



For and on behalf of

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
APPEAL BY Keepmoat Homes Ltd**

PROOF OF EVIDENCE (PLANNING)

Address: Field Reference Number 7108, Eakring Road, Bilsthorpe

Appeal Reference: APP/B3030/W/20/326587

Date of Inquiry: 11-14 May 2021

Local Planning Authority: Newark and Sherwood District Council

**Prepared by
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April 2021



dynamic development solutions TM

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1.0 QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Jim Lomas and I hold a BA (Hons) Degree in Town Planning. I am a Member of the Royal Town Planning Institute (Elected 1990).
- 1.2 I am a shareholding Director of DLP Planning Limited.
- 1.3 I am the Regional Director based in the Sheffield Office, Ground Floor, V1 Velocity Village, Tenter Street, Sheffield S1 4BY. I oversee the strategic management of the Sheffield, Leeds and Nottingham Offices, ensuring the high standards of work and the corporate objectives of the company are maintained.
- 1.4 I have over 32 years' experience as a planning consultant and Local Authority Planning Officer.
- 1.5 I currently advise a broad range of clients throughout England and handle a diverse workload, including Public Inquiries, Informal Hearings, site promotion through Development Plan allocations, promoting development through planning applications, enforcement appeals, site appraisals and other associated development projects.
- 1.6 I joined DLP Planning Limited in 2002 as an Associate Director. I previously held the post of Assistant Team Leader (City Centre and South West) at Sheffield City Council's Department of Planning. This role involved the processing of planning applications, undertaking appeals, Public Inquiries, Planning Committees and liaising with members of the public, politicians, agents, and applicants.
- 1.7 Prior to this, I was employed at Manchester City Council, again working within the Planning Department. Work involved processing planning applications for both the City Council and the Central Manchester Development Corporation (CMDC).
- 1.8 My other work experience includes working with Leicestershire Council in the Strategic Planning and Policy Department.
- 1.9 The evidence I have prepared and provide for this appeal in this proof is true, having been prepared and is given in accordance with the guidance of my professional institution, the RTPI. I confirm that the opinions expressed are my true and professional opinions

2.0 SCOPE AND STRUCTURE

2.1 My Proof of Evidence is structured as follows:

- Section 3 - The site and its surroundings.
- Section 4 - Relevant planning history.
- Section 5 - Background to this appeal.
- Section 6 - Development Plan Policy.
- Section 7 - National Planning Policy and all other material considerations.
- Section 7 – Third Party comments and response.
- Section 8 - The “Planning Balance”
- Section 9 - Conclusions.

3.0 APPEAL SITE AND SURROUNDINGS

- 3.1 The appeal site relates to a broadly rectangular plot of level land, which was formerly in agricultural use. The site extends to approximately 3.78 hectares. It is located to the North East of the settlement of Bilsthorpe and lies to east of Eakring Road.
- 3.2 The appeal site lies adjacent (west) to the former Bilsthorpe Colliery, which closed in 1997. A disused former railway line (which has been dismantled) lies immediately to the north of the site at a slightly lower level than the appeal site. This former rail line is informally used as a footpath/track. This footpath/track links to the 7km leisure route called the Bilsthorpe Leisure Trail (part of National Cycle Route 645), which connects Vicar Water Country Park, Clipstone and Sherwood Pines.
- 3.3 The formal access point to the appeal site is located immediately on the western side of Eakring Road. There are no constraints to accessing the site.
- 3.4 Land to the south of the appeal site is currently in mixed use, comprising of the St John's Ambulance complex, a Youth Club and games court, telecoms tower and a small business operation. Land to the north is open in nature. Land to the immediate east rises steeply as it once formed a railway embankment and the colliery spoil heap beyond. Land to the east contains self-set woodland and is permeated by informal access points leading to what appears to be an informal footpath route along the line of the former disused rail line. To the west, on the opposite side of Eakring Road, are existing residential dwellings comprising of a combination of bungalows and 2 storey semi-detached dwellings and associated amenity space.
- 3.5 The appeal site is shown in Figures 1 and 2.



Figure 1: Site Location of Appeal Scheme in the context of Bilsthorpe



Figure 2. Aerial View of the Appeal Site viewed from the South West

- 3.6 The appeal site lies around 8km from Ollerton (north), 13km from Mansfield (east), 22km from Worksop (north west) and 24km from Nottingham (south), all of which offer a wide variety of shops, facilities and services.
- 3.7 There are a range of local facilities and amenities which can be accessed within reasonable walking distance of circa 1km or less of the appeal site. These facilities include schools,

shops, employment sites and recreation facilities as follows: Bilsthorpe Surgery; Convenience Store, The Crescent; Fast Food Outlets, The Crescent; Knights Bilsthorpe Pharmacy; Miners Welfare Social Club; Hairdressers, The Crescent; Bilsthorpe Flying High Academy; Post Office; and Bilsthorpe Library, Sports fields off Eakring Road

- 3.8 In addition, the following local facilities can be reached within a walking distance of between 1km and approximately 2km (up to 25 minutes) from the site: Premier Convenience Store, Kirklington Road; Fast Food Outlet, Kirklington Road; Butchers/Bakers, Kirklington Road; Hairdressers; and The Limes Café, A614.
- 3.9 A proposed convenience store (Coop) is proposed to be built adjacent to the appeal site fronting Eakring Road which will further widen the choice of retail opportunities available for existing and future residents.
- 3.10 The area is relatively flat in terms of topography, which is generally conducive to cycling. Significant destinations within a 5km cycle catchment include Bilsthorpe; Eakring; Farnsfield; and Centre Parcs. National Cycle Network (NCN) Route 645 passes directly adjacent to the site's frontage, along Eakring Road and connects NCN Route 6 to the west.
- 3.11 The appeal site is located within approximately 200m of the nearest bus stop on Eakring Road (when measured from the centre of the site), Public Transport can also be accessed from bus stops located on Mickledale Lane, within 400 metres of the site (again, measured from the centre). The existing bus stops on Eakring Road are marked with a flag and pole with timetable information provided. These stops are served by the 27x/28b bus route, which connects Mansfield with Eakring and provides a 60-minute frequency service between Bilsthorpe and Mansfield during the main travel demand periods. These stops are served by the same routes as well as the "Sherwood Arrow", which connects New Ollerton with Worksop and Nottingham, providing access to employment opportunities and service facilities.
- 3.12 The closest railway station to the site is Mansfield, on the Robin Hood Line and is operated by East Midlands Railway. The station is located approximately 12.8km from the site, equivalent to a cycle time of approximately 40 minutes. Rail-served destinations include Worksop, Mansfield Woodhouse, Kirkby in Ashfield and Nottingham, with trains running every 30 minutes during daytimes and every 60 minutes during the evenings.
- 3.13 The appeal site is in Flood Zone 1 as defined by the Environment Agency and as such is at

low risk of flooding.

- 3.14 The appeal site does it contain, or is within proximity to, any designated heritage assets, conservation area, or area designated for any special protection.

Policy Position

- 3.15 The appeal site is allocated for residential and retail development in the Council's Allocations & Development Management DPD (July 2013) under Policy Bi/MU/1 – Bilsthorpe Mixed Use Site 1. The site allocation envisages a mixed-use development providing around 75 dwellings and retail development.
- 3.16 The appeal site has been undeveloped since it was allocated, however benefits from an extant outline planning permission (reference: 17/01139/OUTM) for residential development of up to 85 dwellings and up to 280 sqm of retail development.

The delivery of the residential and retail elements is however proposed via separate developers, with a full application for the retail element (a convenience store) submitted in October 2020 by Lincolnshire Co-operative Ltd. This application is currently pending determination at the time of preparing this proof of evidence (reference: 20/01965/FUL).

4.0 RELEVANT PLANNING HISTORY

- 4.1 Outline planning permission was approved on 3 April 2018, with the decision notice issued on 1 June 2018 (owing to the required S106 completion), for “residential development up to 85 dwellings (Class C3), up to 3,000 sq.ft (280 sqm) retail development (Class A1), and associated access works including details of a new access junction into the site from Eakring Road” (reference :17/01139/OUTM).
- 4.2 A planning condition was imposed requiring the submission of reserved matters within three years of the date of the permission and therefore the outline consent remains extant until 1 June 2021. The Site Location Plan is shown in Figure 3 below.



Figure 3. Site Location Plan (Outline Scheme)

- 4.3 The Phasing Plan for the approved scheme (Figure 4) shows that the proposed retail unit was to be delivered before the commencement of Phase 2 of the residential development to the north of the site.



Figure 4. Phasing Plan (planning application reference:17/01139/OUTM)

4.4 The Illustrative Layout associated with the Outline approval is shown in Figure 5 below.



Figure 5. Illustrative Layout (planning application reference:17/01139/OUTM)

- 4.5 The extant Outline approval was notably supported by a viability assessment, the contents and conclusions were agreed and a reduced S106 package was included as part of the overall approval.
- 4.6 Whilst the approved plan submitted with the Outline application was deemed “illustrative”, it nevertheless indicated a housing layout showing properties with outward/front elevations facing due north over the former railway line and separated by service roads. Equally, properties facing west toward Eakring Road also included outward/front facing elevations

facing towards the public domain. Open space with the application site was sited centrally which offered easily accessible, usable, secure amenity space within the site. It is noted that the appeal proposal has adopted a very similar design and layout approaches to that shown with the approved illustrative outline plan.

- 4.7 Notably, the resolution to grant the outline approval was confirmed at a Planning Committee meeting on 03/04/2018 based on a planning obligation offer of 10% affordable housing and contributions totalling £490,411.65. This followed a previous deferment from a meeting on the 06/03/2018 on the grounds that agreed viability position did not allow for a sufficient provision of affordable housing, as it stood at 5% affordable housing. The relevant committee report confirmed on Page 36:

“It has been confirmed that the increase in affordable housing would reduce the developers profit margins from 18.86% on Gross Development Value (GDV) to 17.36% on GDV. The latest offer of 10% affordable housing delivery on site represents a compromised position but one that the applicant is willing to entertain in light of the discussions from the last committee meeting”.

- 4.8 No detailed assessment was undertaken by the applicant for the Outline permission in relation to the increased 10% affordable housing offer, rather it is understood that this was agreed to achieve planning permission at that time.

- 4.9 The committee report included a summary of the outcomes of the independent assessment undertaken on behalf of the Council in relation to viability, whereby it detailed:

“The market is not strong in this location which is accepted”.

- 4.10 The Full Planning application to which this appeal relates was submitted to the Council on 28 May 2020 and validated on 10 June 2020 (reference: 20/00873/FULM). The application sought full planning permission for the following works:

“Residential development of 103 dwellings and associated access and infrastructure”

- 4.11 The application, as revised and updated, was presented to Planning Committee on 3 November 2020 with a recommendation to approve by the Head of Planning. The Planning Committee however resolved to refuse the application, and a decision notice was subsequently issued on 4 November 2020, detailing one reason for refusal as specified in the Statement of Common Ground

- 4.12 In October 2020, a full planning application was submitted by Lincolnshire Co-operative Ltd

for the construction of a “single storey convenience store and associated hard and soft landscaping” (reference: 20/01965/FUL). At the time of drafting this proof, this application is currently pending determination.

4.13 A full application, rather than a reserved matters application, was submitted by the Lincolnshire Co-operative Ltd to facilitate the delivery of a larger convenience store (390sqm), than that originally envisaged as part of the outline planning application. A Site Location Plan is shown in Figure 6 below for reference.



Figure 6. Site Location Plan (Convenience Store)

4.14 The delivery of the residential and retail elements of the site allocation are proposed via separate developers, and as such this appeal scheme excludes the land subject to the current planning application for the retail unit. Both developments are however proposed to sit side by side, as is reflected by the relevant site location plans, and both adhere to the mixed-use breakdown established by the existing outline approval and Development Plan site allocation.

4.15 Following the refusal of the planning application, it has been necessary for the applicant of the retail scheme to amend their Site Location Plan red line boundary to ensure that they can provide access to their proposed development in the absence of the initial part of the access road being provided by the residential development.

5.0 THE APPEAL SCHEME AND BACKGROUND

5.1 The application to which this appeal relates was submitted to the Council on 28 May 2020 and validated on 10 June 2020. The application sought full planning permission for the following works:

“Residential development of 103 dwellings and associated access and infrastructure”

5.2 Full details of the planning application submission are included in the Statement of Common Ground.

6.0 DEVELOPMENT PLAN POLICY

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires all planning decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise. This section focusses on the relevant Development planning policy considerations in context of the reason for refusal and expands on the broader policy considerations detailed in the Statement of Common Ground (see SoCG).

The Development Plan

6.2 The Development Plan insofar as relevant to this appeal comprises the Amended Core Strategy DPD (March 2019) and the Allocations & Development Management DPD (July 2013).

6.3 I note that the sole reason for refusal has referred to the following policies only:

- **Policy Bi/MU/1** - Bilsthorpe Mixed Use Site 1
- **Spatial Policy 7** – Sustainable Transport
- **Core Policy 3** - Housing Mix, Type and Density
- **Core Policy 9** - Sustainable Design
- **Policy DM5** – Design

6.4 It can safely be assumed that no other policies are breached because the Council's reasons for refusal were obliged "state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant". Article 35 (1)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- **Spatial Policy 1 - Settlement Hierarchy**

6.5 The Settlement Hierarchy for Newark and Sherwood identifies which settlements are central to the delivery of Newark and Sherwood's Spatial Strategy and identifies the role of these settlements in delivering that Strategy,

6.6 Bilsthorpe is identified as a Principal Village which offers a good range of day to day services. They have a role to play supporting service centres and the extent of the settlement is defined by the village envelope.

6.7 This policy is strategic in nature and clearly identifies Bilsthorpe as suitable location in which to accommodate development.

6.8 Whilst the policy has not been referenced in the reason for refusal, it is considered to have

been fully complied with and hence **significant weight** should be afforded to this matter.

- ***Spatial Policy 2 - Spatial distribution of growth***

6.9 The Spatial Distribution Policy focusses upon the distribution of growth throughout the District. Part of the Policy references the fact that Principal villages, including Bilsthorpe, are appropriate for regeneration and the provision of additional housing. In particular, the policy supports the provision of housing to meet local needs.

6.10 Spatial Distribution of Growth target: the Principal villages will be looking to delivery 10% of the overall Districts housing need throughout the plan period. Of the 6 settlements listed under this Policy, Bilsthorpe is identified as meeting 30% of the allocated target distributed to the Principal Villages.

6.11 This policy has not been referred to in the reason for refusal and therefore accepted by all parties that there is no conflict with it.

6.12 This policy clearly indicates that Bilsthorpe will be the focus for new housing development as specified in the adopted Development Plan. Building housing in the settlement meets the objectives of delivering strategic housing numbers within an identified sustainable community. The policy is a central to meeting the Plan's overall objectives and therefore should be given **significant weight**.

- ***Spatial Policy 5 - Delivering the Strategy***

6.13 The policy identifies that sufficient sites have been allocated to meet the needs of the District over the plan period.

6.14 The policy also states that the Council will look to encourage the delivery of allocated sites and seek to overcome constraints where they appear.

6.15 The appeal site is one of the allocated sites within the Development Plan which is to contribute to the delivery of the overall identified housing targets. It is also clear that the Council have sought to assist in addressing specific site constraints to ensure housing delivery occurs at this point. Reference to the overall viability of the appeal and acceptance of the challenges faced to ensure delivery are matters accepted by the Council and is a material consideration in this case.

6.16 The appellant is a recognised national housebuilder and as such has the ability and capacity to ensure the appeal proposal is delivered at this allocated parcel of land within a settlement

identified for regeneration and housing growth. As such there is a clear opportunity to ensure the policy of the adopted Development Plan can be delivered as required.

6.17 The policy is a central to meeting the plan's overall objectives and will ensure the delivery of an identified housing requirement. As such, the appeal proposal accords to policy, **significant weight** should be given to this matter.

- ***Spatial Policy 6 - Infrastructure for Growth***

6.18 This policy seeks to ensure any development which proceeds is appropriately supported by the required infrastructure. Developer contributions will be required through the agreed Community Infrastructure charging levy and spent on the facilities and infrastructure specified with the policy. Equally, any additional infrastructure requirements legitimately identified over and above those specified in the charging schedule will be provided through the Section 106 Planning obligation process.

6.19 In the case of the appeal proposal the appellant will contribute to the infrastructure through both the CIL contributions and via a Section 106 Planning obligation to facilitate the provision of financial contributions to the Village Hall and children's play equipment in the locality.

6.20 A fully completed Section 106 Planning Obligation will be provided to the Inspector ahead of the appeal.

6.21 The application is therefore fully compliant with the policy and **Limited weight** should be afforded to the matter.

- ***Spatial Policy 7 - Sustainable Transport***

6.22 This confirms the Council will encourage and support development proposals which promote an improved and integrated transport network and an emphasis on non-car modes as a means of access to services and facilities. The policy also lists a series of requirements of particular relevance to this appeal, the policy confirms development proposals should provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements in line with Highways Authority best practice; and ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems, taking account of any contributions that have been secured for the provision of off-site works.

6.23 This policy has been referenced in the Reason for Refusal applied by the Council. It will

therefore need to be addressed in greater detail:

- 6.24 With respect to this element of the reason for refusal, the Council considers that the four bed units which are served by three parking spaces in tandem will lead to parking on street, rather than in plot parking, which they consider consequently will detrimentally affect the efficiency of the internal highways network. In the Council's Statement of Case, they qualified, at paragraph 4.43, that *"it is the view of the Council that the provision of triple tandem parking is not a highways safety issue, but rather an issue of poor urban design which would impact upon efficiency, rather than safety."*
- 6.25 The development plan policy of relevance in this instance is Spatial Policy 7, which seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Notwithstanding this, the Development Plan policy does not refer to the unacceptability of tandem parking nor seeks to restrict tandem parking. Equally, the Appellant's Highway proof of evidence supplied by Ms Meer shows that there will not be any unacceptable highway impacts arising associated with tandem parking arrangements which would offend policy SP7.
- 6.26 In accordance with paragraph 109 of the Framework, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be "severe". Ms Meer's Proof of Evidence confirms that the provision of triple tandem parking spaces at 20 dwellings within the site does not conflict with local highway policy or guidance. Ms Meer has provided up to date evidence to demonstrate how triple tandem parking is well utilised on similar scale residential developments throughout the East Midlands, and how the provision of such triple tandem parking has been approved across Nottinghamshire.
- 6.27 The proposed use of triple tandem parking has also been reviewed from a design perspective, given the Council has alleged that the triple tandem parking is an issue of poor design. However, Mr Carr's proof of evidence on behalf of the Appellant confirms that this does not represent the predominant design solution for the site as a whole and therefore the parking strategy proposed is suitable for the scale and location of the development proposed.
- 6.28 The proposed development is acceptable in highway and design terms as the provision of triple tandem parking spaces at 20 dwellings within the site does not conflict with local highway policy or guidance and it does not represent the predominant design solution for the site as a whole. Therefore, the parking strategy proposed is suitable for the scale and location

of the development proposed. As such, there will be no breach of Spatial Policy 7 and the proposed development would not lead to a severe highway impact in accordance with the requirements set out in paragraph 109 of the Framework.

6.29 As the appeal proposal is considered to satisfy Policy SP7, **significant weight** should be afforded to the matter.

- ***Core Policy 1 - Affordable Housing Provision***

6.30 The policy requires that all qualifying housing development will seek to ensure an appropriate provision of affordable housing units are supplied. The policy seeks a 30% contribution, but equally recognises that the viability of delivering such forms of housing is consideration. The viability of the appeal proposal has been a significant material consideration and supporting evidence supplied as part of the application process and accepted by the Council's independent consultants, Council Officers and the Committee Members. The provision of the agreed level of contribution is protected and will be secured through Section 106 Planning Obligation.

6.31 It is noted that the appeal proposal is offering a 10% affordable housing contribution to be provided on site. These will comprise of 4 x 2 bedroom units to be fully rented out and 6 x 2 bedroom units for shared ownership. All properties will utilise the Halstead product provided by the appellant.

6.32 A viability assessment was undertaken as part of the planning application process and it was accepted by the Council, following an independent examination of the evidence that appeal proposal could not support the full policy affordable housing contribution at 30%.

6.33 This matter is confirmed with in the Statement of Common Ground.

6.34 As the Appellant has provided an affordable housing contribution (secured through a Section 106 obligation), undertaken a viability assessment at the application stage of the process and received independent advice that the viability assessment is reasonable by the Council's own independent valuation advisers, I consider that the policy is complied with in this case and as such **significant weight** should again be afforded to this element of the appeal scheme.

6.35 It is noted that the Council has put forward alternative scheme designs as part of the evidence base supporting their Statement of Case. In response to this, the appellant has appointed Mr

Golland (a viability consultant) who has subsequently reviewed these alternatives from a viability perspective, confirming that they could not be viably delivered. The appeal proposal is the only scheme which generates a positive residual value.

- **Core Policy 3 - Housing Mix, Type and Density**

6.36 This requires that development densities in all housing developments should normally be no lower than an average 30 dwellings per hectare net. Development densities below this will need to be justified, considering individual site circumstances. Densities of 30 dwellings per hectare, or more, will be set for other locations and allocations in the Allocations & Development Management DPD.

6.37 Core Policy 3 confirms that the Council will seek to ensure “an appropriate mix of housing types to reflect local housing need”. Such a mix will be dependent on the local circumstances of the site, the viability of the development and any localised housing need information. The policy also sets out that the Council will seek to secure new housing development which adequately addresses the housing need of the District, namely:

- Family housing of 3 bedrooms or more;
- Smaller houses of 2 bedrooms or less;
- Housing for the elderly and disabled population.

6.38 Particular emphasis will be placed on securing smaller houses of 2 bedrooms or less and those for housing the elderly and disabled population.

6.39 The explanatory text for this policy (paragraph 5.13) (but not the policy itself) states that “*in general terms, the indicated split in the study is that 50% of all new dwellings should be 1 or 2 bedroom dwellings and 50% should be of 3 bedrooms and above*”, but this is a generality which is to be applied subject to local circumstances, local need, and the viability of the development, as the policy makes clear.

6.40 Turning to this limb of the reason for refusal, the Council considers that:

“In addition to this, there are significant design compromises whereby the skew towards larger units (in terms of number of bedrooms) not only fails to represent the preferences of the latest District wide housing needs evidence...”

6.41 The Council’s Housing Market and Needs Assessment which is referred to in the supporting text to Core Policy 3 is not up to date, as it is now six years old. Indeed, officers in the Committee Report note the datedness of the evidence, confirming “it may not be reflective of the current position”.

- 6.42 The Housing Market and Needs Assessment (2014) referred to in the supporting policy wording for Core Policy 3 has been superseded by the recently published Housing Needs Assessment (HNA) (December 2020).
- 6.43 The dwelling mix proposed as part of the appeal scheme clearly reflects the policy as a starting point, but it has factored in an assessment of the local need and circumstances, alongside the very tight financial viability considerations underpinning overall delivery of the development (the findings of the Viability Appraisal is a matter agreed with the Council as part of the SoCG, thereby effectively agreeing to the proposed housing mix).
- 6.44 Mr Robert's Proof of Evidence reviews housing mix, in the context of housing need and local circumstances. Mr Roberts confirms that in applying Core Policy 3, the Council has recently concluded, on other applications in Bilsthorpe, that 3+ bed dwellings would be suitable for meeting the needs of households which needs assessments identified would be in need of a smaller dwelling. Therefore, the fact that the appeal scheme proposes a higher proportion of 3-bedroom dwellings compared to the recommended proportion identified in the HNA (2020), should not be considered a valid reason for refusal.
- 6.45 In respect of 4-bed dwellings, the need identified in the Council's evidence (HNA, 2020) for larger dwellings of this size is not currently being met in Bilsthorpe. Therefore, the Council's reason for refusal that by providing a significant proportion of larger-size dwellings the scheme fails to meet an identified local need is not correct as the evidence suggests there is an unmet need for 4-bed dwellings. The Council's HNA (2020) shows an overall housing requirement in Sherwood sub-area for 4-bed dwellings of 35.8%.
- 6.46 Mr Roberts goes on to confirm that all recorded new build transactions in Bilsthorpe Parish in the last five years were bungalows, indicating that this need is at least in part being met. The low level of family housing completions demonstrates that this need is not currently being met.
- 6.47 The Council's Statement of Case (paragraph 4.32) states "A mix which better reflects the local housing requirements would replace some of the three bedroom houses with 2 bedroom bungalows and 1 bedroom flats". However, the need for 1 bedroom flats (0%) and 2 bedroom bungalows (14.4%) in Sherwood sub-area as a proportion of all dwellings required, is minimal compared to the need for family sized 3 and 4 bedroom houses (56%) as shown in the HNA (2020). Therefore, it is concluded that the appeal proposals contribute towards meeting the identified local need for family sized housing.

- 6.48 In addition, in terms of local circumstances and need, what appears to have been missed by officers' interpretation of the potential suitability of the mix, is in relation to the affordability of the Keepmoat Homes product. Keepmoat offers predominantly smaller, efficient family home choices, which is also reflected in the price they market the houses ensuring they align with the general affordability of the area.
- 6.49 Crucial to the mix is also the impact the current COVID pandemic is having on market demand. With the growing shift to working from home, there is an increasing need for more flexible spaces and additional rooms for future occupiers to conduct low key business and working activity, and the appellant has confirmed that the corresponding demand for 3 to 4 bed properties has certainly reflected this.
- 6.50 In respect of the viability of the scheme, as discussed previously and the position of which is agreed with the Council, delivery of the scheme is challenging due to the range of abnormal costs and the limited development value anticipated overall. Accordingly, as noted above, a viability case was provided as part of the submission and was agreed by the Council's independent viability consultant.
- 6.51 Overall, the evidence does not support the idea that a 50/50 mix of 1/2 and 3/4 bedroom homes, would be "appropriate" within the meaning of Core Policy 3. Indeed, the Council in the Committee Report acknowledges that there would not be a strong case to resist the application on housing mix (page 9), stating:
- "...noting that the majority 3 bed units would align with the local housing needs but moreover attaching significant weight to the viability case presented, Officers do not consider that there would be a strong enough case to resist the application solely on housing mix."*
- 6.52 On this basis, the proposed development is acceptable in terms of housing mix as it has considered local need, local circumstances and scheme viability, in full compliance with Core Policy 3.
- 6.53 Notwithstanding this, it is also important to point out that the extant outline permission on the site was subject to a Viability Assessment prepared by Savills (dated August 2017). This Assessment was subject to an independent review and ultimately the scheme was approved. As part of this, an indicative housing mix was provided. This indicative mix is outlined in Table 1 below.

No. of Beds	Number of Dwellings	Percentage (%)
2 Bed	9	11%
3 Bed	48	56%
4 Bed	27	32%
5 Bed	1	1%
Total	85	100%

Table 1: Indicative Housing Mix (Extant Outline Scheme)

6.54 By way of comparison, Table 2 below outlines the housing mix proposed as part of this appeal scheme. As is demonstrated, the housing mix proposed as part of the appeal scheme is generally consistent with the apportionment confirmed as acceptable as part of the viability exercise for the outline scheme and is therefore considered entirely acceptable.

No. of Beds	Number of Dwellings	Percentage (%)
2 Bed	10	10%
3 Bed	58	56%
4 Bed	35	34%
5 Bed	0	0%
Total	103	100%

Table 2: Indicative Housing Mix (Appeal Scheme)

- 6.55 Whilst it is appreciated every application is considered on its own individual merits, DLP Planning was recently involved with a reserved matters application within a similar part of the District to the appeal site, at the former Thoresby Colliery, Ollerton Road, Edwinstowe (reference: 19/01016/RMAM). The application was for 132 dwellings and formed Phase 1 of a wider mixed-use scheme which was granted outline planning permission on 12 May 2019 (reference: 16/02173/OUTM) for the development of up to 800 homes on the site, together with employment uses, a Country Park, a local centre/leisure uses and a primary school.
- 6.56 In respect of this reserved matters application, housing mix was raised as a concern and the Council's aspirations were for the scheme to provide a housing mix that was within a 10% tolerance of the indicative housing mix set out in the Viability Assessment submitted as part of the outline application, which they considered had established a benchmark mix that they proposed to see the overall development achieved against (see relevant email correspondence at Appendix I and Appendix J of the Statement of Case). Indeed, the officer stated: "My strong advice therefore is that you amend the mix to within a 10% tolerance of the viability mix" (Appendix J).

No. of Beds	Number of Dwellings	Percentage (%)
1 and 2 Bed	10	13.5%
3 Bed	58	44.18%

4 Bed	35	35.25%
5 Bed	0	7.02%
Total	103	100%

Table 3: Thoresby Colliery Viability Assumed Mix

6.57 Table 3 above highlights the relevant mix viability identified in the case of the Thoresby Colliery site, which is notably consistent with the mix proposed as part of the appeal scheme and also that of the viability mix agreed at the outline stage with respect to the appeal site. All three of the applications in question were subject to the same evidence base (i.e. the Housing Market and Needs Assessment 2014), thereby identifying an obvious inconsistency in Council's approach in their decision making for the recent refusal.

6.58 In summary, the proposed development is acceptable in terms of housing mix as it has considered local need, local circumstances, scheme viability and also the indicative housing mix set out in the Viability Assessment in respect of the outline planning approval. The proposed development therefore is entirely in accordance with Core Policy 3.

6.59 Given the overall compliance with the Policy CP3 – I consider **significant weight** be afforded to this matter.

- Core Policy 9 - Sustainable Design

6.60 This highlights that the District Council will expect new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District.

6.61 Of relevance to this appeal is that new development should achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments.

6.62 This policy has been referenced in the reason for refusal and therefore requires further assessment in terms of the appeal proposal.

6.63 To fully assess the impacts upon the over Design and Landscape, the appellant has instructed 2 expert witnesses to comment on the following matters:

- Urban Design Proof of Evidence – Mr M Carr (Pegasus Group)
- Landscape and Visual Matter – Mr T Jackson (FPCR)

- 6.64 Both of the above expert witnesses have provided detailed analysis of the urban design and landscape implications of the appeal proposals.
- 6.65 In terms of this element of the reason for refusal, the matter in question is whether the scheme proposes an appropriate density, design and landscape response which addresses the site's gateway location and manages the transition into the main built-up area.
- 6.66 Core Policy 9 confirms new development should complement the existing built and landscape environments.
- 6.67 With regards to the wording denoted within the reason for refusal in relation to the design approach, the Council was quite clear in that this was focused upon the appropriateness of approach towards the northern boundary of the site, and in particular the built form's proximity to the northern boundary and whether the design accordingly addresses the site's gateway location, in turn managing the transition into the main built-up area. Furthermore, the contention around the density proposed related to how this translates into requiring the use of triple tandem parking for some plots.
- 6.68 It is noted however that the Council's Statement of Case provided as part of the appeal has also added in additional suggested concerns in relation to the how the overall scheme has been designed.
- 6.69 The Council makes reference in paragraph 4.13 of its Statement of Case to Condition 3 of planning permission reference 17/01139/OUTM stating that, in relation to reserved matters, landscaping shall be designed to enhance the nature conservation of the site. However, in paragraph 6.6, the Council's view is that the existing outline approval does not offer a 'fallback position'. As such, how the scheme response is approached from a design perspective and whether this gateway transition is appropriately achieved, in policy terms, should be assessed within the context of the more generic design-based Development Plan policies (See later in this report).

Density

- 6.70 In terms of density, as set out in Mr Carr's Proof of Evidence, the net density is 34.7 dwellings per hectare (dph), with the northern boundary of the site benefiting from a reduced density of 31.3 dph the Committee Report refers to a density of 31dph, however this is based on the

total site area minus the attenuation area and areas of open space). In policy terms, the proposed density is in direct accordance with Core Policy 3 which requires a minimum density of 30 dwellings per hectare. It is also in accordance with Policy Bi/MU/1, providing varying densities across the site which address the site's gateway location and manage the transition into the main built-up area.

- 6.71 The Committee Report notes that the proposed overall density is acceptable in the context of Core policy 3 as the starting point should be 30 dwellings per hectare, stating:

“Based on a site area of 3.8 hectares, the development would deliver circa 27 units per hectare albeit once the non-developable area is discounted (i.e. the attenuation pond and the area of public open space) the density of development would be around 31 dwellings per hectare. This is considered acceptable in the context of the aspirations of Core Policy 3.” (page 7)

- 6.72 Further, within the context of national planning policy, the scope to make efficient use of land within urban areas to deliver more new homes should be actively considered. Failure to do so would be inconsistent with national policy, particularly being minded of the national housing crisis context.

Design

- 6.73 With relation to density in design terms, Mr Carr confirms density is a simplistic method to judge design and should not be used in isolation to assess if a development provides the appropriate design response into the local surroundings.
- 6.74 Policy Bi/MU/1 (see paragraphs 6.147 to 6.160) is clear in requiring a form of design for the proposed delivery of the housing allocation which addresses the site's gateway location and manages the transition into the main built-up area. However, it is notably silent both within the policy and supporting text in terms of how this should specifically be achieved and from this regard, there is no mention of a requirement for a landscape buffer area to be included towards the northern part of the site. Furthermore, there was no requirement for the preparation of a Design Brief to support the process of assessment of the proposed delivery.
- 6.75 Mr Carr confirms that the proposed development will 'belong' to the area using comparable design elements found locally, including: predominantly 2 storey dwellings, houses fronting streets; traditional proportions; architectural articulation inspired by local detailing such as multi pane windows, porches to front doors; an interplay between pitched roofs and gables; and similar materials to those of which development in the local area is composed. The proposed development therefore offers an entirely appropriate urban design solution to

address the site's gateway location.

Landscape and Visual Impact

6.76 In respect of the landscape impact considerations, the Council cites the use of the two turning heads on the northern boundary in the reason for refusal. The Council's Statement of Case noticeably places significant focus upon the width of the landscaping proposed along the northern boundary, with the suggestion that this is insufficient in order to achieve an appropriate gateway transition.

6.77 The Committee Report confirms that the existing landscape is of poor quality and as such the landscape sensitivity is very low:

"The site is within the Mid-Nottinghamshire Estates Farmlands with Plantations specifically Policy Zone MN24 Rufford Park Estate Farmlands with Plantations. The landscape condition within this PZ is defined by the guidance as poor. It has an incoherent pattern composed of industrial and agricultural elements which give an overall visually interrupted area. The landscape sensitivity is defined as very low". (page 10)

6.78 A Landscape and Visual Appraisal (LVA) was submitted with the application. The LVA concludes that for the larger scale character areas, the landscape effects are generally negligible due to the proportionately small scale of the site in comparison to the extensive character areas, and the lack of inter-visibility due to the enclosed nature of the site. A conclusion of negligible effects is continued to a regional and District level due to the aforementioned visual enclosure. For the site itself, the impacts are deemed minor adverse once the associated green infrastructure has been able to establish and allows the development to settle into the existing village edge context. Visual effects are also assessed with the acknowledgement that nearby residential properties are likely to suffer a moderate / minor adverse visual effect acknowledging the change from open landscape to residential development.

6.79 Officers sought an independent review of the LVA during determination of the application. In this respect, the Committee Report notes:

"The appointed consultant, Via East Midlands, confirms the initial Officer assessment above regarding the site being visually contained and therefore concur with the applicant that the landscape impacts will not extend a great distance from the site. Ultimately Via East Midlands are in agreement with the conclusions of the submitted LVIA and have identified no fundamental landscape issues arising from the proposal. Their comments do make reference to the need for detailed landscape proposals and tree protection measures, both of which could be secured by condition if permission were to be otherwise forthcoming." (page 10)

- 6.80 The appellant confirms they are content to provide a comprehensive landscaping scheme as part of the development proposals, and this can adequately be dealt with by way of condition.
- 6.81 Mr Jackson (FPCR) is a Chartered Member of the Landscape Institute and has undertaken a review of the development proposal from a landscape and visual perspective. Mr Jackson confirms that the effects of the proposed development on landscape and visual resources and receptors will not be significant or lead to any unacceptable landscape or visual harm. The site is very well enclosed and sits closely allied to existing built development immediately to the west and south.
- 6.82 The proposed development will not change the key characteristics of this part of the settlement edge landscape. No new elements or features that do not already exist in the vicinity of the site will be introduced and the scheme will integrate successfully with the existing settlement and surrounding features.
- 6.83 The resultant change arising from the proposed development will affect the site itself and only its immediate context and not the wider landscape, surrounding countryside or any of the published landscape character areas or types. The resultant effect of the proposed development upon the landscape of the site and its immediate context will be Moderate/Minor Adverse upon completion of the proposed development and this will reduce to Minor Adverse as the existing and new planting is managed and matures.
- 6.84 Only a small number of visual receptors will be affected by the proposed development. This reflects the site's visually contained position with existing built development, woodland and trees significantly restricting any wider viewing opportunities. The proposed development will result in limited visual effects being largely constrained to the immediately adjoining properties, a short stretch of Eakring Road and some short surrounding informal access routes.
- 6.85 In terms of the matters raised in the Council's Statement of Case, Mr Jackson confirms that the effect of the proposed development upon the character and appearance of the landscape has been comprehensively assessed as part of the landscape and visual appraisal of the proposals as detailed in the LVA. The effect of the proposed development upon the character and appearance of the landscape and the north east edge of Bilsthorpe will be at most, limited and localised and will result in no significant impacts.
- 6.86 Mr Jackson goes on to confirm that in landscape and visual terms, the proposed development

responds appropriately and positively to its position on the north east edge of Bilsthorpe at an entrance into the settlement along Eaking Road. It does address the site's 'gateway' location and encompasses a suitable landscape 'transition' and boundary to the north. The landscape proposals will include new semi mature and native hedgerow planting and other locally occurring native tree and evergreen species. In Mr Jackson's opinion, increasing the width of the proposed landscape area along the northern site boundary would provide no material difference or improvement to the suitability or effectiveness of the landscape and planting proposals.

- 6.87 On the basis of the above, given the limited harm identified by the LVA submitted with the application, the independent review of the LVA, and also Mr Jackson's review as part of his Proof of Evidence, it is difficult to see how the design response to the site could be perceived to conflict with policy objective

Additional Design Considerations

- 6.88 As noted above, with regards to the wording denoted within the reason for refusal in relation to the design approach, the Council was quite clear in that this was focused upon the appropriateness of approach towards the northern boundary of the site, and in particular the built form's proximity to the northern boundary and whether the design accordingly addresses the site's gateway location, in turn managing the transition into the main built-up area. The Council's subsequent Statement of Case provided as part of the appeal has however also added in additional suggested concerns in relation to the how the overall scheme has been designed, such as:

- the proposed location of the POS area,
- the relationship with the raised wooded embankment to the east of the site,
- potential future pedestrian linkages and
- the proposed architecture of the house types with respect to their response to the local context.

- 6.89 In addition, the Council has put forward alternative two layout options as part of their Building for a Healthy Life 2020 (BHL 2020) assessment.

Floorspace of proposed housing

- 6.90 Part of the reason for refusal, raises concerns surrounding the floorspace quantum of a number of the proposed dwellings:

"...Moreover, the size of a number of the proposed units are modest in their floor space again as a result of the overall number of dwellings far exceeding the number anticipated

on a site of this size in this location.”

6.91 In this respect the Committee Report notes that a number of the units would not achieve the Government published Technical housing standards – nationally described space standard’ (March 2015) (NDSS). The Committee Report then however goes on to point out that the Council has not adopted this NDSS and therefore *“Without evidence outlining a specific required space standard for the District or indeed any evidence to the contrary in respect to product sales, it would be extremely difficult to resist the applications solely on this basis”* (page 13).

6.92 Fundamentally, there is no adopted policy basis supporting this limb of the reason for refusal. In respect of a recent appeal decision at Land between Chandlers and Creeksea Lane, Maldon Road, Burnham on Crouch, Essex (ref. APP/X1545/W/20/3251106), which was allowed on 16 December 2020 (see Appendix 1), the Inspector, at paragraph 32, confirmed that:

“The Written Ministerial Statement (WMS) of 25 March 2015 states that decisions should only require compliance with the national technical standards, which include the NDSS, where there is a relevant current Local Plan policy.”

6.93 In the case of this appeal decision, a Supplementary Planning Document (SPD) referred to the NDSS as being the starting point for any discussion in relation to affordable housing, however the NDSS were not incorporated into the Development Plan itself. On this basis, the Inspector, at paragraph 34, gave limited weight to the non-compliance of the appeal proposals with the NDSS in the SPD:

“The Council has not incorporated the NDSS into the development plan, as required by WMS and the PPG. Moreover, it has not justified the use of the NDSS through the collection of evidence. Furthermore, whilst the SPG refers to the NDSS as a ‘starting point for any discussions’ it does not appear to require compliance with them. As a result, I can give only limited weight to the reference to the non-compliance of the appeal proposal with the NDSS in the SPD.”

6.94 Newark and Sherwood District Council does not refer to the NDSS in either the Development Plan or in SPD/SPGs and on this basis, no weight should be given to the non-conformity of some of the dwellings part of the appeal proposals with these standards. The Council initially adopted its Core Strategy in 2013, with the Core Strategy Review then adopted in 2019. As part of the recent Core Strategy Review, the Council had the opportunity to include the NDSS, but these were not included.

6.95 Moreover, the appellant is a recognised delivery vehicle, who delivers a high standard of

product, demonstrated by the East Midlands region currently operating with a 5* NHBC rating. All of the house types proposed as part of the appeal scheme are from the appellants established range of house types, which are consistently well received and sell successfully on their developments elsewhere.

- 6.96 Overall, therefore whilst it is acknowledged that some of the proposed house types fall short of the NDSS, importantly these are not mandatory, the Council has not adopted these standards, and evidence has been provided to demonstrate that the house types proposed as part of this appeal scheme are popular with buyers. There is therefore no policy basis justifying refusal of this scheme in terms of space standards.

Comments on alternative Design and Layouts:

- 6.97 As highlighted by the alternative scheme designs put forward as part of the evidence base supporting the Council's Statement of Case, there are several potentially appropriate ways that the design response to the site could be approached. Indeed, this is the case for most large residential development sites. However, whether one is determined as being preferable over another relies to a degree upon subjective judgement. This is highlighted by the competing views of the two Urban Design experts in terms of the Building for Life Analysis undertaken in relation to the appeal scheme.
- 6.98 Furthermore, there are clearly competing factors to consider within the context of the delivery of all residential sites and these can strongly influence the approach to layout and design. Accordingly, a view on design needs to be made considering the competing opportunities and constraints potentially effecting delivery of a development proposed, the variety of planning policy considerations, with the planning balance ultimately determined.
- 6.99 Within this context, it is important to note that the Council's new concept Option A presents an indicative scheme of 85 dwellings based on a measured net development area of 4.09ha. This would equate to an approximate site wide average density of 20.78dph. This is contrary to the minimum density requirement of Core Policy 3 and does not represent an efficient use of land, which is required by national planning policy. The Council's new concept option B presents an indicative scheme of 87 dwellings based on a measured net development area of 4.30ha. This would equate to an approximate site wide average density of 20.23dph. This is again contrary to the minimum density requirement of Core Policy 3 and does not represent an efficient use of land, which is required by national planning policy.

- 6.100 In terms of design approach, it is notable that both concept options propose a single sided

adoptable highway directly adjacent to the northern boundary of the application site and indicate no, or minimal, additional landscaping treatments along this boundary. Such an appropriate is consistent with the appeal scheme under consideration, albeit the I would suggest that the appeal scheme offers a softer edge via the use of the shared drive arrangements.

- 6.101 Mr Carr has assessed the appeal scheme against the current BfL 12 and BHL 2020. In Mr Carr's assessment and in difference to the Council's assessment, the development achieves 10 'greens' and no reds. The criteria states that achieving 9 or more 'greens' (and no reds) allows a BFL/BHL commendation.
- 6.102 In terms of the proposed location of the POS area, this is located centrally within the appeal site, providing recreational opportunities and a green focal point to the scheme. The area around the green space becomes a nodal point that overlooks the green space, creating an active area.
- 6.103 In terms of pedestrian connections, there are no formal Public Rights of Way crossing or directly adjacent to the site. That said it is noted that there are desire lines both on site and off site. Principally, the off-site route running along the dismantled railway and the diagonal route crossing the site from Eakring Road to the north eastern corner of the appeal site. There is also a desire line that runs along the eastern boundary in a broadly north-south route. Notwithstanding this, given they are not formal Public Rights of Way, people using these routes are trespassing. The current informal routes are not retained.
- 6.104 In terms of the proposed architecture of the house types with respect to their response to the local context, Mr Carr confirms that the layout and design, takes cues from the locality, including urban form, scale and proportion, materials amongst other characteristics. Overall, the design process has resulted in a scheme that makes appropriate use of the site and appropriate reference has been made to the Council's design related policy and guidance and relevant elements of the NPPF. Mr Carr has provided an assessment of the scheme against design policy DM5, concluding that the proposed development is in direct accordance with this Policy.
- 6.105 In my professional judgement, I agree with Mr Carr that the proposed development is offers the following benefits:

- Access: Provision has been made for safe and inclusive access throughout the

development.

- Parking: The parking strategy proposed is suitable for the scale and location of the development proposed and is in line with the current applicable residential parking standards.
- Amenity: The majority of the site shares boundaries with open countryside. All properties are provided with appropriately sized private amenity spaces.
- Local Distinctiveness: As concluded in the Committee Report, “Overall the visual appearance of the proposed house types are considered acceptable in the context of Policy DM5”.
- Trees, Woodlands, Biodiversity & Green Infrastructure: The application site is generally void of landscape features with the exception of the site boundaries. These are retained and wherever possible are enhanced within the landscape proposals accompanying the scheme. Detailed landscape proposals can be agreed by way of condition.
- Crime and Disorder: The orientation and layout of the proposed development ensures streets and public spaces are overlooked, and rear gardens are enclosed.
- Ecology: Subject to the imposition of conditions, no specific harm has been identified in relation to matters of ecology. This is a matter agreed with the Council in the SoCG.
- Flood Risk and Water Management: All comments regarding flood risk/drainage have been addressed and as such, NCC Flood has confirmed it does not have any objections, subject to a condition seeking the details of the surface water drainage scheme. This is a matter agreed with the Council in the SoCG.

6.106 It is quite clear that the appellant’s proposals have consider a multitude of policy and physical character which are requirements of achieving sustainable housing designs as required by policy CP9 – sustainable design.

6.107 Assessment of the landscaping and urban design has been undertaken by 2 independent and experienced professional who have conducted that the alleged harm is negligible impact and is very much in accordance with the urban form of the vicinity.

6.108 Allowing the appeal accords with the Policy. and therefore the Inspector should afford **significant weight** to the compliance with policy.

- ***Core Policy 12 - Biodiversity and Green Infrastructure***

6.109 The thrust of policy seeks to preserve and enhance the biodiversity and geological diversity of the District.

6.110 It is noted that there are no specific features, both from a biodiversity or geological diversity which are relevant to the appeal site.

6.111 The site has been allocated in the Development Plan for housing and an extant planning permission remain in place for housing development.

6.112 The appellant proposes to introduce additional landscape measures and together with the introduction of open spaces, additional landscaping and domestic gardens, there will be a biodiversity net gain at this site.

6.113 The policy has not been referenced in the reason for refusal and so it is accepted the matters has been addressed. As the appeal proposal accords to this policy, the Inspector should afford **significant weight** to this policy.

- ***Core Policy 13 - Landscape Character***

6.114 The policy requires new development to address the implications of the identified landscape zones and ensuring the areas are protected and enhanced.

6.115 The matter of landscaping is covered by the proof of evidence supplied by Mr Jackson in some detail and does not need to be repeated here.

6.116 The policy has not been specified in the reason for refusal and as such is deemed to have been fully complied with.

6.117 As the appeal proposal accords to this policy, the Inspector should afford **Significant weight** to this matter .

- ***Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy***

6.118 This policy supports the delivery of development within the settlement envelopes as shown on the Proposals map.

6.119 In the case of the appeal site, the land is shown as a Housing Site within the Proposals Map and hence the use as proposed is entirely compliant with this policy.

6.120 The reason for refusal made no reference to this particular policy and it is safely assumed that this policy is fully complied with.

6.121 As the appeal proposal accords to this policy, the Inspector should afford **Significant weight** to this matter.

- ***Policy DM2 - Development on Allocated Sites***

6.122 This policy makes it clear that allocated sites which are identified will be fully supported, subject to site specific matters of detail being addressed. The policy also specifies the nature of supporting information which is required to support any such applications.

6.123 It is noted that this policy has not been specified in the reason for refusal applied by the Council and as such, it is deemed to have been fully complied with.

6.124 As the appeal proposal accords to this policy, the Inspector should afford **Significant weight** to this matter.

- ***Policy DM3 - Developer Contributions and Planning Obligations***

6.125 This policy seeks to ensure proposal development is supported by adequate infrastructure. Reference to both Community Infrastructure and Section 106 Developer obligations is made.

6.126 The policy is not significantly different to that contained within the adopted Core Strategy.

6.127 As stated, the appellant is intending to make appropriate CIL contributions, together with the requisite Section 106 obligations to fund investment/repairs at in a local Community Centre and ensure the provision of children's play equipment and provide the social housing contribution. A section 106 obligations will be provided as part of the appeal submission and as such this policy will be addressed.

6.128 As the appeal proposal accords to this policy, the Inspector should afford **limited weight** to this matter.

- ***Policy DM5 - Design***

6.129 This sets out that in accordance with the requirements of Core Policy 9, all proposals for new development shall be assessed against several criteria. Rather than repeat the points already raised in this Proof of evidence, reference should be made to sections 6.61 to 6.109 of this proof, the evidence of Mr, Carr, Mr Jackson and Ms Meer who have all addressed the areas of concern at some length, the impact upon urban forms, landscaping and parking and access arrangements.

6.130 The evidence supplied on behalf of the appellant clearly indicates that the policy has been fully addressed and considered when formulating the appeal scheme.

6.131 As the appeal proposal accords to this policy, the Inspector should afford **Significant weight** to this matter.

- ***Policy DM7 - Biodiversity and Green Infrastructure***

6.132 The function of the policy is to promote, protect and enhance green infrastructure.

- 6.133 There are no specific features of any value in or adjoining the appeal site which require special protection. However, the appeal site can provide opportunity to enhance and promote bio-diversity benefits and these are evident through enhanced landscaping proposal provision of open spaces and the delivery of private gardens, which will offer enhancement over and above an inert former agricultural field.
- 6.134 The appeal proposal will represent an opportunity to enhance the biodiversity offer and hence present and policy compliant opportunity at the site.
- 6.135 The policy did not form any part of the reason for refusal.
- 6.136 The policy is complied with and as such, the Inspector should afford **significant weight** to this policy compliance.

- ***Policy DM12 - Presumption in Favour of Sustainable Development***

- 6.137 The policy seeks to a positive approach to considering development which reflects the presumption in favour of sustainable development (see NPPF). The policy recognises that the Development Plan is the statutory starting point for decision making. Planning applications that accord with the policies in the Development Plan will be approved without delay unless material considerations indicate otherwise.
- 6.138 The policy also recognises that any adverse impacts of granting permission would have to significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework. Where adverse impacts do not outweigh benefits consideration should be given to mitigation where harm would otherwise occur.
- 6.139 Whilst the Council consider that the area of concern associated with the appeal scheme which are outlined in their Statement of Case, it appears that the Council have failed to take account of the weigh to be afforded to the areas of concern when assessed against the contents and objectives of The Framework when taken as a whole.
- 6.140 Consequently, I consider that the policy is fully complied with as the appeal scheme is considered to represent a sustainable location in which to facilitate housing. Also, given the allocation as a housing site, which has previously been tested through Development Plan formulation, recognition of Bilsthorpe identification as a sustainable community offering day to day services and subsequent outline planning approval, this further confirms the scheme's compliance with this policy.

6.141 The Policy has not been referenced with the reason for refusal.

6.142 The policy is therefore deemed to have been fully adhered to and the Inspector should afford **significant weight** afforded in favour of the appeal proposal.

- ***Policy Bi/MU/1 - Bilsthorpe Mixed Use Site 1***

6.143 The appeal site is allocated for residential and retail development in the Council's Allocations & Development Management DPD (July 2013) under Policy Bi/MU/1 – Bilsthorpe Mixed Use Site 1. The site allocation envisages a mixed-use development providing around 75 dwellings and retail development. From this regard, indicative numbers of dwellings are used to demonstrate how the Local Plan requirement can be met and do not represent a fixed policy target for each individual site. Site capacity will be subject to much more detailed developer assessment.

The Policy States: "Land to the east of Eakring Road has been allocated on the Policies Map for mixed use development providing around 75 dwellings and retail development

In addition to the general policy requirements in the Core Strategy and the Development Management Policies in Chapter 7 with particular reference to Policy DM2 Allocated Sites, and Policy DM3 Developer Contributions and Planning Obligations, development on the site will be subject to the following:

- *Appropriate design which addresses the site's gateway location and manages the transition into the main built up area;*
- *Pre-determination archaeological evaluation submitted as part of any planning application and post-determination mitigation measures secured by condition on any planning consent are likely to be required;*
- *Appropriate phasing of retail and residential uses."*

6.144 As agreed with the Council in the SoCG, the principle of residential development on the site has already been established due to the appeal site forming part of the site allocation detailed by Policy Bi/MU/1 of the Allocations & Development Management DPD, whereby in respect to the residential element, the policy envisages a delivery of around 75 dwellings to come forward to contribute towards meeting housing need. Further, the site benefits from an extant outline planning permission for 85 dwellings (and a retail unit) (reference: 17/01139/OUTM), which is afforded limited weight.

6.145 The scope to make efficient use of land within urban areas to deliver more new homes should be actively considered. Failure to do so would be inconsistent with national and development plan policy, particularly being minded of the national housing crisis context.

6.146 Bi/MU/1 envisages around 75 dwellings to come forward. The number of dwellings proposed is therefore not a maximum prescribed level. Indicative numbers of dwellings are used to demonstrate how the Local Plan requirement can be met and do not represent a fixed policy target for each individual site. Site capacity will be subject to much more detailed developer assessment. Further, Spatial Policy 2 sets a minimum housing target for the District i.e. the housing requirements for Newark & Sherwood District between 2013 and 2033 are a minimum of 9080 dwellings.

6.147 Indeed, in this respect, the Committee Report accepts this point and notes:

“Whilst the current proposal seeks for 103 units, this is not necessarily fatal in principle. The main aim of the allocations process was to deliver the minimum number of dwellings to satisfy the requirements of the Core Strategy and thus a greater delivery of housing is not necessarily resisted in principle subject to the proposal being able to satisfy the relevant policy requirements.” (page 6)

6.148 Notably, the extant outline planning approval for the site has already established a precedent for the acceptability of delivering more than 75 dwellings on this site.

6.149 To determine the optimum development potential for the site, as part of the planning application submission, the appellant undertook detailed technical assessments and design work to determine that the site could satisfactorily accommodate the number of dwellings proposed. This identified additional abnormal costs, further to the viability exercise that supported the initial outline approval, which had resulted in a reduced S106 package confirmed as part of the approval. To ensure the scheme could ultimately be delivered in a manner that would allow provision of the required infrastructure to support the development, it was apparent to the appellant that a viable scheme could not be achieved via an 85 dwelling reserved matters submission, resulting in the need for the submission of a full application to allow for the increase plot provision which has been offered within a consistent area, as defined by the residential / retail split agreed as part of the extant outline approval.

6.150 Keepmoat undertook pre-application discussions with the Council in respect of a 97 units scheme (ref. PREAPP/00114/19) and a 105 units scheme (ref. PAFU/00021/20). Appendix E of the appellant’s Statement of Case contains the Council’s pre-application advice in respect of the 97 units scheme, and Appendix F contains the Council’s advice in respect of the 105 units scheme.

6.151 At that stage, officers advised that:

“The principle of development within the site has been accepted partially by the site allocation but more explicitly by the extant approval which relates to the site as detailed above. The key consideration in the current enquiry is therefore whether the increase from a maximum of 85 units to 97 units would be acceptable.

The extant approval already increased the quantum of development from that envisaged at allocation stage (75 dwellings) but as is detailed in the Committee Report for that application, the increase in numbers is not considered fatal subject to the impacts of the scheme being acceptable.”

- 6.152 This was also reiterated in the Officer report to committee, as highlighted above.
- 6.153 Overall, the efficient use of land is supported by national policy and the local development plan, but is also essential in this case to ensure that the scheme can be delivered viably. The scheme delivers 103 dwellings by means of an efficient site layout, taking into account relevant technical considerations. The provision of 103 dwellings also means that more affordable dwellings can be delivered on this site, as the appeal scheme is subject to a 10% affordable housing provision.
- 6.154 The quantum of housing proposed on the site is therefore considered entirely appropriate in accordance with Policy Bi/MU/1 (and Spatial Policy 2 – see above Paragraph 6.10 to 6.13), the development on the land is optimised which is particularly important given the national housing crisis and it gives rise to no material harm.
- 6.155 The Inspector should afford **significant weight** to the compliance with this policy
- ***Policy Bi/Ph/1 - Bilsthorpe Phasing Policy***
- 6.156 This states that *“phasing in all cases must be appropriate to the size of the development, reflect on site and infrastructure provision and constraints and not be unviable for the developer to implement.”*
- 6.157 In terms of the phasing element, during the course of determination of the planning application, the Council raised concerns with regards to the lack of phasing proposed for the retail and residential uses on the site, as this was considered to conflict with the requirements of adopted planning policy. A legal opinion was subsequently sought by the appellant in relation to this matter, and this confirmed that there is no policy requirement to show phasing of the retail and residential uses on this site in circumstances where it is inappropriate to require a phasing plan given, for example on site constraints; or delivering against a phasing plan would be unviable.

- 6.158 Furthermore, it was also confirmed that Policy Bi/MU/1 does not require the residential and retail elements of the outline scheme to be delivered by the same developer; at the same time; subject to particular order of development or an overall site masterplan; or as part of a comprehensive piece of development. This matter was accepted by the Council, as detailed in the SoCG.
- 6.159 Delivery of the scheme is challenging due to the range of abnormal costs and the development value anticipated overall. Accordingly, a viability case was provided as part of the submission and was agreed by the Council's independent viability consultant. Notably, the viability appraisal demonstrated that the scheme provides no excess profit to support bringing forward a retail scheme (other than the access and drainage infrastructure), meaning that in this circumstance, a phasing plan would be impractical, inappropriate and unviable.
- 6.160 Furthermore, a S106 Agreement requirement to link the two schemes (retail and residential) was not considered appropriate because the delivery of the retail unit is not necessary to make the residential development acceptable in planning terms. Given the two schemes include separate site boundaries and developers, this also was not considered to be technically achievable either.
- 6.161 Overall, the legal advice therefore concluded that the delivery of the residential and retail elements by separate developers is consistent with the requirements of Policy Bi/MU/1. The Council also sought its own legal opinion in this regard which agreed with this view. It was therefore confirmed that this could not form a robust basis as a reason for refusal. Notably, the conclusions of the relevant barrister opinions were required to be reconfirmed to Members during the Committee meeting discussion by the Council's solicitor following a Member suggestion that phasing issues should potentially be included as part of the proposed reason for refusal.
- 6.162 The Inspector should afford **no weight** to the policy in the determination of this appeal.
- ***Summary of Development Plan policy Requirements***
- 6.163 The principle of developing housing at his site is established in both the Development Plan and given the planning permission granted for housing on the appeal site.
- 6.164 The proposal includes a mix and density of housing which adheres to the Council's policy objectives.

- 6.165 The design and layout meet the aspirations of policy on terms of visual impact and overall layout.
- 6.166 An affordable housing contribution is being made which accord to policy objectives as a viability assessment has been carried out and agreed by the Council. Policy allows the viability of development to be taken into consideration
- 6.167 Enhancement of the site can be undertaken, and the site is located with a sustainable settlement identified for housing growth and regeneration
- 6.168 Following an extensive assessment of the Development Plan policies which relate to the appeal site, it is considered that allowing this appeal would accord with the statutory development plan taken as a whole.

7.0 OTHER MATERIAL CONSIDERATIONS

National Planning Policy Framework (NPPF)

7.1 The NPPF (and its associated guidance), is a significant material planning consideration and itself recognises the primacy of the Development Plan for decision making (notably paragraphs 2, 12 and 47), it also recognises that achieving well designed places is fundamental to what the planning and development process should achieve, with good design a key aspect of sustainable development (paragraph 124).

- Achieving Sustainable Development

7.2 Paragraph 7 describes that the purpose of planning is to contribute to the achievement of sustainable development. Paragraph 8 proceeds that the planning system, in the context of sustainable development, has 3 overarching interdependent objectives, namely, Economic, Social and Environmental.

7.3 Comment - I consider that the appeal proposal complies with each of these aspirations in terms of the appeal proposals through the following benefits:

- **Economic** – employment during construction (labour and materials), additional spending capacity within Bilsthorpe at local; shops and services during construction process and post occupation by future residents), increasing house prices in the community.
- **Social** - the delivery of much needed housing meeting family housing needs, delivery of affordable housing products, investment in community facilities for the future and existing residents to benefit
- **Environmental** – additional landscape opportunities, biodiversity enhancements, location of housing within a sustainable community offering day to day services in the locality.

- The Presumption in Favour of Sustainable Development

7.4 Paragraph 11 requires plans and decision to apply the presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay.

7.5 Comment - The Development Plan has been identified within the proof and is considered to be up to date and hence weight afforded to the policy guidance contained within. As the

appeal scheme complies with the Development Plan taken as a whole, I consider the appeal scheme should be approved without delay.

- ***Delivering a sufficient supply of homes***

- 7.6 Paragraph 59 states that it is important a sufficient amount and variety of land can come forward where it is needed, that needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay to support the Government's objective of significantly boosting the supply of homes.
- 7.7 Comment - The appeal site is an identified allocation in the Development Plan and hence it is expected to come forward to meet the housing needs of the District. The appeal scheme provides a mix of housing commensurate with the policy guidance and similar forms of development in the District. The scheme delivers and mix of market and an affordable provision.
- 7.8 Paragraph 61 outlines that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
- 7.9 Comment - The appeal proposal offers a mix of house types which will cater for a broad range of community housing needs.
- 7.10 Paragraph 64 expects an affordable housing provision of at least 10% for major residential development proposals unless this would exceed the level of affordable housing required in the area or significantly prejudice identified affordable housing needs of specific groups.
- 7.11 Comment – the appeal scheme includes 10% affordable housing contribution.
- 7.12 Paragraph 68 confirms small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly.
- 7.13 Comment - the appeal site is considered to represent a medium sized site. It is expected to complete the development 103 dwellings in circa 2.5/3 years from commencement of development and hence increase the overall housing stock in the District over this period of time. The appellant is a national housebuilder which fully intends to undertake construction at the site if the appeal succeeds.
- 7.14 Paragraph 73 requires local planning authorities to identify a supply of specific deliverable sites to provide a minimum of 5 years' worth of housing. This should include a) a buffer of

5% to ensure choice and competition in the market for land, b) 10% where demonstrated through an annual position statement or recently adopted local plan to account for any fluctuations in the market during that year, or c) 20% where there has been significant under delivery of housing over the previous 3 years (measured against the Housing Delivery Test from November 2018) to improve the prospect of achieving the planned supply.

7.15 Comment - the appeal site is an identified housing site and forms part of the contribution towards strategic housing delivery within the District and the 5 years Housing Land Supply,

- ***Promoting healthy communities***

7.16 Paragraph 91 describes the importance of creating healthy, inclusive and safe places. Planning policies and decisions should therefore promote social interaction, safe and accessible environments which reduce the potential for crime and disorder (including fear of crime) and enable / support healthy lifestyles.

7.17 Comments – these matters have been taken into consideration, with the appeal scheme offering a safe, accessible, inclusive development through careful and well thought out design, proximity of open space and perimeter development creating secure living environments.

7.18 Paragraph 92 states that to deliver social, recreational and cultural facilities and services the community needs, planning policies and decisions should, inter alia:

- Plan positively for the provision and use of shared spaces, community facilities (i.e. local shops, meeting places, sports venues, open space, cultural buildings, pubs and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and,
- Ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

7.19 Comment - the appeal site integrates into the existing community and a range of nearby facilities and services. Open space within the site is accessible, centrally located, overlooked and usable for the existing and future community.

- ***Open space and recreation***

7.20 Paragraphs 96 to 98 set out that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of

communities, and that opportunities should be sought to provide better facilities for users by, for example, linking to existing rights of way networks including national trails.

7.21 Comment – Open space within the site is centrally located, accessible and available to the future and existing community. The appeal site also lies adjacent to existing recreational cycle routes which can easily be accessed .

- ***Promoting sustainable transport***

7.22 Paragraphs 102 to 111 describe the promotion of sustainable transport, recognising that different polices and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

7.23 Paragraph 108 describes that decisions regarding development proposals should ensure that appropriate opportunities to promote sustainable transport modes can be or have been taken up being minded of development type and its location; safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network or highway safety can be cost effectively mitigated to an acceptable degree.

7.24 Paragraph 109 states that development should only be refused on highways grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be 'severe'.

7.25 Paragraph 110 sets out that applications for development will firstly give priority to pedestrian and cycle movements followed by high quality public transport; address the needs of people with disabilities and reduced mobility; create places that are attractive, safe and secure minimising conflicts between users and avoiding unnecessary street clutter, responding to local character and design criteria; allow for efficient delivery of goods and access by service / emergency vehicles; and are designed to enable charging of plug-in and other ultra-low emission vehicles.

7.26 Comment – The site is a self-contained parcel of land which will not encounter through traffic on the highway network, includes suitable access visibility, pedestrian routes, appropriate parking provision for housing, permeability through the site and adequate highway capacity in the area exists. There is no evidence of severe harm in highway terms at this appeal site.

- **Making *effective* use of land**

7.27 The 2019 Framework includes a chapter, Chapter 11, on how planning policies and decision should promote effective use of land. The relevant excerpts from the Framework are set out below.

7.28 Paragraph 117 states planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

7.29 Paragraphs 122 and 123 requires policies and decisions to support development that makes efficient use of land, avoiding low densities in areas of existing or anticipated shortage of land.

7.30 Comment – The site is a greenfield location and so it is considered of paramount importance that the most efficient use of such sites is made when undertaking housing development. The appeal scheme makes efficient use of land by developing a viable proposal, increasing housing numbers over and above than initially anticipated through the Development Plan and constructing to a policy density requirement. Increasing density will contribute to increased housing supply and therefore meeting needs within the District.

- ***Achieving well-designed places***

7.31 Paragraphs 124 describes that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve, with good design a key aspect of sustainable development which creates better places in which to live and work and helps make development acceptable to communities.

7.32 Paragraph 127 sets out that planning policies and decisions should ensure developments

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate landscaping.
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish a strong sense of place, using streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- create safe, inclusive and accessible environments which promote health and well-being, with a high standard of amenity for existing and future users, where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion and resilience;

7.33 Paragraph 129 proceeds that local planning authorities should ensure that they have access and make appropriate use of tools and processes for assessing and improving the design of development which includes assessment frameworks such as Building for Life. Paragraph 130 states that permission should be refused for poorly designed development that fails to take the opportunities available for improving character and quality of an area and the way it functions, whilst paragraph 131 sets out that great weight should be given to outstanding or innovative designs promoting high levels of sustainability or those that help to raise the standard of design more generally in an area (so long as they fit in with the overall form and layout of their surroundings).

7.34 Comment – The appellant has fully complied with the design objectives and this is covered in this Proof, but also those of Mr Carr and Mr Jackson in support of the appeal.

- ***Conserving and enhancing the natural environment***

7.35 Paragraph 170 sets out that the planning system should contribute to and enhance the natural and local environment by, inter alia, protecting valued landscapes, recognising the intrinsic character and beauty of the countryside and wider benefits of ecosystems, including the benefits of trees and woodland, minimising impacts on and providing net gains for biodiversity (including establishing coherent ecological networks).

7.36 Comment - The appeal site is not an identified valued Landscape Biodiversity net gains can be achieved at this location. It is considered that appropriate attention to these material considerations has been appropriately applied.

Supplementary Planning Documents

Residential Cycle and Car Parking Standards & Design Guide Supplementary Planning Document (SPD) Final Draft 2021

7.37 Officers in the Committee Report reference the Council's August 2020 consultation draft "Residential Cycle and Car Parking Standards & Design Guide SPD", whereby key principle 2 in the draft SPD expresses a "preference" against tandem parking and says that it will "not normally be supported".

7.38 By way of update, consultation on the Final Draft of this SPD ran until 12 March 2021. Representations will now be considered by the Council, before proceeding to adoption. This final draft contains amendments in which the wording has been changed in Key Principle 2, such that tandem parking arrangements “will not be encouraged”. Key principle 2 now states:

“Tandem car parking arrangements can form part of a car parking strategy but will not be encouraged to be the only or predominant design solution. A over reliance on tandem parking as a design solution will not be encouraged but it is acknowledged that in some circumstances (i.e. for smaller dwellings) tandem parking may be required.

Frontage parking can have a detrimental effect on the street scene. A maximum of four bays (to be counted as four parking spaces) are permitted in a line before a minimum break equal in size (length and width) of one parking space should be provided for soft landscaping (e.g. trees [where appropriate] and hedges). Frontage parking which faces each other across the street will be discouraged”.

7.39 The Committee Report references the Council’s August 2020 consultation draft “Residential Cycle and Car Parking Standards & Design Guide Supplementary Planning Document”, whereby key principle 2 in the draft SPD expresses a “preference” against tandem parking and says that it will “*not normally be supported*”.

7.40 By way of update, consultation on the Final Draft of this SPD ran until 12 March 2021. Representations will now be considered by the Council, before proceeding to adoption. This final draft contains amendments in which the wording has been changed in Key Principle 2, such that tandem parking arrangements “*will not be encouraged*”. Key principle 2 now states:

“Tandem car parking arrangements can form part of a car parking strategy (DLP underling) but will not be encouraged to be the only or predominant design solution. A over reliance on tandem parking as a design solution will not be encouraged but it is acknowledged that in some circumstances (i.e. for smaller dwellings) tandem parking may be required.

Frontage parking can have a detrimental effect on the street scene. A maximum of four bays (to be counted as four parking spaces) are permitted in a line before a minimum break equal in size (length and width) of one parking space should be provided for soft landscaping (e.g. trees [where appropriate] and hedges). Frontage parking which faces each other across the street will be discouraged”.

7.41 Whilst it is accepted that progress on the SPD has moved on since the time of the decision, it is considered that this SPD can carry no more than **limited weight**, given it has not yet been adopted. In any event, and regardless of its weight, the SPD’s terms only set out that tandem parking which will “not normally be encouraged”. It is therefore clear that even if the SPD was given full weight, there is no absolute objection to tandem parking and any assessment would need to be made on a case by case basis using professional technical

judgment as to acceptability.

7.42 The Committee Report welcomes the proposed side parking stating: “As a general principle, the majority of the parking provision is demonstrated to the side of plots which is welcomed in terms of reducing the visual impact of hardstanding” (page 14).

7.43 Given the status of the document, its ongoing evolution, and contents which afford flexibility over the use of such parking approaches, I consider that Limited weight only can be applied to this guidance.

Planning Practice Guidance (PPG)

7.44 The accompanying and updated Planning Practice Guidance (PPG) amplifies the NPPF, with particular relevance to this appeal being, as follows:

Planning for higher densities

7.45 The PPG confirms that a range of considerations should be taken into account in establishing appropriate densities on a site or in a particular area. Tools that can assist with this include:

- (a) *“accessibility measures such as distances and travel times to key facilities, including public transport stops or hubs (and taking into consideration service capacity and frequencies and destinations served).*
- (b) *characterisation studies and design strategies, dealing with issues such as urban form, historic character, building typologies, prevailing sunlight and daylight levels, green infrastructure and amenity space*
- (c) *environmental and infrastructure assessments, such as the capacity of services and presence of environmental risks*
- (d) *assessments of market or site viability”*
- (e) *(Paragraph: 004 Reference ID: 66-004-20190722. Revision date: 22 07 2019)*

7.46 Comment – the matter of density has been addressed with this Proof. Increasing the density at the appeal site over and above the minimum number stated in the Development Plan is in compliance with policy of the Core Strategy and the Framework as a whole. The overall numbers and mix of house types has been developed to address a deliverable scheme at the appeal site. The viability is accepted by the Council and the overall physical environment, relatively enclosed nature of the site and proximity to public transport and range of day to day services fully supports the appeal proposal and increase in overall density.

Design: process and tools

7.47 The PPG confirms that planning policies can set out the design outcomes that development should pursue as well as the tools and processes that are expected to be used to embed good design. Appropriate policies can be included within:

- (a) “a plan’s vision, objectives, and overarching strategic policies
- (b) non-strategic policies in local or neighbourhood plans
- (c) supplementary planning documents, such as local design guides, masterplans or design codes, which provide further detail on specific design matters”
- (d) (Paragraph: 002 Reference ID: 26-002-20191001. Revision date: 01 10 2019)

7.48 The role of a Design and Access Statements (in part) is to set out concisely how the proposal is a suitable response to the site and its setting (ID:26-012-20191001).

7.49 Comment – Detailed assessment of the appeal proposal has been provided by Mr Carr. The assessment of the appeal scheme applies BFL/BHL and affords high scores to the development as proposed. The use of design tools such as these clearly indicates that the appellant has appropriately considered and developed a satisfactory housing layout and design.

Housing: optional technical standards

7.50 The PPG sets out that:

“Local planning authorities have the option to set additional technical requirements exceeding the minimum standards required by Building Regulations in respect of access and water, and an optional nationally described space standard. Local planning authorities will need to gather evidence to determine whether there is a need for additional standards in their area, and justify setting appropriate policies in their Local Plans.” (Paragraph: 002 Reference ID: 56-002-20160519. Revision date: 19 05 2016)

7.51 Further, the PPG confirms that the NPPF says that:

“Local planning authorities should identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand. Where a local planning authority (or qualifying body) wishes to require an internal space standard, they should only do so by reference in their Local Plan to the nationally described space standard” (Paragraph: 018 Reference ID: 56-018-20150327. Revision date: 27 03 2015).

7.52 Comment – This matter has been addressed in some considerable length in the main proof of evidence and no further repetition is required here.

- **National Design Guide**

7.53 The National Design Guide is to be read alongside guidance in the NPPG. It sets out the characteristics of well-designed places and demonstrates what good design means in practice. Where local guidance does not currently exist, it is envisaged that this can form the basis for more specific guidance and codes which can be locally formulated to meet the priorities of local communities.

7.54 Comment – Matters of design have already been considered and addressed in this proof and that of Mr Carr and Mr Jackson.

- ***Nottinghamshire County Council Highway Design Guide (updated January 2021)***

7.55 The purpose of this document is to promote good street design through development in order to assist with the Council's wider goals of good place-making. Part 4.1 deals with residential parking standards. The guide states that residential developments will not be supported should they result in excessive on street parking that would:

- Impair road safety;
- Obstruct access for vehicles, including for service vehicles, the emergency services and buses; and
- Obstruct the footway and be a hazard to cyclists and pedestrians, including those with mobility or visual impairments.

7.56 Comment – the matters contained within the Design Guide are material and have been addressed in Ms Meer's Proof and within this statement. It is considered that the appeal scheme complies with the objectives and as such moderate weight can be afforded to this guidance.

- ***Other Technical Issues***

7.57 The Council's committee report confirms that there are no insurmountable technical issues or material considerations that should otherwise prevent permission being granted. In summary, the Committee Report sets out the following:

7.58 **In-settlement:** Page 1, para 1 confirms the site falls within the defined village envelope for Bilsthorpe at the very north eastern extent.

7.59 **Principle of development:** Page 6, para 2 confirms the principle of developing the site for residential purposes has already been accepted by the site allocation within the development plan.

7.60 **Phasing:** Pages 6 and 7 confirm officers agree that Policy Bi/MU/1 allocation is not prescriptive with regards to phasing and indeed does not require the residential and retail parts of the allocation to come forward by the same developer.

7.61 **Boundary Details:** Page 13, para 5 confirms the proposed boundary materials are acceptable and compliance with the submitted enclosures plan could be conditioned to any forthcoming permission negating the need to submit further details at a later date.

- 7.62 **Open Space:** Page 13, para 6 confirms the area of open space proposed broadly centrally within the site (and to some extent the drainage basin at the south of the site) would be well overlooked by principal elevations.
- 7.63 **Amenity:** Page 15, para 4 confirms that distances of at least 27m between principal elevations would be achieved and these distances are considered sufficient to avoid any undue impacts of direct overlooking or loss of privacy.
- 7.64 **Noise:** Page 16, para 2 confirms the proposed development is acceptable on noise grounds and Environmental Health has no objections to the scheme as proposed.
- 7.65 **Bilsthorpe Energy:** Centre: Page 16, para 3 confirms that the approved Bilsthorpe Energy Centre (extant until 2021) is a material consideration, but that the presence of the woodland would offer some screening/buffering from potential visual impacts and in any case the actual perceived effects would be limited to a modest proportion of the proposed properties.
- 7.66 **Gardens:** Page 16, para 6 confirms each plot is allocated an area of outdoor amenity space which, whilst varying in size, would be broadly commensurate with the sizes of the plots proposed.
- 7.67 **Trees:** Page 17, para 1 confirms comments from the Council's appointed Tree Officer have suggested minor amendments to the submitted landscaping plans, including the inclusion of a more diverse tree mix for the larger areas such as the public open space and the attenuation pond, and this could be secured by way of a condition.
- 7.68 **Ecology:** Page 18, para 5 confirms subject to the imposition of conditions, no specific harm has been identified in relation to matters of ecology.
- 7.69 **Flood Risk/Drainage:** Page 18, para 7 confirms all comments regarding flood risk/drainage have been addressed and as such, Nottinghamshire County Council's Flood team has confirmed it does not have any objections, subject to a condition seeking the details of the surface water drainage scheme.
- 7.70 **Archaeology:** Page 19, para 2 confirms the proposed development is acceptable in archaeological terms and there are no statutory objections in this regard.
- 7.71 To note, a Written Scheme of Investigation (WSI) report was submitted and approved by the County Archaeologist at the end of July. The appellant subsequently informed the District

Council that works were to be undertaken in August. No findings were made, and the County Archaeologist was satisfied. The Evaluation Report was submitted in September to both the Case Officer and the County Archaeologist. Consequently, no conditions are necessary. The scheme is therefore compliant with the allocation policy as no further archaeological works are necessary prior to the commencement of development.

7.72 **Viability:** Pages 21-23 address viability and confirm that the Council's consultant agrees with the appellant's position that the scheme cannot viably deliver a full suite of contributions as required by the developer contributions SPD and the site specific requests made in this instance. On this basis, Officers do not consider that there is further room for negotiation to the offer presented. The offer presented of 10% affordable housing and a Section 106 securing contributions of £258,000 is therefore acceptable.

7.73 **Contamination:** Page 22, para 3 confirms Officers in Environmental Health have commented specifically on the land contamination risks of the site noting the proximity of the former colliery sludge lagoons off site and infilling of land on site. No objection is raised to this in principle, subject to the imposition of a full phased contamination condition.

- **Summary of Other Material Considerations** -

7.74 It is evident that allowing the appeal is supported by a significant number of material considerations, in addition to its accordance with the statutory development plan taken as a whole.

8.0 INTERESTED PARTY COMMENTS

- 8.1 It is important to note that only one objection was received from an interested party in respect of the planning application. Four comments have been received from interested parties in relation to the appeal (two objections from Councillors and two simply acknowledging the appeal but making no comments). The objections are summarised and addressed below.
- 8.2 The matters formed part of the reason for refusal are therefore fully addressed earlier in this Proof. Matters did not form part of the reason for refusal and are therefore addressed below.
- 8.3 *The quantum of housing proposed on the site is higher than that envisaged through the site allocation (Policy Bi/MU/1).*
- 8.4 **Response** – addressed above as part of this Proof.
- 8.5 *Current commitments and allocations are already sufficient to meet the housing requirement in Bilsthorpe for the Plan period to 2033 (and beyond). As such, some weight, rather than significant weight should be given to the provision of housing in a sustainable settlement.*
- 8.6 **Response** – In terms of housing land supply, paragraph 73 of the NPPF requires local planning authorities to identify a supply of specific deliverable sites to provide 5 years' worth of housing. Supply should be measured against up to date strategic policies for housing, where these are 5 years old then supply should be measured against Local Housing Need, calculated by using the standard method.
- 8.7 The supply should include a buffer of at least 5% to ensure choice and competition in the market for land, or b) 10% where demonstrated through an annual position statement or recently adopted local plan to account for any fluctuations in the market during that year, or c) 20% where there has been significant under delivery of housing over the previous 3 years (measured against the Housing Delivery Test from November 2018) to improve the prospect of achieving the planned supply.
- 8.8 The Council's latest statement of 5 year housing land supply was published in August 2020, and is based on the position as of 1 April 2020. It concludes that the Council can demonstrate a 6.34 year supply of housing, based on an annual requirement of 460 dwellings.
- 8.9 Notwithstanding the above, it is commonly accepted that housing need is not a ceiling to development, particularly being minded of the national housing crisis as a significant material

consideration, and further the development plan does not prescribe an absolute limit in the District or Bilsthorpe. Bilsthorpe is a sustainable location, being a focus for housing and economic growth accordingly and indeed the site is allocated for the delivery of around 75 dwellings.

- 8.10 The Planning Inspector in an appeal decision relating to residential development at Glapwell Nurseries, Glapwell, (appeal ref: APP/R1010/W/18/3198997) (“the Glapwell Appeal”) specifically indicated that the ability to demonstrate a greater than five year housing land supply did not mean that the benefit of the provision of housing was not applicable as a significant material consideration. In this case the Inspector concluded that whilst the proposed scheme was in conflict with the policies of the Development Plan, the lack of significant harm that would arise from the development and moreover the significant benefit which housing provision on the site offered were material considerations which outweighed this conflict, and therefore the appeal was allowed.
- 8.11 Further, the Planning Inspector in an appeal decision relating to residential development at Land South East of Williamthorpe Road and West of Tibshelf Road, Holmewood, Derbyshire (appeal ref: APP/R1038/W/20/3251224) reiterates the delivery of housing as a significant benefit of the development. The Inspector set out that whilst the Council could demonstrate around an 8-year supply of housing, and Holmewood had a significant level of planned growth, it would nonetheless attract much greater than the very limited weight the Council sought to argue in this regard, particularly in light of the Government’s objective to significantly boost the supply of housing.
- 8.12 A further appeal case of relevance is that at Nantwich, East Cheshire by *Muller Property Group* (Appeal case APP/R0660/A/13/2197532 and 2197529) (Appendix 2). Here, a mixed-use development comprising of, amongst other elements 189 dwellings. In this case, the Appeal was called in by the Secretary of State (SoS) following the Inspectors recommendation that the appeal should be allowed. In this case, it was possible for the Council to demonstrate a greater than 5 years Housing Land Supply and hence the presumption in favour of sustainable housing development was not applied. Despite this, the SoS gave **significant weigh** to the provision of significant numbers of market housing the appeal proposal would offer as this would contribute to the Government’s objective of significantly boosting the supply of housing.
- 8.13 The appeal site can comfortably deliver 103 dwellings and its development for this level of

housing delivery, as opposed to the 85 dwellings envisaged through the outline planning approval will be more beneficial in the wider planning balance, especially in the context of the national housing crisis, which is a significant material consideration.

- 8.14 *The application fails to comply with both national and local policy and guidance in respect of affordable housing and developer contributions.*
- 8.15 **Response** – White Land Strategies Ltd was instructed by the Council to provide a review of the Viability Assessment submitted by Atlas Development Solutions on behalf of the appellant. The review confirmed that the sales values provided are reasonable; build costs are substantially below equivalent benchmark BCIS costs and are very reasonable; and the overall appraisal can be considered reasonable with standard assumptions adopted across the majority of inputs.
- 8.16 The Council's consultant agreed with the appellant's position that the scheme cannot viably deliver a full suite of contributions as required by the developer contributions SPD and the site specific requests made in this instance. On this basis, the Council has agreed through the SoCG that there is no room for further negotiation to the offer presented. The offer presented of 10% affordable housing and a Section 106 securing contributions of £258,000 is therefore acceptable.
- 8.17 *Over 60% of the proposed dwellings fail to meet the Government's nationally described space standards.*
- 8.18 **Response** – addressed above as part of this Proof.
- 8.19 *The development does not respect the requirements of the site allocation (Policy Bi/MU/1).*
- 8.20 **Response** – addressed above as part of this Proof.
- 8.21 *A scheme for a smaller number of higher quality and therefore higher priced dwellings, should be encouraged.*
- 8.22 **Response** – addressed above as part of this Proof.
- 8.23 *Lack of space to store cycles/lawnmowers for 67 of the dwellings.*
- 8.24 **Response** – each dwelling is provided with private rear amenity space that is commensurate to the dwelling size. The amenity space provided is capable of accommodating a shed to

enable storage of cycles/lawnmowers.

8.25 *Issues surrounding triple tandem parking.*

8.26 **Response** – addressed above as part of this Proof and Ms Meers Proof.

8.27 *Lack of provision for bin storage.*

8.28 **Response** – As set out in Mr Carr’s Proof of Evidence, each dwelling is provided with private rear amenity space that is commensurate to the dwelling size. The amenity space provided is capable of providing ample bin storage. Each dwelling is provided with private direct access from the garden to the public domain to enable refuse collection.

8.29 No provision for outdoor sports facilities which would be required and expected for a scheme of this size.

8.30 **Response** – The proposed layout includes an area of open space, extending to 1,854sqm, broadly centrally positioned with the site. In addition, there are informal areas of green space to the boundaries of the site.

8.31 To ensure the scheme can ultimately be delivered in a manner that would allow provision of the required infrastructure to support the development, 103 dwellings are required. As such, it is not possible to provide on-site sports facilities. The efficient use of land is supported by the NPPF (paragraph 122) but is also essential in this case to ensure that the scheme can be delivered viably.

8.32 The appellant has entered into a S106 Agreement which will secure contributions of £258,000 towards infrastructure. The Council will spend this money as they see fit. As noted above, the Council’s consultant agreed with the appellant’s position that the scheme cannot viably deliver a full suite of contributions as required by the developer contributions SPD and the site specific requests made in this instance. On this basis, the Council has agreed through the SoCG that there is no room for further negotiation to the offer presented.

8.33 *Site does not link positively to the wider areas, including the woods on the eastern edge and the trail*

8.34 **Response** – As set out in Mr Carr’s Proof of Evidence, pedestrian/cyclist permeability is ingrained into the development proposals via both an on and off-street network of new foot

and cycle paths. Connections to the wider off site pedestrian routes are made available as part of the proposed development, through the provision of a new public footpath to the east of Eakring Road linking the housing access point to the cycle routes and public footpath network.

8.35 *Zebra crossing should be installed from the site to allow safe crossing points for residents coming out of the development, using local facilities, and those accessing the development to use the shop.*

8.36 **Response** – On 5 October 2020, the Highway Authority, through its formal consultation response to the planning application, confirmed that the residential development alone will not generate sufficient pedestrian movements to justify a formal pedestrian crossing facility.

8.37 *Proper consideration has not been given to the volume of traffic along Eakring road that access the Business Park, the Industrial park and Veolia recycling centre.*

8.38 **Response** – As set out in Ms Meers Proof of Evidence, the findings of the Transport Assessment submitted with the application and the Local Highway Authority's comments confirm that the proposed development would not give rise to a severe impact on the operation of the surrounding highway network.

8.39 *The scheme will encounter drainage problems.*

8.40 **Response** – Page 18, para 7 of the Committee Report confirms all comments regarding flood risk/drainage have been addressed and as such, NCC Flood has confirmed it does not have any objections, subject to a condition seeking the details of the surface water drainage scheme.

8.41 *The current infrastructure is not sufficient to cope with an increase in population.*

8.42 **Response** – The appellant will enter into a Section 106 securing contributions of £258,000 towards infrastructure. This contribution forms an agreed matter with the Council, as set out in the SoCG.

8.43 *The entrance of the site is the area where secondary school pupils catch the school bus, and is also where the retail use is proposed, therefore creating a safety issue.*

8.44 **Response** – As set out in Ms Meer's Proof of Evidence, based upon the likely pedestrian

demand generated by the proposed site, and the proposed pedestrian infrastructure improvements, there should be no requirement for any further works to be implemented as a result of the development. The Local Highway Authority agreed that the proposals for 103 dwellings should not give rise to a safety concern, and that the proposed level of infrastructure improvements are adequate.

8.45 *The noise will increase as a result of the development.*

8.46 **Response** – Page 16, para 2 of the Committee Report confirms the proposed development is acceptable on noise grounds and Environmental Health has no objections to the scheme as proposed.

9.0 PLANNING BALANCE

9.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires all planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise.

9.2 The case for the appeal scheme is outlined by answering the following questions below:

1. Does allowing the appeal accord with the statutory development plan taken as a whole?

9.3 The appeal proposal is entirely compliant with the adopted development plan for the District. The site is an identified Housing allocation, and the provision of residential development is the primary requirement of the development plan allocation to assist in meeting housing needs and contribute to the regeneration of Bilsthorpe.

9.4 The appeal proposal includes a mix and density of housing which adheres to the Development Plan policy

9.5 The Design and Layout meets with policy on terms of visual impact and overall layout.

9.6 An affordable housing contribution is being made which accords to policy as a viability assessment has been carried out and agreed by the Council. Policy allows the viability of development to be taken into consideration.

9.7 The site is located with the settlement of Bilsthorpe which is identified for housing growth and regeneration.

9.8 Following an extensive assessment of the development plan policies which relate to the appeal site which is covered extensively at Section 6 of my proof, I consider that allowing this appeal would fully accord with the statutory development plan taken as a whole.

2. Do other material considerations indicate that a decision should be taken other than in accordance with the plan?

9.9 It is evident that the appellant's proposal has addressed a significant number of material consideration following a detailed assessment of the development plan policies.

- 9.10 It is also clear that the development proposal addresses a wide range of objectives contained within the Framework, Supplementary Planning Policy Guidance, and National Planning Guidance notes.
- 9.11 The extensive range of material considerations has been identified and addressed in Section 7 of my proof and do not need to be repeated here.
- 9.12 The range of material benefits further supports the granting of planning permission for this Development Plan policy compliant housing proposal.
- 3. If deemed contrary to my findings at 1, and the Inspector considers that the scheme conflicts with the plan taken as a whole, do other material considerations still indicate that permission should be granted?**
- 9.13 Whilst I consider it difficult to establish how the appeal proposal can be treated as being contrary to the development plan when taken as a whole, there are a significant number material consideration which would further support the proposal being considered at this appeal as outlined above.
- 9.14 There is significant benefit brought to the site, the community and the district should this appeal be allowed. The range of material benefits are considerable, and I am of the opinion these alone offer an opportunity to support any development at the site, even if the Inspector were to find against my opinion as stated in Point 1 above.
- 9.15 For the reason above, allowing the appeal which fully accords with the statutory development plan taken as whole, I give that significant weight.
- 9.16 Also for the reasons outlined above, a range of powerful material considerations also support allowing the appeal, in particular, the delivery of market housing, affordable housing in line with the Framework are to be delivered
- 9.17 Consequently, the appeal proposal is fully supported by the development plan and all other material considerations as referenced in my proof.

10.0 CONCLUSION

- 10.1 In summary, I consider that the appeal scheme fully accords with the statutory Development Plan and as such should be approved without delay.
- 10.2 Evidence has been provided to demonstrate that development of the appeal site for residential purposes would comply with Spatial Policy 7 (Sustainable Transport); Core Policy 3 (Housing Mix, Type and Density); Core Policy 9 (Sustainable Design) of the Core Strategy and Policy Bi/MU/1 (Bilsthorpe - Mixed Use Site 1) and Policy DM5 (Design) of the Allocations and Development Management DPD.
- 10.3 The appeal proposal represents a sustainable development opportunity offering social environmental and economic benefits to the wider community and hence accords to the provision of the Framework.
- 10.4 I also consider that the appeal scheme will provide high quality, sustainable development delivering a mix of contemporary homes, including affordable provision in an appropriate in-settlement location.
- 10.5 The appeal proposal represents the only realistic opportunity to viably deliver a housing scheme of a suitable mix, design, layout to comply with the Development Plan allocation
- 10.6 The development would respect its context and surroundings, whilst positively contributing and providing wider benefits to the local community, services, businesses and social infrastructure. The development will also significantly boost housing supply and make a positive contribution to the District's strategic housing needs, sitting comfortably alongside and supporting the wider urban area of Bilsthorpe.
- 10.7 The design and layout will result in no significant harm to the character, landscape, appearance of the settlement and a positive gateway approach will be delivered at this site as required by policy.
- 10.8 There are no insurmountable technical issues or barriers to development that would inhibit immediate delivery of the site by the Appellant.
- 10.9 On this basis, being minded of the Development Plan position and relevant material considerations, it is respectfully requested that the appeal is allowed and planning permission



dynamic development solutions™

NTTS5224-1P Eaking Road, Bilsthorpe
Section 78 Proof of Evidence (Planning)
19 April 2021

granted accordingly.



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