

Dear Sir/Madam,

**PLANNING COMMITTEE**

Notice is hereby given that a meeting of the **Planning Committee** will be held in the Civic Suite, Castle House, Great North Road, Newark on **Tuesday, 5 December 2017 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 7 November 2017	3 – 10
<b><u>PART 1 - ITEMS FOR DECISION</u></b>	
5. Domanci Cottage, Bathley Lane, Little Carlton (17/01989/FUL) (Site Visit: 9.15am – 9.25am)	11 – 18
6. Plum Tree Cottage, Bathley Lane, Little Carlton, Newark (17/02007/FUL) (Site Visit: 9.30am – 9.40am)	19 – 25
7. Trent Farmhouse, Norwell Road, Norwell Woodhouse (17/01888/FUL) (Site Visit: 9.50am – 10.00am)	26 – 33

8.	1 Tenters Cottage, Tenters Lane, Eakring (17/01780/FUL) <b>(Site Visit: 10.15am – 10.25am)</b>	34 – 46
9.	Land at Cinder Lane, Ollerton (16/01102/OUTM) (MAJOR) <b>(Site Visit: 11.00am – 11.10am)</b>	47 – 94
10.	42 High Street, Edwinstowe (17/01508/FUL) <b>(Site Visit: 11.25am – 11.35am)</b>	95 – 111
11.	Land To The Rear Of 37 And 39 Halloughton Road, Southwell (17/00771/FUL) <b>(Site Visit: 12.00pm – 12.10pm)</b>	112 – 134
12.	Little Hollies, The Close, Averham (17/01193/FUL)	135 – 154
13.	22 High Street, Sutton on Trent (17/01300/FUL)	155 – 163
14.	Land Off Mill Lane, North Clifton (17/01564/FUL)	164 – 176
15.	Recreation Ground, Elm Avenue, Newark (17/01693/FULM) (MAJOR)	177 – 221
16.	Wirtgen Group House, Godfrey Drive, Winthorpe (17/01727/ADV)	222 – 229
17.	Land Near Woodlands Barn, Mill Lane, South Clifton (17/01812/FUL)	230 – 241

#### **PART 2 – ITEMS FOR INFORMATION**

18(a)	Appeals Lodged	242 – 243
18(b)	Appeals Determined	244

#### **PART 3 - STATISTICAL AND PERFORMANCE REVIEW ITEMS**

19.	Planning Enforcement Update	245 - 258
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#### **PART 4 - EXEMPT AND CONFIDENTIAL ITEMS**

The following item contains 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.

20.	Enforcement Matters	Report To Follow
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#### **NOTES:-**

A Briefing Meeting will be held in Room F1, Castle House at 3.00 pm on the day of the meeting between the Business Manager – Growth & Regeneration, 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 Civic Suite, Castle House, Newark on Tuesday, 7 November 2017 at 4.00pm.

PRESENT: Councillor D.R. Payne (Chairman)  
Councillor G.P. Handley (Vice-Chairman)

Councillors: Mrs K. Arnold, R.V. Blaney, Mrs A.C. Brooks, R.A. Crowe,  
Mrs M. Dobson, J.D. Lee, N.B. Mison, Mrs P.J. Rainbow,  
Mrs S.E. Saddington, Mrs L.M.J. Tift, B. Wells  
and Mrs Y. Woodhead.

127. APOLOGIES FOR ABSENCE

An apology for absence was received on behalf of Councillors I. Walker.

128. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

<u>Member/Officer</u>	<u>Agenda Item</u>
Councillor G.P. Handley	Agenda Item No. 12 – The Sawmill, Beacon Hill Road, Newark (17/01431/FUL). Disclosable pecuniary interest as he is a shareholder and other financial interests.
Councillors J.D. Lee and N.B. Mison	Agenda Item No. 14 – Rear of Chapel Farm, Newark Road, Wellow (16/01638/FUL). Personal interests as a friend of Cllr Lee and association with the applicant for Cllr Mison.
Councillor D.R. Payne	Agenda Item No. 15 – Little Hollies, The Close, Averham (17/01193/FUL). Personal interest as the applicant was a former client.

129. DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

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

130. MINUTES OF THE MEETING HELD ON 19 OCTOBER 2017

AGREED that the minutes of the meeting held on 19 October 2017 be approved as a correct record and signed by the Chairman.

131. ORDER OF BUSINESS

With the agreement of the Committee, the Chairman changed the order of business and agenda item 14 was taken before agenda item 15. The agenda resumed its stated order thereafter.

132. CORNERWAYS, BECK LANE, BLIDWORTH, NOTTS (17/01692/RMA)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought to secure reserved matters in relation to outline consent in order to deliver four detached residential properties on the site with a single access from Beck Lane.

Members considered the application and it was agreed that the application was acceptable subject to conditions preventing the erection of any structures, including garden sheds/summer houses etc., in the gardens of plots 3 and 4, as the residential curtilage for those properties was in the green belt.

AGREED (unanimously) that full planning permission be approved subject to the conditions and reasons contained within the report and the additional condition requiring planning permission for the erection of any structures in the residential curtilage for plots 3 and 4.

133. WOODLANDS COTTAGE, STATION LANE, FARNSFIELD, NOTTS (17/01210/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought full planning permission for a one and a half storey four bed detached dwelling.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the agent and local resident.

Members considered the application and felt that as the host dwelling and surrounding properties were red brick, the white rendering of the proposed dwelling was not in keeping with the character of the surrounding properties. It was therefore proposed that an additional condition should be included for the material to be red brick, given the character of the buildings surrounding the property. The removal of permitted development rights was also suggested to protect the neighbouring bungalows.

AGREED (unanimously) that full planning permission be approved subject to the conditions contained within the report and the following additional conditions:

- (i) The removal of permitted development rights; and
- (ii) The material of the property to be red brick, given the character of the buildings surrounding the property.

134. HOLLY COTTAGE, FISKERTON ROAD, BRINKLEY, NOTTS (17/01443/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought planning permission for the erection of a single storey residential annexe within the grounds of Holly Cottage.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the applicant.

Members considered the application and some Members felt that the proposed development was not an annexe as it was positioned away from the house. It was not linked to the main house in any way and therefore was a free standing separate house. Some Members felt that the design was inappropriate. Other Members felt that whilst you would expect an annexe to be attached to the host dwelling in some way, this was a large single storey building, designed to have a barn effect. The proposed use was for family use and it was acknowledged that the host property could not be easily extended to provide the desired accommodation. Credit was given to the applicant/architect regarding the design of the rear roof which would back onto the road and would be grass covered reducing the visual impact. Concern was also raised regarding the proposed floor space of 97 metres which was similar to that of a two storey semi-detached property.

Members also sought clarification regarding tying the use of the development to the applicant. The Business Manager Growth & Regeneration explained that there were ways to tie applicants into developments, however there were always opportunities for the applicant to break those ties. A Supplementary Planning document had been produced which dealt with planning permission relating to annexes. The document stipulated that the application must be treated as a house and required full planning permission.

AGREED (with 12 votes for, 1 vote against and 1 abstention) that full planning permission be refused for the reason contained within the report.

135. SOUTHWELL RACECOURSE, STATION ROAD, ROLLESTON, NOTTS (17/01268/FULM)  
(MAJOR)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought planning permission for the erection of 55 lighting columns to provide floodlighting to the racecourse to allow races to take place until 21:30hours.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the agent.

A Member commented upon an inaccuracy within the report, as the report indicated that the Local Ward Member had referred the application to the Planning Committee for consideration when it was the adjoining Ward Member.

A Member also commented that the Clerk to Upton Parish Council had not been consulted regarding this application. Upton Parish Council however had no comments regarding the application. It was also noted that Rolleston Parish Council had also submitted no objection.

Members considered the application and commented that Southwell Racecourse was a well-run successful first class business and was of benefit to the tourism for Southwell. The proposed lighting would have limited impact and was essential for the development of the business.

AGREED (unanimously) that full planning permission be granted, subject to the

applicant entering in to a S106 Agreement to provide an updated Transport Management Plan and the conditions contained within the report.

136. ASHLEIGH, GREAT NORTH ROAD, SOUTH MUSKHAM, NOTTS (16/01761/OUT)

The Committee considered the report of the Deputy Chief Executive, following a site visit prior to the meeting, which sought outline planning permission with all matters reserved for later determination for the erection of 3 no. dwellings rather than the 5 originally proposed.

Members considered the application and concerns were raised regarding the speed of the traffic using the highway even after that speed limit had been reduced from 40mph to 30mph. The height of neighbouring hedges was also discussed, at present the hedge heights were being kept at a height which helped visibility, concern was raised regarding visibility in the future should the hedge height be allowed to increase.

Concern was raised regarding the application being up to three properties and that there appeared to be surplus land beyond this which had formed part of the original application for up to five dwellings. It was suggested that given the application site remained as per the original application, to make it clear that planning permission was for a maximum of three properties on the whole site and not just on the front of the site. The Business Manager Growth & Regeneration confirmed that the red line would be confirmed as the whole site if the Committee were minded to approve the application.

AGREED (unanimously) that outline planning permission be approved subject to the following:

- (i) The conditions contained within the report; and
- (ii) The development be restricted to a maximum of three dwellings on the whole site. The Business Manager Growth & Regeneration to ensure conditions amended accordingly.

137. FIELD REFERENCE NUMBER 0790, TOP STREET, RAINWORTH, NOTTS (17/00865/FULM) (MAJOR)

The Committee considered the report of the Deputy Chief Executive, which sought full planning permission for 56 dwellings and associated open space and other infrastructure.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the following: Nottinghamshire County Council Section 106 Officer; Nottinghamshire County Council – Highway Authority; the applicant; and local resident of Top Street.

The old site layout and new site layout was tabled to the Committee for information.

Members considered the application and it was felt that the application had been improved although further improvements could have been made. Concern was raised

regarding the car parking arrangement for the residents of Top Street. It was suggested that the Committee be minded to approve planning permission subject to delegated authority being granted to the Business Manager Growth & Regeneration in consultation with the Planning Committee Chairman, Planning Committee Vice-Chairman and Local Ward Member, for an additional five car parking spaces to be made available (a minimum of eleven spaces in total) for residents of Top Street, using part of the public open space if required.

AGREED (with 13 votes for and 1 abstention) that the Planning Committee be minded to grant full planning permission subject to:

- (a) the conditions contained within the report;
- (b) the signing and sealing of a Section 106 Planning Agreement to control the matters set out in the table contained within the Summary Developer Contributions section within the report and to prevent any ransom strip being created along the southern boundary of the site and allow the whole allocation site to be potentially developed; and
- (c) delegated authority be granted to the Business Manager Growth & Regeneration in consultation with the Planning Committee Chairman, Planning Committee Vice-Chairman and Local Ward Member, for an additional five car parking spaces to be made available (a minimum of eleven spaces in total) for residents of Top Street, using part of the public open space if required.

138. THE OLD BARN, CHURCH LANE, BESTHORPE (17/01216/FUL)

The Committee considered the report of the Deputy Chief Executive, which sought planning permission for a two storey extension to the existing house, proposed first floor in the roof space.

Members considered the application and thanked the Planning Case Officers for their work regarding this application and for the Architect for taking on board the Planning Authority's suggestions for this application. Members felt that all their concerns had been addressed and the proposal was acceptable.

AGREED (unanimously) that full planning permission be approved subject to the conditions and reasons contained within the report.

*(Having declared a Disclosable Pecuniary Interest on the following item, Councillor G.P. Handley left the meeting at this point).*

139. THE SAWMILL, BEACON HILL ROAD, NEWARK (17/01431/FUL)

The Committee considered the report of the Deputy Chief Executive, which sought the demolition of the existing Public House and the erection of two new units comprising of a Use Class A1 convenience retail unit and a Use Class A1 (Non-Food).

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the agent.

Members considered the application and welcomed the scheme as the facilities would be in walking distance for local residents. The opening hours were discussed and it was suggested that the Planning Case Officers recommendations as contained within the late item schedule be approved, with the revision to condition 6 to allow 7am to 11pm opening Monday to Saturday and 10am to 10pm on a Sunday.

AGREED (with 12 votes for and 1 vote against) that full planning permission be approved subject to the conditions contained within the report and the revision to condition 6 as follows:

Opening hours:  
Monday to Saturday 7am to 11pm;  
Sunday 10am to 10pm.

140. ROBIN HOOD VIEW CARAVAN PARK MIDDLE PLANTATION, BELLE EAU PARK, BILSTHORPE (17/01451/FUL)

The Business Manager Growth & Regeneration deferred this application from the agenda.

*(Councillor Mrs L.M.J. Tift left the meeting at this point).*

141. LITTLE HOLLIES, THE CLOSE, AVERHAM (17/01193/FUL)

The Committee considered the report of the Deputy Chief Executive, which sought the demolition of the existing garage and the creation of a five bedroom house with a detached double garage and formation of a driveway for the existing dwelling at Little Hollies.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from an objector.

Members considered the application and requested that the application be deferred to request that a street scene elevation plan be submitted to demonstrate the height of the proposed dwelling against the neighbouring properties.

AGREED (with 12 votes for and 1 abstention) that the application be deferred in order for Officers to determine the roof height of neighbouring properties and provide Members of the Committee with the proposed street scene.

*(Having declared personal interests on the following item Councillors J. Lee and N.B. Mison left the meeting at this point).*

142. REAR OF CHAPEL FARM, NEWARK ROAD, WELLOW (16/01638/FUL)

The Committee considered the report of the Deputy Chief Executive, which sought planning permission for the erection of buildings and change of use of existing buildings

to form holiday let accommodation.

A schedule of communication was tabled at the meeting, which detailed correspondence received after the agenda was published from the following: the applicant; Nottinghamshire County Council Highway Authority; and an objector.

The Business Manager Growth & Regeneration informed the Committee that Members of the Planning Committee were not being asked to determine the application given that an appeal against non-determination was pending. Rather, the Committee were being asked to offer a view as to the acceptability of the scheme if they were to have retained the power of determination. Depending on the resolution this would affect if and on what grounds any appeal would be progressed.

The Business Manager Growth & Regeneration advised Members that the applicant had informed the Planning Authority that they would enter into a Section 106 Agreement in order to ensure that there would be only one shared kitchen in the development. The Highways Authority had advised the Planning Authority that if they did not have the ability to control the implementation of further kitchens in the individual holiday lets, the application should be refused on the grounds of highway safety.

The Business Manager Growth & Regeneration had been given legal advice that the provision of kitchens could not be reasonably controlled by condition or through a Section 106 agreement and given the Highway Authority advice, he had no other option than to recommend refusal on the grounds of highway safety on the basis that the Highway Authority would appear with the Council in defending the appeal.

Members considered the application and a Member commented that the reason for refusal was on highway safety grounds. Nottinghamshire County Council Highways Authority had confirmed that they would defend the application on appeal. Members also commented that as stated in the report this development would also employ seventeen people and this would have an impact on the movement of staff traffic coming to the business. Traffic movement of staff should also be taken into account.

Members sought further clarification regarding the size of units and the Business Manager Growth & Regeneration confirmed that they had en-suite facilities and were large enough for a kitchenette to be installed in the future.

A Member commented on the condition of the road up to the proposed development which was nothing more than a cart track and felt that the application was not acceptable.

AGREED (unanimously) that the Planning Committee be minded to refuse full planning permission if they had been determining the application whilst live, for the reasons contained within the report.

143. APPEALS LODGED

AGREED that the report be noted.

144. APPEALS DETERMINED

AGREED that the report be noted.

The meeting closed at 6.38pm

<b>Application No:</b>	<b>17/01989/FUL</b>	
<b>Proposal:</b>	<b>Householder application for proposed first floor extension over existing ground floor with single storey rear extension. (Resubmission)</b>	
<b>Location:</b>	<b>Domanci Cottage, Bathley Lane, Little Carlton, NG23 6BY</b>	
<b>Applicant:</b>	<b>Jade Holgate</b>	
<b>Registered:</b>	<b>01.11.2017</b>	<b>Target Date: 27.12.2017</b>

**This application is being referred to the Planning Committee for determination by the local ward member (Cllr Saddington) due to local need.**

Site

The application site accommodates a two storey brick and tile semi-detached property on the eastern side of Bathley Lane in Little Carlton. The original part of the dwelling is two-storey and there is a large single-storey element attached to the side, which I believe to be a historical extension. The dwelling is set back into the plot and separated from the highway by a long front garden. Abutting the highway is a low hedge, which together with low brick walls, is a common feature of the street scene.

The two storey part of the host dwelling is attached to the neighbouring property. To the south side a more modern two storey dwelling is set further from the highway than the host dwelling. To the rear is a small garden with open countryside beyond.

Relevant Planning History

It is believed that the single storey side element of the property is an historical extension.

**17/01405/FUL** Planning permission was refused in September this year for an identical proposal. The only difference between this current application and the previous refused application is that the applicants have submitted a claim for “Special Local Needs.” The contents of this document are detailed further under “The Proposal” part of this report.

The Proposal

The application is for a first floor extension over the existing ground floor side element of the property with internal alterations to create a kitchen / diner, wc and pantry at ground floor level with a bedroom and bathroom above. The existing property has two-bedrooms.

If allowed the proposed extension would mean that the property remained a two-bedroom property, but the bedroom sizes would be much larger. The proposed extension would have a footprint of circa 5.8 metres by 4.9 metres with eaves to match that of the main dwelling and a lower ridge height of circa 5.6 metres. A new dormer window within the rear roof slope of the extension is also proposed, together with a small timber framed porch to the front. A one metre deep single storey rear extension would be added to the existing single storey part of the dwelling.

As mentioned in the “Relevant Planning History” part of this report above, the applicant has submitted a claim for “Special Local Need.” For the clarity of the Planning Committee this document is detailed in full below;-

*“We moved to the village just over five years ago as first time buyers. Jade has lived in neighboring village, Bathley all her life and I had been living in both villages since moving to the area from Nottingham nine years ago.*

*We love the village, our home and the local community and have gotten to make so many friends during our five years here and really would like to stay. We are both mid-twenties now and been together six years so naturally conversations about starting a family have happened. The stumbling block we face is that although we love our home it simply is not practical enough to start a family, with one master bedroom and only a small box room. Moving to a larger home, still within the village is financially impossible for us, as you will be aware, the houses in the village are very sought after and higher in value.*

*As you will be aware the planning was turned down for the extension being "too bulky". We were understandably upset by this decision especially as we had taken care to keep the new design in keeping with the original main dwelling as we also feel it is important to the original character of the house and the village, we are therefore prepared to undertake the extra financial burden to achieve this aim.*

*We liaised with our immediate next door neighbors with whom we have an excellent relationship before even thinking about submitting any plans. It was very important to ourselves to genuinely make sure they should they have any complaints towards the work we would not have proceeded. We also received no further objections when we submitted the plans.*

*Finally we would also like to add that we have the full support of South Muskham and Little Carlton Parish Council.”*

#### Departure/Public Advertisement Procedure

Occupiers of five 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 DPD (Adopted March 2011)**

Spatial Policy 3 Rural Areas

Policy 9 Sustainable Design

##### **Allocations and Development Plan Development Plan Document (DPD)**

Policy DM5 Design

Policy DM6 Householder Development

## **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

Householder Development Supplementary Planning Document Adopted November 2014

### **Consultations**

**South Muskham and Little Carlton Parish Council;**- Support.

*“• Local Need. It was important to encourage more young people to live and remain in the Parish*

*• The design and size of the extension was sympathetic to the Village*

*• There was no case of over-development and the Planning Authority had previously approved applications for similarly sized extensions*

*• And, specifically, the Parish Council would wish to endorse the views expressed by the applicants in their re-submission, in respect of their claim for ‘Special Local Needs’.”*

**Environment Agency** – Flood Risk Standing Advice (FRSA) applies.

1 letter of support has been received by a neighbouring occupier. Reasons for support are that;-

- It will make a nice cottage with a useful extension.
- It will ensure that a nice young couple is kept in the village to balance the younger generation with the growing number of elderly people.

**Trent Valley Internal Drainage Board** – The site is within the Trent Valley Internal Drainage Board district. There are no Board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

## **Appraisal**

### **Principle of Development**

The proposal relates to a householder development which is accepted in principle by Policy DM6 of the DPD subject to an assessment against a number of site specific criteria including the impact of the proposal on visual and residential amenity. Policy DM5 also relates to visual and residential amenity and highway safety.

### **Impact upon Visual Amenity**

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life and can include replacing poor design with better design and widening the choice of high quality homes. Policy DM6 of the DPD states that planning permission will be granted for householder development provided that the proposal reflects the character of the area and the existing dwelling in terms of design and materials. Policy DM5 is also relevant and has similar criteria to DM6.

The proposal comprises a first floor extension over the existing ground floor side element to include a dormer to the rear, together with a timber porch. The proposed first floor extension would have a matching eaves height, together with a ridge height that would sit just below that of main dwelling. A gable roof is proposed, with a small dormer window within the rear slope, together with a rooflight in each roofslope. It is also proposed to extend the rear elevation by a metre.

In terms of appearance the symmetry of the pair of semi-detached properties has already been unbalanced through the single storey element. This element is not especially sympathetic to the semi-detached properties which comprise a relatively narrow frontage. The single storey extension has added considerably to the width of the overall building and the footprint of which is not subservient.

The proposed first floor extension would add a width of 5.8 metres at first floor level. Although it would follow the footprint of the single storey extension and therefore would be set back from the façade of the two storey element, and would incorporate a lower ridge height, the width of the extension could not be considered subservient to the original dwelling. The width of the extension would be more than the width of the semi-detached property (the main two-storey host dwelling measures 4.1 metres in width) and approximately half again of the other half of the semi-detached property. As a result the extension would be the dominant element of the dwelling, to the detriment of the visual amenity of the building.

It is considered the extension would therefore be overly dominant, visible in the street scene and by reason of size, scale, massing and siting, would not be a subservient addition to the property and would be harmful to the visual amenity of the dwelling and street scene. This formed the reason for refusal on the previous planning application which was refused in September this year. As the plans for this current application are identical to the previously refused application, and planning policies have not altered since the previous refusal at the site, I consider this assessment to still be relevant.

No objection is raised to the modest additional footprint to the rear on the ground floor or to the proposed porch which would represent subservient additions to the building.

#### Impact on Residential Amenity

Policy DM6 of the ADMDPD states planning permission will be granted for householder development provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy or overshadowing. Policy DM5 is also relevant.

To the north the host dwelling is attached to the other half of the semi-detached property. The extension would add to the ground floor footprint by one metre to the rear and this element would have little impact. The first floor above would introduce a dormer window serving a bedroom which would lead to the potential for overlooking and loss of privacy to the rear garden of the attached dwelling. However, the angle would be oblique and given the shallowness of the garden the impact would be limited. To the west the long front garden separates the extension from the neighbouring properties where the highway also intervenes. As such, there would be no undue impact on these properties. To the east is countryside.

There is a neighbouring dwelling set further from the highway than the host dwelling to the south-east. The first floor extension would be visible from this dwelling; however, the angle from the dormer window in the rear roof slope to the façade of the neighbouring would be oblique and would not allow for any significant intervisibility between habitable windows. There is only one small, high level window in the side elevation of the neighbouring property and again views from the dormer window would be at an oblique angle. The extension would be set off the boundary and the neighbouring property is also set off this boundary. As a result, the extension would not have an overbearing or overshadowing impact. On balance, it is considered the relationship with this property would be acceptable. No other property would be unduly affected.

### Highways and Parking

The proposal would not impact upon existing off street parking provision or the existing vehicular access and the site has adequate space for adequate off street parking to accommodate vehicles from the extended property.

### Flood Risk

A householder flood risk assessment has been submitted with the application to confirm that floor levels within the proposed development would be set no lower than existing levels and flood proofing of the proposed development would be incorporated where appropriate. The proposal therefore complies with the Standing Advice.

### Special Local Need

The only difference between this current planning application and the previously refused planning application is that the applicants have submitted a claim for a "Special Local Need." For the clarity of the Planning Committee, the contents of this claim have been copied and pasted in full under "The Proposal" section of this report.

To summarise, the applicant has lived in either Bathley or Little Carlton all of her life and her partner has also lived in these villages since moving to Nottingham nine years ago. They have ties to the village and wish to remain living in the village. However, they may possibly want to start a family and they do not consider the house to be practical in its current form. They would also struggle to move house within the village as larger homes within the village are highly sort after and are much higher in value. The Ward Member and Parish Council support these comments.

I do have some sympathy with the applicant and their circumstances. However, from a purely planning point of view I do not consider that this reason justifies the visual harm that the extension would cause to the host dwelling and the wider street scene. Furthermore, there are no planning policies referring to a local need relating to a family proposing to extend their home so that they can remain in an area. Unfortunately, I therefore do not consider there to be sound planning reasons to justify an approval on the grounds of special local need.

### Other Information

The applicant has submitted examples of planning approvals involving what they consider to be sizeable extensions in Little Carlton. I have looked into all of the examples and do not consider any of them to be directly comparable to this current committee application, particularly in terms of the width of any two-storey side extension compared to the host dwelling. As such I do not consider any of these examples to have set a precedent meaning that this current committee proposal should be allowed. For the fairness of the applicant, I will go through each of their examples in turn.

Example 1 Mayfield, Bathley Lane, Little Carlton 17/00953/FUL. This proposal was single storey only, predominantly to the rear with only a smaller part to the side. The case officer file notes for this proposal commented that *“I am mindful that elements of the proposed extension and entrance porch could be seen from the adjacent highway however given the single storey design and modest height I am satisfied that the proposed development would appear subservient to the host dwelling and would not be unduly prominent within the immediate locality.”*

Example 2 16/01613/FUL Dunnow, Bathley Lane, Little Carlton. This proposal was minor in scale consisting of an entrance porch and alterations to windows. The previous proposal for an extension at the site, 08/02197/FUL, was predominantly to the rear with a much narrower side extension than this current committee application.

Example 3 15/00967/FUL Field house, Bathley Lane, Little Carlton. This was predominantly to the rear and predominantly single storey having little impact on the street scene.

Example 4 15/00195/FUL, 05/00697/FUL, 04/02684/FUL, 03/02753/FUL The Paddocks, Ollerton Road, Little Carlton. 15/00195/FUL – This was a small extension to a garage. 05/00697/FUL – The proposed two-storey side extension was not wider than the host dwelling itself, unlike this current committee application. This was a re-submission of both 03/02753/FUL and 04/02684/FUL.

Example 5 13/01695/FUL Ramillies, Ollerton Road, Little Carlton. The proposed extension was situated to the rear of the dwelling with only the increase in roof height being visible from the front elevation.

Example 6 10/00222/FUL Bendaris, Bathley Lane, Little Carlton. The file notes for this proposal stated that *“the erection of the proposed extension includes the demolition of a garage and outbuildings, and the proposal will largely be built on the footprint of the structures that will be demolished.”* The side extension was not as wide as the host dwelling, unlike this current committee application.

Example 7 09/01536/FUL The gables Bungalow, Ollerton Road, Little Carlton. This extension was predominantly to the rear with a much narrower side extension than the current committee application.

## Conclusion

The principle of development is considered to be acceptable; however, the size, scale, massing and siting would not result in a subservient extension to the existing dwelling. The development would not be detrimental to the amenity of neighbouring properties by reason of overlooking, overshadowing or overbearing impact or impact upon highway safety but this is not considered to outweigh the harm identified by virtue of the over dominance of the proposed extension. The applicant has attempted to demonstrate a local need in that she is from the area, wishes to remain in the area, requires a larger house and may not be able to afford an existing larger house in the village which are highly sort after. Whilst I sympathise with the applicant, there is no planning policy support for this particular need. As such, unfortunately, I do not consider that this reason justifies the visual harm that the extension would cause to the host dwelling and the wider street scene. I therefore do not consider there to be sound planning reasons to justify an approval on the grounds of special local need.

## **RECOMMENDATION**

**That planning permission is refused for the following reason:**

01

In the opinion of the District Council, the proposed first floor extension, by virtue of its size, massing, scale and siting, would result in an unacceptable degree of bulk and massing, resulting in an extension that would not be subservient to the original dwelling and of an excessive width. The proposal would therefore be harmful to the visual amenity of the dwelling and street scene. The proposed development would be therefore contrary to Core Policy 9 of the Core Strategy, Policies DM5 and DM6 of the Allocations and Development Management DPD as well as the National Planning Policy Framework, Planning Practice Guidance and the Council's Supplementary Planning Document 'Householder Development' which are material planning considerations.

### **Notes to Applicant**

01

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

02

The application is contrary to the Development Plan and other material planning considerations, as detailed in the above reason for refusal. Revised plans were not discussed with the Applicant as significant changes would be required to overcome the issues identified and a decision was therefore issued expediently.

### **BACKGROUND PAPERS**

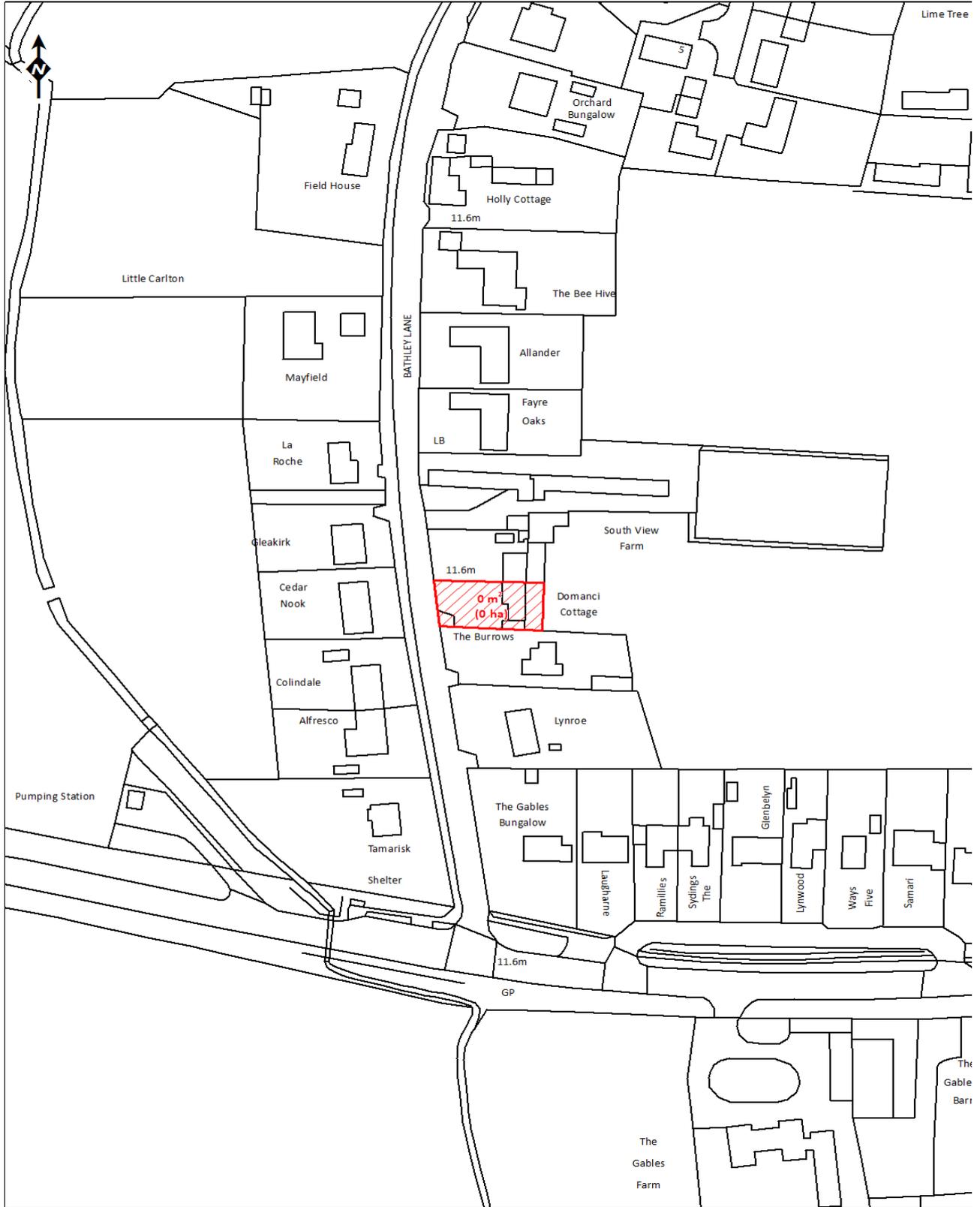
Application case file.

For further information, please contact Claire Turton on ext 5893.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01989/FUL



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<b>Application No:</b>	<b>17/02007/FUL</b>	
<b>Proposal:</b>	<b>Householder application for proposed extension to existing garage to form first floor office/hobby room and gym on ground floor.</b>	
<b>Location:</b>	<b>Plum Tree Cottage, Bathley Lane, Little Carlton, Newark, Nottinghamshire NG23 6BY</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs R Pindor</b>	
<b>Registered:</b>	<b>3 November 2017</b>	<b>Target Date: 29 December 2017</b>

**This application is being referred to the Planning Committee for determination by the local ward member (Cllr Saddington) due to matters of local need.**

Site

The site accommodates a detached brick, render and tile cottage on Bathley Lane, on the northern approach to the village of Little Carlton, just outside the main village. The property has been extended to the rear, with a detached double garage also forming part of the site. A small garden frontage with a low level brick wall and fencing separates the main dwelling from the highway, whilst an access road on the southern side of the plot leads to an area of hardstanding in front of the double garage. The enclosed rear garden is bordered by timber fencing together with mature landscaping. The site is partially screened from the highway on approaches to the north and south by mature hedgerows. A metal field gate sits close to the northern edge of the site, with the property being surrounded by open countryside on all aspects. The nearest neighbouring property is located on Bathley Lane to south-west.

The Newark and Sherwood Landscape Character Assessment identifies the site as being located within the Trent Washlands Policy Zone 11: Cromwell, North and South Muskham. The policy for this landscape area is to conserve and create.

Relevant Planning History

00/01339 – extension to dwelling and erection of garage – Approved.

00/50395 – extension to dwelling and erection of garage – Refused.

02/00708 – installation of rooflights and entrance porch – Approved.

17/00933/FUL Planning permission was refused in July this year for *“Householder application for proposed extension and alterations to existing cottage, demolition of existing detached garage and erection of new detached garage / office / gym / hobby room, new vehicular access location.”*

Reasons for refusal were:-

*“1. The application dwelling is located within a rural area. In the opinion of the Local Planning Authority, the proposed development would result in extensions and alterations of excessive and disproportionate scale, design and massing that would fail to adhere to the character or scale of*

*the dwelling or locality and would be harmful to the site, street scene and open countryside location. As such the proposal fails to accord with Core Policy 9 (Sustainable Design) of the Core Strategy DPD (Adopted March 2011) and policies DM5 (Design) and DM6 (Householder Development) of the Allocations and Development Management DPD (Adopted July 2013), the guidance contained within the Householder Development SPD and the National Planning Policy Framework and the National Planning Policy Guidance which are material planning considerations.”*

*“2. The revised access would be likely to result in an increase in danger to other users of the highway owing to the use of the access which affords restricted visibility for drivers emerging from the access. The proposal is therefore contrary to Policy DM5 of the Allocations and Development Management Development Plan Document which requires the provision of a safe access. The proposal is also contrary to the principles of the NPPF which form a material consideration.”*

### The Proposal

The proposal is a householder application for a proposed extension to existing garage to form first floor office/hobby room and gym on ground floor.

This current planning application differs from the previously refused application at this site in that no extensions or alterations are now proposed to the cottage itself and no new vehicular access is proposed.

In addition, the previously refused application proposed the demolition and re-build of the detached garage to include an office, gym and hobby room whereas this current application proposes an alteration and extension to the existing garage to form an office, gym and hobby room. The elevation design and footprint of the proposed garage in this current planning application also differs from that of the previously refused planning application.

The previously proposed garage had maximum dimensions of approximately 10.9m depth and 6.9m width with a semi hipped roof, an eaves height of circa 3.1m and ridge height of 6.3m.

The current application proposes to raise the eaves height of the existing garage from 2m to circa 3m and the ridge height by some 1.8m from 4.3m to 6.1m.

A lower two storey asymmetric extension with a single storey element to the side/rear is proposed to the rear set at an angle to the host garage building which would have a maximum footprint of circa 5.39m in depth and 6.86 width. The two storey section of the proposed extension would have an eaves height to match that of the existing building and a ridge height of circa 5m. The single storey element would have a flat roof with a maximum height of circa 2.7m

### Departure/Public Advertisement Procedure

Occupiers of 1 property have been individually notified by letter and a site notice posted.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (Adopted March 2011)**

Policy 9 Sustainable Design

#### **Allocations and Development Plan Development Plan Document (DPD)**

Policy DM5 Design

Policy DM6 Householder Development

Policy DM8 Development in the Countryside

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

Householder Development Supplementary Planning Document Adopted November 2014

Landscape Character Assessment Supplementary Planning Document Adopted December 2013

### **Consultations**

#### **South Muskham and Little Carlton Parish Council – Support**

*“• The extension to the existing garage was now to build upwards and to the rear of the property; with no proposals to change the size of the house.*

*• Local Special Needs. The applicants were present at the meeting and explained that a further bedroom was required. It was important to encourage young people to live and remain in the Parish.*

*• The property was at the entrance to Little Carlton and, visually, the amended proposals were now acceptable in respect to the approach to the Village.”*

No representations received from neighbouring properties, although at the time of writing this report the application is still in its consultation period. This expires on the 24<sup>th</sup> November 2017.

### **Appraisal**

#### **Principle of Development**

The proposal relates to a householder development which is accepted in principle by Policy DM6 of the DPD subject to an assessment against a number of site specific criteria including the impact of the proposal on visual and residential amenity and highway safety. Policy DM5 covers similar criteria.

#### **Impact upon Visual Amenity**

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Pursuing sustainable development involves seeking positive improvements in the

quality of the built, natural and historic environment, as well as in people's quality of life and can include replacing poor design with better design and widening the choice of high quality homes. Policy DM6 of the DPD states that planning permission will be granted for householder development provided that the proposal reflects the character of the area and the existing dwelling in terms of design and materials. Policy DM5 is also relevant and has similar criteria to DM6.

Whilst it is acknowledged that the property is partially screened from both the northern and southern approaches, the dwelling sits close to the highway and is a key feature when approaching the village from the north. The property sits within a moderate plot within the countryside which originally accommodated a single storey 1 bedroomed cottage.

Although this is a revised scheme to that previously refused, the proposed redevelopment and extensions to the garage are considered excessive in both their design and scale and would not result in development that is considered subservient to the main dwelling. In particular, the proposed raised roofline to the front of the garage outbuilding would make this building taller than the adjacent host dwelling. The main part of the host dwelling measures circa 4.5 metres to the ridge and circa 2.4 metres to the eaves with the rear extension measuring circa 5.5 metres to the ridge and 2.4 metres to the eaves. The main front part of the altered garage outbuilding would measure 6.145 metres to the ridge and 3.023 metres to the eaves. This is considerably higher than the host dwelling itself and therefore cannot be considered to be a subservient addition.

This is contrary to planning policy, including the detailed guidance set out in the Council's Householder Development SPD which states that;-

*“poorly designed and sited garages and outbuildings can give rise to detrimental impacts on the appearance of host dwelling and the character of the surrounding area ... As a result the design and assessment of such development should ... consider the following:*

*(i) Whether the proposal is domestically proportioned and would not introduce a feature that would be overly dominant in comparison to the main dwellinghouse.”*

Having regard to the above, given that the proposed development is not considered to be a subservient addition to the host dwelling by virtue of its scale, form and appearance it would in my opinion be harmful to the character and appearance of the host dwelling and its rural countryside surroundings and it is therefore contrary to the relevant policies and guidance referred to above.

#### Impact on Residential Amenity

Policy DM6 of the ADMDPD states planning permission will be granted for householder development provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy or overshadowing. Policy DM5 is also relevant.

The property is relatively isolated with the nearest neighbouring property located a significant distance to the south; as such, the development is not considered to impact upon neighbouring properties in terms of overlooking, overshadowing or overbearing impact.

### Highways and Parking

This revised planning application does not involve alterations to access or parking. Therefore there are no highway issues associated with the application.

### Local Need

The Local Ward Member has referred this application to committee on the grounds of local need. She has explained that the applicants are a young couple who may wish to have children, but wish to stay in the village where they have purchased a house. Her concerns centre around the fact that facilities in villages need to be used or they are lost and young families bring life into villages which are often weighted towards the more senior residents. The Parish Council also comment on local need.

Unfortunately, from a purely planning point of view, I do not consider that this reason outweighs the visual harm that the extension to the garage outbuilding would cause to the character and appearance of the host dwelling and the countryside setting. Furthermore, there are no planning policies referring to a personal need relating to a family proposing to extend their home so that they can remain in an area. Unfortunately, I therefore do not consider there to be sound planning reasons to justify an approval on the grounds of personal need.

It is noted that the Parish Council also state that *“the applicants were present at the meeting and explained that a further bedroom was required.”* For clarity, the application does not proposed additional bedroom accommodation but a office/hobby room and gym.

### Flood Risk

The Internal Drainage Board commented on the previous application at the site. If planning permission were to be granted for this application implementation of Standing Advice could be covered through the imposition of informatives.

### Conclusion

The principle of householder development may be acceptable and no objection is raised on the grounds of residential amenity or highway safety. However, the scheme is not in my opinion of a scale, design and massing to be considered subservient to the main dwelling and is therefore not considered acceptable on visual amenity grounds and refusal is recommended.

## **RECOMMENDATION**

**That planning permission be refused on the following grounds:**

01

The dwelling is located in a rural area. In the opinion of the Local Planning Authority, the scale, form and appearance of the development would be harmful to the character and appearance of the host dwelling and its rural surroundings. In particular, the height of the proposed outbuilding would be larger than that of the host dwelling not resulting in development that is considered subservient to the main dwelling. As such the proposal fails to accord with Core Policy 9 (Sustainable Design) of the Core Strategy DPD (Adopted March 2011) and policies DM5 (Design) and DM6 (Householder Development) of the Allocations and Development Management DPD

(Adopted July 2013), the guidance contained within the Householder Development SPD and the National Planning Policy Framework and the National Planning Policy Guidance which are material planning considerations.

### **Informatives**

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/](http://www.newark-sherwooddc.gov.uk/cil/)

02

The application is contrary to the Development Plan and other material planning considerations, as detailed in the above reason for refusal. Revised plans were not discussed with the Applicant as significant changes would be required to overcome the issues identified and a decision was therefore issued expediently.

### **BACKGROUND PAPERS**

Application case file.

For further information, please contact Claire Turton on ext 5893.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**



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<b>Application No:</b>	<b>17/01888/FUL</b>	
<b>Proposal:</b>	<b>Householder application for proposed two storey rear extension</b>	
<b>Location:</b>	<b>Trent Farmhouse , Norwell Road, Norwell Woodhouse</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs South</b>	
<b>Registered:</b>	<b>17 October 2017</b>	<b>Target Date: 12 December 2017</b>

**This application has been referred to Planning Committee by Cllr Saddington on the grounds of local need. The property is not listed and is not located within a Conservation Area. The proposal is to the rear of the property which is set in substantial grounds and is not visible from either the road or any other public views and is far enough from neighbouring properties to not result in any harm. When young residents wish to stay in a village and extend their house owing to an increase in family, if prevented they will leave the village. Norwell Woodhouse borders Norwell where there is a School, Shop, village hall and Church. These facilities can only be sustained by encouraging young people with children to live in villages.**

#### The Site

The site is located within the open countryside on the eastern edge of the small settlement of Norwell Woodhouse. The proposal site is located within the grounds of Trent Farm which abuts the highway. The application site comprises an attractive Georgian farmhouse and associated street front barn as well as a more modern barn to the north west of the site. The frontage barn is two-storey and of brick construction; it is an attractive building and fairly well preserved, it has been converted to a residential annex.

The site lies to the North East of the main highway through Norwell Woodhouse and has neighbouring properties to the North East and South East of its boundaries, which are reasonably well screened. To the north is open countryside. The site is accessed from Norwell Road.

#### Relevant Planning History

15/00314/FUL - Conversion of Trent Farm Barn to form residential annex to existing dwelling – Approved 14.04.15

08/00159/FUL - Erection of two storey rear extension – Approved 02.04.08

06/00853/FUL - Extension and alterations and demolition of modern shed – Refused 26.07.06

#### The Proposal

The application proposes the erection of a two storey rear extension to accommodate a living area at ground floor and a master bedroom and ensuite at first floor. The extension will project 4.75m to the rear of the property and would create a gable with a width of 10.4 metres mirroring the front gable. The proposal would have an eaves height of 5.2m and height to ridge is 7.6m. The

extension has been designed to repeat the footprint of the historic portion of the building to the frontage but includes modern glazed full height windows and bio-folding doors. The extension would be built in materials to match the existing.

### **Publicity**

Occupiers of 4 properties have been individually notified by letter.

In addition, a site notice was posted on the 30<sup>th</sup> October 2017

### **Planning Policy Framework**

#### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Core Policy 9 - Sustainable Design

Core Policy 14 - Historic Environment

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

Policy DM5 – Design

Policy DM6 – Householder Development

Policy DM9 – Protecting and Enhancing the Historic Environment

#### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Supplementary Planning Document 'Extensions to Dwellings' Adopted 2014

#### **Consultations**

**Norwell Parish Council** – Support, but with a condition restricting contractors to parking on the site itself and not on the road or otherwise in the village.

**NSDC Conservation Officer** - I am familiar with this site having been out previously for a pre-app for the conversion of the barns and have given pre-application advice on a proposed extension here recently.

This is a very attractive complex of Georgian farmhouse and barns. The building is not listed but is what I would identify as being of local interest (or a non-designated heritage asset), being a good example of its type.

I can see that this proposal is now altered from their pre-app submission but I do not share the views in the Design statement that this is a complementary extension.

I note their supporting statement compares this site to other buildings in the village and District, but my concerns relate to the extension on this specific building, which of course varies in many ways (age, form, function, character, status, setting etc) from other buildings.

I must stress that building has already had a large extension which has doubled the size of the building, putting it, in my opinion, at the very limit of its size capacity. This was a point I made clear in my pre-app advice.

The proposed extension repeats the footprint of the historic portion of the building, making the combined existing and proposed extensions for this building treble its historic footprint. This is far from a subservient extension.

While I do not think a change in plan form could mitigate the issue of size capacity I would add that by mirroring the historic portion of the building the primacy of the main historic building is challenged, making the building's special history harder to understand.

As well as issues of size and legibility, the proposed extension creates a building planform not generally traditionally seen in Georgian farmhouses like this.

I appreciate that from the front the extension cannot be seen but with all heritage assets visibility from the public realm is only part of the asset's significance. Plan form and legibility are also important to our understanding of significance in historic buildings. Good design is not limited to the areas of a building that are readily seen from the public realm.

While I do not think a change in fenestration can mitigate the excessive size of this extension, I do think the treatment of the rear extension creates a rather incongruous appearance, with half a wall a sheet of paned glass, the other almost blank, quite contrary to the regular pattern of fenestration seen in Georgian domestic properties.

I appreciate the alterations made with this revised submission but I still find the proposed submission harmful to the special architectural and historic interest of this local interest building. I believe the proposal would be excessive in size, would create a competing and confusing plan form and has an incongruous treatment to the elevation. I am not aware of any public benefits that could be weighed against this heritage harm.

I wish I was able to offer advice on how to improve the design but I do believe the building has already been extended to capacity.

**No letters of representations have been received from neighbouring properties.**

#### Comments of the Business Manager

##### Principle

The proposal relates to a householder development which is accepted in principle by Policy DM6 of the DPD subject to an assessment against a number of site specific criteria including the impact of the proposal on visual and residential amenity. Policy DM5 also relates to visual and residential amenity and highway safety.

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

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life and can

include replacing poor design with better design and widening the choice of high quality homes. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Policy DM6 of the DPD states that planning permission will be granted for householder development provided that the proposal reflects the character of the area and the existing dwelling in terms of design and materials. Policy DM5 contains similar criteria. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

The application site is occupied by an attractive Georgian farmhouse and barns located within Norwell Woodhouse. The application is set back from Norwell Road and is partially screened by a two storey barn to the site frontage.

Policy DM6 of the Council's ADMDPD states that proposals should respect the design, materials and detailing of the host dwelling. The Council's SPD states the addition should respect and is balanced with the scale and proportions of the host dwelling, and is well related to the characteristics of the application site in terms of its size and shape. Also the addition should respect the wider street scene and integrate well into it. (para 7.4).

The proposed extension would be located to the rear of the main dwelling projecting 4.75m creating a gable with a width of 10.4 metres mirroring the front gable. The proposal would have an eaves height of 5.2m and height to ridge is 7.6m, matching that of the main farmhouse and previous extension. The extension has been designed to repeat the footprint of the historic portion of the building to the frontage but includes modern glazed full height windows and bio-folding doors. The extension has been designed with some features to match the existing dwelling incorporating an integral chimney stack on the west elevation, matching gable width and matching materials. This Georgian farmhouse has previously been extended considerably to the rear.

Whilst the building is not listed and is not within a Conservation Area advice has been sought from the Conservation Officer as the group of buildings are considered to be of architectural merit. The Conservation Officer has advised that the buildings form a very attractive complex of Georgian farmhouse and barns and as such are identified as being of local interest (or a non-designated heritage asset), being a good example of its type.

Paragraph 135 of the NPPF states that, "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. 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."

In terms of the Local Plan Section 5 of DM9 states that, "All development proposals affecting heritage assets and their settings, including new operational development and alterations to existing buildings, where they form or affect heritage assets should utilise appropriate siting, design, detailing, materials and methods of construction. Particular attention should be paid to reflecting locally distinctive styles of development and these should respect traditional methods and natural materials wherever possible."

Core Policy 14 states the Council's commitment to work towards, "The continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment, including ... buildings of local historic importance..."

The comments of the Conservation Officer are noted. The proposed extension repeats the footprint of the historic portion of the building; making the combined existing and proposed extensions for this building treble its historic footprint. By trying to mirror the historic portion of the frontage of the building this impact on the primacy of the main historic building is challenged, making the building's special history harder to understand. This is not considered to be subservient extension or one which respects the character and form of a Georgian farmhouse.

I concur with the comments made by the Conservation Officer and am of the view that the proposed two storey rear extension would present as an incongruous addition, distorting the proportions and character of the host dwelling and would exploit the host dwelling and its curtilage. By virtue of the bulk, scale and mass of the proposed extension it would appear as a dominant addition to the detriment of the host dwelling and the surrounding countryside. The extension would not be visually subservient and in this regard would have a detrimental impact on the rural character and openness of the surrounding countryside. In the opinion of the local planning authority it is considered that the proposed development, by way of its bulk and massing would represent an incongruous form of development to the detriment of the visual amenity of the surrounding open countryside and the character of the host dwelling.

Whilst I appreciate that the property is set within a substantial plot that could accommodate an extension of such size, I am of the view that such an addition would not appear visually subservient to the attractive Georgian farmhouse. The overall shape, size and position of an extension must not dominate the existing house. As a rule extensions should be made to appear as an obvious addition, which is subordinate to the main structure. In this instance I feel that any addition to the rear will exploit the proportions of the host dwelling and appear incongruous and harmful to the host property. The Adopted Householder Development SPD (2014) advises that any addition should strike a balanced visual relationship with the host dwelling and its features should be struck, and the character and appearance of the surrounding area respected through the design, proportions and detailing of the proposal. In this case I am of the view that the property has reached its limit of development and that the rear addition would negatively impact a building of local interest.

I also appreciate that from the front the extension cannot be seen but with all heritage assets visibility from the public realm is only part of the asset's significance. Good design is not limited to the areas of a building that are readily seen from the public realm.

The proposed modern glazing and fenestration proposed would also be incongruous and would not be in keeping with the regular pattern of fenestration seen in Georgian domestic properties.

As such, it is considered that the proposal would unduly impact on the character and appearance of the host dwelling and the surrounding area, contrary to Core Policy 14 of the Core Strategy and Policies DM5, DM6 and DM9 of the Council's ADMDPD. It is not considered that there are any benefits to the proposal which outweigh the harm to the non-designated heritage asset identified above.

### Residential Amenity

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM6 of the ADMDPD states planning permission will be granted for householder development provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy, overshadowing or over-bearing impacts.

The adjoining property to the north west, The Paddocks, is separated by some distance from the proposal and would be screened from the proposed extension by the existing workshop/garage/utility which sits on the northwest boundary. To the southeast, Wayside Cottage again is some distance from the proposal and well screened.

To the north of the application site is open countryside and to the south west the adjoining property is separated from the development by the highway and the existing frontage barn.

Overall, it is not considered that the proposal would result in any significant adverse impact upon the living conditions of neighbouring occupiers and is in accordance with amenity consideration contained within Policy DM6 of the ADMDPD.

### Highway Safety

Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision. The existing dwelling has off street parking to the frontage of the property off Norwell Road. The property also has a large garage. There is ample parking and turning within the site. The development is not considered to have any impact on highway safety and the proposal complies with the above policies and guidance.

### Conclusion

The principle of development is considered to be acceptable and the proposal would not be detrimental to the amenity of neighbouring properties by reason of overlooking, overshadowing or overbearing impact or impact upon highway safety. However, due to the size and scale of the proposal and previous extension to the property I am of the view that the proposal would harm the character and appearance of a property which is regarded as a non-designated heritage asset and distort the proportions of the building. It is therefore considered that the proposal would unduly impact on the character and appearance of the host dwelling and the surrounding area, contrary to the aims of the NPPF, Core Policy 14 of the Core Strategy and Policies DM5, DM6 and DM9 of the Council's ADMDPD.

### **RECOMMENDATION**

**That full planning permission is refused for the following reason;**

01

Trent Farmhouse is regarded as a non-designated heritage asset. In the opinion of the local planning authority it is considered that the proposed development, by virtue of its size and scale and previous extensions to the property would represent an incongruous form of development harming the character and appearance of a property of local historic significance and distorting the proportions of the building. It is therefore considered that the proposal would unduly impact on

the character and appearance of the host dwelling and the surrounding area. As such the proposal is contrary to Core Policy 14 (Historic Environment) of the Core Strategy (2011) and Policies DM5 (Design), DM6 (Householder Development) and DM9 (Protecting and Enhancing the Historic Environment) of the Newark and Sherwood Allocations & Development Management DPD. Furthermore, the proposal would also be contrary to the NPPF; a material consideration. There are no other considerations which would outweigh this harm.

### **Notes to Applicant**

01

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.

02

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/](http://www.newark-sherwooddc.gov.uk/cil/)

### Background Papers

Application Case File.

For further information, please contact Jennifer Wallis on ext. 5419.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01888/FUL



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<b>Application No:</b>	<b>17/01780/FUL</b>
<b>Proposal:</b>	<b>Demolition of No.2 Tenters Cottage and Erection of Replacement Dwelling; Erection of Extension to No.1 Tenters Cottage; and Erection of Two Dwellings (Resubmission)</b>
<b>Location:</b>	<b>1 Tenters Cottage, Tenters Lane, Eakring, Nottinghamshire, NG22 0DQ</b>
<b>Applicant:</b>	<b>Mr P Wagstaff</b>
<b>Registered:</b>	<b>30.09.2017</b>
	<b>Target Date: 25.11.2017</b>
	<b>Agreed Extension of Time: 08.12.2017</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Eakring Parish Council has objected to the application which differs to the professional officer recommendation.**

The Site

The application site is a rectangular plot approximately 0.14 hectares in extent at the corner plot of Church Lane and Tenters Lane. The site as existing comprises the residential curtilage of two semidetached properties set towards the north western corner of the site. The existing properties’ principle elevations are orientated towards Tenters Lane albeit their rear elevations are visible from Church Lane. The properties are designated as local interest buildings with the gable end forming a prominent elevation at the junction. The boundary treatment to Church Lane features both fencing and hedges.

To the north east of the site there is a recently constructed detached dwelling which was erected through the implementation of the original planning permission which relates to the current application site (discussed further in the site history section below). For the avoidance of doubt the current application has separated this development plot from the red line site location plan.

The site is situated within the designated conservation area. There are neighbouring residential properties shared with the southern and eastern boundaries of the site as well as on the opposite side of Church Lane. The land use to the west, on the opposite side of Tenters Lane is a farmyard with associated detached buildings along the eastern boundary.

Relevant Planning History

The site is subject to an extensive planning history;

**16/00883/FUL** - Demolition of Southernmost Existing Cottage (No.2 Tenters Cottage) & Erection of Replacement Two Bedroom Cottage , Demolition of Derelict Outbuildings (Nos.1&2 Tenters Cottage), Erection of Pair of Two Bedroom Semi-Detached Cottages, Erection of Three Bedroom Detached Dwelling and Creation of New Access to No.1 Tenters Cottage.

*This application related both to the entirety of the current application site as well as the aforementioned detached dwelling to the north east which has now been removed from the current red line site location plan. Application approved by Planning Committee in August 2016 (in line with the officer recommendation) with the decision notice dated 4 August 2016.*

**16/01947/DISCON** - Request for confirmation of discharge of conditions 04, 05, 06, 10 and 11 attached to planning permission 16/00883/FUL for Demolition of Southernmost existing cottage etc and Erection of three bedroom detached dwelling and creation of access to No.1 Tenters Cottage.

*Conditions discharges 16<sup>th</sup> January 2017 allowing commencement of Phase A.*

**17/00531/DISCON** - Request for confirmation of discharge of conditions 04, 05, 06, 10 and 11 of planning permission 16/00883/FUL: Demolition of Southernmost existing cottage (No 2 Tenters Lane) and erection of replacement two bedroomed cottage, demolition of derelict outbuildings (Nos. 1 and 2 Tenters Cottage); erection of pair of two bedroomed semi-detached cottages, erection of three bedroomed detached dwelling and creation of new access to No 1 Tenters Cottage.

*Conditions discharged 18<sup>th</sup> May 2017 in respect to Phases B and C.*

**17/00597/FUL** - Application to vary condition 2 of planning permission 16/00883/FUL in relation to the Phasing arrangements on the site.

*Application approved by Planning Committee (in line with officer recommendation) with the decision notice dated 7 June 2017. This application essentially amended the wording of the Phasing condition to allow commencement of Phase C before Phase B was completed (albeit not before Phase B were capable of occupation).*

**17/00754/FUL** - Application to vary condition 3 of planning permission 16/00883/FUL to allow the following amendments: Addition of a rear two-storey extension to the existing No.1 Tenters Cottage and the replacement No.2 Tenters Cottage and Substitution of new design for the pair of new semi-detached cottages on Tenters Lane.

*Application returned on the basis that the application could not be determined as a Section 73 application given that the amendments would affect the number of bedrooms as described by the description of development.*

**17/01178/FUL** - Demolition of No.2 Tenters Cottage & Erection of Replacement Dwelling; Erection of Extension to No.1 Tenters Cottage; and Erection of Two Dwellings.

*Application refused 23 August 2017 for a single reason in relation to the fact that the proposal would provide a wholly 3 bed scheme which would be contrary to the identified need for smaller units which was afforded weight in the initial approval reference 16/00883/FUL.*

**17/01488/FUL** - Variation of condition 3 attached to planning permission 16/00883/FUL to allow amendments to the layout of the new dwelling to be retained.

*This application was in relation to the new dwelling to the north east of, but outside of the current application site. Application approved 20 October 2017.*

## The Proposal

The application seeks full planning permission for the refurbishment and extension of the existing 1 Tenter's Cottage, the demolition and replacement of 2 Tenter's Cottage and the erection of two additional semi-detached properties. As is noted above, planning history on the site has established an extant position for the number of dwellings sought. As will become apparent throughout the appraisal, the key differentiation to the current proposal is an increased footprint in dwelling size.

Unlike the previously refused scheme to which the current proposal forms a resubmission, the proposal seeks permission for 2 no. three bedroom dwellings and 2 no. two bed dwellings (as was accepted by the extant scheme). The increase in footprint has arisen from the addition of a rear two storey extension to the existing 1 Tenter's Cottage and replacement 2 Tenter's Cottage as well as a revised design to the proposed semi-detached dwellings delivering a greater footprint (increasing both ground and first floor space) and the introduction of dormer windows on the rear elevation.

## Departure/Public Advertisement Procedure

Occupiers of 7 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 3: Rural Areas  
Spatial Policy 7: Sustainable Transport  
Core Policy 3: Housing Mix, Type & Density  
Core Policy 9: Sustainable Design  
Core Policy 10: Climate Change  
Core Policy 12 Biodiversity and Green Infrastructure  
Core Policy 13: Landscape Character  
Core Policy 14: Historic Environment

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

Policy DM4 – Renewable and Low Carbon Energy Generation  
Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM9 – Protecting and Enhancing the Historic Environment

### Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Eakring Conservation Area Appraisal

- SP3 Guidance Note
- A Study of Housing Need within the Parish of Eakring, Nottinghamshire – Chris Broughton Associates November 2015

### Consultations

**Eakring Parish Council** – Eakring Parish Council believe the original plans are more suitable and should be retained. These allow for small, affordable units for first time buyers and down-sizers which are what have been identified as being needed in the area. Also larger units as proposed are felt to risk taking valuable garden area and potentially need more parking spaces both for residents and visitors at a site which people with local knowledge know is a difficult corner to navigate and could be hazardous if vehicles were parked on Church Lane at that point.

**NSDC Conservation** – Verbal no objection.

**NSDC Access and Equalities Officer** – Observations in relation to Building Regulations.

**NSDC Strategic Housing** - No comments received.

**NCC Highways Authority** – This application is for the demolition of no. 2 Tenters Cottage, and the erection of a replacement cottage, the erection of extension to No. 1 Tenters Cottage and the construction of two semi-detached cottages.

A new vehicular access is to be constructed for 1 Tenters Cottage onto Church Lane, and the new dwellings on Tenters Lane will utilise the existing gated access adjacent Tenters Cottages. The proposed access onto Church Lane will require surfacing in a bound material across the grass verge in accordance with the Highway Authority's specification.

Church Lane is public adopted highway, whilst Tenters Lane is unadopted but is a Public Right of Way (BOAT), therefore, the applicant should consult with NCC Countryside and Access section for advice/approval before commencing any works on site.

As such, there are no highway objections to this proposal subject to the following:

1. No part of the development hereby permitted shall be brought into use until the dropped vehicular verge crossing onto Church Lane is available for use and constructed in accordance with the Highway Authority's specification to the satisfaction of the Local Planning Authority.

**Reason:** In the interests of highway safety.

2. No part of the development hereby permitted shall be brought into use until the drive and parking/turning area are surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway boundary. The surfaced drive and parking/turning area shall then be maintained in such hard bound material for the life of the development.

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

3. No part of the development hereby permitted shall be brought into use until the parking area is provided in accordance with the approved plan. The parking area 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

The development makes it necessary to construct a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Highways Area Office tel: 0300 500 8080 to arrange for these works to be carried out.

**NSDC Waste** – No comments received.

**Nottinghamshire Wildlife Trust** – No comments specific to application.

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the Board's catchment.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

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

**No letters of representation have been received from interested parties.**

#### Comments of the Business Manager

##### Principle of Development

The Core Strategy outlines the settlement hierarchy for the District with the intention of directing additional development to the more sustainable areas of the District such as the Newark Urban Area and Principal Villages. Eakring falls at the bottom of this hierarchy as a rural village where development is subject to assessment against the criteria of Spatial Policy 3.

Notwithstanding the above, it is noted that the application site to which this proposal relates is subject to an extant planning permission to allow for the provision of residential development incorporating the number of dwellings sought through the current application (noting the separation of Phase A of the original development). Overall the site would deliver 4 residential units. The extant permission was granted at a time when the LPA were less certain of their 5 year land supply position.

Given this fall back position, I consider that the main issues to consider in the determination of the current application are the differences between the scheme as previously approved and the scheme as currently proposed. In broad terms these amount to changes to the proposed design of the dwellings through the incorporation of additional footprint.

## Housing Mix

As part of the appraisal of the original extant permission, the committee report presented to Members in August 2016 included a full discussion of the council's position in respect of a 5 year housing land supply. In acknowledgement of Eakring being a rural village, the committee report went on to debate matters of housing need as follows:

*I am mindful that the agent acting on behalf of the applicant has made reference to a recent housing needs survey undertaken in Eakring which was submitted in support of an application recently approved (16/00585/FUL). Whilst not commissioned on behalf of the current application, the LPA were already aware of this survey through dealing with the previous application. This document brings together evidence from a variety of sources, including a village household survey, to determine the housing requirements of local households over a five year period. The document was compiled through discussion with colleagues in Strategic Housing who confirmed as part of the previous application that the housing stock in Eakring has a very limited amount of smaller properties such as bungalows and affordable homes. It is noted that the current proposal does not address this issue in terms of bungalows but does deliver two bedroom units which would meet the aspiration in terms of being small scale. The proposal would amount to five dwellings within the site rather than the current scenario of two. Of these additional units, two would be two bed and one would be three bed. Therefore overall the site would deliver 3 two bed units and 2 three bed units. This is considered to meet a high priority need in the village as defined by the survey submitted to accompany the aforementioned planning application. The findings of this survey were supported by colleagues in Strategic Housing at the time of the previous application.*

*In addition to discussion around the above survey, the D&A Statement submitted to accompany the current application has gone on to investigate the potential local need for housing by employees of the businesses based in Eakring. A survey of 35 employees was undertaken, of which 19 responses were received. Of these, 7 identified that they would want to move to Eakring if their housing needs could be met. It is my view that the weight to be attached to this survey focusing on employees is limited given that the proposal has not been presented on the basis of live work units and thus it would be unreasonable for the LPA to control this by condition. Nevertheless it does show the applicant's clear endeavours to justify the proposal in respect of proving a local need for the additional units. In the context of the above discussion on the basis of the Council's current position on housing supply, I consider it would be unreasonable at this time to resist the application solely on the basis of the need criterion of SP3. However, given that this is a temporary position, I do consider it reasonable to reduce the usual three year commencement condition to ensure that the delivery of the units does contribute to housing supply in the immediate future.*

The Planning Statement submitted to accompany the current application, at para 1.2. states the following:

*'As with the previous application, No.1 and No.2 Tenters Cottages are proposed to be three-bedroom properties, whereas it is now proposed that the additional two new dwellings will be two-bedroom properties. The existing No.1 and No.2 Tenters Cottages are currently both already three bedroom properties.'*

Whilst it may indeed be the case that the existing No. 1 and No. 2 Tenters Cottages are currently three bedroom (officers have not undertaken internal inspections), the statement contending that the previous approval related to No. 2 Tenters Cottage being three bedrooms is incorrect. The demolition and replacement of No. 2 Tenters Cottage was clearly demonstrated (through the

approved plans and the description of development) to deliver a two bedroom dwelling. This matter has been raised with the agent during the life of the application and further clarification has been provided.

It has been confirmed that the current application seeks to *retain* the number of bedrooms in the existing dwelling, i.e. three bedrooms. This is in contradiction of the extant scheme which demonstrates the replacement dwelling to be two bedrooms. It is contended that the reduction in number of bedrooms secured through the extant approval did not appear to be determinative to the original decision.

It is worthy of note that the current scheme is a re-submission of a previously refused scheme whereby officers attached significant weight to the provision of two bed dwellings through the extant approval. In determining the previous application, officers considered that the Planning Statement did not provide robust justification as to why the LPA should allow the provision of larger three bed units when it is clear that the delivery of smaller 2 bed units was a determinative factor in the extant approval and indeed remains a proven local need of the Parish. The LPA are now in a stronger position in terms of demonstrating a five year land supply and remain confident that the housing policies within the Development Plan can therefore be afforded appropriate weight.

The current application has been submitted in an attempt to overcome this previous reason for refusal. For the avoidance of doubt, the footprint to the current application remains consistent to that promoted by the previously refused scheme. I appreciate that the additional floor space delivered on site in comparison to the originally approved dwellings has a strong likelihood of increasing the sales value of the dwelling. Presumably the need for smaller dwellings to which weight was attached in the original determination in some respect relates to housing affordability. Thus the increase in sales value could have negative implications to those in need of smaller housing units. Nevertheless the plans clearly demonstrate that the proposal relates to an additional 2 no. two bedroom dwelling which matches the delivery of the extant approval in the context of additional units. Officers appreciate that the replacement dwelling at no. 2 Tenters Cottage would no longer deliver a two bedroom unit as envisaged by the extant scheme but given the existing scenario, and indeed attaching weight to the benefit of bringing the dwelling into a viable future use, it is considered that it would be difficult to resist the current application purely on this basis.

It is not lost on officers that the current scenario clearly wasn't the original intention of the applicant and it is equally the case that the number of bedrooms delivered relates to the internal layout (i.e. the previously refused application submitted plans showing that the footprint of the property as proposed could deliver three (albeit smaller) bedrooms). In order to accept that the additional two dwellings remain two bedrooms as originally intended an informative would need to be attached to any forthcoming permission to allow the LPA to check compliance with the submitted floor plans. This is an approach which has been used previously in respect to similar housing mix issues (including notably on the recent approval of the Section 73 application for 'Phase A' which has been discounted from the current site area – reference 17/01488/FUL).

#### Impact on Character

The site is considered as a non-designated heritage asset. Whilst no comments have been received in relation to the current application from Conservation colleagues, as is already confirmed the plans submitted are the same as those considered by the previously refused scheme in design

terms. The comments provided through the previous application are therefore deemed directly relevant and are repeated as follows for clarity:

*This planning application comprises a revised scheme for that approved under 16/00883/FUL and 17/00597/FUL. The submitted scheme proposes alterations to Nos.1 & 2 Tenters Cottages and the pair of cottages fronting Tenters Lane, but does not include any works to the new dwelling fronting Church Lane. Changes include a rear two-storey extension to the existing No.1 Tenters Cottage, revisions to No.2 Tenters Cottage, and substitution of a new design for the pair of new semi-detached cottages on Tenters Lane.*

*Having reviewed the submitted plans and details, Conservation has no objection to the proposed development. This view is consistent with the advice given regarding an application to vary plans in 17/00754/FUL.*

*In reaching this view, we have paid special regard to the objective of preservation required under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.*

I would concur with this assessment. The changes in footprint and the additional dormers are relatively minor in nature and would appear as subservient additions to the extant permission already secured. On this basis the proposal is considered to comply with heritage policy contained within DM9 of the Council's LDF DPD and section 12 of the NPPF as well Policy DM5.

#### Other Matters

In comparison between the current proposals and the extant position which exists on the site, I have identified no amenity impacts which would be materially worse than those previously accepted. Similarly I do not consider that the position in respect to ecology or highways impacts would be materially affected.

#### Conclusion

There exists an extant planning permission on the site which has accepted the development in principle. Nevertheless the development now proposed deviates from the approved plans hence the need for the additional application. It is noted that the revised plans demonstrate dwellings of a slightly larger footprint, however the plans continue to demonstrate the delivery of two additional units which would be 2 bedrooms. Despite the change in comparison to the extant approval in terms of no. 2 Tenters Cottage now being three bedroomed, officers do not consider this in itself to be sufficiently harmful to warrant a refusal. In reaching this judgement there is an acknowledgement that the current (albeit unoccupied) dwelling is three bedrooms. When taken alongside the benefits of bringing the existing dwellings into a long term viable use the officer recommendation is one of approval subject to the conditions outlined below. It should be noted that these conditions have taken account of previous Section 73 applications as well as discharge of condition requests.

#### **RECOMMENDATION**

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

## 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 shall be implemented in accordance with the phasing scheme shown on drawing no. 1723/A/01b unless otherwise agreed in writing through a non-material amendment. For the avoidance of doubt the dwellings hereby approved within Phase 2 shall not be occupied until Phase 1 is complete to a degree that the existing cottages are capable of occupation.

Reason: In order for the development to be delivered in a satisfactory manner in the interests of bringing the vacant units back into use before the occupation of the two new-build semi-detached properties and in line with the applicant's aspirations for development within the site.

03

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

- Cottages on Tenters Lane – 1777.A.1 rev. b
- New Cottages on Tenters Lane – 1777.A.2 rev. a
- Block Plan, Boundaries, Landcaping, Drainage – 1777.A.3 rev. a

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.

04

Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the material details submitted as part of the application. The approved materials are Baggeridge Oast Russet facing brickwork and Crest Wold non-interlocking clay pantiles .

Reason: In the interests of visual amenity.

05

Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the window; door (and associated treatments); verge and eaves; soil and vent pipes and rainwater details submitted as part of the application. For the avoidance of doubt the approved details are as follows:

- Details – 1777.A.2
- Glenfield Vertical Section – G1
- Glenfield Horizontal Section – G2
- Glenfield Cill Sizes – G3
- Glenfield Mullion and Transome – G3
- Bounded Bars – MISC 1A

To confirm, the windows hereby approved will be flush casement with a stub cill and rainwater goods will be black half round polypipe elegance on rise and fall brackets with round downpipes.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

06

Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the drainage details submitted through the application and demonstrated on plan reference 'Block Plan Boundaries, Landscaping, Drainage – 1777.A.3a.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with the requirements of Core Policy 9.

07

No part of the development for any phase pursuant to condition 2 shall be brought into use until the dropped vehicular verge crossing onto Church Lane is available for use and constructed in accordance with the Highway Authority's specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

08

No part of the development for any phase pursuant to condition 2 shall be brought into use until the drive and parking/turning area are surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway boundary. The surfaced drive and parking/turning area shall then be maintained in such hard bound material for the life of the development.

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

09

No part of the development for any phase pursuant to condition 2 shall be brought into use until the parking areas for that phase are provided in accordance with the approved plan. The parking 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.

10

Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the boundary details submitted through the application and demonstrated on plan reference 'Block Plan Boundaries, Landscaping, Drainage – 1777.A.3a. The approved boundary treatment for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

11

Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the landscaping details submitted through the application and demonstrated on plan reference 'Block Plan Boundaries, Landscaping, Drainage – 1777.A.3a. The approved soft landscaping shall be completed during the first planting season following the commencement of the development within its respective phase, 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

elements of the scheme shall be implemented on site prior to first occupation or use of each associated phase.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained and in order to preserve the character and appearance of the Conservation Area in accordance with Policy CP 14 of the Core Strategy and Policies DM5, DM7 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

12

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

13

Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015, 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 B - additions etc to the roof of a dwellinghouse

Class C - other alterations to the roof of a dwellinghouse

Class H - microwave antenna on a dwellinghouse

Or Schedule 2, Part 2:

Class A - gates, fences, walls etc

Or Schedule 2, Part 14:

Class A - installation or alteration etc of solar equipment on domestic premises

Class B - installation or alteration etc of stand along solar equipment on domestic premises

Class H - installation or alteration etc of wind turbine on domestic premises

Class I - installation or alteration etc of stand alone wind turbine on domestic premises

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

Reason: In the interests of visual amenity and in order to preserve the setting of the conservation area.

### **Note to Applicant**

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/](http://www.newark-sherwooddc.gov.uk/cil/)

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

02

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).

03

In the event that any bat/s are found during demolition, 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.

04

Trees in Conservation Areas are afforded special protection by legislation. Should you wish to lop, top or fell any tree on this site (other than those expressly shown will be removed to make way for built development permitted by this permission) you may require the prior consent in writing of Newark and Sherwood District Council and are advised to contact the Development Control Service of the Council on 01636 650000 to discuss the matter.

05

Nesting birds are protected by the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take any wild bird; take, damage or destroy its nest whilst in use or being built; and/or take or destroy its eggs. Normally it is good practice to avoid work potentially affecting nesting birds during the period 1st March to 31st August in any year, although birds can nest either side of this period.

06

The development makes it necessary to construct 2 vehicular crossings over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Highways Area Office tel: 0300 500 8080 to arrange for these works to be carried out.

07

For the avoidance of doubt the Local Planning Authority has granted planning permission for 2 no. three bedroom houses and 2 no. two bedroom houses. It reserves the right to inspect the property at any time once the Building Control completion certificate has been received.

#### Background Papers

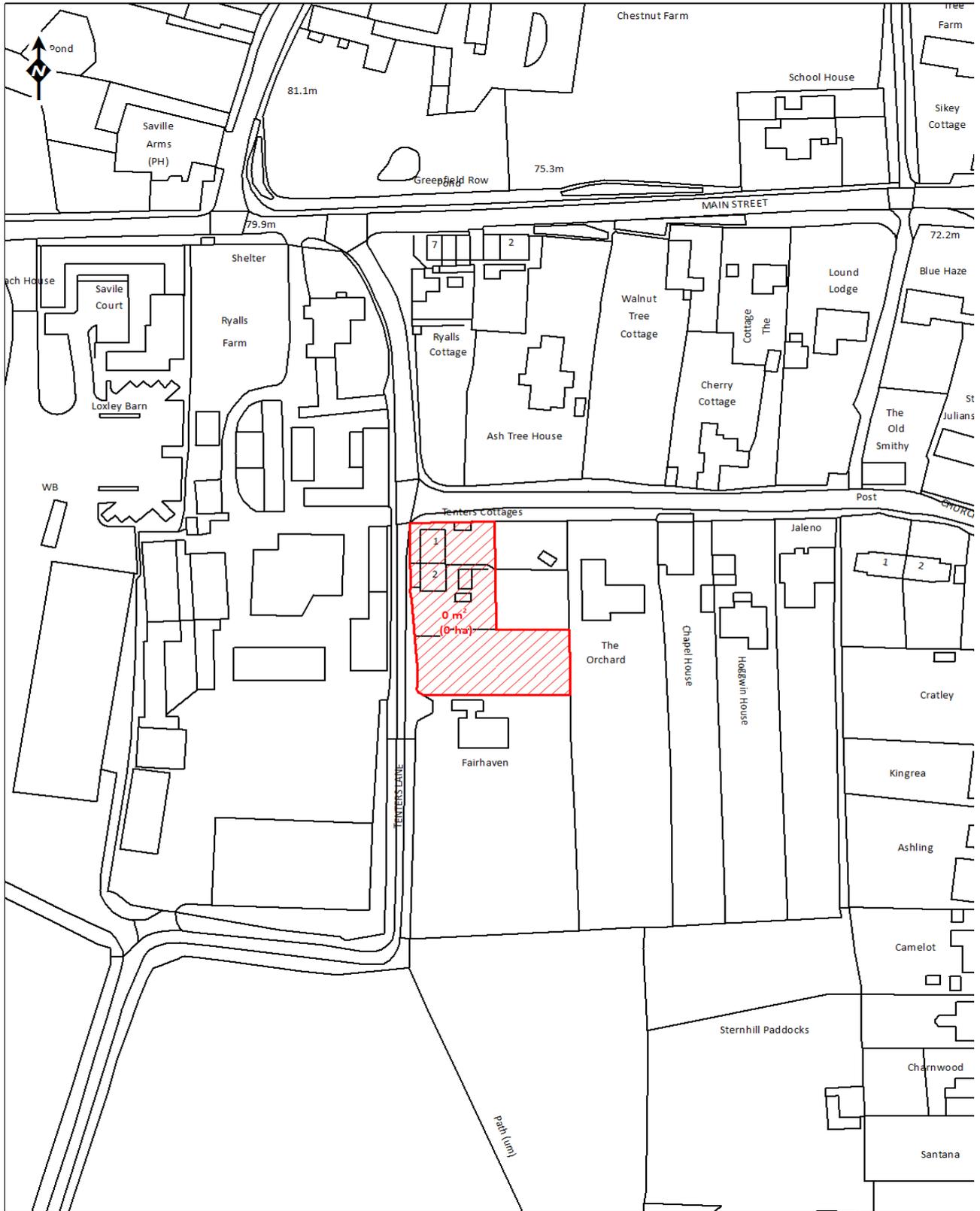
Application case file.

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](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01780/FUL



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<b>Application No:</b>	<b>16/01102/OUTM (MAJOR)</b>
<b>Proposal:</b>	<b>Outline application for residential development for 25 dwellings with primary access off Cinder Lane with all other matters reserved.</b>
<b>Location:</b>	<b>Land at Cinder Lane, Ollerton, Nottinghamshire</b>
<b>Applicant:</b>	<b>Ms Anne Staley</b>
<b>Registered:</b>	<b>26 June 2017 (was previously 19 July 2016) Target Date: 25 September 2017 (was originally 13 October 2016) Extension of Time Agreed until 6 December 2017</b>

**This application is presented to the Planning Committee at the request of the Business Manager in order that Members are aware of considerations relating to 5 year housing land supply.**

### The Site

The site comprises an area of approximately 0.95 hectares of land of relatively flat land outside of the main built up area of Ollerton. The application site has been amended to now include a strip of land that is currently within the curtilage of no. 1 Bottoms Row and currently comprises close boarded fencing to the front and side boundary and contains a telegraph pole covered in ivy and vegetation.

The site appears to have previously been part of a former poultry farm site (according to site history and historic maps) albeit there is little trace of this former use of the site, which visually reads as unmanaged agricultural land. The only structure I noted during my site visit was a small breeze block building which is partially covered with vegetation. Electricity apparatus (T pole) is located on the northern part of the site and crosses the site. A public footpath runs from Cinder Lane alongside the northern boundary (comprising metal fencing) to the west between the site and no. 14 Cinder Lane. A low hedgerow forms the western boundary.

Cinder Lane itself is a cul-de-sac that serves residential properties comprising pairs of semi-detached, detached and terrace properties, mainly two storey. The head of the cul-de-sac provides a turning area for the street. Cinder Lane is accessed from the south of Wellow Road. The site is surrounded by open countryside to the east, south and west.

The site lies within a SSSI Impact Zone.

### Relevant Planning History

To northern part (wedge adjacent to no. 14 Cinder Lane) the following history applies:

- 95/51318/OUT – bungalow with garage. Approved 14/02/1996. Not implemented.
- 99/51378/RMA – bungalow with garage. Approved. Not implemented.
- 03/00253/FUL – proposed bungalow with garage. Withdrawn 25/03/2003.

To southern part of the site and land adjacent, the following history applies:

- 96/51352/TEM – Retention of mobile home and septic tank. Approved 30/07/1996.
- 97/51521/TEM – Retention of mobile home and septic tank. Refused 25/07/1997.
- 97/51522/TEM – as above. Refused 17/09/1997.

### The Proposal

Outline permission is sought for residential development for up to 25 dwellings with primary access off Cinder Lane with all other matters reserved.

In support of the application the following has been submitted;

- Masterplan (drawing no. 15/1339/001)-indicative only showing how 25 dwellings might be accommodated on site;
- (Indicative) Plans for house types A to E (1, 3 and 4 bedroom dwellings)
- Design and Access Statement (includes some info on drainage and flood risk)
- Planning Statement (dated February 2016, Rev A by JDA)
- Preliminary Ecological Appraisal (dated February 2016 by Brindle & Green)
- Archaeological Statement
- Transport Statement

The application form suggests that there would be 15 x3 bedroom market houses, 6 x 4+ bedroom houses and 4 x 2 bedroom social rented houses. It is noted that the D&A Statement suggests a tenure split of 66% social rented and 34% intermediate housing.

Further information has now been provided comprising:

- Letter from ADC Infrastructure dated 7<sup>th</sup> March 2017 which includes drawing ADC1307/010 Rev A
- Draft Heads of Terms Rev A (revised 26<sup>th</sup> June 2017)
- Preliminary Ecological Appraisal, dated May 2017 by Brindle & Green
- Outline Great Crested Newt and Reptile Method Statement, dated May 2017 by Brindle & Green (received 14<sup>th</sup> June 2017 – this replaces older version dated January 2017)
- Amended Site Location Plan (showing the land that will provide the additional visibility splay) received 26<sup>th</sup> June 2017.
- Emails from the agent 1<sup>st</sup> September 2017 regarding the applicant's apparent track record of development.

### Departure/Public Advertisement Procedure

Occupiers of 39 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. Due to the amendments received including the revised application site boundary, a further full round of public consultation has taken place.

### 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 3	Rural Areas
Spatial Policy 6	Infrastructure for Growth
Spatial Policy 7	Sustainable Transport
Core Policy 1	Affordable Housing Provision
Core Policy 3	Housing Mix, Type, and Density
Core Policy 9	Sustainable Design
Core Policy 10	Climate Change
Core Policy 12	Biodiversity and Green Infrastructure
Core Policy 13	Landscape Character

### **Allocations & Development Management DPD**

ShAP1	‘Sherwood Area and Sherwood Forest Regional Park’
ShAP 2	Role of Ollerton and Boughton
Policy DM1	Development within Settlements Central to Delivering the Spatial Strategy
Policy DM3	Developer Contributions
Policy DM4	Renewable and Low Carbon Energy Generation
Policy DM5	Design
Policy DM7	Biodiversity and Green Infrastructure
Policy DM8	Development in the Open Countryside
Policy DM10	Pollution and Hazardous Materials
Policy DM12	Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework 2012  
Planning Practice Guidance 2014  
Newark and Sherwood Affordable Housing SPD (June 2013)  
Newark and Sherwood Developer Contributions SPD (December 2013)  
Newark and Sherwood Landscape Character Area SPD (December 2013)

### **Consultations**

**Ollerton Parish Council** – (29<sup>th</sup> March 2017) Object on the following grounds:

- i) Outside village envelope
- ii) Land not included in Local Development Framework Allocations
- iii) Highways issues safety at junction due increased traffic on Wellow Road which is already stretched due to recent large development on opposite side.
- iv) Anticipation of use of public transport is unrealistic due to fall in already sparse service
- v) Contrary to Policy DM8 development in the open countryside
- vi) Ecology not adequately surveyed

**NCC Highways Authority** – Comments as of 16<sup>th</sup> May 2017:

“Further to comments dated 13 September 2016, a revised submission has been received and I refer to drawing ADC1307/010/A showing an improved visibility splay at the Cinder Lane/ Wellow Road junction that attempts to overcome previously expressed concerns,

Previous comments focused on the application of visibility standards, none of which could be fully achieved by the existing junction arrangement. However, it is now proposed that the splay can be improved from 2.4m x 40.5m to 2.4m x 52.7m. Whilst this would not meet the 2.4m x 90m standard prescribed by the Highway Agency’s ‘Design Manual for Roads and Bridges TD/42/95’ (DMRB) it would exceed the 2.4m x 44.4m standard prescribed by Dept. of Transport’s ‘Manual for Streets’ and the CIHT document ‘Manual for Streets 2’ (MfS).

I am now willing to rescind my recommendation to refuse this application due to a number of factors which include:

- The proposal now offers a recognisable and potentially justifiable standard of visibility splay using MfS.
- Cinder Lane/ Wellow Road is an existing junction serving about 30 dwellings that has functioned without any recent injury accident history.
- The improved splay will benefit existing users of Cinder Lane.
- The proposed modest-sized development of 25 new dwellings is not considered excessive given the proposed improvement.
- The Avant Homes development, about 100m to the east of Cinder Lane, will ‘urbanise’ the approach to the Cinder Lane junction from the south-east and help to naturally reduce speeds.

Notwithstanding the above, the decision to rescind the recommendation to refuse has been made only after consideration of the close balance between arguments that could be presented at an appeal (should that be an eventual course of action) particularly with regard to which highway guidance should be applied. For this reason the LPA may wish to give consideration to ensuring that further development beyond the 25 dwellings hereby sought is prevented due to the nature of the access road and junction detail.

In conclusion, no objections are raised subject to the following conditions:

No development shall commence on any part of the application site unless or until improvements have been made to the visibility splay at the Cinder Lane/Wellow Road Page No. 2 junction in accordance with drawing ADC1307/010/A to the satisfaction of the Local Planning Authority. Such improvement will include the surfacing and dedication to the Highway Authority of the land identified to become public highway to the satisfaction of the Highway Authority.

Reason: In the interests of highway safety

No part of the development hereby permitted shall take place until details of the new access road(s) have been submitted to and approved in writing by the Local Planning Authority including street lighting, drainage, and surfacing. All details submitted to the LPA for approval shall comply with the County Council’s current Highway Design Guide (6C’s) and shall be implemented as approved.

Reason: To ensure the development is constructed to adoptable standards.

Notes to Applicant

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

The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, and/or to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site. Contact with the Highway Authority should be made via david.albans@nottscc.gov.uk"

**Previously Objected 13/09/16 as follows:**

"As pointed out in the submitted Transport Statement considerable time has been spent by Highway Authority Officers prior to the application being made to consider the proposal and in particular conditions at the Cinder Lane/ Wellow Road junction.

The main issue in considering this submission is the visibility splay at the junction of Cinder Lane and A616 Wellow Road. The existing splay to the right/east has been measured at 2.4m X 40.5m \*1.

Speed reading recorded by the Highway Authority on Thursday 28th April 2016 in accordance with the Highways Agency document TA22/81 'Vehicle Speed Measurement on All Purpose Roads' revealed that the 85th percentile wet weather speed of westbound traffic is 30.75mph. This equates to a stopping distance of 44.4m.

Historically, speed has been an issue of concern for local residents and there is often Police speed camera enforcement on this stretch of road. A vehicle activated speed has been erected in recent years on Wellow Road. The sign lies about 120m inside the 30mph speed restriction, and about 280m east of the Cinder Lane junction.

The Highway Authority contends that the A616 Wellow Road carries significant levels of traffic as an inter-urban all-purpose route and, accordingly, visibility standards should be applied commensurate with the Highways Agency's 'Design Manual for Roads and Bridges TD42/95' (DMRB) rather than those associated with the Dept. of Transport's 'Manual for Streets' and the CIHT document 'Manual for Streets 2' (MfS).

To compare the 2 standards; DMRB standards would seek a visibility splay of 2.4m x **90m** and the MfS standards would seek 2.4m x **44.4m**.

***Regardless of which standard is used (and these are minimum standards) neither can be achieved at the Cinder Lane/Wellow Road junction.***

In para. 3.9 of the Transport Statement it is suggested that a 2.4m x 44.4m splay could be achieved if measured to an offset of 1.36m from the kerb rather than 1.0m. (Please see note \*1) But this is *not* the way it should be measured in *any* guidance. The statement also suggests that if measured in this way the majority of a vehicle would be visible at 44.4m. However this potentially discounts cyclists and motor cyclists riding closer to the kerb. Also, the distance and the way it is measured allows drivers to recognise approaching vehicles beyond the minimum splay distance e.g. see the offside of an approaching car at, say, 60m away.

It is recognised however that Cinder Lane already serves about 30 dwellings and there is no recent history of injury accidents. In view of this, it is considered that some development may take place but that 25 dwellings would generate an unacceptably higher proportion of vehicle trips traveling through a sub-standard junction. It has therefore been suggested that a development of say 5 dwellings could be acceptable.

It is also acknowledged that an offer has been made to provide a vehicle activated sign (VAS) in an attempt to reduce speeds so that the available visibility splay distance is adequate. However, there is no guarantee that such a sign would achieve the required reduction in speed particularly since such a sign already exists only 280m away.

In addition, the Highway and Planning Authorities have seen it appropriate, in agreement with the Developer (Avant Homes), to apply DMRB visibility standards to the new housing development only 100m to the east of the Cinder Lane junction, where junction splays with a 90m 'y' distance have been used. It would be inconsistent to apply two different standards in such a short distance of road.

I continue to consider it reasonable for some development to take place but that 25 dwellings would be too many; adding significantly to the risk of an accident.

**In conclusion, I recommend that this proposal be refused on the following grounds:**

**The traffic generated by the proposed development would be likely to result in an increase in danger to other users of the highway owing to increased use of the existing access which affords restricted visibility for drivers emerging from Cinder Lane.**

Note:

\*1 It may be noted that the 'y' measurement was taken to an offset of 1.0m from the kerb line. Both DMRB and MfS describe visibility splays as being measured to the kerb line itself. The 1.0m offset is found only in the Highway Authority guidance (the 6C's design guide)"

**NCC Strategic Policy - "National Planning Policy Framework (NPPF)**

One of the core principles of the National Planning Policy Framework (NPPF) is to support and deliver economic growth to ensure that the housing, business and other development needs of an area are met. The NPPF looks to boost significantly the supply of housing. The principles and policies contained in the NPPF also recognise the value of, and the need to protect and enhance the natural, built and historic environment and biodiversity, together with the need to adapt to climate change.

A key aspect of the NPPF is that it includes a presumption in favour of sustainable development which means that, for decision-taking, local planning authorities should approve development proposals that accord with the development plan without delay or where a development plan is absent, silent or out of date, grant permission unless any adverse impacts of the proposal

outweigh the benefits, or specific policies in the NPPF indicate that development should be restricted.

The NPPF also discusses the weight that can be given in planning determinations to policies emerging as the local authority's development plan is being brought forward. The weight given to these policies will be very dependent on; their stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the NPPF.

Paragraphs 47 and 49 of the NPPF state that local planning authorities should identify sufficient deliverable housing sites to provide five years' worth of housing against their housing requirement with an additional buffer of either 5% (to ensure choice and competition) or 20% (where there has been a record of persistent under delivery) and that "...relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites".

Paragraphs 29-41 of the NPPF address the issue of sustainable transport. The NPPF requires all major planning applications to be supported by an appropriate Transport Assessment (TA) and concludes that new development proposals should only be refused on transport grounds where the residual cumulative impacts would be severe.

The NPPF seeks to promote healthy communities. Paragraphs 69-78 of the NPPF sets out ways in which the planning system can play an important role in facilitating social interaction and create healthy inclusive environments. To support this Local Planning Authorities are tasked with involving all sections of the community in the development of Local Plans and in planning decisions. Planning policies should in turn aim to achieve places which promote safe and accessible environments, high quality public spaces, recreational space/sports facilities, community facilities and public rights of way.

Paragraph 171 of the NPPF relates to Health and well-being and encourages Local Planning Authorities to work with public health leads and organisations to understand and take account of the health status and needs of the local population, including expected future changes, and any information about relevant barriers to improving health and well-being.

Paragraph 72 of the NPPF states that,

*"The Government attached great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*

- Give great weight to the need to create, expand or alter schools; and
- Work with school promoters to identify and resolve key planning issues before applications are submitted"

## County Planning Context

The adopted Nottinghamshire and Nottingham Replacement Waste Local Plan, Part 1: Waste Core Strategy (adopted 10 December 2013) and the saved, non-replaced policies of the Waste Local Plan (adopted 2002), along with the Nottinghamshire Minerals Local Plan (adopted 2005) (and emerging replacement plan) form part of the development plan for the area. As such, relevant policies in these plans need to be considered.

Waste

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

#### Minerals

The site does not lie within close proximity to any existing or proposed mineral site or within a Mineral Safeguarding and Consultation Area. Therefore, the County Council does not wish to raise any objections to the proposal from a minerals safeguarding perspective.

### **Strategic Planning Issues**

#### Public Health

The Nottinghamshire Joint Strategic Needs Assessment (JSNA) provides a picture of the current and future health needs of the local population. The Nottinghamshire Health and Wellbeing Strategy sets out the ambitions and priorities for the Health and Wellbeing Board with the overall vision to improve the health and wellbeing of people in Nottinghamshire. A current health profile of the area local to the proposal is provided at Appendix A. All development should take in to account local health issues and minimise the negative impacts of the development on health, whilst also seeking to deliver health benefits where possible.

Nottinghamshire County Council Health and Wellbeing Board have approved the Spatial Planning for the Health and Wellbeing of Nottinghamshire, Nottingham City and Erewash Document provides guidance on addressing the impact of a proposal or plan on the health and wellbeing of the population and provides a planning and health checklist to be used when assessing planning applications.

#### Transport and Flood Risk Management

The County Council as Highway Authority and Local Lead Flood Authority is a statutory consultee to Local Planning Authorities and therefore makes separate responses on the relevant highway and flood risk technical aspects for planning applications. In dealing with planning applications the Highway Authority and Local Lead Flood Authority will evaluate the applicant's proposals specifically related to highway and flood risk matters only. As a consequence developers may in cases where their initial proposal raise concern or are unacceptable amend their initial plans to incorporate revisions to the highway and flood risk measures that they propose. The process behind this can be lengthy and therefore any initial comments on these matters may eventually be different to those finally made to the Local Planning Authority. In view of this and to avoid misleading information comments on planning applications made by the Highway Authority and Local Lead Flood Authority will not be incorporated into this letter. However should further information on the highway and flood risk elements be required contact should be made directly

with the Highway Development Control Team and the Flood Risk Management Team to discuss this matter further with the relevant officers dealing with the application.

### Strategic Highways

The County Council have no strategic transport planning observations to make.

### Transport and Travel

Site access appears to be from the existing farm entry onto Cinder Lane with the closest bus stop approximately 1km away in the village centre. It is noted that two new bus stops will be installed on Wellow Road as part of the planning agreement for the 150 dwelling development in the area. This should provide bus stops approximately 250m away from the proposed development.

### *Bus services*

The County Council has conducted an initial assessment of the site in the context of the local public transport network. Over the past three years there have been significant cuts to local bus support, and following consultation events during this period, services in this area will be revised from 1 August 2016. The current service 32 to Newark will be withdrawn and replaced by a limited service at peak time and on market days only. An off peak service to Ollerton will provide an additional shopping facility.

At this time, because of the relatively small size of this site, it is not envisaged that contributions towards local bus service provision will be sought. However, the County Council would expect all properties in the proposed development to have free introductory bus travel made available to them. This, along with other sustainable travel measures should be set out in a site Travel Plan, the details of which can be discussed with Transport Strategy.

### *Infrastructure*

The new infrastructure to be installed on Wellow Road, as discussed above, are as follows:

- New Bus Stop 1 – polycarbonate bus shelter, solar lighting, raised boarding kerbs and enforceable bus stop clearway
- New Bus Stop 2 – polycarbonate bus shelter, solar lighting, raised boarding kerbs and enforceable bus stop clearway

Possible infrastructure improvements that could be made are as follows:

- New Bus Stop 1 – real time bus stop poles and displays, including associated electrical connections
- New Bus Stop 2 – real time bus stop poles and displays, including associated electrical connections

To this end, the County Council request that a planning condition be added to any grant of planning permission as follows:

*No part of the development hereby permitted shall be brought into use unless or until the enhancements to the bus stop on Wellow Road have been made to the satisfaction of the Local*

*Planning Authority, and shall include real time bus stop poles and displays, including associated electrical connections.*

*Reason: To promote sustainable travel*

#### Built Heritage

The County Council has no comments to make from a historic built environment perspective.

#### Rights of Way

The proposed site impacts on Ollerton and Boughton Parish Foot Path No 2 which runs through the site, as shown on the working copy of the definitive map in Appendix B.

The County Council would require that the availability of the above path is not affected or obstructed in any way by the proposed development at this location unless subject to appropriate diversion or closure orders. The County Council's Countryside Access Team should be consulted on any re-surfacing or gating issues and developers should be aware of potential path users in the area who should not be impeded or endangered in any way by the proposed development. Any required path closure or diversion application should be made via consultation with the Countryside Access Team.

The County Council notes that the path appears to be accommodated in the proposed site layout as a hedged corridor. This should be a minimum of 2 metres clear width to take into account future hedge growth and vegetation encroachment over the path.

#### Contaminated Land/Reclamation

The applicant has introduced a certain amount of ambiguity within their application; the applicant has quite rightly addressed issues related to ecology and archaeology, however appears to dismiss the potential for land contamination.

In Section 14 of the application form the applicant has stated:

- The current use of site as being a 'brownfield site, derelict house and hard-standing to previous poultry sheds'.
- That the land is not known to be contaminated and land contamination is not suspected for all or part of the site.
- The proposed use is not particularly vulnerable to the presence of contamination.

In relation to these statements the County Council would comment that:

- By its very definition, a brownfield site or previously developed land has the potential to be contaminated until proven otherwise.
- The site is not known to be contaminated because no assessments and or investigations appear to have been undertaken.
- Contamination should be suspected as the site has had a former commercial use and as a brownfield site has the potential to be contaminated until proven otherwise, which it has not.
- The proposed use would be particularly vulnerable to the presence of contamination as the development is for residential properties with gardens.

Both the ecological and archaeological reports presented with the application make reference to on-site materials which could potentially indicate ground contamination:

- Archaeological report o Section 5.4 site – walkover survey – ‘other material’ ‘considerable amount of fragmented ceramic building material’ ‘made ground’
- Ecological report o Paragraph 5.2.7 – bare ground – ‘bare ground dominated the site owing to clearance works to remove former agricultural sheds’, ‘disturbed ground’,  
o Paragraph 7.5 – reptiles

Further to these observations in the reports, examination of aerial photography of site suggests that the five demolished sheds, which comprised the former poultry farm, had asbestos cement board roofs. There is therefore the suspicion that there are potentially Asbestos Containing Materials (ACMs) within the demolition rubble, soil stockpiles and/or soils across the site. The County Council therefore considers that the applicant should provide:

- A Phase 1 Desk Top Study report that provides as assessment of the site’s development and environmental context, to develop a site conceptual model assessing viable contamination sources, pathways and receptors and a preliminary risk assessment related to potential contamination on-site
- A Phase 2 Intrusive Site Investigation targeting potential contamination identified within the Phase 1 report
- Based on the findings of these reports, a viable remediation strategy should be provided to mitigate the potential contamination possibly identified, thereby making the site suitable for its intended use as a residential development with gardens.

From the aspect of Contaminated Land Management, it would appear that the applicant has not supplied the relevant assessment reports or correctly identified the site as potentially impacted by contamination associated with its former commercial use.

These assessment/investigation/remedial strategies are required to ensure that the site does not pose a threat to ground workers, future residents and the wider environment and is in fact ‘fit for its intended use’ as residential development with gardens.

The County Council therefore recommends that prior to the determination of the application, the applicant be required to submit a Phase 1 – Contaminated Land – Desk Top Study, including an environmental risk assessment and conceptual site model and a Phase 2 – Intrusive Site Investigation Report. Based on the findings of these reports a robust Site Specific Remediation Strategy should be submitted to and approved in writing by the local planning authority. Then, once the proposed remediation works are completed a final Validation Report would need to be submitted to prove the identified contamination issues had been properly dealt with, to be approved by the local planning authority prior to the main construction works being undertaken.

Ecology

**3<sup>rd</sup> April 2017 updated comments– ‘An Outline Great Crested Newt Method Statement (dated January 2017) has now been provided in support of the above application. I am not clear of the purpose of this, as the report states in sections 2.2 and 3.7 that “This report does not substitute the need for presence/absence surveys in accordance with guidance contained within the ‘Great Crested Newt Mitigation Guidelines’ English Nature (2001)”.**

***It therefore remains that case that great crested newt surveys are required, along with reptile surveys (also flagged up as being necessary in the original Preliminary Ecological Appraisal), prior to the determination of this application - It should be noted that paragraph 99 of Government Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.***

***The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances..."***

***We are entering the optimal period for these to be carried out, so I would advise that the applicant arrange for these surveys to be carried out as soon as possible.'***

### *Survey and results*

The application is supported by an up-to-date Preliminary Ecological Appraisal (PEA) with surveys carried out on 16 February 2016. The site is not covered by any ecological designations, and no such sites are present in the immediate vicinity that would be affected by the proposals. Aerial photography indicates that the site previously housed five large poultry houses, which have since been demolished (within the last year) due to their increasingly dilapidated condition. Subsequently, the area now comprises largely of areas of bare ground (stone and soil) and some improved grassland. In addition, dense scrub, hedgerows, fencing and a single building are also present.

The PEA assesses the site as being of low ecological value. No evidence of badgers or roosting bats was found, although there may be potential for the linear vegetative features to serve as routes for foraging and commuting bats. It is stated that the site has suitable habitat for reptiles and also great crested newts, with three suitable breeding ponds located within 500m of the application site. The site, in particular the hedgerows, dense scrub, scattered trees and the building within the application site, will be suitable for supporting a range of breeding birds. In particular, there were some species of high conservation concern present in the survey, including house sparrow (*Passer domesticus*) and dunnock (*Prunella modularis*).

### *Further survey requirement, species mitigation and site enhancement*

To mitigate against the potential presence of great crested newts, the PEA states that a full great crested newt presence/absence survey should be undertaken at appropriate times of the year for all suitable ponds within 500m radius of the site (of which there are three). However, it is noted that the recent demolition of the poultry houses on the site has caused considerable disturbance on the site. Considering that the suitable times for carrying out the survey (mid-March to mid-June) have passed, the County Council would refer back to the applicant's ecologist as to the necessity of such a survey given the recent disturbance at the site.

The PEA also recommends that reptile surveys are carried out at the site, due to the presence of suitable habitat, with seven visits to be completed in the survey period of March and September.

These surveys should be required prior to the determination of the application, to comply with paragraphs 98 and 99 of Government Circular 06/2005.

Conditions should be applied to any grant of permission as follows:

- A standard condition should be used to control vegetation clearance during the bird nesting season, which runs from March to August inclusive
- A condition should require that the precautionary working methods in relation to badgers, as outlined in section 7.3 of the survey report, are adhered to
- It is assumed that the existing site boundary hedgerows to the west and north will be retained (confirmation of this would be welcomed). A condition should be used to require that the existing boundary hedgerows are protected during development, with gaps replaced with native trees and shrubs.
- A condition should require the submission of a detailed landscaping scheme, to provide species mixes, establishment methods and maintenance regimes. This should specify the establishment of a new native species hedgerow around the southern and eastern site boundary, planted with native trees. Species should be selected with reference to the species lists contained within the Nottinghamshire Landscape Character Assessment.
- As well as suitable landscaping, it is requested that a condition is used to require that bat and bird boxes are incorporated into the fabric of a proportion of the new buildings, the latter targeting house sparrow and starling.

## Landscape

Full comments on landscape and visual impact can be found in Appendix C (which is as follows)

“The proposed site is located to the southern edge of the town of Ollerton, in central Nottinghamshire; which consists of the settlements of Ollerton Village, New Ollerton and Boughton. The proposed site is located to the south of Wellow Road, which links Ollerton to the nearby village of Wellow, and is accessed off Cinder Lane. A larger site area is under the ownership of the applicant and has been promoted in the SHLAA plan (site reference 08-0103). The wider site was formerly used for poultry farming but the poultry houses have now been demolished. A single building – Bookers Stile (now semi derelict) is located within the wider site area.

There are a number of new residential developments to the north of A616 Wellow Road, including a static caravan park, and beyond this is the former Ollerton Colliery Spoil Tip. To the north west and north lie the older residential areas of Ollerton. There are arable fields to the west, south west and east. The site is at a level of approximately 55m AOD and falls gently to the west and rises gently to the east towards the village of Wellow

The proposed development sits within the larger site area and is approximately 0.95 ha in extent, the majority of this site is semi improved grassland. A combination of hedgerow, and timber and metal fencing form the western and northern boundaries of the site. The southern and eastern boundaries have no defining features.

## Proposed Development

It is proposed to erect 25 residential dwellings with associated access off Cinder Lane. The application includes as reserved matters - drainage infrastructure, landscape, open space, car parking and ancillary works.

The proposals for the site are shown on the following drawing - Proposed Master Plan – JDA – 15/1339/001 - December 15. This shows houses arranged along a spine road which extends to form 2 private access areas surrounded by housing. The houses are a variety of types, including detached and semi-detached properties, which are either double or single storey.

The Master Plan indicates that additional trees will be planted to supplement the existing boundary hedgerow vegetation, and the proposed landscape treatment to the site is described as high quality in the Design and Access Statement. However this statement has no value without details of the landscape proposals being provided, and further information is required from the applicant.

Although the SHLAA allocates the whole area for development, it is not clear how future development will link with the spine road in the proposed development, as the development site will be separated from the wider area by the proposed hedgerow and tree planting. The application does not include a full Flood Risk Assessment document but additional information is included in section 4.8 – 4.15 of the Design and Access Statement. This indicates that Sustainable Urban Drainage features such as attenuation basins may be incorporated into the scheme but no further details are provided, further information should be provided on this matter by the applicant.

### **Impact of the proposals on the existing physical landscape**

It appears from the aerial photographs that no mature vegetation will need to be removed in order to develop the proposed site, the physical landscape impact of the development is therefore assessed as **negligible**. However an arboricultural survey to BS 5837:2012 should be presented with the full application which includes details of how the boundary vegetation to the site, including trees and hedgerows will be protected including the root zone.

### **Impact of the proposals on the existing landscape character**

The Design and Access Statement describes the landscape character of the area with reference to Natural England Character Area 49 – Sherwood, and lists the key characteristics of this area. The document should also make reference to the Newark and Sherwood Landscape Character Assessment (2013) which has been adopted as a Supplementary Planning Document to the Core Strategy. The site is located in Policy Zone Sherwood 27, full details of the Policy Zone are attached.

The area is defined as having a ‘moderate’ landscape condition and a ‘moderate’ landscape sensitivity, the overall landscape action for the policy zone is ‘Conserve and create’.

Recommended actions include the following:-

#### **Landscape Features**

- Conserve the ecological diversity and character of woodland habitats
- Conserve existing hedgerows and seek opportunities to restore the historic field pattern with new hedgerow planting
- Seek opportunities to restore hedgerows with some hedgerow trees where appropriate to field boundaries
- Seek opportunities to restore arable land to mixed woodland, permanent pasture, and heathland

#### **Built Features**

- New development should be contained within historic field boundaries

- Conserve the historic character and setting of Walesby – new development should respect the scale, design and materials used traditionally in the Policy Zone and be contained near to the existing settlements of Walesby and Ollerton.
- Sensitive design and siting of new agricultural buildings.

The landscape proposals for the site will help to achieve the action to improve the existing hedgerows, and add additional tree and shrub planting. A landscape proposals drawing should be provided which details the landscape treatment, including a planting schedule and specification. This should make reference to the species list for the Sherwood Landscape Character area, but should avoid the use of Ash at the present time due to the prevalence of *Hymenoscyphus fraxineus* (see attached) A maintenance specification and programme of works for any soft landscape works proposed should also be provided. The section 106 agreement for the site also needs to make provision for the costs of the maintenance treatment to the proposed site.

The Planning Statement (JDA – February 2016 – Document reference 03/1339/PS revision A) paragraph 5.30, mentions that a landscape buffer and additional planting are to be included in the scheme, this landscape buffer is not shown on the Master Plan and this needs to be added to the landscape proposals drawing.

The proposal will involve the loss of 0.95 hectares of open green space which will stretch out from and form an extension to the existing village envelope. This will have a **slight adverse** impact on the landscape character of PZ 27.

### **Visual Impact of the proposed development**

The main visual receptors are residents on either side of Cinder Lane to the north, on Griceson Close to the north west, and Maltkiln Close to the north east, who currently have views of open agricultural areas. The Design and Access statement does not include any assessment of the visual impact of the proposals on these residential areas. Visual impact is likely to range from **slight to moderate adverse** dependant on the properties orientation and distance from the proposed site. It is essential that surrounding hedgerows are maintained and managed in order to provide additional screening of the proposed development.

There are also likely to be visual impacts on surrounding Public Rights of Way in particular Ollerton and Boughton Footpath 2, which passes along Cinder Lane and then branches to the west away from the site entrance, visual impacts at the entrance to the estate are likely to be **substantial adverse** from this path. Ollerton and Boughton Footpath 3 passes further to the east of the site and impacts are likely to be **moderate adverse** at the commencement of the path. Ollerton and Boughton Footpath 6 passes to the north of the site along the edge of the former colliery tip and views from here are likely to be partially screened by the recently developed static caravan park. The former Ollerton Colliery Spoil Tip is now a recreational area and has informal footpaths to its highest point, however the south western face is steeply sloping and densely wooded therefore the proposed site is not likely to be visible as an extension to the built edge of Ollerton, over the top of this vegetation.

### **Summary**

We recommend that the following issues are addressed before full approval is granted:-

- A detailed Landscape Proposals plan should be provided, including a planting schedule and specification which details species, size at planting, spacing and including details of planting to and

the management of the existing hedgerow boundary of the site. Details should also be provided of establishment maintenance operations and the long term management of the planting,

- Native species should be used for supplementary boundary hedgerow and tree planting - attached is the recommended species list for the Sherwood Landscape Character area
- Further details about SUDs features such as balancing ponds, and associated biodiversity features to be shown on a landscape proposals plan (if applicable).
- Details of maintenance funding for hard and soft landscape treatment and any SUDS features (if applicable) to be included in a section 106 agreement.
- An Arboricultural Impact Statement should be provided to illustrate that there will be no detrimental impacts on the existing boundary hedgerow and trees
- Additional analysis of the visual Impacts on the residential receptors discussed above should be provided by the applicant, and details of how these effects will be mitigated should be shown on landscape proposals drawing. This drawing should also show how the existing footpath Boughton and Ollerton 2 will be integrated into the entrance to the site.

**Subject to the above issues being addressed, the Environmental Management and Design Team support the application in respect of landscape and visual impact issues”**

#### *Summary*

The County Council recommend that the following issues are addressed before full approval is granted for the proposed development:

- A detailed Landscape Proposal plan should be provided, including a planting schedule and specification which details species, size at planting, spacing and to include details of planting to and the management of the existing hedgerow boundary of the site. Details should also be provided of establishment maintenance operations and the long term management of the planting
- Native species should be used for supplementary boundary hedgerow and tree planting – see Appendix E for the recommended species list for the Sherwood Landscape Character area
- Further details about SuDS features such as balancing ponds, and associated biodiversity features to be shown on a landscape proposals plan (if applicable)
- Details of maintenance funding for hard and soft landscape treatment and any SuDS features (if applicable) to be included in a section 106 agreement
- An Arboricultural Impact Statement should be provided to illustrate that there will be no detrimental impacts on the existing boundary hedgerow and trees
- Additional analysis of the visual impacts on the residential receptors discussed should be provided by the applicant, and details of how these effects will be mitigated should be shown on landscape proposals drawing. This drawing should also show how the existing footpath Boughton and Ollerton 2 will be integrated into the entrance to the site.

Subject to the above issues being addressed, the Environmental Management and Design Team at the County Council support the applicant in respect of landscape and visual impact issues.

#### Developer Contributions

Should the application proceed, the County Council will seek developer contributions in relation to its responsibilities in line with the Council’s adopted Planning Obligations Strategy and the Developer Contributions Team will work with the applicant and the Local Planning Authority to ensure all requirements are met. Please contact Andrew Norton, Developer Contributions Practitioner in the first instance ([andrew.norton@nottsc.gov.uk](mailto:andrew.norton@nottsc.gov.uk) or 0115 9939309) with any queries regarding developer contributions.

### *Education*

A development of 25 dwellings would yield an additional 5 primary places. The County Council would therefore wish to seek an education contribution of £57,275 (5 x £11,455) to provide primary provision to accommodate the additional pupils projected to arise from the proposed development. In terms of secondary education, the proposed housing development is in the catchment of The Dukeries Academy, for which any contributions would be covered by CIL. Further information about the contributions sought and the justification for this has been forwarded directly to the District Council.

### *Libraries*

The County Council only requests contributions for libraries on schemes for 50 dwellings or more. As this application is below this threshold, the County Council will not be seeking a contribution for library provision.

### **Conclusion**

The County Council raises no strategic planning objections to the proposals, however it is requested that further work is completed with regards to land contamination and ecology prior to the determination of the application. Notwithstanding this additional work, information has been provided in relation to rights of way affected by the development and improvements to bus services that the County Council would wish to see delivered. A number of conditions have been requested.

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

**NCC Archaeologist** - "The application is accompanied by an archaeological desk based assessment which has done a fair job of summarising the archaeological implications of the development, and notes that the site is surrounded by archaeological remains which are visible as cropmarks. The assessment also point out that there has been some levelling on the site associated with the erection of the now demolished chicken housing. The impact of this groundwork on buried archaeological remains is not clear, and there has to be a likelihood that such remains will survive in at least part of the site. I therefore recommend that if planning is granted, this should be conditional upon a programme of archaeological mitigation being undertaken. The works required could either take a phased approach of archaeological evaluation followed by whatever further mitigation the evaluation demonstrates is appropriate, or a programme of strip, map and record, where topsoil from the site is stripped under archaeological supervision and the archaeological remains which are uncovered are cleaned, planned and sample excavated. A condition such as the following may be appropriate:

"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 CPA." "Thereafter, the scheme shall be implemented in full accordance with the approved details."

I hope this is helpful, please do not hesitate to contact me should you require further comment or information.'

**NCC Lead Flood Risk Authority** – Initially commented: “Thank you for inviting the Lead Local Flood Authority (LLFA) to comment on the above application. Having examined the proposals it would appear that although required to do so the applicant appears to have failed to submit a Flood Risk Assessment. Unfortunately the LLFA is unable to consider and comment on the applicant’s proposals until it is able to view this document. Should the applicant subsequently submit the Flood Risk Assessment to you and you request a further consultation with the LLFA we will be pleased to consider and comment on it.”

Clarification was sought given that the site is under 1ha, as to whether drainage can be conditioned. The following comments were received:

“Further to your comments and in specific relation to the site being <1ha in size I confirm that we do not require a formal Flood Risk Assessment as part of the outline planning application.

A further assessment shows that we have no objection to the proposals subject to a condition being included that references the following requirements, all of which can be included in a surface water design and management proposal from the developer.

1.1 - Drainage from the site should be via a sustainable drainage system. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests.

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

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

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

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

31/03/17 - No further comments to add.

**Nottinghamshire Wildlife Trust – 4/07/2017 – ‘Thank you for re-consulting Nottinghamshire Wildlife Trust on the above application.**

The revised PEA (Brindle and Green, May 2017) now includes information regarding the possible Sherwood pSPA. The report confirms that on site habitats are not considered suitable for either nightjar or woodlark and therefore direct impacts are not anticipated. There is no mention of potential indirect impacts, for example increased recreational pressure on nearby sites such as Ollerton Pit Wood (Ollerton Colliery LWS). There is no public open space included within the Proposed Masterplan which could help to mitigate this impact.

Regarding reptile and GCN, we welcome that the draft heads of terms (S106 agreement) makes reference to completing the necessary surveys. However, we would prefer to see these surveys completed before the application is determined, in accordance with Circular 06/2005 as previously explained. Regardless of when the surveys are undertaken, we recommend that the LPA seeks confirmation from the applicant that all of the necessary mitigation measures (for example the 3m buffer) could be accommodated within the design of the proposed development.’

**Initial comments (02/08/2016) - “Thank you for consulting Nottinghamshire Wildlife Trust on the above application. We welcome the provision of the Preliminary Ecological Appraisal report (Brindle and Green, February 2016) as this allows consideration of protected and priority species and habitats.**

The report concludes that further survey is required with respect to protected species - **great crested newt** and **reptiles** in order to establish presence/likely absence. As protected species are a material consideration, and in line with government guidance, we recommend that the LPA requests that these surveys are undertaken **before this application is determined**.

Paragraph 99 of Government Circular 1/2005 (also known as ODPM Circular 06/2005) (which accompanied PPS9, but remains in force), states that:

- It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established **before the planning permission is granted**, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.
- Additional recommendations given in Section 7 regarding **breeding birds, bats and badgers** are supported and could be secured through use of planning **conditions**.
- **Possible Sherwood potential Special Protection Area (SPA)** This site lies within the 5km buffer zone identified in Natural England’s Indicative core area & RSPB’s IBA boundary and within 500m of an IBA for those parts of Sherwood Forest which meet the primary criterion for designation as an SPA, by virtue of the population of nightjar and woodlark exceeding 1% of the national total. Notwithstanding the issue of whether Newark and Sherwood District Council considers that the area qualifies as an SPA or not, it is essential that the Council must pay due attention to potential adverse effects on birds protected under Annex 1 of the Birds Directive and undertake a ‘risk-based’ assessment of any development, as advised by NE in their guidance note dated March 2014. In this case, we recommend attention is given to the potential impact of:

- disturbance to breeding birds from people, their pets and traffic
- bird mortality arising from domestic pets and/or predatory mammals and birds”

**Natural England** – (23/03/17) Offer no comments but refer to Standing Advice.

“The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England.”

30/06/17 – reiterate these comments.

**Ramblers** – ‘The application comments on the proximity of local rights of way to Cinder Lane and they are shown on one of the maps. As long as Ollerton and Boughton Footpaths 2 & 3 remain open we have no objection to the development.’

**Severn Trent Water** – **30/03/17** - No objection subject to condition to control surface water and foul sewage disposal.

Condition:

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

Suggested Informative

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

**NSDC Strategic Housing** – Provide detailed comments on affordable housing. They summarize with the following:

- The total number of affordable housing units on the proposed site is 7 out of a total of 25 dwellings. I note the applicant is offering to provide 4 affordable dwellings. As far as I can

see there is no evidence to support the shortfall in affordable housing provision provided.

- The Proposed tenure is 60% rent (Social or affordable) and 40% Intermediate (shared ownership) and the Council supports the provision of accommodation to meet the needs of older people in this vicinity.
- There is demand for bungalows for existing households in the Sherwood Area (408 units).

Type	Social/Aff Rent	Intermediate Housing (S/O)	Total
2 Bed	4	-	4
3 Bed		1	1
2/3 Bed Bungalow		2	2
	4	3	7

**NCC (Developer Contributions)** – “In respect of education, a proposed development of 25 dwellings would yield an additional 5 primary places. The County Council would therefore wish to seek an education contribution of £57,275 (5 x £11,455) to provide primary provision to accommodate the additional pupils projected to arise from the proposed development. In terms of secondary education, the proposed housing development is in the catchment of The Dukeries Academy, for which any contributions would be covered by CIL. Further information about the contribution sought and the justification for this can be found in the attached document.

In terms of libraries I can confirm that contributions are only requested on schemes for 50 dwellings or more. As this application is below this threshold the County Council would not be seeking a contribution for libraries provision.”

**NSDC Policy – December 2017 update on 5 Year Land Supply Position** - The Authority published its 2017 Housing Land Supply Position in July 2017. The proposed housing requirement of 454 dpa as set out in the SHMA, was included in the Preferred Approach - Strategy consultation that was conducted in July 2016 and reflected in the Sites and Settlements Paper consulted on in January 2017. It is included in the Publication version of the Plan Review Core Strategy that has now been Submitted to the Secretary of State for Independent Examination. A large amount of work has been undertaken, including consideration of a range of other issues (such as sustainability, landscape and ecology) in producing the Amended Core Strategy. Following this, and due to the progress that has been made through the Plan making process across the Nottingham Outer Housing Market Area, the Council is now confident that this is the most appropriate figure against which to assess housing land supply.

When using the annual housing requirement of 454 dwellings per annum, including a 20% buffer and meeting the shortfall (which occurred between 2013/14 and 2015/16) within the next five years, the Council can demonstrate a 6.2 year supply of housing land.

**NSDC Policy – 22<sup>nd</sup> March 2017** in response to the additional highways and ecology information (but before the applicant made their position clear in relation to developer contributions).

“The inability to demonstrate a safe standard of access at the full level of development contributed to my earlier view that the balance ought to weigh against the scheme. Whilst I would defer to the Highways Authority for consideration of this particular matter it is important that we are content that safe access can be achieved.

My comments also referred to the lack of clarity provided over the approach to affordable housing and the need for justification of any shortfall in provision. As advised the applicant may wish to present a viability case or highlight site specific issues in support of reduced affordable housing provision, I am however unaware of any additional information having been provided. In any case I would find it very difficult to see how a viability case could be made, given that the application site falls outside of the settlement boundary and so would, ordinarily, have limited development potential, and the uplift in land value which would occur from planning permission being granted.

Should the outstanding ecology and highways matters be satisfactorily resolved without the shortfall in affordable housing provision being robustly justified then my view remains that the balance ought to weigh against the scheme. In light of the pragmatic approach the Authority has adopted to boost housing supply over the short-term I recognise that there would, to varying extents, be some environmental, social and economic benefits to the proposal. However in my opinion these benefits would be outweighed by the failure to promote a mixed and balanced community. Notwithstanding this should you be minded to support the proposal then I would recommend the use of a short-term consent, this is critical if the proposal is to have the capacity to boost housing delivery over the short term. My previous comments on the use of Conditions to control the housing mix and affordable housing contribution would remain relevant in this event.”

#### **“Planning Policy Context**

##### ***National Planning Policy***

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

National policy also requires Authorities to maintain a supply of specific deliverable sites to deliver a five year housing land supply.

The Framework seeks the active management of patterns of growth to make the fullest possible use of public transport, walking and cycling, and the focussing of significant development in locations which are, or can be made sustainable. This is supplemented by the emphasis on an integrated approach to considering the location of housing, economic uses and community facilities and services which the Framework holds as central to the promotion of healthy communities. Accordingly it is set out that local planning authorities should avoid new isolated homes in the countryside with rural housing being provided where it would enhance or maintain the vitality of rural communities unless special circumstances are demonstrated.

##### ***Development Plan***

###### ***Core Strategy DPD***

- Spatial Policy 1 ‘Settlement Hierarchy’
- Spatial Policy 2 ‘Spatial Distribution of Growth’
- Spatial Policy 3 ‘Rural Areas’
- Spatial Policy 6 ‘Infrastructure for Growth’
- Spatial Policy 7 ‘Sustainable Transport’
- Core Policy 1 ‘Affordable Housing Provision’
- Core Policy 3 ‘Housing Mix, Type and Density’
- Core Policy 9 ‘Sustainable Design’
- Core Policy 12 ‘Biodiversity and Green Infrastructure’
- Core Policy 13 ‘Landscape Character’
- ShAP1 ‘Sherwood Area and Sherwood Forest Regional Park’

- ShAP2 'Role of Ollerton & Boughton'

#### *Allocations & Development Management DPD*

- Policy DM3 'Developer Contributions and Planning Obligations'
- Policy DM5 'Design'
- Policy DM7 'Biodiversity and Green Infrastructure'
- Policy DM8 'Development in the Open Countryside'
- Policy DM12 'Presumption in Favour of Sustainable Development'

#### ***Housing Land Supply Position***

These comments have had regard to the 'Five Year Housing Land Supply – Current Position' statement (April 2016). National policy requires Local Plans to meet the full, objectively assessed, needs for market and affordable housing in the housing market area. To this end the Authority has, with its partners in the Nottingham Outer Housing Market Area, commissioned a Strategic Housing Market Assessment. The Study has identified a lower 'objectively assessed need' (OAN) than the level of development the Development Plan currently seeks to meet, with the completion of 454 dwellings per annum (p/a) required between 2013 and 2033. The SHMA has been produced in line with Government guidance and been subject to stakeholder consultation. Importantly the assessment provides us with a clear indication of the level of housing need in the District.

In terms of the ability to demonstrate a five year housing land supply the Authority is confident that it is able to do so, when set against the OAN requirement of 454 dwellings p/a. It is however recognised that the SHMA and the OAN figure are yet to be tested through the Local Plan process. As you will be aware the Inspector for the Southwell Road, Farnsfield appeal disagreed with an annual requirement of 454 dwellings, concluding that on balance, and that with regard to the evidence available to her a reasonable assessment of the full OAN would be in the order of 550 dwellings p/a. Whilst the Authority does not agree with the Inspectors reasoning on this matter it is still, nonetheless, a material consideration which will need to be weighed in the balance.

The Council has therefore produced five year land supply positions for three different annual requirements:

454 dwellings p/a (the SHMAA OAN): 5.62 years

500 dwellings p/a (OAN plus 10%): 4.91 years

550 dwellings p/a (the Farnsfield appeal figure): 4.31 years

In light of the above and until such time as the OAN figure provided by the SHMA has been tested and found sound through the Local Plan process the Authority has adopted a proactive approach to boost housing supply over the short term. Consequently the development of sustainable sites which fall immediately adjacent to urban boundaries and village envelopes, that are able to meet relevant Development Plan requirements in all other respects and which have the capacity to positively contribute to a short-term boosting of housing supply will be considered.

Having adopted this position it is particularly important, given the expectations of the communities involved, that any development outside of established main built up areas should provide for the appropriate level of affordable housing, open space and other social contributions required to meet the needs of the development. Given the locations of these sites it is also crucial that care is taken to respect landscape setting through design, layout and landscaping which manages the transition from the countryside.

## **Assessment**

In my view the main strategic issue is whether the site, and proposal, can be considered sustainable. Beyond this you will still need to be satisfied that the proposal is able to address any other remaining issues. To assist your consideration I would suggest that your assessment should be focussed around those factors which contribute towards the 'golden thread' of sustainable development. With the aim being to conclude whether the proposed development strikes an appropriate balance between its economic, social and environmental dimensions. Through my comments I hope to assist you in doing so.

### *Principle of Development*

The proposal is located outside of the Urban Boundary for Ollerton & Boughton and so for planning purposes is located within the open countryside, where the presumption would be against this form of development (as detailed in Policy DM8). However, as outlined above, the Authority has adopted a position whereby consideration will be given to sustainable sites, located immediately adjacent to Ollerton & Boughton's Urban Boundary. At up to 25 dwellings the proposed development would be appropriate to the size and location of the Service Centre and its status within the settlement hierarchy.

### *Design and Layout*

Given that design and layout will be matters reserved for subsequent determination you will need to be satisfied, in line with Core Policy 9 'Sustainable Design' and Policy DM5 'Design', that a good standard of design and layout can be subsequently achieved within the parameters provided by outline consent. I would underline that it is crucial, on sites such as this, that care is taken to respect landscape setting and that the transition from the countryside is appropriately managed in accordance with Core Policy 13 'Landscape Character'.

### *Housing Mix, Type, Density*

I note that the indicative layout indicates that the site could provide for a mix accommodating 2, 3 and 4 bedroom units. However the precise level, mix, type and density of development are all matters which will be reserved for later determination. It is crucial therefore that any subsequent scheme is able to provide for a mix of dwelling types which reflects the nature of local housing need. Contributing towards the creation of mixed and balanced communities should be seen as a key objective of sustainable development.

Given the circumstances which have led to the Authority to adopt a pragmatic approach over site location to boost housing supply, and the importance of housing mix and type to sustainability, I am of the view that should you be minded to support the proposal then this matter ought to be controlled by Condition. Such a Condition would require that any subsequent Reserved Matters application covering the site in whole, or part, contains a housing mix and type which reflects the housing needs of the area at the time of submission.

I note that the Design and Access Statement indicates that at the maximum 25 dwellings the proposal would have a density of 25 dph. This is below the level which Core Policy 3 requires (30dph) and as far as I can see the applicant has not provided any justification in support of this approach. Significantly any lesser level of development would also result in a density lower than 25 dph. Having said this the applicant may be able to present a case in support of 25dph, on the

basis that it would likely support a layout appropriate for the edge of settlement location, and also allow for landscaping to manage the transition from open countryside.

### *Affordable Housing Provision*

At its maximum the proposal exceeds the revised affordable housing thresholds (11 units or more, or where the combined gross floorspace exceeds 1000 sqm). The Planning Statement suggests that the 30% requirement carried through Core Policy 1 would be met, with a 66% social rented and 34% intermediate housing split. However the planning application indicates only 4 x 2 bed social rented units in total. I have not been able to view the Draft Heads of Terms, which it is suggested have been submitted alongside the application. On this basis the approach to affordable housing provision appears somewhat unclear.

I would emphasise therefore that affordable housing provision makes a valuable contribution towards the creation of mixed and balanced communities, and is integral to a more sustainable form of development. Without robust justification I would therefore question the sustainability of any scheme where there is a deficit in affordable housing provision. Of course the applicant may wish to present a viability case or highlight site specific issues in support of reduced affordable housing provision. However I would find it very difficult to see how a viability case could be made, given that the application site falls outside of the settlement boundary and so would, ordinarily, have limited development potential, and the uplift in land value which would occur from planning permission being granted.

Nonetheless should you be minded to support the proposal and consider that the information in the Draft Heads of Terms is insufficient with regards to; numbers, type, tenure and location of the affordable units, the timing of construction (particularly in relation to the overall development) and the arrangements to ensure initial and subsequent affordability - then I would suggest the use of a Condition, in line with the guidance provided at Para 3.35 of the Affordable Housing Supplementary Planning Document.

### *Transport and Highways*

In line with Spatial Policy 7, the ability to support more sustainable transport choices (public transport etc.), there being an acceptable level of impact on the highway network and providing for a safe standard of access all contribute towards site sustainability. I have no doubt that the site is likely acceptable, or could subsequently be made so, in terms of the first two points. However whilst accepting the principal of development the Highways Authority consider 25 dwellings to be too high and as adding significantly to the risk of an accident. Consequently I note that the Authority have objected on this basis.

### *Biodiversity*

Both Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets, and I note that the application is supported by a Preliminary Ecological Appraisal. In light of its findings the Wildlife Trust has made various comments, which suggest the need for more detailed assessment prior to determination of the proposal. In terms of considering impacts on the breeding population of nightjar and woodlark in the Sherwood Forest area, the Trust have identified the need for an assessment of the impact from disturbance to breeding birds by people, pets and traffic, along with the effect of predation by domestic pets and/or predatory mammals and birds. These comments should be considered in the light of the recommendations

from Natural England over adopting of a precautionary approach prior to the resolution of the Special Protection Area issue.

Core Policy 12 and Policy DM7 both seek provision of Suitable Alternative Natural Green Space (SANGS) within 5km of the Birklands & Bilhaugh Special Area of Conservation, in order to reduce visitor pressure on the designation. The site falls within this radius and the Planning Statement indicates that the Section 106 agreement would be the vehicle through which this matter will be resolved, presumably via off-site provision. Policy DM7 is clear in advising that the quantity and quality of SANGS shall be developed and agreed in conjunction with the District Council and Natural England. I am unaware of any such discussions and Natural England has not commented on the proposal. Therefore you will need to be satisfied that off-site provision (if this is to be the route) is firstly acceptable and secondly what level of provision would be required.

### *Developer Contributions*

Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. This infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance from the District Council. It is critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure and so I would direct you to this document in the first instance.

### **Conclusion**

The application site is located in an edge of settlement location with access to public transport and employment, retail, educational, leisure and community facilities. On the basis that you are satisfied that a suitable design and layout could be achieved at the Reserved Matters stage then the proposal would be capable of addressing some of its environmental impacts. Question marks remain with respect to ecology, though these may be able to be addressed through additional work and discussion. Turning now to the economic strand of sustainable the development, the scheme would given its scale result in a modest level of economic benefit from development taking place. In addition it is acknowledged that the proposed development would contribute towards the boosting of housing supply, which would support the social element of sustainable development - albeit marginally given the numbers proposed. It should however be noted that the creation of mixed and balanced communities is a key element of sustainable development, and that the proposal is in this sense lacking as a result of a shortfall in affordable housing provision. Taking account of the above it will fall to you to come to a view over whether the planning balance weighs in favour or against the proposal. However my own view is that the balance ought to weigh against the scheme as currently proposed. Whilst there would, to varying extents, be some environmental, social and economic benefits these would nonetheless be outweighed by the failure to promote a mixed and balanced community and critically the inability to provide for a safe standard of access at the full level of development proposed. Nonetheless should you be minded to support the proposal then I would recommend the use of a short-term consent, this is critical if the proposal is to have the capacity to boost housing delivery over the short term.

**NSDC Environmental Health** – ‘The application site was previously occupied by five poultry sheds which appear to have been of asbestos construction. Recent aerial photography shows these to be

in a poor state of repair, the planning statement reports that they have now been removed. There is clearly the potential for the site to have become contaminated from the former poultry farm use and from asbestos within the poultry shed construction materials. As no phase 1 desktop study has been submitted with the planning application, I would recommend the use of our full phased contamination condition.'

**22<sup>nd</sup> March 2017** - No additional comments to make.

**NSDC Parks and Amenity Manager** – “We wouldn’t normally expect to include on-site children’s playing space for a development of 25 houses. The nearest existing children’s play facilities that I’m aware of are c800m away (as the crow flies) on the central park facility. There will of course be a play area on the Ben Bailey Homes development off Wellow Rd - which is only 200m away. O&B Town Council will be adopting this facility so I guess the off-site money could be used to help improve/maintain it.”

**NSDC Community Projects** – “I have not been able to speak to the Town Clerk but I am aware that there is a project to deliver new changing facilities/clubhouse for Ollerton Town FC primarily but the building can and will be used by the wider sporting community that will utilise the planned improvements to the Walesby Lane Sports Ground, therefore I would propose that this site and scheme be a strong contender for the S106 contribution as being proposed. The Walesby Lane site is seen as the strategic site in the locality and will hopefully link up with the Petersmith Drive development if approved to deliver a sustainable sports hub site for the wider community.”

**In relation to the scheme as originally submitted 14 representations have been received from local residents** all objecting and/or raising concerns which can be summarised as follows:

- Adverse impact on road safety:
  - Due to limited visibility at the junction of Cinder Lane/Wellow Road;
  - Volume of traffic using Wellow Road especially in the morning and evening;
  - Due to additional new homes still to be occupied north of Wellow Road, traffic diverted from the A1 when there are road works or incidents and due to speeding;
  - Road not big enough to take traffic safely, due to lane already being overcrowded with parked cars which would be made worse by the development;
  - Footways along Cinder Lane are no 2m wide for the full length so cannot cope with pedestrians;
- Outside of Settlement Boundary – site was judged to not be appropriate for housing in the recent Allocations Document;
- Contamination –former chicken sheds included asbestos;
- Disproportionate size of development not in keeping with the area, smaller number might be more appropriate;
- This could set a precedent for remainder of the former poultry unit being developed for housing;
- Query whether an ecology survey should have taken place before demolition of the sheds;
- Is infrastructure capable of taking on extra loadings?
- Detrimental impact on surrounding countryside;
- Demolition has already destroyed a colony of bats;

**A further 4 comments have been received following the amendments (March 2017) to the visibility splay/additional information** which are summarised as follows:

- The amendments do not improve visibility for traffic turning left into Cinder Lane from Wellow, it will still be a "leap of faith";
- Insufficient environmental study has been completed;
- Contamination has not been addressed;
- Worried that the developers can't distinguish between a telephone pole and a bush, as the bush indicated on the plan is a telephone pole covered with ivy, there shouldn't be this sort of oversight on initial planning;
- Previous objections were about the size of development and safety issues due to a 100% increase in car traffic onto the lane.
- The reported average traffic speed of 30.75 mph. For this to be so, a significant amount of traffic must be travelling in excess of 32 mph. Considering that when drivers see speed checks in progress they tend to slow down, the true average speed is probably significantly higher.
- Regularly witness vehicles travelling in excess of 40 mph especially early morning and evening. This even worse when the A1 is on divert and drivers (including a significant number of HGVs) are speeding to minimise time lost due to the diversion with estimated speeds in excess of 50 mph.
- Applicant has purchased the triangular piece of land at the side of No1 Bottom Row on the Wellow Road to widen the access into Cinder Lane - To do this would mean closing the carriageway on this side of the road which result in tailbacks into Newark. Please remember Wellow Road is the A616 and official detour route for both North and South bound traffic off the A1.
- The residents of Cinder Lane each own the land to the middle of the road because they paid for it out their own money to be tarmaced and pavement installed around 1974.
- Any large delivery vehicle or refuse bin lorries have to reverse into the street off Wellow Road because they are unable to turn round in the cul de sac due to the number of cars parked there.
- The land in question has covenant on it that dates from 1787 and it can only be used for agricultural purposes.
- Site is used by skylarks and badger setts

**In response to the consultation undertaken 26/06/17** (relating to the revised site location plan to include the splays, the revised draft heads of terms and the additional ecological information) the following comments have been made:

- Alterations to the junction won't make any difference to visibility and turning left off Wellow road onto Cinder Lane will not be improved due to presence of covered telegraph pole.
- Another important reason why it was turned down is that the Great Crested Newt resides on the land which can't be disturbed by law.
- Tax payers money should not be spent on this project and it should be permanently turned down.

**In addition, Ollerton Village Residents Association** strongly object to the proposal on the grounds of:

- Contamination concerns
- Road safety (poor visibility to the east and number of parked cars along Cinder Lane)
- Location outside of settlement boundary
- Lack of public transport nearby

Comments were reiterated on **4<sup>th</sup> May 2017** with the objecting remaining; it goes on to say that:

The drawing included in the ADC letter indicates a telegraph pole in the north eastern corner of the garden to be just behind the visibility splay. This telegraph pole is covered throughout its height with vegetation which projects forward of the splay line. we note that the ADC letter fails to mention this. Unless the vegetation is removed there will not be any improvement in visibility. The letter does not make any reference to removing and preventing re-growth of this vegetation. Even if the growth was permanently removed, it is our opinion that the telegraph pole itself will obstruct visibility.

They go on to request conditions are imposed if approved to include;

- 1) Approved visibility splay prior to any on-site activity, and;
- 2) Developer to retain responsibility for maintaining visibility splay for at least 25 years.

### Comments of the Business Manager

#### Preliminary Matters and Background Information

It is noted that within the Design and Access Statement and subsequent emails the agent states the land is previously developed land. I acknowledge that the site was previously a poultry farm; however the site visually reads as agricultural land that has assimilated back into its former landscape over the passage of time. The definition of previously development land within the NPPF which excludes land that is or has been occupied by agricultural or forestry buildings. I therefore consider the land is a green field site and have considered the scheme in this context.

According to the Design and Access Statement the scheme is for 'Residential development of 25 dwellings (30% affordable) with associated access, drainage infrastructure, landscaping, open spaces, car parking and all ancillary works.' This is echoed in the Planning Statement (save for the reference to open spaces). On this basis, the description of development has been changed to make this clear.

It will be noted that the Highways Authority initially raised objections to the scheme. Following the initial consultation period Officers were preparing to refuse the scheme under delegated power on the grounds of highway safety, concerns regarding the failure to properly demonstrate impacts on ecology (particularly great crested newts, reptiles, breeding populations of nightjar and woodlark) and that the scheme as promoted originally did not promote any means of securing appropriate provisions of social contributions required to meet the needs of the development. It should be noted that at that time there was greater caution regarding the Council's ability to demonstrate a 5 Year Housing Land Supply against an OAN target to which significant weight could be attached. The application was not, at that time, proposed by officers to be refused as a matter of principle. However, the applicant requested that the scheme was held in abeyance whilst they attempted to deal with the concerns raised.

Some months have since passed and additional information has been forthcoming (June 2017) which has dealt with the technical reasons for refusal which were previously conveyed to the applicant. I will deal with each of these technical matters in turn below. Firstly, however, one must assess the extent to which the Authority has a 5 year land supply and thus, in accordance with paragraphs 47-55 of the NPPF, which in turn affects the degree to which policies are up to date and the 'tilted' planning balance.

## 5 Year Housing Land Supply

The Council's position in terms of its 5 year housing land supply has changed during the lifetime of officers discussions on this particular application, which has been in for some considerable time (at the applicants request) and has been known about prior to the formal planning application.

This Council, as Local Planning Authority (LPA), has dealt with a number of housing planning applications in recent years. The issue as to whether an LPA has a 5 year housing land supply (HLS) is of significant importance when dealing with planning applications for housing development, particularly in terms of the weighting of Development Plan policies and the need for housing delivery when weighted against other material planning considerations, with the 'tilted balance' potentially coming into play.

As an LPA we have been challenged in the past on our ability to demonstrate a 5 YHLS, notably in January 2016 (a Public Inquiry appeal decision in Farnsfield) and November 2017 (the Public Inquiry which concluded its sitting days on the 17<sup>th</sup> November 2017 with a decision now awaited from the Secretary of State). Whilst coincidentally within the same settlement within Newark and Sherwood District both appeals, and the evidence heard at them (given the passage of time), demonstrate that things have considerably moved in terms of material planning considerations to which this Authority must have regard in its decision-making.

In order to bring Members up to date (which includes some of the debate within the recent Inquiry) I can comment as follows.

The adopted Core Strategy (March 2011) details the settlement hierarchy which will help deliver sustainable growth and development within the District. As detailed in Spatial Policy 1 of the Core Strategy the intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services. The policy goes on to confirm the lowest tier of the hierarchy as 'other villages' in the District. In such areas development is considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas).

It is a matter of fact that the housing requirements set out in the Council's adopted Core Strategy (which set a target for delivery of 740 dwellings per annum) was based on the now abolished Regional Plan. It is also a matter of fact that housing delivery should now be planned, in accordance with both the NPPF and Housing White Paper, using an evidence-base of Objectively Assessed Need (OAN).

It is interesting to note that it is a matter of agreement at both Farnsfield appeals and in every other 5 year land supply professional debate that officers have engaged in for ANY application in this District that the figure of 740 per annum is no longer relevant for decision-making and 5 year land supply determination. It remains the OAN.

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running

through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

Within the NPPF, Chapter 6 (Delivering a wide choice of high quality homes) paragraph 47 identifies a clear policy objective to, *“boost significantly the supply of housing”*. Paragraph 17 states further that the planning system should *“proactively drive and support sustainable economic development to deliver new homes....that the country needs. Every effort should be made objectively to identify and then meet the housing...needs of an area.”* The NPPF indicates that this will be achieved first and foremost, by local planning authorities, *“using their evidence base to ensure that their local plan meets the full, objectively assessed needs of market and affordable housing in the housing market area,...including identifying key sites which are critical to the delivery of the housing strategy over the plan period.”*

The need for housing remains an important material planning consideration in the planning decision making of the Council, as LPA, as underlined within the National Planning Policy Framework (NPPF) and most recently the Housing White Paper and November 2017 Budget. The White Paper itself promotes a requirement to boost housing supply. The importance of a plan-led system in assisting with housing delivery is clearly identified, as is the requirement for housing targets to be based on Objectively Assessed Need (OAN) which is applied consistently nationally in terms of methodology. The White Paper clearly (re)endorses a plan-led system both in making clear for communities the quantum of development required and in how they can assist in identifying appropriate sites and densities to ensure delivery. The role that neighbourhood planning plays as part of this is also noted.

The Council has for many years been committed to ensuring that the plan-led system prevails. The Council was the first in Nottinghamshire to have a set of LDF plan documents adopted in the form of a Core Strategy (March 2011) and Allocations and Development Management Policies DPD (July 2015). The Council were also the first authority in the Country to adopt the Community Infrastructure Levy (December 2011). The Council has had 5 Neighbourhood Plan referendums, meaning that in several locations (not in Ollerton currently) a Neighbourhood Plan forms part of the Development Plan. The Council also has a track record of working proactively with applicants to secure planning permission in the right place and in the right form. This is evident in the numerous planning consents granted on a range of both allocated and non-allocated sites and the fact that national, regional, and local housebuilders are actively building across the District.

Newark is a sub-regional centre and, at the time of Core Strategy adoption, was a designated Growth Point with an allocation of c70% of the district's overall housing growth, principally in three Sustainable Urban Extensions (SUEs). There remains a commitment in spatial development terms to deliver significant housing numbers via the SUE's. By their very nature, these have taken longer to be brought to market. However, Land South of Newark (Core Strategy Site NAP2A) now has 2 no. national housebuilders involved, the first of which is building (and can build up to 599 units with the infrastructure now in). Consent will shortly be issued to a national housebuilder for the Fernwood SUE (Core Strategy Site NAP2C) for 1050 houses (S106 awaiting execution) with an application for another 2 no. housebuilders pending. NSDC are confident that the SUE's can and will now deliver significant housing, proving that the Core Strategy and its spatial distribution of Growth is deliverable, and that previous delays have been overcome. This is a matter which has also been rehearsed recently in an appeal in Rushcliffe (Ref. APP/P3040/W/16/3143126 – an outline application for 65 dwellings in Aslockton), with the appeal having been dismissed on 25<sup>th</sup> October 2016.

In order to address its housing requirement the Council, as it is required to do under the NPPF for both objectively assessed need (OAN) and under the Duty to Cooperate, has produced a Strategic Housing Market Assessment (SHMA). The SHMA has been produced in line with Government Guidance by consultants G L Hearn, in conjunction with Justin Gardner of JG Consulting, on behalf of Ashfield, Mansfield and Newark & Sherwood District Councils who form the Nottingham Outer Housing Market Area. The SHMA has produced an OAN for NSDC of 454 dwellings dwelling per annum (dpa) (using 2013 as a base date). Although this figure is yet to be tested through an Examination In Public (EIP) this is the *only (emphasis added)* objective assessment of need (OAN) available in NSDC that has regard to the housing market area, as required by both the NPPF and the Housing White Paper.

The aforementioned Appeal in Farnsfield in January 2016 (Farnsfield 1) was allowed on the basis that this Council was deemed not have a 5 year housing land supply. This was the view of one Inspector who disagreed with the annual requirement figure, noting that the information for the whole HMA was not before them. The Inspector concluded that on the balance of the *evidence available to them at the Inquiry (emphasis added)*, a reasonable assessment of the Full OAN for Newark & Sherwood would be in the order of up to 550 dwellings per annum. The Council applied for leave to Judicially Review (JR) the Inspector's decision but this was not granted. Since the JR the Council has re-visited the OAN with its consultants and its two neighbouring Councils, all of whom are confident they can robustly defend the OAN at an EIP and that the planning appeal inspector was incorrect. This was underlined by the publication in July 2016 of a Farnsfield Appeal Statement Position Statement (see

<http://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/planningpolicy/pdfs/prefapp/HMA%20Position%20Statement%20-%20Farnsfield%20Appeal.pdf>).

Moreover, this Council has now submitted its Amended Core Strategy to the Planning Inspectorate following ratification by a special Full Council meeting on the 26<sup>th</sup> September 2017. An Examination hearing has been confirmed for the week commencing 29<sup>th</sup> January 2018. Ashfield, one of our HMA colleagues has already had its EIP, following which it has been confirmed that no main modifications have been requested by the Inspector in relation to the OAN, which together with Mansfield (also progressing their plan on the basis of their HMA OAN target) combine to create the full OAN for the whole HMA.

It is acknowledged that the OAN and consequently housing target for the District cannot attract full weight until after examination of the Development Plan. However, the OAN and issues around delivery have moved on considerably since the original Farnsfield appeal decision.

The OAN across the HMA has been reconsidered following Farnsfield 1, specifically addressing the points which persuaded the original inspector to conclude that an OAN of up to 550 would be appropriate. The OAN of 454 remains the only robustly and recently assessed figure before us as decision-makers to determine the appropriate figure against which 5 year delivery should be assessed. Indeed, Members will recall that Officers have consistently advised that a 5 year land supply against a 454 OAN could likely be demonstrated. However, uncertainly with respect to the weight which could be attached to the OAN, together with a lack of information on in-year completions (as you know at the end of each municipal year officers review and ultimately publish actual new housing completion information), a 'pragmatic' approach was recommended. This entailed an approach whereby having a 5 year land supply was accepted, but that could support schemes which fell immediately adjacent to main built up area boundaries and village envelopes, which are *acceptable in all other technical and environmental respects (emphasis added)* and

which will demonstrably boost housing supply in the short term (including imposing shorter timeframes for implementation and demonstration of no other site impediments eg. infrastructure costs or contamination). This position was to be re-assessed as the Plan Review progresses.

The Council's position on new housing delivery was captured in July 2017 when its annual monitoring information was published. This identified that both stalled and new sites were contributing to an increased build-out rate. Indeed, based on housing completions as of 31<sup>st</sup> March 2017 the authority confirmed that it has a 6.2-year supply based on a housing target of 454 dwellings per annum.

Moreover, all 3 of the HMA Council's remain fully committed to the OAN figures we have each adopted, with Ashfield having concluded Examination (and awaiting the Inspectors report), ourselves being at Examination in January, and Mansfield progressing. On this latter point Members may have noted that Mansfield have been identified in a Written Ministerial Statement dated 16<sup>th</sup> November 2017 have been identified as an Authority who has made unsatisfactory progress on Plan Review. In light of this it is likely that Mansfield will be keen to progress their Local Plan at speed, on the basis of the Preferred Approach which has recently concluded its consultation period, utilising the figures set out in the SHMA as their housing requirement.

This position has also been confirmed by a recent (August 2017) appeal hearing decision which has accepted that this Council has a 5 year housing land supply against a target of both 454 and 500 dwellings per annum. Even on a 550 OAN the Inspector in that case concluded that any shortfall would most likely be made up by windfall schemes.

Given this position the Council considers that limited weight should now be attached to the Farnsfield Inspector's decision. To the contrary the OAN of 454 remains robust and against this it is considered that there is a 5 year housing land supply. Consequently, the policies of the Development Plan are up-to-date (also having regard to the PAS review of the Core Strategy Policies and in attaching weight to the fact that the Allocation and Development Management DPD Policies were independently examined and found sound post NPPF adoption) for the purpose of decision making. This stance is consistent with the Council's case at the most recent Farnsfield Appeal, a decision on which is awaited (timescales unknown). This must ultimately be weighed in the overall planning balance.

### Principle of Development

Paragraph 14 of the NPPF makes clear that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. I concur with my Policy colleagues comments in that the main strategic issue is whether the site, and proposal, can be considered sustainable and my assessment seeks to focus on factors which contribute to this in order to assess whether the proposed development strikes an appropriate balance between its economic, social and environmental dimensions.

The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services.

It is noted that this site was promoted as a potential site for housing as part of the Strategic Housing Land Availability Assessment (SHLAA). However, the 2011 draft Allocations & Development Management Development Plan Document identified the site as not suitable, due to potential highways impact on Cinder Lane and intrusion into the open countryside and consequently it was not allocated for development. The planning statement sets out that this application is being made given that many allocated sites have not yet come forward and given the position with our 5 year housing land supply, which I have rehearsed above.

The application site is, as matter of fact and policy, located outside of the town of Ollerton. It therefore falls in the first instance to be considered against the sustainability criteria of Spatial Policy 3 relating to Rural Areas. Under this policy development away from the built up areas, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. The policy goes on to direct the decision maker to an open countryside policy in the Allocations and Development Management DPD, being Policy DM8. It is important to note that DM8 was found to be consistent with the NPPF in the adoption of the Allocations DPD. Both DM8 and the NPPF state that local planning authorities should avoid new isolated homes in the countryside unless there are specific circumstances to justify them.

I note from the submitted planning statement that the applicant acknowledges the site is within the countryside (albeit they say it is previously developed, a matter addressed above). The statement goes on to state that the Development Plan is out of date due to a recent appeal decision within the district which concluded that the authority cannot provide evidence of a 5 year housing supply, a matter which the Council is confident can be rebutted.

Clearly given the location of the site (countryside) it is also crucial that care is taken to respect landscape setting through design, layout and landscaping which manages the transition from the countryside.

A scheme of 25 dwellings would in terms of its scale be appropriate/commensurate to the size and location of the Service Centre and its status within the settlement hierarchy. However the scheme proposed here is beyond the main built up area of the settlement. On the basis of the above, given that the site is located immediately adjacent to the settlement of a service centre (thus a very sustainable settlement) in forming a view on the acceptability of the principle of the development it is considered that a balanced view of the all of the relevant considerations needs to be reached, which is provided at the end of this report.

### Landscape and Visual Impacts

The site appears odd in plan terms relative to the settlement boundary. It follows no obvious built plan form or settlement line/boundary. That said, one must understand the impacts of the development on the ground.

The site is located in Policy Zone Sherwood 27 (Ollerton Estate Farmlands) where landscape characteristics are gently rounded topography, medium to large scale semi-irregular field patterns and occasional hedgerow trees etc. The area is defined as having a 'moderate' landscape condition and a 'moderate' landscape sensitivity, the overall landscape action for the policy zone is 'Conserve and create'. Indeed on site I noted the site is relatively flat with little by way of vegetation on site. I also noted the footpath that runs adjacent to the site where receptors would note a change, but one that is not necessarily harmful.

The applicants Planning Statement at paragraph 5.30 mentions that a landscape buffer and additional planting are to be included in the scheme, however this is not shown on the indicative Masterplan.

The County Council’s Landscape Architect’s comments are noted, which request further information including details of landscaping and an arboricultural survey. Given landscaping is a reserved matter and there is no mature vegetation to be removed to accommodate the proposals I do not consider it reasonable for the applicant to provide this at this stage and could be properly assessed at reserved matters stage. I also note that they support the proposal in principle.

In terms of visual impacts, I note that NCC have also commented that the main visual receptors are residents on either side of Cinder Lane to the north, on Griceson Close to the north west, and Maltkiln Close to the north east, who currently have views of open agricultural areas. Whilst no assessment has been provided by the applicant on the visual impact, I consider that it would be reasonable for the District Council to form a view on likely impacts based on the parameters known at this time. Having visited the site and having noted comments from consultees I find no reason that the site could not be developed for this level of development from a visual perspective (subject to proper demonstration and mitigation at reserved matters stage). There clearly will be landscape impact and harm from the baseline position of open land. However, that does not, in my view, mean that there a scheme cannot be designed which would allow the site to be properly assimilated. Consequently, I consider there are no grounds for refusal in respect of landscape or visual impacts alone.

Housing Density/Mix/Disposition

CP1 (Housing Mix, Type and Density) states that densities of around 30 dwellings per hectare or more will be set for sites other than strategic sites in the district. The submission of 25 dwellings would equate to just under 25 dph, which is lower than normally expected. No justification has been given for this. However given its position on the edge of the settlement I consider that it would be appropriate when taking into account matters such as landscape buffers around the edge of the development to manage the transition to open countryside.

CP1 also sets out that the District Council will seek to secure a mix of housing types to reflect local housing need, which will be dependent on local circumstances and viability. No viability case has been put forward. The Housing Market Needs Assessment and Sub Area Reports commissioned by this Council and undertaken independently by DCA in 2014 sets out the market needs for Sherwood Sub Area, within which Ollerton falls. This suggests that the main type of properties required by existing households would be bungalows and detached, with private rented being the most sought after tenure for concealed households. Housing need appears to be greatest for those with 3 bedrooms, 2 bedrooms and 4 bedrooms respectively with limited need identified for 1 bedroom.

The indicative layout indicates that the site could provide for a mix of 2, 3 and 4 bedroom units, including 2 bungalows albeit the precise mix would be reserved for subsequent consideration. The indicative plan suggests a mix as follows:

<b>House Type</b>	<b>No. of Houses Shown Indicatively</b>
4 bed detached	6
3 bed detached	7
3 bed semi-detached	6
3 bed bungalow	2

2 bed semi-detached	4
Total	25

The indicative mix does not reflect exactly the need identified (in that I consider it would be reasonable to have more 2 bedroom dwellings than 4 bedroom dwellings and more bungalows) based on the evidence of local need. I concur with my policy colleague in that I believe it is important that the scheme meets local need in order to create a mixed and balanced community thus contributing towards a sustainable development. The indicative mix does not; however I appreciate that this is an outline application and the matter could be controlled by condition if minded to approve the scheme. Commentary on affordable housing is set out in the developer contribution section later in this report.

In terms of disposition, I am mindful that layout is reserved. I consider that given the sites position in the countryside/on the edge of the settlement more consideration would need to be given to having stronger landscaping buffers, certainly around the periphery of the development and perhaps lower density detached dwellings located towards the edges of the development to help manage the transition towards the countryside. I do not consider the indicative layout would be acceptable. At present insufficient space appears to be available to achieve any meaningful landscaping but given the low density, I am satisfied that the site is sufficient in size to accommodate a layout that would be able to provide a scheme that is appropriate for its context.

### Highways Matters

Spatial Policy 7 indicates that proposals should minimise the need for travel, through measures such as travel plans or the provision or enhancement of local services and facilities and provides that proposals should be appropriate for the highway network in terms 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.

The Highways Authority initially objected to the application on the basis of inadequate visibility for vehicles at the Cinder Lane junction with A616 Wellow Road. The objection related to the visibility splays to the east onto the A616 which carries significant levels of traffic, a matter I noted on site during my site visit.

There are two highway standards that could be applied (detailed in the Highway Authority comments) but the HWA stated that this application could not achieve either (it is noted that we have applied the larger splay on the allocated site development over the road). The HWA commented that the way in which the applicant measured the visibility splay is flawed potentially discounting cyclists and motorists riding close to the kerb. Cinder Lane already serves around 30 dwellings and the HWA recognise there is no recent history of injury accidents but were clear that 25 houses would generate an unacceptably higher proportion of vehicle trips traveling through a sub-standard junction and adding significantly to the risk of an accident. They also acknowledged that an offer was made to provide a vehicle activated sign (VAS) in an attempt to reduce speeds so that the available visibility splay distance is adequate although the HWA raised concern that there is no guarantee that such a sign would achieve the required reduction in speed particularly since such a sign already exists only 280m away. On this basis the LPA were preparing to refuse the application when the applicant requested that the applicant was held in abeyance whilst they tried to resolve matters, which the LPA agreed to.

Some months have passed, however the applicant has now presented an amendment to the scheme in an attempt to overcome the highway concerns. The applicant has now secured a legal

agreement to purchase a strip of land (front and side garden) at 1 Bottom Row which would then allow the visibility splay to be improved from the originally proposed 40.5m to 52.7m in an easterly direction.

The Highways Authority have therefore reconsidered their position and comment that whilst this would not meet the 2.4m x 90m standard prescribed by the Highway Agency's 'Design Manual for Roads and Bridges TD/42/95' (DMRB) it would exceed the 2.4m x 44.4m standard prescribed by Dept. of Transport's 'Manual for Streets' and the CIHT document 'Manual for Streets 2' (MfS). On this basis they have removed their objection based on a number of factors; which include

- The proposal now offers a recognisable and potentially justifiable standard of visibility splay using MfS.
- Cinder Lane/ Wellow Road is an existing junction serving about 30 dwellings that has functioned without any recent injury accident history.
- The improved splay will benefit existing users of Cinder Lane.
- The proposed modest-sized development of 25 new dwellings is not considered excessive given the proposed improvement.
- The Avant Homes development, about 100m to the east of Cinder Lane, will 'urbanise' the approach to the Cinder Lane junction from the south-east and help to naturally reduce speeds.

They do however make clear that their decision to rescind the recommendation to refuse has been made only after consideration of the close balance between arguments that could be presented at an appeal (should that be an eventual course of action) particularly with regard to which highway guidance should be applied.

I note that some local residents have commented that the visibility splay to the east would not be improved due to the continuing presence of an existing telegraph pole within the land to be acquired. This pole is currently covered in thick ivy giving it the appearance of a tree. All of this vegetation would be removed. The proposal is actually for the additional slither of land to form part of the public highway. I am therefore satisfied that the clearance can be secured and there would be no need to require the applicant to maintain the visibility splay (free from obstruction) as this would fall to the County Council once it is provided and handed over, the provision of which is secured by recommended condition.

Based on the above it is concluded that the proposal would accord with SP7.

### Amenity

The consideration of amenity impacts is required by virtue of Policy DM5 which states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. Given the outline nature of the proposal it is not possible to assess all amenity impacts such as overbearing or loss of privacy through overlooking. These factors could be fully assessed at reserved matters stage. However suffice to say that I am satisfied that the development of 25 houses would not have an adverse impact on amenity in principle (such as through general disturbance) to existing occupiers of dwellings.

## Ecology

Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets. The application is supported by an updated Preliminary Ecological Appraisal (PEA).

### *Birklands and Bilhaugh Special Area of Conservation (SAC)*

The application site is in close proximity to the Birklands & Bilhaugh Special Area of Conservation (SAC), which is a European wildlife site (also commonly referred to as a Natura 2000 site), and therefore has the potential to affect its ecological interest. European wildlife sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').

#### Habitat Regulations Assessment:

The Habitats Directive requires competent authorities to decide whether or not a plan or project can proceed having undertaken the following "appropriate assessment requirements" to:

- Determine whether a plan or project may have a significant effect on a European site
- If required, undertake an appropriate assessment of the plan or project
- Decide whether there may be an adverse effect on the integrity of the European site in light of the appropriate assessment

In the NWT consultation response they draw to this Authorities attention that the site is within the 5km zone of influence of Birklands & Bilhaugh Special Area of Conservation (SAC), therefore there is potential for recreational impacts as a result of possible increased visitor pressure, to damage the interest features (old acidophilous oak woods) of the European site. Policies within the Council's Core Strategy and Allocations and Development Management DPD set out the requirements for proposals within 5km of the SAC to provide measures in order to relieve pressure on the SAC. It should be noted that no information or mention has been made within the applicant's submission on the potential impacts on the SAC. However within the submission there is a cursory mention within the bullet point list of matters which a S106 would need to secure to SANGS being Suitable Alternative Natural Green Space and therefore it is assumed that this implies the applicant considers there may be a need for such mitigation and therefore impacts cannot be ruled out. Given the indicative masterplan it is also presumed that it would not be the intention to provide open space on site that may qualify as green space that could alleviate pressure from the SAC.

Given the substantial population of Nightjar and Woodlark in the Sherwood Forest area the site is a potential Special Protection Area ('SPA') under the EU Birds Directive. As such the provisions of the Conservation of Habitats and Species Regulations 2010 (formerly the Conservation (Natural Habitats etc) Regulations 1994) would have to be applied for developments within a 5km buffer, which this application falls within. This precautionary regime seeks to determine whether the development is likely to have a significant effect on the pSPA (either alone or in combination with other plans or projects).

NWT have pointed out it is essential that the Council must pay due attention to potential adverse effects on birds protected under Annexe 1 of the Birds Directive and undertake a 'risk-based'

assessment of any development, as advised by NE in their guidance note dated March 2014. Particular attention is drawn to the potential impact of

- disturbance to breeding birds from people, their pets and traffic
- bird mortality arising from domestic pets and/or predatory mammals and birds”

Adopting a precautionary approach it is for the Council as Local Planning Authority to judge and balance the impacts in this particular case. The site itself it is not a breeding habitat and there will be no direct impact on Night Jar and Wood Lark habitat. Equally there will not be, in my submission, given the distances involved, any impact or disturbance from the anticipated lighting associated with the development.

I therefore turn to indirect or associated impacts such as pet ownership or increased activity i.e. more people going to recreational sites within the District. In terms of daily recreational activity, provision hasn't been made on site. However it would be expected that some form of SANGS would be provided off-site *if* a S106 was able to secure this. What is more difficult to assess is the specific impact of this proposal with respect to any likely increase of visitors to affected recreational areas such as Sherwood Forest.

Notwithstanding the above, in taking a precautionary approach and bearing in mind the significant distances involved my submission would be that provided potential for SANGS offsite, together with awareness messages for any future occupiers of the development, the matter would be adequately addressed especially when taken together with the overall balance of planning considerations detailed in this report.

Mitigation by way of a financial contribution to provide suitable alternative green spaces (SANGS) is therefore considered appropriate, which could be controlled by Section 106 Agreement. It is also recommended that the provision of information to all new residents in the form of a 'welcome pack' to first occupants regarding ecological value of the local area and the sensitivities of woodlark and nightjar, requesting that dog walking after dusk during the breeding season within key areas for nightjar is avoided. This pack would be required to stay with the property and handed over to subsequent residents. This could be controlled by Section 106 and the applicant has agreed to both such measures.

However, I am mindful that the public footpath is an existing right of way and the proposed development could lead to increased use of this footpath. Given that this application is made in outline, a reserved matters application would be a suitable forum to ensure that details of design such as appropriate boundary treatment and matters to assist awareness to residents such as signage could be controlled by condition.

It remains for the Council, as Competent Authority, to satisfy ourselves that the planning application contains sufficient objective information to ensure that all potential impacts on the breeding Nightjar and Woodlark populations have been adequately avoided or minimised as far as is possible using appropriate measures and safeguards. I note that Natural England have not raised any objection and in fact neither have the NWT in this regard. The County ecologist has also remained silent on the matter. In my view, there is sufficient information to enable this Authority to come to a judgement on the matter.

Given that there would be unlikely be any public open space on the development, I consider this will likely place some additional recreational pressure on the pSPA and the SAC. I consider it

unlikely that the proposal would result in a direct impact on the pSPA and any impact would be indirect from recreational pressure. I consider that on balance the mitigation measures could be secured by conditions and through a SANGS contribution which the developer has agreed to.

The impact on protected species has been assessed following standing advice. The preliminary ecological survey assesses the site as being of low ecological value. No evidence of badgers or roosting bats was found, although there may be potential for the linear vegetative features to serve as routes for foraging and commuting bats. It is stated that the site has suitable habitat for reptiles and also great crested newts, with three suitable breeding ponds located within 500m of the application site. The site, in particular the hedgerows, dense scrub, scattered trees and the building within the application site, will be suitable for supporting a range of breeding birds. In particular, there were some species of high conservation concern present in the survey, including house sparrow (*Passer domesticus*) and dunnock (*Prunella modularis*). The preliminary ecological assessment makes a number of recommendations relating to avoidance of clearance works during bird breeding season, enhancements such as sparrow boxes, sensitivity external lighting and measures to protect badgers during construction all of which can be controlled via condition.

It also suggests further surveys in relation to great crested newts and reptiles which I discuss below:

#### *Great Crested Newts/Reptiles*

Due to the presence of ponds and suitable habitat within a 500m radius of the site, the preliminary ecological appraisals flags up that great crested newts and reptile surveys of the site are required and haven't been undertaken during the season (mid-March to mid-June). I note that paragraph 99 of Government Circular 06/2005 states that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

Both NWT and the County Ecologist have made representations that the scheme should not be granted until the surveys have been undertaken. In an attempt to allow the application to proceed the applicant has commissioned a Great Crested Newt Method Statement which sets out a worst case scenario and means of mitigation in an attempt to provide comfort to the decision maker that this matter need not stall a positive recommendation. The idea being that the mitigation proposed is based on a worst case scenario (such that the site supports a large population of GCN and a population of common reptiles) to ensure that it over mitigates any harm.

In brief the mitigation strategy compromises a 3m wide buffer zone and corridor around the site boundary (within the application site) which would be planted with tall tussock grasses and a hibernaculum would be created as well as the retention of hedgerows. I consider that the mitigation proposals demonstrate that the impact on GCN and reptiles could be made as acceptable subject to condition.

I do not disagree with the comments of the NWT or County Ecologist, in that the applicant has neither confirmed or ruled out the presence of a reptiles or great crested newts. However I am satisfied that in either case appropriate mitigation can be provided and thus the harm will be minimised/ negated providing this is subject to a condition. Bearing in mind that harm can be minimised/avoided, I do not consider that it would be reasonable to withhold a planning permission in this instance. It should be noted that the agent has offered to secure the

undertaking of the necessary surveys through a Section 106 Agreement. However I do not consider that this is necessary and it can be dealt with adequately by condition.

Based on the above, I do now consider that the application has satisfactorily demonstrated compliance with CP12, DM7 the SPD on Developer Contributions or the NPPF, a material planning consideration.

### Drainage and Flood Risk

The NPPG does not explicitly require the submission of Flood Risk Assessments for sites of less than 1 hectares which this is (just; 0.95h), in flood zone 1. The applicant has not submitted a full Flood Risk Assessment (FRA) as part of the submission although has referenced flood risk within the Design and Access Statement. According to the EA maps the site appears to be located within Flood Zone 1 and as such is assessed as having less than 1 in 1,000 annual probability of river or sea flooding. The Sequential Test does not apply to residential development within flood zone 1 and as such the location of the proposed development is considered appropriate in terms of flood risk.

I note the comments of the LLFRA who initially commented that a FRA is required (they had assumed the site was over 1ha) but whom have now clarified that surface water drainage is not a matter that is insurmountable on this site and one that could be satisfactorily controlled by condition. I therefore find there are no grounds for refusal on this basis.

### Developer Contributions

Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. This infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance from the District Council. It is critical that the detailed infrastructure needs arising from development proposals are identified and that an appropriate level of provision is provided in response to this. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure.

### **Affordable housing**

Core Policy 1 sets out that qualifying schemes should secure 30% affordable housing on site. It goes on to say that where the viability of the scheme is in question, the developer will be required to demonstrate that this is the case.

The proposal would exceed the revised affordable housing thresholds (11 units or more, or where the combined gross floorspace exceeds 1000 sqm) and thus is a qualifying development.

The applicants Planning Statement suggested that the 30% requirement would be met, with a 66% social rented and 34% intermediate housing split, the planning application indicated only 4 x 2 bed (16% provision) social rented units were to be provided in total. However a Draft Heads of Terms has now been submitted with the application. This shows a policy compliant (30%) offer of 7 affordable houses comprising 4 dwellings for social/affordable rent and 3 dwellings for shared ownership. The applicant has now confirmed that the mix they are offering matches the precise mix identified as being needed by Strategic Housing. Affordable housing provision makes a valuable contribution towards the creation of mixed and balanced communities and is integral to a

more sustainable form of development. Given the scheme has been amended to be policy compliant and reflects the precise need identified I am now satisfied that the proposal complies with CP1, the Council's SPD on Affordable Housing and the NPPF.

## **Public Open Space**

The Design and Access Statement indicates that this obligation is to be satisfied through contributions towards off-site provision. The SPD states that the scheme would need to provide for open space in the form of provision for children and young people (18m<sup>2</sup> per dwelling) and natural and semi natural green space.

### *Provision for children and young people*

As a development of 25 dwellings, this application should make provision for public open space. No areas of public open space have been demonstrated on the indicative site layout and it is therefore assumed that the applicant would expect provision to be made off-site.

It is useful to note that for the allocated site to the north of Wellow Road (the allocated site OB/Ho/1, 14/01533/RMAM) which is being built out by Avant Homes for 147 dwellings has some open space on site including a LEAP to its south-eastern corner. Whilst they have done what they could on-site, they by a deed of variation have also paid a commuted up to make up for a shortfall. It therefore appears to me that the LEAP would therefore be not capable of being enhanced (if it could have been, the developer would logically have done this rather than pay to provide it elsewhere) on the adjacent site.

On this basis there would be a LEAP to the north some 500m away if walking. I note that there is existing public open space within the service centre (central park is approximately 800m away but as the crow flies) that could be enhanced to accommodate the children and young people from this development. Our Parks and Amenities Manager has suggested that we wouldn't normally expect to include children's play space for this size of development and therefore an approach such as enhancing facilities elsewhere is considered reasonable. The applicant has now confirmed that they will provide a policy compliant contribution towards POS which can be secured via a Section 106 Agreement.

### *Natural and semi-natural green space*

The Newark & Sherwood Green Spaces Strategy has set local provision standards for a number of different types of open space. Those of relevance to new housing developments are as follows: Natural and semi-natural green spaces – 10ha per 1,000 population. However in recognition of the difficulty of achieving this standard in urban areas the Strategy recommends that all residents of the district should live within 300m of an area of natural and semi-natural green space. Given that the site is on the edge of the settlement there are fields immediately to the east, south and west of the development which I consider would meet the aspirations of the policy.

## **SANGS**

This is discussed earlier within the ecology section of this report.

## **Community facilities**

Community facilities are defined as including Community Halls; Village Halls, Indoor areas for sport, physical activity, leisure and cultural activity and Halls related to places of worship. The Council's SPD provides where existing infrastructure exists or where small scale developments do not warrant new infrastructure, a contribution may be appropriate to support the existing infrastructure such as a village or community hall or other community asset. It goes on to say that 'it is further recognised that some community facilities are not fulfilling their potential to meet the needs of residents and thus may appear to be underused. In such circumstances qualitative improvements to such facilities would increase their ability to make a positive contribution to meeting the needs of the community.'

The site itself in my view is too small to provide community facilities on it and therefore any additional pressure upon community facilities that this scheme would place upon the community should be met off-site. In order to ascertain whether any community facilities contribution is justified consultation with the Community Sports, Arts and Culture Manager has been raised to ascertain which projects would benefit from a commuted sum. In response the Manager has suggested there are a number of projects that would benefit from enhancement to cope with the additional pressure from development of this site. It is suggested that the S106 monies be used to help deliver a new changing facilities/clubhouse for Ollerton Town football club (albeit the building is used in a wider sporting community) that will utilise the planned improvements to the Walesby Lane Sports Ground. The Walesby Lane site is seen as the strategic site in the locality and will hopefully link up with the Petersmith Drive development if approved to deliver a sustainable sports hub site for the wider community.

The contribution would be based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling equating to a maximum of £34,601.75. The applicant has confirmed that they would be willing to pay this contribution and this can be secured via a Section 106 Agreement.

## **Education**

The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. Nottinghamshire County Council has reviewed the proposals and state that a development of 25 dwellings would yield an additional 5 primary places. Consequently, the County Council have requested an education contribution of £57,275 (5 x £11,455) to provide primary provision to accommodate the additional pupils projected to arise from the proposed development. In terms of secondary education, the proposed housing development is in the catchment of The Dukeries Academy, for which any contributions would be covered by CIL. The applicant has now confirmed in the their draft S106 Heads of Terms a willingness to provide this.

## **Other Matters**

### **Heritage**

The consultation response from the County Archaeologist states:

“The application is accompanied by an archaeological desk based assessment which has done a fair job of summarising the archaeological implications of the development, and notes that the site is surrounded by archaeological remains which are visible as cropmarks. The assessment also point out that there has been some levelling on the site associated with the erection of the now demolished chicken housing. The impact of this groundwork on buried archaeological remains is not clear, and there has to be a likelihood that such remains will survive in at least part of the site. I therefore recommend that if planning is granted, this should be conditional upon a programme of archaeological mitigation being undertaken. The works required could either take a phased approach of archaeological evaluation followed by whatever further mitigation the evaluation demonstrates is appropriate, or a programme of strip, map and record, where topsoil from the site is stripped under archaeological supervision and the archaeological remains which are uncovered are cleaned, planned and sample excavated. A condition such as the following may be appropriate...”

The County Archaeologist then goes on to suggest an appropriate condition. I concur that this would ensure that archaeology would be satisfactorily dealt with in the event that permission was granted.

### **Land Contamination**

The NPPF paragraph 121 states that planning decisions should ensure that the proposed site is suitable for its new use taking account of ground conditions, including pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation. The application site was previously occupied by five poultry sheds which appear to have been of asbestos construction which have now been removed. Both our EHO and Nottinghamshire County Council have confirmed there is clearly the potential for the site to have become contaminated from the former poultry farm use and from asbestos within the poultry shed construction materials. As no phase 1 desktop study has been submitted with the planning application, they have recommended that if minded to approve a full phased contamination condition would be necessary, which I concur with.

### **Rights of Way**

The public footpath running alongside the northern boundary would not appear to be affected by the proposal.

### **Planning Balance and Conclusions**

It is noted that the site lies within the countryside. However, the application site is located on the edge of a settlement which is a Service Centre in the settlement hierarchy with access to public transport, employment, retail, educational, leisure and community facilities thus in my view the site is relatively sustainable geographically.

I am satisfied that a suitable design and layout could be achieved at the reserved matters stage.

Highway safety which has been raised a concern by many residents and indeed initially by the Highways Authority. The acquisition by the applicant of additional land to improve the visibility splay is noted. Indeed, this has been persuasive for the highway authority, whose views I attached weight to and cannot disagree with, on balance. Other harm previously identified such as adverse impacts upon ecology has been addressed and I am now satisfied that they can be mitigated.

With regard to the economic strand of sustainable the development, given its scale the scheme would result in a modest level of economic benefit from development taking place. In addition it is acknowledged that the proposed development would contribute towards the boosting of housing supply, which would support the social element of sustainable development - albeit not significantly given the numbers proposed.

The creation of mixed and balanced communities is a key element of sustainable development and that the proposal advanced is now a policy compliant proposal in that it offers 30% on-site affordable housing to the exact mix and tenure as is identified as being required, financial contributions towards public open space, community facilities, suitable alternative green space and primary education such that it should not face additional pressure on existing facilities and thus is sustainable in this regard.

In summary the scheme is acceptable (or can be mitigated to be made so) in every technical respect. The site is on the edge of a Service Centre, which is a second tier and thus sustainable settlement within this Council's settlement hierarchy. The proposals would boost housing supply and the applicant would accept an 18 month permission overall (9 months reserved matters and 9 months implementation).

That said, the proposals is outside of the settlement envelope in a context where we are confident of a 5 year supply against an OAN of 454 dwellings per annum, but cannot yet attach determinative weight, particularly in the absence of an Examiners report on the Amended Core Strategy and/or a decision on the most recent Farnsfield scheme. For the avoidance of any doubt the scheme is very finely balanced at the current time. If the scheme were outside the settlement hierarchy, the OAN target of 454 was confirmed, and the Council has a 5 year land supply against this target I consider my recommendation would be refusal, in attaching significant and ultimately determinative weight to a plan-led system. We do not yet have such comfort albeit the direction of travel of Officers and the Council is clear. We have submitted and are defending a Plan based on a housing target we say is robust. In NPPF terms, such a target cannot attract full weight albeit the Plan is one step away from carrying such weight (assuming an Inspectors report some time at the end of Feb/beginning of March). The Examination Inspectors comments will clearly have an impact on decision-making, as will a decision on the pending Farnsfield appeal. I also note that the end of March 2018 will represent the trigger for officers again revisiting all completions in order that a new 5 year land supply update can be published. In summary there will remain uncertainty between now and most likely the end of March 2018 in terms of any of the above decisions. That said, there is no evidence before me currently to suggest that any of the above factors will rule against the Council's position on OAN and 5 year land supply. The applicant has made clear that they wish this application to be determined at the December Planning Committee meeting and on this basis, having regard to all matters in the overall balance, I conclude, on a fine balance, that planning permission should be refused.

## **RECOMMENDATION**

### **Refuse for the following reason:**

01

The Newark and Sherwood Core Strategy Development Plan Document represents the spatial framework for growth and development in the District up to 2026. The application site is, as a

matter of fact, located outside the settlement boundary for Ollerton as defined by Policy DM1 and illustrated on the Policies map adopted alongside the Allocations and Development Management DPD 2013 (at Map 9 of the Allocations & Development Management Development Plan Document, 2013). The Local Planning Authority is of the opinion that it has a 5 year housing land supply against its Objectively Assessed Need (OAN), which has been produced in accordance with the Duty to cooperate in conjunction with Mansfield and Ashfield District Council's. Whilst it is accepted that the OAN cannot yet attract full weight, Plan Review is progressing with all of the HMA Authorities. In the case of NSDC the **Publication Amended Core Strategy** has been submitted and will be examined in January 2018. The Council maintains that the OAN represents the most robust and up-to-date evidence on which to base decisions and that the interests of a plan-led system in this regard must prevail in an overall planning balance.

Developing this site, which is open countryside, would constitute an unsustainable form of development which would be contrary to adopted Spatial Strategy for the district contrary to policies SP1, SP2 and SP3 of the Newark and Sherwood Core Strategy Development Plan Document (adopted 29th March 2011) and Policies DM8 and DM12 of the Allocations and Development Management Development Plan Document (adopted July 2013) which together form the Development Plan. It would also be contrary to the National Planning Policy Framework (March 2012). There are no other material planning considerations that would outweigh the identified harm.

### **Informative**

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](http://www.newark-sherwooddc.gov.uk/cil)

02

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

### **BACKGROUND PAPERS**

Application case file.

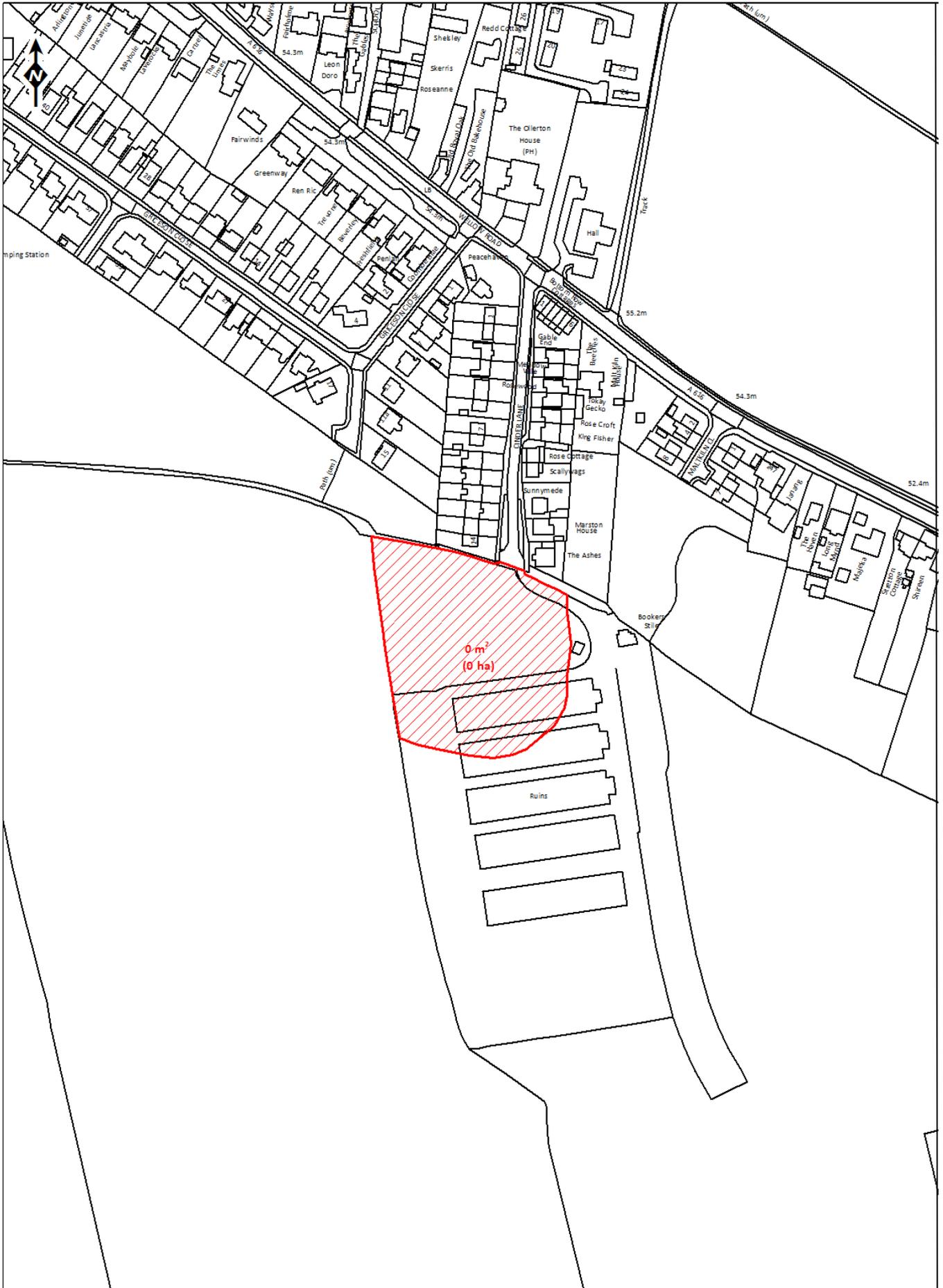
For further information, please contact Clare Walker on ext 5834.

All submission documents relating to this planning application can be found on the following

website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 16/01102/OUTM



<b>Application No:</b>	<b>17/01508/FUL</b>
<b>Proposal:</b>	<b>3 No holiday cottages (Re-submission for previous approved planning application 10/00203FUL)</b>
<b>Location:</b>	<b>42 High Street, Edwinstowe, NG21 9QS</b>
<b>Applicant:</b>	<b>Mr S Cooling</b>
<b>Registered:</b>	<b>23.08.2017</b> <b>Target Date: 08.12.2017</b> (owing to a revised red line site location plan which ‘re-started’ the clock)

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Edwinstowe Parish Council has objected to the application which differs to the professional officer recommendation. In addition to this, Cllr Brooks has requested that the application be determined by Planning Committee if officers are minded to approve.**

The Site

The application site is a modestly sized, broadly rectangular plot to the west of the High Street within the village of Edwinstowe. The site falls within the defined District Centre as well as the designated Conservation Area. The point to where the site accesses High Street is also part of the Primary Shopping Frontage as defined by the Proposals Map within the Allocations and Development Management DPD.

The site as existing forms the curtilage to no.42 High Street (which has been included within the red line site location through an amended site location plan submitted throughout determination). It has been confirmed by the applicant during the life of the application that 42 High Street forms two residential flats; one at ground and the other at first floor. The site is relatively unkempt with areas of hard standing and an existing outbuilding towards the east of the site as well as grassed landscaping at the west of the site. There is a rising gradient westwards which is facilitated by steps to the grassed area of the site.

The rear boundary of the site features a wooden fence with a gate which leads to a public parking area to the west of the site. The other boundaries of the site are characterized by a mix of fencing, vegetation and brick walls. The surrounding area includes the aforementioned car park as well as residential and commercial uses associated with the District Centre location of the site.

Relevant Planning History

The following applications are considered directly relevant to the consideration of the current application:

**10/00203/FUL** - Erection of 3no. holiday cottages. *Application approved April 2010.*

**06/01060/FUL** - Erection of 3 self-catering holiday cottages and landscaped enhancement. *Application approved September 2006.*

*As is discussed further in the appraisal section below, the plans before the LPA for consideration of the above applications were identical to those originally submitted with the current application (noting that there have been amendments throughout the current application).*

**05/00134/FUL** - Proposed cottage mews (3 no) and landscape enhancement. *Application Refused April 2005.*

### The Proposal

This application proposes the erection of a terrace of 3 No. two storey, two bedroom cottages sited spanning east to west across the site. They have maximum external dimensions of approximately 17.5 metres in length by 5.8 metres in width and 8.0 metres in height. The cottages have a stepped ridge line to reflect the fall over the site which results in the cottage closest to High Street having a ridge line lower than the other two. Externally, the buildings have a simple appearance with regularly spaced fenestration. No materials are individually specified. Demolition of a small brick building, situated towards the high street frontage is also proposed.

The application has been amended during the life the application through the submission of a revised red line site location plan which incorporates the existing property at 42 High Street and through amended plans and elevations in order to address concerns raised by officers during the life of the application. This is further discussed in the appraisal below.

### Departure/Public Advertisement Procedure

Occupiers of 14 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 7: Sustainable Transport

Core Policy 7: Tourism Development

Core Policy 8: Retail & Town Centres

Core Policy 9: Sustainable Design

Core Policy 12 Biodiversity and Green Infrastructure  
Core Policy 14: Historic Environment  
ShAP 1: Sherwood Area and Sherwood Forest Regional Park

### **Allocations & Development Management DPD**

Policy ED/DC/1 – Edwinstowe – District Centre  
Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside  
Policy DM9 – Protecting and Enhancing the Historic Environment  
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
- Policy ShAP3: Role of Edwinstowe of the Emerging Core Strategy

### **Consultations**

**Edwinstowe Parish Council** – Object to the proposal (5 votes object, 0 support and 0 abstentions)

Adequacy of parking. We query if applicant has ability to provide sufficient parking spaces for the development given that the parking spaces shown on the plans are in a car park under Edwinstowe Parish Council control.

*Additional comments received in respect of the revised plans received 6<sup>th</sup> November 2017:*

Object to the proposal (unanimous)

Adequacy of parking. Query if applicant has ability to provide sufficient parking spaces for the development given that parking spaces shown on plans are in a car park under Edwinstowe Parish Council Control.

**NSDC Conservation** - The proposal site is situated within Edwinstowe Conservation Area (CA).

Approval was given in 2010 for the same proposal hereby submitted (ref 10/00203/FUL), which in itself was previously approved in 2006 (ref 06/01060/FUL).

*Legal and policy considerations*

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

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

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 137).

#### *Assessment of proposal*

Conservation has no objection to the proposed development.

The proposal comprises a modest, traditional form with narrow gables and appropriate detailing. Its scale, mass and siting ensures that the new development will not be unduly prominent within the CA, and is otherwise not harmful to the special character and appearance of the CA.

In addition, given the previous approvals were made with no formal conservation objection, I cannot see any material grounds in this situation to take a different view.

#### *Recommendation/summary of opinion*

No objection. The proposed development will cause no harm to the character and appearance of the Edwinstowe CA. The proposal therefore accords with the objective of preservation required under section 72 of the Act, and also complies with heritage policy and advice contained within the Council's LDF DPDs and section 12 of the NPPF.

If approved, further details of the masonry construction and joinery specification should be sought, as well as all facing materials and external accretions (including chimney design). Window headers will benefit from being segmental arches rather than soldier courses (similar advice was given on the original application).

I note that an archaeological watching brief was required with the original 2006 permission. Given the potential for historic settlement archaeological interest, this would seem to be an appropriate condition to continue.

**NCC Highways Authority** – The application site is located within the town centre, in close proximity to all amenities, including public car parking.

In view of this, there are no highway objections to this proposal.

**NSDC Access and Equalities Officer** – Observations in relation to Building Regulations.

**A letter of representation has been received on behalf of Edwinstowe Historical Society which is summarised below. No other letters of representation have been received.**

- There are chains attached to the remains of the former lock up which forms part of the property – development might jeopardise the chains

#### Comments of the Business Manager

##### *Principle of Development*

The Planning Statement submitted to support the application makes numerous references to the planning history of the site whereby the development originally proposed has been previously approved by the LPA. As is confirmed by the planning history section above, the latest approval (for the same development as to that originally for consideration) was in April 2010.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 confirms that determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. The “primacy” of the Development Plan depends on it being up to date & in accordance with national planning policies. The implication being that the development plan is an evolving suite of documents subject to periodic updates. The significance of this is particularly pertinent in the determination of the current application. Not least because the extant development plan is entirely different from that which was considered when determining the last application in 2010, but also because the LPA is once again at the stage of updating the development plan through an amended Core Strategy and Allocations and Development Management DPD (the former being at a more advanced stage). At the time of writing, the Publication Amended Core Strategy July 2017 has recently completed a period of representation with submission for approval received at the September full Council meeting.

Paragraph 216 of the NPPF confirms that decision takers may attach weight to emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Settlement Hierarchy within the extant Core Strategy outlines the intended delivery for sustainable development within the District. Primarily the intention is for further growth to focus on the sub-regional centre of Newark before cascading to larger Service Centres such as Ollerton and Southwell and then subsequently to the larger villages of the District referred to as Principal Villages. What is key to the determination of the current application is that Edwinstowe, in the amended Core Strategy, would be upgraded from a Principal Village to an additional Service Centre in the Sherwood Area. This is largely in acknowledgement of the role that Edwinstowe will play in the growth of the District owing to the proposed housing led development at the former Thoresby Colliery.

Nevertheless, in either scenario (i.e. a Principle Village or Service Centre) development within Edwinstowe is supported in principle subject to a site specific assessment against the remainder of the development plan.

I note that the site forms part of the District Centre of Edwinstowe as well as falling along the Primary Shopping Frontage. Whilst the current proposal does not serve to enhance the retail offer of Edwinstowe I consider it would be unreasonable to resist the application purely on this basis given the existing use of the site as residential curtilage. Thus the proposal in itself would not harm or alter the retail offer along the Primary Shopping Frontage.

The location of the site renders the development plan policies in relation to heritage assets of relevance. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Policy DM9 reminds us that proposals should be compatible with the fabric of historic buildings. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

#### *Impact on Tourism*

The importance of Edwinstowe as a tourist destination is fully acknowledged, and the benefits of the proposed scheme in terms of delivering tourist accommodation to serve the needs of the wider community are considered to be a benefit of the proposal which should be afforded positive weight in the overall planning balance.

I am mindful that full weight cannot be attached to the emerging plan at the current time, however it should be explicitly stated that the wording of CP7 has been fundamentally altered and essentially completely re-written through the July 2017 emerging plan. However, elements of the justification text remain identical including the acknowledgment that a healthy tourism industry within the District can help sustainable economic growth, and contribute to prosperous

communities and attractive environments. Equally it remains the case that increasing the proportion of visitors who stay overnight is identified as a priority for future tourism development.

The weight attached to emerging policies is a matter for consideration of the decision taker. In reaching a judgement of how much weight should be attached to the emerging policy I am conscious that the extant policy wording does give rise to issues in terms of its consistency with national policy. Moreover, whilst there were some objections to the revised policy at the preferred approach stage earlier in the year, there does not appear to be any representations contending unsoundness through the recent publication stage. It is therefore reasonable to assume that the original objections have been resolved. On this basis, Officers are content that significant weight can be attached the wording of CP7 as presented in the emerging plan document.

The revised wording of the policy confirms that within settlements central to the delivery of the spatial strategy tourism development will be supported provided that it is acceptable in respect of its associated impacts such as impact on local character, heritage assets, transport and amenity.

#### *Impact on Character*

It is acknowledged by the comments of the conservation officer that the scheme as presented has been previously considered in respect of its design impacts through the determination of the previous applications mentioned above. Given the passage of time however it remains necessary to fully assess the application against the current development plan and indeed the existing site circumstances.

The site forms the curtilage of 42 High Street with the proposed development at the rear of the site behind 42 High Street. As a consequence it is considered appropriate to describe the proposal as backland development. Policy DM5 states that proposals creating backland development will only be approved where they would be in keeping with the general character and density of existing development in the area.

Partially owing to the positioning of the site within the defined centre of Edwinstowe, the surrounding grain of built form is dense with commercial buildings spanning some distance from the High Street and the overall nature of built form along High Street being relatively sporadic. Indeed there is a commercial building immediately adjacent to the northern boundary at the rear of the site. On this basis, I do not consider that the development would be harmful in character terms solely due to its backland nature.

In respect of the specific design of the proposal I would concur entirely with the comments of the conservation officer:

*The proposal comprises a modest, traditional form with narrow gables and appropriate detailing. Its scale, mass and siting ensures that the new development will not be unduly prominent within the CA, and is otherwise not harmful to the special character and appearance of the CA.*

The proposal also involves the demolition of a small outbuilding along the southern boundary of the site towards the High Street frontage. Despite the concern raised during consultation, following a site visit I am content that this building adds little benefit to the overall character of the conservation area and therefore its demolition is not resisted in principle.

If approval were to be granted then further details would need to be sought in respect of the proposals materials and detailing. The Planning Statement implies that the proposal would include further landscaping and boundary treatment including a landscaped courtyard at the front of the site. Subject to conditions to secure these elements, I have identified no heritage or character harm arising from the development which would lead to the resistance of the proposal.

### *Impact on Highways*

Spatial Policy 7 indicates that proposals should minimise the need for travel, through measures such as travel plans or the provision or enhancement of local services and facilities and provides that proposals should be appropriate for the highway network in terms 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 echoes this.

The proposal for three holiday cottages is relatively small scale in nature in the context of the overall size of Edwinstowe. The traffic movements associated with the use are considered to be minimal and would not warrant the submission of a Travel Plan.

I note that the Parish Council objection appears to be purely based on the available parking provision for the use. To confirm, the red line site location plan does not incorporate the existing public car park to the west of the site. I do however appreciate that the submitted block plan does appear to imply that the development would utilise the existing car park for parking provision. Furthermore the Planning Statement contends the following with regards to the existing car park: *'Two car parking places have been allocated to the site as existing.'*

Officers have not been presented with any supporting documentation to confirm this arrangement and indeed in the context of the Parish Council comments it is doubtful that these spaces could be relied upon for parking provision. I have therefore assessed the application on the basis that it does not allow for parking provision to serve the proposed end users.

However, I concur with the comments of NCC Highways and do not consider a lack of parking provision to be fatal to the application. Edwinstowe is a sustainable settlement and clearly as is acknowledged through a discussion of site surroundings there is public parking provision immediately adjacent to the site (and indeed seemingly accessible by foot through a gate in the western boundary fence). Any occupiers of the proposed holiday cottages would be aware of the parking situation prior to visiting the site and may indeed use this constraint as a reasoning to consider more sustainable forms of public transport.

Despite the concerns of the Parish Council, I consider it would be difficult to resist the application on highways safety or parking provision grounds both in the absence of an objection from Nottinghamshire County Council as the Highways Authority but also when taking account of the available public parking provision immediately adjacent to the site.

### *Impact on Amenity*

An assessment of amenity, as confirmed by Policy DM5, relates both to an assessment in relation to existing neighbouring residents but also to the proposed occupiers. It has been confirmed during the life of the application that no. 42 High Street forms two residential flats. This appears to be a material difference to the situation when the last application in 2010 was considered. In assessment of the previous application scheme the officer report refers solely to residential use at first floor and commercial use at ground floor. It is difficult to confirm whether or not this was the case at the time of the 2010 determination but given that that application has now expired, it does not attach weight to the current proposal in any case.

The site area is modest in size at just over 0.04 hectares in size. If the current application were to be approved it would amount to 3 holiday cottages and two residential flats within a semi-detached building to the north east. It is noted that the original red line site location plan did not include the existing building at no.42 High Street. Officers raised significant concern with this approach in that the original red line site location plan occupied entirely the residential curtilage of 42 High Street. The consequence of this was that two flats would be left with no amenity space whatsoever. The originally submitted Planning Statement implied that the space is not used as amenity space at the moment given a reluctance of either tenant to take ownership of its maintenance. This is contended as being further evidenced by the somewhat unkempt character of the site as witnessed through a site visit.

However, officers did not consider this to be adequate justification to allow for the complete loss of available amenity provision for two households. I observed during my site visit garden chairs and a table within the site as well as other domestic paraphernalia such as a washing line. This implies that the site does in fact have current amenity value. Policy DM5 is clear that, *'Proposals resulting in the loss of amenity space will require justification.'* To allow for the opportunity to use the space to be lost, purely on the basis of the stance that it is not currently well maintained is not considered to amount to such justification and would therefore be contrary to Policy DM5.

It is noted that the amenity provision for the holiday cottages is limited in size however given the proposed end use I do not consider this to be a fundamental issue in itself. The occupiers of the cottages are likely to be staying in Edwinstowe to explore the tourist opportunities in the surrounding area and thus the need for private amenity space is significantly less than that related to a private residential dwelling.

The applicant has taken the opportunity to address the above concern through the submission of a revised red line site location plan which includes the existing flats at 42 High Street. The implication of this is that officers can now attach weight to the occupiers of the flat utilising a

proposed shared 'landscaped courtyard' at the east of the site adjacent to the highway. It remains the likely case that this area would not be an area of true private amenity space given the proximity to the busy High Street. Officers have carefully considered whether it would be justifiable to continue to resist the application on this basis. However, I am mindful that this level of amenity provision would not be unusual for residential flats in central locations such as this. It would quite possibly be a different judgement if the existing building were a single detached family dwelling but it is the view of officers that the occupation of the building as residential flats tips the judgement very slightly towards one of acceptability. It should be stressed that this is a very finely balanced judgement (one that has been debated internally within the planning team) and it would be within the gift of Members, as the decision takers, to reach an alternative view.

In addition to the amenity impacts arising from the separation of the curtilage from 42 High Street, the proposal would lead to impacts in respect of the introduction of built form within the site which is currently vacant. Again this assessment is made on the basis of the current position whereby 42 High Street is occupied for residential purposes at both ground at first floor. As is confirmed above this appears to be a material change in circumstance in comparison to the scenario which was considered at the time of the last approval.

There is a rising gradient within the site such that the land towards the west of the site is set at a significantly higher level than 42 High Street which abuts the highway edge. The result of this is that any impacts of additional built form are likely to be exasperated. The positioning of the cottages within the site has its benefits in that they are not set immediately behind the rear elevation of no. 42. Thus any outlook towards the development from the rear windows of the flats would be at an oblique line of site. It is also noted that the cottages are set at a perpendicular angle to the flats and therefore I do not consider that there will be any direct overlooking between the two uses. The amended plans submitted during the life of the application have attempted to further improve this relationship through the removal of two gable end windows (one at ground floor and one at first floor) on the east elevation.

However, the positioning of the built form also has potentially negative amenity implications; notably that it is set to the south west of the property. Thus when taking account of the sun movements, the rear windows of the flats are likely to be overshadowed for significant portions of the day. There would also be an overbearing impact which would be worsened by the aforementioned increase in site levels. Officers have carefully considered whether these impacts would be so harmful as to warrant a resistance of the scheme.

The rear elevation of no. 42 High Street features two windows at first floor and two doors and a single window at ground floor. The flats are also served by a window each of the south gable end and windows on the principle elevation. In the original scheme, the LPA could not guarantee that the occupiers of the flats would be afforded any respite from the impact of the development given that their outdoor amenity space would be lost entirely. These impacts would be most pronounced to the occupier of the ground floor flat, again a material difference since the previous approval. I appreciate that no. 42 High Street is within the applicant's ownership but I do not consider this lessens the importance of a full assessment of the proposals resultant amenity

impacts. The planning system cannot control matters of site ownership. The built form associated with the proposal would be a long term permanent feature of the site whereas the ownership of the site could change in the near future with no control from the LPA.

Officers note the context of the revised scheme, which has reduced the perception of overlooking through the removal of two windows on the eastern gable end as well as securing outdoor amenity provision for the occupiers of the flats. Given that the flats are served by other windows which would have little to no outlook of the proposed built form (and that the rear elevation does appear to be used principally for pedestrian access) the impact of built form is not considered to demonstrate enough harm on which it could be resisted on overbearing or overshadowing impacts. Again this is a finely balanced judgement.

### *Impact on Ecology*

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

The proposal includes the demolition of an existing outbuilding which from a site visit does not appear to be frequently used. It is therefore considered that there is potential that the building could have ecological value as a bat roost. In usual circumstances, during the validation of applications, officers would request a bat emergence survey in order to fully assess the likely ecology implications of developments where ecological potential exists. Unfortunately this was not requested in this case at validation stage (nor were any relevant surveys submitted as part of the previous planning applications on the site).

In the absence of detailed bat survey work, it is not possible to fully assess the potential impact of the proposal on protected species and Members will note that protected species are a material consideration in the planning process.

It is regrettable that the lack of appropriate surveys was not conveyed to the applicant as being an issue at the point of validation. Officers have therefore requested the surveys during the life of the application however unfortunately it is not the appropriate time of year to conduct such surveys. In the interests of not holding the determination of the application up, the agent has confirmed that should the application be approved, they would be amenable to a condition which requires the submission of survey work prior to the demolition of the outbuilding. Although this is not an approach the LPA would usually advocate, given the circumstances and acknowledging that the potential for bats is considered to be relatively low, such a condition is considered reasonable. It should be noted that bats are protected through alternative legislation outside of the planning regime in any case.

### *Conclusion and Overall Planning Balance*

It is fully acknowledged that the proposal has been previously found to be acceptable in the past, most recently in 2010. Nevertheless, the very nature of conditions with time limits is in acknowledgement that circumstances can change and a proposal once deemed to be acceptable may no longer be at a later assessment date. Officers have identified material changes since the last approval, both in site circumstances whereby it has been confirmed that no. 42 High Street is occupied for residential purposes both at ground and first floor, but also through a significant change to the development plan on which applications must be assessed. It is noted that the previous applications do not form a fall-back position as they have now expired.

Officers have been in ongoing discussions during the life of the application and have secured revised plans in an attempt to address the amenity concerns discussed at length above. It is the view of officers that the revisions made have done just enough to tip the balance of acceptability in respect of amenity impacts. This would be subject to conditions to seek further details of the landscaped courtyard area such that consideration of how this would viably operate can be secured.

Despite the concerns of the Parish Council, no detrimental impacts have been identified in respect of highways safety or parking provision. Neither have any detrimental impacts been identified to the character of the area including in its heritage context.

The above discussion is clear that the recommendation below is finely balanced. However it is the view of officers that the benefits of the proposal, in terms of providing overnight tourist accommodation in a sustainable location outweigh the identified harm in respect of amenity provision for the existing occupiers of the residential flats at no. 42 High Street. This is subject to the conditions outlined below.

## **RECOMMENDATION**

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

### 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:

- Proposed Plans – 297\_2017\_01 Rev. A received 13<sup>th</sup> October 2017
- Revised Proposed Elevations – 297\_2017\_02 Rev. A received 13<sup>th</sup> October 2017

- Proposed Site Plan Layout – 297\_2017\_03
- Site Location Plan – 297/2017 Rev. A received 13<sup>th</sup> October 2017

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

No development shall be commenced until details and samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Facing Materials

Bricks

Roofing Tiles

Reason: In the interests of visual amenity

04

No development 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.

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External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.

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Treatment of window and door heads and cills

Verges and eaves

Rainwater goods

Coping

Extractor vents

Flues

Meter boxes

Airbricks

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## Soil and vent pipes

Reason: In order to preserve or enhance the character and appearance of the conservation area.

05

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The ground floor window opening on the east elevation shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

06

The development hereby permitted shall not be occupied until details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. These details shall include the types, height, design and materials. The approved boundary treatments shall be implemented on site and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

07

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.
- proposed finished ground levels or contours;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;

Reason: In the interests of visual amenity and biodiversity.

08

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 on site prior to first occupation.

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

09

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 building 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.

10

The holiday cottages hereby approved shall:

- I. be occupied for holiday purposes only;
- II. shall not be occupied as a person's sole, or main place of residence;
- III. shall not be occupied by any party for longer than 28 consecutive days.

Reason: To ensure that the development contributes towards the tourism offer within the District as anticipated through the application submission.

11

No development shall be commenced, including works of demolition, tree felling or clearance of vegetation, until a protected species survey has been carried out of the building to be demolished to ascertain if there are any bats or bat roosts on site. A scheme of mitigation to accommodate any bats or roosts on site shall be submitted to and approved in writing by the local planning authority as part of this survey. The approved scheme shall be thereafter carried out in accordance with the approved details and retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of maintain and enhancing biodiversity.

## Notes to Applicant

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/](http://www.newark-sherwooddc.gov.uk/cil/)

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

02

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 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](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01508/FUL



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<b>Application No:</b>	<b>17/00771/FUL</b>	
<b>Proposal:</b>	<b>Erection of 1No detached dwelling with attached garage</b>	
<b>Location:</b>	<b>Land To The Rear Of 37 And 39 Halloughton Road Southwell Nottinghamshire NG25 0LP</b>	
<b>Applicant:</b>	<b>Mr Dan Orwin</b>	
<b>Registered:</b>	<b>25.04.2017</b>	<b>Target Date: 20.06.2017</b>
	<b>Extension of Time Agreed</b>	

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Southwell Town Council has supported the application which differs to the professional officer recommendation.**

The Site

The application site is a broadly rectangular plot accessed by Halloughton Road to the west. The site is land locked by neighbouring residential curtilages with the Potwell Dyke sharing the northern boundary of the site. The site is within the designated conservation area. There is a public footpath which runs along the access to the site from Halloughton Road before following the southern boundary of the site. The site is within Flood Zone 1 according to the Environment Agency maps and despite its proximity to the Potwell Dyke is shown to be at very low risk of surface water flooding.

As existing the site is a vacant plot of land between residential curtilages. The submitted Design and Access Statement (D&AS) suggests that the land previously formed the rear gardens to 37 and 39 Halloughton Road (within the applicant’s ownership). Properties to the south along Halloughton Road are typically dormer bungalows whilst the immediately adjacent plots at 37 and 39 Halloughton Road are solely single storey. The dwelling to the east; 39a Halloughton Road is a dormer bungalow with its principle elevation orientated towards the site.

Relevant Planning History

Whilst there have been planning applications in relation to the recent residential development which surrounds the site, there is no planning history of direct relevance to the site itself.

The Proposal

The application seeks full planning permission for a detached dormer bungalow with an attached garage. The dwelling would be orientated with its principle elevation southwards with the attached single storey garage set at a perpendicular arrangement orientated towards the shared access from Halloughton Road.

The maximum pitch height of the dwelling would be approximately 6.2m whilst the eaves would

be set at approximately 2.6m.

The scheme has been amended during the life of the application owing to concerns raised by officers to the original proposal. The revised plans were received on the 14<sup>th</sup> June 2017 and were subject to a round of re-consultation and it is on this basis that the appraisal below is framed. The main changes in comparison to the original scheme are the omission of floor space at both ground and first floor to the rear elevation (resulting in the loss of a bedroom) – the L shape dwelling would have maximum dimension of 19.15m depth (including the attached garage) and 12m width. The revisions also include the removal of solar PV panels; and the reduction in height of a glazed entrance element on the principle elevation.

The site layout plan has also been amended on numerous occasions during the life of the application with the most recent iteration being Revision G dated 13<sup>th</sup> September 2017. This is owing to concerns in relation to the public footpath which shares the highways access (as discussed through the appraisal section below). The latest site location plan demonstrates a mountable pedestrian refuge along the southern side of the access.

The application has been accompanied by a Heritage Impact Statement; Method Statement for Tree Protection; Design and Access Statement and a Flood Risk Assessment.

#### Departure/Public Advertisement Procedure

Occupiers of thirteen 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. There have been additional rounds of consultation during the life of the application both in respect to the aforementioned amended plans but also subsequently in respect of the additional comments received from the Highways Authority (as listed in full below) and the revised block plan which now demonstrates the entirety of the routed designated public footpath.

#### 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 3: Housing Mix, Type and Density  
Core Policy 9: Sustainable Design  
Core Policy 14: Historic Environment

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

Policy So/HN/1 – Southwell Housing Need  
Policy So/PV – Southwell Protected Views  
Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM5 – Design  
Policy DM9 – Protecting and Enhancing the Historic Environment  
Policy DM12 – Presumption in Favour of Sustainable Development

## **Southwell Neighbourhood Plan (made October 2016)**

Policy SD1 - Delivering Sustainable Development  
Policy E3 - Green Infrastructure and Biodiversity  
Policy E4 - Public Rights of Way and Wildlife Corridors  
Policy E5 – Green Link  
Policy DH1 – Sense of Place  
Policy DH3 – Historic Environment  
Policy TA3 – Highways Impact

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

### **Consultations**

#### **Southwell Town Council – Original comments received 9<sup>th</sup> June 2017:**

Unanimously to object to the application for the following reasons:

This proposal in an infill, backland development.

The committee supports the highways strong objection

#### **Additional comments received 6<sup>th</sup> July 2017:**

Southwell Town Council considered application 17/00771/FUL Land To The Rear Of 37 And 39 Halloughton Road Southwell and agreed unanimously to support this proposal

#### **Further comments received 22<sup>nd</sup> September 2017:**

Southwell Town Council discussed the amendment to planning application 17/00771/FUL on 20th September 2017.

Southwell Town Council support the amendment. Min no 17.1 FC

#### **NCC Highways Authority – Original comments received 10<sup>th</sup> May 2017:**

This proposal is for the construction of a single dwelling served by an existing vehicular access which currently serves 3 dwellings.

The site layout plan indicates that the existing driveway into the site has a width of 3.5m. In accordance with the current Highway Design Guide (6C's) the minimum access width for this number of dwellings is 4.25m for a minimum distance of 5m behind the highway boundary (in all cases add 1m if bounded by a wall, fence, hedge, line of trees etc. on both sides). Therefore, as the access is bounded on each side, the required width is in fact 5.25m. Whilst it is understood that the access is currently in use by the residents of 3 dwellings, the driveway width is substandard and an increased use should not be encouraged. This proposal increases the likelihood of vehicular conflict as a vehicle waiting to enter the site would have to wait in the carriageway of Halloughton Road whilst another exits.

It should also be noted that a minimum width of 3.7m is required for suitable access by fire service vehicles, as recommended in DfT Manual for Streets, and that they should not have to reverse more than 20m.

As such, it is recommended that this application be refused for the following reason:

The access road leading to the site is substandard in that it is of inadequate width to allow two vehicles to pass and the intensification of use of such a road would result in an increase in the likelihood of unacceptable danger to users of the highway.

*Additional comments received 12<sup>th</sup> June 2017:*

The applicant/agent has provided additional information relating to possible improvements to the access. However, it is considered that the access would still be substandard and further intensification should be discouraged.

*Additional comments received 11<sup>th</sup> July 2017:*

The layout has been amended to include a pedestrian refuge approx. 20m along the private driveway. There is no footway along the driveway. This does not address the concern previously raised and as such my previous comments relating to the substandard access remain.

*Additional comments received 23<sup>rd</sup> August 2017:*

The access currently serves 4 dwellings, not 3 as stated in my previous comments. There is a wide verge at the access point which assists with visibility. Following a further, more thorough, site visit, whilst the access width is less than normally required for this number of dwellings, considering the low number of additional vehicular movements associated with one further dwelling at this location, it may be considered unreasonable to recommend that this application be refused.

Therefore, in this instance, there are no highway objections to the construction of 1 dwelling subject to the following being imposed:

1. No part of the development hereby permitted shall be brought into use until the access to the site has been widened to 3.5m, and surfaced in a bound material in accordance with the approved plan. 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. The parking/turning areas shall not be used for any purpose other than parking/turning of vehicles. Reason: In the interests of highway safety.

*Further comments received 27<sup>th</sup> September 2017:*

#### Further information

The Highway Authority is aware that it has made comments on this proposal on a number of occasions which have highlighted concerns with the overall inadequate width of the access when compared to suggested national and local standards. However the most recent observation following further investigation on site stated that 'in view of the low number of additional vehicular movements associated with one further dwelling at this location, it may be considered

unreasonable to recommend that this application be refused'. The comment was made based on the information supplied by the applicant in their planning application which was presumed to be accurate.

It is noted that the application is once again being consulted on and information on a Right Of Way – Southwell Footpath Number 27 – has now been included as part of this Right of Way is within the red line boundary of the application. The Footpath is officially recorded on the County's Definitive Map of Rights of Way and further information recently obtained indicates that a public footpath was expressly reserved along the southern boundary of the access way over land within the ownership of No. 39, Halloughton Road. It is noted that there is no reference to this within the applicant's revised documentation.

Having now had an opportunity to obtain documents regarding the public footpath which were not held by the Highway Authority, the Authority is now able to provide a fuller response on any implications for the public pedestrian highway as part of the recent re-consultation which has given the Authority the opportunity to consider once again the highway aspects of the application. In addition the applicant has submitted further highway related information (18 August 2017 Ref AEM/F17084/180817) prepared by their transport consultant. This information outlines the views of the consultant on the adequacy of the width of the access and how fire fighting vehicles would be able to access the property via the existing access road.

In relation to the existing Right of Way – Southwell Footpath Number 27 - the Highway Authority has to consider all highway users when making comments and recommendations to the Local Planning Authority. The inclusion of this Footpath in the application red line is a significant material change in the nature of the application and will have an effect on all highway users. The Highway Authority acknowledges that since the development was originally laid out and the footpath set out along the access way, there has been considerable intensification of vehicular use following further development, to which it is now proposed to add. The Highway Authority, upon further consideration is of the view that the need to ensure safe access by pedestrians (who have a legal right to use the route unhindered) means that the existing width of the access (and indeed any width below 5.25m (as highlighted in its original comments objecting to the application)) is unsuitable to safely allow for any intensification of use by vehicular traffic generated by the additional development.

It has already been noted that there exists documentation which has been supplied to the Authority which does show a five foot wide strip of the access way as dedicated for the sole use of pedestrians. Whilst it is understood that there has existed an undesirable situation for many years where the width of the footpath may not always have been avoided by existing private vehicular users of the access way, especially with the increase in the physical width of vehicles since the 1960's, it is the view of the Authority in making its comments to the Local Planning Authority that this cumulative increase in risk cannot be excluded from its consideration of this matter. Therefore the view of the Highway Authority is that within the existing physical constraints that contain the access way the applicant would be unable to provide any improvement that would allow for additional vehicular traffic beyond that which already exists without further detriment to pedestrian highway users.

The Highway Authority would also like to make comment on the information supplied by the applicant's transport consultant in their documentation dated 18 August 2017 Ref AEM/F17084/180817. The document outlines the consultant's view on the suitability of the access in terms of width and intensification of use.

From the Highway Authority's view, the access road does not meet current standards to allow for two vehicles to pass should they meet and, as has been highlighted earlier, the current physical boundary constraints on either side of it prevent any further widening. Whilst the consultant highlights an extract from the national Manual for Streets document stating that the "design of new streets or the improvement of existing ones should take into account the functions of the street, and the type, density and character of the development" and that this should be used in determining the appropriate width, it is also highlighted that the access road fails to meet the local design standards adopted by the Authority and contained within the 6Cs Highway Technical Design Guide. The consultant rightly states that 'Figure DG20 (Unadopted shared drive serving up to 25 dwellings) of the 6Cs Design Guide, states how developments of up to 5 dwellings would require a minimum driveway width of 4.25 metres for a minimum distance of 5 metres behind the highway boundary. As summarised in the comments raised by NCC dated 7 July 2017, Figure DG20 also states that if the driveway is bounded by a wall or fence on both sides, then 1 metre should be added.' The consultant then highlights that:-

*'The topographical survey demonstrates that the effective width of the private driveway to the back of the highway boundary is 3.75 metres. At a point 5 metres behind the highway boundary, the width is 3.67 metres. Between the edge of the carriageway along Halloughton Road, and the commencement of the private driveway, there is a 4.2 metres wide footway/hardstanding. Given that the majority of cars in the UK are between 4.5 metres and 5 metres in length, this demonstrates that there is space to accommodate a vehicle pulling off Halloughton Road, and waiting to enter the private driveway should the need arise. This prevents traffic entering the driveway from obstructing through-traffic along Halloughton Road. Indeed during on site observations undertaken on 10 August 2017, it was noted that vehicles pulling off Halloughton Road can effectively be stored in this section of highway land prior to entering the private driveway.'*

What this means is that should a vehicle pulling off Halloughton Road to proceed up the driveway and is prevented from doing so either by an egressing vehicle or pedestrians legitimately using the Right of Way it is suggested that they can pull off the existing carriageway and wait on the 4.2m wide footway/hard-surfaced vehicle access for the next door private driveway, which is there to allow vehicles to cross the footway, not for 'waiting' of any kind, by which it would cause an obstruction. Additionally, the footway is an area segregated for the use of pedestrians who by law have the priority of its use. Even if a vehicle were to wait in the location to which the consultant makes reference whilst it awaits a clear passage along the access road, it appears accepted by the consultant that part of it would still overhang the carriageway and also that it would eventually need to carry out some reversing manoeuvre onto the carriageway in order to be able to physically position itself to be able to actually enter the access road. The photograph below shows the footway/hardstanding area that the consultant is referring to.



It is clear that there is particularly restricted visibility for vehicles wishing to turn into the accessway from the south, and the Highway Authority considers this could lead to collisions arising from 'false starts' when a vehicle leaving via the accessway is encountered.

The consultant highlights that in relation to the intensification of use, the existing four developments generate in the region of 24 to 32 daily two-way movements and an additional property would 'only generate between 6 to 8 additional daily two-way movements.' In addition it is highlighted that there have been no recorded road traffic accidents between 2011 and 2015 in the vicinity of the site proving that the access works safely. It is also stated that many of the existing properties on Halloughton Road have driveways that only allow their users to reverse vehicles onto the carriageway which means drivers on Halloughton Road itself are used to watching out for emerging vehicles.

Whilst the addition of one further property off the access road may seem minimal it should be noted that using the applicant's consultant's own figures the use of the road will increase by 25% which is a significant intensification in use over present levels; levels with which the Authority already has some concerns given the increase in vehicle sizes since the original development, the greater number of private vehicles owned, and intensification of traffic flows generally. In respect of accidents and driver awareness the Highway Authority cannot argue with the facts ascertained by the consultant but considers that an increase in the use of an access will lead to an increased future risk. Whilst careful design and incorporation of features can offer mitigation that decreases this risk, it is the view of the Highway Authority that the applicant is unable to offer this due to the physical and legal constraints on the applicant's land. Furthermore, from what the consultant has outlined as the envisaged way that the access road will operate it is evident that there will be a potential increase in the manoeuvres of vehicles having to wait to turn into the access that will have a detrimental effect on other road users (both in terms of safety and the expeditious movement of traffic).

The Highway Authority also note that the applicant's consultant has also provided evidence in the form of a swept path analysis that fire fighting vehicles will be able to gain access to the

development. The issue of such access is of course one that is covered by Building Regulations and to some degree is therefore a matter that rests with the relevant Building Control Body to ensure adherence to but in light of the information that the Authority has highlighted it may be considered that although access may theoretically be achievable the physical constraints of the site may mean that practical access could be hindered. It is therefore suggested that the views of the Chief Fire Officer be sought by the Local Planning Authority to provide an expert opinion on this matter.

In view of all the above the Highway Authority is of the view that the applicants proposals in highway terms are unacceptable and would therefore object to the proposals.

*Email addressed directly to the agent dated 26<sup>th</sup> October 2017:*

Thank you for further documentation related to your clients planning application which I and colleagues have examined to ascertain if there is any new information contained within them that the Highway Authority would need to consider further to that it has already seen.

I would draw your attention to the legalities surrounding the Right of Way Southwell Footpath Number 27. You will no doubt be aware that the Title Deeds to what was known as Plot Number 21 and 21A make reference to the use of specific parts of the access way which are on the deed documents themselves colour coded. Within the documents there is relevant detail of a defined part of that access way being reserved for the use of pedestrians using the Right of Way. From my understanding of the documentation that has been included in your email this matter is not addressed and indeed reference is made to providing a shared surface. In very basic terms the Authority is unaware of the rights of the footpath being extinguished through any legal process (unless you have relevant details and can share these) and the use of the Right of Way by vehicular traffic is an offence. Given this the Authority is of the view that any of the proposals made in relation to the improvement of the access are unachievable.

You will also be aware that the Highway Authority has highlighted that the suggested use of the existing footway/verge as a 'stopping point' for an in-turning vehicle to wait whilst a vehicle exits the access way is unacceptable yet this this a matter that is not dealt with by either of the supplied documents.

Given the physical nature and restraints of the existing access arrangements the Highway Authority is of the view that the proposals made so far in relation to this matter do not address the concerns that have been expressed. Whilst I note inclusion in the letter from Bancroft's of a quote from Paragraph 178 of the NPPF highlighting that 'local Planning Authorities should look for solutions rather than problems', apart from the fact that the Highway Authority is not the Local Planning Authority I would highlight that given the legal status of the Right of Way and the physical constraints of the existing access arrangements, both prevent any acceptable improvement to be made to support further development and unfortunately this is not a matter that either the Local Planning Authority or the Highway Authority can provide acceptable solutions for.

Unless there are further workable proposals that fully address and deal with all the above matters, at this point, I cannot see what progress can be gained from a meeting.

Having considered fully the supplied documentation the Highway Authority remains of its view that the proposals made are unacceptable in highway terms and will advise the Local Planning Authority accordingly.

**NSDC Conservation** – Many thanks for consulting Conservation on the above proposal.

#### Legal and policy considerations

Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, 'the first consideration for a decision maker'.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

#### Significance of heritage asset(s)

Southwell Conservation Area was first designated in 1970 and has been revised since with the most recent appraisal carried out in 2005. The application site is recognised as part of 'Westgate' in the CAA.

While the land to the rear of 37 39 Halloughton Road is situated within the Southwell Conservation Area (CA), Halloughton Road itself is located outside of the Conservation Area and the residential properties on this street are predominantly modern C20 dwellings.

However, the land to the rear of Halloughton Road is set back a considerable distance from the road, inside of the Conservation Area, along a winding untarmacked lane, which is flanked on either side by further modern C20 dwellings which are not considered appropriate for the character of a Conservation Area. The application site is also encircled by a series of low rise, bungalow and one and a half storey dwellings which are considered to detract from the setting of the conservation area.

Immediately to the north of the application site is a red brick and pantile dwelling with modern u-PVC windows and a continual band of solar panels on the south facing roof. Beyond this property there are a series of characterful former industrial historic buildings which are situated on a lower level, identified as an old tannery and tanyard bungalow. However they are not listed and are not identified on the Historic Environment Record, although they retain the potential to be recognised as buildings of local interest.

The only listed asset which may be considered in relation to the application site is the Holy Trinity Church, a Grade II Listed Building (Heritage England Ref: 1214569) located on Westgate and positioned North East in relation to the application site. The main body of the Church is screened from the application site by the dwelling known as The Old Tannery.

### Assessment of proposal

In its present format, in general terms, Conservation does not object to the proposal. The Conservation Area Character Appraisal comments: *'on the Westhorpe side of Holy Trinity, the pattern changes with a more dispersed layout and fewer buildings of any significant merit. Here there is a mix of C20 century development with no architectural unity or any regard for its historic context. Here more than anywhere else in the conservation area is the potential to improve the physical appearance of the environment.'*

Conservation recognises the opportunity to seek improvement to the local environment. The vacant site is appropriate for the location of a new dwelling, which at present looks incongruous in its surroundings. However Conservation wishes to advise that in its present form the building is considered to be somewhat overbearing in relation to surrounding properties and the proposed PV solar panels are inappropriate, situated at random intervals which would be discordant with the character of a conservation area. However, conservation considers that this does not amount to less than substantial harm as identified by Paragraph 134 of the NPPF.

A suitably designed new dwelling in this location would be considered to be an enhancement from the present vacant site. The application site is a vacant green field which has not been well maintained and is subject to a low level of detritus that detracts from the character of the conservation area.

The proposal features a distinctive glazed gable to the front of the property and dormer windows which broadly align with the surrounding properties. New planting and refurbished planting will also serve to reduce the impact of the new dwelling on the Conservation Area. The negative impact of the proposal to inappropriately place PV solar panels at random intervals and the somewhat overbearing scale of the new dwelling is considered to be mitigated by the opportunity to enhance the architectural cohesion of the area.

Finally the proposal does not impact on the setting of The Holy Trinity Church, with only the spire visible from application site and the scale of the property proposed is not considered to cause harm.

In this context, it is felt that the proposal will cause no harm to the setting of the Conservation Area. The proposal therefore accords with the objective of preservation set out under section 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs and section 12 of the NPPF.

#### *Comments received on the revised proposal 21<sup>st</sup> June 2017:*

Conservation did not object to the original submission, although advised the Case Officer that the proposed PV solar panels were not suitable for the character of the conservation area. Conservation notes that the revised application does not seek permission for a larger building or increased footprint, and has removed the PV panels. This results in an enhanced level of architectural uniformity. As such, the proposal continues to be acceptable in accordance with NSDC's saved policies and Chapter 12 of the NPPF, and the additional comments above are unchanged as they are not affected by the submitted changes.

#### *Comments received 21<sup>st</sup> September 2017:*

Conservation has considered the revised application and there are no identified changes that have altered the previous assessment from the comments provided 21<sup>st</sup> June 2017. As such, the proposal continues to be acceptable in accordance with NSDC's saved policies and Chapter 12 of

the NPPF, and the additional comments below are unchanged as they are not affected by the submitted changes.

The Conservation Area Character Appraisal comments: *'on the Westhorpe side of Holy Trinity, the pattern changes with a more dispersed layout and fewer buildings of any significant merit. Here there is a mix of C20 century development with no architectural unity or any regard for its historic context. Here more than anywhere else in the conservation area is the potential to improve the physical appearance of the environment.'*

A suitably designed new dwelling in this location would be considered to be an enhancement from the present vacant site. The application site is a vacant green field which has not been well maintained and is subject to a low level of detritus that detracts from the character of the conservation area.

The proposal features a distinctive glazed gable to the front of the property and dormer windows which broadly align with the surrounding properties. New planting and refurbished planting will also serve to reduce the impact of the new dwelling on the Conservation Area.

Finally the proposal does not impact on the setting of The Holy Trinity Church, with only the spire visible from application site and the scale of the property proposed is not considered to cause harm.

In this context, it is felt that the proposal will cause no harm to the setting of the Conservation Area. The proposal therefore accords with the objective of preservation set out under section 72, part II of the 1990 Listed Building and Conservation Areas Act, as well as complying with heritage policies and advice contained within the Council's LDF DPDs and section 12 of the NPPF.

**NCC Lead Local Flood Authority – No objections.**

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (e.g. culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.
5. Due to the proximity of the development to The Potwell Dyke it is recommended that the development uses flood resilient construction techniques where possible.

**Environment Agency – No comment.**

**NCC Rights of Way – No comments received.**

**Ramblers Association -** There seems no reason why access to the nearest right of way (Southwell Footpath 27) should be adversely affected by this development and we have no objection.

**NSDC Access and Equalities Officer –** Observations in relation to Building Regulations and additional comments stating the following:

Further to previous observations, it is recommended that any footpath restrictor or calming arrangement take into account the access needs and space requirements of all potential users to easily negotiate and manoeuvre.

**Southwell Civic Society** - No objections.

**Fire Brigade Headquarters** – No comments received.

**Representations have been received from 14 local residents/interested parties, four of which demonstrating support for the application, the others raising concerns which are summarised below. It is worthy of note that the applicant has made numerous submissions during the life of the application in an attempt to address the concerns in relation to the public footpath. A number of the summarised comments below are therefore in response to the additional information submitted. Requests have been made from one neighbouring party to ensure comments received are placed as public facing on the application file.**

### *Impact on Highways*

- Access to the property is a narrow private drive
- Vehicles will not be able to pass each other on the access
- At least one passing place should be provided
- Residents will not be able to manoeuvre vehicles in the site
- The spaces in front of 37 and 39 further reduce the width of the drive
- There isn't enough car parking spaces especially if there is a home office
- There are numerous large vehicles on the site so there will be repercussions to extra traffic
- The drive is not sufficient for additional usage
- The drive would be less than 3.5m at any point and further widening would encroach on neighbouring properties
- NCC Highways have been persuaded to withdraw their objection – the access width and level of risk have not changed and there is no logical basis upon which NCC can change its position
- NCC should be protecting the public and not placing them at greater risk by supporting unsafe practices contrary to their own guidance
- Both the HA and the LPA should work together to mitigate and reduce the risk and not actively seek to increase it
- If it were a new access then the HA would advise against it
- NSDC and NCC have a responsibility to the rate payer and road user
- There is a commercial business using the access
- The access isn't wide enough for fire safety standards – in the context of the West Kensington event I find it unbelievable that any public body would support any new residential development which failed to meet basic standards
- Relaxation of Building Regulations is not within the jurisdiction or control of NCC or NSDC – responsibility rests with the relevant fire authority
- If NSDC grants the application then they have voluntarily increased road safety risks and ignored fire safety standards
- Traffic levels are higher than the developer believes
- A fire service assessment should be taken
- The problems with the access appear to have been shelved but not solved

### *Impact on Public Right of Way*

- The driveway is shared with pedestrians who use the public footpath
- The use of the public footpath has increased since the Becketts field development
- The hoop rails on the footpath fall outside of the owners boundary
- The public footpath is being checked and maintained by Notts CC
- The length of the roadway/walkway from Halloughton Road should be a dedicated clear route for pedestrians
- If approved, NSDC and NCC should be responsible for any loss or damage caused to neighbouring properties and any accidents to pedestrians using the public footpath
- There is an increase in families using the public footpath from the Beckett development
- The drive between houses 35 and 41 is clearly marked as a public footpath on deeds
- The planning application as submitted does not show the entire public footpath and is therefore materially incorrect
- A recent public footpath sign at the junction between the drive and Halloughton Road has been removed
- A footpath is a footpath and not a highway
- The footfall along the footpath has significantly increased
- Children and dogs tend to wander along the footpath and would not stick to the designated walking area – vehicles could become stranded and block the road
- Road users still turn right from Westgate
- Land Registry records show the historic route of the footpath reserve rights for the benefit of the public
- The footpath was diverted in 1960 and no private vehicular access has ever existing over this land
- The width of the proposed access lawfully available for vehicular use is less than 2.0m with the balance of 1.5m reserved for the public access
- NCC has a statutory obligation to assert and protect public rights of way
- It is a road traffic offence to drive a vehicle over a public footpath – existing occupiers are therefore breaching the Road Traffic Act
- The use of private drives incorporating public footpaths in the past would not be allowed now and therefore should not be used as a precedent for this application – the current application has to be considered against current policies and standards

### *Impact on Character*

- Trees and shrubs have been removed along the access road parallel to the right of way
- The development would be squeezing in another property in a conservation context
- The conservation area protects views of the Holy Trinity Church and contributes positively to the locality – the new dwelling would detract from this
- The dwelling size is substantial and would result in overmassing and over intensive development for the site
- The dwelling is of little architectural merit and poor design
- It is important to preserve the greenery around the site for the setting of the Minster and Holy Trinity
- There has been a recent removal of vegetation
- The application represents a classic example of backland development – garden grabbing is a breach of planning policy
- The proposed property lacks any symmetry and is out of keeping with adjoining properties

- The property lies within a conservation area and its poor design detracts from the area

### *Impact on Amenity*

- The new house will affect privacy in neighbouring gardens
- Car headlights will be intrusive to neighbours
- The property would overlook neighbouring properties
- The site plans are misleading in block plans for neighbouring properties are out of date and have since been extended – subsequent measurements are therefore incorrect
- The dwelling is surrounded on all boundaries by existing dwellings which overlook the site, the occupiers would have little privacy
- The extensive use of glass on the southern elevation will cause light pollution
- The revised plans still affect neighbouring privacy
- The plot is at a lower level therefore the upper windows will provide a viewing platform
- Car lights will be a nuisance
- The amended plans do not address matters of overmassing, lack of privacy and other objections raised
- The normal privacy test assumes a level site with a 1.8m high fence
- The measurements shown on the plan are incorrect – the distance from the southern boundary to the plot to the rear of the proposed new house is 11m
- The distance of 34m has been added to the plans in order to address obvious privacy issues but is incorrect
- The windows of the proposed development will overlook neighbouring gardens

### *Other Matters*

- Recent development in the area means there is no additional justification for this development
- The new property could be used for business purposes
- The block drive wall, the garage and the mesh fence at no. 35 are built inside the property boundary
- Hard surfacing of the drive would lead to an increase in flood risk
- The additional consultation timing is a consequence of seasoned developers seeking to subvert the planning process
- There is some thought that the two existing bungalows could be next for development so this entrance and exit could be subject to an even greater use
- The revised consultation period is insufficient and the matter is being dealt with too quickly
- The Planning Committee should consider the matter and not just officers
- There is no commercial activity being run from no.39A as alleged – these should be retracted
- The process is favouring of dealing with the application the applicant at the expense of working with the community
- A delay was requested to speak to MP about concerns but denied
- The planning officer has allowed for materially misleading plans to be considered and therefore all prior consultations have been based upon incorrect information
- NSDC have denied access to the correct information
- The application is very poor and contains many discrepancies and material errors / omissions
- The Planning Officer has been evasive and unapproachable

- The policy of NSDC to refuse access to hard copy files other than by formal FOI request is contrary to the principles of open government in that the normal response time for public consultation is 21 days which is also the normal response time for a FOI request
- The applicant has had a fair chance to make his case for the development and a decision should now be made

## Appraisal

### *Principle of Development*

Spatial Policy 1 of the Core Strategy outlines the settlement hierarchy for the District identifying Southwell as a Service Centre. It is intended that Service Centres will act as a focus for service provision for a large local population and a rural hinterland. As such residential development within the site is acceptable in principle provided the proposal accords with the remainder of the development plan.

It is relevant to acknowledge that at the present time, the LPA is well advanced in the process of a plan review with examination scheduled for early next year. For the avoidance of doubt the Council does currently have a 5 year housing land supply against the only OAN available and produced independently by consultants and colleague Authorities. I do not consider it necessary to rehearse the full position in respect of this matter given the support for additional housing in Southwell in principle. Whilst the NPPF identifies that there is a presumption in favour of sustainable development, this does not automatically equate to the development being granted as other material considerations need to be taken into account.

Policy So/HN/1 seeks to ensure that the majority of new housing on windfall sites within Southwell will be one or two bedroom units in line with the identified housing need. The current application has been revised such that it now proposed a two bedroom dwelling in line with the policy.

### *Impact on Character and the Conservation Area*

The site is accessed from a shared driveway and is a land locked plot surrounded by neighbouring residential curtilages. As a consequence it is considered appropriate to describe the proposal as backland development. Policy DM5 states that proposals creating backland development will only be approved where they would be in keeping with the general character and density of existing development in the area. I am mindful that the backland character of the area has already been established by the other dwellings which use the access; 35a; 37; 39 and 39a Halloughton Road. On this basis it would be difficult to present a case that the proposed dwelling would materially alter this established character. Spatially there is no risk that this proposal would set a precedent for further development given that the precedent has essentially already been set and the proposed dwelling would in plan form occupy the last available 'plot'. I am mindful that the plot size is broadly in line with those established to the south of the site along Halloughton Road.

The original design of the dwelling included the use of three roof dormer windows as well as a two storey projection on the rear elevation. A large two storey height glazed gable was also proposed on the principle elevation. Whilst the roof dormers (which have been retained on the amended scheme) reflect the design of the immediately adjacent dwelling to the east; 39a Halloughton Road, concern was raised in respect to the original proposal that the additional projections and large glazing elements introduced a greater prominence than the existing dwelling at 39a. As such it was considered that the substantial scale of the originally proposed dwelling was out of context

with the existing surrounding development, notably the existing semi-detached bungalows to the west. The imposition of the scale of the dwelling was further exasperated by the differing elements of the roof scape in particular the rear projection which had a pitch height which matched the main dwelling. Concern was also raised by conservation colleagues as listed in full in the consultation section above.

The applicant has taken the opportunity to address the concerns raised during the life of the application through the submission of amended plans. The changes to the proposal have been identified through the description to the proposal above but to clarify they include a reduction in the overall footprint of the proposed dwelling and the removal of the two storey rear projection. As a consequence the proposed dwelling represents a much more simplistic form which is considered to better reflect the scale of the surrounding area; notably the modern dwelling immediately to the east of the site. It is fully acknowledged that the proposed dwelling would still represent a greater imposition on character than that established by the semi-detached bungalows to the west but this in itself is not considered to be so detrimental as to warrant refusal in its own right.

Taking the above into account given the sites location within the Conservation Area an assessment is also made with regards to impact of the proposal on the Conservation Area. Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. Section 12 of the NPPF recognises the importance of considering the impact of new development on the significance of designated heritage assets. Paragraph 7 of this document also makes it clear that protecting and enhancing the historic environment is sustainable development. Any proposed development must also comply with the principles of Policy DM9 and Core Policy 14. Criteria within these policies require proposals to take into account the distinctive character and appearance of the Conservation Area. Furthermore, the Southwell Neighbourhood Plan (SNP) seeks for sustainable development that has regard for the town's unique character, historic environment and landscape setting.

The improvements to the scheme have also been noted by colleagues in conservation. It is considered that a suitably designed new dwelling in this location would be considered to be an enhancement from the currently vacant site which detracts from the character of the conservation area and would have the potential to physically improve the appearance of the area. Furthermore it is not considered that the development would result in harm to the setting of the Grade II Listed Holy Trinity Church to the north east of the site.

I am therefore satisfied that siting, scale and design of the proposal would not be considered to result in any harm to setting of the Conservation Area nor the setting of the Grade II Listed Church

The revised scheme is considered to be compliant with the requirement of Policy CP14 of the Core Strategy and Policy DM9 of the DPD in terms of preserving the historic environment and Policy DM5 of the DPD in terms of reflecting local distinctiveness as well as policy DH3 of the SNP.

#### *Impact on Trees*

Comments have been received during the consultation period that there have been recent works on the site which have removed conifer trees. The site is within the designated conservation area and thus any works to trees would require the consent of the LPA. Whilst any tree removal without consent is clearly not something the LPA would advocate, it must be stated that it is likely

that if a notification for removal of conifers had have been forthcoming, it would have been approved given the context of the site and the low amenity value that conifers typically offer.

The application has been accompanied by a Method Statement for Tree Protection which is welcomed. This document outlines the methods of protection for trees to be retained around the boundaries of the site. The D&AS confirms that the development will necessitate the removal of small ornamental trees in the centre of the site but having viewed these on site I do not consider that this would be of detriment to the character of the wider designated conservation area.

### *Impact on Amenity*

An assessment of amenity, as confirmed by Policy DM5, relates both to an assessment in relation to existing neighbouring residents but also to the proposed occupiers. To deal firstly with the latter, the proposed dwelling has been presented with a rear garden of a maximum length of approximately 20m. However, due to the constraints of the site adjacent to the Potwell Dyke this length is by no means consistent. Nevertheless I am satisfied that the proposed occupiers would have adequate amenity space which, with the assistance of carefully planned boundary treatments would retain a degree of privacy.

I am mindful that the proposed occupiers would be surrounded by dwellings, the majority of which would have their rear elevations orientated towards the site. The dwelling has been orientated such that the rear elevation would be the furthest distance from neighbouring built form (annotated as being 42m on the revised submitted block plan). Given the largely single storey nature of surrounding built form the occupiers will be able to achieve an adequate standard of private amenity provision.

Moving then to assess the impact on the existing neighbours, it is considered that the most sensitive to the proposed development would be those to the east and west noting that these represent the narrowest separation distances. I appreciate that the semi-detached bungalows to the west are within the ownership of the applicant but this does not diminish the need for a thorough assessment of likely amenity impacts given that their ownership may change in the future. The block plan annotates separation distances of approximately 12m and 13m to the east and west respectively. It is my view that these distances are on the borderline of acceptability. However, I am mindful that the impact of the development in amenity terms has been improved in relation to the amended plans in that the removal of the rear projection would reduce the overall bulk of the dwelling. Moreover, the revised plans have incorporated a slight revision to the roof design such that the roof has been slightly hipped at the top. Despite the close spatial relationship, overall I am satisfied that the revised proposal would not amount to an overbearing impact to the existing surrounding properties.

I note that concern was raised during the life of the application in respect of inaccurate plans which did not plot neighbouring extensions. This has been addressed throughout the life of the application through the amended block plan. This block plan shows an approximate distance of 28m between the rear elevation of 59 Halloughton Road and the single storey garage of the proposed dwelling and approximately 34m between the principle elevation and the neighbouring rear elevation. Comment has been received through the consultation process that these distances are incorrect but having scaled from the plans I consider the distances referenced to be accurate. I appreciate that the outlook of the neighbouring dwellings will change fundamentally from the existing situation but I do not consider that, in the context of the distances achieved, there will be such a great impact in terms of overlooking that would warrant a resistance of the proposal in its

own right. This judgement is reached on the basis of viewing the site from both externally and internally from the neighbouring dwelling to the south of site. I am also mindful that the reduction in the height of the glazed entrance will improve the perception of overlooking from the neighbours perspective.

The revised proposal represents betterment in amenity terms such that officers no longer consider there are grounds to resist the proposal on the basis of detrimental amenity impacts.

#### *Impact on Highways and Public Rights of Way*

As is implied by both the consultee section and summarised neighbour comments above, matters of highway safety and the impacts of the proposal on the designated public Right of Way which affects the site have been heavily debated throughout the life of the application. This has included numerous exchanges of correspondence between the applicant (and agent acting on behalf of); NCC as the Highways Authority; and neighbouring parties.

The proposal outlines that the new dwelling would be accessed from an existing access from Halloughton Road. This access already serves 4 dwellings. However, what has transpired to be more notable is that this access road also constitutes a public Right of Way. The legalities of this issue have been highly contested between the aforementioned parties with the following articulated in the latest highways comments received 27<sup>th</sup> September 2017:

*In relation to the existing Right of Way – Southwell Footpath Number 27 - the Highway Authority has to consider all highway users when making comments and recommendations to the Local Planning Authority. The inclusion of this Footpath in the application red line is a significant material change in the nature of the application and will have an effect on all highway users. The Highway Authority acknowledges that since the development was originally laid out and the footpath set out along the access way, there has been considerable intensification of vehicular use following further development, to which it is now proposed to add. The Highway Authority, upon further consideration is of the view that the need to ensure safe access by pedestrians (who have a legal right to use the route unhindered) means that the existing width of the access (and indeed any width below 5.25m (as highlighted in its original comments objecting to the application)) is unsuitable to safely allow for any intensification of use by vehicular traffic generated by the additional development.*

*It has already been noted that there exists documentation which has been supplied to the Authority which does show a five foot wide strip of the access way as dedicated for the sole use of pedestrians. Whilst it is understood that there has existed an undesirable situation for many years where the width of the footpath may not always have been avoided by existing private vehicular users of the access way, especially with the increase in the physical width of vehicles since the 1960's, it is the view of the Authority in making its comments to the Local Planning Authority that this cumulative increase in risk cannot be excluded from its consideration of this matter. Therefore the view of the Highway Authority is that within the existing physical constraints that contain the access way the applicant would be unable to provide any improvement that would allow for additional vehicular traffic beyond that which already exists without further detriment to pedestrian highway users.*

Despite provision of numerous legal deeds and documentation, the Highways Authority has confirmed that they are unaware that the rights of the footpath have been extinguished through any legal process and thus the use of the Right of Way by vehicular traffic is an offence. It is fully acknowledged and appreciated that the access already serves four dwellings for vehicular access.

Review of planning records confirms that the latest approval for new residential dwellings was in the 1990s. It is not for the current application to comment on the material circumstances which allowed the previous applications noting that each application must be considered on its own merits. In this respect officers concur with NCC as the Highways Authority that to allow an intensification of the access would be highly inappropriate and contrary to Spatial Policy 7 and the relevant aspects of Policy DM5 which require for the provision of a safe and inclusive access.

The applicant has provided examples of elsewhere in Southwell where vehicular accesses are shared by pedestrian Rights of Way including cases where the access is used for up to 5 dwellings (application referenced specifically 95/51554/FUL in relation to 26-28 Halloughton Road). Officers do not consider that this sets a precedence which would allow the current application to proceed. Essentially the conflict between the proposed intensification of the existing access and the users of the public Right of Way is a material consideration which must be afforded substantial weight at the current time of determination. Anecdotal evidence provided through the consultation process confirms that recent development in the vicinity has already increased the pedestrian usage of the Right of Way to which this application affects. I consider this matter to be materially related to the current application whereas an application from the 1990s would have limited relevance to the site specifics in this case. The inclusion of a pedestrian refuge on the latest site location plan is noted but this is not considered to mitigate the identified harm to pedestrian safety which would arise from allowing an increased vehicular use of the access.

In addition to the above conflict in respect to the designated Right of Way, the proposed access also presents a constraint in respect to its width. The existing width of the access would provide no opportunity for two cars to pass for some 50m from the entrance at Halloughton Road. The original comments of NCC Highways raised this as a concern to which the applicant has sought to address including through the submission of further supporting evidence namely a letter dated 18<sup>th</sup> August 2017 prepared by their transport consultant and more recently through photographic evidence demonstrating a fire engine utilising the access. The latest comments of the Highways Authority dated 27<sup>th</sup> September 2017 deal explicitly with the former document:

*From the Highway Authority's view, the access road does not meet current standards to allow for two vehicles to pass should they meet and, as has been highlighted earlier, the current physical boundary constraints on either side of it prevent any further widening.*

Despite thorough consideration of the consultants presented case which includes details of anticipated traffic movements arising from the development (estimated at between 6 to 8 additional daily two-way movements), and highlights a lack of recorded road traffic incidents in the vicinity of the site, the Highways Authority remain dissatisfied with the level of justification provided:

*Whilst the addition of one further property off the access road may seem minimal it should be noted that using the applicant's consultant's own figures the use of the road will increase by 25% which is a significant intensification in use over present levels; levels with which the Authority already has some concerns given the increase in vehicle sizes since the original development, the greater number of private vehicles owned, and intensification of traffic flows generally. In respect of accidents and driver awareness the Highway Authority cannot argue with the facts ascertained by the consultant but considers that an increase in the use of an access will lead to an increased future risk. Whilst careful design and incorporation of features can offer mitigation that decreases this risk, it is the view of the Highway Authority that the applicant is unable to offer this due to the physical and legal constraints on the applicant's land. Furthermore, from what the consultant has outlined as the envisaged way that the access road will operate it is evident that there will be a*

*potential increase in the manoeuvres of vehicles having to wait to turn into the access that will have a detrimental effect on other road users (both in terms of safety and the expeditious movement of traffic).*

It should be noted by Members that the views of NCC Highways has not remained consistent throughout the life of the application (noting that an original objection was removed by comments received 23<sup>rd</sup> August 2017). However, officers concur entirely with the latest position presented which has taken account of all material considerations and information brought to light during the course of the application. The applicant has made numerous endeavors and attempts to address the concerns raised and has gone on to imply that if the application were to be refused, an appeal would be lodged. In this respect, confirmation has been requested from NCC Highways that they would be willing to support the LPA at any forthcoming appeal.

Officers attach significant weight to the objection of the Highways Authority and concur that the intensification of the vehicular access would create conflict in respect of both pedestrian safety to users of the designated Right of Way but also vehicular traffic movements along the access. This would conflict with Spatial Policy 7 and Policy DM5 as well as the intentions of the NPPF.

#### *Impact on Flood Risk*

Policy E2 of the SNP states that development proposals requiring a flood risk assessment must be designed to avoid increasing the risk of flooding both on and off site. The proposed development is located in Flood Zone 1 in accordance with Environment Agency mapping, in addition the site is not considered to be at high risk of surface water flooding and as such no flood risk assessment is required in support of the proposal. No objections have been raised by either the Environment Agency or NCC Lead Local Flood Authority and I have identified no reason why surface water management would create an issue to either the proposed occupiers or neighbouring residents.

#### *Other Matters*

Concern has been raised that the originally submitted block plan did not demonstrate the entirety of the public footpath which extends along the access road to the public highway. Officers are satisfied that the constraints of the site are clearly identified and the relevant parties have been consulted. However, for the avoidance of doubt and to conform strictly with the content of the Council's validation requirements, a revised site block plan was requested during the life of the application. This has been submitted clearly demonstrating the full extent of the public footpath and an additional round of consultation instructed on this basis.

It is stated that the access is not only being used for residential use but also for commercial operations. Reference is made to an application to regularise this. It is noted that there was an application recently approved for the retrospective creation of a home office at a neighbouring dwelling (through an additional dormer window and staircase) (reference 17/01226/FUL) but I do not consider this to amount to a commercial enterprise being operated from the property.

Reference has been made throughout highway discussions to the inadequacy of the access to allow for emergency services access. The applicant has provided a swept path analysis to demonstrate that fire fighting vehicles will be able to gain access to the development and has gone further to request a safety test from the Fire Brigade which has accumulated in photographic evidence showing that a fire engine could gain access and turn within the site. Whilst the confirmation of this is welcomed, the matter would in any case be covered by Building Regulations.

## *Overall Balance and Conclusion*

The proposal relates to a two bedroom dwelling within the settlement of Southwell which would meet an identified need whilst making a contribution to the Districts housing supply. However, notwithstanding the acceptance of the proposal in principle, the site constraints create difficulties in the delivery of residential development. The applicant has worked with officers throughout the life of the application and amended the scheme to address original concerns in respect to character and amenity impacts.

As is referenced above, there have been lengthy discussions during the life of the application in respect to the implications of the proposed vehicular access noting both the width constraints but also the presence of a designated Right of Way. I fully appreciate that the applicant may feel aggrieved by the latest stance of the Highways Authority given that they had previously suggested that the proposal could be considered acceptable in highways safety terms. However, I also fully endorse the approach of the Highways Authority in respect of ensuring that all material considerations are taken into account at the time of determination. Despite attempted assurances from the applicant, including examples of existing cases where vehicular accesses are shared with public Rights of Way, the matter remains that the current proposal would create a conflict in usage. The legal designation of the Right of Way must hold significant material weight in the determination of the application and to allow for an increased usage of vehicular traffic (estimated at an increase of around 25%) would be wholly inappropriate in respect to an increased risk on pedestrian safety. The designation as a Right of Way must afford the potential users with an appropriate opportunity for safe and efficient usage and despite the inclusion along the access of a pedestrian refuge point; the current application fails to demonstrate this. Moreover, the constraints of the access width present their own difficulties in that there is insufficient space for two vehicles to pass one another. This could lead to vehicles causing an obstruction within the public highway thereby further impeding highways safety in the immediate site surroundings. The combined effects of the proposed access demonstrate significant conflict with Spatial Policy 7 and the relevant aspects of Policy DM5.

The benefits of the scheme in terms of the housing delivery of a two bed unit and indeed potential slight improvements to the existing access which would serve existing residents are noted. Furthermore the design and layout of the scheme is considered satisfactory with regards to heritage matters, visual amenity and residential amenity and the proposal is not considered to raise any adverse impacts in respect of flood risk matters. Nevertheless these matters are not considered to outweigh the aforementioned harm created by the proposal in respect of highways safety and adverse implications to the usage of the public Right of Way which crosses the site. The recommendation of officers is therefore one of refusal as outlined below.

## **RECOMMENDATION**

**That full planning permission is refused for the following reason:**

### Reasons

01

The proposal relates to the erection of a single detached dwelling with a proposed vehicular access utilising an existing access from Halloughton Road. The access currently serves four dwellings but is also designated as a public Right of Way– Southwell Footpath Number 27. The Footpath is officially recorded on the County's Definitive Map of Rights of Way and further

information recently obtained indicates that a public footpath was expressly reserved along the southern boundary of the access way over land within the ownership of No. 39, Halloughton Road. There is a need to ensure safe access by pedestrians (who have a legal right to use the route unhindered). In line with comments of Nottinghamshire County Council as the Highways Authority, officers consider that the current proposal would intensify the existing vehicular use of the access to a degree which would amount to an unacceptable level of harm to pedestrian safety of the users of the Right of Way.

In addition to the above identified harm, the access road does not meet current standards to allow for two vehicles to pass. The current physical boundary constraints prevent the potential to mitigate this impact through adequate widening to the required width of 5.25m. This presents the potential for vehicular obstruction to the public highway as vehicles are waiting to access and egress the site.

Despite best endeavors from the applicant to overcome the aforementioned harm, the Highways Authority and consequently officers of the Local Planning Authority are of the view that the proposal is unacceptable in highway terms causing demonstrable harm to both pedestrians and the efficient movement of the highways network. This is contrary to Spatial Policy 7 and the relevant aspects of Policy DM5 as well as the intentions of the NPPF which form a material consideration to the decision. No other material considerations have been identified which would sufficiently outweigh this harm.

#### 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/](http://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. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact 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](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**



<b>Application No:</b>	<b>17/01193/FUL</b>	
<b>Proposal:</b>	<b>Demolition of garage and creation of a 5 bedroom house with detached double garage, formation of new driveway for the existing dwelling, Little Hollies.</b>	
<b>Location:</b>	<b>Little Hollies, The Close, Averham, NG23 5RP</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs D Burke</b>	
<b>Registered:</b>	<b>29 June 2017</b>	<b>Target Date: 5 September 2017</b>

*This application was deferred from the Committee meeting held on 7<sup>th</sup> November 2017 to allow officers to request street scene elevations to show differing heights of neighbouring dwellings. Streetscenes plans have been deposited and any further consultee comments received will be reported within the Late Items Schedule.*

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Averham, Kelham and Staythorpe Parish Council has objected to the application which differs to the professional officer recommendation.

*Updates to the report are made in bold italics for ease of reference.*

The Site

The site is located at Averham. Spatial Policy 1 of the Newark and Sherwood Core Strategy defines Averham as an “other village within Newark and Sherwood.” This means that it does not form part of the Sub-Regional Centre, is not a Service Centre and is not a Principal Village. The site is also located within Averham Conservation Area. The site currently forms the side garden area to The Hollies, a detached residential property. The site has now become overgrown. There is a one-and-a-half storey garage on the site. To the north of the site is The Close, to the South is Pinfold Lane, to the east is The Hollies (in ownership of the applicant) and to the west is a neighbouring residential property, Sycamore House, a large detached dwelling.

Relevant Planning History

**06/01667/FUL** Planning permission was refused in December 2006 for the erection of a detached dwelling at this site. Reasons for refusal were that a dwelling in this location was considered to be cramped and out of keeping with the character of the area, concerns with the design of the dwelling, unsustainable location.

**11/00150/FUL** Full planning permission was refused by the LPA in May 2011. The first reason for refusal was that the principle of further residential development in Averham was considered to be

unacceptable as Averham was not considered to be a village that has significant local services and has infrequent public transport links. The second reason for refusal was that the proposal did not reflect the character of the area appearing cramped and representing over-development. Furthermore, the design failed to re-enforce local distinctiveness.

This application was subsequently dismissed at appeal. The Inspector disagreed with the LPA that Averham was not a sustainable village as it lacked local services and had an infrequent bus route. Indeed the Inspector stated that *“the proposed dwelling would be located within a village that has local services and access to Newark, Service Centres or Principal Villages. It would therefore comply with the “location” criterion of Spatial Policy 3.”*

The Inspector then goes on to state that *“Spatial Policy 3 contains a number of criteria which need to be satisfied before the proposal could be considered to be in compliance.”* At paragraph 14 of his appeal statement the Inspector states that *“No evidence has been put before me on the issue of “Need” as set out in the third criterion of Spatial Policy 3. This is a matter that would need to be addressed before it could be concluded that the proposal would comply with that policy as a whole.”*

The Inspector agreed with the LPA in that the proposal did not preserve or enhance the character and appearance of the conservation area. He states that *“Apart from the original cottages at its eastern end, the appeal site and the remaining site of Little Hollies would be the narrowest house plots on the formerly open land. Each would fill the width of its plot to a large degree. Sycamore House (the neighbouring property) is located within a few metres of its boundary with the appeal site. Together the 3 houses would appear much more closely grouped than other houses fronting this side of The Close. In my opinion this would harm the residual openness of this part of the village and would damage the character and appearance of the Conservation Area.”*

The Inspector, however, disagreed with the LPA regarding the design of the proposed dwelling itself stating that *“the house designs (in the area) are very varied in terms of scale and design. In my opinion the proposed design would not appear out of place in its context.”*

The Inspector agreed with the LPA and the appellant in that the proposal would not have a significant detrimental impact on the amenity of the occupiers of neighbouring properties or on highway safety.

**11/00151/CAC** Conservation Area Consent for the demolition of the garage at the site was granted by the LPA in May 2011.

**12/00705/FUL** Planning permission was refused for the creation of a three-bedroomed house in July 2012. The difference between this application and the previous one was that that a revised design was submitted involving a narrower dwelling. However, the applicant did not try to overcome the other concern of the Inspector regarding need in that no local needs housing survey has been carried out to demonstrate that there is a strategic need for this type of housing in this area. The reasons for refusal were;-

1. Spatial Policy 1 (Settlement Hierarchy) of the adopted Newark and Sherwood Core Strategy Development Plan Document sets out the settlement hierarchy for the District. In respect of Averham, this falls within the category of an “other village within Newark and Sherwood.” This means that it does not form part of the Sub-Regional Centre, is not a Service Centre and is not a Principal Village. Spatial Policy 3 (Rural Areas) contains a number of criteria which need to be satisfied before the proposal could be considered to be in compliance. The applicant has not provided sufficient evidence to demonstrate that there is an identified proven local housing need, which is required by Spatial Policy 3.

2. The site comprises a parcel of land adjacent to Little Hollies and lies within the Averham Conservation Area. The general character of this part of the Conservation Area comprises large spacious plots that span from The Close to Pinfold Lane. In the opinion of the Local Planning Authority the proposal does not reflect that character with the new dwelling appearing cramped and representing an over-intensive development that is out of character with the area. Therefore the proposal is contrary to Core Policy 14 (Historic Environment) of the Newark and Sherwood Core Strategy Development Plan Document and Saved Policy C1 (Development in Conservation Areas) of the adopted Newark and Sherwood Local Plan.

This application was subsequently dismissed at appeal in March 2013.

The Inspector agreed with the LPA on the issue of need stating that;- *“The policy says that new housing in rural areas should help to meet identified proven local needs. Unfortunately the Core Strategy is largely silent on its meaning or how applicants are meant to demonstrate that there is a local need. An Inspector, in allowing a recent appeal in a similar village<sup>2</sup>, interpreted local need for the purpose of that decision as “the specific needs of particular individuals or groups within the local community that would be met by good quality housing with a mix of different sizes, types and tenures”. Within villages, such requirements could relate to the need to provide accommodation for persons working in the area as well as to family circumstances, such as applied in the North Muskham case. The Appellant refers to a requirement to provide a dwelling in order to care for aged relatives. However, there is no evidence to confirm that the relatives are in need of immediate support or that a three bed roomed house is the most appropriate accommodation within which to provide any required care. The North Muskham case involved the construction of a dwelling to enable that appellant to reside close to elderly relatives who were established in that village. This Appellant’s relatives live in Newark, which is a far more sustainable location and with a far wider range of facilities used by elderly persons than is to be found at Averham. The Appellant points out that his relatives have long standing connections with Averham but there is no evidence to support this. I therefore conclude that an identified proven local need for the dwelling has not been identified and that the proposal is contrary to SP 3. Unless there are special local circumstances, development in rural villages, even comparatively sustainable ones such as Averham, is not preferable to development at Newark or within Service Centres and Principal Villages. There is no evidence to suggest that the identified housing needs of Newark District could not be met within the designated settlements or that the District does not have an identified 5 year land supply. The support offered by the Framework does not therefore outweigh the up-to-date Development Plan Policies.”*

The Inspector did not agree with the LPA regarding the impact of the proposal on the character and appearance of the conservation area stating that;- *“The implementation of the proposal, if accompanied by the removal of the garage and the implementation of a carefully designed landscaping scheme, could preserve the character and appearance of the Conservation Area.”*

**13/01468/FUL** Planning permission was refused for the demolition of the existing garage and erection of 1 No. three bedroomed dwelling in December 2013. The difference between this application and the previous application was that the applicant submitted information aiming to demonstrate that there is a need for the proposal. This included that the dwelling was for the parents of the applicant. The reason for refusal was that;-

1. Spatial Policy 1 (Settlement Hierarchy) of the adopted Newark and Sherwood Core Strategy Development Plan Document sets out the settlement hierarchy for the District. In respect of Averham, this falls within the category of an "other village within Newark and Sherwood." This means that it does not form part of the Sub-Regional Centre, is not a Service Centre and is not a Principal Village. Spatial Policy 3 (Rural Areas) contains a number of criteria which need to be satisfied before the proposal could be considered to be in compliance. The applicant has not provided sufficient evidence to demonstrate that there is an identified proven local housing need, which is required by Spatial Policy 3.

This application was subsequently dismissed at appeal in September 2014.

The Inspector agreed with the LPA on the issue of need stating that;-

*“8. The site is within the built up area of Averham. Two appeals relating to this site have been dismissed in the recent past. In these appeals it was found that the village has a limited range of local facilities but bus services provide access to Newark, Southwell and Mansfield which have a wider range of services and employment opportunities. The parties are agreed that in essence only the criterion of “need” is outstanding in respect of SP3. From the evidence I have seen I have no reason to come to a different view and have therefore considered the appeal on this basis.*

*9. SP3 says that new housing in rural areas should help to meet identified proven local needs. The meaning of local need, or how applicants are meant to demonstrate that there is such a local need, is not clear from the CS. Both parties have drawn my attention to a number of appeals in this respect and I have taken account of them all.*

*10. In September 2013 the Council published the “Spatial Policy 3 Guidance Note” (GN) which recognises that differences in interpretation have arisen in decisions featuring SP3, and seeks to further explain the policy to aid consistency in decision making. In relation to need, the GN indicates that SP3 is intended to serve the public interest rather than that of individuals and consequently the proven local need to which it refers must be that of the community rather than the applicant. It goes on to say that the policy is not intended to cater for individuals’ desire to live in particular locations or in particular types of accommodation. This broadly accords with the PPG, which, in advising of material planning considerations, refers to the general view of the Courts as planning being concerned with land use in the public interest.*

11. I appreciate that the GN has not been the subject of consultation, does not form part of the development plan and therefore is of limited weight. I am also aware that the CS pre-dates the Framework. However, for the reasons set out above I consider that SP3 and the GN generally align with the advice in the Framework and in the PPG.

12. Paragraph 14 of the Framework requires that development proposals that accord with the development plan should be approved without delay. I have seen no evidence to suggest that the identified housing needs of Newark and Sherwood District could not be met within the designated settlements or that the District does not have an identified 5 year land supply. Therefore the support offered by the Framework in terms of sustainable development does not outweigh policies SP1 and SP3 of the CS which seek to locate development within Newark and identified settlements as being the most sustainable approach, unless there is a specific local need.”

23. For the reasons set out above and taking everything in the round I conclude that, on balance, a proven local need for the dwelling has not been identified.

The issue of need was therefore the only reason for the application being refused by the LPA and the appeal being dismissed by the Planning Inspectorate.

**16/00859/FUL** This application was for the Demolition of the garage and creation of a 3 bedroom house. Formation of new driveway for the existing dwelling, Little Hollies. This application was refused planning consent and subsequently allowed at Planning Appeal granting consent for the erection of a dwelling at the site.

**16/00001/FUL** This application does not relate to this specific site but another site in Averham;- The Old Forge, Staythorpe Road. This application for a new dwelling was approved at the July 2016 Planning Committee, in accordance with officer recommendation.

### The Proposal

The proposal is for the demolition of the existing garage and the creation of a 5 bedroom house with a detached double garage and formation of a driveway for the existing dwelling at Little Hollies. The application is in effect an amended house type submission from the extant consent for a 3 bedroom property at the site.

### Departure/Public Advertisement Procedure

Occupiers of 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 3: Rural Areas

Spatial Policy 6: Infrastructure for Growth

Spatial Policy 7: Sustainable Transport

Core Policy 3: Housing Mix, Type and Density

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

#### **Allocations & Development Management DPD**

Policy DM3: Developer Contributions and Planning Obligations

Policy DM5: Design

Policy DM9: Protecting and Enhancing the Historic Environment

#### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Guidance Note to SP3 Supplementary Planning Document

#### **Consultations**

##### **Averham, Kelham, Staythorpe Parish Council – - Object to Proposal**

Comment: 1. Scale- The applicant seeks to amend the currently approved design for the application site from 3 bedrooms to 5 bedrooms with an increases in the total floor area of 40% from 147sqm to 207sqm. The P.C. believe this represents an unacceptable increase in scale and an over development of the site which would damage the character of the Averham Conservation Area.

2. Impact- The P.C. believe this would be an over-development of the plot, and would have a negative impact on surrounding properties.

**NCC Highways Authority** – Response received raises no objection to the proposal stating: This proposal is for the erection of a dwelling adjacent Little Hollies, with a new vehicular access from Pinfold Lane and pedestrian access from The Close. This section of Pinfold Lane is adopted public highway with a wide verge. Sufficient parking is provided for Little Hollies.

There is a vehicular access currently in use from The Close, however, as part of this application, this will need reinstating back to highway verge.

Therefore, there are no highway objections to this proposal subject to the following:

1. No part of the development hereby permitted shall be brought into use until a vehicular verge crossing is available for use and constructed in accordance with the Highway Authority's specification to the satisfaction of the Local Planning Authority.

**Reason:** In the interests of highway safety.

2. The pedestrian access shall be constructed and surfaced in a bound material in accordance with the approved plan to the Highway Authority's specification.

**Reason:** In the interests of highway and pedestrian safety.

3. No part of the development hereby permitted shall be brought into use until the existing site access from The Close that has been made redundant as a consequence of this consent and as shown on plan DB389 A101 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:** In the interests of highway safety.

4. No part of the development hereby permitted shall be constructed until the parking area for the existing dwelling is provided in accordance with the approved plan. The parking area shall be maintained for the life of the development and shall not be used for any purpose other than the parking of vehicles.

**Reason:** In the interests of highway safety.

**NSDC Conservation Officer** – Given the similarity in design to the 2016 scheme (ref 16/00859/FUL), the detailed comments remain material. However, we have given thought to the increase in dimensions, as well as the addition of a lean-to and rooflights. Overall, we feel that the changes are minor in the context of the whole CA and do not result in any adverse impact.

*Comments in relation to application 16/00859/FUL repeated as follows for clarity:*

"I have given the current application good consideration alongside the extensive site history at this site.

The idea of this as a development plot has been suggested for some time and Conservation has previously raised concerns that the large plots here contribute attractive greenery and openness to the character and appearance of Averham, and that development here would harm these positive elements.

The most relevant application is 12/00705/FUL in which a revised and relatively narrow new house was proposed next to Little Hollies but refused by the LPA on the grounds of local need and impact on the Conservation Area. Looking through this file the case officer felt that, 'the 3 houses (the proposed dwelling, the host dwelling and the neighbouring property) would appear much more closely grouped than other houses fronting this side of The Close. This is considered to harm the residual openness of this part of the village and would damage the character and appearance of the conservation area.' There was no other specific Conservation input on this application and no objections to the specifics of the design were raised in this application.

I understand this current application is a resubmission of the 2012 application.

I would agree that given the varied designs already seen on The Close, and the use of traditional detailing in the proposed new design, the design itself of this proposal is not an issue. I will therefore address the concerns of density and loss of openness. To this end I have looked closely at the Inspector's comments on the appealed 2012 application.

I would agree with the Inspector's description of the site and its surrounds that while some plot sizes on The Close are large, others are smaller and the buildings to the west of the application site actually occupy most of the width of their plot. Due to the position of Little Hollies to the east of its plot, the large size of the plot and relatively small size of Little Hollies it does leave a reasonable sized space between itself and Sycamore House. I also agree that the attractive sense of openness along The Close is in part from plot size but also from the degree of set back from the road and greenery around and between houses. This is important in understanding what it is that contributes to the character and appearance of the Conservation Area and how the development would impact upon this.

I understand the current proposal is a resubmission of the appealed proposal. The Inspector noted that, '*The ... proposal would be about 5.5 metres from both Little Hollies and Sycamore House. This is within the range of separation distances between buildings on the next four plots to the west and could be preserved by a condition. In such circumstances this appeal proposal would not be out of character with the development immediately to its west.*' As such, while the resulting grouping of houses would be closer than *some* of the houses on The Close, it has already been established that this spacing is varied and the resulting density would not be out of character with those buildings to the west.

I agree that greenery and open space would of course be lost by the proposal, but I would not say that this area is specifically identified as a positive area of open space contributing directly to the character and appearance of the conservation area, it is more a sense of spacing and greenery in general on The Close which contributes to the conservation area. The resulting change in density would not be out character and the set back from the road would be consistent with the neighbours, so the resulting greenery between and around buildings would not be out of character. The loss of some greenery and openness is acknowledged by the Inspector but I would also agree that in many respects this would be offset by the demolition of the existing garage, which is relatively large and well forward of the general building line.

The loss of this garage was key to the Inspector finding a balance with application and I am inclined to agree. If this application is to be approved then the loss of the garage will presumably need to be controlled by a S106 Agreement.

Overall I think the Inspector makes a fair and thorough assessment of the 2012 application and I am persuaded by their logic. Given the specifics of this site, the resulting new density would not be of character. Loss of greenery and spacing would result, but not from an area specifically identified as contributing positively. Nevertheless the loss of greenery and openness could cause some limited harm, but this would be to a large extent off-set by the demolition of the garage. Overall then the application is likely to maintain the character and appearance of the Conservation Area and I have no objection, subject to condition (position within the plot, landscaping, loss of the garage, as well as high quality materials). “

***The Conservation Officer was consulted on the additional street scene elevations requested by the Planning Committee and have advised that the additional information “only reinforces our previous advice and we continue to have no objections to the proposal”.***

**NSDC Access and Equalities Officer** – Makes comments regarding the need to comply with Part M of the Building Regulations which contain standards for accessibility. Recommends careful consideration of the access around the outside of the property.

**Representations have been received from 11 local residents/interested parties which can be summarised as follows:**

- Impact of the proposal upon the character of the Conservation Area.
- Concern as raised in relation to the impact upon the character of generous plots.
- The objections consider that the increased size of the proposal impacts upon this openness along with the detached garage block.
- Visual impact of the new access to Pinfold Lane.
- Impacts upon neighbouring properties from overlooking, overshadowing, oppression, outlook, noise, air quality from vehicle fumes and highways safety have been raised.
- The Village Oven / Bake House should be retained.
- A number of errors in the submission have been raised including a reference to the proposed garage and its opening. The supporting statement indicates that the garage would be sited to rear with the opening facing to the north. This proposed garage would open to the west. Further discrepancies are raised in relation to reference to Pinfold Lane / Pinfold Road within the supporting statement and concern in relation to the removal of hedgerow to The Close

***Further to the publication of the agenda for the 7<sup>th</sup> November 2017 Planning Committee late items representations were received from an interested neighbour. The representation raised the following five comments:***

1. *In considering the issue of Impact upon the character and form of the Conservation Area the Case Officer has made reference to a planning inspectors commentary on a previous scheme which stated that “the proposal would be about 5.5metres from both Little Hollies and Sycamore House” and concludes that this “would be within the range of separation distances between buildings”.*

*The proposal before you seeks to reduce this separation to 4.8 metres. I disagree with the opinion that this “retains the spacing of properties along this part of the close”, evidenced by the fact that the separation distances are as follows in the case of properties in The Close;*

*To the east of proposed;*

*Little Hollies to Netherleigh 12m*

*Netherleigh to School Cottage West 15m*

*To the west of proposed;*

*Sycamore House to Holly House 6m*

*(Holly House not to be confused with Little Hollies)*

*Holly House to Shearings 4.8m single storey (8.8m to first floor section)*

*Shearings to White House 6.2m single storey (14.7 to first floor section)*

*White House to Willow Trees 10.5m single storey (12.5 to first floor section)*

*In this application the proposed 4.8m separation to Sycamore House is the distance between two, two story walls and I stress that the shortest equivalent distance between any properties along the entire length of The Close is 8.8m, nearly twice as far! This is materially different.*

2. *The Case Officer’s report (page 228) clearly informs the planning committee that “the proposed eaves heights remain the same”. This statement is both untrue and misleading as the applicant’s Addendum to Design and Access Statement (page 4, paragraph 14) explicitly volunteers the following statement “The overall roof pitch of the dwelling has been maintained at 45 degrees. The northern eaves height of the dwelling is increased by 0.3m (to 5.475m) The southern eaves are listed by a similar amount (to 4.5m)” (the applicant refers, in error, to the west and east elevations as the north and south elevations respectively).*
3. *Similarly the Case Officer refers to proposed increases in both width and depth of 1.2m and in contrast the Addendum to Design and Access Statement (page 4 paragraph, 14) states “The overall width of the dwelling has been increased by 1.0m (from 6.55m to 7.55m) and the front to rear depth at ground floor level has increased from 12.125m to 13.65m”, an increase of 1.525m.*

***The above points demonstrate a lack of due consideration has been given to this application and the relevant material facts and as such should raise major concerns about the validity of the overall assessment and recommendations.***

- 4. In considering Impact on Amenity, I aver, that the proposed property seeks to place a two storey high wall that projects rearwards to the north east beyond the first floor level of my property by 7 metres. If this were the front of my house it would be considered to be beyond the building line and I feel disadvantaged by the fact that my property is the only one that faces Pinfold Lane instead of The Close as do all other properties in the entire row.***
  
- 5. Why has the applicant sought to widen the proposed build towards Sycamore House with the east elevation remaining in the same position?***

## Appraisal

### *Principle of Development*

The proposal seeks an amended house type for the extant consent of application reference 16/00859/FUL as such the principle of residential development at the site has been established. Given this it is considered that the proposed dwelling is acceptable in principle.

### *Scale and Impact of Development*

The guidance note to accompany SP3 referred to above confirms that the scale criterion relates to both the amount of development and its physical characteristics, the latter of which is discussed further in the Character section of the appraisal. One additional dwelling is consented under approval reference 16/00859/FUL and is considered small scale in numerical terms and as such is unlikely to detrimentally affect local infrastructure such as drainage and sewerage systems. I also consider that one additional dwelling (even in the context of an increased number of bedrooms) is unlikely to materially affect the transport network in terms of increased traffic levels in volume (this is discussed further in the Highway Safety section of this report). This is in line with the Inspector's previous decision for the site.

### *Impact upon the character and form of the Conservation Area and street scene*

The character criterion of SP3 states that new development should not have a detrimental impact on the character of the location or its landscaped setting. The assessment overlaps with the consideration required by Policy DM5 which confirms the requirement for new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. The sites location within the Averham conservation is also important to consider and the Council's conservation team have been consulted in this regard. ***Core Strategy Policy CP14 seeks to ensure that preservation and enhancement of district's heritage assets is maintained and that the special character of Conservation Areas is protected.***

***Allocations and Development Management Policies DPD policy DM 9 goes on to require that "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 in accordance with the aims of Core Policy 14.***

Again, the consented dwelling for the site must be given significant weight. Historically, the Council's Conservation Officers have raised concerns that the large plots here contribute attractive greenery and openness to the character and appearance of Averham, and that development here would harm these positive elements.

In the Inspectors consideration of an earlier scheme (12/00705/FUL) there was discussion of the open aspect between properties and the character this affords the locality. The Inspector in considering that proposal provided the following commentary:

*"The ... proposal would be about 5.5 metres from both Little Hollies and Sycamore House. This is within the range of separation distances between buildings on the next four plots to the west and could be preserved by a condition. In such circumstances this appeal proposal would not be out of character with the development immediately to its west."*

As such, while the resulting grouping of houses would be closer than some of the houses on The Close, it has already been established that this spacing is varied and the resulting density would not be out of character with those buildings to the west.

This current proposal seeks to vary the house proposed. The proposal would maintain the consented position in terms of separation between the property proposed and Little Hollies but would extend further into the gap with the property at Sycamore House. The resulting gap would be at approximately 4.85m. ***Comments were received on the report published for the 7<sup>th</sup> November committee in relation to the separation distances. However I would still retain the view that the spacing of properties along this part of The Close is acceptable.*** As such there is no significant impact from the proposal in this regard against the consented position.

The proposal is for a larger property increasing the accommodation from the consented position through a single storey forward projection with a simple lean to roof and with an increase in width and height. ***Further to the publication of the report in the agenda for the 7<sup>th</sup> November committee late item response was received which queried the dimensions. Taking that into account*** the resultant property is approximately ***1.5m*** greater in depth (part of which is single storey) and approximately ***1m*** increased in width. The ***proposed eaves height raises by approximate 0.3m*** with the ridge height increasing by approximately 0.8m to allow for accommodation in the roof. The proposal also makes a number of fenestration detailing changes with the following alterations from the consented scheme:

*Front elevation:*

- Addition of single storey lean to style projection.

*Right side elevation:*

- Alteration of window openings to provide a secondary window to a kitchen dining area and a window opening serving a play room.
- At first floor the proposal provides two openings to be obscured glass serving a stairwell and an en suite to the master bedroom.
- In addition a roof light is proposed to the bathroom.

*Left side elevation:*

- The roof slope will also have five additional roof light openings serving bedroom 4 and 5 and the landing/ stairwell.

*Rear Elevation:*

- The rear elevation alterations are the introduction of a larger opening to the Kitchen Diner patio doors.

The visual appearance of the dwelling follows the design principles of the consented dwelling. The increases in footprint are noted but it is considered that these would be relatively imperceptible when built out on site. I appreciate the calculations of the Parish Council in respect of the increases in floor area but given that the majority of the additional space would be provided within the roof space, the impacts on the character of the area would be minimal in comparison to the extant scheme. This view is shared by the comments of internal conservation expertise as referred to above. On this basis officers do not consider that there would be robust grounds on which to resist the revised design in character terms including in the heritage context. ***The comments made as late items to the 7<sup>th</sup> November committee report do not alter my view in this respect.***

Impact on Amenity

An assessment of amenity impact relates to both the existing neighbouring occupiers and the occupiers of the proposed dwelling in terms of the amenity provision. This is in line with policies SP3 and DM5.

None of the previous planning applications have been refused on grounds of residential amenity. The proposal has suitable separation distance to the neighbouring properties for impacts upon the neighbours for oppression and overshadowing. The proposal orientates its main habitable accommodation openings looking toward The Close and Pinfold Lane with only secondary windows, non-habitable openings and roof lights to the side elevations to Sycamore House and Little Hollies.

Objections have been received in relation to overshadowing and oppression upon the outdoor amenity area to the north of the neighbouring property. In this respect the proposal is situated to the north east of Sycamore House and would result in potential for overshadowing to the morning only. As such the potential impacts upon the residential amenity of the Sycamore House is not

considered to be of a significant level to warrant refusal of the scheme on these grounds. With regard to oppression from the massing of the building, it is noted that the proposal projects beyond the northern elevation of the Sycamore House and has been sited closer to the shared boundary. However the proposal achieves 4.8m separation to the adjacent property. The proposed property steps down to single storey for the final metre of a 4.2m projection beyond the rear of The Sycamores. The proposed development is not considered to result in such a mass of built form to warrant resistance on the grounds of oppression.

In addition to the amendments addressed above the proposal would result in the addition of 5 roof lights to the eastern roof slope and a further single roof light to the western roof slope. These are to be located to a high level and would not result in any significant impacts of overlooking upon the neighbouring properties.

Given the above assessment it is not considered that there would be any significant impacts of overlooking, overshadowing or oppression to warrant refusal of the application on these grounds. As such the application is considered to be in accordance with policies SP3 and DM5.

#### Impact on Highways

Spatial Policy 7 of the Core Strategy encourages development proposals to provide safe, convenient and attractive accesses for all and provide appropriate and effective parking provision for new development. This is mirrored by Policy DM5.

The wider site (the host dwelling and the adjacent application site) currently has two vehicular accesses, one from Pinfold Lane at the rear of the site and one from The Close at the front of the site. This application proposes closing off the vehicular access to The Close and having two vehicular accesses from Pinfold Lane. There will be two pedestrian accesses from The Close. This is in line with the previous application at the site which was not refused on highway grounds. The Highways Authority have been consulted upon the proposed scheme and have not raised any objections. It is therefore considered that subject to the requested conditions that the proposal is acceptable in this respect with Policy SP7 of the Core Strategy and DM5 of the Allocations and Development Management DPD.

#### **Other matters**

***I note the comments received in regard of why the application has sought to widen the proposed build towards Sycamore House with the east elevation remaining in the same position. The assessment is made on the proposal as submitted.***

#### Conclusion

The proposal site has a fallback position for the erection of a three bedroom dwelling and therefore the development of this site for residential purposes is accepted in principle. The proposal is considered to be acceptable in respect of the potential impacts upon the character of

the Conservation Area, Impact upon neighbouring properties residential amenity and highways safety. As such the proposal is considered to be acceptable and is recommended for approval subject to the conditions outlined below. It should be noted that the content of the conditions has taken account of the commentary with the Inspectors report.

## **RECOMMENDATION**

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

### **Conditions**

1. The development hereby permitted shall be begun not later than 4<sup>th</sup> January 2020.

Reason: In acknowledgement of the extant permission on the site which requires development by this timeframe.

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans;-

- Site Location Plan, Drawing No. DB 389 – A100 Rev A
- Proposed Site / Block Plan, Drawing No. DB 389 – A104 Rev A
- Proposed Dwelling Plans and Elevations, Drawing No. DB 389 – A102 Rev D
- Garage proposal Drawing No. BSA 6X6- A6X6
- ***Proposed Street Views Drawing No. DB 389 –A107 Rev P2***

unless otherwise agree 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.

3. No development shall be commenced until details / samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Bricks

Roofing tiles

Reason: In order to preserve or enhance the character and appearance of the conservation area.

4. No development shall be commenced until a brick work sample panel showing brick work, bond, mortar mix and pointing technique has been provided on site for inspection and approval has been received in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the

local planning authority.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

5. No development 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.

External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars and joinery details.

Rainwater goods

Reason: In order to preserve or enhance the character and appearance of the conservation area.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 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 C: Any other alteration to the roof of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse.

Class F: The provision or replacement of hard standing 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) (England) Order 2015 or any amending legislation). In order to safeguard the amenity of neighbours. To ensure that any proposed further alterations or extensions are sympathetic to the original design and layout in this sensitive location.

7. No development shall be commenced until the trees until the trees not shown as being removed on plan No DB 389 – A104 Rev A have been protected by the following measures:

- a) a chestnut pale or similar fence not less than 1.2 metres high shall be erected at the outer extremity of the tree canopies or a distance from any tree or hedge in accordance with details to be submitted to and approved in writing by the local planning authority;
- b) no development (including the erection of site huts) shall take place within the crown spread of any tree;
- c) no materials (including fuel and spoil) shall be stored within the crown spread of any tree;

- d) no services shall be routed under the crown spread of any tree
  - e) no burning of materials shall take place within 10 metres of the crown spread of any tree.
- The protection measures shall be retained during the development of the site, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

8. No development shall be commenced until full details of external hard landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.

Reason: In the interests of visual amenity and nature conservation.

9. The approved landscaping demonstrated on the approved plans 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.

10. The boundary treatments demonstrated on the approved plans shall be implemented prior to the occupation of the dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

11. The dwelling hereby approved shall not be occupied until the existing garage shown to be removed on drawing no. DB 389 – A101 has been demolished in full and all materials removed from the site.

Reason: In the interests of visual amenity.

12. The bathroom and landing window openings on the side elevations shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking, re-enacting or modifying that Order), no windows including dormer windows (other than those expressly authorised by this permission) shall be constructed on the side elevations of the development hereby permitted.

Reason: To safeguard against the overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.

14. No part of the development hereby permitted shall be brought into use until precise details of the vehicular verge crossing have been submitted to and approved in writing by the LPA. Thereafter, the development shall be carried out in accordance with the approved details prior to the crossing being brought into use.

Reason: In the interests of highway safety.

15. No part of the development hereby permitted shall be brought into use until precise details of the pedestrian access have been submitted to and approved in writing by the LPA. Thereafter, the development shall be carried out in accordance with the approved details prior to the access being brought into use.

Reason: In the interests of highway and pedestrian safety.

16. No part of the development hereby permitted shall be brought into use until the existing site access from The Close that has been made redundant as a consequence of this consent and as shown on plan DB389 A104 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: In the interests of highway safety.

17. No part of the development hereby permitted shall be brought into use until the parking area for the proposed dwelling is provided in accordance with plans to be first submitted to and approved in writing by the Local Planning Authority. The parking area shall be maintained for the life of the development and shall not be used for any purpose other than the parking of vehicles.

Reason: In the interests of highway safety.

### **Notes to Applicant**

1. 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).

2. 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](http://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/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

3. The development makes it necessary to construct a vehicular and pedestrian crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Highways Area Office tel: 0300 500 8080 to arrange for these works to be carried out.

The minor access reinstatement works referred to above in Condition 15 involves works on the highway and as such requires the consent of the County Council. Please contact 0300 500 8080 to arrange for this to be carried out.

			A	B	C	
Dev Types (use class)	Proposed floorspace (GIA in Sq. M)	Less Existing (Demolition or Change of Use) (GIA in Sq. M) Includes % splits	Net Area (GIA in Sq. M)	CIL Rate	Indexation at date of permission	CIL Charge
C3	236.36	0	236.36	75	220	£22,803.37
<b>Totals</b>						<b>£22,803.37</b>

**BACKGROUND PAPERS**

Application case file.

For further information, please contact Kevin Robinson on ext. 5541.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01193/FUL



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<b>Application No:</b>	<b>17/01300/FUL</b>	
<b>Proposal:</b>	<b>Demolition of the prefabricated concrete garage and the division of the existing residential property to form an additional dwelling in the existing footprint.</b>	
<b>Location:</b>	<b>22 High Street, Sutton on Trent NG23 QA</b>	
<b>Applicant:</b>	<b>Mr Jonathan Hart</b>	
<b>Registered:</b>	<b>10.08.2017</b>	<b>Target Date: 05.10.2017</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Sutton on Trent Parish Council has objected to the application which differs to the professional officer recommendation.**

The Site

The application site relates to a traditional two storey dwelling located on the south side of High Street, within the main built up area of Sutton on Trent and the conservation area. The application dwelling has an L-shaped layout and is positioned hard on the boundary with the highway. Vehicular access to the site comes via a shared driveway, immediately to the east of the site with off street parking and a detached garage located at the rear of the site.

The site falls within Flood Zone 2.

Relevant Planning History

08/00025/FUL - Use of ground floor shop (Class A1) as one-bedroom flat (Class C3) – Approved 18.02.2008.

00/50756/FUL – Change of use to hot food takeaway – Refused 15.06.2000.

58781134 - Use of land for storage of building material – Refused 14.11.1978.

58891216 – Erect three two-bedroom starter homes - Refused 13.02.1990.

The Proposal

The proposal seeks planning permission for the sub-division of the application dwelling into 2 No. independent dwellings (one 3-bedroom dwelling and one 2-bedroom dwelling).

The vast majority of the proposed conversion works would be internal however a new opening would be formed on the rear elevation at ground floor level (from the living/dining room) in order to give access to the associated rear amenity space. An additional window would be positioned on the rear elevation at first floor level to serve a bedroom.

The existing detached garage at the site would be removed as part of the proposal. Following negotiations with the case officer, additional plans have been submitted which clearly show the 3 no. off street parking spaces that would be associated to the proposed dwellings.

The site has been identified to be located within EA Flood Zone 2 and the application is supported by a Flood Risk Assessment (FRA).

### Public Advertisement Procedure

Occupiers of four 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 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

#### **Allocations & Development Management DPD**

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

Policy DM5 – Design

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
- Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

#### Consultations

**Sutton on Trent Parish Council** – Objects to the proposal to this application because of the lack of off road parking and the shared entrance.

**NCC Highways Authority** –

#### **Latest comments received 17<sup>th</sup> November 2017**

Following receipt of the additional layout plan no objection is raised to the scheme providing 'rights of access' can be achieved for both properties.

## **Original comments received on the 31<sup>st</sup> August 2017**

‘The loss of the garage with no apparent replacement parking provision, together with the sub-division to create 2 dwellings raises the potential for on-street parking to occur; possibly involving say 3-4 cars. For this reason, I would recommend refusal on the grounds that the proposed development would result in the increased danger and inconvenience to other road users due to the likelihood of vehicles being parked on the public highway.’

**Trent Valley Internal Drainage Board** – No objections.

**NSDC Access** – No Observations

**NSDC Conservation** -

### Legal and policy considerations

Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, ‘the first consideration for a decision maker’.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, ‘Historic England Advice Note 2: making changes to heritage assets’ advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset’s significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

### **Significance of heritage asset(s)**

22 High Street is located in the Sutton on Trent Conservation Area. The property retains its traditional detailing, as a 2 storey structure with a single storey extension. There have been several different uses in the property, including a bakery and retail, before conversion to a residential dwelling.

## **Assessment of proposal**

Conservation does not object to the proposal. There are some original bakery ovens that are still in situ in the property and they are to remain as part of the subdivision. The division of the property will not impact on the character or streetscene of the conservation area and there will be a minor improvement through the removal of the unsightly modern garage which will be replaced with flagstones and flower beds.

In this context, the proposal is not considered to cause harm to the character of the conservation area. The proposal therefore is in accordance with the objective of preservation set out under sections 72, part II of the 1990 Listed Building and Conservation Areas Act, and complies with heritage policies and advice contained within the Council's LDF DPDs and section 12 of the NPPF.

### **Representations have been received from 4 local residents/interested parties which can be summarised as follows:**

- The site plan appears to differ from the size and shape of the site as registered with land registry.
- Questions raised over the legality and right of access over the pathway to the west of the application site as well as concerns over the potential increase in wear and tear of the pathway.
- Concerned over the potential for vehicles parking on the shared drive, blocking access to the adjacent property that shares the drive.

### Comments of the Business Manager

#### *Principle*

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

The site is located within the main built up area of Sutton on Trent which is defined as a Principal village within Spatial Policy 1 of the Core Strategy and where the provision of housing is sought to secure a sustainable community. As such, there is no objection to the principle of the development at the site.

#### *Heritage*

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. Core Policy 14 and Policy DM9 of the DPD require development proposals to preserve and enhance the character, appearance and setting of heritage assets.

I note that the conservation section raise no objection to the scheme and in also considering that the only external alterations to the application dwelling would be minor in nature and at the rear of the building, it is considered that the proposal would not result in any detrimental impact or harm to the character and appearance of the site or wider conservation area. Furthermore, the replacement of the flat roof garage at the site with landscaping and flagstone surfacing would be advantageous in terms of removing built form that does not relate positively to the conservation area.

### *Neighbouring amenity*

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

As the proposed scheme does not involve any increase in height or footprint of the application building, I am satisfied that the proposed development would not result in any material overbearing or overshadowing impact on neighbouring properties.

In terms of any potential overlooking, I am mindful of the additional window on the rear elevation at first floor level, however it is considered that there is sufficient separation distance (circa 16m) to the closest neighbouring property to the rear of the site, No. 24 High Street, for this element of the proposal to not give rise to any material overlooking issues.

While the proposed subdivision of the application dwelling would result in a reduced level of private garden area, with the proposed removal of the garage it is considered that on balance the site would still retain a satisfactory, albeit modest, level of private amenity space to serve both of the proposed dwellings (48m<sup>2</sup> to serve the 3 bedroom and 28m<sup>2</sup> to serve the 2 bedroom).

### *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 concerns from the Parish Council in relation to off street parking are noted however I am mindful that the Highway Authority have not raised an objection on highway safety grounds following the submission of additional layout plan showing 3 off street spaces to serve the development.

In taking into account that the vehicular access to the site is via the existing shared driveway at present, which would remain unaltered by the proposal as well as the 3 No. off street parking spaces shown to be achieved on the layout plan, I am satisfied that the proposal would not result in any material highway concerns over and above the existing situation.

### *Flooding*

Policy DM5 of the DPD states that the Council will aim to steer new development away from areas at highest risk of flooding. In addition Core Policy 9 requires development proposals to include measures to proactively manage surface water wherever possible.

The NPPF states within para 100 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development necessary, making it safe without increasing flood risk elsewhere.

Para 104 of the NPPF states that applications for minor developments and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements for site specific flood risk assessments.

I note that the Environment Agency standing advice for vulnerable development within flood zone 2 requires development proposals to follow advice on surface water management, access and evacuation and floor levels.

In regard to surface water management, I am mindful that there are no external extensions to the application building as part of the proposal nor any increased areas of hard surfacing therefore it is considered that surface water run-off would not be increased by the proposal. I also note that the FRA has stated that the floor levels of the application dwelling will remain unaltered. As such it is considered that the proposal would accord with the standing advice from the Environment Agency

#### *Other matters*

In regard to the comments received by local residents, I note the concern raised over the difference between the submitted site plan and a land registry plan. However, while I have not had a sight of the land registry plan for the site, the applicant has submitted a red line site location plan which clearly illustrates the boundaries of the site and includes an area of the shared access serving the site. The applicant has also completed the relevant Certificate and served notice on the adjacent neighbour. Notwithstanding this any dispute over the ownership of land within the site would fall outside of the remit of the planning process and would be a private legal matter between the parties involved.

In terms of the footpath to the west of the site, this is not included within the red line site plan and while it is understood that this is used as pedestrian access to the site (there is an existing access gate into the application site from this footpath), it is not the only access into the site and would not be used by the proposed 3 bedroom dwelling. I am of the view that the rights to use this footpath as well as potential wear and tear would also be a civil matter between all of the parties using the footpath.

The concerns over vehicles blocking the shared drive are noted. However, as discussed within the Highway safety section of this report, it is considered that the site would retain adequate off street parking space and that any vehicles utilising these parking spaces would not unduly impact on access and egress for other vehicles using the shared drive.

#### *Conclusion*

This scheme would deliver housing in a sustainable settlement and contribute, albeit very modestly, to the Council's 5 year + housing supply ~~and~~ The proposal would not harm the historical significance of the application building or the character and appearance of wider conservation area, nor would it result in any material impact on highway safety or the residential amenity of neighbouring properties. The proposed development would also not result in any significant increase in flood risk at the site or neighbouring sites in accordance with standing advice. Accordingly it is recommended that planning permission be granted.

## **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 Ref.

Revised site location plan Ref. 302 P 01 B  
Amended Existing Floor Plans Ref. 302 EX 02 Rev A  
Existing Elevations Ref. 302 EX 03  
Proposed Floor Plans Ref. 302 P 02  
Proposed Elevations Ref. 302 P 03  
Additional Car Parking Layout Ref. 302 P 02 Rev A

unless otherwise agreed in writing by the Local Planning Authority through the approval of a non-material amendment to the permission.

Reason: For the avoidance of doubt and in order to define the permission.

03

Prior to the first occupation of the dwellings hereby approved, the existing garage shall be removed from the site and the new parking spaces shall be created as shown on the approved plan Ref. 302 P 02 Rev A.

Reason: In the interests of Highway safety.

### **Notes to Applicant**

01

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

02

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

Background Papers

Application case file.

For further information, please contact Gareth Elliott on 01636 655836.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**K.H. Cole**  
**Deputy Chief Executive**



<b>Application No:</b>	<b>17/01564/FUL</b>	
<b>Proposal:</b>	<b>Resubmission for the erection of a single log cabin and access road for use as tourist accommodation.</b>	
<b>Location:</b>	<b>Land Off Mill Lane, North Clifton</b>	
<b>Applicant:</b>	<b>Mr David Watson</b>	
<b>Registered:</b>	<b>11.09.2017</b>	<b>Target Date: 06.11.2017</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as North Clifton Parish Council has written in support of the application which differs to the professional officer recommendation.**

The Site

The site is located to the east of the village of North Clifton. Spatial Policy 1 of the Newark and Sherwood Core Strategy defines North Clifton as an “other village within Newark and Sherwood.” This means that it does not form part of the Sub- Regional Centre, is not a Service Centre and is not a Principal Village. Furthermore, the site is considered to be located outside of the main built-up area of the village of North Clifton and as such is within the Open Countryside.

The application site itself is comprised of a clearing within an area of woodland located off Mill Lane to the eastern side of North Clifton. The submitted application documentation states that this woodland is owned by the applicant and located to the south of his current home and that recent management of the woodland has resulted in the creation of a vehicular access from Mill Lane to the south leading to a small clearing towards the eastern side of the woodland. This eastern area will form the location for the development which is a proposed detached building, associated access road, parking area and garden for use as tourist accommodation. The surrounding woodland provides dense landscaping from all sides rendering the proposal hidden from views from outside of the site.

Relevant Planning History

16/00702/FUL - Erection of a single log cabin and associated access road, parking area and garden for use as tourist accommodation. Refused on the grounds that the proposal has failed to demonstrate that the proposed isolated single unit of tourist accommodation would meet an identified proven need for development of this nature within the open countryside. 14.11.2016.

The Proposal

The proposed development is for the erection of a single holiday unit in the form of a timber clad building. It is proposed that the building would sleep 6 people. The building would be located in an existing open space surrounded by a wooded area, accessed by a road to be created by this development (in place of an existing informal access track).

The proposed building would provide accommodation over two floors (with accommodation in the roof space) and the approximate footprint of the building would be 135m<sup>2</sup> with a ridge height of 7.1m.

The external face of the building would be timber clad, with a slate roof, timber white door and window frames and it would have a first floor timber balcony as well as a ground floor veranda below this.

A planning, design and access statement has been submitted with the application which discusses the site and its location, details the proposal, evaluates the development in terms of national and local planning policy and provides an overall conclusion, addressing matters of design and access.

#### Public Advertisement Procedure

Occupiers of four 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 DPD (adopted March 2011)**

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 3 – Rural Areas  
Spatial Policy 7 – Sustainable Transport  
Spatial Policy 9 – Selecting Appropriate Sites for Allocation  
Core Policy 6 – Shaping our employment profile  
Core Policy 7 – Tourism Development  
Core Policy 9 – Sustainable Design  
Core Policy 12 – Biodiversity & Green Infrastructure  
Core Policy 13 – Landscape Character

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

Policy DM5 – Design  
Policy DM8 - Development in the open Countryside  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM12 – Presumption in Favour of Sustainable Development

#### Other Material Planning Considerations

National Planning Policy Framework 2012  
Planning Practice Guidance 2014  
Landscape Character Supplementary Planning Document 2013  
Newark & Sherwood Plan Review - Publication Amended Core Strategy July 2017  
D2N2 Visitor Accommodation Strategy 2017

## Consultations

**North Clifton Parish Council** – Support proposal. Comments that access to the property is from Mill Lane which has limited visibility and the potential to be an accident blackspot.

Also comments that while Purelands is in walking distance of the proposed development, a footpath or safe place to walk between them does not exist.

**NCC Highways Authority** – ‘The access is taken via Mill Lane, a public highway. This is generally a single track road with infrequent traffic flows. Whilst this and the junction with the A1133 are not ideal, the risk of an accident generated by the proposal will be extremely low given the small scale of development.

Access details have not been submitted but it would appear from the location plan submitted and land ownership/control that adequate details to provide safe access can be achieved e.g. trees, hedges cut back to provide visibility splays.

No objections are raised subject to the following conditions to provide safe and adequate access on to Mill Lane:

*No part of the development hereby permitted shall be brought into use until the access has been designed and provided with a minimum width of 3.5m, and; surfaced in a bound material for a minimum distance of 6m from the Mill Lane carriageway edge 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 and to reduce the possibility of deleterious material being deposited on the public highway.*

*No part of the development hereby permitted shall be brought into use until access visibility splays of 2.4m x 90m are provided in accordance with details to be first submitted and approved in writing by the Local Planning Authority. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, structures or erections between 0.6 metres and 2m in height.*

*Reason: In the interests of highway safety*

*No part of the development hereby permitted shall be brought into use until the access is constructed with provision to prevent the unregulated discharge of surface water from the access to the public highway in accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.*

*Reason: In the interests of highway safety.*

*Notes to applicant:*

*The development makes it necessary to construct a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council’s Highways Area Office tel. 0115 9773496 to arrange for these works to be carried out.*

**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 this regard. The changing requirements of occupants and a need for accommodation to be accessible is an important consideration. Inclusive access improves general manoeuvrability for all users including access for those with push chairs and baby buggies as well as disabled people etc. As a consequence, it is recommended that access to, into and around the dwelling be carefully examined together with provision of accessible features and facilities. It is recommended that the developer make separate enquiry regarding Building Regulations matters.’

**Trent Valley Internal Drainage Board** – No objection.

**Representations have been received from 2 interested parties which can be summarised as follows:**

Support letters have been received from Old Farm Spa in Harby, and Newton and Thorney Valley Shoot, which is a commercial shooting club.

#### Comments of the Business Manager

##### Principle of development

##### *Policy*

The site is located within the open countryside and therefore outside of the main built up and defined area of any settlement as depicted within the Council’s Allocations and Development Management DPD.

Chapter 3 of the National Planning Policy Framework (NPPF) recognises the need to support economic growth in rural areas. The NPPF states that local plans should ‘support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres’.

Core Policy 7 (Tourism Development) sets out that tourism and visitor based development will be supported subject to a number of criteria. These include that in relation to countryside locations, it is sensitive to site surroundings, including matters of landscape, nature conservation, heritage and biodiversity and that it is acceptable in scale. It also provides that outside of town centres, development should meet identified tourism needs and facilities will only be supported in rural areas where a rural location is necessary to meet identified tourism needs. It also provides that the development enhances and complements tourism attractions and themes in the District and supports the development of a year-round tourist economy.

The NPPF was published subsequent to adopted Core Policy 7. It is therefore also considered appropriate to assess the proposal against the NPPF and the revised (but not adopted) CP7. The

NSDC Publication Amended Core Strategy proposes to amend Core Policy 7 – Tourism Development, to reflect the NPPF.

The starting point of this emerging Core Policy 7 is that the benefits of ‘sustainable’ rural tourism development are recognised. Therefore proposals which help realise the tourism potential of the District, support the meeting of identified tourism needs, complement and enhance existing attractions or that address shortfalls in existing provision would be supported.

In relation to proposals within the open countryside the emerging Core Policy 7 provides support for sustainable rural tourism development which meets one or more of the following:

- Forms part of a rural diversification scheme;
- Supports an existing countryside attraction;
- Has a functional need to be located in the countryside;
- Constitutes the appropriate expansion of an existing tourism or visitor facility;
- Supports local employment;
- Meets an identified need not provided for through existing facilities within the main-built up areas of ‘settlements central to the delivery of the spatial strategy’, or villages covered by Spatial Policy 3 ‘Rural Areas’; or that
- Supports rural regeneration through the appropriate re-use and conversion of existing buildings.

Core Policy 7 also requires proposals to be acceptable in terms of the following;

- Design and layout; and
- Individual and/or cumulative impact on local character (including the built and natural environments), heritage assets, biodiversity, amenity, transport infrastructure, community services and landscape character

These issues will be discussed in greater detail within later sections of the assessment

If the proposal is considered to constitute sustainable rural tourism it follows to assess the specific nature of the proposal. Whilst the criteria of CP7 set out above carry limited weight as a draft policy at this stage they form a useful starting point for assessment. Policy DM8 of the A&DM DPD is also relevant to the consideration of tourist accommodation in the countryside and stipulates that tourism developments in rural locations are required to demonstrate that their proposed development would meet an identified tourism need. A second consideration is whether or not the development constitutes a form of appropriate rural diversification and can support local employment, community services and infrastructure. Policy DM8 will likely be changed through the plan review process in a similar manner to CP7. The adopted policy strictly controls development in the countryside but supports tourist accommodation in principle where it is necessary to meet identified tourism needs and can support local employment, community services and infrastructure.

### *Need*

The D2N2 Visitor Accommodation Strategy 2017 aims to provide a robust assessment of the future opportunities for visitor accommodation development across Derbyshire & Nottinghamshire and

the requirements for public sector intervention to support & accelerate visitor accommodation. In addition to considering and analysing existing provision, the study looked at new provision of accommodation across the above area. The D2N2 Visitor Accommodation Study shows significant interest in, and market potential for, the development of all forms of non-serviced accommodation (holiday cottages, holiday lodges and lodge parks, golf lodges, fishing lodges, eco lodges, holiday resorts, holiday parks, caravan and camping sites, camping pods, glamping, treehouses, hostels, bunkhouses and outdoor education centres) across the D2N2 area, particularly in Sherwood Forest.

Whilst this report sets out a need for tourist accommodation within the District, it is still necessary to ensure that the accommodation is provided in the right location to meet the need they would serve.

The applicants planning design and access statement states that a rural tourism action plan developed by Visit England should also be considered alongside relevant policy given the nature of the proposed development. The applicant ascertains that the Action Plan has been developed with the vision to maximise the potential that rural tourism has to offer to bring substantial benefits to local economies and communities and contribute to 5% growth in the tourism market, year to year, by 2020. The planning design and access statement goes on to state that the proposed tourist accommodation will be within close proximity to the River Trent (where fishing activities are available) and the Dukeries Trail to the south east of the site and that this trail can be accessed by the quiet roads of Mill Lane, Cottage Lane and Wheatholme Lane.

Further information was requested on local need throughout the lifetime of the previous application and has been resubmitted in support of this current proposal. The details of which are as follows;

- A letter from Visit Lincoln which states support for the provision of self catering accommodation on Mill Lane North Clifton. This support is offered on the basis that Lincoln has seen an increase in visitor number and positive economic impact as a result of tourism.
- A letter from Lincoln County Council which states support for the proposal on the a basis that studies have shown that Lincoln has a lack of visitors accommodation on offer and that in their experience visitors like to state in high quality accommodation in rural locations.
- A Steam data trend report from 2014 detailing the economic impact of tourism in Newark and Sherwood via statistics. Amongst other data this report states that during the period of assessment number visitors to the district were down (from 2013 to 2014) but the economic impact of tourism in the area is increasing i.e. visitors in 2014 are spending more money than visitors in 2013. The report also states that the economic impact of visitors stays in non-serviced accommodation (as proposed) has increased by 13.8% between 2013 and 2014.
- A document which provides visitor number to tourist attractions in Southwell and Newark for last year in this year to date.

- A map showing the route from the proposal site to Sustrans cycle route 647 (which in turn links to the Dukeries trail which incorporates this sustrans route as well as others).
- A document which details cycle use on a nearby road.
- A letter of support from the proposal from the Lincolnshire Showground Society based on their view that the proposed accommodation is in close proximity to the Lincolnshire showground venue.
- A letter from the agent acting on behalf of the applicant detailing all of the submitted documentation that accompanies the application.

New supporting information has also been submitted in support of this application which areas follows;

- A letter of support from purelands meditation and relation centre and Japanese garden North Clifton, who state that as there is no accommodation at their site, this facility would be very convenient.
- A letter of support from the Wildlife Trust which considers that the approval of the development proposal would be a positive benefit for the biodiversity of the District.
- An initial acceptance confirmation letter from the LEADER rural development scheme which, if the full application is accepted could provide funding for the scheme.

While the support letter from the purelands meditation centre in North Clifton is noted, I am also mindful of the comments made by the Parish Council and that there is no pedestrian footpath from the site to this attraction. Moreover, much of the information submitted is about the tourism attractions and economic benefits of tourism in the wider district of Newark and Sherwood (reference is made to Southwell and Newark with regard to this) as well as neighbouring Lincoln. No specific information relating to the need for the size of the proposed accommodation has been submitted with the application.

### *Sustainability*

In order to assess the acceptability of the proposal against revised CP7, it is firstly necessary to consider whether the proposal constitutes sustainable tourism.

Due to the location of the proposed tourist accommodation in relation to the surrounding attractions referenced it is difficult to see how the proposal will offer support to this industry in a sustainable manner. The applicant states that Lincoln is nearby and only a 20 minute journey (Newark being a 30 Minute journey). Based on the distance from the proposal site these locations and their associated tourist attractions would only be accessible by the use of the private car to

meet these travel times. The above policy context seeks to encourage sustainable rural tourism that supports local employment and I do not consider that the general acknowledgement of the wider district and areas such as Lincoln status as tourist destinations sufficiently demonstrates that the proposal is a sustainable form of development that supports local employment or indeed that there is an identified need for the tourist accommodation in this very rural location contrary to the aims of policy DM8.

It is acknowledged that there is cycle route in close proximity to the site (0.8 miles away) and section of the river Trent nearby (2.5miles where fishing can take place). While these could be utilised for leisure purposes by the users of the proposed log cabin it is considered that the existence of these leisure activities in the surrounding countryside is not, in itself, justification for the development proposal. Furthermore, I am of the view that these forms of leisure activities would not directly support local employment or aid the development in meeting any of the other criteria within Core Policy 7.

In terms of the emerging Core Policy 7 criteria, it is recognised that the proposal has the potential to have a very limited support to the local employment through the construction of the log cabin and through the occupants of the log cabin using local services/attractions. Whilst I recognise the need to balance the social, environmental and economic benefits of the proposal when considering whether or not a development is considered to be sustainable, I am concerned that the location of proposal is not sustainable as the site itself is not linked to a tourist attraction and it has not been demonstrated that the proposal would fully meet any of the sustainable tourism development criteria listed within the emerging Core Policy 7 criteria.

#### Impact on Visual Amenity and Character of the Area

The NPPF states that good design is a key aspect of sustainable development. Core Policy 9 and Policy DM5 of the DPD require new development to achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context, complementing the existing built and landscape environments. Furthermore 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 7 also requires proposals to be acceptable in terms of scale, design and impact upon local character, the built and natural environment, including heritage assets, amenity and transport.

The proposed lodge would be two storey, contain 3 bedrooms and 2 bathrooms, have an overall floor space of 163m<sup>2</sup> excluding the covered balcony feature and measure 7m to the ridge of the dual pitch roof design.

The timber clad external appearance of the proposed building is considered to relate well to the surrounding woodland setting, however the two storey design and overall footprint of the proposed building is considered to be comparable to a relatively large detached dwelling and not the modest proportions of a typical log cabin type building or sympathetic to the rural setting of the locality.

The proposed building, associated parking and garden would be accessed from an existing access track and whilst no additional hard standing is proposed on the submitted block plan it is envisaged that additional hardstanding may be required to formalise the access & create usable practical parking. It is considered that the proposed access and parking would be required to facilitate the development especially with regard to car parking given the remote location of the development. Due to the proposed development rural location, the impact that the proposal would have on the wider landscaper character must still be assessed.

The proposal site lies within landscape charter policy Zone ES01 contained within the Newark and Sherwood Landscape Character Assessment East Nottinghamshire Sandlands area as defined by the authorities Landscape Character Assessment SPD. The SPD states that this area of landscape is poor in condition and low in sensitivity. The landscape actions of this area are therefore to create in line with policy SP13 which stipulates that development proposals are expected to positively address the implications of the landscape zones in which the proposals lie. The landscape actions for ES01 also stipulate that there is a requirement to conserve what remains of the rural landscape by concentrating new development around existing settlements and to create new development which reflects the local built vernacular. The proposed development would not be built close to the existing built form of the village of North Clifton rather it is isolated and set within the existing natural landscape. Furthermore the proposed development is not considered to reflect the local built vernacular, in fact, its design is considered to be at odds with the existing built form of buildings in North Clifton which are typical built from red bricks and clay tiles. However, it is noted that the proposed building and associated development would be mostly hidden from view (except for the entrance to the access from Mill Lane) it is therefore considered that the proposal would not have a significant visual landscape impact.

Despite this, it is considered that the erection of a building of this size and scale would alter the rural character of the area and would represent a form of encroachment of built form within the open countryside.

Taking into account all of the above points the proposal is considered to result in an adverse impact upon the rural character of the area contrary to Core Policy 7 of the Newark and Sherwood Core Strategy (2011) and Policy DM8 of the Allocations and Development Management Development Plan Document (2013).

#### Impact on Biodiversity and Trees

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Paragraph 118 of the NPPF includes that opportunities to incorporate biodiversity in and around developments should be encouraged.

I note that the applicants planning, design and access statement includes information regarding the ecological value of the site. This information is based on a desktop assessment using the MAGIC website. This assessment concludes that the woodland has limited ecological value. It also states that it is not proposed to remove trees or hedges on site to create an opening in the woodland to construct the building or associated access, parking or garden area given the existing situation. A site visit has confirmed that trees within the red line boundary have been removed more recently than aerial photography records indicate. It is considered that the submitted information lacks the detail of a full preliminary ecological survey undertaken by a qualified

ecologist and arboricultural survey which would normally be expected to supplement a development proposal in such a location.

I am mindful that the NPPF states at paragraph 18 that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Equally I am aware that paragraph 99 of Government Circular 06/2005 states that:

*“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances...”*

Without an ecological survey the impacts upon protected species are not known and cannot be avoided, mitigated or compensated for and it would be difficult to secure appropriate enhancements. Likewise, given the close proximity of the proposed building and access to trees, it is not possible to assess the impact of the development on them in the absence of the submission of a tree survey including suggested mitigation measures. Taking all this into account I have to conclude that the applicant has failed to demonstrate that the impact of the development upon ecology and trees would not be adversely affected and this is contrary to local and national policy and guidance. I fully accept that this may be addressed, but without evidence to demonstrate this I am left with no alternative.

### Residential Amenity

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that development should have regard to its impact upon the amenity of surrounding land uses and neighbouring development to ensure that the amenities of neighbours and land users are not detrimentally impacted.

Due to the site location there are no dwellings immediately adjacent to the proposed cabin, with only three dwellings within approximately 250 metres these being Slate House at Hall Farmyard (under the applicant’s ownership) to the north of the site, Mill Hill House to the east (located on the edge of the woodland and next to A1133) and the Lodge to the south of Mill Lane. The holiday cabin will be wholly enclosed by trees and, being some distance from these nearest, will ensure that they will not be overlooked or overshadowed.

In assessing the impact of the proposed cabin it is considered that the site location set within a dense forested area is isolated from the small number of nearby residential development and as such will not create any amenity impact with regard to privacy either.

It is therefore concluded that the development accords with DM5 of the Allocations and Development Management DPD.

### Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that the 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. I note that the highway authority have raised no objection to the proposal. I am therefore satisfied that the proposal would not result in any highway safety issues subject to the imposition of the suggested conditions and informative if the application were to be approved. The provision of a single tourist accommodation unit is not envisioned to have a significant impact on the transport infrastructure within the locality.

### Conclusion

The site is located within the open countryside. Whilst I recognise the economic benefits of sustainable tourism and visitor based development and the need to realise the tourism potential of the District, I am not currently convinced that the location of development would represent a sustainable form of development, consistent with the objectives of national policy and Core Policy 7 as proposed for amendment. The proposed development only offers the potential for a very limited degree of support to local employment and does not meet with any of the other criteria within the emerging Core Policy 7 for sustainable rural tourism within the open countryside. Furthermore the proposed log cabin would not be acceptable in terms of scale, size and layout by virtue of the significant size and footprint of the proposed building within a rural landscape, contrary to the aims of the existing and emerging Core Policy 7. The applicant has also failed to successfully demonstrate an identified proven need for tourist accommodation in this very rural location, contrary to the aims of the NPPF para 28 and Policies Core Policy 7 of the Core Strategy and DM8 of the adopted Allocations and Development Management DPD.

The applicant has failed to demonstrate that no adverse impact upon trees of ecology would result from the proposed development through the submission of ecological and tree surveys contrary to Core Policy 12 (Biodiversity and Green Infrastructure) of the Core Strategy (March 2011) and Policies DM5 (Design) and DM7 (Biodiversity and Green Infrastructure) of the Allocations and Development Management DPD (July 2013),

Accordingly it is recommended that planning permission be refused.

### **RECOMMENDATION**

**That full planning permission is refused for the following reasons:**

1. The application site is located within the open countryside. Policy DM8 requires that tourist development meets an identified proven tourism need and is proportionate to existing tourist attractions. Core Policy 7 of the Newark and Sherwood Core Strategy DPD states that, outside of town centres, tourism development should meet identified tourism needs and facilities will only be supported in rural areas where a rural location is necessary to meet identified tourism needs and when development is acceptable in terms of scale, design and impact upon local character.

In the opinion of the District Council the proposal has failed to demonstrate that the proposed isolated single unit of tourist accommodation would meet an identified proven local need for development of the nature proposed or be proportionate to an existing tourist attraction, at this location. The site is not considered to be in a sustainable location

and the design, layout, size and scale of the proposed accommodation has not been justified. The proposed development only offers the potential for a very limited degree of support to local employment and does not meet with any of the other criteria within the emerging Core Policy 7 (Publication Amended Core Strategy July 2017). It is therefore considered that the proposal would result in an unsustainable form of development that would have an adverse impact upon the rural character of the area contrary to Core Policy 7 of the Newark and Sherwood Core Strategy (2011) and Policy DM8 of the Allocations and Development Management Development Plan Document (2013). This proposal is also considered contrary to the National Planning Policy Framework (2012), which is a material consideration.

2. Given the site's location in a rural area and the presence of mature vegetation and trees there is a potential for the site to support protected species. No ecological/protected species surveys or tree survey information has been submitted in support of the application. In the opinion of the Local Planning Authority the application has failed to demonstrate the impact of the development upon trees and the ecological value of this rural site and therefore it is not possible to minimise, avoid or mitigate any harm. The application is therefore contrary to Core Policy 12 (Biodiversity and Green Infrastructure) of the Core Strategy (March 2011) and Policies DM5 (Design) and DM7 (Biodiversity and Green Infrastructure) of the Allocations and Development Management DPD (July 2013), the NPPF as well as paragraph 99 of the Government Circular 06/2005 which are material planning considerations.

## **Notes to Applicant**

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) 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.

02

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/](http://www.newark-sherwooddc.gov.uk/cil/)

### **BACKGROUND PAPERS**

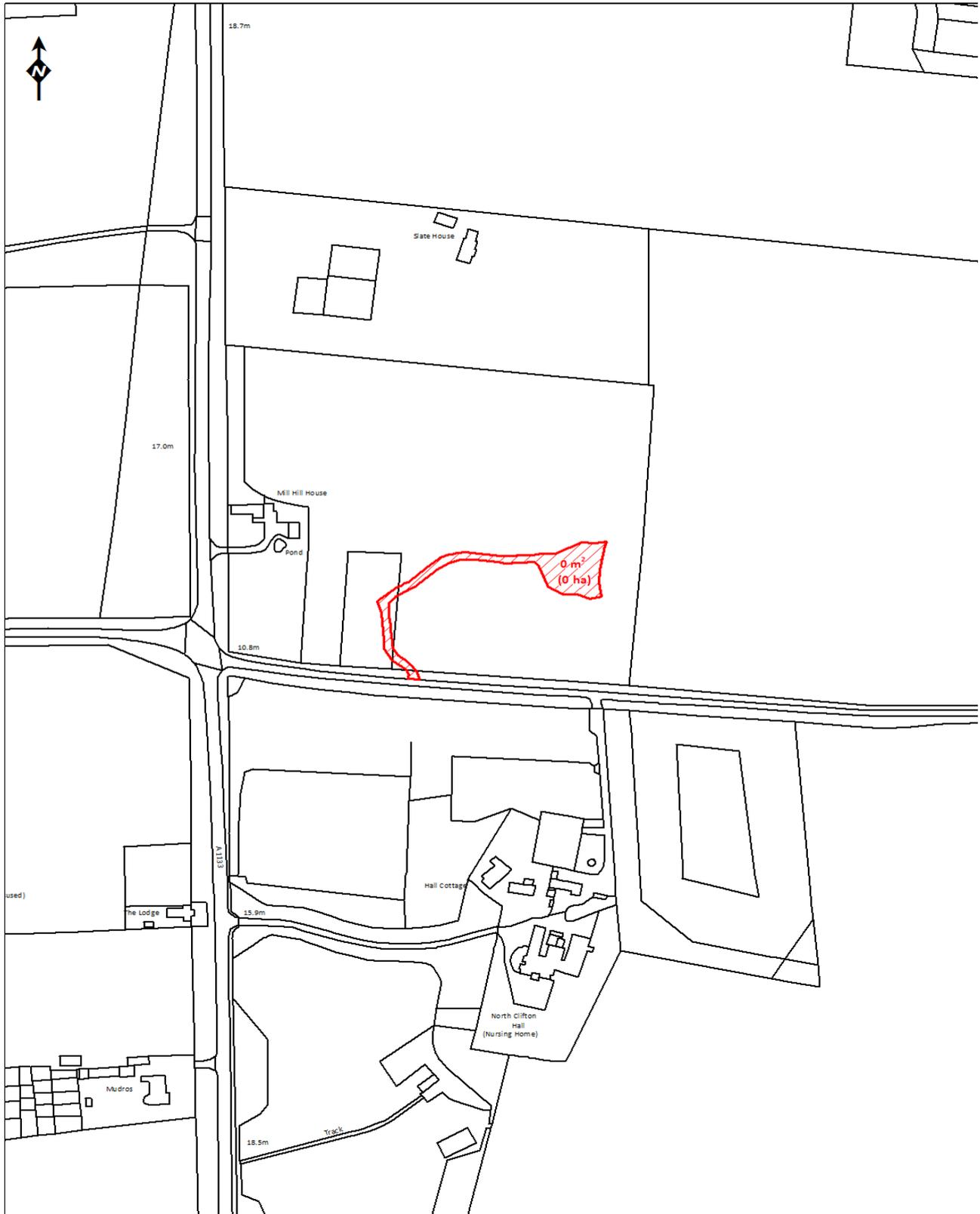
Application case file.

For further information, please contact Gareth Elliott on ext 5836.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01564/FUL



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<b>Application No:</b>	<b>17/01693/FULM (MAJOR)</b>	
<b>Proposal:</b>	<p>Existing playing fields and sports facilities to be altered, and supplemented by new sports playing pitches, cycle track, skate park, tennis courts, multi purpose pitches and provision of alternative route for existing bridleway.</p> <p>Extension of playing pitch areas into vacant land to the East of current facilities.</p> <p>Proposed building including creche and pre-school facility, training, offices, music, dance and art studios, sports facilities, changing areas to serve both the internal and external sports, function rooms, cafe and kitchen.</p>	
<b>Location:</b>	<p>Recreation Ground                  Elm Avenue                  Newark On Trent                  Nottinghamshire                  NG24 1SW</p>	
<b>Applicant:</b>	Nottinghamshire YMCA - Mr Craig Berens	
<b>Registered:</b>	<b>21.09.2017</b>	<b>Target Date: 21.12.2017</b>

**This application is being referred to the Planning Committee as part of the application site forms land under the control of the District Council.**

The Site

The application site is a large plot at the southern end of Elm Avenue in the Newark Urban Area. The site includes designated as public open space and land known as the former Tarmac Land immediately adjacent to the recently developed Bowbridge Road Leisure Centre. The site (save for the Tarmac Land) currently serves a mix of uses including open informal grassland areas with well walked routes and sports pitches for football and cricket. There are also former sports pitches which are no longer in use and bounded by hedgerows, these include remnants of cricket bowling nets, tennis courts and hardstanding terracing for former football spectator terracing. A rectangular portion to the east of the site as a site of interest in nature conservation being identified as a notable grassland with neutral and acid areas as defined by the Newark South Proposals Map in the Allocations and Development Management DPD.

Land to the west of the site is allocated as a mixed use site envisaged for around 115 dwellings as well as the aforementioned Leisure Centre which is already completed and operational. The eastern boundary of the site is defined by the Sustrans National Cycle Network which is set at a lower level to the site itself. There is a public bridleway dissecting the site which links Elm Avenue to Balderton Lakes. The rear gardens of residential properties along Bancroft Road abut the northern boundary of the site. Also abutting part of the northern boundary of the site is the designated conservation area but the site itself is outside of the CA. This element of the conservation area features Newark Cemetery.

## Relevant Planning History

**16/00947/FULM** - Use of former Tarmac land and part of existing sports ground for construction of a closed road cycle circuit. Erection of lighting columns, fencing, extension of existing car-park, and associated works including construction of a temporary haul road. *Application remains pending albeit it is acknowledged that the current proposal incorporates the development sought.*

The applicant has also been in pre-application discussions prior to the submission of the current application.

## The Proposal

The application seeks full planning permission for a new sports and community facility comprised of a number of elements. The submitted Design and Access Statement (D&AS) states that the core aspiration of the Newark and Sherwood YMCA is to provide *'socially and financially inclusive programmes and facilities that engage local communities in the healthy development of mind, body and spirit.'* The development proposals incorporate the following:

### *Programme of Indoor Facilities*

The indoor facilities will be housed in a detached two storey building along the western boundary of the site (adjacent to the existing Leisure Centre). The plan form of the building has been designed as three distinct wings spanning a maximum width of approximately 12.8m and a maximum length of approximately 15.2m. The maximum height of the building would be approximately 13.2m (owing to the inclusion of a climbing wall) but the majority of the building will have an approximate pitch height of 8.3m. The roof design incorporates a number of elements including saw-tooth roof profiles to the arts and dance zone but is predominantly designed as a flat roof. Large rectangular windows punctuate the masonry. Other features include a south facing sheltered balcony and colonnade to serve the function suite. Materials proposed vary but are predominantly brick with aluminum fenestration details.

- Zone 0 – Reception Area
- Zone 1 – Childcare
  - This would include a nursery and crèche for children aged 6 months to 4 years as well as before and after school facilities for 4-11 year olds
  - There will be 6 nursery areas with outdoor play as well as a large crèche
- Zone 2 – Café and Function
  - This will incorporate a community café; training kitchen; and small function suite
- Zone 3 – Sports
  - This will include an indoor climbing wall; cross fit studio and community changing areas to serve the outdoor facilities
- Zone 4 – Music and Office
  - The office spaces will serve both YMCA staff and meeting and training rooms for private hire / alternative education etc.
  - There will be a mixed media production suite as well as a band practice room
- Zone 5 – Main Function
  - This hall will be available for private hire as well as a multi purpose use for YMCA Camp events
- Zone 6 – Arts and Dance
  - This includes an art studio; ceramics studio; and space for dance and yoga classes.

### *Programme of Outdoor Facilities*

- 3G Football Pitch
- Athletics Track
- Community Sports Pitch
- Cycle Track
- Skate Park
- 3 no. 5-a-side football courts
- 3 no. Tennis courts
- Multi Use Games Area

The proposal would also include other ancillary elements such as a range of designated spectator zones; areas of landscaping; 3.5m high security fencing around some of the site boundaries; the diversion of the existing bridleway; and a car park comprising 108 no. of spaces. A separate arrangement has been made with RHP Sports and Social Club (at the northern boundary of the site) to allow for staff car parking in the existing RHP car park.

It is expected that the proposal will provide over 80 locally based jobs within three years of operation.

As well as the usual plan drawings the application submission has been accompanied by the following documents:

- Flood Risk Assessment
- Design and Access Statement
- Landscape Scheme
- Proposed Lighting Scheme & Analysis
- Transport Assessment
- Travel Plan
- Noise Report
- Ecological Report
- Phase I Desktop Contamination Assessment

The following additional documents have also been received during the life of the application (predominantly on the 10<sup>th</sup> November 2017) which have been subject to an additional round of consultation:

- Supplementary Sports Statement
- Changing room capacity
- Supporting Ecological Statement
- Grassland /Hedgerow Retention, Creation, Protection and Management Plan – Figure 7 6737-E-07b
- Archaeological Desk Based Assessment
- Horizontal Illuminance Levels – UKS11521-8A
- Suite of revised plans including revised phasing plans; elevational fencing details and Sport Quantum Plans

### Departure/Public Advertisement Procedure

Occupiers of 54 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 7: Sustainable Transport

Spatial Policy 8: Protecting and Promoting Leisure and Community Facilities

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

Core Policy 12 Biodiversity and Green Infrastructure

Core Policy 13: Landscape Character

Core Policy 14: Historic Environment

#### **Allocations & Development Management DPD**

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

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

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

### **Consultations**

**Newark Town Council** – All Members present declared a Non Pecuniary Interest in this application. Members were fully supportive of this application which would bring a significant and welcome investment in sporting facilities into the town and raised No Objection.

Newark Town Council Planning Committee Meeting - 1.11.17.

**NSDC Conservation** – Many thanks for consulting Conservation on the above proposal.

There are no designated heritage assets within the proposal site. The Newark Conservation Area (CA) is situated to the north of the proposal site. This part of the CA is focussed on Newark Cemetery which includes the internationally important War Graves Cemetery.

According to the County Historic Environment Record (HER), there is an area of archaeological interest in the southeast corner of the site related to the 'First line of circumvallation at Newark'.

### Legal and policy considerations

There is no legal protection for the setting of CAs, but national and local policy advice contained within the National Planning Policy Framework (NPPF) and Council's Local Development Framework (LDF) provides a presumption against development that would harm the setting of a designated heritage asset.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the NPPF. Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

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

Areas of archaeological interest are non-designated heritage assets and this is therefore a material consideration in accordance with paragraph 135 of the NPPF.

### Assessment of proposals

The proposal seeks permission to create sports and recreational facilities for the local community.

Conservation has no objection to the proposal. It is felt that the form of development will likely have a very limited impact on the setting of the CA in this townscape context (including the cumulative impact with the recent adjacent development). The Cemetery is well-screened on its southern boundary by large mature trees, and the landscape proposals suggest that screening will be reinforced on the northern boundary of the proposal site. The facing materials of the new Sports and Community building will need to be well-considered, but the overall scale, form and appearance of the proposal will cause no harm to the setting of the CA.

In accordance with paragraph 128 of the NPPF, a desk-based archaeological report is justified in this case. The civil war defences are an important element of significance within the town's historic environment, and the applicant is encouraged to seek independent archaeological advice (as a minimum, they should consult the HER for further details).

Notwithstanding archaeological advice, the proposal is considered to accord with heritage objectives contained within the LDF DPDs and section 12 of the NPPF.

*Additional comments received 13<sup>th</sup> November 2017:*

Although the potential is low-medium, the archaeologist recommends some level of evaluation/mitigation before/during development should be considered due to the presence of the circumvallation and reasonably undisturbed land. If the applicant wanted a better idea, geophysics could be considered; otherwise I'd recommend the WSI as a pre-commencement condition.

**NSDC Parks and Amenities Officer** – No comments received.

**NSDC Environmental Health (noise)** - I have looked at the noise report and it seems fine. I would ask that paragraphs 4.19 and 4.20 be referenced/included in any consent.

I have also looked at the lighting plan but it is difficult to make out. You may wish to condition full details being provided to and approved by the LPA on any consent granted

**NSDC Environmental Health Officer (contaminated land)** - With reference to the above development, a Phase I Desk Study Report and Phase II Exploratory Investigation Report (carried out by Geodyne in 2012 and 2013 respectively) have been submitted in support of this application. These reports were produced and submitted to support previous planning applications for the Newark Fitness Centre (14/00402/FULM) and the 'Extra Care' Residential Development (15/02299/FULM). These previous investigations found that the soils were generally uncontaminated.

However this application site goes beyond the extent of the boundary of the scope of the original site investigation and into land that (at the South Eastern boundary) was formerly a cement batching plant and which now appears to be a waste storage facility. These uses are potentially contaminative and I would therefore request the use of our full phased contamination condition.

**NSDC Access and Equalities Officer** – Observations in relation to Building Regulations.

**Nottinghamshire Wildlife Trust** – *Original comments received 12<sup>th</sup> October 107:*

Thank you for consulting Nottinghamshire Wildlife Trust on the planning application detailed above. Having carefully studied the Newark Sports & Community Village Ecological Appraisal (FPCR 2017) we find that we have the following comments.

*Local Wildlife Site (LWS)*

RHP Sports Ground Local Wildlife Site (LWS 5/1045) is located within the site subject to this planning application. The site is designated for its 'notable grassland with neutral and acidic areas'.

LWSs are identified and selected locally for their substantive nature conservation value. Their selection takes into consideration the most important, distinctive and threatened species and habitats within a local context and every effort should be made to protect them. Lowland dry acid grassland is a habitat of principal importance for the conservation of biodiversity in England (Priority habitats under Section 41 of the Natural Environment and Rural Communities Act 2006). This S41 list guides decision-makers such as councils and statutory undertakers, as to their duty

under Section 40 of the NERC Act, to “have regard to the conservation of biodiversity in England” in day-to-day decisions.

Protection of LWS is recognised in Section 5.63 of Newark and Sherwood’s Core Strategy which states:

*“As well as encouraging new locations for biodiversity and improving the District’s Green Infrastructure, the District Council is required to protect existing important nature conservation and geological conservation sites.”* Local Wildlife Sites are listed as one of these nature conservation sites. A recent report<sup>1</sup> identified that 717 LWSs have been lost/partially lost or damaged between 2009– 2013. Development was identified as a major contributing factor to this lost in LWSs.

A botanical survey of the LWS included with the planning application concluded that the site supports *“poor examples of neutral and acid areas, and is currently subject to impacts from degradation, littering and erosion and is likely to be lost eventually due to scrub succession”*. This statement fails to acknowledge that with appropriate management, loss of grassland to succession can be addressed and species diversity restored. If as the survey suggests, the site does meet LWS criteria currently that does not provide justification for further loss/damage or de-notification of its current status.

The proposed location of the cycle and athletics tracks will result in a loss of approximately 1.5ha of the LWS grassland habitat. The application proposes that approximately 0.5ha of grassland will be retained *in situ* and protected during development. In addition, areas within the LWS currently comprising scrub or tall ruderal habitats will be cleared and sown with acid grassland whilst additional acidic grassland will be created elsewhere within the site. This will result in approximately 1.1ha of newly created acid grassland which will be seeded with an appropriate seed mix. In total, there will be approximately 1.6ha of retained LWS grassland and acid grassland creation combined, resulting in an overall loss of approximately 0.4ha of notable grassland. Within the NPPF, it is stated that development should seek to contribute a net gain in biodiversity with an emphasis on improving ecological networks and linkages where possible. Paragraph 118 of the NPPF states *‘when determining planning applications local planning authorities should aim to conserve and enhance biodiversity by applying the following principles; if significant harm resulting from the development cannot be avoided (through locating on an alternative site, the less harmful impacts adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’*

### *Compensation*

We acknowledge the intention of the applicant to create new areas of habitat, retain and enhance areas of the LWS and ensure these areas are brought into favourable management. The development will, however, result in an overall loss of 0.4ha (approximately) of notable grassland. As a requirement within para 109 and 118 of the NPPF developments should result in minimal biodiversity impacts, so as to contribute to the Government’s commitment to halt the overall decline of wildlife. With this in mind, we encourage the applicant to give further consideration to how ecological impacts of this development can be minimised and where further biodiversity gains can be achieved. In order that NWT is not perceived as ‘anti’ development we would like to provide the following suggestions for consideration.

Correspondence with the Nottinghamshire Biological and Geological Records Centre (NBGRC) has revealed that the section of LWS adjacent to the Sustrans route is where much of the botanical interest can be found. We would like the applicant to consider moving the cycle track to create a

greater margin of retained LWS habitat on the eastern boundary of the site and strengthen the existing ecological corridor. The applicant may also wish to consider making a monetary contribution to habitat management/enhancement in the adjacent Balderton Gravel Pit (LWS 2/641).

Should the Local Planning Authority be minded to grant permission for this planning application in its current form we would expect to see the following recommendations (highlighted in bold) secured by way of suitably worded conditions;

The application states that the long-term management for the retained and newly created grassland habitats will ensure the grassland will be maintained at a height of c.75mm with cuts only in spring (April / May) and autumn (September / October), and scrub will be selectively removed. As this is a full application, we would expect to see details on appropriate establishment and ongoing management of retained and newly created habitats included in the form of Landscape Planting Proposals and a Biodiversity Management Plan that ensures that the habitat will be managed in perpetuity

5.3 Sections of hedgerows H1 and H6 and the entirety of hedgerows H2 – H4 will be lost to the development. To ensure there is no net loss, new native hedgerows should be planted along the northern site boundary and south eastern site boundary, which will link the existing tree line to the offsite trees along the Sustrans National Cycling Network. We also strongly recommend ‘gapping up’ of the retained hedgerow and tree lines where appropriate to enhance habitat connectivity at the site level.

5.4 The tree to be lost for arboriculture reasons should be subject to an endoscope inspection by a licenced bat worker immediately prior to removal.

5.5 To ensure potential effects of the development floodlights on bat foraging and commuting habitat are minimised the lighting regime set out within Paragraph 4.39 should be followed.

5.6 Previous survey work undertaken at the site in 2016 recorded a single grass snake. To ensure any reptiles within the site are safeguarded during development, the method statement within Paragraph 4.44 should be followed.

5.7 The site provides suitable opportunities for nesting birds. Any removal of suitable nesting vegetation should occur outside of the bird breeding season (March to September inclusive) to minimise the risk of disturbance to breeding birds. If this is not possible, such vegetation must be checked prior to removal by a suitably experienced ecologist. If active nests are found, vegetation must be left untouched and suitably buffered from works until all birds have fledged. Specific advice should be sought prior to undertaking site clearance.

To conclude, we *strongly object* to the planning application in its current form due to damage to a LWS, an overall loss of 0.4ha of notable grassland and due to an inadequate compensation package. Within the NPPF, it is stated that development should seek to contribute a net gain in biodiversity with an emphasis on improving ecological networks and linkages.

*Revised comments received 22<sup>nd</sup> November 2017:*

Thank you for consulting Nottinghamshire Wildlife Trust on the planning application detailed above. Having carefully studied the Supporting Ecological Statement (RDA Architects – Ref 2242); Grassland / Hedgerow Retention, Creation, Protection and Management Plan (Fig. 7 6737-E-07b) and the Revised Landscape Masterplan ((08) 001 B) we have the following comments.

You will recall that in our previous response to this planning application Nottinghamshire Wildlife Trust (NWT) submitted an objection to the proposals due to damage and loss of the RHP Sports Ground Local Wildlife Site (LWS 5/1045) that is located within the site. The LWS is designated for its 'notable grassland with neutral and acidic areas'.

Subsequent to that NWT had a positive meeting with the applicant and the result of this is that the YMCA have made a number of revisions and improvements to the proposal which we are satisfied will adequately mitigate and compensate for the impacts on the LWS. We feel that the revised proposals will also satisfy the requirements as set out in NPPF, Paragraph 118, as well as being in alignment with Newark & Sherwood District Council's Core Strategy.

The result of the revised proposals is that alterations to the cycle track and associated run off area, skate park and athletics position have allowed greater retention of existing notable grassland, as well as providing further opportunities for the creation of new areas of acidic grassland. It is particularly pleasing to note the retention of grassland along the eastern boundary. This will reinforce the buffer to the adjacent Sustrans route and retain the areas of grassland considered by the Nottinghamshire Biological and Geological Records Centre (NBGRC) to be of greater value. It is also very encouraging to hear that the creation of new acidic grassland utilising an appropriate acidic seed mix will encourage a greater floral diversity. These amendments allow for the provision of 2.138ha of acid / notable grassland. This represents a slight gain over the existing of 0.138ha.

In addition, the scheme also seeks to enhance biodiversity through the following measures:

#### *New habitats*

We fully support the installation of bat boxes along the southern boundary of the site and swift boxes incorporated into the main building. In order to encourage nesting swifts we recommend that the applicant use audio playback. We are happy to work with the YMCA to develop and implement this technique. Using swift calls will greatly enhance the chance of establishing a colony at the site. The following website is useful.

<http://www.swift-conservation.org/>

We fully support the inclusion and chosen locations of the proposed log piles within acid grassland at the north-east and south-east corners of the site, adjacent to the existing wildlife corridor. This will provide suitable sheltering areas for reptiles Figure 7 (6737-E-07B).

It is pleasing to note new native hedgerows are to be created in locations across the site to compensate for the loss of hedgerows to the development. This will improve the overall connectivity surrounding and within the site. It is proposed that that the amount of new native hedgerow will be of greater length than that to be lost and will overall provide a net gain. Gapping up of existing hedgerows will improve their value for wildlife and contribute to biodiversity gains within the site. This is in line with the NPPF which states that development should seek to contribute a net gain in biodiversity with an emphasis on improving ecological networks and linkages where possible.

#### *Management*

We are largely satisfied with the management prescriptions provided on Grassland / Hedgerow Retention, Creation, Protection and Management Plan Figure 7 (6737-E-07B). The plan states that hedgerows are to be maintained at a height of around 3m but there is no mention of width. Ideally, the width should be at least 2m to maximise wildlife benefits and include a 1m margin of rough grassland. It is pleasing to note that the YMCA has stated that the management plan will be

maintained in perpetuity. The management plan is a working document and annual monitoring to ensure it is being followed is essential. It should also be reviewed every five years to assess whether it is achieving its objectives. We would be happy to be part of this process.

### *Education*

The YMCA children's holiday camps which will take place on site will incorporate key education programmes relating to the local ecology. This would complement education work undertaken by NWT at our nature reserves and within schools. We would be happy to explore opportunities to support the YMCA with delivery of wildlife and environmental education in the future. Interpretation panels can help to engage visitors and impart information on wildlife and site management. We have many years' experience in developing interpretation materials and we would be happy to help develop panels for the site with FPCR.

### *Offsite contribution*

We would also take this opportunity to acknowledge a commitment by the YMCA to provide offsite contributions to help manage terrestrial habitats within the adjacent Balderton Gravel Pit (LWS 2/641). The financial contribution the YMCA would look to contribute is £130 per ha of terrestrial habitat per annum (up to a limit of 1.5ha in total) for the duration of 10 years to support the management and enhancement of habitats around Balderton Lake. We understand that this contribution could be in the form either of a donation or gift in kind with the equivalent value made up of voluntary work programmes. The content of any such programmes would be developed in collaboration with the Wildlife Trust. This would need to be agreed with Balderton Parish Council.

We would like to see the above elements secured by an appropriate legal agreement through the planning system.

We would also like to take this opportunity to reiterate the following recommendations (highlighted in bold) from the Ecological Appraisal (FPCR 2017). We would recommend that these are secured by way of suitably worded conditions;

5.4 The tree to be lost for arboriculture reasons should be subject to an endoscope inspection by a licenced bat worker immediately prior to removal.

5.5 To ensure potential effects of the development floodlights on bat foraging and commuting habitat are minimised the lighting regime set out within Paragraph 4.39 should be followed.

5.6 Previous survey work undertaken at the site in 2016 recorded a single grass snake. To ensure any reptiles within the site are safeguarded during development, the method statement within Paragraph 4.44 should be followed.

5.7 The site provides suitable opportunities for nesting birds. Any removal of suitable nesting vegetation should occur outside of the bird breeding season (March to September inclusive) to minimise the risk of disturbance to breeding birds. If this is not possible, such vegetation must be checked prior to removal by a suitably experienced ecologist. If active nests are found, vegetation must be left untouched and suitably buffered from works until all birds have fledged.

To conclude, we are pleased to be able to remove our objection to this planning application.

**Natural England** – Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process.

We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

**Sport England – Original comments received 13<sup>th</sup> October 2017:**

Thank you for consulting Sport England on the above planning application. The site is considered to constitute playing field, or land last used as playing field, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). As such Sport England is a statutory consultee.

*Summary:* Sport England submits a holding Objection as there is insufficient information to fully understand the proposals and the impacts on the existing playing field area including proposed mitigation measures.

Sport England has sought to consider the application in light of the National Planning Policy Framework (particularly Para. 74) and Sport England's Playing Fields Policy, 'A Sporting Future for the Playing Fields of England'

Sport England has supported the principle of a sustainable sports hub in Newark for a number of years and whilst we continue to support the development in principle there is a significant amount of information needed for us to fully understand the development, its potential benefits and the impacts of the proposals. We are aware that meetings have been held with other Sport England colleagues and some elements may have been discussed, but we need to assess the proposal, in its entirety in order to discharge our function as a statutory consultee.

The application involves a number of elements but fundamentally the proposal involves the redevelopment/replacement of an existing natural turf playing field area with built sports and recreational facilities. The mixture of both sports and recreational developments have the potential to deliver elements of the new Sport England Strategy. However, the application must show how the proposed sports facilities and particularly how the non-sport elements which results the loss of playing field area, are mitigated in accordance with our policy and Para74 of NPPF, the

submitted information does not fully address this concern. In addition the proposal incorporates land which is currently unused into the proposed, sports village area.

Having regard to the above there is insufficient information to enable Sport England to adequately assess the proposal or to make a substantive response. Please therefore could the following information be provided as soon as possible, as a general overview it is not clear, why the specific facilities are being developed, what are they intended to replace and what is the intention for the different built facilities in terms of use? The demand/needs must be identified and evidenced for each of the proposed facilities.

- The report makes reference to the existing and emerging Playing Pitch Strategy but not the review of the playing pitch strategy (PPS) If the review is complete this should be incorporated.
- Plans of existing sports facilities and pitch layouts with information of current use should be submitted with an explanation how they are replaced or not needed as confirmed by evidence.
- At the pre-application stage a reference was made to a 'Athletics and Sports Areas Document' this does not appear to have been included – is this document available?
- The application does not include a full supporting statement of losses and additions of playing field area including relocation (there is a very limited reference to cricket pitch replacement but no detail of interim arrangements, if the replacement cricket facility would not be available until after the current facility is lost). In addition the possible need to temporarily relocate football activities if applicable, is not included
- There is no indication of phasing and how the different phases would require interim arrangements as detailed above.
- There is no specific reference to the additional area, identified as the cycle track area – how does the additional area for sport mitigate against the loss of other areas?
- Can the Elm Avenue Stadium site be referenced and how the sports village would mitigate for that loss be included at this stage?
- A Statement as to complementary nature of the proposal with regard to the adjacent sports centre would be needed to understand the relationship and to ensure that there is no duplication or competition.
- Para 6.3 lists a number of sports which it is suggested would be played on the relevant surfaces. For example, a number of sports are listed for the community 3G Artificial Grass Pitch, but for example a 3G facility is not suitable for Hockey (see below for rugby). It is unclear what the reference to a particular class covers.
- Details of how the community changing facilities will work for other sports facilities e.g. How do the changing facilities support team sports on other pitches?
- Details of how the additional cultural and recreational facilities support the overall sustainability and development of sport at the site and help to mitigate for the loss of playing field area.

As part of the assessment of the application Sport England has consulted the relevant National Governing Bodies for Sport (NGBs) We are aware that a number of meetings have been held between the applicant and the NGBs to understand the proposals and to provide further comments on the design of each of the facilities. It remains a concern that a number of fundamental facility issues and design issues have not yet been resolved. A business case for each sport as still as I understand not available, this will be important for those NGBs who may be asked to contribute financially to the proposal.

The Football Foundation and Nottinghamshire FA require more information to review this proposal fully:- advising,

1. Newark YMCA plans to approach the PL/FA:FF for grant aid and the Football Foundation and Nottinghamshire FA have been provided with a draft business plan for the football element of the operation. This plan has been challenged in relation to proven demand for the extent of 3G facilities and ability to meet income targets given the partner hire rates being indicatively set at 60% of standard rates. Partner clubs stated within the plan have yet to commit to the project in writing. Football Foundation and Nottinghamshire FA are to meet again with Newark YMCA's project team to review the projections and overall case. We also need to ensure that Newark and Sherwood District Council's updated PPS is used to support the proposal.
2. Football Foundation grant aid would be directed to the community 3G FTP and our established procurement framework would ensure that the design and specification meet requirements to achieve FIFA 1\*. Usage of this 3G FTP by other sports has not been determined.
3. Football Foundation grant support would also be used towards the cost of changing facilities, which would be located within a multi-purpose building. Detailed designs have not been prepared but the FF Technical Project Manager would liaise with the design team to ensure that sufficient numbers of team and officials changing rooms are incorporated. A ground floor plan previously provided by Newark YMCA (Drawing Ref:2242 (03) 048) allows for only two team changing rooms, which would be inadequate for the level of use being catered for.
4. I am unable to comment on the sustainability of the operation as a whole as the business plan provided to date relates to the football element of the site. In our discussions with Newark YMCA, we have advised that we need to understand how the site's multi-sport provision and use as a YMCA delivery base will dovetail and make the venture financially viable. British Cycling advise that, The Circuit would be considered suitable for informal and formal cycling activities at a community and club level and for both adult and junior/ youth age-group closed road circuit racing. The nearest similar facilities are in Leicester (37 miles) and Nottingham (28 miles). British Cycling is happy to assist the applicant develop their business plan and sport development plan for the facility. However there are a number of specific design issues which need to be addressed. With regard to Lighting design, Circuit width (BC have previously questioned the need to build a 6m wide carriageway as a 5m wide carriageway would allow for the same field size of riders in a British Cycling sanctioned race.) no details have been provided with regard to circuit construction.

The Rugby Football Union advise that the provision of rugby facilities on site is not clear;

1. The case for additional Rugby Union provision on this site does not exist due to the extent of the pitch provision at Newark RFC.
2. The AGP/3G is suggested to meet Rugby Union Class II – I do not recognise this classification? A 3G AGP would only be suitable for non-contact rugby training.
3. Changing rooms do not meet RFU Guidance, but recognise there is little mention of the provision for Rugby Union.

England Athletics and UK Athletics have some significant concerns with regard to the design of the athletics facility and the relationship to other facilities a full list can be provided but we are aware that meetings have been held with the applicants, which may have resolved the issues.

The proposed layout of the athletics facilities appears to be broadly compliant with IAAF guidance, but the main concern is the overall orientation of the track. To avoid the dazzling effect of the sun when it is low, the longitudinal axis of the track should lie along the north-south axis, whereas the Newark proposal shows the track orientated east-west, which would create problems for both athletes and officials, particularly as the sun sets. I am unaware of the strength and direction of local winds but these need to be considered too, as this could influence which side of the track is the best location for the home straight.

A couple of other design concerns that arise from this high level site layout document are the proximity of the trees to the home straight, which would require careful management to avoid early deterioration of the track due to leaves and other debris, and the proximity of the skatepark to the javelin and 100m sprint starts, which brings an increased risk of sudden noise distraction when athletes are concentrating.

England Netball have raised concerns with regard to the submitted details and the lack of information.

It is clear from the comments above that design and layout changes may be required which could result in significant changes to the layout and that additional information is required to understand how the proposals meet the requirements of our policy.

Sport England's interim position on this proposal is to submit a holding objection. However we will happily review our position following the receipt of all the further information requested above. As I am currently unable to make a substantive response, in accordance with the Order referred to above, the 21 days for formally responding to the consultation will not commence until I have received all the information requested above.

Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's holding objection, then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the Secretary of State, via the National Planning Casework Unit.

The submission of a holding objection on this application, in the context of the Town and Country Planning Act, cannot be taken as an indication of a future formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

I would be happy to discuss the requested information further with the applicant and/or the local planning authority if necessary.

*Further comments received 22<sup>nd</sup> November 2017:*

Thank you for re-consulting sport England with additional information following our initial holding objection dated 13th October. The submitted information includes amongst other information a Supporting Sports Statement which is intended to address the issues raised.

*Summary:* Sport England raises no objection to this application which is considered to meet exception E2, E4 and E5 of our adopted Playing Fields Policy, subject to conditions. In addition the application has been revised to reflect some of the issues raised by sport England and the National Governing Bodies for Sport (NGBs) with regard to the specific related issues. It is noted for

example that the changing arrangements have been revised as a result of comments previously raised.

In this regard, England Athletics (EA) have commented *'how do the applicants intend to segregate young athletes from adults using other facilities on site? EA accept that this is largely a management and programming issue, but it does rely on there being sufficient flexibility in the design of the changing spaces to achieve this.'*

This is an example of the remaining detailed/technical concerns raised by the NGBs either through Sport England or directly to the applicant. It is hoped that these technical issues/questions, programming and operational concerns which fall outside of the planning process will be resolved as part of continued dialogue between the council, NGBs and the YMCA in order to deliver a sustainable development which meets appropriate guidance. This will help in maintaining, as a minimum, participation in formal sports, provide access to new/improved or replacement formal sports facilities. As well as support our strategic aim to get more people more active and the applicants aim engage local communities in the 'healthy development of mind, body and spirit'.

The revised information includes a revised plan to develop the project on a phased basis. Sport England has no objection to the principle of a phased project. However we are aware that it is not possible to secure the completion of the whole project by the use of a planning condition. It is assumed therefore that the council will through a separate legal process seek to ensure that the project is completed in full. Notwithstanding the above, the phasing is intended to prioritise those elements which specifically relate to sports facilities which have been lost or would be lost at the site as a result of the development, particularly football and athletics which is supported.

Can I take this opportunity to raise a concern around the proposed provision of a 3.5m high fence either side of the northern pathway linking the 'sustrans' route to Elm Avenue. This would not appear to discourage rather than encourage the use of this route, whilst it is not necessarily a sports issue, it should be a route that is attractive and encourages use of it, having regard to encouraging active design and health and wellbeing.

The information requested in our previous comments was raised to aid Sport England understanding of three questions.

1. Does the proposal meet the requirements of NPPF para 74 and our policy
2. If not can conditions be used to ensure that the requirements of NPPF and our policy can be met.
3. If conditions cannot be used are the issues so fundamental to the development such that a further holding objection should be reiterated in order to give time to resolve those issues.

#### 1. Policy and NPPF

The proposal involves a number of aspects which have now been addressed in detail by the submitted Supporting Sports Statement.

- The cricket facilities located at the site are being replaced with support of the cricket club and the ECB at Kelham Road in a phased approach. This element meets the requirements of NPPF and exception E4 of our policy.
- The provision of additional land which is not part of the original playing field are (in two parcels) adds land to the village site and enables additional sport and active recreation facilities to be added without loss of the playing field area.

- The proposed development includes indoor/outdoor sports facilities of sufficient benefit to sport to outweigh the detriment caused by the loss of playing field. As detailed in the Supporting Sports statement, identified in the PPS and as required to meet identified sports development needs in Newark. The indoor/outdoor sports facilities of proposal therefore meets the requirements of exception E5
- That there is sufficient additional capacity and facilities on site to conclude that the provision is suitable and sufficient replacement for the loss of the Elm Street Stadium site (football) and the former Lily and Stone school site (subject to appropriate mitigation packages which support the development of sport in Newark). In addition the proposal would potentially support the development of the Magnus Academy site as a centre for hockey.
- Sport England considers that the changing rooms, car parking access tracks are considered to be ancillary to the development and delivery of sport at this site, meeting the requirements of Exception E2 of our policy.
- Sport England considers that the elements of the proposal which are not sport specific or related to active recreation, such as the proposed creche are considered to be mitigated by the additional capacity created and the incorporation of additional land which has not previously been used for sport.

## 2. Conditions

There are a number of elements which should in the opinion of sport England be controlled by condition. In addition:-

- The football foundation advise that the 3G football pitch and the community sports pitch if designed to be used for competitive football must meet, the following.

*Construction Quality* – Ensure the pitch is constructed to the FIFA Quality Concept for Football Turf – FIFA Quality (old FIFA 1\*) accreditation or equivalent International Match Standards (IMS) as a minimum and meets the recommend pitch size of (including run-offs)

*Testing* – That the 3G pitch is tested and subsequently FA registered on completion and then every three years for grassroots football. This will enable the 3G to be used for league matches and therefore help the 3G pitch to be used to its maximum potential by programming matches at peak times.

*Sinking fund* - Ensure that sinking funds (formed by periodically setting aside money over time ready for surface replacement when required – FA recommend £25k per annum (in today's market for a full size pitch, reduced for smaller pitches) are in place to maintain 3G pitch quality in the long term.

- England Athletics and British Cycling have raised a number of concerns which in the main relate to technical details apart from the issue around storage amount and location. This additional details are attached and have been sent to the applicant.
- Sport England would not wish to see any controls over the use of artificial sports lighting at the site noting that, the submitted noise assessment does not raise an issue around residential amenity adjacent to the site, clearly it is important to maximise the investment into the site.

Condition: Before the 3G AGP is brought into use, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. For Artificial Grass Pitches add measures to ensure the replacement of the Artificial Grass Pitch within a specified period. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the 3G AGP.

*Reason: To ensure that a new facility/ies is/are capable of being managed and maintained to deliver [a facility/facilities] which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport and to accord with Development Plan Policy \*\*.*

Condition: Before the commencement of the development a full detailed programme of the phases with anticipated timescales shall be submitted to and approved in writing by the LPA. .

*Reason: To ensure that the facilities phasing of the project is understood.*

Condition: Prior to the commencement of the development and agreed plan for storage for each sports element on site should be submitted to and approved in writing by the LPA. The development shall thereafter be implemented with the agreed storage arrangements in place before the beneficial use of each individual sports facility.

*Reason: In order to ensure that each individual sports facility has appropriately designed and located equipment storage facilities which helps the delivery of sport.*

If you wish to amend the wording or use another mechanism in lieu of the above condition(s), please discuss the details with the undersigned. Sport England does not object to amendments to its recommended conditions, provided they achieve the same outcome and it is consulted on any amendments.

3. There are no other issues currently identified which are so fundamental that sport England would wish to maintain an objection to the application, subject to the proposal being implemented as submitted but with such alterations which may be required to resolve outstanding technical and minor design details.

Given the above Sport England removes our previous holding objection. Sport England raises no objection to the application. We consider that the proposal subject to the conditions listed above meets the requirements of para 74 of NPPF and meets in part exceptions E2, E4 and E5 of our policy.

If this application is to be presented to a Planning Committee, Sport England would like to be notified in advance of the meeting date and the publication of any committee agendas and report(s). Sport England would also like to be notified of the outcome of the application through the receipt of a copy of the decision notice.

The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

## *England Athletics*

Thanks for the update. I have gone through mine and Michael's comments on the original design concept and am pleased to note that many have been addressed. However, there are still some that remain a concern or that need to be acknowledged as matters to be addressed in the detailed design phase.

Firstly, I have not been able to find a drawing or statement relating to floodlighting. I would like to be reassured that the design as submitted for planning will allow for floodlighting to the minimum standard for athletics i.e. 200 lux across the whole track and infield in accordance with SE's Artificial Sports Lighting Design Guidance Note.

Secondly, whilst most of the track design issues raised by Michael have been addressed, there is no indication of hard standing either side of the finish line for timekeepers and track judges. I appreciate this is 'just a bit of paving' but, given the tight confines of the site I wanted to make sure there was room for it, especially on the outside of the track where there are trees close by.

Thirdly, I remain concerned about storage. The proposed storage is further away from the track than is ideal, given the size and weight of some of the equipment, but this is accepted in light of the site constraints. However, whilst I cannot accurately scale from the PDF plan, the shared storage area 3.02 looks very narrow and too small for the amount of equipment that it will need to accommodate from athletics, let alone whoever we are expected to share with. The word 'shared' implies that it will be used by several other outdoor sports and I note it opens into the two activity spaces in the pavilion, so may be used for indoor sports equipment too. SE's own guidance quotes a minimum height of 4m for an athletics equipment store and suggests that at least 36.5m<sup>2</sup> of floor space is required just for the high jump and pole vault equipment without adding room for 90 hurdles, and racks for shot, discus, javelin and hammer. These latter items would also need to be secured if the store is shared, as they could pose a H&S risk to untrained and/or young people accessing the store.

Finally, on the subject of H&S I was not able to check safety margins on the PDF, so must assume that the correct margins have been achieved around the track, but reassurance to this effect would be welcome. Also, I am unclear from the various design options tabled for the changing rooms how they intend to segregate young athletes from adults using other facilities on site. I accept that this is largely a management and programming issue, but it does rely on there being sufficient flexibility in the design of the changing spaces to achieve this.

## *British Cycling*

My comments in relation to the cycling element are below. I accept some of these may not be as relevant to the planning application but think they need to be considered by the project team.

I would be happy to contact the YMCA directly but thought I would also share with you as I am leaving British Cycling at the end of the month. I have copied in my colleague, Neil Carmichael who will be able to assist after my departure.

- The information regarding cycling within the 'Supporting Sports Statement' document is limited. British Cycling has not seen any business plan/ sports development plan or proposed programme of use information for the facility. The Statement focusses on one regular user group - Newark Castle Cycling Club which I would expect will only use the facility for a handful of hours each week. It would be helpful to understand what other regular activities the circuit is intended to host. It would also be helpful to understand the proposed operating and management arrangements for the circuit and wider site.

- *‘Storage for cycling will be in the form of a 8’x20’ temporary container on the hardstanding to the south of the track’*
  - It would be helpful to understand how the proposed storage has been informed by the intended programme of use.
  - A container of this size would typically be able to accommodate up to c.34 individual ‘solo’ cycles on wall racking. Alternatively it could store c.8 solo cycles together with c.7 adapted bicycles (tandems, trikes or hand cycles).
  - The remote location and extent of the proposed storage suggests there may be limited opportunity for the individuals and wider community to hire bikes on a casual/ informal ‘pay & ride’ basis. Evidence suggests that not owning or having a suitable bike is a significant barrier to participation. & ride’ basis. Evidence suggests that not owning or having a suitable bike is a significant barrier to participation.
  - The location of the storage may be cumbersome for the operator to manage the distribution and collection of cycles. Ideally a permanent, secure and better located storage solution should be explored.
  
- *‘The top circle will have a cut through of maintained grassland for training purposes’* – this could have a number of implications the project team should consider including:
  - Additional maintenance (cleaning) of the circuit through use of the internal grassland.
  - The machinery used to maintain the grass – will the carriageway have a precast concrete edge restraint to prevent damage to the asphalt concrete edge as it is tracked-over? NB. no information has been provided on the circuit’s proposed construction.
  - We would normally expect formal drainage to the circuit - typically infiltration trenches or land drains located in the grass verge to the edge of the carriageway. Nb. No information has been provided on the proposed drainage strategy. Surface water drainage should follow the standard discharge hierarchy identified in CIRIA SuDS Manual 2015. The designer should consider potential damage to drainage as a result of over-tracking. The designer should consider the drainage requirements for the wider site, in particular to ensure surface water run-off from surrounding/ higher land is intercepted before it reaches the runoff areas and the circuit itself.
  
- The revised lighting design now appears to be in-line with British Cycling & Sport England design guidance for Cycle Circuits i.e. Class S1 lighting values for residential and subsidiary roads BS EN 13201-2 2003.& Sport England design guidance for Cycle Circuits i.e. Class S1 lighting values for residential and subsidiary roads BS EN 13201-2 2003.
  
- There appears to be 3 sets of double access gates to the Circuit. We would normally suggest normal (pedestrian/ rider) access onto the circuit is via a single gate (which will be easier to handle). It is usual practice for vehicular (double) gates to be padlocked closed during normal usage – these are mainly for maintenance and emergency access.
  
- Footpaths (SE corner) could be moved towards the cycle circuit (i.e. set against the circuit’s perimeter fencing) to double as areas for spectating.

**Sustrans** – No comments received.

**British Horse Society** - No comments received.

**NCC Highways Authority** – *Original comments received 21<sup>st</sup> November 2017 (albeit dated 13<sup>th</sup> October 2017)*

I refer to the revised Transport Assessment dated 5th October 2017.

Whilst the principle of the development is acceptable, the Transport Assessment has not demonstrated that the scheme will operate without detriment to highway safety and capacity. The following items should be addressed in order for this Authority to conclude its comments:

1. Section 2.4 'Walking' fails to mention the pelican crossing that is located on Bowbridge Road, near the junction with Carlton Road. Had a site visit been paid, this would have been seen close to the proposal site.
2. Para. 3.2.3 describes how the car park off Elm Avenue will serve staff only. It is important that concerns over the use of Elm Avenue and/or Bancroft Road by traffic wishing to access the site inappropriately are addressed. Further details are required, and should describe how car parking would be controlled for staff use only. Also, since the site is accessible from Elm Avenue and Bancroft Road this Authority will need some reassurance that users of the site will not park on these roads if that was more convenient than using the main visitor car park.
3. Para.3.3.5 identifies that the 'Reading Parking Standards' have been used to assess the level of parking required to serve the development. There are many other standards available. So, why has this one been chosen? Perhaps a trawl of various standards and a comparison would help in providing comfort that the standard applied is unlikely to lead to on-street parking. Even if the 'Reading' standards were to be revealed as the most appropriate, the use of 'Zone 3' standards (para. 3.3.6) is not defined.
4. Coach parking facilities should be quantified and identified on the scheme drawings.
5. Reassurance is also required that the road cycle circuit will not attract events whereby cyclists travelling some distance may arrive by car.
6. Para. 3.3.7 states that there is scope for sharing spaces with existing leisure centre users. This is left unexplained and unjustified.
7. Para.3.4.3. states that at full capacity there could be 1000 people on site. Assuming that the Travel Plan targets were to be reached (suggesting that 46% will be car drivers) this would suggest that 460 car spaces would be required. This is considerably more than the 280 combined spaces proposed (para. 3.3.3).
8. The TRICS data used to derive traffic generation should be submitted for checking. The fact that this data refers to a survey that is 13 years old does not inspire confidence in the figures. Alternative data perhaps should be sought, even if it were to mean carrying out a traffic count at an agreed similar & existing complex.
9. Notwithstanding the fact that the PICADY capacity calculations have been carried out on a 2011 version of the program, the geometric data has been incorrectly inputted and is therefore invalid.
10. Clarification is required of the source of the accident data, and the data should be submitted for checking. Use of 'Crashmap' data is not considered reliable.

11. Bridle way 49 crosses part of the site, but other than being shown on the Site Layout drawing, no mention has been made about liaison with the County Council's Countryside Access team with respect to its diversion; the process involved and potential risks/agreement.

Notwithstanding the above, the submitted Travel Plan has not yet been checked since some of the issues identified above may affect that document.

I await further clarity on the issues raised above.

*Additional comments received 22<sup>nd</sup> November 2017:*

Further to comments dated 13 October 2017, an emailed response dated 22<sup>nd</sup> November has been received from the applicant's agent. These comments fall short of satisfying the Highway Authority that all issues have been satisfactorily addressed. Most critically are those relating to car parking provision to ensure that local on-street parking as a result of the scheme does not occur, and; that the diversion of a public bridleway is confirmed as being acceptable in principle.

This Authority awaits further information. On the assumption that the requested revised traffic modelling and accident data does not reveal a highway capacity or safety problem (hopefully to be confirmed by the date of Committee) it is considered that the proposal may be approved providing sufficient safeguards are put in place. Therefore, the following conditions are suggested pending further information coming forward.

1. No development hereby approved shall commence until details of the staff car park served off Elm Avenue will be controlled and, if appropriate, enforced.

Reason: To prevent uncontrolled use that may lead to on-street parking to the detriment of the safety and amenity of local residents.

2. No development hereby approved shall commence until details to justify the level of parking provision has been submitted to and agreed in writing by the LPA, and if found to be necessary shall include details of additional/overspill parking not already shown on the approved drawings.

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.

3. No development hereby approved shall commence until details of coach parking facilities have been submitted to and agreed in writing by the LPA.

Reason: To ensure that adequate off-street provision is made to reduce the possibilities of the proposed development leading to coaches parking on-street.

4. The development will require the diversion of public bridleway BW49 and no part of the development hereby permitted or any temporary works or structures shall obstruct the public bridleway until approval has been secured and the diversion has been constructed in accordance with a detailed design and specification first submitted to and approved in writing by the Local Planning Authority.

Reason: To retain a safe and sustainable public right of way.

5. No part of the development hereby permitted shall be occupied until the diverted public bridleway BW49 has been surfaced and, where appropriate, regraded in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To promote sustainable travel.

6. 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. 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

Notes to Applicant:

The proposed development requires the diversion of a public right of way. The grant of planning permission for this development does not authorise the obstruction or the diversion of this public right of way and an unlawful obstruction to the right of way is a criminal offence and may result in the obstructing development being required to be removed. A separate application for an Order diverting the public right of way will be required. This is a separate legal process and the applicant will need to contact the following (please cite the application no.): Countryside Access Team, Nottinghamshire County Council, Trent Bridge House, Fox Road, West Bridgford, Nottingham, NG2 6BJ.

**NCC Rights of Way** – Thank you for your consultation on the above planning application. I have attached a copy of the working copy of the Definitive Map, indicating the recorded public rights of way across the proposed development site, for your reference.

The Design and Access Statement acknowledges the existence of Newark Bridleway 49 and proposes a diversion. However, the Rights of Way team would like the applicant to be advised as follows:

The design requires the legally recorded route of the bridleway to be diverted, this should be addressed under the relevant provisions within the Town and Country Planning Act 1990 for the diverting/stopping up of public rights of way affected by development. An application under this act should be made to the Newark and Sherwood District Council and is a separate application to the planning permission.

Until such a diversion is confirmed, then the bridleway should remain open, unobstructed and be kept on its legal alignment at all times. Vehicles should not be parked on the bridleway or materials unloaded or stored on the bridleway so as to obstruct the path.

The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting Nottinghamshire

County Councils Definitive Map Team. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route should be provided if possible.

The applicant proposes to construct an A frame and horse stile across the diverted bridleway. Structures cannot be constructed on the line of a public right of way without the prior authorisation of the Rights of Way Team. It should be noted that structures can only be authorised under certain criteria, primarily for livestock control and such permission is not guaranteed.

The legal minimum width for a public bridleway is 3m. The Rights of Way Team are happy to provide advice or a specification for appropriate construction if required.

The Rights of Way Team has no objection to the proposed diversion of Newark Bridleway 49, which maintains an acceptable link to the Sustrans route.

**Ramblers Association** - We have no intrinsic objection to the development of this site as a "sports hub" but are very aware that it is crossed by Newark Bridleway 49.

It is very important that unfettered pedestrian access should continue between the end of Elm Avenue and the SusTrans route.

**NCC Flood Team** – No objections subject to the following:

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.
5. All surface water proposals should comply with all relevant national standards and guidelines.

**Environment Agency** – The site is of low environmental risk and we have no detailed comments to make.

**Newark Business Club** – Support the proposal.

**Representations have been received from 9 local residents/interested parties (including Newark Sports Association) which can be summarised as follows:**

#### *Security Issues*

- Concern over security at night to the entrances of the walkway
- There are ongoing issues with local youths congregating around the new proposed entrance and creating disturbance
- The relocated bridleway would be closer to the residential area
- CCTV could be erected at the top of Elm Avenue
- If the fencing is solid it will make the path less safe in the evening

- The security fence should be moved towards the vehicular gateway to the social club as it will lead to increased footfall outside 49 & 51 Elm Avenue

#### *Parking / Highway Issues*

- The D&AS states that there will be an additional 42 car parking spaces allocated for shared use with the RHP sports club but also states there will be no public access from Elm Avenue
- If there is public access from Elm Avenue the parking will overspill and cause parking and traffic problems
- The cycle track entrance would be adjacent to residential driveways which would be a blind bend and dangerous

#### *Amenity Issues*

- Light pollution from flood lights
- Noise pollution
- There is little clarification of the exact position of the revised footpath and who will be responsible or the details of fencing
- There is not fencing plan or profile views, 3.5m seems excessive

#### *Ecology Issues*

- The field is home to rabbits, foxes, frogs, snakes and birds and bats

#### *Sporting Offer*

- Cycling
  - There should be a timetable for delivery and confirmation of usage costs
  - The track infill needs to be flat grassed area to allow all year coaching
  - There should be a direct line of sight from any point of the track for child safeguarding
  - Equipment needs to be stored on site
  - Not referenced in D&AS
- Central Building
  - Seems to have no relationship with the other facilities
  - Sports pavilions are not just changing rooms, they are meeting areas
  - The changing relates to just football
- Tennis
  - 3 courts are not sufficient to facilities the relocation of Newark Tennis Club
  - No changing facilities
- There should be an overall phasing
- There is no explanation of what impact the new facility will have on the Magnus Sports Centre which is less than 1km

#### *Character Issues*

- The Cemetery is an important local monument

## Comments of the Business Manager

### Principle of Development

The Spatial Strategy of the Core Strategy identifies the Newark Urban Area as the sub-regional focus intended to be the main location for new services and facilities within the District. Moreover, Policy DM1 facilitates development within the Urban Boundary for leisure development 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.

In the context of the nature of the proposal, for an additional community and leisure facility, Spatial Policy 8 is also deemed of relevance. This states that the provision of new and enhanced community and leisure facilities will be encouraged, particularly where they meet the identified needs of communities, both within the district and beyond. It is noted that the Core Strategy is currently advancing through Plan Review, but this stance is carried by the emerging document. This aligns with the stance of the NPPF which confirms at para. 73 that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

I therefore find the principle of development acceptable subject to an assessment of the specific implications of the proposal.

### Impact on Sporting Provision

As is described by the description of the proposal above, the application seeks for numerous sporting and leisure uses through the comprehensive development of the site. It is noted that the site as existing already constitutes protected open space however it is equally noted that this space does not appear to be in use to its full capacity. Paragraph 74 of the NPPF is relevant to the current determination:

*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*

This stance is also carried by Spatial Policy 8. The D&AS submitted to accompany the application includes a comprehensive analysis of the sports participation in the local context identifying a number of general development opportunities arising from the application. These include, but are not limited to, *'the creation of a destination venue for high quality sports, leisure and recreational activity'; and 'increased sports, leisure and recreational opportunities for the local and wider community.'* The overall implication of the application submission is that the development will lead to an enhanced sporting offer rather than resulting in a loss which would cause conflict with para. 74 above and Spatial Policy 8.

Despite this, it is noted that the original comments of Sport England (a statutory consultee) submitted a holding objection on the basis that the application contained insufficient information to fully understand the proposals and thus their impacts on the existing playing field. The comments make detailed requests for further information and evidence for each of the proposed facilities. This incorporates comments of other parties including the Football Foundation; Nottinghamshire FA; British Cycling; Rugby Football Union; England Athletics; UK Athletics and England Netball.

Following from the original comments it is understood that the applicant has been in direct engagement with Sport England through further meetings and discussions. The outcome of these discussions has been amalgamated through the submission of a further supporting statement and associated documents (listed within the statement) throughout the life of the application and an additional round of consultation has taken place. This document takes a measured approach to address each of the issues raised by the original comments of Sport England through the provision of a detailed response to each matter.

One of the key issues raised through the original comments of Sport England was the perception that the applicant had failed to demonstrate that the loss of playing field area would be mitigated in accordance with para. 74 of the NPPF. The response to this matter is as follows:

*As the 'Elm Avenue current land use plan' shows, the original sporting provision included 2 x 11 aside football pitches, one x 12 wicket cricket pitch; two x bowls greens and 10 x tennis courts (4 hard courts and 6 grass). In terms of deterioration of the playing pitches both tennis and bowls participation ended approximately 10 years ago due to a decline in membership and the costs of maintenance as support from the company was reduced.*

*In terms of the player base, some tennis club members joined other local clubs as did the bowls club and although it still exists today RHP Bowls Club is likely to fold if its membership as volunteer base cannot be increased. RHP bowls club is currently hosted by Newark Northern Bowls Club at its Sherwood Avenue Green. The Cricket Club merged with Newark Cricket Club and only used the pitch as a second wicket when needed and played its last match at the site at the end of the 2016 season. The District Council is currently working with the club and the ECB to deliver a replacement pitch (Phase1) on land adjacent to the Club's Kelham Road Ground and it is expected that work will start on the second pitch in May 2018. Phase 2 includes a new changing pavilion and Phase 3 is refurbishment of the existing Pavilion which will follow as soon as finances are secured and ECB has expressed an interest in supporting Phase 2. This new sports land is approx. 2.719 Ha and should be included as net gain as its original use prior to be granted planning approval as a sports/cricket pitch was agricultural.*

It is noted that the above justification takes account of land outside of the red line for the current application to which the application does not have control. Nevertheless, officers consider that it is reasonable for the current determination to take account of other aspirations in Newark sporting provision noting them to be of direct relevance to the current proposals.

The Supplementary Statement received also includes further justification (partially through the Playing Pitch Strategy dated 2017) as to why the facilities are being developed; what they are intended to replace and what the intention is for the different built facilities in terms of use. This can be briefly summarised as follows:

- **Athletics** – Newark Athletics Club is currently based at Newark Academy but part of the approval to rebuild the school included monies to facilitate re-provision of facilities.

- **Football** – Collingham FC have taken the decision to terminate the ground arrangement with Newark Town FC at the end of the 2017/18 season. Access to the Elm Avenue pitch has been withdrawn.
- **Cycling** – Newark Castle Cycling Club have never had a track facility to use as a club base. Cycling is experiencing a period of significant growth and popularity.
- **Tennis** – Newark Tennis Club is restricted from pursuing investment to upgrade their current facilities at the former Lilley and Stone school.
- **Hockey** – Newark Hockey Club is restricted in growth due to pressure for football usage on the Magnus pitch.

There is further evidence within the Statement of the market for the proposed services with the overall stance that there is a strong support from both political spheres as well as local residents for the creation of a sports and leisure hub. The facility has been incorporated into strategic planning documents since the pre-2009 Growth Point application and subsequent designation.

In respect to the issue that the application does not include an assessment of losses and additions, the following table is provided:

Site	Size (Ha)	+/-	Rolling Total (ha)
Tarmac 1	2.419	+	2.419
Tarmac 2	0.39	+	2.809
Kelham Road	2.705	+	5.514
<b>Total</b>			5.514
Stadium	1.271	-	4.243
Lilley & Stone (includes netball courts and AGP)	2.44	-	1.803
Newark Tennis Club (NCC)	0.803	-	1
<b>Net Gain</b>			1

The additional documentation received during the life of the application also incorporates a suite of Phasing Plans and confirms that a full programme of phases is currently under development which will set out anticipated timescales.

Sport England has comprehensively reviewed the revised documentation with their revised comments listed in full above. It is key for Members to note that, through the consideration of the additional Supporting Statement, Sport England have removed their original holding objection. The response is structured in a way which reverts back to the original concerns raised before discussing how the additional Supporting Statement has addressed these.

In respect to Sport England Policies and the requirements of the NPPF, it is now acknowledged that the proposed development includes sporting facilities of sufficient benefit to sport to outweigh the detriment caused by the loss of playing fields. It is equally accepted that the non-sport specific uses proposed (such as the crèche) are mitigated by the additional capacity created including through the incorporation of additional land (the former Tarmac Land) which has not previously been used for sport.

The revised comments provide detailed comments on outstanding technical concerns raised by National Governing Bodies for Sport (NGBs) such as the segregation of the users of the proposed facilities. Nevertheless it is accepted that these matters fall outside of the planning remit and relate to programming and operational concerns which can be resolved through a continued dialogue between the applicants and the relevant parties.

The inclusion of phasing plans is accepted in principle by Sport England and it is acknowledged that it would prioritise the elements which specifically relate to sports facilities which have been lost or would be lost as a result of the development. Given that the early delivery of these uses is deemed as a direct benefit to the scheme officers consider it reasonable and necessary to impose a Phasing condition to ensure that the development is delivered as per the intentions of the Phasing Plans submitted. If this were to be the case, i.e. as long as Phase 1 comes forward first which addresses the facilities to be lost, officers do not consider that the suggestion of a legal process to seek full project completion is necessary.

The revised comments of Sport England suggest a number of conditions be imposed on the proposal should permission be forthcoming. Some of these relate to the construction quality of the proposed pitches which would be appropriately dealt with through a condition requesting further details of hard landscaping within the site. Another relates to the need for storage facilities for each sporting elements. The wording of these conditions has been discussed directly with Sport England to ensure CIL compliance. Subject to the imposition of these conditions the policy is now considered to represent a proposal which meets the aspirations of para. 74 of the NPPF as well as the provisions of SP8 and the relevant Sport England policies. Overall officers consider that the benefits of the scheme in terms of delivering an enhanced and comprehensive sporting and leisure offer within the town are considered significant and should be given substantial weight in the overall balance of the proposal.

### Impact on Ecology

As is identified through the site description, part of the site has been designated as being of local interest in nature conservation (SINC). SINC are local level designations identified for the valuable contribution they provide to the District in terms of ecological asset. These sites are in receipt of planning policy protection both at a national and local level. Specifically in regard to the latter Core Policy 12 of the Core Strategy and Policy DM7 of the Allocations and Development Management DPD (ADMDDP) outline the importance of the protection and enhancement of the area's biodiversity and open spaces. The protection of individual sites is vital as part of the preservation of the overall 'Green Infrastructure' network of green spaces, landscapes and natural elements that intersperse and connect the District's settlements and surrounding areas. Policy DM7 explicitly states that on sites of local importance such as this one, planning permission will only be granted where it can be demonstrated that the need for the development outweighs the need to safeguard the nature conservation value of the site.

The application has been accompanied by an Ecological Appraisal undertaken by fpcr and dated September 2017. The report acknowledged the local designation within the site but goes on to state that this represents a sub-optimal and deteriorating example of the type of grassland that the site is designated for. 4 other local interest sites are identified within 500m of the site. Surveys were also undertaken for protected species such as bats and birds.

In respect of the targeted botanical survey of the LWS grassland which was undertaken in August 2017, it is stated that only three of the Nottinghamshire's SINC characteristic species for acid

grassland and 12 neutral grassland indicator species were identified. Two other species were recorded from earlier surveys in 2015 but these were no longer present. On this basis, the survey concludes that the characteristic species recorded falls short of the 6 species required for acid grassland and 14 species for neutral grassland. Ultimately it is stated that, *'if left unmanaged this habitat would in time be lost from the site.'*

It is acknowledged by the survey that the original proposal would lead to an overall loss of approximately 0.4ha of notable grassland. It is contended that the grassland areas to be created will be of greater value than those currently present and that appropriate management will ensure the long term presence and value of the retained (0.5ha) and created (1.1ha) habitat. Whilst the benefits of creating enhanced habitats is recognized, officers shared the concerns of NWT (listed in full above) in respect to the level of mitigation offered given that there would be an overall loss in habitat. This was raised as a concern with the applicant during the life of the application and has been addressed through meetings and the submission of a further ecological statement which has been subject to further consultation.

The revised statement provides a summary of the key aspects of the ecological strategy confirming that alterations to the cycle track and associated run off area, skate park and athletics position have allowed greater retention of existing notable grassland, as well as further opportunities for the creation of new areas of acidic grassland. These alterations now allow for the provision of 2.138ha of acid / notable grassland. This represents a slight gain over the existing of 0.138ha. Further ecological enhancements such as bat boxes and the creation of log piles are incorporated into the revised proposals design.

It is stated that the YMCA are willing to commit to offsite contributions in the form of improvements for grassland and associated areas surrounding Balderton Lake. Whilst noted, officers do not consider that this would be reasonably necessary to allow for the grant of planning permission given that the revised scheme now allows for a gain to acid / notable grassland habitat. It remains within the gift of the applicant to pursue these contributions outside of the planning process but for clarity the current application would not secure these contributions. This matter has been discussed with NWT noting their support for such a contribution and the following comment received:

*With regards to the off-site contribution, we are of the opinion that this would form part of the overall package of mitigation and compensation relating to the development bearing in mind loss of areas of LWS and that there is no guarantee that the newly created grassland areas will be successful and if they are, they will take time to establish. The offsite grassland enhancement work would provide compensation during the establishment period. If you feel that this would not be possible to secure I will be guided by you.*

Although officers accept that there would be an establishment stage, in the long term the ecological impacts would be appropriately mitigated. On this basis the view of officers has not changed and the current proposal does not seek to secure off site ecological contributions.

Revised comments have been received from NWT and are included in full above. The following comments are deemed particularly relevant:

*NWT had a positive meeting with the applicant and the result of this is that the YMCA have made a number of revisions and improvements to the proposal which we are satisfied will adequately mitigate and compensate for the impacts on the LWS. We feel that the revised proposals will also*

*satisfy the requirements as set out in NPPF, Paragraph 118, as well as being in alignment with Newark & Sherwood District Council's Core Strategy.*

The comments acknowledge that the revised proposals allow for a slight gain of acid / notable grassland habitat and demonstrate an overall positive response to the revisions made. On this basis the revised scheme is considered to represent a potential betterment in ecological respects and thus the ecological implications of the proposal can be afforded positive weight in the overall planning balance.

In respect to impacts on protected species, it is recognized that the proposals include floodlighting for the various pitches and tracks across the site. This has the potential to affect bat activities around the site. Whilst it is stated that Common Pipistrelle (the species which dominates records around the site) are known to be more tolerant of light, there were also species recorded along the Sustrans route which are less tolerant. To mitigate the impacts of the flood lighting, the ecological survey suggests the control of timing to illumination to ensure that the lights across the site will be turned off at 10pm all year round. NWT accept this approach, as well as a number of other further enhancements suggested which could be secured by appropriately worded conditions. On the basis of such conditions, I consider that the applicant has sufficiently addressed the original ecological concerns such that the proposal now accords with Core Policy 12 and Policy DM7.

#### Impact on Amenity

Notwithstanding the context of the site surroundings in terms of the adjacent leisure centre which this proposal would inevitably complement, there are also surrounding land uses which could be detrimentally affected in amenity terms. Notably the neighbouring residential development which shares the northern boundary of the site. Policy DM5 is clear that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity.

I note the layout of the development in that the building proposed is some distance from the residential neighbours and therefore the potential for impacts such as overbearing or loss of light will be significantly reduced. Moreover, the landscaping scheme demonstrates that there would be additional landscaping to the northern boundary of the site. However, there are still elements of the proposal which may affect amenity in terms of additional noise or disruption. Understandably these have been raised as concerns through the consultation process with neighbouring parties.

As is detailed through the D&AS the applicant has taken the opportunity to undertake consultation exercises with the community prior to the submission of the application. In addition to this, the application submission includes a Noise Report undertaken by Hepworth Acoustics and dated September 2017.

The dominant noise source at recorded locations was distance road traffic. Other sources included children playing football in the early evening and reversing sirens and loading trucks from the industrial site to the south. The Noise Assessment confirms that there are no specific British Standards or other guidance documents that provide noise criteria for the control of noise impact from developments such as that proposed. The author has however confirmed an experience of carrying out noise assessments in connection with similar developments. Overall it is concluded that the proposed activity on site will have a very similar noise character to the existing noise and will generally occur at a greater distance from dwellings than the existing activity. It is therefore

considered that there is unlikely to be any significant noise impact from the proposed activities. The methodology and conclusions of the assessment have been reviewed by colleagues in Environmental Health and found to be acceptable subject to the inclusion of a condition in respect of controlling the combined level of noise from any plant.

Another concern raised through the consultation process is in relation to the security of neighbouring properties. Policy DM5 states that the potential for the creation or exacerbation of crime, disorder or antisocial behavior should be taken into account in formulating development proposals. The proposal incorporates fencing including a 3.5m high security fence adjacent to the southern side of the public footpath to be diverted, and around some of the boundaries of the site; elevational details of which have been submitted during the life of the application. The revised fencing plan demonstrates that the fence along the rear boundaries of the properties would be retained as existing.

The D&AS confirms that security is a key priority to the proposal both in acknowledgement of the facilities themselves but also the end users which will include children. As such access to the site is only available via the main reception area so that visitor flows can be controlled. It is confirmed that, as well as the 'anti-climb' perimeter fence, there will also be CCTV monitoring around the perimeter with further options for after-hours security currently being explored. I consider that these measures would be proportionate to the end use of the development and may in some respects aid in alleviating existing security issues experienced (i.e. the presence of security cameras may act as a natural deterrent to anti-social behavior).

It is noted the comments of Environmental Health make reference to the lighting plan being difficult to make out and suggests that a condition seeking further details may be beneficial. Officers have been in further discussions with colleagues in Environmental Health in order to ascertain what additional details would be required through condition. In principle it is noted that the purposes of the lighting is to allow for the efficient use of the proposed facilities and therefore the lighting scheme does not direct luminance outwardly from the site. Moreover, the need to control lighting for the purposes of ecology will mean that the site is not illuminated between the hours of 10pm and 7am. I consider that this condition will also achieve the protection of residential amenity through mitigating the potential for detrimental impacts such as light glare. However, I also consider it reasonable for completeness for the additional condition suggested by Environmental Health colleagues to also be imposed.

On the basis of the above, I have identified no grounds to resist the application on detrimental amenity impacts and as such the proposal is compliant with the relevant requirements of Policy DM5.

#### Impact on Highways including Parking Provision

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

The proposed development would be accessed from the existing access from Bowbridge Road which already serves the Leisure Centre and is intended in the future to also serve the near completed Extra Care Unit and the residential development envisaged by the remainder of the site allocation.

I appreciate the confusion that has arisen during the original period of consultation in respect to the parking provision allocated for the development and whether or not the site could be accessed via Elm Avenue to the north of the site. As a consequence of the discrepancies within the original application submission documents, further revisions of the Transport Assessment and Travel Plan have been submitted during the life of the application. The revised document confirms that the access to the car park served by Elm Avenue will not be for general public use but will be available for staff parking (41 spaces).

The proposal will include the parking provision of 108 spaces (149 if staff parking is included). The total combined parking for both the Leisure Centre and the proposed Sports and Community Village would therefore be 280 public spaces. The exact guidelines for parking provision for a mixed use sports central are not incorporated within the Nottinghamshire car parking guidance. On this basis a similar reference has been drawn from a supplementary planning document for Reading Borough Council. Consideration has also been given to facilities for cycle parking which is considered particularly appropriate to the current application given the proximity to the Sustrans route.

The Transport Assessment and Travel Plan have been assessed by colleagues at NCC Highways with their comments incorporated in full above. It is noted that the original comments raised a number of concerns to which the applicant has been in negotiations on through the provision of a response to each point in correspondence received 22<sup>nd</sup> November 2017. The following summarises the responses in relation to the key matters initially raised by NCC Highways:

#### *Parking on Elm Avenue*

The staff parking from Elm Avenue will be secured by a 2m fence with an access gate and security measures such as a key fob. The wider site is not directly accessible from Elm Avenue / Bancroft Road (except for emergency vehicles and staff through the car park) such that visitors will only be able to access the site through the main building. The proposed visitor car park will therefore be a more convenient and desirable entrance. The YMCA are prepared to further enforce the matter if it transpires to be necessary.

#### *Parking Capacity*

Discussions are ongoing in relation to the extension of the current Leisure Centre parking provision (for the avoidance of doubt this does not form part of the current application). The aim is to have this car park extension operational by Phase 1 of the current proposal and early feasibility drawings have indicated an increased capacity in the region of 68 additional spaces.

Colleagues at County Council have assessed the revised detail and provided further comment as listed in full in the above consultation section. Members will note the stance of the latest comments which strongly suggest that there remains a need for further works and investigations in respect of highways matters. However, the Highways Authority accept the potential acceptability of the proposal subject to the outcome of such investigations which are suggested to be agreed through condition. These conditions have been incorporated in the recommendation below albeit the wording of some has been slightly modified to ensure their long term compliance and implementation. Officers appreciate that the comments give a degree of uncertainty at the current time but consider that on balance the applicant has provided sufficient information to reach a view that the development can be considered acceptable in highway safety terms. If any

additional details are provided following agenda print then these will be reported to Members as a late item.

### Impact on Public Right of Way

It is an identified constraint that there is an existing public right of way which crosses the site and which would warrant diversion in order to facilitate the development. The diverted footpath would be towards the northern boundary of the site and would still connect Elm Avenue with the Sustrans route albeit it a more northerly position. Owing to being more direct, the route would be slightly shorter than the current path which crosses the site.

Consultation responses have been received by the County Council Rights of Way Team and the matter has been raised as a potential issue by NCC Highways. The applicant has provided further response in the additional details received 22<sup>nd</sup> November 2017:

*The diversion on the attached plan (and adopted in the present scheme) has been approved by Newark Town Council, The YMCA & Countryside Access team. The next stage of the process is for NSDC to raise an Order under s257 following planning approval which will start the legal process of diversion.*

It is noted that the Ramblers association do not object to the diversion of the footpath in principle. The issue of the footpath has also been raised through other consultation comments including the revised comments of Sport England specifically in reference to the originally proposed 3.5m high fencing either side of the footpath. On this basis officers have sought confirmation from the agent as to the rationale behind the proposed height of the fence. It has been stated that the applicant proposed the 3.5m height on the basis of the added security it will offer specifically in acknowledgement of the sensitivity of some of the YMCA programmes in terms of children and vulnerable adults. Whilst this justification is considered appropriate and proportionate to the end use of the facilities, officers appreciate that it could have a detrimental impact on the desirability of using the footpath. On this basis officers have been in negotiations with the applicant and a revised fencing plan has been submitted which demonstrates a reduced height of 2m along the northern boundary of the footpath. The southern boundary would retain the originally proposed height of 3.5m (again on the basis of security concerns) but officers consider that the revised scheme represents a betterment which will allow the diverted footpath to remain a desirable route through the site.

The block plan demonstrates that the diverted footpath can achieve the intentions of connectivity secured by the current footpath and as confirmed by NCC Rights of Way maintains an acceptable link to the Sustrans Route. Subject to a suitably worded condition which requires the diversion to take place prior to the development which would affect the existing footpath, I see no reason to resist the application on the basis of a detrimental impact to the longevity of use of the footpath.

### Impact on Character including Heritage Assets

Policy CP9 identifies that the District Council will expect new development to be of a high standard of sustainable design that, amongst other things, demonstrates an effective and efficient use of land that where appropriate promotes the re use of previously developed land and optimises site potential at a level suitable to the local character of the area.

Policy DM5 of the Allocations and Development Management DPD considers the matter of design. Criterion 4 of this policy outlines that the character and built form of new proposals should reflect the surrounding area in terms of scale, form, mass, layout, design, materials, and detailing.

A number of the proposed uses, by their very nature, will have a relatively low impact on the character of the site on the basis that they are low lying sport pitches. There are however elements which would increase the prominence such as the skate park and the perimeter fencing at 3.5m in height. Notwithstanding this, there is no doubt that the most notable element of the proposal in terms of character impacts would be the detached building along the western boundary of the site.

The scale of the proposed building is referenced by the description of the proposal detailed above. Whilst the building footprint would occupy a relatively minor proportion of the site, the maximum height of the building, at over 13m, is fully acknowledged as being substantial. However, it should be stated that this is a small element of the building with the designated purpose of housing the proposed indoor climbing wall and the majority of the building will be some 5m lower delivered through a predominant flat roof design. The D&AS details the rationale behind the building design in line with ensuring the efficient and effective movement of the differing uses within the building. The level of justification and detail is considered proportionate to the end uses proposed.

A key consideration of Policy DM5 is that proposals should reflect local distinctiveness thus directing the decision maker to take account of the existing site surroundings. In this respect, it is notable to reference the recent developments which have occurred surrounding the site. In particular, the operating Leisure Centre and the near completed Extra Care Unit (both positioned to the south west of the proposed building. It is considered that the proposed building would display a similar prominence and design to these two buildings which would ultimately lead to the visual interpretation of a comprehensive mixed use site. The positioning of the proposed building directly adjacent to the Leisure Centre is not only considered beneficial in respect of usability, but also in respect of mitigating the character impacts of the proposal. As is demonstrated by the submitted plans to support the application, there would be numerous vantage points where the proposed building would be read in character terms with the backdrop of the built form of the Leisure Centre. Subject to conditions to agree the final material palette of the building to ensure that this assimilates with the surroundings, I have identified no detrimental character impacts arising from the proposal.

To go back to the previous elements referenced such as the skate park and the security fencing, these have been specifically considered in the context of the nearby conservation area boundary. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Policy DM9 reminds us that proposals should be compatible with the fabric of historic buildings. Key issues to consider in proposals for additions to heritage assets, including new development which has the potential to affect the setting of designated conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The proposal has been assessed by colleagues in Conservation with comments listed in full in the consultation section above. Of particular relevance is the following comment: *'The Cemetery is well-screened on its southern boundary by large mature trees, and the landscape proposals suggest that screening will be reinforced on the northern boundary of the proposal site.'* I would

concur with this assessment and find the development to be acceptable in respect to any potential impacts to the setting of the conservation area.

Notwithstanding this, the Conservation Officer has raised concerns regarding the archaeological potential of the site and recommended that a desk-based archeological report should be submitted to support the development. This has been requested and received during the life of the application. Although it is conceded that the archeological potential is low to medium, the report does recommend some level of evaluation or mitigated before or during development. The Conservation Officer has reviewed this document in full and confirmed that matters of archeology could be appropriately dealt with through condition.

### Other Impacts

The application has been accompanied by a Flood Risk Assessment owing to the site area. This confirms that the site is located within Flood Zone 1 with a low probability of flooding. It goes on to confirm that proposed additional surface water arrangements will be finalized with the detailed design in discussion with the LPA and NCC Flood as the Lead Local Flood Authority. Noting the absence of objection from relevant consultees I am satisfied with this assessment subject to a condition in respect of surface water drainage.

The D&AS Statement confirms that, if approved, the proposal would amount to the creation of over 80 locally based jobs. In line with Core Policy 6 which offers support for a diverse range of employment opportunities, this is considered as a significant benefit of the proposals which weighs positively in the overall balance of the proposal.

It is noted that the consultation section of the D&AS references discussions regarding boating and kayaking of the nearby Balderton lake (which is notably recognized as an important ecological habitat). To confirm, no works to the Lake or boating provision is included within the current application and thus does not form part of the current assessment. Any applications for further development in respect of the lake would need to be subject to a separate planning application which would then be assessed on its own merits.

### Overall Balance and Conclusions

The proposal relates to the delivery of a comprehensive sporting and leisure offer for the Newark community. The provision of additional facilities of this nature is supported in principle.

It is noted that the scale of the proposal has the potential to impose a number of impacts which have been carefully considered in the above appraisal. These include, but are not limited to, the scale of the building; the ecological impacts arising both through the change in site habitat as well as the impacts of the usage itself (e.g. additional lighting); impacts on neighbouring amenity including through security intentions; impacts on the highways network; and perhaps most principally impacts to the sporting offer of the town.

The applicant has worked proactively with both the District Council and relevant consultees throughout the life of the application in order to address any concerns that have arisen. The resolution of original objections is testament to these efforts and allows officers to make a positive recommendation subject to the suite of conditions as outlined below.

## **RECOMMENDATION**

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

### 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 shall be implemented in accordance with the phasing scheme shown on drawing no. Revised Site Phase 3 – 2242 (03) 052 Rev. A received 10<sup>th</sup> November 2017 unless otherwise agreed in writing through a non-material amendment. Prior to the commencement of each Phase, a full detailed programme including anticipated timeframes should be submitted to and approved in writing by the LPA. The agreed programme shall thereafter be implemented in accordance with the approved details unless otherwise agreed in writing with the LPA. For the avoidance of doubt the car parking provision hereby approved within Phase 1 should be completed and available for use prior to the commencement of Phase 2.

Reason: In order for the development to be delivered in a satisfactory manner in the interests of ensuring that there is adequate parking provision available for the intended end uses and that the sporting offer is delivered in a way which addresses any potential losses of alternative provision.

03

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

- Revised Landscape Masterplan – NO455 08 001 Rev. B
- Revised Site Layout Plan – 10976 (SK) 2041 Rev F
- Proposed Fencing– 10976 (SK) 2045 Rev. D
- Revised Site Phase 1 – 2242 (03) 050 Rev. A
- Revised Site Phase 2 – 2242 (03) 051 Rev. A
- Revised Site Phase 3 – 2242 (03) 052 Rev. A
- Revised Ground Floor Plan – 2242 (08) 009 Rev. C
- First Floor Plan – 2242 (08) 006 Rev. A
- Roof Plan – 2242 (08) 007 Rev. A
- Revised Elevations – 2242 (08) 009 Rev. B
- Horizontal Illuminance Levels - UKS11521 – 8A

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.

04

No development shall take place in respect to Phase 2 until details and samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Facing Materials

Bricks

Roofing Tiles

Reason: In the interests of visual amenity

05

Within three months of the commencement of the development hereby permitted, details of the boundary treatments shown on the approved plans (Proposed Fencing– 10976 (SK) 2045 Rev. D shall be submitted to and approved in writing by the LPA. The agreed details shall be implemented on site within 6 months of the commencement of the development and shall then be retained in full for the operational lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

06

No development (pursuant to Condition 2) shall take place within each phase until full details of hard 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:

- detailed design (including scaled drawings at a scale not less than 1:50) of fences and gates surrounding the pitches and built form hereby approved;
- details of hard surfacing materials including the finish of the associated pitches;
- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
- proposed finished ground levels or contours;
- car parking layouts and materials;

- other vehicle and pedestrian access and circulation areas;
- proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)
- details of storage equipment for each sporting element;
- details of a scheme for CCTV coverage of public spaces

Development shall thereafter be carried out in accordance with the approved details and retained for the operational lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity; residential amenity; efficiency of sporting use and biodiversity.

07

The approved soft landscaping and associated mitigation works within each Phase pursuant to Condition 2 as demonstrated on the Landscape Masterplan reference NO455 (08) 001 Rev. B and the Grassland / Hedgerow Retention, Creation, Protection and Management Plan – 6737-E-07b shall be completed during the first planting season following the commencement of the development to each Phase, or such longer period as may be agreed in writing by the local planning authority. For the avoidance of doubt these includes mitigation measures demonstrated such as the incorporation of log piles. 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. For the avoidance of doubt the hedgerows should be maintained to a minimum width of 2m and include a 1m margin of rough grassland.

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

08

The development shall be carried out in complete accordance with the mitigation recommendations contained in Section 4.37; 4.42; and 5.4 of the Ecological Appraisal undertaken by fpcr dated September 2017 unless otherwise agreed through approval of a non-material amendment to the permission. For the avoidance of doubt 4.27 requires that all lighting be turned off at 22:00 (all year round), to clarify there should be no illumination of the lighting hereby approved between the hours of 22:00 and 07:00. 4.42 relates to the need to safeguard grass snake and outlines a suitable method statement which must be complied with. 5.4 requires that the tree to be lost for arboriculture reasons should be subject to an endoscope inspection by a licenced bat worker immediately prior to removal.

Reason: In order to afford protection to protected species and to achieve ecological enhancements in line with the Core Strategy and the NPPF as submitted by the applicant.

No works shall commence until an Archeological written scheme of investigation (WSI) has been submitted to and approved by the LPA in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Unless otherwise agreed by the Local Planning Authority, development in each Phase pursuant to Condition 2, 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.

11

No development (pursuant to Condition 2) shall take place until details of a sustainable surface water drainage scheme for that phase based on the Flood Risk Assessment (report No 10976/12 dated September 2017) has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. The scheme to be submitted shall:

- i) 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;
- ii) include a timetable for implementation of the scheme in relation to each phase of the development; and,
- iii) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

12

The development shall be carried out in complete accordance with the mitigation recommendations contained in Section 4.19 of the Noise Impact Assessment undertaken by Hepworth Acoustics dated September 2017 unless otherwise agreed through approval of a non-material amendment to the permission. For the avoidance of doubt this requires that the combined rating level of noise from any plant is controlled to be at least 3 dB below the existing background level at the nearest dwellings during the times of operation. As functions may run until 00:00 the combined rating level for all plant outside the nearest dwellings should be controlled to 32 dB, which is 3 dB below the lowest background level (LA90) measured until 00:00.

Reason: In the interests of residential amenity.

13

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

14

No development hereby approved shall be brought into use until details of how the staff car park served off Elm Avenue will be controlled and, if appropriate, enforced. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To prevent uncontrolled use that may lead to on-street parking to the detriment of the safety and amenity of local residents.

15

No development hereby approved shall be brought into use until details to justify the level of parking provision has been submitted to and agreed in writing by the LPA, and if found to be necessary shall include details of additional/overspill parking not already shown on the approved drawings. In the case that additional parking is required over and above that demonstrated on the plan reference Revised Site Layout Plan – 10976 (SK) 2041 Rev F this should be provided prior to the development being brought into use and retained for the operational lifetime of the development unless otherwise agreed in writing with the local planning authority.

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.

16

No development hereby approved shall be brought into use until details of coach parking facilities have been submitted to and agreed in writing by the LPA. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate off-street provision is made to reduce the possibilities of the proposed development leading to coaches parking on-street.

17

The development will require the diversion of public bridleway BW49 and no part of the development hereby permitted or any temporary works or structures shall obstruct the public bridleway until approval has been secured and the diversion of the bridleway has been constructed in accordance with a detailed design and specification first submitted to and approved in writing by the Local Planning Authority. The diverted footpath shall remain available for public use during the operational life of the development.

Reason: To retain a safe and sustainable public right of way.

18

Notwithstanding the Travel Plan submitted, no part of the development hereby permitted shall be brought into use until a revised 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 details set out in that plan unless otherwise agreed in writing by the local planning authority.

Reason: To promote sustainable travel.

19

Before the 3G Football Pitch and Community Sports Pitch as demonstrated on plan reference Revised Site Layout Plan – 10976 (SK) 2041 Rev F are brought into use, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance

schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The scheme should add measures to ensure the replacement of the Artificial Grass Pitch within a specified period. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the 3G Football Pitch and Community Sports Pitch.

Reason: To ensure that the new facilities are capable of being managed and maintained to deliver facilities which are fit for purpose, sustainable and to ensure sufficient benefit of the development to sport and to accord with Development Plan Policy SP8 and the NPPF.

20

Notwithstanding the details submitted on plan reference Horizontal Illuminance Levels - UKS11521 – 8A no development (pursuant to Condition 2) shall take place within each phase until full details of any external lighting within that phase have been submitted to and approved in writing by the local planning authority. The details shall include:

- Details of the survey of the surrounding night environment
- Identification of critical view points
- Establishment and calculation of existing lighting conditions
- Summary of baseline measurements and/or calculations
- Analysis of task lighting level recommendations
- Establishment of environmental light control limits
- Statement of new lighting design quality objectives
- Calculated measurement of task working areas
- Calculated measurement of overspill areas
- Obtrusive light calculation of property intrusion
- Viewed source intensities including nominal glare assessment
- Direct upward light ratio
- Comparison of design achievement with baseline values
- Designers critique of final design constraints
- View point visualisation
- Virtual walkthrough of illuminated site
- Schedule of model reflection factors
- Schedule of luminaire mounting heights and aiming angles
- Layout plan with beam orientation indication.

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.

## Notes to Applicant

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/](http://www.newark-sherwooddc.gov.uk/cil/)

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

02

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).

03

The proposed development requires the diversion of a public right of way. The grant of planning permission for this development does not authorise the obstruction or the diversion of this public right of way and an unlawful obstruction to the right of way is a criminal offence and may result in the obstructing development being required to be removed. A separate application for an Order diverting the public right of way will be required. This is a separate legal process and the applicant will need to contact the following (please cite the application no.): Countryside Access Team, Nottinghamshire County Council, Trent Bridge House, Fox Road, West Bridgford, Nottingham, NG2 6BJ.

## BACKGROUND PAPERS

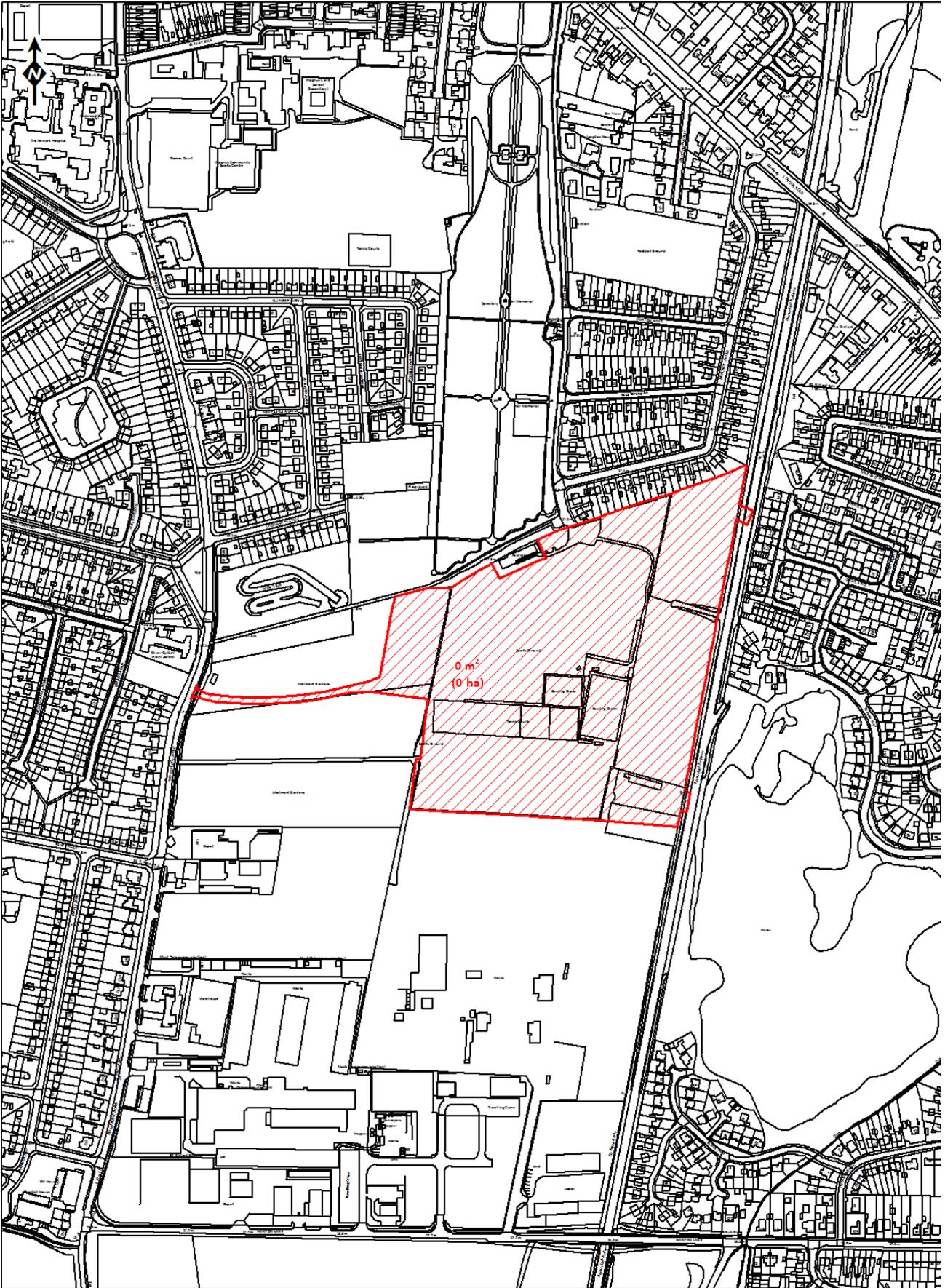
Application case file.

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](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01693/FULM



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<b>Application No:</b>	<b>17/01727/ADV</b>
<b>Proposal:</b>	<b>1 Nr Illuminated Building Sign 1 Nr 6m High Illuminated Pylon Sign 1 Nr 3m High Illuminated Pylon Sign 6 Nr 8m High Flag Poles</b>
<b>Location:</b>	<b>Wirtgen Group House, Godfrey Drive, Winthorpe, Nottinghamshire NG24 2UA</b>
<b>Applicant:</b>	<b>Mr Paul Holmes</b>
<b>Registered:</b>	<b>06.10.2017</b>
<b>Target Date:</b>	<b>01.12.2017</b> <b>Extension of Time Agreed until 6.12.2017</b>

**This application has been called in at the request of Councillor Dobson due to concerns regarding the inappropriateness of the illuminated signs and the excessive number of flags in this rural area.**

The Site

This application relates to a site where a previous application submitted by Wirtgen House group for the relocation of their existing offices to this site and was granted by Planning Committee on the 27<sup>th</sup> January 2017.

Wirtgen Group are a successful international group of companies established in 1973 with offices situated throughout Europe. They specialize in the construction equipment industry and are suppliers of mobile machinery and services for all areas of road construction. The group employs approximately 7,000 people worldwide with its head office in Germany and have an annual turnover of circa £95m. At present there are two facilities in the UK, namely south west of Leicester and south of Lincoln. The site is currently under construction and would see the relocation of the existing Lincoln premises to the proposed site between Newark & Winthorpe.

This site lies to the north of the A17 and south of the Newark Showground site. The urban area of Newark is to the south west, Coddington south east and Winthorpe north west. The site forms 9.55 acres of a wider allocated site identified as Newark Urban Area – Mixed Use Site 1 within the adopted DPD. The site is accessed from an existing northern arm from a roundabout on the A17. To the south of the site are a large collection of buildings associated with Know How distribution centre, to the north land associated with Newark Showground and on the western edge a service station and the Friendly Farmer.

The site is relatively well screened from view by boundary hedgerows & trees. This site lies within Flood Zone 1 albeit it is within an area prone to surface water drainage issues according to the

Environment Agency Flood Maps. A public right of way (Winthorpe Footpath 3) crosses close to the entrance of the proposed site and provides access from Coddington to the south to Winthorpe to the north.

### Relevant Planning History

16/01796/FULM Erection of a three storey building to accommodate vehicle/plant servicing and repair workshop, storage and ancillary office accommodation, external storage and sales display area, associated car parking, lighting, access roads and landscaping - Permission 27.01.2017

17/00921/FULM Application for removal/variation of condition 10 attached to application 16/01796/FULM; Erection of a three storey building to accommodate vehicle/plant servicing and repair workshop, storage and ancillary office accommodation, external storage and sales display area, associated car parking, lighting, access roads and landscaping – Permission 04.07.2017

### The Proposal

The application seeks approval for the installation of two internally illuminated pylon signs, one internally illuminated building sign and six flagpoles to be erected at the Wirtgen Group House site.

The building sign would be located centrally on top of the west/south west facing elevation of the building and would consist of internally illuminated letters and the group logo. The illuminated section would measure 1 metre in height and 9.16 metres in length.

A 6 metre high and 1.71 metre wide illuminated pylon sign is proposed to be located at the entrance to the site towards the north west of the application site, set back from the main highway (A17) with the proposed access road leading to the site. The illuminated part of this sign would be on the top 1.258 metres of the pylon sign, consisting of the group logo and letters to be illuminated.

A 3 metre high and internally illuminated pylon sign is also proposed to be located just in front of the west elevation of the building. The illuminated section on this sign would measure 0.629 metres at the top of the sign, and would consist of illuminated lettering and the group logo, identical in appearance to the 6 metre pylon sign, yet on a smaller scale.

The erection of 6 x 8m high flag poles is also proposed, with details of the Wirtgen group logo and each other partner of the Wirtgen Group. The design of such signs and flags would be consistent with other Wirtgen Group facilities.

### Departure/Public Advertisement Procedure

Occupiers of seven neighbouring properties have been individually notified of the proposal by letter, no comments have been received in response.

A standard site notice and an advertisement in the local press were also posted, no comments have been received in response.

## **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 NUA/MU/1 – Newark Urban Area - Mixed Use Site 1

Policy NUA/SPA/1 – Newark Showground Policy Area

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Town and Country Planning (Control of Advertisements) (England) Regulations 2007

### **Consultations**

**Coddington Parish Council** - Coddington Parish Council unanimously opposed the application. The illuminated signs, particularly the large one on the top of the building, and the excessive number of flags are not appropriate in this rural area.

**NSDC Environmental Health** - I refer to the above application and confirm that I have no comments to make.

**NCC Highways** - Other than to ensure that all signage is set behind the prospective public highway boundary, this Authority has no objection to this proposal.

### **Comments of the Business Manager**

#### *Principle of Development*

In line with The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and paragraph 67 of the NPPF I consider the main issues in determining this application for advertisement consent to be related to amenity and public safety, taking account of cumulative impacts. The intentions of national policy are mirrored by Policy DM5 of the Allocations and Development Management Document.

The NPPF states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient,

effective and simple in concept and operation. Only those advertisements that will clearly have an appreciable impact on a building or their surroundings should be subject to the LPA's detailed assessment. Advertisement should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

The site will accommodate the new Wirtgen Group facility, on an allocated site for mixed uses, within the Newark Showground Policy Area. As such, the site is not considered to be located within the open countryside. It is considered that the principle of development can be supported subject to an assessment of amenity and public safety impacts which is set out below.

#### *Impact on Visual Amenity*

Policy CP9 of the Core Strategy and Policy DM5 of the Allocations and Development Plan relate to visual amenity by seeking to ensure the character and appearance of the surrounding area is preserved. Policy DM5 also states that only issues of highway safety and visual amenity, taking account of cumulative impact, will be relevant in assessing proposals for advertisement consent.

The signage and flags proposed would all be located within the site, and would be set back from the main highway (A17), with an access road leading to the site entrance. The proposed signs and the representation of the various partners on the flag poles would relate to the existing business and therefore to the proposed Wirtgen Group facility. The proposed signage would be set against the backdrop of the Wirtgen Group facility which has extant planning permission for the erection of a three storey building to accommodate vehicle/plant servicing and repair workshop, storage and ancillary office accommodation, external storage and sales display area, associated car parking, lighting, access roads and landscaping. In relation to the concern raised in relation to the excessive number of flags proposed, the Applicant has been asked to consider to reconsider this element of the proposal. However, they have declined to do so stating that the proposed signage plan is consistent with other Wirtgen Group facilities.

Although concerns have been raised regarding the rural location, I do not consider the proposed signs to be inappropriate within the context of the Wirtgen Group buildings and mixed use allocation of the wider site. Nor would the proposal result in an over proliferation of signage in the area. Although visible from the public realm, the location of the proposed signage, the relatively small areas of the signage to be illuminated and the well-screened nature of the site means that I am of the view that there would be no significant detrimental impact upon visual amenity.

It is therefore not considered the proposal would be unduly prominent or unsympathetic to the character of the site as permitted for the Wirtgen Group facility. As such the proposal is considered to comply with the above policies and is acceptable in terms of visual amenity.

#### *Highways and Public Safety*

The proposed signs are to be attached to the building and located on the site at sufficient distance from the public highway to ensure the signs are visible but not distracting.

The highways authority raises no objection to the proposal, subject to the signage being located behind the prospective public highway. It is therefore considered on this basis, that the proposal would not result in any unacceptable detriment to highway safety for pedestrians or other highway users.

### *Conclusion*

The principal of the proposal is considered to be acceptable. The design is in keeping with the character the site, is not detrimental to visual amenity or public safety and is acceptable in highways safety. Therefore I feel that Core Policy 9 and Policy DM5 have been satisfied.

## **RECOMMENDATION**

**That advertisement consent be granted subject to the following conditions:**

### **Conditions**

01

This consent shall expire at the end of a period of 5 years from the date of this consent.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

02

The advertisements hereby permitted shall not be carried except in complete accordance with the site location plan and approved proposed plans reference:

- Illuminated Pylon Sign Nr 1 Details
- Illuminated Pylon Sign Nr2 Details
- Illuminated Pylong Sign Nr 3 Details
- 6 NR- 8M High Flag Pole Details
- 25/0251-150 Wirtgen Signage Plan

Reason: So as to define this consent.

03

No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

04

No advertisement shall be sited or displayed so as to:-

- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
- (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

05

Any advertisement displayed and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

06

Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

07

Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisement Regulations) 2007.

08

The advertisements hereby permitted shall be constructed entirely of the material 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.

09

The lighting permitted by this consent shall only be illuminated during the opening hours of the premises to which it relates.

Reason: In the interests of visual and residential amenity.

**Notes to Applicant**

01

This permission relates solely to advertisement consent and does not permit any building or other operations.

02

The application as submitted is acceptable. In granting consent without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant.

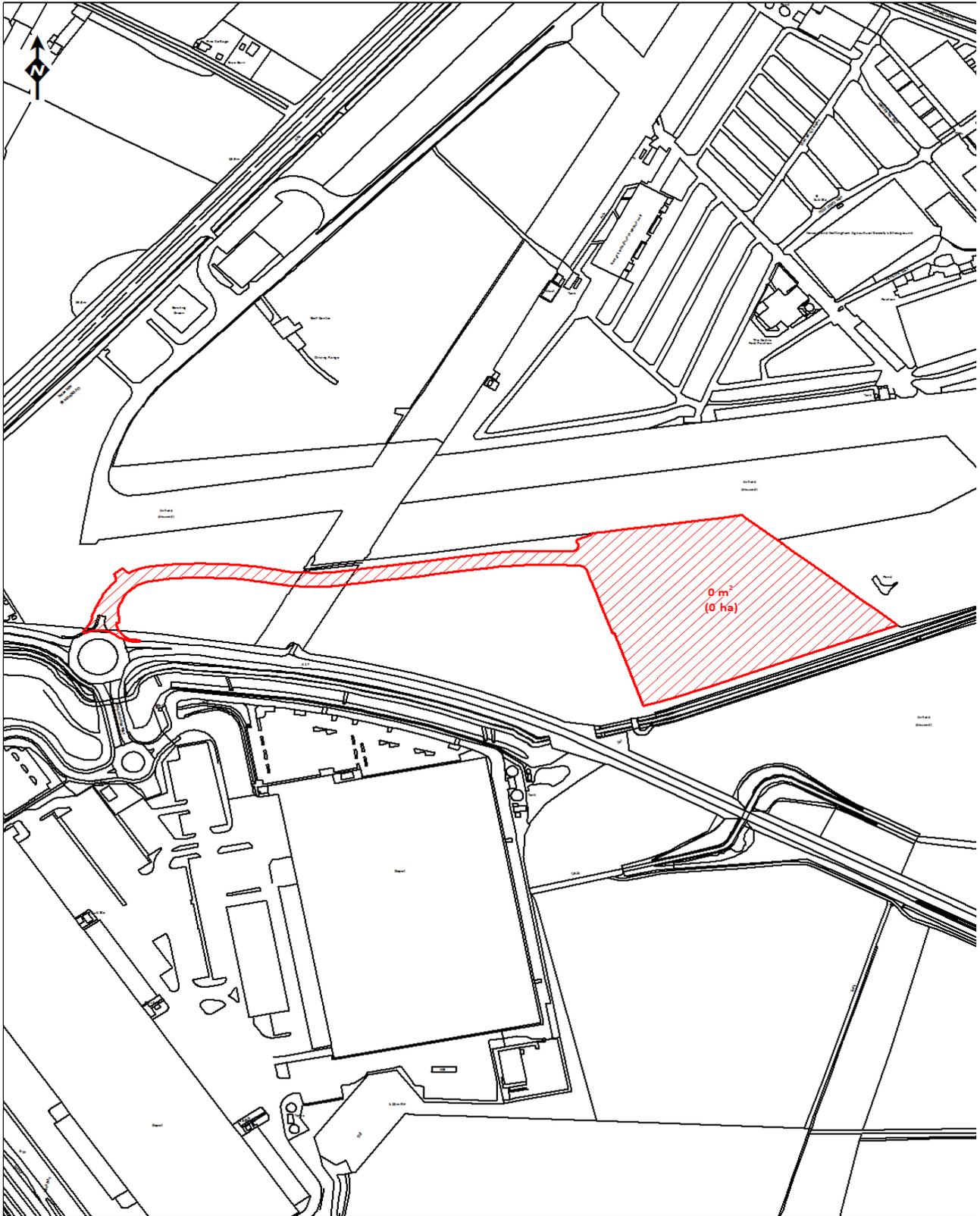
**BACKGROUND PAPERS**

Application case file.

For further information, please contact Tom Swan on 01636655831

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**



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<b>Application No:</b>	<b>17/01812/FUL</b>	
<b>Proposal:</b>	<b>Erection of detached dwelling</b>	
<b>Location:</b>	<b>Land Near Woodlands Barn, Mill Lane, South Clifton, NG23 7AN</b>	
<b>Applicant:</b>	<b>Mr Michael Fleet Chapman</b>	
<b>Registered:</b>	<b>06 October 2017</b>	<b>Target Date: 1 December 2017</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as South Clifton Parish Council has supported the application which differs to the professional officer recommendation.**

The Site

The application site comprises a parcel of land approximately 0.07 hectares in area located on the north side of Mill Lane which is located to the east of the settlement of South Clifton. The application site comprises a grassed area of land located to the east of the existing driveway that leads to Woodlands Barn. The site is located to the west of No. 1 Moor Lane and separated by a hawthorn hedge. A large mature tree is located in the southwestern corner of the neighbour’s garden which overhangs the application site. The site is located in open countryside and within Flood Zone 2.

Relevant Planning History

13/00718/FUL Erection of two semi-detached dwellings – refused 01.08.2013 for the following reasons:

1. The application site falls outside the main built up area of South Clifton and therefore the proposal is assessed against Policy DM8 of the Allocations & Development Management DPD. Section 3 of the policy relates to new and replacement dwellings in the Open Countryside. The proposed dwellings are not of exceptional quality or innovative design and do not reflect high standards of architecture. The proposed development would extend the existing ribbon of development closer to the main built up area of the village, thereby eroding the rural, open character of this part of the countryside and lead to pressure to infill the remainder of the open land. The proposed development therefore has a detrimental effect on the character and appearance of this rural area. For these reasons it is considered that the principle of the development is unacceptable and is contrary to Policy DM8 of the Allocations & Development Management DPD.
2. Section 3 of Policy DM5 of the Allocations & Development Management DPD states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. The dwellinghouse on Plot 2 would be located north/northeast of an existing mature tree that

is located within the southwestern corner of the neighbouring property's garden. Branches would be located in very close proximity to the front windows of the property which would cause a significant level of overshadowing to habitable rooms, to the detriment of the amenity of the occupiers of this property, contrary to Policy DM5 of the Allocations & Development Management DPD.

3. Section 5 of Policy DM5 of the Allocations & Development Management DPD relates to trees, woodlands and green infrastructure and states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. There is a mature tree located in the southwestern corner of the neighbouring property's front garden that overhangs the application site. Whilst the tree is not formally protected it provides a high level of amenity value and is highly visible from the street scene. The proposed development proposes an access/parking/turning area beneath the canopy of this tree and the dwellinghouses would be located within close proximity of the tree. No Tree Survey has been submitted with the application. Insufficient information has therefore been provided in order to demonstrate that the proposed development would not harm the long term wellbeing of this tree. In addition, it is considered that there would be future pressure from the occupiers of the dwellinghouse on Plot 2 for the existing tree to be pruned or felled in order to improve the property's amenity or to prevent damage to the property from falling branches, especially as the siting of the proposed dwellinghouse does not allow for any future tree growth. The siting of the dwellinghouse on Plot 2 in relation to this tree is therefore not considered acceptable. It is for these reasons that it is not considered that the proposed development would comply with Policy DM5 of the Allocations & Development Management DPD.
4. Section 9 of Policy DM5 of the Allocations & Development Management DPD relates to flood risk and water management and states that the Council will steer new development away from areas at the highest risk of flooding. Development proposals within Flood Zones 2 and 3 and areas with critical drainage problems will only be considered where it constitutes appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available sites in lower risk flood zones. The application site lies within Flood Zone 2 and the proposed development is defined as 'more vulnerable' within Table 2 of the Technical Guidance to the NPPF. The submitted Flood Risk Assessment does not outline the need for the proposed development to be located within Flood Zone 2 when there are sites at a lower risk of flooding located elsewhere within the District. Therefore insufficient information has been provided to enable the Local Planning Authority to assess whether the site would meet the Sequential Test, contrary to Policy DM5 of the Allocations & Development Management DPD.

Other applications relevant to Woodlands Barn include:

14/00266/CPRIOR Change of use of office to residential – prior approval not required 20.03.2014

### The Proposal

The application seeks full planning permission for the erection of a four bedroom two storey dwelling that would front onto Moor Lane. The dwelling would measure 10.26m x 9.67m and the height to ridge would be 7.9m. A pitched roof porch is proposed to the front elevation which would measure circa 1.17m deep, 2.7m wide and would have a ridge height of circa 4.3m. External

materials would comprise red facing brick and a pantile roof. A new vehicle access with driveway, turning area and parking for two cars would be provided off Mill Lane. A rear garden area with a depth of 6.7 metres would also be provided.

#### Departure/Public Advertisement Procedure

Occupiers of four properties have been individually notified by letter.

A site notice was posted on 1 November 2017.

#### 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 3 - Rural Areas  
Spatial Policy 7 - Sustainable Transport  
Core Policy 3 - Housing Mix, Type and Density  
Core Policy 9 - Sustainable Design  
Core Policy 10 - Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

#### **Allocations and Development Management DPD (Adopted July 2013)**

Policy DM5 - Design  
Policy DM7 - Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside  
Policy DM12 - Presumption in Favour of Sustainable Development

#### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF) 2012  
National Planning Policy Guidance (NPPG) 2014

#### Consultations

**South Clifton Parish Council:** Support the proposal as the Parish Council welcomes younger families to the village especially as this retains family members in the village.

**Trent Valley Internal Drainage Board:** The site is within the Trent Valley Internal Drainage Board district. There are no Board maintained watercourses in close proximity to the site. The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent. The Board's consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse/culvert

or the Board's machinery access to the watercourse/culvert which is required for annual maintenance, periodic improvement and emergency works. The applicant should therefore note that the proposals described within this planning application may need to be altered to comply with the Board's requirements if the Board's consent is refused. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

**Environment Agency:** The site falls within Flood Zone 2 and standing advice applies.

**NCC Highways:** No objections subject to the following conditions:

*No part of the development hereby permitted shall be brought into use until a dropped vehicular footway/verge crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.*

*Reason: To protect the structural integrity of the highway and to allow for future maintenance.*

*No part of the development hereby permitted shall be brought into use until the driveway is surfaced in a hard bound material (not loose gravel) for a minimum of 2 metres behind the Highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.*

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

Note to Applicant:

The development makes it necessary to construct a vehicular crossing over a footway/verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Highways Area Office tel. 0115 977 2275 to arrange for these works to be carried out.

**NSDC Strategic Housing Officer:** South Clifton is a high value area where many people are unable to secure housing that is affordable. There are currently 8 properties for sale (as at 23/11/17 – Rightmove) including 2 x 5 bed house, 1 x 4 bed house, 3 x 2 bed houses and 3 x 3 bed bungalows from £139,000 to £650,000.

South Clifton has recently benefitted from a Parish Housing Needs survey (June 2017) to establish a local need for affordable housing and a preference or demand for market housing. The draft survey is currently under consideration by the Parish Council, however I refer to the contents (without prejudice) that identify a preference for up to 12 market dwellings for sale and rent. Most of the demand/preference is for smaller properties (2 and 3 bedrooms) but one household have stated they would prefer a 5 bedroom dwellings and a further household have indicated that a four bed dwelling is sought. Some of these identified preferences can be met from existing housing stock for sale on the open market as detailed in the previous paragraph.

I have noted that the applicant has provided a letter from his father supporting his son's preference to live in the village, as previously stated there are opportunities to meet this preference in the existing available stock on the open market.

I would give greater weight in terms of housing need to an application that provided housing for the most identified need in the survey i.e. 2/3 bed dwellings.

If an applicant is able to demonstrate that their proposal is meeting an identified local need, or is meeting a shortfall in the area then I would recommend that the Planning Officer attach significant weight to the application. In this instance I would suggest that the applicant's preference to live in the village can be met from existing stock, however should an application for smaller dwellings be submitted then greater weight could be given in terms of need.

**NSDC Access Officer:** the Applicant is advised to make separate enquires with regards to Building Regulations matters.

**One written representation has been received from a local resident raising no objection to the application as affordable houses in the village are welcomed so younger families can stay and increase school numbers. South Clifton has lost all amenities over the last few years and we do not wish to lose our school.**

### **Comments of the Business Manager**

#### **Principle of Residential Development**

The settlement hierarchy for the district is set out in Spatial Policy 1 whilst Spatial Policy 2 deals with the distribution of growth for the district. This identifies that the focus of growth will be in the Sub Regional Centre, followed by the Service Centres and Principal Villages. At the bottom of the hierarchy are 'other villages' which do not have defined built up areas in terms of village boundaries. Consequently given its location in a rural area, the site falls to be assessed against Spatial Policy 3 in the first instance and Policy DM8 (Development in the Open Countryside) where this becomes necessary.

Policy Spatial Policy 3 provides that local housing need will be addressed by focusing housing in sustainable, accessible villages. It states that 'Beyond Principal Villages, proposals for new development will be considered against the following criteria' then lists location, scale, need, impact and character for consideration. It goes on to say 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 such as agricultural and forestry and directs readers to the Allocations and Development Management DPD for policies that will then apply.

As SP3 villages do not have defined village envelopes it is a critical consideration in the determination of this application as to whether the application site is located within the main built-up area of the village or beyond. If it is beyond it is, as a matter of policy (in accordance with Policy SP3) within the open countryside. The supporting text to Policy SP3 states that the main built-up area 'would normally refer to the buildings and land which form the core of the village where most housing and community facilities are focused. Often villages have outlying development which, whilst part of the village, does not form part of the 'main built-up area'; proposed new development which results in the joining of such areas to the main built-up area should be resisted.

Whilst in close proximity to the village of South Clifton and adjoining the end of an existing small ribbon of development, the site is not located within the main built up area of the village; it is separated by a large field that provides a natural break in the built development of the village.

The criterion in Spatial Policy 3 of the Core Strategy would therefore not be applicable to the proposed development. Instead the application has to be considered against and paragraph 55 of the NPPF and Policy DM8 of the Allocations & Development Management DPD which relates to development in the Open Countryside.

Section 3 of Policy DM8 of the DPD relates to new and replacement dwellings in the Open Countryside. In respect of new dwellings the policy states that *'planning permission will only be granted for new dwellings where they are of exceptional quality or innovative design, reflect the high standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.'* Paragraph 55 of the NPPF states "to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities...local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances."

The principle of a new dwelling in the Open Countryside is unacceptable in this location as the building's design would not be of exceptional quality to outweigh the presumption against new housing. In addition the proposed development would erode the rural, open character of the countryside by extending the existing ribbon of development closer to the main built up area of the village, leading to pressure to infill the remainder of the open land.

#### Impact on Visual Amenity

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. Additionally, paragraphs 59 and 60 of the NPPF seek to promote local distinctiveness and ensure that the overall scale, density and massing (amongst others) relate to neighbouring building and the local area more generally.

With regards to impact on the landscape character, 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 East Nottinghamshire Sandlands Policy Zone ES PZ 01: North Clifton Village Farmlands. The detailed landscape action for this policy Zone is to 'create'. The landscape actions for this area include conserving what remains of the rural landscape by concentrating new development around existing settlements.

The site is located to the west of a small ribbon of development that comprises two pairs of semi-detached houses, a row of four terraced houses and the village hall. The surrounding area comprises open fields. The main built up area of South Clifton is located approximately 96 metres to the west, separated by a field. The proposed development would extend the existing ribbon of development closer to the main built up area of the village, thereby eroding the rural, open character of this part of the countryside and lead to pressure to infill the remainder of the open land. For these reasons the proposed development would have a detrimental effect on the character and appearance of this rural area, contrary to Core Policy 9 and Policy DM8 of the DPD.

### Impact on Flooding

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. Para.103 of the NPPF states when determining planning applications the Local Planning Authority should ensure flood risk is not increased elsewhere. It is stated that decision makers should only consider development appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the sequential test, and if required the Exception Test, it can be demonstrated that development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant.

The application site lies within Flood Zone 2 and the proposed development is defined as 'more vulnerable' within Table 2 of the Technical Guidance to the NPPF.

A Flood Risk Assessment has been submitted with the application. This concludes that *'this development has an acceptable level of flood risk. Floors of buildings will be well above predicted flood levels, and mitigation measures can be included which will provide adequate flood risk management, without increasing flood risk elsewhere'*.

The NPPF is clear that the exception test should not be applied until the Sequential Test has been passed. At the district level there are other sites that are at a lower risk of flooding than the application site (i.e. located within Flood Zone 1). The area to apply to the Sequential Test can be defined by local circumstances relating to the catchment area for the development. The submitted Flood Risk Assessment states that the whole of South Clifton village is in Flood Zone 2 or 3 and hence there are no other sites at lower flood risk. Whilst this may be the case, this area of search would only be acceptable if a specific need for a location within South Clifton had been demonstrated. I have considered the issue of need in more detail in the 'Other Issues' section below. However, I am not convinced that the area of search should be limited to South Clifton in this instance, particularly given the application site is not located within the settlement but within the open countryside. In addition, Spatial Policy 3 Guidance Note (September 2013) states that proven local need must relate to the needs of the community rather than the applicant. Assessments should be based on factual data such as housing stock figures where the need relates to a type of housing or census data where the needs relate to a particular population group.

In the absence of such data, the proposal fails the sequential test and is contrary to Core Policy 9 and Core Policy 10 of the adopted Newark and Sherwood Core Strategy 2011, Policy DM5 of the Allocations and Development Management DPD and fails the Sequential Test as set out in the National Planning Policy Framework 2012, a material consideration.

### Impact on Highways

Policy DM5 seeks to ensure adequate access and parking is provided for development and SP7 relates to sustainable transport. The proposal includes the creation of a new vehicle and pedestrian access of Great North Road Mill Lane. The Local Highway Authority raise no objection to the proposal subject to standard conditions. As such, the application is not considered to result in any highway safety issues.

### Impact on Neighbouring Amenity

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers.

There is one neighbouring property located to the east of the application site, No. 1 Moor Lane. One of the previous reasons for refusal of the planning application (application no. 13/00718/FUL) for two dwellings on this site was refused due to adverse impact upon the future occupiers of the proposed dwelling closed to the mature tree along the sites frontage. However, the current application is now for one dwelling with a different siting and design and the amenity impacts are therefore altered by the current application.

The frontage of the proposed dwelling would be in line with No. 1. The proposed dwellings would be sited approximately 8.5 metres from the side elevation of No. 1 and the existing boundary hedge would be retained. A ground floor utility room window would be located in the eastern side elevation of the proposed dwellinghouse facing toward No. 1 and could be conditioned to be obscure glazed. Two windows are located in the side elevation of No. 1 (one to the ground floor and one to the first floor) that face toward the application site. It is not known what these windows serve, but they are located towards the rear of the dwellinghouse. The ground floor window is screened by the existing boundary hedge. Whilst I consider the separation gap between the first floor window of No. 1 and the side elevation of the proposed windows to be on the cusp of acceptability in terms of overbearing impacts, overall I do not consider that a material adverse impact upon the occupiers of No. 1 would result. An acceptable level of amenity would also be afforded to the proposed dwelling itself, with sufficient private amenity space proposed.

Subject to conditions, it is not considered that that an unacceptable impact upon the amenity by virtue of overlooking, overshadowing and loss of privacy upon the occupiers of No. 1 Moor Lane in accordance with the aims of the NPPF and Policy DM5 if the DPD.

### Impact on Trees

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

There is an existing mature tree located in the southwestern corner of the neighbouring property's front garden (No. 1 Moor Lane). Although not formally protected, it is highly prominent within the street scene and provides a high level of amenity. The tree significantly overhangs the application site. The tree has been annotated on the proposed site plan however no Tree Survey has been

submitted with the planning application. The submitted Site Plan indicates that the proposed dwelling would be sited outside of the tree's crown spread but an area of hardstanding would be for use as an access, parking and turning area would be located in close proximity to/marginally under it.

One of the previous reasons for refusal on the planning application (application no. 13/00718/FUL) for two dwellings on this site was refused due the impact on this tree. However, the current application is now for one dwelling with a different siting and the impacts are therefore altered by the current application.

Whilst a Tree Survey would have beneficial to the consideration of this application, I note that as a single dwelling, there would be reduced future pressure from the occupiers of the dwelling to prune or fell the tree in the future to improve levels of amenity. In addition, the driveway area has been positioned away from the tree and the edge of the proposed dwelling is located 2.4 metres further away from the crownsread of the tree compared with the previously refused application.

Overall, it is considered that any damage to this tree could be avoided through the implementation of tree protection measures. This requirement could be controlled via planning condition.

#### Other Issues

##### *5 Year Housing Land Supply*

In terms of the current 5 year housing land position, the Council has recently published (since the July Committee) that it does have a 5 year housing land supply against its promoted Objectively Assessed Need undertaken on behalf of NSDC, Ashfield and Mansfield DC's and having done more work since the Farnsfield appeal. Until such time that the OAN is tested at Plan Review, it cannot attract full weight but given that this is professionally produced in cooperation with partners and the only OAN available it should carry weight. It is the Council's view that paragraph 14 of the NPPF is not engaged and the Development Plan is up-to-date for the purposes of decision making.

##### *Need for the dwelling*

The application is accompanied by a supporting letter which states that the new house is required to enable the son of a long term resident of the village to remain in the village and to continue the running of the family business Woodlands Homes Ltd (which is also based in the South Clifton). Otherwise, the son may need to move to a more affordable area such as Lincoln which would mean being isolated from the business and the community he grew up in. Whilst I acknowledge the Applicants reasons for wanting a new dwelling on this site, I do not consider these reasons to outweigh the harm identified above. It is also noted that the owner of the site previously applied for two dwellings on the site (application no. 13/00718/FUL) for the purposes of renting them to private tenants. The Officer report relating to this application stated that '*the applicant is an established landlord having provided three houses in North Scarle over the last five years*'. I also note the comments of the Housing Officer (set out in the Consultations section above) who does not consider the need to be fully justified in this instance.

#### Overall Planning Balance and Conclusion

The site is located in the open countryside. Both national and local planning policy restricts new development in the countryside. Policy DM8 (Development in the Open Countryside) of the

Allocations and Development Management DPD seek to strictly control development in the countryside and limits this to a number of exceptions. The building's design would not be of exceptional quality to outweigh the presumption against new housing. In addition the proposed development would erode the rural, open character of the countryside by extending the existing ribbon of development closer to the main built up area of the village, leading to pressure to infill the remainder of the open land.

The site also located in Flood Zone 2. Insufficient information has been provided in order to assess whether the proposed development would comply with the Sequential Test to demonstrate that there are no alternative sites which could accommodate the development at a lesser risk of flooding.

It is not considered that there any benefits to the proposal which would outweigh the harm identified within this report. For the reasons stated above, the proposal is considered to be contrary to relevant local and national planning policy and is recommended for refusal.

### **RECOMMENDATION**

**That full planning permission is refused on the following grounds:**

1.

The application site falls outside the main built up area of South Clifton and therefore the proposal is assessed against Policy DM8 of the Allocations & Development Management DPD. Section 3 of the policy relates to new and replacement dwellings in the Open Countryside.

In the opinion of the Local Planning Authority the proposed dwelling is not of exceptional quality or innovative design and does not reflect high standards of architecture. The proposed development would extend the existing ribbon of development closer towards the main built up area of the village, thereby eroding the rural, open character of this part of the countryside and lead to pressure to infill the remainder of the open land. The proposed development therefore has a detrimental effect on the character and appearance of this rural area. For these reasons it is considered that the principle of the development is unacceptable and is contrary to Policy DM8 of the Allocations & Development Management DPD.

2.

Section 9 of Policy DM5 of the Allocations & Development Management DPD relates to flood risk and water management and states that the Council will steer new development away from areas at the highest risk of flooding. Development proposals within Flood Zones 2 and 3 and areas with critical drainage problems will only be considered where it constitutes appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available sites in lower risk flood zones.

The application site lies within Flood Zone 2 and the proposed development is defined as 'more vulnerable' within Table 2 of the Technical Guidance to the NPPF. The submitted Flood Risk Assessment does not outline the need for the proposed development to be located within Flood Zone 2 when there are sites at a lower risk of flooding located elsewhere within the District. Therefore insufficient information has been provided to enable the Local Planning Authority to assess whether the site would meet the Sequential Test, contrary to Core Policy 9 and Core Policy

10 of the adopted Newark and Sherwood Core Strategy 2011, Policy DM5 of the Allocations and Development Management DPD and fails the Sequential Test as set out in the National Planning Policy Framework 2012, a material consideration.

**Note 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/](http://www.newark-sherwooddc.gov.uk/cil/)

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. 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**

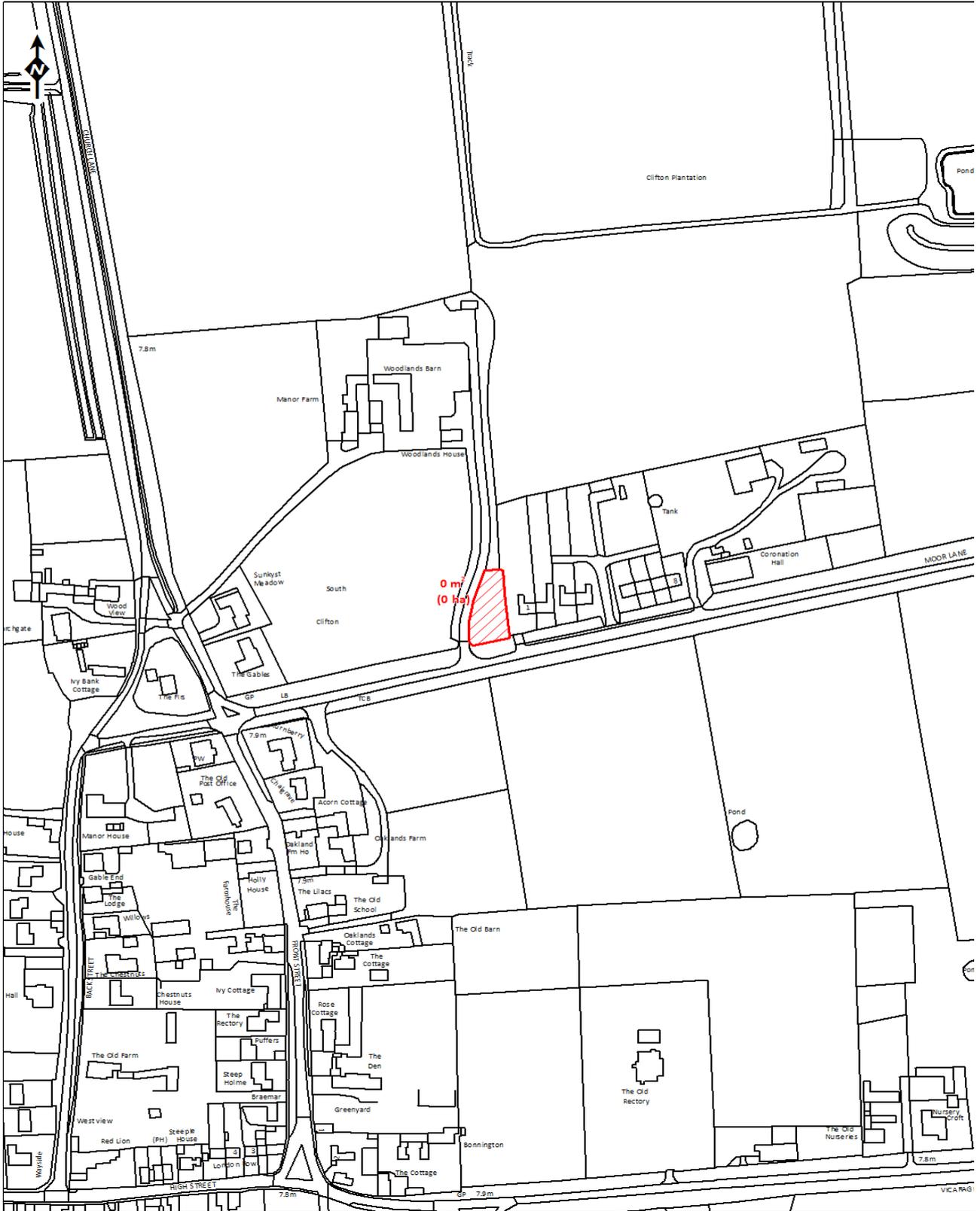
Application case file.

For further information, please contact Helen Marriott on ext 5793.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Kirsty Cole**  
**Deputy Chief Executive**

Committee Plan - 17/01812/FUL



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**APPEALS A**

**APPEALS LODGED (received between 23 October 2017 and 20 November 2017)**

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](mailto:planning@nsdc.info) quoting the relevant appeal reference.

**Matt Lamb**

**Business Manager Growth & Regeneration**

<b>Appeal reference</b>	<b>Application number</b>	<b>Address</b>	<b>Proposal</b>	<b>Procedure</b>
APP/B3030/W/17/3180652	16/01884/FUL	Shannon Falls Tolney Lane Newark On Trent Nottinghamshire NG24 1DA	Change of use of scrubland for the siting of 8 static mobile homes for gypsy travellers and reduce ground levels to 10.5m AOD	Hearing
APP/B3030/Z/17/3181885	17/00415/ADV	Retail Unit Adjacent Topps Tiles (In 'N' Out Autocentre) 1 Northern Road Newark On Trent NG24 1NU	Erection of a large totem sign	Fast Track Appeal
	17/00562/FUL	Bunny Hill Barn Old Rufford Road Farnsfield Nottinghamshire NG22 8HU	Householder application for erection of a two storey extension and single storey lean to	Fast Track Appeal
APP/B3030/D/17/3184391	17/00554/FUL	102 Python Hill Road Rainworth Nottinghamshire NG21 0JF	Change of use to residential and erection of a fence	Written Representation

**APPENDIX B: APPEALS DETERMINED (between 23 October 2017 and 20 November 2017)**

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>
17/00623/FUL	Land At Rear Of Franklyn Lower Kirklington Road Southwell Nottinghamshire	Proposed New Dwelling	ALLOW	24.10.2017
17/00544/FUL	Land To The Rear Of 21 Strawberry Hall Lane Newark On Trent Nottinghamshire NG24 2EX	Proposed change of use of land to rear of 21 Strawberry Hall Lane to provide staff car parking area (Revised Application of 16/01288/FUL)	ALLOW	13.11.2017
16/01775/FUL	Land East Of Beck Lane Blidworth Nottinghamshire	Change of use of land to one Traveller pitch comprising 1 no. mobile home, 1 no. touring caravan, 1 no. mobile utility unit, and hardstanding (Retrospective)	DISMISS	27.10.2017
16/01153/FUL	The Roost Barnby Road Balderton Nottinghamshire NG24 3NE	Change of use of annexe to an independent dwelling including the provision of a new vehicular access and change of use of agricultural land to form separate garden	DISMISS	26.10.2017

**RECOMMENDATION**

**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](mailto:planning@nsdc.info) quoting the relevant application number.

**Matt Lamb**

**Business Manager Growth & Regeneration**

**PLANNING ENFORCEMENT UPDATE**

This report updates Committee on planning enforcement matters. In the first instance it presents a snap shot on the general volumes of cases received and dealt with. Members will note that cases now dealt with has significantly increased, with the additional resources within the team (with one additional Development Planner having been seconded in) now making a difference. The number of new cases also looks to be increasing based on the last two quarters.

Schedule A outlines enforcement activity during the previous months (the last full month being October 2017). Schedule B (separate attachment) sets this (on a pro-rata basis) against the activity over previous quarters). Please note that cases closed exceed, on occasion, cases received as a case received in an earlier quarter may have been closed.

<b>SCHEDULE A: ENFORCEMENT CASES</b>	1 <sup>st</sup> to 31 <sup>st</sup> October 2017	1 <sup>st</sup> to 22 <sup>nd</sup> November 2017
Cases Received	42	37
Case closed*	55	55
Notice issued	0	3
Notice complied with		0
Appeal lodged	0	0
Prosecutions	0	1

It should be noted that ‘case closed’ can include a number of outcomes, which are generally breach resolved (through planning application or removal), no breach identified (not development or permitted development), or a breach exists but it is not expedient to pursue.

A separate report will be brought to Members in due course to capture the overall split, but in general terms approximately 60% of all cases investigated are not a breach of planning control.

**SCHEDULE C. FORMAL ACTION TAKEN, 1 October 2017 to date**

Schedule B provides a more detailed position statement on formal action (such as enforcement notices served) and prosecutions during the two last months; since 1<sup>st</sup> October 2017. This table does not detail Planning Contravention Notices served.

**Planning Ref:** 17/00037/ENF

**Site Address:** Taylor Motor Group  
120 Farndon Road  
Newark  
Nottinghamshire  
NG24 4SW

**Alleged Breach** Breach of conditions 3 and 4 of planning permission  
11/01055/FUL

**Date received** Ongoing

**ACTION TO DATE: Successful prosecution (failure to comply with Breach of Condition Enforcement Notice) on 17<sup>th</sup> November 2017.**

#### Background

Planning permission was granted under reference 11/01055/FUL for the material change of use of land known as 120 Farndon Road, Newark, NG24 4SW from use as a gas fire show room to use as a car showroom, including use of vacant land on the Site for car sales and 16 car parking spaces; modifications to security flood-lighting; the provision of drop-kerbs; and alteration to the entrance doors to the showroom.

Since the Planning Permission was granted, the Council has received numerous complaints from the Site's neighbours relating to the ongoing operation of the car sales business by TMG, including several allegations that TMG have been in breach of condition 3 (which required the provision of 3 parking spaces to be provided and retained solely for the use of customers) and condition 4 (which required a designated area to be available for staff parking) of the Planning Permission.

As part of the investigations in 2016, the site was inspected on numerous occasions which resulted in a Breach of Condition Notice ("BCN") being issued. Following the service of the BCN it was noted that TMG were complying with conditions 3 and 4 of the Planning Permission and as such no further action was taken in respect of the BCN. The enforcement case was therefore closed.

However, further complaints were subsequently received by the Council from the Site's neighbours in 2017. On this occasion, the complaints were specifically alleging that condition 3 of the Planning Permission was not being complied with by TMG. Additionally, the complaints alleged that the business' general operations were spreading on to The Osiers and the surrounding highway, creating general nuisance for residents in the location.

Further site inspections were undertaken and it was noted that the spaces which are required to be retained solely for the use of customers of the business, in accordance with condition 3 of the Planning Permission, were being used for the display of cars for sale. No spaces were left free for customers and as such a further breach of condition 3 had occurred.

As a result the Council therefore resolved to take further enforcement action. In addition to a

further BCN being issued, it was also resolved that a Temporary Stop Notice (“TSN”) be issued pursuant to section 171E of the Act.

The BCN (dated 19<sup>th</sup> July 2017) required Mr Taylor to cease the use of the 3 customer parking spaces referred to in condition 3 of the Planning Permission for any purposes other than for the use by customers of TMG, and to ensure the area referred to in condition 4 was available for staff and customer parking only. The time for compliance with the BCN was 17 August 2017.

The TSN (also dated 19 July 2017) required those served with the notice to immediately cease the use of the 3 customer parking spaces referred to in condition 3 of the Planning Permission for any purpose other than for the use by customers of TMG.

Following service of the notices, further site investigations were undertaken in which it was noted that the breaches were continuing, despite further warning letters from the council.

#### Court Action

On 17<sup>th</sup> November 2017 the case was heard at Nottingham the Magistrates court. The defendant pleaded guilty and has ordered them to pay the following in fines within 28 days;

£1700 fine (reduced by 30% from the max by their guilty plea)  
£668 in our costs  
£178 victim surcharge

The offence is recorded on Mr Taylors’ criminal record.

#### Future proceedings

Any further breaches of the BCN will be an offence and can be taken back to court without having to serve another BCN.

**Enforcement Ref:** 17/00154/ENF

**Site Address:** Tresco, 5 Main Street  
North Muskham  
Newark-on-Trent  
Nottinghamshire

**Alleged Breach** Erection of 9 fence panels at 1.8m high adjacent to highway along the frontage boundary with Trent Close.

**Date received** 20.05.2017

**ACTION TO DATE: Service of Enforcement Notice 22/11/2017**

#### Background

A planning application was received in an attempt to regularise the position. However this has been refused and at the same time an Enforcement Notice has been served. The harm identified is both visual harm in that it is considered it adversely affects the character and appearance of the area and harm to pedestrian visibility in that one of the fence panels prevents proper visibility and is a safety issue.

Enforcement Notice served 22.11.2017. The Notice will take effect on 03.01.2018. The time for compliance given is 3 months; by 3<sup>rd</sup> April 2017.

Notice requires the removal one fence panel which is obstructing the pedestrian visibility splay and the reduction in height of the remaining 8 panels to not more than one metre in height which is permitted under the Town and Country Planning (General Permitted Development) Order 1995, as amended.

**Enforcement Ref:** 17/00133/ENF

**Site Address:** 131 High Street  
Collingham  
Newark  
Nottinghamshire

**Alleged Breach** Addition to the barn conversion

**Date received** 12.05.2017

**ACTION TO DATE: Enforcement Notice Served 23/11/2017.**

#### Background

This enforcement case was raised by a member of the public and relates to the addition of an extension to the rear of a converted barn. A site inspection established that this is a single storey flat roof extension built from a combination of concrete, block, brick and timber and that this did not benefit from planning permission. Planning permission is required given that permitted development rights were removed relating to extensions under planning permission 11/00721/FUL (which consented conversion of the barn to residential use).

The owner has been advised both verbally and in writing that the extension would be unlikely to be approved given its poor design and appearance which is considered to harm the character and appearance of the Conservation Area and other heritage assets. Several letters have been sent advising of the position and options open to them, which have been ignored.

This has culminated in the service of an Enforcement Notice on 23<sup>rd</sup> November 2017. The Notice will take effect on 4<sup>th</sup> January 2018 and the time for compliance given is 4 months; being 4<sup>th</sup> May 2018.

The Notice requires the removal the extension and any resulting debris/materials from the land.

**Enforcement Ref:** 17/00326/ENF

**Site Address:** The Old Library  
High Street  
Edwinstowe  
Nottinghamshire

**Alleged Breach:** Unauthorised alterations to building

**Date received:** 11.09.2017

**ACTION TO DATE: Enforcement Notice Served 13/11/2017.**

#### Background

A complaint was received alleging that the works to the Old Library were not being undertaken in accordance with approved plans for its refurbishment of the premises and alterations to convert the property it to a cafe and multi-use facility (granted under planning reference 16/01058/FUL).

Upon inspection it was noted that alterations had been made to the windows on the front elevation, the height of which had been increased considerably to 'full height'. This had been negotiated out during the application and was considered unacceptable as it harmed the significance of the heritage asset. The owners/developers then applied to retain the unauthorised development under planning reference 17/01740/FUL which was refused and an Enforcement Notice was duly served at the same time on 13<sup>th</sup> November 2017.

The Enforcement Notice requires that the owners to replace the masonry, brickwork, windows and doors so as to return the east facing front elevation to that shown on the approved drawings.

The Notice takes effect on 12th December 2017 and has a period for compliance of 120 days; the deadline is therefore 11th April 2017.

#### **RECOMMENDATION**

**That Planning Committee considers the contents of the report and identifies any issues it wishes to examine further.**

BACKGROUND PAPERS

Enforcement case files.

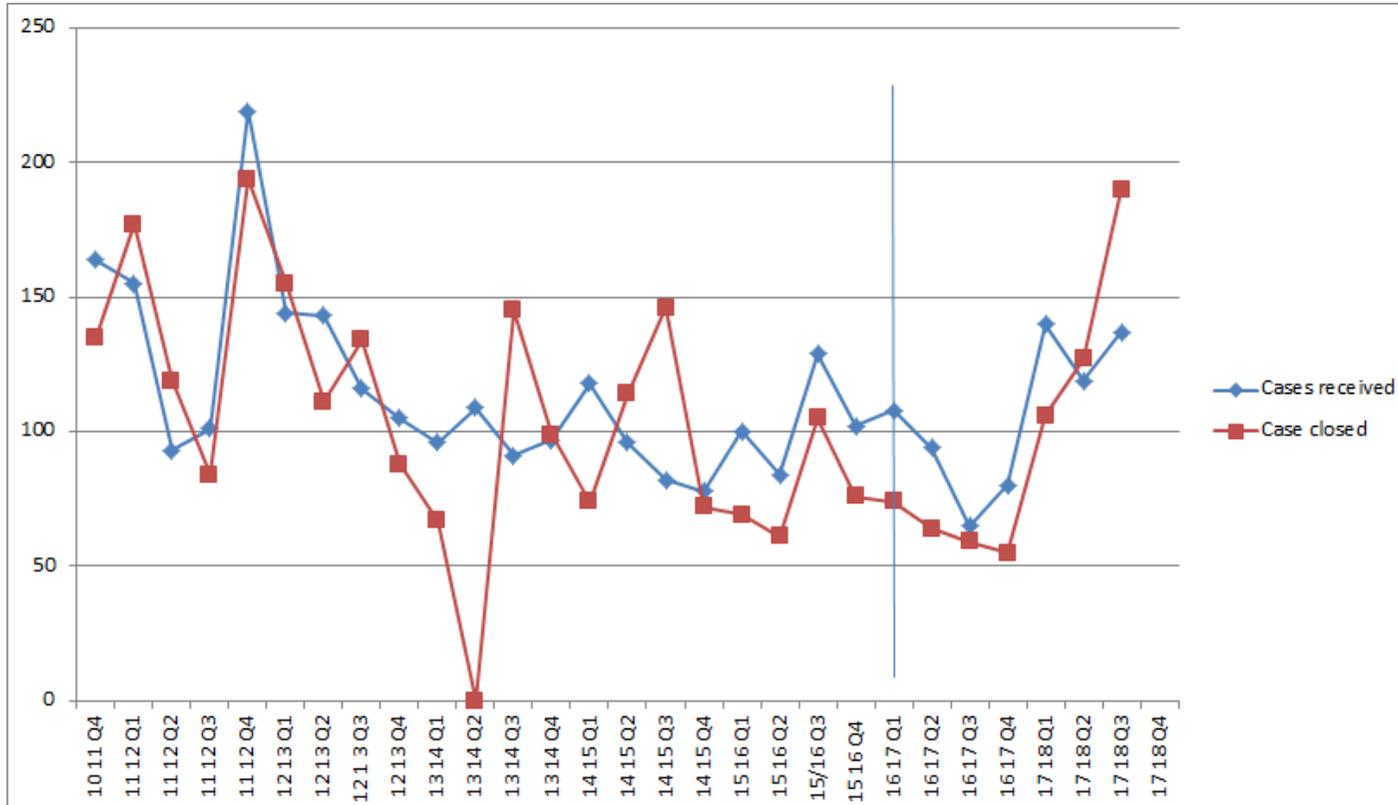
For further information please contact Clare Walker on Extension 5834 or [planning@nsdc.info](mailto:planning@nsdc.info)

**M Lamb**  
**Business Manager - Growth and Regeneration**

**ENFORCEMENT PERFORMANCE REPORT SCHEDULE B – PERFORMANCE BY QUARTER**

	Q 1 2016/17 1 <sup>st</sup> April to 30 <sup>th</sup> June	Quarter 2 2016/17 1 <sup>st</sup> July to 30 <sup>th</sup> September	Quarter 3 2016/17 1 <sup>st</sup> October to 31 <sup>st</sup> December	Quarter 4 2016/17 1 <sup>st</sup> January – 31 <sup>st</sup> March	Quarter 1 - 2017/18 1 <sup>st</sup> April to 30 <sup>th</sup> June	Quarter 2 2017/18 1 <sup>st</sup> July to 30 <sup>th</sup> September	Quarter 3 2017/18 1 <sup>st</sup> October to 31 <sup>st</sup> December	Quarter 4 2017/18 1 <sup>st</sup> January – 31 <sup>st</sup> March
Cases Received	108	94	65	80	140	119	<b>137</b>	
Cases Closed	74	64	59	55	106	127	<b>190</b>	

Bolded figure is a projection based on pro-rata so far during the quarter. This is clearly subject to change.





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## Appeal Decision

Site visit made on 7 November 2017

**by Helen Cassini BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 November 2017**

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**Appeal Ref: APP/B3030/W/17/3180831**

**Land to the rear of 21 Strawberry Hall Lane, Newark on Trent, Nottinghamshire NG24 2EX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr G Briggs Price against the decision of Newark & Sherwood District Council.
  - The application Ref: 17/00544/FUL, dated 20 March 2017, was refused by notice dated 12 June 2017.
  - The development proposed is a proposed change of use to land to rear of 21 Strawberry Hall Lane to provide staff car parking area.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a proposed change of use to provide staff car parking area at land to the rear of 21 Strawberry Hall Lane, Newark on Trent, Nottinghamshire NG24 2EX in accordance with the terms of the application, Ref: 17/00544/FUL, dated 20 March 2017, subject to the conditions set out in the attached scheduled.

### Procedural Matter

2. I have used the address of the proposal from the Council's decision notice as it provides an accurate location of the site.

### Main Issues

3. The main issues of the appeal are the effect of the proposal on:
  - (i) the character and appearance of the surrounding area; and
  - (ii) the living conditions of neighbouring residents, with particular regard to noise and disturbance.

### Reasons

#### *Character and appearance*

4. The appeal site originally formed part of the rear garden of 21 Strawberry Hall Lane. However, at the time of the site visit the proposed area had been separated from the rear garden by an approximately 1.8 metre close boarded fence.
5. The site, although somewhat over grown at the time of the visit, is relatively flat and bounded to the east and west by mature vegetation and a mix of low

- walling and close boarded fencing. The palisade fencing and gate on the southern boundary separates the appeal site from the commercial premises of Seventy Seven Motors, which the development proposed is to serve.
6. The appeal site is located within a predominately residential area, although the Newark Industrial Estate bounds the appeal site and adjacent dwellings on Strawberry Hall Lane. Seventy Seven Motors occupies a significant site, with a large metal clad building in the centre. At the time of the site visit, a significant number of motorhomes were parked at the commercial premises. It was evident that parking space for the required number of motorhomes is severely limited. Consequently the overall site appears cramped and lacking in adequate parking space for the motorhomes.
  7. The planning history of the site is noted. In particular, the previous planning application<sup>1</sup> on the same site for the change of use to enable 10 parking spaces for motorhomes to be worked on in the workshop. In addition, the amendments made to the scheme before me, including the proposed reduction in both the number of parking spaces and the hours of use of the car park, are acknowledged.
  8. Observations of the site were made from both the commercial premises and from accessing the site via the rear garden of No 21. The proposed site would not be visible from within the public realm on Strawberry Hall Lane or land to the front of the commercial premises on Northern Road.
  9. Aspects of the site would however be visible to the adjoining neighbours at 19 and 23 Strawberry Hall Lane. It is further noted that views of the site may be visible from some first floor windows of dwellings located on Trent Way; however the degree of visibility from these locations would be somewhat limited.
  10. The character of the appeal site would change from its current overgrown and unkempt appearance to that of a hard surfaced car park. The existing mature landscaping on site would be retained and additional landscaping would be introduced to the site; along with 1.8 metre close boarded fencing to the east and west boundaries. If I were minded to allow the appeal it would be considered reasonable and necessary to control these aspects via planning conditions, in order to protect the character and appearance of the site.
  11. The Council raised concern with regard to the impact of the boundary change of the industrial estate on the character and appearance of the area. It is accepted that the change of use of the site would be a move from a previous residential use. Nonetheless, the scale of the car park would be modest and the proposed landscaping and boundary treatments would not only be in keeping with the surrounding locality but would assist in screening any localised views into the site.
  12. The concern raised by the Council in relation to the setting of a precedent for future development within the locality is also noted. However, the proposal has been considered on its individual merits based on the specific design put forward.
  13. Within this context, it is considered that the proposal would not appear as an incongruous feature in the area and would not significantly alter the character

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<sup>1</sup> Council reference 16/01288/FUL

and appearance of the area. The proposal would not therefore be in conflict with Policy 9 of the Newark and Sherwood Local Development Framework Core Strategy Development Plan Document 2011 (the CS) and Policy DM5 of the Newark and Sherwood Local Development Framework Allocations & Development Management Development Plan Document 2013 (the DPD). When taken together these policies, amongst other things, seek to ensure that development responds positively to local character and is of a high standard of design.

### *Living conditions*

14. Concern was initially raised regarding the location of proposed car parking spaces in proximity to the conservatory located within the garden of 23 Strawberry Hall Lane. However, as a result of amendments made to the scheme in terms of the removal of the 3 most northerly car parking spaces, a minimum separation distance of approximately 14 metres would exist between the rear of the dwellings at Nos 19, 21 and 23.
15. Some noise would be generated by the change of use of the site as a result of conversations being held in the car park, the turning over of car engines and vehicles manoeuvring to and from the site. In addition, during the winter months light from the headlights may be visible as cars enter and leave the site. However, given the average height of the car headlights, the proposed boundary treatments would assist in screening the illumination.
16. During the day time the potential for noise and disturbance is unlikely to have a significant impact on neighbouring dwellings. However, later in the evening or during weekends and bank holidays, neighbouring occupiers might reasonably expect a degree of peace and quiet as they relax within their dwellings and gardens.
17. The hours of use of the site originally proposed were 0730 to 1830 Monday to Friday and 0800 to 1600 during weekends and bank holidays. However, in order to further protect residential amenity, the hours of use proposed were amended to 0800 to 1800 Monday to Friday, with no use during weekends or bank holidays. If I were minded to allow the appeal it would be considered reasonable and necessary to control the use of the car park via a planning condition in order to ensure residential amenity would not be adversely harmed.
18. Due to the adequate separation distances and proposed hours of use, the proposed change of use would not have such an adverse impact on residential amenity as to warrant the refusal of planning permission. Accordingly, the proposal complies with Policy 9 of the CS and Policy DM5 of the DPD. When taken together these policies, amongst other things, seek to ensure development does not result in an unacceptable reduction in residential amenity.

### **Conditions**

19. The conditions suggested by the Council have been considered against the tests of the National Planning Policy Framework and advice provided by the Planning Practice Guidance. They are found to be reasonable and necessary in the circumstances of this case; however some have been combined and edited for precision and clarity.

20. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans in order to provide certainty. A condition to secure appropriate hard and soft landscaping is necessary in the interests of the character and appearance of the site and biodiversity. Conditions relating to the hours of use, the number of vehicle's utilising the site and control of the use of the site are also necessary in the interests of residential amenity.

**Conclusion**

21. For the above reasons, it is therefore concluded that, subject to conditions, the appeal should be allowed.

*Helen Cassini*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Dwg No. 231/2016; Existing Site Plan Dwg No. 231\_2016\_01; Proposed Site Plan Dwg No. 231\_2016\_02 Rev B.
- 3) The use hereby permitted shall only take place between the following hours: 0800 to 1800 Mondays to Fridays, with no use on Saturdays, Sundays or Bank Holidays.
- 4) No development, other than demolition and ground works, shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
  - i) 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;
  - ii) 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 and retaining structures;
  - iii) proposed finished ground levels or contours;
  - iv) car parking layouts and materials; and
  - v) boundary treatments.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance with the agreed scheme. The completed scheme shall be managed and maintained in accordance with the approved scheme of management and shall thereafter be retained in the approved form.
- 5) Not more than 11 staff vehicles shall be parked within the site, as illustrated on approved plan Proposed Site Plan Dwg No. 231\_2016\_02 Rev B, at any one time.
- 6) The use hereby permitted shall be used for staff vehicle parking only and for no other use ancillary to the adjacent premises to which it will serve.



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## Appeal Decision

Site visit made on 9 October 2017

**by D. M. Young BSc (Hons) MA MRTPI MIHE**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 October 2017**

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**Appeal Ref: APP/B3030/W/17/3179638**

**Land to the rear of Franklyn, Lower Kirklington Road, Southwell NG25 0DX.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Steven Wendels against the decision of Newark & Sherwood District Council.
  - The application Ref 17/00623/FUL, dated 29 March 2017, was refused by notice dated 12 June 2017.
  - The development proposed is a proposed new dwelling.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a proposed new dwelling at land to the rear of Franklyn, Lower Kirklington Road, Southwell NG25 0DX in accordance with the terms of the application Ref 17/00623/FUL, dated 29 March 2017, subject to the conditions set out in the schedule to this decision.

### Preliminary Matters

2. I have taken the site address from the Appeal Form as this reflects the more accurate version used by the Council.

### Main Issues

3. This is the effect of the development on the character and appearance of the area.

### Reasons

4. The appeal site is located to the side of a recently constructed detached dwelling which forms part of a small development of 5 dwellings arranged around a private cul-de-sac. The site is set back some distance from Lower Kirklington Road and hence public views of the site are extremely limited.
5. Rather than the detailed design of the proposed dwelling, the principle issue is whether the development would represent over-development of the plot. It is evident from the submitted plans that the dwelling would occupy a smaller plot than some of its neighbours. However, that in itself does not make the development unacceptable particularly as there would be sufficient room for the requisite car parking as well as landscaping to the site frontage. The dwelling would be set in from its side boundaries and a small but nonetheless functional garden area would be provided to the rear. Although the garden

would be relatively small, the Council have not pointed to any local standards that might be breached if I were to allow the appeal. The plot size would in any event be comparable to the adjacent cattery building which is being converted to a dwelling.

6. Overall there would be some change to the character and appearance of the area, however, this would be modest and not readily apparent from the public domain. The Council has failed to provide cogent evidence to support its reason for refusal. I therefore conclude that the development would accord with Core Policies 3 and 6 of the "*Newark and Sherwood Local Development Framework Core Strategy 2011*" (the CS), Policy DM5 of the "*Newark & Sherwood Local Development Framework Allocations and Development Management DPD 2013*" and the "*National Planning Policy Framework*". Amongst other things, that all new development will be required to contribute positively to local distinctiveness and sense of place and should be in keeping with the general character and density of existing development in the area.
7. CS Policy So/HN/1 seeks to secure the majority of new housing as 1 or 2 bedroom units. However this is qualified by a requirement to consider local site circumstances. In this case, the provision of a smaller unit is likely to jar with the established character of the locality which comprises large dwellings occupying generous plots. It is also pertinent that the proposed unit would be a modest 3-bedroom property with limited floorspace above the ground floor level. Accordingly, there would be no material conflict with CS Policy So/HN/1.

### **Other Matters**

8. Although highway safety is clearly a concern for the Parish Council and others, it did not form part of the Council's refusal reasoning. It is pertinent that there has been no formal objection from the Highway Authority. To my mind, the number of traffic movements generated by a single dwelling would be small. As a result, there is no sound basis on which to conclude that the development would pose a threat to highway safety or undermine the access works associated with another planning permission.
9. I have noted other concerns including the effect on privacy and daylight on neighbouring residents. However, there is no compelling evidence which would lead me to conclude differently to the Council on these matters
10. Finally, it has been put to me that the Council has a 5 year supply of housing and Southwell has sufficient allocated sites to cover its housing targets. Whilst that may be so, housing targets should not be viewed as maxima with the Framework advising that the development proposals that accord with the development plan should be approved without delay.

### **Conclusion**

11. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

### **Conditions**

12. The Council has suggested 8 planning conditions which I have considered against the advice in the "*Planning Practice Guidance*" (the PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity.

13. I have imposed a plans condition as this provides certainty as to what is approved. A materials condition is necessary to ensure the satisfactory visual appearance of the development.
14. In the absence of any specific justification from the Council, I do not find it necessary to require the landscaping of a private garden. The suggested drainage condition is unnecessary as these details are shown on the approved plan and thereby captured by the plans condition. Given the existing residential use of the land I am not persuaded the suggested condition pertaining to bat and hedgehog boxes is necessary to make the development acceptable.
15. Finally, Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Similarly, the PPG advises that conditions restricting the future use of permitted development rights "*will rarely pass the test of necessity and should only be used in exceptional circumstances*". On the evidence before me, I am not persuaded that the Council has demonstrated that such circumstances apply in this instance. I am however satisfied that a condition to restrict additional window openings is necessary to protect the living conditions of neighbouring occupiers. I have amended the suggested condition accordingly.

*D. M. Young*

Inspector

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall not begin later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 514-01 Rev C.
- 3) 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.
- 4) Prior to occupation of the dwelling hereby approved, drainage installation shall be carried out in accordance with the details shown on the approved plan and shall thereafter be so retained.
- 5) No additional windows shall be added into any elevation of the dwelling hereby approved unless consent has first been granted in the form of a separate planning permission.