

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

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


**PROOF OF EVIDENCE (PLANNING)**

**Executive Summary**

**Address: Ashland Road West, Sutton-in-Ashfield**  
**Appeal Reference: APP/W3005/W/21/3274818**  
**Date of Inquiry: 21-24 & 28-29 September 2021**  
**Local Planning Authority: Ashfield District Council**

**Prepared by**  
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August 2021

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## **1.0 Executive Summary**

- 1.1 This appeal is against the refusal of outline planning permission for the erection of up to 300 dwellinghouses on land off Ashland Road, Huthwaite by Ashfield District Council.
- 1.2 The reason for refusal has specified 3 specific areas of concern, notably:
- The alleged adverse impact upon the character and appearance of the area and surrounding landscape
  - Loss of greenfield land and associated habitats and irreversible impacts upon biodiversity
  - The overall density of the development is too high and out of keeping with the area
- 1.3 The outline planning application was presented to the Planning Committee with a recommendation for approval from the Head of Planning in March 2021.
- 1.4 This appeal seeks to challenge the reason for refusal and has sought to address the 3 areas of concern as clearly specified in the formal decision notice.
- 1.5 There are no other areas of concern to the Local Planning Authority other than those sated in the decision notice.
- 1.6 Full details of the appeal site, the associated planning history and the salient planning policy, are all contained within the agreed Statement of Common Ground.
- 1.7 Evidence associated with the areas of concern relating to matters associated with Landscape character and alleged adverse impact upon the surrounding landscape are dealt with in detail by Mr G Holliday in his independent Proof of Evidence on behalf of the appellant.
- 1.8 Matters relating to Ecology and biodiversity are considered by Mr K Goodman and addressed in detail within his independent Proof of Evidence.
- 1.9 My statement has addressed matters of residential density and the overall planning balance considering matters of national and local planning policy and summarising all matter as part of the overall planning balance.

## Summary of Case

- 1.10 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires all planning decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 1.11 The Development Plan for Ashfield District Council currently consists of the 'saved' policies of the Ashfield Local Plan Review 2002.
- 1.12 Policies ST1 (a, b and e) (Development), ST2 (Main Urban Areas), ST3 (Named Settlements), ST4 (The Remainder of the District) and EV2 (The Countryside) are the only Development Plan policies cited in the reason for refusal.
- 1.13 Policy ST1 states that development will be permitted where it does not conflict with other policies in the Local Plan (part a) and would not adversely affect the environment in which it is located (part b). Further to this, the policy seeks to prevent development which would conflict with an adjoining or nearby land use (part e).
- 1.14 Policy ST2 states that development will be concentrated within the main urban areas of Hucknall, Kirkby in Ashfield and Sutton in Ashfield.
- 1.15 Policy ST3 allows for limited development within named settlements. Policy ST4 sets out that development outside main urban areas will be on allocated sites.
- 1.16 Policy EV2 states that in the countryside, permission will only be given for appropriate development. A definition of what comprises appropriate development is listed at parts a) to h) of the policy. Major housing development does not fall within the Council's definition of appropriate development in the countryside.
- 1.17 Whilst it is accepted that the site is currently defined as countryside in the Ashfield Local Plan and is therefore contrary to Saved Policies ST2-ST4 and EV2, it is clear that the Local Plan is out of date, by virtue of being time-expired and because the Council cannot demonstrate a five year housing land supply. Indeed, the Council's Committee Report confirms that the District can demonstrate a housing land supply of just 2.21 years, which is a significant undersupply of housing. This matter is also confirmed in the Statement of Common Ground between parties.

- 1.18 The Housing Delivery Test (published August 2020) also indicates the delivery of housing in Ashfield is substantially below the housing requirements over the past three years.
- 1.19 For applications involving the provision of housing and where local planning authorities cannot demonstrate a five year supply of deliverable housing sites, footnote 8 to the NPPF is clear that relevant Development Plan policies should be regarded as out of date. The application should therefore be determined in accordance with paragraph 11(d) of the NPPF and permission should be granted, unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 1.20 Limb i) of paragraph 11(d) is not satisfied and may not be relied upon to dismiss this appeal as there are no areas or assets of particular importance in or within close proximity to the appeal site. The decision maker should therefore apply limb ii) (referred to as “the tilted balance”) in the determination of this appeal and consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposals, when assessed against the policies in the Framework taken as a whole.
- 1.21 As demonstrated by Mr Goodman and Mr Holliday in their respective Proofs of Evidence, it is accepted that by changing the nature of the site from greenfield to residential, there will be some negative environmental impacts, relating to landscape and visual impact. However, the Landscape and Visual Assessment which accompanied the planning application concludes that beyond the immediate boundaries of the site, the proposals are unlikely to result in adverse effects that would be of significance to the planning decision making process. In ecological terms, the proposals seek to minimise impacts on and provide net gains for biodiversity (in the form of new planting and habitat creation and financial contribution) in accordance with NPPF paragraph 174(d). Any ecological harm can be adequately mitigated, and in accordance with paragraph 180(a) should not be refused in ecological terms.
- 1.22 The Council’s concern associated with the overall density being out of character and hence harmful is without foundation. It is clear that the housing density as proposed was supported

by the Head of Planning, are commensurate with the overall character of the area and lead to efficient use of a greenfield parcel of land in conformity with local and national planning policy. Indeed, the policy HG3 of the adopted Local plan, actually specifies that minimum densities of 30 units dph should be achieved. The Local Plan policy relating to density is not specified in the reason for refusal and hence has been complied with.

- 1.23 Overall, the appeal proposal represents a sustainable development and offers a range economic, social and environmental benefits. In summary:

### **Economic**

- Significant and positive contributions to building a strong, responsive and competitive economy through the creation of temporary construction employment and expenditure. This economic benefit carries **significant weight**.
- Ongoing contribution and additional expenditure to the local economy both in terms of employment, spending and service usage from the creation of 300 additional households, boosting vitality and viability. This economic benefit carries **moderate weight**.
- Council Tax and New Homes Bonus money for the Local Authority which can potentially be reinvested into the local economy.

### **Social**

- Boosting significantly housing supply including affordable provision to meet needs both locally and contributing to wider District requirements. This matter is afforded **significant weight**.
- The site is accessible to a range of services, facilities and public transport opportunities. The ability to access public transport services is given **significant weight**.
- Financial contributions towards the provision and enhancement of local social infrastructure. This matter is given **moderate weight**.

- Creating a high-quality environment that would represent a land use which would complement and be compatible with neighbouring residential development. This matter is given **significant weight**.

## Environmental

- The appeal site is well placed to encourage more sustainable patterns of travel and reduced reliance on the private car, consistent with the sustainable principles set out in the NPPF. The highly sustainable nature of this site carries **significant weight**.
- No insurmountable technical issues have been identified in respect of flooding, drainage, transport, noise, air quality, archaeological or heritage impacts. This matter is given **significant weight**.
- 10% biodiversity net gain via a combination of onsite mitigation methods and a financial contribution. The matter is given **significant weight**.

- 1.24 It should also be noted that the SHLAA for Sutton-in-Ashfield was published in November 2016 and the appeal site was assessed as part of this appraisal. The SHLAA assessment concluded that the site could be considered suitable, available and achievable for residential development.
- 1.25 The Council's own evidence base identified the appeal site as suitable for housing within the withdrawn Ashfield Local Plan (Publication Version, September 2016). Whilst the withdrawn plan holds no weight in the determination of the appeal, the appeal site was considered by the Council to represent a sustainable option for housing development and was a proposed housing allocation for approximately 235 dwellings (site ref. SKA3c).
- 1.26 Overall, in applying the tilted balance as per paragraph 11 d) ii) of the NPPF, detailed evidence has been provided in support of the appeal, demonstrating that there are no adverse impacts that would significantly and demonstrably outweigh the development's primarily social and economic benefits, including the provision up to 300 dwellings, with a policy compliant provision of affordable housing. Consequently, the appeal proposal is fully supported by the tilted balance and all other material considerations as referenced in my Proof.

- 1.27 It is evident that there are no technical, public amenity or environmental reasons why the development should not proceed.
- 1.28 The extent of local opposition to the appeal proposal is noted. The areas of concern as expressed have been assessed and commented upon in detail within the main body of the proof of evidence. However, despite the quantum of objections, there are clearly no substantive issues highlighted which raise issues which materially outweigh the clear planning merits associated with the appeal proposals, particularly in light of the housing land supply position of the council, low delivery rates lack of evidence of significant harm to the environment or landscape character and all other technical matters which would justify dismissal of this appeal. Change is an inevitability of development, but in this case, the level of change will not result in any significant loss of amenity or environmental harm.
- 1.29 On this basis, being minded of the Development Plan position and relevant material considerations, it is respectfully requested that the appeal is allowed, and planning permission granted accordingly.



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