

HUTCHINSONS

Appeal by Keepmoat Homes Ltd

**Land at Eakring Road, Bilsthorpe,
Nottinghamshire, NG22 8PZ**

PROOF OF EVIDENCE OF

ALISON HUTCHINSON

MRTPI

**ON BEHALF OF
NEWARK & SHERWOOD DISTRICT COUNCIL**

**LPA Ref: 20/00873/FULM
PINs Ref: APP/B3030/W/20/3265876**

APRIL 2021

HUTCHINSONS
15 Castle Gardens, Kimbolton, Cambridgeshire. PE28 0JE

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1 STATEMENT OF EXPERIENCE

- 1.1 My name is Alison Hutchinson. I have a degree in Town and Country Planning and I am a Member of the Royal Town Planning Institute. I am a Partner in Hutchinsons, a planning practice that operates from Kimbolton in Cambridgeshire. I have over 30 years' experience of town and country planning.
- 1.2 Hutchinsons was set up in 1991 and advises clients in both private and public sectors on a wide variety of planning issues. I have acted, and continue to act, on behalf of a number of private clients, Local Planning Authorities and Parish Councils on planning matters including providing advice on planning applications and enforcement matters and acting as their expert witness at appeals. I acted on behalf of Welwyn Hatfield Council in the 'Welwyn case', which was decided in the Supreme Court.
- 1.3 Before joining Hutchinsons in 1996 I was Associate Partner in The Development Planning Partnership (DPP), acting on behalf of such clients as Tesco Stores Ltd and the former Commission for the New Towns and Bass Leisure as well as District Councils.
- 1.4 I have experience in dealing with a wide range of Development Management issues throughout the country. I started my career working in Local Government for eight years where I gained extensive experience in development control with responsibility for dealing with all types of planning applications including housing.
- 1.5 I have acted on behalf of District Councils for many years and have acted as their expert planning witness at a large number of their appeals. I have also been retained to help process major applications at Uttlesford, Braintree and Tendring District Councils.
- 1.6 I have been instructed by Newark & Sherwood District Council to present the planning evidence in relation to this appeal. I have visited the site and surrounding area on more than one occasion and am familiar with the issues involved.
- 1.7 The evidence which I have prepared and provide for this appeal reference APP/B3030/W/20/3265876 (in this proof of evidence) is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2 INTRODUCTION AND BACKGROUND

- 2.1 The application the subject of this appeal was submitted in May 2020 and sought detailed planning permission for residential development together with a new access junction onto Eakring Road, associated roads, footways, parking/garaging, landscaping proposal and sustainable drainage design. The proposal comprised 103 new residential properties to include a mix of 90% private and 10% affordable dwellings.
- 2.2 The application was accompanied by a full suite of plans and supporting documents which included a Design and Access Statement, Viability report and Market Research Report, Transport Assessment and Residential Travel Plan. A Landscape and Visual Appraisal (LVA) was submitted during the life of the application.
- 2.3 The application was the subject of extensive consultations and resulted initially in objections from statutory consultees, particularly in relation to highways and SUDs. The Council's Environmental Health officer also raised concerns in relation to noise and the Nottinghamshire Wildlife Trust commented that further works were required. Subsequent amendments and further information on these matters were submitted by the applicants and overcame these objections and concerns. As a consequence, there are no technical objections raised by consultees, provided that appropriate conditions are imposed or that appropriate financial contributions towards mitigation were secured by Section 106 obligations.
- 2.4 The application was referred to the Council's Planning Committee on the 3 November 2020 with an officer recommendation of approval. The Committee resolved to refuse the application for a single reason as contained in the decision notice dated 4 November 2020 and set out below for ease of reference:

- 1. The application site forms part of the site allocation detailed by Policy Bi/MU/1 of the Allocations and Development Management DPD. In respect to the residential element, the policy envisages around 75 dwellings to come forward with one of the requirements of the allocation being for development to demonstrate an appropriate design which addresses the site's gateway location and manages the transition into the main built up area.*

The proposal for 103 units would, by virtue of its density, fail to secure an appropriate transition to the open countryside with parking and turning areas being proposed close to the northern boundary with little opportunity for landscaped screening. In addition to this, there are significant design compromises whereby the skew towards larger units (in terms of number of bedrooms) not only fails to represent the preferences of the latest District wide housing needs evidence but also leads to a significant proportion of the proposed four bed units being served by three parking spaces in tandem. The Local Planning Authority consider that this will lead to parking on street rather than in plot which consequently will detrimentally affect the efficiency of the internal highways network. Moreover, the size of a number of the proposed units are modest in their floor space again as a result of the overall number of dwellings far exceeding the number anticipated on a site of this size in this location.

These design compromises would cumulatively lead to an unsustainable design contrary to Spatial Policy 7 (Sustainable Transport); Core Policy 3 (Housing Mix, Type and Density); and Core Policy 9 (Sustainable Design) of the Core Strategy as well as Policy Bi/MU/1 (Bilsthorpe - Mixed Use Site 1) and Policy DM5 (Design) of the Allocations and Development Management DPD as well as the national design stance promoted by the NPPF and its associated guidance.

The benefits of the scheme, namely housing delivery in a sustainable settlement are not considered sufficient to outweigh the harm through the elements of poor design identified.

- 2.5 The Appellant submitted their appeal on 23 December 2020.
- 2.6 The Council submitted its Statement of Case in March 2021.
- 2.7 A Planning Statement of Common Ground (SoCG) was agreed between the parties on 1 March 2021. It provides a description of the appeal site and surrounding area and the relevant planning history of the site as well as a list of submitted document and a chronology of the history of the appeal application. The SOCG also sets out the planning policy context agreed between the parties, a summary of the

Appellant's Counsel's advice on phasing and extensive quotes from the NPPF and PPG. The SoCG also sets out the areas where the parties agree and disagree.

2.8 I was contacted by Newark and Sherwood District Council on 25 March 2021 asking whether Hutchinsons could provide urgent assistance with the appeal by way of acting as the planning witness. I therefore reviewed the submitted application and appeal and considered that I would be able to act as the planning witness on behalf of the Council in this case. I confirmed on the 28 March that I would be able to support the reason for refusal and was available for the dates in question. I received my formal instruction on 31 March 2021. I was also informed that the Planning Inspectorate had agreed to a delay for the submission of the planning proofs of evidence until the 19 April 2021.

2.9 I have visited the appeal site and the surrounding area and have read through the various documents associated with this appeal. I am aware that the planning officer recommended approval of the application and have read through that report. It is clear that the officer had concerns about many issues of this development and the report is written somewhat unusually when reading committee reports, with such words and terminology as '*highly disappointing*', '*compromises*', '*extremely difficult to resist*', '*not a strong enough case to resist*' etc. I do not interpret this report as an unqualified recommendation of approval for the application and there is clear unease at having to accept so many design compromises. Even in the planning balance, it states that officers are satisfied that '*the balance is tipped towards approval subject to conditions*' (my underlining). That to my mind suggests that the matter was finely balanced and it is clear that when determining the application, the Council considered that the compromises in this scheme were unacceptable and justified refusal.

2.10 I have also reviewed the Statement of Common Ground. I appreciate that it is agreed between the parties and I have no substantive comments to make on its contents. Although it contains extensive quotes from the NPPF, it is, of course, necessary to read the Framework as a whole (paragraph 3). I also note that the SoCG does not refer to the Newark and Sherwood Landscape Character Assessment SPD although this document is referred to in relevant policy (DM5) and is a core document and has also been used to inform the submitted LVA. I intend to refer to this document in my evidence.

- 2.11 In my evidence I explain the Council's case in respect of the reason for refusal and consider whether there are any material considerations to justify the grant of planning permission, contrary to the development plan. I seek to address the likely main issues contained in the Inspector's Case Management Conference Note. In doing so I draw upon the evidence of Mr White who is giving evidence on Viability matters, Dr Bullock on Housing Mix and Dr Kruczkowski in relation to urban design matters. I conclude my evidence with a consideration of the benefits of the proposal and the planning balance.
- 2.12 I understand that the Council and the Appellant are in the process of preparing and agreeing a Section 106 Agreement. A CIL justification which justifies the need for the requirements of the S106 will be prepared once the S106 is finalised.

3 THE DEVELOPMENT PLAN

- 3.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. It follows therefore that where proposals are contrary to policies of the Development Plan, then development should be refused unless there are material considerations that indicate otherwise.
- 3.2 The development plan comprises the Newark and Sherwood Amended Core Strategy DPD, adopted in March 2019 and the Allocations and Development Management DPD adopted in July 2013.
- 3.3 In this case, the proposals are contrary to policies of the development plan and the reasons for refusal refer specifically to Spatial Policy 7, Core policies 3 and 9 and Policy Bi/MU/1 and DM5 of the Allocations and Development Management DPD. I therefore assess the proposals against the relevant policies of the development plan.

Newark and Sherwood Amended Core Strategy DPD (The Core Strategy)

- 3.4 The original Core Strategy was adopted in March 2011 and therefore prior to the publication of the first National Planning Policy Framework (NPPF). The Core Strategy was reviewed to ensure that its policies were in compliance with the NPPF and that the allocations, policies and targets, particularly the housing targets, are up to date and relevant. The amended Core Strategy was adopted in March 2019 shortly after the publication of the most recent NPPF but was examined under the policies of the 2012 framework and found sound by the Inspector. The Core Strategy moved the plan period forward to 2013 - 2033.
- 3.5 The Amended Core Strategy provides the strategic overview and framework for the district. The Settlement Hierarchy, set out in **Spatial Policy 1**, identifies Bilsthorpe as one of six Principal Villages. These villages are defined as featuring a good range of day to day facilities – primary school, food shop, health facilities, employment or access to nearby employment and complement the role of Service Centres. Bilsthorpe is identified as the principal village for the Sherwood Area and is to act as a secondary focus for service provision for that area. The policy confirms that support for service provision within the locations is to assist rural

accessibility. Village Envelopes are to define the extent of the main built up areas of these villages.

3.6 **Spatial Policy 2** provides the housing requirement for the district. It makes provision for a minimum of 9080 dwellings over the plan period. 10% of this figure is targeted towards the Principal Villages with Bilsthorpe identified for regeneration and to accommodate 20% of the total for Principal Villages (equating to approximately 176 dwellings- my calculation).

3.7 The supporting text confirms that, in reality, the total number of dwellings to be allocated by the District Council between 2013 and 2033 in the Sub-Regional Centre, Service Centres and Principal Villages is 8806. However, taking into account houses already built and planning permissions for new dwellings in the settlements identified in the Hierarchy (as at 23 March 2017 and likely to be delivered during the Plan Period), the Council is required to find a minimum of 3453 dwellings for the rest of the Plan Period.

3.8 **Core Policy 1** relates to Affordable Housing and confirms that the Council will seek to secure 30% of new housing development as Affordable Housing on qualifying sites of 11 units or more. In doing so it will consider the nature of the housing need in the local housing market; the cost of developing the site; and the impact of this on the viability of any proposed scheme. Overall the preferred tenure mix for the district is 60% social rented/affordable rented and 40% affordable home ownership.

3.9 The reason for refusal refers to Spatial Policy 7 and Core Policies 3 and 9. **Spatial Strategy 7 – Sustainable Transport** seeks to promote development which provides an improved and integrated transport network and an emphasis on non-car modes as a means of access to services and facilities. The policy is aimed at reducing the impact of roads and traffic movement, to support the development of opportunities for the use of public transport, increase rural accessibility and to enhance the pedestrian environment, all consistent with the aims of the NPPF. The policy requires development to meet a number of criteria which include, amongst others:

- *provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide links to the existing network of footways, bridleways and cycleways, so as to*

maximise opportunities for their use;

- *provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements in line with Highways Authority best practice; and*
- *ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems, taking account of any contributions that have been secured for the provision of off-site works.*

3.10 Spatial Policy 7 also confirms that

High quality, safe, cycle, footpath and bridleway networks will be safeguarded and extended to provide opportunities to reduce the number of short car journeys and for cycling, walking and horse riding for recreation in the countryside. Disused railway lines will be protected from other forms of development, to safeguard their potential to be reinstated to their former use for commercial or leisure purposes, or to extend the cycling or footpath networks.

3.11 The appeal proposal provides a significant number of dwellings with long driveways and garages for three cars in tandem, many of which are for 4 bedroom dwellings. The Highway Authority's best practice guide contained in the Nottinghamshire County Highway Design Guide 2021 (adopted January 2021), clearly states that such driveways may only be counted as 2 spaces if vehicles would be blocked from exiting by other vehicles. Many of the garages are blocked by driveways designed for tandem parking and are therefore unlikely to be used for parking. As a consequence, the parking provision at those dwellings would only count as two spaces. The Highway Design Guide requires 2 to 3 bedroom dwellings to have a minimum of 2 allocated parking spaces and for 4 bedroom units to have a minimum of 3 spaces. The parking layout as proposed clearly does not provide those standards and, with its heavy reliance on tandem and inadequate parking provision, is likely to result in many residents parking on the road, contrary to the aims of the Design Guide and Spatial Policy 7 and also to the NPPF which requires parking to contribute to making high quality places (Paragraph 102).

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- 3.12 **Core Policy 3 – Housing Mix, Type and Density** confirms that the District Council will expect good quality housing design in line with the provisions of Core Policy 9 Sustainable Design. Development densities in all housing developments should normally be no lower than an average 30 dwellings per hectare net and densities of 30 dwellings per hectare, or more, will be set for other locations and allocations in the Allocations & Development Management DPD. The policy is also aimed at ensuring that new housing development adequately addresses the housing need of the District by providing a mix dwellings aimed at families (3 bedrooms or more), smaller houses (2 bedrooms or less) and housing for the elderly and disabled population. Particular emphasis will be placed on securing smaller houses of 2 bedrooms or less and those for housing for elderly and disabled population. The Council also requires local need to be reflected through an appropriate mix of housing types and to be dependent on the local circumstances of the site, the viability of the development and any localised housing need information.
- 3.13 Although the current NPPF does not seek to impose specific densities, it does advise that development should make efficient use of land taking account of a range of considerations, including the identified need for different types of housing as well as local market conditions and viability and the desirability of maintaining an area's prevailing character and setting. The NPPF also places emphasis on securing good design and states that the creation of high quality buildings and places is *fundamental* to what the planning and development process should achieve. Core Policy 3 is consistent with these aims.
- 3.14 In this case, the proposed development is split between 93 x 3 and 4 bedroom market houses 10 x two bedroom houses. There is no family affordable housing, no two bed private dwellings provided and no provision is made for elderly or disabled. The Council published its District Wide Housing Needs Assessment (CD6.20) in December 2020 which provides a more accurate picture of the housing needs of the district and the Sherwood Sub-Area where the appeal site is located. This confirms that there is a local need for a range of housing which includes smaller market housing as well as the 3 and 4 bedroom dwellings proposed, for affordable family housing and also housing suitable for the elderly and disabled. The development does not provide a balanced mix of housing which would address the identified local needs as required by Core Policy 3 and the proposal is therefore contrary to that policy.

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- 3.15 **Core Policy 9 – Sustainable Design**, is aimed at securing high standards of sustainable design and sets out a number of criteria that development is expected to achieve. These include that development should achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments and that development proves to be resilient in the long-term, taking into account the potential impacts of climate change and the varying needs of the community.
- 3.16 The original NPPF confirmed that the Government attached great importance to design of the built environment and the current Framework reflects the Government's increasing emphasis on securing good design which it sees as being a fundamental aspect of sustainable development. Core Policy 9 therefore sits comfortably with the Government's policy of securing good design.
- 3.17 The Council's reason for refusal raises concern about the density of the development and how this has manifested itself in several symptoms of poor design. The proposals clearly result in overdevelopment of the site and do not reflect the requirements of Policy 9. These matters are addressed later in my evidence.

The Allocations & Development Management DPD 2013

- 3.18 The DPD sets out allocations of land for new housing, employment and other development in the main settlements in the District in respect of the previous Core Strategy. It also sets out Development Management policies for use in the consideration of Planning Applications. The DPD was prepared and assessed in the light of the 2012 NPPF and found to meet the criteria for soundness in the National Planning Policy Framework.
- 3.19 The appeal site is identified on the Proposals Map as a Mixed Use Allocation and subject to **Policy Bi/MU/1** in the Allocations and Development Management DPD. The policy allocates the site for mixed use development providing around 75 dwellings and retail development and requires compliance with former Core Strategy policies together with the Allocations and Development Management policies. It also requires that development to comply with the three site specific criteria set out in that policy and set out below:

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

3.20 In terms of the archaeology and phasing requirements, it is accepted that archaeology can be addressed by condition. I also understand that the retail site is now being considered separate to the housing site and is the subject of a separate application by a retailer. Whilst this clearly was not intended by the Policy, the fact that the application, which also includes the access from Eakring Road, is submitted by a retailer and, if permission is granted, could be implemented independently of the current appeal proposal, would allow the much needed retail element to come forward. The housing therefore is not necessary to secure the retail element and does not facilitate its provision. Neither the Appellant nor the local planning authority have any control over the implementation of the retail scheme but it is necessary to ensure that the interface between the two forms of development is acceptable in design and amenity terms.

3.21 However, the appeal proposal makes no effort to address the site's gateway location and does not provide a transitional approach into the main built up area as required by the first criteria and for the reasons I explain later in my evidence. Neither the house types, the density nor the landscaping give any indication that this is a gateway or transitional location as required by the policy and the appeal clearly does not satisfy the first criteria of Policy Bi/MU/1.

3.22 The reason for refusal also refers to **Policy DM5 – Design** which states that in accordance with Core Policy 9, all proposals for new development shall be assessed against the 10 criteria contained in Policy DM5. Former Core Policy 9 has been brought forward into the Amended Core Strategy and Policy DM5 can therefore be regarded as also reflecting the requirements of the current Core Strategy as well as the NPPF in securing good design. Of particular relevance to the current appeal proposal are criteria 2 (Parking), 4 (Local distinctiveness and Character), 5 (Trees, Woodlands, Biodiversity & Green Infrastructure), 6 (Crime and

Disorder) and 8 (Unstable Land). Criterion 4 confirms that development proposals will be considered against the assessments contained in the Landscape Character Assessment Supplementary Planning Document.

- 3.23 There are clear concerns relating to the overall design and layout of the appeal proposal with regard to the poor parking layout, the lack of adequate landscaping and local distinctiveness and Mr Kruczkowski has also raised concerns about the security or otherwise of residents along the eastern edge of the site. These matters are explained in more detail later in my proof but it is evident that there are significant flaws in the design of this scheme, such that it does not comply with several of the criteria of Policy DM5. Whilst I accept that the policy does not require compliance with all the criteria, it does require compliance with those that are relevant. I do not consider that the scheme is compliant with the relevant ones in this instance.

Emerging Policy

- 3.24 The Council is currently engaged in reviewing the Newark and Sherwood Development Management DPD. It published its Issues Report in July/August 2019 which reviewed the Development Management Policies, updated sites position, and contained an outline approach to Gypsy & Traveller policy as well as a call for sites. The local Development Scheme anticipated that the Options Report would be issued in the first quarter of 2021 with publication of a draft DPD in May/June 2021, leading eventually to adoption in June 2022. However, work has been put on hold as a result of the Covid 19 situation. The Local Development Scheme is to be updated but no future target dates are known.

Supplementary Planning Documents

- 3.25 **The Newark and Sherwood Landscape Character Assessment SPD** was adopted in December 2013 and provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA recognises a series of Policy Zones across the 5 Landscape Character types represented across the District.
- 3.26 The Council is currently engaged in preparing the **Newark and Sherwood**

Residential Cycle and Car Parking Standards & Design Guide SPD which is aimed at improving design in the District. The Council has carried out its second consultation which ended on 10 March 2021.

4 MATERIAL CONSIDERATIONS

4.1 I have concluded in the previous section that the appeal proposals do not comply with the Development Plan and in this section examine whether there are any material considerations which would justify the grant of planning permission other than in accordance with the Plan. I have noted the Inspector's assessment of the likely main issues and address those issues in this section. I consider that the main issues of this case are therefore:

- e) Implications of Paragraph 11 of the NPPF
 - i. Most Important Policies
 - ii. Consistency of Policies
 - iii. Five Year Housing Land Supply
- f) Quantum of Development and Associated Viability
- g) Whether the proposed housing will meet the needs of the area
- h) Effect on the Character and Appearance of the area

a) Implications of Paragraph 11 of the NPPF

4.2 The reasons for refusal state that the application is contrary to Spatial Policy 7, Core policies 3 and 9 and Policy Bi/MU/1 and DM5 of the Allocations and Development Management DPD. In accordance with Paragraph 38 (6), these policies remain the relevant policies against which to assess the application.

4.3 The NPPF is also a material consideration and Paragraph 11 provides for a presumption in favour of sustainable development which, in the case of decision making, means approving proposals which accord with an up to date development plan or, where there are no relevant development plan policies or the policies which are the most important for determining the application are 'out-of-date', granting permission unless application of policies in the Framework that protect assets provide a clear reason for refusing development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

4.4 I consider that Paragraph 11 raises three issues; i) to identify which policies are 'most important for determining the application', ii) to assess the extent to which they are consistent with the NPPF, and iii) whether the most important policies may

be deemed to be out of date due to Footnote 7. I propose to address these issues in that order.

i. Most important Policies

4.5 I notice that the Statement of Common Ground does not identify or provide agreement amongst the parties as to which are the most important policies in the determination of this appeal. However, I note that the Appellant's Statement of Case only considers the proposals against the policies cited in the reason for refusal and I consider that these are the most important policies in Paragraph 11 terms.

ii. Consistency of Policies of the Development Plan with the NPPF

4.6 Paragraph 213 of the NPPF confirms that existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the NPPF. Instead it states that due weight should be given to them according to their degree of consistency with the Framework and that the closer the policies in the plan to the Framework, the greater the weight that may be given.

4.7 Both the Newark and Sherwood Amended Core Strategy and the Allocations and Development Management DPD were considered and adopted following the publication of the National Planning Policy Framework and their policies were assessed against the 2012 Framework. The policies referred to in the reason for refusal relate primarily to matters of design. The Government's desire to secure good design is a consistent theme throughout the various iterations of the Framework and the 2019 Framework places an even greater emphasis on good design, now regarding it as being fundamental to what the planning and development process should achieve. The Government's aspiration in this respect has also seen the publication of various publications and guidance as set out in Mr Kruczkowski's evidence. The policies referred to in the reason for refusal are entirely consistent with the policies and aims of the NPPF as I have demonstrated in Section 3 and therefore can be given full weight at this appeal.

Five Year Supply of Housing

4.8 Paragraph 11 allows that, in circumstances where Local Planning Authorities cannot demonstrate a 5 year supply of housing land, the most important policies for determining the application may be deemed to be out of date and a presumption in

favour of the development (the tilted balance) be engaged.

- 4.9 Newark and Sherwood District Council published its April 2020 Statement of Five Year Housing Land Supply Statement in August 2020 (CD 7.7) which confirmed that the Council was able to demonstrate a 6.34 year supply of housing land. This is an increase on the supply for 2019 which stood at 6 years. Although the outline planning permission for 85 dwellings on the appeal site (17/01139/OUT) is listed in the trajectory it has not been counted as contributing towards the 5 year supply.
- 4.10 Somewhat bizarrely, the Statement of Common Ground refers extensively to the paragraphs in the NPPF and the PPG on how five year supply should be calculated but is totally silent on whether there is agreement or disagreement between the parties on the supply figure of 6.34 years. I would expect that this is a position that could and should have been agreed within a SOCG or at the very least, it should identify whether the Appellant is disputing the Council's figure.
- 4.11 I have therefore looked at the Appellant's Statement of Case and note that they acknowledge the Council's Supply Statement demonstrates a 6.34 supply. They do not dispute this figure but appear to base their case at this appeal on the argument that housing need is not a ceiling to development and that the development plan does not prescribe an absolute limit in the district or Bilsthorpe. The 103 dwellings would therefore contribute to this supply.
- 4.12 This is fully accepted. The Core Strategy does not set a ceiling on development but confirms that the housing requirement of 9080 is a minimum over the plan period. Although a substantial portion of that requirement already has planning permission, there is no reason why additional sites cannot come forward. There is no in principle objection to the appeal site accommodating a greater number than the policy objective of 75 dwellings, provided that any scheme complies with other development plan policies and also that it would result in an acceptable form of development including in design and amenity terms.
- 4.13 However, the fact that the Council can demonstrate a 6.34 year supply of housing land (and is uncontested) means that under NPPF Paragraph 11, the most important policies are not considered to be out of date by virtue of Footnote 7. As a consequence, the tilted balance is not triggered in this case.

b) Quantum of Development

- 4.14 Policy Bi/MU/1 (Bilsthorpe – Mixed Use) allocates the appeal site and adjoining land identified for retail purposes, for housing with a notional number of 75 dwellings together with a retail store. Outline planning permission was granted on 1 June 2018 (Ref: 17/001139/OUTM) for 85 dwellings and a 280 sqm retail store on a total site which comprises 3.85ha.
- 4.15 The retail site (0.18ha) is now separated off and is the subject of a current application by the Co-op for a supermarket (Ref: 20/01965/FUL). The remaining area which is the subject of this appeal comprises some 3.65 ha and is proposed to accommodate 103 dwellings. In my view, this in itself, does not represent an unreasonable quantum of development and yet, the proposed layout appears cramped and overdeveloped.
- 4.16 I attribute this to the nature of the dwellings being proposed. The appeal proposal predominantly comprises 3 and 4 bedroom dwellings all of which are detached and semi-detached. Indeed, 90% of the housing are 3 or 4 bed units and only 10 (10%) x 2 bedroom dwellings. And those are to be affordable housing.
- 4.17 There is no policy justification for this split of dwellings but the Appellant seeks to justify it on marketing grounds which I deal with later and argues also on viability grounds. The Appellant also claims that the development cannot provide policy compliant affordable housing of 30% or the required S106 contributions. White Land Strategies Ltd acted as the Council's independent consultant at the application stage and confirmed that the overall appraisal as submitted by the Applicant could be considered to be reasonable and did not dispute the overall conclusions. Mr White of White Land Strategies Ltd provides evidence at this inquiry and considers the viability aspects of the proposal. He confirms that there is no contention in respect of the viability figures submitted by the Appellant. However, Mr White considers that the high volume, higher density, lower typology of scheme as put forward by the Appellant is not the only option for the development of sites in this local market. He accepts that the scale of the site would preclude the entire site being fully low density and higher average pricing but concludes:

'It does not preclude the option, from a viability point of view, for part of the site to be development to take advantage of higher quality, lower density,

higher value.' (Paragraph 4.19)

4.18 It is clear from Mr White's evidence that the quantum of housing being put forward by the Appellant should not be regarded as being the only option for this site. The form of the development is very much a commercial decision by the Appellant and I do not consider that this means that the Council should have to accept a poorly designed scheme. Whilst I accept that in viability terms the current proposals do not allow for a policy compliant affordable housing provision, the weight to be given to issues of viability as well as the level of provision of affordable housing is a matter for the decision taker. I will consider the weight that should be afforded to these matters in my planning balance, later in my proof of evidence.

c) Whether the proposed housing mix will meet the housing needs of the area

4.19 The reason for refusal alleges that the skew towards larger units fails to represent the preferences of the latest District wide housing needs evidence. The Officer's report compared the proposed housing numbers against the 2014 Housing Needs Survey and confirmed that the majority of the 3 bedroom houses would align with the local need but highlighted a lack of two bedroom market units and that the skew towards larger houses raised concern.

4.20 The case put forward in the Appellant's statement of case is also based on the 2014 Housing Needs Survey. However, as explained in paragraph 3.14 above, the Council's most up to date Housing Needs Assessment (HNA) was published in December 2020 (CD6.20).

4.21 Dr Bullock assesses the findings of the 2020 HNA in terms of affordability, the needs of older people and need for adapted homes as well as the dwelling mix at both district and sub-area level which he then compares against the mix contained in the appeal proposal. He finds that the appeal scheme does not reflect the housing need and that the specific variances relate to:

- A lack of bungalows in the market mix.
- A focus on 1- and 2-bedroom affordable rented dwellings compared with a broader range of need.
- A focus on 1- and 2-bedroom intermediate tenure dwellings compared with

a broader range of need.

4.22 In addition, he points out that there are no specific references as to how the proposed development will help meet the needs of older people or people with disabilities who require adapted accommodation, despite the aging population in the district and area.

4.23 Dr Bullock's table 5 provides a tabular comparison which further highlights the heavy skew towards family market housing and the lack of any such accommodation for the affordable intermediate need. He concludes that:

'The Appeal Site dwelling mix does not sufficiently reflect the local needs identified. To better meet local evidenced needs, the site needs to provide a broader range of dwellings across all tenures, particularly affordable rented and intermediate tenure. Additionally, the development needs to take account of the needs of older people and the need for adapted and wheelchair accessible accommodation.'

4.24 The NPPF states that the social objective of sustainable development includes ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Core Policy 3 reflects this objective in seeking to secure new housing development which adequately addresses the housing need of the District. Dr Bullock's evidence confirms the concerns of the Council that the limited housing mix proposed for this site does not reflect the most up to date information on local need and will not adequately meet the needs of present and future generations. Issues of viability have already been addressed and the Council has accepted in granting outline planning that a lower number of affordable housing would be provided. However, there has been no adequate justification in policy terms, or even in viability terms, for the very limited mix now being advanced at this appeal and the proposal is clearly contrary to Core Policy 3 and the NPPF.

d) Effect on the Character and Appearance of the Area

4.25 The Inspector's pre-conference note identifies one of the main issues of this appeal is the effect on the character and appearance of the area with specific reference to density, design and the proposed landscaping scheme. I agree with the Inspector's

summary of the main points raised in the reasons for refusal and address them below.

Density

- 4.26 The scheme for 103 dwellings on this 3.65 hectare site represents a density of 28 dwellings per hectare, or if the areas of open space are removed from the calculation, then it equates to an overall density of 31dph as recognised in the officer's report. I do not consider that those figures in themselves, represents as overdevelopment per se and indeed, it falls within the Council's density requirement at Core Policy 3 which requires that densities should normally be no lower than an average 30 dwellings per hectare net. However, it also advises that densities of 30 dwellings per hectare (dph), or more, will be set for other locations and allocations in the Allocations & Development Management DPD. In this case, there is policy requirement for an allocated site to provide 75 dwellings which would provide a density of some 21 dph. I accept this density was, in part, a notional one to help the Council identify sufficient land to achieve its housing requirement and there is no objection to this density increasing. Indeed the outline planning permission for 85 units increased the density to 23 dph. However, this lower density reflects a requirement within Policy Bi/MU/1 for development to recognise the site's gateway location and to manage the transition into the main built up area. Core Policy 3 does not preclude densities lower than 30dph but requires them to be justified. I consider the requirements of Policy Bi/MU/1 would provide this justification but in any case, I would expect that the site would contain a mix of densities with significantly lower density on the northern portion to provide this transition and increasing density towards the middle and southern portion where it relates to, and is seen in the context of, the built up area. This is not the case in the current proposals.
- 4.27 The Appellant has submitted a plan at Appendix G to their Statement of Case showing a breakdown of the densities of the scheme and that the northern portion has the lowest density on the site at 31 dwellings per ha providing the necessary transition. I disagree. The plan demonstrates that this density is too high for this part of the site and that it contributes to the overdevelopment of the site for the reasons I move on to in matters of design below.

Design

- 4.28 Both the Core Strategy (Policy 9) and the Allocations and Development Management DPD (Policy DM5) promote a high standard of design and reflect government policy on this matter. The design and layout of the development should be capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments as well as proving resilient in the long-term, taking account of the potential impacts of climate change and the varying needs of the community.
- 4.29 Dr Kruczkowski's evidence explains how the Government is increasingly placing more emphasis on design matters. He refers to a raft of recent documents which are aimed at promoting good design including the National Design Guide (2019) and Building for a Healthy Life (2020). The Minister for Housing's recent press release (30 January 2021) introducing the recent consultation on the NPPF and National Model Design Code demonstrates the Government's continuing commitment to improve design by placing local communities at the heart of plans to make sure that new development in their area are '*beautiful and well designed*'. The Minister sees the emerging policies and Code as enabling:

local people to set the rules for what developments in their area should look like, ensuring that they reflect and enhance their surroundings and preserve our local character and identity.

And recognising the importance of localism in matters of design:

Instead of developers forcing plans on locals, they will need to adapt to proposals from local people, ensuring that current and new residents alike will benefit from beautiful homes in well-designed neighbourhoods.
(Housing Secretary Press release dated 30 January 2021).

- 4.30 Dr Kruczkowski considers how the design of the scheme has been arrived at and concludes that there was a lack of proper evaluation of the constraints and opportunities of this site. He identifies a significant number of design principles at Paragraph 2.77 of his evidence which have been missed/ignored in the submitted scheme and which would have resulted in a significantly better designed scheme. These include opportunities presented by existing desire lines along informal

footpaths, accessibility to and from the wider community, acknowledgement of the character of the existing development directly to the west of Eakring Road which reflects the Garden Suburb/Corporation Suburb, respond positively to Landscape Actions – ‘Create’ and respond also to the Gateway/Transition requirement for the site. None of the design options appear to have been considered and Dr Kruczkowski concludes that:

‘the proposed design response is not reflective of good urban design practice, that it is not consistent with national and local policies relating to urban design quality specifically those relating to local character, response to context, encouraging active lifestyles and providing connections between people and places’ (paragraph 3.1)

- 4.31 The Appellant’s required housing mix and density appear to be the main drivers on this site and the design of the housing scheme is a direct consequence of this. In my view, the design of the site has been made to ‘fit’ these requirements, rather than the scheme fitting the constraints and opportunities of the site. This is evident from Dr Kruczkowski’s evidence and the lack of consideration of the opportunities that this site presents and also through the various matters raised in the reason for refusal. These highlight concerns regarding the design of the scheme, all of which are symptomatic of overdevelopment and poor design: the skew towards larger units in terms of the number of bedrooms as opposed to the ground floor area, and the modest floor space provided for many of the units and the limited car parking available for the four bedroom dwellings as well as the lack of consideration of the policy requirement in respect of the design of this site. I propose to address these matters below.

Size of Dwellings

- 4.32 The Council currently has no adopted design guide or space standards against which to measure the acceptability of otherwise of development but is conscious that this development, as with all housing development, should meet the needs of future residents, not just for the short term but also for the lifetime of the development. As a consequence, the development was assessed by officers against the Government’s 2015 document – Technical Housing Standards – nationally described space standard to gain an understanding of how the development compared to the Government’s considered minimum gross internal

floor areas and storage. That assessment was contained in the officer’s report to Committee and is repeated below for reference. It is accepted that these standards are not prescriptive and have not been formally adopted by the Council but they are a useful tool in providing an indication of how the dwellings may reasonably meet the needs of future residents.

Table 1 Assessment of submitted development

House Type	No. of beds	Floor space (m ²)	Space Standard Requirement (m ²)	Compliance Against (m ²)
Halstead	2 (4P)	60.5	79	-18.5
Danbury	3 (5P)	77.3	93	-15.7
Caddington	3 (5P)	79.0	93	-14.0
Wentworth	3 (5P)	78.2	93	-14.8
Warwick	3 (5P)	79.7	93	-13.3
Windsor	3 (5P)	80.7	93	-12.3
Stratten	3 (5P)	98.6	99	-0.4
Staveley	3 (5P)	95.8	93	+2.8
Rothway	4 (6P)	95.5	106	+10.5
Eaton	4 (6P)	118.8	106	+12.8
Burton	4 (7P)	120.5	106	+14.5

4.33 As pointed out in the officer’s report:

‘As is shown above, whilst two of the 4 bed units would comfortably exceed the national space standards, the vast majority (all but one) of the 3 bed house types and the 2 bed house type would fall notably short. The largest discrepancy being the 2 bed unit at 23% short. On average the 3 bed units delivered across 2 storeys would be 12% short of the standards.’

4.34 The assessment shows that the majority of the smaller units and 65% of total units would not achieve what the government considers to be a minimum space requirement. 66% of the 3 bedroom dwellings fail to meet the standard and cannot, in my opinion, reasonably be considered to represent family housing.

4.35 The Appellant acknowledges that a number of the proposed house types fall short of the nationally described space standards but effectively argues that, as these house types are popular with buyers and the Council has not adopted these space

standards, there is no policy basis justifying refusal of this scheme in terms of space standards.

4.36 I fully recognise that the Council has not adopted the NDSS, but consider that to suggest that a development containing a high proportion of what must be regarded as nationally sub-standard accommodation because it is apparently popular with buyers does not reflect the Government's policy to secure good design or its aspirations to drive forward an improvement in the quality of design. It also fails to recognise the policy requirements of Core Policies 3 and 9 and AMD Policy DM5 which also require high levels of design. I do not consider that nationally sub-standard housing can realistically be considered to be good design and cannot be compliant with those policies. I would also comment that this last year has placed considerable hardship on families and individuals because of Covid 19. The pandemic has demonstrated that homes, including adequate space, are important for people's well-being. The issue of space is an aspect of sustainable design and adequate space would allow some adaptation to changing needs over time.

4.37 The limited floorspace of these dwellings has a consequent knock on in terms of garden sizes which for the most part are small. This is partly because of the use of tandem parking which allows restricted width plots, and also garages have to intrude into already limited rear gardens. Some gardens of four bedroom houses have little more than 60 sqm of useable space (e.g. Plots 25, 28, 37) and are amongst the smallest gardens in the estate, notwithstanding that they are designed and aimed at families. Many do not have garages and would require an outbuilding of some sort to accommodate bicycles and normal household paraphernalia, reducing the private garden even more. Bin storage (as opposed to Bin Collection Points) is not accounted for in this scheme and would also take up additional space with the result that many bins will be sited at the front of the plot and be visually unattractive.

Parking

4.38 Tandem parking is used for most of the plots within the estate. Parking spaces are generally at the side of the dwelling they serve with single garages to the rear of these spaces.

4.39 The appeal scheme makes provision for triple tandem parking in the case of 20 of

the 34 four-bedroom dwellings. This element of the application formed part of the reason for refusal through concern that it will lead to parking on the street rather than on plot which consequently will have a detrimental effect on the efficiency of the internal highways network.

- 4.40 Spatial Policy 7 states that development should provide safe, convenient and attractive accesses for all, including the elderly and disabled, and others with restricted mobility, and provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements in line with Highways Authority best practice.
- 4.41 The submitted Transport Assessment stated that car parking provision is provided at a general rate of two spaces per dwelling and makes reference to the Nottinghamshire Highway Design Guide section DG17 (paragraph 5.8) but does not seek to justify the use of this form of parking.
- 4.42 At the time of determination of the application, the proposals were assessed against the Highway Authority's Highway Design Guide and the District Council's draft Residential Parking Standards & Design Guide SPD, the latter being the subject of public consultation at that time. However, since that time and also since the Appellant submitted their appeal, the Highway Authority adopted an updated Highway Design Guide on 21 January 2021 (CD5.29) which supersedes the earlier version referred to by the Appellant's Transport Statement. In addition, the District Council has amended and consulted further on its Residential Parking Standards & Design Guide SPD (CD5.25). That consultation period ended on 10 March 2021.
- 4.43 As stated in Section 3 above, Spatial Policy 7 requires that developments provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements in line with Highways Authority best practice. In this case, the recently adopted Highway Design Guide provides the most up to date guide to best practice. The Guide confirms that it is not prescriptive and that engineering judgement will be applied when considering any submission but any relaxation to the guidance will be considered with the discretion of the County Council and may need to be justified. Section 4.1 of the guide relates to Residential Parking and sets out the parking standards, the dimensions of parking spaces and garages for both able and disabled users and also how those spaces should be laid out, which may also depend upon the nature of any garage opening. The Design Guide also refers

to Tandem Parking at paragraph 4.1.4 and states:

Where driveway lengths are extended to provide tandem parking, driveway lengths should be extended by 5.0m (a full car length) to avoid vehicles overhanging the highway and obstructing footways (see para. 4.1.5 Long driveways).

4.44 Paragraph 4.1.5 states:

Long driveways intended to provide parking for multiple cars may only be counted as 2 spaces if vehicles would be blocked from exiting by other vehicles.

4.45 The District Council's draft SPD also sets out a similar minimum parking requirement as the NCC document but varies in respect of 3 bedroom dwellings in more rural areas of the district where 3 parking spaces are required. As with the NCC document, garages can be counted as a parking space provided they are of the appropriate dimensions. It advises also that:

Tandem parking, excessive frontage parking and rear parking courts are discouraged. These are poor design solutions which have the potential to increase on street parking at detriment to the attractiveness of the development and safety of cyclists and pedestrians. (Paragraph 4.6)

4.46 The SPD discourages tandem parking as the predominant design solution, but does acknowledge that tandem parking may be required for smaller dwellings.

4.47 The reliance of virtually a fifth of the development on tandem parking where the garage forms the third parking space means that there is likely to be a significant degree of on street parking for these premises as the use of the furthest back space becomes undesirable given the number of manoeuvres it takes to move the vehicle with two others parking in front of it. It is doubtful whether the garage would be used for parking in such a scenario but in any case, the NCC Highway Design Guide suggests that the garage is actually discounted as a parking space, resulting in 20 dwellings being a car parking space short at only two spaces. This level of provision does not accord with either the adopted or emerging parking requirements and is inadequate. All the parking provision for the site is on plot and no visitor spaces are provided. As a consequence, the displaced parking spaces will

therefore have to park on the road.

- 4.48 I agree with the Council that the provision of triple tandem parking is not a specific highways safety issue, but rather an issue of poor urban design which would impact upon efficiency, but it can have consequences for pedestrian safety. The Manual for Streets confirms that an element of on-street parking reduces vehicle speeds but it is not considered that internal traffic speeds would necessarily need such traffic calming measures. However, on-street parking, which is often accompanied by pavement parking, has a negative impact both in terms of visual amenity and the experience of the pedestrian. Movement around the streets is hampered by pavement parking, especially for disabled pedestrians, those with visual impairment, wheelchair users and parents with buggies. Pedestrians are forced to use the road, where there may not be a dropped kerb in place. From a practical and safety point of view, this level of tandem parking on a scheme of this size and the likely level of on-street parking is not considered to be a desirable design approach.
- 4.49 I have also noted that the appeal proposal appears to be silent on the issue of cycle parking and electric charging points. Bearing in mind the requirements of Government to promote transport by means other than the car and to take account of climate change, I find this unusual. I accept that where tandem parking is provided with a garage, then the garage is more likely to be used for cycle parking and storage, but there are substantial numbers of properties where no garages are proposed or where they are, they only meet the minimum internal measurements of 3 x 6m. As these are family homes, I do not consider that garages of these dimensions provide sufficient space to provide family cycle parking and a car parking space. The submitted parking plan appears to only show car parking and does not show how these properties would be able to accommodate cycles. The submitted Transport Assessment and Residential Travel Plan simply states that '*Cycle parking for dwelling houses would be provided within garages (where available) or within the curtilage of each dwelling.*' I consider that this lack of consideration for cycles and electric charging provides further evidence of poor design, contrary to Core Policy 9 and Policy DM5.

Landscaping and Transition to the Open Countryside

- 4.50 The appeal site is located on the northern edge of Bilsthorpe and is specifically required by Policy Bi/MU/1 to be subject to an appropriate design solution which

addresses the site's gateway location and manages the transition between the rural and built up area. The fact that the site is allocated for some 75 dwellings suggests that the Council envisaged a relatively low density scheme to achieve this.

- 4.51 The site is largely rectangular in shape being bordered by Eakring Road to its west, the St Johns Ambulance site to the south and the mounded and wooded reclaimed colliery spoil heap to the east. The northern boundary is formed by the former railway line which becomes a footpath and cycle way on the eastern side of Eakring Road. The site itself is largely level but it rises slightly in its northwest corner due to the embankment of Eakring Road where it crosses the former railway bridge. The former railway line is at grade adjacent to the appeal site and contains sparse, low vegetation.
- 4.52 The submitted Design and Access Statement includes a Character Assessment of the surrounding area but, as highlighted by Dr Kruczkowski, this is presented in the context of the choice of house types rather than the resultant landscape impacts of the proposal. There is no adequate acknowledgement of the policy requirement to integrate the development into its surroundings. A revised layout plan that accompanied the Appellant's Statement of case (Appendix H) included some small areas of landscaping at the northern boundary but did not address the policy requirement.
- 4.53 I have noted that the Appellant submitted a Landscape and Visual Appraisal (LVA) at the application stage. That LVA reviewed the national, county and the more fine grained district Landscape Character Areas, the latter contained in the Council's Landscape Character Assessment SPD (CD6.19 / 7.10). The LVA identified that the site sits within the Mid-Nottinghamshire Farmlands and within the sub area Policy Zone MN 24: Rufford Park Estate Farmlands with Plantations. This sub area is characterised as having low sensitivity and a poor condition such that the policy context is to 'Create' and includes the creation of new and restoration of existing hedgerows, re-creation of the historic field pattern and enhancement of landscape planting generally. The Character summary for the MN 24 refers to a lack of place in the area. Bilsthorpe forms the southern boundary of the Policy Zone. The appeal site also sits adjacent to the sub area MN 27 Kirklington Village Farmlands which contains the wooded area to the east of the site. Again the condition of the area is considered to be low although the sensitivity of this area is moderate. The Policy

context for this area is also 'Create'. The LVA records the key characteristics of the respective character areas and I do not propose to repeat them in my evidence.

- 4.54 The LVA also provided a number of selected viewpoints from which to assess the visual impacts of the proposed development. Although I understand that they were not agreed with the Council, I do not take issue with the viewpoints in so far as they go nor do I seek to challenge the methodology used in the LVA. From my site visit and exploration of the area, I agree that the site is not subject to wide scale views and is fairly visually contained within the wider landscape. Views of the site for pedestrians tend to be from nearby, particularly from Eakring Road adjacent to the site but also to the north on the approach into the village and for more limited views from the Bridleway (BW19) and what appear to be permissive routes along the track that extends along the eastern boundary of the site within the restored Bilsthorpe Colliery. The dismantled railway line and the field to the north are also extensively used by walkers although they are not public rights of way. Views for motorists are limited to sections of Eakring Road as are those for existing residents.
- 4.55 The submitted LVA concluded that for the site itself, the landscape impacts of the appeal scheme are deemed minor adverse at year 15, once the associated green infrastructure has been able to establish. From the identified viewpoints and receptors, the impacts are assessed as being largely negligible/minor adverse but with moderate/minor adverse for some of the residential properties on Eakring Road.
- 4.56 The allocation of the site implicitly accepts that the site characteristics will fundamentally change and I do not take issue with the LVA's assessment in this respect.
- 4.57 I am also aware that local planning authority commissioned independent consultants (Via East Midlands) to review the LVA and they considered that given the site is visually contained, the landscape impacts would not extend a great distance from the site, but that detailed landscape proposals should be secured by condition. I do not consider that this is a case where landscaping can be adequately conditioned.
- 4.58 Whilst I do not disagree with the consultants' overall findings on the LVA, I consider there are some omissions from the LVA which must call into question some of the

findings of the LVA and therefore the Consultant's assessment.

- 4.59 The LVA contains a relatively extensive summary of planning policies and refers to the Policy Bi/MU/1 requirement for a gateway location and transition into the main area (paragraph 3.3), but it is then silent on this matter. The LVA does not explain how the landscape proposals would address this requirement or how it would satisfy the requirements of the LCA SPD in creating improved landscapes. Similarly, its description of the landscape proposals at Section 5, states that the landscape components of the scheme are an important integral part of the proposals and that approximately 0.6ha is dedicated to landscape, Green Infrastructure, public open space and habitat related proposals – representing approximately 17% of the total site area (paragraph 5.3). The paragraph then goes on to describe what this comprises.
- 4.60 I do not take issue with the fact that two areas of open space are being provided, one a central area of formal Public Open Space and the other utilising the attenuation pond. However, I do question what other open space/landscaping is actually being provided and how the open space provides an '*important integral part of the proposals*'. The LVA refers to additional planting around the boundary of the site, '*softening views of built form from surrounding areas and blending new development within its context, including planting of new hedgerows and infill of existing hedgerows along the site boundary.*' The submitted detailed landscape proposals (Plans C-1704-05 Rev 5) show very limited hedge planting or additional open space. No hedging or planting is proposed along the southern boundary to soften views of the St Johns Ambulance site, the existing hedge along the western boundary is partially outside the site within the highway and is shown to be cut back in places to facilitate the provision and improvements to the footpath and none is shown on the eastern boundary where the fences of the gardens are taken up to the boundary of the site – an issue which Dr Kruczkowski has concerns about.
- 4.61 The only remaining area where some form of planting is proposed apart from land within gardens is along the northern boundary which I consider to be the most sensitive part of the site and one which is supposed to allow the transition between the open countryside to the north and the built up area of the village. However, the detailed landscape proposals for that area are virtually non-existent and the development presents a particularly hard face towards the countryside to the north.

The layout has been designed in such a way that dwellings are positioned facing north towards the countryside with the front elevations located only 12 to 14m from the edge of the site. These are all three and four bedroom, two or two and a half storey dwellings. The intervening area is given over to driveways, turning heads and parking bordered by a very narrow strip of grass and contains two bin collection points. The detailed landscape proposals actually show less planting than the Planning Layout (P-01 Rev P).

- 4.62 In their Statement of Case, the Appellant argues that the lower density of 31 dwellings per ha on the northern portion of the site (shown in their Appendix G), reflects the northern fringe and this density transition is supported by the layout design. They consider that the plots orientated to front onto the northern rural fringe boundary, offer an entirely appropriate urban design approach to address the site's gateway location. Furthermore, they consider that the turning heads (and presumably bins at the collection points) would not be evident from views due to the intervening landscaping (presumably along the railway line) and provide spacing which breaks up the streetscape to a degree. The Appellant also argues that the build line followed, and lack of suggested buffer, is notably consistent with the approach followed by the established development to the west.
- 4.63 I disagree with this approach for several reasons and do not consider that the suggested revised landscape approach contained in the Appellant's Appendix H addresses the problems. First, it is not necessary for the each part of the site to meet the 30dph density requirement contained in Core Policy 3. Where a transition is sought between rural and built up areas, I would expect a significantly lower density within this fringe location through a looser form of development, incorporating a number of lower building heights and a greater penetration of landscaping into the development which links with the rural area. Increased density on the rest of the site would allow the overall density to be policy compliant if that was actually desirable on this site.
- 4.64 Secondly, the use of turning heads, driveways and car parking as an edge of development provides neither a gateway nor transitional approach. They may not be evident to some views but the vegetation along the dismantled railway line immediately adjacent to the site (which is outside the control of the Appellant) is relatively low key with no tall planting and does not screen the site from the higher

views along Eakring Road or from the railway line itself which is being used for recreational activities. The use of such features may be more appropriate within the urban area and are used along Eakring Road, but their use along the northern edge of the development creates an unsympathetic hard interface with the rural area and is visually intrusive.

- 4.65 Thirdly, the Landscape Character Assessment SPD (CD6.19 / 7.10) identifies that the landscape condition of the Rufford Park Estate Farmlands with Plantations (MN 24) is poor with a very weak sense of place. Action is required in respect of landscape features to *'create new hedgerows and restore existing, seek opportunities to recreate historic field patterns where feasible'* and to *'Enhance tree cover and landscape planting generally, in particular, towards the north within Rufford Park and around the industrial area to the south, to create increased visual unity and habitat across the Policy Zone.'* The appeal proposal does neither. It provides no enhancement along this sensitive transitional edge where opportunity could be taken to improve the hedgerows, enhance tree planting and habitat as required by the SPD. The area available for any such planting is minimal and I consider that the location of turning heads, parking and bin collection points will add to the poor condition of the landscape and weak sense of place.
- 4.66 Fourthly, I do not see any justification for this development to be consistent with the approach followed by the established development to the west. The circumstances are entirely different and it is notable that the Appellant does not seek to be consistent with the density and layout of that area, nor to place bungalows along at the northern edge of the development as is the case in Metcalfe Close and elsewhere. Much of the area to the west of Eakring Road was constructed post war and subject to different considerations. The railway formed the edge of the settlement and is in cutting along much of this section. Development was taken up to its edge and is more elevated than the appeal site with little regard paid to landscaping/screening the properties from views from the countryside. I do not consider that it provides an acceptable basis for the design of the current appeal site.
- 4.67 Outline planning permission has been granted for 85 dwellings and whilst all matters are reserved apart from access, illustrative proposals were submitted which made some attempt to acknowledge the importance of the policy requirements of Policy

Bi/MU/1 through the identification of a 'Gateway Landscaping Area' at the northern end of the site (DRWG: P17-0010_002 RevG in the Council's Statement of Case at Appendix I). Conditions attached to the planning permission require that landscaping should be designed to enhance the nature conservation value of the site with trees, new native hedgerows along the site frontage and that native grass and seed mixes should be seeded in the 'Gateway Landscaping Area'.

- 4.68 The Appellant has submitted a drawing for detailed landscape proposals (c-1704-05RevD) showing a slightly wider landscape strip along the northern boundary adjoining the disused railway line/footpath. However,, at its most narrow, (adjacent to the turning heads), the strip is between 1.7m and 2.2m in depth and would be planted with semi-mature conifers. Elsewhere the strip has a depth of only approx. 2.5m to 4m and is hardly sufficient to achieve a comprehensive landscape scheme. Although the LVA concludes that impacts on landscape character would be minor adverse, it is clear that none of the submitted schemes adequately meet the policy zone requirement to 'Create'. The narrow strip of conifer planting would be at odds with the native species found in the existing vegetation along the disused railway line and the deciduous trees in the woodland to the east of the site. The Council does not consider that this satisfactorily addresses the policy requirement of Bi/MU/1 to manage the transition into the main built-up area. Hedgerow species identified within the LCA for this policy zone are Hawthorn, Hazel, Elder, Rosa species and Suckering Ash, and deciduous trees identified on the disused pit are Willow, Poplar and Horse Chestnut. Within the narrow strip being offered here there would be very limited scope to plant native species that could reach full maturity. The strip beyond the proposed turning circles of between 2.5m – 4m is identified for extra heavy standard tree planting on the submitted landscape plan. The Council's tree officer was consulted on the ability of this strip to provide screening at 15 years as claimed by the Appellant. He states that:

"After reviewing the layout and proposed species it is quite clear that all the species proposed are small tree types that will never create any substantial form of site screening even when mature. The proposed layout leaves very little room for large species trees and the north boundary will not allow any planting in depth that could screen the site. Native species were included on the landscape plan submitted but the 157 trees proposed were dominated by hawthorn (92) with a height of

50cm. Larger species trees of Tilia cordata and Carpinus betulus (20 in all) were not standard types but replaced with smaller narrow street form trees. Remaining species of acer, alnus, betulus, malus and prunus will never make a large tree and even if they were larger species site constraints would limit any root/canopy development. Proposed leylandii (13) are small pot grown specimens with no value for either screening or biodiversity gain”.

- 4.69 Based on the Council’s tree officer’s advice, it is evident that the LVA does not fully consider the landscape impacts of the site and as a consequence, the landscape proposals fail to satisfactorily address the policy requirement of Bi/MU/1 to manage the transition into the main built up area or even to provide an acceptable design solution to this sensitive boundary. The area proposed for landscaping both along this northern edge is minimal and a fundamental redrawing of the plans and location and type of dwellings would be required to allow an adequate design solution which addresses the requirements of Policy Bi(MU)1 . This is not a matter that could reasonably be conditioned.
- 4.70 I consider that the development will therefore be considerably more prominent to localised views than is suggested by the LVA and the appeal proposal is contrary to Policy Bi(MU)1, Core Strategy 5 and Policy DM5.

5 THE PLANNING BALANCE

- 5.1 As I have shown previously, the development is clearly contrary to the Development Plan and there are no other material considerations that would justify the grant of planning permission contrary to the Development Plan.
- 5.2 My assessment has also shown that the development is contrary to the policies contained in the Framework taken as a whole and I consider that it cannot be regarded as being sustainable as defined by the NPPF.
- 5.3 I have demonstrated that the most important policies for determining the application are not out of date and therefore the presumption contained in NPPF Paragraph 11 d) cannot apply. The Council can demonstrate 6.34 years supply of housing and there is no requirement under Footnote 7 to reduce the weight of the policies in such circumstances.
- 5.4 The plan-led system manages change in a sustainable way, directing development to where it can provide a boost to housing while protecting and enhancing our natural and historic environment. Significant planning harm flows from development being built which is in conflict with this plan-led system because it conflicts with the strategic approach to secure sufficient housing development which meets the needs of existing and future residents both in the short term but also for the lifetime of the development.
- 5.5 The benefits of the proposed development must be weighed against this significant harm in order to determine whether planning permission should nevertheless be granted.

Benefits of the Proposals

- 5.6 Housing Supply: The appeal proposal would provide a total of 103 dwellings to the housing supply and would assist the Council in meeting the NPPFs objective in paragraph 59 to significantly boost the supply of homes. As a consequence, the delivery of market housing weighs in favour of the proposal. However, the Council can currently demonstrate that it has 6.34 years' worth of housing land supply. Furthermore, the mix of dwellings in this case do not reflect the needs for the district as a whole or for the sub area in which the site is located as identified in the most up to date Housing Needs Assessment. Therefore I attach only moderate weight to

the provision of housing in this instance.

- 5.7 Affordable Housing: The Appellant has confirmed that the proposal would include the provision of 10% affordable housing on the basis of limited viability of the development. Core Policy 1 seeks to secure 30% provision on new housing developments and the current proposals therefore represent a significant shortfall on the policy requirement. Whilst I fully accept that there is a viability issue on this site, I consider that the provision of only 10 affordable dwellings instead of a policy compliant 30 must attract significantly less weight as it will provide limited assistance in the delivery of the Council's aims in securing additional affordable housing. I therefore attach only moderate weight to its provision.
- 5.8 Other benefits: It is recognised that the building of houses generates economic benefits both through the construction process and also from the spending power of the residents who occupy them. I also accept that the proposals have the potential to provide some temporary employment opportunities during construction. I afford these benefits moderate weight.
- 5.9 The development will also provide open space. The provision of open space can be considered a benefit although I consider in this case it is more to provide an acceptable level of amenity for future residents. It is not designed to provide any additional play facilities or linkages to the village generally and is therefore unlikely to cater for the wider population in Bilsthorpe. However, it will allow part of the site to remain open and will be provided as public open space and I therefore attach moderate weight to its provision.
- 5.10 The proposals also provide the opportunity to secure a number of ecological enhancement measures, including new native landscape planting and additional faunal opportunities. However, the proposed landscaping is limited and I attach limited weight to its provision.
- 5.11 Section 106 requirements: I understand that a Section 106 Agreement is close to being agreed between the parties and that it will make provision for the affordable housing, together with the highway requirements relating to the bus stop. The S106 also makes provision for a contribution towards community facilities which is to be directed towards the provision, maintenance, repair or enhancement of the Village Hall complex in Bilsthorpe and play parks in the vicinity of the site. I recognise that

these contributions will improve facilities for the wider community but also that they will be used by residents of the appeal scheme and the contribution is partly to offset their impact. Nevertheless, I attach moderate weight to the improvements which would arise as a result of the appeal scheme.

Overall Conclusions on Planning Balance

- 5.12 From my assessment of the benefits that would flow from this development, I do not consider that they provide a justification for a departure from the plan-led outcome, or that they are of such a scale and significance that they outweigh the harm to the plan-led system, to the character and appearance of the area and that the poor design of the scheme can or should be ignored.
- 5.13 The appeal scheme conflicts with the development plan taken as a whole and causes demonstrable harm. For the reasons I have given, I do not consider the NPPF, or any other material consideration provides a basis to determine the appeal scheme otherwise than in accordance with the development plan in this instance. I therefore consider that the planning balance favours withholding permission and dismissing the appeal.

6 CONCLUSIONS AND SUMMARY PROOF OF EVIDENCE

- 6.1 This appeal seeks detailed planning permission for 103 dwellings in Bilsthorpe together with a new access onto Eakring Road.
- 6.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.3 The principle of development is already established on this site due to its allocation in the Allocations & Development Management DPD 2013 (Policy Bi/MU/1) and it is the subject of an extant outline planning permission for 85 dwellings (Ref: 17/01139/OUT). The issues at this appeal therefore relate to matters of design and detailing which the Council considers are unacceptable and result in a development that is contrary to the relevant policies of the development plan and the NPPF.
- 6.4 The Council is able to demonstrate a 6.34 year housing land supply and is unchallenged on this. As a consequence, the tilted balance is not engaged and the most important policies for the determination of this appeal which are Spatial Policy 7, Core Policies 3 and 9 of the Amended Core Strategy and Policy Bi/MU/1 and DM5 of the Allocations and Development Management DPD are not deemed to be out of date (by virtue of Paragraph 11 Footnote 7) and can be given full weight at this appeal.
- 6.5 In section 4 of my evidence I consider if there are material considerations, including those advanced by the Appellant, that justify the grant of planning permission other than in accordance with the Plan and address the issues identified by the Inspector in her Case Management Note under the headings below.

Quantum of Development

- 6.1 I consider that the proposal for 103 dwellings is not, in itself, an unreasonable quantum of development but the dominance of 3 and 4 bedroom dwellings (90%), all detached or semi-detached, have resulted in the proposed layout appearing cramped and overdeveloped.
- 6.2 I attribute this to the nature of the dwellings being proposed. The appeal proposal predominantly comprises 3 and 4 bedroom dwellings all of which are detached and

semi-detached. Indeed, 90% of the housing are 3 or 4 bed units

- 6.3 The Appellant seeks to justify this mix on marketing and viability grounds and claims that the development cannot provide policy compliant affordable housing of 30% or the required S106 contributions. Mr White confirms that there is no contention in respect of the viability figures submitted by the Appellant but considers that the high volume, higher density, lower typology of scheme as put forward by the Appellant is not the only option for the development of sites in this local market. The form of the development is very much a commercial decision by the Appellant and, whilst accepting there are viability issues, I do not consider that this means that the Council should have to accept a poorly designed scheme.

Whether the proposed housing mix will meet the housing needs of the area

- 6.4 The Council published its most up to date Housing Needs Assessment (HNA) in December 2020 (CD6.20) and this is reviewed by Dr Bullock in his evidence. Dr Bullock considers that the appeal scheme does not address identified local needs in several ways: it has a lack of bungalows, it focuses on 1- and 2-bedroom affordable rented dwellings compared with a broader range of need and on 1- and 2-bedroom intermediate tenure dwellings again compared with a broader range of need. The appeal proposals also make no references to how it would meet the needs of the elderly or people with disabilities. Core Policy 3 and the NPPF seek to ensure that developments meet local identified needs. The appeal scheme fails in this respect and is contrary to those policies.

Effect on the Character and Appearance of the Area

- 6.5 The Inspector's pre-conference note identifies one of the main issues of this appeal is the effect on the character and appearance of the area with specific reference to density, design and the proposed landscaping scheme.
- 6.6 Density: I accept that the overall density on this site is not particularly high but consider that the requirement of Policy Bi/MU/1 for development to recognise the site's gateway location and to manage the transition into the main built up area suggests that this is a site where a lower density should be applied at least on the northern part of the site. The outline planning permission would provide a density of 23dph. Core Policy 3 does not preclude densities lower than 30dph but requires

them to be justified. I consider the requirements of Policy Bi/MU/1 provide this justification. However, as submitted, the plans show that the proposed density is too high for the northern part of the site and contributes to the overdevelopment of the site, contrary to Core Policy 3.

6.7 Design: Both the Core Strategy (Policy 9) and the Allocations and Development Management DPD (Policy DM5) promote a high standard of design and reflect government policy on this matter and Dr Kruczkowski explains how the Government is increasingly placing more emphasis on design matters. He assesses how the Appellant arrived at the design of the scheme and concludes that there was a lack of proper evaluation of the constraints and opportunities of this site. He identifies a significant number of design principles which have been missed/ignored which would have resulted in a significantly better designed scheme.

6.8 In my view, the design of the site has been made to 'fit' the Appellant's housing mix and density requirements, rather than the scheme fitting/recognising the constraints and opportunities of the site. The scheme includes a significant proportion of dwellings that fall below the Government's minimal floor standards in its 2015 Technical Housing Standards, most of which are intended to be family housing. The limited ground floor areas of these houses also result in limited garden size with 4 bedroom units having some of the smallest gardens in the development and no outside storage provided. I do not consider that a nationally sub-standard housing scheme can realistically be considered to be good design and cannot be compliant with local or Government policy.

6.9 The cramped nature of the scheme also gives rise to issues of triple tandem parking for nearly half of the 4 bedroom properties. In these cases, the garage, which represents the third space, is effectively discounted by the Highway Authority's Highway Design Guide (2021). I agree with the Council that tandem parking is a poor design feature that tends to result in on street car parking and pavement parking. From a practical and safety point of view, this level of tandem parking on a scheme of this size and the likely level of on-street parking generated is not considered to be a desirable design approach.

Landscaping and Transition to the Open Countryside

6.10 I do not take issue with the submitted LVA in most respects but consider that it

contains some omissions which must call into question some of the findings of the LVA and therefore the Council's Consultant's assessment. These relate to the lack of consideration of the transitional requirement contained in Policy Bi/MU/1 and also the lack of any address of the LCA SPD's requirement to create improved landscapes. Apart from a central area of Public Open Space and the Attenuation Pond required for the SUDs, the site contains very limited areas that are able to be landscaped either within it or around its edges. Of particular concern is the sensitive northern boundary and the hard and unsympathetic interface presented by the development with no real possibility of softening or mitigation. I do not agree with the Appellant's argument that the scheme offers an entirely appropriate urban design approach to address the site's gateway location. It simply does not, nor can it be improved through the use of conditions.

- 6.11 I find that the overall design of this scheme is inadequate and will not provide a well designed and acceptable development which will meet local needs. It will not function well or add to the quality of the area, not just in the short term but also for the lifetime of the development. It is therefore contrary to Spatial Policy 7, Core Policies 3 and 9 of the Amended Core Strategy and Policy Bi/MU/1 and DM5 of the Allocations and Development Management DPD as well as the policies of the NPPF.

Planning Balance

- 6.12 I carry out my planning balance in Section 5 of my evidence.
- 6.13 The Council's case is that the normal planning balance applies and the admitted conflict with the development plan means that planning permission should be refused, unless material considerations indicate otherwise.
- 6.14 I have demonstrated that the most important policies for determining the application are not out of date and therefore the presumption contained in NPPF Paragraph 11 d) cannot apply. The Council can demonstrate a 6.34 year supply of housing and there is no requirement under Footnote 7 to reduce the weight of the policies in such circumstances.
- 6.15 The plan-led system manages change in a sustainable way, directing development to where it can provide a boost to housing while protecting and enhancing our

natural and historic environment. I consider that significant planning harm flows from development being built which is in conflict with this plan-led system but accept that the benefits of the proposed development must be weighed against this significant harm in order to determine whether planning permission should nevertheless be granted.

Benefits of the Proposals

- 6.16 **Housing Supply:** The appeal proposal would provide a total of 103 dwellings to the housing supply and would assist the Council in meeting the NPPFs objective in paragraph 59 to significantly boost the supply of homes. As a consequence, the delivery of market housing weighs in favour of the proposal. However, the Council can currently demonstrate that it has a 6.34 year housing land supply. Furthermore, the mix of dwellings in this case do not reflect the needs for the district as a whole or for the sub area in which the site is located as identified in the most up to date Housing Needs Assessment. Therefore I attach only moderate weight to the provision of housing in this instance.
- 6.17 **Affordable Housing:** The Appellant has confirmed that the proposal would include the provision of 10% affordable housing on the basis of limited viability of the development. Core Policy 1 seeks to secure 30% provision on new housing developments and the current proposals therefore represent a significant shortfall on the policy requirement. Whilst I fully accept that there is a viability issue on this site, I consider that the provision of only 10 affordable dwellings instead of a policy compliant 30 must attract significantly less weight as it will provide limited assistance in the delivery of the Council's aims in securing additional affordable housing. I therefore attach only moderate weight to its provision.
- 6.18 **Other benefits:** It is recognised that the building of houses generates economic benefits both through the construction process and also from the spending power of the residents who occupy them. I also accept that the proposals have the potential to provide some temporary employment opportunities during construction. I afford these benefits moderate weight.
- 6.19 **The development will also provide open space.** The provision of open space can be considered a benefit although I consider in this case it is more to provide an acceptable level of amenity for future residents. It is not designed to provide any

additional play facilities or linkages to the village generally and is therefore unlikely to cater for the wider population in Bilsthorpe. However, it will allow part of the site to remain open and will be provided as public open space and I therefore attach moderate weight to its provision.

- 6.20 The proposals also provide the opportunity to secure a number of ecological enhancement measures, including new native landscape planting and additional faunal opportunities. However, the proposed landscaping is limited and I attach limited weight to its provision.

Overall Conclusions on Planning Balance

- 6.21 From my assessment of the benefits that would flow from this development, I do not consider that they provide a justification for a departure from the plan-led outcome, or that they are of such a scale and significance that they outweigh the harm to the plan-led system, to the character and appearance of the area and that the poor design of the scheme can or should be ignored.
- 6.22 The appeal scheme conflicts with the development plan taken as a whole and causes demonstrable harm. For the reasons I have given, I do not consider the NPPF, or any other material consideration provides a basis to determine the appeal scheme otherwise than in accordance with the development plan in this instance. I therefore consider that the planning balance favours withholding permission and dismissing the appeal.
- 6.23 I therefore request that the appeal is dismissed and planning permission refused.