

Planning and Rights of Way Committee

Tuesday, 14 December 2021 at 10:30

County Hall, West Bridgford, Nottingham, NG2 7QP

AGENDA

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| 1 | Minutes of the meeting held on 2 November 2021 | 3 - 8 |
| 2 | Apologies for Absence | |
| 3 | Declarations of Interests by Members and Officers:- (see note below)
(a) Disclosable Pecuniary Interests
(b) Private Interests (pecuniary and non-pecuniary) | |
| 4 | Declarations of lobbying | |
| 5 | Erection of a Temporary School, East Leake | 9 - 58 |
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Notes

- (1) Councillors are advised to contact their Research Officer for details of any Group Meetings which are planned for this meeting.

- (2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

Customer Services Centre 0300 500 80 80

- (3) Persons making a declaration of interest should have regard to the Code of Conduct and the Council's Procedure Rules. Those declaring must indicate the nature of their interest and the reasons for the declaration.

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact Peter Barker (Tel. 0115 977 4416) or a colleague in Democratic Services prior to the meeting.

- (4) Councillors are reminded that Committee and Sub-Committee papers, with the exception of those which contain Exempt or Confidential Information, may be recycled.

- (5) This agenda and its associated reports are available to view online via an online calendar - <http://www.nottinghamshire.gov.uk/dms/Meetings.aspx>

Meeting **PLANNING AND RIGHTS OF WAY COMMITTEE**

Date **Tuesday 2 November 2021 (commencing at 10.30am)**

Membership

Persons absent are marked with 'A'

COUNCILLORS

Richard Butler (Chair)
Sybil Fielding (Vice-Chair)

Andre Camilleri	Philip Owen
Robert Corden	Francis Purdue-Horan
A - Jim Creamer	Tom Smith
Paul Henshaw	Roger Upton
Andy Meakin	A - Daniel Williamson
John Ogle	

OFFICERS IN ATTENDANCE

Pete Barker – Chief Executive's Department
Rachel Clack – Chief Executive's Department
Martin Gately – Chief Executive's Department
Sally Gill – Place Department
Mike Hankin – Place Department
Rebecca Kirkland – Place Department

1. MINUTES OF PREVIOUS MEETING HELD ON 14 SEPTEMBER 2021

The minutes of the meeting held on 14 September, having been circulated to all Members, were taken as read and were confirmed, and were signed by the Chair.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Creamer and Councillor Williamson.

3. MEMBERSHIP

Councillor Purdue-Horan replaced Councillor Moxon on a permanent basis.

4. DECLARATIONS OF INTERESTS BY MEMBERS AND OFFICERS

There were no declarations of interest.

5. DECLARATIONS OF LOBBYING OF MEMBERS

There were no declarations of lobbying.

6. RETROSPECTIVE PERMISSION FOR SAND EXTRACTION AND RESTORATION, RATCHER HILL QUARRY, MANSFIELD

Mrs Gill introduced the report which considered a retrospective planning application for the extraction of 558,000 tonnes of silica sand from Ratcher Hill Quarry and sought approval for a revised restoration scheme for the site. Mrs Gill informed members that the key issues related to the supply and continuity of mineral supplies and the effect the modifications to the restoration of the site would have on the overall ecological value of the restored site.

Mrs Gill stated that the figure for extraction in Condition 1 should read '558,000 tonnes' and not '528,000 tonnes'.

Mr Hankin informed Committee that in Condition 11 the date by which the MPA should receive the detailed aftercare scheme for approval is 28th February 2022 and not 2023 as stated.

Following Mrs Gill's introduction, Mr Mark Oldridge, the agent for the applicant, was given the opportunity to speak and **a summary** of that speech is set out below:

- The Mansfield Sand Company Limited is a family run business which has extracted, processed and sold silica sand products in the Mansfield Area since 1840. The Company have a total of 87 full time staff of which 41 jobs rely directly upon the sand extraction process.
- The company have operated many quarries in Mansfield, Rock quarry, Lichfield quarry and the quarry at Sandhurst Avenue which became the company's brick works in 1926 then its head office. Then came Berry hill and Ratcher hill and now then present quarry at Two Oaks. The company has recently won The Nottinghamshire Live business award for the "Company of the Year".
- As the sand reserves were becoming exhausted at Ratcher Hill the company commenced a search for a new site in 2008 and negotiations were completed for the Two Oaks site in 2009. A planning application and associated Environmental Assessment was submitted in March 2010 and during the planning process a Candidate Special Protection Area for Nightjar and Woodlark emerged covering the whole of the Sherwood Forest area. As a result further significant specialist ecological studies were insisted upon by the Wildlife Trust to prove that the new workings would not impact upon the nightjar and woodlark. The candidate SPA designation caused considerable delays, of almost 2 years in the planning process. During this time the company had no other sources of sand and if extraction ceased the business was faced with complete failure and the loss of 87 jobs. Further all contractors and hauliers who derive a living from the quarry would be adversely affected.

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- The new quarry at Two Oaks Quarry was finally granted consent in 2012 and developed in 2014.
- As a result of deepening the extraction areas the original restoration proposal to a mainly dry heathland was not possible as insufficient sand remained to completely backfill the workings. This has resulted in a new restoration design which does contribute a significant area to dry heathland but retains some water bodies. The working of the site to lower levels has not led to any environmental concerns apart from a variation to the restored landform.
- The new quarry at Two Oaks produces a range of specialist industrial and construction sands and specialist "fibre sand" products are produced for equestrian use, and the top dressing of football pitches within the UK, including prestigious grounds such as Notts County, Nottingham Forest, Leicester City and the vast majority of the premier league clubs who rely upon the products for their main pitches and training grounds.
- The Applicants have undertaken a number of investments at the site and all operations remain as approved by Nottinghamshire County Council. There is a good working relationship with the Minerals Officers of the County and regular inspections take place to ensure that the site continues to operate in accordance with planning and environmental approvals.
- It is considered that the revised restoration proposal at Ratcher Hill is acceptable and there will be no environmental harm associated with the restoration proposed. The applicants have specifically agreed a longer aftercare period that would normally be accepted in order to ensure the final restoration can be achieved satisfactorily.
- The site already has a wealth of habitats and sand martins and a pair of peregrine falcons nest in the higher sand faces protected by the water areas which do not allow access to their nesting areas.

Members then debated the item and highlighted the following:

- Members expressed their frustration that this application was for retrospective permission, stating that such applications undermined the planning process and damaged public confidence and trust.
- Officers explained that planning permission was delayed for approximately two years while consideration was given to the designation of a special protection area in the wider Sherwood area. A further delay of several years was also caused by the process of deciding on the allocations to be included in the Mansfield Local Plan.
- Informal communication was made between NCC and the applicant with officers mindful of the potential job losses if the extraction did not go ahead. The NPPF requires planners to give weight to the continuity of mineral supplies and to economic considerations.

- The revised restoration scheme does not provide as much heathland as the original scheme but it will provide a mosaic of habitats that are still valuable.
- The rock left behind after extraction is hard sandstone that is very unlikely to collapse. The site has been monitored regularly over 30 years and there has been no slippage. Regular monitoring will continue to be undertaken. The site remains in the ownership of Mansfield Sand Company Limited and will not be open to the public.
- The Chair reassured members that Mansfield was not treated differently to any other area of the County.
- The authority's enforcement team is only a small one that operates proactively and reactively, visiting sites across the county a number of times per year. Sites will be visited if members bring them to the attention of the team.
- Mr Oldridge took on board the Committee's comments and offered to arrange visits to the applicant's sites. The Chair emphasised to members the importance of their attending site visits

On a motion by the Chair, seconded by the Vice-Chair, it was: -

RESOLVED 2021/018

That subject to Condition 1 being amended to refer to '558,000 tonnes' and Condition 11 being amended to refer to the date of 28 February 2022, planning permission be granted subject to the conditions set out in Appendix 1 to the report.

7. DEVELOPMENT PROGRESS MANAGEMENT REPORT

Mrs Gill introduced the report, stating that it was the usual report brought regularly to Committee detailing the applications received, determined and scheduled.

Officers agreed to consider amending the format of the report to include regular updates to major schemes.

Mrs Gill drew Members' attention to the review of the County Council's Validation Local List, informing them that they should have received relevant correspondence and that the intention was to bring a report containing suggested revisions to the list to the January meeting of the Committee.

On a motion by the Chair, seconded by the Vice Chair, it was:

RESOLVED 2021/019

That the contents of the report be noted.

The meeting closed at 11.28am

CHAIR

14 December 2021**Agenda Item: 5****REPORT OF CORPORATE DIRECTOR – PLACE****RUSHCLIFFE DISTRICT REF. NO.: 8/21/02694/CTY**

PROPOSAL: ERECTION OF 120 PLACE TEMPORARY SCHOOL LEARNING VILLAGE ACCOMMODATION WITH TEMPORARY LIT ACCESS ROAD AND PERMANENT LIT ACCESS PATH. ASSOCIATED AREAS OF SOFT PLAY, CANOPIES, CAR PARKING AND SURFACE WATER BALANCING POND.

LOCATION: SHEEPWASH WAY, EAST LEAKE, NOTTINGHAMSHIRE, LE12 6PW

APPLICANT: NOTTINGHAMSHIRE COUNTY COUNCIL CHILDREN AND FAMILIES

Purpose of Report

1. To consider a full planning application for the erection of a temporary primary school (Learning Village) for up to 120 pupils on land to the east of Sheepwash Way, East Leake. The key issues relate to the principle of the development and the traffic/travel related impacts of the proposed point of access. The recommendation is to grant planning permission subject to the conditions set out in Appendix 2.

The Site and Surroundings

2. Residential estates have been built or are under construction to the south of East Leake. Persimmon Homes have built a residential estate to the west of this application site, while David Wilson Homes are building an estate to the south, accessed from Rempstone Road. Both developments have a requirement to provide land for a school.
3. This application relates to land to the east of an area of public open space provided as part of a Persimmon Homes residential estate development and to the east of public footpath East Leake FP5. Land forming part of the area of public open space connecting Sheepwash Way with the proposed school site, which has been landscaped including planted saplings, is included in the red line of the planning application (Plan 1). A 3.0m wide footpath (which is to be lit) surfaced with a rolled stone finish and crossing an open surface water drainage feature has recently been constructed by David Wilson Homes between public footpath East Leake FP5 and Sheepwash Way, and is also included in this

application site boundary. A row of trees including oak has been planted along the northern side of the path.

4. Public footpath East Leake FP5 runs north-south along the eastern side of the area of public open space and to the immediate west of the proposed school site. The path at this point has a definitive width of 1m and has a trodden earth surface. The public footpath is enclosed by post and wire fencing to either side.
5. With the exception of one point at the eastern end of the northern boundary (intended for a drainage outfall to the watercourse) the application site is separated from Sheepwash Brook by a marginal area of grass and mature boundary trees which lie within Flood Zone 2 and Flood Zone 3. The application site does not extend as far as a drainage ditch running along the eastern boundary of the field. The site of the proposed temporary school lies in Flood Zone 1.
6. A mature plantation with trees planted on a 3m x 3m grid lies to the south but not within the application site. The hedge separating the public open space from the David Wilson Homes residential development under construction to the south lies beyond the red line of the application site.
7. The proposed school site lies within a larger field which is generally flat with a gentle fall towards Sheepwash Brook to the north. There are three small trees within the field and within the application site. The level of the recently constructed footpath from Sheepwash Way rises to the east to meet public footpath East Leake FP5.
8. Plan 2 shows the application site in the context of the adjacent residential Persimmon Homes development to the west, with the David Wilson Homes development to the south under construction.
9. An area of public open space at the end of Peacock Gardens and Ringlet Drive is enclosed by knee-rail fencing, although it is evident that the public walk across this area, and will use the recently constructed path from Sheepwash Way to connect to public footpath East Leake FP5 once temporary construction fencing has been removed by David Wilson Homes.
10. Excluding the turning head and private drives, there are extended lengths of dropped kerb along the frontage with limited on-street parking available on Sheepwash Way. It is estimated that there is on-street parking for approximately 12 cars on Sheepwash Way and Skipper Close in reasonable proximity to the proposed school site, although there is off-street parking available on the wider highway network within the Persimmon Homes development. Extended lengths of dropped kerb are common feature of the residential estate.

Planning history

11. Rushcliffe Borough Council (RBC) permission 14/01927/VAR (the Persimmon Homes site – 273 dwellings) – Variation of an earlier outline planning permission (12/01840/OUT) for residential development with associated public open space,

landscaping, access and other infrastructure works; including a s106 contribution of approximately 1ha of land for use as a new school – granted December 2015 (on appeal). In addition to a financial contribution towards the provision of school places, provisions of the land transfer include the site having free construction access and being capable of having vehicular and pedestrian access to the public highway, and rights of access and safe access to the school on opening.

12. Permission for an additional 83 homes has been granted on the Persimmon Homes development (RBC/19/00323/FUL).
13. RBC 16/01881/OUT (the David Wilson Homes development) - Outline application for up to 235 dwellings, primary school, infrastructure, green space, associated surface water attenuation and landscaping - granted November 2017 (on appeal) subject to a s106 agreement requiring (amongst other matters) the transfer of identified land in the north-east corner of the housing site (to the south of the plantation) to the County Council for a primary school, subject to planning permission having been obtained for the school.
14. RBC 20/00887/DISCON – Approval of the lit footpath/cycle path linking public footpath East Leake FP5 to Sheepwash Way in compliance with Condition 5ii) of permission 16/01881/OUT and includes a ‘timber edged Breedon gravel (or similar approved) path’ 3m in width and a culverted crossing of the ditch adjacent to the turning head at the end of Sheepwash Way. The path has recently been constructed (Paragraph 3).
15. Nottinghamshire County Council 8/21/01029/CTY - Outline application (with some matters reserved) for the erection of a Primary School for up to 2-forms of entry (in phases), plus 26-place nursery with associated car parking, associated areas of soft play, hard play, grass playing field with landscaping works. Erection of 2m high security fencing and gates to perimeter and sprinkler tank. Provision of bound surface and lit 3m shared pedestrian and cycle path on route of public footpath East Leake FP5. Bound surface and lit path and bridge between Sheepwash Way and Public Footpath East Leake FP5 – approved June 2021. The application approved the scale of development, a pedestrian access from public footpath East Leake FP5, and vehicular access from the loop road within the David Wilson residential estate. The grant of permission is the trigger for the transfer of the school land identified in both the Persimmon Homes and David Wilson Homes s106 agreements.

Background

16. The applicant has identified issues related to construction of the school granted planning permission under reference 8/21/01029/CTY, which relies on the goodwill of David Wilson Homes and negotiated access, and is not confident that suitable safe access to the school will be in place (as required by conditions the permission) by September 2022 when additional school places will be required in East Leake.

17. Because of that uncertainty and the time required to deliver a new school the County Council needs to put measures in place so that its legal obligation to offer school places is met. The anticipated opening date of the new permanent school is September 2023.

Proposed Development

18. Planning permission is sought to erect a temporary school providing up to 120 places on land that will become the school playing field of the permanent school approved by outline planning permission 8/21/01029/CTY (Plan 3). The school would be accessed from Sheepwash Way and would be able to operate without impacting on, or being affected by, the construction of the permanent school building, development of which is to be accessed from the loop road within the David Wilson Homes site lying to the south (Plan 2).
19. Six modular buildings all of single storey construction 2.9m in height elevated slightly above the ground to a maximum height of 3.3m would be erected on the site: an administration building (12.8m x 9.8m); a school hall (14.8m x 9.0m) with attached kitchen and linked store; reception classroom (19.2m x 10.2m) with an adjacent outdoor soft play area with external canopies; and three classroom buildings (9.8m x 9.4m), with turfed soft play provided to the east. The classroom buildings are not new, and have previously been used in the provision of a temporary school at Rosecliffe, Edwalton while the new school there was being completed. The buildings would be faced with Plastisol coated steel with white coloured uPVC window frames and white colour coated steel doors.
20. The tarmac circulation area between the buildings and outdoor play would be segregated from the school car park by a 1.2m high timber fence.
21. 18 car parking spaces would be provided, including two disability parking spaces. No provision for electric vehicle charging is proposed for the temporary school, although the applicant has stated that provision would be made within the permanent school development. 10 cycle spaces are proposed on the application form although their location is not shown on the submitted site plan.
22. The school buildings, car park and access road would be lit, with lighting used as required during operational hours only other than for the purpose of site security. Lighting would be designed to minimise its effect on bats. The footpath linking Sheepwash Way and public footpath East Leake FP5 would be lit by permanent lighting currently being installed as part of David Wilson Homes permission 20/00887/DISCON. A short length of public footpath East Leake FP5 would be temporarily lit from within the school secured boundary.
23. Surface water would be directed to a balancing pond to the east of the school buildings which would discharge to Sheepwash Brook to the north.
24. A temporary access road approximately 100m in length and 5m in width would be constructed from the end of the Sheepwash Way turning head across the

Persimmon Homes area of public open space and would run parallel to the recently constructed footpath link. An existing surface water drainage ditch close to the turning head would be bridged with the ditch temporarily culverted beneath the road.

25. A turning head would be provided at the eastern end of the access road allowing larger vehicles to turn, including school delivery vehicles and minibuses that may be required for school travel. A gate would be provided at the western end of the access road close to Sheepwash Way and, once operational, use of the access road would be restricted to staff, disability, service and emergency vehicles only. Other than for disability access the submitted planning application does not include any provision for parent drop-off and pick-up except from the public highway.
26. Journeys by staff in the morning and afternoon would be one-way and take place before pupil related arrivals and departures at the beginning and end of the school day. In addition, there would be occasional trips throughout the day by visitors, and in servicing the school. The supporting revised Transport Statement identifies that 14 full-time staff would be employed, as well as six occasional site staff (cleaners and catering staff). The applicant has used the nationally recognised standard to determine trip generation data (TRICS) to estimate that a 120 place school is likely to generate 44 morning drop-off and 36 afternoon pick-up peak hour trips by vehicle.
27. The Transport Statement proposes that to minimise impacts, the school will follow guidance in the recently launched Nottinghamshire School Travel Toolkit which provides resources to schools to encourage greater use of walking, cycling, scooting and public transport to school, and to mitigate problem parking. In addition, the school will invite regular visits by the Nottinghamshire parking enforcement team to monitor parking along Sheepwash Way during the time in which the Learning Village is in operation.
28. Pedestrians would access the school along the recently constructed footpath, although it would be upgraded to incorporate a bound surface. The tarmac margin at the end of the Sheepwash Way turning head between the path provided by David Wilson Homes and the dropped access to 45-49 Sheepwash Way would be widened to 3.0m to encourage use of the footway by pedestrians rather than walking onto the road. A widened path would also provide improved connectivity between the currently constructed path and carriageway for cyclists.
29. A 33m length of public footpath East Leake FP5 between the hedge boundary with the David Wilson Homes site and entrance to the temporary school would be provided at a width of 3m, surfaced with a bound finish and permanently retained. Pedestrians would cross the temporary vehicular access to the school before entering the school site. Pedestrians may also approach the school across the public open space or along the public footpath from the north, although weather and ground conditions are likely to influence use of these alternative options.

30. A temporary post and wire fence would be provided between the parallel pedestrian path and temporary vehicular access road to maintain segregation and prevent pedestrians taking a more direct route to the pedestrian entrance gate. Temporary fencing would also be provided along the northern side of the school access road.
31. Notwithstanding the proposed use of Palisade fencing stated on the application form, the applicant has clarified that the type of fencing actually proposed is *Paladin* and is typically used at school sites. 2.0m Paladin security fencing with gates would be provided around the school buildings, car park and operational outdoor play areas. 10 cycle spaces would be provided within the secured school fence line.
32. When the new permanent school is brought into use, the buildings would be removed and those areas within the permanent school site would be developed in accordance with details that are to be submitted in compliance with outline planning permission 8/21/01029/CTY (or another permission which may be granted), and would include the modification/re-design of the balancing pond to be suitable for the permanent school. The Paladin security fencing would be removed with alternative fencing to be provided as part of the permanent school. Elsewhere, the improvement to public footpath East Leake FP5 would be retained, as would the improvement to connectivity for pedestrians and cyclists adjoining the end of the Sheepwash Way turning head (Plan 4). The temporary access road, fencing to either side, gates and culverted access crossing would be removed and the area reinstated as public open space to its current condition, including replacement tree planting.
33. Pupil place projections show that there is an anticipated requirement for 69 places in the East Leake Pupil Place Planning area in school year 2022/23. The actual demand for places at the proposed school will be influenced by a number of factors such as the age of children moving into new housing locally and parental choice. Children in the temporary school still of Primary school age would move to the new permanent school once opened.

Pupil Year	R	1	2	3	4	5	6	Total
Places Available (PAN)	120	120	120	120	120	120	105*	825
Projected Places Required	151	121	136	126	113	111	120	878
Additional Places Required	31	1	16	6	0	0	15	69

Table 1: Projected demand for pupil places in East Leake Primary Planning Area 2022/23

**Brookside Primary - 30 children in Yr 6 and 45 and in all other year groups*

34. It is proposed that the school would open with a Published Admission Number (PAN) intake of 30 in Reception year with 15 children in all other age groups. Years 1-6 would be able to operate with combined year groups in the three classrooms.

Pupil Year	R	1	2	3	4	5	6	Total
Places Available	30	15	15	15	15	15	15	120

Table 2: 2022/23 Temporary School pupil intake

35. Although the proposed temporary school would have capacity for 120 children the applicant has stated that *Pupil Place Planning projections and statistical evidence from previous free schools that have opened in Nottinghamshire, suggest that the temporary school (Millside Spencer Academy) will not fill all of their 120 places in 2022/23.*
36. *Hucknall Flying High Academy opened with capacity for 120 pupils in September 2019. On their first census (October 2019) they had 83 pupils on roll. Rosecliffe Spencer Academy opened (in a temporary learning village) with capacity for 135 pupils in September 2020. On their first census (October 2020) they had 86 pupils on roll. Based on this evidence, it is reasonable to assume that Millside Spencer Academy will open with approximately 80 pupils on roll. Actual pupil numbers will be determined by parental choice.*

Consultations

37. **Rushcliffe Borough Council** – No objection subject to conditions for: removal of structures, foundations and surfacing by 31 December 2023 (except the vehicular access, access gate and lighting until after the permanent playing field works have been carried out) with the site to be restored within 3 months of the permanent school opening; detail of external finishes of buildings; development to be in accordance with the recommendations of ecological reports; a landscaping scheme; safeguarding of trees during construction; a contamination site investigation and validation; testing of imported aggregate and soils; a construction management plan; provision of electric vehicle charging; a lighting scheme; a noise assessment of the air source heat pump; a School Zone in the vicinity of the school vehicular and pedestrian entrance within the Persimmon Homes site and the roundabout crossings on Kirk Ley Road; and details of measures to prevent errant parking in the Sheepwash Way turning head.

38. *Whilst supportive of the proposal concerns are raised about the following matters:*
- a) *highways issues at pick-up and drop-off times of school children on the hammer head and potential parking conflicts during these times along Sheepwash Way.*
 - b) *Safety concerns regarding the design and layout of the roundabout on Kirk Ley Road and the signage around this feature, particularly for children crossing the highway at these points to access the school via Sheepwash Way.*
 - c) *Request for consideration of a Traffic Regulation Order (TRO) on Sheepwash Way and surrounding streets during school pick-up and drop-off times.*
39. *The technical input of the Highway Authority, the Lead Local Flood Authority, Public Rights of Way Team and Archaeological Team are recommended to be sought and consideration be given to the environmental credentials of the building through the use of solar panels, grey water harvesting, EV charging points etc.*
40. *The Borough Council also advises the County Council to consider the implications of the Traffic Regulation Orders in and around Sheepwash Way in the event that such controls are not secured through the democratic process.*
41. *Consideration should be given to a dedicated vehicular drop-off/pick-up zone outside of the school, including for buses/coaches. Consideration should be given to the provision of a dedicated gathering area for parents/guardians etc. so as not to block the public footpath/ pavements/ cycle paths for other users at school start and end times.*
42. *Consideration should be given to climate change impacts, energy efficiency, alternative energy generation, water efficiency, travel sustainability (including electric vehicle and cycle charging points and cycle storage), management of waste during and post construction and the use of recycled materials and sustainable building methods.*
43. *Informatives are recommended related to ecology and ecological mitigation, external lighting with regard to impact on bats, and trees.*
44. *The full consultation response received from Rushcliffe Borough Council is attached at Appendix 1.*
45. **East Leake Parish Council** – No objection as the Council fully support the new school, but raise the following matters:
- a) *Reassurance that the access road will only be a temporary road only and that the green space will be reinstated once completed. The access road should revert to a lit cycle and pedestrian path.*

- b) *Measures need to be put in place to calm and to control traffic. Parking restriction is needed near the school. Concern over access for emergency vehicles due to parking issues. The access road is very narrow.*
 - c) *Child safety needs to be considered in proximity to the pond which should be enclosed.*
 - d) *Concern about the increase in heavy construction traffic. Large vehicles get stuck in the hammerhead on Sheepwash Way. Request that "No Construction Traffic" signs be erected. [It is understood that this relates to David Wilson Homes construction traffic being mis-directed to Sheepwash Way].*
 - e) *Could the school be accessed through the David Wilson Homes estate?*
46. **NCC Highways Development Control** - No objection subject to a condition to require a school zone including a Traffic Regulation Order, dropped crossing points and details of pedestrian/cycle routes.
 47. *Sheepwash Way is not yet adopted highway maintainable at public expense. Also, it will not be adopted in at least the next 12 months.*
 48. *The proposal has the potential to attract inconsiderate parking along Sheepwash Way and within the turning head at pick-up and drop-off times. It is recommended that a Traffic Regulation Order is implemented on Sheepwash Way in order to ensure that disruption to residents and the free flow of traffic is minimised. This would be at the applicant's expense. It should be noted that the Traffic Regulation Order would need the permission of Persimmon Homes as they are currently the owners of the road.*
 49. *The amount of proposed on-site parking associated with the school is acceptable.*
 50. *Taking into account the above, the Highway Authority has no objections in principle to the proposal due to the relatively short duration of time that the sole point of vehicle access will be provided from Sheepwash Way. Also, the amount of traffic associated with the proposal would be acceptable.*
 51. **Via Countryside Access** – No objection subject to the path being surfaced in a bound surface with a neutral colour. Appropriate signage should be displayed.
 52. *A resin bound surface of a more neutral colour will be more in keeping with path and area in the future, as opposed to tarmac. The path should be constructed to adoptable standards for longevity of maintenance and should have a level link into the natural surface to the north.*
 53. *There is no agreement for the improved length of FP5 to be formally upgraded for cycle use for the short duration. "No cycling" signs are to be erected at each end.*

54. *A Temporary Traffic Regulation Order to close the path for public safety may be required for construction. An alternative route can be offered for the duration of the closure. Where the path can be kept open safely during construction a banksman should be used to safeguard the public using the footpath.*
55. *No structures are to be installed on the public footpath without the prior authorisation of the highway authority.*
56. *On reinstatement of the site, the widened and improved public footpath should be retained. Cycle signage should be altered to correctly sign authorised cycle routes, with a waymark post installed at the point where the cycle track splits from the public footpath to ensure clarity of the route. A post can be supplied.*
57. **Environment Agency** – No objection. *While the red line boundary does partially overlap with Flood Zones 2 and 3 all built development will be located within Flood Zone 1.*
58. **NCC Flood Risk** – No objection.
59. **NCC Nature Conservation** – No objection subject to conditions to require protection of Sheepwash Brook and trees along the watercourse during construction; bat sensitive lighting; precautionary methods to be employed to stop mammals being trapped during construction; site clearance to be controlled if carried out in the bird nesting season; a re-survey for protected species prior to commencement; and a scheme of grass snake mitigation and compensation.
60. *The Reptile Survey report has confirmed the presence of Grass Snake suggesting that a small population of this species is resident on the site. A range of mitigation and compensation measures are outlined and it will be necessary for these to be implemented as part of the development. It will also be necessary for the compensation measures to be retained once construction is complete (e.g. the hibernaculum). The Reptile Mitigation Strategy will need to align with proposals for site landscaping.*
61. **NCC Archaeology** – No archaeology issues.
62. **Via Noise Engineer** – No objection subject to a condition to require submission of an Environment Management Plan for construction, to include measures for the control of noise and vibration, liaison with neighbouring properties and the procedure to be followed in the event of a noise complaint.
63. *There is potential for noise disturbance from construction of the new temporary school, primarily from construction plant/activities and from delivery vehicles. The contractor should employ appropriate controls, following recommended guidance in BS5228-1:2009 (Code of practice for noise and vibration control on construction and open sites) to ensure that any noise impacts are kept to a minimum.*
64. *The positioning of the new classroom blocks will help screen the nearest properties from the proposed playing areas located to the east of the*

proposed blocks and should not give rise to any notable annoyance as a result of the outdoor activities (from a noise perspective). The nearest residential premises are at a sufficient distance from the proposed new classroom blocks that it is unlikely that there would be any notable noise breakout from the classroom blocks when windows are opened for ventilation.

65. **Via Land Reclamation** – No objection subject to a condition to require a site investigation including validation, and for development to be carried out under a watching brief for contamination.
66. *While the application is for a temporary development, there will be areas of permanent or long-lasting works. It is also possible that sensitive receptors will use the temporary buildings for a significant length of time, prior to the permanent school development being commenced. A geo-environmental ground investigation will be required, to confirm the suitability of the site for the proposed end-use.*
67. *The ground investigation should focus on the proposed soft-covered play / landscaping areas and balancing pond, in particular, as well as any other areas of permanent development.*
68. *In the event that surplus materials is generated during construction a permit, waste exemption or Materials Management will be required for disposal off-site. All materials must be tested to ensure suitability for re-use on-site or off-site and a hazardous waste assessment will be required for off-site disposal.*
69. **Severn Trent Water Limited** – No objection subject to a condition requiring no commencement of development prior to the approval of a scheme of foul and surface water disposal. A sewer modelling study may be required to determine the impact this development will have on the existing system and if flows can be accommodated. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. Disposal of surface water should follow the SuDS hierarchy with discharge to soakaway or watercourse before a discharge to the public sewerage system is considered.
70. A precautionary Informative is recommended drawing attention to the potential presence of unrecorded public sewers adopted under The Transfer of Sewer Regulations 2011 (Note 7).
71. **Via Safer Highways, The Ramblers, NCC Access Officer, Police Force Architectural Liaison Officer, Cadent (Gas) and Western Power Distribution** – No response received.

Publicity

72. The application has been publicised by means of site notices, press notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.

73. Rushcliffe Borough Councillor Way has written, and also on behalf of Ward Members Councillor Thomas and Councillor Shaw, raising the following matters:

- a) Concern over delay to the project such that a temporary school is needed at additional cost to the public purse. However, East Leake children are already having to be allocated school places outside the village so it is vital that the additional school places are ready for Sept 2022.

Access and road safety

- b) Disruption for residents of Sheepwash Way from traffic congestion and gridlock at the turning head. Parking restrictions need to be in place for the opening of the temporary school, but will be insufficient.
- c) A one-way system or turning circle of some kind is needed for the school drop-off zone. The proposed temporary road should be extended to provide a one way in and out system.
- d) The design of the roundabout at the junction of Kirk Ley and Woodgate Road, and the road crossings, need to be reassessed to ensure they are suitable for peak school traffic flows. The crossing points will be used more when the school opens. Concern about the safety of the roundabout have already been reported. Traffic speeds on Woodgate Road. Roundabout signage compromises visibility for pedestrians crossing the roundabout.
- e) School Zone measures should be considered at the roundabout, including zig-zags, timed illuminated warning signs, a road crossing patrol and 20mph zone.
- f) The footpath network within East Leake should be improved. The planned footpath along the eastern side of Kirk Ley [as part of the residential development] should be completed. An internal perimeter footpath around the Persimmon Homes development should be provided.

Trees

- g) Young trees impacted by the temporary access road and buildings can be removed carefully and planted elsewhere. The East Leake Tree Warden can advise on suitable locations. The line of young trees between the new footpath and the temporary access road should be retained and protected.
- h) Trees and hedgerows surrounding the temporary school, although outside the fenced area of the school, should be protected from damage during construction and removal of the school.

Other matters

- i) The bridge for the access road over the drainage ditch should be constructed so as not to impede water flow.

- j) Removal of the school buildings and access roads should be linked to opening of the permanent school rather than a fixed date, taking account of the need for traffic to use the temporary access route via Sheepwash Way to construct the playing fields.
 - k) Although the school is temporary, at least one EV charging space should be provided in the staff car park.
74. In addition, four residents of Sheepwash Way (3) and Peacock Gardens (1) have written making the following representations:

Principle and impact of development

- a) The site should be accessed via the David Wilson site as originally proposed. Residents of the Persimmon Homes development should not be penalised for the delay in the application and building process that makes this temporary village necessary.
- b) Temporary buildings and a car park will permanently destroy footpaths and local habitat. Disruption to the lives of residents of Sheepwash Way and the surrounding estate is needlessly destructive.
- c) Damage and mess that will be created by the development.

Traffic/Highway impact

- d) Traffic chaos. No suitable mitigation can be proposed. Lack of parking enforcement.
- e) Sheepwash Way is not wide enough for the additional traffic (3), with width reduced by on-street parking. Lack of available on-street parking. There is already on-street parking on Sheepwash Way. Parking on pavements near junctions. Reduced visibility and road safety.
- f) There have been near misses on the roundabout (2). Narrow turn off the roundabout. Increased risk of accidents from increased traffic. Cars park on the road on Sheepwash Way close to the junction with the roundabout.
- g) The road is not suitable for lorries, delivery trucks, teachers' and parents' cars.
- h) Inadequate staff parking [the representation refers to there being 18 parking spaces for 45 staff whereas 14 full-time staff are to be employed at the temporary school].
- i) Coaches for school trips/emergency vehicles will not be able to turn.
- j) Parents will drop off children as part of a work commute rather than walk. Use of Sheepwash Way as a route to school will become habit forming for when the permanent school opens.

- k) Risk to pedestrians and road users. Increased traffic (2) with reduced safety to children (2) and pets. Already near misses between cars and children on bikes/scooters within the estate.
- l) Parking across driveways (3).
- m) Parents will turn and park on private drives. White 'H-bars' across drives and signage should be provided.
- n) The access road running parallel to the footpath across the open space is not safe.

Amenity

- o) Change in character of the cul-de-sac. Loss of amenity from through traffic to the school.
- p) Loss of green space (2) Will the development become permanent? The road is unlikely to be removed. Impact on the public footpath.
- q) A tree survey has not been submitted. Trees removed will not be replanted.
- r) The ecological appraisal relates to the wider permanent school proposal and not the temporary learning village. Loss of wildlife habitat (2) particularly for a temporary development. Impact on grass snakes. Impact of lighting on bats.

Other matters

- s) The residents pay for the maintenance of the open space by an estate management company (3). The developer should take over maintenance costs and the open space areas should be adopted.
75. Councillor Matt Barney and Councillor Reg Adair have been notified of the application.
76. The issues raised are considered in the Observations Section of this report.

Observations

77. The applicant anticipates that the school granted outline planning permission under application reference 8/21/01029/CTY will not be completed and provided with suitable safe access for the beginning of the 2022/23 academic year due to housebuilder construction activity taking place on the David Wilson Homes site. The applicant has demonstrated an urgent need for pupil places in the East Leake Pupil Place Planning area by September 2022 and is proposing to address this through temporary school provision on the future playing field of the permanent school site. Other schools in the East Leake Pupil Place Planning Area have no additional capacity and cannot be expanded. Taking children to

schools outside the Pupil Place Planning Area by bus is not desirable in terms of providing services where they are needed to support the local community, the well-being of children or travel sustainability.

78. The provision of a school on the land east of the public footpath is acceptable in principle, having formed part of the application granted planning permission for the Persimmon Homes development with the s106 Agreement making provision for access to the site. Although details of the proposed permanent school pursuant to planning permission 8/21/01029/CTY have yet to be submitted, from the indicative plan submitted and approved points of vehicular and pedestrian access, it is expected that the location of a temporary school on an area of future playing field separated from the school building construction site by the belt of mature trees would not adversely affect construction of the permanent school. The playing field would not be available at the time the permanent school first opens as the site of the temporary school would need to be cleared and the playing field constructed.
79. The permanent school will be accessed from Sheepwash Way on foot and, for some parents, parking on Sheepwash Way may be convenient. The likelihood and potential impact of parents parking on Sheepwash Way around school start and finish times has already been assessed as part of the grant of outline planning permission 8/21/01029/CTY. The impact on the highway of a 210 place school with 26 place nursery in the first phase of that permission has been determined to be acceptable with an expansion to 420 places to take place following an assessment of traffic impacts. Condition 32 of the outline planning permission states:

Phase 2

32. The expansion to 420 pupil places (Phase 2) shall not commence until:
- a) a methodology for a base-line traffic survey has been submitted to and approved in writing by the CPA;
 - b) a traffic survey has been undertaken in accordance with methodology approved in compliance with Condition 32a);
 - c) a Transport Statement that demonstrates that the expansion of the school will not give rise to unacceptable highway traffic and amenity impacts, along with:
 - i) any mitigation; and
 - ii) a proposed timescale for the implementation of mitigation measures in advance of the Phase 2 school opening;

has been submitted to and approved by the CPA in writing. Development shall be carried out in accordance with the approved details.

Reason: In the interest of highway safety and amenity.

80. It is considered that the traffic impact of the proposed temporary Learning Village with a maximum of 120 children on the school roll served by a single point of access would be similar to a 210 place school and 26 place nursery with two points of access, although nursery start/finish times could vary from those of

the school. The Transport Statement supporting the application concludes that the impact on the surrounding highway network will be negligible and this view is not challenged by Highways Development Control (Paragraph 50).

81. Although the temporary school would have capacity for 120 children the applicant has explained, drawing on the examples of Rosecliffe (which opened with a temporary Learning Village) and Hucknall Flying High schools that with the exception of Reception year which filled to the Published Admission Number (PAN) other year groups have not filled to their PAN capacity. Applying the experience elsewhere to the proposed temporary school suggests there may be approximately 80 children on the school roll, with reduced traffic impact as a consequence. Although the application considers the worst-case traffic impact of the temporary school operating at capacity it is considered likely that the traffic impact would be less than that which has been assessed.
82. Notwithstanding the Transport Statement conclusion that the school will have negligible impact on the highway network, a school accessed from the end of a cul-de-sac, albeit for a temporary period, is far from ideal and does not include any on-site provision for pupil drop-off and pick-up by parents choosing to drive their children to and from school. The permanent school is to be directly accessed from the David Wilson Homes development loop road, but will also be accessible from Sheepwash Way along the cycle/pedestrian link provided as part of that residential development. Where such connectivity is provided it is likely to attract traffic, although the degree to which it is used will depend on how convenient it is to park.
83. The roads within the Persimmon Homes development have extended lengths of dropped kerb that provide continuous frontage parking to properties. Excluding the turning head and private drives it is estimated that there is on-street parking for approximately 12 cars on Sheepwash Way and Skipper Close in reasonable proximity to the proposed school site, although there is off-street parking available on the wider highway network (Plan 2). The limited availability of on-street parking may influence the behaviour of some parents in their choice of whether to drive or walk to school. The provision of cycle parking will offer an enhanced opportunity to travel to school other than by car (Condition 17).
84. It will be important to minimise risk to safety and to ensure that traffic turning at the end of Sheepwash Way is not obstructed. A school zone likely comprised of School-Keep-Clear markings and double yellow lines around the turning head will be required and along with other measures that are considered appropriate such as junction protection. The scheme can investigate the suitability and need for improvements to the roundabout at the junction of Sheepwash Way and Kirk Ley Road attributable to the proposed temporary school, highlighted by Rushcliffe Borough Council in their consultation response (Condition 16). The scheme submitted to satisfy the condition would be considered in consultation with NCC Road Safety Team. A Traffic Regulation Order will require the agreement of Persimmon Homes as landowner, ahead of the adoption of the road network as public highway. A Traffic Regulation Order will be the subject of separate process and public consultation, the cost of which would be met by the applicant. Should the making of a Traffic Regulation Order fail through the

democratic process, residents would be impacted by unrestricted highway parking.

85. Concern has been raised about obstructive parking. Having regard to the distance still to be walked and parked cars being out of sight of the school gate it is considered that parents are less likely to park so as to obstruct access to properties. It is not possible to fully design for behaviour that would be contrary to the Highway Code or common courtesy. The school has a role in educating parents through a School Travel Plan (Condition 22).
86. In this instance it is acknowledged that the proximity of the school entrance to Sheepwash Way, the school single point of access being from a cul-de-sac and lack of potential on-street parking is not ideal and is mitigated only by the proposed arrangement being for a single academic year. Furthermore, should the school operate at less than its potential capacity traffic impacts will be proportionately reduced. The anticipated parking issues would not occur outside of the operational school terms.
87. It is suggested in representations that better provision could be made for parent drop-off and pick-up so as to avoid congestion in the turning head at the end of Sheepwash Way (Paragraph 73c)). That would require additional land to be included in the planning application but does not form part of the proposed development submitted for determination. The s106 attached to the Persimmon Homes development is limiting in terms of what is required to be permitted by the housebuilder (the site having free construction access and being capable of having vehicular and pedestrian access to the public highway, and rights of access and safe access to the school on opening) and does not include the land being used for any purpose such as car parking during drop-off and pick-up. Furthermore, the provision of a turning and drop-off/collection facility would have greater impact on the area of open space and is not something that is to be provided as part of the permanent school development granted planning permission under reference 8/21/01029/CTY.
88. Although not a planning consideration, giving parents uncontrolled access to the temporary road brings with it an insurance liability. The potential for conflict between vehicles travelling and turning on a temporary road not constructed to a suitable permanent standard, and children walking with parents along the temporary road could lead to safety issues which are material. In the proposal presented for determination, pedestrian and vehicular movement would be segregated at the end of Sheepwash Way and is considered an acceptable design solution. Access to the temporary road would be controlled from the school office and only parents with a disability need would be allowed to use the temporary access road to access the site by vehicle (Condition 23), and would board and alight within the school car park. The application proposes a safe, segregated and lit route to the school gate for pedestrians and, other than along the short length of public footpath East Leake FP5, for cyclists.
89. While the school would be provided on a small site the applicant has confirmed that the proposed temporary facilities would be suitable for the delivery of education. The four classrooms are all larger than the minimum size

recommended by the DfE (Area guidelines for mainstream schools, Building Bulletin 103) and each would be of a suitable size to educate 30 pupils to the high standard set by the Academy Trust. The classrooms and administration block are already constructed and have been previously used successfully at Rosecliffe Spencer Academy.

90. The non-teaching and external areas have been designed in consultation with the Academy Trust, and include suitable hard and soft areas for outdoor play and PE and in addition a specially turfed area for outdoor games and sport, with the designers and Academy satisfied that the proposed temporary village will give adequate space and facilities for pupil to receive a high standard of education prior to the permanent school building opening.
91. The design of the proposed single storey complex of buildings is utilitarian. Although not of a standard of design that allows for their permanent retention, the siting, design and appearance of the temporary school buildings would not unacceptably detract from the amenity of the area and neighbouring residents for the short life of the permission. Rushcliffe Local Plan Part 2 Land and Planning Policies (October 2019) (RBC-LPPT2) Policy 1 *Development Requirements* lists criteria for new development. Whilst the policy includes a requirement for development to be sympathetic to the character and appearance of the area, the appearance of the temporary buildings would not be dissimilar to construction site offices and other temporary buildings on the wider housing construction sites locally. Although the buildings would not be screened they would only be on site for a relatively short period, harm that may be caused would be wholly reversed on expiry of the permission and is not outweighed by the benefit of providing school places needed for children in the East Leake Pupil Place Planning area.
92. 14 full-time members of staff would be employed and the proposed 18 space car park is of a suitable size for staff and visitors. There would normally be an expectation that provision is made for electric vehicle charging. However, taking into account the short life of the temporary development for one academic year a requirement for EV charging is not considered reasonable and as such would not meet the tests for conditions set out in NPPF Paragraphs 55-57 - *Planning Conditions and Obligations*, and in addition would add to the cost of this short-term project. Although not recommended as a planning requirement the applicant make may wish to provide for EV charging.
93. Having regard to the distance of outdoor play areas being in excess of 100m from the nearest residential receptors, the impact of outdoor play by up to 120 children would not significantly detract from residential amenity. Although recommended in the consultation response from Rushcliffe Borough Council, having regard to the distance from sensitive receptors it is not considered necessary to require further details of the noise rating of the air source heat pump. In the event of a statutory noise nuisance arising the Borough Council's Environmental Health Officer can take appropriate enforcement action.
94. The noise impact of construction should be controlled, and an Environment Management Plan should include liaison with local residents and procedure to

be followed in the event of a complaint (Condition 9 and Note 1). A site investigation for potential contamination is recommended (Condition 11). Any imported aggregate or soils should be tested to confirm an absence of contamination making them suitable for their intended use (Condition 10).

95. With reference to the representation about the lack of a tree survey and loss of trees on the area of open space BS 5837 (2012) – *Trees in Relation to Design, Demolition and Construction* sets out that a tree survey should be carried out to identify trees with a diameter of 75mm measured at a height of 1.5m. The trees impacted by the proposed access road across the open space have been planted relatively recently and do not need to be surveyed. Whilst not of significant amenity or ecological value at their current size, the loss of trees on the open space is a material consideration and following the removal of the access road like-for-like replacement planting would be subject to a 5 year maintenance and replacement condition (Condition 28). The trees that would be affected by the development can be replanted elsewhere including locations within the adjacent open space, but would be on land outside of the planning application site. Although relocation to land outside the planning application site cannot be made a planning condition an Informative is recommended (Note 4).
96. There would be merit in the surface water balancing pond being designed to offer wider amenity benefits and ecological enhancement. However, the pond is being designed to be functional to meet the surface water drainage requirements of the temporary school, and will need to be reviewed as part of the permanent school proposal when appropriate ecological enhancement can be delivered as part of that development. The pond will be outside the secured school fence line so would not present an operational risk to the school. The applicant will have an obligation to ensure that the risk of an open water feature on the site is considered in their design but does not need to be subject to a specific planning condition.
97. The presence of grass snake has been identified on the site and it is recommended that a hibernacula is provided in a suitable location where it will not need to be disturbed by the future provision of playing fields as part of the permanent school (Condition 13 and Note 2).
98. Rushcliffe Borough Council has made other recommendations that would deliver greater ecological benefit and the provision of more sustainable design features, many of which would offer long-term benefits and be applicable to the permanent school site. Where relevant and proportionate to the proposed temporary school development they have been incorporated in recommended conditions and Informatives.
99. Representations have been received about the loss of public open space, resulting from the construction of the temporary access road which is subject of a maintenance charge paid by residents. In response the applicant has stated that *under a Section 106 Agreement relating to this site and dated 27 November 2015, the Developer (Persimmon Homes) is required to provide an access to the School Land. The only land under the control of the Developer is that currently planted out as open space; this is therefore the only available point of*

access to the School Land. The Council will not be adopting any of the public open space. Residents may wish to make their own enquiries of the management company to whom they pay annual fees for the maintenance of the subject space, as to how annual fees will be adjusted during the period that the temporary road is in use. For the purpose of determining this planning application the applicant has served Notice on the landowner as required by legislation. The applicant will need to secure appropriate rights in order to implement a permission.

100. It is a material consideration that planning permission for the Persimmon Homes residential development was approved, albeit on appeal, with a site for a school identified on land subject of this application. The site has its shortcomings in terms of the operational impacts of a school taking vehicular access directly from Sheepwash Way, but the impacts of this temporary school for a period of one academic year will be relatively short-lived.
101. It is recommended that planning permission is granted for a temporary period until 31 July 2023 by which time the permanent school building will have been completed with a view to opening in September 2023. Recommended conditions allow a period until 31 October 2023 for the removal of the temporary school buildings and works, and 31 December 2023 for the removal of the temporary access road which should allow sufficient time for any works related to the proposed permanent school playing field to be undertaken, and is consistent with the recommendation of Rushcliffe Borough Council (Condition 27).
102. Only the balancing pond on the site, the improvement to public footpath East Leake FP5, the bound surfacing of the pedestrian route between the public footpath and Sheepwash Way, and improvement to pedestrian and cyclist connectivity adjacent to the Sheepwash Way turning head would be retained. Other elements of the development would be removed with the open space reinstated and landscaped to its pre-development condition and appearance following the removal of the temporary access road.

Other Options Considered

103. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly, no other options have been considered.

Statutory and Policy Implications

104. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate

consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder and Safeguarding of Children Implications

105. The perimeter of the proposed operational temporary school would be enclosed by security fencing.

Data Protection and Information Governance

106. Any member of the public who has made representations on this application has been informed that a copy of their representation, including their name and address, is publicly available and is retained for the period of the application and for a relevant period thereafter.

Financial Implications

107. As detailed in paragraph 84 above, the applicant would be expected to cover all reasonable legal costs incurred by the County Council in the making of a Traffic Regulation Order.

Human Rights Implications

108. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered and may be affected due to vehicle movements associated with the proposed development. The proposals have the potential to introduce amenity impacts upon nearby residents arising from frequent comings and goings. However, these potential impacts need to be balanced against the wider benefits the proposals would provide through the provision of school places. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

Implications for Service Users

109. The proposal would make timely provision of school places within the East Leake Pupil Place Planning area.

Implications for Sustainability and the Environment

110. These have been considered in the Observations section above.
111. There are no Human Resources, Public Sector Equality Duty implications, or implications for Safeguarding of Adults at Risk.

Statement of Positive and Proactive Engagement

112. In determining this application the County Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

113. It is RECOMMENDED that planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the conditions set out in Appendix 2. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 30.11.2021]

Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

Financial Comments [SES 30.11.2021]

The financial implications are set out in paragraph 107 of the report. As detailed in paragraph 84 above, the applicant would be expected to cover all reasonable legal costs incurred by the County Council in the making of a Traffic Regulation Order.

Background Papers Available for Inspection

The application file is available for public inspection by virtue of the Local Government (Access to Information) Act 1985 and can be viewed at:

www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=FR3/4342

Electoral Division and Members Affected

Leake & Ruddington

Cllr Matt Barney

Leake & Ruddington

Councillor Reg Adair

Report Author/Case Officer

David Marsh

0115 9932574

For any enquiries about this report, please contact the report author.

FR3/4342

W002257.doc

When telephoning, please ask for :

Paul Taylor OFFICIAL

Telephone no :

Email:

Our Reference : 21/02694/CTY

Your Reference : FR3/4342

Date : 12 November 2021



Mr David Marsh,
Nottinghamshire County Council.
Via Email.

Dear Mr Marsh,

Re: Erection of 120 Place Temporary School Learning Village Accommodation with temporary lit access road and permanent lit access path. Associated areas of soft play, canopies, car parking and surface water balancing pond at Land North of Rempstone Road, East Leake Nottinghamshire.

I refer to your request for comments on the above application as per your letter dated 28 September 2021.

The application was considered by Members of the Planning Committee on the 11 November 2021 who, whilst supportive of the proposal, did request that officers express their concerns regarding the following matters:

- Highways issues at pick-up and drop-off times of school children on the hammer head and potential parking conflicts during these times along Sheepwash Way.
- Safety concerns regarding the design and layout of the roundabout on Kirk Ley Road and the signage around this feature, particularly for children crossing the highway at these points to access the school via Sheepwash Way.
- Request for consideration of a Traffic Regulation Order (TRO) on Sheepwash Way and surrounding streets during school pick-up and drop-off times.

Members of the Planning Committee therefore requested that serious consideration to the above, and ultimately the Planning Committee resolved that the County Council be informed that the Borough Council **does not object** to the proposal subject to the following conditions and informative notes (along with any other conditions that the County Council consider appropriate):

1. All structures, including their foundations and hard surfacing associated with the temporary school buildings hereby permitted must be removed from the land on or before 31 December 2023. However, the vehicular access along with any items/chattels including (but not limited to) the access gates, the vehicular access lighting shall not be removed until the

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Wednesday
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Friday
8.30am - 4.30pm

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Council
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West Bridgford
Nottingham
NG2 7YG



playing fields associated with the permanent school, granted outline permission under application ref 8/21/01029/CTY, have been completed. Thereafter all the land associated with this permission shall be restored to its former condition within 3 months of the permanent school opening.

2. The development hereby permitted must not proceed above foundation level until details of the type, texture and colour of the materials to be used in the construction of the exterior of the structures hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development must only be constructed in accordance with the approved materials.
3. The development hereby approved shall not commence until the recommendations listed in the Preliminary Ecological Assessment Report (PEAR), the Reptile Report and the Great Crested Newt (GCN eDNA) Report have been undertaken and the relevant reports containing any mitigation measures have been submitted to the Local Planning Authority. Thereafter the development shall be carried out in accordance with the recommendations contained within the details and retained as such for the lifetime of the development.
4. The development hereby permitted shall commence until a Landscaping Scheme (LS), has been submitted to and approved in writing by the Local Planning Authority. The LS must provide details of all hard and soft landscaping features to be used and include the following:
 - An accurate survey of all existing trees and other natural features showing those to be retained and those to be removed along with details for the restoration of any trees lost as a result of the proposal.
 - Detailed plans showing the location of all new trees and shrubs to be planted, including the number and/or spacing of shrubs in each shrub bed or hedgerow.
 - A schedule of the new trees and shrubs (using their botanical/Latin names) to be planted including their size at planting (height or spread for shrubs, height or trunk girth for trees).
 - Plans showing the proposed finished land levels/contours of landscaped areas.
 - Details of all proposed hard surfaces areas, retaining structures, steps, means of enclosure, surface finishes and any other hard landscaping features.
 - Details of the protection measures to be used of any existing landscape features to be retained.

The approved LS must be carried out and completed in accordance with the approved details no later than during the first planting season (October – March) following either the substantial completion of the development hereby permitted, or it being first brought into use, whichever is sooner.

If, within a period of 5 years of from the date of planting, any tree or shrub planted as part of the approved LS is removed, uprooted, destroyed, dies or become diseased or damaged then another tree or shrub of the same

species and size as that originally planted must be planted in the same place during the next planting season following its removal.

Once provided all hard landscaping works shall thereafter be permanently retained throughout the lifetime of the development.

The landscape protection measures shall be retained for the duration of the construction period. No materials, machinery or vehicles are to be stored or temporary buildings erected within the perimeter of the fence, nor is any excavation work to be undertaken within the confines of the fence without the written approval of the Borough Council. No changes of ground level shall be made within the protected area without the written approval of the Borough Council.

5. The development hereby permitted must not commence and no preparatory operations in connection with the development hereby permitted (including demolition, site clearance works, fires, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) shall take place on the site until a detailed Arboricultural Method Statement (AMS) prepared in accordance with BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations', has been submitted to and approved in writing by the Local Planning Authority and all protective fencing has been erected as required by the AMS. The AMS must include full details of the following:
- a. The timing and phasing of any arboricultural works in relation to the approved development.
 - b. Detailed tree felling and pruning specification in accordance with BS3998:2010 Recommendations for Tree Works.
 - c. Details of a Tree Protection Scheme in accordance with BS5837:2012 which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site which are to be retained or which are the subject of any Tree Preservation Order.
 - d. Details of any construction works required within the root protection area as defined by BS5837:2012 or otherwise protected in the Tree Protection Scheme.
 - e. Details of the location of any underground services and methods of installation which make provision for protection and the long-term retention of the trees on the site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no services shall be dug or laid into the ground other than in accordance with the approved details.
 - f. Details of any changes in ground level, including existing and proposed spot levels, required within the root protection area as defined by BS5837:2012 or otherwise protected in the approved Tree Protection Scheme.
 - g. Details of the arrangements for the implementation, supervision and monitoring of works required to comply with the AMS.

6. a) Notwithstanding the Preliminary Risk Assessment from VIA East Midlands (Job No: CN2050801 dated November 2020) submitted with the application, the development (excluding any demolition) hereby permitted must not commence until a written report of the findings of an exploratory Site Investigation (SI) with either a generic and/or detailed quantitative risk assessment of those findings has been submitted to and approved in writing by the Local Planning Authority. The SI must be prepared by a suitably qualified 'competent person' (as defined in the National Planning Policy Framework 2021) and must be in accordance with the Environment Agency's 'Land Contamination Risk Management' (LCRM).
- b) Where the findings of the submitted SI identifies unacceptable risks to human health and/or the environment, the development (excluding any demolition) hereby permitted must not commence until a detailed Remediation Scheme (RS) has been submitted to and approved in writing by the Local Planning Authority.
The submitted RS must include:
- full details of how the contamination on the site is to be remediated and include (where appropriate) details of any options appraisal undertaken;
 - the proposed remediation objectives and criteria; and,
 - a verification plan.
- The RS must demonstrate that as a minimum the site after remediation will not be capable of being classified as contaminated land under Part 2A of the Environmental Protection Act 1990.
- c) The development hereby permitted must not be occupied or first brought into use until the site has been remediated in accordance with the approved RS and a written Verification Report (VR) confirming that all measures outlined in the approved RS have been successfully carried out and completed has been submitted to and agreed in writing by the Local Planning Authority. The VR must include, where appropriate the results of any validation testing and copies of any necessary waste management documentation.
7. Any topsoil (natural or manufactured), or subsoil that is to be imported onto the site must be assessed for chemical or other potential contaminants in accordance with a written scheme of investigation which shall be submitted to and approved in writing by the local planning authority prior to the material being brought onto the site. Only material that has been tested in accordance with the approved investigation scheme shall be imported onto the site.
8. The development hereby permitted shall not commence and no preparatory operations in connection with the development (including site clearance works, fires, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) shall take place on the site until a site specific Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP must include details outlining:

- Appropriate provision for the parking of vehicles within the site belonging to construction operatives and/or visitors.
- Areas for loading and unloading plant and materials.
- The location and appearance of any site compound/material storage areas, including heights of any cabins to be sited and details of any external lighting.
- Measures to control the emission of dust and dirt during construction.
- Measures for the storage/recycling/disposal of waste resulting from the construction works.
- Any hoarding to be erected.
- Details of the construction hours; and
- Details of delivery hours to the site.

The approved CMP must be adhered at all times throughout the construction period for the development.

9. Prior to the construction of any of the temporary buildings being brought onto site, a scheme for the provision of Electric Vehicle Charging Points (EVCP's) must be submitted to and approved in writing by the Local Planning Authority. The submitted scheme must include details of the type, number and location of the proposed EVCP apparatus. The school building(s) shall not be brought into use until the EVCP's have been installed in accordance with the approved scheme. Thereafter EVCP's must be permanently retained in accordance with the approved scheme throughout the lifetime of the development.
10. Any aggregate (other than virgin quarry stone) that is to be imported onto the site must be assessed for chemical or other potential contaminants in accordance with a written scheme of investigation which shall be submitted to and approved in writing by the local planning authority prior to the material being brought onto the site. Only material that has been tested in accordance with the approved investigation scheme shall be imported onto the site.
11. Details of all external lighting (including security lighting and floodlights) [together with a lux plot of the estimated illuminance] shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. All lighting will need to conform to the Institute of Lighting Engineers document 'Guidance Note 01/20 Guidance note for the reduction of obtrusive light'. Thereafter the approved lighting shall be installed in accordance with the approved details and be retained as such for the lifetime of the development.
12. Before the uses commenced, the noise levels for the air source heat pump that is to be installed shall be submitted to and approved by the Borough Council. If this information is inconclusive or not complete, then the applicant will be required to undertake a full noise assessment in accordance with BS 4142: 2014+A1: 2019 Methods for rating and assessing industrial and commercial sound. This report will need to make it clear that the plant/equipment is capable of operating without causing a noise impact on neighbouring properties.

13. Within six months of the commencement of development details of a School Zone incorporating off-site highway works (pedestrian guardrail, markings, associated signage and other measures as appropriate) within the vicinity of the school vehicular and pedestrian entrance within the Persimmon Homes site and the roundabout crossings on Kirk Lea Road shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the School Zone shall be implemented in accordance with the approved details.
14. Prior to the approved school first being brought into use details of measures to prevent errant parking in the vehicle turning head of Sheepwash Way shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved measures shall be implemented in accordance with the approved details and retained in perpetuity.

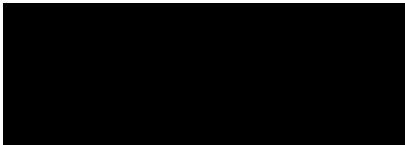
Informatives

- The technical input of the Highway Authority, the Lead Local Flood Authority, Public Rights of Way Team and Archaeological Team are recommended to be sought and consideration be given to the environmental credentials of the building through the use of solar panels, grey water harvesting, EV charging points etc.
- The Borough Council also advises the County Council to consider the implications of the Traffic Regulation Orders in and around Sheepwash Way in the event that such controls are not secured through the democratic process.
- Further consideration should be given to the impact of the construction of the development upon the biodiversity habitat of the surrounding area as well as an ecological enhancement scheme being secured as part of the development.
- Consideration should be given to a dedicated vehicular drop-off/pick-up zone outside of the school, including for buses/coaches.
- Consideration should be given to the provision of a dedicated gathering area for parents/guardians etc. so as not to block the public footpath/ pavements/ cycle paths for other users at school start and end times.
- If works have not commenced by Jul 2023 an update ecological survey is required.
- A 15m buffer (Ecologically Sensitive Area) should be maintained from brook and wet ditch during works and post works.
- If trees (T-T8) are to be impacted by the development a further Ecological Assessment must be undertaken.
- A reptile mitigation plan should be supplied and approved by the local planning authority, based on the recommendations of the consultant ecologist. This plan should be implemented throughout the development and post construction.
- A demonstrated biodiversity net gain should be provided where possible as recommended by CIRIA (2019) Biodiversity Net Gain – Principles and Guidance for UK construction and developments, with the means to implement in the long term, supported by a Ecological and Landscape Management Plan.

- An ecological construction method statement incorporating reasonable avoidance measures (RAMs), should be agreed and implemented including the good practice points below and those supplied by the consultant ecologist [REDACTED]
- The use of external lighting (during construction and post construction) should be appropriate to avoid adverse impacts on bat populations, see <https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting> for advice and a wildlife sensitive lighting scheme should be developed and implemented.
- Permanent artificial bat boxes / bricks and wild bird nests should be installed within / on buildings. Features to support hedgehogs should be provided, including hedgehog corridors.
- New wildlife habitats should be created where appropriate, including wildflower rich neutral grassland, hedgerows, trees and woodland, wetlands and ponds.
- Any existing hedgerow / trees should be retained and enhanced, any hedge / trees removed should be replaced. Any boundary habitats should be retained and enhanced.
- Where possible new trees / hedges should be planted with native species (preferably of local provenance and including fruiting species). See <https://www.rushcliffe.gov.uk/conservation/treeshedgesandlandscaping/landscapingandtreeplanting/plantingonnewdevelopments/> for advice including the planting guides (but exclude Ash (*Fraxinus excelsior*)).
- Sustainable Urban Drainage schemes (SUDs) where required should be designed to provide ecological benefit.
- Good practise construction methods should be adopted including:
 - Advising all workers of the potential for protected species. If protected species are found during works, work should cease until a suitable qualified ecologist has been consulted.
 - Measures to ensure that the roof liners of any building do not pose a risk to roosting bats in the future should be taken.
 - No works, fires or storage of materials or vehicle movements should be carried out in or immediately adjacent to ecological mitigation areas or sensitive areas (including ditches).
 - All work impacting on vegetation or buildings used by nesting birds should avoid the active bird nesting season, if this is not possible a search of the impacted areas should be carried out by a suitably competent person for nests immediately prior to the commencement of works. If any nests are found work should not commence until a suitably qualified ecologist has been consulted.
 - Best practice should be followed during building work to ensure trenches dug during works activities that are left open overnight should be left with a sloping end or ramp to allow animal that may fall in to escape. Also, any pipes over 200mm in diameter should be capped off at night to prevent animals entering. Materials such as netting and cutting tools should not be left in the works area where they might entangle or injure animals. No stockpiles of vegetation, soil or rubble should be left overnight and if they are left then they should be dismantled by hand prior to removal. Night working should be avoided.

- Root protection zones should be established around retained trees / hedgerows so that storage of materials and vehicles, the movement of vehicles and works are not carried out within these zones.
- Pollution prevention measures should be adopted
- It is recommended that consideration should be given to climate change impacts, energy efficiency, alternative energy generation, water efficiency, travel sustainability (including electric vehicle and cycle charging points and cycle storage), management of waste during and post construction and the use of recycled materials and sustainable building methods.

Yours sincerely



Principal Area Planning Officer

RECOMMENDED PLANNING CONDITIONS

1. The development hereby permitted shall be begun within 3 years from the date of this permission.

Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The County Planning Authority (CPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement of the development hereby permitted.

Reason: To assist with the monitoring of the conditions attached to the planning permission and for the avoidance of doubt.

3. Unless otherwise required pursuant to conditions of this permission, the development hereby permitted shall be carried out in accordance with the submitted application (as amended), documents and recommendations of reports, and the following plans:

- (a) Location Plan (Drawing 29642-ARC-ZZ-00-DR-A-00020 D5 Rev P02) received by the CPA on 4 October 2021.
- (b) Proposed Site Plan (Drawing 29642-ARC-ZZ-00-DR-A-00022 D5 Rev P04) received by the CPA on 25 November 2021.
- (c) General Arrangement Plan (Drawing 29642-ARC-ZZ-00-DR-A-00023 D5 Rev P01) received by the CPA on 25 November 2021.
- (d) Proposed Elevations (Drawing 29642-ARC-ZZ-00-DR-A-00024 D5 Rev P01) received by the CPA on 25 November 2021.
- (e) Proposed Site Sections (Drawing 29642-ARC-ZZ-00-DR-A-00025 D5 Rev P03) received by the CPA on 25 November 2021.
- (f) Reinstatement Plan (Drawing 29642-ARC-ZZ-00-DR-A-00029 D5 Rev P03) received by the CPA on 25 November 2021.

Reason: For the avoidance of doubt as to the development that is permitted.

4. Notwithstanding details on the application form this permission shall approve the use of *Paladin* (not *Palisade*) perimeter security fencing. Development shall be carried out in accordance with the approved details.

Reason: For the avoidance of doubt as to the development permitted and in the interest of visual amenity.

5. Within a period of one month preceding the commencement of development a survey recording:
- a) the ground condition and appearance of the area of public open space; and
 - b) the location, species and size of trees

that will be impacted by the proposed temporary access road between Sheepwash Way and public footpath East Leake FP5 shall be submitted to and approved in writing by the CPA.

Reason: To record the area impacted to facilitate its later reinstatement.

6. No development shall commence before the submission to the CPA of an updated ecological survey for protected species recommended on page 36 of the submitted Preliminary Ecological Appraisal Report, with development to proceed in accordance with any relevant recommendations.

Reason: To ensure that development proceeds in accordance with up to date ecological information and recommendations.

7. Vegetation clearance works to be carried out between the months of March to August inclusive shall only be undertaken in accordance with a methodology which shall be first be submitted to and approved in writing by the CPA. Works to be carried out in accordance with the approved methodology shall only be undertaken following inspection by a suitably qualified ecologist and written confirmation from the ecologist first being submitted to the CPA that breeding birds would not be adversely impacted by the proposed clearance works.

Reason: To avoid disturbance to birds during the breeding season.

8. Unless in the event of an emergency, or as otherwise may be previously agreed in writing with the CPA:
- (a) no construction deliveries or work shall take place on Sundays, Public or Bank Holidays;
 - (b) no construction deliveries to site shall take place on any day other than between 07:30–18:00 hours Mondays to Fridays and 07:30– 13:00 hours on Saturdays;
 - (c) no construction work shall be carried out or plant operated except between 07:30–18:00 hours Mondays to Fridays and 07:30–13:00 hours on Saturdays.

Reason: To safeguard the amenity of nearby residents.

9. Prior to the commencement of development, details of the method of working during the construction phase, in the form of an environmental management plan, to include:
- (a) the routing of lorries to be used in construction between Sheepwash Way and the principal highway network (A6006);
 - (b) provision of parking for construction operatives and/or visitors;
 - (c) a scheme of noise mitigation measures to be implemented during construction, in order to minimise noise impacts to the lowest practicable levels;
 - (d) a scheme of liaison with neighbouring properties and the procedure to be followed in the event of a noise complaint;
 - (e) areas for the loading and unloading of plant and materials;
 - (f) a scheme for the recycling/disposal of surplus soils and waste resulting from construction;
 - (g) construction related lighting;
 - (h) measures to safeguard risk to mammals during the period of construction.

shall be submitted to and approved in writing by the CPA. All construction shall be undertaken in accordance with the approved details unless otherwise agreed in writing by the CPA.

Reason: Details are required prior to the commencement of development to protect the amenities enjoyed by the occupiers of nearby properties, in the interests of sustainable construction, and to safeguard against impacts on ecology.

10. Imported aggregates and soils shall be tested or otherwise certified to be free of contaminants and suitable for their intended use with regard to impacts on the environment and the end use of the development.

Reason: To safeguard against risk to the environment and human health.

11. No development approved by this planning permission shall be commenced until:
- a) a site investigation and risk assessment recommended in the submitted Phase 1 - Geo-Environmental Desk Top Study has been

completed and approved by the CPA has been completed; and (if contamination is identified)

- b) a Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters and on the proposed land use, using the information obtained from the site investigation, has been submitted to the CPA and approved in writing by the CPA prior to that remediation being carried out on the site.
- c) Prior to commencement of main site works, the approved remediation works shall be completed in accordance with the Method Statement approved in compliance with b) to the satisfaction of the CPA.

Where site remediation has been undertaken in compliance with this condition, a validation report including evidence of post remediation sampling and monitoring results, to demonstrate that the required remediation has been fully met shall be submitted to and approved in writing by the CPA prior to the development approved by this permission first being brought into use.

Reason: To ensure that the site is suitable for use in relation to the protection of human health and controlled waters.

- 12. Prior to the commencement of main site works, a watching brief for contamination shall be submitted to and approved in writing by the CPA. In the event that during development contamination not previously identified is found to be present, no further development shall take place in the area of contamination, unless first agreed in writing by the CPA, until a remediation strategy to deal with the identified contamination has been submitted to and approved in writing by the CPA. Development shall be carried out in accordance with the approved details.

Reason: Details are required prior to the commencement of main site works to ensure that the site is remediated to an appropriate standard.

- 13. Prior to the commencement of main site works, or such other timescale as may be agreed with the CPA, a hibernacula for grass snake shall be provided in accordance with the recommendations of the submitted Reptile Report in a location that shall first be approved in writing by the CPA.

Reason: In the interest of the ecology of the site and mitigation of the impact of development.

- 14. Prior to the commencement of main site works, foul water drainage works shall be submitted to and approved by the CPA in writing. The foul drainage works shall be completed prior to the development hereby approved first being brought in to use, in accordance with the approved details.

Reason: Details are required prior to the commencement of main site works to prevent the increased risk of flooding and to minimise pollution by ensuring the provision of a satisfactory means of foul water disposal.

15. Prior to the commencement of main site works a detailed scheme of sustainable surface water drainage, including demonstrating that the approved surface water balancing pond has sufficient capacity for the proposed development, shall be submitted to and approved in writing by the CPA. The scheme shall subsequently be implemented in accordance with the approved details and shall be completed prior to the development hereby approved first being brought into use.

Reason: Details are required prior to the commencement of main site works to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

16. Prior to the commencement of main site works details of a School Zone, which shall consider the need for improvements to the highway between (and including) the roundabout at the junction of Sheepwash Way with Kirk Ley Road, and along Sheepwash Way, and may include the making of a Traffic Regulation Order, signage and such other measures necessary to mitigate the impact of traffic and the provision of a safe route to the school, shall be submitted to and approved in writing by the CPA. The approved measures shall be implemented within a timescale agreed by the CPA and no later than the school first being brought into use.

Reason: Details are required prior to the commencement of main site works to mitigate the impact of traffic associated with construction, and in the interest of safe travel to school and the operation of the school.

17. Prior to being installed, the location, design details including height and appearance, of 10 covered cycle storage spaces shall be submitted to and approved in writing by the CPA. Development shall be carried out in accordance with the approved details.

Reason: For the avoidance of doubt as to the development permitted in the interest of visual amenity.

18. Notwithstanding details submitted in support of the application, prior to being installed:

- a) lighting times of external construction site lighting;
- b) lighting times of operational school temporary external lighting;

- c) a scheme for the operation of external security lighting outside of hours permitted by a) and b);
 - d) the location of external light fittings; and
 - e) a lighting scheme complying with Institute of Lighting Professionals Guidance for the Reduction of Obtrusive Light – Zone E2:
 - i) within the school site;
 - ii) lighting public footpath East Leake FP5, between the footpath linking public footpath East Leake FP5 to Sheepwash Way and the school entrance gate, from within the school site; and
 - iii) lighting of the temporary access road
- all to be designed taking account of the presence of and impact on bats, shall be submitted to and approved in writing by the CPA.

Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity, and to control the potential impact of external lighting on bats in order to ensure the favourable conservation status of a protected species.

19. Prior to the temporary school first being brought into use, and notwithstanding details approved in compliance with Rushcliffe Borough Council permission 20/00887/DISCON, the footpath between Sheepwash Way and the school entrance gate shall be surfaced with a bound material of a neutral colour appropriate to the location, details of which shall be first submitted to and approved in writing by the CPA. Furthermore, the footpath between Sheepwash Way and public footpath East Leake FP5 shall be lit in accordance with approval 20/00887/DISCON as a minimum during school start/finish times of darker months so as to provide a safe route between the school and the highway.

Reason: In the interest of pedestrian safety and in the interest of the visual amenity of the area.

20. Prior to being installed the design detail of the point at which the temporary access road crosses public footpath East Leake FP5 shall be submitted to and approved in writing by the CPA. The crossing point shall be grade separated, designed to slow vehicle speeds, and to give priority to pedestrian users both through physical measures and visual continuity of the surface finish. Development shall be carried out in accordance with the approved details.

Reason: To give priority to pedestrian users of public footpath East Leake FP5 in the interest of pedestrian safety.

21. The school car park approved by this permission shall be provided before the Learning Village is brought into use and shall be retained for its intended purpose throughout the life of the development.

Reason: To ensure the provision of on-site parking and manoeuvring to meet the operational needs of the school in the interest of highway safety.

22. Prior to school first being brought into use a School Travel Plan setting out measures to be employed in terms of:

- a) information to be provided to parents about the parking limitations of the temporary school, including considerate parking when making journeys to and from school by car;
- b) encouraging travel by means other than by car, including opportunities for cycling;
- c) education of children regarding safe travel to school

shall be submitted to and approved in writing by the CPA. The approved measures shall be employed for the duration of the development.

Reason: In the interest of highway safety and sustainable school travel.

23. The temporary access road approved by this permission shall be used only by school staff, for disability access, by operational service vehicles, or in the event of an emergency, and shall expressly not be used to access the school for parent drop-off and pick-up. The school shall keep the gate on the temporary access road nearest to Sheepwash Way closed at all times other than when being used for purposes authorised by this condition.

Reason: For the avoidance of doubt as to the development permitted and in the interest of safety of users of the site.

24. The school shall not permit pedestrian access to the school site from the temporary access road. All pedestrian access to the school site shall be along pedestrian routes.

Reason: To ensure the use of safe routes to school within the application site segregated from vehicular traffic.

25. The number of children on the school roll shall not exceed 120.

Reason: For the avoidance of doubt as to the development permitted. Traffic impacts have been assessed on the basis of a maximum school roll of 120 children.

26. This permission is granted for a time-limited period that shall expire on 31 July 2023 at which point the buildings and other works authorised by this permission, other than as set out in Condition 27 shall be removed and the site restored in accordance with Condition 28 of this permission.

Reason: Planning permission is granted for a temporary period with consideration of the difficulties related to the timely delivery of a permanent school building on an adjacent site. The design and appearance of the school buildings are not considered to be an appropriate architectural standard such that a permanent grant of planning permission should be permitted.

27. With the exception of

- the balancing pond;
- the improvement to public footpath East Leake FP5;
- the bound surfacing of the pedestrian route between the public footpath and Sheepwash Way; and
- improvement to pedestrian and cyclist connectivity adjacent to the Sheepwash Way turning head

approved by this permission, all temporary surfacing, buildings and fencing authorised by this grant of planning permission, unless being developed in accordance with grant of planning permission 8/21/01029/CTY or other planning permission which may have been first approved, shall be removed from the site by not later than 31 October 2023, with the exception of:

- i) the temporary access road between Sheepwash Way and the school site, including the culverted ditch crossing;
- ii) the Sheepwash Way footway crossing;
- iii) temporary access road gate; and
- iv) fencing separating the temporary access road from the adjacent open space

which shall all be removed by no later than 31 December 2023. The footway crossing to the temporary access road at the turning head of Sheepwash Way shall be reinstated to an adoptable standard by no later than 31 December 2023.

Reason: The Learning Village buildings and associated works are not of an acceptable design and appearance as permanent features of the site and their retention would detract from the visual amenity of the area. An extended period for the temporary retention of the access road would allow construction access to the lower part of the approved permanent school site.

28. The ground on which the temporary road between Sheepwash Way and public footpath East Leake FP5 has been constructed, and the area immediately adjoining impacted by the temporary works, shall be reinstated as public open space to a standard equivalent to its condition and appearance recorded in compliance with Condition 5, in accordance with a scheme of landscaping including:

- a) tree and shrub species, locations, planting size, and planting density;
- b) grass seed mix;
- c) establishment methods (including tree pit detail);
- d) schedule of maintenance including a Landscape Management Plan to guide ongoing management of created and retained habitats

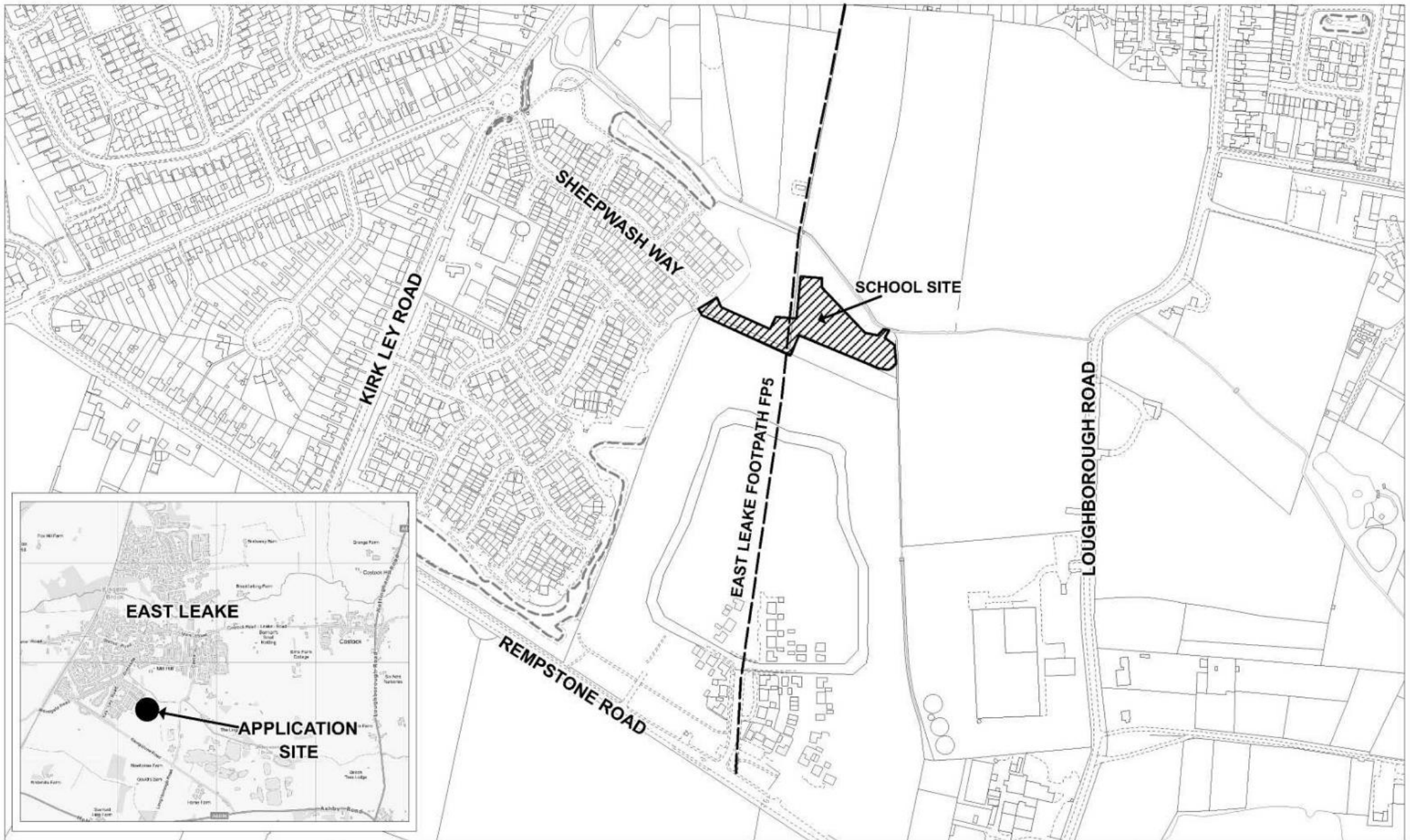
which shall first be submitted to and approved in writing by the CPA. Other than as may be agreed in the programme for the provision of landscaping and planting, the approved reinstatement landscaping and planting scheme shall be completed not later than Spring 2024 being the first planting and sowing seasons following the removal of the access road temporarily authorised by this permission. Any tree, plant, shrub or grass seeding that fails to become established within 5 years of the completion of the approved planting and landscaping scheme shall be replaced to the satisfaction of the CPA.

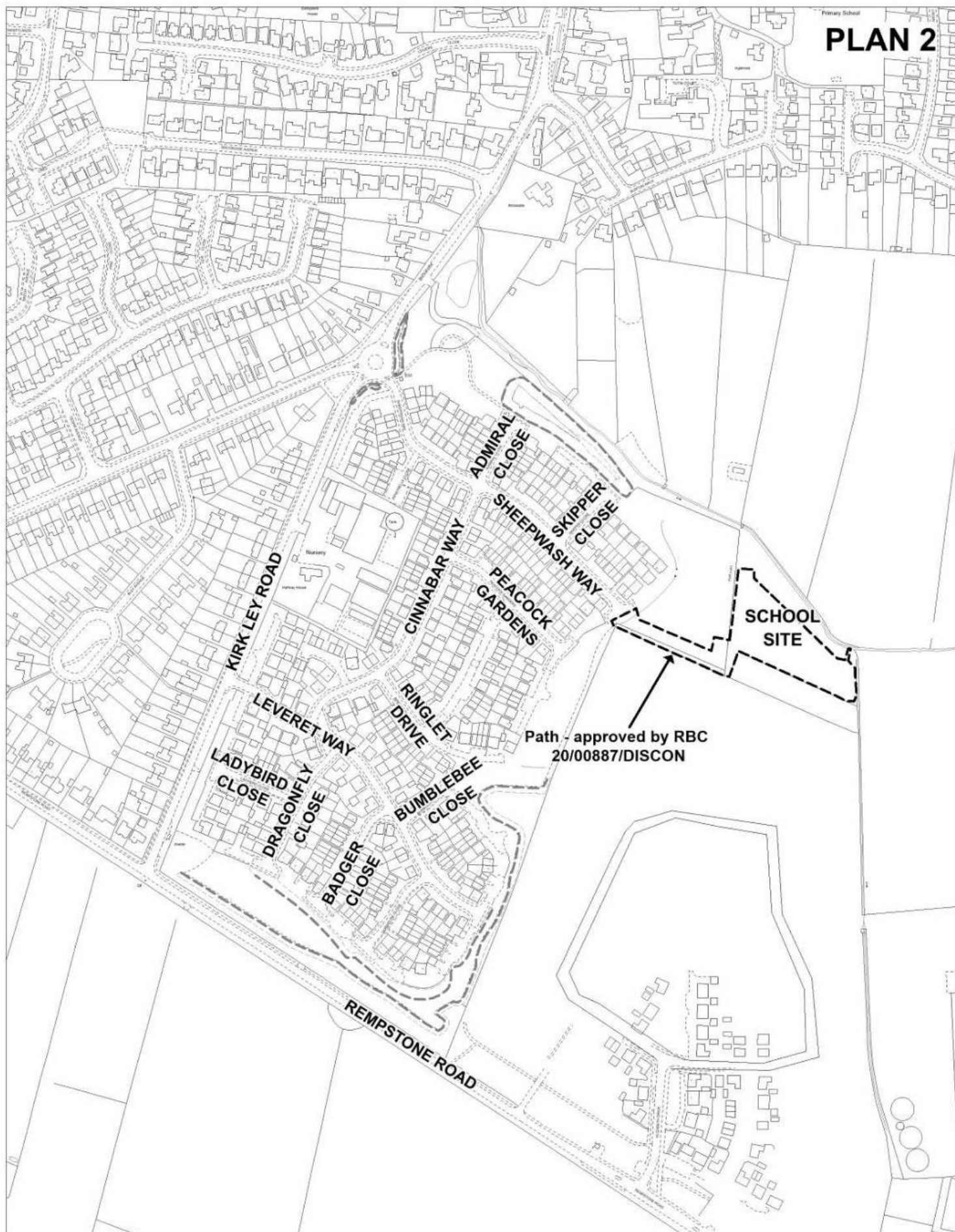
Reason: In the interest of visual amenity.

Informatives/notes to applicants

- 1. With reference to Condition 9, it is advised that the contractor should employ appropriate controls, following recommended guidance in BS5228-1:2009 (Code of practice for noise and vibration control on construction and open sites) to ensure that any noise impacts are kept to a minimum.
- 2. With reference to Condition 13, the hibernacula should be located where it will not need to be further disturbed when providing playing fields for the permanent school, and should be in the general location of where the grass snake has been identified by survey.

3. With reference to Condition 16, it may be appropriate to implement some School Zone measures early within an agreed timescale, such as a Traffic Regulation Order, to mitigate the impact of construction traffic.
4. Consideration should be given to the temporary relocation of trees impacted by the development, ideally on the adjacent area of open space, although this will require the consent of the land owner. The three trees impacted by the siting of the temporary school buildings could be replanted on the permanent school site in suitable locations taking account of the future school playing field layout.
5. NCC Rights of Way advises that a Temporary Traffic Regulation Order to close public footpath East Leake FP5 for public safety may be required for construction. An alternative route can be offered for the duration of the closure. Where the path can be kept open safely during construction a banksman should be used to safeguard the public using the footpath. No structures are to be installed on the public footpath without the prior authorisation of the highway authority. On reinstatement of the site, cycle signage should be altered to correctly sign authorised cycle routes, with a waymark post installed at the point where the cycle track splits from the public footpath to ensure clarity of the route. A post can be supplied.
6. The consent of Severn Trent Water will be required for either a direct or indirect connection to the public sewerage system under the provisions of Section 106 of the Water Industries Act 1991. Current guidance notes and an application form can be found at www.stwater.co.uk or by contacting Severn Trent Water New Connections Team (01332 683369).
7. Severn Trent Water advise that although the statutory sewer records do not show any public sewers within the site, there may be sewers that have been recently adopted under The Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and the applicant is advised to contact Severn Trent Water to discuss the proposal. Severn Trent Water will seek to assist in obtaining a solution which protects both the public sewer and the building.







14 December 2021**Agenda Item: 6****REPORT OF CORPORATE DIRECTOR – PLACE****GEDLING DISTRICT REF. NO.: 7/2020/1223NCC****PROPOSAL: RETENTION OF A NEW BUILDING FOR THE END OF LIFE VEHICLE
FACILITY****LOCATION: COLWICK BUSINESS PARK, ROAD NO 2, COLWICK, NG4 2JR****APPLICANT: MR. JONATHAN ALLSOP****Purpose of Report**

1. To consider a planning application for the retention of a building used as an End of Life Vehicle (ELV) facility at Chris Allsop's Metal Recycling at Colwick Business Park, Private Road No 2, Colwick. The key issue relates to flood risk management. The recommendation is to grant planning permission subject to the conditions set out in Appendix 1.

The Site and Surroundings

2. The site is situated within Colwick Industrial Estate, approximately four kilometres east of Nottingham City Centre. Colwick Industrial Estate is extensive and incorporates a variety of uses including light and general industry, warehousing and waste transfer facilities (see Plan 1).
3. The application site is located within the Chris Allsop Business Park which is on the south western edge of Colwick Industrial Estate. The business park is adjoined by residential properties on its south-western boundary, a waste transfer station on the north-eastern boundary, the River Trent on its south-eastern boundary and industrial units on the north western boundary on the opposite site of Private Road No. 2.
4. The planning application site incorporates approximately 40% of the Chris Allsop land ownership. The boundaries of the site have been drawn to include the north-eastern part of the applicant's land ownership incorporating 2.9 hectares. The main body of the planning application site is rectangular in shape and measures 200m by 150m with access to Private Road No.2 to the north-west (see Plan 2).

5. Vehicular access to the site is obtained via Private Road No.2 which in turn links to the A612 via either Private Road No. 1 or Mile End Road. Mile End Road has an environmental weight restriction which restricts vehicles with a gross vehicle weight exceeding 7.5 tonnes from obtaining access to the A612 from the industrial estate.
6. In terms of the relationship of the operational waste transfer facility to adjoining land:
 - Beyond the northern boundary towards Private Road No. 2 and properties within Colwick Manor Farm there are intervening industrial uses incorporating open storage and commercial vehicle parking and a strip of tree/landscaping planting. The site is set back approximately 150m from the Private Road No. 2 and over 250m from residential properties in Colwick Manor Farm.
 - Beyond the western boundary towards residential properties on Fox Covert and Cottage Meadow the waste site is separated by two large industrial buildings which provide a visual screen of waste operations and an area of open storage as well as a landscape bund. The nearest residential properties are at a distance of approximately 110m from the waste facility.
 - Beyond the southern boundary there is the River Trent with Holme Pierrepont Country Park beyond.
 - Beyond the eastern boundary there is a large waste transfer building operated by Biffa Waste.
7. The site is located in Flood Zone 3a but benefits from the River Trent flood defences for a 1 in 100 year flood event with a 50% allowance for climate change.

Planning history

8. The site has now been operational as a waste management facility to 'store, treat and transfer ferrous and nonferrous metals, End of Life vehicles, Waste Electrical and Electronic Equipment, inert construction and demolition materials, plastic packaging and non-hazardous household, commercial and industrial waste' for over ten years since an original grant of planning permission in November 2011 (reference 7/2011/0548NCC).
9. The site has undergone a series of changes relating to the configuration of site layout, amended drainage scheme, alteration to car parking facilities, alteration to plant and machinery used on the site, increase to storage heights and phasing for providing boundary enclosures rather than developing the site in one go, and noise attenuation measures also incorporated into the amended operations.
10. The site operates under two extant planning permissions. Planning permission was recently granted on 26 November 2021 (Ref: 7/2020/1224NCC) for the

variation of conditions 2 (Site Layout) and 23 (Boundary Wall) of Planning Permission 7/2017/1144NCC to have a phased erection of the moveable container boundary wall as development progresses.

11. Planning permission reference 7/2017/1147NCC was granted on 14 March 2018 for the retention of underground drainage storage tanks, above ground storage tanks, emergency generator, substation building and noise screen structure outside of the original site area.

Proposed Development

12. The original end of life vehicle depollution facility, granted under Planning permission 7/2011/0548NCC, was sited to the south west of the main entrance to the site in the non-ferrous metals building adjacent to the weighbridge office (see Plan 3).
13. Following a Health and Safety Audit carried out by the operators, this facility was decommissioned due to its location and operation on site causing a significant risk to staff and visitors to the site passing the facility. The former facility was within the open fronted area directly adjacent to the pedestrian walkway linking the car park and the site reception with materials stored at ground level. The area is no longer in use for waste management processing but has been utilised for storage of general equipment/non-waste deliveries. As a result of the requirements of the Health and Safety Audit, a new stand-alone facility was then constructed on the site for the end of life vehicle operations and hazardous material storage.
14. The proposal seeks the retrospective retention of the self-contained steel-clad building to be used as an End of Life Vehicle facility. The facility has a partition wall inside with decommissioning of end of life vehicles taking place on an open fronted work bay area on one side of the building. This involves hazardous fluids such as petrol and diesel, brake and other fluids, and coolants being removed from the vehicles. These various fluids are stored either in containers, which stand on a bunded platform measuring 2.55m x 1.36m and 0.39m high on the other side of the building in a locked designated area (brake and other fluids and coolants), or in double skinned tanks located on hardstanding outside the building (fuels and oil).
15. The building occupies 66m² on top of the impermeable concrete pad and measures 11m x 5.64m with a mono-pitched roof sloping from 6m at the highest point down to 4.57m. The building is accessed from within the metal storage area (see Plan 4).

Consultations

16. **Gedling Borough Council** – No response received. Any response received shall be orally reported.

17. **Environment Agency Midlands Region – Object** due to to the absence of an acceptable Flood Risk Assessment (FRA).

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to:

- *Provide sufficient flood mitigation for the vulnerability classification of the proposed development (More Vulnerable). In particular, the Finished Floor Levels are not in accordance with the SFRA.*

We have been informed by the LPA that the vulnerability classification is mainly “less vulnerable” but the development contains area`s which include hazardous substances, as such they are considered “more vulnerable”.

The Greater Nottingham Strategic Flood Risk Assessment (GNSFRA) states developments with a vulnerability of “Less Vulnerable” should be set above the 1% annual exceedance probably (AEP) flood event plus an appropriate allowance for climate change. As the site remains dry during this event, the proposed finished floor level (FFL) of 21.34m AOD [Above Ordnance Datum] is considered acceptable.

The GNSFRA states for “more vulnerable” uses the FFL should be set no lower than the 1% AEP breach flood event plus an appropriate allowance for climate change (22.32m AOD), with an additional 300mm freeboard. The “more vulnerable” uses on site will have a FFL of (21.34m AOD) but it should be noted they will be stored in containers up to a height of 22.68m AOD within the building. Although the hazardous material will be stored above the breach flood height (22.62m AOD) the EA has objected due to development is unable to meet the requirements set out in the GNSFRA. However, the EA acknowledges that the proposed development is a betterment on the existing situation which has a FFL less than 21m AOD and with the drums lid being above the 1% AEP breach flood height plus 30% climate change allowance, and an additional 300mm freeboard.

However, the EA advise applying the following conditions if the LPA is minded to approve this application;

- *Less Vulnerable uses shall have a finished floor level no lower than 21.34m AOD.*
- *The “bund” shall have a finished floor level no lower than 21.73m AOD.*
- *The top of the “drums” containing the hazardous materials shall be set no lower than 22.62m AOD.*
- *The “drums” shall be restrained by being strapped securely to the structure of the building.*

18. **Western Power Distribution** – No objection.
19. **Colwick Parish Council, Severn Trent Water Limited and Cadent Gas Limited** have not responded. Any responses received shall be orally reported.

Publicity

20. The application has been publicised by means of eight site notices around the Crossland Meadow housing estate and Mile End Road to the west and on Private Road 2 outside neighbouring industrial businesses, with a press notice in the Nottingham Post in accordance with the County Council's adopted Statement of Community Involvement. A neighbour notification was sent by email to a local resident who had previously raised concerns regarding operations on the site and within the wider business park.
21. No letters of representation or proforma letters have been received raising objections.
22. Cllr Mike Adams has been notified of the application.
23. Former Cllr Nicki Brooks was notified of the application
24. The issues raised are considered in the Observations Section of this report.

Observations

25. The planning application seeks retrospective planning permission to regularise the addition of a metal framed building to be used as an End of Life Vehicle (ELV) facility, replacing the old facility adjacent to the site office within the existing brick buildings.
26. Through the regular monitoring of the site, a number of inconsistencies between the approved scheme and the development as constructed had become evident and the developer was requested to retrospectively regularise the unauthorised development through the submission of this planning application.
27. The request for a planning application to regularise unauthorised works on the site is consistent with the approach set out in the Government's Planning Practice Guidance (PPG) 'Ensuring Effective Enforcement' which sets out national policy and expectations in terms of planning enforcement policy. It advises that planning authorities have discretion to take enforcement action when they consider it is reasonable to do so and any action taken should be proportionate to the breach of planning control. Paragraph 011 of this PPG states that 'local planning authorities should usually avoid taking formal enforcement action where.... there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area and the development is acceptable on its planning merits...and in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for

example, where planning conditions may need to be imposed.’ This approach is reflected in the County Council’s adopted Local Enforcement Plan (January 2021) which identifies retrospective planning applications as being an appropriate method of dealing with breaches of planning control to regularise unauthorised works.

Planning policy assessment

28. The Waste Core Strategy does not allocate specific sites for waste management facilities, but Policy WCS7 (General Site Criteria) establishes the broad principles that will be used to assess whether a particular location is likely to be suitable in principle for a waste management facility. The policy identifies that metal and aggregate recycling/processing facilities are most appropriately located on employment land including areas which are already used for, or allocated for, employment uses such as industrial estates, business or technology parks etc. The site selection approach set out within Policy WCS7 reflects policy within the National Planning Policy for Waste (NPPW) which gives preference to industrial sites and previously developed land for the development of waste infrastructure.
29. Policy WCS3 (Future waste management provision) states priority will be given to the development of new or extended waste recycling facilities to provide Nottinghamshire sufficient waste management capacity and Policy WCS4 (Broad locations for waste treatment facilities) supports the development of small-scale waste treatment facilities in all locations where these will help to meet local needs and fit in with the local character, and large-scale waste treatment facilities close to the built-up areas of Nottinghamshire. The new facility is a relatively small scale operation within the operational larger metal waste management facility which has scope to increase operational capacity within the existing footprint and is situated within Colwick Industrial Estate in accordance with Policies WCS3, WCS4 and WCS7 of the Waste Core Strategy.
30. Policy WCS8 (Extensions to existing waste management facilities) supports the redevelopment or improvement of existing waste management facilities where this would increase capacity or improve existing waste management methods, and/or reduce existing environmental impacts. The improvement to existing waste management methods has been discussed within the Proposed Development section of the report where it was confirmed the existing facility has been decommissioned to improve Health and Safety and to provide a new dedicated facility, isolated from other parts of the site. The reduction of existing environmental impacts is discussed in greater detail later within the Observations section.
31. Colwick Industrial Estate is identified within the adopted Gedling Local Planning Document (GLPD) Policy LPD 44 (Retention of Employment and Employment Uses) and the Proposals Map identifies the application site as a designated employment site. Policy LPD 44 seeks to retain industrial land in employment use within Use Classes B1 – B8 and sui generis uses of a similar nature and is supportive of the further expansion of these sites for employment purposes

subject to there being no unacceptable environmental and amenity impacts. The application site is on an existing waste management facility.

32. It is therefore concluded that the locational policies of the development plan are supportive of the development of the waste transfer facility within Colwick Industrial Estate, subject to there being no unacceptable environmental impacts.

Flood risk

33. Planning policy relating to the management of flood risk is incorporated in the NPPF and its supporting Planning Practice Guidance (PPG) Note concerning flood risk and coastal change. NPPF paragraph 159 encourages development to be undertaken in low flood risk areas and directs development away from areas at highest risk but acknowledges that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. NPPF paragraph 167 advises that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding and where it can be demonstrated that:
- a. within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b. the development is appropriately flood resistant and resilient;
 - c. it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d. any residual risk can be safely managed; and
 - e. safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
34. The PPG confirms NPPF policy requiring the application of the sequential test, described as a sequential approach to steer new development to areas with the lowest probability of flooding. The PPG states:

The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

35. GLP Policy LPD 3 - Managing Flood Risk is consistent with NPPF policy insofar that it states that 'Where development in areas of flood risk is considered acceptable it will only be considered appropriate when informed by a site-specific flood risk assessment. Proposals should include mitigation measures to protect the site and deal with any residual flood risk to include flood resistance/resilience measures, provide safe access and escape routes'. The Nottinghamshire and Nottingham Waste Local Plan (WLP) Policy W3.5 (Water Resources – Pollution Issues) states that planning permission will not be granted for waste management facilities where the development affects the integrity or function of floodplains, unless the harm can be mitigated by engineering measures and/or operational management systems.
36. The application site is identified on the Environment Agency's flood map as being within an area classified as a Flood Zone 3a (an area with a high probability (1 in 100 or greater annual probability) of river flooding) but is also protected by flood defences (constructed in 2012) which means that the actual level of flood risk is now much lower. Environment Agency data shows that in the event of flooding, the site does not flood up to and including a 1 in 100 year +50% climate change event, presuming the defences hold.
37. From the details in the PPG set out above, development should ideally be steered away from the application site, being in Flood Zone 3a, but it must be acknowledged that the business has operated from this site for a long period of time and the wider area in general, also in Flood Zone 3a, is home to a variety of commercial and industrial operations, including other waste management facilities for which the County Council is the Waste Planning Authority. All of these businesses benefit from the flood defences in place.
38. It would normally be the case that the proposals in Flood Zone 3a would need to apply the sequential test to demonstrate whether other sites with less flood risk are available for the proposed development. However, the PPG details a number of instances where the sequential test does not need to be applied, including for 'minor development'. Specifically, in relation to flood risk, 'minor development' includes 'industrial/commercial/leisure etc. extensions with a footprint less than 250 square metres'. Whilst this is a standalone building as opposed to an extension of an existing building, it is effectively an extension to the applicant's existing operations and as the building has a footprint of 66m², far less than the 250m² threshold in the PPG, it is considered to be minor development in this respect and so the sequential test does not need to be applied.
39. The PPG also details that different development types have different flood risk vulnerability classifications. The vulnerability classification of the wider site, being classed as a 'waste treatment facility (except landfill and hazardous waste facilities)' is mainly 'less vulnerable'. However, a section of the ELV facility is used for the storage of hazardous substances (oils, brake fluids, etc) and as such this part of the site is considered 'more vulnerable' ('landfill and sites used for waste management facilities for hazardous waste').

40. Table 3 of the PPG details the acceptability or otherwise of different flood risk vulnerability classifications in different flood risk areas. This table is set out below.

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	✗	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	✗	✗	✗	✓*

Key:

✓ Development is appropriate

✗ Development should not be permitted.

41. As can be seen from this table, 'more vulnerable' development can be permitted in Flood Zone 3a subject to the application of the 'Exception Test'. The Exception Test requires proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall. However, again the PPG advises that the Exception Test does not need to be applied to 'minor development', which this application is.
42. This does not mean to say that such 'minor development' cannot pose potential flood risk issues and the PPG provides guidance on this matter too. It states that minor developments are unlikely to raise significant flood risk issues unless:

“they would have an adverse effect on a watercourse, floodplain or its flood defences;

they would impede access to flood defence and management facilities, or;

where the cumulative impact of such developments would have a significant effect on local flood storage capacity or flood flows.”

43. The ELV building is located over 150 metres from the River Trent and the flood defences and so would not have any adverse impact on these, nor would the building prevent access to the defences. The application site, and the wider Colwick industrial area, are not designed to be a local flood storage area during times of flooding, hence the defences that are in place. It is therefore considered that the ELV building would not raise significant flood risk issues.
44. Although the application of Government policy on flood risk indicates that the ELV building would not raise flood risk issues, the flood risk assessment submitted with the application acknowledges that flood defences can be breached and if this was to occur in a worse case flood event comprising a 1 in 100 year flood event plus 30% addition for climate change, the development site would become inundated with flood water with flood levels predicted to be 22.32m Above Ordnance Datum (AOD). Existing ground levels across the wider site range from a low point of 19.07m AOD to a high of 22.88m AOD on the south eastern boundary of the site and so significant areas of the site would be flooded. The floor level of the ELV building is 21.34m AOD, meaning that flood depths in the building would be 0.98m if flood levels were 22.32m AOD. Flooding of greater magnitude could occur. Given this potential for the ELV building to flood if the defences were to be breached, the Environment Agency has objected to the development of the facility in this location.
45. The applicant states that operational controls regarding potentially hazardous materials are regulated through the permitting process and ensure that any risk of pollution at a time of flooding is not significant. These controls ensure that fluids are drained from vehicles prior to processing and stored in bunded sealed tanks. Diesel and oils are stored in secure double skinned tanks in a designated impervious area outside the building. Significant pollution risks from flooding events therefore are not anticipated.
46. Further guidance on the implications of flood levels for the development can be found in the Greater Nottingham Strategic Flood Risk Assessment (GNSFRA) which was published in 2010 (with an addendum published in 2017) and which covers Nottingham City and neighbouring local authority areas (Broxtowe, Gedling, Rushcliffe and Erewash). The GNSFRA aims to help local planning authorities understand potential flood risks across the study area. The GNSFRA states that developments with a vulnerability of “Less Vulnerable” should be set above the 1% (1 in 100 year) annual exceedance probability (AEP) flood event plus an appropriate allowance for climate change giving a level of 22.32m AOD. As the site remains dry during this event, because of the presence of the flood defence that offers flood protection for a 1 in 100 year flood event with a 50% allowance for climate change, the proposed finished floor level (FFL) of 21.34m AOD is considered acceptable for less vulnerable development.
47. The GNSFRA states for “more vulnerable” uses, such as the ELV building and its use for the storage of hazardous substances such as diesel, oil and other

fluids, the FFL should be set no lower than the 1% AEP *breach* flood event plus an appropriate allowance for climate change (22.32m AOD), with an additional 300mm freeboard to account for uncertainties in flood levels (22.62m AOD). This application is retrospective and the current “more vulnerable” uses have a finished ground level of 21.34m AOD but it should be noted that storage takes place on a 390mm bunded platform, effectively raising the FFL to 21.73m AOD. Furthermore, the hazardous fluids are stored in containers, the tops of which are at a height no lower than 22.68m AOD within the building. Therefore, the hazardous material is stored above the breach flood height with the additional freeboard (22.62m AOD) but the EA has objected due to the FFL of the building being below this height. On this basis, the EA considers that the development is unable to meet the requirements set out in the GNSFRA. These various critical heights are set out on the schematic drawing on Plan 5.

48. However, as the site is an existing long-established waste facility, unlike a new site, it is impractical and virtually impossible to raise the levels across the site to this level. The site has extensive areas of existing hardstanding and so ground levels are already established. Whilst there are areas in the east-south east of the site that achieve these levels, being at a height of up to 22.88m AOD, these sections are either not currently in use for waste management or are utilised as the safe refuge area in the event of flooding and form part of the access for emergency vehicles in this scenario.
49. What is considered critical in terms of the assessment of this application is that the finished floor level of the new ELV facility provides a better scenario than the existing facility which has been decommissioned following the Health and Safety audit carried out by the applicant and which has a finished floor level of below 21m AOD. The lids of the drums (22.68m AOD) within the new facility are above the 1% AEP breach flood height plus 30% climate change allowance, and an additional 300mm freeboard level and this represents a significant improvement on the previous facility.
50. The EA acknowledge that this facility provides a betterment on the previous facility in terms of flood risk despite not meeting the requirements of the GNSFRA and have provided conditions regulating the storage heights and requirements for the development in this facility. Taking a pragmatic approach including consideration of the fact that this is an existing longstanding business at this site, and that the operation of the ELV facility is an important part of the process of recycling old vehicles in an environmentally acceptable and responsible way, plus bearing in mind the flood defences that are in place to protect the site and the surrounding area, it is considered that the application can be supported. The application accords with Policy WCS8 which supports the redevelopment or improvement of existing waste management facilities which reduce existing environmental impacts.
51. Support is subject to the implementation of the proposed mitigation measures which would be regulated by planning condition and on this basis, it is considered that the development could proceed without being subject to significant flood risk and the development would not increase flood risk to the wider catchment area. The development would therefore accord with the NPPF

which acknowledges that development can sometimes be necessary in flood risk areas and requires them to be made safe without increasing flood risk elsewhere.

52. Notwithstanding the definition of 'minor development' in the PPG when specifically considering flood risk (as detailed in Paragraph 38 above), the Town and Country Planning (Consultation) (England) Direction 2009¹ defines 'major development' in respect of non-residential development, as 'a development where the new floor space to be provided is 1,000 square metres or more, or 'the site area is 1 hectare or more'. The Direction imposes a requirement on planning authorities to refer to the Secretary of State any application which involves major development (as defined in the Direction) in a flood risk area to which the Environment Agency has made an objection that it has not been able to withdraw even after discussions with the local planning authority. The Direction allows the Secretary of State an opportunity to consider whether to exercise his powers to call-in the planning application for determination. Since the facility seeks planning permission within Flood Zone 2 and 3 and the wider site area is stated as 3.5 hectares which is greater than the 1 hectare threshold in the Direction, and despite the application being considered as 'minor development' using the definition in the PPG, it is considered that the requirements of the Direction need to be followed. Therefore, if Members are minded to support a grant of planning permission, it would be necessary to refer this decision and provide the Secretary of State a period of 21 days starting from an acknowledgment of receipt to decide whether he wishes to intervene in the decision and call-in the planning application before the County Council issue the decision notice.

Surfacing and drainage

53. WLP Policies W3.5 (Water Resources – Pollution Issues) and W3.6 (Water Resources – Planning Conditions) seek to avoid pollution of ground and surface water through implementing engineered solutions including impermeable surfacing to operational areas, use of appropriate drainage systems and control over waste types.
54. The impermeable surfacing and drainage have previously been assessed and approved through the previous planning permission and are acceptable from a drainage point of view. The concrete surfacing has been engineered to fall to the south and discharge into the drainage storage tanks situated outside of the concrete boundary wall provided under Planning Permission 7/2017/1147NCC. These holding tanks have been sized to allow for the subsequent phases of the

¹ The Town and Country Planning (Consultation) (England) Direction 2009 (Circular 02/09) has been replaced by The Town and Country Planning (Consultation) (England) Direction 2021, but applies only to applications received by a Local Planning Authority after 12 April 2021. This application pre-dates the change.

development and have sufficient capacity to contain surface run off and ensure the site does not exceed the rate of flow of an equivalent green field site and thus result in no increased flood risks.

55. The development is therefore considered to be compliant with WLP Policies W3.5 and W3.6 since the design of the site satisfactorily safeguards against water pollution.

Landscape and Visual Impact

56. WLP Policy W3.3 (Visual Impact of Plant, Building and Stockpiles) seeks to minimise the visual impact of waste management facilities by locating the facilities in appropriate locations which minimise impact on adjacent land, keeping development low in height, grouped together, and satisfactorily maintained. WLP Policy W3.4 (Visual Impact - Screening and Landscaping Measures) identifies the importance of screening to reduce visual impacts.
57. The development is similar in character to that of other buildings across the wider Colwick Industrial Estate. Furthermore, the location of the ELV building is within the western portion of the metal waste operations and benefits from being remote from residential properties with public viewpoints well screened.
58. The physical separation and intervening uses between the waste facility and the road frontage/residential properties provide screening of the site, ensuring that there is minimal visibility between the consented waste activities and residential properties in accordance with the objectives of WLP Policy W3.4.
59. The northern container boundary wall also sufficiently screens this and results in minimal visual impacts. It is therefore concluded that the ELV building proposed in this planning application, whilst taking into account the approved interim phased boundary wall and future movement of the phased wall, is visually acceptable and the development is compliant with WLP Policies W3.3 and W3.4 which seek to ensure visual impacts from waste development are minimised and screened as far as practical.

Ecological Impact

60. The site is not designated for its nature conservation interest, is generally hard surfaced with very small areas of vegetation offering negligible habitat for protected or notable species. Significant ecological impacts are not therefore predicted as a result of the development.

Traffic, Access and Parking

61. WLP Policy W3.14 (Vehicular Movements) states that planning permission will not be granted for waste management facilities where the vehicle movements likely to be generated cannot be satisfactorily accommodated on the highway

network or where such movements would cause unacceptable disturbance to local communities.

62. Traffic and parking have been assessed in previous applications for the site and the construction of a new end of life vehicle facility within the site to replace the old will not give rise to additional vehicle movements or increase staffing levels. Vehicle movement numbers are regulated through planning condition on the wider waste management site planning permission which also incorporates provision for staff/visitor parking areas within the site layout plans.
63. In terms of access to the wider highway network, Private Road No. 2 forms part of a network of industrial access roads which serve Colwick Industrial Estate and connects to the A612 Colwick Loop Road via Private Road No. 1. Access to the A612 via Mile End Road to the west is regulated by an environmental weight restriction which was put in place to protect occupiers of residential properties on Mile End Road from environmental disturbance from HGVs and prohibits HGVs associated with this development from using this road.

Noise

64. It is considered that the relocation and operation of the end of life vehicle facility would not result in any increase to noise levels across the site. Existing planning conditions are in place to control significant adverse noise impacts from the wider waste management facility to nearby sensitive noise receptors or any significant detriment to the amenity of occupiers of adjacent industrial/commercial land and therefore the development accords with WLP Policy W3.9 (Noise).

Operating Hours

65. The operating hours of the facility are regulated within the wider waste management facility's planning permission that the previous facility operated under. There is no proposed change from the operating hours of between 0700 to 1800 Monday to Friday. On Saturdays between the hours of 0730 to 1230 the site shall only be operational for the delivery of material and the sorting of materials using forklift trucks, guillotine, bailer and granulator. The metal and recycling plant shall not be operated on Sundays and between 1000 to 1300 the site shall only be used for the receipt and unloading of incoming waste with no other operations undertaken. Outside of these hours including Bank or Public Holidays the site shall be closed and shall not receive, transfer or process waste.

Other Options Considered

66. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

Statutory and Policy Implications

67. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

68. The development would be located within an established industrial park benefiting from perimeter security fencing, security lighting and CCTV coverage.

Data Protection and Information Governance

69. Given that no representations have been received from the public, it is considered that no data protection issues have been raised.

Human Rights Implications

70. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

Public Sector Equality Duty Implications

71. The report and its consideration of the planning application has been undertaken in compliance with the Public Sector Equality duty and there are no identified impacts to persons/service users with protected characteristics.
72. Potential impacts to the amenity of the occupiers of nearby residential properties have been considered. The working methodologies operated within the site seek to minimise and mitigate environmental emissions from the site. Planning conditions together with waste permitted regulations ensure that these environmental controls are implemented.

Implications for Sustainability and the Environment

73. These have been considered in the Observations section above.

74. There are no human resource, financial, or children/adults at risk safeguarding implications. There are no implications for County Council service users.

Statement of Positive and Proactive Engagement

75. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

76. Subject to the application being referred to the Secretary of State in accordance with the Town and Country Planning (Consultation) (England) Direction 2009 and the Secretary of State deciding not to call in the application for his own determination, it is RECOMMENDED that planning permission is granted for the above development subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [SG 19/11/2021]

This decision falls within the Terms of Reference of the Planning and Rights of Way Committee.

Financial Comments [RWK 22/11/2021]

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

The application file is available for public inspection by virtue of the Local Government (Access to Information) Act 1985 and you can view them at: www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=F/4181

Electoral Division(s) and Member(s) Affected

Carlton East

Cllr Mike Adams

Report Author/Case Officer

Daniel Ambler

0115 9773730

For any enquiries about this report, please contact the report author.

F/4181

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RECOMMENDED PLANNING CONDITIONS

1. The approved development is for the retention of the building shown on the Site Plan (Drawing No: J1472 009 titled Proposed Recycling Centre: Phase 2 Plans and Elevations) and Elevation Plan: Drawing No [1] DRG PROJ N titled Proposed Building for J. Allsopp dated 26 September 2019 both received by the Waste Planning Authority (WPA) on 30 September 2020, to be used as set out in the submitted application and supporting information, unless otherwise required by other conditions of this permission.

Reason For the avoidance of doubt as to the development permitted.

2. Unless otherwise required pursuant to conditions of this permission, the development hereby permitted shall be carried out in accordance with the submitted application (as amended), documents and recommendations of reports, and the following plans:

- (a) The Location Plan received by the WPA on 21 September 2020.
- (b) Site plan: Drawing No: J1472 009 titled Proposed Recycling Centre: Phase 2 Plans and Elevations received by the WPA on 30 September 2020.
- (c) Elevation Plan: Drawing No [1] DRG PROJ N titled Proposed Building for J. Allsopp dated 26 September 2019 and received by the WPA on 30 September 2020.
- (d) Flood risk assessment: ref LMX369/FRA/Rev A, dated 22 April 2021, compiled by Lumax, received by the WPA on 5 May 2021.

Reason: For the avoidance of doubt as to the development that is permitted.

3. The steel end of life vehicle de-pollution facility hereby permitted shall be used as the sole facility for the decommissioning of end of life vehicles and storage of hazardous fluids associated with the wider development on the site other than with the express permission of the WPA.

For the avoidance of doubt, the location of the former end of life vehicle facility shall cease to be used for operation of decommissioning end of life vehicles and storage of hazardous fluids.

Reason For the avoidance of doubt as to the development permitted.

4. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and be either surrounded by impervious bund walls or be of a double bunded construction. The size of the bunded compound or bunded capacity of the tank shall be at least equivalent to the capacity of the tank plus

10% or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity or 25% of the aggregate storage capacity of all storage containers. All filling points, vents and sight glasses must be located within the bund. There must be no drain through the bund floor or wall.

Reason To protect surface and groundwater quality in the area in accordance with Policy W3.6 of the Nottinghamshire and Nottingham Waste Local Plan

5. The development shall be carried out in accordance with the submitted flood risk assessment (ref LMX369/FRA/Rev A, dated 22 April 2021, compiled by Lumax, received by the WPA on 5 May 2021) and the following mitigation measures:
 - (a) Less Vulnerable uses shall have a finished floor level no lower than 21.34m AOD.
 - (b) The platform "bund" shall have a finished floor level no lower than 21.73m AOD.
 - (c) The top of the "drums" containing the hazardous materials shall be set no lower than 22.62m AOD.
 - (d) The "drums" shall be restrained by being strapped securely to the structure of the building.
 - (e) The implementation of flood contingency plan and evacuation procedures, as detailed within sections 3.34-3.37.

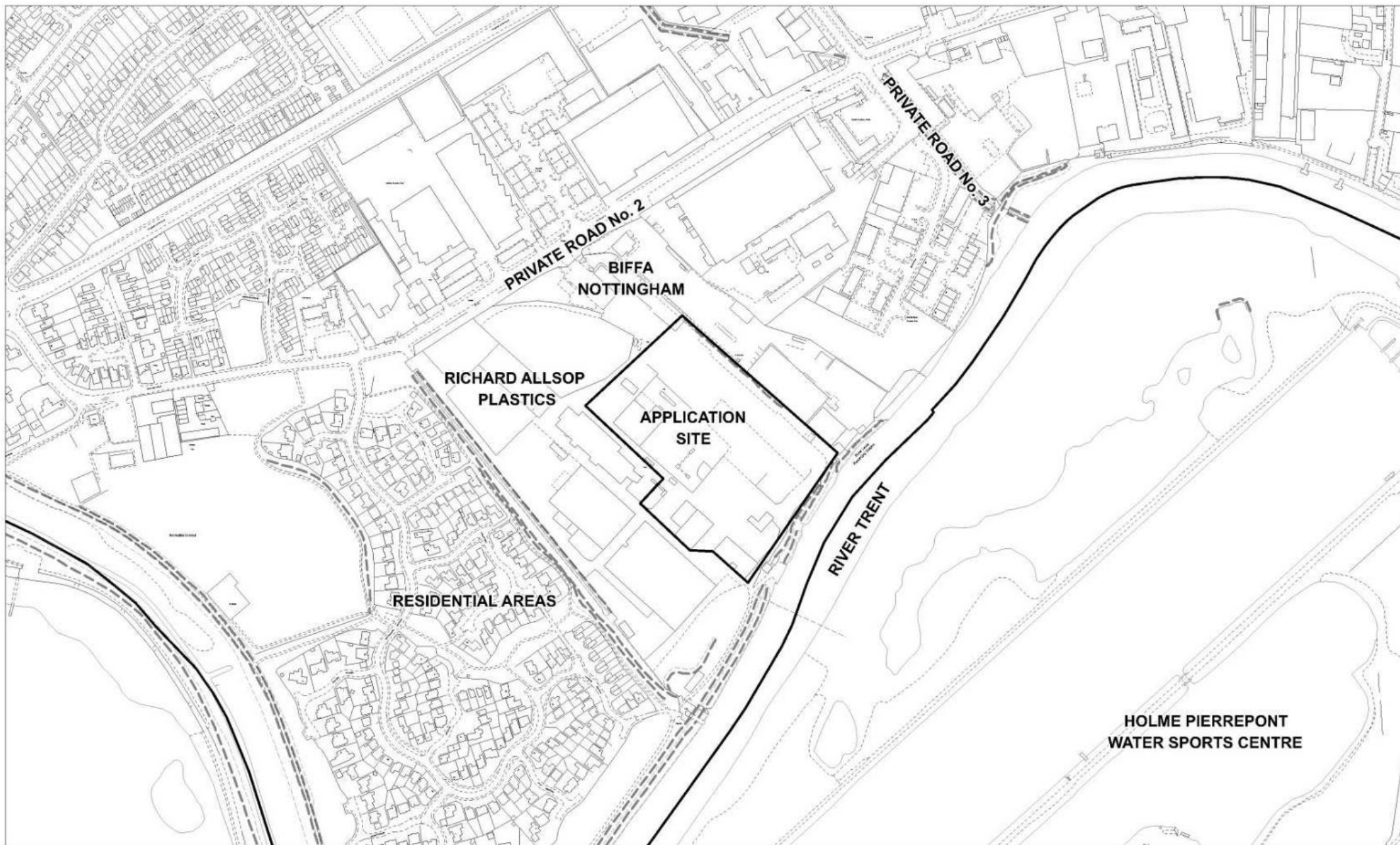
These mitigation measures shall be fully implemented within one month of the date of the permission and thereafter retained and maintained throughout the lifetime of the development.

Reason To protect ground and surface water from pollution in accordance with Policy W3.6 of the Nottinghamshire and Nottingham Waste Local Plan.

6. In the event that the use of the site for the importation of waste should cease for a period in excess of one month then, within one week of a written request from the WPA, the site shall be cleared of all stored waste and recycled materials.

Reason To ensure satisfactory restoration of the site in accordance with Policy W4.1 of the Nottinghamshire and Nottingham Waste Local Plan.





**Nottinghamshire
County Council**

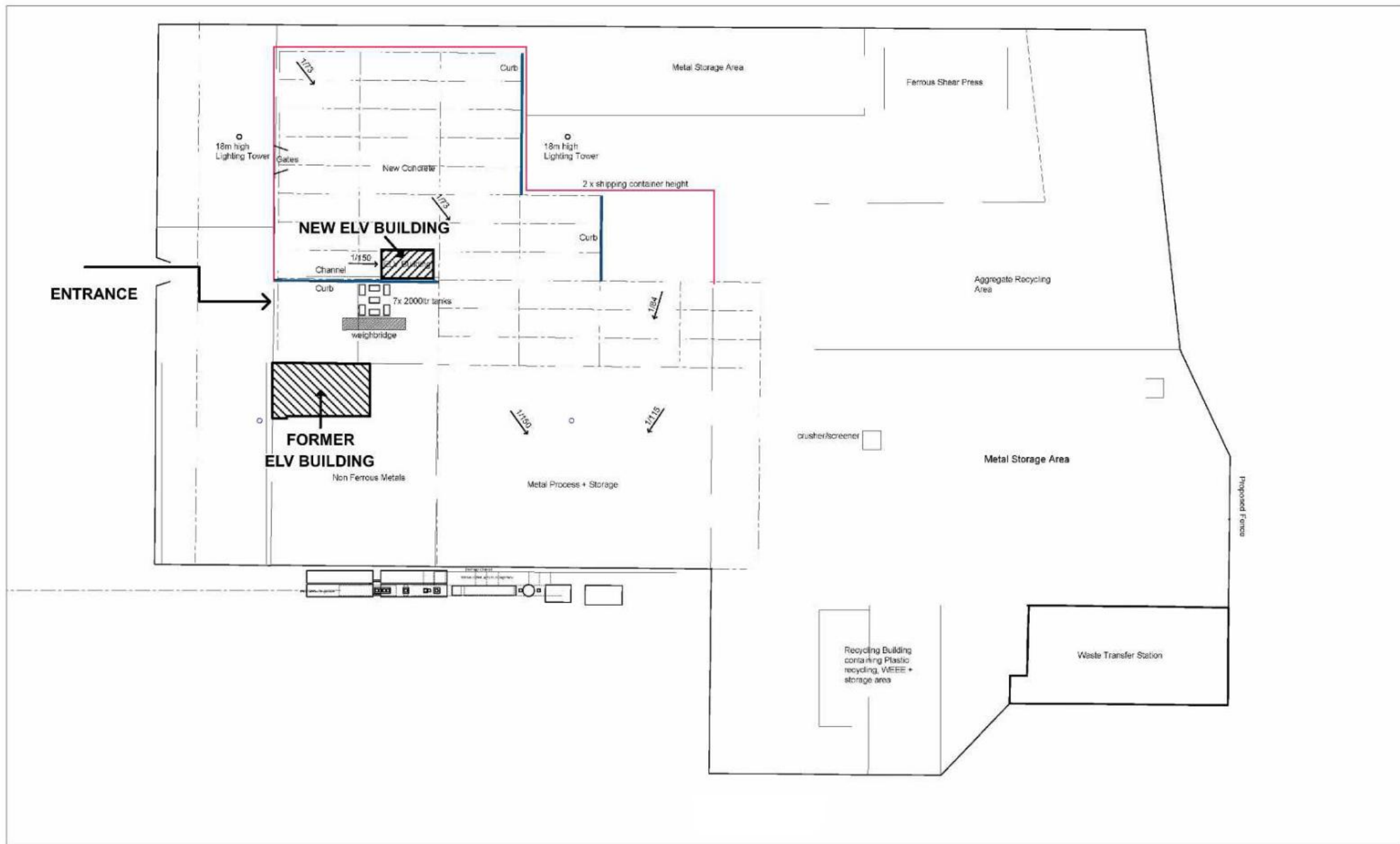
RETENTION OF A NEW BUILDING FOR THE END OF LIFE VEHICLE FACILITY
COLWICK BUSINESS PARK, ROAD NO 2, COLWICK, NOTTINGHAMSHIRE.
PLANNING APPLICATION NO. 7/2020/1223NCC

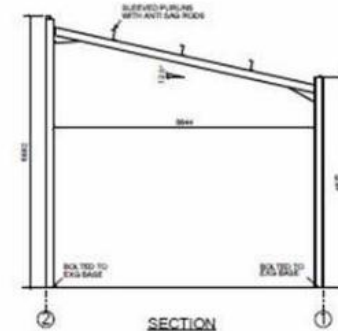
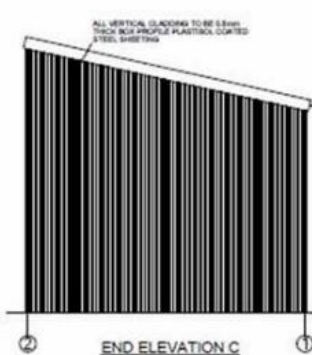
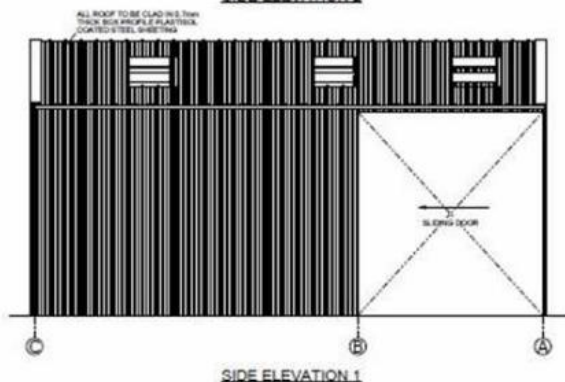
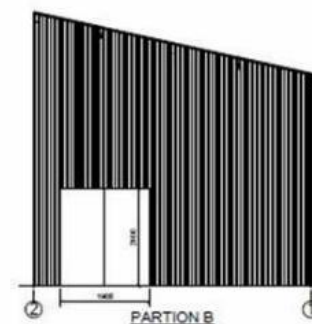
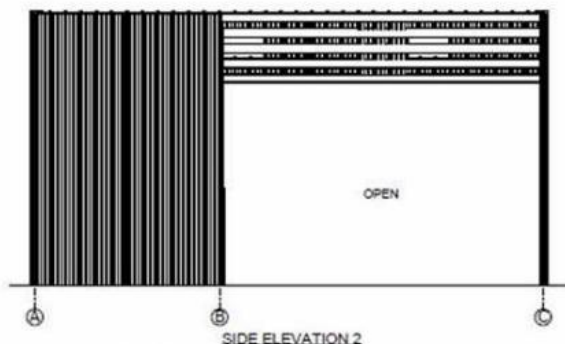
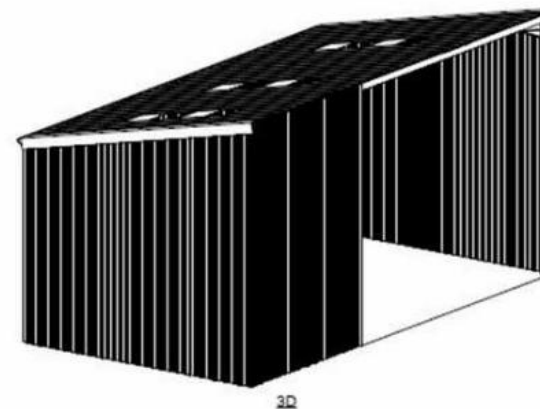
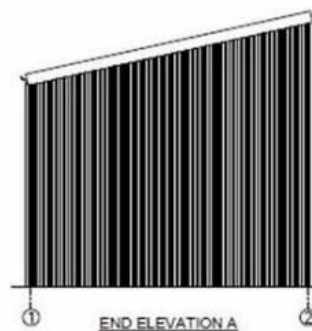
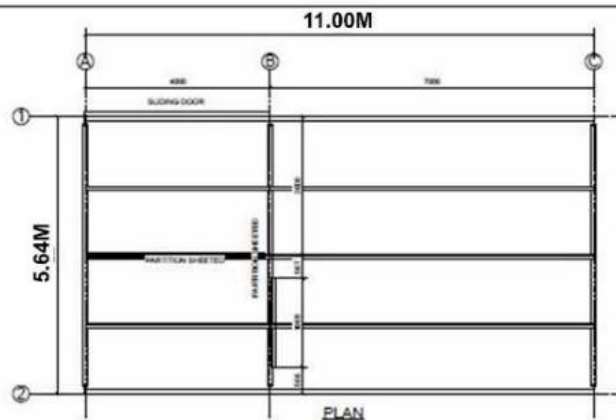
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Produced by: JW
Date: DEC 2021



PLAN 2





ALL STEEL TO BE SHOT BLASTED AND GIVEN TWO COATS OF PAINT



**Nottinghamshire
County Council**

RETENTION OF A NEW BUILDING FOR THE END OF LIFE VEHICLE FACILITY
COLWICK BUSINESS PARK ROAD NO 2, COLWICK, NOTTINGHAMSHIRE.
PLANNING APPLICATION NO. 7/2020/1223NCC

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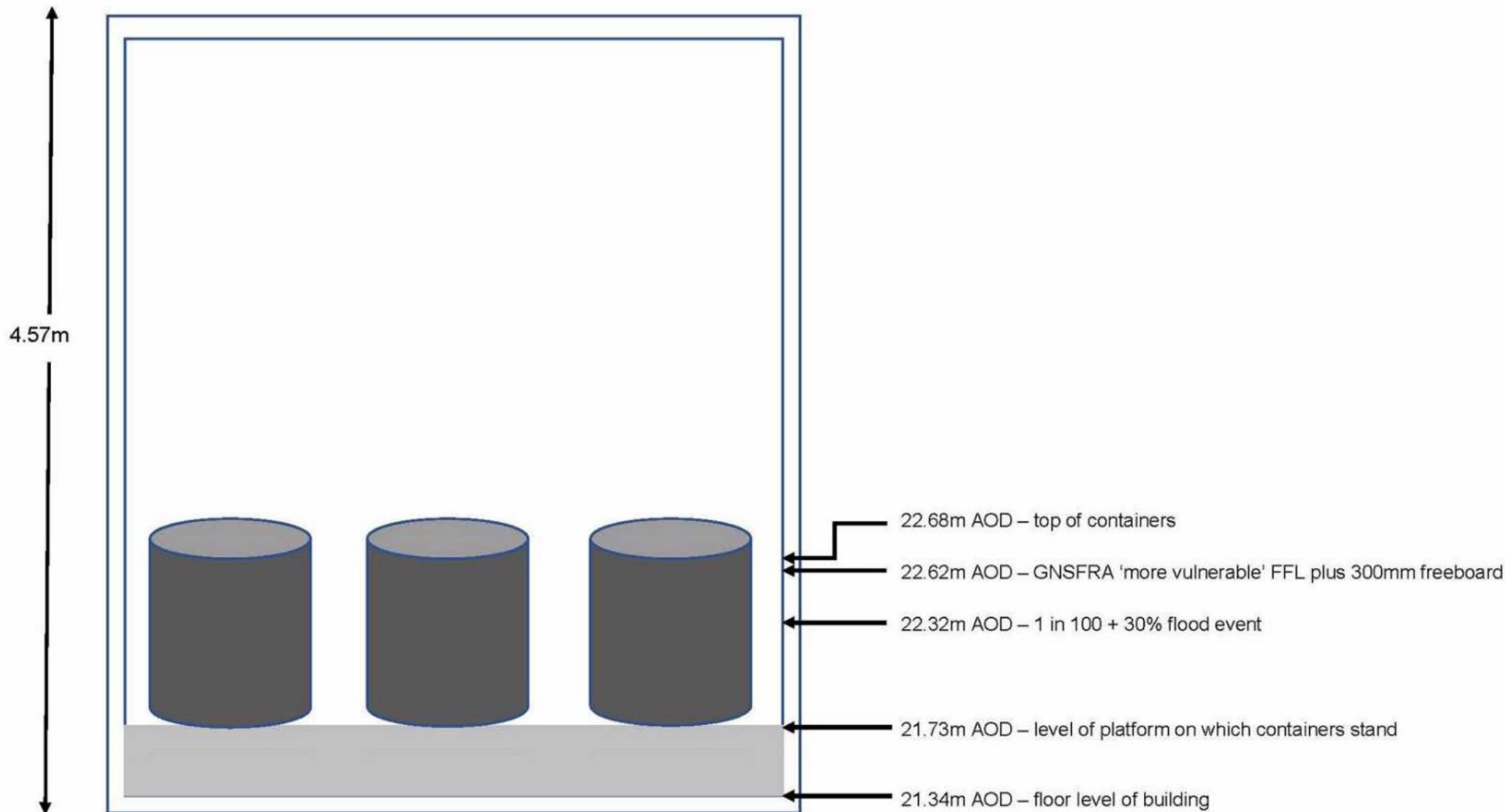
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Date: DEC 2021



PLAN 4



**Nottinghamshire
County Council**

RETENTION OF A NEW BUILDING FOR THE END OF LIFE VEHICLE FACILITY
COLWICK BUSINESS PARK, ROAD NO 2, COLWICK, NOTTINGHAMSHIRE.
PLANNING APPLICATION NO. 7/2020/1223NCC

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PLAN 5

14th December 2021**Agenda Item: 7****REPORT OF THE CORPORATE DIRECTOR (PLACE)****PROPOSAL TO DIVERT A PUBLIC FOOTPATH IN THE PARISH OF
SOUTHWELL UNDER SECTION 119 OF THE HIGHWAYS ACT 1980.****Purpose of the Report**

1. To determine whether to refer the 'made' Diversion Order to the Secretary of State with a request that the Order be confirmed. Such an order, once made, is open for public consultation, though it does not take legal effect until it is confirmed. The County Council have received 12 objections to the Diversion Order which has prevented the County Council from confirming the Order itself, and the Council must therefore decide whether not to proceed, or, if the tests set out below are met, to seek confirmation of the Order by the Secretary of State. The Diversion Order can be seen on the map attached shown as **DOCUMENT B**.

Legal Background

2. Under Section 119 of the Highways Act 1980, the County Council has the power to make a 'Public Path Diversion Order' where it appears, regarding a footpath or bridleway in its area, that it is expedient that the line of the path, or part of it, should be diverted. This expediency refers to the interests of the owner, lessee or occupier of land crossed by the path, or of the public using the path. Section 119 also stipulates that a Diversion Order shall not alter a termination point of the path in cases where that point is in a highway, otherwise than to another point on the same highway, or a highway connected with it, and which is substantially as convenient to the public. Subsection (6) also states that the Secretary of State shall not confirm an opposed Order referred to him for determination, and a council shall not confirm an opposed Order, unless he or they are satisfied that the diversion to be effected by the Order is expedient, and that the path will not be substantially less convenient to the public in consequence of the diversion.

It must also be expedient to confirm the Order having had regard to the effect which the diversion would have on the public enjoyment on the path, which coming into operation of the order would have in respect to the land served by the existing path, and which the new path created by the order would have as respects the land over which it is created.

Background Information

3. In May 2019 the County Council received an application from the landowner Mr Heath to divert part of Southwell Footpath No. 69. The application was submitted by the landowner in order for him to better manage his land, reduce any health and safety issues for his young family and increase the security of his property by relocating the footpath towards the garden boundary – see **DOCUMENT A**. The applicant, in support of his application, has concerns with the proximity of the existing path to the rear of his property and garden, and that there are no defined boundaries between the garden and path.

The Order proposal was taken to the Planning and Licensing Committee on the 10th December 2019 due to an objection from The Newark and Sherwood District Council. The meeting approved the recommendation to make an Order to divert Southwell Footpath No.69 on an alternative alignment, see **DOCUMENT B**. On 6th January 2020 an Order was made to divert Southwell Footpath No.69 per Committee's Resolution. Following a six-week deposit, the public consultation came to a close on 28th February 2020 having received a total of 12 objections. A summary of the objections can be seen in paragraph 4 and in **DOCUMENT C**.

Summary of responses to the Order Consultation

4. Below, the 12 objections have been summarised;

- FP69 is the most direct route
- The current alignment of FP68 is less steep than what is proposed
- FP68 is very muddy and the new alignment off FP68 will be muddy
- New alignment may disturb wildlife
- References to land in Southwell Neighbourhood Plan
- Designated as 'Main Open Area' in Local Plan
- The diversion will remove the short cut
- No community benefit
- Fear that more of the 'open land' will be adopted as garden
- Increase route length from Burgage Lane to Newark Road
- Fear of footpath extinguishment
- Existing FP69 not on correct alignment
- Path in conservation area

5. Following consideration of the Order, Officers, the Chair of the then Planning and Licensing Committee and the local elected member, Councillor Jackson recommended a site visit to discuss and observe the proposal on site.

The site visit was delayed due to the Pandemic but on 7th October 2021 Officers and Committee members met on site to discuss and assess the Diversion proposal. This report follows up on that site view in order that members can discuss and decide whether to submit the Order for determination and confirmation by the Secretary of State.

Conclusion

6. In response to the objectors' points in paragraph 4 and **DOCUMENT C**, the proposed new route would not require the loss of any trees and would go through the same area of grassland that the existing paths go through. NCC's Ecologist has confirmed that if the original alignment is left undisturbed, this will very quickly re-vegetate and there would be minimal loss of habitat in the Local Wildlife Area. Additionally, there is no designated public access into the 'Main Open Area' and the area identified in Southwell Neighbourhood Plan, and the proposed route would still have views over the site. Furthermore, the path is not being extinguished but diverted and would still preserve the local Rights of Way network. Finally, the link between Shady Lane (FP70) and FP68 will still be there albeit on a slightly different alignment but marginally longer (by 18 metres) than the original alignment, and the existing FP69 was moved to its current legal alignment a few years ago as part of a separate Planning Application to erect a low fence.
7. With reference to the assertion that there is no community benefit, the proposal meets the Highways Act 1980 s119 test in that diversion is in the interests of the landowner. The land is in the ownership of the landowner; the southern boundary being the Potwell Dyke. The land immediately adjacent to the house is akin to a formal garden, and officers understand that there are no proposals to formally alter the land following the diversion but merely to move the path farther away towards the garden boundary in the interest of better managing his land, to reduce health and safety issues for his young family and to increase the security of his property. As such, the community benefit assertion does not affect consideration of the proposed diversion in terms of the legal tests. The fact that the proposal is in a designated Conservation area is not relevant to the legal tests under S.119.
8. It is acknowledged that the alternative path, Southwell FP68 which runs along the bottom of the applicant's land, does get muddy during wet weather. However, as this is an important route within the Town, the Countryside Access Team will be employing Via's Highway Engineers to carry out a detailed and comprehensive design. The brief is to look at the drainage and provide appropriate surfacing taking into account the local environment. This work will be undertaken independently and separately to the outcome of the diversion proposal and is not relevant to determining whether to seek confirmation of the diversion order.

Other Options Considered

9. The County Council has the two options set out here and in paragraph 10 below. It can choose not to proceed with the proposal, and no diversion takes place. Therefore, this would mean that Southwell FP69 stays on its current alignment.

Reason/s for Recommendations

10. Alternatively, the Authority can refer the Order with the outstanding objections to the Secretary of State for confirmation. This would be dealt with by the Planning Inspectorate either by means of a public inquiry, a less formal public hearing or by an exchange of written representations. It is considered that the Diversion Order would be in the interest of the landowner as it will improve the management of his land, reduce the risk of health and safety issues for the landowner and improve privacy for the landowner's family. The proposal also satisfies the test that the termination points of the path will still be the same. Officers therefore consider that it would be expedient to divert part of Southwell Footpath No.69. Officers also consider that the diversion will not be substantially less convenient to members of the public and will not

reduce the public enjoyment of the path. It will still provide a suitable alternative to using Southwell Footpaths 68 and 70.

Statutory and Policy Implications

11. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability, and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

12. The charge for making the Order is prescribed by legislation and is met by the applicant. The costs of presenting, co-ordinating and the holding of an inquiry, hearing or written representations are, unless otherwise recovered from another party following a public inquiry, met by the County Council.

Human Rights Implications

13. Implementation of proposals within this report might be considered to have a minimal impact on human rights (such as the right to respect for private and family life and the right to peaceful enjoyment of property, for example). However, the authority is entitled to affect these rights where it is an accordance with the law and is both necessary and proportionate to do so, in the interests of public safety, to prevent disorder and crime, to protect health, and to protect the rights and freedom of others. The proposals within this report are considered to be within the scope of such legitimate aims.

Public Sector Equality Duty implications

14. As part of the process of making decisions and changing policy, the Council has a duty 'to advance equality of opportunity between people who share a protected characteristic and those who do not' by thinking about the need to:

- Eliminate unlawful discrimination, harassment and victimisation;
- Advance equality of opportunity between people who share protected characteristics (as defined by equalities legislation) and those who don't;
- Foster good relations between people who share protected characteristics and those who don't.

15. Disability is a protected characteristic and the Council therefore has a duty to make reasonable adjustments to proposals to ensure that disabled people are not treated unfairly.

RECOMMENDATION

- 1) It is RECOMMENDED that the Order be referred to the Secretary of State seeking their confirmation.

ADRIAN SMITH
Corporate Director – Place

For any enquiries about this report please contact:
Stephanie Lock, Rights of Way Officer, 0115 977 4990

Constitutional Comments [SJE – 01/12/2021]

This decision falls within the Terms of Reference of the Planning & Rights of Way Committee to whom responsibility for the exercise of the Authority's regulatory functions relating to public rights of way has been delegated.

Financial Comments [RWK 15/11/2021]

The financial implications are set out in paragraph 12 of the report. The legal costs of making any order will be funded by the applicant. Any costs incurred by the County Council in presenting, co-ordinating and holding an inquiry, hearing or written representations, or any works undertaken on FP68, will be funded from existing budgets.

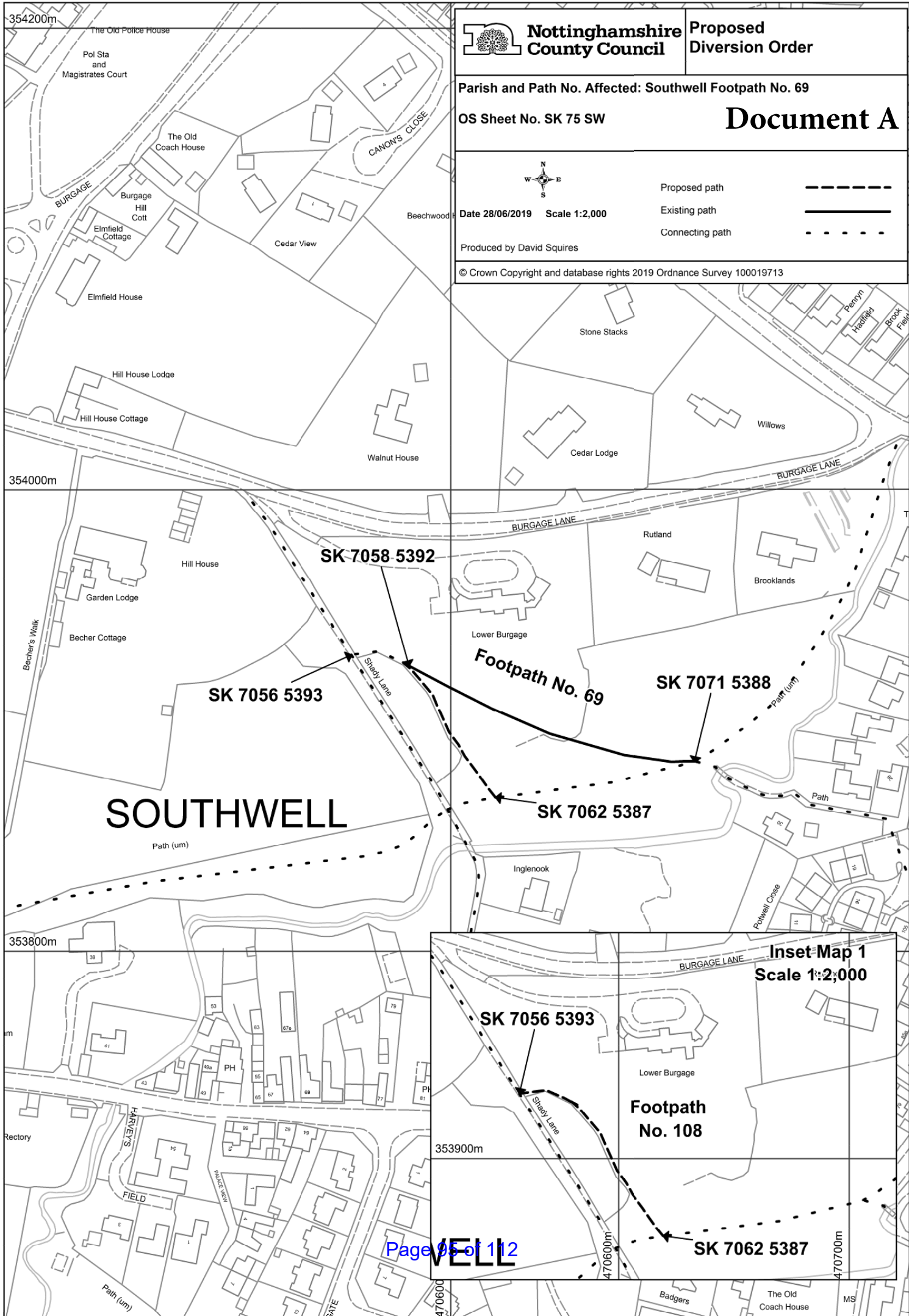
Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

The Southwell Footpath No.69 Diversion Order Case File

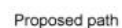
Electoral Division(s) and Member(s) Affected

- Southwell Councillor Roger Jackson



OS Sheet No. SK 75 SW

Document B



Date 17/12/2019 Scale 1:2,000

Existing path

Existing path

Connecting path

Produced by Stephanie Lock

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SK 7058 5392

SK 7056 5393

SK 7071 5388

Footpath No. 69

SK 7069 5388

SOUTHWELL

Page 97 of 112

Objection 1:

- FP69 is the most direct route to join two footpaths, when you come off Froggat's Field to go to the Potwell Dyke path
- Less steep than coming straight down the line of the fence
- FP68 very muddy sometimes unpassable
- Change of experience as the new alignment may disturb wildlife as it passes under trees
- References to Southwell neighbourhood plan 2015-2026 (Adopted October 2016)

Objection two:

- FP68 would be wet and boggy/ dangerous
- Southern part of diversion alignment would become wet and boggy
- The diversion would remove the short cut across the land

Objection three:

- Would lengthen the route
- No community benefit by having the path diverted

Objection four (NSDC):

- Land designated as Main Open Area
- Local Wildlife Site (2/758 Shady Lane Pasture)
- New path being laid out in protected grassland

Objection five:

- Important Main Open Area as identified in NSDC Local Plan
- Fear of further land adopted as garden

Objection six:

- FP 69 well established and well used
- New alignment takes path in to water logged area
- Circuitous route

Objection seven (Town Council):

- Established trees potentially affected
- Designated Open Land

Objection eight:

- Lack of path maintenance
- New alignment will position path to more slippery/ dangerous water-logged position

Objection nine:

- Proposed diversion would increase route length from Burgage Lane to Newark Road

Objection ten:

- Fear of more land being claimed as garden
- Fear of footpath extinguishment

Objection eleven:

- Original path not on correct alignment
- Original path obstructed by fence and trees erected by Mr Heath
- Path should be put on correct alignment
- Diversion would make path more slippery/ dangerous

Objection twelve:

- Footpath is in conservation area/ could affect paths in conservation areas
- Path not on correct alignment
- Path should be moved on to correct alignment
- Path obstructed by fence and trees erected by Mr Heath

14th December 2021**Agenda Item: 8****REPORT OF CORPORATE DIRECTOR - PLACE****DEVELOPMENT MANAGEMENT PROGRESS REPORT****Purpose of the report**

1. To report on planning applications received by the Development Management Team between 14th October 2021 and 1st December 2021, to confirm the decisions made on planning applications since the last report to Members on 2nd November 2021, and to detail applications likely to come before Committee in the coming months.

Background

2. Appendix A highlights applications received since the last Committee meeting, and those determined in the same period. Appendix B sets out the Committee's work programme for forthcoming meetings of Planning and Rights of Way Committee and Members are asked to give consideration to the need for any site visits they consider would be beneficial on any application scheduled to be reported to committee in the near future.

Statutory and Policy Implications

5. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.
6. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

RECOMMENDATIONS

7. That Committee considers whether there are any actions they require in relation to the contents of the report.

ADRIAN SMITH

Corporate Director - Place

Constitutional Comments – (RHC 01/12/2021)

Planning and Rights of Way Committee is the appropriate body to consider the contents of this report.

Financial Comments – (DJK 03/12/2021)

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

None

Electoral Division(s) and Member(s) Affected

All

For any enquiries about this report please contact:

Report Author / Case Officer
Rebecca Kirkland
0115 9932584

Planning Applications Received and Determined
From 14th October 2021 – 1st December 2021

Division	Member	Received	Determined
BASSETLAW			
Tuxford	Cllr John Ogles	Variation of Condition 46 of Planning Permission 1/13/01359/CDM to defer the submission of a restoration and aftercare strategy for the former ash disposal site until 25th December 2025 to allow an extended period of time for the wider redevelopment of the Cottam Power Station site to be fully considered, at Cottam Ash Disposal Site. Received 03/11/2021.	
Misterton	Cllr Tracey Taylor	Planning application to allow for the installation and retention of four groundwater monitoring boreholes at Gainsborough 05, at The Oil Depot, Ramper Road. Received 18/11/2021.	
Misterton	Cllr Tracey Taylor		Planning application for non-compliance with conditions 1, 2, 3, 4, 13, and 14 of planning permission 1/06/06/00013 at Beckingham oilfield – well site 37 to enable an extension of time to operations until 31 May 2031, and completion of restoration by 23 September 2032 at Well site 37 - Beckingham Oilfield. GRANTED on 24/11/2021.

Division	Member	Received	Determined
Misterton	Cllr Tracey Taylor		Planning application for non-compliance with conditions 1, 2, 3, 4, 13, and 14 of planning permission 1/06/06/0009 at Beckingham oilfield – well site 36 to enable an extension of time to operations until 31 May 2031, and completion of restoration by 23 September 2032, at Well site 36 - Beckingham Oilfield. GRANTED on 24/11/2021.
Misterton	Cllr Tracey Taylor		Planning application for non-compliance with conditions 1, 2, 3, 4, 13, and 14 of planning permission 1/06/06/00010 at Beckingham oilfield – well site 33 to enable an extension of time to operations until 31 May 2031, and completion of restoration by 23 September 2032, at Well site 33 - Beckingham Oilfield. GRANTED on 30/11/2021.
Misterton	Cllr Tracey Taylor		Planning application for non-compliance with conditions 1, 2, 3, 4, 13, and 14 of planning permission 1/06/06/00011 at Beckingham oilfield – well site 31 to enable an extension of time to operations until 31 May 2031, and completion of restoration by 23 September 2032, at Well Site 31 - Beckingham Oilfield. GRANTED on 25/11/2021.

Division	Member	Received	Determined
Misterton	Cllr Tracey Taylor		Planning application for non-compliance with conditions 1, 2, 3, 4, 13, and 14 of planning permission 1/06/06/0008 at Beckingham oilfield – well site 28 to enable an extension of time to operations until 31 May 2031, and completion of restoration by 23 September 2032 at Wellsite 28 - Beckingham Oilfield. GRANTED on 30/11/2021.
Misterton	Cllr Tracey Taylor		Planning application for non-compliance with conditions 1, 2, 3, 4, 13, and 14 of planning permission 1/06/06/00012 at Beckingham oilfield – well site 25 to enable an extension of time to operations until 31 May 2031, and completion of restoration by 23 September 2032, at Wellsite 25 - Beckingham Oilfield. GRANTED on 30/11/2021.
Misterton	Cllr Tracey Taylor		Planning application for non-compliance with conditions 1, 2, 3, 4, 13, and 14 of planning permission 1/06/06/00015 at Beckingham oilfield – well site 8 to enable an extension of time to operations until 31 May 2031, and completion of restoration by 23 September 2032, at Wellsite 8 - Beckingham Oilfield. GRANTED on 05/11/2021.

Division	Member	Received	Determined
Worksop North	Cllr Callum Bailey		Erection of 2.0m high Heras Pallas fencing and gates in green (RAL 6005), at James Hince Court Elderly Persons' Home. GRANTED on 02/11/2021.
MANSFIELD			
Mansfield North	Cllr Anne Callaghan and Cllr Ben Bradley		Retention of temporary classroom for 3 years: (2/2018/0004/NCC expires 31 January 2021), at Leas Park Junior School. GRANTED on 18/10/2021.
Mansfield East	Cllr Robert Corden and Cllr Nigle Moxon		Retrospective permission for silica sand extraction and associated revised site restoration proposals, at Ratcher Hill Quarry. GRANTED on 02/11/2021.
NEWARK & SHERWOOD			
Southwell	Cllr Roger Jackson	Variation of Conditions 4 and 5 of Planning Consent 3/16/00081/CMA to allow for the continuation of recycling and landscaping operations on land at Coneysgre Farm for a further five years, at Coneysgre Farm. Received 29/10/2021.	
Balderton	Cllr John Lee	Retrospective planning permission for weighbridge, post mounted weighing indicators, post mounted traffic lights and ancillary development, at Bantycok Quarry. Received 11/11/2021.	
ASHFIELD – NONE			

Division	Member	Received	Determined
BROXTOWE - NONE			
GEDLING			
Carlton East	Cllr Mike Adams and Cllr Nicki Brooks		Variation of conditions 2 (Site Layout) and 23 (Boundary Wall) of PP: 7/2017/1144NCC to have a phased erection of moveable container boundary wall as development progresses, at Colwick Business Park. GRANTED on 26/11/2021.
RUSHCLIFFE			
Cotgrave	Cllr Richard Butler		Planning application to retain existing temporary classrooms for 5 years; 8/16/02279/CTY expire 31 August 2021, at Ash Lea School. GRANTED on 25/11/2021.
Leake and Ruddington	Cllr Matt Barney		New Office Accommodation at Bunny Materials Recycling Facility. GRANTED on 15/10/2021.

Schedule of future planning applications to be reported to Planning and Rights of Way Committee

(Please note: The committee dates identified are for guidance only. A final decision regarding the committee date is not made until shortly before the agenda is published).

Target Committee	Planning App No.	Location	Development	Current Progress
Potential committee in early 2022 (see progress section).	8/17/02096/CMA	Land off Green Street, Mill Hill and land at Barton in Fabis, off Chestnut Lane, Nottingham	The extraction and processing of sand and gravel, including the construction of a new site access road, landscaping and screening bunds. Mineral washing plant and other associated infrastructure with restoration to agriculture and nature conservation areas.	Work is on-going to prepare a report for committee alongside continued discussions with key consultees notably Natural England. There has also been a change in the planning agents representing the applicant and this has resulted in subsequent meetings and may have implications for the planning submission and the date on which it is brought to committee for determination.
8 th March 2022	3/21/00147/CMM	Bantymock Quarry, Staple Lane, Balderton, Newark on Trent	Proposed southern extension to Bantymock Quarry, extension to the time limit for mineral operations until 31st December 2044 and amendments to the restoration scheme	Supplementary information requested covering noise, airfield safeguarding, heritage impacts, archaeology and ecology/biodiversity net gain under Reg. 25 of EIA Regs. Once a response is received the supplementary information will require full re-consultation before referral to committee for a decision to be made.
8 th March 2022	3/20/01244/FULR3N	British Sugar Corporation Ltd Sports Ground, Great North Road, Newark On Trent, NG24 1DL	Change of use from former sports field to land to be used for conditioning (drying by windrowing) of topsoil material recovered from sugar beet delivered and excavated from soil settlement lagoons onsite, and engineering works to construct an internal access route to serve the soil conditioning area and excavate a flood storage compensation area.	The Environment Agency have formally objected to the planning application. The applicant is investigating options to resolve the objection through the provision of compensatory flood water storage elsewhere in the British Sugar landholding. The applicant is currently undertaking a detailed topographical survey of the site which will inform a revised flood risk assessment. A revised flood risk assessment is expected in early 2022. Following submission a re-consultation with the Environment Agency will be required before the application is reported to committee.

8 th March 2022	F/4338	Field Reference 7600, off North Scarle Road, Wigsley, Nottinghamshire NG23 7EU	Creation of Fish Farming Pond shown on plan FP2 to involve Incidental Mineral Extraction, processing and export of minerals, forming pre phase of the wider development granted under Appeal Decision ref: 19/00551/FULM	The planning application has recently been received by the planning authority. It is anticipated the application will result in some local objections necessitating referral to Committee for a decision.
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Planning Applications currently being processed by the County Council which are not currently targeted to a specific meeting of the Planning and Rights of Way Committee.

Planning Application: 5/13/00070/CCM
Location: Shilo Park, Shilo Way, Cossall
Proposal: Change of use to waste timber recycling centre including the demolition of existing building and construction of new buildings

Current Progress: Awaiting the submission of additional surveys and information in respect to noise emissions, ecological assessments/impacts and revisions to the design of the proposed building. Once this information is received there will be a requirement to reconsult on the submissions prior to referring to committee for a decision.

Planning Application: 3/19/00100/CMM
Location: Cromwell North Quarry, Land Between Carlton on Trent and Cromwell, Newark
Proposal: Proposed extraction of 1.8 million tonnes of sand and gravel together with the erection of mineral processing plant and associated ancillary infrastructure. the provision of a new access, and the progressive restoration of the site to nature conservation over a period of 9 years.

Current Progress: A request for the submission of supplementary environmental information was made under Reg. 25 of the EIA Regs in May 2019. This request for information covered air quality, transport, access, quarry dewatering, floodlighting, landscaping, ecology, noise, protection of River Trent, contaminated land and archaeology. The planning application raises key planning issues in respect of need and mineral supply within Nottingham. The applicant initially delayed their response to the Reg 25 request to allow decisions to be made regarding site allocations as part of the review/examination of the Replacement Minerals Local Plan. The Cromwell North site has not been allocated as part of this process. The applicant now wishes to keep this application live for the next few months until such time that a decision is made on the Barton in Fabis planning application, the applicant considers that if the Barton planning application did not receive planning permission this would alter the planning balance in terms of the need for mineral from Cromwell North.

Planning Application: 1/20/00544/CDM
Location: Daneshill Landfill Site, Daneshill Road, Lound, DN22 8RB
Proposal: Temporary operations for 10 years for Soil Treatment Facility including Asbestos Picking Operations

Current Progress: The applicant is currently preparing an Environmental Impact Assessment to support the planning application. The applicant is also progressing a separate Permit application with the Environment Agency, the outcome of which will inform the Environmental Impact Assessment.

