

## The Planning Inspectorate

### PLANNING APPEAL FORM (Online Version)

**WARNING:** The appeal **and** essential supporting documents **must** reach the Inspectorate within the appeal period. **If your appeal and essential supporting documents are not received in time, we will not accept the appeal.**

**Appeal Reference: APP/W3005/W/21/3274818**

#### A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name

- - -

Company/Group Name

Bellway Homes Ltd

Address

Romulus Court, Meridian East  
Meridian Business Park  
Leicester  
LE19 1YG

Preferred contact method

Email

Post

#### B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes

No

Name

Ms Kasia Zakrzewska

Company/Group Name

DLP Planning (East Midlands)

Address

DLP Planning Ltd  
6th Floor, City Gate East, Toll House Hill  
NOTTINGHAM  
NG1 5FS

Phone number

0115 671 5067

Email

nottingham@dlpconsultants.co.uk

Preferred contact method

Email

Post

#### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

Ashfield District Council

LPA reference number

V/2020/0184

Date of the application

06/03/2020

Did the LPA validate and register your application? Yes  No

Did the LPA issue a decision? Yes  No

Date of LPA's decision

#### D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address? Yes  No

Does the appeal relate to an existing property? Yes  No

Address

Is the appeal site within a Green Belt? Yes  No

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site? Yes  No

#### E. DESCRIPTION OF THE DEVELOPMENT

Has the description of the development changed from that stated on the application form? Yes  No

If YES, please state below the revised wording

Please attach a copy of the LPA's agreement to the change.  
 see 'Appeal Documents' section

Area (in hectares) of the whole appeal site [e.g. 1234.56]

Does the proposal include demolition of non-listed buildings within a conservation area? Yes  No

#### F. REASON FOR THE APPEAL

**The reason for the appeal is that the LPA has:**

1. Refused planning permission for the development.
2. Refused permission to vary or remove a condition(s).
3. Refused prior approval of permitted development rights.
4. Granted planning permission for the development subject to conditions to which you object.
5. Refused approval of the matters reserved under an outline planning permission.
6. Granted approval of the matters reserved under an outline planning permission subject to conditions to which you object.
7. Refused to approve any matter required by a condition on a previous planning permission (other than those specified above).
8. Failed to give notice of its decision within the appropriate period (usually 8 weeks) on an

application for permission or approval.

9. Failed to give notice of its decision within the appropriate period because of a dispute over provision of local list documentation.

## G. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

2. Hearing

3. Inquiry

You must give detailed reasons below or in a separate document why you think an inquiry is necessary. The reasons are set out in

the box below

Annexe K of the Planning Inspectorate Procedural Guide sets out the criteria for determining the appropriateness of each of the 3 appeal procedures. There are three situations when an Inquiry would be appropriate for a planning appeal, such as this:

1. There is a clearly explained need for the evidence to be tested through formal questioning by an advocate; or
2. The issues are complex; or
3. The appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by a hearing.

The preamble to Annexe K confirms as follows: "The criteria for each procedure cannot be fully prescriptive or entirely determinative: they require judgement to be applied using common sense. More than one criterion may apply."

Taking into account the criteria set out, the Appellant's view is that the Inquiry procedure is most appropriate given that the matters relate to complex planning issues where evidence should be tested through formal questioning by an advocate.

As noted above, the application was refused at Planning Committee against Officer's advice and therefore there is a need to carefully interrogate the technical basis for that decision and examine the extent to which the Council's reason for refusal is supported by technical data and planning policy given the differing position between Officers and Members.

In addition, the application generated substantial local interest, with 64 individual households writing 69 letters of objection. At the Planning Committee, 3 local residents spoke against the application. The Committee debate lasted over an hour, with all Members subsequently voting against the application.

The evidence which will be presented by the appellant is intended to be as follows:

- Character and Appearance: The Council has raised a number of detailed character and appearance matters, with specific regard to the urbanising affects adjacent to Brierley Forest Park. These will all require detailed scrutiny and testing of viewpoints and impacts, to fully understand and explore the issues in question. A detailed analysis of views and the significance of such views cannot be appropriately undertaken and fully addressed without thorough testing. It is considered this evidence can most effectively be tested via round table discussion.
- Biodiversity: The Council has departed from the views of its expert consultees in relation to biodiversity matters and there is a technical case required in order to examine the extent to which this

contrary view is supported by any technical data. This can only be achieved through robust testing and explanation. It is considered this evidence can most effectively be tested through cross-examination.

- **Density:** The Council considers that the density of the development is too high and out of keeping with the surrounding area. This view will require detailed scrutiny and testing, especially in the context of the National Planning Policy Framework's objective of significantly boosting the supply of housing, the national housing crisis and the fact that the Council cannot demonstrate a five year housing land supply. It is considered this evidence can most effectively be tested through cross-examination.
- **Planning Balance:** It is the appellant's position that the Ashfield Local Plan is out of date, by virtue of being time-expired and because the Council cannot demonstrate a five year housing land supply. Therefore, the appeal should be determined in accordance with paragraph 11(d) of the National Planning Policy Framework, with limb ii) (referred to as "the tilted balance") applied in the determination of this appeal. Consideration should be given to 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. In applying the tilted balance, the proposed development's primarily social and economic benefits would not be significantly and demonstrably outweighed by its minimal adverse environmental impacts. The Council however considers that the harm created by the proposal (i.e. in relation to character and appearance, biodiversity and density) would significantly and demonstrably outweigh the benefits of the development. Such issues need to be considered in the round, in order to fully understand and explore the issues in question. It is considered this evidence can be most effectively tested through cross-examination.

Overall, therefore, a fair resolution of issues raised by the Council requires scrutiny and questioning by an advocate in order that the following should be properly understood and tested:

- The robustness of the Council's concerns with the scheme;
- The compliance of the appeal scheme with the Development Plan taken overall, taking into account that the appeal should be determined in accordance with paragraph 11(d) limb ii) of the National Planning Policy Framework, (referred to as "the tilted balance"); and
- Whether any adverse impacts of the development, if identified by the Inspector, significantly and demonstrably outweighs the benefits of the appeal scheme. This requires identification of the precise nature and extent of the benefits of the appeal scheme.

The appellant will put forward appropriate experts to address these points. The advocates will therefore need to test the conflicting evidence and contentions of the respective parties. The Inspector will require this in order to make a properly informed determination of the appeal.

#### Inappropriateness of a Hearing:

It is our strong contention that a Hearing is not appropriate in this instance. Firstly, this is a development seeking to provide up to 300 new dwellings (including affordable housing) in an area that has a significant under delivery of housing – the Council can currently only demonstrate a 2.21 year housing land supply. The possibility of the delivery of this important site being held up by suitable dates for a Hearing would deprive this area of a sustainable and ready to go housing development, especially noting that there is only one reason for refusal, with all other technical matters agreed.

Further, the appellant considers that the matters to be addressed as part of the single reason for refusal, could not be adequately explained nor the technical evidence examined for the benefit of an Inspector by written representations or a Hearing. Written Representations and a Hearing would not facilitate the full and detailed presentation of evidence and examination which is required to be able to demonstrate the position on character and appearance, ecology, density and the overall planning balance. Compounded by the absence of questioning, this would prevent the necessary testing, scrutiny and exploration of that evidence.

Lastly, given the differing issues raised, there is a very limited prospect of the case being completed in a 1 day, or even 2 day Hearing (which we understand are to be used only in exceptional

circumstances), so a Hearing would be wholly inappropriate.

(a) How many witnesses do you intend to call?

3

(b) How long do they need to give their evidence?

Half to full day each

(c) How long do you estimate the inquiry will last?

4 day(s)

(d) Is there any further information relevant to the inquiry which you need to tell us about?

N/A

## H. FULL STATEMENT OF CASE

[see 'Appeal Documents' section](#)

Do you have a separate list of appendices to accompany your full statement of case?

Yes  No

[see 'Appeal Documents' section](#)

(a) Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? (Please attach draft version if available)

Yes  No

(b) Have you made a costs application with this appeal?

Yes  No

## I. (part one) SITE OWNERSHIP CERTIFICATES

Which certificate applies?

CERTIFICATE A

**I certify that, on the day 21 days before the date of this appeal, nobody, except the appellant, was the owner of any part of the land to which the appeal relates;**

CERTIFICATE B

**I certify that the appellant (or the agent) has given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below:**

**Owner's Name:**

Anne Parr

**Address at which notice was served:**

Lorelei, Whitehead Lane, Skegby, Sutton

**Date the notice was served:**

in-Ashfield NG17 3DB - 11/05/2021

**Owner's Name:**

Edward Clarke Elliot

**Address at which notice was served:**

15 Crompton Close, Sutton

**Date the notice was served:**

in-Ashfield, Nottinghamshire NG17 3HH - 11/05/2021

**Owner's Name:**

Mary Elizabeth Parr

**Address at which notice was served:**

18 Keats Avenue, Sutton

**Date the notice was served:**

in-Ashfield, Nottinghamshire NG17 2GH - 11/05/2021

CERTIFICATE C and D

**If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D and attach it below.**

## I. (part two) AGRICULTURAL HOLDINGS

We need to know whether the appeal site forms part of an agricultural holding.

(a) None of the land to which the appeal relates is, or is part of, an agricultural holding.

(b)(i) The appeal site is, or is part of, an agricultural holding, and the appellant is the sole agricultural tenant.

(b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as listed below.

## J. SUPPORTING DOCUMENTS

01. A copy of the original application form sent to the LPA.
02. A copy of the site ownership certificate and agricultural holdings certificate submitted to the LPA at application stage (if these did not form part of the LPA's planning application form).
03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
05. (a) Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.
05. (b) A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA.
- 05.(c) A list of all plans, drawings and documents upon which the LPA made their decision.
06. (a) Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application.
06. (b) A list of all plans, drawings and documents (stating drawing numbers) which did not form part of the original application.
07. A copy of the design and access statement sent to the LPA (if required).
08. A copy of a draft statement of common ground if you have indicated the appeal should follow the hearing or inquiry procedure.
09. (a) Additional plans, drawings or documents relating to the application but not previously seen by the LPA. Acceptance of these will be at the Inspector's discretion.
09. (b) A list of all plans and drawings (stating drawing numbers) submitted but not previously seen by the LPA.
10. Any relevant correspondence with the LPA. Including any supporting information submitted with your application in accordance with the list of local requirements.
11. If the appeal is against the LPA's refusal or failure to approve the matters reserved under an outline permission, please enclose:
- (a) the relevant outline application;
- (b) all plans sent at outline application stage;
- (c) the original outline planning permission.
12. If the appeal is against the LPA's refusal or failure to decide an application which relates to a condition, we must have a copy of the original permission with the condition attached.
13. A copy of any Environmental Statement plus certificates and notices relating to publicity (if one was sent with the application, or required by the LPA).
14. If the appeal is against the LPA's refusal or failure to decide an application because of a dispute

over local list documentation, a copy of the letter sent to the LPA which explained why the document was not necessary and asked the LPA to waive the requirement that it be provided with the application.

## K. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided?

Yes

No



## L. CHECK SIGN AND DATE

### (All supporting documents must be received by us within the time limit)

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full statement of case) to the LPA today.

**Signature**

Ms Kasia Zakrzewska

**Date**

11/05/2021 16:01:13

**Name**

Ms Kasia Zakrzewska

**On behalf of**

- - -

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018. Further information about our Data Protection policy can be found on our website under Privacy Statement.

## M. NOW SEND

### Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full statement of case) not previously sent as part of the application to the LPA. If you do not send them a copy of this form and documents, we may not accept your appeal.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:  
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

**You may wish to keep a copy of the completed form for your records.**

## N. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. Please ensure that any correspondence you send to us is clearly marked with the appeal reference number.

**You will not be sent any further reminders.**

### The documents listed below were uploaded with this form:

<b>Relates to Section:</b>	DESCRIPTION OF DEVELOPMENT
<b>Document Description:</b>	A copy of the LPA's agreement to the change.
<b>File name:</b>	Confirmation of Description of Development.JPG
<b>Relates to Section:</b>	FULL STATEMENT OF CASE
<b>Document Description:</b>	A copy of the full statement of case.
<b>File name:</b>	NTTS5142-2P 2021.05.11 Ashland Road West Sutton-in-Ashfield - Statement of Case - FINAL.pdf
<b>Relates to Section:</b>	FULL STATEMENT OF CASE
<b>Document Description:</b>	A separate list of appendices to accompany your full statement of case
<b>File name:</b>	NTTS5142-2P 2021.05.11 Ashland Road West Sutton-in-Ashfield - Statement of Case - Appendices.pdf
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	01. A copy of the original application sent to the LPA.
<b>File name:</b>	Application Form.pdf
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
<b>File name:</b>	Decision Notice V-2020_0184.pdf
<b>File name:</b>	Committee Report.pdf
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
<b>File name:</b>	Site Location Plan (ref. P19-1014 002 Rev B) @A2.pdf
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	05.a. Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.
<b>File name:</b>	Gas completion letter.PDF
<b>File name:</b>	Phase I and II Letter.pdf
<b>File name:</b>	Application Form.pdf
<b>File name:</b>	Covering Letter.pdf
<b>File name:</b>	Reliance Letter.pdf
<b>File name:</b>	Flood Risk Assessment and Drainage Strategy.pdf
<b>File name:</b>	Planning Statement.pdf
<b>File name:</b>	Arboricultural Assessment.pdf
<b>File name:</b>	Statement of Community Involvement.pdf



**File name:** Air Quality Assessment.pdf  
**File name:** Noise Assessment.pdf  
**File name:** Travel Plan.pdf  
**File name:** Archaeological Desk Based Assessment.pdf  
**File name:** Design and Access Statement.pdf  
**File name:** Ecological Assessment.pdf  
**File name:** Phase I and II Site Appraisal Report.pdf  
**File name:** Transport Assessment.pdf  
**File name:** Landscape and Visual Impact Assessment.pdf  
**File name:** P19-1014 002A-03 - Site Location Plan @A2.pdf  
**File name:** P19-1014 007B Illustrative Masterplan @A1.pdf  
**File name:** S672-01C Topo @A0.PDF  
**File name:** S672-02C Topo @A0.PDF

**Relates to Section:** SUPPORTING DOCUMENTS

**Document Description:** 05.b. A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA.

**File name:** NTT5142-2P 2021.05.11 Ashland Road West -Supporting Documents List.pdf

**Relates to Section:** SUPPORTING DOCUMENTS

**Document Description:** 06.a. Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application (e.g. drawings for illustrative purposes).

**File name:** Flood Risk Assessment and Drainage Strategy (Rev D) - Appendix G.pdf  
**File name:** Site Location Plan (ref. P19-1014 002 Rev B) @A2.pdf  
**File name:** Proposed Pedestrian Improvements (ref. ADC1032-DR-002 Rev P1) @A3.pdf  
**File name:** Flood Risk Assessment and Drainage Strategy (Rev D) - Appendix A1.pdf  
**File name:** Flood Risk Assessment and Drainage Strategy (Rev D) - Appendix A2.pdf  
**File name:** Access Junction Layouts (ref. ADC1032-DR-001-P10) @A3.pdf  
**File name:** Illustrative Masterplan (ref. P19-1014 007 Rev G) @A1.pdf  
**File name:** Flood Risk Assessment and Drainage Strategy (Rev D) - Appendix A.pdf  
**File name:** Flood Risk Assessment and Drainage Strategy (Rev D) - Appendix B.pdf  
**File name:** Flood Risk Assessment and Drainage Strategy (Rev D).pdf  
**File name:** FPCR letter, including Metric Exercise (Aug 2020) (non-redacted).pdf  
**File name:** Flood Risk Assessment and Drainage Strategy (Rev D) - Appendix F.pdf  
**File name:** Minerals and Resource Assessment (by GRM) (May 2020).pdf  
**File name:** ADC letter in response to NCC Highway Consultation response (dated 20 Nov 2020).pdf  
**File name:** Technical Note H – Junction Capacity Analysis (by ADC) (February 2021).pdf  
**File name:** Transport Assessment Addendum (by ADC) (October 2020).pdf  
**File name:** FPCR letter, including Metric Exercise (Aug 2020) (redacted).pdf

**Relates to Section:** SUPPORTING DOCUMENTS

**Document Description:** 08. A copy of a draft statement of common ground.

**File name:** NTT5142-2P 2021.05.11 Ashland Road West Sutton-in-Ashfield - Statement of Common Ground - DRAFT ISSUE.pdf

**Completed by** MS KASIA ZAKRZEWSKA

**Date** 11/05/2021 16:01:13