

COMMITTEE DATE 23rd October 2024 **WARD** Sutton Junction and Harlow Wood

APP REF V/2022/0629

APPLICANT Hallam Land Management

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

LOCATION Land at Newark Road, Coxmoor Road, Sutton in Ashfield

WEB-LINK

BACKGROUND PAPERS A, B, C, D, E, F, H

App Registered: 23-08-2022

Expiry Date: 22-11-2023

This application is the subject of a Planning Appeal against non-determination. This report is presented to members to seek a clear view on whether the appeal will be contested and what grounds Members consider they have concerns about and if it would have resulted in a decision what the reasons for that decision would have been.

At the meeting of Planning Committee on 31st September 2024 the Planning Committee was presented with the officer report contained within Appendix 1. On considering all evidence Members resolved that the application be deferred for the following reasons: -

'Members sought clarification and reassurance with regard to the proposed drainage and contamination strategies which might give rise to the potential for contamination of the watercourse from previous landfill and or provided conflicting strategies.

Further information was required as to the sustainability of the site particularly in relation to bus provision, routes and frequency and the accessibility and security of the station to cyclists and others given distance from facilities. Members were concerned that this would lead to a more severe impact on the highway and junctions in the vicinity and sought more detail.

A better understanding was required as to the impact development would have on the best and most versatile land.'

The applicant has subsequently appealed against non-determination and therefore it is not possible for the Council to now determine this application. However, in response to the deferral the applicant has provided comments in respect to the issues raised above and these are addressed below.

In respect of the appeal the appellant states that through detailed evidence, they will demonstrate that the proposal constitutes sustainable development. The planning balance indicates that the adverse impacts of the proposal are very modest and would not

significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole and that material considerations indicate that the appeal should be determined otherwise than in accordance with the development plan.

They further state the emerging plan is at a relatively early stage of preparation, and it is claimed that there are significant unresolved objections and serious issues about consistency with the NPPF. These matters all underscore that, applying the approach in NPPF paragraph 48, very limited weight should be attached to the emerging plan.

The appeal statement of case goes on to state that notwithstanding conflict with the Development Plan, material considerations indicate that the development should be permitted and these key additional material considerations include the provisions of the Framework, the presumption in favour of sustainable development, the extent of the shortfall in housing supply, the benefits of the scheme (including the provision of market and affordable housing), and the sustainability of the site.

The appellant also states the matters raised by residents fall within one of two categories. Either they are anecdotal and absent substantive evidence, or they have been addressed satisfactorily by application documents as confirmed in consultee comments and the officers report to committee.

The appellant provides further details in the statement of case and have provided information in respect of the matters raised by members.

Ground Contamination

In respect to ground contamination the applicant has forwarded a letter from Rodgers Leask, dated 16th September 2024(a copy of which is provided at Appendix 2). This provides a commentary on the potential risk from contamination associated with the construction and use of the proposed attenuation ponds for surface water drainage.

The letter sets out that ‘the risk presented by the construction and use of the attenuation ponds is considered very low based on the following:

- *The attenuation features shall be lined to prevent infiltration.*
- *The waste materials are recorded as inert and have been found to be consistent with this description with no visual or olfactory evidence of contamination in soils observed.*
- *No evidence of groundwater or leachate was encountered.’*

Further chemical testing will be required on the inert landfill materials, together with risk assessment and the formulation of a detailed Remediation Strategy to set out any mitigation measures required. This is typically controlled by the imposition of Planning Conditions. The circumstances here are relatively normal and the means of addressing any concerns about contamination of water from the site would comprise tried and tested methods.

Officers would advise that the ADC Contaminated Land Officer in response states “there has been historic landfilling on this site for inert waste. As such, testing for asbestos should be carried out and I could not find a statement describing this in the Richard Leaske letter report.

Therefore, a full contaminated condition should be appended to any permit issued for this development". This is as previously stated and previously reported.

It is therefore for members to consider whether they accept the evidence supplied by the appellant which states that the Phase 1 Geo-Environmental desk study concluded there is a low to moderate risk of contamination. That it is accepted that it has been demonstrated that the risk to water and drainage contamination can be satisfactorily mitigated by lining the attenuation features to prevent infiltration, even though it has been established that ground condition testing is required to be carried out. It is claimed this is typically controlled by the imposition of planning conditions and that the circumstances here are relatively normal and the means of addressing any concerns about contamination of water from the site would comprise tried and tested methods.

Sustainability of the site

Member requested further information to demonstrate this was a sustainable development since they had a number of concerns directly requesting information in relation to bus provision, routes and frequency and the accessibility and security of the station to cyclists and others given distance from facilities. If these were not considered to be satisfactory members were clear that they had concerns that this would lead to a more severe impact on the highway and junctions in the vicinity because of the increased reliance on the motor vehicle rather than residents being encouraged and able to use other modes of transport to access services.

The appellant has not responded to this request except to state that the County Council have not raised any concerns. In their appeal statement of case under sustainability it is stated that the nearest bus stops are on Kirby Folly Road and are between 490m and 950m walking distance depending on which access is used and the resident's starting point. It is also proposed that a significant contribution is to be made to provide improvements to the local bus services to serve the site as well as a bus layover and turning area being included in the masterplan and bus tater tickets for residents. The bus services stopping at the Kirkby Folly Road stop are the Trent Barton 3C service (approx. every 20 Mins), the 33 and 90 service which is claimed to be operated with relative frequency and the stagecoach's MX90 service which runs infrequently.

In the planning application there was a claim made by the appellant's in their submitted transport assessment that they had examined the current opportunities for pedestrian, cycle and public transport travel to and from the site. Since then the bus routes have changed however Sutton Parkway railway station it was claimed had "secure cycle parking so there is good opportunities for train travel as a multi modal journey." The request by Members about the accessibility and security of the station to cyclists has been answered by the appellant as follows:

"We have not contacted the County or other organisations as Nottinghamshire Highway Authority have not raised any issues with cycle parking at the train station and nor have any other consultees. If the Council consider a CIL compliant request can be justified, then this justification should be provided by the Council. We have said we are happy to secure a CIL compliant request through a S106 Agreement, it is not appropriate for us as the applicant to justify a developer contribution."

In the appellants statement of case however it is stated that Building Sustainable Transport into New Developments (DfT, 2008) states that *“the propensity to walk or cycle is not only influenced by distance but also the quality of the experience.”*

In respect to the issue of the use of planning obligations (for example to secure contributions towards the provision of facilities) regard must be had to paragraph 57 of the NPPF, which states: -

‘Planning obligations must only be sought where they meet all of the following tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.’

The appellant makes claims in their submission that secure cycle parking is available and this is a benefit to the proposal to ensure it is sustainable, but when it is pointed out that their claim is incorrect and it is not available it is then not for them to justify a contribution would be necessary.

Officers have sought to obtain details of a potential scheme from parties involved in promoting public transport. However, at the time of the compilation of this report no information in this respect as been provided.

On the available evidence, compliance of a contribution with the test set out in paragraph 57(c) of the NPPF towards improving cycling provision at Sutton Parkway, can be demonstrated as stated above and has previously been accepted by the appellant’s in their submissions by claiming such to be available.

It is therefore for members to decide whether the development of the site is sustainable and whether contributions for off-site works would be necessary to ensure it is sustainable and what works these would comprise.

Impact on Best and Most Versatile Agricultural Land

The appellant has acknowledged in their planning statement of case on the appeal that 97% of the land comprises subgrade 3a agricultural quality land. Although not acknowledged previously or highlighted to be an issue in their planning application they have accepted it to comprise best and most versatile (BMV) agricultural land and that this will be lost. This loss of BMV agricultural land is therefore to be weighed in the planning balance. The claim is that the loss is inevitable to provide housing and therefore acceptable.

Members will therefore have to assess this in their deliberations and consider against NPPF paragraph 180 which states decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land. Footnote 62 in the NPPF states

“Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of

agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.”

Conclusion

The above provides members with the responses given by the appellant to their questions and additional information which has been submitted in the appellant's Statement of Case on the planning appeal. The appeal against non-determination however takes the matter further and it would be helpful to the Public Inquiry which is to be held, for members to now consider the initial report, together with the responses given as to what decision members may have reached on the application. The decision may go beyond the questions asked however members are reminded that any reasons for their decision should be defensible at the Public Inquiry.

No Recommendation is made by officers: - The Planning Committee is requested to give its views to steer the public Inquiry and reduce time and costs for all parties.

The decision could be one of the following

- 1. that the appeal is not to be defended since a Conditional Consent subject to a section 106 Agreement as outlined in the previous officer report is accepted.**
- 2. That members would be minded to grant planning permission subject to different conditions (to be specified) and, or altered heads of terms on the legal agreement.**
- 3. That members would have been minded to refuse planning permission for the following reason(s) which would be the basis on which the Council's case at the Public Inquiry maybe based.**

APPENDIX 1

COPY OF OFFICERS REPORT PRESENTED TO PLANNING on 31st SEPTEMBER 2024

<u>COMMITTEE DATE</u>	31 st July 2024	<u>WARD</u>	Sutton Junction and Harlow Wood
<u>APP REF</u>	V/2022/0629		
<u>APPLICANT</u>	Hallam Land Management		
<u>PROPOSAL</u>	Outline planning application (with all matters reserved except access) for a residential development of up to 300 dwellings with associated infrastructure and landscaping		
<u>LOCATION</u>	Land at Newark Road, Coxmoor Road, Sutton in Ashfield		
<u>WEB-LINK</u>			
<u>BACKGROUND PAPERS</u>	A, B, C, D, E, F, H		

App Registered: 23-08-2022

Expiry Date: 22-11-2023

Consideration has been given to The Equality Act 2010 in processing this application.

This application has been referred to Planning Committee by Councillor Cronshaw on the grounds of highway and impact on neighbours.

The Application.

This application seeks outline planning permission with all matters reserved except for access for a residential development of up to 300 dwellings with associated drainage, open space and green infrastructure. Matters such as the appearance, landscaping, layout and scale have been reserved and therefore are not for consideration at this outline stage.

However, to support the application, the applicant has submitted an illustrative masterplan. This demonstrates how the site could be laid out to accommodate 300 dwellings with associated highway, green and drainage infrastructure in a policy compliant way. This illustrative masterplan shows that the access to the site would be via a new traffic signal controlled T-junction on Newark Road leading on to a main spine road off which smaller estate roads would serve the dwellings.

Surface water drainage would be via a series of swales, ditches and balancing ponds prior to discharge off the site. Foul water is proposed to be discharged to two connection points on Searby Road.

The illustrative masterplan also shows extensive landscaping along the north eastern and southern eastern boundaries of the site providing screening from the B6139 Coxmoor Road and the open countryside respectively.

Site Description.

The site comprises 21.4 hectares of open countryside set to arable production on the edge of the town of Sutton in Ashfield. To the north-west the site is bounded by the B6022 Newark Road across which is a commercial/ industrial estate. To the north-east the site bounds the B6139 Coxmoor Road across which is open countryside. To the south-west the site bounds the existing residential development off Sotheby Avenue and to the south-east the site abuts open countryside. The Sherwood Observatory and Coxmoor Golf Club are located approximately 440m to the south-east.

The topography of the application site slopes down from Coxmoor Road and from the south-east of the site to the north-west.

Relevant Planning History.

V/2017/0565: Outline application with some matters reserved for a residential development of up to 300 dwellings, new public open space, landscaping, drainage infrastructure and access at land at Newark Road. Closed no decision made.

Consultations

Site Notices have been posted together with individual notification of the application of surrounding residents. 78 individual letters of objection have been received and a summary of the comments is set out below: -

Highways Safety and Capacity

- The proposal would add to existing problems of traffic congestion in the immediate area.
- The traffic flow counts submitted were conducted in 2017 but after this date there has been many housing developments in the Mansfield area plus the build of Amazon which has increased the traffic flow.
- The installation of average speed cameras would help along its length.
- The traffic survey as submitted by the developer is both inaccurate and misleading. It indicates that there is a public right of way between the west side of the proposed development via Searby Road down to Sotheby Road.
- The proposed cycle plan will make it even harder and more dangerous for the entry into the estate from Searby Road.

Impact on Ecology and the Natural Environment.

- The application site supports a variety of wildlife including species of conservation concern.
- There will be a loss of trees and arable land.
- What is nice to see within the plans are the parks and wildlife ponds.
- The Ecological report states that Nightjar sites have been recorded being 5km away however many residents have regularly seen nightjars eggs on the ground areas on this specific site.

Impact on Residential Amenity

- The proposed houses would encroach on adjacent bungalows.
- As the ground is higher privacy of adjoining neighbours would be lost.
- The existing dwellings will suffer a negative impact from a loss of light due to many of the proposed properties being built up to their boundaries.

Impact on the Character of the Area.

- The open views which many people on this Sutton Junction estate enjoy would be lost. The beautiful open views were the reason many residents purchased their properties initially.

Impact on Local Services/ Infrastructure/ Amenities

- There are insufficient School and doctors' and hospital places.
- Will there be another play park being built? The current one is not fit for purpose.
- Insufficient school places.
- There would be a cumulative impact from several recent developments.

Drainage and Flood Risk.

- The proposal would exacerbate existing issues of flooding and sewerage capacity.
- This site has dozens of springs on it which add to the flooding problem.
- There is a recommendation that the swales and dams built on the new housing estate should be maintained quarterly to remove silt deposits, leaves and litter etc. Concern expressed that this would not be actioned.

Pollution and Disturbance.

- The proposal would result in noise and air pollution from traffic.
- The construction phase will result in increased levels of noise, dirt and dust.
- The proposed land was an uncontrolled landfill tip and is full of toxic chemicals which makes it unsuitable for building on.
- The spot samples taken for ground contamination are not representative of the whole site.
- There is anecdotal evidence from residents of the estate of illegal dumping at the former tip.

Loss of Agricultural Land.

- Loss of agricultural land.

Crime and Antisocial Behaviour

- There appears to be no reason to construct a pedestrian access to a green area from the bottom of the estate into the new development. It will inevitably just encourage loitering and antisocial behaviour near to elderly residents' homes.
- The application does not reference any impact on crime and/or disorder in the area. Local Authorities are obliged to consider this when discharging their various functions as per S.17 Crime and Disorder Act 1998.
- The estate has seen a rise in anti-social behaviour as it is and nothing has been done about that so far, what will happen with another planned 300 homes and more children and teenagers in them?

- What measures will be taken to ensure this is a well-lit and looked after public access point?

Other Issues

- Why should the existing and new estates be connected?
- Why cannot the application site be used for a wind farm or solar power farm?
- The increased light pollution from such a large development will have a detrimental impact on much loved and important educational tool, the Sherwood Observatory, which is currently raising funds for expansion.
- Houses should be built instead on old factory sites and the like.
- Many locals walk their dogs on the site.
- This development will bring down the value of the properties on the existing estate.
- The proposed site as a 32,000kw electric over land supply line which will require regular maintenance by the National Grid.
- The proposal would result in erosion of the Green Belt.
- Effect on listed building and conservation area.
- The Council have reviewed and rejected much more appropriate appointed sites closer to main transport links adjacent to the A38, sites alongside the A38 which are also closer to facilities and schools not on the edge of the Sutton boundary.
- Why have valuable resources been appointed to produce a local plan with recommended designated sites are outlined for housing if developers and the Council intend to override their own proposals.
- The government has indicated a much more flexible approach to the previous housing targets for local authorities. I expect the Council to challenge the numbers for Ashfield which has already huge challenges and pressure on local resources.
- Car Insurance will increase.
- The proposal will affect water pressure.

Consultation Responses

ADC Ecologist

No objections subject to conditions in respect of Biodiversity Net Gain, incorporation of features for roosting bats and birds into new dwellings and hedgehog fencing on site, construction environment management plan and future management arrangements.

ADC Drainage

No comment received.

ADC Environmental Health

Noise

A noise impact assessment was conducted by Wardell-Armstrong in April 2022 with traffic noise being the dominate noise impacting the north and east of the proposed site. In section 6 of the assessment, the report states that the outdoor living space in the north, north-eastern and eastern parts of the site will require mitigation in order to achieve the daytime noise guidelines level of 55 dB including placing gardens on the screened side of dwellings and with localised closed boarded fencing around garden areas where required. For noise

sensitive living room and bedrooms on the proposed site, the report comments that with windows closed this should meet the required internal noise levels yet this would lead to potential overheating and therefore ventilation would be required. The specific glazing and ventilation requirements would need to be confirmed on a plot-by-plot basis, yet without a detailed design layout of the individual properties on the proposed site, no specifics are provided.

While the noise levels indicated in the noise impact assessment will be low to medium adverse impact, without a detailed site plan relating to the location of each property, the outside living space and distance of each property from the sources of noise, the mitigation suggestions above are non-specific.

We consider that mitigation of gardens and windows to habitable rooms is likely to achieve acceptable standards for the occupation of these dwellings and so the primary concern for you would be aesthetic including the size and scale of garden fences. Subject to this no objections subject to a suitably worded condition to control the noise environment of the proposed dwellings.

Air Quality

An air quality report was completed by Wardall-Armstrong in June 2022 which the assessment indicates that the proposed development will not lead to an unacceptable risk from air pollution, and we are minded to accept the report with no mitigation being proposed and no condition requested.

Construction Dust and Noise Control

With large development such as proposed, it is expected to create dust and noise throughout the development of the site which will cause nuisance and disturbance to the local community and residents surrounding the site. Therefore, no objections subject to a condition for a Construction Environmental Management Plan (CEMP) being placed on any permission granted.

Lighting

A lighting strategy and mitigation report was completed by dpa lighting consultants which sets out the design principles of the site taking into consideration the potential impact on Sherwood Observatory. The report does not detail the layout of the proposed lighting scheme for the development. They have identified the sensitivity of existing residents and the Sherwood Observatory and standards that would be applied for the protection of these receptors. To ensure that the necessary mitigation is implemented as proposed it is recommended that a condition requiring the submission of an external lighting scheme be attached to any permission granted.

ADC Environmental Protection (Contamination)

Part of this site is occupied by an EA licenced landfill site.

Having reviewed the Phase 1 GeoEnvironmental Desk Study (– Low Moor Road, Sutton in Ashfield for Hallam Land Management by RLRE Ref: P22-070 dated 8th February 2022) there are no objections subject to a condition, requiring the submission, implementation and verification of a remediation scheme to deal with potential ground contamination, attached to any permission granted.

ADC Housing Policy

Would expect 10% affordable housing to be provided, property types to reflect the greatest demand in the area – currently 2 and 3 bed family homes – but we would review these according to demand at an appropriate time.

A cascade mechanism is required which would allow a commuted sum of 40% equivalent OMV as an alternative should the developer be unable to secure a registered provider to take the properties.

ADC Planning Policy

Policy Comments – Key Considerations only

Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan unless material considerations indicate otherwise. The adopted development plan for the area comprises the saved policies of the Ashfield Local Plan Review 2002 (ALPR).

Also applicable is National Planning Policy Framework (NPPF) which is a material consideration. The policies in the development plan have to be considered in relation to their degree of consistency with the provisions of the NPPF (NPPF, December 2023 paragraph 225).

Principle of Development

The proposal needs to be considered against ALPR Policy ST1, Development, which specifies a number of provisions including that development will be permitted where:

- a) It will not conflict with other Local Plan policies.
- b) It will not adversely affect the character, quality, amenity or safety of the environment.
- c) It will not adversely affect highway safety or the capacity of the transport system.
- d) It will not prejudice the comprehensive development of an area.
- e) It will not conflict with adjoining or nearby land use.

Policy ST1 is consistent with the provision of the NPPF. However, in relation to any conflict with 'other Local Plan policies,' these other policies have to be considered in relation to the provisions of the NPPF.

The site is located in the countryside, outside the designated settlement boundary for Sutton. Saved Policy ST4 (The Remainder of the District) sets out that given the location of the application site, permission will only be given for

- Sites allocated for development.
- Development appropriate to the Green Belt (Policy EV1) or the Countryside (Policy EV2).

Saved Policy EV2 specifies the types of development that are considered to be appropriate in the countryside. The proposed development does not fall within the definition of appropriate development in ALPR, and consequently does not meet the requirements of Policy EV2. The policy confirms that in all cases development must be located and designed so as not to adversely affect the character of the countryside, in particular its openness.

Policy EV2 is consistent with the NPPF's requirement in recognising the intrinsic beauty and character of the countryside (Para.180b) - this has been accepted at appeal (see V/2021/0024). Consideration should be given to the impact on the character and appearance of the countryside.

Landscape and Ecology

NPPF para 180 also stresses that planning policies and decisions should contribute to and enhance the natural and local environment by a variety of measures including minimising impacts on and providing net gains for biodiversity. The Council is required to assess how a development might affect 'protected' and 'priority' species and habitats on or near a proposed development site when reviewing a planning application. There are no identified locally or nationally designated sites on or adjacent to the site, but it does fall within the buffer zone around the 'prospective' Sherwood SPA, as such, an assessment of potential impacts should be carried out, in line with Natural England's Risk-based Approach.

Natural England's Agricultural Land Classification Map for the East Midlands Region identifies that the site is classified as Grade 3 (good to moderate) quality agricultural land.

Affordable Housing and Density

Housing density requirements are set out in ALPR saved Policy HG3. This is consistent with the NPPF with its emphasis on the efficient use of land (Paragraph 129). In this location, the Policy requires a net minimum density of 30 dwellings per hectare (dph). The application site measures 21.3 hectares. After deducting for large scale open space (47.5%) and infrastructure provision this leaves a net developable area for residential of 10.63 hectares. If the proposal for 300 dwellings is minded to be approved, the density would therefore be approximately 30 dph. This approach is carried through in the new emerging Local Plan under Policy H7.

The current affordable housing requirement is set out in 'saved' ALPR policy HG4 but this needs to be considered in relation to the NPPF. Taking account of NPPF, para 48, on the basis that the emerging policy has received little in the way of objection and the emerging Local Plan is at an advanced stage, it is considered appropriate to apply the more up to date emerging policy in decision making. This policy is based on more up to date evidence and is consistent with current national policy. Emerging Policy H3 would require a minimum contribution of 25% affordable housing in this instance.

Infrastructure

The NPPF advises that planning policies and decisions should support development that promoting healthy and safe communities emphasises the importance of planning positively for community facilities, ensuring sufficient choice of school places, and access to high quality open spaces, respectively. Developer contributions are likely to be required in order to ensure a sustainable development, which satisfies NPPF requirements.

Policy TR6 of the ALPR, 2002 identifies that contributions towards transport infrastructure will be required from the development in appropriate circumstances.

Housing Land Supply

The Council cannot currently demonstrate a 4-year supply of deliverable housing sites. The Housing Land Monitoring Report of 31st March 2023, which applies a 20% buffer, identifies that Ashfield District had a housing land supply of 2.84 years. In these circumstances, the application has to be considered on balance in the context of the NPPF paragraph 11. The starting point is the presumption in favour of sustainable development. Paragraph 11(d) provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Emerging Local Plan

Notwithstanding the above, a Regulation 19 consultation took place (Friday 1 December 2023 – Monday 29 January 2024) on a Pre-Submission version for a new Local Plan for Ashfield. This will ultimately replace the saved policies of the current Ashfield Local Plan Review 2002 upon adoption and was submitted for independent examination in April 2024. The application site is not a proposed allocation emerging Local Plan which now carries weight as a material consideration.

The proposed housing allocations in Policy H1 of the Pre-Submission Local Plan together with small site supply will provide in excess of 13 years' worth of housing supply and a rolling 5-year supply post adoption. This is consistent with NPPF paragraph 69 which requires policies to identify a sufficient supply and mix of sites, (taking into account their availability, suitability and likely economic viability), with specific, deliverable sites for years one to five of the plan periods, and specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the Plan. The Council considers it has made sufficient provision to meet the identified need by selecting the preferred most sustainable and suitable sites for allocation.

It should be noted, however, that there are outstanding objections from the Regulation 19 consultation in respect of the capacity of the Housing Land allocations not meeting the full 15 years requirement set out in strategic Policy S7: Meeting Future Housing Provision.

Background Paper 1: Spatial Strategy and Site Section (BP1) which supports the emerging Local Plan identifies the sequential approach taken to identifying housing sites to meet needs for the District. The subject of this application was assessed initially in the Strategic Housing and Employment Availability Assessment (SHELAA) under site reference SA024 as 'potentially deliverable'. The SHELAA involves a high-level assessment to provide a 'pool' of potential sites which could help to deliver the District's housing need in a sustainable manner, consistent with the Council's Spatial Strategy. It is a starting point for consideration, but does not allocate sites, as this involves greater consideration of wider ranging issues to identify the most appropriate locations for growth. BP1 identifies that this site was excluded primarily due to the uncertainty that it would not deliver the homes required – paragraph 8.18 cites the duration of 2 pending planning applications dating from 2017 and 2022, with unresolved highways issues.

Environment Agency

The EA has reviewed the "Phase 1 Geo-Environmental Desk Study" report produced by Rodgers Leask, dated February 2022 (ref: P22-070), which has been submitted in support

of this application.

Previous Desk Study reports have been produced by Rogers Leask for the site to support planning applications in 2017. In these previous Desk Study reports, recommendations for groundwater monitoring were made, and there was an acknowledgement that chemical analysis of groundwater may be necessary.

Whilst this more recent Desk Study report recommends an intrusive investigation to help further assess controlled waters risks (amongst other risks), it is less descriptive about whether groundwater monitoring or analysis will be undertaken.

Given the historic landfill on site and the sensitivity of the groundwater in this location (principal aquifer and within a Source Protection Zone), we would be expecting groundwater analysis to inform future assessments of risks posed to controlled waters at this site.

Please note that in making our response, the Groundwater and Contaminated Land Team of the Environment Agency has considered risks posed to controlled waters only. The Local Environmental Health Officer must be contacted with regards to other risks, such as those posed to human health (for example from the migration of landfill gas). We believe that it is critical for early liaison with the Local Authority Environmental Health Department given the presence of the historic landfill on the site, and the proximity of an authorised landfill site to the proposed development.

The EA considers that planning permission could be granted to the proposed development as submitted if the planning conditions for the submission of a site remediation scheme and its implementation and verification is attached to any permission granted. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

The EA is not aware of the Rolls Royce report referred to by a member of the public but note that it is thought to have been produced in 1998. Our recommended land contamination condition requires an up-to-date site investigation and risk assessment to be produced prior to any development, which will help to establish the contamination status of this site.

Drainage

The information submitted in support of the application indicates that foul drainage will discharge to mains foul sewer. We have no objection to this proposal.

The EA understands that the infiltration capacity of the soil is not sufficient to utilise infiltration drainage techniques at this site. If the drainage strategy changes to incorporate infiltration techniques, the condition outlined below should be attached to any permission granted.

The EA notes that an attenuation pond is proposed in the location of the historic landfill, and believe it is necessary for further design details to be provided for this pond to ensure that leakages will not occur. Leakage of this pond into landfill materials could pose contamination risks to controlled waters, and also promote the generation of landfill gas.

Health and Safety Executive

No objections.

Local Lead Flood Authority

No objection subject to conditions requiring the submission of a detailed surface water drainage scheme based on the principles set forward by the approved Flood Risk Assessment (FRA) and Drainage Strategy.

NHS

Financial contribution Requested: £162,562.50

Natural England

No objection.

The response goes on to give generic advice in respect of best and most versatile agricultural land, landscape, access and recreation, environmental gains and biodiversity duty.

Network Rail

Network Rail has no objection in principle to the development subject to a condition to prevent the use of the level crossing by construction vehicles and informatives attached to any permission granted.

Nottinghamshire Constabulary

No objections.

Nottinghamshire County Council (Ecologist)

No comments received. [Councillors should note that the NCC Ecologist no longer provides advice to District level planning applications].

Nottinghamshire County Council Highways

No objections subject to conditions.

Nottinghamshire County Council (Policy)

Minerals & Waste

Minerals

In relation to the Minerals Local Plan, the proposed site is not in close proximity to any existing or proposed mineral extraction allocation sites. The County Council therefore raises no concern in terms of mineral safeguarding.

Waste

In terms of the Waste Core Strategy, there are no existing waste sites within the vicinity of the site whereby the proposed development could cause an issue in terms of safeguarding existing waste management facilities (as per Policy WCS10).

As set out in Policy WCS2 'Waste awareness, prevention and re-use' of the Waste Core Strategy, the development should be 'designed, constructed and implemented to minimise the creation of waste, maximise the use of recycled materials and assist the collection, separation, sorting, recycling and recovery of waste arising from the development.' In accordance with this, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would be useful for the application to be supported by a waste audit. Specific guidance on what should be covered within a waste audit is provided within paragraph 049 of the Planning Practice Guidance.

Education

The proposed development of 300 dwellings on the above site would yield an additional 63 primary, 48 secondary, 9 post 16 aged pupils, including 2 pupils requiring a specialist place.

Primary

Based on current data there is a projected surplus of places in the planning area and the impact of the development would not lead to a deficit in provision. At this time, the County Council will not be seeking contributions towards additional primary education places.

Secondary

The County Council requests a contribution of £1,113,936 towards Secondary Education.

Special Educational Needs and Disabilities (SEND)

In line with the NCC Developer Contribution Strategy, a development of this size would yield two pupils requiring a place in a non-mainstream setting. As shown in the table below, the Council's projections indicate that there is a current shortage of specialist places for pupils with SEND, which is forecast to continue. Therefore, the County Council would seek a SEND education contribution of £180,644 (2 places x £90,322). The contribution will be used towards expanding special school facilities or to fund the provision of specialist provision attached to a mainstream school.

Transport & Travel Services

Bus Service Support

Nottinghamshire County Council's Highway Design Guidance (Part 3.1) states that walking distances to bus stops in urban areas should be located within a maximum of distance of 400 metres and desirably no more than 250 metres. The closest existing bus stops are located Kirkby Folly Road approximately 840 metres from the centre of the site. A summary of the current services that serve the closest stop(s) are detailed below:

In August 2023 Trent Barton withdrew their 3's (C variant) along Searby Road/ Sotheby Avenue with a revised line of route serving the Kirkby Folly Road stops, situated more than 800 metres from the centre of the site. This exceeds the guideline walk distance.

The internal roads within the proposed development would be designed to facilitate bus access (minimum 6.2m width) and provide suitable locations for bus stops within the development, should they be required in the future. The current linear spine road configuration, as submitted, appears to terminate within the site with no through access. Any

through access in the future would allow for a service to be extended through the development. The current closest stops exceed the Highway Design Guidance, so any service access into the site would make the site acceptable in terms of access to sustainable transport.

A 6.75 metre highway width is required to support future bus access, and potential two-way operation. Any future bus access will be subject to appropriate funding and agreements with local bus operators in context with the prevailing local network, including the details of any future extension through adjacent sites or loop, and identified travel needs.

The Council request that a Planning Obligation be added to state:

A Bus Service contribution of £220,000 is paid to provide improvements to the local bus services to serve the site.

Bus Stop Infrastructure

A Bus Stop Infrastructure contribution of £45,600 is requested to provide improvements to the two bus stops denoted AS0324 and AS0551 Kirkby Folly Road.

The level of funding requested would provide the following improvements:

AS0324 Kirkby Folly Road: Real time bus stop pole & display including electrical connections, raised boarding kerbs, lowered access kerbs, enforceable bus stop clearway or other enhancements as required.

AS0551 Kirkby Folly Road: Real time bus stop pole & display including electrical connections, raised boarding kerbs, extended hardstands/footways enforceable bus stop clearway or other enhancements as required.

These Improvements are necessary to achieve an acceptable standard to promote sustainable travel and make the development acceptable for public transport access.

On Site Facilities - The walk distance access to the closest bus stops is more than 800 metres from the centre of the site and exceeds the guideline walking distance for developments in urban areas.

To support bus service access into the site a temporary bus turning facility should be specified.

Transport & Travel Services also require new bus stop infrastructure to be installed close to / within the development through Section 38 and Section 278 agreements where appropriate.

The Council requests that any planning consent be subject to planning conditions to secure

- (i) the location of new bus stops within the site and
- (ii) denoting a temporary bus turning facility within the site.

School Transport

The closest schools to the site include Croft Primary School and Sutton Community Academy. At this time, it is not envisaged that contributions towards school transport provision will be sought.

Sustainable Travel

Any planning permission should be subject to a planning condition for details of a scheme for the provision of free bus passes to residents of the development upon occupation.

Payment Triggers – In the event that the funding requests are supported the preferred triggers for payment are as follows:

Bus Service Improvements - 50% of the total upon completion of 25% of the dwellings; 50% of the total upon completion 75% of the dwellings

Bus Stop Improvements -Prior to occupation.

Libraries

The proposed development on Land at Newark Road and Coxmoor Road would comprise 300 new dwellings. At an average of 2.3 persons per dwelling, this proposal would add 690 people to the library catchment area population for Sutton in Ashfield Library, which is the nearest existing library to the proposal site.

Requests a contribution of £10,571.00.

Nottinghamshire Wildlife Trust

No comments received.

Severn Trent Water Ltd

No objection subject to a condition and informative attached to any permission granted.

Policy Framework.

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

National Planning Policy Framework (NPPF) 2023.

- Part 2: Achieving Sustainable Development.
- Part 5: Delivering a Sufficient Supply of Homes.
- Part 8: Promoting Healthy and Safe Communities.
- Part 9: Promoting Sustainable Transport.
- Part 11: Making Effective Use of Land.
- Part 12: Achieving Well-Designed Places.
- Part 14: Meeting the Challenge of Climate Change, Flooding and Coastal Change.
- Part 15: Conserving and Enhancing the Natural Environment.

Ashfield Local Plan Review (ALPR) 2002.

- Policy ST1: Development.
- Policy ST4: The Remainder of the District
- Policy EV2: The Countryside.
- Policy HG3: Housing Density.
- Policy HG4: Affordable Housing.
- Policy HG5: New Residential Development.
- Policy HG6: Open Space in Residential Developments.
- Policy TR2: Cycling Provision.
- Policy TR3: Pedestrians and People with Limited Mobility.
- Policy TR6: Developer Contributions to Transport Improvements.

Design Guidance.

Ashfield Residential Design Guide 2014.
 Ashfield Residential Car Parking Standards 2014.
 The National Design Guide 2020.
 National Model Design Code 2021.
 Building for a Healthy Life 2020.
 Gear Change: A Bold Vision for Cycling and Walking 2020.
 Cycle Infrastructure Design (LTN 1/20) 2020.
 Manual for Streets 2 2010.
 Nottinghamshire Highway Design Guide 2021.
 Residential Car Parking Standards 2014.

Main Material Considerations.

The main material considerations are:

- Principle of the development.
- Impact on highway safety and capacity.
- Impact on residential amenity.
- Flood risk and drainage.
- Land stability and ground contamination
- Impact on biodiversity and wildlife.
- Impact on mineral safeguarding
- Impact on local services and infrastructure.
- Affordable housing.
- Public open space
- Developer contributions

SUMMARY

Principle of the Development

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination, then that determination must be made

in accordance with the plan, unless material considerations indicate otherwise. Therefore, the starting point for decision-making are the policies set out in the Ashfield Local Plan Review 2002 (saved policies).

There are a range of policies in the emerging Ashfield Local Plan (2023-2040), the emerging plan has been submitted to the Secretary of State for examination following significant consultation under Regulation 19, this therefore provides the vision and aspirations of the Council and although it has not been examined it is based on evidence and therefore should be afforded some weight (albeit small). The emerging plan however is not the development plan until adopted and the emerging policies cannot therefore be afforded significant weight in the decision process..

Whether the Proposal Complies with the Development Plan

The proposal comprises the development of an area outside of the boundary of the main urban areas of Ashfield District and therefore engages Strategic Policies ST1 (Development), ST4 (The Remainder of the District) and EV2 (The Countryside) of the Ashfield Local Plan Review (2002) (ALPR).

Policy ST1 sets out the overall strategy for assessing development proposals and states: -

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,
- c) It will not adversely affect highway safety, or the capacity of the transport system ‘
- d) It will not prejudice the comprehensive development of an area,
- e) It will not conflict with an adjoining or nearby land use.

Having had regard to the provisions of Policy ST1(a) other policies that go to the principle of the development include Policies ST4 and EV2 of the ALPR. Policy ST4 sets out that outside of the main urban areas and named settlements permission will only be given for: -

- (a) sites allocated for development,
- (b) development appropriate to the Green Belt or the countryside as set out in Policies EV1 and EV2.

Given that the site is not allocated for development it does not meet the test set out in Policy ST4(a). Furthermore, as the site is not located in the Green Belt, Policy EV1 is not applicable.

Therefore, therefore the proposal should be assessed against the requirements of Policy EV2.

Policy EV2 states: -

In the countryside permission will only be given for appropriate development. Development must be located and designed so as not to adversely affect the character of the countryside, in particular its openness. Appropriate development comprises:

- a) Rural uses, including agriculture, forestry, mineral extraction and waste disposal to reclaim mineral workings,
- b) outdoor sport, outdoor recreational and tourism uses'
- c) Cemeteries and utility installations requiring a rural location,
- d) New buildings which are essential for uses appropriate to the countryside and the need for the proposed location has been established,
- e) Re-use of existing buildings,
- f) Replacement, alteration or extension of existing buildings where the resultant form, bulk and general design is in keeping with the building, where retained and its surroundings,
- g) Infill development which does not have an adverse effect on the scale and character of the area,
- h) Within the villages of Fackley and Teversal, development which does not have an adverse effect on the character of the village.

The proposal for 300 dwellings does not fall into any of the categories of development identified within Policy EV2 as appropriate in the countryside. Furthermore, it would have an adverse impact on the rural character of this area of countryside and fail to preserve its openness.

As such the proposal is contrary to Policies EV2 and ST4 and therefore ST1(a) of the Local Plan. The proposal should therefore be refused as being contrary to the provision of the development plan unless material considerations indicate otherwise. A significant material consideration in the determination of this application is the provisions of the National Planning Policy Framework and its 'presumption in favour of sustainable development'.

The Presumption in Favour of Sustainable Development

The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner (para 7, NPPF).

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These include environmental, social and economic objectives (para 8, NPPF). Furthermore, the NPPF goes on to state 'so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development'. This presumption is set in paragraph 11 and for decision-taking means:

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

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

Footnote 8 states 'This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable) of deliverable housing sites (with a buffer, if applicable) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.'

Housing Supply.

The NPPF in paragraph 60 sets out the Government's objective to significantly boost the supply of homes. It should be noted that the revised NPPF (Dec 2023) para 77, now only requires local authorities in Ashfield's position to demonstrate a 4-year supply of specific deliverable sites. This is due to the fact that Ashfield has an emerging local plan that has reached Regulation 19 stage, including both a policies map and proposed allocations towards meeting housing need (NPPF para 226). Based on the 2022-23 Housing Monitoring Report (HMR), adjusted for a 20% buffer required by the results of the Ashfield Housing Delivery Test, the Council has a 2.56 years supply, and can therefore not identify a 4-year housing land supply.

As the Council does not have a four year housing supply of deliverable housing sites and failed the Housing Delivery Test, paragraph 11d of the NPPF sets out that permission should be granted unless the application of NPPF policies that protect areas or assets of particular importance (Footnote 7) provides a clear reason for refusing the proposal 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.

However it should be noted that this development is unlikely to contribute to the 4 year housing land supply and is likely to come into effect much later in the housing trajectory given it is a large site requiring significant infrastructure in advance of development.

The NPPF policies that protect areas or assets of particular importance are set out in Footnote 7 and include 'habitats sites (and those sites listed in paragraph 187) 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 72); and areas at risk of flooding or coastal change'. Officers can confirm that the application proposal does not engage any of the policies identified in Footnote 7.

This report will go to look at the impact of the proposal against acknowledged interests to determine whether any adverse impacts exist, before going on to look at the benefits of the proposal and eventually to determining whether any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

Impact on Highway Safety and Capacity

Although the application is in outline form the applicant has indicated that the means of access is not reserved and therefore is for determination at this outline stage.

As the proposal has the potential to increase traffic movements it engages Policy ST1 of the Local Plan and paragraphs 114 and 115 of the NPPF.

Policy ST1 of the Local Plan states [amongst other things] development will be permitted where it will not adversely affect highway safety, or the capacity of the transport system.

Paragraph 114 states 'in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 48; and
- d) 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.

Furthermore, paragraph 115 makes it clear that 'Development 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'.

In support of the application the applicant has submitted an illustrative masterplan which shows that the access to the site would be via a new traffic signal controlled T-junction on Newark Road leading on to a main spine road off which smaller estate roads would serve the dwellings.

In support of the application the applicant has also submitted a Transport Assessment by ADC Infrastructure augmented by an Access Technical Note - and a series of technical drawings of the proposed access and surrounding junctions.

The application supporting documents set out that: -

- The Highway Authority had originally asked for a highway corridor to be reserved through the site linking to Coxmoor Road but has subsequently confirmed that it no longer requires the land to be safeguarded.
- Updated Transport Assessment provides an up-to-date examination of existing conditions, including new 2022 traffic count data and new accident analysis along with new trip rates and traffic generations based on the latest TRICS database.
- The site access junction arrangements have also been adjusted to reflect the latest design standards.
- The site is accessible by all modes of travel and is therefore well located for residential development. As part of the proposed development, and to encourage pedestrian travel, three pedestrian connections would be provided from the site. These include a connection to the footways on Searby Road; a connection to the

footway on Sotheby Avenue; and a new footway/cycleway on the southern side of Newark Road. A new traffic signal-controlled pedestrian crossing would also be provided on Newark Road. This would benefit both existing and future residents.

- The development site is accessible by all modes of travel and is therefore well located for residential development. There are good opportunities for pedestrian travel, with good infrastructure provided on the desire lines to the north, east and west. There are also good opportunities for cycle travel. Whilst there are no cycle facilities in the vicinity of the site, there is a network of on-road and off-road cycle routes that cyclists can use.
- There are opportunities for public transport travel, including both bus and rail. The entire site is within 800m walking distance of the regular bus service 3C running at a 30-minutes frequency. Much of the site is also within walking distance of the hourly Service 90 and hourly Black Cat bus service. Sutton Parkway train station is within walking and cycling distance and is also accessible via bus service 3C. The station provides cycle parking, so there are good opportunities for train travel as part of a multi-modal journey.

To encourage pedestrian, cycle and public transport travel, the proposal includes: -

- Three pedestrian connections from the site. These include a connection to the footways on Searby Road; a connection to the footway on Sotheby Avenue; and a new footway/cycleway on the southern side of Newark Road.
- A new traffic signal-controlled pedestrian crossing would be provided on Newark Road at the site access junction.
- Within the site, a footway/cycleway would be provided along the main site access road, and this would extend along the southern side of Newark Road to connect the development to the off-road cycle lane running parallel to Kirkby Folly Road.
- Funding contributions towards bus service enhancements and bus stop improvements.
- A Travel Plan, with the aim to manage travel demand in the future, including a target for 10% reduction in peak hour vehicle trips and a monitoring regime to further increase the use of sustainable travel modes, and hence create a modal shift away from single occupancy car use.

In order to improve the current traffic situation highway improvements are proposed to the following locations: -

- Junction 3 - B6022 Newark Road/Kirkby Folly Road mini-roundabout - improvements proposed in the form of minor kerb widening to increase the flare length and entry widths.
- Junction 4 - B6139 Coxmoor Road/Newark Road/Cauldwell Road signal-controlled junction – improvements proposed in the form of alterations to the signal-controlled junction.
- Junction 5 - B6139 Coxmoor Road/Hamilton Road mini-roundabout – improvements proposed in the form of widening to Coxmoor Road (S) and Hamilton Road to provide longer two lane approaches.

Notwithstanding the above, objections have been received on the grounds that there are existing problems of traffic congestion in the immediate area due to the existing junction at Newark Road-Coxmoor Road and the level crossing with traffic queuing at the crossing and backing up past junction 3 along Newark Road which would be exacerbated by the proposal.

The Highway Authority, following extensive negotiations with the developer is now satisfied that a suitable access can be provided into the site. Furthermore, the Highway Authority considers that the proposal subject to the access details, amendments to the highway layout around the site, and enhancements to cycling and public transport infrastructure would not lead to unacceptable residual impacts on the highway network.

As such, having had regard to Policy ST1 of the Local Plan and paragraphs 114, 115 and 116 of the NPPF, the proposal, albeit being further from public transport stops than is ideal and that the cycle parking at the station is claimed to be secure where it is just cycle parking, has attempted to solve some existing congestion issues in the locality. It is therefore considered the proposal may have met minimal requirements in respect of highway safety and capacity.. It is further noted that contributions have been included in the heads of terms for public transport improvements, but these subsequent improvements are not identified or explained and therefore does not provide a reasonable level of certainty of being delivered and therefore cannot be afforded weight in the decision process.

Impact on Residential Amenity

Policy HG5 of the Ashfield Local Plan Review states [amongst other things] 'residential development will be permitted where (a) the amenity of neighbouring properties is protected and (b) the design and layout of dwellings minimises potential overlooking and provides a reasonable degree of privacy and security'.

Furthermore, paragraph 135(f) of the NPPF states planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

In this respect it is noted that objections have been received on the grounds of perceived impacts on the standard of amenity and privacy of the occupiers of the neighbouring properties through overlooking, loss of light, noise from future occupiers. Local people have also expressed concerns that the impact on residential amenity would be increased by the difference in ground levels. In addition, concerns have been expressed about the potential impact on amenity due to noise, dust and disturbance during the construction phase.

Although an illustrative masterplan has been submitted purporting to show how the applicant envisages the site could be laid out. This indicates separation distances of between 25m to 30m between the existing dwellings along Searby Road and which back on to the application site and the proposed dwellings. This would be in excess of the 21 normally expected for this type of relationship. However, it must be stressed that the illustrative masterplan is not for approval at this stage and is for indicative purposes only.

Notwithstanding this, it is officer's opinion that a residential scheme could be accommodated on the site which meets the requirements of the Council's design guidance and therefore ensure that a high standard of amenity for all existing and future users could be achieved. This would need to be demonstrated by the applicant at the reserved matters stage when

full details of the proposals scale, layout and external appearance would be submitted for consideration.

Furthermore, noise and general disturbance arising from the construction phase could be adequately controlled through the production and adherence to a construction management plan which could control construction times, dust, vibration and set out provision for the parking of vehicles associated with the construction of the development. Therefore, subject to a condition requiring the submission and implementation of a construction management plan it is considered that the standard of amenity of the occupiers of nearby dwellings would be adequately protected.

Standard of Living for Future Occupiers

Noise

Given that the site is bounded by roads on two sides and there are existing industrial/commercial units across Newark Road there is the potential that at least some of the proposed dwellings could be impacted by a poor noise environment.

In support of the application a noise impact assessment has been conducted by Wardell-Armstrong in April 2022. This found that traffic noise was the dominate noise impacting the north and east of the proposed site. In section 6 of the assessment, the report states that the outdoor living space in the north, north-eastern and eastern parts of the site would require mitigation in order to achieve the daytime noise guidelines level of 55 dB including placing gardens on the screened side of dwellings and with localised closed boarded fencing around garden areas where required.

For noise sensitive living room and bedrooms on the proposed site, the report comments that with windows closed this should meet the required internal noise levels yet this would lead to potential overheating and therefore ventilation would be required. The specific glazing and ventilation requirements would need to be confirmed on a plot-by-plot basis, yet without a detailed design layout of the individual properties on the proposed site, no specifics are provided.

Given the above the Environmental Protection Officer has no objections to the proposal subject to the imposition of a condition on any approval granted to ensure that a satisfactory noise environment can be achieved. Officers consider this approach to be a common and standard practice in situation and agree with the suggested approach.

Therefore, subject to the attached condition it is considered that a satisfactory noise environment could be achieved.

Air Quality

Objections have been received in respect to the impact of the proposal on air quality particularly from traffic generation and idling cars and during the construction phase of the development.

In support of the application an air quality report was completed by Wardall-Armstrong in June 2022 which indicates that the proposed development would not lead to an unacceptable risk from air pollution. The Environmental Health Officer accepts the recommendation of the report with no mitigation being proposed and no condition requested.

Therefore, officers conclude that the operational phase of the proposal would not significantly impact on air quality. However, there is always the potential for dust arising during the construction phase. This is normally dealt with by a construction management plan and can be secured by the use of an appropriately worded condition.

Therefore, subject to the attached conditions it is considered that the proposal would be acceptable in respect to air quality impacts.

Lighting

All residential developments have the potential to result in light pollution through the introduction of streetlights and light spill from windows and doors. As such objections have been received in respect to the potential impacts on the Sherwood Observatory.

A lighting strategy and mitigation report was completed by dpa lighting consultants which sets out the design principles of the site taking into consideration the potential impact on Sherwood Observatory. The report does not detail the layout of the proposed lighting scheme for the development as this would depend on the layout of the proposed scheme which has been reserved and therefore not for determination at this stage. Nevertheless, the report has identified the sensitivity of existing residents and the Sherwood Observatory and standards that would be applied for the protection of these receptors. The impacts on these receptors could therefore be adequately controlled through the imposition of a condition requiring the submission and implementation of an external lighting scheme.

Therefore, subject to the attached condition it is considered that impact from external lighting would be acceptable.

Overall conclusion on the Impact on the Standard of Amenity

As such it is considered that, subject to the usual conditions for controlling the submission of reserved matters a suitable scheme could come forward at reserved matters stage which accords with Policy HG5(a) and (b) of the Local Plan Review and paragraph 135(f) of the NPPF.

Impact on the Character and Form of the Area

Policy ST1 sets out the overall strategy for assessing development proposals and states [amongst other things] development will be permitted where: -

- It will not conflict with other policies in this Local Plan,
- It will not adversely affect the character, quality, amenity or safety of the environment,

Policy HG5 of the Ashfield Local Plan Review states [amongst other things] 'residential development will be permitted where (g) its design is acceptable in terms of appearance, scale and siting and (h) landscaping complements and enhances its appearance.

Furthermore, paragraph 131 of the NPPF states the 'creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. Paragraph 135 goes on to state 'Planning policies and decisions should ensure that developments [amongst other things]:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

In addition, paragraph 180 goes on to state planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things] (b) recognising the intrinsic character and beauty of the countryside.

Having had regard to the above policies there are two issues in respect of the current proposal, namely: -

- i) The impact of the proposal on the character of the area through loss of countryside; and
- j) Whether the proposed development would reflect the character of the surrounding area through the incorporation of good design principles.

The application site comprises 21.4 hectares of open countryside set to arable production on the edge of the town of Sutton in Ashfield and surrounded by well-established, native, but sometimes gappy hedges augmented, particularly on Newark Road, by trees. The overall character of the site and its surroundings is pleasantly rural especially as one travels south along Coxmoor Road. This character would be substantially diminished by the proposal with consequent loss of countryside which weighs against the proposal, although to some extent the impacts over the longer term and seen from the wider area would be mitigated by the creation of substantial planting strips along the boundaries with Newark Road and Coxmoor Road.

Impact on Trees and Hedgerows

The site is bounded in the main by hedgerows which in places is augmented by mature trees. As such the development has the potential to impact on existing trees and hedgerows. In this respect Policy EV8 of the Local Plan states

‘Development which adversely affect tree 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.

Existing Ancient Woodland sites are listed in Appendix 2 and shown on the Proposals Map.’

Furthermore, under the provisions of s197 of the Town & Country Planning Act 1990, local planning authorities have a legal duty to consider the protection of trees and the planting of new trees on development sites when granting planning permission.

In support of the application the applicant has submitted an Arboricultural Impact Assessment (AIA). This has been informed by an arboricultural survey which was undertaken using the methodology set out in BS5837:2012 'Trees in Relation to Design, Demolition and Construction'.

The AIA sets out that during the survey each individual surveyed tree (T), tree group (G) and hedgerow (H) was given a sequential reference number and then classified 'A', 'B', 'C' and 'U' depending on their quality. Category 'A' and 'B' category trees are considered as 'high' and 'moderate' quality, respectively, and are considered as a constraint to development. As such, these trees should be retained and afforded appropriate protection during development. 'C' category trees are considered to be of 'lower' quality due to their condition or 'lower' amenity value and are, therefore not usually considered a constraint to development. 'U' category trees are those in such a 'poor' condition that they cannot usually be retained within the current Site context.

In order to facilitate the proposed scheme, a number of trees will require removal. These include: -

Five category 'B' trees (T12, T13, T19, T20, T22)

Four category 'C' trees (T15, T16, T17, T18)

One category 'U' tree (T14).

Two category 'C' quality groups (G4, G5) and one category 'B' quality group (G3) will require removal.

The following hedgerows are to be removed/ partially removed:

H8: Removed completely (129 m length).

H9: Partially removed (108 m length).

H13: Partially removed (20 m length).

No veteran trees or category 'A' quality trees are proposed for removal.

The report concludes that: -

- Tree T23, a veteran ash will have its veteran buffer zone.
- Overall impacts to the trees on the Site will be relatively low, as although some trees will require removal to facilitate the proposed development, an extensive landscape planting scheme is proposed.
- The trees that are to be retained on the Site will be protected during the proposed works with tree protection fencing.
- The majority of the hedgerows around the Site perimeter are at such a distance from the proposed areas of construction, that they do not need protection with fencing from the construction activities. The hedgerows that are located close to the construction zones will be protected with Heras fencing.
- An AMS updated TPP may be required prior to commencement of the proposed development, to ensure tree and hedgerow protection measures are fully specified and implemented. This can be conditioned by the local planning authority.

The Council's Tree Officer has no objections to the proposal subject to a condition for the implementation of the tree protection plan during construction.

However, it still is the case that the whole hedge along the site's boundary with Newark Road along with 108m of hedge along the site' boundary with Coxmoor Road nearest to the junction would be removed. This would have a significant impact on the character of the area in the short to medium term. However, it is recognised that the extensive tree planting over time would not only ameliorate this impact but provide betterment in the longer term.

Quality of the Proposed Development

In respect to the character and quality of the proposed built environment this again would depend on the layout, scale, external appearance and landscaping of the proposal. These matters have been reserved and therefore are not for consideration under this outline application. Although an indicative layout along with indicative house types has been submitted purporting to show how the applicant envisages the site could be developed out it again is not for approval at this stage and is for indicative purposes only.

Notwithstanding this it is officer's opinion that a residential scheme could be accommodated on the site which meets the requirements of Policy HG5 and the NPPF in respect to design and its impact on the character and form of the area.

As such it is concluded that the proposal would result in encroachment into and irreversible loss of countryside. This is contrary to Policy ST1 of the Local Plan and weighs against the proposal.

Notwithstanding the above it is considered that a suitable scheme could come forward at reserved matters stage which provides a high quality residential environment that would accord with Policy HG5(g) and (h) of the Local Plan Review and paragraph 135 of the NPPF.

Impact on Local Services and Infrastructure

Paragraph 97 of the NPPF states to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should [amongst other things] b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.

In this respect it is noted that objections have received on the grounds that there are insufficient school and doctors' places, local bus links are overcrowded, the standard of the existing play park and the cumulative impact of the proposal along with other large residential development in the area.

The issue of bus places will be discussed in the Highway Section of this report. Impacts on other services will be discussed next.

Impact on Health Facilities

Nottinghamshire Health Authority has stated that it is unlikely that NHS England or Nottingham and Nottinghamshire ICB would support a single handed GP development as the solution to sustainably meet the needs of the housing development and that the health contribution would ideally be invested in enhancing capacity/infrastructure with existing local practices. The practices that this development will be closest too are:

- Willowbrook Medical Practice
- Family Medical Centre Kirkby
- Healthcare Complex Kirkby

The Authority has also advised that all practices in the area are working at capacity and therefore in order to make this development acceptable from a health perspective the infrastructure will need to be developed to accommodate the increased population. In order to provide adequate primary care health facilities in the area the Authority has requested a contribution of £162,562.50. Officers advise that this contribution could be secured through a section 106 agreement.

Impact on Education Facilities

The education authority has advised that there is a projected surplus of places at primary and secondary level at present but this development together with other developments that may be coming forward would lead to a deficit in secondary school places. A financial contribution towards primary school places would therefore not be required and a contribution towards secondary school places would be required taking into account the surplus and projected short fall in the plan area. However, has advised there would be a need in respect of Special Educational Needs and Disabilities (SEND) provision and request a contribution of £180,644 (2 places x £90,322) towards expanding special school facilities or to fund the provision of specialist provision attached to a mainstream school.

In addition to the above SEND contribution the County Council has requested a contribution of £1,113,936 towards Secondary Education.

Impact on Libraries

The County Council has advised that as the proposal would fall within the library catchment area for Sutton in Ashfield Library, and this library is currently below the optimum stock level a developer contribution to provide the additional stock of £10,571.00 would be required.

Officers would therefore advise that subject to the above contributions being secured through a section 106 agreement the proposal would not on balance have a significant impact on local services or infrastructure.

Flood Risk and Drainage

Paragraph 165 of the NPPF makes it clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 173 goes on to state 'When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere' adding 'Where appropriate, applications should be supported by a site-specific flood-risk assessment. The NPPF goes on to make it clear that development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location.

- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment.
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate.
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

Finally, paragraph 175 of the NPPF states 'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate'.

In support of the application the applicant has submitted a Flood Risk Statement and Outline Drainage Strategy, the former of which has reviewed all sources of flood risk to both the proposed development and the existing adjacent properties.

The Flood Risk Statement concludes: -

- The proposed development lies within Flood Zone 1 and is at low risk of flooding.
- The site and surrounding land would be at a low flood risk following redevelopment.
- Surface water is proposed to be via onsite storage and management, at a restricted discharge rate, which has been agreed with the Lead Local Flood Authority.
- The proposals for surface water attenuation will address concerns raised by local residents about run-off from the site affecting properties along Searby Road.
- The drainage strategy has been proposed to deal with both foul and surface water which would be generated by the developed site, with no surface water flooding occurring for storms up to and including the 1 in 100 year plus climate change storm event.
- The general principle of the drainage strategy is to collect the runoff from private driveways, carriageways, footways, and roof areas, and then convey this to attenuation ponds within the site, which are connected by swales/ditches, with the captured water then managed and controlled out of the site.
- The foul water strategy for the site is to discharge flows to two connection points on Searby Road. A Sewer Capacity Assessment by Severn Trent Water confirms that the downstream sewer network and Sewage Treatment Works have sufficient capacity to drain the development.

In response to the application objections have been received suggesting the proposal may exacerbate existing flooding and sewerage issues, sewer network will not be able to cope with the development and given the site's topography surface water would be directed towards the existing estate and the presence of underground springs.

The drainage proposals have been assessed by the Local Lead Authority and Severn Trent Water Ltd in respect to the disposal of foul and surface water and the Environment Agency and the Council's Environmental Protection Team in respect of the impact of the proposal on the historic landfill on site and the sensitivity of the groundwater in this location.

Nottinghamshire County Council as the Lead Local Flood Authority (LLFA), Severn Trent, Ashfield District Environmental Protection Team and the Environment Agency have no objection to the proposal subject conditions for a detailed surface water drainage scheme and ground contamination remediation scheme to be submitted and implemented.

Therefore, subject to the attached conditions it is considered that the proposal would be in accordance with the requirements of the NPPF and therefore acceptable from a flood risk and drainage perspective.

Ground Contamination

The site has formerly been used as a quarry which has been subsequently back filled with waste. The potential release of toxins from the site as a result of the development has been cited as a major concern by the local community.

Paragraph 180(c) of the NPPF states 'Planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things] preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. This is expanded upon by paragraph 189 which states 'Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990;
- and c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

However, paragraph 190 makes it clear that 'Where a site is affected by contamination or land stability issues, responsibility for securing safe development rests with the developer and/or landowner'.

In support of the application the applicant has submitted a Phase 1 Geo-environmental Desk Study consolidated by a Technical Note comprising a Ground Gas Risk Assessment.

The aim of the Phase 1 Study was to: -

- Obtain desktop study information to assist in the assessment of potential environmental and ground related issues that may have implications for proposed development.
- Review previous works carried out by RLE and include information pertinent to the site.
- Produce a conceptual model for the site using the findings of the desktop study.

The Report concluded that the following is required: -

- An intrusive Phase 2 site investigation to confirm ground conditions of the wider site,
- Chemical testing on the landfill area in the north of the site.
- Further gas monitoring may be needed subject to regulatory liaison.

The study has revealed as reported in section 4.36. of the Planning Statement that

‘Within the north-east part of the site is an area of landfill recorded as an Environment Agency historic landfill site. A Waste Disposal Licence (reference 4/80/100/55NW) was issued to Stamford Waste Disposal Ltd in March 1980 for the disposal of construction industry waste (consisting of soil, spoil, rubble, excavation materials and demolition material), none of which was to contain any putrescible material or other waste likely to cause nuisance or pollution.’

In addition to the above, the Ground Gas Technical Note sets out that: -

- Ground gas monitoring at the Site has identified negligible to low gas regime.
- Both the area around the former onsite inert landfill and the portion investigated along the northern boundary of the Site can be classified as very low to low risk to potential end users.
- It is considered that Amber 1 gas protection measures would be required for developments within the Site.
- In general, the available data is considered consistent with the recorded and verified inert nature of the waste deposited in the onsite landfill and the made ground encountered at the Site boundary.
- Monitoring data received from the EA indicates that the former landfill at Sutton Quarry poses a low risk to the development site. The data suggests that any gas generated within the landfill is well controlled and does not migrate to the perimeter.
- Two onsite intrusive investigations have been carried out, one by Scott Wilson in 1998 and a recent one by Rodgers Leask on behalf of Hallam Land Management in 2017. Both investigations have confirmed the waste materials are consistent with that expected of ‘inert’ construction wastes.

With regard to the above the Environmental Protection Team (EPT) and Environment Agency have confirmed that they have no objections subject to conditions requiring ground contamination remediation scheme to be submitted and implemented, and controls over piling and drainage systems for the infiltration of surface water to the ground.

Although reference has been made by local people to an earlier ground report undertaken by Rolls Royce which it is stated found the presence of contaminants on the site, the Environment Agency has confirmed that their recommended land contamination condition requires an up-to-date site investigation and risk assessment to be produced prior to any development, which will help to establish the contamination status of this site.

Therefore, having regard to the above it is considered that subject to the attached conditions the proposal would be acceptable in respect to risks from ground contamination.

Impact on Biodiversity and Wildlife

Section 40(1) of the Natural Environment and Rural Communities Act 2006 (duty to conserve biodiversity) as amended by Section 102 of the Environment Act 2021 places a duty such that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving and enhance biodiversity.

Paragraph 180 of the NPPF states planning policies and decisions should [amongst other things] contribute to and enhance the natural and local environment by (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Furthermore, paragraph 186 goes on to state when determining planning applications, local planning authorities should apply the principle that 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.

Paragraph 180 of the NPPF also recommends that development should aim to provide measurable net gain for biodiversity in and around the development.

In support the application the applicant has submitted the following documents: -

- Ecological Impact Assessment (EciA) prepared by RammSanderson report ref: RSE_6136_R3_V1_ECIA dated August 2023
- Amended Master Plan EMS 2254_102K 01.
- Preliminary BNG Assessment prepared by Wardell Armstrong dated 12th August 2022

The Ecological Impact Assessment (EciA) was based on the results of a range of site surveys carried out during June 2022 (reptile survey) June/July/September 2022 (bat transect surveys), August 2022 (bat emergence surveys), April/May 2023 (GCN survey). The scope of surveys was informed by an appropriate data search for existing biological information.

The main findings of the EciA can be summarised as follows: -

- The site is identified to comprise predominantly arable fields bounded by hedgerows and lines of trees. Scrub, marshy grassland and ditches are also present, some of which will be lost to the proposed development.
- Two stands of Japanese knotweed (an invasive species) have been identified on site.
- Although an eDNA analysis of ditch 1 in June 2022 returned a positive result the use of traditional great crested newt survey methodology during 2023 recorded no evidence of Great Crested Newt.
- Although two trees on site were identified as having "high" bat roost potential, subsequent emergence surveys of trees recorded no evidence of roosting bats.
- The site was identified to contain a range of suitable habitats for nesting birds. However, no protected or notable bird species are likely to be present and affected.
- No reptiles were recorded during targeted reptile surveys of the site.
- The presence of otter, water vole and white clawed crayfish is unlikely.

The Council's Ecologist has assessed the reports and has agreed with their findings. As such the Council's Ecologist has no objections subject to conditions to ensure incorporation of features for roosting bats and birds into new dwellings and hedgehog fencing on site, a construction environment management plan and future management arrangements for habitats created on the site.

Natural England although having no objection has advised the proposed development is located within 5km of an area identified as important for breeding nightjar and woodlark and which may or may not in the future become a Special Protection Area (SPA). Therefore, Natural England refer the Council to Natural England's Advice Note on this matter which provides more information and outlines Natural England's recommended 'risk based approach'.

Having looked at the guidance it is noted that the habitats and species concerned relate to heathland and ground nesting birds. Such species are sensitive to disturbance and predation by cats. However, the habitats on site are not favoured by the species concerned and apart from the occasional visit by future occupiers the sites are of sufficient distance as not to be significantly disturbed directly or indirectly by the development and occupancy of the development.

Biodiversity Net Gain

Given that the application was validated before January 2024 Mandatory Biodiversity Net Gain (BNG) does not apply to the proposal. Notwithstanding this paragraph 180 of the NPPF states 'Planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things] (d) 'minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'.

To satisfy this requirement the applicant has submitted a Preliminary BNG Assessment - Technical Note, prepared by Wardell Armstrong. This states although the proposed post-development masterplan has not been finalised, the draft biodiversity plans indicate that it's likely to result in a biodiversity gain of 4.23 habitat units, 6.21 "river units" (drainage ditches) and no change in hedgerow units. This will provide a 10.1% increase in habitat units, 0% gain in hedgerow units and a 404.82% increase in river units. This is reflected in the draft Masterplan.

The Council's Ecologist, having considered the information has concluded that overall, it is likely that 10% biodiversity net gain of habitat units and hedgerow units can be achieved on site. The finalised layout for the reserved matters should be informed by the need to provide the required net gain and, as such, should be secured by a planning condition.

Therefore, the Council's Ecologist has no objections subject to conditions in respect of Biodiversity Net Gain.

Having regard to the above it is considered that the information provided by the applicant adequately assesses the ecological value of the site, the impact of the proposal on that value and that a biodiversity net gain is achievable. It is therefore considered that subject to suitably worded conditions attached to any permission granted the proposal would broadly meet the thrust of policy as set out in the Local Plan and the National Planning Policy Framework.

Best and Most Versatile Agricultural Land

Paragraph 180 of the NPPF state planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things]: -

- (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and
- (b) recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.

In support of the application the applicant has submitted a Soil and Agricultural Land Report, concludes: -

‘The soils that make up the majority of the site comprise sandy loam topsoils over medium sand subsoils. Sandy clay loam topsoils over medium sand giving way to slowly permeable sandy clay soils are found in the north and south-west. The site is predominantly of subgrade 3a agricultural quality limited by either droughtiness or wetness, with an area of subgrade 3b land in the south-east limited by gradient.

Were the site to be developed, the medium loamy sand and sandy clay loam topsoils would provide high quality resources for re-use in landscaping’.

Officers view is that this report identifies that 97% of the site area comprises Grade 3a agricultural land . This is classed as being Best and Most Versatile agricultural land. The submitted planning statement and soil report does not state whether it does or does not amount to Best and Most Versatile agricultural land. It is however suggested that the soil would provide a high quality resources for re-use in the landscaping which accounts for approximately 50% of the site.

It is therefore concluded that the proposal would result in the loss of the Best and Most Versatile Agricultural Land. It would also not contribute or enhance the natural and local environment therefore the proposal is considered to be contrary to the requirements of paragraph 180 of the NPPF.

Impacts on Mineral Safeguarding Interests and Waste Generation

Mineral Safeguarding

Nottinghamshire County Council has advised that the adopted Nottinghamshire Minerals Local Plan (adopted March 2021), forms part of the development plan for the area and that Minerals Safeguarding and Consultation Areas (MSA/MCA) have been identified in Nottinghamshire which in accordance with Policy SP7 of the Nottinghamshire Minerals Local Plan, these should be considered where proposals for non-minerals development fall within them.

However, the County Council advises the proposed site is not in close proximity to any existing or proposed mineral extraction allocation sites and therefore raises no concern in terms of mineral safeguarding.

Waste

The County Council has advised that there are no existing waste sites within the vicinity of the site and as such the proposal would have no implications for existing waste sites.

However, given the nature of the site and the scale of the development proposed the proposal is likely to generate significant volumes of waste through the development or operational phases. As such it is considered appropriate that any permission granted is subject to a condition requiring the submission of waste audit in accordance with paragraph 049 of the Planning Practice Guidance.7

In addition, the County Council has requested a contribution towards the provision of a new or enhanced waste and recycling facility as the existing facility is at or nearing capacity. This could be secured through a section 106 agreement and has been accepted by the applicant.

The comments of the County Council are accepted and it is considered that, subject to the attached condition for a waste audit, the proposal is acceptable from a mineral safeguarding and waste generation perspective

Provision of Affordable Housing

Policy HG4 of the Local Plan sets out: -

On housing development sites of one hectare or more, or 25 dwellings or more, the Council will negotiate the provision of a proportion of affordable dwellings on the site to contribute towards the overall target for the areas specified below

In Hucknall (South Notts. Sub Area) 18.5% of dwellings.

In the Rest of the District (West Notts. Sub Area) 6% of dwellings

Affordable housing will consist of the following in order of preference:

- (a) Development of dwellings in conjunction with a registered social landlord or the Council.
- (b) Shared ownership schemes.
- (c) Properties of sale or rental at an agreed size measured by floor space.
- (d) A financial contribution negotiated and secured by a planning obligation towards off-site provision of affordable housing at an agreed location.

However, Policy HG4 is now significantly out of date being adopted well before the introduction of the NPPF and is subsequent revisions.

Notwithstanding the above the Council has produced an Affordable Housing Delivery Strategy 2019-2021 which states that the affordable housing requirement for Sutton and Kirkby is 10% on sites of 15 dwellings or more and a Housing Strategy 2021-2023 (which was reviewed May 2023).

Affordable Housing Delivery Strategy - 2021-23 identifies a number of priorities including: -

- Deliver 100 new affordable homes by 2025.
- Continue to form partnerships with registered providers as required to deliver new affordable homes.
- Explore all available opportunities to acquire properties and sites, including [amongst other thing], s.106 properties.

Paragraph 60 of the NPPF states 'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.

Paragraph 64 goes on to state 'Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities'.

Finally, paragraph 66 makes it clear that subject to exceptions, 'Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of 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.

The Planning Practice Guidance explains that First Homes are the government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations (Paragraph: 001 Reference ID: 70-001-20210524).

The applicant has agreed to provide 10% of affordable homes on site, which equates to 30 units. This would comprise a tenure mix of 75% affordable rent and 25% shared ownership. The applicant has agreed to this provision.

The above affordable housing could be secured through a section 106 agreement.

The emerging local plan which has not been examined by an Inspector but is based on evidence and sets the council's aims and aspirations requires greenfield sites to provide 25% affordable housing which is significantly greater than the 10% currently required. The applicant suggests this should be an allocated site and suggest this is sustainable development to meet the Council's housing need but it is not proposing to provide the required affordable housing expected of an allocation.

Irrespective of the above and having had regard to the current planning policies it is on balance considered that subject to a Section 106 to secure the provision and transfer of the affordable housing offer to a registered provider the proposal is acceptable in respect to affordable housing.

Public Open Space

Policy HG6 of the Local Plan sets out: -

‘Residential development will only be permitted where open space is provided to meet the following requirements: -

- a) On sites of two hectares and above a minimum of 10% of the gross housing area will be provided as open space
- b) On sites of less than two hectares and more than 5 dwellings the amount of open space required will be assessed by taking into account the type of housing proposed and the extent of, and where accessibility of the site to existing open space in the locality. Where it is not appropriate to provide open space within the site boundary, a planning obligation will be negotiated to allow a sum to be paid towards
 - i) Existing open space provision to be improved, or
 - ii) New open space to be provided elsewhere, or
 - iii) Community woodland planting or appropriate natural habitat creation schemes to be undertaken.’

The above policy is in general conformity with paragraph 102 of the NPPF which recognises 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 and can deliver wider benefits for nature and support efforts to address climate change’ whilst expressing the need to have policies supported by robust and up-to-date assessments.

The application site has an area of 21.4 hectares and therefore engages Policy HG6 (a) which requires 10% of the gross housing to be provided as open space. The illustrative masterplan shows provision of a central green and Locally Equipped Area of Play (LEAP) within the centre of the site. However, the proposal does not make provision for formal sport and recreation.

The applicant has agreed to pay £900, 000 towards the provision of off-site formal sports and recreational facilities.

The central green and LEAP and surrounding public open space measuring in total some 10.31ha which exceeds the 10% of the gross housing area required under Policy HG6 of the Local Plan. Whilst this is only based on an illustrative masterplan it does show that the on-site requirement for public open space can be met and exceeded.

Tackling and Adapting to the Challenge of Climate Change

Addressing climate change is one of the planning principles, which the NPPF seeks to underpin in both plan making and decision taking.

Paragraph 159 of the NPPF states

‘New development should be planned for in ways that:

- a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and
- b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.'

The Council has set out that it "recognises the scale and urgency of the global challenge from climate change." This Council recognises that local action on global warming can make a difference and has resolved to "Reaffirm its commitment to doing everything possible to combat climate change including committing to a robust climate change strategy." The Council's Planning Guidance Climate Change reflects that:

- a) Proposals for development should demonstrate an ambitious approach to the use of renewable energy, sustainable design and construction methods, with a high level of energy efficiency in new buildings.
- b) The measures set out in this Planning Guidance will need to be integrated into the design and layout of development within Ashfield, as climate change adaptation and mitigation will be considered in all development decisions.
- c) Applicants for planning permission should demonstrate how they have met the requirements set out in this Planning Guidance.

The Climate Change Committee's 2022 Report to Parliament notes that for the United Kingdom to achieve net zero carbon status by 2050, action is needed to support a modal shift away from car travel. This is reflected in the NPPF paragraphs 159 and 162 in relation to significant development and paragraphs 108 and 114 emphasising the need to promote walking, cycling and public transport. These issues have been addressed in the transport section of this report and therefore do not need to be reiterated here.

It should also be noted that issues such as renewable energy, sustainable design and construction methods and energy efficiency fall within the remit of the Building Control but the Council is encouraging innovative approaches to mitigate the impacts of climate change through development of guidance and subsequent detailed plans.

Furthermore, issues relating to landscaping and layout fall under matters which have been reserved and therefore fall outside of the scope of this application. These will be addressed at the reserved matters stage.

Issues pertinent to this outline application such as impacts on biodiversity and flood risk & drainage are dealt with under the respective sections of this report where they are found to be acceptable as they ensure that the development will be resilient to climate change and its effects.

As such, where appropriate the proposal is considered on balance to be in line with the general thrust of the Council's guidance on Climate Change and paragraph 159 of the NPPF.

The Planning Balance

Given that the development policies in the Local Plan are now out of date and the proposal does not engage any policy in the NPPF which protects particular areas or assets of particular importance the application should be determined in accordance with part (d)(ii) of paragraph 11 of the NPPF. This requires that the application should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

In respect of adverse impacts of the proposal it is noted that the proposal would result in the loss of 21.4 ha of open countryside and 19.2 ha of grade 3a best and most versatile agricultural land (0.6ha of Grade 3b agricultural land). These are adverse impacts which each attract moderate weight.

However, subject to the attached conditions it is considered that there would not be significant harm to highway safety or capacity, flood risk, biodiversity, public health or mineral safeguarding. There are however concerns about the sustainability of the site's location considering the distance to public transport exceed what is generally considered to be acceptable. This raises questions in respect of the contribution the development will make in respect of climate change as residents will be reliant on the car. In respect of cycling the development provides provision for cycle routes and claims there is secure cycle parking at the train station. There is cycle parking but this is not considered to be secure and therefore is limited in promoting alternative means to travel.

In contrast, the proposal would deliver 300 dwellings, including 30 affordable dwellings to meet the current needs of the District. This would make a limited contribution to meeting the need for affordable housing requirements in the District. This limited contribution goes some way to meet the affordable housing need identified in the evidence supporting the emerging local plan but provides limited weight.. However, delivery will also be unlikely to be made in the first 4 years following the outline consent. It is accepted the Council has not got a 4 year housing supply, that the 4 years target is a minimum and there is a national and local need to increase housing delivery. It is therefore considered that substantial weight should be afforded to developments meeting this requirement..

Furthermore, given the proposal would provide some 10.31ha of public open space and balancing ponds which would be landscaped it is clear that there may be an increase in the biodiversity on the site which would become more valuable as the habitats mature. This attracts some weight in favour of the proposal.

It is noted that increased housebuilding stimulates GDP growth because it creates demand for labour, materials, and services, which in turn can lead to a positive accelerator effect in the construction industry. Given the quantum of housing proposed it is considered that it would make a moderate contribution to the District's economy both as a result of construction and spend by occupiers thereafter. It is considered that this should be afforded some weight but it is limited since development of proposals on allocated sites will also provide this benefit.

It is therefore concluded that the harm by virtue of loss of countryside , best and most versatile agricultural land is finely balanced when weighed against the contribution the proposal would make to meet the housing need in the District, the economic benefits and the benefits of improving the biodiversity of the site.

It is accepted that Ashfield District Council submitted its Local Plan to the Secretary of State in May 2024 and that the Council is in a pivotal moment in its decision making. The plan that has been produced makes provision for over 13 years clearly identified supply that accords with an agreed vision and direction. Furthermore, the plan has had limited opposition in terms of representations across the District with only representations being received from 122 individuals or organisations.

The application site is not an allocation in that plan and ideally a site of this size should come forward ideally as an allocation in the Local Plan. This places the authority in a difficult position as it is clear that the vision and direction of the plan does not point to this site being allocated but it remains that there are significant concerns with the availability of housing land supply in the District at this point in time.

As such the provisions of the emerging plan is not considered by officers of sufficient weight to alter the conclusion reached that the harms resulting from the proposal, due to the tilted balance being incurred, are outweighed by the social, economic and environmental benefits of the proposal.

Consequently, the application is on balance recommended for approval subject to the conditions and terms of the section 106 requirements set out below.

Recommendation: - Conditional Consent subject to a section 106 Agreement.

Heads of Terms of section 106 Agreement.

1. A minimum of 10% of the houses shall be affordable split 75% affordable rent and 25% shared ownership.
2. A sum of £4,000 to be provided to cover the Council's cost of monitoring the s106 agreement.
3. A Management Plan setting out details of the responsibility for maintaining and managing the landscaped areas of public open space and LEAP through a management company which shall include a planting schedule and timetable of works.
4. A sum of £162,562.50 towards health facilities.
5. A sum of £28,860 towards waste management.
6. A sum of £45,600 towards Bus Stop Infrastructure.

7. A sum of £220, 000 towards the provision of Bus Service improvements to serve the site. 50% of the total upon completion of 25% of the dwellings; 50% of the total upon completion 75% of the dwellings.
8. A sum of £180,644 towards Education (SEND).
9. A sum of £1,113,936 towards Secondary Education.
10. A sum of £900, 000 towards the provision of off-site sport and recreational facilities.
11. A sum of £10,571.00 towards improvements to library services.
12. The applicant shall use reasonable endeavours to achieve Works B option for the footway/cycleway as shown on drawing no. ADC1580-DR-012 Rev. P12.

CONDITIONS

General Conditions

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
2. The development to which this approval relates shall be begun not later than whichever is the later of the following dates:
 - (a) The expiration of 3 years from the date of the outline planning permission;
 - (b) The expiration of 2 years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
3. This permission shall be read in accordance with the following plans:
 - Site Location Plan (EMS2254_018 01 Rev D)

Precommencement Conditions

4. No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Flood Risk Assessment (FRA) and Drainage Strategy has been submitted to and approved

in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall provide:

- Evidence of approval for drainage infrastructure crossing third party land where applicable.
 - A surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site.
 - Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.
 - Evidence of how exceedance routes will not affect third party properties.
5. No part of the development hereby approved shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out: -
- site specific measures to control and monitor impacts arising in relation to construction traffic, noise and vibration, dust and air pollutants,
 - site working hours; lighting,
 - wheel washing facilities for construction traffic,
 - a layout of the construction access including a drawing showing visibility splays and method statement for the use of banksmen,
 - details regarding parking provision for construction workers
 - plans on the site and the route that all construction vehicles shall take to the site avoiding the Sutton Junction Level Crossing.

It shall also set out arrangements by which the developer shall maintain communication with residents and businesses in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP. The development shall be carried out in full accordance with the approved CEMP at all times unless otherwise agreed in writing by the Local Planning Authority.

6. No part of the development hereby approved shall commence (save for above ground demolition works and site preparation works) until a remediation scheme to deal with the potential ground contamination of the site has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:

- i. A site investigation scheme, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
- ii. The results of the site investigation and detailed risk assessment referred to in (i) and based on these, an options appraisal and remediation strategy giving full details of the remediation and mitigation measures required and how they are to be undertaken;
- iii. A verification plan setting out the details of the data that will be collected to demonstrate that the works set out in the remediation strategy in (ii) are complete to a satisfactory standard; and

- iv. The contamination remediation works shall be carried out in accordance with the approved details and completed prior to the first occupation of any area identified by the report.
 - v. If required, a monitoring and maintenance plan, setting out provisions for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.
7. No development shall commence until a waste audit has been submitted to and approved in writing by the Local Planning Authority. The waste audit shall address the following: -
- the anticipated nature and volumes of waste that the development will generate.
 - where appropriate, the steps to be taken to ensure the maximum amount of waste arising from development on previously developed land is incorporated within the new development.
 - the steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities.
 - any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

Thereafter, the development shall be carried out in accordance with the waste audit.

8. No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan; Biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following: -

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (to include consideration of lighting) (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

9. No development shall commence until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following: -
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period).
 - g) Details of the body or organization responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

Thereafter the approved plan shall be implemented in accordance with the approved details.

10. No development, including site clearance, shall take place until a method statement for the control of Japanese Knotweed has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be implemented in accordance with the approved details.
11. No part of the development hereby permitted shall take place until the new access into the site has been provided broadly in accordance with the indicative drawing no. ADC1580-DR-012 Rev. P12.

Informative

Note this does not have full S278 technical approval.

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

- i) The provision of the proposed signalised access junction including segregated footway/cycleway and associated highway improvements on Newark Road broadly in accordance with indicative drawing no. ADC1580-DR-012 Rev. P12.
- ii) The amendments to the existing signalised junction at Newark Road/ Cauldwell Road/ Coxmoor Road broadly in accordance with indicative drawing no. ADC1580-DR-012 Rev. P12.
- iii) The amendments to the existing mini-roundabout at Coxmoor Road/Hamilton Road broadly in accordance with indicative drawing no. ADC1580-DR-005 Rev. P11 including provision of cycle facility and proposed toucan crossing and associated improvements.
- iv) The provision of the proposed footway/cycleway scheme on Newark Road, including the provision of a sparrow crossing and associated improvements, broadly in accordance with indicative drawing no. ADC1580-DR-006 Rev. P7.
- v) The amendments to the existing mini-roundabout at Newark Road/Kirkby Folly Road broadly in accordance with indicative drawing no. ADC1580-DR-004 Rev. P8.
- vi) The provision of the pedestrian/cycle links to the existing Sutton in Ashfield locality including Searby Road, broadly in accordance with indicative plan ref. ADC1580-DR 013 Rev. P8 (Pedestrian/Cycle Access Strategy).
- vii) The extension of the speed limit along Newark Road broadly in accordance with indicative drawing no. ADC1580-DR-012 Rev. P12.

The works shall 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 shall be subject to detailed technical appraisal during the S278 process.

13. The development hereby permitted shall not commence until drainage details for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. These details shall include the following agreed requirements: -
 1. The onsite sewers will be adopted pursuant to a s104 Agreement (Water Industry Act).
 2. A s106 (Water Industry Act) connection application has been approved by Severn Trent for a point of connection on the existing public system.

The drainage scheme shall be implemented in accordance with the approved details before first occupation.

Other Conditions

14. Prior to the first occupation of the dwellings hereby approved a scheme of sound mitigation shall be submitted to and approved in writing the local planning authority. The scheme shall be designed following the completion of a sound survey undertaken

by a competent person. The scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms	30 dB LA _{eq} (15 Minutes) (2300 hrs – 0700 hrs).
Living/Bedrooms	35 dB LA _{eq} (15 Minutes) (0700 hrs – 2300 hrs).
All Other Habitable Rooms	40 dB LA _{eq} (15 Minutes) (0700 hrs – 2300 hrs).
All Habitable Rooms	45 dB LA _{max} to occur no more than 10 times per night (2300 hrs – 0700 hrs).

Any outdoor amenity areas 55 dB LA_{eq} (1 hour) (0700 hrs – 2300 hrs).

The approved scheme shall be implemented in full and retained thereafter.

15. Before occupation of the development hereby approved, details of the external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall have regard to the 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011" produced by the Institution of Lighting Professionals. The approved lighting scheme shall be implemented in full before the lighting is first used and shall be retained thereafter.
16. If during the works any additional unsuspected contamination is encountered, all works in the relevant part of the site shall cease immediately and not resume until either:
 - i. The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority.
or
 - ii. Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority.
17. The development shall not be occupied until a post completion verification report, including results of sampling and monitoring carried out, has first been submitted to and approved in writing by the local planning authority demonstrating that the site remediation criteria have been met.
18. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
19. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.
20. As part of reserved matters, an updated Biodiversity Net Gain Assessment shall be submitted in writing to the Local Planning Authority that demonstrates a net gain in Biodiversity. The approved Biodiversity Net Gain scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to

the first planting season following occupation of the development.

21. As part of the reserved matters, a scheme of biodiversity enhancement as recommended in section 7 Compensation and Enhancement Opportunities of the Ecological Impact Assessment prepared by RammSanderson to include features incorporated within the new buildings for roosting bats and nesting swifts along with hedgehog gaps and native planting within the details of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.
22. No part of the development hereby permitted shall be brought into use unless or until the details of a scheme for provision of free bus passes to residents of the development upon occupation, are submitted and approved by the Local Planning Authority. The scheme should include details of the bus pass(es) including period of validity or equivalent, the area of coverage, arrangements for promoting the passes, application and monitoring arrangements.
23. The development shall be carried out in strict accordance with the details contained within Section 5 and Drawing ST19319 - 001 Rev. B Tree Protection Plan Sheets 1 & 2 as set out in the Arboricultural Impact Assessment, reference ST19319-002-V2.0 dated 15/07/2022.
24. The development shall be limited to include up to 300 residential dwellings.
25. No part of the development hereby approved shall be occupied until street lighting along the site frontage on Newark Road has been provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
26. No part of the development hereby permitted shall be brought into use unless or until plans denoting the location of new bus stops within the site have been made to the satisfaction of the Local Planning Authority and shall include any of the following: real time bus stop flags, poles and displays including low voltage power source to the real time information pole location; polycarbonate bus shelter; solar or electrical lighting in bus shelter; raised kerbs; enforceable bus stop clearway; lowered access kerbs; additional hard stand (3.5m x 7m if required), black top dressing (tarmacadam) and the above installed to an agreed timescale.
27. No part of the development shall be brought into use unless or until plans denoting a temporary bus turning facility within the site have been made to the satisfaction of the Local Planning Authority including a swept path analysis and the above to be installed to an agreed timescale.
28. No part of the development hereby permitted shall be occupied until the Travel Plan has been approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the Local Planning Authority and shall include arrangements for monitoring of progress of the proposals.

The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority.

Reasons

1. To comply with the requirements of Section 91(1) of the Town and Country Planning Act 1990 (as amended).
2. To comply with the requirements of Section 91(1) of the Town and Country Planning Act 1990 (as amended).
3. To define the permission and for the avoidance of doubt.
4. A detailed surface water management plan is required to ensure that the development is in accordance Policy ST1 of the Ashfield Local Plan Review and paragraph 174 of the National Planning Policy Framework.
5. To protect against the deposition of materials from the site including the protecting the aural and olfactory amenity of existing dwellings in the vicinity of the site in accordance with paragraph 135(f) of the National Planning Policy Framework.
6. To protect future occupiers of the development and the water environment from unacceptable land contamination risk in accordance with paragraphs 189 & 190 of the National Planning Policy Framework
7. To reduce waste in accordance with Policy WCS2 of the Nottinghamshire Waste Core Strategy.
8. In the interests of protecting habitats and species during the construction phase of the development in accordance with paragraph 180 of the National Planning Policy Framework.
9. In the interests of securing biodiversity net gains in accordance with paragraph 180 of the National Planning Policy Framework.
10. To prevent the spread of Japanese Knotweed in the interests of protecting native species and habitats in accordance with paragraph 180 of the National Planning Policy Framework.
11. In the interests of highway safety.
12. To provide sufficient capacity at the respective junctions and in the interests of pedestrian and general highway safety.
13. In the interests of providing a satisfactory means of drainage and the prevention of pollution and flooding in accordance with the National Planning Policy Framework.
14. To protect the aural amenity of future occupiers of the dwellings in accordance with paragraph 135(f) of the National Planning Policy Framework.
15. To prevent obtrusive light causing a loss of amenity to nearby dwellings in the interests of providing a high standard of amenity in accordance with paragraph 135(f) of the National Planning Policy Framework.

16. To protect future occupiers of the development and the water environment from unacceptable land contamination risk in accordance with paragraphs 189 & 190 of the National Planning Policy Framework.
17. To protect future occupiers of the development and the aquatic environment from unacceptable land contamination risk in accordance with paragraphs 189 & 190 of the National Planning Policy Framework.
18. Piling can result in risks to groundwater quality from, for example, mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus, it should be demonstrated that any proposed piling will not result in contamination of groundwater.

Informative

If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with Environment Agency guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73".

19. To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 174 of the National Planning Policy Framework.
20. In the interests of ensuring biodiversity net gains for habitats on site in accordance with paragraph 180 of the National Planning Policy Framework.
21. In the interests of ensuring biodiversity net gains for certain species of conservation concern in accordance with paragraph 180 of the National Planning Policy Framework.
22. In the interests of promoting the use of sustainable means of transport.
23. In the interests of protecting trees and hedges that make a positive impact on the character of the area.
24. To ensure that traffic generated by the proposed development is commensurate with the ability for the adjacent highway infrastructure to safely accommodate the additional traffic in a safe and controlled manner, so as not to negatively increase delay and queuing on the wider highway network and in the general interest of highway safety.
25. In the interests of general highway safety.
26. In the interests of promoting sustainable travel.
27. In the interest of promoting sustainable travel.
28. In the interests of promoting sustainable travel.

Informatives

Household Waste Disposal

Ashfield District Council does not provide wheeled bins for household waste for new properties free of charge. Developers are expected to contribute all the costs of the waste and recycling infrastructure where the need arises directly from the development. This includes existing properties that are sub divided and require additional bin capacity. There are charges for the bin supply. Wheeled bins can be purchased from Ashfield District Council and advice can be provided on the appropriate number and size of bins to the type of new properties being built or created. When residents move on, the bins remain for the next resident to use. Bins can be ordered by contacting Ashfield District Council's Waste team by email environment@ashfield.gov.uk or phone 0800 1830 8484.

The Environment Agency would draw the applicant's attention to the following: -

Waste to be taken off site

Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays. If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to the Hazardous Waste pages on GOV.UK for more information.

Waste on Site

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and

cluster project

- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on-site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- The Position statement on the Definition of Waste: Development Industry Code of Practice and;
- The Environmental regulations page on GOV.UK

The proposed development is located on or within 250m of a landfill site that is potentially producing landfill gas.

Landfill gas consists of methane and carbon dioxide. It is produced as the waste in the landfill site degrades. Methane can present a risk of fire and explosion. Carbon dioxide can present a risk of asphyxiation or suffocation. The trace constituents of landfill gas can be toxic and can give rise to long and short term health risks as well as odour nuisance.

The risks associated with landfill gas will depend on the controls in place to prevent uncontrolled release of landfill gas from the landfill site. Older landfill sites may have poorer controls in place and the level of risk may be higher or uncertain due to a lack of historical records of waste inputs or control measures.

Under the conditions of the environmental permit for the landfill, the operator is required to monitor for sub-surface migration of landfill gas from the site. An examination of our records of this monitoring show that there is no previous evidence of landfill gas migration from the site that could affect the proposed development.

This environmental monitoring data from the site is available on our public register. Development on top of or within 50m of any permitted landfill site that accepted hazardous or non-hazardous waste should be considered very carefully, as even with appropriate building control measures in place, landfill gas can accumulate in confined spaces in gardens (e.g. sheds, small extensions) and can gain access to service pipes and drains where it can accumulate or migrate away from the site.

The following publications provide further advice on the risks from landfill gas and ways of managing these:

- Waste Management Paper No 27
- Environment Agency LFTGN03 'Guidance on the Management of Landfill Gas'
- Building Research Establishment guidance – BR 414 'Protective Measures for Housing on Gas-contaminated Land' 2001
- Building Research Establishment guidance – BR 212 'Construction of new

- buildings on gas-contaminated land' 1991
- CIRIA Guidance – C665 'Assessing risks posed by hazardous ground gases to buildings' 2007

There is also a historic landfill located on the site of the proposed development. This was licensed to receive inert waste and the permit surrendered in 1992.

Severn Trent Water should be consulted by the Local Planning Authority and be requested to demonstrate that the sewerage and sewage disposal systems serving the development have sufficient capacity to accommodate the additional flows, generated as a result of the development, without causing pollution.

In accordance with the Planning Practice Guidance (Reference ID: 7-043-20140306), please notify us by email within 2 weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Sutton Junction Level Crossing

The safety of railway level crossings and all crossing users is of paramount importance to us and we would have concerns over any proposals that may increase the usage or risk of a railway crossing. In this instance, the proposed residential development is near to the South Drove crossing.

In this instance, we are keen to ensure that the proposals do not impact the use of these crossings during the construction phase. Should the council be minded to approve this application, we require the inclusion of a condition to prevent the use of the railway crossings for any construction purpose unless agreed in writing with the Local Planning Authority (in conjunction with Network Rail's Asset Protection Team and the Level Crossing Manager) in advance.

In addition, we require that level crossing safety information is provided to the new occupants of the properties with any welcome packs that are provided. Leaflets can be supplied by us upon request from the developer or is available online at <http://lxresource.co.uk/campaigns/distraction-campaign>

Useful Network Rail contacts;

Asset Protection Eastern

For enquiries, advice and agreements relating to construction methodology, works in proximity to the railway boundary, drainage works, or schemes in proximity to railway tunnels (including tunnel shafts) please email assetprotectioneastern@networkrail.co.uk.

Land Information

For enquiries relating to land ownership enquiries, please email

landinformation@networkrail.co.uk.

Property Services

For enquiries relating to agreements to use, purchase or rent Network Rail land, please email propertyerviceslneem@networkrail.co.uk.

Severn Trent Water

Severn Trent Water advised that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer of Sewer regulations 2011. Public Sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

Nottinghamshire County Council Highway Authority

In order to carry out the off-site works required, the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. In order to undertake the works, which must comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks, the applicant will need to enter into an Agreement under Section 278 of the Act. The Agreement can take some time to complete as timescales are dependent on the quality of the submission, as well as how quickly the applicant responds with any necessary alterations. Therefore, it is recommended that the applicant contacts the Highway Authority as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties. Furthermore, any details submitted in relation to a reserved matters or discharge of condition planning application, are unlikely to be considered by the Highway Authority until technical approval of the Section 278 Agreement is issued.

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

APPENDIX 2

LETTER FROM RODGERS LEASK, DATED 16th SEPTEMBER 2024

16 Sep 2024

Clare Clarke,
Director Planning,
Pegasus Group,
4 The Courtyard,
Lockington
Derby DE74 2SL
Dear Clare

RE: Planning Application V/2022/0629:300 Dwellings at Newark Road, Sutton-in-Ashfield,

Further to recent correspondence, we write to provide confirmation that drainage proposals shall not pose an unacceptable risk from potential contamination.

A Masterplan layout for the site together with Drainage Strategy Proposals are provided on RL Drawing 16530-RLL-17-XX-DR-C-201 rev E dated 20th June 2022. This shows a series of proposed land parcels for residential development sub-divided by roads and landscaping, with several attenuation ponds situated adjacent to the western boundaries.

The attenuation basins are designed for storage of surface water runoff before discharge to the public sewer at agreed discharge rates. No infiltration is proposed.

Rodgers Leask provided the following report in relation to the site:

- Phase 1 Geo-environmental Desk study, Low Moor Road, Sutton-in-Ashfield for Hallam Land management dated 8th February 2022.

The above report made reference to previous reports and investigations which included an earlier Phase 1 desk study which covered a wider larger area; an infiltration testing report and two phases of gas monitoring.

This note provides a commentary on the potential risk from contamination associated with the construction and use of the proposed attenuation ponds for surface water drainage.

Historically, the majority of the Site has mostly comprised greenfield land, with the exception of an area in the north of the site and a smaller area in the eastern corner.

Earliest OS mapping shows sand pits in the north and easternmost corner of the site which gradually expanded in size in the early to mid 1900's, until it was shown as a playing field on mapping between 1959-1960. The smaller pit in the south-eastern portion of the site remained on mapping up until 1991 and may not have been infilled. Greenfield Farmhouse was present adjacent to the northern site boundary and smaller outbuildings in the north-eastern site corner, demolished between 1967 and 1974.

In relation to geological mapping, infilled ground is shown in the northern part of the site coinciding with the former sand pits. Two lobes of superficial strata are shown encroaching the south-eastern site boundary, comprising Glaciofluvial Deposits – Sand and Gravel, and Head deposits - Sand and Silt. The majority of the site is not shown to be underlain by superficial deposits. The bedrock geology is the Lenton Sandstone

Formation, typified by red/brown with buff mottled fine to medium sandstone.

No surface water features are recorded on site. The River Maun is located 139m to the southwest of the site.

The infilled land adjacent to Newark Road in the north of the site is recorded as a Historic Landfill ref 4/80/100/55NW and was issued with a Waste License on 19th March 1980 to allow deposition of inert waste only. The last recorded deposition of waste was 28th November 1983 and the license was surrendered on 22nd October 1992.

The desk study report recognised that this landfill presents a low risk of contamination being present, with potential contaminants including heavy metals, sulphate, polyaromatic hydrocarbons, and asbestos. Inert waste should be non-reactive and typically comprises builders' materials and demolition materials and thus typically presents a low risk of contamination.

Ground conditions identified beneath the site based on the previous ground investigations comprised up to ~8.6m of made ground comprising a mixture of gravel, sand and clay, consistent with the inert nature of waste expected, overlying dense gravelly sand of the Lenton Sandston Formation within the northern area of the site coinciding within the historical landfill. No visual or olfactory evidence of contamination was encountered during the investigation works. Elsewhere, ground conditions comprised topsoil over weathered sandstone, which generally comprised silty gravelly sand or firm to stiff sandy clay. No groundwater was encountered during the previous investigation.

Although no contamination testing was undertaken as part of the previous investigations, the risk to controlled waters from the landfill materials was considered low to moderate based on the absence of visual and olfactory evidence of contamination.

The risk presented by the construction and use of the attenuation ponds is considered very low based on the following:

- The attenuation features shall be lined to prevent infiltration.
- The waste materials are recorded as inert and have been found to be consistent with this description with no visual or olfactory evidence of contamination in soils observed.
- No evidence of groundwater or leachate was encountered.

Further chemical testing will be required on the inert landfill materials, together with risk assessment and the formulation of a detailed Remediation Strategy to set out any mitigation measures required. This is typically controlled by the imposition of Planning Conditions. The circumstances here are relatively normal and the means of addressing any concerns about contamination of water from the site would comprise tried and tested methods.

Yours sincerely,
Stewart Friel MSc BSc (Hons) MEnvSc
Director