

Town and Country Planning Act 1990 (Section 78)

STATEMENT OF COMMON GROUND

Ashland Road West, Sutton-in-Ashfield

Application Reference: V/2020/0184

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

Appellant: Bellway Homes Ltd

Local Planning Authority: Ashfield District Council

July 2021

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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 Ashfield District Council ("the Council") to aid consideration of a planning appeal lodged on behalf of Bellway Homes Ltd ("the Appellant").
- 1.2 The appeal is against the decision to refuse outline planning permission (with all matters reserved except access) on 23 March 2021 for an application proposing the following development ("the Appeal Scheme"):

"Outline planning application (with all matters reserved except access) for a residential development of up to 300 dwellings with associated infrastructure and landscaping"

- 1.3 The planning application reference number is V/2020/0184.
- 1.4 The planning application was submitted to the Council on 6 March 2020 and validated on 12 March 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 17 March 2021 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 23 March 2021 detailing the following reason for refusal:

"The development would result in a significant adverse impact on the character and appearance of the area and surrounding landscape, particularly through the urbanising affects adjacent to Brierley Forest Park. The loss of greenfield and associated habitats would also result in significant and irreversible harmful impacts to biodiversity. In addition, the density of the development is considered to be too high and out of keeping with the surrounding area. Accordingly, the proposal would be contrary to Policies ST1 (a, b and e), ST2 – ST4 and EV2. There would also be conflict with Part 15 of the National Planning Policy Framework: 'Conserving and enhancing the natural environment'. It is considered that these harms would significantly and demonstrably outweigh the benefits

of the development.”

- 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, the appeal scheme and background is discussed in Section 4, and the relevant agreed policy details are listed in Section 5. The key areas of common ground are outlined in Section 6, followed by the key areas of disagreement in Section 7. Section 8 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

The Site and its Context

- 2.1 The application site subject to this appeal extends to approximately 10.31ha and is located on the western edge of Sutton-in-Ashfield. Access to the site is from an existing field access on Ashland Road West.



Figure 1. Site Location

- 2.2 The site is currently a greenfield agricultural site, formed of two large fields. It is of poor agricultural land quality (Grade 4). The western field consisted of arable land with very wide poor semi-improved grassland margins, and the eastern field consisted of poor semi-improved grassland.
- 2.3 The site is surrounded by existing residential development on three sides to the east, west and south and the former restored colliery site at Brierley Forest Park to the north. Ashland Road West runs along the site's southern boundary.
- 2.4 Mature hedgerows form the majority of the site's boundaries to the north, east and west and in part to the south, where the southern boundary of the site runs along the back of residential properties between Ashland Road and Sutton Road/Huthwaite Road, and along substantial sections of the road frontage along Ashland Road West. A further field hedgerow runs north-south across the middle of the site dividing the two field parcels.

2.5 The site has good access to a range of existing facilities and services. The Council’s 2016 Strategic Housing Land Availability Assessment (SHLAA) report shows the types of facilities which are within walking distance and those that can easily be accessed via public transport:

Access to Services		The site may be suitable	
Within 800m or 10 mins walking			
Primary school:	Yes	Bus stop:	Yes
GP:	No	Cash Machine or Post Office:	Yes
Transport Node:	Over 1km from a major public transport node		
Access to Open Space			
Site within 500m of Natural Open Space?:	Yes	Site within 200m accessible open space?:	Yes
Site within 200m Public Open Space?:	Yes	Does site affect existing open space?:	No
Site within 300m Parks and Rec. Grounds?:	Yes		
Within 30 mins travel by public transport			
Secondary school:	Yes	Retail Area:	Yes
Further Education:	Yes	Hospital:	No
Supermarket:	Yes	Employment:	Yes
Proximity to District Shopping centre:	Over 1km from a town centre Approximately 1.5km		

Figure 2. Access to facilities and services (extract from Ashfield District Council SHLAA 2016)

2.6 In addition to the above, there is a Co-op convenience store just over 1km away and the Asda superstore is within 2km of the site.

2.7 The site is served by a good quality bus service operated by Stagecoach Bassetlaw along Huthwaite Road every 10 minutes throughout the day (bus service 1 Mansfield Woodhouse – Huthwaite – Alfreton) plus an additional bus service which operates on Mondays (Our Centre, 101 Huthwaite – Sutton). These link to a wide range of higher order services.



Figure 3. Bus stops closest to the site (extract from ADC Transport Assessment)

- 2.8 There are no definitive rights of way which cross the site but Sutton in Ashfield public footpath 47 runs parallel to part of the site's northern boundary. PRow FP 39 runs within 10m of the site's north-western boundary, linking Sutton in Ashfield with Stanton Hill to the north-east. Brierley Forest Park allows free access across the Park, although the many footpaths and multi-user trails across it direct the circulation.
- 2.9 The highest point of the site is to the south-west, reaching approximately 180m AOD, and from there the land falls in a northerly direction towards Rooley Brook, which lies within Brierley Forest Park. The lowest part of the site lies on the north-eastern boundary, at approximately 160m AOD.
- 2.10 The Nottinghamshire Landscape Character Assessment (LCA) 2009 identifies the site on the southern edge of the Brierley Forest Park Draft Policy Zone (ML021) which comprises the man-made landform of a restored former colliery with a raised woodland covered mound comprising 'engineered' slopes of even gradient.
- 2.11 No designated heritage assets (World Heritage Sites, Scheduled Monuments or Listed Buildings) are located within the site. The nearest Scheduled Monument is the Skegby Manor House, immediately south-east of Pond Cottage, which lies 2km north-east of the assessment area. The nearest Conservation Area is the Sutton-in-Ashfield Church and Market Place, which lies around 1km south-east of the site. Both these heritage assets are separated from the site by existing built development. The site falls within Area G – Meden Valley of the Hardwick Hall Setting Study.
- 2.12 The Government's Flood Map for Planning indicates that the site is located within Flood Zone 1, which is the designation given to sites at low risk from flooding. Whilst there is currently some localised surface water flooding on the site from a culverted drain, this issue will be resolved through the implementation of a sustainable drainage strategy for the site.

3.0 RELEVANT PLANNING HISTORY

Planning History

3.1 A full application for the residential development of 201 dwellings, made on behalf of David Wilson Homes ('the DWH application'), was refused by the Council on 20 September 2016 (V/2014/0658). This decision was contrary to the planning officer's recommendation to approve the application. The reasons for refusal can be summarised as follows:

- 1) Conflict with policies ST1(a), ST1(b), ST1(c), ST1(e), EV2, EV4, EV5, EV6 of the Ashfield Local Plan Review (2002);
- 2) The site is prone to flooding and in accordance with the NPPF inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where necessary, making it safe without increasing flood risk elsewhere.

3.2 Prior to the DWH application, an application for residential development was refused in 1988 and subsequently dismissed at appeal. As noted in the officer's report for the DWH application, "*although the site history is a material planning consideration, the current proposal is required to be considered against up to date national and local planning policies.*"

Pre-application advice

3.3 The proposed development was discussed with a planning officer from Ashfield District Council at a pre-application meeting on 1 July 2019. During this meeting, the officer stated that whilst the proposed development was contrary to the Development Plan, the Council's lack of a five-year housing land supply and the sustainable location of the site meant the principle of development was likely to receive officer support. This was also reflected by the fact that the site was formally a proposed allocation in the emerging Ashfield Local Plan. Matters including the layout, access, appearance and scale, public open space, developer obligations and public consultation were discussed.

4.0 THE APPEAL SCHEME AND BACKGROUND

4.1 The application to which this appeal relates was submitted to the Council on 6 March 2020 and validated on 12 March 2020. The application sought outline planning permission for the following works:

“Outline planning application (with all matters reserved except access) for a residential development of up to 300 dwellings with associated infrastructure and landscaping”.

4.2 In summary, the relevant aspects of the proposed scheme are:

- The provision of up to 300 homes, including 10% affordable housing;
- Development at a net density of 34 dwellings per hectare (dph) with a higher density towards the existing urban areas and lower densities near Brierley Forest Park;
- A broad mix of house sizes and types, the majority of which will be 2 storey homes, with some occasional 2.5 storey dwellings in key locations to provide distinctiveness in the street scene (the final mix will be determined at detailed design stage);
- Access to Ashland Road West via two new T-junctions located along the southern boundary of the site. The primary route to the west will be 7.3m wide with 3m footpaths either side, being over engineered at Nottinghamshire Council Highways request due to the number of plots being served from that spur of the development. The access to the east is proposed via a standard 5.5m wide junction arrangement, with 2m footpaths either side. This is a fixed matter, with access being considered as part of this outline appeal;
- From this primary route the layout incorporates a street hierarchy from primary routes to secondary streets to private drives, help to distinguish key areas of the site, aid traffic calming and encourage walking and cycling;
- Existing boundary trees and hedgerows will largely be retained where possible. The central hedgerow will need to be removed to facilitate the engineering of the site, albeit a replacement hedgerow will be provided within the same central location of the existing hedgerow as part of the proposed development. In addition, new native

hedgerow planting and tree cover will be provided throughout the site;

- Provision of open space and green infrastructure, with green corridors being used from north to south through the site at two intervals, breaking up the built form and providing attractive recreational green routes (one around the existing central hedgerow location) through the site to Brierley Forest Park;
- The layout is arranged in perimeter blocks, meaning homes would face out on to the road layout to ensure active frontages. Regard is had to the existing residential development where it adjoins the site. Suitable separation distances are incorporated into the masterplan scheme, and back gardens adjoin existing back gardens where possible; and
- A surface water balancing area is provided in the north-east of the site.

4.3 The application was accompanied by the following supporting documentation:

- Completed Application Form and Declaration
- Covering Letter
- Site Location Plan (ref. P19-1014 002 Rev A)
- Topographical Survey (ref. S672/01 Rev C)
- Topographical Survey (ref. S672/02 Rev C)
- Illustrative Masterplan (ref. P19-1014 007 Rev B)
- Planning Statement (by DLP Planning Ltd) (dated March 2020)
- Design and Access Statement (by Pegasus Group) (dated March 2020)
- Arboricultural Assessment (by FPCR) (dated Feb 2020)
- Archaeological Desk Based Assessment (by University of Leicester Archaeological Services) (dated March 2020)
- Flood Risk Assessment and Drainage Strategy (Rev A) (by EWE Associates) (dated Feb 2020)
- Ecological Appraisal (by FPCR) (dated Feb 2020)
- Ground Investigation Phase II Site Appraisal (by GRM Development Solutions) (dated Dec 2012)
- Gas Completion Letter (by GRM Development Solutions) (dated 7 January 2013)

- Letter of Reliance (by GRM Development Solutions) (dated 20 December 2018)
- Review of Ground Investigation Phase II Site Appraisal Letter (by GRM Development Solutions) (dated 4 March 2020)
- Landscape and Visual Assessment (by Golby + Luck) (dated Feb 2020)
- Statement of Community involvement (by The Community Communication Partnership)
- Transport Assessment (by ADC Infrastructure) (dated March 2020)
- Travel Plan (by ADC Infrastructure) (dated March 2020)
- Noise Assessment (by M-EC Acoustic Air) (dated Feb 2020)
- Air Quality Assessment (by M-EC Acoustic Air) (dated Feb 2020)

4.4 Additional and revised information was provided during consideration of the application. This comprised:

- Site Location Plan (ref. P19-1014 002 Rev B)
- Illustrative Masterplan (ref. P19-1014 007 Rev G)
- Access Junction Layouts (ref. ADC1032-DR-001-P10)
- Proposed Pedestrian Improvements B6026 Huthwaite Road (ref. ADC1032-DR-002 Rev P1)
- Flood Risk Assessment and Drainage Strategy (Rev D) (by EWE Associates)
- FPCR letter in response to Delta Simons Consultation response, including Metric Exercise (dated August 2020)
- Minerals Resource Assessment by GRM (dated May 2020)
- Transport Assessment Addendum (by ADC) (October 2020)
- ADC letter in response to NCC Highway Consultation response (dated 20 November 2020)
- Technical Note H – Junction Capacity Analysis (by ADC) (February 2021)

4.5 The application, as revised and updated, was presented to Planning Committee on 17 March 2021 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 23 March 2021, 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

- 5.1 The development plan for Ashfield District Council currently consists of the 'saved' policies of the Ashfield Local Plan Review 2002.
- 5.2 A new Local Plan was previously being assembled by the Council to replace the 'saved' policies of the Ashfield Local Plan Review 2002. It had progressed through to submission to Secretary of State on 24 February 2017 with Examinations held in October 2017. However, the Council subsequently resolved at a meeting on 6th September 2018 to withdraw the emerging Local Plan and restart the process.
- 5.3 The application site was a proposed residential allocation in the withdrawn Local Plan for approximately 235 dwellings (site ref. SKA3c). This holds no weight in the determination of the appeal.
- 5.4 The Council has now started work on a new Local Plan. The Council held a Call for Sites consultation in March 2019, and a submission for the application site was submitted by Bellway Homes as part of this process. The emerging Plan is at a very early stage, and there are currently no published timescales for consultation. As such, the subject application will be considered solely against the saved Policies of the Ashfield Local Plan Review. In accordance with paragraph 213 of the NPPF, due weight should be given to these policies according to their degree of consistency with the NPPF. The NPPF, PPG and relevant Supplementary Planning Guidance are material considerations.

Ashfield Local Plan

- 5.5 The strategic policies of the Ashfield Local Plan Review, including **Policy ST1**, express the Council's approach in overall terms to the future physical form of the District. The policy 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 adversely affect highway safety (part c) and will not conflict with an adjoining or nearby land use (part e).

- 5.6 **Policy ST2** states that development will be concentrated within the main urban areas of Hucknall, Kirkby in Ashfield and Sutton in Ashfield.
- 5.7 **Policy ST4** confirms outside the main urban areas and named settlements, permission will only be granted for sites allocated for development or development appropriate to the green belt or countryside as set out in Policies EV1 and EV2.
- 5.8 **Policy HG3** seeks to control the density of housing developments on sites of 0.4ha and greater through the proximity of the development to District shopping centres, Robin Hood line stations or Nottingham Express Transit rail stops.
- 5.9 In the West Notts. Sub Area, **Policy HG4** seeks 6% affordable housing on housing development of 25 dwellings or more.
- 5.10 In order to establish that new residential development is designed to a high standard in the District **Policy HG5** provides a number of broad guidelines for residential proposals to meet which, upon meeting all guidelines, would result in gaining planning permission. The policy states that residential development will be permitted where:
- a) *The amenity of neighbouring properties is protected,*
 - b) *The design and layout of dwellings minimises potential overlooking and provides a reasonable degree of privacy and security,*
 - c) *Adequate private garden space is provided,*
 - d) *Boundary treatment provides an acceptable standard of privacy and visual amenity,*
 - e) *Access for vehicles, pedestrians and cyclists and public transport where appropriate, is safe and convenient and integrated with existing provision,*
 - f) *Parking facilities are provided in accordance with Council standards, as outlined in Appendix 7 (of the Ashfield Local Plan Review),*
 - g) *Its design is acceptable in terms of appearance, scale and siting, and*
 - h) *Landscaping complements and enhances its appearance.*

- 5.11 **Policy HG6** directs the Public Open Space (POS) requirements for new residential developments on sites of two hectares and above, where 10% of gross housing area is to be provided as POS.
- 5.12 **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, such as that proposed as part of this application, does not fall within the Council's definition of appropriate development in the countryside.
- 5.13 **Policy EV4** states that development which does not adversely affect the character and quality of mature landscape areas (MLA) will be permitted. The closest MLA policy to the application site is Huthwaite/Spring Wood (Local Plan reference EV4Rm), approximately 1km to the north of the site.
- 5.14 **Policy EV5** states that proposals likely to affect Sites of Special Scientific Interest will be subject to special scrutiny and where such development may have an adverse effect, directly or indirectly will not be permitted unless the reasons for development clearly outweigh the nature conservation value of the site.
- 5.15 **Policy EV6** states that development which adversely [affects] local nature reserves will only be permitted where provision is made within the development for the protection of features of nature conservation, or the development cannot be located elsewhere.
- 5.16 **Policy EV8** states that development which adversely affects trees worthy of retention, including woodland and individual trees, will not be permitted. Where trees are lost as a result of development, replacement or mitigating planting will be required.
- 5.17 **Policy TR2** sets out that development proposals where cyclists would expect to have access should include safe and convenient cycle access, links with existing and proposed cycle routes where appropriate and cycle parking facilities.
- 5.18 **Policy TR6** highlights that where development places additional demands on transport infrastructure, planning obligations will be negotiated, including improvements to public transport infrastructure, the cycling network pedestrian facilities and park and ride sites.

Ashfield Residential Design Guide SPD (November 2004)

- 5.19 This SPD sets out how Ashfield District Council expects the location, form and type of residential development will be considered through the design process. This SPD is more material to detailed planning applications seeking the approval of layout, appearance, scale and landscaping.

Residential Car Parking Standards (2014)

- 5.20 This SPD sets out the Council's minimum requirements for parking provision to serve new residential developments within Ashfield District. One bedroom dwellings should provide a minimum of one space per dwelling plus one visitor space per two dwellings (off-plot); two/three bedroom dwellings should provide two spaces per dwelling and four+ bedroom dwellings should provide three spaces per dwelling. As with the Residential Design Guide, this is more of a consideration for full or reserved matters applications.

Ashfield District Council Housing Land Monitoring Report (August 2020)

- 5.21 This document is a material consideration in the context of NPPF paragraph 73 which requires local planning authorities to demonstrate a five year housing land supply of deliverable sites. This document sets out the Council's current housing land supply position as at 1 April 2020, concluding that the Council has a supply equivalent to just 2.53 years. The Council's Committee Report in respect of this scheme however confirms a worsened position, confirming the District has just a 2.21 year housing land supply, taking into account a 20% buffer.

National Planning Policy Framework (NPPF)

- 5.22 The Framework sets out the Government's planning policies for England and how these are expected 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 is underpinned by a presumption in favour of sustainable development and those provisions 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:

- An economic objective;
- A social objective; and,
- An environmental objective.

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. For decision-taking, paragraph 11 confirms that this means:

- *Approving development proposals that accord with an up-to-date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:*
 - *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
 - *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.*

5.27 Footnote 6 confirms that policies in the Framework that protect areas or assets of particular importance are those “*relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.*”

5.28 Footnote 7 of the NPPF makes clear that, for applications involving the provision of housing, policies will be regarded as out-of-date “*where the local planning authority cannot*

demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in [NPPF] paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.”

- 5.29 Transitional arrangements for the Housing Delivery Test are set out in Annex 1 of the NPPF, and a definition of ‘deliverable’ is provided at Annex 2:

To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

- 5.30 The Housing Delivery Test (August 2020) also indicates the delivery of housing in Ashfield is substantially below the housing requirements over the past three years.

Decision-making

- 5.31 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way, working proactively with applicants and seeking to approve applications for sustainable development where possible.
- 5.32 Paragraphs 39 to 45 promotes early engagement and pre-application discussions.
- 5.33 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. Paragraph 48 proceeds

that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the emerging policies to those in the Framework (being minded of the transitional arrangements set out at footnote 22).

- 5.34 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.

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 64 states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.
- 5.37 Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer of:

a) 5% to ensure choice and competition in the market for land; or

b) 10% where the local planning authority wishes to demonstrate a five-year supply of deliverable sites through an annual position statement or recently adopted 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 three years, to improve the prospect of achieving the planned supply.

Promoting healthy communities

- 5.38 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.
- 5.39 Paragraph 96 considers that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities.

Promoting sustainable transport

- 5.40 Paragraph 103 states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, as this can help to reduce congestion and emissions, and improve air quality and public health.
- 5.41 In the consideration of planning applications, as is outlined in Paragraph 108, it should be ensured that:
- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development 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 (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 5.42 Paragraph 109 states that development proposals should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be 'severe'.
- 5.43 Paragraph 110 considers that development proposals should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second - so far as possible – to facilitating access to high quality public transport, with layouts that

maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use. Further to this, the needs of people with disabilities and reduced mobility should be addressed, and places should be created that are safe, secure and attractive.

Making effective use of land

- 5.44 Paragraph 117 requires that policies and decisions 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.
- 5.45 Planning policies and decisions should support development that makes efficient use of land, as is considered in Paragraph 122, taking into account:
- a) *the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
 - b) *local market conditions and viability;*
 - c) *the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
 - d) *the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
 - e) *the importance of securing well-designed, attractive and healthy places.*
- 5.46 Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site, in accordance with paragraph 123.

Achieving well-designed places

- 5.47 As is stated in Paragraph 124, the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Further to this,

the Paragraph considers that good design is a key aspect of sustainable development which creates better places in which to live and work and helps make development acceptable to communities.

- 5.48 Paragraph 127 outlines a number of requirements which planning policies and decisions should enforce to ensure that development achieves well-designed buildings and places. These include ensuring that development is visually attractive, sympathetic to local character and history, establishes a strong sense of place, and optimises the potential of the site to support local facilities and transport networks.
- 5.49 Paragraph 128 considers that design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.
- 5.50 Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Meeting the challenge of climate change, flooding and coastal change

- 5.51 In determining planning applications, local planning authorities should expect new development to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption (paragraph 153b).
- 5.52 When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (paragraph 163). A Flood Risk Assessment is required for sites in Flood Zone 1 where they are 1 hectare or more (footnote 50). Major development should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (paragraph 165). Where appropriate, applications should be supported by a site-specific flood-risk assessment.

Conserving and enhancing the natural environment

- 5.53 Paragraph 170 seeks to contribute to and enhance the natural and local environment, for example by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils in a manner commensurate with their statutory status (part a), recognising the intrinsic character and beauty of the countryside (part b), minimising impacts on and providing net gains for biodiversity (part d), preventing new development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution (part e) and remediating contaminated and unstable land (part f).
- 5.54 Paragraph 175 states that when determining planning applications, local planning authorities should apply a number of principles relating to biodiversity. This includes if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 5.55 Paragraph 178 seeks to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- 5.56 Paragraph 180 seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. This includes taking into account any impacts on/from noise and light.
- 5.57 Paragraph 181 seeks opportunities to improve air quality or mitigate air quality impacts, such as through traffic and travel management, and green infrastructure provision and enhancement.

Planning Practice Guidance

- 5.58 The Planning Practice Guidance (PPG) was launched by the Department for Communities and Local Government (DCLG) on 6 March 2014. It is an online resource that's brings together planning practice guidance for England.
- 5.59 The PPG contains extensive guidance on matters of design. Paragraph 001 of this element of the guidance (ref ID 26-001-20140306) highlights that achieving good design is about creating places, buildings or spaces that work well for everyone, look good, last well, and will

adapt to the needs of future generations.

- 5.60 Of notable reference to the current application is paragraph 40 (ref ID: 26-040-20140306) which highlights design issues that are particularly relevant to housing design. The PPG states that well-designed housing should be functional, attractive and sustainable. It should be adaptable to the changing needs of its occupants.
- 5.61 The PPG states that affordable housing, in well-designed places, is indistinguishable from private housing by its design and should not be banished to the least attractive part of the site. Consideration should be given to the servicing of dwellings, together with carefully planned bin storage. Car parking and service areas should also be considered in context to ensure that the most successful outcome can be delivered for the site.

6.0 AREAS OF AGREEMENT

6.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 together require that planning applications should be determined in accordance with statutory Development Plan unless material considerations indicate otherwise. The starting point for decision making is the development plan as a fundamental principle of the plan led system.

6.2 It is agreed that:

Five Year Housing Land Supply / Tilted Balance

6.3 Page 18 of the Committee Report confirms that based on the Housing Land Monitoring Report 2020, adjusting for a 20% buffer, the District has a 2.21 year housing land supply. The Housing Delivery Test (August 2020) indicates the delivery of housing in Ashfield is substantially below (less than 75%) the housing requirements over the past three years. Therefore, under NPPF Paragraph 11, footnote 7, the policies which are most important for determining the application are out of date. The balance is therefore tilted in favour of the grant of planning permission, except where the benefits are significantly and demonstrably outweighed by the adverse effects, or where specific policies indicate otherwise.

Policies

6.4 Local Plan Policy ST1 (criterion a, b, and c) seeks development which does not conflict with other policies in the Local Plan, will not adversely affect the character, quality amenity or safety of the environment or conflict with an adjoining or nearby land use. Local Plan Policies ST2 – ST4 are restrictive of development outside the main urban areas and named settlements. Policy EV2 has some consistency with the NPPF's requirement to recognise the intrinsic beauty and character of the countryside, however, it is highly restrictive of development in the countryside.

Strategic Housing Land Availability Assessment (SHLAA)

6.5 The SHLAA for Sutton-in-Ashfield was published in November 2016 and included a desktop appraisal for all sites submitted to the Council through the SHLAA process. The appraisal of each site included an analysis of the potential capacity for residential development and

deliverability over a 15- year period. The appeal site was assessed as part of this appraisal. The SHLAA assessment concluded that the site could be considered:

- **Suitable:** in terms of character, land use and location; access to services being within 10 minutes walking distance to a range of basic services, within 30 minutes travel by public transport to a greater range of everyday facilities, and with immediate access to natural and public open space; in terms of physical constraints subject to a further flood risk assessment albeit the site lies within flood zone 1 being at low risk of flooding; and in terms of its impact on landscape and bio-diversity.
- **Available:** with no ownership constraints, confirmed as available by the landowner within 5 years.
- **Achievable:** the site is considered to be viable through the Nationwide CIL Services Viability Assessment, December 2013.

6.6 The appeal site was a proposed housing allocation for approximately 235 dwellings (site ref. SKA3c) in the withdrawn Ashfield Local Plan. This holds no weight in the determination of the appeal.

Flood Risk/Drainage

6.7 The site lies within Flood Zone 1 (Low Risk of Flooding, 1 in 1000 years). There is a local water course to the north of the site which is controlled by a culvert under a large soil heap which, if it became blocked could result in localised flooding to the north of the site, however, to mitigate against this, the submitted Flood Risk Assessment recommends certain minimum ground and internal floor levels. Section 4, Page 34 of the Committee Report confirms that no objections are raised from the Local Lead Flood Authority, Environment Agency, or the Council's Drainage Officer, subject to conditions in relation to the requirement of details for a surface water drainage scheme based on Sustainable Urban Drainage Principles, and for details of foul sewage to be agreed. From this regard, there is a culvert running across the north east corner of the site, and the appellant has demonstrated legal rights to utilise this as their drainage outfall.

Residential Amenity

- 6.8 Section 6, Page 35 of the Committee Report confirms that the indicative masterplan shows that sufficient separation distances could be achieved, so that the development would not (as currently proposed) adversely impact upon existing residential dwellings privacy and light. Details of the design, layout and appearance will form part of a future reserved matters application.

Construction Phase

- 6.9 Some local residents have raised concern surrounding disruption during the construction phase of the development. Section 6, Page 35 of the Committee Report that sets out a Construction Management Plan condition is appropriate to govern such matters, such as working hours, vehicle parking, wheel washing, emission of noise/dust/dirt etc.

Highway Impact

- 6.10 Section 7, Page 36 of the Committee Report confirms that the Highways Authority (HA) agree study area has been adequately assessed and mitigation suggested at a number of junctions. Due to the issues surrounding Covid-19 and obtaining accurate traffic count data, the HA has accepted the assessments based on the data provided as the best available at the time/
- 6.11 A number of junctions were assessed as part the Transport Assessment work. Many of these were demonstrated to operate within capacity and therefore no mitigation is required - this includes the junction of Huthwaite Road and Ashland Road West. The following junctions require improvement, and the Nottinghamshire County Council Highways Authority (HA) has agreed that the proposed mitigation is acceptable:
- Blackwell Road / Common Road (Junction 2) – the development is forecast to significantly reduce capacity at this junction. The junction is already equipped with MOVA, however installation of on-crossing and kerbside detection, which generally allows more green time to vehicles, is considered to be an acceptable mitigation proportionate to the development.
 - Lammas Road / Hack Lane (Junction 6) - The junction is due to be refurbished out of the Local Transport Plan budget, however the development is demonstrated to have

a significant impact. Accordingly, to make the development acceptable, the HA requires a contribution to sustainable transport measures with the aim of reducing the number of vehicles utilising the junction.

Nottinghamshire County Council has identified a Strategic Cycle Network extending west of Sutton Town Centre along Huthwaite Road for the proposed contribution. The route will actively encourage cycling as a sustainable alternative to the car from this development. The development will provide a contribution of £120,000 which is equal to the cost of the junction upgrade.

- A38 Kings Mill Road / Station Road (Junction 9) - The HA agrees that there is no mitigation available proportionate to the development; however, as the development does have a notable impact, a Section 106 contribution is required to support the sustainable transport measures. A contribution of £10,000 is considered to be reasonable.
- Mansfield Road/Stoneyford Road & Mansfield Road/Dalestorth Street (Junctions 10 & 11) - The HA disagrees with conclusions drawn from the modelling that the development only has a small impact. However, MOVA signal upgrades and CCTV are considered as proportionate and reasonable mitigation at both junctions.

6.12 Overall, the Committee Report at Section 7, Page 37 confirms that a robust scheme of mitigation is proposed, along with Section 106 contributions to improve sustainable transport measures and as such the proposed development is acceptable in highway safety terms.

Points of Access

6.13 Two points of vehicular access are proposed off Ashland Road West to serve the development. As noted in Section 7, Page 37 of the Committee Report, the HA has confirmed that the proposed access junction layout (drawing number ADC1032-DR-001 Rev P10) is acceptable.

Pedestrian Crossing Point

6.14 As noted in Section 7, Page 37 of the Committee Report, the HA agrees that the proposed pedestrian improvements (shown on drawing number ADC1032-DR-002 Rev P1) support

sustainability of the site by providing safe access to and from the westbound bus stop on Huthwaite Road, providing wider community benefits. A condition is requested in order to secure the detailed design.

Developer Contributions

- 6.15 Section 8, Pages 37-41 of the Committee Report set out the developer contributions the Local Authority consider are required to make the development acceptable in planning terms.

Above Ground Heritage

- 6.16 Section 9, Pages 41/42 of the Committee Report confirms that there are no designated or non-designated heritage assets on or adjacent to the site. The site falls within Area G – Meden Valley of the Hardwick Hall Setting Study. However, given the location of the site and the topography of the land, the application proposals would not have an impact on the setting of Hardwick Hall.

Archaeology

- 6.17 Section 9, Page 41 of the Committee Report confirms that a pre-commencement condition is required for the submission of a written scheme of investigation prior to commencement of works to ascertain if any mitigation is required.

Air Quality

- 6.18 Section 9, Page 42 of the Committee Report confirms that there are no issues surrounding air quality and the Council's Environmental Health Officer has reviewed the submitted Air Quality Assessment, confirming the findings are acceptable i.e. the impact of the development upon local air quality will be negligible and that the site itself is acceptable for residential development.

Noise

- 6.19 Section 9, Page 42 of the Committee Report confirms that the proposed mitigation recommended by the Noise Impact Assessment (i.e. including selection of glazing, ventilation, building fabric with a sufficient sound reduction index; and 1.8m high acoustically sound fencing at garden boundaries adjacent to Ashland Road West) is acceptable and there

are therefore no concerns regarding noise impact for future residents. In relation to the development as currently proposed.

Loss of Open Space

- 6.20 Section 9, Page 42 of the Committee Report confirms that the application site is in private ownership, with no existing right of public access and the site does not form part of Brierley Forest Park. A footpath (47) runs adjacent to the site, along the northern boundary, but will be unaffected by the development.

7.0 AREAS OF DISAGREEMENT

Issue I

- 7.1 Whether or not the development would result in a significant adverse impact on the character and appearance of the area and surrounding landscape.

Issue II

- 7.2 Whether or not the loss of the greenfield site would result in significant and irreversible harmful impacts to biodiversity.

Issue III

- 7.3 Whether or not the proposed density is too high and out of keeping with the surrounding area.

Issue IV

- 7.4 Whether the development is in accordance with the Development Plan as a whole (for purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004).

Issue V

- 7.4 Whether the determination of the above-mentioned issues results in a consideration that there are adverse impacts that would significantly and demonstrably outweigh the benefits of the proposed scheme, when assessed against the policies in the Framework taken as a whole, within the context of the application of the tilted balance as per paragraph 11 d) ii) of the NPPF.

Issue VI

- 7.5 Whether planning permission should be granted, having applied the statutory test set out in section 38(6) of the Planning and Compulsory Purchase Act 2004 (which will include having regard to the outcome of Issue V).

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:

1. The formal approval of the Local Planning Authority shall be obtained prior to the commencement of any development with regard to the following Reserved Matters:

(a) Layout

(b) Scale

(c) Appearance

(d) Landscaping

Application for approval of reserved matters shall be made to the Local Planning Authority not later than 24 months from the date of this permission.

The development hereby permitted shall be begun not later than one year from the date of approval of the last reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Proposed Access Junction Layout (drawing number ADC1032-DR-001 Rev P10)

- Site Location Plan (ref. P19-1014 002 Rev B)

Reason: To ensure the development takes the form envisaged by the Local Planning Authority.

3. Details of appearance, landscaping and layout required to be submitted and approved under Condition 1 shall include details of:

- i. The design, layout and form of the dwellings, including details of the external surfaces and materials to be used;
- ii. details of highways and private street works including all key dimensions, junction and forward visibility splays and swept path analyses of a 11.6 m refuse vehicle;
- iii. the layout and marking of car parking, servicing and manoeuvring areas;
- iv. fencing, walling, boundary treatments and means of enclosure;
- v. a scheme of hard and soft landscaping, including the specification of trees, hedges and shrub planting and details of species, density and size of stock;
- vi. existing and proposed ground levels and those of surrounding buildings
- vii. proposed pedestrian routes within the site, including details of connections into Brierly Forest Park
- viii. refuse/recycling storage and collection points;
- ix. provision for electric vehicle charging points and cycle storage facilities;
- x. a lighting strategy for the development;
- xi. measures to minimise the risk of crime;
- xii. an open space masterplan for the site, including long term design objectives,
- xiii. management responsibilities and maintenance schedules.

Reason: To ensure adequate details are provided at detailed planning stage.

4. Any Reserved Matters applicant made pursuant to condition 1 shall include a sitewide Design Code for the development.

Reason: In the interests of securing a high quality design in accordance with part 12 of the NPPF – Achieving Well Designed Places.

5. Prior to the commencement of development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority, this should include:

- How construction traffic will access the site;
- Proposed hours and days of working;
- The parking of vehicles of site personnel, operatives and visitors;
- Location of the site storage areas and compounds;
- Wheel washing facilities;
- A strategy for the minimization of dust and vibration;
- A strategy for the minimisation of noise, vibration and dust;
- Site contact detail in case of complaints;

The approved details shall be adhered to throughout the construction period.

Reason: To protect the amenity of nearby residents during the construction phase of the development.

6. No site clearance, preparatory work or development shall take place in any phase until a scheme for the protection of the retained trees and hedgerows in that phase (the tree and hedgerow protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and hedgerows

in the phase shall be carried out as approved for that phase and retained throughout the construction period for that phase.

Reason: To ensure that the retained hedgerows are protecting during construction.

7. If during the course of development, contamination is found to be present on the site, then no further development (unless otherwise agreed in writing by the local planning authority) shall be carried out until the developer has submitted and obtained written approval from the local planning authority for a remediation strategy detailing how the contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the local planning authority.

Reason: To ensure the site is developed free from contamination.

8. Prior to commencement of development a detailed surface water drainage, scheme based on the principles set forward in the Flood Risk Assessment Prepared by EWE Associates Ltd Rev D dated November 2020. 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 for the lifetime of the development.

Reason: To ensure adequate means of surface water disposal.

9. No development shall commence until an ecological management strategy has been submitted to and approved in writing by the local planning authority. The strategy shall include: details of objectives to achieve ecological enhancement of the site; any required updated protected species surveys, details of measures for encouraging biodiversity within the site; review of site potential and constraints; details of works to achieve objectives; details of the body or organisation responsible for implementation; the timetable for implementation; details of aftercare and long term maintenance; details of monitoring and remedial measures; details of a legal and funding mechanism by which the implementation of the Strategy will be secured. The strategy shall be carried out as approved.

Reason: In the interests of biodiversity enhancement.

10. No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work for the development in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

Reason: To ensure any archaeological finds are properly documented.

11. No development shall take place until such time as a programme has been submitted to and approved by the LPA covering the following works:

- i. The provision of the accesses to the site, as indicatively shown on drawing number ADC1032-DR-001 Rev P10
- ii. The provision of on-crossing and kerbside pedestrian detection at the junction of

Blackwell Road/Common Road.

- iii. The provision of MOVA and CCTV at both the junctions of Mansfield Road/Stoneyford Road and Mansfield Road/Dalestorth Street.
- iv. The provision of the pedestrian refuge and associated build out with crossing points as indicatively shown on drawing number ADC1032-DR-002 Rev P1)

The works shall then be carried out in accordance with the agreed programme unless otherwise agreed in writing with the Local Planning Authority. For clarity these plans are conceptual ONLY and will be subject to detailed technical appraisal during the S278 process.

Reason: To provide sufficient capacity at the respective junctions and in the interest of pedestrian and general highway safety.

Signed on behalf of the Appellant:

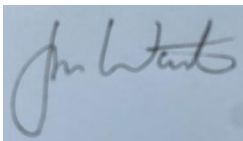


Name: Beth Evans

Position: Senior Planner – DLP Planning Ltd

Date: 09/07/2021

Signed on behalf of the Council:



Name: Jon Waite

Position: Principal Planner – Planning and Design Group

Date: 09/07/21