



For and on behalf of  
**Keepmoat Homes Ltd**

**Town and Country Planning Act 1990 (Section 78)**

**APPEAL STATEMENT OF CASE – APPENDICES**

**Field Reference Number 7108, Eakring Road, Bilsthorpe**

**Prepared by  
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December 2020

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## **Appendix A – Draft Statement of Common Ground (NSDC) dated December 2020**

**Town and Country Planning Act 1990 (Section 78)**

**STATEMENT OF COMMON GROUND**

**Field Reference Number 7108, Eakring Road, Bilsthorpe**

**Application Reference: 20/00873/FULM**

**Appellant: Keepmoat Homes Ltd**

**Local Planning Authority: Newark and Sherwood District Council**

December 2020

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## 1.0 INTRODUCTION

1.1 The Statement of Common Ground has been jointly prepared by DLP Planning Limited as the Appellant's agent and Newark and Sherwood District Council ("the Council") to aid consideration of a planning appeal lodged on behalf of Keepmoat Homes Ltd ("the Appellant").

1.2 The appeal is against the decision to refuse full planning permission on 4 November 2020 for an application proposing the following development ("the Appeal Scheme"):

*"Residential development of 103 dwellings and associated access and infrastructure"*

1.3 The planning application reference number is 20/00873/FULM.

1.4 The planning application was submitted to the Council on 28 May 2020 and validated on 10 June 2020. Additional and revised information was provided during consideration of the application.

1.5 The planning application, as updated and revised, was presented to Planning Committee on 3 November 2020 with an officer recommendation to approve planning permission. The Planning Committee resolved to refuse the application against the officer recommendation and a decision notice was subsequently issued 4 November 2020 detailing the following reason for refusal:

*"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.”*

- 1.6 As required by Article 35 (1)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) the decision notice states *clearly and precisely (the Council's) full reasons for refusal, specifying all policies and proposals in the development plan which are relevant to the decision.*
- 1.7 This Statement of Common Ground is set out as follows. The agreed appeal site and surrounding area context is provided in Section 2, the relevant site history is detailed in Section 3 and the relevant agreed policy details are listed in Section 4. The key areas of common ground are outlined in Section 5, followed by the key areas of disagreement in Section 6. Section 7 sets out the matters on which the parties are continuing to have dialogue with a view to reaching agreement, so far as possible, in the lead up to the Inquiry.



## 2.0 APPEAL SITE AND SURROUNDING AREA

- 2.1 The appeal site relates to a broadly rectangular plot of land, which is in agricultural use and extends to approximately 3.78 hectares. It is located to the east of Eakring Road, within the defined village envelope for Bilsthorpe, at the north eastern extent.
- 2.2 The appeal site lies adjacent to the former Bilsthorpe Colliery, which closed in 1997. An old railway line (which has been dismantled) lies to the north of the site, and now appears to be informally used as a footpath/track. Land to the south is currently in commercial use, whilst land to the north and east is open in nature with woodland screening along the eastern boundary. To the west, on the opposite side of Eakring Road, are existing residential dwellings. The appeal site is shown in Figures 1 and 2.



**Figure 1. Site Location (Appeal Scheme)**



**Figure 2. Aerial view of Site**

- 2.3 The appeal site lies around 8km from Ollerton, 13km from Mansfield, 22km from Worksop and 24km from Nottingham, all of which offer a wide variety of shops, facilities and services. A range of local facilities and amenities can be accessed within a walking distance of 1km or less of the site. These include schools, shops, employment sites and recreation facilities as follows: Bilsthorpe Surgery; Convenience Store, The Crescent; Fast Food Outlets, The Crescent; Knights Bilsthorpe Pharmacy; Miners Welfare Social Club; Hairdressers, The Crescent; Bilsthorpe Flying High Academy; Post Office; and Bilsthorpe Library. In addition, the following local facilities (not an exhaustive list) can be reached within a walk of between 1km and approximately 2km (up to 25 minutes) from the site: Premier Convenience Store, Kirklington Road; Fast Food Outlet, Kirklington Road; Butchers/Bakers, Kirklington Road; Hairdressers; and The Limes Café, A614. The site therefore lies within a comfortable walking distance of local schools, shops and employment opportunities. The proposed convenience store to be built adjacent to the site (discussed in further detail below), will further widen the choice of retail opportunities available for existing and future residents.
- 2.4 In terms of cycling, the area benefits from a relatively flat surrounding topography, and is generally conducive to cycling. Significant destinations within a 5km cycle catchment include: Bilsthorpe; Eakring; Farnsfield; and Center Parcs. National Cycle Network (NCN) Route 645 passes directly adjacent to the site's frontage, along Eakring Road. It has both on and off-road sections and connects NCN Route 6 to the west, with Farnsfield to the east.

- 2.5 The centre of the site is located within approximately 200m of the nearest bus stop, which is on Eakring Road. Alternatively, buses can be accessed from bus stops located on Mickledale Lane, within 400m of the site. The existing bus stops on Eakring Road are marked with a flag and pole with timetable information provided. These stops are served by the 27x/28b bus route, which connects Mansfield with Eakring and provides a 60-minute frequency service between Bilsthorpe and Mansfield during the main travel demand periods. Alternative bus stops on Mickledale Lane can be reached within 400m from the site. These stops are served by the same routes as well as the “Sherwood Arrow”, which connects New Ollerton with Worksop and Nottingham, providing access to additional employment opportunities.
- 2.6 The closest railway station to the site is Mansfield, on the Robin Hood Line and is operated by East Midlands Railway. The station is located approximately 12.8km from the centre of the site, equivalent to a cycle time of approximately 40 minutes. Rail-served destinations include Worksop, Mansfield Woodhouse, Kirkby in Ashfield and Nottingham, with trains running every 30 minutes during daytimes and every 60 minutes during the evenings.
- 2.7 The appeal site is not at an elevated risk of flooding such that it is considered by default as Flood Zone 1 by the Environment Agency, nor does it contain, or is within proximity to, any designated heritage assets.
- 2.8 The appeal site is allocated for residential and retail development in the Council’s Allocations & Development Management DPD (July 2013) under Policy Bi/MU/1 – Bilsthorpe Mixed Use Site 1. The site allocation envisages a mixed use development providing around 75 dwellings and retail development (Section 4 expands on the agreed policy position).
- 2.9 The site has been undeveloped since it was allocated, however benefits from an extant outline planning permission (reference: 17/01139/OUTM) for residential development of up to 85 dwellings and up to 280 sqm of retail development. The delivery of the residential and retail elements are however proposed via separate developers, with a full application for the retail element (a convenience store) submitted in October 2020 by Lincolnshire Co-operative Ltd and is currently pending determination (reference: 20/01965/FUL) (Section 3 further expands upon the planning history of the site).

### 3.0 RELEVANT PLANNING HISTORY

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



**Figure 3. Site Location Plan (Outline Scheme)**

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



**Figure 4. Phasing Plan**

3.4 The approved Illustrative Layout is shown in Figure 5 below.



**Figure 5. Approved Illustrative Layout**

- 3.5 The extant Outline approval was notably supported by a viability assessment, which was agreed and a reduced S106 package was included as part of the overall approval accordingly.
- 3.6 The application to which this appeal relates was submitted to the Council on 28 May 2020 and validated on 10 June 2020 (reference: 20/00873/FULM). The application sought full planning permission for the following works:

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

- 3.7 The application, as revised and updated, was presented to Planning Committee on 3 November 2020 with a recommendation to approve planning permission. The Planning Committee however resolved to refuse the application, contrary to officer recommendation, and a decision notice was subsequently issued on 4 November 2020, detailing one reason for refusal (as outlined in Section 1).
- 3.8 In October 2020, a full planning application was submitted by Lincolnshire Co-operative Ltd for the construction of a *“single storey convenience store and associated hard and soft landscaping”* (reference: 20/01965/FUL). At the time of writing, this application is currently pending determination.
- 3.9 A full application, rather than a reserved matters application, was submitted by the applicant to facilitate the delivery of a larger convenience store (390sqm), than that originally envisaged as part of the outline planning application. A Site Location Plan is shown in Figure 6 below for reference.



**Figure 6. Site Location Plan (Convenience Store)**

- 3.10 The delivery of the residential and retail elements of the site allocation are proposed via separate developers, and as such this appeal scheme excludes the land subject to the

current planning application for the retail unit. Both developments are however proposed to sit side by side, as is reflected by the relevant site location plans, and both correspond to the mixed-use breakdown established by the existing outline approval and site allocation.

- 3.11 Pertinently, the convenience store application includes a proposed access point via the initial section of spine road to be constructed by Keepmoat Homes, should this appeal be successful. In addition, the convenience store will utilise the drainage outfall, also to be provided by Keepmoat Homes as part of their drainage scheme. Accordingly, the initial element of the residential scheme is required to come forward first to facilitate the delivery of the convenience store, thereby respecting the aspirations of the mixed-use site allocation policy and the phased, comprehensive delivery anticipated overall. Fundamentally, without the road and drainage infrastructure provided by the proposed Keepmoat scheme, the convenience store, as currently proposed, cannot be delivered.



## 4.0 THE APPEAL SCHEME AND BACKGROUND

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

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

4.2 The application was accompanied by the following supporting documentation:

- Completed Planning Application Forms and Certificates
- Supporting Architectural drawings (Keepmoat Homes Ltd/Geoff Perry Associates)
- House Type Booklet (Keepmoat Homes Ltd/Geoff Perry Associates)
- List of Plots/House Types (Keepmoat Homes Ltd)
- Design and Access Statement (Keepmoat Homes Ltd/Geoff Perry Associates)
- Transport Assessment and Associated Drawings (Travis Baker)
- Environmental Noise Survey (Noise.co.uk Ltd)
- Flood Risk Assessment and Drainage Strategy (including Drainage Drawings) (Travis Baker)
- Ecological Appraisal (FPCR)
- Archaeological Desk-Based Assessment (Prospect Archaeology)
- Arboricultural Assessment (FPCR)

4.3 Additional and revised information was provided during consideration of the application. Chronologically this comprised:

22 June 2020

- Landscape and Visual Appraisal (FPCR)

- Landscape Masterplan (PDP Associates)

24 June 2020

- Viability Assessment (Atlas Development Solutions)

2 July 2020

- Residential Travel Plan (Travis Baker)

3 July 2020

- Letter from FPCR in response to comments made by Nottinghamshire Wildlife Trust (dated 2 July 2020)

10 July 2020

- Flood Risk Assessment and Drainage Strategy – Addendum Report (Travis Baker)

27 July 2020

- Written Scheme of Investigation – Archaeological Evaluation (Prospect Archaeology)

3 August 2020

- Email response from Keepmoat Homes to EHO comments regarding noise (email dated 3 August 2020)

5 August 2020

- Email response from Travis Baker in response to NCC Flood comments email (dated 5 August 2020)

12 August 2020

- Geo-Environmental Assessment Report (Travis Baker)

19 August 2020

- Email from Keepmoat Homes providing additional information requested by the Council, including Dwelling Design Statement (email dated 19 August 2020)
- Market Research Report (T.W. Land Co)
- Bilsthorpe Local Area Information (Sales Statement) (Keepmoat Homes Ltd)
- Parking Dimensions (Geoff Perry Associates)

4 September 2020

- Environmental Noise Assessment (Noise.co.uk Ltd)
- Planning Layout (P-01 Rev O) (Keepmoat Homes Ltd/Geoff Perry Associates)

11 September 2020

- Certificates of Calibration in respect of Noise Assessment
- Planning Layout (P-01 Rev P) (Keepmoat Homes Ltd/Geoff Perry Associates)
- Pedestrian Crossing Facility (M020-TBC-XX-M2-C-S278\_991 Rev A) (Travis Baker)
- Existing Bus Stop Improvements (M020-TBC-XX-M2-C-S278\_992 Rev A) (Travis Baker)

14 September 2020

- Archaeological Evaluation Report: Trial Trenching (Allen Archaeology)

21 September 2020

- Pedestrian Crossing Assessment (Travis Baker)
- Revised Suite of Supporting Architectural drawings (Keepmoat Homes Ltd/Geoff Perry Associates)

- Revised Design and Access Statement (Keepmoat Homes Ltd/Geoff Perry Associates)

30 September 2020

- Email outlining justification in relation to phasing further to the Council's request to include phasing triggers as part of the S106 (DLP)

9 October 2020

- Landmark Chambers Advice Note (dated 8 October 2020)

30 October 2020

- Late Item Response Letter prepared by DLP Planning Ltd (dated 30 October 2020)

4.4 The application, as revised and updated, was presented to Planning Committee on 3 November 2020 with a recommendation to approve planning permission. The Planning Committee however resolved to refuse the application, contrary to officer recommendation, and a decision notice was subsequently issued on 4 November 2020, detailing one reason for refusal (as outlined in Section 1 of this Statement).

## 5.0 AGREED PLANNING POLICY CONTEXT

5.1 The following local and national planning policy is applicable to the appeal scheme:

### **The Development Plan**

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

#### Amended Core Strategy DPD (March 2019)

- **Spatial Policy 1** - Settlement Hierarchy
- **Spatial Policy 2** - Spatial Distribution of Growth
- **Spatial Policy 5** - Delivering the Strategy
- **Spatial Policy 6** - Infrastructure for Growth
- **Spatial Policy 7** - Sustainable Transport
- **Core Policy 1** - Affordable Housing Provision
- **Core Policy 3** - Housing Mix, Type and Density
- **Core Policy 9** - Sustainable Design
- **Core Policy 10** - Climate Change
- **Core Policy 12** - Biodiversity and Green Infrastructure
- **Core Policy 13** - Landscape Character

#### Allocations & Development Management DPD (July 2013)

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

- **Policy DM2** - Development on Allocated Sites
- **Policy DM3** - Developer Contributions and Planning Obligations
- **Policy DM4** - Renewable and Low Carbon Energy Generation
- **Policy DM5** - Design
- **Policy DM7** - Biodiversity and Green Infrastructure
- **Policy DM12** - Presumption in Favour of Sustainable Development
- **Policy Bi/MU/1** - Bilsthorpe Mixed Use Site 1
- **Policy Bi/Ph/1** - Bilsthorpe Phasing Policy

5.3 This below focusses solely on the relevant planning policy considerations in context of the reason for refusal, with the broader policy considerations comprehensively detailed above.

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

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

- *“Appropriate design which addresses the site's gateway location and manages the transition into the main built up area;*
- *Pre-determination archaeological evaluation submitted as part of any planning application and post-determination mitigation measures secured by condition on any*

*planning consent are likely to be required;*

- *Appropriate phasing of retail and residential uses.”*

- 5.6 Policy Bi/Ph/1 – Bilsthorpe Phasing Policy adds that *“phasing in all cases must be appropriate to the size of the development, reflect on site and infrastructure provision and constraints and not be unviable for the developer to implement.”*
- 5.7 In terms of the phasing element, during the course of determination of the application, the Council raised concerns in regards to the lack of phasing proposed for the retail and residential uses on the site, as this was considered to conflict with the requirements of adopted planning policy. A legal opinion was subsequently sought by the appellant in relation to this matter, and this confirmed that there is no policy requirement to show phasing of the retail and residential uses on this site in circumstances where it is inappropriate to require a phasing plan given, for example on site constraints; or delivering against a phasing plan would be unviable.
- 5.8 Furthermore, it was also confirmed that Policy Bi/MU/1, as worded, does not require the residential and retail elements of the outline scheme to be delivered by the same developer; at the same time; subject to an overall site masterplan; or as part of a comprehensive piece of development.
- 5.9 Delivery of the scheme is challenging due to the range of abnormal costs and the limited development value anticipated overall. Accordingly, a viability case was provided as part of the submission and was agreed by the Council’s independent viability consultant. Notably, the viability appraisal demonstrated that the scheme provides no excess profit to support bringing forward a retail scheme (other than the required access and drainage infrastructure), meaning that in this circumstance, a phasing plan would be impractical, inappropriate and unviable.
- 5.10 Furthermore, a S106 Agreement requirement to link the two schemes was not considered appropriate because the delivery of the retail unit is not necessary to make the residential development acceptable in planning terms. Given the two schemes include separate site boundaries and developers, this also was not considered to be technical achievable either.

- 5.11 Overall, the legal advice therefore concluded that the delivery of the residential and retail elements by separate developers is consistent with the requirements of Policy Bi/MU/1. The Council also sought its own legal opinion in this regard which agreed with this view. It was therefore confirmed that this could not form a robust basis as a reason for refusal. Notably, the conclusions of the relevant barrister opinions were required to be reconfirmed to Members during the committee meeting discussion by the Council's solicitor following a Member suggestion that phasing issues should potentially be included as part of the proposed reason for refusal.
- 5.12 Notably, in terms of the phasing policy, the initial delivery of the residential scheme in the manner proposed as part of this appeal will actually act as enabling development for the convenience store in any case, due to the fact that it will provide the initial road and drainage infrastructure required to facilitate its implementation.
- 5.13 Spatial Policy 7 - Sustainable Transport confirms the Council will encourage and support development proposals which promote an improved and integrated transport network and an emphasis on non-car modes as a means of access to services and facilities. Of particular relevance to this appeal, the policy confirms development proposals should provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements in line with Highways Authority best practice; and ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems, taking account of any contributions that have been secured for the provision of off-site works.
- 5.14 In relation to density, Core Policy 3 - Housing Mix, Type and Density requires that development densities in all housing developments should normally be no lower than an average 30 dwellings per hectare net. Development densities below this will need to be justified, taking into account individual site circumstances. Densities of 30 dwellings per hectare, or more, will be set for other locations and allocations in the Allocations & Development Management DPD.
- 5.15 In relation to housing mix, Core Policy 3 confirms that the Council will seek to ensure "an appropriate mix of housing types to reflect local housing need. Such a mix will be dependent on the local circumstances of the site, the viability of the development and any localised



housing need information”. The policy also sets out that the Council will seek to secure new housing development which adequately addresses the housing need of the District, namely:

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

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

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

5.18 Core Policy 9 - Sustainable Design highlights the District Council will expect new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District. Of particular relevance to this appeal is that new development should achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments.

5.19 Policy DM5 – Design sets out that in accordance with the requirements of Core Policy 9, all proposals for new development shall be assessed against a number of criteria. Of particular relevance in this instance are the following:

1. *Access - Provision should be made for safe and inclusive access to new development. Where practicable, this should make use of Green Infrastructure and as many alternative modes of transport as possible.*
2. *Parking - Parking provision for vehicles and cycles should be based on the scale and specific location of the development. Development resulting in the loss of parking*

*provision will require justification.*

3. *Amenity - Development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.*
4. *Local Distinctiveness and Character - The rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.*

### **Supplementary Planning Documents**

#### Residential Cycle and Car Parking Standards & Design Guide Supplementary Planning Document (SPD) (August 2020 consultation draft)

- 5.20 Officers in the Committee Report reference the Council's August 2020 consultation draft "Residential Cycle and Car Parking Standards & Design Guide SPD", whereby key principle 2 in the draft SPD expresses a "preference" against tandem parking and says that it will "not normally be supported".
- 5.21 For clarity, whilst this document was referred to in the Committee Report, the Council considers it carries very limited weight at this stage as it is only in an early stage of development.

### **National Planning Policy Framework (NPPF)**

- 5.22 The Framework sets out the Government's planning policies for England and how it expects these to be applied.
- 5.23 The first revision of the NPPF was published in March 2012 with a revised version published in July 2018, implementing some 85 reforms announced previously through the Housing White Paper, planning for the right homes in the right places consultation and the draft revised National Planning Policy Framework consultation. A further update was issued incorporating minor amendments in February 2019.
- 5.24 The NPPF emphasises the role of the Development Plan in decision making (paras 2, 12 and 47) but also states that the NPPF itself is a material consideration in the determination of

planning applications. The NPPF is underpinned by a presumption in favour of sustainable development and selected excerpts that are relevant to this proposal are identified below.

### ***Achieving Sustainable Development***

5.25 Paragraph 7 describes that the purpose of planning is to contribute to the achievement of sustainable development. Paragraph 8 proceeds that the planning system, in the context of sustainable development, has 3 overarching interdependent objectives:

- Economic;
- Social; and,
- Environmental.

5.26 Paragraph 10 states that to ensure sustainable development is pursued in a positive way, there is a presumption in favour of sustainable development at the heart of the Framework.

### ***The Presumption in Favour of Sustainable Development***

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

5.28 Where there are no relevant development plan policies or the policies most important for determining the application are out of date (footnote 7 explains that for applications seeking the provision of housing, this includes circumstances where the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites with appropriate buffer, or where the Housing Delivery Test indicates substantial under-delivery over the previous 3 years), permission should be granted unless:

- The application of policies within the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or,

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

### ***Decision-making***

- 5.29 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way, working proactively with applicants and seek to approve applications for sustainable development where possible.
- 5.30 Paragraphs 39 to 45 promotes early engagement and pre-application discussions, whilst paragraph 46 advocates consideration of voluntary planning performance agreements, particularly for large or complex applications.
- 5.31 Paragraph 47 requires decisions on applications to be made as quickly as possible and within the statutory timeframes unless a longer period has been agreed.
- 5.32 Paragraph 48 proceeds that weight may be given to relevant policies in emerging plans, but that weight should be appropriate to the considerations set out as follows:
- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - c) the degree of consistency of the relevant policies in the emerging plan to the 2018 Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 5.33 Paragraphs 54 to 56 require local planning authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations, subject to compliance with the relevant tests.
- 5.34 Paragraph 57 states that planning applications complying with up-to-date policies which set out contributions expected from development should be assumed viable. It is for the applicant

to demonstrate whether particular circumstances justify the need for a viability assessment at application stage, with the weight attributed to such assessment being a matter for the decision maker.

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

- 5.35 Paragraph 59 states that it is important a sufficient amount and variety of land can come forward where it is needed, that needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay to support the Government's objective of significantly boosting the supply of homes.
- 5.36 Paragraph 60 highlights that to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals.
- 5.37 Paragraph 61 outlines that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.
- 5.38 Paragraph 64 expects an affordable housing provision of at least 10% for major residential development proposals unless this would exceed the level of affordable housing required in the area or significantly prejudice identified affordable housing needs of specific groups.
- 5.39 Paragraph 68 confirms small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
- 5.40 Paragraph 73 requires local planning authorities to identify a supply of specific deliverable sites to provide a minimum of 5 years' worth of housing. This should include a) a buffer of 5% to ensure choice and competition in the market for land, b) 10% where demonstrated through an annual position statement or recently adopted local plan to account for any fluctuations in the market during that year, or c) 20% where there has been significant under delivery of housing over the previous 3 years (measured against the Housing Delivery Test from November 2018) to improve the prospect of achieving the planned supply.

### ***Promoting healthy communities***

- 5.41 Paragraph 91 describes the importance of creating healthy, inclusive and safe places. Planning policies and decisions should therefore promote social interaction, safe and accessible environments which reduce the potential for crime and disorder (including fear of crime), and enable / support healthy lifestyles.
- 5.42 Paragraph 92 states that to deliver social, recreational and cultural facilities and services the community needs, planning policies and decisions should, inter alia:
- Plan positively for the provision and use of shared spaces, community facilities (i.e. local shops, meeting places, sports venues, open space, cultural buildings, pubs and places of worship) and other local services to enhance the sustainability of communities and residential environments;
  - Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and,
  - Ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

### ***Open space and recreation***

- 5.43 Paragraphs 96 to 98 set out that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities, and that opportunities should be sought to provide better facilities for users by, for example, linking to existing rights of way networks including national trails.

### ***Promoting sustainable transport***

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

- 5.45 Paragraph 108 describes that decisions regarding development proposals should ensure that appropriate opportunities to promote sustainable transport modes can be or have been taken up being minded of development type and its location; safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network or highway safety can be cost effectively mitigated to an acceptable degree.
- 5.46 Paragraph 109 states that development should only be refused on highways grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be 'severe'.
- 5.47 Paragraph 110 sets out that applications for development will firstly give priority to pedestrian and cycle movements followed by high quality public transport; address the needs of people with disabilities and reduced mobility; create places that are attractive, safe and secure minimising conflicts between users and avoiding unnecessary street clutter, responding to local character and design criteria; allow for efficient delivery of goods and access by service / emergency vehicles; and are designed to enable charging of plug-in and other ultra-low emission vehicles.

***Making effective use of land***

- 5.48 The 2019 Framework includes a chapter, Chapter 11, on how planning policies and decision should promote effective use of land. The relevant excerpts from the Framework are set out below.
- 5.49 Paragraph 117 states planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
- 5.50 Paragraphs 122 and 123 requires policies and decisions to support development that makes efficient use of land, avoiding low densities in areas of existing or anticipated shortage of land.

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

- 5.51 Paragraphs 124 describes that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve, with good design a key aspect of sustainable development.
- 5.52 Paragraph 127 sets out that planning policies and decisions should ensure developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - are visually attractive as a result of good architecture, layout and appropriate landscaping.
  - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - establish a strong sense of place, using streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
  - create safe, inclusive and accessible environments which promote health and well-being, with a high standard of amenity for existing and future users, where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion and resilience;
- 5.53 Paragraph 128 promotes early engagement between applicants, the local planning authority and local community, with those doing so being looked on more favourably than those that cannot.



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

***Meeting the challenge of climate change and flooding***

- 5.55 Paragraph 148 states the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk (and coastal erosion), helping to shape places in ways that contribute radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience, encourage the reuse of existing resources including the conversion of existing buildings and support renewable, low carbon energy and associated infrastructure.
- 5.56 Paragraph 153 sets out that local planning authorities should expect new development to comply with local plan policies on local requirements for decentralised energy supply unless it is demonstrated that not to be feasible or viable, and take account of landform, layout, building orientation, massing, and landscaping to minimise energy consumption.
- 5.57 Paragraphs 155 to 165 seek to avoid inappropriate development in areas at risk of flooding, to steer new development to areas with lowest probability of flooding and ensure that development is safe without increasing flood risk elsewhere. Development proposals should incorporate sustainable drainage systems unless clear evidence demonstrates this to be inappropriate.

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

- 5.58 Paragraph 170 sets out that the planning system should contribute to and enhance the natural and local environment by, inter alia, protecting valued landscapes, soils and sites of biodiversity or geological value, recognising the intrinsic character and beauty of the countryside and wider benefits of ecosystems, minimising impacts on and providing net gains

for biodiversity (including establishing coherent ecological networks), preventing new and existing development from contributing to, being put at risk from or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability, improving conditions where possible and remediating / mitigating despoiled, degraded, derelict contaminated and unstable land where appropriate.

- 5.59 Paragraph 175 details the principles to be applied by local authorities when determining applications. These include refusing permission if significant biodiversity harm results and cannot be adequately mitigated or as a last resort compensated, supporting development whose primary objective is to conserve or enhance biodiversity while encouraging opportunities to incorporate such improvements in and around developments, and not normally permitting development in Sites of Special Scientific Interest or that which results in loss / deterioration of irreplaceable habitats.
- 5.60 Paragraphs 178 - 183 state that planning decisions should ensure that the site is suitable for its new use taking account of neighbouring land uses and air quality as well as ground conditions and land instability, including from natural hazards or former activities, and any proposals for mitigation including land remediation.

### ***Implementation***

- 5.61 Annex 1 states that the policies of the Framework are material considerations which should be taken into account in dealing with applications from the day of publication (paragraph 212). It also sets out the implementation procedure following publication of the NPPF, with paragraph 213 stating that for existing Local Plans, existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to them according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

### **Planning Practice Guidance (PPG)**

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

### Planning for higher densities

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

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

*(Paragraph: 004 Reference ID: 66-004-20190722. Revision date: 22 07 2019)*

### Design: process and tools

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

- a) *“a plan’s vision, objectives, and overarching strategic policies*
- b) *non-strategic policies in local or neighbourhood plans*
- c) *supplementary planning documents, such as local design guides, masterplans or design codes, which provide further detail on specific design matters”*

*(Paragraph: 002 Reference ID: 26-002-20191001. Revision date: 01 10 2019)*

### Housing: optional technical standards

5.65 The PPG sets out that:

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

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

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

### **National Design Guide**

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

## **6.0 AREAS OF AGREEMENT**

- 6.1 As set out earlier in Section 1, the planning application, as revised and updated, was presented to Planning Committee on 3 November 2020 with an officer recommendation to approve planning permission, however the planning committee resolved to refuse the application contrary to officer recommendation and a decision notice was subsequently issued on 4 November 2020. It is agreed that:

### **In-settlement**

- 6.2 The site falls within the defined village envelope for Bilsthorpe at the very north eastern extent.

### **Principle of development**

- 6.3 The principle of developing the site for residential purposes has already been accepted by both the site allocation within the development plan but also the extant outline permission which relates to the site.

### **Phasing**

- 6.4 The Policy Bi/MU/1 allocation is not prescriptive with regards to phasing and indeed does not require the residential and retail parts of the allocation to come forward by the same developer.

### **Character and Visual Appearance**

- 6.5 There is no harm to the broader character and appearance of the area. The visual appearance of the proposed house types are considered acceptable in the context of Policy DM5.

### **Housing Provision**

- 6.6 The provision of both market and affordable housing through the proposals are benefits which should attract significant weight.

### **Boundary Details**

- 6.7 The proposed boundary details are acceptable and compliance with the submitted enclosures plan could be conditioned to any forthcoming permission negating the need to submit further details at a later date.

### **Open Space**

- 6.8 The area of open space proposed broadly centrally within the site (and to some extent the drainage basin at the south of the site) would be well overlooked by principal elevations. This would give a sense of ownership to the areas and create an attractive and safe living environment and legibility of the space.

### **Amenity**

- 6.9 Distances of at least 27m between principal elevations would be achieved and these distances are considered sufficient to avoid any undue impacts of direct overlooking or loss of privacy.

### **Noise**

- 6.10 The proposed development is acceptable on noise grounds and Environmental Health has no objections to the scheme as proposed.

### **Bilsthorpe Energy Centre**

- 6.11 The approved Bilsthorpe Energy Centre (extant until 2021) is a material consideration, but that the presence of the woodland would offer some screening/buffering from potential visual impacts and in any case the actual perceived effects would be limited to a modest proportion of the proposed properties.

### **Gardens**

- 6.12 Each plot is allocated an area of outdoor amenity space which, whilst varying in size, would be broadly commensurate with the sizes of the plots proposed.

### **Trees**

- 6.13 Comments from the Council's appointed Tree Officer have suggested minor amendments to the submitted landscaping plans, including the inclusion of a more diverse tree mix for the larger areas such as the public open space and the attenuation pond, and this could be secured by way of a condition.

### **Ecology**

- 6.14 Subject to the imposition of conditions, no specific harm has been identified in relation to matters of ecology.

### **Flood Risk/Drainage**

- 6.15 All consultee comments regarding flood risk/drainage have been addressed and as such, NCC Flood has confirmed it does not have any objections, subject to a condition seeking the details of the surface water drainage scheme.

### **Archaeology**

- 6.16 The proposed development is acceptable in archaeological terms and there are no statutory objections in this regard.
- 6.17 A Written Scheme of Investigation (WSI) report was submitted and approved by the County Archaeologist at the end of July. The appellant subsequently informed the District Council that works were to be undertaken in August. No findings were made, and the County Archaeologist was satisfied. The Evaluation Report was submitted in September to both the Case Officer and the County Archaeologist. Consequently, no conditions are necessary. The scheme is therefore compliant with the allocation policy as no further archaeological works are necessary prior to the commencement of development.

### **Heritage**

- 6.18 There is no harm to the historic interest of any heritage assets or Conservation Areas.

## **Contamination**

- 6.19 Officers in Environmental Health have commented specifically on the land contamination risks of the site noting the proximity of the former colliery sludge lagoons off site and infilling of land on site. No objection is raised to this in principle, subject to the imposition of a full phased contamination condition.

## **Viability**

- 6.20 White Land Strategies Ltd was instructed by the Council to provide a review of the Viability Assessment submitted by Atlas Development Solutions on behalf of the appellant. The review confirmed that the sales values provided are reasonable; build costs are substantially below equivalent benchmark BCIS costs and are very reasonable; and the overall appraisal can be considered reasonable with standard assumptions adopted across the majority of inputs.
- 6.21 In terms of the methodology, the review confirms that the approach adopted is sound and the Benchmark Land Value approach is an accepted basis of considering viability impact on the scheme. The findings of the review were as follows:
- A 30% policy compliant scheme and S106 package is not viable.
  - Any combination of S106 with affordable housing requires the applicant to reduce profit expectations.
  - A 4% affordable housing scheme with policy compliant S106 is unviable but would be viable with no S106.
  - A 10% affordable housing scheme is viable with no S106 against benchmark viability targets in that the Open Market profit return is within the NPPF range i.e. above 15% of open market gross development value.
  - A 10% affordable housing scheme is unviable with S106 against benchmark viability targets unless the Applicant takes a view on the land value and/or the Open Market profit return.



6.22 The agreed inputs were as follows:

- Residential Value Per Sqft - £200 per sqft (Affordable Rent @ 68% of OMV / Intermediate @ 70% of OMV)
- Residential Build Costs - £116.15 per sqft
- Abnormals - £985,773.13
- Benchmark Land Value - £2,232,010 for 103 dwellings
- Developer Profit – 20% for market dwellings, 6% for affordable dwellings

6.23 The Council's consultant agrees with the appellant's position that the scheme cannot viably deliver a full suite of contributions as required by the developer contributions SPD and the site specific requests made in this instance. On this basis, the Council does not consider that there is further room for negotiation to the offer presented. The offer presented of 10% affordable housing and a Section 106 securing contributions of £258k is therefore acceptable.

## **7.0 AREAS OF DISAGREEMENT**

### **Issue I**

- 7.1 Whether or not the overall quantum of 103 residential dwellings is acceptable in accordance with Policy Bi/MU/1 (Bilsthorpe - Mixed Use Site 1).

### **Issue II**

- 7.2 Whether or not the scheme proposes an appropriate density and design response which addresses the site's gateway location and manages the transition into the main built up area in accordance with Policy Bi/MU/1 (Bilsthorpe - Mixed Use Site 1), Core Policy 3 (Housing Mix, Type and Density), Core Policy 9 (Sustainable Design) and Policy DM5 (Design).

### **Issue III**

- 7.3 Whether or not the proposed housing mix is in accordance with Core Policy 3 (Housing Mix, Type and Density) and the latest District wide housing needs evidence.

### **Issue IV**

- 7.4 Whether or not the proposed dwellings provide adequate floorspace.

### **Issue V**

- 7.5 Whether or not the number of four bed units being served by three parking spaces in tandem will lead to a severe highway impact in accordance with the NPPF and Spatial Policy 7 (Sustainable Transport).

## **8.0 ONGOING DIALOGUE AND DISCUSSION**

8.1 The parties will continue to work and agree where possible a number of items in the lead up to the Inquiry. These will include:

- A list of core documents;
- Suggested conditions with reasons;
- S106 Agreement.

8.2 It is expected that suggested planning conditions will replicate those included in the draft list of conditions in the Committee Report, as follows:

### **01**

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

### **02**

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans reference:

- Planning Layout – P-01 Rev. P;
- Tenure Plan – A 871 Drg No. 004 Rev. C;
- Enclosures Plan – A 871 Drg No. 005 Rev. C;
- Site Location Plan – A 871 Drg No. 08;
- External Finishes Plan – A 871 Drg No. 009 Rev. C;
- Material Plan – A 871 Drg No. 010 Rev. C;
- House Type Booklet received 28th May 2020;

Reason: So as to define this permission.

### 03

No part of the development, other than site clearance hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Travis Baker Flood Risk Assessment (FRA) and Drainage Strategy Addendum Report has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
- Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm 5 l/s rates for the developable area.
- Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA
- Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- For all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.
- Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
- Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term

Reason: A detailed surface water management plan is required to ensure that the development is in accordance with NPPF and local planning policies. It should be ensured

that all major developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site.

**04**

No part of the development hereby permitted shall be brought into use until the visibility splays are provided in accordance with drawing SK01-B. The area within the visibility splays referred to in this condition shall thereafter be kept free of obstruction, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.

**05**

No dwelling forming part of the development hereby permitted shall be occupied until its associated drive/parking area is surfaced in a hard-bound material (not loose gravel) for a minimum of 5 metres behind the Highway boundary. The surfaced drive/parking area shall then be maintained in such hard-bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

**06**

Any garage doors shall be set back from the highway boundary a minimum distance of 5.5 metres.

Reason: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.

**07**

No dwelling forming part of the development hereby permitted shall be occupied until its associated access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

**08**

No part of the development hereby permitted shall be occupied until an updated Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan.

Reason: To promote sustainable travel.

**09**

No development shall take place, other than site clearance until a Construction Methodology and Management Plan (CMMP) has been submitted to and approved in writing by, the Local Planning Authority. The approved CMMP shall be adhered to throughout the construction period. The CMMP shall comprise the following:

- the details of temporary fencing to be erected and retained during the construction period;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- any measures to control the emission of noise, dust and dirt during construction;
- hours/days of proposed construction.

Reason: To protect the amenity of the surrounding area.

**10**

Prior to any occupation of the dwellings hereby approved, the boundary treatments applicable to each of those dwelling's plots shown on the approved plan: Enclosures Plan – A 871 Drg No. 005 Rev. B shall be implemented on site unless otherwise agreed in writing by the local planning authority through a non material amendment application. The boundary treatments within plots shall be retained for a minimum period of five years.

Reason: In the interests of residential and visual amenity.

## 11

No works or development shall take place, other than site clearance until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the Local Planning Authority. This scheme shall include:

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers.
- c. Details and position of underground service/drainage runs/soakaways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in full accordance with the approved arboricultural method statement and tree/hedgerow protection scheme.

Reason: To protect the existing trees/hedgerows to be retained.

## 12

The following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.

- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

Reason: To protect the existing trees/hedgerows to be retained.

### **13**

Prior to the development being first brought into use, full details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

Reason: Insufficient details have been provided and the condition is necessary in the interests of visual amenity and biodiversity, in order to fulfil the policy objectives contained within Core Policies 12 and 13 of the Amended Core Strategy.

### **14**

The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise



agreed in writing by the Local Planning Authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

## **15**

The development hereby permitted shall be carried out in accordance with the required façade sound insulation details at Table 11 (Section 10.1.2.) of the document Environmental Noise Assessment by noise.co.uk ltd prepared 25th August 2020 – 21122-1.

Reason: To protect the amenity of proposed occupiers.

## **16**

Unless otherwise agreed by the Local Planning Authority, development other than that required for site clearance and / or to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

### Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination;
- ii. an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments;
- iii. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority

must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### **17**

The development hereby approved shall be carried out in accordance with the ecological mitigation measures detailed within the document Ecological Appraisal by fpcr dated May 2020, specifically:

- Recommendations made by the ecologist in paragraph 4.26-4.30 (page 18), in particular the good practice measures with regards to lighting.
- Hedgehog holes (13cm by 13cm) should be made in garden fences to allow for

hedgehog passage shown on Figure 5;

- Any areas seen as suitable for breeding birds such as scrub, hedgerows, mature trees, and ground vegetation should be removed outside of the bird breeding season (March to August inclusive);
- The installation of bat and bird boxes at the locations shown on Figure 5.

Where the measures relate to physical interventions such as the hedgehog holes and the bat and bird boxes, these shall be in place prior to the occupation of each of the dwellings the measures relate to.

Reason: To preserve the ecological value of the site.

Signed on behalf of the Appellant:

A handwritten signature in black ink, appearing to be 'CDwan', written over a horizontal line.

Name: Chris Dwan

Position: Director

Date: 23 December 2020

Signed on behalf of the Council:

Name:

Position:

Date:

## **Appendix B – Copy of Decision Notice dated 4 November 2020**



## Notice of Decision

GEOFF PERRY ASSOCIATES LTD - MRS SINEAD ROSE  
 THE SHRUBBERY  
 28 ERDINGTON ROAD  
 ALDRIDGE  
 WS9 8UH

### Town and Country Planning Act 1990

### The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

<b>Application for:</b>	Full Planning Permission Major
<b>Application No:</b>	20/00873/FULM
<b>Applicant:</b>	Keepmoat Homes - Miss Elizabeth Woodhouse
<b>Agent:</b>	Geoff Perry Associates Ltd - Mrs Sinead Rose
<b>Proposal:</b>	Residential development of 103 dwellings and associated access and infrastructure
<b>Site Address:</b>	Field Reference Number 7108 Eakring Road Bilsthorpe Nottinghamshire

Newark and Sherwood District Council as Local Planning Authority in pursuance of their powers under the said legislation **Refuse Full Planning Permission Major** for the development described in the above application, for the reasons set out below.

#### Reasons for Refusal:

01

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.

02

The application has been refused on the basis of the following plans:

- o Planning Layout - P-01 Rev. P;
- o Massing Plan - A 871 Drg No. 002 Rev. C;
- o Occupancy Plan - A 871 DRg No. 003 Rev. C;
- o Tenure Plan - A 871 Drg No. 004 Rev. C;
- o Enclosures Plan - A 871 Drg No. 005 Rev. C;
- o Parking Plan - A 871 Drg No. 006 Rev. C;
- o Site Location Plan - A 871 Drg No. 08;
- o External Finishes Plan - A 871 Drg No. 009 Rev. C;
- o Material Plan - A 871 Drg No. 010 Rev. C;
- o House Type Booklet received 28th May 2020;

### Note to Applicant

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

**A copy of the decision notice and the officer/committee report are available to view on the Council's website.**



*Authorised Officer on behalf of Planning Development, Newark and Sherwood District Council*



Date: 4 November 2020

**Note: Attention is drawn to the attached notes.**

**Appeals to the Secretary of State** - If you disagree with the decision of the Local Planning Authority to refuse permission for the proposed development, then you can appeal to the Planning Inspectorate. It is important to note that there are different time periods in which you can appeal from the date of this notice. Please note, if you seek an inquiry you are asked to give the Planning Inspectorate and local planning authority at least 10 days' notice that you intend to submit an inquiry appeal. Further information is available on the Planning Inspectorates website at [www.gov.uk/appeal-planning-inspectorate](http://www.gov.uk/appeal-planning-inspectorate) or contact their customer support team by telephone 0303 444 5000 or email [enquiries@planninginspectorate.gov.uk](mailto:enquiries@planninginspectorate.gov.uk)

**Purchase Notices** - If either the Local Planning Authority or The Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council of the District in which the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).

## **Appendix C – Copy of Committee Report**

## COMMITTEE REPORT – 3<sup>rd</sup> NOVEMBER 2020

<b>Application No:</b>	<b>20/00873/FULM</b>	
<b>Proposal:</b>	<b>Residential development of 103 dwellings and associated access and infrastructure</b>	
<b>Location:</b>	<b>Field Reference Number 7108, Eakring Road, Bilsthorpe</b>	
<b>Applicant:</b>	<b>Keepmoat Homes - Miss Elizabeth Woodhouse</b>	
<b>Agent:</b>	<b>Geoff Perry Associates Ltd - Mrs Sinead Rose</b>	
<b>Registered:</b>	<b>10.06.2020</b>	<b>Target Date: 09.09.2020</b>
	<b>Extension of Time Agreed Until 04.11.2020</b>	
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QB1R8DLBHIG00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=QB1R8DLBHIG00</a>	

**The application is being referred to committee as the Officer recommendation is contrary to the objection from the Parish Council.**

### The Site

The application site relates to a broadly rectangular plot of land approximately 3.8 hectares in extent to the east of Eakring Road. The site falls within the defined village envelope for Bilsthorpe at the very north eastern extent.

The site lies adjacent to the former Bilsthorpe Colliery, which closed in 1997. An old railway line (which has been dismantled) lies to the north of the site, and now appears to be informally used as a footpath/track.

There are existing residential curtilages on the opposite side of Eakring Road. Land to the north east is identified as being a site of interest in nature conservation owing to being recognised as an important site for breeding waders. Land to the south is currently in commercial use whilst land immediately to the north and the east is open in nature with woodland screening along the east elevation.

### Relevant Planning History

**17/01139/OUTM** - Residential development up to 85 dwellings (Class C3), up to 3,000 sqft (280 sqm) retail development (Class A1), and associated access works including details of a new access junction into the site from Eakring Road.

*The application was approved at the Planning Committee on 3<sup>rd</sup> April 2018 albeit the decision was not issued until 1<sup>st</sup> June 2018 owing to the required Section 106 completion. A condition was imposed requiring submission of reserved matters within three years and therefore the outline consent remains extant until 1<sup>st</sup> June 2021.*

## The Proposal

The proposal seeks full planning permission for the erection of 103 dwellings, 93 for the market sector and 10 as affordable provision. The development would be delivered through 11 different house types ranging from 2 to 4 beds and 2 to 2½ storeys. It is proposed that there would be an area of public open space broadly centrally within the site and an attenuation pond would feature at the south western corner of the site.

The application has been considered on the basis of the following plans and documents:

- Planning Layout – P-01 Rev. P;
- Massing Plan – A 871 Drg No. 002 Rev. C;
- Occupancy Plan – A 871 DRg No. 003 Rev. C;
- Tenure Plan – A 871 Drg No. 004 Rev. C;
- Enclosures Plan – A 871 Drg No. 005 Rev. C;
- Parking Plan – A 871 Drg No. 006 Rev. C;
- Site Location Plan – A 871 Drg No. 08;
- External Finishes Plan – A 871 Drg No. 009 Rev. C;
- Material Plan – A 871 Drg No. 010 Rev. C;
- Street Scenes – A 871 Drg No. 11 Rev. C;
- Drainage Strategy – Option 5 (with additional plots) – 19017 Drawing No. 8 Rev. B;
- House Type Booklet received 28<sup>th</sup> May 2020;
- Exploratory Hole Location Plan – 19017 Drawing No. GE01 Rev. B dated 06.06.19;
- Analytical Report Number : 19-66188 dated October 2019;
- Arboricultural Assessment by fpcr dated May 2020;
- Archeological Desk based assessment by prospect archeology – Report No.: KEE01-01v4 dated November 2019;
- Design and Access Statement by Keepmoat Homes dated September 2020 Rev. D;
- Ecological Appraisal by fpcr dated May 2020;
- Environmental Noise Survey by noise.co.uk Ltd Report No 20482-1 – R1 dated 27<sup>th</sup> May 2020;
- Flood Risk Assessment and Drainage Strategy by travis barker – 19017 Rev. C dated 26<sup>th</sup> May 2020;
- Flood Risk Assessment and Drainage Strategy Addendum Report by travis barker – 19017 dated 9<sup>th</sup> July 2020;
- Geo-Environmental Assessment Report by Travis Barker – 19017 – Rev. R01;
- Itemised list of Plots / house types – A871\_16;
- Landscape and Visual Appraisal by fpcr dated May 2020;
- Landscape Proposals Sheet 1 of 3 – c-1704-05 Revision A;
- Landscape Proposals Sheet 2 of 3 – c-1704-06 Revision A;
- Landscape Proposals Sheet 3 of 3 – c-1704-05 Revision A;
- Transport Assessment (and associated drawings) by travis barker – T19017/TA/01 Rev, B dated 27<sup>th</sup> May 2020;
- Viability Assessment by Atlas Development solutions by letter dated 22<sup>nd</sup> June 2020 with associated appendices;
- Residential Travel Plan by travis baker – T19017/RTP/01;
- Letter from fpcr dated 2<sup>nd</sup> July 2020 – Ref: 9264E / NJL;
- Parking Dimensions – A 871 drg no. 17 Rev. A;

- Written Scheme of Investigation – Archaeological Evaluation by prospect archaeology KEE01-02 dated July 2020;
- Environmental Noise Assessment by noise.co.uk ltd prepared 25<sup>th</sup> August 2020 – 21122-1;
- Email dated 1<sup>st</sup> July re: commitment to retail scheme and proposed site layout plan;
- Market Research Report received by email dated 19<sup>th</sup> August 2020;
- Bilsthorpe local area information received by email dated 19<sup>th</sup> August 2020;
- Archaeological Evaluation Report: Trial Trenching on Land off Eaking Road, Bilsthorpe by Allen Archeology Ltd. Report No. ALL 2020099 dated September 2020;
- S278 Existing Bus Stop Improvements – M200-TBC-XX-M2-C-S278\_992 Rev A;
- S278 Pedestrian Crossing Facility – M020-TBC-XX-M2-C-S278\_991 Rev A;
- Pedestrian Crossing Assessment by travis barker – T19017/PA/01;

### Departure/Public Advertisement Procedure

Occupiers of 63 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

### Planning Policy Framework

#### The Development Plan

#### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy  
 Spatial Policy 2 - Spatial Distribution of Growth  
 Spatial Policy 5 – Delivering the Strategy  
 Spatial Policy 6 – Infrastructure for Growth  
 Spatial Policy 7 - Sustainable Transport  
 Core Policy 1 – Affordable Housing Provision  
 Core Policy 3 – Housing Mix, Type and Density  
 Core Policy 9 -Sustainable Design  
 Core Policy 10 – Climate Change  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 Core Policy 13 – Landscape Character

#### **Allocations & Development Management DPD**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
 DM2 – Development on Allocated Sites  
 DM3 – Developer Contributions and Planning Obligations  
 DM4 – Renewable and Low Carbon Energy Generation  
 DM5 – Design  
 DM7 – Biodiversity and Green Infrastructure  
 DM12 – Presumption in Favour of Sustainable Development

#### Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)

- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Draft Residential Cycle and Car Parking Standards & Design Guide Supplementary Planning Document ('SPD') 2020

### Consultations

**Bilsthorpe Parish Council** – Voted to object to the proposal and would like the below to be taken into consideration

- The parish council in 2018 voted to object to the planning application on the reason attached in the email when it was 85 houses
- Councilors' felt that the objection was still valid with additional concerns of the increase in house numbers, increased traffic and road users, lack of greenery on the development, concerns on the position of the pedestrian access to the commercial unit, lack of safe pedestrian crossing on Eakring Road and although we may have missed this where is the onsite children's play area provision or equivalent 106 contribution?
- The parish council would also like to ask that if the application is approved by the planning committee what guarantees will be in place that the commercial premises (shop) will be built

**NSDC Community, Arts and Sports Manager** – request a community facilities contribution in accordance with the current SPD.

**NSDC Parks and Amenities** – Verbal discussed referenced in appraisal below.

**NSDC Archaeological Advisor** – Confirmation that the Written Scheme of Investigation (Ref: KEE01-02) prepared by Prospect Archaeology is acceptable.

**NSDC Environmental Health (contaminated land)** – No objection subject to use of contamination condition.

**NSDC Environmental Health (noise)** – Original comments requiring additional noise modelling but latest comments confirmed no objections subject to conditions relating to construction phase.

**NSDC Tree Officer** – Suggestion that areas such as the POS and attenuation pond have a more diverse tree mix that takes advantage of the space available for the addition of larger species. Other conditions recommended for the protection of trees.

**NSDC Strategic Housing** – Note the evidence supplied and also the reference to demand for larger properties. Concur with the evidence in the main, there is still a demonstrable demand for smaller properties i.e. most of the searches for property in this area is for lower value dwellings.

**NCC Planning Policy** – Reference to proximity to several waste management facilities and potential visual intrusion. Contributions sought towards bus provision (£15,500); Libraries (£3,631); No primary education but Secondary education (£382,000).

**NCC Flood Team** – Original comments objected due to insufficient surface water drainage information but this has been provided during the life of the application and the latest comments confirm no objection subject to condition.

**NCC Highways Authority** – Original comments raising issues regarding a pedestrian crossing facility; provision of a footway and improved internal pedestrian movements. Comments also made regarding detail of the Travel Plan albeit agreeing could be amended through condition.

Latest comments accept development would not justify a pedestrian crossing and confirming that bus stop contribution should be £18,500 (rather than the £15,500 referred to by NCC Policy above).

No objections subject to conditions.

**NCC Ecology** – No comments received.

**NCC Rights of Way Officer** - No public rights of way recorded over the proposed development site.

**Natural England** – Natural England has no comments to make on this application.

**Nottinghamshire Wildlife Trust** – Original comments suggested further works prior to the commencement of development but latest comments confirm no objection subject to conditions.

**Trent Valley Internal Drainage Board** – No comments received.

**Severn Trent Water** – No comments received.

**NHS CCG Nottingham and Nottinghamshire** - Request for £101,146 towards Bilsthorpe Surgery; Farnsfield Surgery and Major Oak Surgery.

**One letter of representation has been received forming an objection to the proposal for the following summarized reasons:**

- The development has increased from 75 in 2018 then 85 in 2019 and now 103 but the site is no bigger;
- Money is more important than the size and type of dwellings that are needed by people in Bilsthorpe;
- Less than 10% are affordable dwellings;
- Bilsthorpe needs more 2 bed dwellings;
- There will be drainage problems to plots 90-95 as that areas of the site welcomes waterlogged after rain;
- There are already problems with the doctor's appointments and the primary school capacity;
- The bus service is limited so vehicles will be required;
- The areas marked for parking are too small for vehicles so will cause parking problems;
- When there is an accident on the A614 Eakring Road becomes the diversion;
- The entrance to the site is where pupils wait for the secondary school bus;
- The development will lead to an increase in noise;
- The site is used as a landing site for the air ambulance when it needs to come to the village;
- There is a homeless person who lives in a tent of the site and will be displaced;

Comments of Business Manager



## Principle of Development

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan *unless* (emphasis added) material considerations indicate otherwise.

The principle of developing the site for residential purposes has already been accepted by both the site allocation within the Development Plan but also the extant outline permission which relates to the site. However, the current application is materially different to the extant permission and the development envisaged by the site allocation in that the quantum of residential dwellings is greater and the development no longer proposes a retail element (albeit discounts this element of the site).

The site allocation envisages a mixed use development providing around 75 dwellings and retail development. Specific requirements of Policy Bi/MU/1 are for the consideration of an appropriate design which addresses the site's gateway location as well appropriate phasing of retail and residential uses and pre-determination archaeological investigations.

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

The current application has been submitted by a house builder and therefore does not seek permission for the retail element of the site allocation (which was included in the extant outline permission). The outline application was conditioned on the basis of a phasing plan which ensures that the retail development comes forward before 'Phase 2' of the residential development is delivered (i.e. there would have been some dwellings; then the retail unit; then the rest of the dwellings).

The site location plan for this application does not cover the whole of the site allocation leaving a small plot of land along the eastern boundary towards the south of the site which could cater for retail provision. However, the applicant is clearly not seeking permission for any retail proposal, nor can they guarantee that such a proposal will come forward separately. Email exchanges have been received during the life of the application regarding the submission of an application from a third party for the retail element and it is understood that legal contracts are in place to purchase the site subject to planning. An application for a retail unit has now been validated albeit is at the early consultation stages (reference 20/01965/FUL).

Notwithstanding the assurances provided during the life of the application, the delivery of the retail unit (if approved) is clearly beyond the control of this applicant.

The lack of retail provision was raised as an issue during pre-application discussions. Retail studies have highlighted the very limited convenience retail offer in the village and as a result the village performs poorly when compared to similarly sized settlements elsewhere in the District. The inclusion of the retail use in the site allocation is intended to help resolve this under provision and in doing so boost the sustainability of the settlement (and ultimately support the additional housing allocations). The development plan, in allocating for a mixed use site, has made a strategic

intervention and the rationale behind this intervention has not gone away. However, it is relevant that the most recent retail studies (from 2016) do not explicitly reference this site allocation or indeed advance to suggest that if no delivery of the retail element came forward, serious planning harm would arise.

The case being made by the applicant is that the policy allocation is not explicit in respect to a defined order of delivery and that the residential scheme needs to come forward first to facilitate the delivery of the initial infrastructure required to assist in the delivery of the retail unit. However, this argument is considered flawed given that a retail provider has already come forward with an application without the residential permission being in place.

The issue at hand is a matter of phasing. This has been subject to lengthy discussions during the life of the application with Officers warning that it could form a reason to resist the application. The applicant subsequently submitted a Counsel opinion and Officers have therein sought advice from legal colleagues.

Officers concede that the policy allocation is not prescriptive and indeed does not require the residential and retail parts of the allocation to come forward by the same developer. The difficulty is that the severance of parties leaves the LPA with no control over when the uses will come forward. A Section 106 agreement would not be appropriate given that the retail delivery is outside of the control of the applicant.

There is no doubt a comprehensive scheme would have been favourable to align with the policy allocation. However, in the context of the pending retail application (which received favourable pre-application advice) it is difficult to envisage how the LPA could defend a refusal purely on the separation of the land uses. The commitment of the retail provider to submit an application and indeed the legal contract with the land owner to purchase the site due to planning, provides some level of assurance of market delivery.

Whilst Officers still remain concerned that there are risks in approving a solely residential scheme, after careful consideration of all matters, it is not considered that the failure to satisfy the phasing requirements (which is not prescriptive) of Policy Bi/MU/1 would be a reason to refuse the application and one that could not be held up at appeal.

### Housing Mix, Type and Density

Core Strategy Core Policy 3 indicates that housing developments should be no lower than an average 30 dwellings per hectare and that sites should provide an appropriate mix of housing types to reflect local housing need. The housing mix, type and density will be influenced by the Council's relevant development plan policies at the time and the housing market at the time of delivery.

The proposed development seeks 103 residential units which is significantly higher (around 37%) than the site allocation of 75 units. Based on a site area of 3.8 hectares, the development would deliver circa 27 units per hectare albeit once the non-developable area is discounted (i.e. the attenuation pond and the area of public open space) the density of development would be around 31 dwellings per hectare. This is considered acceptable in the context of the aspirations of Core Policy 3.

The proposed development seeks permission for the following mix, all of which between 2 and 2.5 storeys in height:

<b>Number of Beds</b>	<b>Affordable Units</b>	<b>Market Units</b>
1-bed	0	0
2-bed	10	0
3-bed	0	58
4-bed	0	35
<b>Total</b>	<b>10</b>	<b>93</b>

The District Council have commissioned a Housing Market and Needs Assessment (HMNA) in 2014 dividing the District into survey areas. Bilsthorpe is within the Sherwood sub-area where the greatest need in the market sector is for three bed dwellings. The greatest need in the affordable sector is for 2 beds and therefore this element of the proposal is supported (notwithstanding the number of units of affordable housing which is discussed in the Developer Contributions section below).

The following table outlines a comparison of the market sector demand by bed size against the proposed development as presented (and subsequently excluding the affordable housing units):

<b>Number of beds</b>	<b>% preference of market demand according to HMNA 2014</b>	<b>% of beds in market delivery of proposal as submitted (as a % of 93 units)</b>
1-bed	0	0
2-bed	36.1	0
3-bed	50.5	62.4
4-bed	13.4	37.6
<b>Total</b>	<b>100</b>	<b>100</b>

The delivery of a majority 3-bed units is supported in principle. However, the total lack of 2 bed units in the market provision is not reflective of the 2014 survey results. Clearly the 2014 survey is now some 6 years old and may not be truly reflective of the current position (the survey is in the process of being updated).

Notwithstanding the results of the survey, the scheme would benefit from some form of mix for the affordable provision and a greater mix (i.e. not just 3 and 4 beds) for the market provision. It has been suggested to the agent during the life of the application that some of the 3 bed units are given over to the affordable provision swapping some of the 2 bed units to market.

The scheme has not been amended as suggested but the applicant has responded by email dated 19<sup>th</sup> August 2020 which includes a justification statement and associated sales statement and market research report for the proposed housing mix.

The Sales Statement includes local area information which is not disputed and indeed the LPA agree that Bilsthorpe is a sustainable and desirable settlement. Of more specific relevance to this application is the statement that there has been an influx in demand for 3 and 4 bed properties due to the shift in priority to be working from home which requires flexibility in space. The report

then goes on to discuss Keepmoat Homes house types and makes reference to other sites where such house types have sold out.

There is no dispute that the 3 and 4 bed homes may be desirable (indeed they do form part of the housing needs mix outlined above). The issue at hand in this application is that there are no 2 bed properties presented for the market sector. The point regarding greater working from home is understood to relate to the Covid-19 pandemic but clearly it is too early to conclusively understand whether this will have long term impacts on housing need.

Officers have also considered the submitted Market Research Report which concludes that the demand in this location will be from families looking for predominantly 3 and 4 bedroom homes.

Clearly these reports have been commissioned by the applicant to support the current scheme under methodology not previously agreed with the LPA. Officers have therefore taken the opportunity to discuss the documents with the LPA Housing Strategic Officer to ascertain whether they should hold material weight in the decision noting the age of the 2014 HNS. The following comments have been offered:

*I note the evidence you have supplied and also the reference to demand for larger properties. Whilst I concur with the evidence in the main, there is still a demonstrable demand for smaller properties i.e. most of the searches for property in this area is for lower value dwellings. Evidence of the average income is provided at just over £30,000 per annum. This would indicate that properties in the region of £120,000 would be desirable for first time buyers.*

*I acknowledge the demand for larger properties that you are seeking, however a scheme that aligns with the housing need for a wider range of 1, 2, 3 and 4 beds in the market sector would be supported by Strategic Housing. The current proposal as it stands for 3 and 4 bedrooms does not provide for the wider community and their range of incomes.*

Notwithstanding the above, Core Policy 3 refers to the potential for mix to be dependent on the viability of the development. As is explored further below, the applicant has presented a viability case which has been accepted by the Council's appointed Independent Consultant. The applicant's case is that the inclusion of 2 bed units in the market sector would be inconsistent with the marginal viability position presented and that the local evidence provided during the life of the application confirms a strong demand for the applicant's target market of first time buyers and affordable family homes.

Planning policy relating to housing mix seeks to deliver balanced communities as part of sustainable development. The skew towards larger units in the market sector is a cause for concern in achieving this balance. However, noting that the majority 3 bed units would align with the local housing needs but moreover attaching significant weight to the viability case presented, Officers do not consider that there would be a strong enough case to resist the application solely on housing mix.

#### Impact on Landscape Character

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive. Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments.

The landscaping impacts of the proposal were clearly considered at site allocation stage with Policy Bi/MU/1 explicitly requiring development proposals to address the sites gateway location in order to manage the transition into the main built up area. The site allocation itself implicitly accepts that the site characteristics will fundamentally change.

Unlike the indicative scheme presented at outline stage (which was purely indicative and was not formally assessed in respect of layout), the plans for the current application seek to present principal elevations to the northern boundary of the site which forms the edge of the village envelope. Of concern is that the layout presents the driveways and turning heads in front of these elevations such that the edge of the development would be primarily areas of hardstanding with little space for landscaping to soften this impact. This arrangement was raised as a cause of concern to the applicant at pre-application stage.

The submitted Design and Access Statement includes a Character Assessment of the surrounding area but this is presented in the context of the choice of house types rather than the resultant landscape impacts of the proposal. There is seemingly no acknowledgement of the policy requirement to integrate the development into the open countryside.

This has been addressed partly during the life of the application through a revised layout plan which now includes some small areas of landscaping at the northern boundary. To clarify this is not along the entire length and there would still be a vehicular turning head abutting the site boundary.

Core Policy 13 states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.

The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA 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 has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

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

Again unlike the outline application, the current application was not originally accompanied by a Landscape and Visual Impact Assessment. Clearly in the context of a full application, this will have even more benefit as it the actual development proposed which could be imposed on the landscape through visuals from certain viewpoints.

Having visited the site, there is an acknowledgement that the topographical changes in the area mean that the site is not readily visible on approach from the north until the observer is relatively close to the site boundary. However, the original submission lacked the technical assessment to fully assess the landscape implications of the proposal. This has been raised as an issue with the

applicant during the life of the application and a Landscape and Visual Impact Assessment has now been received as well as associated detailed landscape proposals.

The submitted LVIA concludes that for the larger scale character areas, the landscape effects are generally negligible due to the proportionately small scale of the site in comparison to the extensive character areas, and the lack of inter-visibility due to the enclosed nature of the site. A conclusion of negligible effects is continued to a regional and District level due to the aforementioned visual enclosure. For the site itself, the impacts are deemed minor adverse once the associated green infrastructure has been able to establish and *'allows the development to settle into the existing village edge context'*.

Visual effects are also assessed with the acknowledgement that nearby residential properties are likely to suffer a moderate / minor adverse visual effect acknowledging the change from open landscape to residential development.

The methodology employed in preparing an LVA requires a level of technical expertise. Therefore in the interests of robust decision making, Officers have sought an independent review of the submitted document during the life of the application.

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

#### Impact of Dwelling Design

Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

The properties represent 11 different house types ranging from 2 bed to 4 beds.

The Government has published 'Technical housing standards – nationally described space standard' in March 2015. This document deals with internal space within new dwellings and is suitable for application across all tenures. However the National Planning Policy Guidance (online tool) is clear in stating that if an LPA *"wishes to require an internal space standard, they should only do so by reference in their Local Plan to the Nationally Described Space Standard."* Provision in a local plan can also be predicated on evidence, as the NPPG goes on to describe. In the case of NSDC we have not adopted the national space standards and thus the guidance is that one should not *require* (emphasis added) them for decision making. The standards however do exist and must be material in some way.

The following table is lifted from the March 2015 document:

**Table 1 - Minimum gross internal floor areas and storage (m<sup>2</sup>)**

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	
4b	5p	90	97	103	3.0
	6p	99	106	112	
	7p	108	115	121	
	8p	117	124	130	
5b	6p	103	110	116	3.5
	7p	112	119	125	
	8p	121	128	134	
6b	7p	116	123	129	4.0
	8p	125	132	138	

**Table 2 – Assessment of submitted development**

House Type	No. of beds	Floor space (m <sup>2</sup> )	Space standard requirement (m <sup>2</sup> )	Compliance against (m)
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
Stavelly	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

The standards do not define a 2.5 storey dwelling but given that the accommodation would be delivered across 3 storeys, for the relevant house type (Stratten) a 3 storey figure has been used. As is shown above, whilst 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.

The Design and Access Statement presents Keepmoat Homes as a ‘top 10 homes builder’ (albeit does not qualify the source for this statement). It is therefore highly disappointing to note that the majority of the smaller units presented by the application would not achieve what the government consider (again to clarify not adopted by NSDC) to be a minimum space requirement. The agent has been asked to comment on this point during the life of the application.

The applicant has responded essentially detailing that the range of house types presented is based on their target market and popularity and sales success of said house types:

*“Ultimately, the mix and house-types put forward have been informed by a very considered evidence base approach and we are accordingly confident that the proposal will be very well received by the local housing market. We consider that the Keepmoat product is perfect for the site location and Bilsthorpe as an area in general and we look forward delivering a scheme that will benefit the area whilst making an important contribution to the wider District housing need.”*

Without evidence outlining a specific required space standard for the District or indeed any evidence to the contrary in respect to product sales, it would be extremely difficult to resist the applications solely on this basis. The applicant would have a case to make that any proposed occupiers would be well aware of the size of the units prior to purchase and this must be weighted in the overall planning balance. This unfortunately appears to be a position the LPA are having to accept on numerous occasions in recent decision making.

The overall aspirational character of the site appears to be modern in nature with a varied use of materials. The use of 11 different house types adds visual interest both in individual plots and for the site as a whole. The varying house types are dispersed around the site with both semi-detached and detached units. The application has been accompanied by a materials plan which details facing brickwork in a majority red mixture but interspersed with a natural grey stone. The visual impact of this is perhaps best demonstrated by the submitted street scene plans:



The contrast of materials is welcomed and responds well to the character evaluations in the Design and Access Statement. Overall the visual appearance of the proposed house types are considered acceptable in the context of Policy DM5.

The application has been accompanied by an enclosures plan, which demonstrates that rear gardens would be bounded by 1.8m close boarded fences which are considered appropriate in terms of achieving privacy for residents. It is welcomed that the attenuation pond at the south of the site would be enclosed by a modest post and rail fence. It is also welcomed that, where plots bound the highways network, their boundaries would be formed of 1.8m high stone walls which are considered to be a more attractive arrangement than a timber fence against a highway. The compliance with the submitted enclosures plan could be conditioned to any forthcoming permission negating the need to submit further details at a later date.

There are other design principles of the scheme which have not been explicitly referenced above but are noted and deemed to represent good design. Namely, the area of open space proposed broadly centrally within the site (and to some extent the drainage basin at the south of the site) would be well overlooked by principal elevations. This would give a sense of ownership to the areas and create an attractive and safe living environment and legibility of the space.



## Impact on Highways

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision and seeks to ensure no detrimental impact upon highway safety.

The application has been accompanied by a parking plan which helpfully annotates which spaces would be allocated to which plots and identifies internal and detached garages (both of a sufficient size to contribute towards the overall parking allocation). As a general principle, the majority of the parking provision is demonstrated to the side of plots which is welcomed in terms of reducing the visual impact of hardstanding. In terms of quantum of parking, each 2 and 3 bed dwelling is allocated at least two parking spaces and each 4 bed allocated at least 3. In the main, the spaces are positioned immediately adjacent to the dwelling such that they would be a convenient solution to off street parking requirements. There are a couple of cases, e.g. the affordable 2 bed plots no. 96 and 98 where one space would be on the opposite side of the turning head. However, given this is an exception rather than a rule and given that these are 2 bed units, there may not be requirement to use both spaces in any case.

The greatest concern in respect to the proposed parking arrangements is that a significant proportion of the four bed plots have their 3 spaces delivered in tandem. The issue with this is that 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. This has been raised with the agent during the life of the application but the revised plan continues to show this to be an issue on 19 of the 35 four bed plots. This level of tandem parking on a scheme of this size is not considered to be a desirable design approach and must weigh negatively in the overall planning balance (the LPA is currently out to consultation on a parking standards SPD which specifically seeks to avoid such arrangements). However, due to the stage that this is at, in accordance with paragraph 48 of the NPPF, very little weight can be attributed to this document.

The internal road network has been assessed by Nottinghamshire County Council through their role as the Highways Authority. The comments refer to the wider road network in the village, namely the junction improvements which are needed for the A614/Mickledale junction, but as is clarified by the comments, these works are on the Council's CIL 123 list and therefore cannot be attributed to a single developer to deliver.

The original comments request that the development is mitigated through a pedestrian crossing; footway and improvement to bus stop infrastructure noting the additional pedestrian crossing movements which will occur due to all the local facilities lying on the opposite side of Eaking Road. Pedestrian accessibility within the site itself was also considered inadequate requiring a footway link on the border of the public open space. The latest site layout plan shows that the public open space would include a footpath link and the footpath on the eastern side of Eaking Road has also been included. Additional information has been submitted during the life of the application disputing the need for the pedestrian crossing and the latest comments from NCC Highways accept that the residential development alone will not generate sufficient pedestrian movements to justify a formal pedestrian crossing facility. The comments continue to promote the need for bus stop improvements and a dropped kerb facility between the site access and Mickledale Lane.

The original comments of the Highways Authority also raised concern with the proposed size of some of the allocated car parking spaces (which is noted through the consultation responses from a neighbouring party). To address this point, the applicant has submitted a dimensions plan of the proposed parking spaces which has been reviewed by NCC Highways. Overall, NCC Highways raise no objection to the development subject to a suite of conditions which could be included / included within an associated legal agreement if permission were to be forthcoming. Some of the requested conditions (i.e. footpath on Eakring Road) would need to be included into the S106 instead as they are outside of the red line.

The application has also been accompanied by a Residential Travel Plan. This details measures such as an annual travel survey which will seek to identify travel behaviour and periodic traffic counts. In addition a Travel Guide will promote walking and cycling. NCC comments make reference for the required revisions to the Travel Plan but an updated version could be conditioned should permission be forthcoming.

### Impact on Amenity

Policy DM5 seeks to protect the amenity for both existing neighbouring residents but also to provide appropriate levels of amenity provision for proposed occupiers.

Being at the edge of the village envelope, the site has the advantage that the majority of the shared boundaries are with the open countryside and therefore the amenity relationship with existing properties would be limited. The closest amenity relationship with existing properties in the village would be to the west of the site on the opposite side of Eakring Road. Given the presence of the highway, distances of at least 27m between principal elevations would be achieved. These distances are considered sufficient to avoid any undue impacts of direct overlooking or loss of privacy.

There would of course be a risk of increased noise and disturbance through the introduction of 103 additional residential units. However, this would not be an uncommon scenario in a built up settlement and in any case, as is detailed by the submitted noise survey, existing residents closest to the site, on the opposite side of Eakring Road, would already be susceptible to the noises associated with vehicular traffic of this main route through the village in any case. The residential development of the site is not considered to materially affect existing neighbouring amenity to a degree which would warrant resistance of the proposal. The impact of the development would also have been a consideration when the site was allocated for development.

As identified above, the application has been accompanied by a Noise Survey to determine the required façade sound insulation to meet relevant guidance. Essentially the survey expects that the properties fronting Eakring Road will be susceptible to a medium risk of adverse noise impacts from Eakring Road and therefore requires an acoustic design process to mitigate these impacts (namely specific glazing installation). The document has been assessed by colleagues in Environmental Health. The comments make reference to the need for a noise assessment for any retail element albeit clearly there is no retail development proposed with this application and therefore those specific comments are not relevant to the current determination.

Notwithstanding this, the comments do request that noise levels are modelled across the site to provide a definitive answer as to whether external sound pressure levels meet the guideline values. The applicant has responded on the basis that the main noise source is Eakring Road making the noise model relatively simple. An updated Environmental Noise Assessment has been

received dated 25<sup>th</sup> August 2020. This document concludes that no additional mitigation is deemed necessary to mitigate and minimize the sound from industrial / commercial sources.

The document has been reviewed by colleagues in Environmental Health with a subsequent request for calibration certificates. These have now been received and Environmental Health have confirmed that they have no issues with the application as proposed.

Nottinghamshire County Council comments have referred to nearby waste management sites and the approved Bilsthorpe Energy Centre (extant until 2021 and therefore material to this application determination). However, their comments are more in relation to the visual intrusion that these neighbouring land uses may cause. As is already discussed above, landscaping around the site boundaries is minimal. Nevertheless, as acknowledged by NCC, the presence of the woodland would offer some screening/buffering from potential visual impacts and in any case the actual perceived effects would be limited to a modest proportion of the proposed properties.

Moving then to assess amenity relationships within the site itself, the proposal has been designed with several 'blocks' of development creating a number of back to back relationships. This is with the exception of the eastern boundary of the site which in the main would back onto the open countryside.

Officers identified some very tight arrangements on the original scheme within the site itself including back to back distances of under 20m (between plots 102 and 97 for example) and rear to side gable relationships of just 11m (e.g. between plots 2 and 20). However, again these are the exception rather than the rule and on the whole, the scheme represents suitable distances between plots such that direct overlooking would not be an issue in principle. The aforementioned examples have been queried with the agent in the interests of completeness and have been amended on the revised plan such that the distances now presented would be marginally increased.

Each plot is allocated an area of outdoor amenity space which, whilst varying in size, would be broadly commensurate with the sizes of the plots proposed.

### Impact on Trees and Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Policy DM7 states that new development should protect, promote and enhance green infrastructure to deliver multi-functional benefits and contribute to the ecological network.

The NPPF incorporates measures to conserve and enhance the natural and local environment and requires outlines a number of principles towards the contribution and enhancements of the natural and local environment within Chapter 15.

The application has been accompanied by an Arboricultural Assessment including details of a Tree Survey undertaken in October 2019. A total of 6 individual trees; five groups of trees and one hedgerow were surveyed. With the exception of group G5 (considered to be Category B moderate value), the remainder of the specimens on site were considered to be Category C of low quality. Group G5 is actually situated to the east of the site outside of the application boundary and therefore would not be adversely affected by the development.

The vast majority of the existing trees and hedgerows can be retained and integrated into the development. The only required loss would be a section of the hedgerow along the western boundary to facilitate the access which given its low quality is not an issue in principle. The Arboricultural Assessment goes on to discuss recommendations for additional planting. Detailed landscaping plans have been received during the life of the application (accompanying the LVIA). Comments from the Council's appointed Tree Officer have suggested minor amendments to these, including the inclusion of a more diverse tree mix for the larger areas such as the public open space and the attenuation pond. This could be secured by condition as agreed by the applicant in principle.

The application has also been accompanied by an Ecological Appraisal based on a desk top assessment and an extended Phase 1 habitat survey undertaken in October 2019. As is implied above, the main core of the developable site is laid to improved grassland with the margins of the site forming the dominance of ecological potential.

The report identifies the presence of three local wildlife sites within 1km of the site boundary, the closest being the abandoned Bilsthorpe Colliery to the north east recognized for its importance to breeding waders. However, the report fails to recognise the presence of the site within the 5km buffer zone of the indicative core area for the potential Special Protection Area (pSPA) for a substantial population of nightjar and woodlark in the Sherwood Forest area. This is identified as an issue in the comments from Nottinghamshire Wildlife Trust as identified above:

*"Taking the above pSPA into consideration and as the development will result in a loss of grassland, scrub and tall ruderal habitat (potential breeding bird habitat), we recommend that a breeding bird survey, specifically including nightjar and woodlark, is undertaken in the optimal breeding bird season/s. In this survey, bird species and their behaviour are mapped and an assessment is made of the significance of the species present and an estimate of the number of breeding territories. This information can be used to design works to avoid or reduce adverse impacts on breeding birds and to mitigate for any loss of habitat."*

The applicant has submitted a response to Nottinghamshire Wildlife Trust's comments firstly expressing concern regarding the detail of the comments in the context of the extant outline approval which secured matters of ecology through condition. The letter from fpcr (dated 2<sup>nd</sup> July 2020) goes further to suggest that near identical conditions should be attached to this application. For clarity, this application has been submitted as a standalone full application and in this regard matters of ecology require a full and through assessment.

The rebuttal letter from fpcr suggests that the comments of NWT are misleading and that their comments appear out of context. The response does nevertheless go on to consider the development against the habitat requirements of woodlark and nightjar stating that the site lacks the structure required for these species and therefore surveys would be disproportionate. In terms of the potential increased disturbance from recreation attributed to the development, the letter refers back to a condition which was imposed on the extant outline permission.

Further comments in relation to hedgerow importance and biodiversity net gain are also made but ultimately the letter does not include any additional survey or landscaping works as requested.

NWT have responded to the letter, essentially they accept the response provided and reiterate a number of earlier recommendations which could be secured by condition. These include good

practise measures in terms of lighting; hedgehog holes; a Construction Environmental Management Plan (CEMP); and site enhancements such as bat and bird boxes and landscaping.

Officers have confirmed with NWT that their earlier recommendations for additional surveys prior to determination no longer stands (noting that the ecological work undertaken in October was also outside of the optimal survey period (April to September) for bats). It has been confirmed that the additional response from the applicant during the life of the application addressed their original concerns and therefore no further surveys would be required at this stage.

Officers have considered the requirements of a Habitat Regulations Assessment (HRA) under Regulation 61 & 62 of the Conservation of Habitats and Species Regulations 2017. Habitats Regulations Assessment (HRA) is the process that competent authorities must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a European site designated for its nature conservation interest. HRA is often referred to as 'Appropriate Assessment' (AA) although the requirement for AA is first determined by an initial 'Screening' stage undertaken as part of the full HRA.

As part of the plan making process, the LPA were required to undertake appropriate habitat assessments (including consideration of cumulative impacts) which would have included consideration of this site. There is no requirement to proceed to take an AA (under the HRA regulations) for this specific application.

Subject to the imposition of conditions as discussed above, Officers have identified no specific harm in relation to matters of ecology.

#### Impact on Flooding and Drainage

The site is within Flood Zone 1 and therefore at low risk of flooding from rivers. Parts of the site are however at risk of surface water flooding as identified by the constraints work within the submitted Design and Access Statement. The submitted Flood Risk and Drainage Assessment confirms that as existing, surface water runoff is at greenfield rates. The proposed drainage strategy includes an on-site attenuation pond towards the south west corner of the site. The proposals have been reviewed by Nottinghamshire County Council as the Lead Local Flood Authority. The original comments objected to the application on the basis that the submission fails to consider alternative methods of surface water disposal including discharge to adjacent watercourses or to a nearby surface water sewer.

The applicant has addressed these concerns during the life of the application with the latest comments of NCC Flood confirming no objections subject to a condition seeking the details of the surface water drainage scheme.

#### Impact on Archaeology

The site is outside of the designated Conservation Area and there are no designated assets within the site itself. The policy allocation does however make reference to a need for further archaeological works prior to any development within the site. The application has been supported by an Archaeological Desk Based Assessment. The report confirms that the site has been agricultural land since the medieval period albeit the presence of prehistoric and Roman material, as well as cropmark sites, in the vicinity suggests that the potential of the site to contain remains of these dates should not be discounted. Specifically the Roman road is aligned on or

close to the site. Work done in support of the earlier outline application in 2017 found evidence of medieval ridge and furrow cultivation.

The study has been considered by the Council's appointed Archaeological Advisor with the comments acknowledging that the site is within an area of known pre-historic and Roman activity. The comments suggest that the limited evidence of activity in the immediate vicinity of the site is more likely due to the lack of archaeological investigation rather than a lack of archaeology itself. The comments ultimately disagree with the conclusions of the submitted desk based assessment and suggest that further works are required including targeted trial trench evaluation. A number of conditions are suggested to secure these works however the agent has worked with the County Archeologist during the life of the application in an attempt to avoid these conditions. A Written Scheme of Investigation has been submitted dated July 2020 setting out the intended process of further works. The Archeological Officer has reviewed the additional document and confirmed that it would be appropriate for the work to proceed as set out by that report.

### Developer Contributions

Core Strategy Spatial Policy 6, policy DM3 of the Allocations & Development Management DPD and the Developer Contributions and Planning Obligations Supplementary Planning Document present the policy framework for securing developer contributions and planning obligations.

### *Affordable Housing*

The District Council sets a threshold of 30% on site affordable housing delivery. For a scheme of 103 dwellings this would amount to a requirement of 31 dwellings. However, the proposed development includes just 10 affordable dwellings representing just 10%.

### *Community Facilities*

The SPD outlines that for a development of this size, a contribution towards community facilities would be expected. Community Facilities can include numerous types of development including village halls; areas for sport and activity; buildings for worship or buildings for leisure and cultural activity.

The SPD sets out a formula which equates to a contribution of £1,384.07 per dwelling plus indexation. This would amount to circa £142,559 for a scheme of this size.

### *Education*

The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. NCC as the education authority have assessed the capacity of the existing primary schools to facilitate the demand from the development. It is concluded that the existing primary schools could accommodate the development and therefore no education contribution is requested. The comments of NCC do make reference to a request towards secondary education but this would be covered by the CIL 123 list and is therefore not reasonable to impose on specific applications.

### *Open Space*

As a development of 103 dwellings this application would need to make provision for public open space. The layout demonstrates an area of 1,854m<sup>2</sup> broadly centrally positioned on the site. The application submission was not clear whether this area is envisaged to include play equipment for children and young people which has been clarified during the life of the application. The applicant is not presenting to include play equipment on the site due to the linear shape of the open space which in their submission makes the incorporation of equipment unfeasible. There are also areas of green space around the boundaries of the site which the agent has been requested to quantify.

As a numerical calculation the level of onsite central open space appears to have been specifically designed to meet the required 18m<sup>2</sup> per dwelling for children and young people provision (i.e. 18 x 103 = 1,854). However the applicant has confirmed that due to the linear nature of the area, there is not an intention to include play equipment which is against the principle of the SPD.

The remaining areas of green space would meet the requirements of the SPF for amenity green space at 14.4m<sup>2</sup> per dwelling (therefore a requirement of 1,483.2m<sup>2</sup>), including the land around the drainage basin.

There is however notably no provision for outdoor sports facilities which would be required for a scheme of this size.

#### *Health*

The Developer Contributions SPD details that, for a scheme of this size, a contribution to the health authority should be made. This has been requested to the sum of £101,146 by NHS Nottingham and Nottinghamshire CCG. The monies are envisaged to be spent towards facilities at Bilsthorpe; Farnsfield and Major Oak surgeries.

#### *Libraries*

The SPD details that library contributions can be attributed towards the costs of building / extending a library building or the costs of providing additional stock for existing facilities. NCC have commented on the need for the development to contribute £3,631 towards library provisions in their comments above.

#### *Transport*

A site specific request has been made from Notts. County Council for £18,500 towards the improvements to bus stops in the locality specifically the bus stop denoted as NS0908 Eakring Road and shall include installation of real time bus stop pole & displays including associated electrical connections, polycarbonate bus shelter, solar lighting and raised boarding kerbs.

The conditions requested by NCC Highways regarding the footway on Eakring Road would need to be incorporated into a Section 106 given that it is outside of the red line site boundary.

#### *Viability Case*

The applicant has presented a viability case during the life of the application. The basis of the case is outlined by a letter from atlas development solutions dated 22<sup>nd</sup> June 2020. The assessment focuses on the fact that the extant outline approval secured an affordable housing rate of just 10% and therefore three appraisals have been prepared:

1. 10% Affordable Housing plus full S106 contributions;
2. 4% Affordable Housing plus full S106 contributions;
3. 4% Affordable Housing plus reduced S106 contributions.

The appraisal acts as an updated version of the 2017 Viability Assessment Report prepared by White Land Strategies for the outline application. However, this application is clearly materially different insofar as the development is now for 103 dwellings whereas the extant application was for 85.

The original letter accompanying the viability assessment presents that the major difference is the inclusion of a significant number of abnormal costs, which have been understood through the benefit of detailed technical reports.

The letter submitted to support the viability case refers to an offer just 4% affordable housing. However, Officers have discussed this with the applicant noting that this would contradict the submitted plans but also given that paragraph 64 of the NPPF states that where major development is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.

The applicant has confirmed by email dated 29<sup>th</sup> September 2020 that the offer presented is 10% affordable housing and a Section 106 securing contributions of £258k for the Council to *'spend as they best see fit, taking into account the overall planning balance considerations for the scheme.'*

The monetary figure would be almost enough to cover all of the figures referred to above albeit would leave nothing remaining for off site contributions towards open space or affordable housing given that the on site provisions would be insufficient.

The National Planning Policy Framework states that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. Officers have commissioned (at the expense of the applicant) an independent viability expert to critically appraise the applicant's submission.

Ultimately the Council's consultant agrees with the applicant's position that the scheme cannot viably deliver a full suite of contributions as required by the developer contributions SPD and the site specific requests made in this instance. The consultant has gone further to state that the offer presented actually exceeds what would be considered a viable appraisal:

*"A 10% affordable housing scheme is unviable with S106 against benchmark viability targets unless the Applicant takes a view on the land value and/or the Open Market profit return."*

On this basis, Officers do not consider that there is further room for negotiation to the offer presented. Whilst the scheme would not be policy compliant, on the basis of the expert advice received from the Council's Independent Consultant, Officers are minded to reluctantly accept the offer presented and do not consider it reasonable to resist the application solely on the basis of a lack of full contributions.

As above, the applicant has confirmed that it would be appropriate for Members to decide where the monetary contributions could be spent towards. Officers understand through discussions with



the Local member that the Parish Council are keen to secure money towards improvements at the village hall and also local play parks.

It is notable that there was a recent approval for 120 dwellings in Bilsthorpe (20/00642/FULM) which has a strong likelihood of coming forward (all conditions have now been discharged). The legal agreement associated with this application secured a number of monetary contributions including towards health (£110,400); libraries (£4,288); children and young people (£111,271.20); and outdoor sports (£35,000). The agreement did not however secure any contributions towards the village hall.

In accepting that the development proposed here would not be able to cover all contributions, it is Officer's submission that the £258k should be attributed to £18,500 for bus stop improvements (given this is a site specific request), 20% of the remainder (£47,900) to play parks in the area and the remaining £191,600 for the improvements to Bilsthorpe Village Hall. These should make a meaningful contribution to the aspirations of the Parish Council improvements and would mean that the village hall works could be largely delivered by this application. Clearly if Members are minded to approve then the exact split of contributions falls to their discretion.

### Other Matters

Officers in Environmental Health have commented specifically on the land contamination risks of the site noting the proximity of the former colliery sludge lagoons off site and infilling of land on site. The assessment has been made on the basis of former supporting documentation for the 2017 application for the residential delivery of the site but no objection is raised to this in principle subject to the imposition of a full phased contamination condition.

### Overall Balance and Conclusion

The proposal relates to the residential delivery of an allocated site in a sustainable settlement. There would therefore be clear benefits of the scheme to the Districts housing delivery.

However, the site allocation envisaged that the residential delivery would come forward in a phased manner which relates to the retail provision to serve the community noting that the existing provision is inadequate for a community of this size. In dividing the site allocation and focusing solely on the residential element of the site allocation, the applicant would have no control over how and when the retail element of the envisaged site allocation came forward. The applicant cannot therefore deliver appropriate phasing of the uses as required by Policy Bi/MU/1.

On careful consideration of other circumstances (namely a pending application for a retail unit by a different provider), Officers do not consider that there is a strong enough case to resist the application for this reason alone. It is also of significant relevance that the policy does not indicate when timing of the phasing should occur.

The detail of the scheme demonstrates design compromises including a housing mix skewed towards larger units but on balance noting the viability position this is not considered fatal in itself.

The applicant has worked with Officers during the life of the application to make minor changes to the scheme such that matters of landscape; ecology and impact on the wider highways network are now considered acceptable. There do however remain issues with the parking provision for a number of the 4 bed units (i.e. 3 spaces in tandem).

The proposal would make a meaningful contribution to the housing delivery on an allocated site. Although it would not be able to provide a full suite of contributions as required for a scheme of this size, the viability case presented has been accepted by the Council's independent consultant and therefore is not a matter at dispute.

In attaching significant weight to housing delivery in a sustainable settlement, Officers are satisfied that the balance is tipped towards approval subject to the conditions outlined below and an associated Section 106 agreement.

## **RECOMMENDATION**

**Approve full planning permission subject to;**

- 1) the conditions outlined below and**
- 2) the completion of a signed Section 106 agreement securing off site contributions of £258,000 attributed to:**
  - a. £18,500 towards bus stop infrastructure;**
  - b. £47,900 towards play parks in the vicinity of the site;**
  - c. £191,600 towards Village Hall improvements;**
  - d. 10% affordable housing on site;**
  - e. Highways improvements to dropped kerbs and pedestrian footways outside of the site.**

### Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans reference:

- Planning Layout – P-01 Rev. P;
- Tenure Plan – A 871 Drg No. 004 Rev. C;
- Enclosures Plan – A 871 Drg No. 005 Rev. C;
- Site Location Plan – A 871 Drg No. 08;
- External Finishes Plan – A 871 Drg No. 009 Rev. C;
- Material Plan – A 871 Drg No. 010 Rev. C;
- House Type Booklet received 28<sup>th</sup> May 2020;

Reason: So as to define this permission.

03

No part of the development, other than site clearance hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Travis Baker Flood Risk Assessment (FRA) and Drainage Strategy Addendum Report has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
- Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm 5 l/s rates for the developable area.
- Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA
- Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- For all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.
- Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
- Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term

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

04

No part of the development hereby permitted shall be brought into use until the visibility splays are provided in accordance with drawing SK01-B. The area within the visibility splays referred to in this condition shall thereafter be kept free of obstruction, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.

05

No dwelling forming part of the development hereby permitted shall be occupied until its associated drive/parking area is surfaced in a hard-bound material (not loose gravel) for a minimum of 5 metres behind the Highway boundary. The surfaced drive/parking area shall then be maintained in such hard-bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

06

Any garage doors shall be set back from the highway boundary a minimum distance of 5.5 metres.

Reason: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.

07

No dwelling forming part of the development hereby permitted shall be occupied until its associated access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

08

No part of the development hereby permitted shall be occupied until an updated Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan.

Reason: To promote sustainable travel.

09

No development shall take place, other than site clearance until a Construction Methodology and Management Plan (CMMP) has been submitted to and approved in writing by, the Local Planning Authority. The approved CMMP shall be adhered to throughout the construction period. The CMMP shall comprise the following:

- The details of temporary fencing to be erected and retained during the construction period;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- any measures to control the emission of noise, dust and dirt during construction;
- hours/days of proposed construction.

Reason: To protect the amenity of the surrounding area.

10

Prior to any occupation of the dwellings hereby approved, the boundary treatments applicable to each of those dwelling's plots shown on the approved plan: Enclosures Plan – A 871 Drg No. 005 Rev. B shall be implemented on site unless otherwise agreed in writing by the local planning authority through a non material amendment application. The boundary treatments within plots shall be retained for a minimum period of five years.

Reason: In the interests of residential and visual amenity.

11

No works or development shall take place, other than site clearance until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the Local Planning Authority. This scheme shall include:

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers .
- c. Details and position of underground service/drainage runs/soakaways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
- e. Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in full accordance with the approved arboricultural method statement and tree/hedgerow protection scheme.

Reason: To protect the existing trees/hedgerows to be retained.

12

The following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

Reason: To protect the existing trees/hedgerows to be retained.

13

Prior to the development being first brought into use, full details of soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

Reason: Insufficient details have been provided and the condition is necessary in the interests of visual amenity and biodiversity, in order to fulfil the policy objectives contained within Core Policies 12 and 13 of the Amended Core Strategy.

14

The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the Local Planning Authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

15

The development hereby permitted shall be carried out in accordance with the required façade sound insulation details at Table 11 (Section 10.1.2.) of the document Environmental Noise Assessment by noise.co.uk ltd prepared 25<sup>th</sup> August 2020 – 21122-1.

Reason: To protect the amenity of proposed occupiers.

16

Unless otherwise agreed by the Local Planning Authority, development other than that required for site clearance and / or to be carried out as part of an approved scheme of remediation must

not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

#### Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

#### Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the

remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17

The development hereby approved shall be carried out in accordance with the ecological mitigation measures detailed within the document Ecological Appraisal by fpcr dated May 2020, specifically:

- Recommendations made by the ecologist in paragraph 4.26-4.30 (page 18), in particular the good practice measures with regards to lighting.
- Hedgehog holes (13cm by 13cm) should be made in garden fences to allow for hedgehog passage shown on Figure 5;
- Any areas seen as suitable for breeding birds such as scrub, hedgerows, mature trees, and ground vegetation should be removed outside of the bird breeding season (March to August inclusive);
- The installation of bat and bird boxes at the locations shown on Figure 5.

Where the measures relate to physical interventions such as the hedgehog holes and the bat and bird boxes, these shall be in place prior to the occupation of each of the dwellings the measures relate to.

Reason: To preserve the ecological value of the site.

#### Notes to Applicant

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)



The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

03

The applicant should note that, notwithstanding any planning permission, if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.

04

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact [david.albans@nottscc.gov.uk](mailto:david.albans@nottscc.gov.uk) for details.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on extension 5907.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Lisa Hughes**  
**Business Manager – Planning Development**

## **Appendix D – Legal Advice from Landmark Chambers**

# Eakring Road, Bilsthorpe

## Keepmoat Homes Ltd

### ADVICE

#### **Introduction**

1. I am asked to advise Keepmoat Homes Ltd on its planning application to the Newark and Sherwood District Council (“**the Council**”) under reference 20/00873/FULM for the:

“Residential development of 103 dwellings and associated access and infrastructure [at] Field Reference Number 7108 Eakring Road Bilsthorpe Nottinghamshire”

2. On 6.10.20, Miss Laura Gardner – the Council’s Senior Planner – advised that she would recommend refusal for the scheme:

“for two reasons relating to the principle issue in separating the residential and retail of the site allocation and also the design points which we’ve previously discussed in terms of a skew towards larger units when compared to the desired housing mix of the area and a significant proportion of the 4 bed units being served by 3 parking spaces in tandem.”

3. As I explain below, my view is that:

- (i) Those proposed reasons for refusal are **untenable**. They misunderstand the requirements of the Council’s development plan. They lack technical support. If permission is refused on those grounds, my view is that that refusal will be **highly vulnerable** to being overturned on appeal.

- (ii) That lack of technical support for the recommended reasons for refusal in relation to – in particular – highways and viability is “*unreasonable*” within the meaning of the Planning Practice Guidance on “Appeals”, and will support a **costs application** against the Council as part of that appeal.

## Background

4. The site is next to the former Bilsthorpe Colliery which closed in 1997. A dismantled railway line lies to the north, now in use as a footpath. Land to the south is in commercial use. Land to the west of the Eakring road is in residential use:



5. In July 2013, the site was allocated by policy Bi/MU/1 in the Council's Allocations & Development Management DPD:

### Policy Bi/MU/1

#### Bilsthorpe - Mixed Use Site 1

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

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

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

6. In June 2018, the Council approved an outline application under reference 17/01139/OUTM for the residential development of up to 85 dwellings, up to 3,000 sqft of retail development and associated access works.
7. The illustrative masterplan and the phasing plan for this scheme was:



8. As can be seen, the retail unit was to be delivered before the commencement of Phase 2 of the residential development to the North.
9. The current application for 103 units was validated in June 2020. The scheme includes 10 2-bed homes, 58 3-bed homes and 35 4-bed homes. 10 of the units are to be affordable. The proposed layout is:



10. The application was supported by a viability appraisal which supports the provision of affordable housing below the Council's 30% policy target. That was reviewed by White Land Strategies on behalf of the Council which concluded as follows:

“To conclude, it is clear that the viability of the development is suffering due to a combination of lower values to cost ratio. This is in effect compounded by the land value which is not a strategic greenfield land value but a residential consented site value.

The land value factor alone doubles the costs attached to the land value target that might otherwise be available for S106 if this was a strategic site.

[...]

To conclude, findings were as follows:

- A 30% policy compliant scheme and S106 package is not viable.
- Any combination of S106 with Affordable housing requires the Applicant to reduce profit expectations.
- A 4% scheme with policy compliant S106 is unviable but would be viable with no S106.
- A 10% affordable housing scheme is viable with no S106 against benchmark viability targets in that the Open Market profit return is within the NPPF range i.e. above 15% of OMGDV.

- A 10% affordable housing scheme is unviable with S106 against benchmark viability targets unless the Applicant takes a view on the land value and/or the Open Market profit return.”

11. On 22<sup>nd</sup> June, Laura Gardner raised a number of issues with the scheme over email – including:

“Site allocation - As was already raised as a concern at pre-application stage the application for solely residential development clearly cannot present an appropriate phasing with any retail development envisaged by the site allocation;

Housing Mix – My initial concern with the housing mix is that in the market sector there would be no 2 bed units but the affordable sector (notwithstanding a significant under-provision) would be totally reliant on 2 beds. I would therefore suggest that some of the three bed units should be given over to the affordable sector and the 2 beds incorporated within the market provision. We are currently in the process of updating the Councils Housing Needs Survey and clearly if the results of this are available during the life of the application I will share the implications with the presented housing mix asap;

[...]

Parking provision – Whilst the overall number and position of spaces is not disputed, there are a significant level of the proposed 4 bed dwellings which have been presented with their three parking spaces in tandem with one another. This is not an acceptable solution and is likely to be raised as a cause of concern from NCC Highways when their comments come through. (I’ll also spotted a small error on the parking plan where plots 8 and 9 have been labelled the wrong way around) [...].”

12. Elizabeth Woodhouse of Keepmoat responses on 19<sup>th</sup> August, noting that:

**“Site allocation**

We have a statement from the Retail purchaser which outlines their intentions now the full application been submitted along with their timescales. I have attached an email from our land department.

**Housing Mix**

We have attached a statement to justify the evidence behind the proposed housing mix for this scheme. It demonstrates the market need for 3 & 4 bed housing as we appeal to the wider market enticing people into Bilsthorpe, whilst also offering an affordable market housing family size options for the residents that already live within the area, considering the average earnings outlined. The range included as part of the proposed mix offer some of our most popular house-types and have all been successfully used at other Keepmoat developments

elsewhere within the region. To help demonstrate the considered and informed approach followed in establishing the proposed mix and property types included in the proposed scheme, I have attached both the sales statement and market research report.

This has been highlighted more recently since there has been a shift in priority with working from home and the demand for 3 to 4 bed properties has increased as they offer more flexible spaces with additional room. [...]"

13. The email attached another email from Sam Heathershaw, a Development Manager in the Property Department of the Lincolnshire Co-operative Limited:

"Please accept this letter as confirmation of our commitment to the retail parcel on Eaking Road in Bilsthorpe. As you know, we are under contract with Harworth Estates Investments Limited on the land and therefore have an established legal position to purchase the site subject to planning. We are currently working on the last few elements of our planning application and we currently envisage the application will be submitted on or around end of August 2020. For the benefit of the doubt please find attached our current site layout plan. Hopefully this is sufficient to give you and the District Council comfort on our commitment to the site ahead of your residential planning application being considered."

14. A further email from Elizabeth Woodhouse on 20<sup>th</sup> August 2020 said that:

**"Parking Provision** – Where possible we have demonstrated bay park parking to 4 beds to avoid tandem parking, however there are instances whereby it's is not achievable. Additionally NCC comment referred to the depth of the parking spaces which we have addressed in the detail previously attached."

15. On 22<sup>nd</sup> September 2020 Miss Gardner wrote:

"Unfortunately there are still fundamental outstanding issues which are preventing me making a recommendation of approval.

Clearly we are awaiting comments from NCC Highways on the latest revisions but I understand they are being worked on and so await Dave Albans comments.

For me, the biggest issues remains the principle of development (i.e. omitting the retail element) and the viability case.

I have been discussing with legal colleagues re: the principle and if there is a way around it and they have suggested that a S106 could be entered into to prevent the residential coming forward unless or until the retail use comes forward. My concern is that this would not be reasonable given that you have no control on when / how the retail unit comes on site. You as



the applicant would therefore not be able to comply with the obligation. Unless of course you would be willing to take that risk and enter into the agreement but I appreciate that is unlikely to be palatable.

On the viability matter, I managed to briefly catch up with Chris this morning (he was on the way to a meeting so due to call back this afternoon). Notwithstanding his more detailed comments the biggest discrepancy for me is that the viability case presents 4% affordable housing and limited contributions whereas the plans and application submission presents 10% affordable housing. Perhaps you could clarify exactly what is being proposed? From an Officer perspective I would not be able to recommend approval for less than 10%.

On the basis of the above I am not in a position to take the application to October Committee with a positive recommendation (reports are due today). I shall await your response on the above matters before proceeding with a recommendation but as it currently stands I would be recommending refusal on the principle of development issue at the very least.”

16. On 29<sup>th</sup> September, Alan Staley of Keepmoat sent an email stating:

“Having considered matters internally and, given our requirement to ensure we have a commencement of development early next year, should it ensure Officer support we are willing to make a compromise offer as follows:

- A provision of 10% affordable dwellings
- A Section 106 contribution of £258k for the Council to spend as they best see fit, taking into account the overall planning balance considerations for the scheme.

With respect to the offer of 10% affordable housing provision, this is based on your apparent interpretation of Para 64 of the NPPF requiring a minimum overall onsite provision. As a business we have always interpreted this as an ‘expectation’ that 10% of the overall affordable housing provision for a site should include an affordable home ownership product. From this regard can you clarify whether, based on your interpretation of the Policy, the 10% provision offered should be made up entirely of affordable homeownership tenure product?

The above is obviously despite the viability clearing demonstrating a lack of residual to cover any S106 costs, and so offers a notable risk from our perspective.”

17. In response to the suggested section 106 obligation preventing occupation of the residential part of the development until the retail provision is operational, Chris Dwan of DLP responded on 30<sup>th</sup> September 2020, citing Policy Bi/Ph/1 then stating:

“As you are aware, the delivery of the residential and retail elements are proposed via separate developers. From this, it is our understanding that a submission for the retail element is due imminently. Crucially, financially, the delivery of the two elements are mutually exclusive in this instance, albeit the delivery of the residential element will assist with the delivery of the retail element in part, given that the initial part of the road to which the retail element will be accessed by will be provided by Keepmoat, whilst the retail scheme will be able to plug into the wider residential scheme infrastructure from a drainage perspective.

As such, the residential scheme needs to come forward first to facilitate the delivery of the initial infrastructure required to assist in the delivery of the retail unit. However, from a financial perspective, the delivery of the residential part of the allocation will in no way fund the delivery of the retail scheme. Notably, there is no requirement as part of the above-mentioned policy wording for it to do so, nor as demonstrated by the recent viability exercise is there any money available within the context of the residential delivery to assist from this regard.

Bi/MU/1 requires appropriate phasing of retail and residential uses without a defined order. Given that the residential element cannot viably fund the delivery of the retail element, the financial models accordingly require to remain mutually exclusive. What the residential element can however do is provide the necessary infrastructure to assist in delivery, which effectively means that appropriate phasing means the residential development coming forward first. To do so would reflect on site and infrastructure provision and constraints and would not be unviable for the developer to implement. Crucially, the coming forward of the residential part of the mixed use scheme first in no way compromises the potential future delivery of the retail unit. Clearly, there is likely to be a residual spend capacity available within the area to ensure such a development will be commercially viable in its own right, as supported by the evidence base that informed the mixed use allocation and the inclusion of the retail element in the first instance.

Looking more specifically at the suggested imposition of a S106 agreement obligation to prevent the residential coming forward unless or until the retail use comes forward - technically, we do not see how this can possibly work given that Keepmoat do not have any influence over the delivery of the retail element, due to its provision by a separate developer on a part of the site that falls outside of their control and their application redline. Furthermore, we cannot see how the imposition of such a requirement would adhere to the regulations governing planning obligations / paragraph 56 of the NPPF in any case. The delivery of retail unit is not necessary to make the development of the residential scheme acceptable in planning terms nor is it fairly and reasonably related in scale and kind to the development, whilst from a financial perspective, for the reasons outlined above, the suggested imposition of a phasing trigger requirement upon the residential element actually puts at risk the delivery of the overall allocation altogether.”

18. In response, Miss Gardner stated in an email of 6<sup>th</sup> October 2020 that:

“Unfortunately after discussions with my manager my Officer position is that my recommendation will be for refusal of the application for two reasons relating to the principle issue in separating the residential and retail of the site allocation and also the design points which we’ve previously discussed in terms of a skew towards larger units when compared to the desired housing mix of the area and a significant proportion of the 4 bed units being served by 3 parking spaces in tandem.”

## Analysis

(i) “Separating the residential and retail of the site allocation”

19. In my view, this proposed recommended reason for refusal relies on a misunderstanding of the terms of the Council’s development plan.

20. What do the policies actually require?

(i) Bi/MU/1 says that development will be subject to *“appropriate phasing of retail and residential uses”*; and

(ii) Bi/Ph/1 adds that *“phasing in all cases must be appropriate to the size of the development, reflect on site and infrastructure provision and constraints and not be unviable for the developer to implement.”*

21. So there is **no policy requirement** to show phasing of retail and residential uses on this site in circumstances where:

(i) It is inappropriate to require a phasing plan given e.g. on site constraints; or

(ii) Delivering a phasing plan would be unviable

22. Further, there are **no policy requirements** for the residential and retail parts of the Bi/MU/1 allocation to be delivered:

- (i) By the same developer;
  - (ii) At the same time;
  - (iii) Subject to an overall site masterplan; and
  - (iv) As part of a comprehensive piece of development.
23. In this case, the key facts are straightforward:
- (i) The delivery of the residential and retail elements will be delivered by separate developers – that is perfectly consistent with the terms of Bi/MU/1;
  - (ii) The Co-op have, I am instructed, recently submitted the application for the retail unit;  
and
  - (iii) In any event, it follows from the Council’s own independent viability review that there is no excess profit from the residential scheme to support bringing forward retail scheme.
  - (iv) So the schemes are legally, functionally and financially independent
24. In those circumstances, a phasing plan would be impractical, inappropriate and unviable. In consequence, and unsurprisingly, the development plan does not require one.
25. A section 106 obligation to link the schemes is not only impractical, it would be completely unnecessary (because it cannot be said – and has not yet been said – that the delivery of retail unit is somehow necessary to make the residential development of the residential scheme acceptable in planning terms).

(ii) “Skew towards larger units when compared to the desired housing mix of the area”

26. Again, the starting point is to consider what the policies actually require. Core Policy 3 in the Core Strategy states that:

“The District Council will seek to secure new housing development which adequately addresses the housing need of the District, namely:

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

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

The District Council will seek to secure an **appropriate mix** of housing types to reflect local housing need. Such a mix will be dependent on the local circumstances of the site, the viability of the development and any localised housing need information.”

27. So whether a given mix is appropriate depends on (a) local need, (b) local circumstances and (c) the viability of the development.

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

29. In this case, the preponderance of the proposed units are 3-4 bed. That does not match with the general 50-50 mix suggested by the explanatory text at §5.13, but **it does not have to** because:

- (i) That 50% general suggestion is not a policy requirement;
- (ii) It is a general preference, not fixed in policy, which is subject to site-specific circumstances;

- (iii) In this case, the **agreed** marginal viability position (summarised above) would completely inconsistent with requiring more 2-bed dwellings; and
- (iv) In any event, as the August 2020 Keepmoat local need document, there has been an understandable influx in demand for 3-4 bed homes due to the shift in priority for working from home, and local house prices confirm a strong demand for 3-4 bedroom homes consistent with Keepmoat’s target market of first time buyers and affordable family homes.
30. In consequence, the **uncontested** evidence does not support the idea that a 50-50 mix of 1-2 and 3-4 bedroom homes, or anything like it, would be “*appropriate*” within the meaning of Core Policy 3 on this site. On the contrary, it would plainly be unviable.
31. Again, in particular given the Council’s position on the scheme’s marginal viability, this proposed recommended reason for refusal is totally misconceived.
- (iii) “a significant proportion of the 4 bed units being served by 3 parking spaces in tandem”
32. This proposed reason for refusal is – it appears – completely unsupported by any technical evidence or development plan policy. In particular:
- (i) The Nottinghamshire County Council – the relevant highways authority – does not object to the scheme.
- (ii) It is not alleged – nor could it be – that the proposed parking arrangements would be unsafe measured against the high hurdle of §108 NPPF, or would lead to an unacceptable impact on highway safety, or severe residual cumulative impacts on the road network within §109 NPPF.

- (iii) Indeed, there appears to be no support in the Council’s local plan for the idea that tandem parking presents a problem. Let alone a problem which could justify the refusal of permission for residential development on an allocated site.
33. The Council’s objection seems to hang on the terms of the Council’s August 2020 consultation draft “*Residential Cycle and Car Parking Standards & Design Guide Supplementary Planning Document*” which was presented to its Economic Development Committee in early September. “Key principle 2” in the draft SPD expresses a “*preference*” against tandem parking, and says that it will “*not normally be supported*”.
34. The consultation draft SPD is a material planning consideration. However, given the SPD’s early stage in the process, given that it may change before it is adopted, and given its subservience to local and national policy, the SPD is a consideration that cannot yet attract more than limited weight – and certainly not enough weight to justify refusing an application on an allocated site which is otherwise supported by local and national policy.
35. But in any event, and regardless of its weight, the SPD’s terms are not absolute. Its “*preference*” is against tandem parking which will “*not normally be supported*”. The topic paper is more equivocal still – it talks about “*discouraging*” what is referred to as “*over reliance on tandem parking*”. So even if the SPD was given full weight – and that would obviously be wrong – professional technical judgment would be required in any given case whether or not the level of tandem parking in this case is acceptable or unacceptable. Again, as above, the Highways Authority do not object to the scheme.
36. In the end, permission should only be refused if the issue reaches the very high thresholds on public safety and severe impacts in §108 and §109 NPPF, which is not alleged in this case, and which could not be tenably be alleged given the Highway Authority’s support for the scheme.

## Conclusions

37. In my view, should permission be refused for the reasons in Miss Gardner's 6<sup>th</sup> October 2020 email, that refusal would be **highly vulnerable** to appeal. They lack technical support, and are based on fundamental misconceptions of what the Council's development plan actually requires.
38. That lack of technical evidence to support the refusal – both on highways and viability – would also support a **costs application**.
39. Those instructing me should not hesitate to contact me in Chambers with any questions arising out of this advice.



ZACK SIMONS

Landmark Chambers  
180 Fleet Street  
London EC4A 2HG

**8<sup>th</sup> OCTOBER 2020**



## **Appendix E – Pre-Application Advice (97 Unit Scheme)**

Elizabeth Woodhouse  
Keepmoat Homes  
Unit D1 Orchard Place  
Nottingham  
NG8 6PX

Telephone: 01636 655907  
Email: [laura.gardner@nsdc.info](mailto:laura.gardner@nsdc.info)  
Your ref: PRA/EB

Sent via email to  
[elizabeth.woodhouse@keepmoat.com](mailto:elizabeth.woodhouse@keepmoat.com)

Our ref: PREAPP/00114/19

13<sup>th</sup> June 2019

Dear Ms Woodhouse,

**PRE-APPLICATION ENQUIRY**

**Application Ref:** PREAPP/00114/19

**Proposal:** Residential development for up to 97 units

**Site Address:** Field Reference Number 7108  
Eakring Road  
Bilsthorpe

Thank you for your request for pre-application advice relating to the above site. I can confirm that I have visited the site, reviewed the site history and have made an assessment of the proposal against the current development plan taking account of any other material planning considerations. For the avoidance of doubt I can confirm that the following information was submitted for consideration with your request:

<b>Title</b>	<b>Reference</b>
Covering Letter dated 29 <sup>th</sup> April 2019	PRA/EB
Location Plan	ER/LP
House Type 832 Plans & Elevations	30597 104
House Type 857 (Brick Version 1) Plans & Elevations	30597 106
House Type 1028 (Brick Version 1) Plans & Elevations	30597 112
House Type 1297 (Brick Version 1) Plans & Elevations	30597 118
Planning Layout	P-01 Rev. D

*Description of Proposal*

The current enquiry relates to the residential delivery of the site for up to 97 units. The indicative plan shows that these would be delivered through various house types ranging from 2 to 4 bed units. The plan also shows an indicative area of public open space as well as an attenuation pond.

## *Site Description and Site History*

The application site is approximately 3.78 hectares in extent at the north eastern corner of the defined village envelope of Bilsthorpe. The site lies adjacent to the former Bilsthorpe Colliery, which closed in 1997. An old railway line (which has been dismantled) lies to the north of the site, and now appears to be informally used as a footpath/track.

The site is situated to the east of Eakring Road with existing residential development on the opposite side of the road. Land to the north east is identified as being a site of interest in nature conservation owing to being recognised as an important site for breeding waders. Land to the south is currently in commercial use whilst land immediately to the north and the east is open in nature with woodland screening along the east elevation.

As is acknowledged by the covering letter submitted with the current pre-application request, the site is subject to an extant outline permission for up to 85 units as well as a retail unit. The application was approved by Members with the decision issued on 1<sup>st</sup> June 2018 under reference **17/01139/OUTM**. The application was also accompanied by an associated Section 106 agreement to secure 10% affordable housing as well as a community facilities contribution of £117,645.95 towards the Village Hall; an education contribution of £206,190; a healthcare contribution of £83,522.70 and on site open space.

Following the discussion of our meeting I have attached the approved Phasing Plan which shows the delivery of the retail unit between the two phases of residential delivery.

## **Planning Policy Framework**

### **The Development Plan**

#### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 6 – Infrastructure for Growth  
Spatial Policy 7 – Sustainable Transport  
Core Policy 1 – Affordable Housing Provision  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 6 – Shaping our Employment Profile  
Core Policy 8 – Retail Hierarchy  
Core Policy 9 – Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

#### **Allocations & Development Management DPD**

Policy Bi/MU/1 – Bilsthorpe – Mixed Use Site 1  
Policy Bi/Ph/1 – Bilsthorpe – Phasing Policy  
Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM2 – Development on Allocated Sites  
Policy DM3 – Development Contributions and Planning Obligations

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)
- NSDC Developer Contributions and Planning Obligations SPD Adopted Dec 2013

The appraisal of the scheme takes into consideration the above planning policy framework and other material considerations.

### **Consultation Responses**

**The consultation responses of Nottinghamshire County Council Strategic Planning; Highways; and Flood Risk Teams have been attached separately.**

### **Appraisal**

#### *Principle of Development*

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

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

The principle concern with the current enquiry is the omission of the retail element of the scheme and indeed the exclusion of this area of the site from the red line site location plan. This is considered unacceptable to any scheme moving forward in that it would potentially prejudice the delivery of the retail unit coming forward if it is not associated with the overall residential delivery.

As is detailed above, the approved outline is conditioned to ensure that the retail element comes forward in the middle of the residential delivery. Any scheme moving forward should follow such principles to a degree that the delivery of the retail after all of the residential development would be strongly resisted in policy terms.

#### *Housing Mix and Density*

Paragraph 50 of the Framework states that local authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Core Strategy Core Policy 3 indicates that housing developments should be no lower than an average 30 dwellings per hectare and that sites should provide an

appropriate mix of housing types to reflect local housing need. The housing mix, type and density will be influenced by the council's relevant development plan policies and the housing market at the time of delivery.

Following the approach of the extant permission, the residential density was calculated through discounting areas of open space; highways infrastructure and the attenuation basin. On the basis of the layout plan submitted through this enquiry, I have calculated the areas of residential curtilage to amount to approximately 2.79 hectares therefore giving a residential density of around 35 units per hectare.

It is notable that the reference to a 30 per hectare density by Core Policy 3 is explicitly acknowledged as being a minimum. There have been other instances on allocated sites which have allowed for a greater density such that if an application for 97 units were to come forward, the density is not considered fatal in principle.

### *Impact on Character and Design*

It is equally acknowledged that Policy Bi/MU/1 specifically refers to site specific factors which need to be taken into consideration through the design evolution of the site.

There is an implicit recognition of the site's contribution to the character of the area in terms of the wording of the policy allocation which requires consideration of a design which '*addresses the site's gateway location and manages the transition into the main built up area*'.

The current layout presented follows the principles of the extant permission. As part of this assessment Officers did comment that it would have been preferable for the attenuation pond to be at the north of the site but its position towards the south of the site comes from feasibility issues and was therefore not objected to in principle.

The house types shown as part of this enquiry are modern in their design with some visual interest added through porches etc. It is strongly recommended that any forthcoming application (unless it is again outline stage) be accompanied by visual street scenes to understand the envisaged finished product.

### *Other Matters*

The scheme as presented is not fundamentally different to the extant approval in highways terms and therefore I do not consider this would be an issue solely in respect to the increased number of units. The comments of NCC Highways included separately should be taken into consideration.

An initial assessment against amenity has been undertaken and it appears that separation distances and individual amenity provision would be appropriate (notwithstanding that this would not be fully assessed if it were again submitted as an outline application).

### *Developer Contributions*

As is detailed above, the extant permission was subject to a Section 106 agreement which secured a number of contributions. It is noted that the affordable housing contribution agreed was for 10% which appears to have been carried to the current submission. However, this was only agreed on the basis of a viability submission. Clearly, if the number of units were increased

then the overall viability of the scheme may be subsequently increased and potentially capable of delivering a greater percentage of affordable housing. Any forthcoming application should therefore be accompanied by an updated viability assessment (unless the full policy requirement of 30% on site affordable housing can be met).

#### *Submission Requirement and Possible Conditions*

If planning permission is granted for your proposal there could be a number of conditions attached to this grant of planning permission to ensure that the specific details are acceptable. Such conditions will require discharging prior to development commencing. There is a further fee of £116 for non-householder development for each discharge of condition request (each request could cover several conditions) and these usually take up to 28 days to process.

You may therefore wish to consider submitting all of the details for the scheme at the time of submitting the initial planning application. I must, however, point out that further conditions could be added to the grant of any planning permission following further examination or consultation, or where additional information comes to light.

To clarify the increase in number sought could not be done through a Section 73 application as the extant outline refers to the number of units within the description of development.

An application would need to be accompanied by the following validation requirements:

- Application form;
- Certificates;
- Proposed elevations and floor plans (unless outline);
- Proposed block plan showing site access, parking arrangements and proximity to neighbouring properties (unless outline);
- Design and Access Statement;
- Heritage Impact Assessment including archaeological assessment;
- Ecological Surveys;
- Flood Risk Assessment and Drainage Strategy;
- Landscape and Visual Impact Assessment;
- Transport Assessment;
- Travel Plan;
- Updated Viability Position;
- Draft Heads of Terms;
- Site location plan;
- The appropriate fee.

#### **Conclusion**

The site relates to an allocated site with an extant planning permission which accepts the principle of development. However, the omission of the retail unit through this enquiry is of concern on the basis that it may prejudice the delivery of the overall allocation as envisaged. The increase of 12 residential units in comparison to the extant scheme is not considered fatal in principle albeit it would be necessary for any forthcoming application to evidence the intended contributions through an updated viability position (as well as updated technical reports where applicable).

You should be aware of the Statement of Community Involvement (SCI) which is available on the council's website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk). This explains the importance engaging with the community prior to submitting a planning application to the district council and sets out when you should normally undertake a community involvement exercise. You may also wish to contact the ward councillors to explain the details of the proposed development in order to seek their views. Involving the community to inform your development proposal before it is submitted as part of a formal planning application can significantly reduce the level of objection received and improve the quality of development at application stage which can in turn speed up the decision making process.

Please note that any views or opinions expressed are in good faith, without prejudice to the formal consideration of any planning application, which will be subject to public consultation and ultimately decided by the Council. It should be noted that subsequent alterations to local, regional and national policies may affect the advice given. Furthermore, caution should be exercised in respect of pre-application advice for schemes that are not submitted within a 12 month period of the date of the Council's advice letter.

Please be assured that I am here to provide any support that I am able to in order to secure high quality development in the district. Therefore, if I can offer further assistance or if you would like to discuss the contents of this letter further, please do not hesitate to contact me using the details provided.

Yours sincerely

A handwritten signature in purple ink that reads "L Gardner".

Laura Gardner  
Senior Planner  
Planning Development

## **Appendix F – Pre-Application Advice (105 Unit Scheme)**



## Beth Evans

---

**From:** Laura.Gardner@newark-sherwooddc.gov.uk  
**Sent:** 12 February 2020 15:14  
**To:** Elizabeth Woodhouse  
**Cc:** Rob Hannan  
**Subject:** RE: PAFU/00021/20

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Hi Both,

Thank you for coming in this afternoon, as I said apologies it wasn't more positive but hopefully it will at least you a direction moving forwards. To confirm our discussions:

- Any application for solely residential development will need to address why the retail element is coming at the end of the phasing (i.e. market factors, lack of desirability for a house builder to take on a mixed use site, intentions of co-op etc.).
- Any application will need to be accompanied by an updated viability assessment, the policy requirement for affordable housing is 30%.
- Moving then to the landscape, I continue to be of the view that the back of dwellings fronting on to the northern boundary would not be acceptable even in the context of the suggested landscape buffer. This would create its own issues with maintenance and desirability for individual occupiers to create more secure boundaries but also from a character point of view would be far less favourable than principle elevations addressing the transition between the open countryside and the edge of the village.
- The market mix needs to be re-visited, the Housing Needs Survey shows a market demand for 2 bed (36%); 3-bed (50%); and 4-bed (13%). A complete lack of 2 bed market units is therefore likely to be resisted. There would be no objection to an over reliance on 2 bed units in the affordable sector as demonstrated.
- There are other elements of the layout that will need tweaking, notably the areas where there is 3 parking spaces in tandem (although the 4-bed units will still need 3 spaces).
- Any opportunity for further surveillance of the maintenance pond at the south of the site would be beneficial.
- Rear elevation to gable end distances should be a minimum of 12m. Back to back distances should be at least 20m (albeit I can't see that as being an issue on the current layout).

As always at this stage of the process the above represents solely my Officer view and is not a binding decision of the Council which will of course be subject to the usual consultation processes when the application comes through.

Trust that assists for now. As before, I am happy to look over further revisions prior to submission.

Kind regards,

Miss Laura Gardner BSc (Hons) MSc, MRTPI  
Senior Planner  
Planning Development  
Newark and Sherwood District Council  
Tel: 01636 655907  
Fax: 01636 655899  
E-mail: [laura.gardner@newark-sherwooddc.gov.uk](mailto:laura.gardner@newark-sherwooddc.gov.uk)

---

**From:** Elizabeth Woodhouse <Elizabeth.Woodhouse@keepmoat.com>  
**Sent:** 10 February 2020 16:17  
**To:** Laura Gardner <Laura.Gardner@newark-sherwooddc.gov.uk>  
**Subject:** PAFU/00021/20

Good Afternoon Laura,

Hope you are well.

I have attached the layout we would like to discuss with you on Wednesday. Generally, an overview of the scheme as a whole including design principles and any further comment or amendments you might have prior to a full application submission.

If you need any further information please let me know.

Kind Regards,

Liz

**Elizabeth Woodhouse**  
Architectural Technician

t. 0115 855 7930 | m. 07966198483 | [keepmoat.com](http://keepmoat.com)



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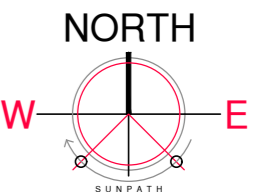
**Thank You.**

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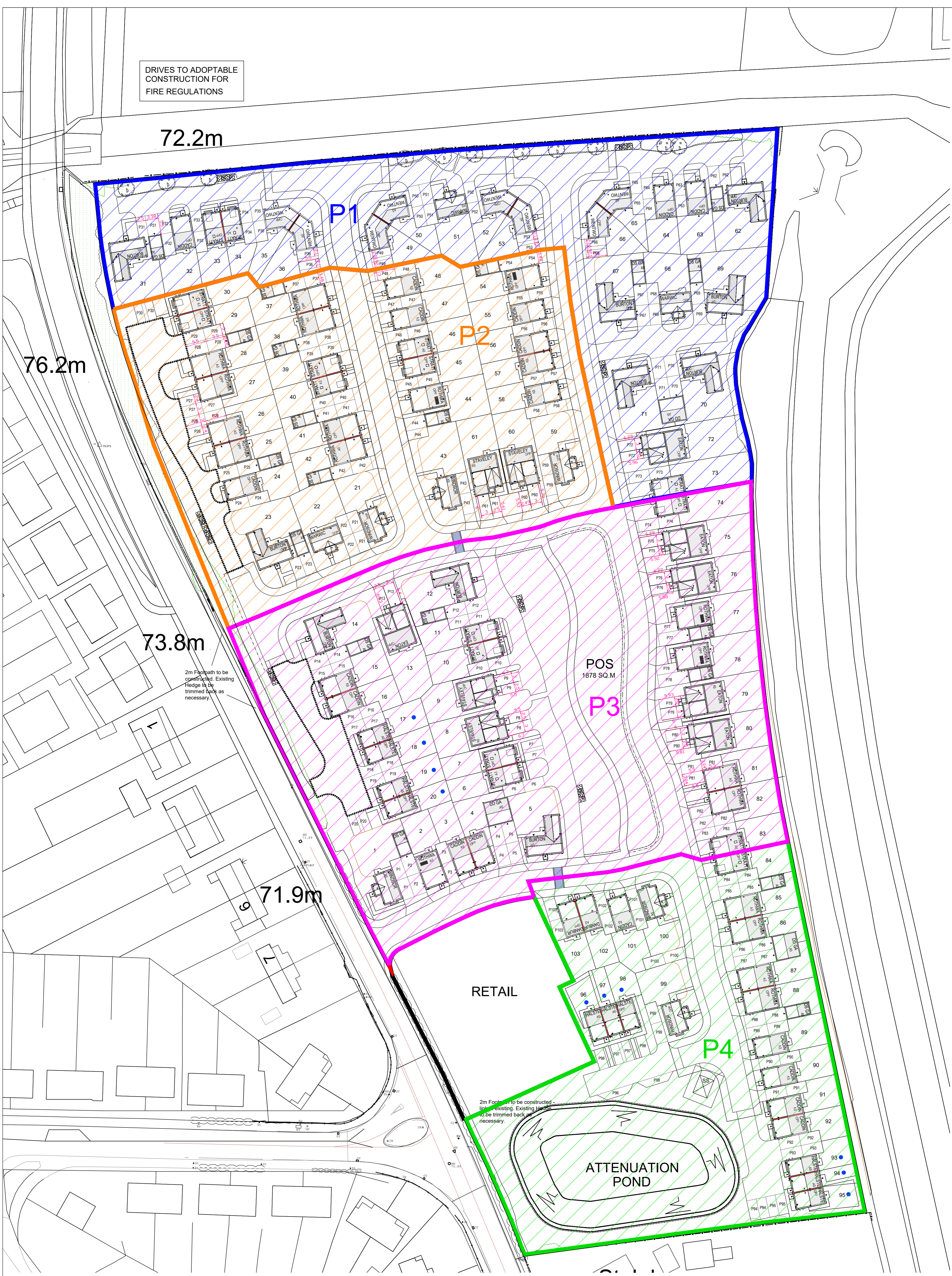
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## **Appendix G – Density Plan (Proposed Site Plan) (dwg no ER-DP-01)**



DRIVES TO ADOPTABLE CONSTRUCTION FOR FIRE REGULATIONS


























Phase	Total Area (Ha)	Undevelopable area (Ha)	Developable area (Ha)	Number of plots	Policy 30 plots per acre	103 units - Total area plots per Ha	103 units - developable area plots per Ha
P1 - Rural Fringe	0.8064	0.0708	0.7356	23	24.2	28.5	31.3
P2 - Central	0.8915	0.0301	0.8614	30	26.7	33.7	34.8
P3 - Central POS	1.1918	0.2954	0.8964	30	35.8	25.2	33.5
P4 - South (pond)	0.7616	0.2835	0.4781	20	22.8	26.3	41.8


Rev.	Description	Date
<p>Keepmoat Homes, Nottingham Business Park Nottingham NG8 6PX Tel: 0115 8587930 www.keepmoat.com</p>		
Development		
Eaking Road Bilthorpe		
Drawing Title		
Density Plan Proposed Site Plan		
Date	Scale	Drawn
30.11.20	1:500	EW
Dwg. Ref.	Rev.	
ER-DP-01	-	

## **Appendix H – Proposed Landscaping Plan (dwg no c-1704-05 Rev D)**



-  Extra heavy standard tree planting in grassed or planted areas. Tree pits as per BS 8545:2014. To include single 1.6m timber stake, 600mm above ground, spacer and biodegradable tie.
-  Ornamental shrub planting, including 50mm depth no-fines bark mulch. Individual species to be planted in groups of no more than 7 plants.
-  Ornamental hedge planting, including 50mm depth no-fine bark mulch.
-  Native hedge planting. Plants to be pit planted at 0.33m spacing in a double staggered row (6 plants per linear metre). Shelters to all plants. Species to be planted in random, single species groups of no more than 5 plants.
-  Semi-mature native hedge planting along northern boundary.
-  Semi-mature native planting to north west corner.
-  Semi-mature ornamental planting to northern boundary.
-  Areas to be turfed.
-  Areas of amenity grass seed mix or existing grassland, made good.
-  Areas of species-rich wetland grass seeding, such as Emorsgate Mix EGB, or similar and approved.
-  Areas of species-rich meadow grass seeding, such as Emorsgate Mix EM2, or similar and approved.
-  Planting beds of well cultivated topsoil covered with 10mm depth slate chippings with edged lawn edging. Finished level to be 25mm below adjacent surfaces.
-  Semi-mature conifer planting, staked if required.
-  Semi-mature shrub planting, staked if required.
-  Specimen conifer planting.
-  Specimen shrub planting.
-  Ornamental grass planting.
-  Ibstock Enclosed Bat Box C x1 (refer to FPCR report for full details).
-  Ibstock Free Access Bat Box A x6 (refer to FPCR report for full details).
-  Schwegler Brick Nest Box Type 24 x8 (refer to FPCR report for full details).
-  1SP Schwegler Sparrow Terrace x4 (refer to FPCR report for full details).
-  Ibstock Swift Bricks x3 (refer to FPCR report for full details).
-  Location of 13cm x 13cm holes cut in base of fences to allow hedgehog circulation throughout scheme.

Approved 2: Detailed landscape proposals in accordance with the FPCR, 11.12.20  
 Approved 3: Final landscape proposals, PDP, 11.12.20  
 Approved 4: Final landscape proposals, PDP, 11.12.20  
 Approved 5: Final landscape proposals, PDP, 11.12.20  
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 Approved 61: Final landscape proposals, PDP, 11.12.20  
 Approved 62: Final landscape proposals, PDP, 11.12.20  
 Approved 63: Final landscape proposals, PDP, 11.12.20  
 Approved 64: Final landscape proposals, PDP, 11.12.20  
 Approved 65: Final landscape proposals, PDP, 11.12.20  
 Approved 66: Final landscape proposals, PDP, 11.12.20  
 Approved 67: Final landscape proposals, PDP, 11.12.20  
 Approved 68: Final landscape proposals, PDP, 11.12.20  
 Approved 69: Final landscape proposals, PDP, 11.12.20  
 Approved 70: Final landscape proposals, PDP, 11.12.20  
 Approved 71: Final landscape proposals, PDP, 11.12.20  
 Approved 72: Final landscape proposals, PDP, 11.12.20  
 Approved 73: Final landscape proposals, PDP, 11.12.20  
 Approved 74: Final landscape proposals, PDP, 11.12.20  
 Approved 75: Final landscape proposals, PDP, 11.12.20  
 Approved 76: Final landscape proposals, PDP, 11.12.20  
 Approved 77: Final landscape proposals, PDP, 11.12.20  
 Approved 78: Final landscape proposals, PDP, 11.12.20


  
 Client: **Keepmoat Homes East Midlands**  
 Project: **Bilthorpe**  
 Drawing title: **Detailed landscape proposals**  
 Sheet 1 of 3  
 Scale: **1:250 @ A1**    Drawn by: **PDP**    Date: **May 2020**  
 Drawing No.: **c-1704-05 Revision D**

## **Appendix I – Email from Bev Pearson (NSDC) dated 4 October 2019**



## Beth Evans

---

**From:** Chris Dwan  
**Sent:** 04 December 2020 13:07  
**To:** Beth Evans  
**Subject:** FW: Thoresby Colliery site Phase 1 residential - 19/01016/RMAM

**Importance:** High

FYI – re viability mix at Thoresby Colliery.

Cheers

Chris

---

**From:** Bev.Pearson@newark-sherwooddc.gov.uk <Bev.Pearson@newark-sherwooddc.gov.uk>  
**Sent:** 04 October 2019 14:19  
**To:** Chris Dwan <chris.dwan@dlpconsultants.co.uk>  
**Cc:** Clare.Walker@newark-sherwooddc.gov.uk  
**Subject:** Thoresby Colliery site Phase 1 residential - 19/01016/RMAM  
**Importance:** High

Hi Chris

Thanks for the call re. the above application. Would you be free to meet Wed 9<sup>th</sup> early afternoon or Monday 14<sup>th</sup> again early afternoon. I've invited Clare Walker to the meeting as she will be taking the on Thoresby site.

I've also looked through the viability appraisal on which the 2016 outline permission was assessed. This included the following private housing mix.

Dwelling Type	Storey	Average ft2	No
1 bed apartment	2/3 storey	525	18
2 bed apartment	2/3 storey	650	18
2 bed house – terrace	2 storey	650	32
2 bed house – semi	2 storey	650	32
3 bed house – terrace	2 storey	750	16
3 bed house – terrace	2 storey	800	71
3 bed house – semi	2 storey	850	76
3 bed house – detached	2 storey	950	82
3 bed house – detached	2 storey	1,000	82
4 bed house – detached	2 storey	1,100	96
4 bed house – detached	2 storey	1,200	41
4 bed house – detached	2 storey	1,400	62
4 bed house – detached	2 storey	1,500	62
5 bed house – detached	2.5 storey	1,750	52
<b>Total</b>		<b>1,056</b>	<b>740</b>

Table 3.1 – Private Mix and Revenue Summary (7.5% Affordable Scenario)

Although this was across the whole site it does give an indication of what we would be looking for proportionately for each phase.

If you could let me know if either of the days are ok with you and a convenient time I'll confirm it in our diaries.

Many thanks

Kind regards

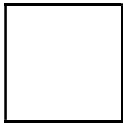
Bev Pearson

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**Thank You.**

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## **Appendix J – Email from Bev Pearson (NSDC) dated 10 October 2019**

## Beth Evans

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**From:** Chris Dwan  
**Sent:** 04 December 2020 13:08  
**To:** Beth Evans  
**Subject:** FW: 19/01016/RMAM - Former Thoresby Colliery Harron Homes

**Importance:** High

Further mix email whereby the Officer recommended a 10% tolerance from the viability mix.

Kind regards

Chris

---

**From:** Bev.Pearson@newark-sherwooddc.gov.uk <Bev.Pearson@newark-sherwooddc.gov.uk>  
**Sent:** 10 October 2019 09:19  
**To:** Chris Dwan <chris.dwan@dlpconsultants.co.uk>  
**Cc:** ECatchpole@harworthgroup.com; Clare.Walker@newark-sherwooddc.gov.uk  
**Subject:** 19/01016/RMAM - Former Thoresby Colliery Harron Homes  
**Importance:** High

Good morning Chris

Thank you for meeting with us yesterday. We have reviewed the matters in hand and respond as follows.

I am advised that Phase 2 is being submitted this week (possibly today) and having seen the market mix of units; this broadly accords with the assumed mix that was set out in the outline planning permission viability submission. This along with the Masterplan (drg. no. 010 0519 P00) was what Members made their decision based upon. It is pertinent to note that the phases 1 and 2 are undistinguishable in terms of density from the masterplan with both looking similar. Condition 4 required that reserved matters application are submitted substantially in accordance with the approved masterplan.

You are aware that we have previously raised the mix of units as an issue and this has also been raised as a concern by the host parish council and the ward Member.

The report you have prepared and submitted yesterday (Housing Mix Assessment by DLP) attempts to justify the mix as advanced. However there remain concerns that even though this part of the scheme is anticipated as being of lower density than those phases to the north it would be wildly at odds with not just the Housing Needs Market Assessment from 2014 (which I accept is somewhat out of date) but also wildly different to the proportionate split of the assumed mix that formed part of the viability appraisal that was submitted with the outline scheme.

Market Mix

Unit Type	Harron Homes Scheme	Viability - Assumed Mix
1 bed	0	18 (2.43%)
2 bed	0	82 (11.07%)
3 bed	8 (7%)	327 (44.18%)
4 bed	97 (79%)	261 (35.25%)
5 bed	17 (14%)	52 (7.02%)
Totals		740 (100%)

It is accepted that the majority of the 2 bed units will be located to the north around the new local centre. However a limited number of 2 bedroom units would be appropriate and may go some way as to show that you have tried to respond to the concerns. The number of 3 bedroom units is particularly low, with just 8 being offered or 7% compared to an average of the expected 44.18% over the entire site. The number of 4 bedroom units is particularly high at 97 units (79%) compared with the 35.25% that was assumed at outline stage. This is more than doubling of the number of large detached units and is considered disproportionate and one that officers would struggle to support. This coupled with the fact that the adjacent phase which will be submitted imminently (and could be on the same committee agenda) will likely compound the level of scrutiny by our Planning Committee as to why one developer is able to meet the viability mix (still not the ideal but one that was nevertheless accepted at outline) yet another developer isn't. My strong advice therefore is that you amend the mix to within a 10% tolerance of the viability mix.

This in my view should involve including a small number of 2 bed units, reducing the number of 4 (e.g. 55 dwellings would equate to 45.08%) bed units and increasing the number of 3 bed dwellings so that it aligns better to the mix that was expected. I appreciate that many of the dwellings in Edwinstowe are semi-detached dwellings and we therefore would not raise objection to the uplift in 3 bedroom units being largely detached, potentially allowing the substitution of 4 bed detached for 3 bed detached dwellings This may raise the opportunity to increase the number of dwellings on the site which we potentially may not object to— this would of course be subject to appropriate numbers, design and layout and would incur additional fees depending on the number of additional units. I would however make clear that it would be expected that the 3 bedroom units are genuine 3 bedroom units; for example without an upstairs room labelled as a study that could be used as a bedroom.

Finally as discussed, I note your intension to submit photographs of schemes implemented by Harron Homes that show the frontage parking as built in an attempt to allay concerns about car dominated frontages.

I appreciate that this is unlikely to be palatable but I genuinely believe that amending the scheme in this way is the best chance of obtaining an approval on the site. I look forward to hearing from you at your earliest convenience in order that the matter may be progressed in order to meet the earliest committee meeting.

Please note that any views or opinions expressed are in good faith, without prejudice to the formal consideration of any planning application, which will be subject to public consultation and ultimately decided by the Council.

Kind regards

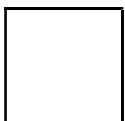
*Bev Pearson*

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**Thank You.**

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