

For and on behalf of
Bellway Homes Ltd



Town and Country Planning Act 1990 (Section 78)

APPEAL STATEMENT OF CASE – APPENDICES

Ashland Road West, Sutton-in-Ashfield

**Prepared by
DLP Planning Ltd
Nottingham**

April 2021

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Date:	April 2021

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Appendix A – Copy of Decision Notice dated 23 March 2021

TOWN AND COUNTRY PLANNING ACT 1990

Town and Country Planning (General Permitted Development) (England) Order 2015
Town and Country Planning (Development Management Procedure) (England) Order 2015
Town and Country Planning (Control of Advertisements) (England) Regulations 2007
Town and Country Planning (Tree Preservation) England Regulations 2012
Planning (Listed Buildings and Conservation Areas Act 1990
Planning (Hazardous Substances) Act 1990
Planning and Compensation Act 1991

Refusal Notice

Major Outline

The application referred to below has been refused by Ashfield District Council.

Application Details

Planning Reference Number: **V/2020/0184**

Location of Development: **Land Off, Ashland Road West, Sutton in Ashfield, Nottinghamshire**

Description of Development: **Outline planning application (with all matters reserved except access) for a residential development of up to 300 dwellings with associated infrastructure and landscaping.**

Applicant Name: **Bellway Homes Ltd**

Date: **23rd March 2021**

REASON:

1. The development would result in a significant adverse impact on the character and appearance of the area and surrounding landscape, particularly through the urbanising affects adjacent to Brierley Forest Park. The loss of greenfield and associated habitats would also result in significant and irreversible harmful impacts to biodiversity. In addition, the density of the development is considered to be too high and out of keeping with the surrounding area. Accordingly, the proposal would be contrary to Policies ST1 (a, b, and e), ST2 – ST4 and EV2. There would also be conflict with Part 15 of the National Planning Policy Framework: 'Conserving and enhancing the natural environment.' It is considered that these harms would significantly and demonstrably outweigh the benefits of the development.

INFORMATIVE

For further detail on the decision please see the application report by contacting the Development Section on 01623 457388.

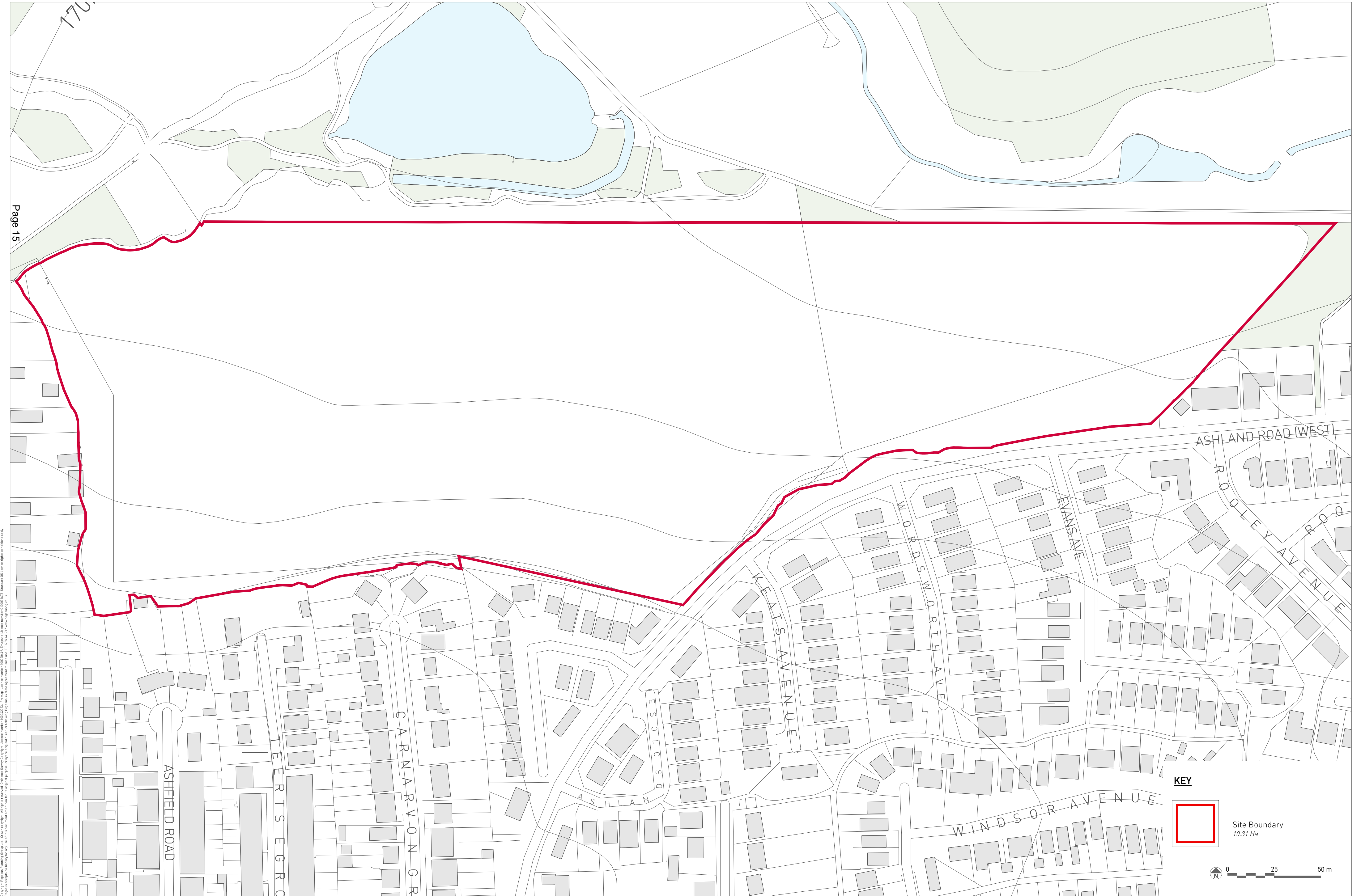
PROACTIVE WORKING

The processing of this application has been undertaken in accordance with the requirements of the National Planning Policy Framework.



.....
PP. Carol Cooper-Smith
Interim Chief Executive

Appendix B – Copy of Committee Report



KEY

Site Boundary
10.31 Ha

0 25 50 m

COMMITTEE DATE 17th March 2021 **WARD** Huthwaite and Brierley

APP REF V/2020/0184

APPLICANT Bellway Homes Ltd

PROPOSAL Outline planning application (with all matters reserved except access) for a residential development of up to 300 dwellings with associated infrastructure and landscaping.

LOCATION Land Off, Ashland Road West, Sutton in Ashfield, Nottinghamshire

WEB LINK <https://maps.google.co.uk/maps?q=Ashland+Rd+W,+Sutton-in-Ashfield+NG17+2HS,+UK&ll=53.131903,-1.285014&spn=0.010776,0.016286&fb=1&gl=uk&ftid=0x4879969f691cd8b7:0xf24eb726f139295a&hnear=Ashland+Rd+W,+Sutton-in-Ashfield+NG17+2HS,+United+Kingdom&t=h&z=16>

BACKGROUND PAPERS A, B, C, D, E, F

App Registered 17/03/2020 Expiry Date 16/06/2020

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee by Councillor Tom Hollis on policy grounds, implications to highways, the environment and education.

The Application

This is an application for outline planning permission (with all matters reserved except access) for a residential development of up to 300 dwellings, with associated infrastructure and landscaping. This includes two points of vehicular access from Ashland Road West.

The application site extends to approximately 10.31ha and is located on the western edge of Sutton-in-Ashfield. The site is currently a greenfield agricultural site, formed of two large fields. It is surrounded by existing residential development on three sides to the east, west and south. The former restored colliery site at Brierley Forest Park is to the north, with Ashland Road West running along the site's southern boundary.

Mature hedgerows form the majority of the site's boundaries, with a further field hedgerow that runs north-south across the middle of the site, dividing the two field parcels. The highest point of the site is to the south-west, reaching approximately 180m AOD, from there

the land falls in a northerly direction towards Rooley Brook, which lies within Brierley Forest Park. The lowest part of the site lies on the north-eastern boundary, at approximately 160m AOD.

The application site was the subject of a previous planning application in 1988 for residential development. This was refused and subsequently dismissed at appeal. A further application was refused in September 2016, however that application was never subject to an appeal. Although the sites history is a material planning consideration, the current proposal is required to be considered against current national, local planning policies and guidance.

The **final plans** for consideration are as follows:

- Site Location Plan (ref. P19-1014 002 Rev B);
- Topographical Survey (ref. S672/01 Rev C);
- Topographical Survey (ref. S672/02 Rev C);
- Illustrative Masterplan (ref. P19-1014 007 Rev F);
- Access Junction Layouts (Drawing Ref No. ADC1032-DR-001-P10);
- Proposed Pedestrian Improvements B6026 Huthwaite Road (Drawing Ref ADC1032-DR-002 Rev P1)

The **final documents** for consideration are as follows:

- Planning Statement (by DLP Planning Ltd);
- Design and Access Statement (by Pegasus Group);
- Arboricultural Assessment (by FPCR dated Feb 2020);
- Archaeological Desk Based Assessment (by University of Leicester Archaeological Services dated March 2020);
- Flood Risk Assessment and Drainage Strategy Rev D (by EWE Associates dated Nov 2020);
- Ecological Appraisal (by FPCR dated Feb 2020);
- FPCR letter in response to Delta Simons Consultation response, including Metric Exercise (dated August 2020);
- Ground Investigation Phase II Site Appraisal (by GRM Development Solutions);
- Gas Completion Letter dated 7 January 2013 (by GRM Development Solutions);
- Letter of Reliance dated 20 December 2018 (by GRM Development Solutions);
- Review of Ground Investigation Phase II Site Appraisal Letter dated 4 March 2020 (by GRM Development Solutions);
- Landscape and Visual Assessment (by Golby + Luck dated Feb 2020);
- Statement of Community involvement (by The Community Communication Partnership);
- Minerals Resource Assessment (by GRM dated May 2020);
- Transport Assessment (by ADC Infrastructure dated March 2020);
- Transport Assessment Addendum (by ADC October 2020);
- Technical Note H – Junction Capacity Analysis (by ADC February 2021);
- Travel Plan (by ADC Infrastructure dated March 2020);

- Noise Assessment (by M-EC Acoustic Air dated Feb 2020); and
- Air Quality Assessment (by M-EC Acoustic Air dated Feb 2020).

Consultations

Site Notices have been posted together with individual notification of surrounding residents. The proposal has also been advertised in the local press.

During the course of the application an amended indicative Masterplan and Site Location plan were received. The revision to the location plan simply clarified the site area, whilst the indicative Masterplan changes were also considered to be minor. As the indicative Masterplan is not recommended as an approved plan, an additional round of re-consultation with residents was considered to be unnecessary.

Revised technical information was also submitted in respect of drainage, highways and ecology matters. The relevant consultees were consulted on this information, as considered appropriate. The following comments are summarised versions of each consultees latest position on the information submitted:

A.D.C Planning Policy

Policy Summary

The proposed development would be contrary to policies ST2, ST3 and ST4 of the Ashfield Local Plan Review (ALPR), which seek to prioritise development within the existing main urban areas and named settlements. There would also be conflict with Policy EV2 'Countryside'.

Based on the Housing Land Monitoring Report 2020, adjusting for a 20% buffer, the district has a 2.21 year housing land supply. The Housing Delivery Test 2020 indicates the delivery of housing in Ashfield is substantially below (less than 75%) the housing requirements over the past three years. Therefore, under NPPF Paragraph 11, footnote 7, the policies which are most important for determining the application are deemed to be out-of-date. The balance is therefore tilted in favour of the grant of planning permission, except where the benefits are 'significantly and demonstrably' outweighed by the adverse effects, or where 'specific policies' indicate otherwise¹.

The ALPR plan period was to 2011. However, this does not mean that existing policies are out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight must be given to them according to their degree of consistency with the NPPF. (NPPF para. 213).

It is considered that ALPR policies ST2, ST3 and ST4 are inconsistent with the NPPF, as they are not providing sufficient housing to meet the requirements for the districts housing

¹ Hopkins Homes Ltd v SSCLG UKSC 37 2017 (Para 54).

need. Paragraph 73 requires local planning authorities to identify a minimum of five years' deliverable housing sites against the local housing requirement with a buffer, which for Ashfield is 20%. The ALPR strategic policies also run counter to the NPPF objective, to significantly boosting the supply of homes (NPPF paragraph 59).

The NPPF sets out that the planning system performing various roles, including an environmental one. Planning should contribute to conserving and enhancing the natural environment including recognising the intrinsic character and beauty of the countryside. (Paragraph 170). It also seeks to promote sustainable transport and give people a choice about how they travel. (NPPF Part 9). In this context, Policy EV2 is broadly consistent with the aims of the NPPF. However, the NPPF takes a more positive attitude to sustainable development in rural locations reflected in paragraph 77, 78 and 83. Consequently, whilst it remains legitimate to consider the impacts of development on the character and appearance of the countryside, Policy EV2 more restrictive approach to development in the countryside is at odds with the provisions of the NPPF.

In addition, the ALPR (para 3.26) identifies that EV2 complements strategic policies ST2 – ST4, which aim to concentrate development in the Main Urban Area and Named Settlements. Taken in conjunction with these policies, it limits the opportunity for the ALPR to meet future housing needs. As such, it also lacks the balance required by the NPPF. Therefore, it is considered that Policies ST2, ST3, ST4 and EV2 are inconsistent with the NPPF and consideration should be given to what weight can be carried by these policies.

Other Matters

- The impact upon ecology and Brierly Forest Park LWS should be considered in relation to ALPR policy EV6, the NPPF and Planning Practice Guidance (PPG). The protection of trees and hedgerows should be considered in accordance with Policy EV8.
- The site is not covered in the ALPR by any landscape designation and there appears to be no evidence that it would fall within a valued landscape as set out in the Stroud case.
- No designated, or non-designated, heritage assets have been identified on or adjacent to the site.
- The site is located in Flood Zone 1. It is noted that a site specific flood risk assessment has been submitted which address the issues from flooding from local watercourses.
- Design is of key importance reflecting the provisions of NPPF, supporting PPG and the ALPR policies ST1, HG3, HG5, TR2 and TR3.

- Consideration must also be given to NPPF Part 8, which emphasises the importance of planning positively for community facilities, ensuring sufficient choice of school places, and access to high quality open spaces.

A.D.C Environmental Health (Land Contamination)

Are satisfied that the Phase 1 and Phase 2 site investigation reports demonstrate there are no land contamination issues. However, an informative note should be added to the decision for the applicant to contact Environmental Health should any unexpected contaminated ground be discovered during the works.

A.D.C Environmental Health (Air Quality)

The Air Quality Assessment submitted by MEC in February 2020 Reference 25412-04-AQA-01 REV B concludes that the site is suitable for a residential development and does not predict that the development will not lead to an exceedance of the Air Quality Objectives as formulated by the Air Quality (England) Regulations 2000 (AQR) (as amended).

A.D.C Environmental Health (General)

Recommend that conditions should be applied for the submission of a construction management plan, construction hours and a noise impact assessment. It is also recommended that all legislation with respect to noise and dust is complied with.

A.D.C Landscaping

The developer has provided a landscape visual impact assessment which generally provides a balanced approach of the developments impact.

A focus should be put on the visual impacts from the south along Ashland Road through appropriate landscaping. The visual impact from the north (Brierley Forest park) can also be reduced by maintaining an open aspect and development frontage facing the park, complemented by landscape boundary improvements. These should be captured in a detailed landscape plan of the site and submitted for approval. Specific comments are also provided in respect of a future landscape scheme and each of the sites boundaries.

The proposed surface water drainage system will require a detailed landscape plan to ensure the space seamlessly integrates with the overall site landscaping and provides amenity benefits.

Section 106 Contributions are required in the form of £600,000 for off-site public open space, £134,300 for biodiversity offsetting and a leisure contribution of £258,000.

A.D.C Drainage

No formal comments to add to the standard advice provided by the Local Lead Flood Authority. Also advise that ADC are riparian owner of the watercourse and an agreement is required between ADC and the developer.

(Officer Note: This element has been clarified by the Councils legal team. Once Bellway acquire the site, they will have rights to enter into a culvert, which runs through the north-eastern corner of the site. As such no agreement from ADC is required).

Bolsover District Council and Derbyshire County Council (Highways Authority)

No comments.

Coal Authority

The application does not fall within the defined development high risk area and is instead located within a low risk area.

Clinical Commissioning Group

A development of this nature would result in increased service demand and all practices in the area are working at capacity. Accordingly, the proposal would trigger the need to provide health related section 106 funding amounting to £162,562 which is proportionate to the housing development size. The contribution would be invested in enhancing infrastructure capacity. The plans will include either reconfiguration, or extension of existing premises, or a new build that the S106 money will contribute towards.

Environment Agency

The application site is located on the Cadeby Formation, which is classified as a principal aquifer. The Phase 1 and 2 appraisal reports, included in the application, demonstrate there is no obvious contamination. A condition is recommended in case any unidentified contamination is discovered.

Independent Ecologist (Delta Simons)

The Site falls within the SSSI impact risk zones (IRZ) for Dovetail Wood SSSI and Teversal Pastures SSSI. These are both partially designated for the presence of wetland habitats. Further information should be provided to ensure there would be no adverse effects on the SSSIs.

There will be an expected increase in visitor pressure on the Brierley Forest Park LWS from informal recreational use. Consideration should be given to reducing the number of proposed access to two in order to reduce anthropogenic disturbances. A scrub planting buffer should also be created and biodiversity enhancements included.

No justification has been provided for the level of survey undertaken for the bats. However, based on the results of the survey works undertaken, the mitigation proposed is considered appropriate.

The survey indicated that a five-hole active badger sett exists on the southern boundary of the site, however, no attempt was undertaken to classify the sett type through a survey of the wider area. Additional information is therefore required.

Advice has also been provided in respect of protecting Reptiles, Great Crested Newts and Hedgehogs. In particular, that management must be considered during the interim period between granting outline permission and commencing construction.

The recommendations for all other protected/notable species are considered appropriate. However, priority should be given to the eradication of Japanese knotweed from the Site at the commencement of works.

(Officer Note: Where necessary the applicant has submitted additional information and survey work to address the issues raised. This is addressed in the analysis section of the report).

Nottinghamshire County Council Highways Authority

No objections - subject to section 106 contributions, conditions and informative notes being included on the decision notice.

(Officer Note: The Highways Authority position is detailed further within the analysis section of the report)

Natural England

No comments to make on the application.

Nottinghamshire County Council Local Lead Flood Authority

No objections, subject to the implementation of a standard surface water drainage condition.

Nottinghamshire County Council Minerals and Waste

The entirety of the proposed site lies within the Minerals Safeguarding and Consultation Area (MSA/MCA) for limestone. However, the development will not sterilise a viable mineral resource.

From a waste perspective, the County Council would be keen to see the best practice of waste management for the development.

Nottinghamshire County Council Strategic Highways

No observations

Nottinghamshire County Council Education

To mitigate the impact that the proposed development of 300 homes would have on the existing schools in the planning area, an education contribution is required:

- Primary 63 additional places @ £1,297,296 (63 places x£20,592 per place).
- Secondary 48 additional pupils @ £1,146,000 (48 places x£23,875 per place).

Nottinghamshire County Council Libraries

In respect of libraries, it is confirmed that the contribution towards stock would be £10,571.00. This figure is arrived at from the formula 690 (new population) x 1,532 (items) x £10.00 (cost per item). The stock would be allocated to Sutton in Ashfield where there is space capacity to house the additional stock.

Nottinghamshire County Council Rights of Way

No objections, as the nearest public footpaths (No. 47, 39 and 144) all fall outside the application site.

Nottinghamshire County Council Travel and Transport

The following contributions are requested:

- £90,000 for a bus service contribution - to provide improvements to the local bus services to serve the site.
- £28,000 for bus stop infrastructure at stops on Rooley Avenue, Norwood Close, George Street and Siddalls Drive.
- £20,000 sustainable transport contribution to provide each household with up to 2-month equivalent bus pass.

Sport England

Support the proposals. A contribution to indoor sports facilities at the Lammas LC has been negotiated, which should meet the demand generated by this development.

The sites for off-site investment are supported and we would generally encourage any investment which improves POS from an active recreation perspective. Opportunities for matched funding should also be explored.

They would support the further work on Active Environments and Active Travel and would be happy to comment further.

Local Community

64 individual households have written a total of 69 letters of objection, their comments have been summarised below:

Impact on the Environment (Biodiversity, Pollution, Loss of Green Space)

- Loss of green space and damage to the nature reserve;
- Picturesque Green Belt land with lots of wildlife that should not be disturbed;
- Any surface water may include garden chemicals and cleaning agents that may impact on wildlife;
- Pollution from the mass increase of cars in the development will have a detrimental impact on wildlife;
- Noise and air pollution from vehicles coming to and from the estate;
- Bats, Deer, Tawny, Barn owl & other predatory birds, foxes and species of newt are located on the site who will experience significant impact on the development;
- In times of global climate change we should be protecting our environment;
- Financial contributions for improvements of Brierley Park, Riley Recreation Ground & Huthwaite Welfare Park will not make up for the loss of green belt land;
- Planting trees and hedges will only encourage nesting birds and small mammals, not animals such as deer, foxes or pheasants;
- Brierley Park has been awarded the green flag award, the development may deter any future rewards;
- Multiple Flora, Fauna and habitats rely on the land and the adjoining Brierley Park, the development will destroy this and have a considerable impact on the biodiversity of the area;
- Future generations won't be able to experience green open space;
- Loss of agricultural land;

Impact on the character and appearance of the area

- Destroy the open character of the area and destroy the view for current residents;
- The development will build two storey houses next to bungalows, which will look out of character;
- The density of the development is too high, many houses proposed resulting in a horrible cramped character;
- The land provides a buffer zone between Brierley Park and suburban Sutton;
- 2 & 3 storey buildings will not be in keeping with the existing character of the area;

Flooding and Drainage

- The development will add strain to the sewage system;

- Large overflow of water during heavy rainfall;
- Flooding will make the park inaccessible;
- Flooding will cause a great impact on the sewage system;
- There are already problems with flooding, the development will add to this;
- Who would be responsible for the upkeep of the surface water and drainage;

Impact on footpaths

- Sutton in Ashfield Footpaths 47, 39 and 144 border this development;
- Lots of nature footpaths and walks in the area, will these be kept or destroyed by the development;

Highways Safety and Access

- Lots of speeding cars and hit & run incidents on Ashland Road;
- The increase in traffic on an already congested road, making it difficult to get from existing streets off Ashland Road and onto Huthwaite Road;
- Increased strain on the A38 and M1;
- The roads will not be able to cope with the new excess of vehicular traffic;
- The access to the new estate will not be able to cope with the influx of traffic.

Impact of the development on infrastructure and services

- Residents have long waiting times for doctors and children's places in schools are already full;
- Doctors surgery's already have a 2 week waiting list for non-urgent appointments, a further 600 people will add to this strain as will an additional 120 children for education;
- Impact on the current local bus services from the increased residents;
- Police, hospital and fire services will experience a significant strain from the development;
- Shops such as ASDA are already busy and this will increase if the development is built;
- Loss of open space that is used for socializing and exercising and general mental wellbeing;
- The developer is proposing contributions to expand local medical facilities and schools, who will provide the doctors, nurses, teachers and all other staff needed.

Other Comments

- Due to the COVID-19 pandemic it has been hard to contact the local planning authority to discuss any details of the application and has been difficult to provide comments during the consultation period;
- There are multiple derelict sites in the area that could be developed for housing;
- What is to stop the developer taking more and more land after this development;
- A large loss of visitors to the park;

- Brownfield sites will be more viable for this type of development;
- The people of Ashfield do not want this development to go ahead;
- The development will increase problems with antisocial behavior;
- Why was the developer allowed to submit an application of this scale when the country is going through a distressing time;
- Additional entrances to the park from the development will be used by criminals to get away from police;
- Some people were unaware of the proposed application due to lockdown;
- An application was submitted previously to develop the land and this was refused;
- Disruption caused by building work;
- Potential increase in fly-tipping;
- Quality of life for existing residents will be affected;
- Development is contrary to the Local Plan;
- A previous viability assessment showed that the development was unviable;
- Devaluation of property prices.

Policy

Under the Planning and Compulsory Purchase Act 2004, section 38(6) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, the starting point for decision-making are the policies set out in the Ashfield Local Plan Review 2002 (saved policies). The National Planning Policy Framework (NPPF) is a material consideration.

Ashfield Local Plan Review 2002 as amended by "saved policies" 2007. (ALPR)

The following ALPR 'saved' policies are considered to be relevant to the application:

- Policy ST1: Development.
- Policy ST2: Main Urban Areas.
- Policy ST4: Remainder of the District.
- Policy EV2: Countryside.
- Policy EV6: Sites of Importance for Nature Conservation.
- Policy EV8: Trees and woodlands.
- Policy HG3: Housing density.
- Policy HG4: Affordable Housing.
- Policy HG5: New residential development.
- Policy HG6: Open space in residential developments.
- Policy TR2: Cycling provisions in new development
- Policy TR6: Developer contributions to transport improvements

Material considerations

National Planning Policy Framework (NPPF) policies relevant to the application are:

- Para 11: Sustainable Development.
- Part 5: Delivering a sufficient supply of homes.
- Part 8: Promoting healthy and safe communities
- Part 9: Promoting sustainable transport.
- Part 10: Supporting high quality communications.
- Part 11: Making effective use of land.
- Part 12: Achieving well designed places.
- Part 14: Meeting the challenge of climate change, flooding and coastal change
- Part 15: Conserving and enhancing the natural environment.

Together with supporting Planning Practice Guidance.

Supplementary Planning Documents

- Residential Design Guide SPD 2014
- Residential Car Parking Standards 2014

Relevant Planning History

V/1988/0990

Proposal: Residential Development

Decision: Refuse

Decision Date: 16/02/1989

Appeal Decision: The appeal was dismissed.

V/2014/0658

Proposal: Residential Development of 201 Dwellings, Comprising of 2, 3, 4 & 5 Bedroom Units. Creation of Vehicular Access, Pedestrian Links, Public Open Space, Car Parking, Landscaping and Drainage.

Decision: Refuse

Decision Date: 20/09/2016

Appeal Decision: Application not appealed.

The reasons for refusal of this application are summarised as follows:

- 1) Conflict with policies ST1(a), ST1(b), ST1(c), ST1(e), EV2, EV4, EV5, EV6 of the Ashfield Local Plan Review (2002);
- 2) The site is prone to flooding and in accordance with the NPPF inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where necessary, making it safe without increasing flood risk elsewhere.

Comment :

1. The principle of development;
2. Landscape and Visual Impact Appraisal;
3. Conservation and Ecology;
4. Flooding and Drainage
5. Housing Density and the Masterplan
6. Residential amenity;
7. Highway Safety;
8. Developer Contributions;
9. Other Issues;
10. Planning Balance and Overall Conclusions.

1. The principle of development;

Legislation requires that the application be determined in accordance with the statutory development plan, unless material planning considerations indicate otherwise. The statutory development plan comprises the Ashfield Local Plan Review (ALPR) adopted in 2002.

The NPPF sets out the governments planning policies and is a material consideration in planning decisions. The NPPF does not change the statutory status of the development plan for decision-making, but provides guidance for decision takers in determining planning applications.

Policies ST1, ST2, ST3 and ST4 of the Local Plan, amongst others, need to be considered. Policy ST1 seeks to ensure a good fit for development with regard to: amenity, highway safety & capacity and compatibility across local plan policies. Policy ST2 focuses development within the main urban areas including Sutton-in-Ashfield. Policy ST3 allows for limited development within named settlements. Policy ST4 sets out that development outside main urban areas will be on allocated sites. The proposed development would be contrary to these policies, in so much as they seek to restrict development to within defined settlement boundaries.

The application site is located on the edge of the urban fringe within land designated as Countryside under policy EV2 of the Ashfield Local Plan Review 2002 (ALPR). Development in the Countryside is not permitted except for appropriate development that does not adversely affect openness. The proposal is not appropriate development and therefore does not meet the criteria of this policy.

The ALPR plan period was to 2011. However, this does not mean that existing policies are out-of-date simply because they were adopted or made prior to the publication of the NPPF. They must be considered against their consistency with the NPPF (NPPF para. 213):

In this regard, as policies ST2 – ST4 are restrictive of development outside the main urban areas and named settlement they lack the balancing exercise required by the NPPF. These policies are therefore considered to be inconsistent with the NPPF. Policy EV2 has some consistency with the NPPF's requirement to recognise the intrinsic beauty and character of

the countryside. However, it is highly restrictive of development in the countryside, and again lacks the balancing exercise required. It is also clear, that these policies are not providing for sufficient housing for the district. The basket of policies for determining the application are therefore considered to be out of date.

In addition, the district currently has a 2.21 year housing land supply (out of 5 years). The Housing Delivery Test 2020 also indicates the delivery of housing in Ashfield is substantially below the housing requirements over the past three years. As a result, the tilted balance of paragraph 11 is engaged. This is a case where planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

However, as was recently confirmed by the Court of Appeal in *Gladman vs SCLG* [2021] EWCA Civ 104, the triggering of the tilted balance neither automatically determines a planning application nor allows for the primacy of the development plan to be circumvented and disregarded. There is still a requirement to carry out a full 'balancing exercise' of the adverse impacts and benefits of a proposal.

2. Landscape Visual Impact Appraisal

Paragraph 170 the NPPF identifies that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognizing the intrinsic character and beauty of the countryside. Policy EV2 of the Ashfield Local Plan Review sets out protection for the character of the countryside and its openness.

The Nottinghamshire Landscape Character Assessment (LCA) 2009 effectively supersedes ALPR policy EV4 and is a material consideration. This study was carried out for the whole of Nottinghamshire as a result of increased emphasis on the use of LCAs to inform policy in Local Development documents. The LCA identifies the site as part of Character Area ML021 which comprises the man-made landform of a restored former colliery with a raised woodland covered mound comprising 'engineered' slopes of even gradient. Views are enclosed by woodland on low ground with panoramic views from the top of the colliery mound across urban areas to the south, and open countryside and high ground at the former Silver Hill colliery to the north.

The application site is located at the southern part of this area and is situated lower than its surroundings. More importantly, the application site is enclosed by existing residential development on 3 sides. The overall landscape condition and strength is 'Moderate', with an overall strategy to 'enhance'. The site is heavily influenced by the urban fringe and for this reason the site is considered not to be a valued landscape for the purposes of the NPPF.

A Landscape and Visual Assessment forms part of the application. It concludes that the site and proposed development are set within an established envelope of built-form that is already a key characteristic of this landscape setting. The assessment highlights that the

development of the site is unlikely to result in any adverse effect to the wider character of the Brierley Forest Park landscape area, or the main urban area, that would be of significance to the planning decision making process. The only notable effect would be the loss of the open farmland setting of the site.

The Councils Landscaping Officer has advised that the assessment generally provides a balanced approach of the development impacts. He notes that focus should be put on the visual impacts from the south along Ashland Road through appropriate landscaping along the boundary. The visual impact from the north (Brierley Forest park) can also be reduced by maintaining an open aspect with development frontage facing the park and complemented by landscape boundary improvements. These points will be taken into account at Reserved Matters stage and the formulation of a landscaping plan.

There would be some harmful effects on the character and appearance of the area through the loss of the greenfield and replacement with built form. To this extent there would be some conflict with the NPPF, which recognises the intrinsic character and beauty of the countryside and to ensure decisions contribution to and enhance the natural environment. There would also be conflict with Policy EV2 and its protection of the character of the countryside. However, on the basis of the evidence submitted and advice received from the Councils landscaping officer, a refusal on the grounds of landscape impact would be difficult to substantiate.

3. Conservation and Ecology

The Council is under a duty under section 40 of the Natural Environment and Rural Communities Act 2006 “to have regard” to the conservation of biodiversity in England, when carrying out their normal functions. The ALPR sets out policy protection for ecological sites in Policy EV6, which relates to both Local Nature Reserves and Local Wildlife Sites. Trees and woodlands are protected in accordance with Policy EV8.

The NPPF para 170 stresses that planning policies and decisions should contribute to and enhance the natural and local environment by a variety of measures including minimising impacts on and providing net gains for biodiversity. An Ecological Assessment and Biodiversity Metric have been submitted as part of the application.

Natural England have declined to make any comments and although this does not imply that there are no impacts on the natural environment, it means the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. Nottinghamshire Wildlife Trust have been consulted, but no response received. The Council therefore commissioned an Independent ecologist to review the submitted Ecological Assessment. The developer funded this independent review, with the Independent Ecologist selected by the Council. The comments from these are summarised earlier in the report. The developer has submitted additional information to address all points raised. A commentary of the key aspects is set out below:

Habitats

In terms of onsite habitats, the Ecological Assessment concludes that the site predominantly consists of arable land and poor semi-improved grassland which are of low ecological value. Other habitats onsite include tall ruderal vegetation around the site boundaries (most of which will be lost) dense and scattered scrub, semi-mature and mature trees and hedgerows. None of the trees are covered by a preservation order. The applicant has submitted a Tree Survey, which shows that all of the trees can be retained as these are found on the sites boundaries.

None of the hedgerows were assessed as being important under the Hedgerow Regulations criteria. However all three scored as being of moderate ecological value under the HEGS assessment and each qualified as a Habitat of Principal Importance as described in Section 41 of the Natural Environment and Rural Communities Act 2006. The schemes indicative proposals show the retention of hedgerows H1 and H2 along the northern and eastern boundaries, but will require the removal of a central section of hedgerow H3 to facilitate the construction of a main access route.

Designated Sites

The application site is not subject to any environmental designations. However, Brierley Forest Park LNR/LWS, a statutory site of local conservation importance, is located directly adjacent to the northern boundary. The ecological report identifies that an increase in formal visitor pressure is expected to result in a localised minor impact on the woodland. However, the independent ecologist notes that such anthropogenic disturbances would be significant and recommends that the number of accesses is reduced to two points. It is also recommended that a buffer area consisting of densely packed native species scrub such as blackthorn is planted, along with signage and bins. These would need to be shown on a detailed application.

The application site falls within the outer Impact Risk Zones (IRZ) for Dovetail Wood SSSI and Teversal Pastures SSSI. The applicants ecologist notes that the hydrological regime will not be affected due to the provision of the formal surface water drainage system and SuDs feature, which regulate the flows and filter pollutants. No comments have been received from Natural England in regards to impact on statutorily designated sites.

Protected Species

Bats

Onsite hedgerows and dense scrub provided foraging habitat for bats – this habitat will largely be retained. Four onsite trees have low bat roosting potential, these will also be retained. To mitigate for the loss of any foraging resources the enhancement of hedgerow H2 is recommended in the form of gapping up of the current structure with native hedgerow. Other mitigation measures include a site-specific sensitive lighting scheme, new areas of wildlife habitat and the provision of bat boxes.

Badger

During the site survey in July 2019 an active badger sett was recorded along the southern boundary. The Independent ecologist identified that the survey was inadequate. So, an updated badger survey was undertaken on 27th July 2020 where a thorough search of all areas of the site and accessible areas within 30m of the site boundary was completed. The updated survey demonstrated that the previously identified potential main sett was inactive and as such, its closure is not deemed likely to have a significant effect on the local badger clan. No additional active setts were identified within the site. The applicants ecologist recommends that a pre-commencement check is carried out prior to undertaking works. It is also noted that a licence would be required from Natural England for any closure of the set.

Hedgehog

No field signs were observed during the field surveys for hedgehog, however the habitats are suitable for foraging, commuting and hibernating. A large proportion of suitable hedgehog shelter and foraging habitat will be retained at the site peripheries. It is also recommended that any losses of hedgehog habitat be mitigated for via incorporating log piles and provision of hedgehog access points within perimeter garden fences and hedgerows.

Birds

The proposals will result in the loss of grassland, arable land and tall ruderal vegetation, habitats which provide nesting and foraging opportunities for birds. However, these habitats are widespread and well represented in the wider local area. Bird nesting and foraging habitats at the site peripheries, consisting of dense scrub, trees (of semi-mature age and older) and majority of all three hedgerows, will be retained and enhanced.

Reptile and Great Crested Newts (GCN)

Small areas of suitable habitat are present at the peripheries of the site to support GCN and native reptile species. There are two ponds within 500m of the site, with one shown to have good suitability for GCN. The independent ecologist raised concerns that should the site be left unmanaged, there is potential for these species to be harmed during site clearance works.

The applicant has confirmed that between the sale of the site and commencement of construction agricultural practices will continue. Though, if management were to cease additional surveys would be required. This would need to include an eDNA survey of GCN. A pre-commencement condition is therefore recommended for the submission of an Ecological Management Strategy, that would include any necessary updated protected species.

Finally, the applicant ecologist has confirmed that works are to be carried out following the precautionary methods outlined within the Ecological Appraisal Report in order to minimise

the risk of harm. Habitat features are also to be created, such as log piles adjacent to the SuDs, which will create foraging and sheltering opportunities for those species.

Biodiversity Net-Gain

Paragraph 174 of the NPPF (Feb, 2019) confirms the aspiration that development should ‘...*identify and pursue opportunities for securing measurable net gains*’. The Draft Environment Bill, although currently not mandated, is likely to set a mandatory net gain requirement of 10%. The applicant has submitted a Biodiversity Impact Assessment using the DEFRA metric, this identifies that the proposal would result in the loss of 11.10 biodiversity units, although a net gain of 0.55 linear units is shown.

In this circumstance, it is considered that provision of offsite compensation – through a Section 106 Agreement – is considered to be appropriate. Although, the Environment Bill does not place a monetary value on units, the Biodiversity net gain and local nature recovery strategies Impact Assessment by DEFRA assumed a cost of £11,000 per unit. A contribution of £134,300 is sought. This calculation is on the basis of 11.1 units + 10% net again = 12.21 units. at £11,000 per unit. It will be used towards potential ecological enhancement schemes at Brierley Park, Sutton Lawn, Healdswood Rec, Stoneyford Rec, Quarrydale Rec and tree planting in Sutton Town Centre.

Summary

The NPPF, at paragraph 175, states that if significant harm to biodiversity resulting from development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

The applicant has supplied an Ecological Assessment of the impact of the proposed development on designated sites, habitats and relevant fauna. It includes mitigation and enhancement measures. The report has also been assessed by independent ecologist and additional information provided. On the basis of the evidence supplied, it is considered the ecological impacts - comparative to a development site of this size – are fairly limited and can be adequately mitigated.

It is acknowledged that the proposal would result in a net loss of biodiversity on site. However, a contribution will be secured towards off-site improvements. Overall, it is considered that the proposals would not merit a refusal in accordance with paragraph 175 of the NPPF.

4. Flooding and Drainage

The applicant has provided a Flood Risk Assessment (FRA). This identifies that the site is elevated sufficiently above the nearest Main River watercourse and lies within Flood Zone 1 (Low Risk of Flooding, 1 in 1000 years). The FRA does, however, note that there is a local water course to the north of the site which is controlled by a culvert under a large soil heap,

which, if it became blocked could result in localised flooding to the north of the site. To mitigate against this, the report recommends certain minimum ground and internal floor levels.

The FRA highlights that the existing site is considered to be 100% permeable. Following the proposed development, the impermeable area will be significantly increased to approximately 41% of the total site area. The FRA therefore proposes Sustainable Urban Drainage techniques, in the form of a balancing pond in the north eastern corner of the site. A hydro-brake will be provided to restrict flows from the site and reduce runoff from the development during higher periods of rainfall. This will need to be reduced to green-field runoff rate.

The site will discharge into an existing culvert, which runs through the north eastern corner of the site. The applicant has confirmed they have legal rights to enter into the culvert. This has been assessed by the Councils legal team, who are satisfied that once Bellway are in control of the land they would be entitled to connect into the culvert. The Councils Local Lead Flood Authority have been consulted with the proposals and raise no objections. Likewise, no objections have been received from the Environment Agency, nor the Councils Drainage Officer. Conditions are recommended in relation to the requirement of details for a surface water drainage scheme based on Sustainable Urban Drainage Principles, and for details of foul sewage to be agreed.

Based on the technical evidence supplied by the applicant and comments from consultees, it would be difficult – without a requisite evidence base – to justify a reason for refusal on the grounds of increased flood risk.

5. Housing Density and the Masterplan

Saved policy HG3 sets out a minimum net density requirement of 30 dwellings per hectare for a site in this location. This policy sets out that net density is measured as the individual dwelling units per hectare of land developed specifically for housing and directly associated uses. The application site is Greenfield and measures approximately 10.31ha. The submitted Masterplan sets out indicative development parcels of c.8.49 ha, resulting in a density of 34 dwellings per hectare. This includes access roads within the site, private gardens, car parking areas, and areas of incidental space.

The master plan shows an area of SUDs to be formed in the north eastern corner, along with the retention of existing vegetation and a central green walk through to Brierly Forest park. However, it shows the fairly extensive use of privates and these maybe be unacceptable in some cases. The Nottinghamshire Highways Design Guide identifies that private drives should serve no more than 5 dwellings. Whilst, there are sites where this number has been exceeded, subject to sensitive design considerations, it would not be prudent to approve such matters at a high level at outline stage. The consultation responses have also identified requirements for a scrub planting buffer, which is not shown on the plan. As such, it is considered that the Masterplan would not form an approved plan document.

The density of the site is considered to be medium density and relatively consistent with the surrounding development, which ranges from anywhere between 20 and 37 dwellings per hectare. Although, the density of development would be higher than that considered under the previous planning refusal at the site (V/2014/0658), it will be incumbent on the developer to propose, a detailed scheme of high quality design, that meets the Councils relevant standards as set out in the Councils Residential Design Guide Supplementary Planning Document (2014) and Residential Car Parking SPD (2014).

The density of the proposed development accords with the minimum net density requirements of 30 dwellings per hectare set out in the ALPR. It also falls within the recommended 30 – 50 dwellings per hectare, for a suburban location, in the draft National Model Design Guide. The proposals will be carefully examined, at detailed application stage, to ensure a high quality development is achieved. A condition is recommended for the submission of a Design Code at reserved matters stage. Additionally, an informative note has also been recommended advising the applicant of the Councils standards, and that an independent design assessment of a future reserved matters scheme should be provided.

6. Residential Amenity

This is an outline application, with all matters reserved, except access. However, the applicant has submitted an indicative master plan, which shows that sufficient separation distances could be provided, so that the development would not adversely impact upon existing residential dwellings privacy and light.

Details of the design, layout and appearance will form part of a future reserved matters application. These will be carefully assessed, in accordance with Councils ALPR policies, supplementary planning guidance, as well as the NPPF and other relevant national guidance. This would ensure that future development does not result in any undue harm to the living conditions of neighbouring occupiers; as well as the development providing a good standard of living for future occupiers.

Some residents have voiced concern surrounding disruption during the construction phase of the development. To overcome this, a Construction Management Plan condition is proposed this will govern matters such as working hours, vehicle parking, wheel washing, emission of noise/dust/dirt etc.

7. Highways Safety

The Ashfield Local Plan Review (2002) Policy ST1, set out that, amongst other matters, development will be permitted where it (c) does not adversely affect highway safety, or the capacity of the transport system. In a similar vein, the NPPF (paragraph 109) states that development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts on the road network would be severe.

Traffic Flows

The Highways Authority (HA) have advised that the agreed study area has been adequately assessed and mitigation suggested at a number of junctions. However, during the assessment process, a number of the junctions did not have current traffic count data and due to the current Covid-19 pandemic, the applicant carried out counts when the overall traffic flows returned to around 90% of pre-lockdown levels and factored them up using these percentages. The HA therefore have reservations about the data, as it is known that whilst levels increased, journey purpose changed which could affect turning movements at junctions. However, in such unprecedented times the HA have accepted the assessments based on this data as the best available at the time.

The HA also disagree with the generalisation made in the latest Technical Note H regarding dissipation. As, in many instances there is no viable/shorter alternative to reach the destination - so to suggest that this is the case, would mean that the agreed distribution and assignment of vehicles is incorrect. Therefore, further subsequent junction assessments could be required.

A number of junctions were assessed as part the Transport Assessment work, many of these were demonstrated to operate within capacity and therefore no mitigation is required. This includes the junction of Huthwaite Road and Ashland Road West. A summary of those junctions requiring improvements, as detailed in the comments from the HA, is set out below:

- **Blackwell Road / Common Road (Junction 2)**
The development is forecast to significantly reduce capacity at this junction. The junction is already equipped with MOVA but installation of on-crossing and kerbside detection, which generally allows more green time to vehicles is considered to be an acceptable mitigation proportionate to the development.
- **Lammas Road / Hack Lane (Junction 6)**
The junction is due to be refurbished out of the Local Transport Plan budget, however the development is demonstrated to have a significant impact. Even with the improvements, the development traffic degrades the performance, taking it from around practical reserve capacity to absolute capacity . Accordingly, to make the development acceptable, the HA require a contribution to sustainable transport measures with the aim of reducing the number of vehicles utilising the junction.

Nottinghamshire County Council have identified a Strategic Cycle Network extending west of Sutton Town Centre along Huthwaite Road for the proposed contribution. The route will actively encourage cycling as a sustainable alternative to the car from this development. The development needs to provide a contribution of £120,000 which is equal to the cost of the junction upgrade.

- **A38 Kings Mill Road / Station Road (Junction 9)**

The HA do not agree that as the development is some distance from the junction, vehicles are likely to disperse along minor roads. Though, they agree that there is no mitigation available proportionate to the development; however, as the development does have a notable impact a Section 106 contribution is required to support the sustainable transport measures. A contribution of £10,000 is considered to be reasonable.

- **Mansfield Road/Stoneyford Road & Mansfield Road/Dalestorth Street** (Junctions 10 & 11)

The HA disagree with conclusions drawn from the modelling that the development only has a small impact. However, MOVA signal upgrades and CCTV are considered as proportionate and reasonable mitigation at both junctions.

Access

The application proposes two points of vehicular access off Ashland's Road West to serve the development. The HA have confirmed acceptability of the proposed access junction layout (drawing number ADC1032-DR-001 Rev P10). This layout drawing identifies the over-engineered layout required to offset the single point of access, which serves the majority of the development.

Other Improvements

Details have been submitted showing the provision of a pedestrian crossing point on Huthwaite Road (drawing number ADC1032-DR-002 Rev P1). The HA have noted that the proposed pedestrian improvements support sustainability of the site by providing safe access to and from the westbound bus stop on Huthwaite Road, providing wider community benefits. However, whilst, the principle of the crossing point is acceptable, amendments to the design would be necessary. A condition is therefore recommended requiring details to be submitted and the works carried out.

Summary

A number of local residents have raised concerns about the increased traffic generated from the development. A development of this size would inevitably result in some detriment to traffic flows; however, a robust scheme of mitigation is proposed, along with Section 106 contributions to improve sustainable transport measures. The Highways Authority have raised no objections to the development and it is therefore considered a reason for refusal could not be substantiated on the basis of highways safety concerns.

8. Developer Contributions

The requirements of the CIL regulations are that a planning obligation can only be a reason to grant planning permission provided that it is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably

related in scale and kind to the development. Set out below are each of the contributions required for the proposed development:

Healthcare - £162,562

Current capacity at GP surgeries local to the development would not be capable of accommodating the associated increase in population, as is made clear from the letter NHS Clinical Commissioning Group.

The CCG has provided its standard formula for the cost of extensions as identified by a quantity surveyor experienced in health care projects, which equates to a total contribution of £162,562. This formula has been devised by a suitably qualified expert and is therefore fairly and reasonably related in scale and kind to the development. The proposal would generate a requirement for healthcare provision for residents and is therefore directly related and necessary to make the development acceptable. This contribution satisfies the CIL tests.

Public Open Space – £600,000

Policy HG6 of the Local Plan sets out that residential development will only be permitted where open space is provided to meet certain requirements. This sets out that in sites of two hectares and above a minimum of 10% of the gross housing area will be provided as open space. It also states that where it is not appropriate to provide open space within a site boundary, a planning obligation will be negotiated. The Councils Places and Localities Team have set out that a S106 contribution of £600K is required for one of the following:

- Riley Recreation Ground
- Huthwaite Welfare Park
- Brierley Forest Park

This is to include maintenance payment of 2.5% of £600k = £15,000 per year, at a total £225,000 over 15 years. The contribution is sought on the basis of £2,000 per dwelling, which is the standardised approach Ashfield takes to securing contribution towards off-site open space.

The indicative masterplan shows little in the way usable recreation open space and therefore this development will inevitably lead to pressures on recreation grounds elsewhere in the vicinity. The contribution is therefore necessary to make the development acceptable in planning terms, directly related and reasonable in kind and scale.

Built Sport Facilities - £258,000

Sport England's Sports Facilities Calculator (SFC) provides an indication of the likely demand that will be generated by a development for certain facility types. The SFC indicates that a population of around 700 new residents in this local authority area will generate a demand for, an additional 57 visits per week to sports hall and 44 visits to a swimming pool.

The capital cost needed to accommodate this demand would be around £258,000. Based on the SFC, the contribution is considered to be reasonable in kind and scale. The Councils Places and Localities team have advised that improvements are required toward built leisure facilities at the Lammas LC. Accordingly, the contribution is necessary and directly related.

Travel and Transport: £90,000 bus service, £28,000 bus stops and £20,000 for sustainable transport.

The County Council request a planning obligation of £90,000 for bus service contribution. This would be used to provide improvements to the local bus services to serve the site. The applicant has, however, questioned this as they are providing a crossing to improve links from the application site to bus stops on Huthwaite Road.

Ashland Road is served by Service 417 which provides a limited hourly off-peak service operated by Nottinghamshire County Council fleet. A frequent service operates to Sutton Town Centre and Mansfield on Huthwaite Road. This service is commercially operated by Stagecoach. However, the development is situated approx. 750 metres from the nearest bus stops on this service. Therefore, modifications to the bus network to provide better access to the proposed development is required.

The vehicles operated on service 417 have 16 seats and are currently operating close to capacity. This resource would not be enough to cover the demand arising from the new development. The contribution is therefore necessary to be put towards a large vehicle on Service 417, operating across the day and possibly an enhanced Saturday Service. It is considered that both the upgrades to the crossing and the bus service contribution are required to encourage sustainable transports modes.

The County Council have also requested a planning obligation of £28,000 for bus stop infrastructure. This would be used to provide improvements to the bus stops on Rooley Avenue (AS0111), Norwood Close (AS0110), George Street (AS0129) (AS0130) and Siddalls Drive AS0128. This will include raised boarding kerbs ,real time bus stop pole & displays including associated electrical connections, or other bus infrastructure improvements.

The County Council also request that a Sustainable Transport contribution of £20,000 is paid to provide each household with up to a 2-month or equivalent bus pass (subject to negotiated discount) for use on the local bus network to encourage use of sustainable modes of travel, or to support other sustainable transport measures for residents of the development.

In accordance with the justification provided by NCC, these contributions meet with the CIL tests.

Libraries - £10,571,00

The Museums, Libraries and Archives Council (MLA) publication “Public Libraries, Archives and New Development: a standard approach” recommends a standard stock figure of 1,532 items per 1,000 population. NCC have provided evidence to show Sutton in Ashfield Library is currently below the MLA optimum stock level and so a developer contribution is sought to ensure current stock levels are not put under further pressure as a result of the new development.

A developer contribution for the additional stock that would be required to meet the needs of the 690 population that would be occupying the new dwellings. This is costed at 690 (population) x 1.532 (items) x £10.00 (cost per item) = £10,571.00. The contribution is therefore reasonable in kind and scale to the development, directly related and necessary to make the development acceptable.

10% - Affordable Housing.

The NPPF paragraph 64 sets out that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.

Secondary Education - £1,146,000 and Primary Education £1,297,296 (63 places

The development would generate an additional 48 secondary aged pupils within the Kirkby/Sutton Secondary Planning Area. Based on current pupil forecasts, there is currently a projected surplus of places in the Kirkby/Sutton secondary pupil planning area. The impact of the proposed development would not lead to a deficit in provision. However, there are a number of ongoing planning applications in the district, including applications at appeal. If approved, these would result in a deficit. As a result, the County Council are seeking a planning obligation for secondary education of £1,146,000 (48 places x £23,875 per place). This would be used to provide additional secondary provision in the Sutton/ Kirkby planning area.

NCC have also confirmed that the development would generate an additional 63 primary aged school pupils within the Sutton Town Primary Planning Area. Based on current pupil forecasts, there is a projected surplus within the planning area. However, NCC have been consulted on a number of planning applications, which would result in a shortfall of places. In order to create additional places in the Sutton Town Primary Planning Area resulting from the aggregate impact of this application and other applications, a new primary school is required. The County Council have requested a contribution based on the cost per pupil of providing a new school, which is £1,297,296 (63 places x £20,592 per place).

The education contributions sought are firmly policy based, supported by Government guidance and as such are justifiable. Paragraph 94 of the National Planning Policy Framework (“NPPF”) demonstrates the importance of education provision. The method of calculation and approach by NCC is robust and clear.

The primary and secondary contributions have been approached on an area wide basis, where the data shows there to be insufficient capacity, when taken with other applications. A robust approach must ensure that contributions are sought for all developments - given the likely pressures facing school place provision in the area from the required housing growth in the district. Having due regard for the above, it is considered that the contributions satisfy the relevant CIL tests.

Biodiversity - £134,300

It is recognised that the Environment Bill does not place a monetary value on a contribution. However, the Biodiversity net gain and local nature recovery strategies Impact Assessment by DEFRA assumed a cost of £11,000 per unit. Therefore, this calculation is on the basis of 11.1 units + 10% net gain = 12.21 units. at 11k per unit. This is considered to be reasonable and kind in scale to the development. The contribution would be used towards enhancement schemes in the vicinity and is therefore directly related.

The applicant has noted that the Council does not have a policy basis to request such a contribution. Nevertheless, Bellway are willing to accept this in this instance, on condition that it is made clear that a 10% net-gain is being offered over and above any requirements in the development plan policy.

Highways - Sustainable Transport - £130,000

As detailed in the Highways Safety section of the report, a contribution towards cycling measures to support sustainable transport and reduce the impact of motorised vehicles on the highway is required. This justification for the contribution derives from the transport assessment work, it is directly related to the development and reasonable in kind and scale. It therefore meets with the CIL tests.

Monitoring Contribution - £2,500

Legislation allows Councils to charge a monitoring contribution for S106. Given the complexity and size of the agreement, this amount is considered to be reasonable in kind and scale.

9. Other Issues

Heritage Assets and Archaeology

No designated or none designated heritage assets are identified on or adjacent to the site. The site does fall within Area G – Meden Valley of the Hardwick Hall Setting Study. However, given the location of the site and the topography of the land, the application proposals would not have an impact on the setting of Hardwick Hall.

The application has been supported by a desk based archaeological assessment. It concludes that there is low potential for prehistoric, Roman, medieval and post-medieval archaeology. However, it does note that this is somewhat unknown due to little archaeology

found within the area. A pre-commencement condition is therefore recommended for the applicant to produce a written scheme of investigation prior to commencement of works to ascertain if any mitigation is required.

Air Quality

The applicant has produced an Air Quality Assessment. This indicated that the impact of the development upon local air quality will be negligible and that the site itself is acceptable for residential development. The Councils Environmental Health Officer has reviewed the submitted information and confirmed the acceptability of the reports findings.

Noise

A Noise Impact Assessment has been submitted by the applicant. This sets out that the relevant recommended external and internal noise standards can be met. The predominant noise source at the site was road traffic using Ashland Road West. In order to mitigate potential noise impacts relatively standard measures are proposed, including selection of glazing, ventilation, building fabric with a sufficient sound reduction index; and 1.8m high acoustically sound fencing at garden boundaries adjacent to Ashland Road West. It is considered that with these mitigation measures in place sound levels would be acceptable for future residents.

Loss of Open Space

Concern has also been raised that the development of this site would result in the loss of an area where children can play. The application site is in private ownership with no existing right of public access and the site does not form part of Brierley Forest Park. A footpath (47) runs adjacent to the site, along the northern boundary, but will be unaffected by the development.

Covid-19 pandemic and Consultation

Concern has been raised that the consultation phase of the application took place during the first lockdown period of March 2020. The consultation was fully undertaken with The Town and Country Planning (Development Management Procedure) (England) Order 2015 and Councils Statement of Community Involvement. This includes individual neighbouring residents, a site notice and press notice. All residents were also given an additional week, with the consultation period running for 28 days and comments are accepted on the application until 3 days before Planning Committee.

10. Planning Balance and Overall Conclusions :

The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The NPPF states that proposals should be considered in the context of the presumption in favour of

sustainable development, which is defined by economic, social, and environmental dimensions and the interrelated roles they perform.

In this case the provision of new homes carries significant weight in favour of granting planning permission. It would boost the supply of housing in accordance with the NPPF, contributing up to 300 homes, of which 10% would be affordable. It would bring about additional housing choice and competition in the housing market. The social benefits through the creation of new housing carries **significant weight**.

There would also be substantial economic benefits through investment in the locality and increased spending in shops and services. It would also result in jobs during the construction phase. Thereafter, the Council would also receive increased revenues from Council tax receipts. These economic benefits carry **moderate weight**.

The proposal results in a loss biodiversity units at the site and therefore an off-site contribution has been achieved to ensure the development provides a net-gain. The contribution offered would equate to a 10% net-gain in biodiversity. This is presently in excess of any guidance or policy. There would also be planting and landscaping provided, as well as the SuDS basin, which has the potential to enhance ecology and biodiversity at the site. These factors carry fairly **limited weight** in favour of granting permission.

On the other side of the coin, the harms created by the development are relatively limited for a development of this size. There would be the loss of open agricultural land and the urbanisation of the existing fields, to which residents have attributed great weight. However, the site is heavily influenced by the urban fringe and surrounded by development on three sides. Paragraph 170(a) of the NPPF states that landscape protection should be commensurate with status. In this case the harm to the landscape carries **limited weight**.

It is considered that based on the technical evidence supplied by the applicant - and subsequent comments received from consultees - that a refusal on the grounds of increased flood risk and impact on biodiversity would be difficult to substantiate. The Highways Authority have also raised no objections to the development and a number of highways improvements are proposed to mitigate against the increased traffic being generated.

In terms of developer contributions, these will be secured towards education, built sport facilities, healthcare, sustainable transport, libraries, public open space, biodiversity as well as affordable housing. These will ensure that the necessary infrastructure is in place to support the housing development. These matters therefore carry **neutral weight** in the planning balance.

The proposal is contrary to the ALPR policies ST1 (a), ST2, ST3, ST4 and EV2 to the extent they seek to restrict development to within defined settlement boundaries. However, the ALPR was only intended to guide development up till 2011 and it is clear that these policies are not providing sufficient housing to meet the requirements of the district. These policies also lack the balanced approach taken in the NPPF and this therefore lessens the

weight attributed to the conflict. Though, that is not say these should simply be disregarded within the planning balance, **limited weight** should be attached to this conflict for the reasons set out above.

In this case, the significant ongoing housing shortfall attracts substantial weight in favour of granting permission for the proposal, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

It is considered that none of the reasons put forward for opposing the development establishes that the harm would be significant or would demonstrably outweigh the benefits. Therefore, notwithstanding the conflict with the development plan, it is considered that planning permission should be granted, subject to conditions and a Section 106 legal agreement.

Recommendation: - **Approve, subject to conditions and the following Section 106 Contributions:**

- Primary Education £1,297,296;
- Secondary Education - £1,146,000;
- Healthcare - £162,562;
- Public Open Space – £600,000;
- Built Sport Facilities – £258,000;
- Bus service - £90,000;
- Bus stops - £28,000;
- Sustainable Transport - £20,000;
- Libraries - £10,571,00;
- Biodiversity - £134,300;
- Highways - Sustainable Transport - £130,000
- 10% - Affordable Housing;
- Monitoring Contribution - £2,500;
- Travel Plan.

CONDITIONS

1. The formal approval of the Local Planning Authority shall be obtained prior to the commencement of any development with regard to the following Reserved Matters:

- (a) Layout
- (b) Scale
- (c) Appearance
- (d) Landscaping

Application for approval of reserved matters shall be made to the Local Planning Authority not later than 24 months from the date of this permission.

The development hereby permitted shall be begun not later than one year from the date of approval of the last reserved matters to be approved.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Proposed Access Junction Layout (drawing number ADC1032-DR-001 Rev P10)
- Site Location Plan (ref. P19-1014 002 Rev B)

3. Details of appearance, landscaping and layout required to be submitted and approved under Condition 1 shall include details of:

- i. The design, layout and form of the dwellings, including details of the external surfaces and materials to be used;
- ii. details of highways and private street works including all key dimensions, junction and forward visibility splays and swept path analyses of a 11.6 m refuse vehicle;
- iii. the layout and marking of car parking, servicing and manoeuvring areas;
- iv. fencing, walling, boundary treatments and means of enclosure;
- v. a scheme of hard and soft landscaping, including the specification of trees, hedges and shrub planting and details of species, density and size of stock;
- vi. existing and proposed ground levels and those of surrounding buildings
- vii. proposed pedestrian routes within the site, including details of connections into Brierly Forest Park
- viii. refuse/recycling storage and collection points;

- ix. provision for electric vehicle charging points and cycle storage facilities;
 - x. a lighting strategy for the development;
 - xi. measures to minimise the risk of crime;
 - xii. an open space masterplan for the site, including long term design objectives, management responsibilities and maintenance schedules.
4. Any Reserved Matters applicant made pursuant to condition 1 shall include a sitewide Design Code for the development.
5. Prior to the commencement of development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority, this should include:
- How construction traffic will access the site;
 - Proposed hours and days of working;
 - The parking of vehicles of site personnel, operatives and visitors;
 - Location of the site storage areas and compounds;
 - Wheel washing facilities;
 - A strategy for the minimization of dust and vibration;
 - A strategy for the minimisation of noise, vibration and dust;
 - Site contact detail in case of complaints;

The approved details shall be adhered to throughout the construction period.

6. No site clearance, preparatory work or development shall take place in any phase until a scheme for the protection of the retained trees and hedgerows in that phase (the tree and hedgerow protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and hedgerows in the phase shall be carried out as approved for that phase and retained throughout the construction period for that phase.
7. If during the course of development, contamination is found to be present on the site, then no further development (unless otherwise agreed in writing by the local planning

authority) shall be carried out until the developer has submitted and obtained written approval from the local planning authority for a remediation strategy detailing how the contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the local planning authority.

8. Prior to commencement of development a detailed surface water drainage, scheme based on the principles set forward in the Flood Risk Assessment Prepared by EWE Associates Ltd Rev D dated November 2020. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:
 - Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
 - Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm 5 l/s rates for the developable area.
 - Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA
 - Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
 - For all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.
 - Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
 - Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion for the lifetime of the development.
9. No development shall commence until an ecological management strategy has been submitted to and approved in writing by the local planning authority. The strategy shall include: details of objectives to achieve ecological enhancement of the site; any required updated protected species surveys, details of measures for encouraging biodiversity within the site; review of site potential and constraints; details of works to achieve objectives; details of the body or organisation responsible for implementation; the timetable for implementation; details of aftercare and long term maintenance; details of monitoring and remedial measures; details of a legal and funding mechanism by which the implementation of the Strategy will be secured. The strategy shall be carried out as approved.
10. No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work for the development in

accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

11. No development shall take place until such time as a programme has been submitted to and approved by the LPA covering the following works:

- i) The provision of the accesses to the site, as indicatively shown on drawing number ADC1032-DR-001 Rev P10
- ii) The provision of on-crossing and kerbside pedestrian detection at the junction of Blackwell Road/Common Road.
- iii) The provision of MOVA and CCTV at both the junctions of Mansfield Road/Stoneyford Road and Mansfield Road/Dalestorth Street.
- iv) The provision of the pedestrian refuge and associated build out with crossing points as indicatively shown on drawing number ADC1032-DR-002 Rev P1)

The works shall then be carried out in accordance with the agreed programme unless otherwise agreed in writing with the Local Planning Authority. For clarity these plans are conceptual ONLY and will be subject to detailed technical appraisal during the S278 process.

REASONS

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
2. To ensure the development takes the form envisaged by the Local Planning Authority.
3. To ensure adequate details are provided at detailed planning stage.
4. In the interests of securing a high quality design in accordance with part 12 of the NPPF – Achieving Well Designed Places.
5. To protect the amenity of nearby residents during the construction phase of the development.
6. To ensure that the retained hedgerows are protecting during construction.
7. To ensure the site is developed free from contamination.
8. To ensure adequate means of surface water disposal.
9. In the interests of biodiversity enhancement.
10. To ensure any archaeological finds are properly documented.

11. To provide sufficient capacity at the respective junctions and in the interest of pedestrian and general highway safety.

INFORMATIVE

1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).
2. The applicant is advised that prior to submission of a reserved matters application the scheme should be put forward for an independent design review with Design Midlands. Further details of this service can be found on their website at: <https://www.designmidlands.org/>.
3. The applicant is advised that any detailed application should fully accord with the Councils relevant standards as set out in the Councils Residential Design Guide Supplementary Planning Document (2014) and Residential Car Parking SPD (2014).
4. The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the HA, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.
 - a) The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the HA with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the HA as early as possible. Furthermore, any details submitted in relation to a reserved matters or discharge of condition planning application, are unlikely to be considered by the Highway Authority until technical approval of the Section 38 Agreement is issued.
 - b) It is strongly recommended that the developer contact the HA at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance. It is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site. Correspondence with the HA should be addressed to hdc.north@nottsc.gov.uk

5. In order to carry out the off-site works required, the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. In order to undertake the works, which must comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks, the applicant will need to enter into an Agreement under Section 278 of the Act. The Agreement can take some time to complete as timescales are dependent on the quality of the submission, as well as how quickly the applicant responds with any necessary alterations. Therefore, it is recommended that the applicant contacts the Highway Authority as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties.
6. Any highway details submitted in relation to a reserved matters or discharge of condition planning application, are unlikely to be considered by the Highway Authority until formal technical approval is issued. It is therefore strongly recommended that the applicant submit drawings in relation to this to the Highway Authority prior to submitting a planning application.
7. Planning permission is not permission to work on or from the public highway. In order to ensure all necessary licenses and permissions are in place you must contact highwaysouth.admin@viaem.co.uk.
8. It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

Appendix C – Land West of Beck Lane, Skegby Appeal Decision (Ref. APP/W3005/W/18/3213342)



Appeal Decision

Inquiry opened on 9 July 2019

Accompanied Site visit made on 11 July 2019

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2019

Appeal Ref: APP/W3005/W/18/3213342

Land west of Beck Lane, Skegby, Nottinghamshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Lovel (East Midlands) Ltd against Ashfield District Council.
 - The application Ref: V/2016/0569, is dated 8 September 2016.
 - The development proposed is residential development with means of access into the site.
-

Preliminary Matters

1. The application is made in outline with the means of access into the site to be considered at this stage. The proposal seeks permission for up to 322 dwellings. As a result of ongoing discussion with the Highway Authority the Appellant sought to amend the position of the site access and the configuration of Beck Lane shortly before the opening of the inquiry. The changes proposed do not materially affect the opposition to the scheme which is maintained by local residents, and do not fundamentally alter the nature of the proposal. Having heard all relevant views I accepted the revised access proposal on the basis that it would not prejudice any party to the appeal. The revised access plan is that numbered LTP/1704/T4/01.01 Revision E.
2. As a result of the revised access being accepted as part of the proposal before me, and in light of revised modelling carried out by the Appellant, the Highway Authority no longer maintains an objection to the scheme. It is therefore agreed between the main parties that the proposed development would not result in severe residual cumulative impacts on the road network, and that it would not have an unacceptable impact on highway safety.
3. The Council and Appellant agree that it is not possible to demonstrate a five year supply of deliverable housing land in the district. Furthermore, the Council accepts that its assessment carried out during 2018 was based on the now superseded definition of 'deliverable' in a previous version of the National Planning Policy Framework (NPPF). The Council therefore agrees that the calculation of supply of just over 4 years is likely to be an overestimate. Although there is no specific quantification of supply in this case the parties agree that the shortfall in housing land supply is significant. On the basis of the evidence before me I have no reason to disagree with that conclusion. As a result the most important policies of the development plan relating to the

determination of the appeal are rendered out of date and the weight to any conflict with those policies is reduced. The development plan includes the Ashfield Local Plan Review (LP) of 2002 and the Teversal, Stanton Hill and Skegby Neighbourhood Plan (NP) 2016 – 2031.

4. In this instance the LP policies relied upon by the Council as the most important are Policies ST4 and EV2. Policy ST4 is restrictive of development outside the main urban areas and named settlements. In this regard it lacks the balancing exercise required by the NPPF and is therefore inconsistent with it. Similarly Policy EV2 is highly restrictive of development in the countryside, again lacking the balance required by the NPPF. Hence this policy too is inconsistent with the NPPF. The Appellant fairly concedes that the proposal conflicts with these policies, but because they are out of date and inconsistent with the NPPF that conflict is agreed to carry less weight: I deal with that point in the planning balance later. In any event there is agreement between the parties that the tilted balance of paragraph 11 of the NPPF is engaged. This is a case where planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
5. Relatively little was made of the NP though Policy NP1 seeks to ensure that development is sustainable by reference to economic, social and environmental matters, high quality design, and housing meeting identified local need. It is clear from the text of the NP that development on the edge of the settlement is anticipated, and the aspiration is that such development be well integrated with that existing¹. Policies NP2 and NP3 deal with design principles and housing type, both of which can be controlled at reserved matters stage. Amongst other things Policy NP4 seeks to ensure that landscaping within development proposals enhances landscape character where possible, whilst maintaining access to the surrounding countryside. The NP expresses concern about congestion, safety and public transport, and seeks to work with others to improve these matters.
6. At the inquiry the Appellant, Ashfield District Council and Nottinghamshire County Council indicated that there was broad agreement in relation to certain matters which are dealt with in a S106 Agreement between them. Other matters within the Agreement are not agreed and I must reach a conclusion on whether or not those matters meet the tests set out in the Community Infrastructure Levy (CIL) Regulations (as amended). I deal with this matter later in the decision.

Decision

7. The appeal is allowed and planning permission is granted for residential development with means of access into the site at land west of Beck Lane, Skegby, Nottinghamshire in accordance with the terms of the application, Ref: V/2016/0569, dated 8 September 2016, subject to the conditions set out in the schedule at the end of this decision.

¹ This approach clearly sits alongside that taken in the now withdrawn Local Plan which would have allocated greenfield land for development, including this appeal site.

Main Issues

8. The main issues in the appeal are:

- (a) The effect of the proposed development on highway conditions in the locality;
- (b) Whether the site can be regarded as a suitable and sustainable site for development;
- (c) Whether the benefits of the proposed development are significantly and demonstrably outweighed by any identified harm – the planning balance.

Reasons

Highway Conditions

- 9. As I have noted above the Council, in conjunction with the County Council as Highway Authority, do not oppose the development in relation to highway capacity or safety matters. However local residents continue to have concerns in relation to traffic impacts and highway safety. I can understand their concerns.
- 10. Beck Lane, from which site access would be taken, is a busy distributor road with heavy traffic flows and a 60mph speed limit. The appeal proposal would add a number of extra vehicles to the daily flow. Modelling carried out indicates that this, in combination with other committed developments, would have an impact on traffic flows and queuing at some locations. Modelling is not infallible, but experience over many years has refined it to the extent that it is as reliable as possible. The predicted impact is proposed to be mitigated in a number of ways, such as alterations to software control of nearby junctions, and the installation of CCTV to allow manual control of signals during peak (and other) periods.
- 11. The result of this is that the predicted impact of traffic from the proposed development would be slight, with some improvement in some locations. That is not to say that there would not be some detriment to traffic flows on occasions, but any such detriment would be likely to be minor in nature. The highways experts who explained the scheme and its impacts at the inquiry are highly experienced professionals and, although I respect the concerns of the local community, I do not have any grounds to disagree with the technical evidence put before me. For that reason I accept that there would be no unacceptable residual cumulative impact on the road network.
- 12. With regard to safety there are 3 principal matters here. First, there is concern relating to the access to Ashland Farm (located on the opposite side of Beck Lane to the appeal site) where there are records of accidents and evidence of 'near misses'. However, the highway design scheme agreed between the Appellant and Highway Authority (and now part of the proposal) allows for an improvement to that access in a manner which had already been planned by the Highway Authority. This would be an enhancement to safety.
- 13. Secondly, the proposal would involve a reduction in the speed limit along the relevant stretch of Beck Lane from 60mph to 40mph. This would be implemented through a Traffic Regulation Order under highway legislation as part of the proposal. When added to the fact that the site access itself would

be signal controlled this too would be likely to have a positive impact on safety. Overall, therefore I agree that this proposal would not have an unacceptable impact on highway safety.

14. Thirdly, the proposal includes the widening of the shared pedestrian and cycle path on the west side of Beck Lane. The current path is quite narrow, and the proposal to widen it to the design aspiration of 3m over a significant length will enhance the safety of users of that path.
15. On the first main issue I am therefore satisfied that the proposed development would not have a materially adverse impact on highway conditions in the locality. It would not conflict with the development plan in this respect and in particular addresses the concerns of the NP by dealing with potential congestion and safety matters in a satisfactory manner.

Whether a Suitable and Sustainable Location

16. This issue encapsulates the Council's remaining objection to the scheme. The objection centres on the location of the site in relation to services, the opportunities for residents to access those services, and the quality of the route.
17. It is not disputed that the nearest retail services are within the environs of Mansfield Road, Skegby. From the vicinity of the site entrance I agree that the walk time at a modest pace is 12 to 15 minutes to the Co-op store. This provides the opportunity for day to day purchases. The Post Office is a similar distance. There is a smaller convenience store a little closer. It is not disputed that the stretch of footway along Mansfield Road is an acceptable walking route. Given that the proposal involves the widening of the majority of the shared cycle and footpath along Beck Lane I consider that this part of the route would be made more amenable to walkers and cyclists alike. The distance to passing traffic would be increased and any feeling of intimidation would be lessened. The reduction in speed limit would further increase the comfort of users of that route. I am therefore satisfied that the local services in Skegby would be a reasonable walking distance from the site.
18. I am conscious of the fact that the centre of the site would be at a greater distance from those services, but even so I do not consider that the distance is so great that it would be prohibitive for pedestrians, and certainly not so for cyclists.
19. There is also an alternative route on foot to the Co-op and post office. This involves the unmade public right of way to the west of the site, along Mansfield Lane. I share the Council's view that this would not be suitable at all times, and indeed that some people would choose not to use it at all. However there is also much merit in the Appellant's suggestion that it would be an attractive short cut for much of the year for anyone wishing to collect a few items in Skegby. Whilst it would of necessity require crossing Pleasley Road close to 2 bends in that road the volume of traffic, and its speed, is such that this would not be a hazardous manoeuvre.
20. The proposed development also includes provision for the extension of the 417 bus service to serve the appeal site itself. This is a local service which runs through Sutton in Ashfield and gives access to the facilities in that centre. Furthermore the service would be extended to include morning and afternoon

peaks. The S106 obligation, which I deal with later, includes this provision. As such the site would become accessible by means other than the private car, and this has been acknowledged by the Council. The 417 service allows connections in Sutton for services to the wider area, including Mansfield railway station.

21. Concern has been expressed that the site would be isolated, and would not integrate well with the remainder of the community. I do not accept that position. The development would be on the edge of Skegby with adequate connections by a range of transport modes. There would of course be nothing to prevent the use of private vehicles here, but in my judgement there is every likelihood of residents choosing to make a significant number of trips by other means.
22. Taking this matter in the round it seems to me that the site would be reasonably accessible on foot, would be accessible by cycle, and would offer the potential to use the 417 bus service. Indeed, consultation responses suggest that the anticipated modal shift could well be significant. I am therefore satisfied that the appeal site offers a suitable and sustainable location for development.
23. Whilst there is conflict with the development plan resulting from the fact that the appeal site is outside the main urban areas and is within the countryside, I have already noted that the relevant policies (ST4 and EV2) are rendered out of date and are inconsistent with the NPPF, so reducing the conflict with those policies.

Other Matters

24. A number of other matters have been raised in representations which I address here. First, it is asserted that the proposal would be detrimental to the landscape. I acknowledge that a development of over 300 houses could not fail to impact upon the character and appearance of the area. Local people clearly attach value to the landscape here, but it has no formal designation, and apart from a small section where a public right of way crosses it, there is no public access. Whilst it is a pleasant area of arable land it is not special in any way. Indeed its location adjacent to a distributor road means that it has detracting elements close by. In addition the land is relatively low lying and development would not be unduly prominent. Hence, although I accept that there would be some harm to the character and appearance of the locality, that harm would be of no more than limited weight.
25. The Appellant has commissioned a habitat survey which found that it is unlikely any protected species or habitats would be detrimentally affected. There were a number of recommendations, including the avoidance of works to trees and hedgerows during the bird nesting season, and retention where possible of species rich hedgerows. These are matters which can be controlled at reserved matters stage. The Japanese knotweed identified in the survey is already in the process of being eradicated, as recommended. There is therefore no impediment to the grant of planning permission in relation to impacts on biodiversity.
26. Although there have been episodes of flooding on the appeal site, as witnessed by photographs exhibited at the inquiry, it is notable that the site lies in flood

- zone 1. I am satisfied that a sustainable drainage system could be installed on the land, in accordance with the Flood Risk and Drainage Strategy undertaken.
27. It has been pointed out that the appeal site is productive arable land which yields good quality crops. I saw this season's crop on my site visits. However it is acknowledged that much of the district is made up of land of a similar quality, and that release of greenfield land will be required in order to meet future housing need. This is therefore a matter of limited weight.
28. My attention has been brought to the presence of Dalestorth House, an imposing listed building to the south-east of the appeal site. The principal elevation of the property faces south, and its northern elevation faces an enclosed curtilage used as a nursery. The setting and significance of the building is therefore tightly enclosed in the direction of the appeal site. In my judgement, which is shared by the main parties, the development would have no impact on this heritage asset.
29. The provision of infrastructure including school places and healthcare facilities for residents of the development has caused concern. This is a matter which is addressed in the S106 Agreement (the obligation) to which I turn next.

Planning Obligation

30. I start from the requirements of CIL Regulation 122. The requirements of the Regulations are that a planning obligation can only be a reason to grant planning permission provided that it is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
31. The obligation in this case includes a number of matters, most of which are agreed. There is no dispute in relation to the primary education contribution requested by the County Council. The calculation has been made based on the planning area of a cluster of primary schools and seeks a contribution for the provision of facilities directly stemming from the likely school age children living at the development site. I agree that this contribution meets the tests set out above.
32. The secondary education contribution requested is based only on the predicted needs of a single school – Quarrydale Academy. I heard at the inquiry that the County Council has limited influence over intakes of secondary schools as all are academies and hence it chooses to use predictions for single academies. That said, projections prior to the current year appear to be based on a cluster of secondary schools (or academies) which shows a surplus of places overall. Notwithstanding that, and even allowing for a planning area approach using a group of secondary academies, new projections show a deficit of places into the future, hence leading to the requested contribution. However, the latest prediction is based on the Council's 2018 housing projections which are unlikely to be correct (as agreed by the Council). Therefore the shortfall in places at Quarrydale Academy (or the wider planning area in the alternative) is likely to be an overestimate. I sympathise with the position of the County Council officers, who can only use the latest data available, but I am not satisfied that it has been possible to show that the predictions are sufficiently robust to justify the requested contribution. I note that a bulge of primary pupils are coming through the system, but even so I cannot conclude that there is, on the balance of probabilities, likely to be a deficit of secondary places based on the

- available information. Indeed, if a planning area approach is used, as nationally recommended, then it is possible that there will be a surplus of places following a revision of the Council's housing data. I understand the difficulties faced by the County Council but on the basis of current knowledge I cannot agree that it has been shown that the development would generate the need for a contribution of the magnitude requested. As there is no alternative calculation before me I can only conclude that the contribution sought is not fairly and reasonably related to the development, fails the tests set out above, and is not necessary to make the development acceptable.
33. A contribution for improvements to the public realm in Sutton in Ashfield has been requested and I recognise that the NPPF promotes healthy and safe communities. However, I have little reasoned justification for the quantum of contribution per dwelling which is sought (£2000). I am told that this is consistent with other developments in the district, but no specific evidence has been provided. I am in any event not satisfied that it has been demonstrated that there is a direct link between the development and the public realm improvements proposed for Sutton town centre. I have no doubt that residents of the development would visit Sutton town centre for various reasons, but to my mind that does not mean that improvements in the town centre are necessary to make the development acceptable. Even were I to find that there was a direct link I am not satisfied that the rate of contribution has been shown to fairly and reasonably relate to the development. The contribution sought is therefore more of an aspiration than a necessity and it consequently fails the tests of the CIL Regulations.
34. Affordable housing provision is an important part of the obligation. Measures are included which would provide the Council's required percentage of affordable houses. The provision is directly related to the proposal and necessary to make it acceptable. It is also fairly and reasonably related in scale and kind, and therefore meets the CIL Regulations tests.
35. As noted earlier, several methods of mitigating traffic impact have been agreed. This is catered for in the obligation by the provision of a contribution to fund that mitigation. The contribution is therefore directly related to the development and necessary to make the development acceptable in planning terms. It is also fairly related in scale and kind and therefore meets the necessary tests.
36. With regard to modal shift in transport choices the obligation makes provision for bus service contributions. These cover the extension of the 417 service to the site, bus stop provision/improvement, and provision of bus passes. All of these are necessary to make the proposal acceptable, are set at a proportionate level, and are required as a direct result of the development. The contributions meet the statutory tests.
37. The proposal would generate a requirement for healthcare provision for residents of the development. It is therefore directly related to the development. I am satisfied that the calculation of the contribution towards improving or enhancing facilities in the locality is necessary to make the development acceptable, and is fairly related in scale and kind to the development. This contribution therefore satisfies the necessary tests.
38. On site open space would be provided as part of the development. The obligation makes provision for a scheme to be drawn up and approved so that

the Council can be assured the open space will be retained and maintained in the future. This is necessary to make the development acceptable in planning terms. That part of the obligation is also directly related to the development and is fair and reasonable.

39. To summarise on the S106 obligation I find that all matters except the secondary education contribution and the public realm contribution have been justified and meet the tests set out in the CIL Regulations. The secondary education contribution and public realm contributions do not therefore constitute a reason for granting planning permission.

The Planning Balance

40. It was agreed at the inquiry that the housing need in the district is at least of significance, if not critical, and that this should attract considerable weight in the planning balance. The recent withdrawal of an emerging Local Plan at a late stage in the process has set back the possibility of being able to identify housing sites for at least 3 years. It was therefore accepted by the Council that this scheme can make a significant contribution to the supply of housing.
41. In light of the information submitted at the inquiry, and the intention of the Appellant to reduce time limits for the submission of details, I am satisfied that the site would deliver housing within the next 5 years. This matter is of considerable weight in favour of the proposal.
42. Furthermore the proposal would deliver about 32 affordable dwellings. It is not disputed that the supply of affordable housing has not met the identified need, and this proposal would assist in addressing the substantial shortfall in supply. This is of significant weight in favour of the proposal.
43. Other benefits of the scheme would include the provision of construction jobs, support for local services, and the upgrading of the local bus service and pedestrian/cycle links. These are important matters which attract moderate weight. The scheme would also provide the opportunity to enhance open space available to the public, and to enhance biodiversity.
44. The negative side of the balance is limited in this instance. Inevitable landscape and visual impacts would be towards the lower end of the scale of harm and the Council does not object on this basis. This harm carries limited weight.
45. As I have set out above, there would be no unacceptable harm resulting from traffic impact or highway safety concerns. Similarly I find no harm in relation to the other matters addressed.
46. Overall I am satisfied that the appeal site is in sustainable location and the proposal itself constitutes sustainable development. Conflict with the development plan carries limited weight for the reasons given above. This is a case where the adverse impacts of the proposal fall very far short of significantly and demonstrably outweighing the considerable benefits which the scheme offers.

Conditions

47. An agreed list of conditions has been provided in the event of planning permission being granted. Apart from the necessity to specify time limits for

the submission of reserved matters, and clarifications of the reserved matters, I agree that conditions are required which cover the following topics:

- Phasing of development, so that the scheme can be provided in a managed way;
- The identification of the approved access plan so that it can be ensured that the scheme is satisfactory;
- A programme for the provision of the new site access and other improvements, to ensure that highway safety is maintained;
- The submission and approval of a travel plan to promote sustainable travel;
- Surface water disposal, to prevent the risk of flooding;
- A construction method statement, in order to ensure that the development minimises disruption;
- Tree survey and protection matters, in order to ensure adequate retention and protection of trees;
- Archaeological investigation so that any finds are properly recorded;
- A protocol for dealing with non-native invasive species, in order to prevent the spread of those species.

Overall Conclusion

48. The proposal runs counter to the development plan as set out. However, the most important development plan policies are out of date and inconsistent with the NPPF. The benefits of the proposal are extensive, and the conflict with the development plan and the minor harm identified above fall far short of significantly and demonstrably outweighing the benefits. For the reasons given above I conclude that the proposal is sustainable development and that the appeal should be allowed.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

1. No development shall take place until a phasing plan for the development has been submitted to and approved in writing by the local planning authority. This phasing plan shall include: phasing of the construction of the development, including the housing, areas of amenity and informal open space (including play spaces), landscaping, drainage systems, roads, bus service route and stops, footpaths, cycle ways, bin storage and parking. The development shall be carried out only in accordance with the approved phasing plan.
2. Details of the appearance, landscaping, layout, scale and access within the site (hereinafter called "the reserved matters") for each phase of the development shall be submitted to and approved in writing by the local planning authority before any development on that phase takes place and the development of each phase shall be carried out as approved.

Application(s) for approval of the reserved matters for every phase shall be made to the local planning authority not later than 18 months from the date of this permission.

The development hereby permitted shall be begun not later than one year from the date of approval of the last of the reserved matters to be approved.

3. The development hereby permitted shall be carried out in accordance with the following approved plan; LTP/1704/T4/01 01 Rev E. Reserved Matters submitted pursuant to Condition 2 shall be generally in accordance with the principles for the development of the site as set out in the Design and Access Statement and shall comprise no more than 322 dwellings.
4. No development in any phase shall be commenced until details of the surface water drainage scheme for that phase based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved in writing by the local planning authority. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details for that phase and retained and maintained thereafter.

These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- Flood water exceedance routes both on and off site (no part of the site must be allowed to flood during any storm up to and including the 1 in

30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties).

- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and/or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.
5. No development in any phase shall commence, including site clearance, until a Construction Method Statement (CMS) for that phase has been submitted to, and approved in writing by the local planning authority. The CMS shall provide for:
- the parking of vehicles of site operatives and visitors;
 - routing, loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - wheel washing facilities;
 - measures to control the emission of noise, dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - delivery, demolition and construction working hours;
 - Measures to control noise during any piling of foundations (if required);
 - Measures for avoiding harm to protected and priority species including method statements for undertaking construction activities in the best interest of biodiversity, appropriate protection zones, locations and timing of sensitive works and roles and responsibilities of an Ecological Clerk of Works;
 - Point of contact on site for complaints/enquiries.

The approved Construction Method Statement for each phase shall be strictly adhered to throughout the construction period of the development.

6. Prior to the submission of any reserved matters, a tree survey to British Standard BS5837 shall be carried out, with the details submitted to and approved in writing by the local planning authority.
7. No site clearance, preparatory work or development shall take place in any phase until a scheme for the protection of the retained trees and hedgerows in that phase (the tree and hedgerow protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in

writing by the local planning authority. The scheme for the protection of the retained trees and hedgerows in the phase shall be carried out as approved for that phase and retained throughout the construction period for that phase.

8. Prior to the commencement of development, an invasive non-native species protocol including a management, maintenance and monitoring scheme for the site shall be submitted to and approved in writing by the local planning authority. Specifically, the protocol shall detail arrangements for the containment, control and removal of Japanese knotweed. All the protocol measures shall be carried out strictly as approved. Within three months of the approved containment, control and removal of any invasive non-native species, including Japanese knotweed, being completed, evidence of such shall be submitted for the further approval of the local planning authority.
9. No development shall take place within the site until the applicant or their agents or successors in title has secured the implementation of a programme of archaeological work for each phase in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
10. No development shall take place until such time as a programme has been submitted to and approved in writing by the local planning authority covering the implementation of the following:
 - 1 Provision of the signal controlled access junction on Beck Lane, as shown on drawing number LTP/1704/T4/01.01 Rev E.
 - 2 Provision of the 3m cycle/footway shown on drawing number LTP/1704/T4/01.01 Rev E, including details of how it connects and ties in with the existing highway infrastructure at the Fox and Crown junction, precise details of which shall be submitted to and approved in writing by the local planning authority.
 - 3 An application for the change of the speed limit along Beck Lane as shown indicatively on drawing number LTP/1704/T4/01.01 Rev E, has been made to Nottinghamshire County Council as Highway Authority.

The development shall be carried out in accordance with the agreed programme.

11. No part of the development hereby approved shall be occupied until additional and/or replacement street lighting along the Beck Lane site frontage has been provided and installed in accordance with details to be first submitted to and approved in writing by the local planning authority.
12. The development hereby approved shall not be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote sustainable modes which are accepted by the local planning authority and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss M Golden	Of Counsel
She called:	
Ms S Hancock	Nottinghamshire County Council - attended to present the agreed highway position with the Appellant
Ms S Clark BSc MRTPI	Senior Planner, Planning and Design Group (UK) Ltd

FOR THE APPELLANT:

Miss S Reid	Of Counsel
She called:	
Mr S Windass BSc(Hons) MSc(Eng) CEng FIHE MCIHT	Head of Transport Planning, Local Transport Projects – attended to present the agreed position with the Highway Authority
Mr J Tait BA(Hons) DipTP MRTPI	Director, Planning Prospects

INTERESTED PERSONS:

Mr B Nichol	Local resident
Cllr M Darrington	Resident and local councillor
Cllr H Smith	Resident and local councillor
Cllr J Zadrozny	Resident and local councillor
Mrs J West	Local resident

OTHER PEOPLE PRESENT AT THE INQUIRY:

Miss B Cameron	Nottinghamshire County Council – present for the S106 discussion
Mr A Norton	Nottinghamshire County Council – present for the S106 discussion

DOCUMENTS

Submitted by the Local Planning Authority

- 1 Opening statement on behalf of the Council
- 2 Extract from the Teversal, Stanton Hill and Skegby Neighbourhood Plan
- 3 Extract from the Ashfield Local Plan Review p84-86
- 4 Extract from the Ashfield Local Plan Review p15-18
- 5 Extract from the 6Cs Design Guide
- 6 Securing Developer Contributions for Education – Department for Education – April 2019
- 7 Nottinghamshire County Council Planning Obligations Strategy – May 2019

- 8 CIL compliance statement
- 9 Closing Statement on behalf of the Council

Submitted by the Appellant

- 10 Opening submissions on behalf of the Appellant
- 11 Extract from PPG relating to education funding
- 12 Summary of S106 obligations
- 13 Ashfield District Council Local Development Scheme – September 2018
- 14 Site extract – Burton Lazars
- 15 Site extract – Cliffe Woods
- 16 Extract from the 6Cs Design Guide
- 17 Isochrones centred on the appeal site
- 18 Letters from Planning and Design Group on behalf of the owner of the land adjacent to the appeal site
- 19 Draft S106 Agreement
- 20 Correspondence dealing with the deliverability of the proposed development
- 21 Email relating to capacity and projections at local secondary schools
- 22 School Capacity Survey, Guide for local authorities – Department for Education – June 2019
- 23 Comments on combined impact of developments on school provision based on 2017 housing data
- 24 Quarrydale Academy admissions criteria
- 25 Secondary School summary document
- 26 Closing submissions on behalf of the Appellant

Document agreed between the Council and the Appellant

- 27 Updated list of suggested conditions

Documents from interested persons submitted at the inquiry

- 28 Representations from Cllr Darrington
- 29 Comments on proceedings from Mr Nichol

Document received after the close of the inquiry by agreement

- 30 Final signed version of S106 Agreement

PLAN

- A Revised illustrative masterplan

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