows:

- 1) Inadequate notice of application – They have no record of any correspondence on this application.
- 2) Traveller Sites SPD – Given the basis of the officer report is that there is insufficient allocation, they would suggest that the authority is actively working to rectify the situation and the consideration of this application should be deferred until the DPD is adopted. They accept the intention to update site allocation figures into the next plan period to supplement the selection criteria for sites. However, the proposals in this application are a clear contravention of the retained policies for Traveller sites.
- 3) Open Break and Landscape – Refer to the selection criteria in Core Policy 5. There is no defined open break policy for Wellow and as it is not Greenbelt it is not afforded special protection. However, Wellow is a special place with a defined landscape character which contains a SSSI, scheduled ancient monument, a number of listed assets, undesignated assets and strong potential of Archaeology, In short it is overlooked as a cultural asset in its own right. From a Landscape perspective, there is a clear separation between Wellow Village and Ollerton and Boughton. Recent developments and approvals have begun to erode and close this gap with new housing on sites off Newark Road and the Ben Bailey site and Caravan Park off Wellow Road. The proposals put forward in this instance, regardless of use, aims to link isolated developments to extend the built form of Wellow out beyond the 'Village Envelope'. In any other format this creep into open countryside and the erosion of the defined character of an area would not be excusable and forms a basis for Refusal in its own right for the Harm caused to the Landscape Character and erosion of the village envelope as defined by the Gorge Dyke.

Some planting has been offered to afford some screening measures, however, as this is not accompanied by a Landscape Visual Impact Assessment, it cannot establish the quality of the screening offered against the visual harm caused. As outlined Core Policy 5, the council must ensure that appropriate landscaping and planting would provide and maintain visual amenity. They don't consider the Council is in a position to ensure the Visual Amenity is unharmed.

4) Sustainable location – Newark and Sherwood's core Gypsy and Traveller DPD and adopted policy goes to great lengths to set out policies for the location, design and numbers required for new traveller sites with the preferred strategy being to locate traveller sites in Newark and Ollerton & Boughton with the allocation being 19 new pitches in this plan period skewed 78% - 22% in Newark's favour. Effectively 4-5 pitches in Ollerton & Boughton and 14-15 in Newark. In light of this there is no intention to allocate any pitches in Wellow. There is also no reason to allow a development of this scale even if it were closer to the service centre of Ollerton & Boughton which is only allocated for 4-5 pitches. The proposal is clearly in the wrong place.

Reference is made to the selection criteria in Core Policy 5 relating to access to services and facilities. Wellow is not defined as a suitable or sustainable location for further development for residential purposes. Whilst it is accepted that Traveller sites are not strictly defined as residential, there will be people occupying the site for the majority of the year and as such there will be a reliance on services such as shops etc. to serve people using the site. Wellow as a parish does not contain any facilities leading the authority to define the village as an unsustainable location which is why they must object to such development. In terms of sustainable locations, the usual method would be to start in the location where facilities are to be found and work out radially using the sequential test to eliminate sites closer to the service core. This being the case, they are certain that a more suitable site would be forthcoming closer to services before the parish of Wellow is considered. This again they believe to be a strong reason for Refusal.

5) Traffic Impact – Reference is made to the selection criteria under Core Policy 5 relating to safe and convenient access to the highway network. The nearby crossroads which serves 5 directions currently (to Ollerton, To Wellow, To Rufford, To Boughton and To Wellow Dam and Cricket Field) is dangerous. Special events at Wellow Dam and the Green beyond or the closure of the Rufford Road, always exacerbates the situation. It is unclear which version of the access is the one under consideration, they assume that the original submission is the document before committee. This being the case, the proximity of the access to this junction and the nature of the vehicles which will be using the access way to manoeuvre, it is highly likely that it will interrupt the flow of traffic through this already struggling intersection. Object to the proposals submitted on the inadequacy of the consideration to Traffic Impact.

6) Heritage Impact – Reference is made to the selection criteria under Core Policy 5 relating to the impact on important heritage assets, nature conservation or biodiversity sites. The site is located within the Wellow Conservation Area. The scheme has the potential to harm the setting of a number of assets, not least of which is the nearby Jordans Castle. As no heritage Impact

Statement has been submitted the harm caused to these assets cannot be fully assessed. They note the conservation Officer's comments and as harm has been identified this must be weighed against the benefits. As they consider there are more sustainable locations, they suggest the harm outweighs the benefits by quite a margin.

7) **Economic Impact** – There are proposals coming forward at County level to better reveal the significance of the Gorge Dyke and Jordans Castle at Wellow in the form of an interpretation room as part of a visitor attraction to support tourism and attract inward investment into heritage assets in the locality. The setting of these assets will be significantly altered within visitors perception.

The site is also in close proximity to the Cricket Club, fishing lake, Wellow Stables and Wellow House School. Given the nature of these establishments and the way in which they serve their sector of the community, it is likely that their clientele will form their own opinions of this type of development in proximity to the facilities they use and likely that the development will impact on the economic viability and future plans for these unique facilities which serve the wider community.

It is highly likely the future proposals for the school site presently being developed will need to be reconsidered and the nature of the scheme altered to security. The school is not suggesting that the proposals would attract 'the wrong type' of character to the area, but there would be a perception from users of the school that this would be the case and in order to retain the client base of the school it would be forced to respond in an appropriate way. This would lead to enclosure of the school site separating it from the community where we are currently attempting to repair ties and invite the community into the site to use the facilities on offer such as the new pool which is under development, this would change if the proposals are approved.

In conclusion the Governors and Trustees of Wellow House School are staggered the application has reached a second Committee meeting. They consider it is in clear contravention of a number of Council policies, the NPPF and the Council's policies for travellers in the District. They consider the application should be refused. It would appear that as an appeal has been lost elsewhere for a Traveller Site and the DPD has not been published, the officers feel that the LPA could be open to challenge and are balancing this position in favour the various harms inflicted on heritage, landscape, SSSI, village character, trees, highways, ecology and the parish by such a proposal. They find this simply inexcusable in light of the significant number of objections and representations received including those from the local MP and must urge the committee to Refuse this application.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)
Spatial Policy 1 (Settlement Hierarchy)

Spatial Policy 2 (Spatial Distribution of Growth)

Spatial Policy 7 (Sustainable Transport)

Core Policy 4 (Gypsies & Travellers and Travelling Showpeople – New Pitch Provision)

Core Policy 5 (Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople)

Core Policy 9 (Sustainable Design)

Core Policy 10 (Climate Change)

Core Policy 13 (Landscape Character)

Core Policy 14 (Historic Environment)

The Allocations and Development Management DPD

Policy DM5 – Design

Policy DM8 – Development in the Open Countryside

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption on Favour of Sustainable Development

Other Material Considerations

- National Planning Policy Framework (March 2012)
- National Planning Practice Guidance (web based resource)
- Planning policy for traveller sites (August 2015)

When determining planning applications for traveller sites, this policy states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life for travellers while respecting the interests of the settled community.

Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies within the NPPF and this document (Planning Policy for Traveller Sites).

This document states that the following issues should be considered, amongst other relevant matters:

- Existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- Locally specific criteria used to guide allocation of sites in plans should be used to assess applications that come forward on unallocated sites;
- Applications should be determined for sites from any travellers and not just those with local connections.

The document goes on to state that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan and sites in rural areas should respect the scale of, and not dominate the nearest settled community, and avoid placing an undue pressure on local infrastructure.

- Designing Gypsy and Traveller Sites – Good Practice Guide (May 2008)
- Landscape Character Assessment SPD (Adopted December 2013)

Comments of the Business Manager Development

The main planning considerations in the assessment of this proposal are the need for gypsy and traveller sites, the planning history of the site, the impact on the appearance of the countryside, highway issues, access to and impact on local services, residential amenity for occupants of the application site and neighbouring sites and the personal circumstances of the applicant.

The site is relatively sustainable purely in terms of its location closely located to Wellow Village, Ollerton and Boughton being well related in position to the highway network and its proximity to the services in the nearby settlements.

The Need for Gypsy and Traveller Pitches

The NPPF and the Government's 'Planning policy for traveller sites' requires that Local Planning Authorities maintain a rolling five year supply of specific deliverable Gypsy & Traveller sites together with broad locations for growth within 6-10 years and where possible 11-15 years. Government policy states that a lack of a five year supply should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

Core Policy 4 (CP4) set a district wide target of 84 pitches to be provided up to 2012. 93 pitches were provided over this period and since that time work has been progressing on a new assessment of need and approach to meeting this. The Council initially intended to produce a separate Gypsy and Traveller DPD but now propose to include this within the review of the development plan. Public consultation on the Plan Review Issues Paper took place between 5th October and 16th November 2015.

The Issues Paper identifies a requirement for 25 permanent pitches in the period 2013-2018. Four pitches have been delivered through the grant of permanent planning permission which leaves a requirement for 21 pitches. There are currently no other sites with planning permission, no allocated sites and consequently the Council does not have a five year supply of sites.

I note the comments received with regards to the distribution of Gypsy and Traveller sites in the District. Clearly Ollerton and Boughton is a favoured destination for the Traveller community, just

as with the settled community there are areas that people have a desire to live in. I also note the reference in comments received to the Council having approached the applicant and concern whether alternative sites have been considered. Any policy is usually accompanied by a call for sites and this is a site that came forward. However, an invitation to submit sites is not confirmation that it is likely to be acceptable in planning terms. Whilst the Plan Review may ultimately yield a new approach to the provision and distribution of Gypsy and Traveller sites, in determining this application now the main considerations have to be the lack of other available sites and suitability of this site by reference to the criteria of Core Policy 5. As identified referenced above, the lack of other available sites is a material consideration that needs to be given significant weight in the determination of this application.

I am also mindful of a recent appeal decision (4th February 2015) relating to a gypsy and traveller site at Allesford Lane, Edingley (13/01428/FUL). The Council granted temporary planning permission for occupation of the site in light of the fact that the Council could not demonstrate a 5 year land supply but was working towards a Gypsy and Traveller DPD which would consider allocating sites to meet the identified need and that individual applications should not pre-empt this process. The Inspector noted that National Planning Practice Guidance (NPPG) sets out guidance when determining planning applications. It confirms that the Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development it states that arguments that an application is premature are unlikely to justify a refusal of planning permission. The Inspector continued:

'32. The NPPG gives examples of situations where it may be justifiable to withhold permission on the grounds of prematurity. These are where the development proposed is so substantial or its cumulative effect so significant that to grant permission would undermine the plan making process AND where the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

33. In this case the Council has not withheld permission but instead has given a temporary planning permission. The proposal is not substantial and would not have a significant cumulative effect. In addition the emerging Allocations DPD is not at an advanced stage. I therefore conclude that, in the event that all other matters are acceptable and in the face of a current unmet need there can be little justification for withholding permanent permission on the basis that to grant a permanent permission would compromise the site allocations process.'

In the absence of a five year supply of deliverable sites it falls to assess the proposal against the criteria of Core Policy 5. Furthermore, if the site complies with the criteria in Core Policy 5, consideration needs to be given as to whether it would be reasonable to grant full planning permission for the proposal given the situation in respect of the Council not being able to demonstrate a 5 year land supply has not significantly changed since the appeal decision at Allesford Lane.

Sustainability of Location

Before considering the characteristics of the proposal, the second of the criteria under Core Policy 5 is that 'the site is reasonably situated with access to essential services of mains water, electricity supply, drainage and sanitation and to a range of basic and everyday community services and facilities – including education, health, shopping and transport facilities'.

As identified above, the Council is currently not in a position to identify available sites for Gypsy and Travellers. There are therefore no alternative sites within the most sustainable locations defined in the settlement hierarchy set out in Spatial Policy 1. To comply with Core Policy 5 the site must be reasonably located with access to the range of amenities and facilities set out above. The site is within walking distance to three neighbouring settlements and within 30 minutes travel time by public transport of: a Town Centre, primary & secondary school, further education facility, GP surgery, supermarket, retail area and employment site.

Concerns have been raised in written representations with regards to the potential impact on infrastructure in the area. Given the scale of this particular proposal, it would not hit the triggers for developer contributions to be made. The recently approved development for up to 150 dwellings at Wellow Road Ollerton (13/00743/OUTM), referred to in some of the comments received, included a Section 106 which secured contributions towards infrastructure in the area including a health contribution.

Taking the above factors into consideration, I consider that in the context of no alternative sites being available within sustainable settlements, the application site is reasonably located in terms of access to the range of amenities and services listed and as such would be relatively sustainable.

Impact on the character of the area

The first of the criteria under Core Policy 5 states that 'the site would not lead to the loss, or adverse impact on, important heritage assets, nature conservation or biodiversity sites'. I would assess these matters as follows:

Conservation of heritage assets

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') require consideration as to whether the proposal preserves or enhances the character and appearance of the Wellow Conservation Area.

The paragraphs under Section 12 of the NPPF relating to 'Conserving and enhancing the historic environment' are relevant.

Core Policy 14 and Policy DM9 also require the continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment. In conservation areas development proposals should take account of the distinctive character and

setting of individual conservation areas including open spaces and natural features and reflect this in their layout, design, form, scale, mass, use of materials and detailing. Impact on the character and appearance of Conservation Areas will require justification.

I also note that the Conservation Officer highlighted the potential for archaeological interest on the site. Following submission of a Heritage Statement and Archaeological Impact Assessment the Conservation Officer has confirmed that they broadly concur with its findings. The Assessment concludes that the likely potential for Medieval, Post Medieval and Modern remains within the proposed development area is considered to be low, however, as this assessment is unable to fully determine the potential for buried assets relating to earlier periods, a degree of archaeological mitigation may be required to ensure no remains are overlooked during development. The report highlights that given the nature of the proposal, it is likely to involve minimal subsurface intrusion but any trenching for cabling, services or foundations on the site has the potential to impact on buried remains. I note the comments of the County Council's Archaeological Officer and consider it would be reasonable to attach the suggested condition to ensure the potential for archaeology on the site is appropriately considered within the development process.

I note the Conservation Officer's comments with regards to the change of use and associated physical elements proposed being a departure from the existing landscape characteristics and that the proposal is likely to have some harmful impacts on the character and appearance of the Wellow CA. The harm identified by the Conservation Officer is less than substantial. Paragraph 134 of the NPPF states that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this respect I am mindful that the Council is not in a position to identify alternative sites to meet the current unmet need either generally or that specifically presented by this application and I therefore consider that the provision of 8 pitches in a relatively sustainable location represents a substantial public benefit in this instance.

I am also mindful that the applicant has confirmed they would be willing to incorporate suitable planting to compensate for any loss of greenery removed to facilitate access into the site and this would be in addition to the substantial amount of planting to the perimeter of the site that is to be retained. I note the Conservation Officer's comment that that green infrastructure is capable of mitigating some of the harm identified above. The Conservation Officer has also stated that the development is not likely to harm the setting of any listed buildings (including the Grade II Listed Chailey House) provided that the development is well-screened to Newark Road and Wellow Road. Substantial screening already exists and this could be supplemented, particularly to Newark Road, through confirmation of any additional planting by way of a condition attached to any planning permission.

Overall I consider that the public benefits and other material considerations in respect of the impact on the character and appearance of the conservation area would be sufficient to outweigh the less than substantial level of harm to heritage assets identified to warrant favourable consideration against Core Policy 14 Policy DM9 and Paragraph 134 of the NPPF.

Ecology

The paragraphs under Section 11 of the NPPF relating to 'Conserving and enhancing the natural environment' are relevant.

Core Policy 12 and Policy DM7 relate to 'Biodiversity and Green Infrastructure' and seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.

The nearest Local Wildlife Sites (LWSs) to the site are Wellow Dam, (recognised as a mosaic of scrub and damp, species rich grassland with notable species around a fishing pond) which is situated approximately 40m to the east of the site and Boughton Railway banks with notable sections of habitat along the embankment some 30m to the north of the site. Other sites in fairly close proximity include Ollerton Colliery LWS (approx. 230m) and Wellow Park SSSI (approx 400m). The Site is also located centrally within the ppSPA for nightjar and woodlark, with Ollerton Colliery considered an Important Bird Area of the ppSPA. I note that Nottinghamshire Wildlife Trust welcome the Extended Phase 1 Survey undertaken and are generally satisfied with the methodology, results and recommendations provided. Natural England have also confirmed that the SSSI does not represent a constraint in determining this application.

With regards to the potential for increased recreational disturbance on the above sites, I am mindful that this is unlikely to be a significant increase given the scale of the proposal under consideration above that already anticipated from other residential development proposals in close proximity of the Site. However, I am mindful that nightjar and woodlark are protected wherever they occur and note that the Trust strongly agree with Recommendation 1 within Section 5.2. of the Phase 1 Survey report, in which all new residents should be provided with a leaflet informing them of the value of the Sherwood Forest Area to woodlark and nightjar and of the impact of recreational disturbance, particularly from dogs. The Trust agree that the leaflet should request residents to stay to marked footpaths and to keep dogs on leads during the bird breeding season. I am aware of a site elsewhere in the District where such a leaflet has been produced and consider it would be reasonable in this instance, particularly given the transit nature of the pitches proposed, to attach a condition requiring new residents to be informed through provision of appropriate information. Given the limited capacity of the site and the nature of the proposal, I consider that such information in addition to the proposed open play area will provide an appropriate level of mitigation to deter residents from using neighbouring habitats for recreational purposes.

With regards to nesting birds and the retention of scrub on the site, I note that Nottinghamshire Wildlife Trust welcome the retention of the scrub within the current proposed site plan. I also consider it would be appropriate to attach a condition requiring any removal of vegetation occurs outside the bird breeding season unless vegetation has first been checked by a suitably qualified ecologist.

A condition can also be attached to any planning permission requiring any trenches (for example where dug out for the proposed utility block) to be covered overnight during the construction

phase. I note that no evidence of badgers was found on site, however, an appropriate condition and a note with reference to the Badger Protection Act could also be attached to any permission advising that the site is checked for badger setts prior to works commencing.

I note the Wildlife Trust's comment with respect to sensitive lighting being incorporated within the development and I note the proposed layout plan indicated lights at the proposed water points on the site. Whilst it monitoring of any lighting to the caravans on the site would be unrealistic given the transit nature of the proposals, given the proximity to broadleaf woodland, I consider it would be reasonable to request precise details of any external lighting by way of a condition to help prevent any undue impacts on the habitats of nocturnal protected species, such as bats.

I note the comments received in written representations drawing attention to Japanese knotweed on the application site. I note that Nottinghamshire Wildlife Trust refer to 'Invasive Plant Species' within their comments and agree with Recommendation 5 of Section 5.2. of the Phase 1 Survey Report submitted with the application. I consider it would be reasonable to attach a condition to any planning permission requiring details of a management plan detailing how any site workers will be made aware of the species and if any is found, works must stop immediately and an appropriate treatment plan should be submitted to the Council and once agreed the development be completed in accordance with the treatment plan.

I note the Wildlife Trust's comments in relation to retention of habitats. The submitted plans show retention of the broadleaf woodland and the Tree Protection Plan submitted shows the retention of existing boundary fencing and the erection of protective fencing where required. The details approved should planning permission be granted can include reference to the Tree Protection Plan.

With regards to biodiversity enhancements, I note that the Wildlife Trust advise that any landscape planting should be native species of a local provenance. The applicant has confirmed in their Design and Access Statement that the eastern boundary is to be screened with new planting. A condition could be attached to any planning permission requiring precise details of proposed planting and that this planting should be native and of a local provenance. Furthermore, Natural England have advised that there may be opportunities to incorporate features such as roosting opportunities for bats or the installation of bird nest boxes into the design. I consider the proposed utility block for example may provide opportunities for such features and consider it would be reasonable to attach a condition requiring details of such features.

Given the above considerations I am satisfied there is unlikely to be any significant impact on ecology or protected species and that appropriate mitigation could be secured by planning conditions were a favourable decision to be forthcoming. Consequently I consider that the proposals would comply with Core Policy 12 of the Core Strategy DPD, Policy DM7 of the Allocations and Development Management DPD and guidance in the NPPF.

Highway Impact

Criterion 3 under Core Policy 5 requires the site has safe and convenient access to the highway network.

Spatial Policy 7 states that development proposals provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use. Proposals should provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements. Proposals should ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems.

I am mindful of the written representations received raising concerns about the potential highway implication as a result of the proposal. Following the initial comments of the Highway Authority which raised concerns about the proximity of the proposed access to the junction of Newark Road with Wellow Road, a revised proposed site plan has been submitted which relocates the proposed access further north away from this junction. The Highway Authority have confirmed that the revised plan meets their requirements and I consider that the conditions and note suggested are reasonable and could be attached to any planning permission. The Highway Authority has raised no further highway safety concerns or concerns with regards to road capacity in the area.

Footpaths on Wellow Road and Newark Road as well as a right of way between the two roads sit in close proximity of the site.

Given the above considerations, I am satisfied that the proposal would not result in any significant highway implications and the proposal meets criterion 3 of Core Policy 5 and the requirements of Spatial Policy 7.

Impacts on the amenity of nearby residents

Criterion 4 of Core Policy 5 states 'the site would offer a suitable level of residential amenity to any proposed occupiers and have no adverse impact on the amenity of nearby residents'.

Policy DM5 requires the layout of development within sites and separation distances from neighbouring development to be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

Whilst the site sits in close proximity to existing Gypsy and Traveller sites to the north and west, the application site benefits from the substantial screening provided by the woodland that sits between the site and these neighbouring sites. The nearest dwellings to the site are situated at The Limes and Treehaven on the opposite side of Wellow Road and given the nature of the proposals and the distance between the site and these properties including the intervening road, I

am satisfied that the proposals will not unduly impact on neighbouring amenity by way of any undue overbearing impacts or any loss of light or privacy.

Each of the proposed pitches is shown to include a grass area measuring a minimum 4.0m width x 7.5m in addition to the shared play area to the centre of the site. I am satisfied that this will ensure the occupiers of the site are afforded an adequate standard of amenity in accordance with Policy DM5. The Environmental Health Officer has also confirmed that following submission of a revised plan to address their initial concerns, site layout meets their requirements. An informative note could be attached to any planning permission advising the applicant that a Caravan site Licence would be required.

I note the concerns raised with regards to the potential for noise and other anti-social behaviour. The Environmental Health Officer has raised no concerns in this respect and I have no reason to believe a site being used for the purposes described would necessarily result in any significant changes in terms of noise in the area. Any anti-social behaviour would be a Police matter.

Given the above considerations, I am satisfied that the proposals will not unduly impact on neighbouring amenity and will also provide a suitable level of amenity for occupiers of the site. The proposals therefore meet the requirements of Criterion 4 of Core Policy 5 and Policy DM5.

Impact on landscape character

Criterion 5 of Core Policy 5 states that the site should be 'capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity'.

Policy C in 'Planning policy for traveller sites' states 'When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community'.

Policy H of the same document states that local planning authorities should attach weight to matters including where sites are well planned or soft landscaped in a way as to positively enhance the environment and increase its openness. Weight should also be attached to promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children as well as not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. In this regard I note the submitted layout includes retention of existing vegetation other than that to be removed for provision of access, play space and other grassed areas and no high walls or fences are indicated. Hard landscaping is limited to the access drive and hard standing areas to individual pitches.

Policy DM5 states that the rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals.

Core Policy 13 requires development proposals to positively address the implications of the Landscape Policy Zones in the Landscape Character Assessment SPD.

The application site is located within the Wellow Village Farmlands with Ancient Woodlands Policy Zone (MN PZ 22). The landscape here is described as a gently undulating, rounded topography and includes some small areas of mixed deciduous woodland within the field systems. Landscape condition is defined as good with a coherent pattern of elements composed of some blocks of woodland, arable fields and parts of the settlements of Wellow, Ompton and Kneesall with few detracting features aside from pylons and power lines and a Golf Course. Overall this gives a visually unified area. Cultural integrity is described in the SPD as variable in that the field pattern is mainly intact with some mature species rich hedgerows, whilst field patterns can sometimes be lost and hedgerows fragmented. Landscape sensitivity is defined as moderate with views often intermittent and often enclosed due to blocks of woodland and a good network of hedgerows. Landscape actions for this area are to conserve and reinforce.

Existing fields, Willow Dam and existing woodland help to retain a degree of visual separation between the nearby settlements of Ollerton, Boughton and Wellow. The application site benefits from a substantial change in level from Wellow Road with the site being at the lower level. The site is also well screened to the west and south from the existing woodland. Given the nature of the development the built form on site would be relatively low level in terms of its height and the submitted layout plan shows retention of much of the existing planting and an open play area adjacent to the boundary with the road. All but one of the proposed pitches are therefore set back from the boundary with Newark Road. Furthermore existing planting to the eastern boundary with Newark Road is shown to be retained, save for some clearance of vegetation to facilitate provision of the proposed access. The Arboricultural Method Statement submitted identifies the 8no. trees to be removed as low quality and sets out the methods to ensure remaining trees are appropriately protected during development. The applicant has confirmed in their Design and Access Statement that they would be open to incorporating new planting to this boundary. An appropriate condition could be attached to any planning permission requesting details of additional planting and this will help to ensure that any planting is of an appropriate species which will help to meet the landscape action to conserve.

I consider it would be appropriate to include within any landscaping condition a requirement for precise details to be submitted of any structures not shown on the layout plan, for example to the play area, in order to ensure that a degree of openness can be retained. A condition requiring precise details of surfacing to access roads, pitches and open areas as well as materials to be used in any structures (including the bin store and utility block) will help to ensure the materials used are appropriate to the character of the area.

Overall, I am satisfied that based on the site layout, the characteristics of the site and number of pitches proposed the proposal is of a scale that will not dominate the nearest settled community. I also consider that the layout demonstrates that the proposal is capable of being designed to ensure that appropriate spacing, landscaping and planting are incorporated to maintain visual amenity and weight should be attached to the sympathetic design of the layout which

incorporates features referred to in 'Planning policy for traveller sites'. Details of the proposal can also meet the requirements in the Landscape Character Assessment to conserve and reinforce. The proposals therefore meet the requirements of Criterion 5 of Core Policy 5 as well as Core Policy 13 and DM5.

Flood Risk

The final criterion of Core Policy 5 states that 'in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within PPS 25: Development and Flood Risk and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site specific Flood Risk Assessment'.

The whole of the application site is located in Flood Zone 1 and therefore at low risk of flooding. The proposal is for residential caravans which are identified as being 'highly vulnerable' were they to be located in an area at higher risk of flooding. The NPPF states that local planning authorities should minimise risk by directing such development away from high risk areas to those with the lowest probability of flooding. Policy DM5 also states that the Council will aim to steer new development away from areas at highest risk of flooding. The application site therefore represents a more appropriate location in terms of flood risk than others in the District that might come forward in the context of the Council not being in a position to demonstrate a 5 year supply of Gypsy and Traveller sites.

Given the above I am satisfied that the proposal meets the final criterion of Core Policy 5.

Other matters

I note the concern raised by a member of the public in respect of the number of caravans allowed on the site. Any planning permission would relate to the number of pitches shown on the site layout submitted (8 in this instance). The capacity of the site is controlled by the site constraints in addition to the requirements of the site licence which is controlled under Environmental Health legislation.

With regards to requirements for fire safety, at the time of writing I am still awaiting the comments of the Fire Service and an update can be provided at Planning Committee. However, I note that the Government advice in Designing Gypsy and Traveller Sites: Good Practice Guide states as follows:

'4.25 In designing a site, all routes for vehicles on the site, and for access to the site, must allow easy access for emergency vehicles and safe places for turning vehicles.

4.26 To enable this, suitable roads must be provided, with no caravan or park home more than 50 metres from a road. Roads must have no overhead cable less than 4.5 metres above the ground. Vehicular access and gateways must be at least 3.1

metres wide and have a minimum clearance of 3.7 metres.

4.27 Roads must not be less than 3.7 metres wide, or if they form part of a one way traffic system, 3 metres wide.'

The proposed layout meets the accords with the above design guidance.

In terms of drainage, I note that Severn Trent Water Severn Trent Water have raised no objections to the proposal. A note can be attached to any planning permission advising the applicant that there is a public sewer located within the application site and any works to build close to, directly over or divert a sewer requires the consent of Severn Trent Water.

Comments have also been received raising concerns that the applicant owns other land in the area and the proposal may set a precedent. Any other sites would require separate planning permission and would need to be considered on their own merits.

With regards to concerns about encroachment onto nearby toftholder's land, use of any land as a Gypsy and Traveller site outside the application site would need separate planning permission. Furthermore use of private land would also be a private legal matter.

Concerns relating to the proposed utility block and that this may actually be used as habitable space can be controlled by condition.

I note the comments made relating to the application procedure and opportunities for people in the locality to comment. Site and press notices have been posted and letters sent to neighbouring properties and the level of consultation undertaken accords with the statutory publicity requirements imposed by Central Government. Officers also attended a Parish Council meeting, which was well attended by members of the community, to discuss the detail of the application.

I am satisfied that the plans submitted clearly define the application site and the proposals to be considered.

Any issues with regards to unauthorised development on other sites would need to be investigated as a separate matter.

One comment queried whether an administration building should be required given the proposal for transit pitches. However, I do not consider it would be usual for a site of this nature to include such a building and Environmental Health who deal with licensing on the site have not suggested a requirement for such a facility.

Finally, I note the comment raised with regards to the proximity of the electricity substation which is situated on the grass verge adjacent to the application site. The proposals would not directly impact on the substation in that the proposed access is situated some 36m to the north of this.

However, as a precaution I have consulted the statutory undertaker and any comments received can be reported verbally to Planning Committee.

Personal Circumstances

The Government's new 'Planning Policy for Traveller sites' (August 2015) introduced following the submission of this application requires a revised assessment of Gypsy and Traveller status. Annex 1 of the document sets out the definition of gypsy and traveller for the purposes of the policy as follows:

'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.'

The guidance states that in determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

In order for appropriate weight to be given to the unmet need for Gypsy and Traveller pitches in the consideration of these proposals, the onus is on the applicant to prove that both him and his family along with any other occupier of the site, have Gypsy and Traveller status in accordance with the definition set out in the Planning Policy for Travellers Sites.

The agent has confirmed that it is the applicant's intention to have two of the pitches reserved for future use by his immediate family as permanent pitches to manage the site, with the rest of the site as commercial, short term, transit pitches for Travellers who may be moving in and around the District and potentially pulling onto the roadside. The description of the proposal is that the site will include transit pitches and therefore by their definition, this would support the requirement for users of the site to live a nomadic lifestyle. Council Officers are satisfied that members of the applicants family would meet the Government's current planning definition for Gypsies and Travellers. Given these factors, I consider it would not be unreasonable to attach a condition to any planning permission requiring any occupiers of the site to be gypsies and travellers as defined in paragraph 1 of Annex 1 to Planning policy for traveller sites (August 2015).

The provision of transit pitches will assist in addressing the local need identified in the Issues Paper set out above. There is only one other known site in the District that makes this provision and the lack of such pitches is often cited in appeals as justification for sites that would otherwise be unacceptable.

Balancing Exercise

At the present time there is an unmet need for Gypsy & Traveller pitches within the district that exceeds the number of pitches proposed by this application. National policy and guidance dictates that such an unmet need (lack of deliverable sites) carries significant weight when determining applications. In allowing the recent appeal decision at Allesford Lane, Edingley for permanent pitches, the Inspector in that instance considered it would be unreasonable to withhold a permanent planning permission on the basis of prematurity given that all other matters were considered to be acceptable. As set out above, I consider that the site performs well when assessed against Core Policy 5 for considering sites for gypsies and travellers and presents a relatively sustainable site to accommodate pitches in the absence of a 5 year supply of gypsy and traveller sites to meet the identified need. On balance I therefore consider that full planning permission should be granted for the proposal.

RECOMMENDATION:

That planning permission be granted subject to the following conditions and reasons:

01

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

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

02

The development hereby permitted shall not be carried except in complete accordance with the following plans and details:

Drawing no. 410-104-2 Proposed Site Layout

Drawing no. 410-103 Existing site sections

Drawing no. 410-102 Existing site levels

Drawing no. Arbtech AIA 01 Arboricultural Impact Assessment (Tree Constraints Plan)

Drawing no. Arbtech TPP 01 Tree Protection Plan

Arbtech Arboricultural Method Statement 30 September 2015

Reason: So as to define this permission and for the avoidance of doubt following the submission of amended plans.

03

No development shall take place within the application site until a written scheme for archaeological mitigation has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be implemented in full accordance with the approved details.

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

04

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

Details of additional planting to the eastern boundary of the site;

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

an implementation and phasing programme;

proposed finished ground levels or contours;

means of enclosure;

hard surfacing materials and means of drainage;

minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, lighting etc.

proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)

Reason: In the interests of visual amenity and biodiversity.

05

The approved landscaping shall be completed during the first planting season following the commencement of the development, 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.

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

06

No development shall commence until a sample information leaflet outlining the ecological value of the local area and the sensitivities of woodlark and nightjar to dog walking during the breeding season shall be submitted to and approved in writing by the Local Planning Authority. The leaflet shall be produced in consultation with the Nottinghamshire Wildlife Trust. The approved leaflet shall be distributed by the site owner or manager to any new residents thereafter unless otherwise agreed in writing by the local planning authority.

Reason: In order to protect biodiversity in the District in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

07

Before development is commenced precise details of nesting boxes and bat roosting boxes to be incorporated into the development shall be submitted to and approved by the Local Planning Authority. Once approved the nesting and bat roosting boxes shall be provided before the development is first occupied.

Reason: In order to enhance biodiversity on the site in accordance with the aims of Core Policy 12 and the guidance at Paragraph 118 of the National Planning Policy Framework (2012).

08

Removal of vegetation (including any trees to be removed as detailed in the Arboricultural Method Statement and supporting plans under condition 2 of this planning permission) should not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to removal of any such vegetation and once approved all works shall be in accordance with these details.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

09

Immediately before development is commenced, a suitably qualified ecologist shall check for any active badger setts on the site and (if possible) within 30 metres of the site. Should any badger setts be discovered, this should be reported to the local planning authority for further advise before any works are undertaken. Written confirmation from the ecologist appointed, confirming that the check has been undertaken should be kept and should be made available for inspection following a request from the local planning authority. Any trenches should be covered overnight during the working phase.

Reason: As a precautionary measure due to the transient nature of badgers in the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

10

Before development is commenced precise details of the design, layout and specification any lighting on the site shall be submitted to and approved in writing by the local planning authority. The lighting shall be designed so as to be sensitive to the sites' proximity adjacent to broadleaf woodland, so as to prevent deterioration of habitats to nocturnal protected species, such as bats. Once approved in writing any external lighting on the site shall only be kept in accordance with the approved details.

Reason: In the interests of protecting the District's ecological assets in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

11

Before development is commenced, site workers should be made aware of the potential for Japanese knotweed or other invasive flora species to be found on the site. In the event that any invasive flora species are found during the development phase, works to remove any invasive flora species should cease immediately and an appropriate treatment plan with timescales for removal of the invasive flora species shall be submitted to and approved in writing by the local planning authority. Once approved in writing the invasive flora species shall then be removed in accordance with the approved details.

Reason: In the interests of protecting the District's ecological assets in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

12

Before development is commenced, precise details of the proposed utility block including elevations, floor plans and materials shall be submitted to and approved in writing by the local planning authority. Once approved in writing the utility block shall only be constructed in complete accordance with the approved details and shall only be used as a utility block.

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

13

No part of the development hereby permitted shall be brought into use until the proposed site access shown on plan 410-104-2 is constructed in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority. Such details shall include measures to prevent the unregulated discharge of surface water from the private access to the public highway and vice versa.

Reason: In the interests of highway safety and to ensure the access is constructed to adoptable standards.

14

No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent and as shown on plan 410-104-2 is permanently closed and the access crossing reinstated as verge in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority.

Reason: To avoid confusion of the access arrangement and to allow for future maintenance of an area no longer required to be hard paved.

15

No part of the development hereby permitted shall be brought into use until the private access is surfaced in a bound material for a minimum distance of 5m from the rear of the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

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

16

The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1 of Annex 1 to Planning policy for traveller sites (August 2015).

Reason: In order to ensure occupation of the site is for the purposes described in the planning application as considered against the national guidance set out in Planning policy for traveller sites (August 2015).

17

No commercial or industrial activities shall take place on the land, including the storage of materials associated with any business.

Reason:

In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Core Strategy (March 2011) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

18

No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason:

In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Core Strategy (March 2011) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

Informatives

01

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

If you require any further information, please contact Severn Trent Water on 0116 234834.

02

The Delta Simons Extended Phase 1 Habitat Survey submitted with the application includes a species list of recommended trees and shrubs which should be used to inform the details submitted to discharge Condition 4 of this planning permission.

03

With regards to Condition 8 of this permission, you are advised that all birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 (and as amended).

04

With regards to Condition 9 of this permission, you are advised that Under the Badger Protection Act 1992, it is an offence to disturb an active badger sett. The use of heavy machinery within 30m of a site could be considered a form of disturbance.

05

In order to carry out the redundant and proposed access 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@nottsc.gov.uk for details.

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 not payable on the development hereby approved as the gross internal area of new build is less 100 square metres.

07

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and proactively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

08

For the avoidance of doubt, the definition referred to under Condition 16 of this permission is as follows:

‘Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.’

09

You are advised that this permission does not override any other private legal matters including the need for a Caravan Licence and any fire safety requirements. With regards to the need for a Caravan Licence, you are advised to apply to the Council prior to first occupation of the site to ensure the site is compliant in this regard.

10

You are advised to undertake a fire risk assessment for the site. There are number of published documents that may support you with this matter which are listed below.

Guide 3 - Sleeping accommodation, ISBN: 978 1 85112 817 4 provides information for the responsible person about the Regulatory Reform (Fire Safety) Order 2005.

Designing Gypsy & Traveller Sites: Good practice guide. This is available from <https://www.gov.uk/government/publications/designing-gypsy-and-traveller-sites-good-practice-guide>

BACKGROUND PAPERS

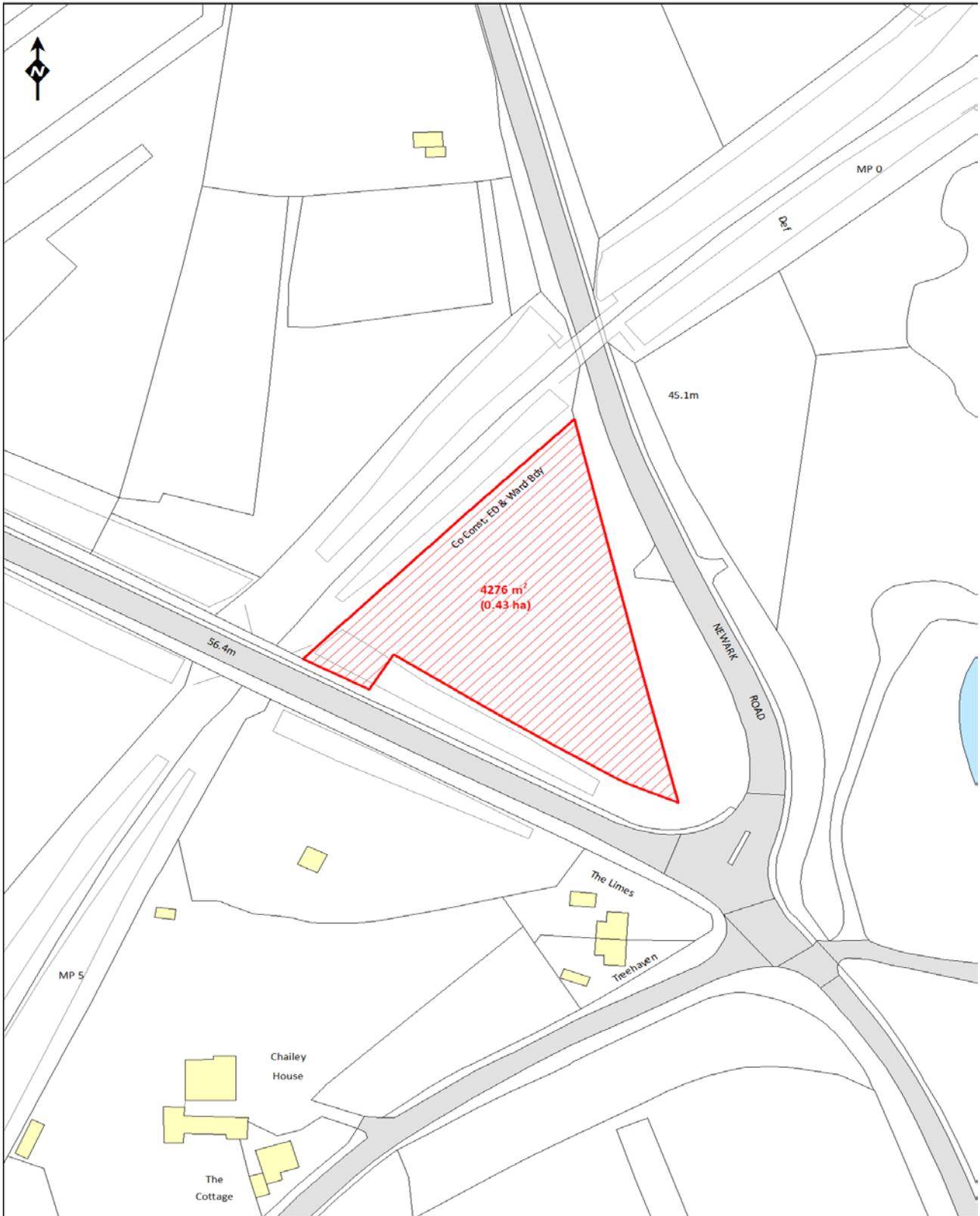
Application case file.

For further information, please contact Martin Russell on 01636 655837

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/00457/FUL



© Crown Copyright and database right 2015 Ordnance Survey. Licence 100022288. Scale: Not to scale

Application No:	15/01908/FUL	
Proposal:	Retention of Wildlife Pond and change of use from agricultural to residential use	
Location:	The Old Vicarage, Epperstone Road, Lowdham, Nottinghamshire, NG14 7BU	
Applicant:	Mr A Archer	
Registered:	11 November 2015	Target Date: 6 January 2016

This application is being referred to Planning Committee for determination by the local ward member, Councillor Wendells, who is in support of the proposal.

The Site

The Old Vicarage lies to the north of Epperstone Road, outside of the main built up area of Lowdham and is located within the Nottingham-Derby Green Belt. The dwelling is considered a building of local interest. The wildlife pond is already in situ and lies to the north of the dwelling, outside of the residential curtilage, within what was previously a field/paddock. The site is surrounded by fields and lies partially within Flood Zones 2 and 3 of the Environment Agency Flood Maps.

Relevant Planning History

No relevant site history.

The Proposal

The application seeks retrospective consent for a wildlife pond located to the north of The Old Vicarage. The pond is approximately 1980m² in area and includes a small island in the centre of the feature and a wooden jetty to the southern bank of the pond. There are also spot lights located around the water's edge which have not been made clear on the submitted plans.

The land surrounding the pond has been landscaped including gentle mounds and 4no. trees to the eastern boundary. The submitted application form states that work commenced on the pond on 10 August 2015.

The submitted application form states that the application is for the retention of the wildlife pond only and in a supporting e-mail with the application, the applicant has stated that "it was never my intention to extend my garden to include the pond area and therefore I am happy for the wildlife pond to remain outside of what the Council considers to be my existing domestic curtilage. This being the case, my application seeks only the retention of the wildlife pond and does not incorporate any associated change of use." This matter is discussed further in the Business

Manager's comments below.

Departure/Public Advertisement Procedure

Occupiers of two properties have been individually notified by letter. A site notice has also been displayed near to the site.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy Adopted March 2011

Spatial Policy 4B: Green Belt Development

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 13: Landscape Character

Allocations and Development Management DPD Adopted July 2013

Policy DM5: Design

Policy DM7: Biodiversity and Green Infrastructure

Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Chief Planner Planning Policy Statement published 31st August 2015

Consultations

Lowdham Parish Council – object to the proposal for the following reasons;

1. Development in green belt
2. Flood lights cause/could cause light pollution
3. Huge amounts of soil have been moved without permission
4. Banking could cause flooding. The raised level around it must cause a rise in water levels which the Parish Council believe will cause flooding. The Parish Council needs to be convinced that flooding will not occur as part of this development.

NCC Highways – No objection the proposal.

Environment Agency – Pond is located within Flood Zone 2 and it does not appear that land levels have been raised and as such no comment to make.

Lead Local Flood Authority – No comments to make.

Trent Valley Internal Drainage Board – No objection to the proposal.

Nottinghamshire Wildlife Trust – Offer the following comments,

Ecological Information

We welcome the ecological information submitted, however, this is limited due to being a desktop study only. **We would have preferred a walkover survey to have been undertaken, as it would be difficult to prove that the site is indeed species poor semi-improved grassland without assessing the species composition of the sward.** Nevertheless, it is understood that construction of the pond has already commenced, and if the site was/is regularly short mown and heavily grazed, we would agree that it is likely that the site could be of less ecological value. Although the creation of a pond specifically for wildlife is likely to bring biodiversity benefits, it is important that you ensure an established priority/rare habitat (such as unimproved grassland) is not lost to make way for a different habitat.

Improved grassland is a Nottinghamshire BAP habitat as it is recognised to provide biodiversity value. This can include the following, as stated in the LBAP, *Floral and invertebrate interest tends to be low in many grasslands if they are grazed hard, but tussocks in lightly grazed grassland can be important overwintering sites for invertebrates and provide essential cover for nesting birds and their young.* If the site is indeed improved/species poor semi improved grassland (although we would argue there would need to be further evidence to prove this) it may be possible to mitigate the loss of grassland within the soft landscaping scheme.

Mitigation and Enhancements

The soft landscaping refers to areas which will be reseeded. We would suggest using a species-rich seed mix to compensate the loss of grassland and to encourage biodiversity benefits to invertebrate species. These areas should only be cut once a year with the arisings removed. If arisings cannot be removed, then a species mix suited to soils of high fertility would be suitable. We suggest **you request confirmation of the proposed seed mix.**

In order for the pond to be suitable to wildlife, it is **vital** that the pond **must not be stocked with fish.** Fish stock are likely to outcompete native species and can prevent amphibian populations from becoming established.

Please also find attached information on native species which could be included with the pond (*only native species should be planted*) and other techniques to include in the pond design which will benefit biodiversity.

We also note the species list associated with the onsite shrub planting does not solely include native species and those appropriate to the landscape area. Please also find attached a species list for the Mid Nottinghamshire Farmlands Landscape Character Area.

Great Crested Newts and other Amphibians

It is considered that the onsite habitats are unsuitable to GCNs. In order for this to remain the case, we would expect the grassland sward to be retained as a short sward prior to and during the construction phase. If any GCNs or unidentified newts are found to be onsite, then works must stop immediately and an ecologist consulted.

NSDC Conservation Officer – no objection to the proposal

One letter of support has been received from local residents/interested parties stating:

The applicant has done a marvellous job and they raise no objection to him being able to keep the pond as it has been constructed. In an area where everyone seems to be building houses on every available piece of grassland, it is a welcome change to see somebody giving something back to the environment. The pond will no doubt secure many ecological and wildlife benefits – indeed a family of ducks already appear to have made the pond their home. The application will not detrimentally affect anybody else.

Comments of the Business Manager

There are a number of matters that require consideration in the assessment of this application which are discussed in turn below.

Principle of Development

The Old Vicarage lies outside the defined village envelope for Lowdham and therefore lies within open countryside which forms part of the Nottingham-Derby Greenbelt. It is clear from aerial photography that the land to the north of The Old Vicarage was a field prior to the construction of the wildlife pond. Whilst the applicant owns this land, he has stated in his submitted supporting information that he has no intention of using it as part of his residential garden and acknowledges that it is not within his established residential curtilage. However, it is the opinion of Officers that the pond which is intended to be solely for the enjoyment of applicant, with its associated timber jetty and external spot lighting, can only be viewed as a feature that is incidental to the enjoyment of the dwellinghouse and therefore the change of use of the land should be considered within the assessment of this application. As such, the description of the development has been changed to include the change of use of the land. The NPPF places strict control over what development is considered acceptable within the Green Belt which is backed up by Spatial Policy 4B of NSDC's Core Strategy. The NPPF does allow for limited development within the Green Belt, including engineering operations and provision of outdoor recreation providing they do not conflict with the purposes of including the land within the Green Belt and preserves the openness.

This proposal seeks retrospective consent for the wildlife pond. Reference is therefore made to the Chief Planner Planning Policy Statement published on 31st August 2015 relating to Green Belt protection and intentional unauthorised development which makes unauthorised development within the Green Belt a material planning consideration. The LPA needs to be mindful of the policy statement in determining this application.

Impact upon the Green Belt

The NPPF is clear that development within the Green Belt is inappropriate with the exception of limited types of development. Development also must not impact upon the openness of the Green Belt. Two of these types of developments include engineering operations and outdoor recreation providing they preserve the openness and do not conflict with the reasons behind including the land within the Green Belt; the construction of the pond is considered an engineering operation however given that the pond is for the use of the owners only, I do not consider the pond to fall within the outdoor recreation use.

Having regard to the above, I consider the engineering operation alone to be acceptable development within the Green Belt, offering potential benefits for wildlife without having a harmful impact upon the openness of the Green Belt; the pond is well-screened from the surrounding area with only limited views achievable from the public realm. However the

associated domestication of the pond (i.e. the jetty and lights) and the land in which the pond lies would constitute an extension to the domestic curtilage of The Old Vicarage which is not included as appropriate development within the NPPF. This change of use of the land would therefore result in the encroachment upon the Green Belt that could be considered harmful to the purposes of the Green Belt, not aided by the use of spot lights and the jetty which further domesticate the land. In accordance with paragraph 88 of the NPPF, great weight must be given to any harm to the Green Belt and in this instance there are 'very special circumstances' for which this harm could be outweighed.

In addition to the above, the Chief Planner Planning Policy Statement published on 31st August 2015 requires unauthorised development within the Green Belt to be considered as a material consideration in determining planning applications. The Government is concerned about harm that is caused by intentional unauthorised development within the Green Belt. Whilst there is no evidence to suggest that the development was intentional, the harm caused as a result of the development taking place without planning permission needs to be considered. It has already been discussed above that the change of use of the land is harmful to the Green Belt however there are no very special circumstances which outweigh the development's harm upon the Green Belt and therefore although the wildlife pond has been completed, this is not a reason to approve the application.

Impact on the Visual Amenities of the Area

The Old Vicarage is identified on the County Historic Environment Record (HER) as a Local Interest building. This is in part due to its age, architectural interest and historic associations with the Church. Local Interest buildings are non-designated heritage assets. Furthermore, Lowdham Mill to the east is Grade II listed. As such, regard must be given to Core Policy 14 of the Core Strategy and Policy DM9 of the DPD, as well as the NPPF, which seek to preserve the character and appearance of the historic environment. The internal Conservation Officer has assessed the proposal's impact upon these historic buildings and has advised the following,

Having reviewed the submitted application, and visited the proposal site and nearby heritage assets (including the significant parish church), I consider the development to cause no material harm to the setting of any heritage assets in this case. The pond is located on land with a wider established wetland landscape character and it appears that the proposal has potential nature conservation benefits. The concept of large garden features within the setting of larger, more polite historic buildings, furthermore, is characteristic and not alien or obtrusive in this case.

Conservation has no material objections in this case, and considers the proposal to be consistent with the objectives of conservation as set out under section 66 of the Act and more generally within section 12 of the NPPF and DM9 of the Council's A&DM Policies DPD.

The site lies outside of Lowdham village and is surrounded by fields which are relatively low-lying. The site is screened from the public realm and therefore there are only limited views of the site as you travel along Epperstone Road. However, the domestication of the land would result in the encroachment upon the countryside (and Green Belt) which has the potential to change the character of the landscape, depending on future uses of the land, e.g. use as garden area, which is not considered appropriate within the rural setting. Policy DM5 requires new development to reflect the local distinctiveness and character of the surrounding landscape, which in this instance is the Green Belt. On this basis, I do not consider the proposal to comply Policy DM5 of the DPD.

In accordance with Core Policy 13, development should also have regard for the landscape character of the area which in this instance is considered to be in good condition and of moderate sensitivity. Given the low-lying nature of the development, I do not consider the proposal to have an adverse impact upon the character of the area.

Overall, the wildlife pond is not readily visible from the public realm (although the spotlights at night are likely to result in some level of intrusive illumination) and is therefore considered unlikely to have an adverse impact upon the historic environment or landscape, however the domestication of the Green Belt is considered likely to have a harmful impact upon the character of the area and therefore I do not consider the proposal to wholly comply with local and national policy.

Impact upon Residential Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development.

The closest neighbour to the site is Lowdham Mill, some 140m from the development and as such, I do not consider the proposal to have an adverse impact upon the amenities of the neighbour properties in terms of overlooking, overshadowing or overbearing impacts.

As mentioned earlier in this report, spot/flood lights are located around the pond which have been raised as an issue by the Parish Council. The light pollution from these lights could be of nuisance to neighbouring residents, however given the distance between properties, I do not consider it likely that the lighting would have a harmful impact upon the neighbours, although I am mindful that the lighting will be visible from the surrounding area.

I am therefore satisfied that proposal complies with Policy DM5 of the DPD and the NPPF.

Impact upon Ecology

Core Policy 12 of the Core Strategy supports development which enhances wildlife. The proposal seeks to attract wildlife and provide a habitat for them. The landscape character assessment for the Council states that the Mid-Nottinghamshire Farmlands area in which the site is located within lacks habitats for wildlife and as such, it could be considered that the wildlife pond will help provide a suitable habitat. Notwithstanding this, Nottinghamshire Wildlife Trust have raised a few concerns regarding the pond as detailed in the Consultations section above. These concerns include the non-native shrubs around the pond and the potential to stock the pond with fish; neither of these should be used/carried out in order to ensure that the pond encourages native wildlife.

Conclusion

The wildlife pond is already in situ however the appropriateness of the proposal still needs to be considered. Overall, the proposal is not considered to have an adverse impact upon the local interest building or the nearby listed building nor neighbour amenity. In terms of ecology, the pond has the potential to provide a new habitat for wildlife, something which according to the Landscape Character Assessment states the Mid Nottinghamshire Farmlands area is lacking. However, the assessment does not pin point where enhanced habitats should be located across

the area and as such, a similar development could be located in a less sensitive area outside of the Green Belt and therefore does not provide justification for the current location.

It has been discussed that the NPPF places great weight upon a development's harm upon the Green Belt and it has been concluded that the proposal is not considered to unduly impact upon the openness of the Green Belt and in this regards complies with paragraph 90 of the NPPF. However, the wildlife pond results in the formal domestication of Green Belt land which is not supported by Green Belt policy and is therefore considered to conflict with the purposes of including land within the Green Belt designation. I do not consider that the merits of the scheme outweigh the harm to the Green Belt.

On the basis of the above, it is concluded that the proposal does not comply with Section 9 of the NPPF in terms of its impact upon the Green Belt and therefore the application is recommended for refusal. Given that the pond and associated landscaping are already in situ, it is recommended that an enforcement notice is served at the same time as the planning decision is issued to seek to return the land to its former state.

RECOMMENDATION ONE

That full planning permission is refused for the following reason:

In the opinion of the District Council the domestication of the land through the associated wildlife pond constitutes inappropriate development in the Green Belt and is therefore considered to conflict with the purposes behind the designation of the land as part of the Nottingham-Derby Green Belt. It represents an eroding encroachment outside the residential curtilage and there are no very special circumstances which would outweigh this harm. The development is therefore contrary to Spatial Policy 4B of the Newark and Sherwood Core Strategy (2011) and the National Planning Policy Framework (2012).

RECOMMENDATION TWO

That appropriate enforcement action is taken by the Deputy Chief Executive, in consultation with the Chair and Vice Chair of Planning Committee.

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 for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

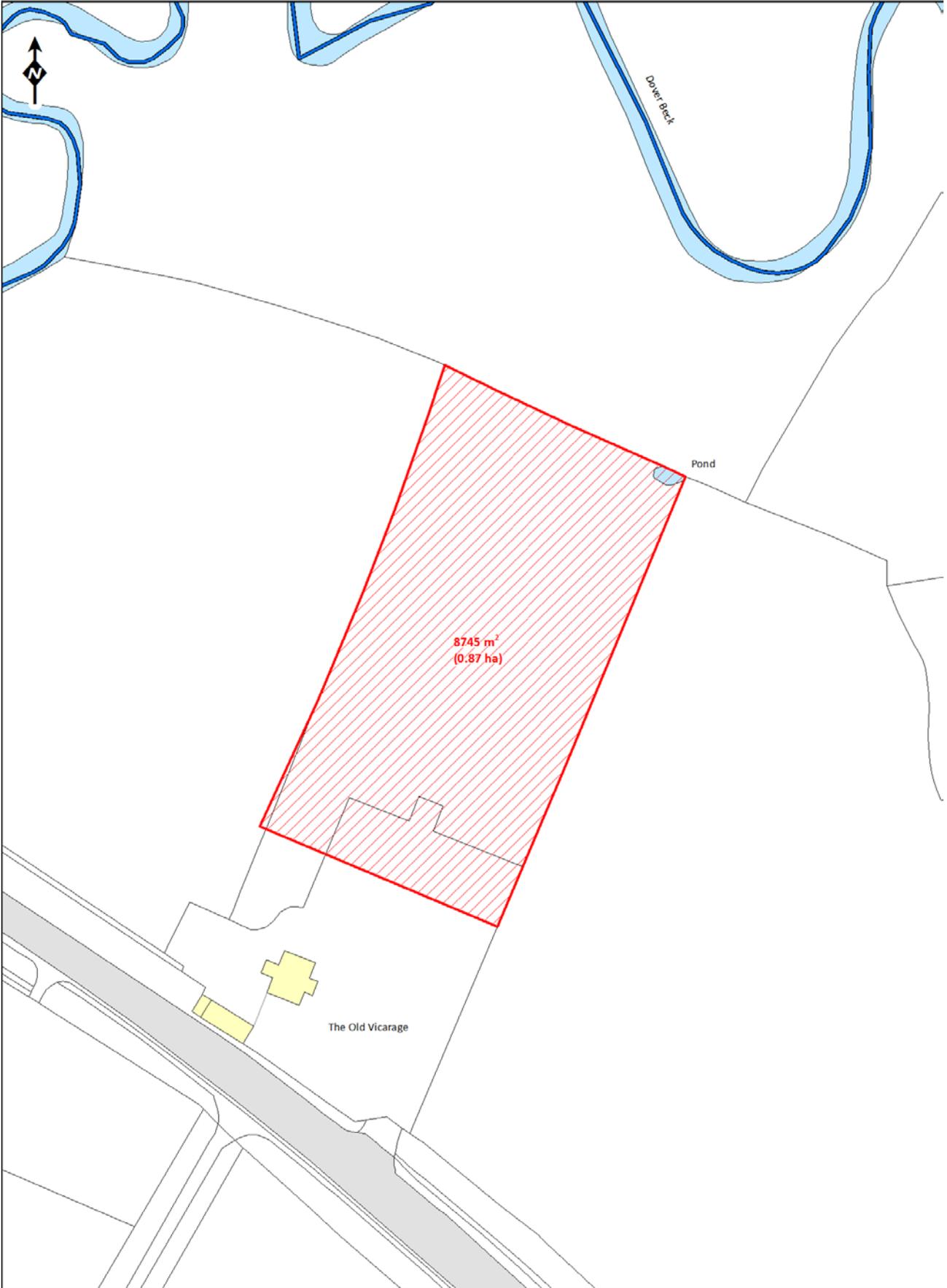
BACKGROUND PAPERS

Application case file.

For further information, please contact Nicolla Ellis on ext. 5833.

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

Kirsty Cole
Deputy Chief Executive



APPEALS A

APPEALS LODGED (received between 11th December 2015 and 18th January 2016)

1.0 Members are advised that the appeals listed at Appendix A to this report have been received and are to be dealt with as stated. If Members wish to incorporate any specific points within the Council's evidence please forward these to Planning Services without delay.

2.0 RECOMMENDATION
That the report be noted.

BACKGROUND PAPERS

Application case files.

For further information please contact our Technical Support Business Unit on 01636 650000 or email planning@nsdc.info quoting the relevant appeal reference.

Matt Lamb
Business Manager Development

Appeal reference	Application number	Address	Proposal	Procedure
APP/B3030/W/15/3137359	15/00975/FUL	9 Deerdale Lane Bilsthorpe Nottinghamshire NG22 8SZ	Siting of Log Cabin for use as Tourist Accommodation	Written Representation
APP/B3030/W/15/3137657	15/01259/FUL	Land Adjacent Churchside Cottages Fishpool Road Blidworth Nottinghamshire	Detached three bed cottage with accomodation over two storeys (Resubmission of 14/00930/FUL)	Written Representation
APP/B3030/F/15/3138276		49 Castle Gate Newark On Trent Nottinghamshire NG24 1BE	Appeal against: Extra Large Sign on Exterior Wall blocking view and covering/hiding all other signage hanging past.	Written Representation
APP/B3030/C/15/3139168		Hill Farm Main Street Norwell Newark On Trent Nottinghamshire NG23 6JN	Appeal against: Property within Conservation Area being altered - appears to be no planning application recorded.	Written Representation
APP/B330/W/15/3139167	15/01479/FUL	Hill Farm Main Street Norwell Newark On Trent Nottinghamshire NG23 6JN	Householder application to remove existing lean-to conservatory and replace with single storey lean-to extension on same footprint (Retrospective)	Householder Appeal
APP/B3030/W/15/3140050	15/01285/FUL	Land At Quarry Farm Bowbridge Road Newark On Trent Nottinghamshire	Change of use from agricultural land to B8/sui generis formation of a transport depot.	Written Representation

APPENDIX B: APPEALS DETERMINED (between 11th December 2015 and 18th January 2016)

App No.	Address	Proposal	Decision	Decision date
14/01469/OUTM	Land At Southwell Road Farnsfield Nottinghamshire	Outline Planning Application for the Erection of up to 48 Dwellings (Access Only)	ALLOW	07.01.2016
15/01109/FUL	1 Tudor Close Newark On Trent Nottinghamshire NG24 2JT	Householder application to extend garden by erecting new fence closer to boundary to reduce dog fouling on land. Fence to be 6ft high with replacement existing gate in same position at rear of garden backing onto our driveway. Proposed fence to cut the corner from the driveway and to run adjacent to pavement 1 metre inside boundary.	DISMISSED	07.01.2016
15/00064/FUL	Unit 2 Gables Farm Gables Drive Hockerton Southwell Nottinghamshire NG25 0PP	Demolition of 60% of existing industrial unit, refurbish remainder including replacement walls and roof. Erection of 2 No. 2 storey, 3 bed houses on footprint of demolished section of industrial unit and 2 No. single storey, 1 bed bungalows on hardstanding area.	DISMISSED	04.01.2016
15/01545/FUL	Lodge Farm Lowdham Road Gunthorpe Nottinghamshire NG14 7ES	Demolition of existing Building and Erection of a new Dwelling to Replace Existing Residential Caravan	DISMISSED	07.01.2016

RECOMMENDATION

That the report be noted.

BACKGROUND PAPERS

Application case files.

For further information please contact our Technical Support Business Unit on 01636 650000 or email planning@nsdc.info quoting the relevant application number.

Matt Lamb
Business Manager Development

Appeal Decision

Inquiry held on 3, 4, 5 and 6 November 2015

Site visit made on 6 November 2015

by Anne Napier BA(Hons) MRTPI AIEMA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07/01/2016

Appeal Ref: APP/B3030/W/15/3006252

Land at Southwell Road, Farnsfield, Nottinghamshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hollins Strategic Land LLP against the decision of Newark & Sherwood District Council.
 - The application Ref 14/01469/OUTM, dated 14 August 2014, was refused by notice dated 14 November 2014.
 - The development proposed is the erection of up to 48 dwellings (access only).
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 48 dwellings (access only) at Land at Southwell Road, Farnsfield, Nottinghamshire in accordance with the terms of the application, Ref 14/01469/OUTM, dated 14 August 2014, subject to the conditions in the attached Annex.

Preliminary Matters

2. The planning application that is the subject of this appeal was submitted in outline, with all matters except access reserved. A plan showing the position of the proposed access and visibility splays, Ref 0618-F01, was submitted as part of the application process and was taken into consideration by the Council in its determination of the proposal. I shall do the same. In addition, a masterplan showing a site layout and a plan of site sections, Refs (0-)A001 and (0-)A003, formed part of the application but were confirmed to be indicative only. I intend to consider the appeal on this basis.
3. During the Inquiry, a further plan was submitted, showing the proposed access in relation to trees on the site and providing an indication of the number and type of trees that would be removed, together with the extent and type of mitigation that could be provided. Whilst the plan provides some detail in this respect, it is marked 'for information only' and matters regarding landscaping are reserved. I am satisfied that my intention to consider this plan as indicative in relation to this appeal would not be prejudicial to any party.
4. It also became apparent, during the Inquiry, that the originally submitted completed planning obligation, dated 2 November 2015, contained typographical issues with regards to the areas of amenity open space and children's play area specified. A revised version of this legal agreement, dated 10 November 2015, has subsequently been submitted to resolve these issues.

Given the very limited nature of the changes involved, I am satisfied that my intention to accept this revised version of the planning obligation as part of the appeal submissions would not be prejudicial to any party.

Main Issues

5. The main issues in this appeal are:

- whether or not the relevant policies of the development plan are out-of-date, having regard to whether the Council can demonstrate a five year supply of deliverable housing land; and
- whether or not the appeal site would be appropriate for housing, having particular regard to the principles of sustainable development in the National Planning Policy Framework (the Framework) and local development plan policies.

Reasons

Development plan policy

Spatial strategy for housing development

6. The appeal site is located on the edge of Farnsfield, on land adjacent to but outside the defined village envelope and it is not disputed that, as such, the site is located within the countryside. The *Newark and Sherwood Allocations and Development Management Development Plan Document 2013* (DPD) Policy DM8 generally seeks to restrict development within such locations, unless the proposal meets one of a number of specified exceptions. Cumulatively, the *Newark and Sherwood Core Strategy Development Plan Document 2011* (CS) Policies SP1 and SP2 define a hierarchy of settlements within the area and specify how development should be distributed between those settlements. DPD Policy DM1 supports appropriate development within these settlements. CS Policy SP3, amongst other matters, seeks to protect the countryside, increase biodiversity and enhance the landscape. The submitted Statement of Common Ground confirms that it is a matter of agreement between the parties that these policies are relevant to this appeal and I see no reason to disagree with this view.
7. It is also a matter of common ground that the level of housing provision within the CS was in accordance with that identified in the East Midlands Regional Strategy and specifies a requirement for 740 dwellings per annum (dpa) within Newark and Sherwood (N&S). However, since the adoption of the CS, this Regional Strategy has been revoked and, in any event, it is not disputed that the specified housing requirement for N&S within the CS was not derived to meet the full objectively assessed needs (FOAN) for market and affordable housing within the housing market area (HMA). As such, it is not consistent with paragraph 47 of the Framework. On this basis, I concur with the views of the main parties that the identified housing requirement within the CS of 740 dpa is out-of-date.
8. Furthermore, I am mindful that the current extent and location of growth identified within the specific allocations and housing supply policies of the CS and DPD stems from and reflects the CS housing requirement. Accordingly, I am not satisfied that the relevant policies identified above and the overall distribution of housing growth within the settlement hierarchy can be

considered as up-to-date. Moreover, the definition of the village envelope forms an important part of this overall policy strategy for the supply of housing within the district. Accordingly, within this context and insofar as it restricts the supply of housing in accordance with this strategy, I find that the village envelope for Farnsfield is also out-of-date.

9. At the Inquiry, the Parish Council referred to the relatively recently adopted DPD and the resulting two allocated sites for Farnsfield that followed from this process. These matters were also raised in a number of submitted written representations. However, whilst these allocations provide for a level of housing provision that is somewhat above that specified in the CS, it is not disputed that the figures referred to within the CS in this respect are minimum numbers. In any event, this matter does not address my findings above, that the housing policies within the CS and DPD are out of date.
10. A need for a review of the development plan has been identified and the Council has recently produced, with others, a final draft of the *Nottingham Outer Strategic Housing Market Assessment October 2015* (SHMA) and an *Issues Report*, which contribute to this process. Identifying the overall location and distribution of housing growth within N&S are matters for the local plan process and are not before me as part of this appeal. Furthermore, the *Issues Report* is at a very early stage of the process, which considerably limits the weight that I give to it, in accordance with paragraph 216 of the Framework.
11. Nonetheless, whilst recognising that an assessment of need is materially different to the policy process that will be followed to determine the most appropriate locations to distribute growth in order to address that need, there is nothing before me to suggest that the level of housing requirement identified within the CS, or the potential respective distribution of housing within the area, have little prospect of change as part of this review process. As such, neither the SHMA nor the Issues Report leads me to alter my conclusions that the housing requirement identified within the CS is out-of-date.

Five year supply of deliverable housing land

Full objectively assessed need (FOAN)

12. I heard evidence on the final draft of the SHMA, which identifies a HMA that covers the area of N&S and two adjacent local authority administrative areas, those of Ashfield and Mansfield. There is nothing before me that leads me to consider that the identified HMA is inappropriate. Whilst considering housing need across the whole HMA, the SHMA also identifies a level of housing need for each authority within the HMA.
13. The SHMA will be tested in due course as part of the development plan process and full details in relation to the HMA as a whole are not before me. Nonetheless, having regard to the Planning Practice Guidance (PPG) relating to the calculation of the five-year housing supply¹ and in relation to this appeal, I consider that it is necessary for me to reach an evidence based conclusion about the FOAN for N&S, before assessing whether there is any shortfall in housing supply to meet that need. The Council considers that the SHMA represents the best evidence presently available in respect of housing need, which is capable of being a robust and sound assessment of that need. It is an

¹ PPG, ID 3-030-20140306

assessment that has very recently been produced and undertaken following a detailed analysis of the issues, as well as some limited consultation. As such, I regard it as an important consideration in respect of this appeal.

14. The scale of housing supply identified as necessary for N&S within the SHMA amounts to some 454 dpa, which is substantially below that previously identified as required within the CS (740 dpa). Whilst not disputing that the CS housing figures are out-of-date, the appellant's assessment of housing need identifies that a level of housing of between 500-550 dpa would be required to meet need within N&S. In broad terms, the difference between the parties on this matter relates to three areas of assessment – the appropriate extent of adjustment that should be made to household projections to take account of longer term migration trends and unattributable population change (UPC), economic growth and market signals. I shall consider each of these in turn.
15. The evidence provided indicates that the SHMA's assessment of FOAN broadly follows the approach outlined within the PPG². Its starting point for the estimation of overall housing need is the 2012-based Office of National Statistics Sub-National Population Projections (SNPP) and the 2012-based Department for Communities and Local Government household projections, which give an FOAN figure for N&S of 399 dpa. It is not a matter of dispute between the parties that it is appropriate to adjust these initial projections to reflect other evidence on population and household change in the area. Having regard to the evidence provided, I concur with the views of both the main parties that such an adjustment would be reasonable in this case.
16. An adjustment to take account of longer term migration trends results in an identified need for some 499 dpa in N&S. The Council contends that it is necessary to make an adjustment to this figure to take into account the SNPP adjusted for UPC in order to ensure that the overall figure for the HMA would be sufficiently accurate in relation to individual local authority areas, particularly in respect of Mansfield. Such an adjustment would reduce the level of housing need for N&S to 446 dpa.
17. Whilst accepting that the HMA is greater than that of the administrative area of N&S, the FOAN for Mansfield is not a matter that is before me as part of this appeal. Furthermore, from the evidence provided, the overall assessment for the HMA is generated in part from an approach that requires a combined assessment of the relevant data sources of the respective individual local authority areas. As such, I find the justification for making an adjustment to the identified need in N&S to address a specific sensitivity issue within a neighbouring local authority area not to be compelling in respect of this appeal.
18. Whether or not some adjustment is required to the population projections for Mansfield, the evidence before me is not sufficient to demonstrate that a downward adjustment to the identified longer term migration trends to take account of UPC for N&S is necessary. Furthermore, I am not satisfied that it has been adequately demonstrated that the absence of such an adjustment in N&S would necessarily have an unacceptable impact on the robust assessment of FOAN within the HMA as a whole. As a result, on the evidence available to me, I find that the figure of 499 dpa represents an appropriate demographic figure for N&S.

² PPG, 2a 'Housing and economic development needs assessments'

19. The PPG advises that it is also necessary to consider whether any further adjustment is appropriate to take account of economic circumstances and market signals, amongst other matters. This approach is followed within the SHMA, which concludes that no adjustment is required to the demographically derived housing need figure to take account of projected levels of economic growth, but that this figure should be increased by 8 dpa within N&S to reflect market signals.
20. I understand that the SHMA's assessment of economic growth derives from the forecasts used in the *Employment Land Forecasting Study 2015* undertaken for the Council and other local authorities in the area. Whilst I acknowledge that the use of a common source may be useful, it is nonetheless important to consider whether this forecast appears reasonable in relation to the particular circumstances of the area and to understand the subsequent implications for housing growth.
21. The SHMA indicates that the level of housing need identified in relation to population change forecast would be able to support the expected level of economic growth within the area. However, whilst recognising this level of growth exceeds that of some national forecasts and reflects the forecast growth rate for the HMA as a whole, the appellant's evidence indicates that it would be below past growth for N&S. The PPG advises that 'establishing the future need for housing is not an exact science'.³ Furthermore, the appellant has accepted that methodological issues result in some uncertainty in the analysis of current employment and past rates of change within sectors. Nonetheless, taking into account past trends and the level of economic growth seen within N&S since 2012, it appears to me that the level of economic growth anticipated within the HMA as a whole may under-estimate that likely to occur within N&S.
22. I accept that some of the new jobs resulting from economic growth within N&S would be met by the population increases factored into the calculations previously, through the initial assessment of population change. However, even if the level of economic growth projected within the SHMA is shown to be appropriate, it appears that the economically active proportion of the population would have to increase significantly amongst some cohorts in order to support projected future increases in jobs, unless an increase in inward migration occurred.
23. From the evidence provided, I am not persuaded that the projected increases in economic activity are sufficiently realistic amongst all cohorts, including that of women above the age of 65. Whilst I recognise that it is very likely that, in the future, the proportion of women in this age group who are economically active may well increase, I am not satisfied that it has been adequately demonstrated that a labour force supply that includes some 17% of all women in this age group is reasonably likely to occur. Similar concerns also exist with other cohorts, such as men aged 35-49 and over 65, and women aged 25-49, although to a lesser extent.
24. As a result, whilst taking into account the advice in the PPG referred to above and recognising that economic growth projections and the resulting implications for housing need are difficult to quantify, I consider that the balance of the evidence provided suggests that some further upward

³ PPG, ID 2a-014-20140306

- adjustment to the demographic housing need figures is likely to be justified in this case.
25. In respect of market signals, the advice within the PPG indicates that, where such an adjustment is required, this should be set at a level that is reasonable. The basis for such an adjustment refers to the balance between the demand for and supply of housing. Planned supply should be increased by an amount that, on reasonable assumptions and consistent with the principles of sustainable development, could be expected to improve affordability.⁴
 26. Whilst there was some debate about the longer term trends of market signal indicators, and whether or not these are worsening, the SHMA recognises a need for an upward adjustment to reflect market signals. It was argued, by the Council, that the identified level of housing need within the HMA incorporates such an adjustment and, as such, the increase in 8 dpa should not be considered in isolation, particularly with regard to the formation of households from the 25-34 age cohort of the population.
 27. Nonetheless, increasing the amount of housing to meet future levels of projected housing growth or population change would not, to my mind, address identified issues regarding affordability. Furthermore, the evidence provided within the SHMA indicates that, in respect of house prices and ownership levels, the situation within N&S is not materially better than in the remainder of the HMA. The SHMA can be interpreted to imply that, in some respects, the affordability situation is more challenging in N&S in comparison to the other two local authority areas within the HMA.
 28. The Council accepted, in cross-examination, that an upward adjustment of 8 dpa would not have any material effect on the relationship of the demand for housing to its supply. I recognise that house prices are affected by macro-economic issues and the housing market in N&S does not operate in isolation. Nonetheless, this does not justify making only a very limited adjustment to the supply within N&S. If such an approach were followed more widely, then broader issues regarding affordability would remain unresolved.
 29. Examples of such adjustments made elsewhere have been drawn to my attention. Whilst I understand that a percentage increase in upward adjustment has been proposed or accepted in some cases elsewhere, which have been in the order of 10-20%, this has not been applied universally. Furthermore, these other examples relate to considerations undertaken as part of a development plan process. As such, the areas concerned and the circumstances in which they have been considered are materially different to those of the appeal before me. In any event, no such figure is before me in this case. Nonetheless, considered overall and for the reasons given above, I regard the evidence before me as supporting the need for a greater level of upward adjustment than that identified within the SHMA, to take account of market signals within N&S.
 30. In addition, the Framework and the PPG identify a requirement for the assessment of the need for affordable housing. The SHMA identifies an affordable housing need of 177 dpa for N&S. However, it does not specifically seek to add the identified need to the FOAN figure. It is common ground between the parties that the calculation of the specific number of houses

⁴ PPG, ID 2a-019-20140306 and ID 2a-020-20140306

required to meet this need can be difficult to quantify, as this need may potentially be addressed in a number of ways, such as by the private rented sector or within broader demographic changes, such as future household formations. As a result, the provision of a percentage of affordable housing within new build developments is not necessarily the only method of addressing this need.

31. Nonetheless, the need for affordable housing identified within the SHMA is supported by the *Newark and Sherwood Housing Market and Needs Assessment 2014 Draft Final Report* and the Council's *Affordable Housing Supplementary Planning Document 2013*, which identify a significant need for affordable housing within the area, including within Farnsfield. There is nothing before me to demonstrate that the identified need for affordable housing is no longer required or could be fully met in other ways. As such, considered overall, it is reasonable to conclude that some level of further upward adjustment would be appropriate in order to contribute towards the need for affordable housing.
32. Bringing together the above factors, I consider that the minimum housing need figure resulting from demographic change for N&S should be 499 dpa. Furthermore, in order to achieve a meaningful level of upward adjustment, which I consider to be necessary for the above reasons to reflect likely future economic growth, address issues of affordability and make some contribution towards meeting the identified need for affordable housing within the area, I conclude that, on the balance of the evidence available to me, a reasonable assessment of the FOAN for N&S would be in the order of 550 dpa.

Five year housing requirement

33. It is common ground that the five year land supply period is 1 April 2015 – 31 March 2020. The FOAN for N&S identified above would result in a five year housing requirement of 2750 units. It is common ground between the parties that a 20% buffer for persistent under-delivery of housing should be added to this figure. Furthermore, it is not disputed that the shortfall in housing provision compared to FOAN in the two years since 2013 should also be added to this figure, reflecting the base date of the SHMA and the available data for housing completions for the following two years. The Council have identified this shortfall to be some 187 dwellings. Given my findings above regarding FOAN, this shortfall figure should be increased to 379 dwellings.⁵
34. Both the parties agree that it would be appropriate to add the shortfall figure to the total following the addition of the 20% buffer to the FOAN figure, to avoid double-counting. I note that this approach does not accord with that suggested in the Planning Advisory Service (PAS) guidance⁶ and I acknowledge that the alternative approach used in the PAS guidance (adding the 20% buffer to both the FOAN and the shortfall) has been followed in other decisions. However, I do not propose to divert from the agreed approach between the parties in this case. As a result, the housing requirement for the five year period, taking into account the 20% buffer, would be increased to 3300 dwellings.

⁵ This calculation adds a figure of 96 dpa (550-454 dpa) for each of the years 2013/14 and 2014/15 to the Council's figure of 187 dwellings, to arrive at a shortfall figure of 379 dwellings.

⁶ PAS Technical Advice Note on Objectively Assessed Need and Housing Targets

35. It is disputed whether the identified shortfall of 379 dwellings should be addressed within the next five years (the 'Sedgefield' method) or spread across the remaining plan period (the 'Liverpool' method). I understand that the Council has previously been consistent in its use of the Liverpool method. Having regard to the strategic urban extensions (SUE) proposed for Newark, it continues to consider that this represents the most appropriate method in respect of N&S. In addition, although I consider the advice within the PPG to suggest a preference for the Sedgefield method,⁷ my attention has also been drawn to other examples of the use of the Liverpool method subsequent to this PPG advice being published.
36. Whilst I have had regard to these examples, I am not satisfied that the circumstances in this case are directly comparable to these other situations. In particular, the SUE sites for N&S are allocated in the CS, which was adopted in 2011. The evidence before me indicates that it was anticipated that these sites would begin to deliver housing as early as 2012. For various reasons, this has not transpired. Nonetheless, it has not been suggested that the planned delivery of housing across the SUE sites will be, or was intended to be, later in the plan period. As such, in this case and having regard to the advice within the PPG and the aim of the Framework policy at paragraph 47, to boost significantly the supply of housing, I find the Council's argument, to adopt the Liverpool method, not to be a compelling one in this case.
37. As a result, I consider that it would be appropriate to require the shortfall for N&S to be addressed within the next five years. As such, I find the overall five year housing requirement for N&S to be 3679 dwellings.⁸

Supply of deliverable housing sites

38. An agreed respective position statement between the main parties was prepared in advance of the Inquiry and this was updated during the Inquiry process. A final agreed position statement was submitted on the last day of the Inquiry and I intend to consider the appeal on the basis of this document, together with the supporting evidence provided.
39. By the end of the Inquiry, a total of twelve sites remained in dispute, which included three sites with planning permission, three sites allocated within the CS and six other allocated sites. The Council considers that it can demonstrate an overall supply of 3929 sites for housing that are deliverable in the next five years, some 250 houses above the requirement figure identified above. In contrast, the appellant contends that a supply of only 2718 houses will be deliverable within the next five years, some 961 units below this figure.
40. Broadly speaking, in respect of these remaining disputed sites and with two exceptions, the appellant's view differs from that of the Council in terms of the anticipated timing of commencement on site and the likely build-out rate for the individual sites. The two exceptions concern sites which the appellant considers will not result in any housing being delivered within the next five years.
41. Footnote 11 of the Framework defines what constitutes a 'deliverable site' in the context of housing policy and the PPG⁹ provides further advice on this

⁷ PPG, ID 3-035-20140306

⁸ FOAN for five year period plus 20% buffer (3330 dwellings) plus shortfall (379 dwellings)

⁹ PPG, ID 3-031-2140306

- matter. The remaining sites in dispute either have planning permission or are sites allocated in the development plan. As such, in accordance with the Framework policy and PPG advice, they should be considered deliverable, unless there is clear evidence that the schemes will not be implemented within five years.
42. Whilst this was not disputed, there was some discussion within the Inquiry about what is meant, in this context, by the term 'implemented'. However, although there was some evidence to the contrary, it seems to me that the evidence presented in support of the Council's case supports the view that a robust assessment of housing supply should include an assessment of the time it may take to commence development on site and the build out rates, including for sites with planning permission or allocated sites. It is clear, from the details provided, that the Council has taken the advice of developers and local agents in order to carry out just this type of assessment in respect of the sites identified.
 43. Such an approach also appears to me to accord with the advice within the PPG in this respect. Notwithstanding the reference within the PPG to 'plan makers' rather than 'decision takers', to do otherwise would imply that, unless there is clear evidence that no development will take place within five years, the total number of houses included within any allocated site or site with planning permission should be considered deliverable within the next five years. In contrast to the alternative, this type of approach would not seem to me to take an appropriately realistic view of individual circumstances, particularly for larger sites, or represent a sufficiently robust assessment of the five-year housing supply.
 44. Consequently, having regard to the Framework policy and PPG advice, I find it necessary to consider not just whether there is a realistic prospect that housing will be delivered on the identified sites within five years but, if so, the amount of housing that is reasonably likely to be delivered within this timeframe, taking into account the time it will take to commence development on site and build-out rates.
 45. Turning first to the sites allocated in the CS, taken together, these represent the sites with the largest amount of disputed housing delivery. The first site, at Bowbridge Lane, Balderton (Ref NAP2A), concerns a site that is expected to deliver an overall total of some 3,150 houses. Of these, the Council estimates that 550 will be provided within the next five years. In contrast, the appellant considers that only some 110 will be delivered within this timeframe.
 46. The dispute between the two parties concerns both lead-in times and build-out rates. This is a large strategic site with outline planning permission that requires the provision of a southern link road to unlock the delivery of housing across the site. Evidence was provided to demonstrate that the landowner will construct the link road, which I understand is due for completion in April 2016, with the benefit of grant funding from the Homes and Community Agency. However, whilst I have no doubt that the landowner will wish to secure the development of the site in order to repay this loan, there is no clear evidence before me to indicate that will occur swiftly.
 47. I heard evidence from Mr Cove, for the appellant, of the likely potential timescales for the various stages of the development process, which would need to be completed before development commenced on site. Mr Cove was

able to draw on his experience of a range of housing developments elsewhere. I found the evidence to be clear and specific in this regard and, in my experience, the timescales suggested for these various elements were not excessive and, in some respects, could be potentially considered optimistic. As such, I do not regard them as unreasonable and consider that they provide a robust and useful basis on which to assess the likely lead-in time for development to start on site.

48. As I understand the situation, marketing is about to commence on the site and, before development starts, developers will need to be secured, with legalities completed, reserved matters approved and appropriate conditions discharged. Even if these processes occur without undue delay, having regard to the timescales likely to be needed for the various stages to be completed, I consider it very unlikely, on the evidence provided, that the construction of dwellings on the site would start before the middle of 2018.
49. This contrasts with the Council's estimation of a start by the second half of 2016, which was accepted to be ambitious. Accordingly, adjusting the Council's trajectory to take into account this longer lead-in period, but using the build-out rates included within it, would result in some 150 dwellings being delivered within the next five years, a figure of 400 dwellings below that estimated by the Council.
50. In respect of the second disputed CS allocation, known as 'Land east of Newark' (Ref NAP2B), the information provided in a letter dated 22 October 2015, indicates that it is anticipated that formal pre-application discussions with the Council would be started in November 2015, together with scoping for an Environmental Impact Assessment (EIA). At the time of the Inquiry, the Council confirmed that, as yet, this had not taken place. The time periods provided in the letter anticipate the grant of a formal permission in September 2016, with the approval of reserved matters and a start on site in spring 2017, with completions from autumn 2017.
51. I heard compelling evidence from the appellant that suggested that this timescale was optimistic in its assessment of the amount of time likely to be required for the preparation of an application for EIA development. Taking that into account, it was suggested that the submission of the application would be more likely to occur in August 2016. Having regard to the scale of the development, a further three year overall period was also anticipated to be needed for the approval of the application, the completion of any planning obligations required, the approval of reserved matters applications, the discharge of conditions, site preparation and civil works, and mitigation works required in connection with the country park element of the scheme.
52. As a result, the appellant does not foresee the delivery of dwellings on the site until mid-2019. From the level of detail provided and having regard to the time periods involved for the remaining strategic urban extension site, I find the appellant's assessment of lead-in times to be more persuasive than those provided by the Council in this case. As such, using the trajectory and build-out rates provided by the Council, but increasing the lead-in times indicated, this would result in some 30 dwellings being delivered within the next five years, reducing the Council's figure on this site by 100 dwellings.
53. The circumstances are somewhat different with regards to the third disputed site allocated in the CS, known as 'Land around Fernwood, Newark' (Ref

- NAP2C). I understand that there are several developers with an interest in the site, although only one (Barratt David Wilson - BDW) has made a planning application, submitted in March 2014 which, at the time of the Inquiry, remained undetermined. The Council's evidence on lead-in times on the site as a whole relied in part on information provided by a different developer (Persimmon), although I accept that this is likely to have been produced in conjunction with others with an interest in the site.
54. Nonetheless, even if the existing BDW application were to be approved imminently, I consider that an anticipated start on site for Persimmon in late 2017 to be overly-ambitious, taking into account the length of time taken to consider the current outline application for BDW and details provided within the letter from Persimmon, dated 22 October 2015.
55. This indicates an intention to proceed by way of outline and reserved matters applications, but with no firm date provided for the submission of the outline application and only a very limited period allowed for the approval of the reserved matters application and the discharge of conditions. Whilst it was accepted that these applications do not need to be sequential, I recognise that it is often the case that proposals are progressed in this way, due to the financial and other commitments required on behalf of the developer in the preparation of a detailed scheme. As such, in this context, I consider a more realistic lead-in time would anticipate a start on site by Persimmon in 2018.
56. As a result, I consider that there is clear evidence that calls into question the anticipated extent of delivery on this site within the next five years. The Council's estimate is for some 530 dwellings (increased from 330 in the Council's *5 Year Land Supply Statement March 2015*, as a result of information provided by Persimmon). Even accepting the build-out rates provided within the Council's trajectory, if this is adjusted to reflect a later start on site by Persimmon in 2018, the number of dwellings delivered within the next five years would be reduced by some 110 dwellings.
57. Accordingly, whilst accepting that firm predictions are difficult, the clear evidence before me indicates that, even accepting the build-out rates provided, the Council has materially under-estimated the likely lead-in times on these three sites, resulting in an over-estimation of the number of dwellings reasonably likely to be delivered on these sites within the next five years. The consequent cumulative reduction in housing numbers, considering just these three sites, is in the order of some 610 dwellings.
58. This would reduce the Council's identified overall supply of housing sites that are deliverable in the next five years from 3929 to 3319. Given my findings above, that the overall five year housing requirement for N&S is 3679 dwellings, I am therefore unable to find, on the evidence available to me, that the Council can demonstrate a five-year deliverable supply of housing to meet its identified needs.
59. Furthermore, even if I were to find in favour of the Council for the other nine disputed sites, the housing numbers for those sites are such that this position would not alter. Conversely, the numbers involved in these other disputed sites are such that, even if I were to find in favour of the appellant in respect of all of them, the overall level of deliverable housing supply would not fall below four years. Consequently, taking this into account, it is not necessary for me to consider in detail each of the remaining sites.

60. The Council has confirmed that, in calculating its housing supply, it does not rely on windfall sites. It is argued by the Council that this approach to the calculation of deliverable supply results in a robust process and, as some delivery will take place on unallocated sites, provides an element of flexibility to the figures. However, the evidence before me about the contribution of windfall sites to supply is limited and, in any event, the Council confirmed that it is not intended that these sites should contribute to the assessment of its deliverable supply. As a result, this matter is not one that leads me to alter my findings above.
61. Overall therefore and for the reasons given above, although it is not disputed that the Council is able to demonstrate a more than four-year supply of deliverable housing sites, I conclude that, on the evidence available to me, it is unable to demonstrate a five-year supply.

Overall conclusion on housing policy

62. My attention has been drawn to comments made in the examination of the CS, including the concerns raised in relation to the potential implications of a materially higher level of growth for settlements including Principal Villages such as Farnsfield. However, having regard to the scale of development proposed in this case, either individually or cumulatively with other development on allocated sites, I consider that the proposal would not result in an unacceptable level of growth for the village.
63. As such, the appeal scheme would not conflict with CS Policies SP1 and SP2, which respectively identify a settlement hierarchy within the district and minimum levels of housing provision, or with DPD Policy DM1, which supports appropriate development within those settlements. The proposal is situated within the countryside, in a location where CS Policy SP3 and DPD Policy DM8 would generally restrict development, and the appeal scheme would not be in accordance with these policies. Nonetheless, having regard to my overall findings above in relation to both housing requirement and housing supply and to paragraphs 47-49 of the Framework, I conclude that these relevant policies for the supply of housing are out-of-date, and therefore of limited weight, and find paragraph 14 of the Framework to be engaged.
64. Where the relevant policies of the development plan are out-of-date, paragraph 14 of the Framework and DPD Policy DM12 require permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Furthermore, in relation to the final phrase of paragraph 14, it has not been suggested, nor do I consider having regard to the evidence provided, that there are specific policies within the Framework that indicate that development should be restricted.
65. As the presently calculated level of FOAN for N&S, on any evidence before me, results in a housing requirement of fewer dpa than that required by the CS, it was argued by the Council that the engagement of paragraph 14 would be odd in such circumstances and unlikely to be the intention of the Framework. However, I am not persuaded by this argument.
66. There is nothing before me to indicate that, having concluded that the relevant policies within the development plan are out-of-date, paragraph 14 should not be engaged if the more up-to-date housing requirement figure is less than the

previously calculated figure. The Framework provides an appropriate context in which to assess the proposal in the situation where paragraph 14 is engaged and, in so doing, I am mindful of the need to assess the proposal against the policies in the Framework taken as a whole, including those of paragraph 47, to boost significantly the supply of housing.

Whether or not appropriate site for housing

67. Paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly. The three dimensions of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also includes 'seeking positive improvements in the quality of the built and natural environment as well as in people's quality of life'.

The social and economic roles

68. It is not disputed that the scheme would have a number of benefits, including its contribution to the local housing stock and the supply of housing. In light of my findings above and the encouragement within the Framework for such development, I consider that this represents a significant benefit in support of the proposal, to which I give great weight.

69. Furthermore, it is also proposed that, in line with local policy requirements, a proportion of the dwellings would be affordable. As referred to above, the evidence before me demonstrates a local need for affordable housing and, having regard to paragraph 50 of the Framework, including its aims to deliver a wide choice of high quality homes, create inclusive, mixed communities, and plan for a mix of housing based on the needs of different groups in the community, this adds significant further weight to these benefits.

70. In addition to these benefits, the proposal would also have economic benefits, including support for local services, both during construction and following occupation. Whilst some of these benefits may be temporary and some may reflect people moving from within the area, they are nonetheless also matters that weigh in favour of the scheme and reflect the aims of paragraph 55 of the Framework, for housing in rural areas to enhance or maintain the vitality of rural communities.

The environmental role

71. The site is located within comfortable walking distance of a good range of local services and facilities and in close proximity to bus stops, with relatively frequent services to larger settlements nearby. As such, notwithstanding the local concerns that have been expressed about the impact of the proposal on some of these local facilities and services, considered below, the location of the site is such that potential future occupiers of the appeal dwellings would have ready access to many of the facilities reasonably likely to meet their day-to-day needs, without necessarily being reliant on the use of private motor vehicles. Given the encouragement within paragraph 17 of the Framework, to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, this also weighs in favour of the proposal.

72. Although not explicitly articulated in the Council's single reason for refusal, the evidence provided clearly indicates that the Council considers that the impact of the proposal would result in harm to the character and appearance of the

- area, including in relation to landscape. The appellant has been provided with an opportunity to respond to these concerns and those of other interested parties, such as the Parish Council, as part of the appeal process.
73. The site largely comprises an open field, as well as part of the rear and front gardens of an adjacent dwelling, Broadlands. Hedgerows and intermittent trees exist along most of the boundaries of the site, with a prominent group of trees situated within part of the front garden of Broadlands, including within an area that would be used to provide the site access. Although the proposal is in outline, the details provided indicate that, in the main, these boundary hedges and trees are intended to be retained. The indicative details also suggest that the landscaping proposed for the site could incorporate a landscape buffer and additional planting, which would be important measures to assist in reducing the impact of the development on the surrounding countryside. However, the development of the site as proposed would undoubtedly change its current open character and rural appearance.
74. In addition, it is accepted that the provision of an access to serve the development would result in the loss of trees, including some which have been categorised as grade A and considered to be of high quality. The impact of this loss could be mitigated to some extent by replacement planting and, in addition, the potential for the scheme to incorporate measures that would enhance biodiversity has been identified within the submitted *Extended Phase 1 Habitat Survey and Arboricultural Assessment*. Nonetheless, the loss of these trees would be harmful to the character of the area and the streetscene. Furthermore, given the outline nature of the scheme and the level of detail provided, the full extent of this impact may be greater than that shown on the indicative plan provided at the Inquiry, which would potentially result in greater harm in this respect.
75. The appellant's Landscape Appraisal of the scheme indicates that the proposal is not likely to alter the wider landscape character, but accepts that it would have some minor adverse visual impacts. Having regard to the surrounding topography, the character of the landscape, the views available of the site and the close relationship of the appeal site to the existing development adjacent to it, I concur with this view. Furthermore, in its current form, I consider that the largely undeveloped site makes a positive contribution to the intrinsic character and beauty of the surrounding countryside. The proposal would result in some degree of harm to this and would materially diminish the rural appearance of the immediate locality.
76. Whilst this is a matter that counts against the scheme, I have also had regard to the Council's *Landscape Character Assessment (LCA)* for the area. The appeal site falls within an area identified as the Mid Nottinghamshire Farmlands Character Area and the LCA indicates that, to conserve the rural character of this area, development should be limited to sites around existing specified settlements, including Farnsfield. The proposal would not conflict with this approach. Furthermore, the appeal scheme would be located on the edge of a relatively sizeable village, which has a range of services and facilities, but is predominantly residential character. As such, notwithstanding the other developments that have taken place, or are likely to take place, within the village, I consider that, in this case, the scale of development currently proposed would not result in a significant change to the overall character of Farnsfield.

77. Consequently, considered overall, including in respect of its potential impact on trees, I consider that the harm identified to the character and appearance of the area, including its landscape, whilst material, would be relatively limited and I have given this moderate weight.
78. I understand that the current appeal site formed part of a larger site, which was considered by the Council in its *Strategic Housing Land Availability Assessment 2010*, as part of the development plan process for the DPD. This larger site was not taken forward as a proposed allocation within the DPD. The visual prominence of this larger site was a reason given for this, together with a number of other reasons. However, whilst I understand that the DPD Inspector did not disagree with the Council's proposed allocations in Farnsfield, there is nothing before me to demonstrate that this previous Inspector reached a view on the specific merits of the appeal site. As such, whilst I am mindful of this planning history, this matter does not lead me to alter my findings above.

Section 106 agreement

79. The Council has identified a requirement for the proposal to make a contribution towards social infrastructure, to mitigate the impacts of the development. A completed planning obligation has been submitted in this regard, which would make provision for contributions towards education, amenity space, children's play areas, community facilities, libraries and transport, if the appeal were to be allowed. The obligation has been drafted so that the proposed area of amenity space and children's play area could potentially be provided on site, or a financial contribution made to off-site facilities. In respect of the other elements, the proposal would result in the provision of a financial contribution towards the improvement of existing facilities.
80. The appellant is clearly willing to make these contributions and there is nothing before me to suggest that they would threaten the viability of the scheme. However, notwithstanding the agreement between the parties on this matter, it is necessary for me to consider whether the planning obligation meets the relevant statutory tests of the Community Infrastructure Levy Regulations 2010 and the policy tests of the Framework.
81. In respect of the proposed education contribution, the consultation response on the application identified the primary school within Farnsfield is at capacity and cannot accommodate the identified additional places that would arise from the proposal. This was reinforced by the evidence given at the Inquiry by the Parish Council. The Council's *Developer Contributions and Planning Obligations Supplementary Planning Document 2013* (SPD) supports the policy requirements identified in CS Policies SP6 and SP8 and the DPD Policy DM3 in this regard and identifies a methodology to calculate existing educational capacity, the number of child places likely to be required as a result of the proposal and the basis for calculating a cost per dwelling. However, the sum per dwelling figure included within the completed planning obligation and referred to within the consultation response does not accord with the figure in the SPD. As such and on the evidence available to me, the basis on which this sum was derived is not clear.
82. Similarly, the justification for the proposed contributions to libraries, amenity space, child play areas, transport infrastructure and community facilities is limited. My attention has not been drawn to up-to-date and quantified

evidence of the extent to which the existing facilities in the village are unable to meet the additional demands likely to be generated by the proposal. Nor has the methodology been specified for calculating the sums required in respect of the transport contribution, or the library contribution, which also differs from that within the SPD. Furthermore, whilst a number of potential local community facilities have been identified, there is no detailed information on these facilities, or on specific projects for improvements to the facilities, open space or play areas to which the sums could contribute.

83. Consequently, for these reasons, I am not satisfied that it has been adequately demonstrated that the libraries, amenity space, child play areas, transport infrastructure and community facilities elements of the planning obligation would be necessary to make the development acceptable in planning terms, that the contributions for amenity space, child play areas or community facilities elements would be directly related to the development and that the library, education and transport elements would be fairly and reasonably related to it in scale. As a result, considered overall, I find that none of the elements of the planning obligation meet the relevant tests and, therefore, the agreement cannot be taken into account. Accordingly, in view of this finding, it is not necessary to consider whether the obligation would meet the regulatory requirements in respect of pooled contributions.

Other considerations

84. A number of other concerns have been raised locally about the proposal and its potential effects on the local environment. These include potential impacts on drainage, flooding, highway safety and capacity, ecology, the loss of agricultural land, water quality and power lines. However, little substantive evidence has been provided on these matters and there is nothing before me to indicate that the relevant statutory and specialist consultees have raised objections in principle to the proposal. I note the Council's assessment of these matters within its officer report and am also mindful that the current proposal has been made in outline and some of these concerns relate to matters that would normally be resolved at a later stage of the planning process. As a result, on the balance of the evidence before me and subject to the application of appropriate conditions on any permission granted, I am satisfied that none of these concerns would be an appropriate reason to find against the proposal in this particular case.
85. Concerns have been raised about the potential impact of the proposal on the living conditions of neighbouring occupiers, including in respect of the protection of property and the right to respect for privacy and family life. However, whilst recognising these rights and taking the personal circumstances of nearby occupiers into account, it is nevertheless necessary to balance the fundamental rights of the individual against the legitimate interests of other individuals and the wider community or public interest. Given the outline nature of the scheme, I am satisfied that these matters could be adequately addressed by appropriate conditions to control the detailed design of the development, including in relation to neighbouring living conditions, such as outlook, privacy, lighting and security. As such, I consider that any interference in these respects would be insufficient to give rise to a violation of rights under the Human Rights Act 1998. As such, these concerns do not represent compelling reasons to find against the scheme in this case.

86. It has been suggested that, should the appeal be allowed, this would set an undesirable precedent for other proposals of a similar nature, which the local planning authority may find difficult to resist and which could, cumulatively, have a harmful effect. However, my attention has not been drawn to other cases of a similar nature elsewhere but, should these come forward, it would be necessary to consider those cases on their merits, having regard to the policy context and evidence available at that time. Consequently, I am not persuaded that my decision in this case would be likely to provide support for unacceptable development elsewhere.

Conclusion on sustainability and the planning balance

87. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is such a material consideration.
88. The proposal would not conflict with CS Policies SP1 and SP2, or DPD Policy DM1. It would also achieve a proportion of affordable housing, in accordance with CS Policy Core Policy 1 and the Council's *Affordable Housing Supplementary Planning Document* (AHSPD). Furthermore, subject to the application of appropriate conditions, I am satisfied that other impacts of the scheme could be adequately addressed, so that the overall design of the proposal, and its potential effect on the local environment and neighbouring occupiers, would not be contrary to the aims of the development plan in these regards. The proposal would not be in accordance with CS Policy SP3 or DPD Policy DM8. However, I have found above that these policies cannot be considered up-to-date in the context of paragraph 14 of the Framework.
89. The three roles of sustainable development are mutually dependent. I have found above that the proposal would deliver significant social as well as economic benefits, and the development would be in a location that is within a reasonable distance of a range of local services and facilities. For the reasons given, I conclude that the relatively limited overall harm to the character and appearance of the area resulting from the proposal would be significantly and demonstrably outweighed by the clear benefits of the scheme when assessed against the policies in the Framework taken as a whole. Therefore, overall, I conclude that the appeal site would be appropriate for housing and a departure from the development plan would be justified in this case, as the proposal would be sustainable development that would meet the aims of paragraphs 47-49 and 14 of the Framework.
90. I understand that the community is at the early stages of preparing a Neighbourhood Plan. It has not been suggested, nor do I consider on the very limited information available to me in this respect, that this is a matter that should carry any material weight in relation to this appeal.
91. A number of other appeal decisions have been drawn to my attention. However, from the relatively limited details available to me in these respects, these examples relate to proposals in various other locations elsewhere and, whilst many of the issues raised may be similar, I am not satisfied that the particular circumstances of these other cases are directly comparable to those of the appeal before me, which I have considered on its merits and in light of all representations made.

Conditions

92. I have considered the Council's suggested conditions in the light of the Planning Practice Guidance (PPG). For clarity, to ensure compliance with the Guidance, and in light of discussion between the parties at the Inquiry, I have amended some of the suggested wordings.
93. As an outline application, it is necessary to specify and secure the submission of reserved matters. In view of the likely impact of the proposal on trees within the site, it is also appropriate to control details of the protection of trees to be retained during construction and the replacement planting proposed. It is necessary to control the number of dwellings to be developed on the site, with the maximum number not to exceed 48, in order that the scope of the permission is consistent with the submitted details.
94. It is also necessary to require the access arrangements to be carried out in accordance with the submitted details, for the avoidance of doubt and in the interests of good planning, and to require the approval of further details in relation to such matters as access, parking, surfacing and lighting, where these matters are not controlled by other conditions. Given the nature of these details, it is essential to require approval before development takes place on site.
95. Having regard to the findings of the submitted *Extended Phase 1 Habitat Survey and Arboricultural Assessment April 2014*, it is appropriate to require the reserved matters to be designed to secure the biodiversity improvements identified, in order to ensure that the overall environmental impact of the development proposed is acceptable.
96. In the interests of the character and appearance of the area and neighbouring living conditions, it is necessary to control details of ground and floor levels. In light of the previous use of the site and in the interests of the living conditions of the potential future occupiers of the appeal development, it is necessary to secure appropriate contamination assessment and remediation measures and to control the timing of these works. The site has been identified as having the potential to include heritage assets with archaeological interest and, in light of this, it is necessary to require that further investigation and recording takes place. In order to ensure that these matters are appropriately controlled, it is essential to require details to be approved before development takes place on site.
97. I am mindful of the guidance within the PPG regarding the use of conditions to secure affordable housing provision. On the basis of the evidence provided, I am satisfied that, without the provision of affordable housing, the proposal would be unacceptable. Consequently, in the absence of a planning obligation to secure this necessary provision, I consider that the delivery of housing development on the site would be at serious risk. As such, notwithstanding the scale of the proposal, but in light of my findings above regarding housing delivery, I consider that in this case there are exceptional reasons to apply a condition requiring the provision of a scheme for affordable housing, in accordance with the CS Policy Core Policy 1 and the AHDPD, and I am satisfied that the wording used would meet the relevant tests of the PPG and the Framework. In order to control details of the scheme and secure its implementation, it is essential to require the approval of these details before development takes place.

98. To protect neighbouring living conditions and to prevent pollution and flooding, it is necessary to control details of foul and surface water drainage for the site and secure their implementation. This includes drainage during the construction phase of the development and, given the nature of this element, it is essential that these details are approved before development takes place on site.
99. Furthermore, having regard to the consultation response of the Environment Agency and the submitted *Stage 1 Flood Risk Assessment and Surface Water Drainage Strategy*, it is appropriate to require an assessment to be made of the potential for disposing of surface water by means of a sustainable drainage scheme and to specify the details required. However, from the evidence provided, the specification wording included in the suggested condition appears to be unnecessarily overly-detailed and I intend to amend the wording accordingly.
100. In view of the site conditions and having regard to the recommendations of the *Extended Phase 1 Habitat Survey and Arboricultural Assessment April 2014*, it is appropriate to control the timing of vegetation clearance, in order to protect biodiversity on the site. In the interests of the living conditions of neighbouring occupiers, it is reasonable to control the hours of construction work on the site, including site clearance and deliveries.
101. I have had regard to the suggested condition that would require the approval of a training and employment management plan in connection with the proposal. However, on the evidence available to me, I am not satisfied that such measures would be necessary to make the proposal acceptable, or would be relevant to planning. As such, the condition would not meet the relevant tests of the PPG and the Framework and, as a result, it will not be applied.

Community Infrastructure Levy Contributions

102. The attention of the developer is drawn to the Council's Community Infrastructure Charging Schedule.

Conclusion

103. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Anne Napier

INSPECTOR

Annex

Conditions

Reserved Matters and details

- 1) Details of the appearance, layout, scale and landscaping, including details of trees to be retained, their protection during construction and replacement planting, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The number of dwellings hereby permitted to be constructed on the site shall not exceed 48.
- 5) The site access arrangements shall be carried out in accordance with Drawing Number 0618-F01 'Proposed Site Access Arrangement'.
- 6) No development shall take place until details of parking and turning facilities, access widths, gradients, surfacing, street lighting, structures and visibility splays have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.
- 7) The reserved matters for the scheme shall be designed to secure biodiversity improvements as identified within the conclusions of Section 7.7 of the submitted *Extended Phase 1 Habitat Survey and Arboricultural Assessment April 2014*.
- 8) No development shall take place until full details of the finished levels, above ordnance datum, of the floors of the proposed buildings, in relation to existing and proposed ground levels, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Contamination

- 9) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i. a survey of the extent, scale and nature of contamination; and

- ii. the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.
- 10) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before the development is occupied.
- 11) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Archaeology

- 12) No works or development shall take place on the site, including in respect of potential contamination, until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance, the programme and methodology of site investigation and recording; and the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation. The development shall be carried out in accordance with the scheme as approved.

Affordable housing

- 13) No development shall take place until a scheme for the provision of affordable housing as part of the development, in accordance with the *Newark and Sherwood Core Strategy 2011* Core Policy 1 and the *Newark and Sherwood Affordable Housing Supplementary Planning Document 2013*, shall have been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; the arrangements for the transfer of the affordable housing to an affordable housing provider, or the management of the affordable housing (if no Registered Social Landlord involved);
- iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

Drainage

- 14) No development hereby permitted shall take place until a scheme to treat and remove suspended solids from surface-water run-off during the construction phase of the development has been submitted to and approved in writing by the local planning authority. No development shall take place unless in accordance with the scheme as approved.
- 15) None of the dwellings hereby permitted shall be occupied until a scheme for the drainage of surface water has been provided on site, in accordance with details that shall have been first been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, including in respect of the hydrological and hydrogeological context of the development, and the results of the assessment shall have been provided to the local planning authority. The submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development to secure the operation of the scheme throughout its lifetime.
- 16) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

Control of construction phase

- 17) No works for the clearance of vegetation on the site shall take place except between the months of October to February inclusive, unless a nesting bird survey has first been carried out by a suitably qualified ecologist immediately prior to the clearance taking place and written confirmation has been provided to the local planning authority that no

birds will be harmed and that appropriate measures will be put in place to protect nesting bird interest on the site. Any located nests must be identified and left undisturbed until the young have left the nest.

- 18) Demolition, site clearance and construction works, including the delivery of materials, shall take place only between 07.30-18.00 Monday to Friday and 08.30-13.00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
-

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Humphreys, QC Instructed by Mr Daniel Marston, Solicitor –
Senior Legal Officer, Newark and Sherwood
District Council

He called

Mr Justin Gardner BSc Justin Gardner Consulting
Msc

Ms Melissa Kurihara Principal Planning Consultant, Urban Vision
MLPM MRTPI Partnership Ltd

Mr Simon Wood Regional Planning and Building Control Manager,
BA(Hons) BTP MRTPI Urban Vision Partnership Ltd

FOR THE APPELLANT:

Mr Ian Ponter of Counsel Instructed by Nexus Planning

He called

Dr Ricardo Gomez BA Director, Regeneris Consulting
MA PhD

Mr Justin Cove BA MSc Associate Director, Nexus Planning
MRTPI

Mr Adam Ross BA DipTP Executive Director, Nexus Planning
MRTPI

INTERESTED PERSONS:

Mr Matt Hamilton Chair of Farnsfield Parish Council

DOCUMENTS AND PLANS SUBMITTED AT THE INQUIRY

- 1 The Council's Statement of CIL Compliance
- 2 The Council's delivery evidence for the remaining disputed sites
- 3 Completed planning obligation, dated 2 November 2015
- 4 The Council's list of appearances
- 5 The appellant's list of appearances
- 6 The appellant's opening submissions
- 7 The Council's opening statement

- 8 Copy of permission to appeal, Oadby and Wigston Borough Council v SSCLG & Bloor Homes Limited, [2015] EWHC 1879 (Admin)
- 9 Agreed respective position in relation to remaining disputed sites, dated 2 November 2015
- 10 Agreed five year housing land supply calculations, dated 2 November 2015
- 11 Email update with regards to land off Warsop Lane, Rainworth dated 3 November 2015
- 12 Email update with regards to land off Warsop Lane, Rainworth dated 4 November 2015
- 13 Agreed list of suggested conditions
- 14 The Council's note on the Strategic Housing Market Area Consultation
- 15 The Council's response to additional queries raised, dated 4 November 2015
- 16 Agreed revised five year housing land supply calculations, dated 2 November 2015
- 17 The Council's list of documents distributed at the inquiry, dated 3 November 2015
- 18 Appellant's plan showing the position of the access in relation to trees on the site
- 19 The Council's note in relation to the Issues Report – returned and not accepted
- 20 Extract from the Planning Practice Guidance, Ref 21b-011-20140612
- 21 Agreed revised disputed sites summary, dated 6 November 2015
- 22 Agreed revised five year housing land supply calculations, dated 6 November 2015
- 23 The Council's closing statement
- 24 The appellant's closing submissions

DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY¹⁰

- 25 Completed planning obligation, dated 10 November 2015
-

¹⁰ See paragraph 4 of decision