

Agenda item 68

Concerns over the Appraisal for Planning Application 23/01836/RAM by Newark and Sherwood District Council

The Concerns are based on the following:-

- a) That NSDC did not comply with the Current Southwell Neighbourhood Plan(CSNP), national planning policies, did not follow the Environment Agency National flood risk standing advice for local planning authorities nor the guidance from the Department for Levelling Up, Housing and Communities.**
- b) The Flood Risk & Sustainable Drainage Statement (FR&SDS) for the proposal was flawed and required updating to take account of the later NCC Highways requirements for water runoff from the hard surfaces on the development.**
- c) The applicants for the proposal failed to provide, despite repeated reminders from Lead Local Flood Authority (LLFA) over four years, critical data against which the soundness of their FR&DS can be tested to cope with current weather and future climate change.**
- d) Condition 04 attached to original outline planning approval clearly stated the information required by the Lead Local Flood Authority (LLFA) but the Condition was not discharged by the time of the NSDC Planning Committee which gave approval for the proposal.**

The result is that the Flood Risk Assessment (FRA) ,Drainage Strategy, and Flood Mitigation Plan had not been properly assessed by Newark and Sherwood District Council (NSDC) in association with the Lead Local Flood Authority (LLFA) for the NSDC Planning Committee meeting on 5th September 2024.

e) Condition 04 from the Outline Planning Approval was omitted from the NSDC letter of 6 Sept 2024 “Notice of Decision” and had not been discharged before the developer started work around 10th October and remains undischarged.

Condition 4 abstracted from the Lead Local Flood Authority consultation

No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Lumax Flood Risk Assessment (FRA) and Drainage Strategy LMX296-LMX-00-ZZ-RP-D-002 Rev B., has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- o Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
- o Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- o Demonstrate all exceedance shall be contained within the site boundary without flooding new properties in a 100year+40% storm.
- o Provide details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
- o Evidence how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term

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

A new numbering for the 6th Sept document identifies Condition 04 to be related to surfacing of driveways only.

Abstracts from the NSDC Officer's Report to the NSDC Planning Meeting on 1/08/24 with Southwell Civic Society Concerns

The Officer's report to the NSDC planning committee meeting on 1/08/24 for application 23/01836/RAM at para 7.5 confirmed that "Insufficient information to consider the drainage in any detail. Point this is covered by condition 4 of the outline consent."

At para 8.89 The statement was made that " A Flood Risk assessment and Sustainable Drainage Strategy were submitted at outline stage which aligned with the requirements of policies E1 and E2 of the SNP.

Concern

The site clearly does have a history of flooding at the southern section.

The requirements of the Current Southwell Neighbourhood Plan (CSNP) policy E1 were not met, particularly in the absence of consultation by the applicants to develop the FRA and Flood Mitigation proposals with the LLFA.

CSNP policy E2 requires that the “flood risk assessment must be designed to avoid increasing the risk of flooding both on and off site”.

The criteria within the CSNP policy E2 and from the LLFA for formulating FRAs, Drainage Strategies and Flood Mitigation measures were ignored in the proposal.

At para 8.90 the NSDC Officer reported that “Pluvial risk has been considerably reduced at the southern edge of the site since a culvert drain was built along Kirklington Road”.

“The topography of the site is such that the site drains to two separate catchments and the layout continues shows two attenuation ponds.”

At para 8.92 the Officer dismissed the concerns from neighbouring residents that the development could exacerbate existing problems by stating that the previous flooding issues “were in part due to a lack of maintenance of existing drainage ditches down stream (off site). This is not a matter the developer can be obligated to fix as the land here is not with their control . However the drainage solutions set out in the strategy already approved should not give any increase in flooding problems as a result of the development.”

Concern

It is unclear where “the drainage solutions set out in the strategy already approved” were approved.

The report from the Officer is contradictory. At par 8.90 the claims is that the culvert drain on the Kirklington Road has reduced pluvial risk but at 8.92 that the ditches downstream (of which the culvert is the header)are off site and therefore cannot be maintained by the developer.

The Surface Water Drainage Statement (SWDS) and Flood Risk Assessment(FRA) in the application are also contradictory and confusing.

At para 4.6 of the SWDS the statement is made that “surface water from the southern section of the site should be discharged to this ditch at no more than existing green field rates

Para 4.9 of the SWDS states “For the avoidance of doubt a sketch of the existing ditch arrangement is shown below, this shows clearly that the intent of the proposal is to discharge to the existing ditch currently running in an easterly direction across Springfield Road.” **(accompanied by a photo sketch of the drain line which can be made available).**

However Para 3.16 of the FRA states that “Furthermore the catchment area south of the site appears to drain towards the ditch in the south of the site ,however , since the ditch was culverted and a large pipe laid along Kirklington Road, the discharge from the southern catchment area will be intercepted and taken north by the drainage pipe and again

discharged to the River Greet.”

Para 4.10 of the FRA stated that “ The existing ditch is known to discharge into a network which traverses through Southwell.

As part of the development the developer will jet, vacuum and clean the watercourse and culvert immediately down stream of the site to ensure that any discharge is free flowing and that the culvert network is adequate.”

Concern

The principle outlined by the NSDC Officer that the developer cannot fix the maintenance of the culvert and alleviation drain on Kiklington Road must also apply to the ditch and culvert to Spring field Road.

The developer cannot guarantee therefore that drainage and flood water will exit the site and the consultees’ concerns are valid that the site could cause flooding on the site, onto Springfield Road and beyond.

It will be noted that the Drainage Strategy map submitted in the proposal showed, whilst the southern attenuation pond discharges into the ditch which connects to the culvert drain on Kirklington Road, the northern attenuation pond can do so into the drain along Lower Kirklington Road. Both discharges ultimately feed into the open ditch along allocated site So/Ho/5 and thus could increase the risk of flooding on this site which is shown already, on the EA map

“For Risk of Flooding Risk from Surface Water” to be liable to inundation.

It should also be noted that this map is based on historic data and does not take account of future climate change.

The consultation comments from the Trent valley Internal Board dated 8th September 2020 should have been taken into account in the appraisal-

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

The Board maintained River Greet, an open watercourse, exists in a north easterly direction from the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent. The Board's Planning and Byelaw Policy, Advice Notes and Application form is available on the website - www.wmc-idbs.org.uk/TVIDB

Under the provisions of the Flood and Water Management Act 2010, and the Land Drainage Act 1991, the prior written consent of the Lead Local Flood Authority, Nottinghamshire County Council, is required for any proposed works or structures in any watercourse outside those designated main rivers and Board Drainage Districts.

The applicant is advised that they are likely to have a riparian responsibility to maintain the proper flow of water in any riparian watercourse which borders or flows through land owned or occupied by them.

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

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority. The Board note the suggested conditions in the Lead Local Flood Authority letter of 20 July 20 and would support these being included in the planning permission.

It will be seen that the Drainage strategy map in the proposal is annotated “ALLOW FOR POND BYPASS IF SUDS ARE NOT AFFORDED FOR ADOPTION” indicating that the issue of attenuation pond size and SUDS was unresolved

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Par 8.91 of the NSDC report confirms this to be the case for Condition 4 imposed at outline stage “Whilst the layout shows the broad strategy of a sustainable urban drainage provided by on site attenuation including two balancing ponds, insufficient details is yet to be presented to allow the condition to be considered satisfied according to the Lead Local Flood Authority.”

Concern

Given the above it is essential that the information repeatedly requested by the LLFA should have been forthcoming from the applicants to enable attenuation pond size to be calculated and the viability of SUDS to be properly assessed.

Additionally this would have enabled NSDC to comply with NPPF requirements para 173 “when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.”.

Also at 173 c) that sustainable drainage systems are incorporated ,unless there is clear evidence that this would be inappropriate, which so far NSDC. Appears to have omitted to do..

Para 4.4 of the SWDS in the application states that “ultimately it will be necessary for the client to commission Infiltration testing to BRE 365 standard across the site” to see if infiltration is viable.

The clear evidence required by NPPF to establish that SUDS

would, or would not, be appropriate has yet to be presented.

Para 11.1 04 (Surfacing of drives and parking) of the NSDC Officer's report states that " Prior to the final surfacing of the access drives ,driveways and or parking areas of each plot a drainage scheme shall be submitted and approved in writing by the Local Planning Authority demonstrating how surface water will be prevented from entering the public highway from these areas."

Concern

The potential amounts of surface water run off from the drives, driveways and/or parking areas on the site could be significant if SUDS is not acceptable.

The Flood Risk Assessment & Sustainable Drainage Statement(FRA & SDR)submitted by the applicants includes Swales as part of the drainage scheme for the site.

Nottinghamshire County Council Highways in their consultation comments of 20/11/20 state categorically "we do not accept swales."

There are therefore two unanswered questions for the applicants' FRA &SDR .

a) How will the surface water run off from drives, drive ways and or parking areas on the site be discharged?

b) How will the surface water run off from the highways be discharged?

The usual but now questionable system, is by connection with the public sewer. There is however no evidence that NSDC have consulted Severn Trent Water on this issue or sewage discharge as they are advised to do in guidance from The Department for Levelling Up, Housing and Communities

Whatever hard surface water discharge is proposed it must be incorporated in the overall Drainage Strategy for the site , in consultation with the LLFA ,and subject to Planning Approval , not left outstanding as suggested in the Officer's report, "until prior to the final surfacing of the potential run off areas."

Para 8.93 of the NSDC report concludes with" Condition 4 - which remains undischarged -allows an appropriate mechanism to agree the final technical details of the drainage strategy and there is no requirement for any further controls or assessment at this stage."

Concern

This statement is unacceptable in that it attempts to clear the way for Planning Approval to be given without the need for the Planning Committee to be provided with facts surrounding the material issue of the drainage strategy and flood mitigation for and off the site.

Additionally this conclusion is offered against the background of poor research on the proposal, an avoidance of national and local planning policies and advice from the EA.

It ignores the best practice protocol need for Planning

Committee members to be given all the relevant facts to be able to make an informed and rational decision on a planning application.

It allows for planners to enter unscrutinised agreements with developers which cannot be changed .

It also sets a precedent for developers to adopt a system of obtaining outline planning approval with conditions which are not discharged by the time of the final application.

Overall Concern

This case raises the question over whether District Council is able to take into account more strategic issues than the specifics related to a particular site.

This is demonstrated in the above appraisal around potential water discharge from the Vineries site and downstream flooding on allocated site So/Ho/05 off Lower Kirklington Road.

In addition, for example, it would have been prudent to note concerns from consultees and asked Highways to comment about how access to So/Ho/05 site will be affected by that allowed for the Vineries Development.