

# Ashfield Local Plan Examination.

## Representations in Response to the Council's Consultation on Additional Housing Site Allocations.

On behalf of Hallam Land.

Date: 3<sup>rd</sup> April 2025 | Pegasus Ref: EMS.2254 / P25 0863

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# 1. Introduction

- 1.1. Pegasus Group is instructed by Hallam Land to act on its behalf in preparing this representation in response to the Council's consultation on additional housing site allocations. This representation pertains to our client's interests at Sutton-in-Ashfield.
- 1.2. Hallam Land have engaged in each stage of the preparation of the Local Plan including the Call for Sites in 2019, the Options consultation in 2021 and the Regulation 19 consultation in 2024. On behalf of our client, Pegasus Group has also authored and submitted Hearing Statements in response to the Inspector's Matters, Issues and Questions.
- 1.3. Hallam Land control all the land to the southeast of Sutton-in-Ashfield, between Newark Road/Coxmoor Road and the draft allocation EM2 K4: Land to the East of Lowmoor Road, which is controlled by Leicestershire County Council. This land lies outside the Green Belt adjacent to the Main Urban Area.
- 1.4. The land under the control of Hallam Land and the County Council was collectively submitted to the Call for Sites in 2019 and assigned the SHELAA reference SA001. Site SA001 extends to approximately 75.64 hectares, located to the southeast of the town of Sutton-in-Ashfield. This site was identified as a sustainable urban extension option and discounted for exceeding the Council's arbitrary 500 home threshold.
- 1.5. Two other parcels within this area were also submitted as smaller options and assigned the SHELAA references SA024 and KA035. These smaller parcels were identified in the pool of developable sites that the draft allocations were selected from, but both were discounted. Our client has recently secured outline consent on appeal for the residential development of SA024.<sup>1</sup> This site is now proposed allocation H1Sal Newark Road/Coxmoor Road.
- 1.6. Appendix A shows the extent of the remaining land under the control of Hallam Land between the site allowed on appeal and the draft employment allocation EM2 K4. This site, for up to 500 homes adjacent to the Main Urban Area and outside the Green Belt, remains suitable, available and achievable within the proposed plan period and provides a logical option for addressing the shortfall in housing provision. An EIA Screening Request has been submitted to the Council in relation to this site.
- 1.7. Appendix B shows the relationship between the three parcels of land southeast of Sutton-in-Ashfield, namely:
  - Draft Employment allocation EM2 K4: Land to the East of Lowmoor Road;
  - the remaining available non-Green Belt land being promoted by Hallam Land; and
  - Appeal site/new allocation H1Sal Newark Road/Coxmoor Road.
- 1.8. This Concept Masterplan demonstrates how comprehensive development could be achieved and the opportunity to deliver additional important infrastructure including a primary school, local centre and road link.

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<sup>1</sup> APP/W3005/W/24/3350529.



## 2. Personal Details

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### 3. Local Plan Update

- 3.1. Ashfield District Council submitted the Local Plan and supporting documents to the Secretary of State for independent examination on the 29<sup>th</sup> of April 2024. On the 20<sup>th</sup> of May 2024, the Secretary of State appointed two Planning Inspectors to conduct the independent examination.
- 3.2. Week 1 of the Local Plan Hearings opened on the 12<sup>th</sup> of November 2024 and concluded on the 14<sup>th</sup> November 2024. A post hearing letter (INS05) from the Inspectors was received by the Council on the 6<sup>th</sup> January 2025. The letter asks the Council to undertake further work before the continuation hearings (Matters 4 to 12).
- 3.3. The letter elucidates the concerns of the Inspectors; concerns which centre upon the effectiveness and soundness of the Council's strategy, given that the Council is currently unable to identify sufficient homes to meet the housing requirement in the submitted plan, with a shortfall of 882 homes to 2040. This shortfall exists before the Inspectors have examined the soundness of the sites in the Plan, or the robustness of the Council's housing trajectory.
- 3.4. The other main issue raised by the Inspectors is the justification for the release of Green Belt land. The Inspectors set out that there may be other potential sites, of over 500 dwellings, which remove the need for the Council to release land from the Green Belt. These sites have been overlooked as a result of the Council's spatial strategy and the arbitrary threshold applied to site allocation. As a result, the Council has not demonstrated the existence of the requisite exceptional circumstances needed to release land from the Green Belt.
- 3.5. The Inspectors also set out that, even if they were able to conclude that exceptional circumstances exist to alter the Green Belt boundary, the current shortfall in housing would likely result in the need for further alterations to the Green Belt before the end of the plan period.
- 3.6. Drawing the above together, the Inspectors asked the following:
  - i) Whether the Council can identify any further sites for allocation in accordance with the submitted plan's spatial strategy to meet housing needs? If not, could any sites of greater than 500 dwellings be identified for allocation whilst maintaining the dispersed approach?
  - ii) If further sites cannot be identified, then how could the Plan and its spatial strategy be modified to make it effective, justified and sound in seeking to meet housing needs in full over the plan period.
- 3.7. The Council responded to the Inspectors' letter (ADC.09 and ADC.10) signalling an intention to undertake immediate work in identifying further sites of less than 500 dwellings, in accordance with the submitted plan's spatial strategy.
- 3.8. Following a decision at Full Council on the 17<sup>th</sup> February 2025, the Council is undertaking an additional public consultation to ensure the adequacy of its own housing land supply for the Local Plan period 2023 – 2040. Accordingly, the Council has proposed 13 additional housing sites. However, even if these sites are included, their collective offering is a marginal overprovision of 136 dwellings – or a less than 2% buffer.

## 4. Representations

Do you consider the Local Plan is:

- **Legally Compliant** Yes
- **Sound** No
- **Complies with Duty to Cooperate** Yes

**Do you wish to participate in the hearing sessions?** Yes, I do wish to participate in the Examination.

### Summary

- 4.1. The Inspectors Initial Findings Letter (INSO5) following hearing sessions in November sets out significant concerns with the proposed spatial strategy of the Ashfield Local Plan. There are three main issues raised:
1. The effectiveness and soundness of the proposed strategy of dispersal as the Council is unable to identify sufficient homes to meet the housing requirement, with a shortfall of 882 homes to 2040.
  2. The justification for the release of Green Belt Land and whether exceptional circumstances have been established by demonstrating that all other reasonable options for meeting need have been fully examined.
  3. Whether the need for further alterations to the Green Belt before the end of the plan period has been avoided.
- 4.2. The consultation only attempts to address the first of these concerns and as set out below in detail, the consultation fails to adequately respond to this issue.
- 4.3. Despite the opportunity provided to the Council to overcome the Inspectors concerns about the effectiveness and soundness of the strategy, the consultation on Additional Housing Site Allocations fails to address the issues raised or positively respond to the lifeline offered.
- 4.4. The consultation demonstrates that the Council have done the absolute minimum to address the concerns. The Council have simply updated their monitoring data, added sites with a resolutions to grant (including two brownfield sites) and only proposed six new sites for allocation, five of which are brownfield sites previously discounted and one of which is a greenfield site with deliverability question marks over it.
- 4.5. Once all the amendments to existing proposed sites are taken into account (12 sites have reduced yields, six increased yields and three sites are removed), it is unclear from the consultation documentation if the shortfall has fully been addressed. If it has, the identified sites fail to provide an appropriate level of contingency with a less than 2% buffer which is completely inadequate for Ashfield given the history of poor delivery and supply.

- 4.6. The process of preparing a Local Plan is intended to give the Council, in consultation with their community and stakeholders, an opportunity to positively plan for the future development of their District. This latest consultation further demonstrates the Council's approach of avoiding difficult decisions and taking the path of least resistance.
- 4.7. The proposed changes do not address the issues raised about the effectiveness and soundness of the spatial strategy and fail to positive plan for Ashfield's housing needs.
- 4.8. The consultation also completely fails to address the Inspectors other concerns in relation to whether exceptional circumstances can be demonstrated and whether the need for further alterations to the Green Belt before the end of the plan period has been avoided.
- 4.9. The Council have further sites available outside the Green Belt in sustainable locations, including our client's site south of Sutton-in-Ashfield on the remaining land between employment allocation EM2 K4 and the new proposed allocation H1S1 (the remainder of SHLAA site SA001 shown in Appendix A). The site is unconstrained, located outside of the Green Belt, located adjacent to the Main Urban Area of Sutton-in-Ashfield and occupying a sustainable location.
- 4.10. The representations below set out the key issues in more detail to assist the Examination process.

## Additional Housing Sites

### Commitments

- 4.11. **Three of the proposed allocation are new commitments and total 328 homes.**
- 4.12. Whilst on the face of it the Council appears to have identified thirteen additional sites, three of these sites are new commitments, rather than positive decisions to allocate sites.
- 4.13. One of the three sites is our client's site at Newark Road (SHLAA reference SA024) now proposed for allocation (H1S1). Whilst it is positive that, following our client's success at appeal, the Council has proposed the site for allocation. The conclusions of the appeal Inspector vindicate our earlier submissions that SA024 should have been included as an allocation at the Pre-Submission stage, for it aligns fully with the Council's strategy of being less than 5000 dwellings, it comprises non-Green Belt land, and it is located in a sustainable location, adjacent to the Main Urban Area of Sutton-in-Ashfield. The reasons for the site not being allocated were predicated on incorrect information and political objection. There was, and remains, no good planning reason for the site not to be allocated.
- 4.14. On sustainability the Inspector concluded:

*'In conclusion, there would be a genuine choice of transport modes for future occupiers of the proposed development which would reduce reliance on the car...The appeal proposal would readily integrate within the main urban area of Sutton-in Ashfield, one of the largest settlements in the district, with good services, frequent buses, train station with regular services and a good network of footway and cycle paths' (para 22).*



- 4.15. The Inspector noted that no objections on technical matters were raised by statutory consultees during the application process and concluded that there is no reason to refuse the appeal on highway grounds as set out at paragraph 116 of the NPPF (para 61).
- 4.16. Overall, the Inspector concluded that cumulatively, the harms identified would be limited and of no more than limited weight (para 96) and awarded full costs against the Council.
- 4.17. The costs award letter notes the long planning history of the site 'including "political" resistance to its inclusion within draft Local Plans' (para 21). The Inspector also noted that 'Other than local concern and anxiety, there is little else to explain why Members deviated from the advice from the technical consultees.' (para 28)
- 4.18. The reason for highlighting the details of the appeal decision and award of costs is that they further support what we have been raising through the Examination process to date, that decisions about future growth of the District have not been informed by an assessment of reasonable options informed by the evidence, but driven by a political reaction to public objections.

### Resolutions to Grant

- 4.19. **Four of the proposed allocations have resolutions to grant and total 224 homes.**
- 4.20. In addition to the three new commitments listed as new allocations, there are also four sites which have a resolution to grant planning permission subject to the signing of a Section 106 agreement, following approval by Plans Committee.
- 4.21. Of these four, three were approved at the most recent Plans Committee, on 5th February. One for 38 homes at Abbey Road, Kirby-in-Ashfield is a Green Belt site and subject to a referral to the Secretary of State (H1Km) and one for 90 homes at Radfords Farm, Dawgates Lane in Sutton-in-Ashfield, against officer recommendation to refuse (H1San).
- 4.22. The Officers Report for the proposed allocation H1San sets out that the application is "unacceptable to the Highways Authority, which objects on the grounds of unsafe access, unsustainable location, increased traffic risks, and inadequate mitigation measures". The reasons for refusal proposed by officers also sets out "significant harm to the character and appearance of the surrounding area through the visual impact of the built form on green fields and the further encroachment of development into the open countryside".
- 4.23. The proposal for the allocation of these four sites with a resolution to grant does not therefore represent a positive response from the Council to identify further sites for allocation in response to the concerns set out in the Inspectors Letter (INSO5). It is simply the inclusion of sites that will likely become commitments to ensure the Council can minimise the number of additional new site allocations that need to be made.

### New Brownfield Sites

- 4.24. **Five of the proposed new allocations are brownfield sites previously discounted by the Council and these total 170 homes.**
- 4.25. This leaves just six new proposed allocations that are not already commitments or soon to be commitments. Of the six new sites, five are brownfield sites and all five were already known to the Council when the Pre-Submission Local Plan. As set out below there are

significant deliverability concerns will all these sites. Deliverability concerns that informed the Council's decision not to include sites in the Pre-submission.

*H1Kn Southwell Lane*

- 4.26. The first is proposed allocation H1Kn Southwell Lane, Kirkby for 60 dwellings. Background Paper 1 – Spatial Strategy and Site Section (BP.01) sets out at Table 3 that this site was proposed for allocation as there was uncertainty surrounding realistic delivery (extract below).
- 4.27. The Consultation on Additional Housing Site Allocations document sets out that the site, a reclaimed employment site, is now the subject of a lapsed permission. There is no evidence provided to suggest this site is more deliverable than it was when Background Paper 1 was prepared, and it appears to be less deliverable now that the previous permission has lapsed.
- 4.28. It is also noted that the new supporting text for this allocation states that there are surface water flooding issues associated with this site. It is unclear whether the proposed allocation of this site has been informed by a Sequential Test in line with the updated Planning Practice Guidance which confirms that all sources of flooding must be taken into account in selecting sites for allocation.

Extract of Table 3: Large permissioned sites from the Brownfield Land Capacity Assessment

Site Name	Total Site Area (ha)	Proposed Housing Yield (dwellings)	Proposed allocation?
Land off Southwell Lane, Kirkby in Ashfield	2.0	60	No – A Reserved Matters application was submitted for this site in 2018 and remains pending a decision. There has been little recent activity and therefore uncertainty surrounding realistic delivery.

*H1Ko Former Kirklands Care Home*

- 4.29. The second brownfield site proposed for allocation, H1Ko Former Kirklands Care Home, Kirkby, was also considered as part of Background Paper 1 (BP.01). In Table 4 the Council sets out its conclusion that the site is not proposed for allocation as the availability of the site is not certain. The paper notes that the Council have tried and been unable to contact the landowners to confirm whether they are a willing landowner.
- 4.30. The Consultation on Additional Housing Site Allocations document does not provide any new evidence to suggest this position has changed. The deliverability of this site therefore must remain uncertain.
- 4.31. It is also noted that the supporting text proposed for this new allocation references the potential for contaminated land and possible ground stability issues. These are significant issues which will require further investigation before the deliverability of the site can be confirmed.

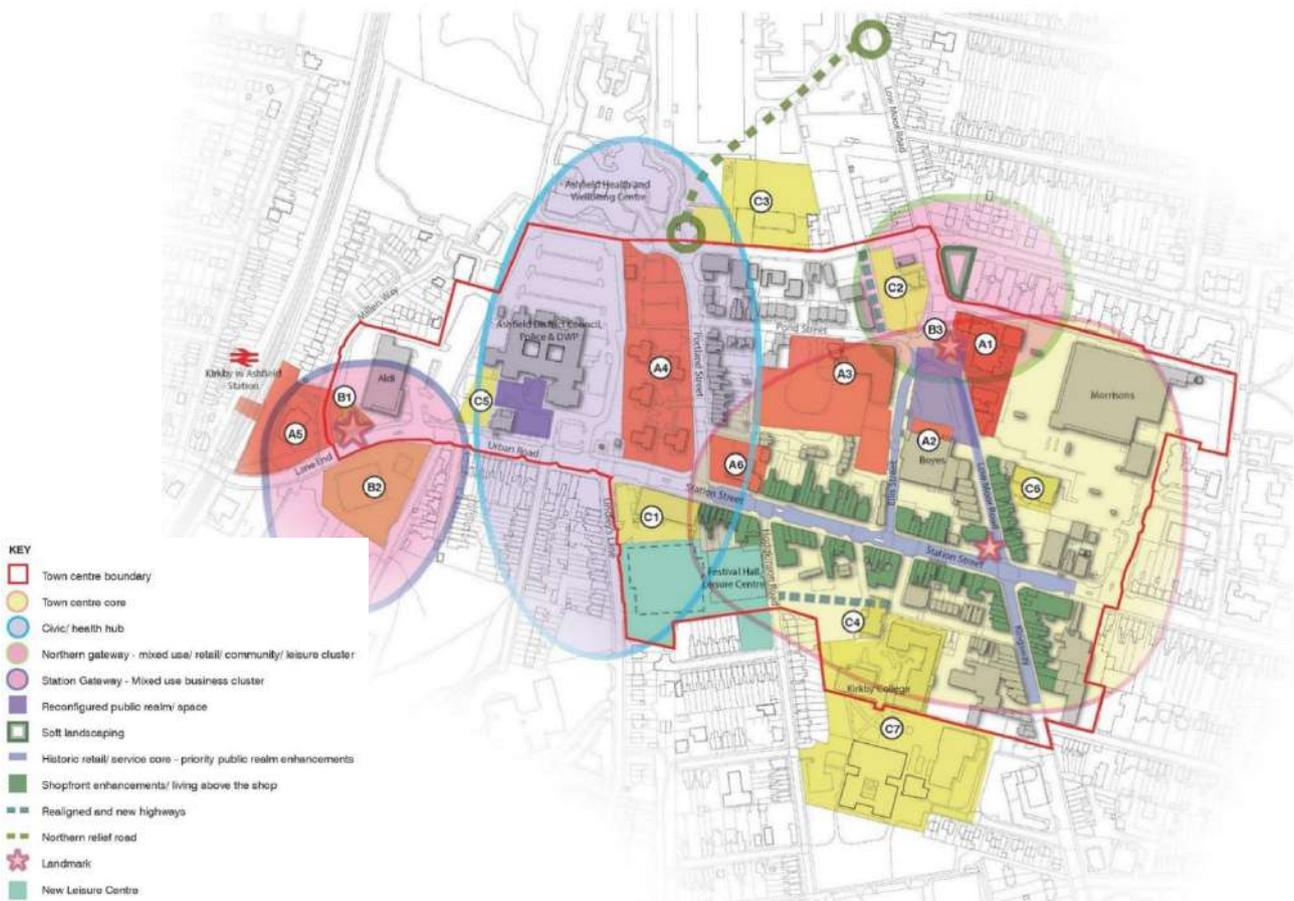
Extract of Table 4: Large non-permissioned sites from the Brownfield Land Capacity Assessment

Site Name	Total Site Area (ha)	Proposed Housing	Proposed allocation?
Former Kirklands Home Day Centre, Fairhaven, Kirkby in Ashfield.	0.55ha	19	No - This site was formerly occupied by a care home before being demolished in 2020. It is owned by Nottinghamshire County Council but was not put forward for assessment via the SHELAA. In respect of housing, the site cannot be deemed developable where the availability of the site is not certain, and therefore cannot be relied upon for future delivery.  Ashfield Council have been proactive in approaching the landowners but have not received any submission for the site to be assessed for development potential.

*H1Kp Pond Hole, H1Kr Ellis Street & H1Kq Former Wyvern Club Site, Lane End*

- 4.32. There are then three of the sites from the Kirkby Town Centre Spatial Masterplan – Shaping Kirkby’s Future published four years ago in February 2021. This document was available to the Council when they prepared the Pre-Submission Local Plan so it is unclear what has changed in terms of the Council’s understanding of the deliverability of these three sites.
- 4.33. The stated aim of the Spatial Masterplan is to provide a framework for future investment and development which maximises the opportunities for Kirkby and capitalises on its existing assets. In particular this includes setting out how developments/projects and initiatives could be delivered, who would be involved in delivery, how they might be funded and by what mechanism and providing an evidence base for the emerging Local Plan.
- 4.34. The Spatial Masterplan identifies a number of project and categorises them as Priority Projects (A), Medium Term Projects (B) and Long Term Projects (C). The map below is taken from the Spatial Masterplan.
- 4.35. Proposed allocations H1Kp Pond Hole, Kirkby for 54 dwellings and H1Kr Ellis Street, Kirkby for 24 dwellings are both identified in the Kirkby Town Centre Masterplan as a Priority Project and given the reference Priority Project A3. Project A3 is identified in the Spatial Masterplan as a housing led mixed-use development with active frontage to Civic Square, for example service, commercial/leisure.
- 4.36. Proposed allocation H1Kq Former Wyvern Club Site, Lane End, Kirkby for 12 dwellings is identified as a Medium Term Project and given reference B1. Project B1 in the Spatial Masterplan is identified a new landmark structure to address views towards railway station gateway. It is therefore unclear how the proposal for 12 dwellings fits with this.
- 4.37. The Consultation on Additional Housing Site Allocations document does not provide any evidence on the deliverability. The deliverability of these sites is therefore also uncertain.

**KIRKBY IN ASHFIELD**  
TOWN CENTRE MASTERPLAN



- 4.38. In total these five brownfield sites account for 170 of the new homes proposed and there are significant questions over the deliverability of these homes. The Council didn't include them in the Submission version of the Local Plan because of the uncertainty about their deliverability and there is no new evidence provided to suggest there has been a change.
- 4.39. All these sites could be brought forward for development at any time as they are located within the limits of development, and they haven't been despite efforts from the Council to encourage this in some cases and attempts by the private sector. Whilst allocating these sites may provide additional certainty and is not objected to, the Council cannot rely on these sites to meet the housing needs of the District.

**New Greenfield Sites**

- 4.40. **One proposed allocation is a new greenfield site and total 106 dwellings.**
- 4.41. Finally, there is one new greenfield allocation which is not an existing commitment and does not already have a resolution to grant. This is H1 Sam Beck Lane South, Skegby for 106 dwellings. This is a site that the Council considered when preparing the Submission Local Plan but it was previously discounted due to access constraints.
- 4.42. The Consultation on Additional Housing Site Allocations document sets out that:

*'further investigations **are progressing** regarding the provision of a suitable access to the site **which may potentially** result in little or no further capacity being required from Beck Lane and the junction directly off'. (emphasis added)*

- 4.43. On this basis the Council have identified that the land would be available in the medium term, but notes that this is subject to a satisfactory position being reached with a third party and the County Council's Highways Department. This doesn't suggest that the original concerns have been overcome, or that a satisfactory solution can be found.
- 4.44. The proposed supporting text sets out that direct access from Beck Lane will not be supported by Nottinghamshire County Council Highways authority and therefore the only way for the site to come forward is with the cooperation of a third party which means a commercial discussion between landowners, which presumably hasn't been successful to date. This reliance on a third party suggests a significant level of uncertainty about the deliverability of the site.
- 4.45. The draft supporting text also notes that there is a potential network capacity issue to overcome with Severn Trent Water to ensure the necessary infrastructure to accommodate surface water.
- 4.46. This new proposed allocation needs to be supported with clearer evidence of deliverability particularly in relation to road and drainage infrastructure capacity.

### Conclusion

- 4.47. **In total this calls into question the deliverability of 276 of the new dwellings proposed (170 from the brownfield sites and 106 from the one new greenfield allocation).**
- 4.48. The assessment of the individual sites highlights the Council's lack of positive response to the lifeline being offered by the Inspectors, with a reliance on sites with significant long standing deliverability issues alongside new and soon to be commitments.
- 4.49. There is uncertainty about the delivery of all the new sites that don't already have planning permission or a resolution to grant.

### Calculating Supply

- 4.50. The Consultation on Additional Housing Site Allocations document sets out that the inclusion of the thirteen additional sites discussed above in combination of the amendments made to the existing draft allocation yields will result in a small over provision of 136 dwellings.
- 4.51. The new proposed allocations provide a total of 828 homes broken down as following:
- 328 dwellings from new commitments
  - 224 dwellings from resolutions to grant
  - 170 dwellings from brownfield sites
  - 106 dwellings from the one new greenfield site.

- 4.52. There are also a number of changes to the original list of allocations with three sites removed, the yields decreased on twelve sites and increased on seven:
- 186 dwellings from increased yields
  - -82 dwellings from sites removed
  - -319 dwellings from reduced yields.
- 4.53. It is unclear from the consultation document why three sites have been removed, an explanation for one is set out in the Full Council report and related to the site being smaller than 10 dwellings (H1Vd) but there is another site that has been reduced to 6 dwellings (H1Sx), so by this logic this should also be removed.
- 4.54. The combined total of all the changes is an increase of 613 dwellings before new monitoring data is taken into account. The number set out above further reinforce the conclusion that the Council have done the bare minimum to respond to the Inspectors Letter.
- 4.55. The consultation document does not provide a breakdown of how the suggested over provision has been identified but this is set out in the papers to Full Council on 17<sup>th</sup> February 2025 where the consultation was approved by the Council. The table below is taken from this report.
- 4.56. This notes an oversupply of 146, rather than 136 set out in the consultation document, so the figures may have marginally changed from this position.
- 4.57. As the Council includes commitments in the list of allocations it is difficult to relate the data in the table below with the new list of allocations, but when all sites with planning permission are removed from the list in Policy H1, we have calculated that there are a total of 4,279 dwellings on sites without planning permission including the three proposed allocations which have received permission since September 2024 (this is an over-estimate as it includes all the sites with Part permissions as the consultation document doesn't set out how many of the homes have permission so are already counted as commitments).
- 4.58. Report to Council says 4,347 homes from allocations without permission, whilst this isn't a significant difference, if this is correct it would reduce the buffer by half.
- 4.59. It is essential that the Examination is supported with a clear indication of which sites are being counted within the different categories below for transparency.

Housing Supply Calculation from Full Council Report – 17<sup>th</sup> February 2025

<b>Housing Requirement</b>	<b>Dwellings</b>
Annual Local Housing Need based on Standard Methodology at April 2024	446
Houses needed to meet requirement, 1/4/2023 to 31/4/2040	7582
Net Homes delivered* 1/4/2023 to 31/3/2024	451
Houses needed to meet requirement, 1/4/2024 to 31/4/2040	<b>7131</b>
<b>Future Supply Source</b>	<b>Dwellings</b>
Houses deliverable on <b>small sites</b> , 1/4/2024 to 31/3/2040	
<ul style="list-style-type: none"> <li>With planning permission (including new build, net conversions and change of use) at 1st April 2024</li> </ul>	353
<ul style="list-style-type: none"> <li>Known permitted development/prior notification schemes not yet implemented at 1st April 2024</li> </ul>	3
<ul style="list-style-type: none"> <li>Demolitions and other losses with planning permission at 1/4/24</li> </ul>	-3
<ul style="list-style-type: none"> <li>Deduction to account for potential lapsed permissions</li> </ul>	-95
<ul style="list-style-type: none"> <li>Windfall allowance beyond 5 years (60 dpa) - 1/4/2029 to 1/4/2040</li> </ul>	660
Houses deliverable on <b>large sites</b> 1/4/2024 to 31/3/2040	
<ul style="list-style-type: none"> <li>With planning permission at 1st September 2024**</li> </ul>	1972
<ul style="list-style-type: none"> <li>Demolitions and other losses with planning permission at 1/4/24</li> </ul>	0
<ul style="list-style-type: none"> <li>Deduction to account for potential lapsed permissions</li> </ul>	-11
<ul style="list-style-type: none"> <li>Delivery from H1 allocated sites without planning permission</li> </ul>	4347
Provision from C2 residential institutions (dwelling equivalent)	51
<b>Total housing supply 1/4/2024 to 31/3/2040</b>	<b>7277</b>
<b>Net Provision</b>	<b>Dwellings</b>
Provision against Local Housing Need 2023 to 2040	146

## Appropriate Buffer

- 4.60. The identified 136 dwellings of over provision represents a 1.79% buffer on the total housing requirement for the plan period (7,852 homes). This is not sufficient to ensure that the housing requirement is met.
- 4.61. Given the Council's poor track record in maintaining a five-year supply of deliverable housing land and, until recently, the application of the 20% buffer, derived from repeated failings of the Housing Delivery Test, a 2% buffer is insufficient.
- 4.62. It is important that the Local Plan includes a degree of flexibility in allocating sites to meet the housing needs of the District. There will always be unforeseen circumstances that lead to sites proposed for allocation not coming forward or delivering fewer homes than anticipated. Indeed, the Local Plans Expert Group Report (2016), set out recommendations for a 20% allowance of developable reserve sites to provide extra flexibility to respond to change. It is common practice for authorities to include 10% contingency as a minimum.
- 4.63. The need for a contingency as demonstrated by the Council's need to amend the allocations already proposed, with 12 sites now having reduced yields, amounting to some 319 dwellings and two sites being removed totally 82 dwellings. This is compared to an increase of 186

dwellings through increased yields. This 215 homes reduction in the number of homes from the Pres-Submission Draft to now demonstrates why the 136 over provision identified is an insufficient buffer.

- 4.64. The new increased reliance on brownfield sites and the uncertainty around these and the new greenfield site mean an appropriate buffer is going to be essential to ensure the plan meets housing needs and meets the tests of soundness.
- 4.65. A 10% buffer would mean an over provision of at least 758 homes would be needed and a more appropriate buffer of 20% would mean 1,516 additional homes over the housing requirement. The current insufficient buffer means the Council continue to have a significant shortfall in supply following this further work to identify additional sites.
- 4.66. Given the Council's poor track record in maintaining a five-year supply of deliverable housing land and, until recently, the application of the 20% buffer, derived from repeated failings of the Housing Delivery Test, a 2% buffer is insufficient.
- 4.67. The inclusion of our client's site, southeast of Sutton-in-Ashfield, for up to 500 homes, outside the Green Belt and adjacent to the Main Urban Area, provides an opportunity to significantly increase the buffer in the planned provision.

## Windfall Allowance

- 4.68. The Council points to the windfall allowance, and their proposed increase to this. As set out at the Examination, there are a number of concerns with this.
- 4.69. The Framework sets out that where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.
- 4.70. The Council have provided no additional evidence to support the proposed approach or provide any reassurance about whether this is a reliable supply.
- 4.71. The three years added to the windfall allowance set out in the Updated Supply (ADCO4) and three years removed make a significant difference to the average. There is no explanation offered on why the figures are 20% higher post pandemic than pre-pandemic and there is no account taken of the fact the Council have had a lack of five year supply for a number of years and therefore the tilted balance has been informing planning decisions.
- 4.72. The historic windfalls are an inflated position as the Council have not had an up to date Local Plan in place during these ten years and decisions have been made in the tilted balance. The Local Plan needs to consider what windfalls will be when the Council has a plan in place, i.e. a truer windfall number.

## Other Alternative Sites

### Land South of Sutton-in-Ashfield

- 4.73. Appendix A shows the remaining land available south of Sutton-in-Ashfield between the draft employment allocation EM2 K4 and the site with the allowed appeal, draft allocation H1Sal.

This site is identified as available in the Council's SHLAA under reference SA001 and is adjacent to the Main Urban Area and outside the Green Belt.

- 4.74. Appendix B provides a Concept Masterplan demonstrating that this site offers the opportunity to deliver up to 500 homes, a new school, link road and local centre. It also shows the relationship of the site to the draft allocations either side and how comprehensive sustainable development to the southeast of Sutton could be achieved, taking account of the landscape evidence that informed the appeal discussion.
- 4.75. The Inspector, for the appeal related to draft allocation HISal, found that the appeal proposal would readily integrate within the Main Urban Area of Sutton-in-Ashfield, one of the largest settlements in the district, with good services, frequent buses, a train station, and a good network of footway and cycle paths.
- 4.76. The Inspectors Report notes that the location of the appeal proposal would not be at odds with the need to secure sustainable patterns of development and the appeal site aligns with the proposed spatial strategy in the Emerging Local Plan ("ELP") which continues to identify Sutton-in-Ashfield as a Main Urban Area at the top of the settlement hierarchy. Importantly, the Inspector found that the evidence to the ELP identifies the appeal site being one of the relatively few unconstrained locations in the district for development. In totality, the asserted reasons for not allocating the site in the ELP did not withhold scrutiny in the appeal.
- 4.77. We submit further that, following the conclusions of the appeal Inspector, the Council ought to have included the wider landholding as a proposed allocation – as similarly there is no good reason for its omission. The wider site is similarly unconstrained, being located outside of the Green Belt, being located adjacent to the Main Urban Area of Sutton-in-Ashfield and occupying a sustainable location.
- 4.78. Given that Site SA024 has now been proposed for allocation, the Council ought to have turned their mind to the allocation of the remainder of SA001, for taken in isolation (as a site separate to SA024), the anticipated yield is less than 500 dwellings to accommodate landscape, and other, physical constraints and deliver the associated infrastructure.
- 4.79. However, even in the alternative, where the Council felt compelled to consider the cumulative yield (i.e., SA024 together with the remainder of SA001), the Council may still have considered component parts of the larger site. For instance, with the appeal scheme comprising 300 dwellings, the Council may have allocated additional land within SA001 for an additional 200 units, thereby adhering to the arbitrary 500-dwelling cap. Instead, the Council has read in a set of rigid rules which preclude a more flexible and pragmatic approach.

## Justification for Green Belt Release

### Available Non-Green Belt Sites

- 4.80. Notwithstanding the above, the Council were also posed the question as to whether sites of greater than 500 dwellings could be identified for allocation whilst maintaining the dispersed approach. The Council has altogether failed to provide a substantive answer. Having regard to both the SHLAA and the SA, it is clear that the question could be answered in the affirmative. The allocation of the wider site, including SA024, would have reduced the Council's reliance on Green Belt release. Its availability, in itself, undermines the Council's ability to demonstrate the requisite exceptional circumstances.

- 4.81. Indeed, at District level, there are no physical or environmental constraints that ought to have prevented the Council from identifying a spatial strategy that meets its housing needs. The Green Belt, as a policy constraint, covers less than half of the District and does not cover large areas of land adjacent to the Main Urban Areas, such as Sutton-in-Ashfield.
- 4.82. In this respect, it is unclear why the Council has not allocated additional, deliverable and sustainable sites on the outskirts of the Main Urban Areas (such as the remainder of SA001) to accord with the proposed settlement hierarchy, and to truly concentrate development within (and in proximity to) the largest settlements in the District.
- 4.83. Instead, the Council has opted for the release of Green Belt sites which would skew the anticipated quantum of development in the lower tiers of the settlement hierarchy. There are non-Green Belt sites, in sustainable locations adjoining the Main Urban Areas which have not been selected for development and which could have made a significant contribution to meeting housing needs before Green Belt sites were considered.
- 4.84. Paragraph 145 of the Framework sets out that authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified. Paragraph 147 sets out that, before concluding that exceptional circumstances exist, the authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need.
- 4.85. The drafting of these paragraphs provides a clear sequence of events; the Council must first explore alternative options of non-Green Belt sites before it proceeds to consider whether exceptional circumstances exist. In Ashfield's case, the Council has decided not to allocate suitable and sustainable non-Green Belt sites – its reasonable alternative option. These sites can make a material contribution to addressing the District's housing need. It follows, therefore, that the Council cannot rely on its unmet need to amount to the exceptional circumstances needed to justify the release of Green Belt when such need, at least in part, is capable of being suitably met elsewhere.

### **Avoiding Further Alterations to the Green Belt**

- 4.86. By virtue of the Council's marginal overprovision of 136 dwellings, or 2% buffer, there can be no certainty as to whether the Green Belt boundaries will be subject to further alteration.
- 4.87. To provide such certainty, the Council should be seeking to provide a greater buffer, through the allocation of additional sites, which are not constrained by Green Belt.
- 4.88. There is no clear justification to pass over the non-Green Belt sites when, at different scales, they meet all the aims of the preferred strategy of avoiding over development of the Named Settlements and isolated development and avoid significant impacts on heritage, landscape or wildlife. These non-Green Belt sites are deliverable, with the potential to deliver homes in the next five years, supporting the regeneration of the District's main towns whilst meeting needs.
- 4.89. Our client's site of up to 500 homes southeast of Sutton-in-Ashfield is an example of such a site, which would significantly contribute to the planned provision and buffer. The site is in a sustainable location adjacent to the Main Urban Area and is a non-Green Belt site.

## Modifications Required to the Local Plan

- 4.90. It is our opinion that the spatial strategy must be revisited, to ensure the findings of the Sustainability Appraisal are used to inform the decision about an appropriate strategy for growth and a strategy is selected that is capable of delivering the homes needed to meet the housing needs identified for the District.
- 4.91. This should be very much cognisant that whilst housing need and delivering sustainable development can amount to exceptional circumstances for Green Belt release, where housing needs are able to be met on suitable non-Green Belt land in sustainable locations adjacent to the main urban settlements, the existence of exceptional circumstances can no longer be soundly based on meeting these factors. No case is made out by the SA or Background Paper evidence that non-Green Belt options are locationally unsustainable so as to provide exceptional circumstances to warrant Green Belt release.
- 4.92. A reassessment of Options 4, 5 and 6 also needs to be accompanied by a reassessment of the existence of exceptional circumstances to justify the amount and location of Green Belt release, particularly in the context of suitable non-Green Belt sites, including our client's site, the Sutton Sustainable Urban Extension (SAO01) and the parcels within this wider area.
- 4.93. Plainly, there are questions as to the efficacy of the preferred strategy – there is no reason why the Council could not have identified sufficient sites. Background Paper 1 (BP.01) sets out that the preferred strategy of dispersed growth means sites are excluded solely for having capacity for more than 500 homes:
- “Chapter 3 of this paper describes how the spatial approach to growth has evolved throughout the Local Plan process. In respect of housing growth, this means a strategy which does not rely on large scale strategic sites such as new settlements or Sustainable Urban Extensions (SUEs) and reflects Option 3 in the SA (see Chapter 4). The sites listed below are excluded as they are inconsistent with the approach for dispersed development with no individual site delivering 500 or more dwellings.”*
- 4.94. The preferred strategy restricts the sites available for development, regardless of suitability, and excludes two sustainable urban extension options adjacent to the Main Urban Areas, the most sustainable locations in the District.
- 4.95. The Background Paper notes this excludes the potential for up to 3,573 homes. The decision to pursue a dispersed strategy and not consider any site just because it is over 500 dwellings led to our client's site southeast of Sutton-in-Ashfield being discounted despite being in a sustainable location.
- 4.96. The preferred option conflicts with the broad thrust of paragraph 77 of the Framework, which is clear that the supply of large numbers of new homes can often be best achieved through planning for larger scale development. Whilst there is no national policy requirement to have larger sites, the rejection of such sites without rational justification is not sound.
- 4.97. The proposed strategy also led to sites being proposed for allocation that are located in less sustainable locations, contrary to the conclusion set out in the Background Paper 1, that the dispersed growth option represents the best option to deliver sustainable development and meet the vision for the district.



- 4.98. Policy H1S1 should be amended to include the land identified in Appendix A or this land allocated separately as a site of less than 500 homes if the current strategy is to be maintained.



## Appendix A: Site Location Plan





## **Appendix B: Concept Masterplan**

**Concept Masterplan for the remaining land southeast of Sutton-in-Ashfield showing the relationship to draft allocations EM2 K4 and H1Sal**



- KEY**
-  **SITE BOUNDARY**  
Circa 54.08Ha
  -  **OPEN SPACE**
  -  **RESIDENTIAL DEVELOPMENT**  
Up to 500 dwellings @ 33dph
  -  **SITE FOR A PRIMARY SCHOOL**
  -  **MIXED USE LOCAL CENTRE SITE**  
Potential to include community uses and residential development
  -  **POTENTIAL SITE ACCESS**
  -  **PRIMARY STREET**
  -  **STREETS**  
Illustrative access points into development parcels
  -  **PEDESTRIAN / CYCLE CROSSING POINTS**
  -  **PEDESTRIAN / CYCLE CONNECTIONS**  
Connections into the site at the site boundary
  -  **PEDESTRIAN & CYCLE ROUTES**
  -  **PUBLIC RIGHTS OF WAY**  
To be upgraded as part of wider connectivity strategy.
  -  **RETAINED TREES & HEDGEROWS**
  -  **ILLUSTRATIVE LANDSCAPE STRATEGY**
  -  **DRAINAGE BASINS**
  -  **EXISTING / PROPOSED OFFSITE PLAY SPACE**
  -  **NEAP**
  -  **LAP**
  -  **NATURAL PLAY OPPORTUNITIES**

Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

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