

Date: 30th November 2015

Dear Sir/Madam,

PLANNING COMMITTEE

Notice is hereby given that a meeting of the **Planning Committee** will be held in the Council Chamber, Kelham Hall, Newark on Wednesday, 9th December 2015 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 3 rd November 2015	3 - 7
<u>PART 1 - ITEMS FOR DECISION</u>	
5. Land at junction between Wellow Road and Newark Road, Wellow (15/00457/FUL) (Site Visit: 9.20am – 9.30am)	8 - 44
6. Southwell Green SF Connect, Upton Road, Southwell (15/01569/ADV) (Site Visit: 10am – 10.05am)	45 - 55
7. Corner Cottage, Main Street, Oxtun (15/01455/FUL) (Site Visit: 10.15am – 10.25am)	56 - 66

8.	Railway Lake, Hoveringham Land, Hoveringham (15/01537/FULM) (Site Visit: 10.45am – 10.55am)	67 - 89
9.	Land to the South East of Former A46, Syerston (15/00912/FULM) (Site Visit: 11.35am – 11.45am)	90 - 110
10.	Plots 1 – 10 Green Park, Tolney Lane, Newark (14/01640/FULM)	111 - 119
11.	Land North of Rainworth Former Rufford Colliery adjacent Clipstone Forest, Nottinghamshire (15/01008/FULM)	120 - 169
12.	Top Lock Studio, Navigation Yard, Mill Gate, Newark (15/01893/FUL)	170 - 176

PART 2 – ITEMS FOR INFORMATION

13.	Appeals Lodged	177 - 178
14.	Appeals Determined	179

PART 3 - STATISTICAL AND PERFORMANCE REVIEW ITEMS

None

PART 4 - EXEMPT AND CONFIDENTIAL ITEMS

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

NOTES:-

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

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of the **PLANNING COMMITTEE** held in the Council Chamber, Kelham Hall, Newark on Tuesday, 3rd November 2015 at 4.00pm.

PRESENT: Councillor D.R. Payne (Chairman)

Councillors: D.M. Batey, R.V. Blaney, Mrs C. Brooks, D. Clarke, R.A. Crowe, Mrs M. Dobson, N.B. Mison, Mrs P.J. Rainbow, Mrs S.E. Saddington, Mrs L.M.J. Tift, B. Wells and I. Walker.

ALSO IN

ATTENDANCE: Councillor J.D. Lee

88. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors: G.P. Handley and Mrs Y. Woodhead.

89. MINUTES OF THE MEETING HELD ON 6TH OCTOBER 2015

AGREED that the Minutes of the meeting held on 6th October 2015 be approved as a correct record and signed by the Chairman.

90. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

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

<u>Member</u>	<u>Agenda Item</u>
All Members	Agenda Item No. 5 – Land Adjacent to the Cattle Market, Great North Road, Newark (15/01469/FULM) – Personal Interest as Elected Members of the Council (and the Council were the Applicant).
Councillor Mrs S.E. Saddington	Agenda Item No. 8 – South View, Crab Lane, North Muskham (15/01440/OUT). Personal Interest as the property was previously owned by Councillor Saddington’s family.

91. DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

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

92. LAND ADJACENT TO THE CATTLE MARKET, GREAT NORTH ROAD, NEWARK (15/01469/FULM)

The Committee considered the report of the Deputy Chief Executive, following a site inspection held prior to the meeting, which sought full planning permission for the erection of new offices and civic accommodation for Newark & Sherwood District Council.

A schedule of communication was tabled at the meeting which included correspondence received after the agenda was published from the Environment Agency, the Agent, the applicant and an Officer of the Council. The presenting Officer made clear that any decision taken must be based on planning issues and in having regard to all material available (including the planning application material, the NPPF, the Committee report and late items, the presentation, and the debate itself).

Members considered the application and the additional information contained within the schedule of communication. Whilst acknowledging that the decision had been taken a number of years previously that the Council would leave Kelham Hall a number of Members expressed their concern as to the chosen location and the perceived issues surrounding parking and traffic congestion. A number of Members stated that, although no objections had been received from Highways England or Nottinghamshire County Council (Highways Authority), they were of the opinion that an increase in traffic congestion would occur if the development was to go ahead. It was suggested that the existing car parking facilities was regularly full and that the development would exacerbate this situation.

In addition to the application being considered, Members noted that there was an application for planning permission for a retail supermarket in close proximity which, if approved, would further worsen the situation in relation to traffic congestion. Some Members of the Committee also commented that they disliked the design of the building, comparing it to that of a leisure centre or of an industrial design.

In response to the issue of the car park usage, Officers advised that an Existing Usage Survey had been undertaken on separate Wednesdays in the months of June, July, August and September, which is market day. Of these dates, the lowest spare capacity was rated at 56% with the highest being 76%. The Officer added that, in general, the location of the development was more sustainable in relation to transport facilities e.g. rail and bus networks and that a Travel Plan was to be undertaken. It was also confirmed that there was no objection from the Highway Authorities, including in terms of in combination effects with the pending retail supermarket nearby. The Officer also advised that sequentially the site was in the most appropriate location in retail and flood risk terms to serve the needs of the wider District (as detailed in Appendix 1). The Officer made clear that there would be benefits given the location of the development both given its proximity to the Town Centre and ability to serve the wider District. The Officer did not identify any concerns regarding the impact on Newark Town Centre but members were advised to have regard to this issue.

A Member of the Committee, having proposed that the Officer recommendation to approve be granted, stated that to refuse the application would require sustainable and clear planning reasons for doing so. If the decision was to refuse and the reasons given were due to traffic congestion issues this would be contrary to the professional opinion of Highways England and Nottinghamshire County Council as Highway Authority who had offered no objections to the development. Members were urged to reflect on how an appeal could proceed if it were not the Council as applicant.

In response to the issues raised in relation to parking, the Member of the Committee advised that a Traffic Enforcement Officer had stated on site that morning that the car park regularly only had 30 vehicles parked and that it was his opinion that there would be sufficient spaces provided for staff. He added that the majority of meetings attended by Members commenced at 6pm which was a time when staff would have vacated the car park.

In conclusion the Member commented that this was an important application for both the Council and its residents. The location of the new building would be more convenient for a greater number of residents and much easier for them to get there.

AGREED (by 7 votes for and 5 votes against with 1 abstention) that full planning permission be granted, subject to the conditions contained within the report and the schedule of communications, as tabled.

93. OFFICE COTAGE, 22 THE GREEN, COLLINGHAM (15/01707/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site inspection held prior to the meeting, which sought full planning permission for the construction of a timber summer house. This application was a resubmission of an application that had been previously submitted and subsequently withdrawn.

Members considered the application and commented that the design of the proposed summer house would not be detrimental to the setting of the Grade II listed host building. They did, however, comment that they would wish the applicant to consider an alternative to the proposed roofing to give an improved and more natural appearance e.g. a wood shingle tile.

AGREED (unanimously) that, contrary to Officer recommendation, planning permission be approved, as applied for, with Officers being requested to discuss with the applicant the issue of using an alternative roofing material.

94. FIELD REFERENCE NUMBER 0145, EAGLE ROAD, SPALFORD

The Committee considered the report of the Deputy Chief Executive, following a site inspection held prior to the meeting, which sought outline planning permission for the erection of 3 dwellings, an indicative plan of which had shown these to be 3 three bedroomed detached two storey dwellings with garaging with a maximum eaves height of 5.1m.

A schedule of communication was tabled at the meeting which included correspondence received after the agenda was published from a neighbour/interested party and Nottinghamshire County Council Highways Authority.

Members considered the application and noted that the site was subject to an existing Enforcement action in relation to the number of vehicles being parked at the location.

It was noted that the report referred to Spalford Parish Council with a Member of the Committee advising that this was incorrect as Spalford was a Parish Meeting. The Member requested information as to where the Parish Meeting had taken place when the decision to support the application had been taken.

AGREED (unanimously) that:

- (a) the planning permission be refused for the reasons as set out in the report; and
- (b) Officers be given delegated authority to take further legal action should the current Enforcement Action be unsuccessful.

95. SOUTH VIEW, CRAB LANE, NORTH MUSKHAM (15/01440/OUT)

The Committee considered the report of the Deputy Chief Executive, following a site inspection held prior to the meeting, which sought outline planning permission, with all matters reserved, for the erection of a three bedroomed dwelling on land measuring 500m² which currently forms part of the rear garden serving South View.

A schedule of communication was tabled at the meeting which included correspondence received after the agenda was published from the Agent who had agreed to amend the description of the proposal to 'Outline Application for the erection of a single storey three bedroomed dwelling'. Officers added that an additional condition was to be added that would restrict the accommodation to ground floor level only with no provision at an upper level.

Members considered the application noting that the development would fit into the existing street scene adding that any development must be that of a single storey dwelling.

It was noted that there was potential for another site to come forward which would meet the whole of the housing need for North Muskham. However, this land was equally subject to flood risk, outside the main built up area of the village and at a very early stage and therefore there was no certainty that it would come to fruition.

AGREED (by 9 votes for with 2 against and 1 abstention) that outlined planning permission be granted subject to the conditions contained within the report and the inclusion of an additional condition in relation to the restriction that the accommodation be at ground floor level only with no provision at an upper level.

96. BRINKLEY HALL FARM, FISKERTON ROAD, BRINKLEY (15/01395/FUL)

The Committee considered the report of the Deputy Chief Executive, following a site inspection held prior to the meeting, which sought planning permission for the replacement of industrial units with a new detached four bedroomed, two storey house with attached double garage.

Members considered the application noting that the Officer recommendation was for refusal due to the proposal failing to meet the criteria as set out in Policy DM8. Members agreed that the site was large enough to accommodate an appropriate residential dwelling and that the recommendation to refuse was not a 'blanket refusal'. It was noted that there were grounds to approve isolated dwellings in the countryside if there were special circumstances and the criteria for Policy DM8 were met.

AGREED (by 11 votes for with 2 against) that full planning permission be refused for the reasons as set out in the report.

97. APPEALS LODGED

Land at Highfields School, London Road, Balderton
Appeal Ref. APP/B3030/W/15/3133508

The Chairman of the Committee advised that the appeal for the above would be heard on 8th December and that any Member wishing to attend should advise him accordingly.

NOTED that the report be noted.

98. APPEALS DETERMINED

NOTED that the report be noted.

The meeting closed at 5.40pm

Chairman

Application No:	15/00457/FUL	
Proposal:	Proposed traveller site including short term transit pitches and utility block	
Location:	Land At Junction Between Wellow Road And Newark Road Wellow Nottinghamshire NG22 0EH	
Applicant:	Mr William Calladine	
Registered:	21.05.2015	Target Date: 16.07.2015
Ext. of time:	Agreed in principle	

The Site

The application site is located adjacent to the junction between Wellow Road and Newark Road, Wellow approximately 200m to the north west of the built up area of Wellow Village and 450m to the south of Boughton. The urban boundary at Ollerton (as defined in the policies maps for the Local Development Framework) is situated some 450m to the west of the site. Given the site is located outside these neighbouring settlements, the land is defined as open countryside in the Development Plan.

Comprising an area of vacant greenfield scrubland of approximately 0.43ha, the site is roughly triangular in shape and substantial woodland screening exists to the southern and western boundaries the latter of which is a disused railway. The existing access point is located to the eastern boundary onto Newark Road and a significant number of trees also exist adjacent to this boundary although there are gaps allowing views into the site. The application site is located within the Wellow Conservation area and the Wellow Village Farmlands with Ancient Woodlands Policy Zone (MN PZ 22) as defined in the Landscape Character Assessment SPD.

The site sits on a similar level to Newark Road and there is a slope within the site towards the south western boundary. Wellow Road sits at a significantly higher level to the application site and its south western point.

The site is adjoined by existing gypsy and traveller sites beyond the woodland screen to the north western boundary, one of which is in the ownership of the applicant.

The nearest Local Wildlife Sites (LWSs) to the site are Wellow Dam, (recognised as a mosaic of scrub and damp, species rich grassland with notable species around a fishing pond) which is situated approximately 40m to the east of the site and Boughton Railway banks with notable sections of habitat along the embankment some 30m to the north of the site. Other sites in fairly

close proximity include Ollerton Colliery LWS (approx. 230m) and Wellow Park SSSI (approx 400m). The Site is also located centrally within the ppSPA for nightjar and woodlark, with Ollerton Colliery considered an Important Bird Area of the ppSPA.

Description of Proposal

The application proposes a traveller site including short term transit pitches and utility block. A revised site layout has been submitted following the initial comments of the Highway Authority. The revised plan shows the proposed access point onto Newark Road to be located further north and therefore further from the junction with Wellow Road.

The plans illustrate that there would be a total of 8 caravan pitches with room for parking adjacent to each pitch and an area of grass separating each pitch. The pitches would be laid out adjacent to the perimeter of the site and accessed of a triangular internal access road with turning area. The remaining land to the centre of the site would be retained as an open play area and a bin store is also located within this area. A utility block is proposed to the south western corner of the site. Existing site levels and site sections have been provided.

The Design and Access Statement submitted with the application confirms that the applicant has lived on the neighbouring site with their extended family for the last 7 years. In order to plan for the future and meet the current accommodation needs of the growing family, the applicant would like to extend the site into the adjacent land and would like to offer part of the site for short term, transit pitches for travellers who may be moving in and around the District. The statement includes that the family are well established as part of the local community accessing local services such as schools. The applicant is keen to follow the correct procedures thus why this application has not been made retrospectively.

An Extended Phase 1 Habitat Survey has also been submitted in support of the application.

During the course of the application the applicant has responded to consultation comments and requests of the case officer and has submitted the following additional supporting information:

- Heritage Statement and Archaeological Impact Assessment
- Arboricultural Method Statement with Tree Protection and Tree Constraints plans.

Relevant Site History

<u>Reference</u>	<u>Proposal and Decision</u>
15/00306/OUT	Proposed Traveller site including short term transit pitches and utility block. Application withdrawn.

Publicity

Press Notice:	Published 10.06.2015
Site Notice:	Posted 12.06.2015
Earliest Decision Date	13.07.2015

Consultations

Wellow Parish Council – ‘The Parish Council are opposed to this application on a number of grounds.

1. The need for additional Gypsy and Traveller pitches is unproven as there are empty pitches on nearby sites and the District Council does not currently have a five year supply of Gypsy and Traveller pitches. The application itself contains confusing information regarding whose needs are being met by this application as it refers to both the need for the applicant to ‘meet the current accommodation needs of his growing family’ and also the offers the site as ‘commercial, short term, transit pitches for Travellers’.
2. There are a disproportionately large number of pitches in the surrounding area compared to size of the population of Wellow. Planning policy states that Local Planning authorities should ‘relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population’s size and density’ which would clearly not be case here. If these additional pitches were to be approved on top of what is already provided in the adjacent area the scale of the traveller sites would start to dominate the settled community.
3. There are concerns over the size and number of vehicles using the site. A new housing development is under construction nearby and taking this into account the cumulative effect of the extra traffic on the junction will be significant and potentially dangerous.
4. If this application were to be approved there would be erosion of the gap between the nearby urban area and rural village of Wellow. The distance that currently exists between the two has been cited as important and development of this site would encroach upon that distance.
5. Strain on the local health services – the Parish Council consider that the District Councils process of not taking into account the cumulative effect of all local development is flawed as there is a new housing development under construction and the two together will impose a significant burden on an already stretched local health service.
6. There will be an increase in surface runoff from hard standing areas which will create a hazard on the adjacent road. The land falls towards the revised site entrance which will exacerbate this problem.
7. The development outlined in this application is inappropriate development in a conservation area close to the ancient open space of Wellow Dam.
8. The Habitat Survey states that no sign of Japanese knotweed was noted on/around the site, and only general recommendations are made in relation to this plant due to the existence of previous records from the area. This is incorrect and there is evidence of

this plant next to the site entrance (photographic evidence can be provided) and it is essential to prevent the spread of this plant.'

NSDC (Planning Policy) – Comments included within the appraisal section of this report.

NSDC (Strategic Housing) – 'The Council is required to regularly assesses future accommodation needs for Gypsy and Traveller pitches within the district, alongside those of the settled community. The most recent assessment set out in the Local Plan Review Issues paper (referenced elsewhere in the Committee report) identifies the need for 21 pitches up to 2018. I understand that at present there are no allocated sites or permissions in place to meet this need. Therefore providing the site satisfies other relevant planning considerations Strategic Housing would support this application as the appropriate provision of gypsy and traveller sites. I understand the site includes the provision of transit pitches which provide for a specific housing need often overlooked.'

NSDC (Environmental Health) – Notes that the applicant has a caravan site close by which does benefit from a site licence.

This new site would appear to be subject to the requirements of Caravan site Licensing and as such a Caravan site licence would be required. Conditional within the site licence would be such issues as spacing between caravans, firefighting provision, site access water supply and waste disposal.

From the original site plan submitted the Environmental Health Officer advised that there were issues which would require re-design of the scheme. These were as follows:

- The separation distance between caravans is 6m where they are in separate occupation. The site plan shows caravans at less than 4metres separation.
- Caravans must be more than 3 metre from the site boundary. This is not clear from the site plan.
- Caravans must be more than 2 metre from a road. The site plan shows them to be less than 2 metre.
- The site road must be a minimum of 3.7metre wide. The site plan shows the road at 2.3 metre wide.
- The sanitary provision in the toilet block has not been quantified.
- Firefighting provision is not marked.
- Waste disposal facilities are not shown.
- Water supply and foul water disposal are not shown.

Following submission of a revised plan and clarification of measurements, the Environmental Officer has confirmed this addresses their initial concerns. The Environmental Health Officer has advised that a Caravan site Licence would be required.

Nottinghamshire Fire Brigade – No comments received.

NSDC (Conservation Officer) – The proposal site is situated within Wellow Conservation Area. To the south, on the west side of Rufford Lane, is the Grade II listed Chailey House. The surrounding landscape has strong associations with medieval enclosure, noting the remnants of Gorge Dyke (much of the earthworks visible on the eastern side of the village are scheduled) and former manorial elements. The proposal site therefore may possess potential archaeological interest (defer to County Archaeology on the matter).

In determining this application, the decision maker should consider whether the proposal preserves or enhances the character and appearance of the Wellow Conservation Area (CA) in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'). The objective of preservation is to ensure that development does not harm the special character and appearance of the CA, and is a matter of paramount concern in the planning process.

It is accepted that the topography of the site and landscaping ensures that the proposal is unlikely to affect the direct setting of Chailey House, although there may be some impact on the wider landscape setting of the listed building when on approach from the road junction with Newark Road (in accordance with the definition of 'setting' within the PPG and Historic Environment Good Practice Advice Note (GPA3: setting of heritage assets)). In this context, special regard should be given to the objective of preserving the setting of listed buildings in accordance with section 66 of the Act.

Policies CP14 and DM9 of the Council's LDF DPDs are also relevant in this situation. Section 12 of the NPPF is also relevant.

Having reviewed the submitted plans and details, Conservation has the following observations:

i) The submission does not include a Heritage Impact Assessment. As set out under paragraph 128 of the NPPF, the applicant is required as a minimum to describe the significance of any designated heritage assets affected by the proposal and the affect of the proposal on that significance. Although a matter for County Archaeology to clarify, proposals that affect archaeological interest may be required to submit a desk-based archaeological assessment, and in some situations field assessment. The applicant should be required to address this matter before the scheme is determined;

ii) The disused railway embankment to the western edge of the site forms an effective barrier from existing caravans on the Ollerton side and ensures that the historic landscape setting of Wellow CA remains well-defined. The change of use and associated physical elements proposed are a departure from the existing landscape characteristics. As such, the proposal is likely to have some harmful impacts on the character and appearance of the Wellow CA. The harm identified is less than substantial for the purposes of the NPPF;

iii) It is accepted that green infrastructure is capable of mitigating some of the harm identified above. In this context, the decision-maker is entitled to weigh harm against any identified public benefits;

iv) The development is not likely to harm the setting of any listed buildings provided that the development is well-screened to Newark and Wellow Road.

Following the submission of the Heritage Statement and Archaeological Impact Assessment the Conservation Officer confirmed that the report is very comprehensive, and that they broadly concur with its findings. They still feel that the proposal has a moderately negative impact on the character and appearance of the Conservation Area, although they fully recognise that mitigation is possible (with planting/screening) and that the land usage might have public benefits in terms of meeting an identified need. In this case, the decision-maker is entitled to weigh these matters using paragraph 134 of the NPPF.

Notts County Council (Highways) – Initially advised that the existing access is not sufficiently far away from the A616 Wellow Road/Newark Road junction to be safe. Bearing in mind the speed and volume of traffic on Newark Road the Highway Authority considered that the access should be about 100m from the central refuge at the mouth of the junction i.e. about 25m north of the existing access position.

Following the submission of a revised plan (drawing no.410-104-2) which relocates the access further north the Highway Authority confirmed that they had no objection to the proposals subject to conditions being attached to any planning permission requiring the proposal to be completed in accordance with the plan with measures to prevent surface water discharging to the highway, the existing site access being permanently closed and reinstated as verge and the private access being surfaced in a bound material for a minimum distance of 5.0m from the boundary with the highway. The Highway Authority have also requested that a note be attached to any permission with regards to the applicant being required to enter into a Section 278 Agreement to undertake the works to reinstate the verge at the point of the redundant access.

Notts County Council (Archaeology) – Requested a desk based assessment looking at map regression to work out previous landuses of the site, and also considering views in and out of the site, would be a good idea to give some confidence that a) no buried remains will be affected, and b) no visual impacts will arise from the proposal. In terms of the visual impacts, much depends on the existing hedges around the site, but it is not at all clear to me how tidying these and maintaining them might have a greater chance of impacts occurring. A good DBA with lots of maps and photos of existing views in and out, would be a useful tool to be able to provide confidence in the outcome of the development.

The County's Archaeologist was reconsulted following the submission of the Heritage Statement and Archaeological Impact Assessment. And has made the following comments:

'I have caught up with the HIA submitted in respect of this application, and have read it with interest. They assess the potential of the area as low, but I am far from convinced this is correct. The historic mapping copied in the HIA shows an unusual field system to the north, of which this site is part. The fields appear to radiate out from the properties to the north, and the corner of one of these radiating fields has a peculiar kink, that suggests it was taking note of a now vanished landscape feature. That field boundary, with the odd corner, lies within the proposed development site. My experience of these kind of radial field systems in Sherwood leads me to suspect an early date for their origin, so I think it would be worth ensuring that if the development proceeds, any groundworks required are undertaken under archaeological supervision so that we have a chance to date previous property boundaries and identify the nature of the feature responsible for the odd corner. A standard two part condition would be appropriate along the lines of;

"No development shall take place within the application site until a written scheme for archaeological mitigation has been submitted to and approved in writing by the LPA."

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

Natural England – Statutory nature conservation sites – no objection

This application is in close proximity to the Wellow Park; and Birklands West and Ollerton Corner Site of Special Scientific Interest (SSSI).

Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. Natural England therefore advise that this SSSI does not represent a constraint in determining this application.

Natural England have not assessed this application and associated documents for impacts on protected species and refer to their standing advice.

With regards to 'Local sites', if the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Natural England also refer to 'Biodiversity enhancements' and advise that this application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Natural England advise that the Council should consider securing measures to enhance the biodiversity of the site, if it is minded to grant permission. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, Natural England draw attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving

biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Nottinghamshire Wildlife Trust – Welcome the Extended Phase 1 Survey undertaken and are generally satisfied with the methodology, results and recommendations provided. The Trust wish to draw attention to the following:

Local Wildlife Sites (LWS), Site of Special Scientific Interest (SSSI) and possible potential Special Protection Area (ppSPA)

As highlighted within the Phase 1 Survey Report, the Site is within 30m of two LWSs (Wellow Dam and Grassland LWS and Boughton Railway Banks LWS), as well as being in close proximity to Ollerton Colliery LWS (approx. 230m) and Wellow Park SSSI (Approx 400m). The Site is also located centrally within the ppSPA for nightjar and woodlark, with Ollerton Colliery considered an Important Bird Area of the ppSPA.

Although it is stated in Section 5.1. of the Phase 1 Survey Report that access to the LWSs are restricted, we note that there are public footpaths through Boughton Railway Banks, Ollerton Colliery LWS and Wellow Park SSSI, and what appears to be a footpath/track through Wellow Dam and Grassland LWS, with limited barriers to this area. Although the Trust accept that the proposed development is of a small footprint, they strongly advise the LPA to consider this application in conjunction with other residential development proposals in close proximity of the Site (e.g. Wellow Road ref 14/01533/RMAM) in order to consider the cumulative indirect impacts (e.g. increase recreational disturbance) to the surrounding LWSs, SSSI and to the ppSPA.

The Trust wish to remind the Local Planning Authority of the following:

“Notwithstanding the likelihood of the designation of an SPA, nightjar and woodlark are protected wherever they occur, even if outside any designated site, as under Article 4 (1) of the Birds Directive, Annex I species are to be “the subject of special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution” and under 4(4) member states “shall also strive to avoid pollution or deterioration of habitats”. This duty on member states applies anywhere that these species occur, even where they are outside any designated site. This is transposed into UK Law as the Conservation of Habitats and Species (Amendment) Regulations 2012, in which Regulation 9A(8) states that “So far as lies within their powers, a competent authority in exercising any function in or in relation to the United Kingdom must use all reasonable endeavours to avoid any pollution or deterioration of habitats of wild birds...””.

Therefore, the Trust strongly agree with Recommendation 1 within Section 5.2. of the Phase 1 Survey report, in which all new residents should be provided with a leaflet informing them of the value of the Sherwood Forest Area to woodlark and nightjar and of the impact of recreational disturbance, particularly from dogs. The Trust agree that the leaflet should request

residents to stay to marked footpaths and to keep dogs on leads during the bird breeding season. The Trust strongly advise that this is set as a condition.

The Trust also welcome the proposed open play area within the current proposed site layout. By providing an area of open space, this could provide some form of mitigation to deter residents from using neighbouring habitats for recreational purposes, thereby reducing impacts to some extent. The Trust would advise that an open space is included within the final landscape designs.

Nesting Birds

It is noted that the scrub onsite is likely to support nesting birds. The Trust would strongly advise that the scrub onsite is retained and they welcome the retention of the scrub within the current proposed site plan. We would advise that this habitat is kept within the final landscape plan.

As suggested within Recommendation 2 of Section 5.2. of the Ecological Report, the Trust would strongly advise that the removal of vegetation during works occur outside of the bird breeding season, in order to prevent damage or disturbance to nesting birds. If this is not possible, then the site should be checked for nesting birds immediately prior to works commencing, with written confirmation sent to the LPA to inform of measures which will be undertaken to protect breeding bird interest onsite. This should be set as a condition under a full planning application. As you will be aware, all birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 (and as amended).

Badgers

The Trust note that no evidence of badgers was found onsite, but the onsite and surrounding habitats were considered suitable. Recommendation 3 of Section 5.2. of the Phase 1 Survey Report suggests following best practice guidelines (BS42020:2013) in which trenches should be covered overnight during the working phase. The Trust agree with these suggestions, but would also advise checking for any active badger setts onsite and within 30m (if possible) immediately prior to works commencing as a precautionary measure. This is due to the transient nature of badgers. Under the Badger Protection Act 1992, it is an offence to disturb an active badger sett. The use of heavy machinery within 30m of a site could be considered a form of disturbance. The Trust advise that these suggestions are set as a condition under a full planning application.

Sensitive Lighting

Due to the location of the site adjacent to broadleaf woodland, the Trust strongly advise that a sensitive lighting plan is provided under a full application. This is to prevent deterioration of habitats to nocturnal protected species, such as bats. This was also suggested under Recommendation 4 of Section 5.2. of the Phase 1 Survey Report.

Invasive Plant Species

Although Japanese knotweed or other invasive flora species were not found onsite, the desk top search did highlight records within close proximity. Therefore the Trust agree with Recommendation 5 of Section 5.2. of the Phase 1 Survey Report, in which site workers should be made aware of the species. If any is found, works must stop immediately and an appropriate treatment plan implemented. This should be set as a condition under a full planning application.

Retention of Habitats

The Trust strongly agree with Recommendation 6 of Section 5.2. of the Phase 1 Survey Report, in which it is suggested that the broadleaf woodland is retained. This would meet the requirements of the NPPF in which to halt the decline, and to contribute to the enhancement of, biodiversity. The Trust would also strongly advise that the broadleaf woodland is appropriately protected (e.g. fencing) to prevent disturbance and/or damage by residents. The Trust note that under current plans, the woodland will be retained, and the Trust advise this to be the case under the final landscape design.

Enhancements

The Trust advise that any landscape planting should be native species of a local provenance, as suggested within Recommendation 6 of Section 5.2. of the Phase 1 Survey Report.

Severn Trent Water – No objection.

Advise that there is a public sewer located within the application site and any works to build close to, directly over or divert a sewer requires their consent.

Police Architectural Liaison Officer – No comments received.

Neighbours/Interested parties – 51no. written representations have been received including the comments of the Wellow Toft Holders' and Owners' Association. Objections to the proposals can be summarised as follows:

Need for and distribution of Gypsy and Traveller sites

- The area already has the District's second largest concentration of Gypsy and Traveller sites.
- Traveller sites should be dispersed throughout the district and country to avoid concentration in one location. Newark and Sherwood and Wellow and Ollerton in particular have more than their share of G&T sites.
- There should be a total number of traveller sites to be provided and if that number has been reached the application should be rejected.

- Sites are needed in other areas so that travellers can travel.
- Already sites in the immediate area not being used to full capacity. There is no need for extra sites and approval could set a precedent.
- What does 'short-term' transit pitch mean? There are other caravan sites where permission was only granted for travellers but they are occupied by static caravans. What measures would be taken to monitor 'short-term transit' pitches on the application site?
- The decision should be delayed until the Council's Gypsy and Traveller DPD has been adopted.
- Content with existing traveller neighbours, however an increase would be unsettling for traveller and settled residents.
- The area carries the District's second largest concentration of traveller and gypsy sites and this is disproportionate.
- Difficulties at Tolney Lane are well known. It might seem like a good idea to transfer some volumes across from Tolney Lane – it is not.
- Disturbed to hear that within thirteen years pitches required in the District will double from 84 to 168, whereas this doubling of requirements will not trouble other Districts within the County.
- The owner of the site is planning on putting family members on the site as permanent residents which is not 'travelling' at all.
- An FOI request in 2012 showed only Newark and Ollerton have any real pitches with Ollerton having significantly more mobile plots than Newark.
- Several written representations state that they are content with the existing traveller sites in the area but additional provision would be a step too far.
- Existing sites are seasonal and there is spare capacity particularly between January and April.
- Wellow currently has 36 permanent pitches available for travellers with a further 12 temporary pitches. The additional 8 pitches proposed would take this to 56 pitches.
- Contrary to advice in Planning policy for traveller sites which states that number of pitches should be related to the surrounding settled population size and density. Wellow is a small village of just over 200 homes. With the additional pitches it would mean that within half a mile radius of the village, there would be a quarter of the population or more as travellers.
- The Newark and Sherwood Document 'Planning to meet the needs of gypsy and traveller communities. Preferred strategy Feb 2015' states under 4.1 Location of future pitches provision 'Ollerton and Boughton are already on a scale proportionate to the population of settlements' and that 'the balance of pitch provision has been higher in percentage terms in this area than envisaged in the core strategy'.
- It appears it is not so much a need for the travelling community but more of a want for the applicant's ever increasing family.
- Fears that the 'short term transit' pitches will become permanent pitches.
- Newark and Sherwood have failed to identify other sites the emphasis being that the onus will always fall on existing sites – is this equitable?
- The information supporting the application suggest the Council approached the applicant which raises concern alternative sites have not been considered.
- There are no requirements from Central Government to provide sites, it is up to each

Council. Has the whole of the County been considered?

- How has need been established?
- At a recent meeting Council Officer's advised it is policy not to share traveller sites throughout the District but instead to add sites where they already exist.
- It is clear that having a duty to provide traveller sites the planning department will provide them where there is least resistance i.e. near small communities.
- The applicant is trying to get the application through before the Gypsy and Traveller DPD is in place.
- Suspicions about the real reason for the site. Just a commercial venture on the back of an apparent need to provide more room for the applicant's extended family – the two needs are unrelated.
- It is understood that the applicant owns other land in the area, would this also become an easy option for similar sites in the future.

Impact on the character of the area

- The site is outside of the Wellow village envelope
- The location is rural and would result in urban spread with Ollerton and Boughton.
- There are already 3 traveller sites in the immediate area. The scale of sites adjacent to Wellow are beginning to dominate the settled community and are out of scale.
- Another 'Tolney Lane' is being created adjacent to a much smaller community than Newark and villages should not be used to shift the 'Tolney Lane problem' on smaller communities with less infrastructure.
- Undue impact on the Conservation Area. The proposal would neither enhance nor preserve the Conservation Area and would conflict with policies in the development plan.
- Undue impact on heritage assets including setting of nearby listed buildings.
- Impact on attractive rural setting and tourist appeal with associated history of Wellow dam and its open space, the Gorge Dyke and the village which is unique for having a permanent maypole. Several premises in the area offer tourist accommodation in addition to a 'thriving public house'. Other local businesses in horse riding and leisure pursuits are growing. The trade and employment offered by these businesses relies on the character of the conservation area for its appeal. An inappropriate traveller site in a prominent position will jeopardise the appeal and thus trade and employment in the area.
- The village would lose its status being merged into Ollerton/Boughton.
- The site is in a prominent position at the entrance to the village, a village which is unique in the country having a permanent Maypole.
- Wellow will lose its individuality with the traveller site and the new estate on Wellow Road.
- Loss of ancient meadow and bat habitat.
- There are other areas in the District less densely populated where such development would cause less detriment and fewer problems to established communities.
- Increasing the size of the Gypsy and Traveller site means it will be far out of proportion when compared to the size of Wellow village and will dominate the community.
- If granted this would be the first traveller site in Wellow Parish and may set a precedent.
- Loss of green space, mature trees and natural habitat.

- The land is ancient meadow and will be lost forever.
- Will trees be replaced?
- The site is physically split from the existing traveller sites – could the applicant’s extended family be accommodated within the existing sites already created?
- The layout goes against guidelines in ‘Designing Gypsy and Traveller Sites – Good Practice Guide’
- There is nothing on the plans showing which plots are static and which are mobile.
- The popularity of the village cannot be underestimated to local walkers and tourists.
- The area between Ollerton and Wellow is being extensively developed including a new housing estate, industrial estate on the old colliery site, the new crematorium and the current traveller site.
- It is understood the applicant has applied to use the field opposite the Shannon site but it was turned down due to bad access. If this site is allowed they could go under the bridge on Wellow Road and will have access to that large field creating the largest site in the Midlands.
- Does the proposal comply with the development plan regarding building within the village boundary and ensuring non encroachment of green space?
- The site is inappropriate due to its small footprint abutting two major routes.
- The proposed site effectively fills in the space between Wellow, Ollerton and Boughton whilst not being part of any of them.
- What does the term pitches mean? Occupiers are likely to have static caravans plus a touring caravan.
- The proposals will impact on the visual amenity of the area.
- Concern about possibility of encroachment on the Wellow Toft Holders’ Common land, part of which lies on the other side of the road from the application site.
- Leaving the site ‘to nature’ will keep the distinct brake between toft holders’ land and private land.

Impact on the environment

- There is Japanese knotweed on the site
- Concrete bases will have an adverse impact on surface runoff. Drainage problems in the area particularly on nearby fields. Also the old railway line drainage empties into the drain in the middle of the application site and access is needed by Severn Trent Water at all times.
- Wellow is a small village with Conservation status, a site of SSSI as well as unique historical features including the Wellow Dam. The village has limited amenities.
- Protected species and endangered flora are known to be found in the area.
- Impact on the delicate ecosystem of Wellow Dam.
- The Wildlife Trust’s suggestion for leaflets to be distributed to residents regarding the sensitivity of local sites is likely to break down quickly given the likely short term usage of pitches.
- Potential for noise from the site.
- The Environmental Health Officer has raised some alarming concerns regarding the

suitability and size of the site and the planned development.

- Wellow will be overshadowed and overlooked.
- The application site supports newts and frogs from the neighbouring Dam.
- The Environmental report submitted does not take into account breeding and migration periods of the Great Crested Newt.
- Existing flooding problems would be exacerbated.

Highway impact

- Impact on highways safety and traffic congestion.
- Increase in traffic including probable significant element of commercial.
- The site demands car ownership.
- Will exacerbate exiting traffic problems when traffic from the A1 is diverted onto the A616.
- The revised access is at the lowest point of the land and stormwater runoff will go directly onto the highway.
- This is also the main route to Sherwood Crematorium which is used by a large number of vehicles.
- Increased traffic could endanger ramblers, children and dog walkers.
- There are insufficient parking spaces particularly if visitors and additional vehicles for touring caravans are taken into account.
- There is no restriction on the total number of vehicles permitted to park or be stationed on the site.

Health and safety

- There is an electrical sub-station adjacent to the site and it does not seem safe for caravans to be located adjacent to it.
- The access/egress and turning arrangements do not meet the requirements for Fire Engines

Other matters

- The application refers to a utility block. The 'euphemism 'utility block'' has been used to construct an illegal bungalow on a neighbouring site. How has this been allowed to happen?
- Would other residents in NSDC be allowed to get permission for caravans and a utility block? It is unlikely an application for a house on the site would be granted, why is this?
- Added strain on health and education facilities bearing in mind 150 houses being constructed close by. No additional infrastructure is being provided.
- It does not inspire confidence to see on the application forms that the applicant was 'approached by NSDC'. Despite a robust defence of the process by Council officers at a recent Parish Meeting, it might appear a done deal.
- Site design does not follow government guidelines.
- The applicant is planning to mix family with complete strangers which goes against

common sense.

- The proposed utility block suggests the site will be for mobile caravans.
- Concern about the application procedure in that the original application was withdrawn and this application then submitted. Concern people will not realise this and will miss the opportunity to comment.
- Too many vague parts to the proposals which if granted permission will allow the applicant to make the site into whatever configuration they want.
- Request that the Council take on board 'the overwhelming wishes of the majority of the population who expressed their objection to this application in their petition'.
- Increase in the traveller population will inundate the two public houses in Wellow.
- Nothing was done to stop the illegal site 50 feet from the new site that was only four static caravans. The worry is residents from Tolney Lane will be moved here.
- There are conflicting statements within the submission e.g. the application forms state the site is not adjacent to a watercourse yet there is a stream nearby. Also the forms state no gain next to residential units – does a static or mobile caravan not count as a residential unit?
- The proposal will cause unrest in the local community.
- There is another strip of land off Newark Road which has caravan storage and there is a brick house there without planning permission – this should be investigated.
- The traveller community at Shannon Park do not interact with people outside their own community.
- Why is the application even being considered?
- Voluntary work to look after the village and local pride will decrease if the application is approved.
- The proposal could impact on annual social events such as the Maypole Day and Christmas festivities.
- The application includes provision for transient trailers yet the plans show no provision for administration.
- Potential for nuisance behaviour including door-to-door callers and unauthorised use of loudspeakers by scrap metal collectors.
- The application does not identify who will be responsible for boundary hedge maintenance and existing grass verges.
- The boundaries of the site are not clearly defined.

Petition

A copy of a petition with 139 signatures has been received opposing all applications to increase the number of pitches for travellers in the Wellow and Ollerton area. The petition states that the area will have a disproportionate number of pitches and sites compared to other areas of the District. Any increase would alter and unbalance the mix of communities and there would be an adverse impact upon amenities and the environment for both communities. The increase would also put at risk the excellent community relations that currently exist.

Letter from MP

A letter has also been received from the local MP offering support to the comments made by Wellow Parish Council and asking that the Council consider rejecting this application if there are grounds to do so. The MP has also written to request that a representative of the Wellow Residence Society be allowed to speak against the proposal at Planning Committee.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)

Spatial Policy 1 (Settlement Hierarchy)

Spatial Policy 2 (Spatial Distribution of Growth)

Spatial Policy 7 (Sustainable Transport)

Core Policy 4 (Gypsies & Travellers and Travelling Showpeople – New Pitch Provision)

Core Policy 5 (Criteria for Considering Sites for Gypsy & Travellers and Travelling Showpeople)

Core Policy 9 (Sustainable Design)

Core Policy 10 (Climate Change)

Core Policy 13 (Landscape Character)

Core Policy 14 (Historic Environment)

The Allocations and Development Management DPD

Policy DM5 – Design

Policy DM8 – Development in the Open Countryside

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption on Favour of Sustainable Development

Other Material Considerations

- National Planning Policy Framework (March 2012)
- National Planning Practice Guidance (web based resource)
- Planning policy for traveller sites (August 2015)

When determining planning applications for traveller sites, this policy states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life for travellers while respecting the interests of the settled community.

Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies within the NPPF and this document (Planning Policy for Traveller Sites).

This document states that the following issues should be considered, amongst other relevant matters:

- Existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- Locally specific criteria used to guide allocation of sites in plans should be used to assess applications that come forward on unallocated sites;
- Applications should be determined for sites from any travellers and not just those with local connections.

The document goes on to state that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan and sites in rural areas should respect the scale of, and not dominate the nearest settled community, and avoid placing an undue pressure on local infrastructure.

- Designing Gypsy and Traveller Sites – Good Practice Guide (May 2008)
- Landscape Character Assessment SPD (Adopted December 2013)

Comments of the Business Manager Development

The main planning considerations in the assessment of this proposal are the need for gypsy and traveller sites, the planning history of the site, the impact on the appearance of the countryside, highway issues, access to and impact on local services, residential amenity for occupants of the application site and neighbouring sites and the personal circumstances of the applicant.

The site is relatively sustainable purely in terms of its location closely located to Wellow Village, Ollerton and Boughton being well related in position to the highway network and its proximity to the services in the nearby settlements.

The Need for Gypsy and Traveller Pitches

The NPPF and the Government's 'Planning policy for traveller sites' requires that Local Planning Authorities maintain a rolling five year supply of specific deliverable Gypsy & Traveller sites together with broad locations for growth within 6-10 years and where possible 11-15 years. Government policy states that a lack of a five year supply should be a significant material

consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

Core Policy 4 (CP4) set a district wide target of 84 pitches to be provided up to 2012. 93 pitches were provided over this period and since that time work has been progressing on a new assessment of need and approach to meeting this. The Council initially intended to produce a separate Gypsy and Traveller DPD but now propose to include this within the review of the development plan. Public consultation on the Plan Review Issues Paper took place between 5th October and 16th November 2015.

The Issues Paper identifies a requirement for 25 permanent pitches in the period 2013-2018. Four pitches have been delivered through the grant of permanent planning permission which leaves a requirement for 21 pitches. There are currently no other sites with planning permission, no allocated sites and consequently the Council does not have a five year supply of sites.

I note the comments received with regards to the distribution of Gypsy and Traveller sites in the District. Clearly Ollerton and Boughton is a favoured destination for the Traveller community, just as with the settled community there are areas that people have a desire to live in. I also note the reference in comments received to the Council having approached the applicant and concern whether alternative sites have been considered. Any policy is usually accompanied by a call for sites and this is a site that came forward. However, an invitation to submit sites is not confirmation that it is likely to be acceptable in planning terms. Whilst the Plan Review may ultimately yield a new approach to the provision and distribution of Gypsy and Traveller sites, in determining this application now the main considerations have to be the lack of other available sites and suitability of this site by reference to the criteria of Core Policy 5. As identified referenced above, the lack of other available sites is a material consideration that needs to be given significant weight in the determination of this application.

I am also mindful of a recent appeal decision (4th February 2015) relating to a gypsy and traveller site at Allesford Lane, Edingley (13/01428/FUL). The Council granted temporary planning permission for occupation of the site in light of the fact that the Council could not demonstrate a 5 year land supply but was working towards a Gypsy and Traveller DPD which would consider allocating sites to meet the identified need and that individual applications should not pre-empt this process. The Inspector noted that National Planning Practice Guidance (NPPG) sets out guidance when determining planning applications. It confirms that the Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development it states that arguments that an application is premature are unlikely to justify a refusal of planning permission. The Inspector continued:

'32. The NPPG gives examples of situations where it may be justifiable to withhold permission on the grounds of prematurity. These are where the development proposed is so substantial or its cumulative effect so significant that to grant permission would undermine the plan making

process AND where the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

33. In this case the Council has not withheld permission but instead has given a temporary planning permission. The proposal is not substantial and would not have a significant cumulative effect. In addition the emerging Allocations DPD is not at an advanced stage. I therefore conclude that, in the event that all other matters are acceptable and in the face of a current unmet need there can be little justification for withholding permanent permission on the basis that to grant a permanent permission would compromise the site allocations process.'

In the absence of a five year supply of deliverable sites it falls to assess the proposal against the criteria of Core Policy 5. Furthermore, if the site complies with the criteria in Core Policy 5, consideration needs to be given as to whether it would be reasonable to grant full planning permission for the proposal given the situation in respect of the Council not being able to demonstrate a 5 year land supply has not significantly changed since the appeal decision at Allesford Lane.

Sustainability of Location

Before considering the characteristics of the proposal, the second of the criteria under Core Policy 5 is that 'the site is reasonably situated with access to essential services of mains water, electricity supply, drainage and sanitation and to a range of basic and everyday community services and facilities – including education, health, shopping and transport facilities'.

As identified above, the Council is currently not in a position to identify available sites for Gypsy and Travellers. There are therefore no alternative sites within the most sustainable locations defined in the settlement hierarchy set out in Spatial Policy 1. To comply with Core Policy 5 the site must be reasonably located with access to the range of amenities and facilities set out above. The site is within walking distance to three neighbouring settlements and within 30 minutes travel time by public transport of: a Town Centre, primary & secondary school, further education facility, GP surgery, supermarket, retail area and employment site.

Concerns have been raised in written representations with regards to the potential impact on infrastructure in the area. Given the scale of this particular proposal, it would not hit the triggers for developer contributions to be made. The recently approved development for up to 150 dwellings at Wellow Road Ollerton (13/00743/OUTM), referred to in some of the comments received, included a Section 106 which secured contributions towards infrastructure in the area including a health contribution.

Taking the above factors into consideration, I consider that in the context of no alternative sites being available within sustainable settlements, the application site is reasonably located in terms of access to the range of amenities and services listed and as such would be relatively sustainable.

Impact on the character of the area

The first of the criteria under Core Policy 5 states that ‘the site would not lead to the loss, or adverse impact on, important heritage assets, nature conservation or biodiversity sites’. I would assess these matters as follows:

Conservation of heritage assets

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') require consideration as to whether the proposal preserves or enhances the character and appearance of the Wellow Conservation Area.

The paragraphs under Section 12 of the NPPF relating to ‘Conserving and enhancing the historic environment’ are relevant.

Core Policy 14 and Policy DM9 also require the continued preservation and enhancement of the character, appearance and setting of the District’s heritage assets and historic environment. In conservation areas development proposals should take account of the distinctive character and setting of individual conservation areas including open spaces and natural features and reflect this in their layout, design, form, scale, mass, use of materials and detailing. Impact on the character and appearance of Conservation Areas will require justification.

I also note that the Conservation Officer highlighted the potential for archaeological interest on the site. Following submission of a Heritage Statement and Archaeological Impact Assessment the Conservation Officer has confirmed that they broadly concur with its findings. The Assessment concludes that the likely potential for Medieval, Post Medieval and Modern remains within the proposed development area is considered to be low, however, as this assessment is unable to fully determine the potential for buried assets relating to earlier periods, a degree of archaeological mitigation may be required to ensure no remains are overlooked during development. The report highlights that given the nature of the proposal, it is likely to involve minimal subsurface intrusion but any trenching for cabling, services or foundations on the site has the potential to impact on buried remains. I note the comments of the County Council’s Archaeological Officer and consider it would be reasonable to attach the suggested condition to ensure the potential for archaeology on the site is appropriately considered within the development process.

I note the Conservation Officer’s comments with regards to the change of use and associated physical elements proposed being a departure from the existing landscape characteristics and that the proposal is likely to have some harmful impacts on the character and appearance of the Wellow CA. The harm identified by the Conservation Officer is less than substantial. Paragraph 134 of the NPPF states that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this respect I am mindful that the Council is not in a position to identify alternative sites to meet the current unmet need either generally or that specifically presented by this application and I therefore consider that the

provision of 8 pitches in a relatively sustainable location represents a substantial public benefit in this instance.

I am also mindful that the applicant has confirmed they would be willing to incorporate suitable planting to compensate for any loss of greenery removed to facilitate access into the site and this would be in addition to the substantial amount of planting to the perimeter of the site that is to be retained. I note the Conservation Officer's comment that that green infrastructure is capable of mitigating some of the harm identified above. The Conservation Officer has also stated that the development is not likely to harm the setting of any listed buildings (including the Grade II Listed Chailey House) provided that the development is well-screened to Newark Road and Wellow Road. Substantial screening already exists and this could be supplemented, particularly to Newark Road, through confirmation of any additional planting by way of a condition attached to any planning permission.

Overall I consider that the public benefits and other material considerations in respect of the impact on the character and appearance of the conservation area would be sufficient to outweigh the less than substantial level of harm to heritage assets identified to warrant favourable consideration against Core Policy 14 Policy DM9 and Paragraph 134 of the NPPF.

Ecology

The paragraphs under Section 11 of the NPPF relating to 'Conserving and enhancing the natural environment' are relevant.

Core Policy 12 and Policy DM7 relate to 'Biodiversity and Green Infrastructure' and seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.

The nearest Local Wildlife Sites (LWSs) to the site are Wellow Dam, (recognised as a mosaic of scrub and damp, species rich grassland with notable species around a fishing pond) which is situated approximately 40m to the east of the site and Boughton Railway banks with notable sections of habitat along the embankment some 30m to the north of the site. Other sites in fairly close proximity include Ollerton Colliery LWS (approx. 230m) and Wellow Park SSSI (approx 400m). The Site is also located centrally within the ppSPA for nightjar and woodlark, with Ollerton Colliery considered an Important Bird Area of the ppSPA. I note that Nottinghamshire Wildlife Trust welcome the Extended Phase 1 Survey undertaken and are generally satisfied with the methodology, results and recommendations provided. Natural England have also confirmed that the SSSI does not represent a constraint in determining this application.

With regards to the potential for increased recreational disturbance on the above sites, I am mindful that this is unlikely to be a significant increase given the scale of the proposal under consideration above that already anticipated from other residential development proposals in close proximity of the Site. However, I am mindful that nightjar and woodlark are protected wherever they occur and note that the Trust strongly agree with Recommendation 1 within Section 5.2. of the Phase 1 Survey report, in which all new residents should be provided with a

leaflet informing them of the value of the Sherwood Forest Area to woodlark and nightjar and of the impact of recreational disturbance, particularly from dogs. The Trust agree that the leaflet should request residents to stay to marked footpaths and to keep dogs on leads during the bird breeding season. I am aware of a site elsewhere in the District where such a leaflet has been produced and consider it would be reasonable in this instance, particularly given the transit nature of the pitches proposed, to attach a condition requiring new residents to be informed through provision of appropriate information. Given the limited capacity of the site and the nature of the proposal, I consider that such information in addition to the proposed open play area will provide an appropriate level of mitigation to deter residents from using neighbouring habitats for recreational purposes.

With regards to nesting birds and the retention of scrub on the site, I note that Nottinghamshire Wildlife Trust welcome the retention of the scrub within the current proposed site plan. I also consider it would be appropriate to attach a condition requiring any removal of vegetation occurs outside the bird breeding season unless vegetation has first been checked by a suitably qualified ecologist.

A condition can also be attached to any planning permission requiring any trenches (for example where dug out for the proposed utility block) to be covered overnight during the construction phase. I note that no evidence of badgers was found on site, however, an appropriate condition and a note with reference to the Badger Protection Act could also be attached to any permission advising that the site is checked for badger setts prior to works commencing.

I note the Wildlife Trust's comment with respect to sensitive lighting being incorporated within the development and I note the proposed layout plan indicated lights at the proposed water points on the site. Whilst it monitoring of any lighting to the caravans on the site would be unrealistic given the transit nature of the proposals, given the proximity to broadleaf woodland, I consider it would be reasonable to request precise details of any external lighting by way of a condition to help prevent any undue impacts on the habitats of nocturnal protected species, such as bats.

I note the comments received in written representations drawing attention to Japanese knotweed on the application site. I note that Nottinghamshire Wildlife Trust refer to 'Invasive Plant Species' within their comments and agree with Recommendation 5 of Section 5.2. of the Phase 1 Survey Report submitted with the application. I consider it would be reasonable to attach a condition to any planning permission requiring details of a management plan detailing how any site workers will be made aware of the species and if any is found, works must stop immediately and an appropriate treatment plan should be submitted to the Council and once agreed the development be completed in accordance with the treatment plan.

I note the Wildlife Trust's comments in relation to retention of habitats. The submitted plans show retention of the broadleaf woodland and the Tree Protection Plan submitted shows the retention of existing boundary fencing and the erection of protective fencing where required. The details approved should planning permission be granted can include reference to the Tree Protection Plan.

With regards to biodiversity enhancements, I note that the Wildlife Trust advise that any landscape planting should be native species of a local provenance. The applicant has confirmed in their Design and Access Statement that the eastern boundary is to be screened with new planting. A condition could be attached to any planning permission requiring precise details of proposed planting and that this planting should be native and of a local provenance. Furthermore, Natural England have advised that there may be opportunities to incorporate features such as roosting opportunities for bats or the installation of bird nest boxes into the design. I consider the proposed utility block for example may provide opportunities for such features and consider it would be reasonable to attach a condition requiring details of such features.

Given the above considerations I am satisfied there is unlikely to be any significant impact on ecology or protected species and that appropriate mitigation could be secured by planning conditions were a favourable decision to be forthcoming. Consequently I consider that the proposals would comply with Core Policy 12 of the Core Strategy DPD, Policy DM7 of the Allocations and Development Management DPD and guidance in the NPPF.

Highway Impact

Criterion 3 under Core Policy 5 requires the site has safe and convenient access to the highway network.

Spatial Policy 7 states that development proposals provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to maximise opportunities for their use. Proposals should provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements. Proposals should ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems.

I am mindful of the written representations received raising concerns about the potential highway implication as a result of the proposal. Following the initial comments of the Highway Authority which raised concerns about the proximity of the proposed access to the junction of Newark Road with Wellow Road, a revised proposed site plan has been submitted which relocates the proposed access further north away from this junction. The Highway Authority have confirmed that the revised plan meets their requirements and I consider that the conditions and note suggested are reasonable and could be attached to any planning permission. The Highway Authority has raised no further highway safety concerns or concerns with regards to road capacity in the area.

Footpaths on Wellow Road and Newark Road as well as a right of way between the two roads sit in close proximity of the site.

Given the above considerations, I am satisfied that the proposal would not result in any significant highway implications and the proposal meets criterion 3 of Core Policy 5 and the requirements of Spatial Policy 7.

Impacts on the amenity of nearby residents

Criterion 4 of Core Policy 5 states 'the site would offer a suitable level of residential amenity to any proposed occupiers and have no adverse impact on the amenity of nearby residents'.

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

Whilst the site sits in close proximity to existing Gypsy and Traveller sites to the north and west, the application site benefits from the substantial screening provided by the woodland that sits between the site and these neighbouring sites. The nearest dwellings to the site are situated at The Limes and Treehaven on the opposite side of Wellow Road and given the nature of the proposals and the distance between the site and these properties including the intervening road, I am satisfied that the proposals will not unduly impact on neighbouring amenity by way of any undue overbearing impacts or any loss of light or privacy.

Each of the proposed pitches is shown to include a grass area measuring a minimum 4.0m width x 7.5m in addition to the shared play area to the centre of the site. I am satisfied that this will ensure the occupiers of the site are afforded an adequate standard of amenity in accordance with Policy DM5. The Environmental Health Officer has also confirmed that following submission of a revised plan to address their initial concerns, site layout meets their requirements. An informative note could be attached to any planning permission advising the applicant that a Caravan site Licence would be required.

I note the concerns raised with regards to the potential for noise and other anti-social behaviour. The Environmental Health Officer has raised no concerns in this respect and I have no reason to believe a site being used for the purposes described would necessarily result in any significant changes in terms of noise in the area. Any anti-social behaviour would be a Police matter.

Given the above considerations, I am satisfied that the proposals will not unduly impact on neighbouring amenity and will also provide a suitable level of amenity for occupiers of the site. The proposals therefore meet the requirements of Criterion 4 of Core Policy 5 and Policy DM5.

Impact on landscape character

Criterion 5 of Core Policy 5 states that the site should be 'capable of being designed to ensure that appropriate landscaping and planting would provide and maintain visual amenity'.

Policy C in 'Planning policy for traveller sites' states 'When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community'.

Policy H of the same document states that local planning authorities should attach weight to matters including where sites are well planned or soft landscaped in a way as to positively enhance the environment and increase its openness. Weight should also be attached to promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children as well as not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. In this regard I note the submitted layout includes retention of existing vegetation other than that to be removed for provision of access, play space and other grassed areas and no high walls or fences are indicated. Hard landscaping is limited to the access drive and hard standing areas to individual pitches.

Policy DM5 states that the rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals.

Core Policy 13 requires development proposals to positively address the implications of the Landscape Policy Zones in the Landscape Character Assessment SPD.

The application site is located within the Wellow Village Farmlands with Ancient Woodlands Policy Zone (MN PZ 22). The landscape here is described as a gently undulating, rounded topography and includes some small areas of mixed deciduous woodland within the field systems. Landscape condition is defined as good with a coherent pattern of elements composed of some blocks of woodland, arable fields and parts of the settlements of Wellow, Ompton and Kneesall with few detracting features aside from pylons and power lines and a Golf Course. Overall this gives a visually unified area. Cultural integrity is described in the SPD as variable in that the field pattern is mainly intact with some mature species rich hedgerows, whilst field patterns can sometimes be lost and hedgerows fragmented. Landscape sensitivity is defined as moderate with views often intermittent and often enclosed due to blocks of woodland and a good network of hedgerows. Landscape actions for this area are to conserve and reinforce.

Existing fields, Willow Dam and existing woodland help to retain a degree of visual separation between the nearby settlements of Ollerton, Boughton and Wellow. The application site benefits from a substantial change in level from Wellow Road with the site being at the lower level. The site is also well screened to the west and south from the existing woodland. Given the nature of the development the built form on site would be relatively low level in terms of its height and the submitted layout plan shows retention of much of the existing planting and an open play area adjacent to the boundary with the road. All but one of the proposed pitches are therefore set back from the boundary with Newark Road. Furthermore existing planting to the eastern boundary with Newark Road is shown to be retained, save for some clearance of vegetation to facilitate provision of the proposed access. The Arboricultural Method Statement submitted identifies the 8 no. trees to be removed as low quality and sets out the methods to ensure remaining trees are appropriately protected during development. The applicant has confirmed in their Design and Access Statement that they would be open to incorporating new planting to this boundary. An appropriate condition could be attached to any planning permission requesting

details of additional planting and this will help to ensure that any planting is of an appropriate species which will help to meet the landscape action to conserve.

I consider it would be appropriate to include within any landscaping condition a requirement for precise details to be submitted of any structures not shown on the layout plan, for example to the play area, in order to ensure that a degree of openness can be retained. A condition requiring precise details of surfacing to access roads, pitches and open areas as well as materials to be used in any structures (including the bin store and utility block) will help to ensure the materials used are appropriate to the character of the area.

Overall, I am satisfied that based on the site layout, the characteristics of the site and number of pitches proposed the proposal is of a scale that will not dominate the nearest settled community. I also consider that the layout demonstrates that the proposal is capable of being designed to ensure that appropriate spacing, landscaping and planting are incorporated to maintain visual amenity and weight should be attached to the sympathetic design of the layout which incorporates features referred to in 'Planning policy for traveller sites'. Details of the proposal can also meet the requirements in the Landscape Character Assessment to conserve and reinforce. The proposals therefore meet the requirements of Criterion 5 of Core Policy 5 as well as Core Policy 13 and DM5.

Flood Risk

The final criterion of Core Policy 5 states that 'in the case of any development proposal which raises the issue of flood risk, regard will be had to advice contained within PPS 25: Development and Flood Risk and the findings of the Newark and Sherwood Strategic Flood Risk Assessment. Where flooding is found to be an issue, the District Council will require the completion of a site specific Flood Risk Assessment'.

The whole of the application site is located in Flood Zone 1 and therefore at low risk of flooding. The proposal is for residential caravans which are identified as being 'highly vulnerable' were they to be located in an area at higher risk of flooding. The NPPF states that local planning authorities should minimise risk by directing such development away from high risk areas to those with the lowest probability of flooding. Policy DM5 also states that the Council will aim to steer new development away from areas at highest risk of flooding. The application site therefore represents a more appropriate location in terms of flood risk than others in the District that might come forward in the context of the Council not being in a position to demonstrate a 5 year supply of Gypsy and Traveller sites.

Given the above I am satisfied that the proposal meets the final criterion of Core Policy 5.

Other matters

I note the concern raised by a member of the public in respect of the number of caravans allowed on the site. Any planning permission would relate to the number of pitches shown on the site

layout submitted (8 in this instance). The capacity of the site is controlled by the site constraints in addition to the requirements of the site licence which is controlled under Environmental Health legislation.

With regards to requirements for fire safety, at the time of writing I am still awaiting the comments of the Fire Service and an update can be provided at Planning Committee. However, I note that the Government advice in *Designing Gypsy and Traveller Sites: Good Practice Guide* states as follows:

‘4.25 In designing a site, all routes for vehicles on the site, and for access to the site, must allow easy access for emergency vehicles and safe places for turning vehicles.

4.26 To enable this, suitable roads must be provided, with no caravan or park home more than 50 metres from a road. Roads must have no overhead cable less than 4.5 metres above the ground. Vehicular access and gateways must be at least 3.1 metres wide and have a minimum clearance of 3.7 metres.

4.27 Roads must not be less than 3.7 metres wide, or if they form part of a one way traffic system, 3 metres wide.’

The proposed layout meets the accords with the above design guidance.

In terms of drainage, I note that Severn Trent Water have raised no objections to the proposal. A note can be attached to any planning permission advising the applicant that there is a public sewer located within the application site and any works to build close to, directly over or divert a sewer requires the consent of Severn Trent Water.

Comments have also been received raising concerns that the applicant owns other land in the area and the proposal may set a precedent. Any other sites would require separate planning permission and would need to be considered on their own merits.

With regards to concerns about encroachment onto nearby toftholder’s land, use of any land as a Gypsy and Traveller site outside the application site would need separate planning permission. Furthermore use of private land would also be a private legal matter.

Concerns relating to the proposed utility block and that this may actually be used as habitable space can be controlled by condition.

I note the comments made relating to the application procedure and opportunities for people in the locality to comment. Site and press notices have been posted and letters sent to neighbouring properties and the level of consultation undertaken accords with the statutory publicity requirements imposed by Central Government. Officers also attended a Parish Council meeting, which was well attended by members of the community, to discuss the detail of the application.

I am satisfied that the plans submitted clearly define the application site and the proposals to be considered.

Any issues with regards to unauthorised development on other sites would need to be investigated as a separate matter.

One comment queried whether an administration building should be required given the proposal for transit pitches. However, I do not consider it would be usual for a site of this nature to include such a building and Environmental Health who deal with licensing on the site have not suggested a requirement for such a facility.

Finally, I note the comment raised with regards to the proximity of the electricity substation which is situated on the grass verge adjacent to the application site. The proposals would not directly impact on the substation in that the proposed access is situated some 36m to the north of this. However, as a precaution I have consulted the statutory undertaker and any comments received can be reported verbally to Planning Committee.

Personal Circumstances

The Government's new 'Planning Policy for Traveller sites' (August 2015) introduced following the submission of this application requires a revised assessment of Gypsy and Traveller status. Annex 1 of the document sets out the definition of gypsy and traveller for the purposes of the policy as follows:

'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.'

The guidance states that in determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

In order for appropriate weight to be given to the unmet need for Gypsy and Traveller pitches in the consideration of these proposals, the onus is on the applicant to prove that both him and his family along with any other occupier of the site, have Gypsy and Traveller status in accordance with the definition set out in the Planning Policy for Travellers Sites.

The agent has confirmed that it is the applicant's intention to have two of the pitches reserved for future use by his immediate family as permanent pitches to manage the site, with the rest of the site as commercial, short term, transit pitches for Travellers who may be moving in and around the District and potentially pulling onto the roadside. The description of the proposal is that the site will include transit pitches and therefore by their definition, this would support the requirement for users of the site to live a nomadic lifestyle. Council Officers are satisfied that members of the applicants family would meet the Governments current planning definition for Gypsies and Travellers. Given these factors, I consider it would not be unreasonable to attach a condition to any planning permission requiring any occupiers of the site to be gypsies and travellers as defined in paragraph 1 of Annex 1 to Planning policy for traveller sites (August 2015).

The provision of transit pitches will assist in addressing the local need identified in the Issues Paper set out above. There is only one other known site in the District that makes this provision and the lack of such pitches is often cited in appeals as justification for sites that would otherwise be unacceptable.

Balancing Exercise

At the present time there is an unmet need for Gypsy & Traveller pitches within the district that exceeds the number of pitches proposed by this application. National policy and guidance dictates that such an unmet need (lack of deliverable sites) carries significant weight when determining applications. In allowing the recent appeal decision at Allesford Lane, Edingley for permanent pitches, the Inspector in that instance considered it would be unreasonable to withhold a permanent planning permission on the basis of prematurity given that all other matters were considered to be acceptable. As set out above, I consider that the site performs well when assessed against Core Policy 5 for considering sites for gypsies and travellers and presents a relatively sustainable site to accommodate pitches in the absence of a 5 year supply of gypsy and traveller sites to meet the identified need. On balance I therefore consider that full planning permission should be granted for the proposal.

RECOMMENDATION:

That planning permission be granted subject to the following conditions and reasons;

01

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

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

02

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

Drawing no. 410-104-2 Proposed Site Layout
Drawing no. 410-103 Existing site sections
Drawing no. 410-102 Existing site levels
Drawing no. Arbtech AIA 01 Arboricultural Impact Assessment (Tree Constraints Plan)
Drawing no. Arbtech TPP 01 Tree Protection Plan
Arbtech Arboricultural Method Statement 30 September 2015

Reason: So as to define this permission and for the avoidance of doubt following the submission of amended plans.

03

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

Reason: To ensure that satisfactory account is taken of the potential archaeological interest of the site.

04

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

Details of additional planting to the eastern boundary of the site;

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

an implementation and phasing programme;

proposed finished ground levels or contours;

means of enclosure;

hard surfacing materials and means of drainage;

minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, lighting etc.

proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)

Reason: In the interests of visual amenity and biodiversity.

05

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

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

06

No development shall commence until a sample information leaflet outlining the ecological value of the local area and the sensitivities of woodlark and nightjar to dog walking during the breeding season shall be submitted to and approved in writing by the Local Planning Authority. The leaflet shall be produced in consultation with the Nottinghamshire Wildlife Trust. The approved leaflet shall be distributed by the site owner or manager to any new residents thereafter unless otherwise agreed in writing by the local planning authority.

Reason: In order to protect biodiversity in the District in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

07

Before development is commenced precise details of nesting boxes and bat roosting boxes to be incorporated into the development shall be submitted to and approved by the Local Planning Authority. Once approved the nesting and bat roosting boxes shall be provided before the development is first occupied.

Reason: In order to enhance biodiversity on the site in accordance with the aims of Core Policy 12 and the guidance at Paragraph 118 of the National Planning Policy Framework (2012).

08

Removal of vegetation (including any trees to be removed as detailed in the Arboricultural Method Statement and supporting plans under condition 2 of this planning permission) should not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written

confirmation should be submitted to the local planning authority prior to removal of any such vegetation and once approved all works shall be in accordance with these details.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

09

Immediately before development is commenced, a suitably qualified ecologist shall check for any active badger setts on the site and (if possible) within 30 metres of the site. Should any badger setts be discovered, this should be reported to the local planning authority for further advise before any works are undertaken. Written confirmation from the ecologist appointed, confirming that the check has been undertaken should be kept and should be made available for inspection following a request from the local planning authority. Any trenches should be covered overnight during the working phase.

Reason: As a precautionary measure due to the transient nature of badgers in the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

10

Before development is commenced precise details of the design, layout and specification any lighting on the site shall be submitted to and approved in writing by the local planning authority. The lighting shall be designed so as to be sensitive to the sites' proximity adjacent to broadleaf woodland, so as to prevent deterioration of habitats to nocturnal protected species, such as bats. Once approved in writing any external lighting on the site shall only be kept in accordance with the approved details.

Reason: In the interests of protecting the District's ecological assets in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

11

Before development is commenced, site workers should be made aware of the potential for Japanese knotweed or other invasive flora species to be found on the site. In the event that any invasive flora species are found during the development phase, works to remove any invasive flora species should cease immediately and an appropriate treatment plan with timescales for removal of the invasive flora species shall be submitted to and approved in writing by the local planning authority. Once approved in writing the invasive flora species shall then be removed in accordance with the approved details.

Reason: In the interests of protecting the District's ecological assets in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

12

Before development is commenced, precise details of the proposed utility block including elevations, floor plans and materials shall be submitted to and approved in writing by the local planning authority. Once approved in writing the utility block shall only be constructed in complete accordance with the approved details and shall only be used as a utility block.

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

13

No part of the development hereby permitted shall be brought into use until the proposed site access shown on plan 410-104-2 is constructed in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority. Such details shall include measures to prevent the unregulated discharge of surface water from the private access to the public highway and vice versa.

Reason: In the interests of highway safety and to ensure the access is constructed to adoptable standards.

14

No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent and as shown on plan 410-104-2 is permanently closed and the access crossing reinstated as verge in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority.

Reason: To avoid confusion of the access arrangement and to allow for future maintenance of an area no longer required to be hard paved.

15

No part of the development hereby permitted shall be brought into use until the private access is surfaced in a bound material for a minimum distance of 5m from the rear of the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

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

16

The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1 of Annex 1 to Planning policy for traveller sites (August 2015).

Reason: In order to ensure occupation of the site is for the purposes described in the planning application as considered against the national guidance set out in Planning policy for traveller sites (August 2015).

17

No commercial or industrial activities shall take place on the land, including the storage of materials associated with any business.

Reason:

In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Core Strategy (March 2011) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

18

No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason:

In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Core Strategy (March 2011) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

Informatives

01

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

If you require any further information, please contact Severn Trent Water on 0116 234834.

02

The Delta Simons Extended Phase 1 Habitat Survey submitted with the application includes a species list of recommended trees and shrubs which should be used to inform the details submitted to discharge Condition 4 of this planning permission.

03

With regards to Condition 8 of this permission, you are advised that all birds, their nests and eggs are protected by the Wildlife and Countryside Act 1981 (and as amended).

04

With regards to Condition 9 of this permission, you are advised that Under the Badger Protection Act 1992, it is an offence to disturb an active badger sett. The use of heavy machinery within 30m of a site could be considered a form of disturbance.

05

In order to carry out the redundant and proposed access works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact david.albans@nottscc.gov.uk for details.

06

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

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

07

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

08

For the avoidance of doubt, the definition referred to under Condition 16 of this permission is as follows:

‘Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.’

09

You are advised that this permission does not override any other private legal matters including the need for a Caravan Licence and any fire safety requirements. With regards to the need for a Caravan Licence, you are advised to apply to the Council prior to first occupation of the site to ensure the site is compliant in this regard.

BACKGROUND PAPERS

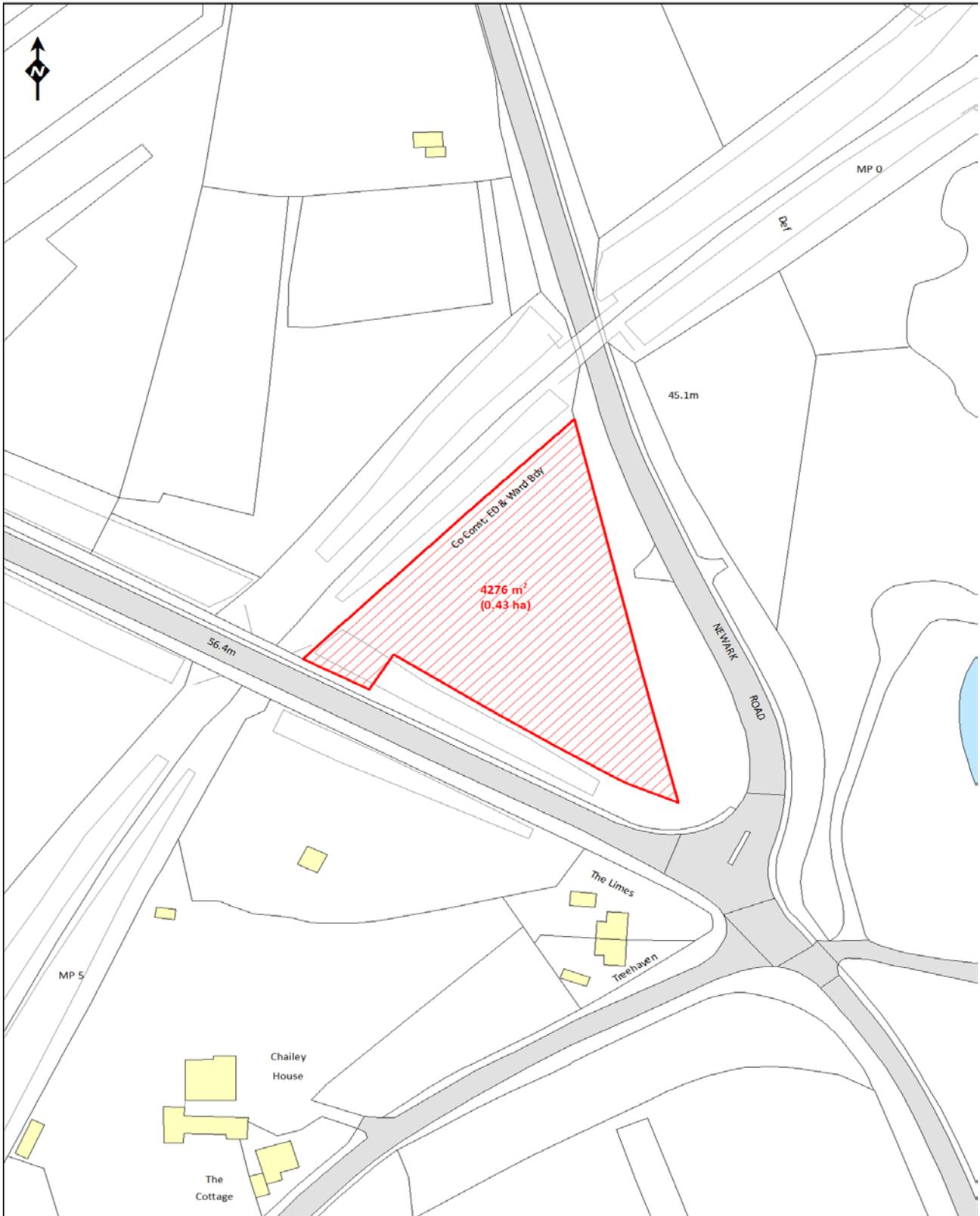
Application case file.

For further information, please contact Martin Russell on 01636 655837

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/00457/FUL



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Application No:	15/01569/ADV	
Proposal:	1 Illuminated Fascia Sign and 23 Illuminated and Non-Illuminated Signs (retrospective)	
Location:	Southwell Green SF Connect, Upton Road, Southwell, Nottinghamshire NG25 0QD	
Applicant:	BP Oil UK Ltd	
Registered:	03.09.2015	Target Date: 29.10.2015

The Site

The 0.29Ha application site is an existing petrol filling station located within the settlement of Southwell. It is located on a corner plot on the east side of Upton Road and the south side of Crew Lane. Businesses located within Crew Lane Industrial Estate are located immediately to the east of the site. A residential property is located immediately to the south of the site. The rears of the residential dwellings along Chimes Meadow are located to the west of the site on the opposite side of Upton Road. Southwell Court is located to the north of the site on the opposite side of Crew Lane.

The site is located within the Crew Lane Industrial Estate Policy Area (So/E/1). The west half of the site is located within Flood Zone 2.

Relevant Planning History

14/02079/FUL Demolition of Existing Sales Building, Construction of Replacement Sales Building, Relocation of Car Wash, Proposed Jet Wash, ATM, Refuse Compound, Refrigeration/AC Units, Parking, Services and Associated Works – permission 07.04.2015

96/51705/OUT Two storey offices and related parking – refused 18.06.1996

95/51616/FUL Continuance of Development with Variation to Condition 6 & 7 on Consent FUL/950688 (Landscaping Conditions) – refused 16.01.1996

95/51615/FUL Petrol filling station including shop, canopy, carwash, underground storage tanks and boundary treatments – permission 23.05.1995

56920178 New service centre incorporating petrol filling station, car sales and workshop – permission 13.07.1992

92/51079/FUL New service centre incorporating petrol filling station, car sales and workshop – permission 13.07.1992

56880590 Change of use to retail builders merchant – permission 10.08.1988

56840775 Increase the number of vehicles displayed for sale to 20 – permission 02.08.1985

56821038 Fill and level land change to retail car sales retain petrol station construct screen fence - permission 02.03.1983

5682486 Conversion of site to retail builders merchant use – permission 13.07.1982

56801291 Construct new D.I.Y. shop/garden centre unit and parking areas and upgrade petrol filling station – permission 03.02.1981

56801290 Redevelopment to provide car showroom, workshops, store, offices, external car sales, forecourt canopy and parking – permission 03.02.1981

56801289 Carry out new light industrial/warehouse unit with parking areas and upgrade petrol filling station – permission 03.02.1981

56801288 Carry out new twenty bedroom motel unit and parking areas and upgrade petrol filling station – permission 03.02.1981

5677393 Office development – permission 05.07.1977

The Proposal

This proposal seeks advertisement consent for the display of 1 Illuminated Fascia Sign and 23 Illuminated and Non-Illuminated Signs. Since the application submission it appears that all of the signs have been displayed. The description of the development has been altered accordingly to include 'retrospective'.

Departure/Public Advertisement Procedure

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

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

So/E/1: Southwell – Crew Lane industrial Estate Policy Area

DM5: Design

DM9: Protecting and Enhancing the Historic Environment

Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- The Southwell Neighbourhood Plan (Submission Version)

Consultations

Cllr Handley has referred this application to Committee via the business manager Matt Lamb.

Southwell Town Council - Object to the proposal

“Southwell Town Council considered the application 15/01569/ADV Southwell Green, SF Connect, Upton Road Southwell and unanimously objected to the application. The committee believed the M&S signs were overbearing and big in terms of scale, and unnecessary in terms of number.”

NCC Highways Authority - No objection subject to a condition

“This application is for various signage associated with the new petrol filling station. Drawing no. 30008-29 Rev. B provides details of the proposed signs. This information indicates that freestanding ‘Entry’ signs D and G are to be illuminated, however, no details are provided relating to illumination. Therefore, there are no highway objections to this proposal subject to the following:

1. The maximum luminance of any sign shall not exceed 600 candela.
2. The means of illumination of any sign shall not be of an intermittent, pulsating or flashing kind. Details shall be submitted and approved in writing by the LPA prior to the erection of the signs.

Reason: To protect drivers from uncontrolled light sources near the public highway.”

Southwell Civic Society - Object to the proposal

“We object in the strongest possible terms to this application. This garage is at a strategic entrance to the town, and gateway to the conservation area.

We note that the conservation officer, although not objecting to application 14/ 02079, has indicated that the main features that could make this structure imposing are likely to be illumination and signage. We are surprised that the applicant having regard to the conservation officer's comments and the site's sensitivity has not sought prior consultation for this application.

Our members are unanimously against the proposal. Typical responses are :-

"In the wintertime and spring the signs will be clearly visible from the Grade II listed Workhouse.*

"Unnecessarily garish"

"The newly erected canopy in particular is a disgrace and if it is illuminated in the way applied for it will look like some tawdry piece of funfair equipment."

"The M&S signs seem particularly oversized with two close together at the prominent corner of the building."

"The signs are not acceptable, too brash and green. Have BP/M&S no heart or sensitivity on the entrance to a historic town?"

"The signs are gaudy and more in keeping with a Motorway service area rather than an historic town."

"Not very good PR to alienate the town."

"The array, scale and brightness of the signage is completely unnecessary. This is the only filling station in Southwell and there is no competition."

Many signs serve no useful purpose. Exit and Entrance and the fascia to the Car Wash for instance when road markings are provided. The whole fascia to the canopy. The unnecessary large lozenge sign.

Construction work is well advanced and the shop building is clearly alien to the surrounding buildings and to the Workhouse in particular. The previous building was deliberately designed to fit in and was not a nationally imposed corporate solution. There is no need to make what is already a poor development worse with completely unacceptable signage.

The whole impact needs to be considerably reduced and this application should be refused and the applicant made to come up with a toned down and more sympathetic signage scheme."

N&SDC Conservation Team

Comments included in appraisal below

Representations have been received from 2 local residents, objecting to the proposal. These comments are summarised as follows:

- This application should not allow for an extension to opening hours.
- The illuminated signs should generally be no higher than those that were previously present.
- Illumination should be minimised to reduce the light pollution onto the residential houses at
at
- Chimes Meadow and other adjacent properties.
- All illumination should be turned off when the garage closes at night other than low level lighting strictly necessary for the security of the site.
- The garage is open and trading before the approval of this application making a mockery of the planning system
- The 5.5m price sign is not in the approved position as per drawings for 14/02079/FUL and discharge of conditions for lighting and design.
- The price sign is lit 24hours a day contrary to condition 8 of 14/02079/FUL

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 that the main issues in the determination of this application are related to amenity and public safety, taking account of cumulative impact. The intentions of national policy are reflected by policy DM5 of the Allocations and Development Management Document.

Impact on Amenity

The justification of Policy DM5 states that in terms of visual amenity the impacts of advertisements will be assessed by reference to criterion 4 of the policy regarding 'Local Distinctiveness'. This aims to ensure that the proposal would reflect the character of the locality in terms of scale, form and design.

The visual amenity of the area has to be considered in the context of the location of the site on the edge of a predominantly residential area on the outskirts of Southwell. Consideration should also be given to The Grade II* Listed workhouse which comprises the Thurgaton Hundred Workhouse

park and garden, Greet House and The Former Infirmary at Greet House (Grade II Listed). I note the comments from the councils conservation team included below:

“Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings and their setting. 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. Key issues to consider in proposals for additions to heritage assets, including new development in the setting of heritage assets, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The garage is located at an entrance to Southwell, and Southwell is a historic town, this does not constitute the historic entrance to the town. The amount of late C20 development here has extended the current town to this limit but the consistently high quality historic environment does not start until the bend in the road onto Easthorpe. As such I feel the boundary of the conservation area is correctly drawn, which does not include the garage or its surrounds. I have considered whether the blade sign would affect the setting of the conservation area but I believe gentle bends in the road prevent any inter-visibility from or to the conservation area in conjunction with the sign.

However, given the height and position of the blade sign, its brightness, combined with the green lighting around the awning, needs to be carefully considered in relation to its visibility from the Grade II Workhouse. I have visited the Workhouse in the dark and viewed the application site from ground, first and second floor levels and from one end of the building to the other. I am satisfied that even now, with many trees void of leaves, that the awning lighting (both white and green) is not visible from the Workhouse. The only signage that is visible is the blade sign which appears as a relatively small but bright white light amongst the duller yellow street lamps serving the road. Its bright white illumination is clearly visible from some rooms within the Workhouse. However, I do not consider that it is sufficiently harmful to the enjoyment and setting of the Grade II* listed Workhouse to raise an objection. A reduction in the luminance levels of the sign however, would be welcomed.”*

I agree with these comments with regard to the Southwell Conservation Area and the Listed Workhouse and now consider the amenity of the area surrounding the development.

It is considered that the proposed signs relate well to the scale of the existing petrol station, shop and forecourt which is an established development that has recently been redeveloped under 14/02079/FUL. The shop, forecourt and canopy are set back from the road side providing a buffer between the public realm the majority of the proposed signage. The closest neighbouring property is to the south of the site, ‘West View’. Having visited the site at night I am satisfied that there are no habitable room windows on the north side facing elevation that would be unduly impacted by

the signage. Residential properties on the opposite side of Upton Road are a minimum of 20m from the site with substantial boundary hedging providing ample screening.

The most predominant sign is the 5.5m totem sign that is close to highway at the south western corner of the site. Parts of this totem sign are illuminated by static methods and this includes the BP logo to the top of the sign, the fuel prices and some of the labels advertising the facilities on site e.g. M&S.

The brightness of this sign is stated as being 500cd/m². Given the prominence of this sign at the periphery of the site close to the public realm it is considered that this luminance level could be reduced to lessen its impact. This view is shared by the conservation officer given the visibility of the sign. A request has been made to the applicant and further information regarding this issue will be provided prior to the committee and may result in a further condition.

Overall it is not considered that the proposed advertisements would result in an over proliferation of signage to the detriment of the surrounding area. It is considered that the signs would not appear as out of the ordinary advertisements for a petrol station and forecourt and would not detract from the visual amenity of the locality, intrude upon or interrupt the setting of nearby listed buildings or the character or appearance of the nearby Conservation Area.

Impact on Public Safety

The Highway Authority raises no objection to the proposed advertisements as they would not result in any unacceptable detriment to highway safety for pedestrians as long as the illuminance level of all signs is kept below 600cd/m² which is as proposed.

Other matters

I note the comment received through consultation regarding opening hours of the garage and the illumination hours of the advertisements. This application for advertisement consent will not affect the existing planning approval on site, this is a separate application under the advertisement regulations only. In fact the application for advertisements will be conditioned so that the illuminated advertisements will be turned off in line with the opening hours of the garage.

I note the comments regarding the site already being in operation and signs being displayed prior to determination of this application. The description of the advertisements has been altered to reflect this application is now retrospective which is accepted within the planning system. Technically any of the advertisements that require express consent that have been displayed (that require express consent) without consent, are displayed illegally. However, given that the current application is being determined by the planning authority, it is not deemed to be in the public interest to pursue enforcement action in these circumstances.

I also note the comment received regarding the position of advertisements shown on plans associated with application 14/02079/FUL. This planning application did not grant approval for any

advertisements and the position of advertisements shown on any plans would have been purely indicative. Similarly condition 8 of 14/02079/FUL refers to lighting within the sight, not illuminated advertisements.

Conclusion

The proposed advertisements would not detract from the visual amenity of the locality, having regard to the character and appearance of the nearby Conservation Area and the setting of Listed Buildings. The proposed signage would not result in any detriment to highway or public safety. Consequently, the proposed advertisements are considered to be in accordance with the provisions of the NPPF and Policies DM5 and DM9 of the DPD.

RECOMMENDATION

That advertisement consent is approved subject to the conditions and reasons shown on the attached recommendation sheet.

Conditions

01

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.

02

Notwithstanding condition 09, the development hereby permitted shall not be carried out except in complete accordance with the approved plans (all received 02/09/15):

- Site Location Plan
- 30008-25 Rev C
- 30008-26 Rev A
- 30008-27 Rev C
- 30008-28 Rev B
- 30008-29 Rev B

Reason: So as to define this consent.

03

The advertisements hereby permitted shall not be illuminated outside the following:-

0600 to 2330 Monday- Sunday (including Public or Bank Holidays)

Reason: In the interests of residential amenity in accordance with Policy DM5 of the DPD.

04

No advertisement shall be sited or displayed so as to: (a) endanger persons using the highway.(b) obscure, or hinder the ready interpretation of, any traffic sign; 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 under these regulations is 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 maximum luminance of any sign shall not exceed 600 candela and the means of illumination of any sign shall not be of an intermittent, pulsating or flashing kind.

Reason: To protect drivers from uncontrolled light sources near the public highway.”

09

The following advertisements (as details on plan 30008 – 29 Rev B) shall not be illuminated by any means unless details have been submitted and approved in writing by the LPA:

Entry sign freestanding D

Entry sign freestanding G

Entry sign Wall mounted H

Reason: For the avoidance of doubt and to define the consent.

Note to Applicant

01

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. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

BACKGROUND PAPERS

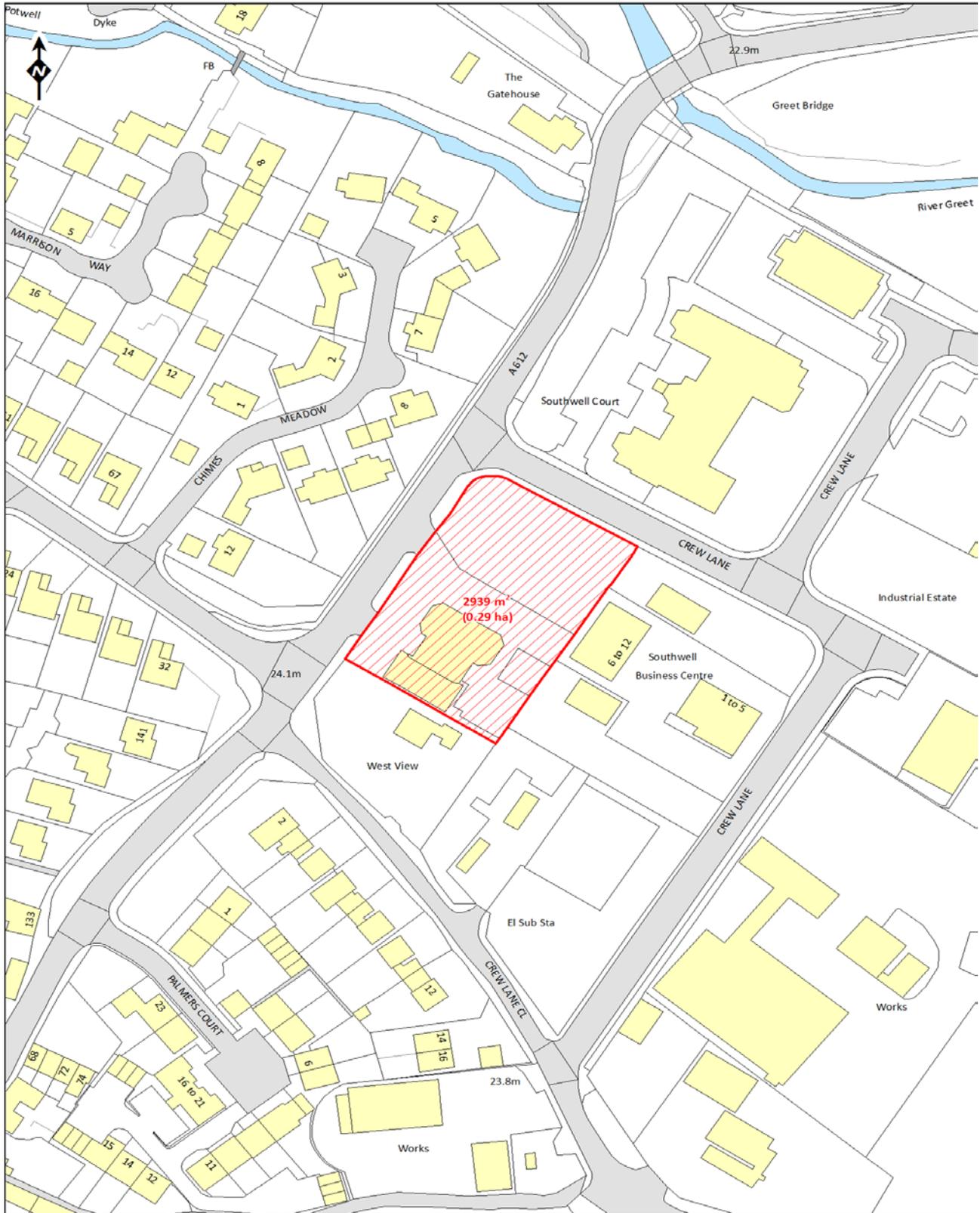
Application case file.

For further information, please contact Mr Sukh Chohan on ext 5828.

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/01569/ADV



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Application No:	15/01455/FUL	
Proposal:	Householder application for two storey and single storey rear extensions, alterations to front porch and use of existing garage as bedroom (partly retrospective)	
Location:	Corner Cottage, Main Street, Oxton, Nottinghamshire	
Applicant:	Mr Farrah	
Registered:	18 July 2015	Target Date: 13 October 2015

This application is being referred to Planning Committee for determination by the local ward member.

The Site

Oxton is a village washed over by the Nottingham-Derby Green Belt. Corner Cottage lies within the main built up area of the village and is within the Oxton Conservation Area. The property is a two-storey detached dwelling. The dwelling has previously benefitted from a two-storey rear extension and has a detached single garage to the south of the main dwelling.

Adjacent properties lie to the south and NW of the site, with the highway to the east; the site gently rises as it moves away from the highway. The boundaries of the site are treated with vegetation to the rear and sides, and a stone wall to the front.

Relevant Planning History

14/01849/FUL – Householder application for single storey rear extension, two storey rear extension – Application permitted

14/01417/FUL – Householder application for two storey and single storey rear extensions – Application refused for the following reason,

In the opinion of the District Council the proposed extensions would cumulatively result in disproportionate additions over and above the size of the original dwelling and would therefore constitute inappropriate development within the Green Belt. There are no very special circumstances to outweigh this harm. The proposed development would therefore be contrary to Spatial Policy 4b of the Newark and Sherwood Core Strategy (2011) and the National Planning Policy Framework (2012).

96/51408/FUL – Extension to Kitchen and Utility, 1st Floor Extension over Existing Kitchen/Bathroom to Form New Bathroom (Application Permitted)

The Proposal

The proposal is for a retrospective planning permission for the erection of a first floor and single storey rear extensions and alterations to front porch. The Local Planning Authority approved a similar scheme with a smaller footprint in December 2014. This application is to seek permission for an additional rear extension and the erection of a front porch.

The two storey rear extension involves an additional storey on a lean to outrigger, therefore projecting a maximum of 2.20m beyond the rear elevation and has a maximum width of 3.62m. The additional storey would increase the height to the eaves to 4 metres, with a resultant overall ridge height of 6m.

The garage element of the proposal has been built out 0.8m larger in length than was approved under 14/01849/FUL and as such, the maximum projection from the rear wall is 7.6m. the width and height remain the same as approved in 2014.

The application in 2014 showed a small link extension between the garage and the dwelling measuring 2.8m in length and 1.5m in width. The proposal now seeks to extend the width of this link to 3.7m, with a ridge height of 3.7m.

The proposed porch to the principal elevation would have a depth, width and height to the eaves would match as existing. The roof fascia would be amended to allow the installation of a new door with a window. The roof soffit would be doubled in height from 0.10 metres to 0.20 metres. The windows below the soffit are to be changed.

The extensions and garage conversion towards the rear of the property were completed by 30th May 2015. A tree was removed from the rear of the property to allow the proposals to be implemented. The external alterations to the porch were not implemented at the time of the site visit.

Departure/Public Advertisement Procedure

Occupiers of four properties have been individually notified by letter.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy Adopted March 2011

Spatial Policy 4B: Green Belt Development

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

Allocations and 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

Householder Development SPD (adopted November 2014)

Chief Planner Planning Policy Statement published 31st August 2015

Consultations

Oxton Parish Council – No comments received

NSDC Conservation Team – No objections, however the cottage would benefit from retaining its plank style door on the front elevation. If a glazed element was a significant preference, a 4 panel door with top half panels glazed would be a better design to that shown on the elevation drawing.

NCC Highways – No objections. The application site adequately accommodates two parked vehicles at the front of the site. The proposal is not expected to impact significantly on the public highway.

No other representations have been received to date.

Comments of the Business Manager, Development

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

Principle of Development

Policy DM6 accepts householder development subject to an assessment of numerous factors including that the proposal respects the character of the dwelling and surrounding area, as well as protects the amenity of neighbouring residents.

As the site lies within the Conservation Area for Oxton, any proposed development must 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 setting of the Conservation Area.

Additionally, the site is located within the Green Belt where new development is strictly controlled through the NPPF and Spatial Policy 4B of the Core Strategy. However, the NPPF does allow for the

limited extension of existing dwellings provided that it does not result in the disproportionate additions over and above the size of the original dwellings.

This proposal seeks retrospective consent for the rear extensions to the dwelling. Reference is therefore made to the Planning Policy Statement published on 31st August relating to Green Belt protection and intentional unauthorised development which makes unauthorised development within the Green Belt a material planning consideration. Whilst this statement is only fully applied to applications received from 31st August 2015, the LPA need to be mindful of the policy statement in determining this application.

Impact upon the Green Belt

Aside from the planning permission granted for the rear extensions in 2014, the dwelling has previously benefitted from planning consent for a two storey rear extension and historical mapping suggests that the garage is not an original feature. Given this, the LPA must assess the impact of this current scheme upon the Green Belt taking into account **all** previous extensions to the property, as required by paragraph 89 of the NPPF. The NPPF states that substantial weight is given to any harm to the Green Belt although there are exceptions to this including that any extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building, could be considered acceptable.

Under current policy there is no definitive percentage of floor space increase considered to be appropriate development within the Green Belt and as such, it is one of judgement for the LPA. Generally, and as a rule of thumb where other local planning authorities have set thresholds within development plan policies these typically range between 30 to 50% (volume and/or floorspace increase) in determining whether householder extensions are disproportionate to the original dwelling.

The previous scheme for Corner Cottage in 2014 (planning reference 14/01849/FUL) was amended several times in order to ensure that the proposal did not result in disproportionate additions to the dwelling in accordance with the NPPF. At the time of both the approved and refused applications in 2014, the LPA's limits on what was considered to be appropriate development within the Green Belt were made clear to the applicant's agent on various occasions during negotiations for an amended scheme. It was concluded at the time by the case officer that the increases in volume, footprint and floorspace proposed under 14/01849/FUL were at the upper limit of what would be considered acceptable Green Belt Development. In order to understand the conclusions reached by the previous case officer, an extract of their report is detailed below,

Notwithstanding the degree of judgement involved in firstly determining whether a development proposal is inappropriate (by reason of being disproportionate to the original building) it is useful to understand the size of the existing and proposed extensions and garage compared to the existing dwelling. This is detailed in the table below. For the avoidance of doubt, the calculations include the existing porch as part of the original dwelling.

	Original dwelling	Existing extensions (excluding garage)	Proposed Extensions	Extensions (Existing and Proposed)	% Increase to original building
Footprint	57.4m ²	12.67m ²	20.1 m ²	32.77 m ²	57.1%
Floorspace	97.5m ²	25.34m ²	28 m ²	53.34 m ²	54.7%
Volume	292.35 m ³	70.25 m ³	99.65 m ³	169.9 m ³	58.1%

(Officer's calculations are measured externally. Garage removed from existing extensions but included within the proposed extensions given that it is to be replaced/renovated as part of the proposed scheme.)

The calculations indicate that as a result of the proposed extension, cumulatively the additions to the dwelling would be over the 50% typically used by local authorities to determine whether extensions to a dwelling are disproportionate to the original dwelling. Given the typical thresholds highlighted in the paragraph above, it would usually be considered that the increase is unacceptable with regards to paragraph 89 of the NPPF.

However, whilst the above calculations help in quantifying the difference in size between the original dwelling and the existing and proposed additions, I am mindful that neither the NPPF nor the policies within the Core Strategy set out a specific percentage when considering what constitutes an addition to an existing building being disproportionate. Consideration therefore also needs to be given to the design of the proposal and whether its scale, form, mass and layout result in a property which would have an acceptable impact on the openness of the Green Belt. Historical records show the property to have originally been of modest proportions and of a rectangular layout; the principal elevation still presents the traditional cottage-like characteristics and its original rectangular form. Whilst it is accepted that the existing two storey extension in 1996 was considered to be acceptable in terms of development within the Green Belt, the further additions proposed will add considerable overall mass to the rear of the property, significantly extending the footprint out from the rear of the dwelling.

There are views of the existing rear extension when travelling from the south along the highway, although I am mindful that the land levels and the surrounding built-up area, would restrict views of the proposed rear single storey extension, thereby limiting the impact upon the openness of the Green Belt. The most prominent view would be the alterations to the garage, which would form a study/bedroom but from the highway would have the appearance of a garage, which I consider would be better in-keeping with the character of the area.

Paragraph 88 of the NPPF requires LPAs to ensure that substantial weight is given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations. In this instance, I consider the improved appearance of the garage to have a positive impact upon the character of the area, and in particular its setting within the street scene and the wider Conservation Area; this improvement, is therefore likely to enhance visual amenity for the wider public realm, which I consider to outweigh the harm to the Green Belt given the public benefits the scheme offers. The improvement to the public realm is also welcomed by the internal Conservation Officer.

The proposed scheme seeks to increase the scale of the building further, which at the time of the previous application was considered unacceptable. These increases are shown below,

	Original dwelling	Pre-2014 extensions (exc.garage)	Extensions sought under this application (proposed/retrospective)	All Extensions (Existing and Proposed)	% Increase to original building
Footprint	57.4m ²	12.7m ²	28.7 m ²	41.4 m ²	72.1%
Floorspace	97.5m ²	25.3m ²	36.2 m ²	61.5 m ²	63.1%
Volume	292.4 m ³	70.3 m ³	108.9 m ³	179.1 m ³	61.3%

(Officer's calculations are measured externally. Garage removed from existing extensions but included within the proposed extensions given that it is to be replaced/renovated as part of the proposed scheme.)

These increases, are greater than what is usually thought acceptable, resulting in disproportionate additions to a building within the Green Belt. Weight is attached to the limited visibility of the extensions from the public realm. However, the NPPF is clear that development should not be permitted where the additions would be over and above the size of the original building unless the harm can be clearly outweighed by other considerations. Given the significant increase in mass, with no justification for the increase, it is therefore considered that the proposed dwelling conflicts with national and local Green Belt policies (Section 9 of the NPPF and the Council's Spatial Policy 4B) which seek to preserve the Green Belt.

In addition to the above, the planning policy statement published on 31st August 2015 requires unauthorised development within the Green Belt to be considered as a material consideration in determining planning applications. The Government is concerned about harm that is caused by intentional unauthorised development within the Green Belt. Whilst there is no evidence to suggest that the development was intentional, the harm caused as a result of the development taking place without planning permission needs to be considered. It has already been discussed above that the extensions are harmful to the Green Belt however there are no special circumstances which outweigh the development's harm upon the Green Belt and therefore although the extensions have been completed, this is not a reason to approve the application.

It should be noted that in isolation, the proposed infill extension not included in the approved application in 2014 could be considered to be permitted development, however given that it links to the other extensions which extend beyond the side wall of the dwelling, cumulatively the extensions extend more than half the width of the original dwelling and therefore planning permission is required.

Impact on the Visual Amenities of the Area

The property lies within a conservation area, development should take account of the distinctive character of the area and seek to preserve and enhance the conservation area, as stated by policy DM9 of the DPD. Additionally, Policy DM6 and the NPPF seek good design of development in terms of scale, landscape and materials which relate well to neighbouring buildings and the local area more general.

The majority of the proposal will not be visible from the public realm or wider Conservation Area and will be an addition to a significantly altered traditional building. Given the site's location, the Conservation Officer offered the following comments as part of a previous application (14/01417/FUL) which remain prevalent,

'The application site is an attractive un-listed historic cottage within Oxton Conservation Area. The proposal is a side and rear extension, altering a modern mono-pitch garage and various later extensions to the rear of the house.'

The resulting rear appearance will be quite complicated and overall the extensions are large, but the original simple plan-form has been largely altered already and the cottagery appearance will be maintained from the front, from where the building is best preserved at the moment. Certainly the impact from the public realm will be very minimal and will be an improvement by swapping the mono pitch garage for a gabled garage.'

Overall I think the impact on the character and appearance of the conservation area is relatively limited and subject to conditions I have no objections.'

Further to the above, the Conservation Officer has provided further comments in respect of the current application,

'The form and appearance of the extensions is not significantly different from the previously approved scheme (14/01849/FUL). The steeper pitch of the single storey element is a minor improvement as this better references traditional roof form within the CA.'

I noted that despite its proximity, the proposal had limited impact on the setting of the adjacent listed building, and was otherwise not unduly prominent within the CA. In reaching this view, I also considered wider views from the footpath on the adjacent field, and in aspect with the listed farmhouse.'

Notwithstanding the previous approvals and the submitted details, the cottage would benefit from retaining its plank style door on the front elevation. However, if a glazed element was a significant preference, a 4 panel door with top half panels glazed would be a better design to that shown on the elevation drawing.'

I agree with the Conservation Officer that the current proposal has a more coherent design. Additionally, as mentioned above, the majority of the extensions would not be visible from the public realm; the design would retain the traditional cottage appearance to the front, which will ensure that the street scene and wider area are unlikely to be adversely affected. As such, from the point of view from a historic environment perspective, I am satisfied that the proposal is not likely to have a harmful impact upon the Conservation Area, when viewed from the public realm.

In terms of overall design, Policy DM6 and the NPPF seek to ensure that householder development respects the character of the local area and remains subservient in scale, with appropriate use of

materials. It is proposed that the wall and roof materials will match those of the existing dwelling, whilst windows and doors are to be aluminium, finished in grey and green to match the existing house windows and doors. The first floor and single storey rear extensions have been implemented using materials as stated in the Design and Access Statement. The 2014 permission conditioned the materials to be agreed prior to the commencement of development, which was not complied with. However as the extension is now in situ, the materials have been assessed on site and it is considered that the materials used are acceptable and therefore do not need to be conditioned as part of this application.

In terms of the proposal's scale and mass, I consider that the single storey extension would appear visually subservient to the host dwelling, and I am of the opinion that the extension in place of the existing garage would be viewed as an improvement to the dwelling. With regards to the first floor extension, the ridge height is only marginally lower than that of the main dwelling, but given the existing extension has the same height, I would raise no objection to the first floor extension.

The external alterations to the proposed porch will be clearly visible from the public realm, although are minor in scale and therefore I do not consider the proposal to unduly impact on the character of the Conservation Area in this regards. Following the consultation response from the Conservation Team regarding front door preference, an amended design has been in line with recommendations from the Conservation Team and reflected in amended plans. I now consider the proposed porch and door to be acceptable in terms of design.

However, the overall scale and mass of the various extensions to the dwelling have a cumulative impact and result in additions which no longer respect the scale of the original dwelling, thus have a harmful impact upon the local distinctiveness of the setting, which in this instance is the Greenbelt.

Impact upon Residential Amenity

Policy DM6 of the DPD states planning permission will be granted for the extension of dwellings provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy, light and overbearing impact.

The garage lies along the southern boundary of the site, close to the neighbouring property, Tall Trees, beyond this boundary. The dwellings along Main Street are not aligned in a uniform way and as such, Corner Cottage is set forward of Tall Trees. The garage lies adjacent to the rear section of the northern side elevation of the neighbouring property which has a door and small window situated along this elevation, which are currently covered by a canopy attached to the garage at Corner Cottage. The first floor windows of this elevation will overlook the roof of the garage and extension, a view which would not be dissimilar to that currently. As such I do not consider the single storey extension and garage alterations to have an adverse impact upon neighbouring amenity by virtue of overshadowing or overbearing impacts. In terms of overlooking, the number of windows on the southern elevation would be reduced and therefore I do not envisage the neighbour to be overlooked to a greater extent than currently.

In terms of the proposed first floor element, the rear wall of the extension will slightly overlap the front building line of this neighbour which has 2 windows at first floor level. However, I am satisfied that the gap between the dwelling and the boundary (approx. 3m) is sufficient to limit the impact upon the neighbour to the south.

Given the distance between the application site and other neighbouring properties, I do not consider the proposal likely to have a significant impact upon their amenity.

Impact upon Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision. The Highways Authority have advised that the site adequately accommodated two parked vehicles at the front of the site. As such, the proposal is not considered to impact significantly upon the public highway and therefore I do not consider the proposal likely to have a detrimental impact upon the highway.

Conclusion

In conclusion, it is thought that, whilst the proposal is unlikely to result in any significant harm to the conservation area or upon neighbour amenity by virtue of privacy, overshadowing or overbearing impacts, these considerations do not outweigh that the scheme proposes an additional extension to a dwelling which has already benefitted from two significant additions over time. As such, the proposal is considered to cumulatively result in additions over and above what is considered to be proportionate to the original dwelling with the Green Belt. It is therefore concluded that the proposal would be harmful to the integrity of the Green Belt and as such contravenes paragraph 89 of the NPPF and Spatial Policy 4B of the Core Strategy. It is therefore recommended to the Planning Committee that planning permission for this application is refused.

RECOMMENDATION

That full planning permission is refused for the reason below.

Reason for Refusal

01

In the opinion of the District Council the proposed extensions would cumulatively result in disproportionate additions over and above the size of the original dwelling and would therefore constitute inappropriate development within the Green Belt. There are no very special circumstances to outweigh this harm. The proposed development would therefore be contrary to Spatial Policy 4b of the Newark and Sherwood Core Strategy (2011) and the National Planning Policy Framework (2012).

Notes to Applicant

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date.

Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website www.newark-sherwooddc.gov.uk/cil/

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

BACKGROUND PAPERS

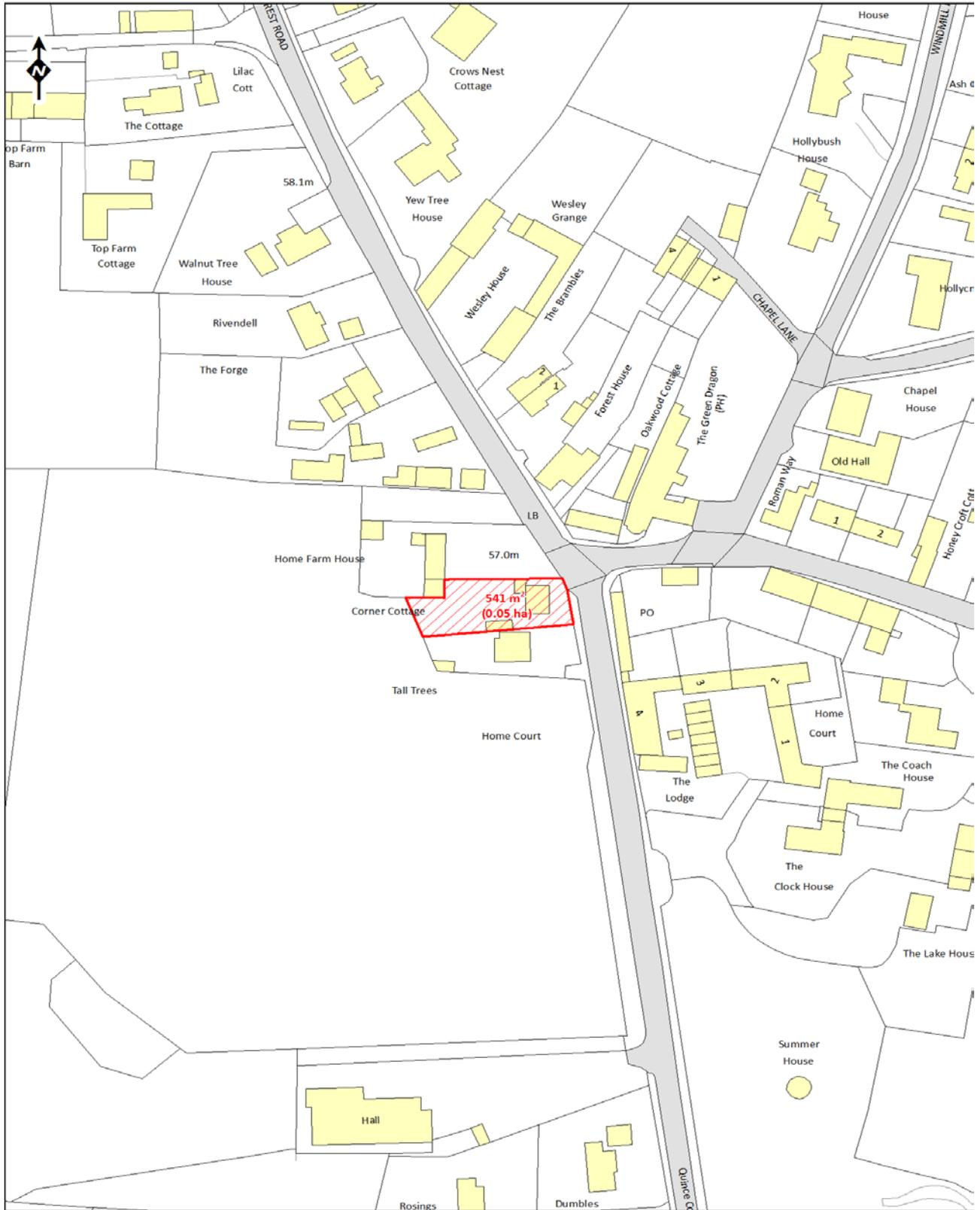
Application case file.

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

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/01455/FUL



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Application No:	15/01537/FULM	
Proposal:	Change of Use of the Railway Lake to Water Sport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank	
Location:	Railway Lake, Hoveringham Lane, Hoveringham	
Applicant:	Mr S Day – Notts Scouts & Notts County Sailing Club	
Registered:	03/09/15	Target Date: 03/12/15 (Ext of time agreed)

The Site

The site, situated to the south of Thurgarton and to the north of Hoveringham comprises a former sand and gravel pit. The site is accessed from an existing access track off Thurgarton/Hoveringham Lane with Thurgarton railway crossing and station situated immediately to the north of the site and the Hanson cement works immediately to the east. There is confusion in relation to the name of the road the lake is actually situated on with the applicant stating Hoveringham Lane and members of the public stating Thurgarton Lane. For the avoidance of doubt, the site shall be referred to as Railway Lake situated on Hoveringham Lane in this report. Upon the cessation of the former use of the site as a sand & gravel pit, the land has undergone a program of restoration and in accordance with comments received from Nottinghamshire County Minerals; the majority of the site appears to have completed its statutory 5 year aftercare period, in accordance with conditions attached to the original permission (93/50782/CMA). The site comprises a lake, approximately 1.5km in length and 600m in width (at its widest part) which is crossed by high voltage overhead electricity pylons at approximately the mid-point. The application relates to the majority of the lake area but the final 250m on the southern boundary falls beyond the scope of this application.

In accordance with the Environment Agency Flood Zone Mapping; a small proportion of the north western shore line lies within Flood Zone 3, with the lake itself designated as being within Flood Zone 2. The land to the north of the lake, the access track and the grassed area around the lake are all designated as being within Flood Zone 1. The entire site lies on the boundary and within the Nottinghamshire Green Belt.

The site is not situated within a Conservation Area (CA), with the closest CA being Thurgarton. The southern boundary of the Thurgarton CA is situated approximately 300m to the north of the site. The closest heritage asset to the site is Thurgarton Station which is a Grade II listed property situated approximately 50m to the north of the lake. The closest residential properties to the site

are Thurgarton Station, situated approximately 50m to the north, New Farm situated approximately 50m to the east and Rose Cottage situated approximately 130m to the south east.

Relevant Planning History

15/00506/FULM - Change of Use of Railway Lake to Watersport and Scouting Use. Withdrawn July 2015

11/00212/CMA - Variation of conditions 22 and 24 of planning permission 3/08/0226/CMA to extend the timescale for the completion of restoration works and tree planting. Approved 2011

93/50782/CMA – Extract sand and gravel and re-phase infill by pulverized ash. Approved 1996

93830713 – Extraction of sand & gravel, construction of road tunnel and conveyor. Approved 1984

The Proposal

The application seeks the change of use of the existing lake for water sport and scouting use. The change of use would also incorporate the installation of a temporary 8m x 8m portacabin which would be elevated approximately 1.3m above ground level, with a further 3m deep veranda which would permit disabled access. The building is proposed to be used as a teaching area and changing room. In addition a septic tank with associated soakaway would be installed to the north of the portacabin. A new access would be created from Thurgarton Road which would require the breaching of the roadside boundary hedging and car parking would be provided on an unmade gravel parking area for up to 12 vehicles. Furthermore, the applicant has stated that if required overspill parking will occur on the land adjacent to the proposed sports base. A boat storage area would be provided to the north west of the proposed portacabin and would be enclosed with approximately 1.8m high fencing in the interests of security.

The applicant has confirmed that the use of the lake will be for non-motorised craft with the exception of safety craft. The applicant has stated that they do not know how much interest there will be in the use of the lake. However, as an indication it is stated that they will run water weekends for Nottinghamshire Scout groups that will be for approximately 50 youngsters at a time, most of which will be on the water at the same time in a variety of craft. It is envisaged that 8-10 of these weekends will be run throughout the summer with evening use being two or three evenings a week again during summer months (April – September) the activities will be primarily for members of Nottinghamshire Scouts, with any sailing regattas (boats from other Scout Counties) being small numbers & limited to a couple of times a year.

The application is also a joint application with Nottinghamshire Sailing Club who currently operate on a neighbouring lake to the south east. It is anticipated that some wind surfers which currently use the sailing clubs sailing lake may also use the railway lake when there is high demand at the sailing club, given that the space available for wind surfers is often limited to the smaller training lake at the sailing club, particularly if an event is being held. However any member of the County

Sailing Club wishing to use the railway lake will only be able to do so with prior approval of the Scout association.

For clarity the proposed hours of operation are: two or three week day evenings a week during summer months (April – September) and weekends, again only during summer months.

Departure/Public Advertisement Procedure

Occupiers of 57 properties have been individually notified by letter.

10/09/15 - A site notice was displayed at the entrance to the site

04/09/15 - An advert was printed 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 4A - Extent of the Green Belt
- Spatial Policy 4B - Green Belt Development
- Spatial Policy 7 - Sustainable Transport
- Spatial Policy 8 - Protecting and Promoting Leisure and Community Facilities
- Core Policy 9 - Sustainable Design
- Core Policy 10 - Climate Change
- Core Policy 11 - Rural Accessibility
- Core Policy 12 - Biodiversity and Green Infrastructure
- Core Policy 13 - Landscape Character
- Core Policy 14 – Historic Environment

Allocations & Development Management DPD

- Policy DM5 - Design
- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM9 – Protecting & 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

Hoveringham Parish Council – Objection

- Inaccurate description, wrong address
- No D&A
- Contrary to previous conditions in relation to ‘quiet water’ as detailed on former minerals permission (3/11/01607/CMA)
- No ecology survey therefore no assessment of ecological impact
- No disclosure of pre-app details
- Inaccurate plans submitted
- No details of the nature of the proposed use, how many people will use the facility, types of craft etc
- Provision of utilities
- How are boundaries identified given the proposed use is not for the entire lake?
- Impact on PRoW
- No prior consultation with neighbours & parish
- Concern regarding the proposed septic tank
- Insufficient parking arrangement
- Concern of increased flood risk from the proposed change of use
- Already have use of other facilities why do they need to have another lake?
- Proposal likely to destroy the CA adjacent to Thurgarton Lane
- Proposed building would detract from the rural street scene
- Access would destroy natural habitats
- Volume of traffic detrimental on the surrounding area
- Proposed craft will result in pollution, distress to wildlife and others who enjoy the quiet natural beauty of the area
- The lake is supplied by boreholes there is clear risk of interference with the setting of the outfall and potential flood risk

Thurgarton Parish Council – Objection in line with the comments made by Hoveringham PC

- Residents will be affected by noise & light pollution.
- If recommended for approval conditions should be imposed to limit the times of operation & use of lighting.

Environmental health – Noise - No objection based on the information submitted

NCC Rights of Way Officer – No objection

Thank you for consulting the Countryside Access Team on this application. The proposed development at the north eastern end of the lake does not appear to affect any public rights of way. However, I would point out that the site as a whole is surrounded by 3 public bridleways namely BW12, Thurgarton, BW4 Hoveringham and BW12 Hoveringham. Any use of the site as a whole must take these public highways into account and any activity which may affect these routes must be brought to the attention of the County council Rights of Way Team. I attach a plan showing the location of the bridleways in question.

Nottingham Ramblers Association – No objection

NSDC Conservation Officer – No objection

Although there are a number of designated heritage assets within the wider landscape, including for example the Grade II listed Thurgarton Railway Station to the north of the lake, the proposed change of use is not likely to have any material impact on the setting or significance of any heritage assets in this case. It is possible that the addition of haulage containers and other elements of storage/utility on the north bank might result in some visual impact on the wider landscape setting of the station; however, having visited the site, I am satisfied that any impact is likely to be modest and not adverse. The construction of a club house in the future (subject to a separate application) will need to take account of the setting of heritage assets.

Overall, Conservation has no objections to the proposal. In reaching this view, I have considered our duty in respect to the desirability of the preservation of listed buildings (including their setting) under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Trent Valley Internal Drainage Board – No objection

The site is located within the boards' district and is served by board maintained watercourses, as indicated on the enclosed plan. No works in, over, under or within 9 metres of a board maintained watercourse shall be permitted without the boards prior written consent. The applicant must ensure that all parts of the car park and storage areas are located at least 9 metres from the bank top of any board maintained watercourse no discharges of surface water or treated foul effluent shall be made to any board maintained watercourse without the boards prior written consent.

Sports England – No objection

Sports England supports in principle uses which have the potential to increase participation in and the development of watersports.

NCC Mineral Planning Team – No objection

The County Council acting as the Mineral Planning Authority would not wish to raise any objections to the proposal, but would note to the applicants that the site remains in its aftercare period following completion of mineral extraction. An informative note was previously suggested

which may still be applicable to attach to any grant of planning permission, although the permissive path element may well be in place by now.

(For information purposes the below comments have been copied over from previous application)

Further to my email of the 24th April 2015 I wish to update you on a meeting held on the 18th May 2015 at Hoveringham Quarry to discuss arrangements for the provision of the permissive path. The meeting involved NCC Planning, the Scouts, landowners, quarry company and members of the community. Particular attention was given to ensuring that the provision of the permissive path does not compromise the Scouts proposals for future use of the lake, nor affect stand –offs required by the Internal Drainage Board.

Following some negotiation I can confirm that a route for the permissive path has been agreed on the site which broadly follows the route of the drainage channel within the site (generally in accordance with the route of the indicative route shown on the restoration plans) and provides for fencing/gates to ensure that the Scouts can segregate permissive path users from land used by their members so as to provide appropriate child safeguarding. Lafarge/Tarmac are responsible for providing this path and have indicated that the permissive path and fencing works are likely to be carried out in Autumn 2015.

On the basis of the above, I wish it to be noted that the proposed use of the site by the Scouts would not conflict with the minerals restoration controls imposed on the site on the basis that the permissive path and use of the site by the scouts can satisfactorily function together.

If your authority is minded to grant planning permission for the development I consider it would be prudent to attach an informative note on the decision notice to advise that ‘Planning Permission 3/11/01607/CMA issued by Nottinghamshire County Council for mineral working on the site has an ongoing requirement for the quarry operator to restore the land and provide five years of aftercare management. Nottinghamshire County Council advise that areas of the former quarry land adjacent to Thurgaton Lane to the east of the railway lake which were previously used for soil storage (and are proposed to be developed by the Scouts) continue to have aftercare obligations under the minerals planning permission. In particular the minerals permission has a requirement to provide a permissive footpath across this land. Whilst Nottinghamshire County Council is satisfied that these ongoing minerals obligations would not preclude other uses coming forward for the lake and its margins, the developer should be made aware of these ongoing minerals obligations’.

Nottinghamshire Wildlife Trust – No objection subject to condition

Thank you for consulting on the above application. We note that no ecological information has been submitted with this application; however we have previously corresponded in some detail to application 15/00506/FULM with respect to ecological considerations.

The new application appears to occupy the same footprint with the exception of the access point. From the plans now provided, it appears that the new access may impact on the existing ditch and we recommend that the LPA seeks clarification on this matter. The most recent ecology report

submitted with 15/00506/FULM (Scarborough Nixon, June 2015) made assumptions that the ditches would not be affected (not the case now) and in fact recommended a 5m buffer zone to protect the ditches. It therefore appears that the ecological impact of the current proposal has not been assessed and we recommend that this is undertaken before the application is determined.

Our remaining comments from the previous application remain relevant (numbers refer to the above ecological report) and are as follows:

These requirements should be secured by way of condition, should the application be approved.

5.1.2 Reptiles – Pre-commencement walkover

5.2.2 Badger – Watching brief

5.4.2 Birds – Avoid the bird breeding season

The report gives recommendations for protecting the orchid population on site and for managing lake margin areas to maintain the species rich grassland (see 5.5). We support these recommendations which could be secured by way of condition, perhaps through a Construction Method Statement for the orchids and a Landscape and Biodiversity Management Plan for ongoing site management. Additional improvements, such as creation of wader scrapes previously mentioned could be incorporated into such a plan.

We maintain that we would wish to see zoning of the lake to protect more sensitive areas, including a buffer zone implemented during the bird breeding season whereby boats are restricted from coming too close to marginal vegetation during the breeding season.

Updated Comments

Thank you for sending through this letter. The ecologist has confirmed that the section of the ditch which would be impacted by the proposed bridge was surveyed for water vole activity during 2015, with no signs recorded. Depending on the time frame for works commencing, you may wish to consider conditioning an updated survey prior to commencement.

No plans have been submitted with respect to the bridge design, so it is therefore not possible to tell whether connectivity along the ditch would be maintained. Again, you may wish to request more detailed plans in this respect before determining the application.

Environment Agency – No objection

Lead Local Flood Authority – No objection

- 1 The following comments are based on the source-path-receptor methodology to manage the flood risk from the proposed development to 3rd party properties both adjacent and at distance from the proposed sites.
- 2 The proposals as described would not appear to be at risk of flooding at the present time.

- 3 The proposed development would be unlikely to increase the flood risk to 3rd parties based on the information provided. Accordingly we have no objection to the proposed development in this location.

Network Rail –No objection subject to consultation prior to commencement of works

Level Crossing & Railway Safety

The proposed development is close to the railway and level crossing on xxxx. We do appreciate that the proposal is put forward by a responsible organisation and understand as such that activity undertaken on the lake will be supervised at all times. Nevertheless we would request that correct and safe use of the level crossing and warnings about railway trespass be re-iterated to site users. Information is available on the Network Rail website and we would be happy to provide literature on the subject.

Abnormal Loads

It is not clear from the information supplied whether any abnormal loads will be using the route over the level crossing (e.g. delivery of the portacabin). We would have serious reservations if during the construction or operational phase of the site abnormal loads would use routes that include Network Rail assets. Network Rail would request that the applicant contact our Asset Protection Project Manager to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would also like to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

NCC Highways - No objection, subject to condition

Access details have been discussed with the applicant and a scheme has been devised and submitted which now adequately meets Highway Authority standards.

I consider that the application can be approved subject to the following conditions:

The access shall be located in accordance with the submitted 'annotated site photo' and constructed in accordance with the submitted 'Station Road Access Design Rev.1' drawing offering 6m wide entrance, 10m radii and visibility splays of 2.4m x 185m to the north and 2.4m x 125m to the south. No other part of the development shall be commenced until the access has been provided.

Reason: In the interests of highway safety and to provide adequate access for construction vehicles.

No part of the development hereby permitted shall be commenced until the new access mouth (up to the edge of the gravel driveway) has been constructed with a hard bound surface.

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

Note to Applicant: In order to carry out the new access works, you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Alternatively, works may be carried out on your behalf by Nottinghamshire County Council at an agreed cost without a need to enter into Agreement.

Updated comments based on statement of clarification supplied by the applicant

I have no concerns about parking as there would appear to be plenty of room within the site (albeit on grass/gravel) to assume that on-road parking will not occur. I don't require any further clarification.

Representations have been received from 61 local residents/interested parties which can be summarised as follows:

- 59 letters of objection
- 1 letters of support
- 1 letter neither objecting nor supporting

Upon review of the objections received it would appear that approximately **45** identical letters of objection have been received from **45** different neighbouring properties.

The following points have been raised by objectors:

Change of use from Existing Use

- The proposed application changes the concept of the lake being created for a quiet water use given the proposed motorised craft on the lake.
- Conditions remain outstanding in relation to the restoration of the lake.
- The outcome of the public inquiry in relation to the expansion of the quarrying activities was that the land should be restored to environmentally friendly, quiet, water based reclamation.

Need

- There is no need for additional sailing facilities given the proximity of the Notts Sailing Club less than ½ mile away which is underused.
- Any need should be substantiated with reference to existing member numbers at the sailing club

Noise

- Concern lies with the noise generated by the ropes on the aluminium masts even in the slightest wind. Although this may seem a trivial matter, when you are subjected to it constantly (having heard it at the Notts County Sailing Club) we imagine this will impact on the area greatly. Do you know how many boats will be stored on site? Will they just be stored? Will this be regulated? We would like the tree screen to be filled in as there is a roadway through at the moment
- The increase in noise will detrimentally impact upon neighbouring amenity

- Unsure about the extent of activities proposed
- What are the proposed hours of operation of the facility

Road Safety

- The submitted plans are hard to understand.
- Road safety in relation to the additional volume of traffic which the proposal will attract. The road network is inadequate to cope with the additional traffic and any proposal creating more traffic should be refused on road safety grounds.
- Although the site will have a splayed access the map does not accurately display the angle of the road and the traffic cannot be seen either way
- Amount of parking is insufficient especially given that the site is proposed to be used by 4 counties of scouts.

Impact upon Ecology

- The proposed new entrance will result in the loss of hedgerow. There is no mention in the application to say that this will be replaced.
- The proposal would detrimentally impact upon a variety of birds which frequent the site and use the islands for breeding.
- The increase in traffic will result in an increase in noise which will disturb surrounding wildlife.
- The erection of portacabins & any future building will have an adverse effect on wildlife

Impact upon Flood Risk

- An application to alter the use of the lake must preclude any alteration or interference with the settings of the flood preventative outfall

Impact upon the Character of the Area

- The proposed porta cabin is ugly and not in keeping with the character of the area
- The lake is an area of Green Belt and considered to be inappropriate development

Other Points Raised

- The plan refers to a cesspit, what steps will be taken to ensure no sewage pollutes the lake
- The application has many anomalies and is ambiguous

- No utilities are present on the site and their installation will cause major disruption
- Should members be minded to approve the application conditions in relation to:
 - Restricting the intensification of the use of the site through limiting days and hours of use
 - Restriction on use of motor craft with the exception of safety vehicles
 - A new survey should be undertaken

Support for the Proposed Development

- Support the proposal but would request conditions are put in place in relation to the proposed use, ecology and noise

Comments based on additional information submitted by the applicant

- The application constitutes a major development of a quiet water setting
- The application states plans to expand water activities to include bell boats & rafting which will lead to future intensification and parking issues
- The prospect of youngsters using rail travel raises concerns of traffic safety
- The proposed fencing around the boat store & elevated portacabin will result in visual intrusion
- Will security lighting & CCTV be installed? This could result in light pollution
- The proposal would have an overbearing & detrimental impact on Hoveringham

Comments of the Business Manager

Principle of Development Including Impact on the Green Belt

The proposal is for the change of use of part of an existing lake which was formed through historic gravel extraction, for non-motorised water sports usage by the Scouting organisation.

Concern has been raised by both the local parishes and local residents that the proposed change of use would be contrary to the aftercare programme which related to the minerals extraction which took place on the site. Nottinghamshire County Council have confirmed that outstanding elements of the aftercare programme are being implemented by the applicant of the previous application (Tarmac).

Notwithstanding the implementation of these conditions, planning applications have to be considered on their individual merits and consideration shall be had to the proposed change of use and the ability of the previous applicant to fulfil their aftercare requirements.

The site lies on the eastern edge of the Nottinghamshire Green Belt. The National Planning Policy Framework (NPPF) indicates that most development in the Green Belt is inappropriate. However there are some exceptions to this and the *'provision of appropriate facilities for outdoor sport, outdoor recreation... as long as it preserves the openness of the Green Belt and does not conflict*

with the purposes of including land within it' is one of them. The proposed change of use would involve the erection of a portacabin, (detailed to be temporary), a fenced in boat storage area, a septic tank, which would be buried and a gravelled car parking area. It is anticipated that should the outcome of this application be favourable that a future application for a permanent clubhouse/changing rooms would be submitted, however this shall be considered as part of a future application and not within this one.

The extent of proposed built form is considered to be small in scale with the majority of the site remaining open. As such the proposal is not considered to result in a loss of openness of the surrounding Green Belt or to conflict with the purposes of including land within it.

Spatial Policy 8 of the Newark and Sherwood Core Strategy details that the provision of new community and leisure facilities will be encouraged, particularly where they address a deficiency in current provision and where they meet an identified need of the community. Associated built development should be restrained to the minimum necessary to sustain the use. The applicant has provided information in support of his application stating that due to the volume of people using the neighbouring Hoveringham Sailing Club the scouting organization has been forced to seek an alternate location for their activities. Furthermore they currently undertake kayaking & canoeing on the Trent at Farndon but have stated that due to river levels, flow & traffic that water activities are often limited and at times dangerous. As such the Scouting association is seeking to amalgamate their current water based activities to one centralized location, which forms the basis of this application.

The comments received from local members of the public in relation to their being no need for the proposed change of use are noted. However, in the applicants supporting statement it is stated that the proposed change of use of the Railway Lake would result in an amalgamation of existing water sports activities which are carried out at multiple sites. Furthermore, it is stated that the proposed site would be beneficial to local children as it would provide safe access to facilities for activities which are not currently available in the local area. Whilst it is understood that the Scouts currently use facilities at the neighbouring Nottinghamshire Sailing Club site for sailing activities, little weight can be given to comments received from the public that this site is underused, with the applicant stating the opposite and one of the driving reasons for submitting the application being the need for their own centre where the currently undertaken activities can be located. As such it is considered that the applicant has demonstrated the ability to meet a need by supplying a new community facility and the proposal would accord with Spatial Policy 8 of the Core Strategy.

In accordance with the policies detailed above, it is considered that the proposed development is acceptable in principle subject to an assessment of site specific issues as set out below.

Impact on Character of the Surrounding Area

The site is situated on the edge and within the Nottingham/Derby Green Belt. In terms of built form the proposal includes the provision of a temporary portacabin building which will be used as training & changing rooms. The building has an approximate footprint of 8m x 8m with a 3m deep

veranda area overlooking the lake. The building is proposed to be elevated 1.27m above ground level and have an overall height of 3.63m. It is proposed that the building be clad in Yorkshire boarding which would be stained ebony in colour. The building would be situated approximately 100m to the west of Hoveringham Lane.

The comments from the parish regarding the visibility of the building detracting from the character of the area are noted and the possibility of lowering the height of the building has been discussed with the applicant. However, it is stated that the building is required to be elevated above ground level to provide an improved field of vision so that the safety of the scouts using the lake can be observed. Given that the building has a modest height of 3.6m with the roadside boundary hedging being approximately 2m in height and given the degree of separation from the building to the roadside it is considered that only partial views of the structure would be possible from the roadside. Given the presence of the permissive path approximately 80m to the east of the proposed building it would however be visible to users of the footpath. However, the proposed overall scale of the building and materials proposed are considered to be acceptable and would not significantly detract from the character of the existing area, particularly when the building is viewed in the context of the industrial sites situated to the north east and south east of the site.

Concerns are also raised regarding the proposed fencing to enclose the proposed boat park. The applicant has indicated that the fencing would be approximately 1.8m in height. However, again given the presence of the existing 1.5m high stock proof fencing demarking the permissive path and the degree of separation of the boat park from the highway the security fencing proposed to surround the boat park is not considered to significantly detract from the character of the area. Further concerns are raised regarding the potential for installation of security lighting which could result in the potential for light pollution. No details have been provided regarding this. As such it is assumed that external lighting would not be required and a condition restricting the installation of external lighting shall be added to any forthcoming decision.

With regards vehicle parking on the site; it is proposed that an unmade gravelled car parking area be provided to the north of the proposed portacabin building. Concern is raised by members of the public that this area would be insufficient in terms of space at the peak of the centres operations. However, the applicant has stated that they will encourage car sharing and mini buses will be used to bring scouts to the site. Furthermore, should additional parking be required there exists ample grassed area to the east of the proposed portacabin which could be used for overspill parking. Whilst the presence of additional vehicles on the site would represent a loss of openness, to the detriment of the surrounding Green Belt, it is considered that given the limited number of days the site would be used annually (summer evenings and weekends) the parking of vehicles on existing areas of grass would not significantly detrimentally impact upon the openness of the area to warrant refusal of the application.

It is considered that the degree of built form proposed on the site is small in scale and would not significantly detrimentally detract from the existing openness of the site. As such the proposed

development is considered to accord with policy DM5 of the NSDC DPD and paragraph 89 of the NPPF.

Impact on Heritage Assets

The site is not situated within a Conservation Area (CA), with the closest CA being Thurgarton. The southern boundary of the Thurgarton CA is situated approximately 300m to the north of the site. The closest heritage asset to the site is Thurgarton Station which is a Grade II listed property situated approximately 50m to the north of the lake. The Conservation Officer has been consulted as part of the application and raised no objections to the proposed development.

Notwithstanding the creation of the new access, creation of hardstanding for car parking & erection of a portacabin, the outward appearance of the site would remain largely unchanged. As such it is not considered that the proposed development would detrimentally impact upon the setting of any surrounding heritage assets nor the character and appearance of the Thurgarton Conservation Area.

As such the proposal is considered to accord with Core Policy 14 of the Core Strategy and policy DM9 of the DPD.

Flood Risk

National planning policy requires that Local Authorities apply the Sequential Test to new development steering new development to areas at lowest flood risk. Policy DM5 of the NSDC DPD is consistent with this approach and states that the council will aim to steer new development away from areas at highest risk of flooding. Development proposals within Flood Zones 2 & 3 will only be considered where it constitutes appropriate development. The proposed water sports lake is located within Flood Zone 2 (at medium risk of flooding) with a small element on the north western boundary within Flood Zone 3 (at high risk). The area proposed for the changing rooms, septic tank, access and car park are all designated as being within Flood Zone 1.

The proposed use in accordance with the table 2 of the Technical Guidance to the NPPF is designated as being water-compatible development. Given that the application is for a proposed change of use and that only a temporary porta cabin building is to be provided as part of this application and this would be situated within an area designated as being within Flood Zone 1 only a basic flood risk assessment has been provided.

The Environment Agency has been consulted as part of the application process and have offered no objection to the proposed development. Furthermore Nottinghamshire County Council in their role as Lead Local Flood Authority (LLFA) have also been consulted and again no objection has been received. The applicant has detailed that the proposed car park area will be constructed of stone and gravel to ensure no alteration from existing surface water infiltration. The comments from objectors regarding the potential for the proposed change of use to alter the settings of the existing flood preventative outfall of the lake are noted; however, again no objections to the

proposed development have been received from the Environment Agency, the LLFA nor the Trent Valley Internal Drainage Board. The Drainage Board have stated that written consent would be required for works within 9m of any watercourse controlled by the board & any works to increase the flow of water to any watercourse. This can be included as a note to applicant on any future permission.

As such it is considered that the proposed use of the site as a water sports lake would be compatible with the classification of the site and surrounding land as being within Flood Zones 2 & 3 and would therefore be in accordance with the technical guidance to the NPPF and Policy DM5 of the Newark and Sherwood Development Plan Document 2013.

Highway Matters

NCC Highways Authority raised an initial objection to the previously submitted application, stating that the existing access was in too closer proximity to another entrance situated to the east and could result in highway safety concerns. The applicant withdrew the application and undertook pre-application discussions with the Highways Authority to seek to overcome the perceived concerns.

The proposed entrance would be located approximately 150m to the north of the existing entrance and be created by removal of a section of existing roadside boundary hedging. A gravelled overrun area to the west of the entrance is to be provided to facilitate turning of vehicles into and out of the site with attached trailers. Based on the submitted plans and information the Highways Authority have raised no objections to the proposed development subject to the compliance with a number of conditions which can be attached to any forthcoming decision notice.

The comments from objectors regarding the proposed parking facilities on the site are noted; however there exists substantial room on site for additional vehicle parking if required and the Highways Authority have raised no objection to the use of this land for parking if required. In relation to additional journeys and impact on the road network; the highways authority have raised no objection to the proposed use. Furthermore, it is considered that the majority of the traffic that will visit the site will be after 4pm during the week and only in summer months and at weekends. Given the proposed hours of operation of usage of the lake for water sport activities is not considered to cause a conflict in terms of highway usage with vehicles using the neighbouring industrial sites as it is assumed that peak vehicle movements at these units would occur during normal working hours.

As such the proposed change of use of the lake for water sports by the scouting association would not amount to a detrimental impact on highway safety in accordance with Spatial Policy 7 and Policy DM5 of the DPD.

Railway Safety

The north western boundary of the site abuts the railway line with Thurgarton station and associated level crossing situated approximately 150m to the north of the proposed compound area. The comments from Network Rail are noted; it is considered that an informative could be added to any decision to ensure users of the site are made aware of the correct procedure for the use of level crossings. A further informative could be added to ensure that the applicant discusses the delivery route for any abnormal loads to ensure the level crossing is avoided if at all possible. Subject to the addition of these informatives it is not considered that the proposed change of use would detrimentally impact upon railway safety.

Impact on Public Rights of Way

The site is surrounded by 3 public bridleways, namely BW12 – Thurgarton, BW4 – Hoveringham and BW12 – Hoveringham. These bridleways have now been linked as part of the restoration of the site with the construction of a permissive path and associated fencing and signage which allow members of the public to now circumnavigate the entire lake. The County Council Rights of Way team and Ramblers Association have been consulted as part of the application and have raised no objection to the proposed development subject to the understanding that the proposed change of use would not impact on the ability of members of the public to access these rights of way. The applicant has confirmed that the proposed development would not cause any restriction in the ability to use the right of way which now encompasses the lake. As such I am satisfied that the proposal would not detrimentally impact upon users of rights of way within proximity of the proposed water sports lake.

Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity.

The site has been surveyed in June & July of this year for the presence of flora & fauna and an ecology & protected species survey submitted in support of this application. Nottinghamshire Wildlife Trust (NWT) have reviewed the submitted information and subject to the imposition of a number of conditions are generally satisfied that the proposal would not detrimentally impact upon ecology & protected species present on the site. Concern has been raised by members of the public that the proposed entrance would require the removal of a section of hedging and for a culvert to be constructed to create a crossing over the existing dyke. No details of the proposed culvert have been submitted, however it is considered that a condition can be attached to any forthcoming decision for the design of the culvert to be submitted and agreed prior to the commencement of development. Furthermore, a condition shall be imposed in accordance with the comments from NWT so that a walkover survey of the dyke bank can be undertaken prior to any construction of the culvert being undertaken. Concern is again raised by members of the public regarding the loss of the section of hedging to create the new entrance. Whilst no objection to the removal of this section of hedging has been raised by NWT, It is recommended that a

condition be added to any forthcoming decision to require replacement planting to be implemented to block up the existing access. It is considered that this could be included as part of the landscape and biodiversity management plan requested by NWT which shall be included as a condition on any forthcoming decision.

It is understood that the islands situated to the south of the overhead power line are understood to support breeding birds during breeding season. This has been raised by members of the public and commented upon by NWT. The applicant in his further supporting information has stated that generally only the northern section of the lake will be used, with the area south of the power line designated a no sail area with buoys placed in the water. NWT have commented that zoning of the lake should be undertaken to protect more sensitive areas, including a buffer zone implemented during the bird breeding season whereby boats are restricted from coming too close to marginal vegetation which may be used by breeding birds. It is considered that a condition can be drafted to this effect to ensure craft do not detrimentally impact upon breeding bird populations.

The proposed use of the lake for sailing & other non-motorised water sports is not considered to detrimentally impact upon the ecological interest of the lake and surrounding land and subject to the imposition of a number of conditions the proposal is considered to comply with Core Policy 12 of the Core Strategy.

Impact on Amenity

The proposed site is located to the north of Hoveringham and to the south of Thurgarton. The closest residential properties to the north eastern element of the site, where the boats are proposed to be stored and cars parked are: Station House, approximately 150m to the north east, New Farm approximately 500m to the south east, Rose Cottage approximately 750m to the south west and Four Winds approximately 850m to the south east. However, it must be noted that notwithstanding the location of the lake in the open countryside there are a number of sources of residual noise within proximity to the site, notably; Hanson concrete manufacturing plant situated adjacent to the site and to the north east of the site and running along the northern boundary of the lake, the Nottingham to Lincoln railway line.

Concern has been raised by surrounding neighbouring properties regarding the potential impact on residential amenity through the change of use of the lake to that of water sports particularly in relation to the knocking of the halyard rope against the mast of boats stored on the site. Clarification has been sought from the applicant regarding the number of boats proposed to be stored at the lake. This has been indicated as 15 sailing craft; however this figure may increase depending on the popularity of the lake. In addition concern has been raised regarding the potential for noise to be created from boats on the lake with outboard engines. The applicant has confirmed that the only motorised craft that will be permitted on the lake would be safety craft which are relatively quiet in their operation and would be used only as required in the interests of safety. A condition to this effect can be added to any forthcoming permission.

Colleagues in the Environmental Health department have been consulted as a part of the application and reviewed the submitted noise assessment. The assessment has recorded noise levels at the adjacent Nottinghamshire Sailing Club Lake which the scouts currently use as their base for sailing. In addition, background noise levels have been taken in the vicinity of the proposed compound at the railway lake. According to the report undertaken, the background noise levels at the lake would be higher than the noise levels of the proposed change of use. As such it is not considered that the proposal would result in noise nuisance and accordingly no objection has been raised to the proposed development from colleagues in Environmental Health.

It is considered that given the degree of separation of the site from neighbouring properties, the presence of background noise from surrounding industrial sites and the nearby railway and the relatively quiet nature of sailing craft the proposed change of use of the site to a water sports lake is not considered to detrimentally impact upon neighbouring amenity and as such the proposal is considered to accord with policy DM5 of the NSDC DPD.

Other Matters

Confusion has been raised regarding the proposed methodology for removing waste matter from the site with the application form stating cess pit and the specification of a septic tank being submitted as part of the further supporting information. The applicant has subsequently confirmed that they checked the wrong box on the submitted application form and that a septic tank is proposed. The tank would be emptied as and when required with an associated soakaway provided. No objection has been raised to this approach of waste management from colleagues in Environmental Health.

The applicant has confirmed that electricity and water will be provided on the site with the required works undertaken by statutory undertakers with the points of connection brought to the site via underground trenching. This approach is considered to be appropriate.

The comments from Nottinghamshire County Council acting as the mineral planning authority are noted; however, it is not considered necessary to include an informative in relation to the permissive path given that upon undertaking the site visit it would appear to have been fully implemented.

Conclusions

It is considered that the proposed change of use would be in accordance with national policy in relation to development within the Green Belt, with the vast majority of the land remaining open. The proposal is considered to accord with Spatial Policy 8 of the Core Strategy as it would provide a new facility which could be accessed by the surrounding community and enable local children to be able to engage in water based activities which are according to the information submitted by the applicant not widely available. Furthermore, the proposal would not result in highway safety, amenity or ecological concerns or have a detrimental impact in terms of flood risk. The proposal

would therefore be in accordance with the NPPF, Spatial Policy 4A, 4B, 7, 9, 10 and 12 of the Core Strategy and Policies DM5 and DM7 of the NSDC DPD.

Subject to the imposition of a number of conditions it is considered that the proposed change of use is acceptable.

RECOMMENDATION

That full planning permission is approved subject to the conditions and reasons shown on the attached recommendation sheet.

Conditions

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

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

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

- Site Location Plan Received 26/8/15
- Site Plan Received 26/8/15
- Updated Entrance Plan Rev 1 Received 30/9/15
- Portacabin Proposed Floor Plans & Elevations Received 26/8/15
- Annotated Site Photo Detailing Proposed Site Entrance Received 26/8/15

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

Reason: So as to define this permission.

03

Notwithstanding the planning permission hereby granted, the lake known as Railway Lake shall not be used by any motorised pleasure craft, with the exception of the necessary safety craft and any associated safety craft training events.

Reason: In the interests of amenity

04

Prior to the commencement of development a walkover survey of the area required for the proposed ditch crossing shall be undertaken by a suitably qualified ecologist and the survey submitted to and agreed in writing by the local planning authority.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

05

Prior to the commencement of development, detailed plans of the proposed culvert required to implement the access shall be submitted to and agreed in writing by the local planning authority.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

06

The development hereby permitted shall be undertaken in full accordance with the Recommendations and Precautionary Working Practices as set out in sections 5.1.2, 5.2.2, 5.4.2 and 5.5 of the Protected species survey dated July 2015 (prepared by Scarborough Nixon) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

07

No development shall be commenced until a landscape and biodiversity management plan, including long term objectives, management responsibilities and maintenance schedule has been submitted to and approved in writing by the local planning authority. The plan should include details of improvements such as re-planting of hedging lost through the creation of the new entrance and the creation of wader scrapes as mentioned within the supporting ecology report. The landscape and biodiversity management plan 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 the work is carried out within an agreed appropriate period and thereafter properly maintained in the interests of visual amenity and biodiversity.

08

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.

09

No development shall be commenced until a plan detailing buffer zones whereby boats are restricted from coming too close to marginal vegetation during the bird breeding season has been submitted to and agreed in writing by the local planning authority. The 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 the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

10

The access shall be located in accordance with the submitted 'annotated site photo' and constructed in accordance with the submitted 'Station Road Access Design Rev.1' drawing offering 6m wide entrance, 10m radii and visibility splays of 2.4m x 185m to the north and 2.4m x 125m to the south. No other part of the development shall be commenced until the access has been provided.

Reason: In the interests of highway safety and to provide adequate access for construction vehicles.

11

No part of the development hereby permitted shall be commenced until the new access mouth (up to the edge of the gravel driveway) has been constructed with a hard bound surface.

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

12

The lake known as Railway Lake shall not be floodlit or illuminated in any way, unless express planning permission has first been granted by the local planning authority.

Reason: In the interest of the character of the surrounding area.

13

The development hereby permitted shall be constructed entirely of the material details submitted as part of the planning application, stated in Section 11 of the application form and on the approved plans unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity

Notes to Applicant

01

In order to carry out the new access works, you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Alternatively, works may be carried out on your behalf by Nottinghamshire County Council at an agreed cost without a need to enter into Agreement. Please contact david.albans@nottscc.gov.uk for details.

02

Safety literature as regards level crossings should be made available to users of the site.

03

Further to the comments received from Network Rail on 09/09/15 the applicant is advised to contact the asset protection team to discuss the proposed delivery route to site of any required abnormal loads. The asset protection team can be contacted on tel 01904 389678 or email tony.rivero3@networkrail.co.uk

04

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.

05

The comments received from Trent Valley Internal Drainage Board dated 12/10/15 should be noted. For clarity, any works within 9m of any watercourse controlled by the board, works to increase the flow of water to any watercourse or erection of a dam, weir or other obstruction to the flow or erection or alteration of any culvert would require the board's prior written consent.

BACKGROUND PAPERS

Application case file.

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

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

Kirsty Cole
Deputy Chief Executive

Application No:	15/00912/FULM	
Proposal:	Erection of two agricultural storage buildings	
Location:	Land To The South East Of Former A46, Syerston	
Applicant:	M and C Sheldon	
Registered:	27th May 2015	Target Date: 22nd July 2015
	An extension of time has been agreed until 11th December 2015	

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

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

The Site

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

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

The application site is located opposite the Lady Pitt Farm complex on the other side of the former A46.

Relevant Planning History

None of relevance

The Proposal

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

Shed 1, the larger of the two buildings would be located a minimum of 13m from the boundary of the site with the former A46 and would have maximum dimensions of 45.6m depth and 30.7m

width. The building would have an eaves height of 7.6m and a ridge height of 12.5m. Roller shutter doors are proposed to the south western and south eastern elevations which measure 7.5m in height and 7.3m in width and 6.5m in height and 6.1m in width respectively. The lower sections of the building would comprise 4m high concrete panels between steel columns. The upper sections of the building comprise corrugated metal profile sheeting with a Jupiter green finish.

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

The existing access from the former A46 is to be retained and widened to serve the proposed buildings and the neighbouring field to the south west.

A secondary access is proposed to be created to the north western corner of the field accessed from the former A46.

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

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

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

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

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

An email received on the 13th November confirms that the applicant is to undertake a Written Scheme of Investigation as requested by Historic England.

Departure/Public Advertisement Procedure

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

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 14: Historic Environment

Allocations & Development Management DPD

Policy DM5 – Design

Policy DM8 – Development in the Open Countryside

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

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

Consultations

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

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

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

The minutes of the meeting were also been received which details the following concerns:-

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

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

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

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

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

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

The meeting noted that the PDSA made no mention of the development’s use being limited to storage of only the product of the applicant’s own holding (as is said to be required by a

neighbouring authority in similar circumstances) or that there would be any restrictions on the maintenance of vehicles parked on the site. The meeting also expressed concern that there was no written undertaking to restore the land and to dismantle and take away the buildings, when they are no longer required.

Decision

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

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

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

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

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

The layout as shown on drawing. No. L-SHE-075-SLPP is acceptable to the Highway Authority. Therefore, there are no highway objections to this proposal subject to the following condition being imposed requiring the access to be constructed and surfaced in a bound material in accordance with the site layout plan (L-SHE-075-SLPP) and no other part of the development shall be commenced until the access has been completed in accordance with that plan. The applicant should be advised that in order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act.

Highways England – No objections are raised.

NSDC Access – No observations are raised.

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

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

Preliminary

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

Legal and policy considerations

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

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

The setting of a heritage asset is defined in Annex 2 of the NPPF. Setting is the surroundings in which an asset is experienced, and its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not (see paragraph 13 of the PPG for example (ref: 18a-013-20140306)). The extent

and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. In addition, please note that the contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. Additional guidance on development affecting the setting of heritage assets is contained within The Historic Environment Good Practice Advice in Planning Note 3: *The Setting of Heritage Assets*.

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

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

Significance of the heritage assets

Battle of Stoke Fields

The Battlefield was Registered on 6th June 1996.

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

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

fields for the villages of East Stoke, Elston and Syerston. The escarpment and the gulley known as 'Red Gutter' were not wooded but were more open with scrub woodland.

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

Enclosure by hedges increased in intensity from the late 18th century. The landscape had assumed much of its modern appearance by 1850. Stoke Hall was built close to the church in the late 18th century and with it an area of parkland was created on either side of Church Lane, which included Red Gutter and the escarpment now known as Stoke Wood. Syerston Hall (listed Grade II) was also built at this time to the south-west of the battlefield area. The village of East Stoke had shrunk back to Humber Lane by 1887.

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

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

Elston Towers

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

The principal building at Eden Hall dates to the 1870s when it was built for Robert Middleton. The architecture is predominantly Tudor Gothic with quirky Italianate detailing. The result is a hugely unique building. Robert Middleton was born near Thirsk in Yorkshire in 1814 and died at Elston on 2nd June 1885. The house was built from stone salvaged from the old Trent Bridge at Newark and its furniture included tables from the Tuileries Palace originally used by Napoleon III. It was

constructed at a cost of nearly £30,000 and contained a Baptist chapel in the centre, complete with organ and baptistery. There was a tower in the courtyard with 10 bells and a clock which chimed the quarters. A clockwork mechanism operated the bells, which played popular tunes, and was still in working order in 1925. The clock was removed altogether in the 1960s following a fire. The conservatory at the south end once held 2000 plants and was accidentally destroyed in 1942 together with the clock when a Lancaster bomber exploded on Syerston airfield. The conservatory was rebuilt in 2005 (this is a prominent feature at the southern end of the building).

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

Syerston Hall

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

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

Assessment of proposal

The proposal seeks to erect 2 detached pre-fabricated agricultural storage sheds on agricultural land to the south of the Fosse Way at Syerston (this is the former A46). Shed 1 measures approximately 13m to the ridge, and has a foot print of approximately 30m by 47m. Shed 2 is smaller, being 8.5m to the ridge, and with a foot print of 40m by 23m. Shed 1 is orientated perpendicular and back from the road (with gable facing the Fosse Way). Shed 2 is laid out towards the south east end of the site. The sheds will be utilitarian in design comprising a steel

frame with grey concrete and corrugated metal profile sheet cladding. The roof will be fibre cement sheeting. The landscaping around the site will largely be maintained as existing other than changes to the access and potential security measures. The application states that the sheds are necessary to relocate farm machinery from sheds at Hall Farm, East Stoke.

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

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

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

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

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

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

Summary of opinion

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

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

Historic England - The principal of new functional agricultural buildings in this location appears uncontentious, however the placing of such structures in relation to below ground archaeological remains requires some knowledge of the presence and position of features contributing to the significance of the adjacent registered battlefield (Stoke Field 1487) and associated Roman Roman Road (Fosse Way). If harm to the nationally important designated heritage asset is to be managed on the basis of sufficient information, then knowledge is required pre-determination since this is an application for full consent.

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

address these matters in the absence of pre-determination archaeological investigation to inform design and access.

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

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

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

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

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

We would be happy to comment upon a draft WSI.

- 1) Conduct metal detector survey of the field at 10m transect intervals (treating finds in a manner set out in the WSI – all finds to be individually point located and numbered).
- 2) Carry out a magnetometry survey of the field (this would not be a substitute for metal detector survey and area stripping (see items 1 & 4), but having this additional information upfront would assist in finding alternative locations for the proposed buildings as quickly as possible if that becomes necessary).
- 3) If significant finds are recovered locally at 10m transects re-detect the proposed building footprints and areas for spoil stacks (see item 4) at 2m intervals.
- 4) Supervise and control the machine stripping of the proposed building footprints with a smooth ditching bucket to a depth where any archaeological features are visible, mapping and sampling those features as set out in the WSI, excepting in the case of human remains which should be retained and protected in context and in situ, and the county archaeological curator and coroner informed.

- 5) Rapidly submit an initial report on the archaeological significance and importance of archaeological remains with regard to the proposed building footprint locations such that the LPA can take advice on, and form a view as to, the sustainability of the building positions and whether or not alternative locations within the field should be sought (with suitable further investigations) ideally in advance of the determination the application with appropriate amendments.

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

Additional Information

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

Conditions

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

- Clearance of vegetation shall be undertaken between September to February inclusive, outside of the bird-breeding season. If it is not possible to carry out works during this time, then a suitably qualified ecologist will need to be on site to survey for nesting birds, with a copy of the survey undertaken at the site to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development at the site.
- No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include the creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and open pipework greater than 150 mm outside diameter being blocked off at the end of each working day.

Enhancements

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

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

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

Comments of the Business Manager

Principle of Development

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

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

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

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

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

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

It is accepted that any landscape impact given the significant scale of the proposed buildings within the open countryside must be balanced against the operational need.

Visual impact

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

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

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

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

Taking account of the above policy aims, given the nature and scale of the proposal, its impact on the open countryside, which in my opinion would be substantial, has to be balanced against the evidence put forward to justify that the operational and economic need for the relocation of both buildings would clearly outweigh any undue impact.

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

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

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

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

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

It therefore remains to balance this impact against operational need. Taking account of the supporting information deposited as part of the application, I am of the view that, on balance, a clear justification has not been evidenced that the operational and economic need for the relocation of both buildings to this site would clearly outweigh the identified harm.

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

Impact on Heritage Assets

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

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

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

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

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

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

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

Impact on Highways

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

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

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

Impact on Amenity

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

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

The proposal therefore accords with Policy DM5.

Other Matters

Ecology

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

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

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

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

Balancing Act and Conclusions

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

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

RECOMMENDATION

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

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

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

BACKGROUND PAPERS

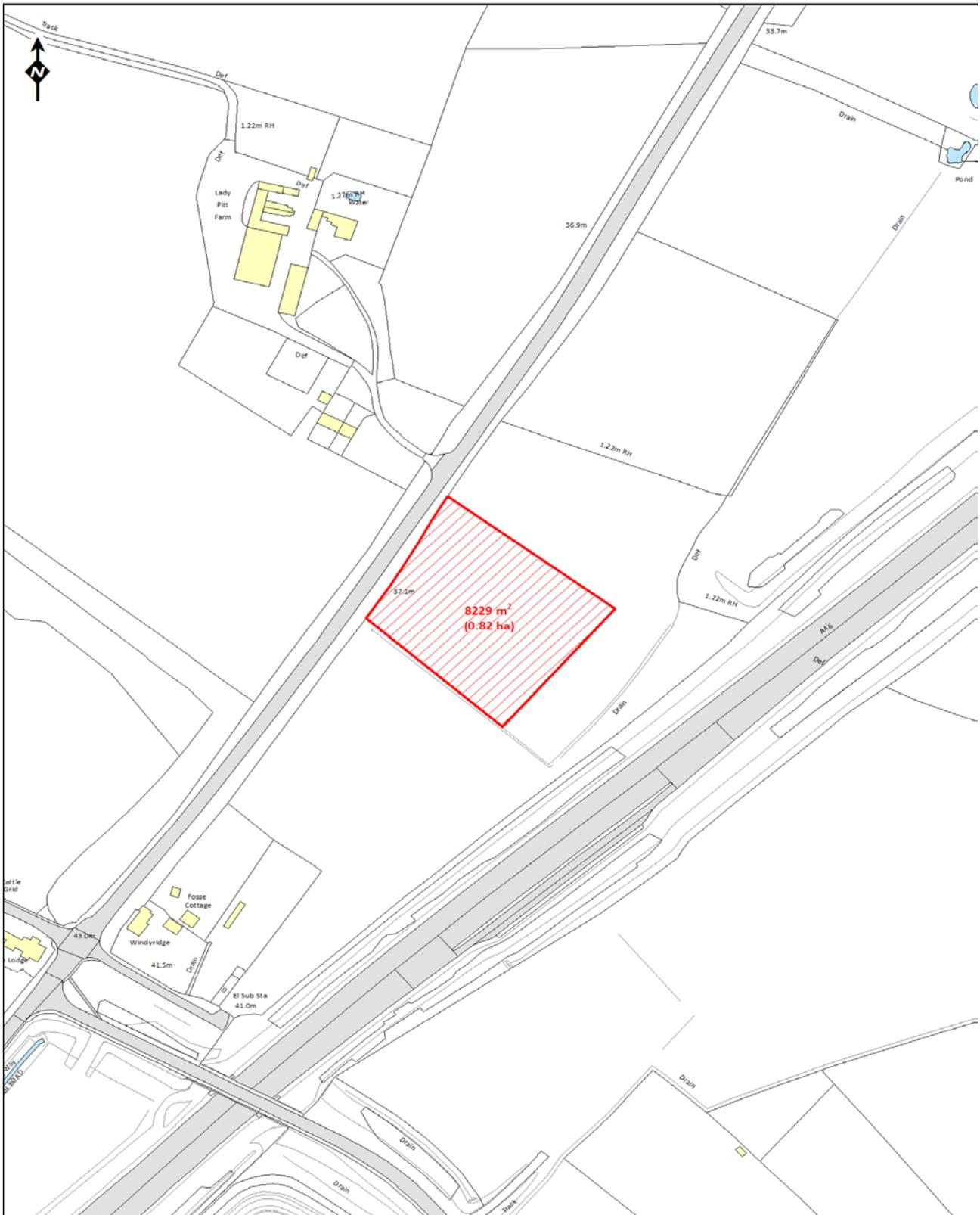
Application case file.

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

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/00912/FULM



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Application No:	14/01640/FULM
Proposal:	Remove/vary conditions 5 and 6 attached to planning permission granted on appeal at Plots 1-10 Green Park, Tolney Lane (PI Ref: APP/B3030/C/12/2186072 and APP/B3030/A/12/2186071; NSDC Ref: 12/00562/FUL)
Location:	Plots 1-10 Green Park, Tolney Lane, Newark
Applicant:	Mr & Mrs Coates, Gray, Wilson, Knowles, Calladine, Biddle and Coates
Registered:	3rd December 2014
	Target Date: 28 January 2015
	Extension of Time Agreed until 30 December 2015

The Site

The application site is situated west of the Newark Urban Area, within the Rural Area as defined by the Newark and Sherwood Core Strategy and within the open countryside. It is also located within Flood Zones 2 and 3 of the Environment Agency's Flood Maps. The site is located at the south-westernmost end of Tolney Lane which runs from the Great North Road, on the north-west side of the River Trent and which leads to a dead end. The site uses an existing access road that currently serves 10 pitches that were granted planning permission in 2010 under reference 10/01464/FULM, known as Hirrams Paddock, which has been extended to the south-west to serve this new site.

The site measures 1.35 hectares in area, is roughly rectangular in shape and its authorised use is as a gypsy and traveller residential caravan site. The site is sub-divided into 10 pitches, all served by a central roadway, which is defined by stone walls. The site is surrounded on three sides by open fields and to the north-east is an existing gypsy and traveller site with which it shares its access to and from Tolney Lane with the Hirrams Paddock site.

Hedges define the north-west and south-east boundaries and the Old Trent Dyke forms the south-western boundary of the application site.

Relevant Planning History

12/00562/FUL Change of use from paddock to gypsy and traveller residential caravan site (retrospective). The application was refused on grounds of flood risk, impact on the open countryside and prematurity. The refusal was appealed and following a lengthy Public Inquiry, the Inspector resolved to grant a personal and temporary planning permission until 30 September 2018. The permission was also subject to a number of other conditions, including one that stated that all the solid walls and close boarded fences erected on the site be demolished and

the debris removed from the site and replaced with post rail fences within 3 months of the date of the decision (Condition 5) and that within 3 months of the decision, the ground level within Pitch 8 shall be reduced, so that at the south-western boundary corresponds with the unaltered ground level on the other side of the south-western boundary fence and all resultant materials removed from the site (Condition 6). These conditions were imposed for reasons of flood risk and in particular reducing risk elsewhere.

The Proposal

Full planning permission is sought to remove/vary conditions 5 and 6 attached to the temporary planning permission issued by the Planning Inspector at appeal.

The supporting information submitted with the application states:

“The reason for these conditions is to ensure that the development would not increase the risk of flooding elsewhere through the obstruction of flood flows and the displacement of floodwaters.

The actual impact on the flood risk elsewhere was not quantified as part of the evidence put before the Inquiry and the Inspector has understandably adopted a precautionary approach in imposing these conditions.

Clearly the works required to comply with the conditions will be both disruptive and expensive to implement and the residents of Green Park have therefore instructed SLR to assess the impact of retaining the existing boundary wall and the fill on Pitch 8. If the assessment demonstrates that retention of the existing boundary wall and the fill on Plot 8 would have no adverse impact on the flood risk elsewhere then it would be unreasonable to seek their removal.”

A Hydraulic Modelling Report by SLR dated November 2014 has been submitted in support of the application.

In response to the initial concerns raised by the Environment Agency, additional modelling information was then submitted by the agent for further review.

Departure/Public Advertisement Procedure

Occupiers of 7 neighbouring properties have been individually notified by letter and a site notice displayed near the site.

Planning Policy Framework

Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)

- Core Policy 9 (Sustainable Design)
- Core Policy 10 (Climate Change)

Allocations and Development Management DPD (adopted July 2013)

- Policy DM5 – Design
- Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework (NPPF) 2012

National Planning Practice Guidance (PPG) on-line resource

Consultations

Newark Town Council – Object to the application on the following grounds:

- The appeal decision gave three months for the boundary wall to be removed. This time has now elapsed and the wall remains in place;
- As the Planning Inspector's decisions have not been acted upon within the prescribed time frame, Members expected that the planning permission would be revoked.

Nottinghamshire County Council (Highways Authority) – No highways objection.

The Environment Agency – Comments on originally submitted Hydraulic Model, January 2015: "We have reviewed the documentation provided in support of the above application, and would make the following observations. It is noted that although some of the supportive documentation to the hydraulic modelling process has been submitted, we have not been provided with either the basic model details or the results files, and hence we are not able to comment upon the accuracy of the modelling exercise. There are, however, a number of questions which arise from the details presented, upon which we would wish to have clarification, before we could comment on the accuracy of the hydraulic modelling exercise. We note, for example, that the adjacent Old Trent Dyke does not appear to be represented in the modelling, and it is considered that this could be a significant omission due to the close proximity of the local ditch network and associated flood waters. We also note that the flows from the River Devon have not been included in the analysis, even though the Flood Risk Assessment (FRA) demonstrates that there are negative impacts identified "over the west bank of the River Devon".

Analysis of the presented results of the modelling exercise identifies that retention of both the fill and the boundary walls have a negative impact on flood levels, flood water velocities, and flood hazard at

locations adjacent to the site and further afield. In addressing these issues, the FRA acknowledges that the boundary walls and infill result in a reduction in flood storage capacity and an impediment to flood flows. The FRA suggests that these resultant impacts are only small and hence insignificant, and hence does not present any form of mitigation to take account of these increases.

The Environment Agency does not agree with the assessment of the impact, noting that it is not in accordance with the requirements of the NPPF and associated PPG, in that development should not increase flood risk elsewhere. The drawings and text provided in the FRA clearly shows that flood risk is increased elsewhere, particularly in the areas where there are other gypsy and traveller sites.

Given our twin concerns that the modelling may not fully provide an appropriately accurate representation of the river and watercourse systems in the area of the site, resulting in, potentially lower flows, depths, and hazards than anticipated, and the fact that the presented information still identifies an adverse impact on other third parties, the Flood Risk Assessment does not demonstrate that the removal or variation of the conditions applied by the Appeal Inspector, is appropriate.

Specifically the submitted FRA fails to:

1. Present an accurate assessment of the hydraulic systems affecting the site and the wider surrounds.
2. Demonstrate that the proposals will not increase flood risk to third parties elsewhere from the site.
3. Present appropriate mitigation measures to prevent an increase in flood risk elsewhere.”

Following receipt of further hydraulic modelling in support of this application, in response to the above concerns, the Environment Agency has commented as follows July 2015:

“The model has been reviewed by our specialist modelling team, and they have highlighted a number of issues which demonstrate that the model is not of an accuracy that would allow us to make a detailed assessment of the impact of the potential flood risk if the planning conditions were removed or varied. The key issues are incorrect generation of the hydrological flows, incorrect use of the floodplain, poor representation of the river channel and other key topographic features, and model instability which results in a significant loss of water from the model. A more detailed technical report on our analysis is available should this be needed.

It is noted that the applicant acknowledged the limitations of the model but considers it suitable for a comparison between two cases with and without the walls and filling which have taken place. We do not agree that the model is appropriate to represent these changes, and further note that even in this inaccurate state, the model still identifies that flood risk is increased to third parties as a result of the filling and wall construction. We are unable, therefore to recommend acceptance of the model as a suitable means to demonstrate that flood risk would not be increased elsewhere whilst these physical works remain in place on the application site.

Environment Agency Position

In the absence of a flood risk assessment (FRA) or acceptable hydraulic modelling we object to this application and recommend refusal of the application until a satisfactory FRA has been submitted.

Reasons

The application site lies within Flood Zone 3 defined by the Environment Agency Flood Map as having a high probability of flooding. Paragraph 103, footnote 20 of the National Planning Policy Framework (NPPF) requires applicants to submit an FRA when development is proposed in such locations.

An FRA is vital if the local planning authority is to make informed planning decisions. In the absence of a FRA, the flood risk resulting from the proposed development are unknown. The absence of an FRA is therefore sufficient reasons in itself for a refusal of the application.

Overcoming our Objection

You can overcome our objection by undertaking an FRA which demonstrates that the development is safe without increasing risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.”

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

Comments of the Business Manager

Core Policy 10 of the Core Strategy states that the LDF will seek to mitigate the impacts of climate change through ensuring that new development proposals minimise the potential adverse environmental impacts during their construction and eventual operation, including the need to reduce the causes and impact so climate change and flood risk.

Policy DM5 of the Allocations and Development Management DPD states that where development is necessary within areas at risk of flooding, it will also need to satisfy the Exception Test by demonstrating it would be safe for the intended users without increasing flood risk elsewhere.

Paragraph 103 of the NPPF comments that “when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment (footnote 20 states this is required for all new development in Flood Zones 2 and 3). Paragraph 102 sets out the requirements by stating: “a site specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.”

In assessing this application, the main issue relates to whether the submitted Hydraulic Modelling

information adequately demonstrates that the retention of the stone walls on the whole site and infill on Plot 8 would result in no increased flood risk to third parties elsewhere from the site or present appropriate mitigation measures to prevent an increase in flood risk elsewhere.

In para 38 of his decision letter the Inspector states:

“Turning to the question of whether the appeal development is likely to increase the risk of flooding elsewhere, there are 2 factors to consider, namely the impact of the solid walls which have been constructed and the raising of land levels. A significant number of solid stone walls and some close boarded timber fences have been erected around the pitches and the site, including several which are perpendicular to the likely direction of flow of any flood waters, such that they would divert that flow. All of these walls and fences only affect a small proportion of the entire width of the floodplain and Mr Walton’s evidence is that the velocities of flood waters are likely to be relatively low. However, Mr Andrews pointed out that there is no proper analysis in a FRA, including hydraulic modelling of the area with the structures in place. In any event, removal of those solid walls and close boarded timber fences and perhaps replacement with post and rail fencing would address this point. Given the lack of clear evidence regarding the potential impact of the walls and the policy presumption against this development, it would be reasonable and necessary to require their removal.”

The Inspector goes on in paragraphs 39 and 40 of his decision to set out matters in relation to the raising of ground levels, and states that Mr Walton himself agreed that levels had been raised by more than he had initially estimated, perhaps by some 300mm over the 10m squared area in the southern corner of that pitch and by up to around 500mm – 600mm towards the northwest of the pitch where it meets a ditch.

Para 41 of the Inspector continues:

“Even on this basis, the amount of additional material brought into the appeal site may not be significant in the context of the entire floodplain. However, if small changes are ignored, the cumulative impact could be significant over time. No level for level, volume for volume compensation is available, but the appellants acknowledge that a condition could require the ground level to be lowered. In his own evidence, Mr Andrews indicated that drawing 1636.A.2 would be an important piece of evidence, should I be minded to dismiss the appeal and require land levels to be returned to those prior to the development taking place. Together with the comparison with adjoining land levels, it would be equally important in the context of a planning condition.”

The last sentence of paragraph 42 of the Inspector’s decision reads: *“The evidence indicates that the development could increase the risk of flooding elsewhere, but that could be addressed by condition requiring the removal of solid walls and fences and a reduction in the levels on Pitch 8.”*

Paragraph 68 of the Inspector’s decision reads in the first line *“In relation to the first main issue, although I am satisfied that the risk that this development will cause flooding elsewhere can be addressed by conditions.....”*

The two conditions were imposed by the Inspector to reduce the likely increase in risk of flooding elsewhere.

In such technical specialist areas of flood risk, the local planning authority relies on the expert advice of the Environment Agency. They have assessed all the Hydraulic Modelling information submitted to support this application and conclude that the model is not of an accuracy that would allow them to make a detailed assessment of the impact of the potential flood risk if the planning conditions were removed or varied. Whilst the agent acknowledges the limitations of the model, he considers it suitable for a comparison between two cases with and without the walls and filling which have taken place. However, the Environment Agency do not agree that the model is appropriate to represent these changes, and further note that even in this inaccurate state, the model still identifies that flood risk is increased to third parties as a result of the filling and wall construction. The Environment Agency are unable, therefore to recommend acceptance of the model as a suitable means to demonstrate that flood risk would not be increased elsewhere whilst these physical works remain in place on the application site and their objection to the application remains.

Given the failure of the submitted information to adequately demonstrate that retaining the stone walls and the raised land levels would not result in an increased flood risk elsewhere, and in accordance with the Development Plan and the NPPF, it is recommended that the application be refused, and there are no other material considerations that would outweigh this policy stance in this case.

RECOMMENDATIONS: that

(a). full planning permission is refused for the following reason:

The submitted Hydraulic Modelling information fails to demonstrate that the proposal would not increase flood risk to third parties elsewhere away from the site and fails to present any other appropriate mitigation measures to prevent an increase in flood risk elsewhere. As such the impact of the proposal is not fully understood and therefore the application does not provide a sound basis on which to come to a fully considered determination for the removal or variance of Conditions 5 and 6 attached to planning permission 12/00562/FUL. As such the proposal is contrary to Core Policy 10 of the Newark and Sherwood Core Strategy DPD and Policy DM5 of the Allocations and Development Management DPD and paragraph 103 of the NPPF (National Planning Policy Framework), which is a material consideration.

(b). appropriate enforcement action is taken by the Deputy Chief Executive, in consultation with the Chair and Vice Chair of Planning Committee.

Background Papers

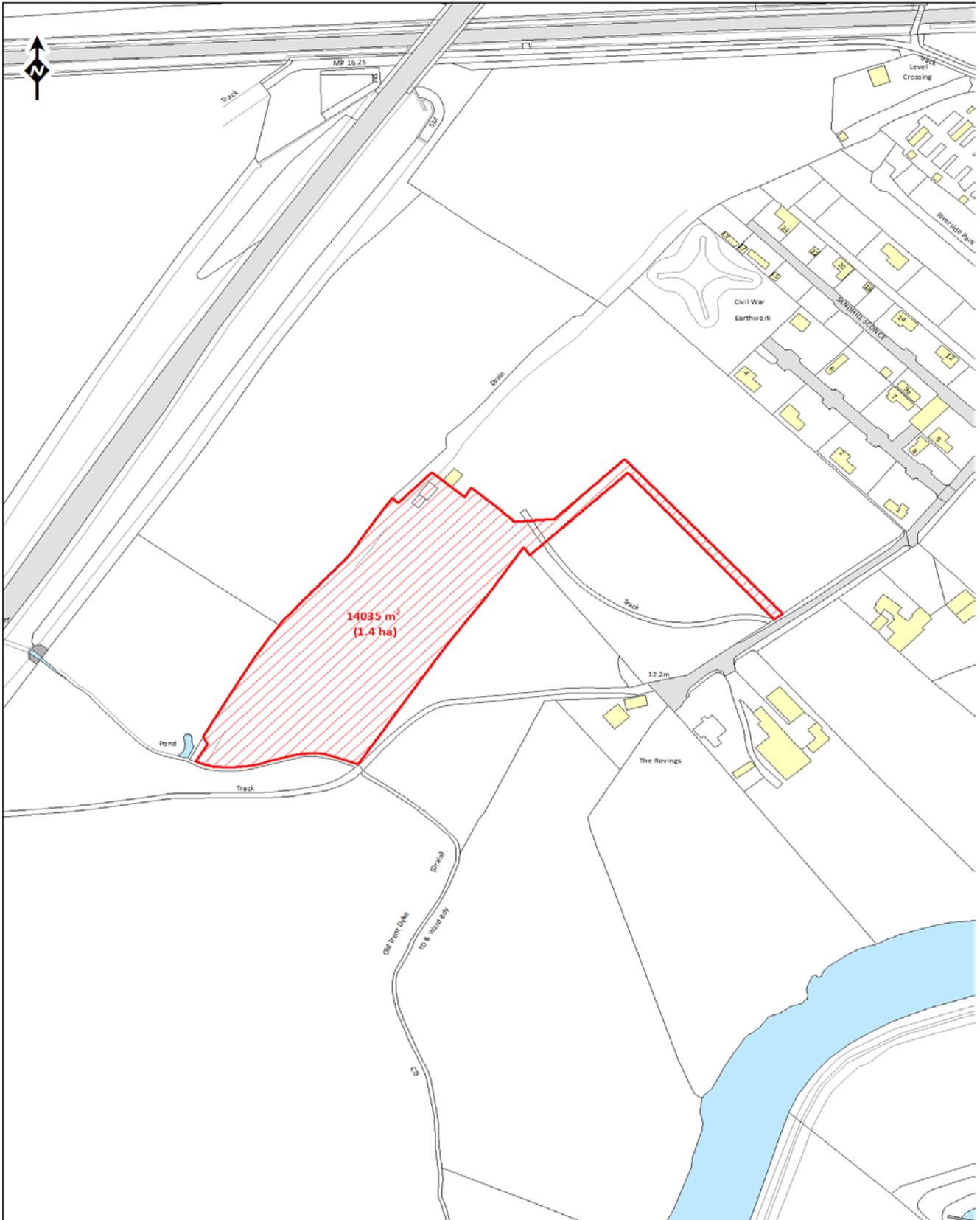
Application Case File.

For further information please contact Julia Lockwood on ext 5902.

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 14/01640/FULM



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Application No:	15/01008/FULM	
Proposal:	Proposed solar photovoltaic development to be located at former Rufford Colliery near Rainworth. Access via the A617	
Location:	Land North Of Rainworth Former Rufford Colliery Adjacent Clipstone Forest, Nottinghamshire	
Applicant:	Mr Eliot Davies - RES UK And Ireland	
Registered:	16.09.2015	Target Date: 16.12.2015

The Site

The application site is a rectangular plot of land approximately 16 hectares in size situated within the former Rufford colliery site, to the west of Clipstone forest and on land in the ownership of Harworth Estate. The site gently slopes from north to south and was previously used as a coal stocking area. The site is accessed from the A617 and situated to the north of the settlements of Rainworth and south of Clipstone. The access to the site is situated approximately 300m to the east of the A617/B6020 roundabout which bypasses Rainworth. The site falls within the administrative boundary of Rainworth Parish Council.

The colliery, which was formally a deep mine colliery closed in 1993. The colliery spoil tip was subsequently used for spoil disposal from the former Clipstone colliery and Mansfield collieries. In 2013 planning permission was granted by Nottinghamshire County Council for the extraction of coal fines from the two former spoil tip lagoons situated on the site (3/13/00495/CMM). This consent also permitted the importation, stocking, blending and dispatch of coal fines. This permission is due to expire in 2016, however a new application is currently being considered by Nottinghamshire County Council to extend mineral recovery operations until 2018.

As part of the granted 2013 consent there were a number of conditions which in conjunction with Nottinghamshire Wildlife Trust (NWT) would result in the restoration of the site (incorporating the larger Rufford colliery complex) to create lowland heath and acid grassland and to provide improved habitat conditions for local ornithology; in particular woodlark, nightjar and little ringed plover. NWT have confirmed that this restoration work is currently being undertaken, with substantial works already completed and with a further five year aftercare period applying once restoration is complete.

NWT have confirmed that the site of the proposed solar installation detailed on the submitted plans as Area 1 has had birch saplings & seedlings flailed, approximately 2-3ha of sand spread in

the north western corner & acid grassland sown in late 2014. At the time of officers undertaking the site visit (late October) the land appeared to be sandy with coal deposits clearly visible. Parts of the site were covered with patchy vegetation with some areas of bare ground remaining.

There are a number of footpaths, bridleways & national cycle routes within proximity to the site some of which form part of routes in and around the neighbouring Sherwood Pines forest park.

Relevant Planning History

15/01797/CMM - To vary conditions 4, 5 and 12 of planning permission 3/13/00495/CMM to regularise the coal fines recovery operations to increase the maximum tonnage of materials to enter and leave the site in any seven day period to 10,000 tonnes and to extend the timescale for completion of mineral recovery operations to 30/09/2018 with a further year to complete the restoration. No objection raised. October 2015

15/01798/CMM - Increase in the coal fines stocking and blending area of consent No 3/13/00495/CMM together with the use of an internal haul road. No objection raised. October 2015

15/01799/CMA - To vary conditions 4 and 5 of planning permission 3/14/01046/CMA to regularise the coal fines recovery operations and to extend the timescale for completion of mineral recovery operations to 30/09/2018 with a further year to complete the restoration. No objection raised. October 2015

14/SCR/00056 –The response concluded that the proposal would not be classed as EIA development.

The applicant has also sought pre-application advice on the proposal at the end of last year.

The Proposal

The application seeks full planning permission to construct a solar farm of up to approximately 5MW. Planning permission is sought for a 27 year period allowing a two year period for construction and decommissioning and 25 years of operation. The total site area is approximately 16ha which includes the access tracks. The proposed module installation & associated fencing would occupy approximately 8ha of the 16ha site designated as Area 1. It is intended that of the 8ha parcel of land approximately 3ha of land would be covered with modules.

The development would comprise the infrastructure below as well as associated underground cabling and an access road.

Building / Structure	No.	Maximum Height	Approximate Footprint
<i>Solar Panels</i>	Up to 5MW	2.5m	3ha
<i>Weld Mesh Security Fencing</i>		2.4m	
<i>Embedded Substations</i>	4	3m	27m ²
<i>DNO Grid Connection Substation</i>	1	4m	42m ²
<i>CCTV Towers</i>	13	3.5m	
<i>Temporary Site Compound</i>	1		2,500m ²

Access to the site is currently via the established road from the A617 which is currently used for mineral reclamation works at the site. The construction period for the solar farm is estimated to take approximately 16-20 weeks. Construction vehicles will include HGV's for heavy plant and cars/mini buses for staff. It is estimated that 5 -15 staff & visitor vehicle movements will occur each day.

At the end of its operational life the solar farm would be removed and the land returned to acid grass land when the development is decommissioned.

As well as the necessary application forms and elevation details, the application has been accompanied by the following supporting documents:

- Design and Access Statement
- Planning Statement
- Landscape and Visual Impact Assessment (including accompanying photo viewpoints & ZTV)
- Ecology Assessment
- Extended Phase 1 Ecology Survey
- Woodlark & Breeding Bird Survey
- Coal Risk Assessment
- Flood Risk Assessment & Drainage Strategy

Statement of Community Engagement

Departure/Public Advertisement Procedure

Occupiers of sixty two 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. The overall date for the expiry of comments was 26th October 2015.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)

Spatial Policy 3: Rural Areas

Spatial Policy 6: Infrastructure for Growth

Spatial Policy 7: Sustainable Transport

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

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 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
- UK Government Solar Strategy 2014
- Department of Energy and Climate Change letter dated 22nd April 2014
- Community Benefits from Onshore Wind Developments: Best Practice Guidance for England 2014

Consultations

Rainworth Parish Council – Support proposal

Rufford Parish Council – Support proposal

In accordance with guidance published in 2007 and which was endorsed by the Department of Trade & Industry applicants who wish to develop solar farms are advised to consider contributing into a local community benefit fund. The Parish council hope the developer will look sympathetically at making a contribution to the Rufford Community Benefit Fund. Communities that are hosting renewable energy installations should, in the opinion of government be rewarded for allowing such projects to be installed.

Nottinghamshire Wildlife Trust – Object

Thank you for consulting Nottinghamshire Wildlife Trust on the above application. In our previous response to the screening consultation for this proposal, we detailed our significant concerns regarding the location of the proposed development and the environmental sensitivity of the area. We clearly stated in this previous response that we would expect to see both a Habitat Regulations Assessment (HRA) and Ecological Impact Assessment (EclA) carried out for this proposal.

Neither a full HRA, nor EclA have been carried out, however some ecological survey has been undertaken and a number of reports have either been submitted with the application, or made available following our specific requests.

The purpose of an EclA is to provide decision-makers with clear and concise information about the likely significant ecological effects associated with a project (IEEM, 2006). Presenting all ecological information within a single, coherent document also makes it easier to assess the potential impacts of the proposal rather than having to refer back and forth between separate documents. In the absence of such a report, we have reviewed the below documents in order to consider whether adequate survey has been undertaken to inform the assessment of ecological impacts and whether proposed measures for avoidance, mitigation and compensation appear sufficient.

1. *Ecological Surveys*

Extended Phase 1 Habitat Survey Report (BSG, November 2014 ref 7246_R_APPR_281114.docx)

This report gives details of a walkover survey of the wider site and desk-study consultation with the Nottinghamshire Biological and Geological Records Centre, both of which were carried out in late 2013. The report makes reference to additional consultation regarding bird interest which was undertaken in November 2014.

The walkover survey was carried out in **October 2013** – this is considered to be out of date as well as being **outside of the optimal time period for such work** and may result in some plant species being missed. Some faunal species may be less active during this time also. However, a more up to date walkover has been carried out in July 2015 (see Ecology Report below) at a more appropriate time of year, albeit with **limited details given. A full report of the 2015 walkover survey should be provided, because, in accordance with the current mineral planning requirements, extensive restoration work has been undertaken on Area 1 since October 2013, which renders the description in the Phase 1 survey out of date.** The work undertaken has included:

1. Flailing of birch saplings and seedlings in winter 2014/15 **to keep the area open to encourage foraging and breeding woodlark and to conserve the sparse, species-rich ruderal habitat and its developing invertebrate population (upon which woodlark and nightjar feed).**
2. Spreading of approximately 2-3ha of sand in autumn 2014 in the north western corner of the proposed site to create suitable conditions for heathland restoration.
3. Sowing of an acid grassland nurse sward on the sanded area in autumn 2014 ,
4. Spreading of heather brash on the sanded area in November 2014 to start the development of heathland.
5. Cutting of swathes through the gorse scrub in the south of the site to open up acid grassland areas and thus **make it more suitable for foraging woodlark and nightjar, and for breeding reptiles.**

At the time of the 2013 survey, the majority of Area 1 was considered by the consultants to consist of patchy acid grassland, bare ground, scrub, three ponds, an embankment and a shallow pool in the centre of the site. The monitoring of the acid grassland/heathland establishment on the restoration area by NWT and Harworth Estates staff in June, July and September 2015 **has shown successful germination of the nurse sward and also of young heather plants, as planned.** Contrary to the impression given in para 5.18 of the Ecology Report the restoration of areas 1,2 and 3 is **not** behind schedule, it has been delivered as per the approved restoration scheme on time. For accuracy, the restoration of the Tip to the west has been delayed by the extraction process for the coal fines, but this has not affected the restoration of Areas 1-3.

The proposed development would directly impact on the restored heathland area, the existing acid grassland, bare ground and shallow pool, although the latter is not mentioned further within the report.

Birklands and Bilhaugh SAC is approximately 7.25km to the northeast, three SSSIs are within 3km and Rainworth LNR is less than 200m to the south. Area 1 itself is within an RPSB IBA Boundary and immediately adjacent to an NE Indicative Core Area of a proposed potential SPA due to the

breeding populations of nightjar and woodlark. It is also designated (for its bird interest) as Rufford Pit Top Local Wildlife Site (LWS 5/2287).

The proposed development **would impact directly on both the proposed potential SPA and Rufford Pit Top LWS**. The impact on breeding birds is further considered in the below reports.

With respect to protected and priority species other than birds, the walkover survey identified suitable habitat within Area 1 for bat foraging, badger, great crested newt, common amphibians, reptiles, brown hare and the heath rustic moth. The plant common cudweed (categorised as Near Threatened) was recorded within Area 1. The habitat restoration work over the autumn and winter of 2014/5 has specifically ensured the conservation of the common cudweed by not sanding over the areas where it is present and by the removal of a large proportion of competing birch saplings, which will be repeated in subsequent years under the terms of the extant mineral permission, as this also keeps the area open for foraging and breeding woodlark.

No further detailed survey work has been undertaken for the above species by the applicant's consultants, with the exception of HSI assessments of the ponds.

Bats

The shallow pool may provide some foraging habitat, however in general we concur that the majority of potential bat foraging habitats including woodland, scrub and ponds would be retained and significant impact is considered unlikely.

Great crested newt

The ponds which were assessed as having 'good' suitability for great crested newts would remain unaffected by the proposal, as would suitable terrestrial habitat. We are therefore satisfied with the assessment that negative impact is not anticipated. Were this application to be permitted, we would expect to see measures for protection of retained habitats incorporated into a **Construction Environmental Management Plan (CEMP)** which could be secured through a **planning condition**.

Reptiles

In general we are satisfied that, provided that edge habitats remain undisturbed (and protected, see note about CEMP above), the more open areas are less optimal for reptiles and, were this development to be permitted, construction and operational impacts would be unlikely.

Brown Hare

This species would be displaced during construction, however **the report fails to state that the presence of the security fence would also exclude brown hare from the development area during its operational lifespan**.

Common Amphibians

The report identifies that there is the potential for common amphibians to be commuting across Area 1 at night during spring, however the suggested mitigation is considered sufficient to minimise impacts during construction. Again, this could be included within a CEMP, were this development to be permitted.

Invertebrates

Whilst some food plants were recorded, it was considered that the habitats present in 2013, in conjunction with topographical conditions, were not suitable for dingy skipper. We are satisfied that areas potentially suitable for heath rustic moth would not be affected by the proposal.

Badgers

No signs of badger were recorded across the whole survey area by the consultants, who do not appear to have recorded the presence of 2 entrance holes suitable for use by either badgers or foxes, which are known to exist near to the 3 ponds. Given the presence of such features, were the development to be permitted we would expect a **pre-commencement walkover survey** of the site to be conditioned, to establish whether badgers are active in this area.

Plants

It is reasonable to assume that the soil seed bank contains seeds which would allow re-establishment of species disturbed during construction. If the application were permitted, we would expect that **post-construction monitoring** is conditioned to ensure that habitats and species have successfully re-established. Where species such as common cudweed do not re-establish of their own accord, appropriate measures should be implemented.

Woodlark and Breeding Bird Survey

(BSG, September 2014 ref 71246.01_R_APPR_080914.docx)

This report details the results of surveys undertaken during 2014 to consider the bird activity on and around the application site.

Section 2.2 of the report states that the breeding bird surveys were undertaken based upon the survey methodology designed for the 'Common Bird Census' (CBC) by the British Trust for Ornithology (BTO) (Gilbert *et al.*, 1998). However, this methodology states that **ten** visits should be undertaken whereas the application site was only subject to **three** survey visits. Gilbert *et al.* (1998) also state that **up to two evening visits** can be helpful, which **were not carried out** for this site. In addition, CBC methodology covers the period **March to July**, whilst the three surveys which were undertaken only covered the period 24th **March** 2014 to 19th **May** 2014.

Gilbert *et al.* (1998) give guidelines for carrying out surveys specifically for woodlark. Three visits are to be undertaken between mid-February and the end of May which corresponds to the details given in Table 2 of the report. From the dates and times provided, it appears that **two of the woodlark surveys were undertaken at the same time (and presumably as part of) the breeding**

bird surveys. The third woodlark survey (24th April 2014) appears to have been carried out as a separate survey. Given the survey timings and site conditions, combining surveys is considered acceptable on this occasion.

Maps of the survey routes have not been included, so we are not able to comment on the coverage of the surveys, nor whether routes and directions were varied which would be in accordance with Gilbert et al.'s (1998) methodologies.

Two maps are presented in relation to the breeding bird survey – one which shows Species of Conservation Concern and one which shows Species of Principal Importance, although **neither map distinguishes which birds were recorded on which visit and a number of woodlark records appear to be missing from the SPI map.** The majority of species are regarded as being more associated with woodland and scrub, however **both skylark and pied wagtail were recorded as holding open ground territory on site.** Woodlark are also associated with open ground and were recorded on the site, although the report states that a breeding territory was not identified in Area 1 during these surveys (it should be noted that **there are records of breeding woodlark within Area 1, see below**). The third map shows dated results of the three woodlark surveys and also appears to include the breeding bird survey woodlark results from 24th April 2014.

Overall, the level of survey effort, which is somewhat less than the recommended approach using CBC methodology, **may have resulted in under-recording the number of species and number of pairs of birds breeding on site** over the 2014 breeding season. Nevertheless, it is clear that there are birds breeding on site in the area where the solar panels are proposed, including **skylark** (Red-Listed BOCC). Results from separate bird surveys (for example RPS 2010) confirm that, in contrast to the findings from this report, **woodlark have regularly used Area 1 for breeding in recent years.** It is also apparent from the Ecology Report (see below) that more up to date survey in 2015 (AES, 2015 – report not included with application documents) has confirmed that **woodlark bred in Area 1 during the most recent breeding season.** This has been further confirmed by independent bird reports which found breeding woodlark on both Area 1 and 2 this year with a pair present and feeding young on each of both areas (A. Scrimshaw pers. comm).

In summary, whilst survey effort could have been increased and results presented more clearly, it is nonetheless apparent that the proposed development **would directly impact an area of land used by breeding birds including woodlark, and that they bred there in 2015 and in virtually all years previously in which surveys have been undertaken.** It is known from earlier records that woodlark were breeding in this area as early as 1998, with breeding on the proposed development site in 2000 and in all subsequent years of survey since except possibly 2014 (when they were believed to attempt to nest but it failed). This evidence up to 2011 was presented in detail to the Rufford ERF PI and can be provided to NSDC if necessary. These data demonstrate the longstanding importance of the area for this breeding Annex I Bird species, and that far from being “opportunistic and mobile” as stated in the BSG report they have shown a high level of site faithfulness to area 1 at Rufford Colliery. It is certainly the case that were woodlark able to adapt quickly to a range of new habitats, they would not be scarce at European level and in need of the highest level of protection. In reality there is a limited range of habitats in the UK where they can

breed successfully, and Rufford Colliery has proved to be a stronghold of importance for the species for many years. This is in contrast to the surrounding forestry plantations where woodlark have had to move around in response to regrowth of felled coupes and increases in recreational disturbance.

Rufford Solar Ecology Report

(BSG, September 2015 ref 7246.03_R_APPR_160915.docx)

Whilst this report does not constitute a full HRA, it states that its purpose is to provide suitable information to assist the local planning authorities' consideration of the proposed development so that any planning decision taken is fit for purpose should the potential future classification of the Sherwood Forest Area as a SPA be taken forward before the development is substantially complete. The report also indicates that an updated walkover survey of the site was carried out in June 2015, along with further consultation with the Birklands Ringing Group in November 2014 and June 2015.

Section 4 of the report states that the total size of the site is 18.78ha including access tracks and that 8ha of Area 1 (which is 16ha in total) would be developed as a solar farm. Considering the proposed Infrastructure Layout Plan, it appears that an area to the south of the panels would remain undisturbed as well as narrow strips bordering the eastern and western edges of Area 1. The construction footprint, however is likely to be larger than indicated by the panel layout **and thus a greater area of the habitat already under restoration and beneficial conservation management would be disturbed than has been shown.**

In addition, a more detailed description of the proposed development is given in Section 4 of the report, including a requirement for temporary perimeter drains and track-side drainage ditches and an attenuation pond measuring 15 m length by 6 m width by 1.5 m depth. It appears that these elements would result in habitat loss and disturbance across the whole application site, including access tracks, as well as Area 1, however we have not been able to locate any documentation giving an **ecological assessment of the impact of these drainage provisions.** We recommend that further consideration is given to this before the application is determined.

Section 5.16 of the report **confirms that Area 1 supports habitat considered suitable for breeding and foraging woodlark and for foraging nightjar.** Furthermore, Section 6.5 goes on to state that the main potential impact of the proposal is in relation to disturbance, including displacement (due to the loss of potential breeding/feeding habitat), to breeding and foraging woodlark and foraging nightjar and during construction and operation. We concur that, without mitigation, construction would undoubtedly impact on breeding and foraging woodlark and foraging nightjar. However, our concern remains as to **whether the proposed mitigation for operational and construction impacts is sufficient to offset loss of breeding and feeding habitat for these species for the 25 year lifespan of the development.**

Section 5.17 of the report confirms that the main objective of the approved Rufford Colliery Restoration Scheme is to create lowland heath and acid grassland and to provide improved habitat

conditions for woodlark, nightjar and little ringed plover. This restoration is still in progress, with substantial work already undertaken, with a further five year aftercare period applying once restoration is complete. We are substantially concerned that **the proposal for installation of a solar farm is in direct conflict with the restoration aims for the site** as it would result in loss of habitat for woodlark, nightjar and little ringed plover for a minimum period of 25 years, indeed 27 years is stated in the application, when the proposed construction and decommissioning periods are taken into account.

2. Proposed mitigation for direct impacts

Section 7 of the report sets out proposals for avoidance, mitigation and enhancement measures.

In assessing the potential impact of the proposal, the report considers the concept of using maintenance of 'Favourable Condition' as a method for ensuring that impacts are minimised. As part of this method of assessment, Section 7 suggests that ensuring sufficient habitat for 2 breeding pairs of woodlark (c.8ha) would effectively avoid the potential for the proposed development to affect the delivery of the conservation objective for woodlark in respect of maintenance of their current breeding population numbers and help to ensure woodlark survival and reproduction in their area of distribution with reference to the provisions of Article 4(4) of the Habitats Directive i.e. prevent deterioration or pollution of woodlark habitat outside protected areas.

This recommendation assumes that the entirety of the remaining 8ha of undeveloped land is either currently suitable, or can be managed so as to enhance its suitability for breeding woodlark. However, it appears that the 6ha block to the south currently includes approximately 1ha dominated by dense scrub which may not be suitable nesting habitat. Given that the Site has previously supported 2 pairs of woodlark across the whole area, **it seems improbable that halving it would result in 2 pairs being able to breed on such a reduced area.** For example, food availability (of invertebrates) may be a limiting factor at the current time and a reason as to why 3 or more pairs do not nest in the area currently. It would not be possible to double the food availability on the southern area in a short period of time, whatever conservation management is undertaken. Therefore there would clearly be a loss of breeding habitat for several seasons until the foraging habitat matures. Section 7.4 of the report additionally suggests that the 8ha within the security fencing could provide a secure area for breeding woodlark, however given that the solar panels would reduce sight lines, **we consider it highly unlikely that breeding woodlark would use this area and know of no evidence of where woodlark have been found to breed under a solar array.** We would respectfully remind you that as the LPA you have a responsibility under the Conservation Regulations to adopt a precautionary approach with regard to the conservation of Annex I species. **Overall, we are of the opinion that the proposal would result in a loss of suitable habitat for breeding woodlark which would therefore result in a deterioration of the condition of the site and would be contrary to the requirements of Article 4(4).**

The application also omits to consider the impacts of the loss of this area in combination with the current and planned conservation enhancement of the Site. The Rufford Restoration Scheme **has been designed specifically to enhance the Colliery complex for nightjar and woodlark,** with

measures proposed (such as the management that is already underway) to enhance the restoration areas for these species. Therefore in the absence of any development, Area 1 **is being managed specifically to enhance it for these species already** with a view to **increasing** woodlark numbers on the site. Thus:

- a) Any management proposed of the southern area **is no improvement over what is already approved and underway.**
- b) The halving of the available area for woodlark cannot result in an increased number of pairs on the site.
- c) **27 years of delayed and compromised restoration would present a substantive opportunity cost with regard to the conservation of these vulnerable species.**

Additional mitigation measures are suggested by the consultants in Section 7.4:

- More detail should be provided to back up the assertion that the new drainage strategy would provide mitigation. Woodlark are often associated with scrapes and shallow pools within heathlands and bare ground, where they find invertebrate food, which is why such pools have been incorporated into the restoration scheme, and further pools are planned once the final site drainage is finalised. The development proposals refer to the need to remove the existing pool.
- We note the proposal to ensure that all fencing posts have spikes fixed to the top to deter predator perching, but this would not stop corvids from perching on the fence itself, nor on the CCTV towers.
- There is some current recreational disturbance to the area, but this is mostly noise and visual disturbance from cyclists and walkers following the trails and who do not actually enter the areas used by woodlark. **Consequently the proposals for stock fencing the whole of Area 1 would not reduce any such impact, as the visual disturbance and noise would still remain.**
- We concur that were the development to be permitted, **all construction activities must be timed to avoid the bird breeding season February to August inclusive.**
- Proposals for **ongoing management** of habitats within the site are noted, although **no further detail has been provided** to allow us to comment on the detail of such management. It should also be reiterated that the site is subject to a statutory 5 year aftercare agreement regardless of this development proposal and therefore any additional mitigation would only come into effect following this 5 year period, this has been acknowledged by the consultants, but in the absence of any details of exactly what management would be undertaken and how it would be secured, the assertion that it would be any more beneficial holds little weight.

Section 7.5 of the report states that there is a commitment to extend the period of aftercare for an additional 20 years across three parcels of land (c.35ha, although this appears to include Area 1) as well as ensuring access for ongoing monitoring of breeding populations of woodlark.

Extending aftercare into Areas 2 and 3 would only constitute compensation for loss of habitat in Area 1 if it is assumed that without extended management, these areas would deteriorate. If habitats are successfully established during the first 5 years as is already required under the mineral planning permission, then additional management may not be required for some years thereafter. **These areas are currently establishing as acid grassland and heathland with bare areas and shallow wetlands, which have been designed to benefit both woodlark and nightjar specifically.**

Little mention is made in the report of the use of the area by foraging nightjar, even though the data have been provided to show that this Annex I species nests within Far Round Plantation and was heard churring within 100m of the proposed development site. Nightjar in Sherwood Forest are known to forage along forest edges and amongst heathland and acid grassland mosaics, and so are highly likely to forage in this area. Hence this is another species that has been targeted for conservation through the restoration work on Area 1. **The report makes no mention of the loss of 8 ha of foraging habitat within 100m of a nest site on this species and so has not fully assessed the likely impacts.** A local independent bird surveyor has recorded foraging nightjar there in recent years (A. Scrimshaw pers. comm).

Even were the areas around the panels to be sown immediately and to be completely successful, they still would not contain the invertebrate food necessary for feeding nightjar for a year or so at the very least, and areas of established acid grassland on the eastern part of the proposed development area, with an existing invertebrate assemblage would be lost.

With respect to the potential for the Sherwood Forest Area to be designated as an SPA in the future, Section 7.6 of the report proposes a provision for up to £10,000 for habitat enhancements. This sum would be used in the event that the SPA is designated, and its stated intention is to “help avoid the risk of a potential revocation of the planning permission”. We are of the opinion that this implies that the ecological consultant feels that there is the possibility that **currently proposed mitigation is not sufficient avoiding deterioration of habitats that may be used by Annex I species outside protected areas.** With this in mind, we question whether the development could be suitably mitigated under the currently proposed measures. We expect that as a minimum, further consideration needs to be given to identifying additional areas for mitigation and compensation such that there is no risk that permission would be revoked in the event of SPA designation.

No mention has been made of mitigation for the little ringed plover (A Schedule 1 protected bird under the Wildlife and Countryside Act 1981 (as amended) that regularly breed on Area 1 and are one of the species for which the LWS is designated. Little ringed plover like open sparse habitats with long sight lines, and so are highly unlikely to continue to breed in and around a solar array.

The potential loss of both breeding little ringed plover and woodlark from this site would be contrary to the aims of the NPPF with regard to maintaining the conservation interest of Local Wildlife Sites.

3. Indirect Impacts - Noise

No proper assessment of the noise impacts of construction has been made or submitted. The application allows for a 12 month construction period, thus it is improbable that some part of this would not intrude on the breeding season. In addition, woodlark are resident on the site all year and use the area for foraging in the winter, and historically this is an area used by woodlark moulting flocks, **so even if all work were undertaken outside the breeding season this would still cause pollution or deterioration of habitat used by this Annex I species within their annual life cycle, as habitat upon which they forage in the autumn and winter would be directly lost (halved in area)**. In addition the construction noise could indirectly impact further woodlark feeding on the adjacent areas 2 and 3. The construction of working platforms and the use of cranes would result in noise levels substantially in excess of the 45dBA that has been found to affect the behaviour of a number of bird species. **No technical noise assessment has been submitted with the application**, but data from elsewhere indicates that the use of such machinery could result in noise levels in excess of 90dBA (conservatively) which would have a significant adverse effect on the suitability of the area for quiet foraging behaviour. Paras 542-544 of the Rufford ERF PI Inspector's Report clearly state that construction noise would have an impact on bird behaviour, and whilst the construction period of the array would be much shorter than the ERF would have been, this does not undermine the accepted point that the use of large plant such as cranes, **would generate noise levels sufficient to impact the breeding and foraging behaviour of both woodlark and nightjar. Such noise impacts can be classified as pollution of habitat in the understanding of the interpretation of the Birds Directive.**

4. Mitigation for loss of habitats used by Annex I Birds – legal position

After lengthy legal consideration and argument by expert witnesses and a pre-eminent lawyer on the subject of the application of the Birds Directive and the Conservation Regulations, the Rufford ERF PI Inspector's Report makes it **absolutely clear that the loss of functional habitat used by Annex I Birds could only be acceptable under a very rare set of circumstances where a development is of national importance which exceeds the value of the habitat relied upon by Annex I birds**. A solar array cannot be considered under any circumstances to be classified as a development of this order of importance. In any case it would be essential that the loss of functional habitat be mitigated by the provision of **new functional habitat over and above what is already available** (see para 526 of the Inspector's Report). **The applicant is proposing no new habitat over that which is already either available as functional habitat (as evidenced by the use of Area 1 by breeding woodlark in 2015 and for many years previously) or already undergoing a process of restoration to functional habitat, secured by the mineral planning permission.**

The applicant is offering an extended aftercare period for these habitats over and above the statutory aftercare period, **but that is not the same as mitigation for loss of functional habitat.**

5. In Combination Assessment

The Applicant has undertaken a form of in-combination assessment of plans and projects, as agreed as being necessary at the Rufford ERF PI. This process is however flawed on the basis of the above, as it has assumed no impact as a result of the solar array. Given that the proposed

mitigation does not provide new functional habitat, **it can be seen that there would be an impact alone as a result of this development, even before this is combined with the likely effects of other plans or projects.** This is known as a Likely Significant Effect and is the first test in the 3 tests that must be followed. Paras 560 onwards of the Inspector's Report explain in some detail how an In-Combination Assessment should be undertaken following 3 sequential tests with a final conclusion on whether the integrity of the whole ppSPA might be compromised. In this case, this approach has not been rigorously followed, so there has been no real assessment of likely in-combination effects.

In reality, recent developments in proximity to Area 1, such as increased lodges and visitor activities within Sherwood Pines over recent years, have conspired to continue to push woodlark south within the forest, away from the recreational disturbance (see Map 1 attached for 2001-2010 breeding data within Clipstone Forest which shows how woodlark breeding pairs are clustered in the southern half of the Forest), **thus making the Rufford Colliery area even more important for breeding woodlark. It is difficult to see how the integrity of the ppSPA would not, therefore, be compromised.**

Planning Policy - National

Even if the applicant's proposed mitigation were to result in maintenance of the population of breeding woodlark on site (which we have shown above to be unlikely), this approach **is not compliant with National Planning Policy** which seeks to provide net gains in biodiversity and promote recovery of priority species populations:

Para 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by:

- Minimising impacts on biodiversity and providing **net gains** in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; (Bullet point 3)

Para 117 states that to minimise impacts on biodiversity and geodiversity, planning policies should:

- promote the preservation, restoration and re-creation of priority habitats, ecological networks and the **protection and recovery of priority species populations**, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan; (Bullet point 3)

Area 1 lies within a complex of habitats that have been secured for protection, restoration or conservation as a result of 20 years of use of the planning and agri-environment support systems to achieve a shared vision for large scale heathland and acid grassland re-creation across a landscape. A range of partners in the area, including NWT, NCC, NE, FC and NSDC have been

working towards this vision for that time, the importance of which was strongly acknowledged and supported by the Rufford ERF PI Inspector. **This proposed development risks compromising this vision for this habitat network , which is now so near to completion on the ground, contrary to Para 117.**

In addition, Local Wildlife Sites are a key element of the national ecological networks referred to in the above paragraphs. **Development which would undoubtedly lead to deterioration of a LWS would therefore also be contrary to national planning policy.**

The initial approach to considering the impact of a proposal on biodiversity should be to **avoid harmful impacts**, for example through selection of an alternative site. This principle is stated in Paragraph 118 of the NPPF:

- When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: 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;

The possibility of avoidance is considered further below, where we confirm that NWT has previously put forward an alternative site which may be more acceptable. However, if avoidance is not possible and, as detailed in this response, mitigation and compensation is not deemed adequate, then **in line with National Planning Policy, NSDC should refuse permission.**

In Para 5.5 of the Planning Statement, the Applicant quotes the policy from NPPG Paragraph: 013 Reference ID: 5-013-20150327 (although they incorrectly state that this policy is under Paragraph: 001 (Reference ID: 5-001-0140306)) under Renewable and low carbon energy which sets out the particular planning considerations that relate to large scale ground mounted solar photovoltaic farms. It states;

“Particular factors a local planning authority will need to consider include:

encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;”

Clearly this area is of high environmental value - it is an LWS, within a proposed IBA and hosts breeding Annex I species (woodlark) and Schedule 1 species (little ringed plover) and is used for foraging by nightjar. It also hosts breeding red list BoCC (skylark) and contains Sn 41 principal habitat OMHPDL and developing priority habitats acid grassland and heathland.

Also, the Rufford ERF PI Inspector’s decision (upheld by the SoS), stated clearly that land with extant planning conditions for restoration should be treated in planning as if they were already restored, thus the repeated references to the post industrial nature of the site in visual terms in the LVIA is based on an incorrect baseline. This point was well established in the PI. (see para 445 et al of the Inspector’s Report APP/L3055/V/09/2102006), and it was made clear that any site with

such extant conditions should be regarded as greenfield – this applies even more so in this case where restoration and conservation management has already been underway for more than a year.

6. Planning Policy - Local

As we have shown above, the proposed development would have a negative impact on designated sites as well as species and habitats of principal importance which is contrary to Local Planning Policy, as N&SDC Core Policy 12 states that:

“Proposals must consider the need to **protect** the district’s ecological, biological and geological assets, with a **particular emphasis placed on designated sites, species and habitats of principal importance** identified in Section 41 of the Natural Environment and Rural Communities Act 2006 and in the Nottinghamshire Local Biodiversity Action Plan”

N&SDC Policy DMP7 on Biodiversity and Green Infrastructure also states that “developments affecting sites of local or national importance will only be granted permission if it can be demonstrated that the need for the development outweighs the conservation value of the site”. **Given the importance of the site for protected and priority species and habitats, coupled with possible alternative locations, the need for development *in this location* does not outweigh the conservation value of the site and is therefore again not compliant with Local Planning Policy.**

7. Alternative Sites

The assessment of alternative sites in the LDA report is fundamentally inconsistent, in that it rules Area 3 out because of a stated fire and consequent insurance risk as a result of the application of heather brash, yet Area 1 has also received heather brash, and young heather plants have already germinated.

At the very first consultation meeting with HE’s consultants more than a year ago, NWT advised strongly that a solar array on a known woodlark breeding site would raise substantive concerns. We instead offered the advice that locating the proposed development within the curtilage of the current active stocking area, where the ground is paved and unsuitable for woodlark and where the regular plant movements currently dissuade any protected species from using the area, might be more acceptable. The whole of the Rufford Colliery complex has extant planning conditions for restoration to heathland and acid grassland, including the former colliery yard which is in use for storage of coal fines at the present time. But, as restoration work has not yet commenced on this area, and it is not currently used for foraging or breeding by woodlark or for foraging by nightjar, we were prepared to consider that a solar array application might be more acceptable in this location.

8. Principles of Development

This application raises real questions about the effectiveness of the planning system in securing what is promised, even by condition. The Applicant asserts that after 27 years the site would be returned to the acid grassland and heathland habitats that were **promised and conditioned in the 1996 application and again in the recent consolidating application in 2012.** The 2012 application

was permitted to allow the applicant to extract valuable coal fines, **and the permission hinged on the commitment of the applicant to finally delivering the long awaited restoration scheme and would not have been permitted were it not for the provision to conserve and protect woodlark throughout the working scheme and to secure enhanced habitat for them as a result. *This application for a solar array is therefore, in breach of the commitments made by the applicants in order to secure their coal fines permission.***

In addition, if this development were to be permitted on a greenfield site, which is subject to habitat restoration conditions that have been conditioned through 2 planning processes and **on which the most recent extraction application permission was wholly reliant**, what certainty is there that in the future this development would not be used as a justification for further built development in this location, having established the principle of industrial use of a greenfield site of high wildlife value, contrary to NSDC's own policies and the NPPF.

NWT have no confidence therefore that permission for this development would not set a precedent for future development in this area, contrary both to policy and to the commitments made to local people that the area would be restored to acid grassland and heathland.

In summary, as a result of the above substantive and material matters, NWT **object** to this application.

Nottinghamshire County Council Ecology – Object

Thank you for consulting the Nature Conservation Unit of the Conservation Team on this matter. I have the following observations regarding nature conservation issues, which are officer-level comments and do not necessarily reflect the views of Nottinghamshire County Council:

Key issues

The following issues are those which I consider require particular attention within the context of this application:

- The application site supports an area of notable habitat, which is an example of the Section 41 habitat "Open Mosaic Habitat on Previously Developed Land" (a national conservation priority, often shortened to Open Mosaic Habitat or simply OMH), a scarce and declining habitat in Nottinghamshire; parts have also been subject to recent heathland/acid grassland restoration and enhancement works. It is important to note, also, that whilst the site may appear 'degraded' to the casual eye (as it is described in section 7.2 of the Design and Access Statement), this type of habitat is actually very rich, and whilst natural regeneration is comparatively slow, the site will vegetate over in time.
- The application site forms part of the Rufford Pit Top LWS, meaning that it is of at least county-level importance for its wildlife; in this case, the importance of the LWS is due to its ornithological importance, which is discussed in more detail below.

- The application site falls within the RPSB Sherwood Important Bird Area (IBA) boundary and is immediately adjacent to part of the NE Indicative Core Area (ICA), identified as part of the Rufford Energy Recovery Facility application and upon which any future SPA (Special Protection Area) designation is likely to be based.
- The site is subject to an extant restoration condition, and is an important component of restoration works currently taking place in the wider Rufford Colliery area; once completed, restoration of this area will deliver the largest contiguous tract of heathland in Nottinghamshire, reversing some of the (significant) losses of this habitat in the area which have arisen through mining, forestry, agriculture and development.
- The site is known to support breeding woodlark. Surveys carried out by BGS Ecology in 2014 in support of this confirmed the presence of woodlark on the application site; it is stated that one pair was recorded foraging in this area, but breeding was not confirmed. It should be noted that woodlark surveys have also been carried out at the site in 2015, by a different ecological consultancy, and submitted in relation to a separate planning application being determined by Nottinghamshire County Council (AES Ltd, Breeding Bird Survey 2015; application refs F/3362, V/3360, V/3361). These surveys confirmed the presence of two woodlark territories within the application site, with a further two within the wider colliery site.

Discussion

Given the known ecological constraints posed by this site, and the planning history of the wider area, it is disappointing that planning permission is being sought for development at this site. The process through which site selection was undertaken is discussed in the supporting documentation, but it appears that ecological constraints were only considered once sites had been identified that were technically feasible. Within the Rufford Colliery site, three sublocations were considered in terms of their suitability for a solar farm, with the application site ultimately being taken forward. However, no consideration appears to have been given to the suitability of the colliery yard (currently being used on a temporary basis for the storage of coal fines). This area, whilst also subject to an agreed restoration scheme, is currently dominated by hard standing and has minimal existing ecological value; certainly, survey work indicates that it does not support breeding woodlark. As such, a solar farm located on this part of the colliery site would avoid many of many of the issues discussed further below.

It is stated that part of the colliery site identified as Area 3 cannot be taken forward as the bare sand has been covered with heather brash, and the subsequent development of heather would pose a fire risk, affecting the chance of getting insurance. It should be noted that a significant proportion of the application site has been subject to the same treatment, so it is unclear why the application site is not deemed to have the same issue.

It is stated in section 6.1 of the Design and Access Statement that *“The most significant design measure undertaken to avoiding impact upon ecological concerns has been to constrict the*

development to the least ecologically sensitive parts of the wider development site". As discussed, the application site is clearly not the least ecologically sensitive part of the colliery site.

In terms of impacts on habitats supported by the application site (primarily Open Mosaic Habitat and developing heathland/acid grassland), it is accepted that the actual area of habitat directly lost to development (i.e. under the footings of the solar panel frames) will be relatively small. However, having witnessed the construction impacts of other solar farm developments (e.g. Gedling Pit Top), it is likely that much of the existing habitat will be damaged by vehicle movements, within and beyond the footprint of the area actually covered by solar panels. Whilst it is likely that the existing habitat will regenerate, conditions will be changed as a result of over-shading by the panels, which is likely to affect how the habitat regenerates. It will also affect ongoing management, and the way that it is used by species such as woodlark (see below). The solar farm would also undermine efforts to restore a regionally significant heathland landscape at Rufford Colliery, and would significantly detract from the generally 'wild' feel of the area by introducing hard infrastructure.

It is apparent that the development, if permitted, would impact on habitat used by breeding woodlark. The site has an established history of usage by this species (i.e. the site has not been colonised 'opportunistically' as is implied); furthermore, the application site supports 5% of the population of woodlark found within wider Sherwood Forest area (based on a stated population of 39 pairs), with the Rufford Colliery area as a whole supporting 10% of the population; these figures are extremely notable, and underline the importance of the Rufford Colliery site for woodlark. Whilst it is suggested in section 7.2 of the Ecology Report that "*the 3-4m wide corridor between the rows of PV panels [could] potentially be used by woodlark for breeding*", there is no scientific evidence whatsoever to support this. In fact, I would think it highly unlikely that woodlark would breed within these corridors. It therefore has to be assumed that the area that would be occupied by the solar panels would cease to function as habitat for breeding woodlark; furthermore, there is likely to be a zone of influence around the panels (due to their height and potential use as perch points by corvids) within which woodlark would be deterred from breeding.

Confusingly, section 7.6 of the Ecology Report makes reference to a £10,000 sum to be provided in the event that the Sherwood Forest Area was to be designated as an SPA, to "contribute to the delivery of Article 4(4) of the Habitats Directive in avoiding deterioration of habitats that may be used by Annex I bird species outside protected areas". If, as is asserted, sufficient mitigation has been provided (which I do not consider to be the case), then there would be no need to provide any further mitigation through the provision of the £10,000 sum. This to me implies that the proposed mitigation is recognised as being insufficient. A range of mitigation measures are proposed in an attempt to address the impacts of the proposed development. These are considered in turn:

Reduction in development footprint

It is accepted that the footprint of the development has been reduced as far as is practicable, reducing the development area to 8ha, out of a site area of 16ha. However, it is far from certain whether the layout (with a c.40m wide margin up the eastern side) is the most effective in terms of minimising impacts on woodlark. Whilst this boundary strip may be used by foraging woodlark, there is no certainty that it would continue to be used by breeding woodlark; this effectively sterilises a further 2ha of land beyond the 6ha development footprint.

Retention and long-term maintenance of existing habitat

It is stated that at least 6ha of the 16ha site will provide optimal habitat for two breeding pairs of woodlark. This assertion is based on a published 'typical' woodlark territory size of 3ha. However, given that the existing 16ha site currently supports two territories, this suggests a territory size, at this location, of 8ha, which may be due to availability of food and vegetation structure (i.e. the site is not 'typical'). By reducing the area of land available to breeding woodlark by more than half, to just 6ha, far from continuing to provide habitat for two breeding pairs, there would therefore appear to be a very real risk that no woodlark at all will breed within the reduced area. Certainly, I think it highly doubtful that two breeding pairs would be maintained within this greatly-reduced area of habitat, which would give rise to a loss of breeding pairs of woodlark.

Reference is made to the draft Conservation Objectives put forward by Natural England in relation to the 'prospective' Sherwood SPA, the background for which is described in section 5.19 to 5.29 of the Ecology Report. It should be noted that in relation to woodlark, one of the objectives is "*maintain the area of habitat used by breeding woodlark within the site*". It is evident that if permitted, the proposals would result in a loss of functional habitat for woodlark, and hence fail to meet this conservation objective.

Long-term aftercare and management

It is stated that the 16ha Area 1 (including the application site) would be subject to favourable management in order to optimise its value for woodlark (and nightjar) for the 25 year lifetime of the development, and that the areas identified as Area 2 and Area 3, to the north, will also be maintained and managed for the same duration. Whilst it is acknowledged that this may be beneficial (but see below), it does nothing to address the loss of 8ha of functional habitat. In any event, no details of what this favourable management would entail are provided.

It should also be noted that whilst it is stated (e.g. in section 2.2.0 of the Planning Statement) that after the initial 5 year aftercare period, "*the restored areas will begin to deteriorate, becoming sub-optimal habitat for nightjar and breeding woodlark*", careful design of the restoration, closely supervised by NWT, will ensure that habitats are robust and provide the range of microhabitats required woodlark, including areas of bare and sparsely vegetated areas. Whilst in the absence of management it is the case that areas will gradually become colonised by species such as birch and broom, this is unlikely to be a particularly rapid process, and in fact, habitat is likely to remain suitable for woodlark for a period of several years beyond the aftercare period, even in the absence of management. This may be particularly true of the application area, where the nutrient-

poor and compacted substrate will limit the rate of natural succession (which is a key feature of Open Mosaic Habitat).

Ecological fencing

Stock proof fencing would be installed around the perimeter of the site to reduce recreational and predation pressures. Given the relatively isolated nature of the site, it is unclear if recreational pressure is an issue at this site – noise and visual disturbance, which would not be reduced with fencing, may be more of an issue.

It is stated that fencing will have spikes placed on fence posts to discourage corvids (crows) from using them as perches from which to spot nests. However, it is not clear what would be done to prevent corvids from using security camera posts, and the panels themselves, as perches.

Construction timing

It is agreed that construction would have to take place outside the period during which woodlark breed, i.e. the period February to August inclusive. This would need to be strictly controlled.

Decommissioning

It is stated that after its 25 year operational lifetime, the solar farm area would be decommissioned and restored to heathland and acid grassland. Given that the site has an extant restoration condition, currently being enacted and requiring the very same thing, I cannot give this any weight - there is clearly nothing to prevent a subsequent planning application being lodged for this site, so no assumptions can be made that the site will ever be returned to a nature conservation end-use.

Ongoing monitoring and review

Access for ongoing monitoring and review is proposed; this would be expected as a minimum.

Other considerations

National Planning Policy Framework

A number of sections of the National Planning Policy Framework (NPPF) are relevant and require consideration:

Paragraph 109 states that *“The planning system should contribute to and enhance the natural and local environment by: minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”*. It is my view that the proposal, if permitted, would give rise to a loss of biodiversity, due to a loss/deterioration of priority habitat and displacement of priority species, with insufficient mitigation to address this, as discussed above.

Paragraph 111 states that *“Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value”*. It has been clearly demonstrated that the site, if categorised as ‘brownfield’ (which itself is debatable given that it is subject to ongoing restoration and management works), is of high environmental value, supporting habitats and species of national conservation importance.

Paragraph 118 states that *“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: 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”*. This is the so called mitigation hierarchy; the proposals fail the first stage, as the development could readily be sited on land of far lower ecological value, as evidenced by the proliferation of solar farms on (low value) arable farmland across Newark and Sherwood, and more widely in Nottinghamshire, which have minimal ecological impact (and actually deliver ecological gain). There appears to be no over-riding reason, other than land ownership, as to why the proposed development has to be located on the site under consideration. It is also the case that insufficient mitigation has been provided, as discussed above.

Local Development Framework

Development Management Policy DM7 states, amongst other things, that: *“On sites of regional or local importance, including previously developed land of biodiversity value, sites supporting priority habitats or contributing to ecological networks, or sites supporting priority species, 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”*.

I would question whether the need for this development, at this location, does indeed outweigh the need to safeguard the nature conservation value of the site, which, has been demonstrated, is high, being covered by a Local Wildlife Site designation, being part of the Sherwood Important Bird Area and ‘prospective’ Sherwood SPA, and supporting both habitats and species of principal importance as identified through section 41 of the Natural Environment and Rural Communities Act 2006 (and listed in the Nottinghamshire Local Biodiversity Action Plan). It is therefore suggested that the need for the development at this location needs to be substantial, to outweigh the substantial ecological value.

Regulation 9A

Through amendments to the 2010 Conservation of Habitat and Species Regulations (see The Conservation of Habitats and Species (Amendment) Regulations 2012, S.I. 2012/1927), a new duty in relation to wild bird habitat (Regulation 9A) is imposed, which transposes the requirements of Article 4(4) of the EU Birds Directive. In summary, this indicates that LPAs must take such steps in the exercise of their functions as they consider appropriate to secure the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the UK, including by means of the upkeep, management and creation of such habitat.

No guidance has yet been provided by Government in relation to the implementation of this new duty. Nevertheless, it is my interpretation that permitting development at this site could potentially be in breach of Regulation 9A, as it would result in the loss and/or deterioration (rather than preservation) of habitat used by wild birds – in this case woodlark, a species of European significance by virtue of its listing in Annex I of the Birds Directive. It might be advisable to seek legal advice on this.

Impacts on the prospective SPA

This matter is given detailed consideration by Nottinghamshire Wildlife Trust, and I therefore do not seek to replicate a comment on this matter. However, it is recommended that you make reference to the Inspectors Report produced in 2011 in relation to the Rufford Energy recovery Facility (see <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?Caseid=2102006&CoID=0>), as many of the (relevant) issues and conclusions are applicable to this application.

Conclusion

In conclusion, and for the reasons outline above, I am unable to support the application. If you require any further information, please do not hesitate to contact me.

Natural England – No objection

Summarised comments as follows:

Statutory Nature Conservation Sites

This application is in close proximity to the Rainworth Heath, Strawberry Hill Heaths and Sherwood Forest Golf Course Sites of Special Scientific Interest (SSSI's) Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is unlikely to impact on these sites.

We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species.

Consideration of the likely impacts from this development on breeding nightjar and woodlark

within the Sherwood Forest Area

We note the proposed development is located in the Sherwood Forest area in proximity to habitats identified as important for breeding nightjar and woodlark. Therefore we have enclosed

Natural England's Advice Note (Revised March 2014) in respect of this matter which encourages

Local Planning Authorities to follow a risk-based approach, ensuring that proposals are accompanied by robust assessments of the likely impacts arising from the proposals on breeding nightjar and woodlark and include measures to minimise any potential direct, indirect and cumulative impacts that are identified.

Biodiversity / green infrastructure enhancement

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'

RSPB – Object

The above application was brought to our attention on Friday 16 October 2015 by Nottinghamshire Wildlife Trust. As far as we are aware, the RSPB was not consulted directly by RES even though there is extensive reference in the application to the "RSPB Important Bird Area" and there are obvious implications for woodlarks. We therefore hope you are able to take our response into consideration.

The RSPB objects to this application for the following reasons:

1) This development would involve the direct loss of functional habitat currently being used by breeding woodlarks. Woodlarks are listed under Annex I of Directive 2009/147/EC on the conservation of wild birds (this is the codified version of Directive 79/409/EEC as amended and generally known as "The Birds Directive"). Under Article 4(4) of the Birds Directive, member states are required to "avoid the pollution or deterioration of habitats" used by Annex I species.

This proposal demonstrably does not avoid deterioration of the habitats in question. Paragraph 4.5 of the Woodlark and Breeding Bird Survey document notes that woodlarks are unlikely to use area 1 following development. We concur: certainly, there is no monitoring evidence on which to

base any other conclusion.

Paragraph 118 of the National Planning Policy Framework and Natural England's advice note to local planning authorities both make avoidance of adverse effects the first consideration. In order to justify development in this sensitive location, it would be necessary to show that no alternative site of lower nature conservation value is available. The applicant has not provided any information to show that there are no alternatives. We consider the point made at the foot of p18 of the Planning Statement is spurious: additional developments are always likely to be possible in other locations – this does not mean that no alternative locations can be considered more appropriate than this site.

Furthermore, the importance of this site for Sherwood's woodlarks should not be underestimated. Additional evidence is available from a local ornithologist familiar with the site, that two pairs of woodlarks bred in Areas 1 and 2 in 2015. In both cases, he reports seeing young being fed by adults, evidence of confirmed breeding (Notts Wildlife Trust, pers.comm). The last national Woodlark Survey in 2006 recorded 36 woodlark territories in the Sherwood Forest area, so two confirmed breeding pairs is equal to over 5% of the local population – a very significant proportion that, by the applicant's own submission, would be displaced. Additional indirect effects on a further percentage of Sherwood's nationally important woodlark population cannot be ruled out (see point 3 below).

2) No relevant mitigation or compensation has been proposed for the loss of habitat attributable to this proposal. Paragraph 4.6 of the Woodlark and Breeding Bird Survey document notes that the restoration of Areas 2 and 3 should increase the amount of suitable, available breeding and foraging habitat for woodlarks within the local area. While these areas are indeed to be restored by Nottinghamshire Wildlife Trust, this is restoration already provided for and assured by a completely separate scheme. This cannot be counted as either mitigation or compensation relating to this proposal: to do so amounts to double counting.

This restoration will happen regardless of the outcome of this planning application.

3) The indirect effects of disturbance and habitat fragmentation are uncertain at best – and for some species (e.g. ground-dwelling invertebrates), they could be significant.

Paragraph 4.12 of the Extended Phase 1 Habitat Survey Report (November 2014) notes that there is "very little land surrounding the site that is not designated as a Local Wildlife Site and for the most part there is continuity of habitats of ecological interest that link up the various sites" and yet then goes on to claim, "there will be no significant fragmentation of the existing links between the various [ecological] sites."

The applicant provides no evidence for such a claim. Solar panels are highly reflective artificial structures that cast dense shade on the ground beneath, and prevent direct rainfall reaching the soil. These effects will apply over a large percentage of Area 1, and frankly the fragmentation effects of such structures have not been properly investigated by anyone, to our knowledge. In the context of a proposed development in the midst of an important and interlinked complex of Local Wildlife Sites, we do not believe this unfounded assurance is enough to justify development.

Furthermore, it is likely that pairs of woodlarks nesting adjacent to the site currently use the land

to forage on some of the time. It is not likely that they will continue to use the land for foraging after development.

In closing, we wish to note that while the RSPB supports renewable energy developments in principle as part of an integrated approach to mitigating the causes of climate change, we do not believe this justifies locating such developments in sensitive places for wildlife such as this. A very large percentage of Nottinghamshire is covered by habitats of very low nature conservation value, land where no objections on nature conservation grounds to such a development would need to be raised.

We trust our comments are of assistance and will be taken into consideration in this decision.

Nottinghamshire County Council - Lead Local Flood Authority – Initial objection

Preliminary comments

- 1 The following comments are based on the source-path-receptor methodology to manage the flood risk from the proposed development to 3rd party properties both adjacent and at distance from the proposed sites.
- 2 The LLFA objects to the proposed development as the flood risk from the proposed site to the surrounding areas has not been properly considered. The submitted flood risk assessment does not address the potential for the existing and proposed site to generate significant quantities of surface water run-off and has calculations based on un-sound evidence and variables that contradict the observations from the site. In particular:
 - 2.1 The site has standing water in the ditches and within the depressed area on the site. This indicates that water does not infiltrate well on this site. The site also has a network of drainage runnels and erosion gullies that demonstrate that water is shed from the site to the south.
 - 2.2 The infiltration tests are not suitable for a large scale design and certainly do not provide a suitable representation for this site. Tests should follow BRE365 and should be repeated as per the guidance and also performed in a number of places to represent the full extents of the site.
 - 2.3 The applicant and also the drainage design should note that lack of vegetation on this site despite many years of lying idle. The ground conditions would not appear to appropriate for vegetation growth. Installing solar panels would likely further restrict vegetation growth on the site and possibly increase the run-off.
 - 2.4 The BGS sheet (sheet 113: Ollerton) indicates the area to be underlain by permeable sands and gravels therefore infiltration may be possible however the mining activities may have deposited shales, clays and mudstones on the surface that could have created impermeable areas. Further investigation is necessary.

- 3 The site drainage system should be designed to manage all rainfall events upto a 100year + 30% climate change severity.
 - 3.1 Surface water drainage design should meet the hydraulic standards of no surcharge in a 1year event, no flooding in a 30 year event and no flooding off the site in a 100year + 30% cc event.
 - 3.2 The drainage system (including plot drainage) should be modelled for the 100 year + 30% cc event at durations ranging from 15 minutes to 24 hours to determine where flooding might occur on the site. Any flooding should be retained within the site, prevented from inundating new dwellings or 3rd party property and routed towards the attenuation system.

Updated Comments

Having considered the application the LLFA do not have any objection to the proposed development however we would ask that a condition is added to any planning permission that requires the site flood risk and surface water drainage to be managed in accordance with the Rufford Solar PV Array Outline Surface Water Drainage Scheme Document in Support of Planning Application 15/01008/FUL dated November 2015 and produced by Arcus Consultancy Services in conjunction with the Rufford Solar Flood Risk Assessment dated September 2015 produced by Arcus Consultancy Services.

Historic England – No objection

The application should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

NSDC Conservation Officer – No objection

Due to their scale, form and siting, solar farms are capable of affecting the historic environment. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority (LPA) to have special regard to the desirability of preserving listed buildings, including their setting. In this context, 'preservation' means to cause no harm and is a matter of paramount concern in the decision-making process.

The National Planning Policy Framework (NPPF) makes it clear that new sustainable development should protect and enhance the historic environment (paragraph 7). LPAs should also look for opportunities to enhance or better reveal the significance of heritage assets when considering development within the setting of heritage assets (paragraph 137). Paragraph 132 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.

In addition, the NPPF makes it clear that planning decisions should aim to ensure that new developments (paragraphs 58, 60 and 61):

- establish a strong sense of place;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- address the connections between people and places;
- integrate with the historic environment; and
- promote or reinforce local distinctiveness.

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area (paragraph 64).

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 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. Setting is often more extensive than the curtilage of a heritage asset. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance. When assessing any application for development which may affect the setting of a heritage asset, LPAs may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its on-going conservation.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

Policies CP14 and DM9 of the Council's LDF DPDs seek to protect the historic environment and ensure that heritage assets are considered in a way that best sustains their significance. Overall, the key issues to consider in proposals for additions to heritage assets, including new development within their setting, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The proposal site is located on land to the North of Rainworth, Nottinghamshire, on the site of the former Rufford Colliery and west of Clipstone Forest and is confined to a rectangular area of land that gently slopes from north to south (was previously used as a coal stocking area). The site otherwise consists of sparsely vegetated or bare ground, which is replaced to the south and east by a sparse cover of grassland. The south boundary consists of a mix of woodland and scrub land. Plantation woodland and broadleaved woodland abut the east boundary of the site. Arable land is located to the south; further areas of bare ground and sparsely vegetated ground are to the north, separated from the site by an access track and the west boundary is defined by a dismantled railway embankment that flattens out to the north. The railway embankment supports dry heathland, immature silver birch woodland and scrub. To the west the land is a complex mosaic of woodland, scrub, heathland and grassland habitats formed on colliery spoil heaps. To the immediate east of the site lies Far Round Plantation, a mature mixed woodland forming part of Clipstone Forest, a plantation owned and managed by the Forestry Commission. Vehicular access is gained to the site from the A617, along a private road associated with the workings of the former colliery.

The proposed development will have a capacity to generate up to approximately 5 MW of renewable electricity subject to detailed design and optimisation. The PV module array and ancillary infrastructure will have an operational area of approximately 8ha.

There are no designated heritage assets within the proposal site, or in proximity. The nearest assets on Newark side of the border are at Blidworth (to the south) and the headstocks to Clipstone Colliery (Grade II). Due to the distance between these and the character of intervening woodland blocks and topography, the proposal is unlikely to have any substantive landscape impacts. This is broadly demonstrated in the landscape report submitted with the proposal.

In addition, the Robin Hood Way, a footpath of regional significance, is an important way of appreciating the historic environment of the area, and views from the associated footpaths and forest walks form part of this experience. However, having reviewed the submitted plans and details, Conservation has no objection to the proposed development and considers that impact on the historic environment will be very limited in this case.

The Coal Authority – No Objection

Recommend that the following note to applicant be added to any forthcoming decision

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848.

NATS – No objection

Environment Agency – Application to be considered by the LLFA.

MOD – No objection

Ramblers Association – No objection

It appears that adequate screening around the site will be provided and we welcome the restoration of acid grassland under the panels.

NCC Highways Authority – No objection subject to condition

This application relates to the installation of a solar farm, which is proposed to be accessed from the signalised junction off the A617 Rainworth bypass road, which is acceptable for this development. The information submitted indicates that the construction phase is expected to last for 3 months, using standard HGVs for deliveries. There are up to 1080 vehicles expected during this time and no abnormal load movements are expected. It is estimated that up to 15 employee and visitor vehicle movements will occur each day, however, there is no parking provision demonstrated on the site plan. Could the plan be amended to address this issue. Once operational, maintenance of the solar farm will be by 4x4 vehicles or similar. The applicant should note that a bridleway runs adjacent the site, and the applicant/agent should consult with NCC Rights of Way section for advice/approval prior to commencement of any works.

One letter neither objecting nor supporting the application has been received along with one letter of support. The comments can be summarised as follows:

- The arrays will face south which means they will be facing a part of Rainworth which is on lower ground. No documentation appears to have been provided showing the visibility of the array from this location.
- The application is on land adjoining the SPA for woodlark & nightjars but no details of the SPA are shown on any of the supplied documentation. Has research been undertaken regarding the proximity of such a development to the SPA.
- Believe that the view of NWT regarding the setting of a precedent is a clouded one.
- Their response highlights that the scheme would prevent disturbance for at least 27 years, ideal as nature is concerned.
- Fully support the clean renewable energy development
- This proposal is fully supported by the local community as shown with even the parish council's support.
- The NWT and RSPB's objections are unfortunate, possibly due to a misunderstanding.
- Solar farms with their benign impact on the locality are not required to undertake expensive report as NWT would like. The developer should not be abused to provide NWT's studies
- NWT concerns that several SSSI's, SAC and LNR's are nearby is bizarre as Rainworth itself and associated roads and noises are closer than the mentioned Birkland's and Bilhaugh

SAC.

- The entirety of NWT concerns can be met with a construction environmental management plan
- Solar farms are relatively new to the UK as such it's not hard to realise evidence of woodlark sheltering under solar arrays undisturbed will be hard to find, but obviously would be of instant benefit to many species .
- CCTV posts can be covered with pigeon spikes to stop corvids
- Perverse that for a wildlife organisation no mention is given to the benefits of the scheme. 5MW solar farm would save thousands of tonnes of CO², SO² and NO² from coal and gas power.
- Personally seen many red book species thriving at Lindhurst wind farm, a proposal that many illicited would damage local life.
- I believe that the noise concern is misunderstood, the only 'crane' would be an off road fork life used on farms

Comments of the Business Manager

Principle of Development

The proposed solar farm is a renewable energy development. Increasing the amount of energy from renewable and low carbon technologies is a key principle of the aforementioned planning policies with the UK Government being committed to meeting binding targets set by the EU Renewable Energy Directive (15% by 2020). The Government, in 2009, published its Renewable Energy Strategy which in turn envisages an energy mix from renewables required to meet its own prescribed targets.

It is acknowledged that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.

The National Planning Policy Framework (NPPF) came into effect on 27 March 2012. The Framework replaced a series of national policy statements, circulars and guidance including Planning Policy Statement 22 'Renewable Energy' (PPS22).

A core principle of the NPPF is that planning should, *'Support the transition to a low carbon future in a changing climate ...and encourage the use of renewable resources.'* The NPPF policy on renewable and low carbon energy is set out in section 10 of the document. NPPF paragraph 93 indicates that, *'Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the effects of climate change, and supporting the delivery of renewable energy and associated infrastructure.'*

This is central to the economic, social and environmental dimensions of sustainable development'.

NPPF paragraph 94 states that, *'Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change'* in line with the objectives and provisions of the Climate Change Act 2008.

NPPF paragraph 97 includes that Local Planning Authorities should *'recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources'*; *'have a positive strategy to promote energy from renewable and low carbon sources'*; *'design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily'*; and *'consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources'*.

NPPF paragraph 98 concerning the determination of planning applications includes provisions that Local Planning Authorities should, in summary, not require applicants to demonstrate the overall need for renewable energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application (unless material considerations indicate otherwise) if its impacts are (or can be made) acceptable. The commitment to the delivery of renewable and low carbon energy projects has been supported by additional Planning Practice Guidance published in March 2014. The guidance specifically outlines a number of factors which local planning authorities will need to consider in the assessment of large scale ground-mounted solar farms.

The District Council's commitment to climate change is set out by Core Strategy Core Policy 10 and Policy DM4 of the Allocations & Development Management DPD. These policies indicate that the District Council will encourage the provision of renewable and low carbon energy generation within new development and recognises that the support for renewable and low carbon development is key to meeting the challenge of climate change.

In determining this application it is necessary to balance any recognised positive or negative effects against the strong presumption in favour of promoting renewable energy provision and the views of the local community. The wider environmental and economic benefits of the proposal are a material consideration to be given significant weight in this decision.

The proposal relates to development within the open countryside which is strictly controlled by Policy DM8 of the Allocations and Development Management Document. This policy outlines the types of development which may be acceptable in countryside locations. This proposal for energy generation, more akin to an industrial use, would not fall comfortably within any of these development types. However it is acknowledged that the land take required for developments of this nature are more readily available in rural locations.

Impact on Ecology

Para 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by amongst other things ‘minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures’ Furthermore, para 117 states that to minimise impacts on biodiversity and geodiversity, planning policies should: ‘promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan’.

In relation to the protection of wild birds; through amendments to the 2010 Conservation of Habitat and Species Regulations – referred to as the ‘Habitats Regulations’, a new duty in relation to wild bird habitat (Regulation 9A) is imposed, which transposes the requirements of Article 4(4) of the EU Birds Directive. In summary, this indicates that LPAs must take such steps in the exercise of their functions as they consider appropriate to secure the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds in the UK, including by means of the upkeep, management and creation of such habitat.

At a local level, Natural England produced an advice note in 2014 to assist LPA’s regarding the consideration of likely effects on breeding populations of woodlark & nightjar in the Sherwood Forest region. The note recommends:

“A precautionary approach should be adopted which ensures that reasonable and proportionate steps have been taken in order to avoid or minimise, as far as possible any adverse effects from development on breeding populations of nightjar and woodlark in the Sherwood Forest area. This will help to ensure that any future need to comply with the provisions of the Habitats Regulations 2010 is met with a robust set of measures already in place”.

With regards local policy; Core Policy 12 of the Core Strategy seeks to secure development that maximizes 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.

The site in question, referred to as Area 1 on plans submitted by the applicant is a former coal stocking area associated with the greater Rufford Colliery site. The site slopes gently from north to south. In terms of ecological interest; Birklands and Bilhaugh Special Area of Conservation (SAC) is approximately 7.25km to the northeast, three Sites of Special Scientific Interest (SSSI’s) are within 3km and Rainworth Local Nature Reserve is less than 200m to the south.

Area 1 itself is within an RPSB Important Bird Area (IBA) Boundary and immediately adjacent to a Natural England Indicative Core Area (ICA) of a proposed potential Special Protection Area (pSPA) due to the surrounding populations of breeding of nightjar and woodlark. The site is also designated (for its bird interest) as Rufford Pit Top Local Wildlife Site (LWS).

In-depth pre-application discussions have been undertaken between the applicant, Nottinghamshire Wildlife Trust (NWT) and Nottinghamshire County Council (NCC) ecologist. As part of this discussion NWT requested that a Habitat Regulations Assessment (HRA) and an Ecological Impact Assessment (EclA) be carried out and submitted in support of this application. Regrettably neither of these surveys has been undertaken. However, the applicant has supplied an ecology assessment which has been produced by BSG Ecology, in addition to an Extended Phase 1 Habitat Survey and a Woodlark & Breeding Bird Survey which have been submitted in support of this application.

NWT raise concern that the initial survey work undertaken in 2013 is out of date, given that extensive works have been undertaken to restore the site from autumn 2014 onwards as part of the conditions associated with the restoration of the former colliery site. Notwithstanding this concern an extensive consultation response has been received from NWT to the proposed development (see consultee comments above for full detail) Officers have summarised the lengthy comments received from ecology consultees in relation to the supporting ecological assessments submitted with the application and these are discussed below.

Impact on General Flora & Fauna – excluding Birds

NWT and NCC ecology in general do not consider that the proposed development would significantly impact on flora and fauna contained on the site subject to the imposition of a number of conditions in relation to the requirement for a construction Environment Management Plan to ensure there is no detrimental impact on great crested newts and detailed fencing plans to be submitted to ensure accessibility for brown hare. Concern is however raised regarding the potential for the construction phase to impact upon acid grassland restoration works already undertaken on the site; however the applicant is proposing to re-plant the area contained under and between the modules once installation is complete to mitigate the perceived loss.

Impact on Birds

NWT & NCC ecologist raised concerns with the applicant during pre-application discussions regarding the potential for the proposed solar installation to result in a loss of habitat known to be used by breeding birds in the area. Of particular relevance are the presence on the site or in proximity to the site of woodlark & nightjar which are designated as Annex I species in accordance with the Bird's Directive. Birds designated as being Annex I species are generally considered to be threatened and migratory species and special conservation measures must be established for those species in order to ensure their survival and reproduction. Generally speaking areas that contain Annex 1 species are designated as Special Protection Areas (SPA's). Whilst the site in question is being considered for pSPA (potential Special Protection Area) status it has not been formally adopted. However, Article 4(4) of Birds Directive also requires Member States to strive to avoid pollution and deterioration of habitats for Annex I species even where they occur outside SPAs. It states that:

“In respect of the protection areas referred to above [i.e. SPAs for Annex I species and regularly occurring migratory species], Member States shall take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article. Outside these protection areas, Member States shall also strive to avoid pollution or deterioration of habitats.”

The applicant in their submitted ecology report confirms in Section 5.17 that *‘the main objective of the approved Rufford Colliery Restoration Scheme is to create lowland heath and acid grassland and to provide improved habitat conditions for woodlark, nightjar and little ringed plover’*. NWT who are partially responsible for the implementation of this restoration scheme have confirmed that works are in progress, with substantial endeavour already undertaken, with a further five year aftercare period applying once restoration is complete.

Woodlark

Further to the woodlark’ status as an Annex I species it is also designated as an amber listed bird of conservation concern (BOCC) by the RSPB and is a Schedule 1 species in relation to the Wildlife & Countryside Act 1981, in that it is a bird protected by special penalties at all times. The NCC ecologist has stated that Rufford Colliery has an established history of usage by this species and it is estimated that the application site supports 5% of the population of woodlark found within the wider Sherwood Forest area, with the Rufford Colliery area as a whole supporting 10% of the national population which underlines the importance of the Rufford Colliery site for woodlark.

A woodlark and breeding bird survey, undertaken in 2014 has been submitted in support of the application and this has been reviewed by NWT and the NCC ecologist. NWT have commented that whilst the overall level of survey effort is somewhat less than the recommended approach, nevertheless the survey shows that there are birds breeding on the site and of particular relevance in the area where solar panels are proposed. Whilst the submitted survey did not demonstrate the presence of woodlark on the site they did record the presence of skylark (RSPB red listed birds). Both NWT and NCC ecologist do however make reference to a more recent (July 2015) breeding bird survey carried out on the Rufford Colliery site by AES Ltd which has been submitted in support of the application to extend the timeframe for mineral recovery operations. As detailed on the Territory Map contained on p30 of this report (attached as an appendix to this report), the presence of two pairs of breeding woodlark were recorded in Area 1. NWT & NCC ecologist have reported that recordings of breeding pairs of woodlark have been made in virtually all years previously in which surveys have been undertaken and that the lack of recording in 2014, the year of the submitted survey in support of this application could be down to a number of factors of which lack of survey effort could be one.

In light of the historic presence of woodlark recordings on the site it is apparent that the proposed development would directly impact on an area of land used by breeding birds including woodlark – an Annex 1 species which have been recording breeding there in 2015 and in previous years.

Nightjar

Nightjars are designated as red listed by the RSPB and are a bird of conservation concern (BOCC). The submitted ecology report by BSG confirms at para 5.16 that the site supports habitat considered suitable for breeding and foraging woodlark and nightjar. Whilst the submitted breeding bird survey did not return any results for nightjar specifically, the more recently undertaken AES survey reported a probable breeding pair of nightjar within the Far Round Plantation immediately to the east of Area 1. This is shown on the Territory Map attached as an appendix to this report.

Proposed Mitigation

Whilst the submitted ecology reports accept that the proposed development site supports habitat considered suitable for breeding and foraging woodlark and nightjar, the comments from NWT and NCC ecology and the more recently undertaken AES survey confirm beyond reasonable doubt that these two species are using the site and land within close proximity. The applicant has proposed detailed mitigation to attempt to overcome the perceived loss of habitat. The mitigation proposed is highlighted below:

Design

The footprint of the proposed development has been reduced with row spacing dropped from 5-7m to 3.4m and higher powered modules employed to reduce the total number of modules required whilst still ensuring the site is viable. The design alterations have resulted in the 8ha development site occupied for the development only 3ha will be occupied by modules with 5ha remaining open – (this includes land between module rows).

Long term maintenance of existing habitat

It is stated that 8ha of the 16ha site which makes up the entirety of Area 1 will provide habitat for 2 breeding pairs of woodlark – i.e. the existing known breeding territory numbers of woodlark for this part of the wider colliery. It is stated that a typical woodlark territory is known to be approximately 3ha. The proposed 8ha of land available within Area 1 would be made up of a 6ha block towards the south of the site and a further 2ha running along the eastern edge of the proposed installation. In addition suitable foraging habitat would be created and maintained amongst and between the arrays themselves which could potentially be used by woodlark for breeding and by both woodlark and nightjar for foraging.

Long term aftercare and management

Area 1 is proposed to be subject to suitable management conditions in order to optimise the existing habitat resource for woodlark and nightjar for the 25 year lifetime of the proposed

development. In addition, two areas of land to the north of the site identified as Areas 2 & 3 which have also been restored as part of the on-going aftercare program will be maintained and managed for the duration of the operational life of the development. This would guarantee an extension of the aftercare management period which is currently 5 years from year 6 to 25. As such this would offer an additional 20 years of aftercare for an overall site area of 35ha. For clarity the applicant has confirmed that this wider land is within their control and thus if Members were minded to approve the application could be appropriately conditioned.

Provision of boundary fencing

It is proposed to provide stock proof fencing around the perimeter of the 16ha site to reduce known disturbance factors due to recreational pressure & predation. All fencing will have spikes in place on all fence posts to reduce the likelihood of predation by corvids (crows, ravens, rooks, magpies) Furthermore, it is proposed that the fencing could potentially provide a more secure environment for breeding woodlark within the fenced area.

In addition, it is proposed that construction would be undertaken outside breeding season (February to August inclusive) and the land restored upon decommissioning after 25 years of operation.

NWT and NCC ecologist have reviewed the proposed mitigation measures and offered the following comments (paraphrased);

'Section 7 of the submitted ecology report suggests that ensuring sufficient habitat for 2 breeding pairs of woodlark (c.8ha) would effectively avoid the potential for the proposed development to affect the delivery of the conservation objective for woodlark in respect of maintenance of their current breeding population numbers and help to ensure woodlark survival and reproduction in their area of distribution with reference to the provisions of Article 4(4) of the Habitats Directive i.e. prevent deterioration or pollution of woodlark habitat outside protected areas. This recommendation assumes that the entirety of the remaining 8ha of undeveloped land is either currently suitable, or can be managed so as to enhance its suitability for breeding woodlark. However, it appears that the 6ha block to the south currently includes approximately 1ha dominated by dense scrub which may not be suitable nesting habitat. Given that the site has previously supported 2 pairs of woodlark across the whole area, it seems improbable that halving it would result in 2 pairs being able to breed on such a reduced area. Furthermore, section 7.4 of the report additionally suggests that the 8ha within the security fencing could provide a secure area for breeding woodlark, however given that the solar panels would reduce sight lines, we consider it highly unlikely that breeding woodlark would use this area and know of no evidence of where woodlark have been found to breed under a solar array. Overall, we are of the opinion that the proposal would result in a loss of suitable habitat for breeding woodlark which would therefore result in a deterioration of the condition of the site and would be contrary to the requirements of Article 4(4)'

'The application also omits to consider the impacts of the loss of this area in combination with the current and planned conservation enhancement of the Site. The Rufford Restoration Scheme has been designed specifically to enhance the Colliery complex for nightjar and woodlark, with measures proposed (such as the management that is already underway) to enhance the restoration areas for these species. Therefore in the absence of any development, Area 1 is being managed specifically to enhance it for these species already with a view to increasing woodlark numbers on the site. Thus:

- Any management proposed of the southern area is no improvement over what is already approved and underway.*
- The halving of the available area for woodlark cannot result in an increased number of pairs on the site.*
- 27 years of delayed and compromised restoration would present a substantive opportunity cost with regard to the conservation of these vulnerable species'.*

Furthermore, it is referenced that in the Rufford Energy from Waste public inquiry, the inspectors report makes it clear that the loss of functional habitat used by Annex 1 birds could only be acceptable under a rare set of circumstances where a development is of national importance which exceeds the value of the habitat relied upon by Annex 1 birds. NWT do not consider that the proposed solar array can be considered to be classified as a development of this order of importance. In any case it would be essential that the loss of functional habitat be mitigated by the provision of new functional habitat over and above what is already available. The applicant is proposing no new habitat over and above what is already available or is already undergoing a process of restoration. The proposal of an extended aftercare period for these habitats over & above the statutory aftercare period is not considered to mitigate for the loss of existing functional habitat'.

Matters of ecology have been subject to scrutiny by relevant consultees including Natural England, NCC Ecology and Nottinghamshire Wildlife Trust (NWT) and the RSPB, with their comments listed above in the consultation section of the report.

Whilst it is acknowledged that the applicant has undertaken extensive survey work and detailed mitigation strategies have been proposed, It is considered by officers that significant weight must be given to the fact that the site proposed for development is known historically to be used by breeding birds, of which both woodlark and nightjar are designated as Annex I species and have been recorded as using the site as recent as July 2015. The Areas identified as 1, 2 and 3 on the submitted plans are currently in the process of undergoing restoration as part of the wider restoration of the Rufford Colliery site. The applicant states that the proposed mitigation measures would provide management for the land contained within Areas 1-3 for 25 years, i.e. 20 years longer than the currently established 5 year aftercare period. Furthermore, the proposed solar farm within Area 1 has been designed to work in the smallest viable area. It is stated that reducing the land take of the solar installation would still leave sufficient territory for the two

known pairs of breeding woodlark which currently frequent Area 1.

However, in accordance with the Conservation Regulations a precautionary approach must be taken with regard to the conservation of Annex I species and officers are not satisfied that the applicant has been able to prove beyond reasonable doubt the assumption that should the solar array be successfully installed that the bird species known to use the site for foraging & breeding would carry on such activities. NWT have confirmed that whilst there are no plans in situ for when the 5 year aftercare period expires, should the habitats successfully establish in accordance with the restoration programme then additional management may not be required for some time after.

Notwithstanding the mitigation measures proposed by the applicant it is considered that in accordance with the Conservation Regulations a precautionary approach with regard to the conservation of Annex I species must be taken. As such it is considered that the proposed development has the potential to result in a loss of suitable habitat for breeding woodlark and nightjar which would result in a deterioration of the condition of the site and no evidence has been submitted to substantiate this eventuality. As such it is considered that the proposed development would be contrary to the requirements of Article 4(4) of the EU Bird Directive, guidance in the NPPF, Core policy 12 of the Core Strategy policy and policy DM7 of the NSDC DPD.

Alternative Sites

As identified, the recently published Planning Practice Guidance (PPG) (March 2014) outlines a number of factors which local planning authorities will need to consider in the assessment of large scale ground-mounted solar farms. The stance of the Guidance is to encourage the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land.

As part of the submitted Design & Access Statement the applicant has detailed the site selection process which has been undertaken. RES – the developer would be developing the site on behalf of Harworth Estates and as such the site selection process has been limited to land in the ownership of the estate. It is stated that a large number of sites have been considered given that the estate has an extensive land bank which includes a number of former colliery sites. However, a number were discounted based on current on site operations and feasibility studies which looked at planning constraints, site yield and grid connectivity. Rufford Colliery was established as the preferred development site and 3 areas designated as Areas 1-3 considered for feasibility.

In terms of Planning Practice Guidance in relation to effective use of land, it is considered that the proposal would represent a suitable land use given the history of the site as a colliery. However, NWT raise concern regarding the specific selection of Area 1 in relation to the guidance of paragraph 118 of the NPPF, which 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 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. NWT considers that the approach to alternative sites within the colliery has not been consistent by the applicant. Area 3 was dismissed from consideration due to the presence of heather brash, which was considered to be a fire hazard, however it is stated that Area 1 is also planted with similar brash. In addition NWT raised their concerns to the proposed use of Area 1 for development during pre-application discussions, given the perceived loss of habitat known to be used by Annex I bird species.

It has been suggested that the former colliery yard would be a more suitable location for the proposed installation given that restoration work has not yet commenced in this area and it is not known to be used for foraging or breeding. However, given that coal fines are still stored in this area it is not considered to be a viable alternate location at this moment in time.

Whilst the use of a formerly developed site would accord with the guidance of the PPG, concern is raised regarding the selection of a site known to be of importance for its biodiversity and as such the proposed development is considered to be contrary to the guidance of paragraph 118 of the NPPF, core policy 12 of the Core Strategy and policy DM7 of the Newark and Sherwood DPD.

Impact on Flood Risk

The site is situated within Flood Zone 1 in accordance with the Environment Agencies Flood Zone Maps. A small area beyond the southern development site boundary is located within Flood Zones 2 & 3 and this is associated with Rainworth Water. No development is proposed in this area. As previously detailed the site is a former coal stacking yard which formed part of the wider Rufford Colliery site. The surface of the site is sandy and sporadically vegetated. The applicant has stated that the total area of hardstanding associated with the development would be approximately 0.48ha which includes the temporary site compound & access tracks. A Flood Risk Assessment (FRA) has been undertaken by ARCUS and submitted in support of the application.

Nottinghamshire County Council (NCC) as the Lead Local Flood Authority (LLFA) had initially raised an objection to the methodology used in the formation of the undertaken FRA, stating that the FRA does not address the potential for the existing & proposed site to generate significant quantities of surface water run-off and the calculations are based on un-sound evidence. A revised Surface Water Drainage Scheme (SWDS) has been submitted in response to the comments raised.

NCC as the LLFA have reviewed the submitted SWDS and are satisfied that subject to a condition requiring the implementation of the surface water drainage measures as highlighted in the report prepared by Arcus dated November 2015 being implemented then the proposed development would not detrimentally impact upon existing surface water drainage on the site.

Impact on Visual Amenity and Landscape Character

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. Core Policy 13 requires the landscape character of the surrounding area to be conserved and created.

In accordance with the NSDC Landscape Character Assessment 2013, the site is defined as being within landscape character area S PZ 8, Vicar Water and Rainworth Heath Wooded Estate lands. This area is identified as being in very poor condition with the targeted action amongst other things to create new heathland habitats with Oak/Birch woodlands and open acid grassland/heathland.

Pre-application discussions were undertaken with the applicant regarding proposed viewpoints to support a Landscape and Visual Impact Assessment in addition to the creation of a Zone of Theoretical Visibility (ZTV) study. The Landscape and Visual Impact Assessment (LVIA) includes an assessment from 5 viewpoints, within proximity to the site. The viewpoints selected represent views from locations closest to the site, accessible by members of the public. The submitted ZTV and supporting information indicates that the zone of visibility of the proposed installation is restricted by the topography of the surrounding land and in general visibility would be contained within a 1km radius. Where the site can be seen it would be viewed alongside ongoing colliery operations. The selected viewpoints demonstrate that the proposed installation would be most visible to users of surrounding footpaths & bridleways. However, given that only short sections of these rights of way are in proximity to the proposed installation and that the solar array would be sited in a location where mineral reclamation works remain ongoing it is not considered that the visual impact of the proposed installation would be significantly harmful to users of these rights of way.

Notwithstanding the comments made by a member of the public, regarding visibility of the proposed installation from Rainworth; as demonstrated by the ZTV the development would in the majority not be visible from any residential receptors due to topography, intervening vegetation and woodland.

The applicant has stated that there are no other solar farms operational or proposed within the undertaken 4km landscape study area. However, reference is made to a proposed installation at Rufford Lane Stud Farm. This application (15/00083/FULM) was approved by members at the May meeting. However, given that this approved installation would be just under 5km to the north east of the proposed development site, combined with the low lying nature of solar farms in tandem with the degree of separation and degree of vegetation it is not considered that the proposed development would result in any cumulative effects.

In conclusion whilst it is accepted that the proposed installation would result in a degree of visual harm to users of rights of way within the vicinity of the proposed installation that harm is not considered to be significant. The proposed installation would be viewed in context with other operations at the greater Rufford Colliery site and due to the low lying nature of the proposed

installation in combination with screening vegetation long range views of the proposed installation are considered to be negligible. As such it is considered that the proposal would not detrimentally impact upon the landscape character of the surrounding area. Furthermore, it is proposed that as part of the development the area beneath and amongst the arrays be planted with acid grassland that in accordance with the aims of S PZ 8 would contribute to the wider enhancement of the Wooded Estatelands Landscape Character Area.

As such it is considered that the proposed development would accord with Core Policy 13 of the NSDC Core Strategy.

Impact on Heritage Assets

By virtue of their scale, form and appearance, solar farms are capable of affecting the historic environment. As set out under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard must be given to the desirability of preserving listed buildings, including their setting. In this context, the objective of preservation means to cause no harm, and is a matter of paramount concern in the decision-taking process. Fundamentally, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be.

Paragraph 132 of the NPPF states that significance can be harmed or lost through alteration or development within the setting of a heritage asset. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

The setting of a heritage asset is defined in Annex 2 of the NPPF. Setting is the surroundings in which an asset is experienced, and its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not (see paragraph 13 of the PPG for example (ref: 18a-013-20140306)). The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. In addition, the contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. Additional guidance on development affecting the setting of heritage assets is contained within The Historic Environment Good Practice Advice (HEGPA) in Planning Note 3: The Setting of Heritage Assets.

Policies CP14 and DM9 of the Council's LDF Core Strategy and Site Allocations DPDs is also relevant. In addition to the above, the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application (paragraph 135 of the NPPF). In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

There are no designated heritage assets within the proposal site, or in proximity. The nearest assets on Newark side of the border are at Blidworth (to the south) and the headstocks to Clipstone Colliery (Grade II). Due to the distance between these and the character of intervening woodland blocks and topography, the proposal is unlikely to have any substantive landscape impacts. This is broadly demonstrated in the landscape report submitted with the proposal.

In addition, the Robin Hood Way, a footpath of regional significance, is an important way of appreciating the historic environment of the area, and views from the associated footpaths and forest walks form part of this experience. However, having reviewed the submitted plans and details, Conservation and Heritage England have raised no objection to the proposed development and considers that impact on the historic environment will be very limited in this case.

Taking these comments into account I am satisfied that the proposal, by virtue of the modest height of the panels and infrastructure, the topography of the site and the distances to the nearest heritage assets, would not have any detrimental impact on any heritage or historic assets.

Impact on 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.

I am mindful that the application site falls within the open countryside with surrounding residential development being sparse in nature. The closest residential properties would be in excess of 1km from the site. The comments from a member of the public regarding the modules being visible from Rainworth village are noted; however as demonstrated by the submitted Zone of Theoretical Visibility (ZTV), given the low lying nature of the proposed installation and surrounding vegetation the visibility of the proposed installation would be limited to land immediately to the north west and south east of the site and no visibility of the proposed installation would be possible from Rainworth.

The Planning Statement has addressed matters of noise pollution confirming that, following the construction phase, the solar arrays operate silently with no moving parts. Any noise from the associated plant and equipment is minor and limited to day light hours.

Given the low level nature of the development and the limited output in terms of noise emissions, it is considered that it would be unlikely that the proposed installation would detrimentally impact upon residential amenity. The proposal therefore accords with policy CP9, policy DM5 and the requirements of the NPPF.

Impact on Highways Safety

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which are appropriate for the highway network in terms of the volume and nature of traffic generated, and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected.

The access to the site is as existing from the A617 and currently serves the colliery and sewage works immediately to the south of the site. The applicant has indicated that the construction phase will last approximately 3 months using standard HGV's for deliveries. An indicative site compound layout plan has been submitted as part of the application which details parking arrangements on the site. Given the existing vehicle movements associated with the colliery it is not considered that the additional movements associated with the proposed construction would detrimentally impact upon the surrounding highway network.

The County Highways Officer raises no objection to the proposal and there are no alterations required to the public highway. I am satisfied that the proposal would not amount to a detrimental impact on highway safety in accordance with Spatial Policy 7 and Policy DM5 of the DPD.

Impact on Coal Mining Activities

A coal mining risk assessment has been submitted in support of the application given that the proposed development would be within proximity to a number of coal seams last worked in 1992. The assessment has been reviewed by the Coal Authority, who have raised no objection to the proposed development subject to the inclusion of a note to applicant in relation to the process of notification should any coal mining feature be identified during development.

Impact on Rights of Way

The site is situated within proximity of a number of public rights of way. Notably Rufford FP3 runs along the north of the site and into Far Round Plantation. To the south is part of National Cycle Route 6. The Ramblers Association and NCC Rights of Way Officer have been consulted as part of the application. It is considered that the proposed installation would be sufficiently removed from any of these rights of way to ensure it did not detrimentally impact upon users. No response has been received from the Rights of Way Officer; however no objection has been raised by the Ramblers Association.

Other Matters

No safeguarding concerns have been raised by consultees regarding this installation. There are no licensed aerodromes, airports, air traffic control or military sites within 5km of the site and in any event the solar voltaic panels would be non-reflective, and therefore dazzle to pilots would not be an issue. Consequently, I am satisfied that there would be no adverse aviation impacts.

Policy DM5 of the DPD requires consideration of matters of crime and disorder stating that appropriate mitigation should be included as part of development proposals. The proposal includes the provision of security fencing and CCTV cameras surrounding the perimeter of the development. Whilst the proposed fencing and CCTV poles can be perceived to detract from the openness of the surrounding countryside, when viewed alongside on-going reclamation works at the colliery their introduction is not considered to be so significant. Overall, I consider that the security measures proposed by this application are adequate and take into account the requirements of Section 17 of the Crime and Disorder Act.

It is understood that should planning permission be granted the developer would be willing to offer a financial contribution to the local parish council for suitable energy efficiency improvement projects in the surrounding area. In accordance with DECC guidance – Community Benefits from Onshore Wind Developments: Best Practice Guidance for England 2014; it is not considered that any contribution proposed to be offered to the parish council would be a material consideration in the determination of this application.

Balancing Act and Conclusions

The benefits of the scheme in terms of the production of renewable energy are fully appreciated and do and should rightly weigh heavily in the balance of acceptance to the proposal. I also note the support from the two neighbouring Parish Councils and the support from members of the public as expressed in the submitted Statement of Community Engagement. However, strong objections have been raised to the proposed development by Nottinghamshire Wildlife Trust, Nottinghamshire County Council (NCC) ecologist & the RSPB in relation to the perceived loss of habitat known to be used by breeding birds and of particular relevance woodlark & nightjar.

Para 14 of the NPPF promotes a presumption in favour of sustainable development. The NPPG provides guidance on the interpretation of policy within the NPPF and helps Local Authorities and planning professions make development decisions. NPPG Para 001 under Renewable and low carbon energy sets out the particular planning considerations that relate to large scale ground mounted solar photovoltaic farms. It states; amongst other things particular factors a local planning authority will need to consider include:

- *Encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;*

- *That solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*

Whilst it is acknowledged that the development constitutes effective use of previously developed non-agricultural land and the development proposals are reversible consideration must be had to Para 119 of the NPPF which states that:

'The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined'.

Notwithstanding the extensive mitigation measures proposed by the applicant it is considered that in accordance with the Conservation Regulations a precautionary approach with regard to the conservation of Annexe I species must be taken. As such it is considered that the proposed development has the potential to result in a loss of suitable habitat known to be used by breeding woodlark and nightjar which would result in a deterioration of the condition of the site and no evidence has been submitted to substantiate this eventuality. As such it is considered that the proposed development would be contrary to the requirements of Article 4(4) of the EU Bird Directive, guidance in the NPPF, Core policy 12 of the Core Strategy policy and policy DM7 of the NSDC Allocations and Development Management Development Plan Document.

RECOMMENDATION

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

01

The District Council considers that the proposed solar farm would result in a loss of habitat known to be occupied by birds designated as Annexe I species in accordance with the Birds Directive. The applicant has failed to sufficiently demonstrate that the proposed development would not lead to a deterioration of habitats known to be occupied by Annexe I breeding birds.

The environmental, economic or public benefits of the proposal are not considered to sufficiently outweigh the potential harm to the habitat and species identified. The proposed solar farm is therefore considered to be contrary to the requirements of Article 4(4) of the EU Bird Directive, guidance of the National Planning Policy Framework, Core policy 12 of the Core Strategy policy and policy DM7 of the NSDC Allocations and Development Management Development Plan Document.

Informative

01

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.

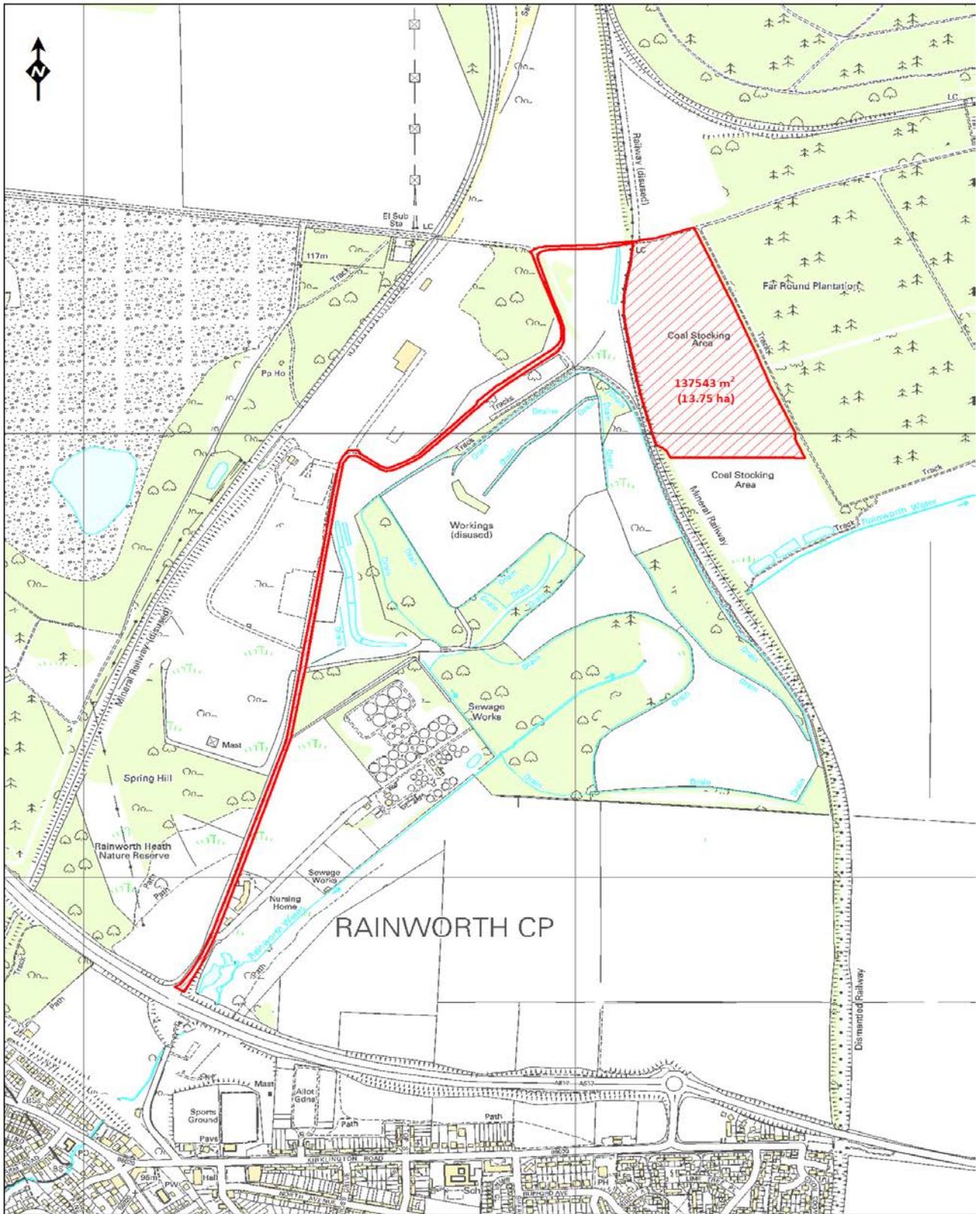
BACKGROUND PAPERS

Application case file.

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

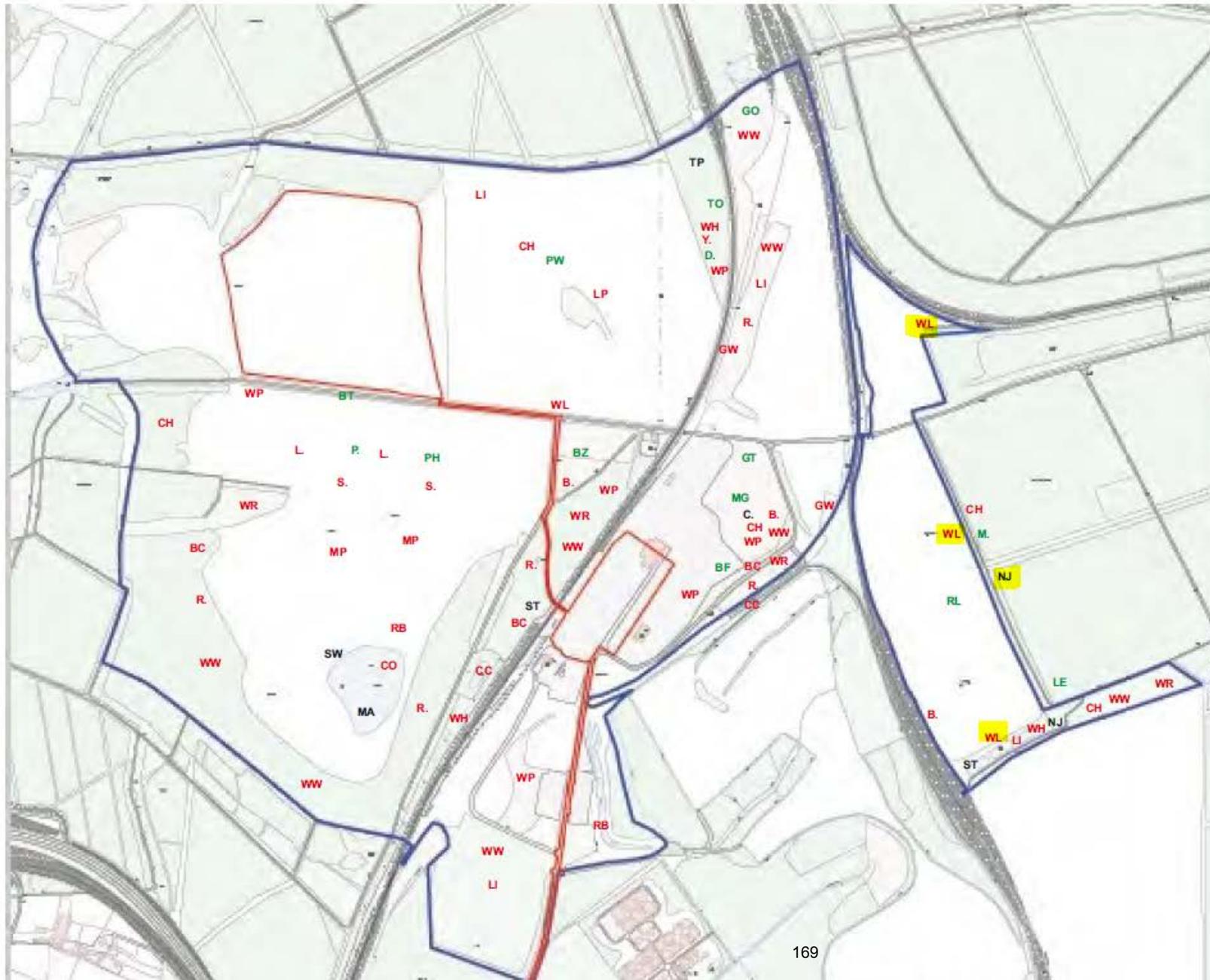
All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Kirsty Cole
Deputy Chief Executive



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Appendix 1



RUFFORD BREEDING BIRD TERRITORY MAP 2015

AB Confirmed breeder
 AB Probable breeder
 AB Possible breeder

- B. Blackbird
- BC Blackcap
- BF Bullfinch
- BT Blue Tit
- BZ Buzzard
- C. Carrion Crow
- CC Chiffchaff
- CH Chaffinch
- CO Coot
- D. Dunnock
- GA Gadwall
- GG Great Crested Grebe
- GO Goldfinch
- GT Great Tit
- GW Garden Warbler
- L. Lapwing
- LE Long Eared Owl
- LI Linnet
- LP Little Ringed Plover
- M. Mistle Thrush
- MA Mallard
- MG Magpie
- MP Meadow Pipit
- NJ Nightjar
- P. Grey Partridge
- PH Pheasant
- PW Pied Wagtail
- R. Robin
- RB Reed Bunting
- RL Red Legged Partridge
- S. Skylark
- SD Stock Dove
- SG Starling
- SI Swift
- SL Swallow
- ST Song Thrush
- SW Sedge Warbler
- TO Tawny Owl
- TP Tree Pipit
- W. Wheatear
- WH Whitethroat
- WL Woodlark
- WP Wood Pigeon
- WR Wren
- WW Willow Warbler
- Y Yellowhammer

Application No:	15/01893/FUL	
Proposal:	All windows and doors to Top Lock Studio to be replaced with powder-coat aluminium windows and doors. A ground floor window will be removed and replaced with a new entrance door and a new glass balustrade to serve the first floor French doors is proposed	
Location:	Top Lock Studio, Navigation Yard, Mill Gate, Newark On Trent, Nottinghamshire, NG24 4TN	
Applicant:	Guy Taylor Associates	
Registered:	20 October 2015	Target Date: 15 December 2015

This application is being referred to Planning Committee for determination as the owner of the property is a member of staff within the Corporate Management Team.

The Site

The site lies on the eastern side of The Basin (formed off the River Trent) and is accessed via Navigation Yard off Mill Gate. The site also lies within the Conservation Area for Newark, set amongst various historical buildings relating to the previous industrial uses of the adjacent basin and lock.

The site itself comprises a two-storey building used as offices located in the NW corner of Navigation Yard. The building is visible from the public realm, both from Navigation Yard and from the riverside. Top Lock House is a recent building erected in the mid 1980's as an office building. It is attached to a two storey residential property approved and built at the same time. The office building whilst traditional in its rectangular footprint and form, it is more contemporary in its design and features. Constructed of red brick, clay pantile and plain tile, the materials reflect the traditional palette in the area. Existing fenestration details comprise single-glazed, timber, plain casement with a grey painted finish.

Relevant Planning History

04/00928/FUL - Replace 5 rooflights at rear of property with a single dormer window to enlarge first floor kitchen area (permitted 17.06.2004)

01/01674/FUL – Change of use from offices to residential (permitted 26.10.2001)

01850830 - Erection of office with living accommodation (permitted 27.11.1985)

01761060LB - 5 no. houses and flats by rehabilitation of existing buildings; 20 no. old persons' flats by rehabilitation and/or new building on 2 no. storeys (permitted 07.10.1977)

The Proposal

The proposal is for the replacement of existing timber windows and doors on the building to powder-coated aluminium windows and doors. The frames will be a dark grey colour (RAL colour 7021). The application also seeks to replace an existing ground floor window on the SE elevation with a new entrance door and replace a Juliet balcony on the NW elevation with a glass balustrade.

Departure/Public Advertisement Procedure

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

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy Adopted March 2011

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

Allocations and Development Management DPD Adopted July 2013

Policy DM5: Design

Policy DM9: Protecting and Enhancing the Historic Environment

Other Material Planning Considerations

National Planning Policy Framework 2012

Planning Practice Guidance 2014

Consultations

Newark Town Council – No objection to the proposal

NSDC Conservation Officer – No objection to the proposed development

Millgate Conservation Society – No comments received to date.

No other representations have been received to date.

Comments of the Business Manager, Development

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

Principle of Development

The main planning considerations in the determination of this application are the impact of the proposal upon the setting of the adjacent Listed Building, the character and appearance of the Conservation Area and the general street scene.

Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 132 advises that when considering the impacts of proposals on the significance of the heritage asset great weight should be given to the assets conservation. Significance can be harmed by the alteration of the heritage asset and any harm should have clear and convincing justification.

Paragraph 133 also adds that where proposal would lead to substantial harm consent should be refused unless it can be demonstrated that the harm is outweighed by the public benefit of the proposal.

Policy CP14 of the Core Strategy reflects this guidance and requires continued preservation of the special character of Conservation Areas. Policy DM9 of the DPD requires local planning authorities to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas. 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.

Additionally the NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive. Core Policy 9 states that new development should achieve a high standard of sustainable design 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.

Impact on the Visual Amenities of the Area

Top Lock Studio falls within Newark Conservation Area and is visible from the riverside. The existing windows to the front and side elevations face the public realm and are clearly visible given the lack of boundary treatments around the site. The windows do not appear to be in poor condition from a glance but it is understood from the applicant that there is heat loss from the current windows. Development within conservation areas should always seek to promote the

most suitable natural materials for development proposals where possible, and it is felt that the use of other materials is generally cited as a negative element within historic areas. However, given that the building is relatively modern in construction, in this instance it is felt that the replacement of timber windows and doors with aluminium frames is not likely to be detrimental to the appearance of the building within the Conservation Area; the frame colour will also be similar to the existing frames.

The proposed aluminium framed glazing reflects exactly the design of the existing plain casement openings and therefore there would be a limited impact on the general appearance of the building, other than a less bulky framed appearance and the colour proposed is a darker grey than the existing lighter grey colour.

In terms of the proposed changes from a window to glazed panel and door in the front (south-west) elevation and a new glass balustrade (to replace an existing metal one) to the first floor glazed doors in the side (northwest) elevation facing the river would be relatively minor alterations that would have no detrimental impact.

I am also mindful of the recent residential conversion of the listed Egg Packers warehouse opposite this site is served by aluminium, double glazed windows. Given that this property represents a recent commercial building contemporary in design with modern features, including double glazing, I consider that the proposal would not be harmful to the character and appearance of the Conservation Area nor to the setting of the Grade II listed warehouse opposite.

On the basis of the above assessment, I am satisfied that, subject to condition, the proposed replacement windows will preserve the character and appearance of the building, its conservation area setting and therefore complies with policies DM5 and DM9 of the DPD, Core Policies 9 and 14 of the Core Strategy, the NPPF and Sections 72 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact on Residential Amenity

The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings. In accordance with Policy DM5, development is considered to be acceptable in principle providing any development does not adversely impact upon the amenities of neighbouring properties.

Given that the proposal seeks to replace existing openings, it is considered that the replacement windows and doors are unlikely to have any impact upon neighbouring properties particularly in terms of overlooking.

Conclusion

Based upon the assessment above, it is concluded that the proposal is considered acceptable in terms of design and impact upon the appearance of the Conservation Area in accordance with

Policies DM5 and DM9 of the DPD, Core Policies 9 and 14 of the Core Strategy and the NPPF. Therefore it is recommended to the Committee that the application be approved.

RECOMMENDATION

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

Conditions

01

The development hereby permitted shall not begin later than 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,

- Location Plan – 812.925.1
- Plans and Elevations as Proposed –812.925.2 drawing no.2

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

Reason: So as to define this permission.

03

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

Reason: In the interests of visual amenity.

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/

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 Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

BACKGROUND PAPERS

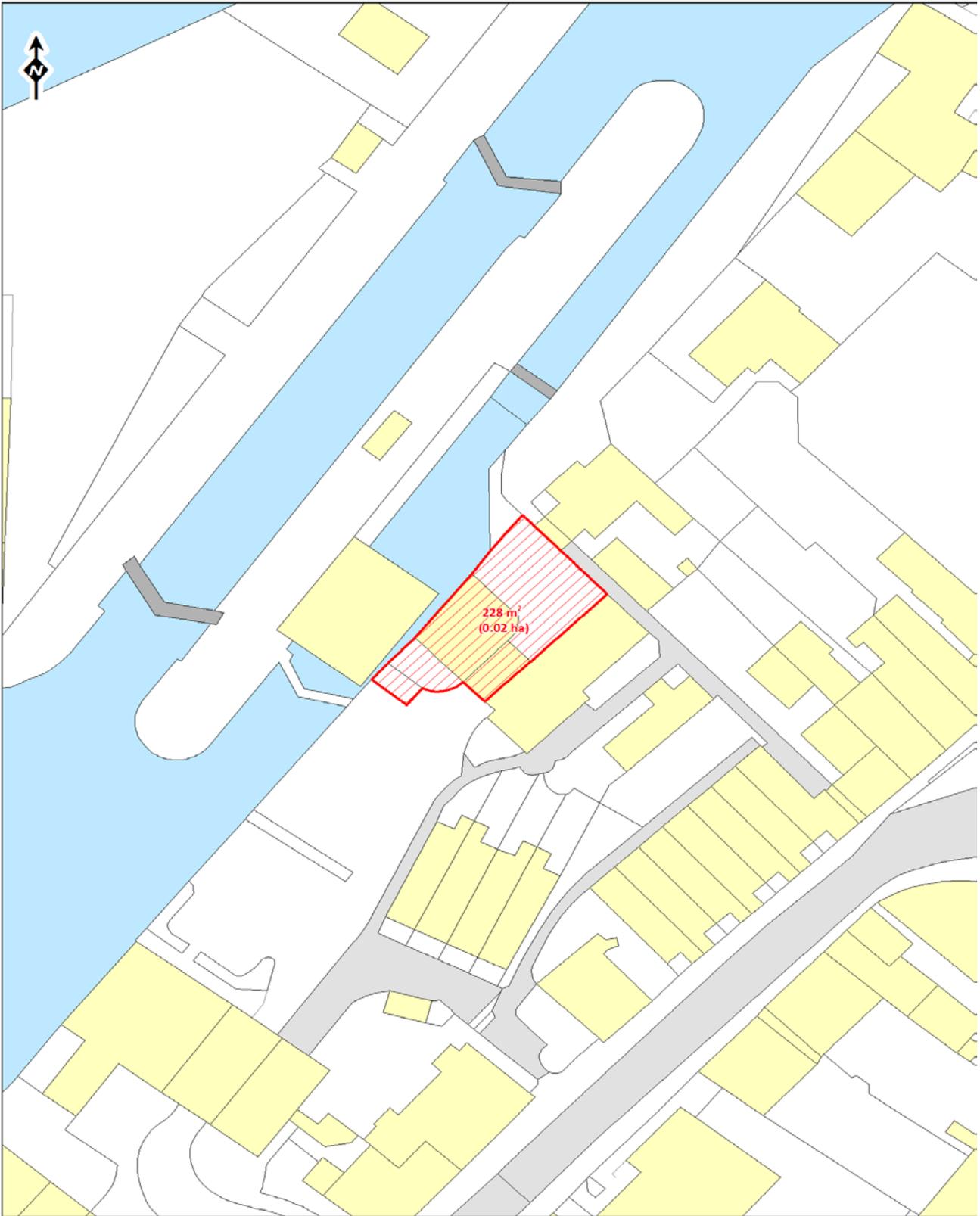
Application case file.

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

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

Kirsty Cole
Deputy Chief Executive

Committee Plan - 15/01893/FUL



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APPEALS A

APPEALS LODGED (received between 16 October 2015 and 23 November 2015)

1.0 Members are advised that the appeals listed at Appendix A to this report have been received and are to be dealt with as stated. If Members wish to incorporate any specific points within the Council's evidence please forward these to Planning Services without delay.

2.0 **RECOMMENDATION**

That the report be noted.

BACKGROUND PAPERS

Application case files.

For further information please contact our Technical Support Business Unit on 01636 650000 or email planning@nsdc.info quoting the relevant appeal reference.

Matt Lamb
Business Manager Development

Appeal reference	Application number	Address	Proposal	Procedure
APP/B3030/W/15/3133814	15/00574/FUL	20 Pelham Street Newark On Trent Nottinghamshire NG24 4XD	Change of Use and extension to Existing Outbuilding to form a Detached Single Bedroom Dwelling	Written Representation
	15/00315/CPRIOR	Oak Tree Farm Old Epperstone Road Lowdham Nottinghamshire	Prior Approval of Proposed Change of Use of half of existing agricultural building to dwelling.	Written Representation
APP/B3030/W/15/3136063	15/01245/FUL	Unit 15 Jessop Way Newark On Trent Nottinghamshire NG24 2ER	Change of usage to D2 to allow for a fitness area and personal training centre to be set up	Written Representation
APP/HGW/15/400	15/01463/HRN	Land To The South Of Stud Farm Rufford Nottinghamshire NG22 9HB	Removal of Hawthorn Hedge and Planting of new Hawthorn Hedge	Hearing
APP/B3030/W/15/3137072	15/01545/FUL	Lodge Farm Lowdham Road Gunthorpe Nottinghamshire NG14 7ES	Demolition of existing Building and Erection of a new Dwelling to Replace Existing Residential Caravan	Written Representation

APPENDIX B: APPEALS DETERMINED between 16 October 2015 and 23 November 2015

App No.	Address	Proposal	Decision	Decision date
15/00467/FUL	Land South Of Ricket Lane Blidworth Nottinghamshire	New stable block	APPLICATION WITHDRAWN	10.11.2015
15/00631/FUL	Orchard End Bishops Drive Southwell Nottinghamshire NG25 0JP	Householder Application for Proposed two storey extensions to the front, Side and rear, single storey rear extension, internal alterations and boundary wall	DISMISS	16.11.2015

RECOMMENDATION

That the report be noted.

BACKGROUND PAPERS

Application case files.

For further information please contact our Technical Support Business Unit on 01636 650000 or email planning@nsdc.info quoting the relevant application number.

Matt Lamb
Business Manager Development