



Appeal by Bellway Homes  
Land off Ashland Road West, Sutton-in-  
Ashfield, Nottingham

Appeal Ref: APP/W3005/W/21/3274818

Summary Proof of Evidence of Bob Woollard on  
behalf of Ashfield District Council

Date of Inquiry: 21<sup>st</sup> September 2021

## **1.0 Introduction**

1.1 See main Proof for qualifications etc...

## **2.0 Declaration**

2.1 See main Proof.

## **3.0 Scope of Evidence**

3.1 See main Proof.

## **4.0 The Appeal Site and Surrounding Area**

4.1 See Statement of Common Ground.

## 5.0 Evidence

- 5.1 The relevant application of paragraph 11(d)(ii) has become known as 'the tilted balance' and it is acknowledged that the Council cannot currently demonstrate a 5-year housing land supply.
- 5.2 However, the Court of Appeal in Gladman vs SSCLG confirms the triggering of the 'tilted balance' neither automatically determines a planning application nor allows for the primacy of the development plan to be circumvented.
- 5.3 The adopted Development Plan for the Council comprises the Ashfield Local Plan Review 2002 ('the Plan'). The NPPF requires a Development Plan to be updated every five years. This and the 5-year supply point, in and of themselves, do not render all policies in a Plan as out of date.

### Strategic Policies

#### Policy ST1

- 5.4 Policy ST1 states:

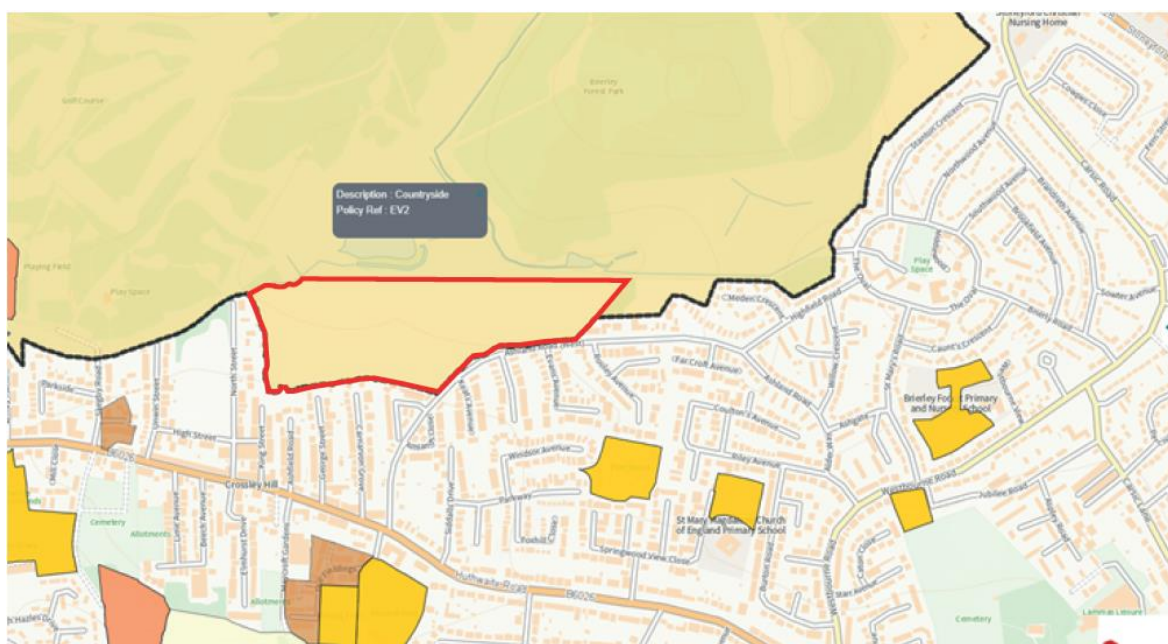
"POLICY ST1 DEVELOPMENT WILL BE PERMITTED WHERE:-

- a) IT WILL NOT CONFLICT WITH OTHER POLICIES IN THIS LOCAL PLAN,
- b) IT WILL NOT ADVERSELY AFFECT THE CHARACTER, QUALITY, AMENITY OR SAFETY OF THE ENVIRONMENT,
- e) IT WILL NOT CONFLICT WITH AN ADJOINING OR NEARBY LAND USE."

**(Criteria specified in Reason for Refusal is underlined above)**

- 5.5 With respect to criterion 'a', I refer to the other policies in the Plan below.
- 5.6 The reference to criteria 'b' and 'e' in the Reasons for Refusal relate to impacts on ecology and the wider Brierley Forest Park.
- 5.7 A separate proof on Ecology has been prepared by Andrew Baker of Baker Consultants.
- 5.8 The identified lack of on-site mitigation is of particular concern. Consideration of this in planning terms is set out in my full Proof.

- 5.9 Policies ST2 – ST4 seek to steer development towards the most sustainable locations. The appellant’s ‘Statement of Case’ does not dispute that the proposals do not accord with the Plan but states that it is out of date with regards to the matters of housing land supply and settlement boundaries were drawn to reflect a housing need for the period up to 2011.
- 5.10 Development boundaries are not based on housing targets which are generally seen as a minimum and not a ceiling to development. Therefore, development boundaries are drawn to be reflective of the nature or importance of an area that is left outside of the boundary.
- 5.11 The character of the site has not changed significantly since the ‘countryside’ designation. There is nothing to suggest that this is now an incorrect description of the land use.

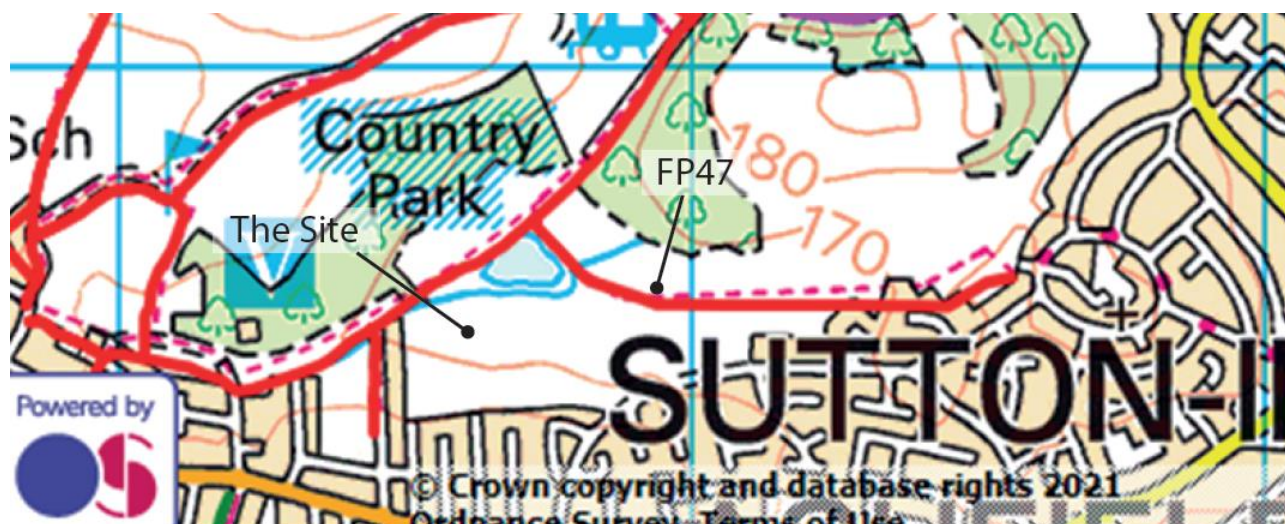


Local Plan 'Policies Map'

- 5.12 It is acknowledged that policies ST2 – ST4 are more restrictive than the NPPF. The NPPF does however steer development proposals towards areas which have the highest levels of services and facilities (Paragraph 187).
- 5.13 When this is considered in conjunction with other parts of the NPPF (Paragraph 174) it becomes clear that these policies are in-line with the policy thrust of the NPPF and therefore have moderate weight.

## Impacts on Landscape Character and Appearance

- 5.14 Policy EV2 seeks to protect the countryside and its openness. I believe this to be in-line with Paragraph 174 of the NPPF.
- 5.15 The proposal conflicts with Policy EV2 because it will adversely affect the character of the countryside, in particular its openness.
- 5.16 Although the site does not form part of any formally designated 'valued landscape' (Paragraph 174(a) of the NPPF), it is clearly of local importance and value to the local community.
- 5.17 Footpath (FP47) runs north of the site (see plan below). People using this footpath will experience the openness and tranquillity of the proposal site and the associated mental health benefits. This will disappear if developed.



The coloured lines that have been superimposed on this map show rights of way (using the data released by local authorities).

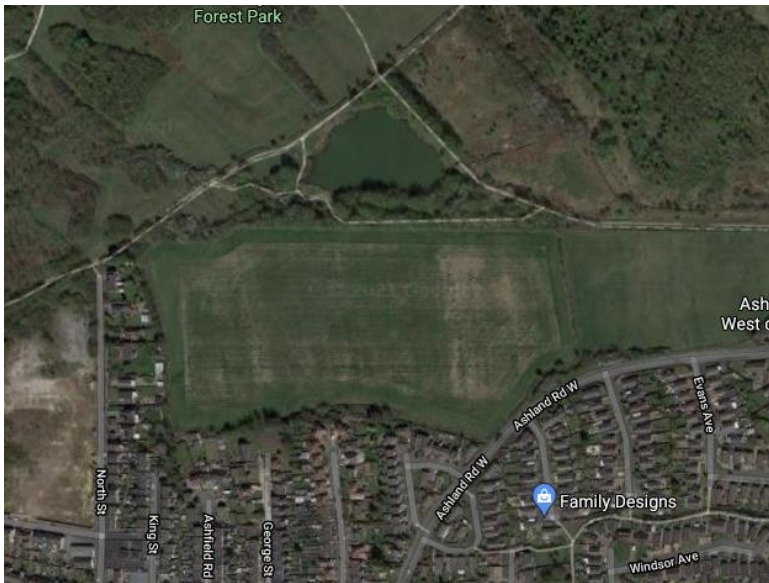
The following colours have been used for the coloured lines:

- solid red line: footpath;
- solid fuchsia line: bridleway;
- solid green line: restricted byway;
- solid blue line: byway open to all traffic.

Source: [Maps, KML and GPX showing rights of way \(rowmaps.com\)](https://rowmaps.com/)

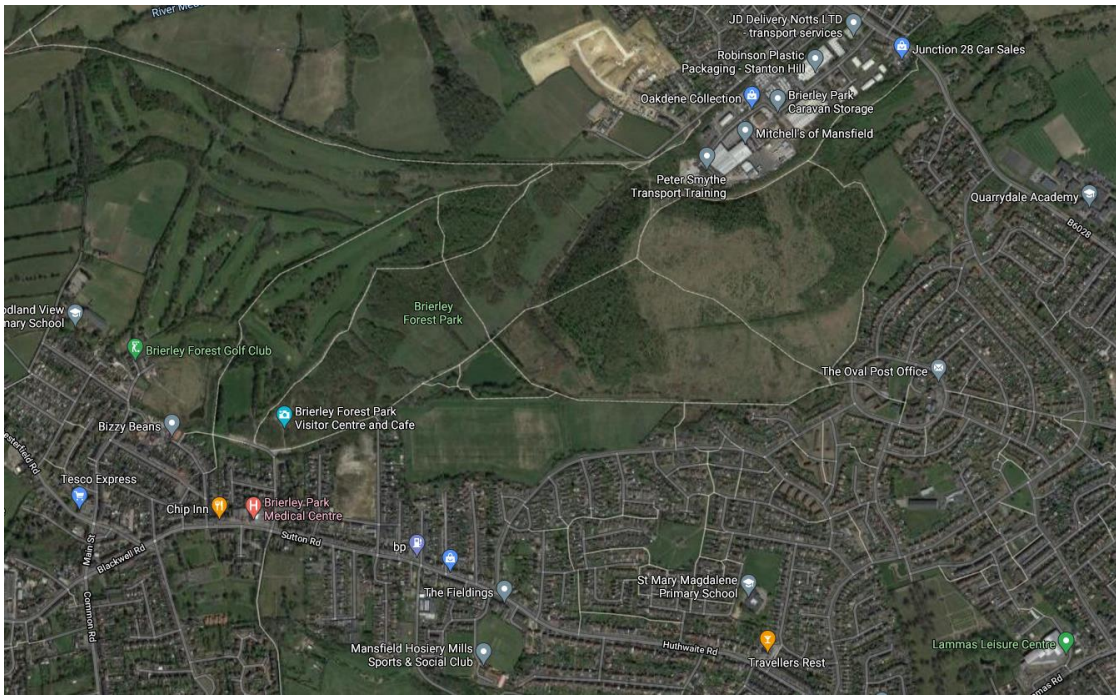
- 5.18 Development provided 'Open Space' will not have the same effect. Whilst views south of the footpath arguably have an urban backdrop, they do not impact the sense of space and openness (urban fringe has planting).





Aerial photograph of Site: Google Maps

- 5.19 Similar issues were considered in a recent planning appeal where the Inspector dismissed an appeal for 170 dwellings (ref: APP/A3010/W/20/3265803).
- 5.20 It was argued that although the landscape was not 'valued landscape' in NPPF terms, it was nonetheless of local value (see my full proof for further information).
- 5.21 Councils must, in determining an application for planning permission, consider any representations made.
- 5.22 Local representations identified concerns in relation to the landscape impacts of the proposal. A local perception to loss is not easily ascribed a value in a Landscape Visual Impact Assessment (LVIA). The feeling of local value / loss can only be understood through the careful consideration of representations made to the Council by local people.
- 5.23 Brierley Forest Park and its character is also valued by residents and the Council.



Aerial photograph of site – source: Google Maps



Submitted Illustrative Masterplan

5.24 The photo above shows the site as open and defending the southeast corner of the park from urban impacts. Also shown is the Illustrative Masterplan. It clearly shows

how this buffer would be eroded and that a hard urban edge would be brought up to the park boundary. No attempt is made to affect a more sensitive transition between the urban edge and the wider countryside.

- 5.25 While a buffer is advised in the Officer's Report, the Appellant is against on-site mitigation. This undoubtedly contributed to the Committee's concerns over impacts on the park.
- 5.26 Considering the park's importance and the limited level of information provided, I draw the same conclusion as the Planning Committee.

### **Density**

- 5.27 The Officer Report identifies an indicative density of 34 dwellings per hectare (dph). This is reported as a medium density and relatively consistent with the surrounding development (20 - 37dph). I would suggest that the proposed density is 'medium - high'. Furthermore, density is not a 'one size fits all' measurement. Location and context are very important.
- 5.28 The Officer Report recommends a buffer to protect Brierly Park and more information on design at detailed application stage.
- 5.29 The Planning Committee could not be confident that there would no significant harm to the park through the proposal due to limited (and current) information. The indicative plan is by its very nature an indication of what the reserved matters scheme will present. It cannot be dismissed as a vague illustration of a notional site. It formed a part of the submission, and the Council were entitled to give weight to it.
- 5.30 Without buffer details, it was impossible for the Planning Committee to know that the final density would not have significant adverse impacts.
- 5.31 If a minimum 15m buffer is added along the northern extent of the site (see below) the developable area would be approximately 8.40ha or 36 dph which is very close to the highest surrounding density. This is too high for an edge of settlement, transitional location.





Plan showing location of indicative buffer

- 5.32 The Government's 'Building Better, Building Beautiful Commission' document (see my main Proof) highlights the importance of a 'gentle density' (a variety of densities in appropriate locations).
- 5.33 It recognises that density is not a calculation of dwellings per hectare but something that is achieved at street level. The submitted Illustrative Masterplan gives no confidence that such an environment is envisaged in this sensitive transitional location.

### Ecology

- 5.34 A separate Ecology Proof for the appeal has been prepared.

### The Overall Planning Balance

- 5.35 The tables below show the material considerations that should go into the overall planning balance and the weighting that I believe should be applied to these (see my full Proof for full information):

| <b>Positive Impacts</b>                        | <b>Weighting</b>                                                                                                                                                                                                                                          |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Delivery of housing (including affordable).    | Significant – It is acknowledged that the proposal will deliver housing when the Council cannot currently demonstrate a 5-year housing land supply.                                                                                                       |
| Localised economic benefit through employment. | Modest – There would be employment opportunities through the proposal, but these would be temporary during the construction phase of the development. Residential expenditure from 300 houses can also be considered modest (dependent on local economy). |
| Section 106 Deliverables                       | Neutral - Infrastructure etc delivered through a Section 106 agreement will be used to mitigate the impacts of the development.                                                                                                                           |

| <b>Adverse Impacts</b>                                                                     | <b>Weighting</b>                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nonconformity with the Development Plan                                                    | Moderate.                                                                                                                                                                                                                             |
| The effect of the development proposed on the landscape character of the surrounding area. | Significant – The proposal would impact on the local community’s general health and wellbeing and enjoyment of an existing open space. When s combined with potential impacts on Brierley Forest Park the impacts become significant. |
| The effect on ecology.                                                                     | Significant – The submitted Ecology Proof sets out a number of major concerns with the proposal. When combined, the overall adverse impact is significant.                                                                            |
| Density                                                                                    | Moderate (or Significant if buffer is added – see above).                                                                                                                                                                             |



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