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Ashfield Local Plan Representations.

Pre-Submission Draft Regulation 19 Consultation.

On behalf of Hallam Land Management.

Date: 29 January 2024 | Pegasus Ref: EMS.2254

LPA SHLAA Ref: SA024/SA001/KA035

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1. Introduction

- 1.1. These representations are submitted by Pegasus Group on behalf of Hallam Land Management on the Ashfield Local Plan Preferred Options Regulation 19 Consultation, in relation to our client's interests south east of Sutton-in-Ashfield.
- 1.2. Hallam Land Management have engaged in each stage of the preparation of the Local Plan including the Call for Sites in 2019 and Options consultation in 2021, as well as previous versions of the plan. This included the previous Preferred Options Consultation in 2012 and Pre-Submission Consultation in 2013 before the Council withdrew that plan in 2014. Representations were subsequently made to the new Publication Version in 2016 and Pegasus Group engaged in the Examination, before the Council withdrew that version of the Local Plan in 2018.
- 1.3. Hallam Land Management control all the land to the south east of Sutton-in-Ashfield between Newark Road/Coxmoor Road and the draft allocation EM2 K4: Land to the East of Lowmoor Road. Appendix A shows the full extent of the land in their control.
- 1.4. The land in the control of Hallam Land Management and the County Council was collectively submitted to the Call for Sites in 2019 and given the SHLAA reference SA001. At the same time two other parcels within this area were submitted as smaller options and given SHLAA reference SA024 and KA035.
- 1.5. Hallam Land Management currently have a live planning application on one of these smaller parcels (SA024). There are no statutory consultee objections raised in relation to this application and it is under considered by Ashfield District Council (planning application reference V/2022/O629). Appendix B provides a Site Location Plan for this site at Land south of Newark Road and west of Coxmoor Road.
- 1.6. The Concept Masterplan shown in Appendix A is an updated version of what has been promoted as potential Sustainable Urban Extension to Kirkby/Sutton throughout this and previous local plan process. This site was proposed as a draft allocation in the previous Local Plan, withdrawn from Examination. The concept masterplan has been updated in support of these representations to reflect the proposed employment allocation and the latest iteration of the masterplan for the live planning application.
- 1.7. We have a number of fundamental concerns about the current proposed strategy and draft housing site allocations. Without significant modifications the plan is considered unsound. There are also key legal compliance issues. The following representations set out our concerns and the modifications necessary.



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Request for Further Notification

Please tick to receive notifications (via e-mail) on the following events:

- ✓ Local Plan submitted to Secretary of State
- ✓ Examination in Public Hearing Sessions
- ✓ Planning Inspector's recommendations for the Local plan have been published
- ✓ Local Plan has been formally adopted

2. Representations

2.1. The sections below set out our representations on behalf of Hallam Land Management.

2.2. The following applies to all these responses:

Representations	
Do you consider the Local Plan to be legally compliant?	No
Do you consider the Local Plan to be sound?	No
Do you consider the Local Plan document to comply with the duty to co-operate?	No
Do you consider it necessary to participate at the hearing sessions at Examination?	Yes
Consent for storing submitted data *	
<input checked="" type="checkbox"/> Yes, I give permission to store and process my data and agree to the Privacy notice	

3. Strategic Policy S1: Spatial Strategy to Deliver the Vision

Justification of Preferred Spatial Strategy

- 3.1. The spatial strategy sets out how the Council will seek to deliver the Local Plan's Vision by guiding the distribution of development within the District over the extended plan period of 2023 – 2040.
- 3.2. The Pre-Submission Draft Local Plan sets out a new spatial strategy to that consulted on at Regulation 18. There has been a significant shift away from the new settlement based option (Option 10 in the Sustainability Appraisal) to a dispersed approach of smaller sites (Option 3).

Legal Compliance & Soundness Issue

- 3.3. There is no clear justification provided in the Draft Local Plan, background papers or Sustainability Appraisal for the new preferred spatial option. The decision to remove the proposed new settlements is documented, but not the decision to shift to a dispersed approach rather than any of the other seven options sustainability appraised.
- 3.4. The draft Local Plan sets out what the new strategy seeks to achieve but not why it was the chosen spatial option. The plan points to the background papers for more information. Background Paper No.1 – Spatial Strategy and Site Selection (2023) simply states that 'Option 3 in the SA has now been taken forward as it represents the best option to deliver sustainable development and meet the Vision for the District' (para 4.3). It then moves on to set out what the policy aims to achieve.
- 3.5. The evidence presented appears to suggest that the two new settlement sites were removed due to the significant level of response to the Regulation 18 consultation. The majority of the remainder of the sites have simply been carried forward with some additions and adjustments and described as a new dispersed strategy.
- 3.6. The role of the Sustainability Appraisal is to consider and compare options and whilst it appraises all eight spatial strategy options against the sustainability objectives, it fails to provide an analysis of how the preferred option compares to the alternatives or set out why it was selected as the preferred option in the context of that analysis. The section titled 'Reasons for the selection of the preferred option and rejection of alternatives' (paras 5.5.76–5.5.84) documents the process of decision making not the reasons for the decisions. It states that:

'The Council's decision-making process and reasons for changing the approach since the 2021 consultation is set out in a series of committee reports and minutes of the Council's Cabinet committee and Local Plans Development Committee. A series of reports have shaped the selection of the preferred strategy...' (para 5.5.79).
- 3.7. The Sustainability Appraisal leaves the reader with a paper trail to follow. It highlights decisions made on the basis of emerging and potential planning policy changes at the national level and ministerial intentions to reduce Green Belt release across the country and

amend how housing need is calculated. There is no clear justification or relative assessment provided of the spatial options.

3.8. The Sustainability Appraisal concludes that:

'Council has therefore identified the spatial strategy as an appropriate spatial approach to ensure that new development is located in the most sustainable locations in the District around existing developments and that uncertainty related to the new settlements is removed.' (para 5.5.82).

3.9. It is unclear why the dispersed strategy will ensure new development is located in the most sustainable locations, as there are a number of strategy options which direct growth to the Main Urban Areas.

3.10. The Sustainability Appraisal goes on to set out the reasons alternative spatial strategy options were rejected. Our client's land south east of Sutton-in-Ashfield forms part of the rejected Options 4, 5 and 6 as a potential Sustainable Urban Extension adjacent to Kirkby/Sutton. A Concept Masterplan of this potential Sustainable Urban Extension is shown in Appendix A, updated to reflect the proposed employment allocation. The reason set out for rejecting the options with an urban extension to Kirkby/Sutton, despite scoring well against the sustainability criteria, is as follows:

'The urban extension is located in the countryside on the Main Urban Area fringe. The site has been proposed for allocation in a number of draft Local Plans. It has encountered substantial local opposition. The site at Sutton Parkway was identified in the withdrawn local plan in 2018 for residential purposes.' (page 86-88)

3.11. As set out in our representations to the Regulation 18 consultation, this justification does not present a clear planning reason for the rejection of these options and is therefore fundamentally flawed. The level of objections and political acceptability are not planning reasons justifying the rejection of this spatial strategy option.

3.12. Options 4, 5 and 6 were assessed as having the same or more positive impacts against all the sustainability criteria as the preferred strategy, with the exception of landscape. All these options were assessed as having more positive impacts for Sustainability Objective 13 – Climate Change and Energy Efficiency and 14 – Travel and Accessibility. The landscape impacts identified could be acknowledged through the policy drafting to ensure this is taken into account as part of the development of the site. There would be loss of greenfield land, and encroachment into the countryside through the development of a SUE, although opportunities would exist for mitigation. (para 5.5.16)

3.13. The justification for the rejection of these options in the Sustainability Appraisal goes on to explain why the previous local plan was withdrawn. The reasons included the emerging Vision having a restrictive focus of concentrating development in and adjoining the urban and settlement areas, i.e. urban concentration and not being ambitious enough to reflect the wider economic aspirations of both Government and the new Council Leadership. Also, that issues such as the most suitable and sustainable locations for employment growth and housing allocations would be revisited.

3.14. Whilst this is set out as part of the justification for rejecting a sustainable urban extension to Kirkby/Sutton, this relates to why these options were not selected over the new

settlement strategy, not the preferred strategy which itself concentrates growth in and adjoining the urban areas.

- 3.15. The lack of any sound planning justification for the selection of the preferred strategy or the rejection of strategy options 4, 5 and 6 calls into question the legal compliance of the Local Plan. The Environmental Assessment of Plans and Programmes Regulations 2004 set out the formal requirements.
- 3.16. It also fails the tests of soundness set out in the Framework. The strategy needs to be 'Justified', a test of whether it is an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence. A key element of evidence is the Sustainability Appraisal which need to set out the reason for any preferences.

Modification Necessary

- 3.17. Legal compliance cannot be rectified through a modification to the plan, there is a need to revisit the justification for the spatial strategy and ensure the findings of the Sustainability Appraisal are used to inform the decision about an appropriate strategy for growth.
- 3.18. This will also ensure the plan meets the 'Justified' soundness test by identifying an appropriate strategy, taking into account the reasonable alternatives.
- 3.19. Options 4, 5 and 6 need to be revisited in light of the decision not to proceed with the new settlements in the Green Belt. These options scored well in the Sustainability Appraisal and provide good alternative options which would meet the housing requirement whilst directing growth to the most sustainable locations.
- 3.20. The updated Concept Masterplan in Appendix A shows the potential for the proposed employment allocation EM2 K4: Land to the East of Lowmoor Road to be brought forward with our client's land to the south east of Sutton-in-Ashfield to deliver sustainable development on the edge of the urban area. The site has the potential to complement the employment with up to 850 homes, a new primary school, local centre, play and open space and new and improved walking, cycling and public transport infrastructure as well as green infrastructure delivering biodiversity net gain.
- 3.21. A reassessment of Option 4, 5 and 6 also needs to be accompanied by a reassessment of sites SA001: and KAO35: East of Sutton Parkway Station. The former being dismissed on the grounds of strategy and the latter in the grounds of incompatible of future use of the adjacent land for employment purposes, and associated access which would be through the new industrial estate. The updated Concept Masterplan clearly shows how access can be achieved from the east and how this relationship between land uses can be managed through appropriate landscaping.
- 3.22. One of the real opportunities presented by this option for growth is the co-location of homes and jobs, with new infrastructure to support both existing and new residents with improved cycle and walking routes linking homes, jobs, services and the Sutton Parkway Station.

Growth directed to Main Urban Areas

- 3.23. The new spatial strategy is based on an approach for dispersed development with no large sites of 500 or more dwellings. It directs the largest scale of growth to the Main Urban Areas, with Named Settlements to accommodate a smaller scale growth which meets the needs of the community and sustains services and facilities.
- 3.24. The supporting text confirms that housing development will be mainly concentrated in and adjacent to the larger and more accessible towns of Hucknall, Sutton-in-Ashfield (Sutton) and Kirkby-in-Ashfield (Kirkby).
- 3.25. Strategic Policy S1 sets out a logical settlement hierarchy, which is supported. The hierarchy reflects the evidence on existing infrastructure and access to services and facilities. It correctly identifies Sutton-in-Ashfield as one of the Main Urban Areas, with a range of facilities, services and employment opportunities serving the local community and beyond.

Soundness Issue

- 3.26. Whilst the supporting text to the policy is clear that the spatial strategy promotes sustainability by directing development within and adjacent to the built-up areas of the District, this is not set out in the draft policy wording. There is otherwise a risk the policy will fail to deliver the vision of the plan or support sustainable development.

Modification Necessary

- 3.27. The policy wording should be amended to clarify that 'a) Main Urban Areas to accommodate the largest scale of growth **within and adjoining the following built up areas:**'

Plan Period

- 3.28. The plan period for the Regulation 19 Local Plan has now been re-based from 2020–2038 to 2023–2040 to reflect the revised timetable for final adoption of the Local Plan and the need to set out strategic policies for a minimum of 15 years (para 22 of the Framework). This rebasing and extension of the plan period is supported based on the current timetable.
- 3.29. Ashfield District Council anticipate the plan being adopted in early 2025. Any slippage in the timetable, however, will need to be monitored and if this goes beyond 31st March 2025, there will be a need to further consider extending the plan period.

Positively Prepared

- 3.30. The plan states that the spatial strategy has been positively prepared to meet the development and infrastructure needs of Ashfield.
- 3.31. The draft plan as a whole fails to meet the development needs of Ashfield. At paragraph 3.5 of the Pre-Submission Draft Local Plan, the Council set out that the strategy is estimated to meet the housing requirement of 446 dwellings per annum (dpa), identified using the standard method for assessing housing need, up to the year 2038/39.
- 3.32. The Pre-Submission Draft Local Plan is not positively prepared. The Draft Local Plan fails to provide a strategy which, as a minimum, seeks to meet the area's objectively assessed



needs over the plan period to 2040. Instead, a strategy has been identified as the preferred spatial strategy for the District, despite it not meeting needs to 2040. This is a matter we will return to later in this representation.

4. Strategic Policy S7: Meeting Future Housing Provision

Minimum Housing Requirement

- 4.1. Strategic Policy S7 sets out a minimum housing requirement of 7,582 new dwellings to be delivered within the period 2023 to 2040, dispersed across the District in accordance with the spatial strategy for growth including Green Belt release to meet the identified needs.
- 4.2. The housing requirement proposed reflects the Local Housing Need for Ashfield District over the plan period, which based on this standard methodology is currently 446 dwellings per annum. This will need to be reviewed in March 2024 if the Local Plan has not been submitted. Once submitted the housing need figure can be fixed for the duration of the Examination and adoption of the plan.

Legal Compliance & Soundness Issue

- 4.3. The Framework is clear at paragraph 61 that the outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area and that there may be exceptional circumstances which justify a different approach to assessing housing need. Paragraph 67 expands on this and sets out that the requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment.
- 4.4. This important step in the process of identifying a housing requirement is not addressed in the Pre-Submission Draft Local Plan, Background Paper 2 on Housing, Sustainability Appraisal or Housing Needs Assessment.

Unmet Need

- 4.5. Whilst the Pre-Submission Draft Local Plan and supporting Sustainability Appraisal acknowledge that Ashfield District Council is part of a wider Nottingham Outer Housing Market Area and the Council is a member of the Greater Nottingham Joint Planning Partnership, the issue of unmet needs is not addressed.
- 4.6. The Sustainability Appraisal in rejecting the option for a 20% uplift on the standard method figure notes '*Furthermore, no additional housing requirements have been identified as arising from neighbouring council area under the duty to cooperate*' (para 5.3.19). This is incorrect. There is documented unmet need identified by Nottingham City, as set out in the Preferred Approach consultation published in January 2023.
- 4.7. Ashfield has large areas not designated as Green Belt and therefore the opportunity to meet these needs within Ashfield District should have been explored.
- 4.8. There is limited information available on the Council's website addressing how the Council has met the duty to cooperate, a key legal test of plan making process which needs to be met.

Economic Uplift

- 4.9. It is standard practice for Housing Needs Assessments to consider the economic and property market dynamics. This is to understand the relationship between the homes and jobs planned in an area and establish whether or not there are exceptional circumstances which warrant a higher figure. The Council's housing needs evidence is set out in the Greater Nottingham & Ashfield Housing Needs Assessment (2020). The assessment does not consider the relationship between economic forecasts and housing need or whether the Local Housing Need figure should be uplifted. The analysis undertaken in the report simply accepts the standard method figures for each of the authorities assessed.
- 4.10. The Planning Practice Guide (PPG) sets out guidance on assessing whether the circumstances exist that would suggest that the actual housing need is higher than the standard method indicates. The PPG explains that this needs to be assessed prior to, and separate from, considering how much of the overall need can be accommodated. It goes on to set out circumstances where this may be appropriate including situations where increases in housing need are likely to exceed past trends because of strategic infrastructure improvements that are likely to drive an increase in the homes needed locally.
- 4.11. The Pre-Submission Draft Local Plan and supporting evidence sets out plans for significant infrastructure improvements related to new infrastructure associated with the Maid Marian Railway Line and the opportunity to reopen the freight-only line and convert it to a passenger train, connecting four existing stations in Ashfield and Mansfield to Derby/ Leicester/ Nottingham and beyond. The Draft Local Plan notes at paragraph 3.95:
- 'The Lichfield Maid Marian Rail Extension: Economic Impact Analysis concluded that increased capacity, connectivity and accessibility brought by the Maid Marian Rail Extension would support the delivery of residential and commercial development within the catchments of the four enhanced stations at Mansfield Woodhouse, Mansfield Town, Sutton Parkway and Kirkby-in-Ashfield. It would also benefit employees by allowing them to access a wider range of job opportunities and housing choices; employers by giving them access to a wider labour pool and more accessible locations...'*
- 4.12. Whilst the HS2 plans have been rescinded, Background Paper 1 Spatial Strategy and Site Selection (2023), highlights there are still plans for the electrification of the Midland Mainline and major development sites at Ratcliffe on Soar Power Station, and East Midlands Airport as part of the East Midlands Freeport proposal.
- 4.13. There is no indication in the supporting evidence for the Local Plan that these infrastructure improvements and major employment developments have been considered in setting the housing requirement for the District, failing the positively prepared test of soundness.
- 4.14. The plan, as a whole also fails to meet this housing requirement, this is an issue we return to below.

Modification Necessary

- 4.15. It is essential the evidence underpinning the housing requirement for Ashfield District takes into account unmet needs and the significant infrastructure improvements planned in the



District. The implications of this, and the major employment growth planned in the wider area, need to be factored into the housing requirement for the Borough.

- 4.16. The role the authority could have in meeting unmet needs and the relationship between economic growth and demographics needs to be assessed. Consideration needs to be given to whether there are factors which might result in an upward adjustment to the overall housing need to balance economic growth and housing provision to limit the need to travel.
- 4.17. This is necessary to meet the 'Justified' test of soundness, providing an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence and the 'Effective' test of soundness of being deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground.
- 4.18. The Statements of Common Ground referenced in the draft Local Plan need to be made publicly available as part of the evidence base to demonstrate how the Council has met the Duty to Cooperate. Up to date Statements could not be found on the Council's website.
- 4.19. The duty to cooperate is a legal test and so if this has been failed this can not be rectified through modifications to the plan.

5. Policy H1: Housing Site Allocations

Meeting Housing Needs

- 5.1. Policy H1 allocates a total of 5,789 homes, which is acknowledged in the Pre-Submission Draft Local Plan to be insufficient to meet the housing requirement of 7,582 homes set out in Strategic Policy S7. The Pre-Submission Draft Local Plan notes that the allocations include large sites both with and without planning permission.
- 5.2. Housing allocations have been selected from those assessed as being available, suitable and deliverable in the Strategic Housing Land and Economic Availability Assessment (SHELAA). Background Paper 1: Spatial Strategy and Site Section (2023) explains the process of site selection.
- 5.3. Part of our clients site south of Newark Road, to the south east of Sutton-in-Ashfield is identified in the pool of developable sites that the draft allocations were selected from. The site is the subject of a live planning application (V/2022/O629) with no statutory consultee objections. A Site Location Plan is shown in Appendix B. The site was not selected as a draft allocation despite the site fitting well with the preferred strategy, being located outside the Green Belt, adjoining a Main Urban Area and having no outstanding technical constraints.

Soundness Issue

- 5.4. The Pre-Submission Local Plan acknowledges that the proposed allocations in Policy H1 will provide for approximately 13 years' worth of housing supply post adoption even with the supply from small sites (permitted and windfall sites) taken into account. Table 2 (page 57) sets out the Dwelling Requirement and Provision 2023-2040 and identifies a shortfall of 963 homes over the plan period. This shortfall is equivalent of more than two years of housing need.
- 5.5. The Council argue in at paragraph 3.63 of the Pre-Submission Draft Local Plan that this is consistent with Framework paragraph 68 which requires policies to identify specific, deliverable sites for years one to five of the plan period, and specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.
- 5.6. The Council can not claim it is not possible to identify sufficient sites to meet needs in years 11-15 of the plan when there are a total of 15,426 dwellings can be delivered on the green (achievable) or amber (potentially achievable) sites identified in the site selection process. Despite this, the plan fails to identify developable sites or broad locations for growth for the final two years of the plan and it also fails to provide a policy framework for other unallocated sites to come forward where a site could help meet the District's housing needs over the plan period.
- 5.7. The Framework requires strategic policies to look ahead over a minimum of 15 years from the adoption of the Local Plan and the housing requirement identified in Policy SP7 takes this into account and sets a requirement for 2023-40. The plan can not be found sound with a housing shortfall, this fails the positively prepared soundness test.

Modifications Necessary

- 5.8. For the Local Plan to meet the 'Positively Prepared' soundness test it needs to provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs over than plan period.
- 5.9. Background Paper 1 Spatial Strategy and Site Selection demonstrates that there are sites available that fit with the preferred strategy which could assist the Council in meeting the needs over the full 15 year plan period. This includes our client's site SAO24 Land south of Newark Road. As set out below, the site has been rejected based on incorrect and out of date information.
- 5.10. The plan should be modified to include site SAO24 Land south of Newark Road as a housing site allocation, providing an additional 300 homes.
- 5.11. If the housing needs of the District can not be met once discounted sites have been reconsidered in light of up to date information, then the preferred strategy of dispersal needs to be reconsidered as it fails the positively prepared soundness test. The case for reconsidering Options 4, 5 and 6 and a Sustainable Urban Extension to Kirkby/Sutton is set out in our representations to Strategic Policy S1.

Flexibility

- 5.12. Polic H1: Housing Site Allocations not only provides insufficient sites to meet the housing requirement set out in Strategic Policy SP7, but it also includes no flexibility to deal with unforeseen circumstances.
- 5.13. Background Paper No 2 Housing (2021) also highlights at paragraph 4.3:

'The Council do however recognise the volatility of the LHN figure which can change on an annual basis with fluctuations in the variables used to calculate it, i.e., a rolling 10 year household projection and differing affordability ratios. As such, it is proposed that the supply of housing land, through allocations and planning permissions, will exceed the current LHN by a minimum of 10% in order to present a risk-based approach and ensure sufficient future provision.'

- 5.14. It is acknowledged by the Council here that the Local Housing Need figure arising from the standard method is not yet fixed and may change before the plan is submitted. The 10% contingency planned when this paper was prepared in 2021 pre-dates the removal of the two new settlement sites from the draft plan. This 10% additional supply is no longer planned for.

Soundness Issue

- 5.15. 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. If provision is made for exactly the correct number of homes, it is unlikely to meet the housing requirement over the plan period.

- 5.16. The standard method housing need figure will be updated in March 2024, before the plan is submitted and the figure is fixed, and so this too points to the importance of an element of contingency.
- 5.17. Policy H1 should therefore not only include sufficient sites to meet the housing requirement but also sufficient sites to provide a contingency buffer of between 10%–20% to aid delivery of the minimum housing requirement.
- 5.18. 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.

Modifications Necessary

- 5.19. It is suggested that at least a 10% buffer is used to deal with the potential for unforeseen circumstances which mean sites are not brought forward to avoid any significant impact the Council's ability to deliver sufficient housing.
- 5.20. This will ensure the Council meet the 'Effective' test of soundness, providing a plan which is deliverable over the plan period.

Site Selection

- 5.21. Our clients site (shown in Appendix B), Site SA024 South of Newark Road is assessed as part of the pool of sites identified from the Strategic Housing Land Availability Assessment as fitting with the preferred strategy.
- 5.22. Background Paper 1: Spatial Strategy and Site Selection identifies the site as land within a larger site proposal, where a smaller parcel had been submitted through the call for sites. The reason for it not being allocated is set out in paragraph 8.18 and is copied below:

SA024: South of Newark Road. Although this site was assessed in the SHELAA as potentially developable, there are 2 outstanding planning applications dating from October 2017 and August 2022 respectively. The applications refer to outline approval for up to 300 dwellings, but currently have unresolved highways issues. As such, it has not been put forward for allocation due to the uncertainty of delivering development. This site has an estimated yield of **377** dwellings in the SHELAA.

It is also assessed within the Sustainability Appraisal, as part of the Appraisal of Site Alternatives (Appendix H) also published alongside the Regulation 19 Pre-Submission Draft Local Plan. The appraisal identifies it as a reasonable alternative but the justification for rejection of the site is show in the extract below:

Site Ref:	Use	Status at Reg 19	Allocation Ref	Site Address:	Justification for Selection / Rejection
SA024	Housing	Reasonable alternative		South of Newark Road, Sutton-In-Ashfield	Not Selected - Located in the countryside on the Main Urban Area fringe. The site has been proposed for allocation in a number of draft Local Plans without being adopted. The site formed part of a number of spatial strategy options but was not taken forward for the reasons outlined in the SA of alternative spatial strategies, with various issues being identified. A planning application was submitted in 2017 but has not been determined to date understood to be related to highway aspects. A further planning application V/2022/0629 has been submitted for outline planning permission with all matters reserved except access.

Source: Sustainability Appraisal Appendix H: Appraisal of Site Alternatives (November 2023 Doc Ref. 42521-SA Report Regulation 19)

Soundness Issue

5.23. Our client's site Land south of Newark Road, Sutton-in-Ashfield (Appendix B) was one of the last sites to be rejected in the site selection process. Despite the summary in the Sustainability Appraisal, the Background Paper 1 is clear that it was not discounted for being too large or out of line with the preferred spatial strategy as it would accommodate 300 homes. It was not discounted for being with the Green Belt. It was not discounted for being in an isolated or unsustainable location.

5.24. The site was only discounted on the basis of unresolved highways issues and uncertainty of delivering development. This is factually incorrect.

No Unresolved Highways Issues

5.25. Site SA024, Land south of Newark Road it is currently the subject of two live planning applications for 300 homes, planning application reference: V/2017/0565 and V/2022/0629. As the reference numbers suggest, one was submitted in 2017 and the same proposals were re-submitted in 2023.

5.26. Whilst there were highways concerns raised in relation to the original application, following discussions with the County Council, these were resolved and on 3rd July 2019 and the County Council responded to a formal consultation from Ashfield District Council stating:

'In consideration of the above, the Highway Authority have no objections to the development, subject to the following planning obligations, conditions and informatives...'

5.27. The full response is appended at Appendix C and shows that the highways issues had been resolved. The justification in the Sustainability Appraisal for the site being rejected is based on incorrect information. The application has not been determined, but this is not because of highways issues, as demonstrated by Appendix C. Ashfield District Council have refused to determine the application.

5.28. Due to the significant delays in the application's determination, Ashfield District Council instead requested that a new application be submitted and application fee be paid to allow the Council the opportunity re-consult on the proposals as consultation responses were

dated. A new application was submitted in 2023 and is in the process of being determined by the authority.

- 5.29. A consolidated Transport Assessment was prepared to support the new application which set out all the transport evidence and the final approach agreed with the Local Highways Authority, Nottinghamshire County Council. There are no new in principle concerns that have been raised by the County Council, a meeting has been held with officers at the Local Highway Authority to discuss the new application and amendments have been proposed to ensure it meets the latest standards, particularly in relation to sustainable travel infrastructure. Final positive comments from the Highway Authority are anticipated shortly.
- 5.30. The Council's site selection assessment of the site does not reflect the current evidence and instead refers to a position which pre-dates July 2019. There have been no unsolved highways issues that threaten the certainty of delivery of this site.
- 5.31. The site is in single ownership with a developer partner ready to submit Reserved Matters as soon as the outline permission is granted. The new planning application has been with Ashfield District Council since August 2022, there are no statutory consultee objections to the site, so it is only final consultee comments that are awaited to allow the application to be considered by the Planning Committee.
- 5.32. The site selection assessment is therefore factually incorrect. As this is the only issue preventing the site from being allocated the site should be included in the draft Local Plan as a housing site allocation.

Previous Reasons for Rejection

- 5.33. It is important to highlight the previous reasons given for not including this site in the draft local plan as a housing site allocation, for context.
- 5.34. The stated reason for rejection of the site from allocation in favour of significant release of Green Belt land in the Regulation 18 Draft Local Plan was as follows:

'The site has been proposed for allocation in a number of draft Local Plans. It has encountered substantial local opposition and has not been politically acceptable for the site to be taken forward by the Council.' Ashfield Local Plan Sustainability Appraisal, Appendix H page 28 onwards.

- 5.35. This does not represent a robust planning reason for not taking forward a site for allocation. This was highlighted to the Council in our representations to the Regulation 18 consultation and is no longer set out as the reason the site was rejected in Regulation 18 Sustainability Appraisal. Below is a comparison of the extract provided in our Regulation 18 representations where we raised issues with the reasoning and as shown in the Reg 18 Sustainability Appraisal on the Council's website:

Site Ref:	Use	Status at Reg 18	Allocation Ref	Site Address:	Justification for Selection / Rejection
KA027	Housing	Reasonable alternative		East of Lowmoor Road, Kirkby-In-Ashfield	Not Selected - Located in the countryside on the Main Urban Area fringe. The site has been proposed for allocation in a number of draft Local Plans. It has encountered substantial local opposition and has not been politically acceptable for the site to be taken forward by the Council.
KA035	Housing	Reasonable alternative		Land east of Sutton Parkway Station, Kirkby-In-Ashfield	Not Selected - Located in the countryside on the Main Urban Area fringe. The site has been proposed for allocation in a number of draft local Plans. It has encountered substantial Local opposition and has not been politically acceptable for the site to be taken forward by the Council.
SA001	Housing	Reasonable alternative		Sutton Parkway (Newark Road & Lowmoor Road), Sutton-In-Ashfield	Not Selected - Located in the countryside on the Main Urban Area fringe. The site has been proposed for allocation in a number of draft Local Plans. It has encountered substantial local opposition and has not been politically acceptable for the site to be taken forward by the Council.
SA024	Housing	Reasonable alternative		South of Newark Road, Sutton-In-Ashfield	Not Selected - Located in the countryside on the Main Urban Area fringe. The site has been proposed for allocation in a number of draft Local Plans. It has encountered substantial local opposition and has not been politically acceptable for the site to be taken forward by the Council.

Source: Ashfield Local Plan Sustainability Appraisal Appendix H Page 28 as shown in our representations to the Regulation 18 consultation.

Site Ref:	Use	Status at Reg 18	Allocation Ref	Site Address:	Justification for Selection / Rejection
SA024	Housing	Reasonable alternative		South of Newark Road, Sutton-In-Ashfield	Not Selected - Located in the countryside on the Main Urban Area fringe. The site has been proposed for allocation in a number of draft Local Plans without being adopted. The site formed part of a number of spatial strategy options but was not taken forward for the reasons out lined in the SA of alternative spatial strategies. A planning application was submitted in 2017 but has not been determined to date.

Source: Ashfield Local Plan Sustainability Appraisal Appendix H Page 28 onwards as available on the Council's website now, dated September 2021.

- 5.36. Reference to options being 'politically unacceptable' remains in the Regulation 18 Sustainability Appraisal main report within Table 5.5 which sets out the reasons for the rejection of alternative spatial strategy Option 4a which includes one large SUE adjacent Sutton/Kirkby (1000+ dwellings) at Sutton Parkway (emphasis added):

*'The urban extension is located in the countryside on the Main Urban Area fringe. The site has been proposed for allocation in a number of draft Local Plans. It has encountered substantial local opposition and **it has not been politically acceptable for the site to be taken forward by the Council.**'*

Non-Green Belt Sustainable Site

- 5.37. The Land south of Newark Road is a highly sustainable location for development using land outside the Green Belt and well located in relation to the existing urban areas of Kirkby and Sutton with very good access to sustainable transport modes including Sutton Parkway Station.
- 5.38. The site fits with the proposed strategy set out in Strategic Policy S1, located adjacent to one of the Main Urban Areas. Sutton-in-Ashfield is a sustainable location with a range of services and facilities available and existing infrastructure that development would benefit

from. The Accessibility of Settlements Study identified that Sutton has the highest Settlement Accessibility Score in the whole District (Table 10, Background Paper 1).

- 5.39. The Pre-Submission Local Plan sets out that locating new development the Main Urban Areas will help to reduce the carbon footprint of the community, with less need to travel to other areas for jobs, services, and facilities. It notes that the growth of the towns will also serve to attract inward investment into these areas, assisting in regeneration and improving the opportunities and the lives of people living there.
- 5.40. There are opportunities for walking and cycling which this site would benefit from and contribute to, providing new walking and cycling routes which provide access to the town and the Sutton Parkway station. The Pre-Submission Draft Local Plan notes that Sutton and Kirkby are also in close proximity to each other, so the services and facilities available within each town can be easily accessed from both locations. This site is ideally located to do this.
- 5.41. The site would contribute to the Strategic Policy S10: Improving Transport Infrastructure and the plans to improve connectivity to a comprehensive network of high-quality pedestrian and cycle networks, by linking into and extending these improvements.
- 5.42. This site meets all the aims of the preferred strategy, it avoids over development of the Named Settlements and isolated development by providing homes in the Mian Urban Area and it avoids significant impacts on heritage, landscape or wildlife. It also ensures development comes forward in a timely manner, as it is deliverable in the next five years and would support the regeneration of the District's towns whilst meet needs.

Modification Necessary

- 5.43. Site SAO24 Land south of Newark Road, Sutton-in-Ashfield was only discounted on the basis of unresolved highways issues and uncertainty of delivering development. As this is factually incorrect, the plan should be modified to include the site.
- 5.44. This site should have been allocated at Stage 4 of the site selection process set out in the Background Paper 1: Spatial Strategy and Site Selection. Stage 4 considered greenfield sites assessed through the SHELAA as 'achievable' or 'potentially achievable' and consistent with the Council's strategic approach for sustainable growth. The site should have been included as a draft allocation ahead of those allocated in the Green Belt.

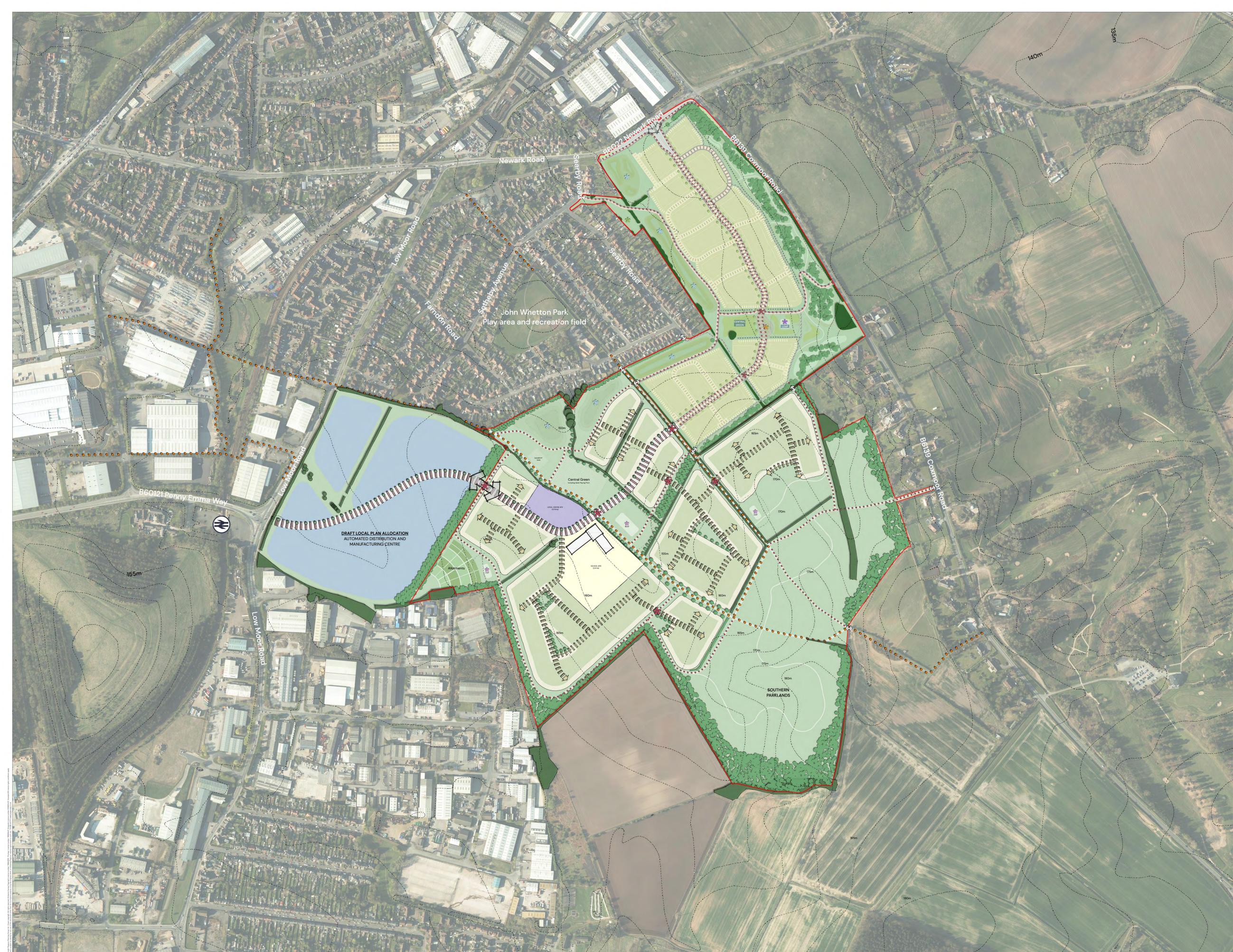


6. Policy EM2: Employment Land Allocations

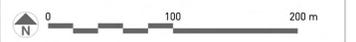
- 6.1. Policy EM2 allocates a number of employment sites for office, light industrial, research and development, general industrial and storage/distribution.
- 6.2. These sites are in addition to the employment land identified in Strategic Policy S6 at Junction 27 M1 Motorway and includes Land to the East of Lowmoor Road, Kirkby-in-Ashfield (EM2 K4) comprising 11.11 hectares of employment land.
- 6.3. This site is to the west of my client's land south of Newark Road and has the potential to form part of a wider comprehensively planned sustainable urban extension to Kirkby and Sutton as shown in Appendix A.
- 6.4. This allocation is supported and complements the homes proposed south of Newark Road, Sutton-in-Ashfield to the east of this site.



Appendix A: South East of Sutton-in-Ashfield Concept Masterplan



- Key**
- Site Boundary**
Total: 75.64Ha
[21.40Ha of total - Land off Newark Road (V/2022/0629)]
 - Residential Development**
Total: 28.41Ha - circa 850 dwellings
[0.62Ha of total - circa 300 dwellings - Land off Newark Road (V/2022/0629)]
 - Local Centre**
0.70Ha
 - Primary School Site**
2.00Ha
 - Adjacent Employment Land**
Automated Distribution & Manufacturing Centre
 - ✦ **Sustainable Urban Drainage System**
 - ✦ **Play Space**
NEAP, LEAP, Informal and Formal Play
 - ||| **Primary Street**
 - ||| **Streets & Lanes**
 - **Public Right of Way**
 - **Cycle and Pedestrian Movement**
 - ✦ **Key Pedestrian Crossing Point**
 - **Existing Vegetation**
 - **Proposed Buffer Planting**
 - **Proposed Trees**
 - **Illustrative Sport Provision**





Appendix B: Site Location Plan – Land South of Newark Road



**Appendix C: Highway Report on proposals for
development on Land at Newark Road (V/2017/0565),
July 2019**

TOWN AND COUNTRY PLANNING ACT

HIGHWAY REPORT ON PROPOSALS FOR DEVELOPMENT

DISTRICT:	Ashfield	Date received	03/10/2017
OFFICER:	Robbie Steel		
PROPOSAL:	Outline application with some matters reserved for a residential development of up to 300 dwellings, new public open space, landscaping, drainage infrastructure and access.	D.C. No.	V/2017/0565(2)
LOCATION:	Land at Newark Road, Sutton in Ashfield, NG17 5LE		
APPLICANT:	Hallam Land Management Limited, Mr Lindley		

These observations arise from a second formal consultation from the Local Planning Authority. Access to the above site has been the subject of lengthy discussion between the Highway Authority and the applicant's Transport Consultants since the first consultation in 2017.

A single point of access was agreed early in the application process, due to the applicant citing topography issues adjacent to Coxmoor Road. To enable this, a 7.3 metre access road was required, with a wide footway/cycleway which will enable access to the site to be maintained should works in the vicinity of the junction take place. The indicative layout is shown on Drawing No. ADC1580-003-P10.

It should be noted that the land required to provide a suitable access arrangement has reduced the available development land and it may be that the residual area may not yield 300 dwellings.

After agreeing matters on distribution and assignment based on the trips generated by the 300 dwellings, a number of junctions have been assessed within the resultant study area, with the following three junctions being deemed to require mitigation, in addition to construction of a traffic signalised site access junction on Newark Road:

Newark Road / Cauldwell Road / Coxmoor Road - Drawing No. ADC1580-003-P10

Amendments to the existing traffic signal layout have been proposed to provide additional capacity to accommodate the additional development traffic.

As identified above, this drawing also indicates the site access junction. The significant amendments to highway are to facilitate appropriate forward visibility to the signals from the west.

It is proposed to re-site the existing 30mph speed limit to the east, close to the Coxmoor Road junction, to support this extension to the residential environment.

In addition to a street lighting layout to serve the new access junction, we will require the applicant to review and upgrade the existing street lighting along the site frontage on Newark Road, as it does not currently serve residential purposes and may not be appropriate to serve the proposed development.

Coxmoor Road / Hamilton Road – Drawing No. ADC1580-005-P7

Whilst a traffic signal junction was originally proposed, the junction operation required for capacity purposes was considered unsafe and therefore an amended mini roundabout has been proposed and has been demonstrated to accommodate the additional development traffic.

Newark Road / Kirkby Folly Road – Drawing No. ADC1580-004-P8

Minor widening has been proposed, demonstrated to accommodate the additional development traffic. Whilst such minor works will only theoretically improve matters whilst changing nothing in practice, the ahead movement is not predicted to overspill the 2-lane section on the approach so the left turn will be able to access the give-way line unhindered and get any benefit accruing from the slightly eased entry width and radius.

The Kirkby Folly Road peak queues are still poor, but this is the case both pre and post development flows and it is therefore not considered appropriate for the applicant to address this, as only the additional development traffic is relevant when considering the severity of any detriment.

Sustainability

Suitable pedestrian links have been proposed from the Newark Road site access, linking to existing and improved infrastructure. Links to the west have been shown indicatively on the masterplan. It is recommended that when the details of these links are put forward, they are to an adoptable standard with appropriate lighting to support the sustainability of the site and provide suitable connectivity to the wider highway network.

Due to the distance to the nearest existing bus stops from parts of the development, the internal layout should be designed accommodate a future bus route. In the interim, this should be by means of a looped internal road, but the layout should also allow for any aspiration for a route linking to adjacent parcels of land to the west. Such provision should be included within a Section 106 agreement to ensure this is deliverable.

Furthermore, whilst a single point of access was agreed to serve this particular development, further development of the wider area would benefit from greater connectivity to avoid the issues experienced in mitigating against the highway issues encountered. We would therefore request that a link to Coxmoor Road is safeguarded

within the site, to enable vehicular traffic generated by further, linked development, to disperse more readily.

Due to the intensification in public transport use, specifically considering that residents of the new development will need to be encouraged to use the facilities due to the distance required to access them from parts of the development, the following infrastructure improvements should be provided as part of the development:

- AS0324 Kirkby Folly Road – Real Time Bus Stop Pole & Displays including Associated Electrical Connections and Raised Boarding Kerbs.
- AS0551 Kirkby Folly Road – Real Time Bus Stop Pole & Displays including Associated Electrical Connections and Raised Boarding Kerbs.
- AS0566 Searby Road – Real Time Bus Stop Pole & Displays including Associated Electrical Connections.
- AS0567 Searby Road – Real Time Bus Stop Pole & Displays including Associated Electrical Connections.

Travel Plan

The updated Travel Plan is currently being reviewed. As the application is of an outline nature, this can be conditioned whether the submitted Travel Plan is wholly acceptable or not. The Highway Authority will inform the LPA of the appropriate condition in due course.

In consideration of the above, the Highway Authority have no objections to the development, subject to the following planning obligations, conditions and informatives:

S106

- 1) As indicated on Drawing No. ADC1580-003-P10 a 3-metre highway verge is required to be secured to safeguard future improvements. A suitable form of wording is requested, to be included in the Section 106 agreement.
- 2) A vehicular link with an overall highway corridor width of circa 12 metres linking to the adjacent parcel of land should be safeguarded to enable access, in the interests of connectivity and sustainability. The link must extend to the limit of the applicants land.
- 3) A vehicular link with an overall highway corridor width of circa 12 metres linking this development to Coxmoor Road should be safeguarded, in the interests of connectivity, sustainability and to support the highway network accommodating further traffic in this area. The link must extend to the limit of the applicants land.
- 4) A residential travel plan coordinator shall be appointed and thereafter shall be employed or engaged to be responsible for the implementation delivery monitoring and promotion of the sustainable transport initiatives set out in the Travel Plan to be

approved in writing by the District Council and whose details shall be provided and shall continue to be provided thereafter to the District Council.

5) In accordance with the approved Travel Plan monitoring periods, reports shall be submitted for the approval of the District Council that summaries the data collected over the monitoring period and which propose revised initiatives and measures where travel plan targets are not being met including implementation dates and which shall inform the residential Travel Plan and the TRICS database shall be updated in accordance with the Standard Assessment Methodology (SAM) or similar national land use trip rate database to be approved to the satisfaction of the District Council.

6) Prior to the commencement of development, a detailed Travel Plan shall be produced in conjunction with the travel plan coordinators that sets out a timetable to meet final targets with respect the number of vehicles using the site and the adoption of measures to reduce single occupancy car travel consistent with the Framework Travel Plan. The Travel Plans shall be implemented in accordance with the approved timetable and be updated consistent with future site-wide travel initiatives including implementation dates to the satisfaction of the District Council.

7) The Owner(s) shall pay the Travel Plan Monitoring Fee (calculations to be forwarded)

Conditions

1. The development shall be limited to include up to 300 residential dwellings unless otherwise agreed in writing by the Local Planning Authority.

Reason: 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.

2) The reserved matters (for each development phase, if applicable) of the development hereby permitted shall include detailed plans and particulars relating to the following items and shall be implemented in accordance with the phasing plan:

i) A detailed layout plan of the phase (for the avoidance of doubt the submitted Master Plan (EMS2254_100 Sheet No: 01 Rev: B and the Design & Access Statement are considered to be for indicative purposes only) to include all key dimensions including junction and forward visibility splays and shall be accompanied by a swept path analyses of a 11.6 m refuse vehicle throughout for the residential development;

ii) Details of highways and private street works;

iii) The layout and marking of car parking, servicing and manoeuvring areas;

- iv) Details of the means of foul and surface water drainage together with a programme of implementation;
- v) Cycle and bin storage facilities;
- vi) The means of access and highway route for construction traffic;

Reason: To ensure the development is designed and constructed to adoptable standards.

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

- i) The provision of the signalised access junction on Newark Road as shown indicatively on drawing number ADC1580-003-P10
- ii) The amendments to the existing signalised junction at Newark Road / Cauldwell Road / Coxmoor Road as shown indicatively on drawing number ADC1580-003-P10
- iii) The amendments to the existing mini roundabout at Coxmoor Road / Hamilton Road as shown indicatively on drawing number ADC1580-005-P7
- iv) The amendments to the existing mini roundabout at Newark Road / Kirkby Folly Road as shown indicatively on drawing number ADC1580-004-P8
- v) The provision of the pedestrian links to the existing Sutton in Ashfield Parish Foot Path No 82 and Searby Road, as shown for indicative purposes on plan reference EMS2254_100 Sheet No: 01 Rev: B
- vi) The extension of the speed limit as shown indicatively on drawing number ADC1580-003-P10
- vii) Construction of the 3-metre wide verge on the southernmost side of Newark Road and its dedication as Highway.

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 will be subject to detailed technical appraisal during the S278 process.

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

4. 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 and approved in writing by the Local Planning Authority.

Reason: In the interests of general Highway safety

5. Prior to the commencement of each phase of development, a Construction Environmental Management Plan for each phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The construction Environmental Management Plan shall include:

- i) Measures to minimize the creation and impact of noise, dust and artificial lighting including wheel washing facilities for construction traffic;
- ii) A layout of the construction access including a drawing showing visibility splays and method statement for the use of banksmen;
- iii) Details regarding parking provision for construction workers and plant on the site.

Once approved, the Construction Environmental Management Plan shall be adhered to at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of Highway safety.

6. No part of the development hereby permitted shall be brought into use unless or until improvements to the two bus stops on Searby Road (AS0566 and AS0567) have been carried out to the satisfaction of the Local Planning Authority and shall include real time bus stop poles & displays including associated electrical connections.

Reason: In the interests of promoting sustainable travel

7. No part of the development hereby permitted shall be brought into use unless or until improvements to the two bus stops on Kirkby Folly Road (AS0324 and AS0551) have been carried out to the satisfaction of the Local Planning Authority and shall include real time bus stop poles & displays including associated electrical connections and raised boarding kerbs.

Reason: In the interests of promoting sustainable travel.

8. (Travel Plan condition to be advised shortly.)

Informatives

1/ The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the HA, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.

a) The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact

the HA with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the HA as early as possible. 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 38 Agreement is issued.

b) It is strongly recommended that the developer contact the HA at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance. It is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site.

Correspondence with the HA should be addressed to hdc.north@nottsc.gov.uk

2/ 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.

4/ Planning permission is not permission to work on or from the public highway. In order to ensure all necessary licenses and permissions are in place you must contact highwaysouth.admin@viaem.co.uk

5/ 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.

HDC SH 03-07-2019

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

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