

## Statement of Common Ground.

Between Ashfield District Council and Pegasus Group on behalf of Hallam Land.

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

Land at Newark Road, Sutton-in-Ashfield

Date: 28 November 2024 | Pegasus Ref: EMS.2254

Application Ref: V/2022/0629 | Appeal Ref: APP/W3005/W/24/3350529

Author: Clare Clarke

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| <b>Signed:</b><br> | <b>Signed:</b><br> |
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| <b>On behalf of:</b> Ashfield District Council  | <b>On behalf of:</b> Pegasus Group (acting on behalf of the appellant, Hallam Land)                   |
| <b>Date: 28 November 2024</b>   | <b>Date: 28/11/2024</b>   |



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# 1. Introduction

- 1.1. Pegasus Group is instructed by Hallam Land ("the Appellant") to act on its behalf in preparing this Statement of Common Ground with Ashfield District Council ("the Council").
- 1.2. The application, the subject of this appeal, was registered as valid on the 23rd of August 2022 and assigned the reference V/2022/0629. The appeal site lies southeast of the town of Sutton-in-Ashfield and is referred to as "Land at Newark Road", shown on the Site Location Plan submitted with this appeal.
- 1.3. This Statement has been prepared in accordance with the Planning Inspectorate's guidance, as updated on the 14th November 2024 and the Planning Inspectorate's Procedural Guide, as updated on the 17th September 2024 and Article 37, Paragraph (3)(b)(x) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 ("DMPO 2015").
- 1.4. Article 37(8) of the DMPO 2015 defines "draft statement of common ground" as a statement containing factual information about the proposal that the appellant reasonably considers will not be disputed by the local planning authority.
- 1.5. Accordingly, this Statement identifies areas of agreement, as well as areas where there is no consensus. As regards the former, the following are areas of common ground:
  - Background to the appeal
  - Description of the site
  - Description of the surrounding area
  - Planning history of the site
  - The proposed development
  - Relevant Development Plan policies
  - Relevant Material Considerations
  - Other matters upon which the parties agree
  - List of possible conditions and the reasons for them
  - Draft terms of Section 106 obligations



## 2. Background to the Appeal

2.1. This appeal is made pursuant to section 78 of the Town and Country Planning Act 1990 ("TCPA 1990"), against the failure of Ashfield District Council to determine an outline planning application within the extended period.

2.2. The description of development reads as follows:

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

2.3. The application, the subject of this appeal, was registered as valid on the 23rd of August 2022 and assigned the reference V/2022/O629. The statutory expiry date for determination was the 22nd of November 2022 and the period for determination was ultimately extended to 20th August 2024.

2.4. The application was supported by a suite of documents and plans, including an Illustrative Masterplan which depicts the general arrangement of the site. A list of the documents submitted with the application, and those submitted in response to consultee comments is appended (Appendix A).

2.5. A new Case Officer was assigned to the application in January 2024 and a meeting was held to discuss outstanding consultee responses, which were then proactively sought by the Council. A further meeting was held in June 2024 to discuss planning obligations.

2.6. The appellant and Council officers worked proactively in order for the application to be brought before the 31<sup>st</sup> July 2024 Planning Committee.

2.7. The Appellant and the Council have continued to work to address all matters and this has resulted in the appellant updating the Site Location Plan, Proposed Access Junction Layout and Illustrative Masterplan to provide a pedestrian and cycle link.

2.8. No objections, subject to conditions and requirements through a legal agreement, were received from the consultees listed below (statutory or otherwise) during the application period:

- Severn Trent Water
- Nottinghamshire County Council – Highways
- Natural England
- Environment Agency
- Local Lead Flood Authority
- Health and Safety Executive
- NHS
- Nottinghamshire County Council – Education



- Nottinghamshire County Council – Minerals and Waste
- Nottinghamshire County Council – Public Transport
- Nottinghamshire County Council – Library
- Nottinghamshire County Council – Rights of Way
- Nottinghamshire County Council – Conservation
- Ashfield District Council – Environmental Health
- Ashfield District Council – Contaminated Land
- Ashfield District Council – Arboriculture
- Ashfield District Council – Ecology
- Ashfield District Council – Housing
- Ashfield District Council – Planning Policy & Projects
- Active Travel England
- Network Rail
- Nottinghamshire Police
- Safeguarding Authority for East Midlands Airport

- 2.9. The planning application was put before the Council's Planning Committee on 31<sup>st</sup> July 2024 with an officer recommendation to approve, subject to conditions and S106 obligations. Members of the planning committee were not satisfied that they had all the information to enable them to reach a decision and so deferred consideration.
- 2.10. The reasons for deferral are set out in the minutes of the 31<sup>st</sup> July Planning Committee, which were not published until 16<sup>th</sup> September 2024 (Appendix C).
- 2.11. The appellant gave notice of their intention to lodge an appeal against non-determination and lodged an appeal on 21<sup>st</sup> August 2024. Further information was then provided including a letter from Rodgers Leask Consulting Engineers of 16<sup>th</sup> September 2024 (Appendix D) before the application was presented back to Planning Committee on 23<sup>rd</sup> October 2024. A final submission of clarification was made by the applicant in a letter dated 18<sup>th</sup> October 2024 (Appendix E).
- 2.12. At the meeting of 23<sup>rd</sup> October, members considered the item in private.

### 3. Description of the Site

- 3.1. The appeal site comprises agricultural land which extends to approximately 21.4 hectares. The site comprises two arable fields contained by hedgerows and a small area of scrubland to the west that links to Sotheby Avenue, with the landform sloping down from east to west. Of the appeal site, 19.2 hectares comprises subgrade 3a agricultural land; 0.6 hectares is subgrade 3b<sup>1</sup>; and 1.6 hectares is non-agricultural.
- 3.2. The site is adjacent to the Main Urban Area of Sutton-in-Ashfield, located to the southeast and is referred to as "Land at Newark Road", shown on the Site Location Plan submitted with this appeal. The site is adjacent to but outside of the Main Urban Area.
- 3.3. Residential development on Searby Road bounds the site to the west. To the north, and further to the northeast, lies industrial development. To the southeast, some residential properties extend along Coxmoor Road. Agricultural land adjoins the appeal site to the south and south-west and extends to the east beyond Coxmoor Road.
- 3.4. In views along Newark Road (to the north) and Coxmoor Road (to the east), the site is currently substantially screened by mature vegetation around its edges. Sutton-in-Ashfield Footpath 82 runs adjacent to but outside the south-western site boundary.
- 3.5. Historically, multiple sand pits (which eventually merged into a single large pit) were located across the northern 20% of the site since at least the late 19th Century. These sand pits are recorded as a Historical Landfill Site which permitted the disposal of inert waste (excavated natural materials, hardcore and rubble) between March 1980 and November 1983. A smaller sand pit was also undertaken in the site's south eastern corner, and part of the escarpment is still visible today. No development or other extractive activities have taken place across the remainder of the site.

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<sup>1</sup> Soils and Agricultural Quality Report, LRA Associates (2017).

## 4. Planning History of the Site

- 4.1. The larger of the two land parcels of the appeal site was identified as a draft housing allocation (SKA3e – Land at Newark Road) in the Ashfield District Council Publication Local Plan (September 2016). Paragraph 5.52 of the Publication Local Plan set out:

*‘Site SKA3e Newark Road/Coxmoor, Sutton. This site is located adjacent to the main urban area of Sutton and has been assessed as deliverable in the SHLAA (ref.S60). Development of this site would provide an opportunity to mitigate existing surface water flooding in this area. It is considered to be deliverable beyond 5 years.’*

- 4.2. The remaining land was identified as open countryside. This plan was withdrawn on 6 September 2018 to facilitate the new political administration’s economic growth aspirations and vision for the District, and to take account of changes in the National Planning Policy Framework.
- 4.3. This area southeast of Sutton-in-Ashfield has been included in various forms in both of the two previous withdrawn iterations of the Local Plan. It was a draft allocation in the Preferred Options Local Plan in 2010. A further Preferred Approach consultation in September 2012, however, removed the two urban extensions. Once the plan reached Examination, the appointed Inspector set out concerns regarding the selection of the remaining sites and asked the Council to consider withdrawing the Plan, which the Council duly did.
- 4.4. In 2017, a planning application was submitted to the Council, which sought outline consent for up to 300 dwellings, public open space, landscaping, drainage infrastructure and access on the appeal site.
- 4.5. The application was validated on the 3rd of October 2017 and assigned the reference V/2017/0565 ("the 2017 application").
- 4.6. The 2017 application was due to be determined by the 2nd of January 2018. However, no progress was made in determining the application and on Thursday the 27th of June 2024, the Council issued a letter advising that the application had been treated as "finally disposed of", under the provisions of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

## 5. The Proposed Development

- 5.1. The application is in outline for up to 300 dwellings, 10% of which are proposed to be affordable. An illustrative masterplan indicates how the development could be delivered, with a series of perimeter blocks along a central spine road, substantial open space (circa 50% of the total site area) including surface water balancing and a Local Equipped Area for Play ("LEAP") together with further on-site open space provision. There is no provision for formal sports pitches on site.
- 5.2. The site is to be accessed via a new traffic signal-controlled T-junction on Newark Road, as per application drawing no ADC1580-DR-012 P12. The proposed works include the provision of a new 5.5m wide segregated cycleway/footway (0.5m buffer, 2m footway and 3m cycleway) across the Newark Road frontage. Two options are included to connect the new footway/cycleway into the existing network to the west of the site frontage; Works A avoid a small parcel of unregistered land and Works B proposes works including the present unregistered land. The appellant will make all reasonable endeavours to deliver Works B.
- 5.3. The Design & Access Statement (DAS) identifies the rationale for the scheme proposals. In addition to the site access works, the scheme includes five further footway/cycleway connections to link the site with the surrounding area. The DAS provides for a perimeter block structure of housing, up to 3 storeys in height and with an average density of 30dph. Just over 10 hectares of the site (47.5%) is for public open space (formal and informal) and drainage features.
- 5.4. All trees and hedgerows on site are to be retained, except where removal is required for access purposes. All of the vegetation fronting Newark Road is required for removal to facilitate the site access works.

### Application Plans

Site Location Plan Drg No EMS2254\_018 01 RevD

Site Access Works Drg No ADC1580-DR-012 P12

- 5.5. The Appellant's Biodiversity Net Gain Assessment demonstrates that a net gain is achievable. The statutory requirements for biodiversity net gain are not applicable to the application.



## 6. Relevant Development Plan Policies

- 6.1. Section 70(2) of the TCPA 1990 sets out that, in dealing with proposals for planning permission, regard must be had to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 6.2. Furthermore, section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") states that, if regard is to be had to the development plan for the purpose of any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise. Taking these sections together, a decision-maker must, therefore, consider the Development Plan, identify any provisions within it which are relevant, and then properly interpret them.
- 6.3. For the purposes of this appeal, the Development Plan comprises the saved policies of the Ashfield Local Plan Review 2002 ("ALPR 2002").
- 6.4. The parties agree that the following policies are relevant to this appeal. The most important policies for determining this appeal are denoted by an asterisk:

### **Ashfield Local Plan Review 2002 Saved Policies**

- Policy ST1 – Development\*
- Policy ST2 – Main Urban Areas\*
- Policy ST4 – The Remainder of the District\*
- Policy EV2 – The Countryside\*
- Policy EV8 – Trees and Woodlands
- Policy EV11 – Ancient Monuments and Archaeological Sites
- Policy HG3 – Housing Density
- Policy HG4 – Affordable Housing
- Policy HG5 – New Residential Development
- Policy HG6 – Public Open Space in New Residential Developments
- Policy TR2 – Cycling Provision
- Policy TR3 – Pedestrians and People with Limited Mobility
- Policy TR6 – Developer Contributions to Transport Improvements

## 7. Relevant Material Considerations

7.1. The following material considerations are relevant to this appeal:

- The National Planning Policy Framework ("the Framework")<sup>2</sup>
- Pre-Submission Draft Ashfield Local Plan 2023 – 2040
- Planning Practice Guidance
- Ashfield Residential Design Guide SPD (2014)
- Ashfield District Council Planning Guidance Climate Change (2022)
- Ashfield District Council Developer Guide to Biodiversity and Nature Conservation (2022)
- Nottinghamshire County Council Highway Design Guide
- National Design Guide
- The Manual for Streets
- Building Sustainable Transport into New Developments
- Local Transport Note 1/20
- Written Ministerial Statement of 30 July 2024.

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<sup>2</sup> The relevant document at the time of determination, applying due weight to any draft revision.

## 8. Other Matters Agreed

8.1. The following matters are agreed upon by the signatory parties.

### **The Tilted Balance**

8.2. It is agreed that the tilted balance of NPPF 11(d) (ii) is engaged as a consequence of the LPA failing to be able to demonstrate 4 years of housing land supply and the Housing Delivery Test indicates that the delivery of housing was substantially below (74% of) the housing requirement over the previous three years (NPPF Paragraph 11d and footnote 8). This tilted balance is not disengaged by NPPF 11(d) (i).

### **Most Important Policies**

8.3. It is agreed that the most important policies for determining this appeal are ALPR Policies ST1, ST4 and EV2. The appellant also considers Policy ST2 is important, but this is not agreed by the LPA.

8.4. As a consequence of the tilted balance and the application of NPPF paragraph 11d), the most important policies are by definition out of date.

8.5. The weight to be applied to these policies is not agreed between the parties.

### **Housing Land Supply**

8.6. Ashfield District Council is unable to demonstrate a four-year supply of deliverable housing sites against their identified local housing needs. Within the Council's Housing Land Monitoring Report 2024, the position is claimed to be 3.85 years. The Appellant reserves the right to challenge this.

### **Emerging Local Plan**

8.7. The Regulation 19 consultation concluded in respect of the Pre-Submission Draft Ashfield Local Plan 2023 – 2040 on the 29th of January 2024. Ashfield District Council submitted the Local Plan and supporting documents to the Secretary of State for independent examination on the 29th of April 2024. On the 20th of May 2024, the Secretary of State appointed two Planning Inspectors to conduct the independent examination. Given the status of the draft Local Plan and the extent of unresolved objections, it is agreed that the draft Local Plan is to be afforded limited weight in this appeal, in accordance with NPPF paragraph 48.

### **Affordable Housing**

8.8. Policy HG4 (Affordable Housing) of the Local Plan Review 2002 is the relevant affordable housing policy for the purposes of the appeal. In areas other than Hucknall, Policy HG4 seeks 6% of total dwellings, on sites of 25 or more dwellings or greater than 1 hectare, to be provided as affordable housing.

8.9. The proposal is to deliver 10% affordable housing; equivalent to 30 homes. This is proposed to be split between affordable rent (75%) and shared ownership (25%). The proposal is agreed to be acceptable and exceeds the policy requirement.

- 8.10. The most recent assessment of affordable housing need in Ashfield DC is the Greater Nottingham and Ashfield Housing Needs Update March 2024 (the '2024 GNAHN') and covers the period from 2023 to 2041. The 2024 GNAHN provides that there is a total net affordable housing need of 399 affordable dwellings per annum. This comprises an annual net need for 302 social/affordable rented dwellings (Table A6 of Appendix A1) and a gross annual need for 104 dwellings in affordable home ownership ('AHO') tenures, which falls to 97 per annum if supply from AHO resales is accounted for (Table A11 of Appendix A1).
- 8.11. The affordable housing need identified by the 2024 GNAHN is higher than that identified by the previous two assessments, the Greater Nottingham and Ashfield Housing Needs Assessment 2020 (the '2020 HNA') and the Nottingham Outer 2015 Strategic Housing Market Assessment (the '2015 SHMA').
- 8.12. The 2020 HNA covers the period 2020/21 - 2037/38 provides that there is a total net affordable housing need of 319 affordable dwellings per annum in Ashfield District Council. The 2015 SHMA covers the period 2013/14 - 2032/33 and provides that there is a net annual need for 164 affordable homes in Ashfield District Council (Table 57 page 170) at an affordability threshold of 30%.
- 8.13. At 31 March 2024 there were 4,404 households<sup>3</sup> on the Ashfield Housing Register. This represents a 10% increase since 31 March 2023 where there were 3,989<sup>4</sup> households on the Council's housing register.
- 8.14. Figure 1 sets out the average waiting times for households on the Ashfield Housing Register at 31 March 2023 and 31 March 2024.

*Figure 1: Average waiting times for households on the Housing Register*

| Type of affordable property | Average waiting time |                  |
|-----------------------------|----------------------|------------------|
|                             | At 31 March 2023     | At 31 March 2024 |
| 1-bed affordable dwelling   | 119 weeks            | 122 weeks        |
| 2-bed affordable dwelling   | 115 weeks            | 123 weeks        |
| 3-bed affordable dwelling   | 120 weeks            | 129 weeks        |
| 4+ bed affordable dwelling  | 127 weeks            | 122 weeks        |

Source: FOI response September 2024.

- 8.15. Figure 2, below, shows that the number of bids per affordable dwelling advertised in Sutton Junction & Harlow Wood Ward significantly exceed the number of dwellings advertised across all sizes of property.

*Figure 2: Average number of properties advertised and the average number of bids*

| Type of affordable property | Sutton Junction & Harlow Wood Ward |
|-----------------------------|------------------------------------|
|-----------------------------|------------------------------------|

<sup>3</sup> Freedom of Information (FOI) response September 2024.

<sup>4</sup> MHCLG open data.

|                            | Number of properties advertised | Average Bids per Property |
|----------------------------|---------------------------------|---------------------------|
| 1-bed affordable dwelling  | 5                               | 162                       |
| 2-bed affordable dwelling  | 10                              | 285                       |
| 3-bed affordable dwelling  | 7                               | 320                       |
| 4+ bed affordable dwelling | N/A                             | N/A                       |

Source: FOI response September 2024.

8.16. At 31 March 2024 there were 50 households housed in temporary accommodation by Ashfield DC. The Council's FOI response (September 2024) indicates that of the 50 households in temporary accommodation two were housed outside of Ashfield DC.

8.17. Figure 3 illustrates the delivery of affordable housing ('AH') in Ashfield since the start of the 2015 SHMA period in 2013/14.

Figure 3: Gross Additions to Affordable Housing Stock, 2013/14 to 2022/23

| Monitoring Period | Total Housing Completions (Net) | Additions to AH Stock (Gross) | Gross AH as a %age of total completions |
|-------------------|---------------------------------|-------------------------------|---|
| 2013/14           | 447                             | 46                            | 10%                                     |
| 2014/15           | 418                             | 89                            | 21%                                     |
| 2015/16           | 552                             | 0                             | 0%                                      |
| 2016/17           | 537                             | 176                           | 33%                                     |
| 2017/18           | 390                             | 30                            | 8%                                      |
| 2018/19           | 293                             | 34                            | 12%                                     |
| 2019/20           | 166                             | 25                            | 15%                                     |
| 2020/21           | 258                             | 61                            | 24%                                     |
| 2021/22           | 412                             | 85                            | 21%                                     |
| 2022/23           | 351                             | 42                            | 12%                                     |
| <b>Total</b>      | <b>3,820</b>                    | <b>588</b>                    | <b>15%</b>                              |
| <b>Average.</b>   | <b>382</b>                      | <b>59</b>                     |   |

Source: MHCLG open data.

8.18. Between 2013/14 and 2022/23, a total of 3,820 dwellings were delivered in Ashfield DC, equivalent to 382 per annum. Of these, 588 dwellings were affordable tenures, equivalent to 59 per annum. This equates to 15% gross affordable housing delivery.

8.19. Between 2013/14 and 2022/23 the Council added 48 affordable dwellings through acquisitions to the 588 gross affordable dwellings delivered through completions (MHCLG open data). This figure is then reduced by 484 dwellings once Right to Buy is accounted for.



- 8.20. The net of Right to Buy total is 152 affordable dwellings delivered between 2013/14 and 2022/23, which equates to 15 affordable dwellings per annum or 4% of the total number of dwellings delivered over the period.
- 8.21. The parties agree that since the start of the 2015 SHMA period in 2013/14 there have been a total of 3,820 dwellings completed of which 588 were affordable tenures and this represents a gross affordable housing delivery rate of 15%.
- 8.22. The parties agree that once acquisitions and losses to stock through Right to Buy are taken into account gross affordable housing delivery falls by 11% to 152 affordable completions since the start of the 2015 SHMA period. The net delivery is 4%.
- 8.23. The parties agree the benefit of affordable housing weighs positively in the planning balance.
- 8.24. The parties agree there is a national housing crisis.
- 8.25. The parties agree that Policy HG4 is drafted to capture a benefit of housing development proceeding and is not needed in mitigation or to ward off a harm.
- 8.26. The parties agree there is a need for affordable housing in Ashfield DC.

### **Landscape**

- 8.27. For the purposes of paragraph 180 of the Framework, the site is not a "valued landscape". The site does not benefit from any national or local landscape designations and is not unique for any landscape purposes. This is agreed.
- 8.28. The site is located in an area defined as National Character Area (NCA) Profile 49 Sherwood. Considering landscape character at this scale, landscape effects on the NCA are not likely to be significant.
- 8.29. The appeal site is located in an area defined as Sherwood Regional Character Area and the 'Lindhurst Wooded Farmlands' 'Sherwood Policy Zone' (S PZ 11). This represents an appropriate scale of landscape character against which to consider the significance of effect on landscape character.
- 8.30. The viewpoint locations included in the submitted LVIA are extensive enough and appropriate to present a representative set of views for the purposes of considering potential visual effects.
- 8.31. A public footpath (reference Sutton-in-Ashfield FP82) runs parallel to, but outside of, the south-western boundary of the site. There is no formal public access to the site.

### **Agricultural Land Quality**

- 8.32. The appeal site includes 19.2 hectares of subgrade 3a agricultural land and 0.6 hectares of subgrade 3b. It is agreed that the loss of some best and most versatile agricultural land may be inevitable in allocating land within the borough for the provision of housing supply

### **Ecology**

- 8.33. There are no ecological constraints which would preclude development in accordance with the appeal application and outstanding matters can be dealt with satisfactorily by condition.

#### **Heritage**

- 8.34. There are no designated, or non-designated, heritage assets located within, or adjacent to, the appeal site.
- 8.35. The development would not result in harm to the significance of any designated, or non-designated heritage assets, through changes to their settings, or otherwise. There is no heritage related basis for refusal.

#### **Noise**

- 8.36. Mitigation measures for road noise are detailed within Section 6 of the Appellant's Noise Impact Assessment and should be controlled by condition. There is no noise related basis for refusal.

#### **Air Quality**

- 8.37. The impact on local air quality requires no mitigation being proposed; no conditions are required and air quality is not a basis for refusal.

#### **Other**

- 8.38. A Construction Environmental Management Plan (CEMP) is required to be secured by condition.
- 8.39. An external lighting scheme is required to be controlled by condition

#### **Arboriculture**

- 8.40. The appeal site is neither within, nor adjacent to, a Conservation Area. There are also no trees within, or adjacent to the site, which are the subject of a Tree Preservation Order.
- 8.41. There is one veteran tree which is to be retained. A veteran tree buffer is provided accordingly.
- 8.42. Overall, impacts on the loss of trees and hedgerows will be relatively low, and compensatory planting is to be undertaken.
- 8.43. The Council's Arboriculture Officer provided a consultation response on the 23rd of February 2024. No objections were raised. It is agreed that there is no basis for the refusal of planning permission based on tree or hedgerow matters.

#### **Ground Contamination**

- 8.44. The majority of the Site is greenfield land, with the exception of an area in the north western corner and a smaller area of former excavation in the eastern corner.
- 8.45. There is an area of infilled land to the north west adjacent to Newark Road recorded as a Historic Landfill ref 4/80/100/55NW and was issued with a Waste License on 19th March 1980



to allow deposition of inert waste only. The last recorded deposition of waste was 28th November 1983 and the license was surrendered on 22nd October 1992. The license permitted disposal of up to 250 tonnes per day of construction and industry waste consisting of soil, spoil, rubble, excavated materials and demolition materials. Combustible, putrescible or potentially polluting material was prohibited.

- 8.46. The site has not been identified as Contaminated Land under Part IIA of the EPA 1990.
- 8.47. Subject to the imposition of planning conditions that are acceptable to the appellant, no technical objections were received in relation to land contamination matters on the basis of the submitted 2022 RLL Phase 1 Desk Study (Ref: 22070-RL-22-XX-RP-O-0001) during the planning application period. This included reference to previous reports and investigations which included an earlier RLL desk study that covered a larger site area, an infiltration testing report and two phases of gas monitoring.
- 8.48. The following further reports, commissioned by Harron Homes, have now been submitted by the appellants during the Inquiry as Core Documents with an intention to refer to them within their proofs of evidence:
- Geotechnical and Geo-Environmental Site Investigation by Eastwood Consulting Engineers. Ref: KE/ACR/46924-002, dated May 2022.
  - Hydrogeological Review and Groundwater Piling Assessment by Eastwood Consulting Engineers. Ref: KE/DN/46924-004, dated July 2022.
- 8.49. The ground conditions in the north western landfill area of the site have been recorded to comprise topsoil overlying a capping of reworked natural clayey sandy material; which in turn overlie fill material consisting of a mixture of gravel, sand and clay, together with extraneous inclusions of concrete, brick and tiles; all of which is consistent with the inert classification of material. As part of various ground investigations over the years, minor constituents of wood, paper, cloth, ceramic tile, metal, coal, clinker and ash have been encountered. The fill material has been recorded to a maximum depth of 13m, underlain by gravelly sand or sandstone of the Lenton Sandstone Formation.
- 8.50. The chemical testing in 1998 indicated elevated concentrations of contaminants when compared to the threshold values set by the ICRCL (Interdepartmental Committee on the Redevelopment of Contaminated Land) guidance. This guidance was withdrawn in 2002. Where possible and applicable, the relevant results have been assessed against modern Suitable for Use Levels (S4ULs) and Category 4 Screening Levels (C4SLs) Generic Assessment Criteria (GAC) values for a residential (with plant uptake) end use, indicating that only the concentration of lead exceeds the GAC value.
- 8.51. During the 2022 investigation and as referred to in the additional SI report, further soil chemical testing was undertaken on topsoil, the capping layer, Made Ground and the underlying natural bedrock material. When compared to the above guidance, elevated concentrations of contaminants (cadmium, lead and hydrocarbons) were encountered at depth within the Made Ground. The report concludes that concentrations encountered are not considered to be significant; however recommends that a clean cover system of topsoil and subsoil will be placed to break pollutant linkages for future site users.
- 8.52. The additional SI report states that no evidence of a groundwater body or leachate was encountered and no contamination was recorded within the natural material underlying the





Made Ground. A Hydrogeological Review and Groundwater Piling Assessment was subsequently prepared for Harron Homes to identify proposed mitigation measures in the event that a piled foundation solution is adopted for houses in the landfill area.

- 8.53. The additional hydrogeological report concludes that the proposed development will significantly reduce the volume of water infiltrating into the underlying ground. Rainfall incident on houses, roads and hardstanding will be conveyed by pipework to lined attenuation basins; hence preventing infiltration and any connectivity with the landfill material.

The ground gas monitoring undertaken to date indicates that gas protection measures would be required for new buildings in the landfill area, including a vapour-resistant ground gas membrane with a ventilated void beneath floor slabs.

### **Flood Risk and Drainage**

- 8.54. The site falls wholly within Flood Zone 1, and is at the lowest risk of flooding.
- 8.55. Surface water is proposed to be managed via onsite storage and management, at a restricted discharge rate.
- 8.56. Nottinghamshire County Council as the LLFA, Severn Trent Water, Ashfield District Environmental Protection Team and the Environment Agency have not objected to the proposal subject to conditions to date. It is agreed that there is no basis for refusal related to flooding.

### **Highway Matters**

- 8.57. Subject to conditions, the Highway Authority raised no objections during the application period, and they were satisfied that suitable access can be provided into the site.
- 8.58. The Highway Authority also conclude that the proposal, subject to the access details, amendments to the highway layout around the site, and enhancements to cycling and public transport infrastructure, would not lead to unacceptable residual impacts on the highway network.
- 8.59. It is agreed that on the basis of the submission made by the Appellant during the application period that there was no highways or transport basis to refuse permission, other than the area of dispute in respect of the impact of development upon the nearby level crossing.
- 8.60. At the time of the application submission, bus services ran adjacent to the development site along Sotheby Avenue, 370m from the site centroid. They ran every 30 minutes from Monday to Saturday, and hourly on Sundays. The services have altered since and buses no longer run along Sotheby Avenue. The nearest bus stops are now on Kirby Folly Road, or Hamilton Road, depending on which part of the site is being accessed. The stops on Kirby Folly Road are between 490m and 950m walking. They are around 825m from the site centroid. The stops provide access to four bus services, the most frequent being Trent Barton's 3C service which runs between Mansfield and Nottingham every 30 minutes, Monday through Saturday, and hourly on Sunday. Trent Barton's 33 service (between Mansfield and Ilkeston) and 90 service (between Sutton in Ashfield and Ripley) both run hourly, Monday to Saturday. Stagecoach's MX90 service, which also serves the Hamilton Road stop, runs twice a day between Mansfield and Sutton Parkway Rail Station.



### **Design and Layout**

- 8.61. It is agreed that the proposed development is able to deliver a high quality of design and layout, having regards to the illustrative masterplan and the Design and Access Statement, notwithstanding the impacts on landscape character and visual impact otherwise forming a matter of disagreement.

## 9. Possible Planning Conditions

9.1. Presented below, without prejudice, is a list of possible planning conditions for consideration, together with their reason(s) for imposition.

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

- a) Layout
- b) Scale
- c) Appearance
- d) Landscaping

**Reason:** To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

2. The development to which this approval relates shall be begun not later than whichever is the later of the following dates:

- a) The expiration of 3 years from the date of the outline planning permission;
- b) The expiration of 2 years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

**Reason:** In order to comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. This permission shall be read in accordance with the following plans:

- EMS2254\_018 01 Rev D (Site Location Plan)

**Reason:** To define the terms of this permission and for the avoidance of doubt.

4. No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Flood Risk Assessment (FRA) and Drainage Strategy has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall provide:

- Evidence of approval for drainage infrastructure crossing third party land where applicable.
- A surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site.

- Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.
- Evidence of how exceedance routes will not affect third party properties.

**Reason:** A detailed surface water management plan is required to ensure that the development is in accordance with Policy ST1 of the Ashfield Local Plan Review and paragraph 174 of the National Planning Policy Framework.

5. No part of the development hereby approved shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out:
- Site specific measures to control and monitor impacts arising in relation to construction traffic, noise and vibration, dust and air pollutants;
  - Site working hours; lighting;
  - Wheel washing facilities for construction traffic;
  - A layout of the construction access including a drawing showing visibility splays and method statement for the use of banksmen;
  - Details regarding parking provision for construction workers; and
  - Plans on the site and the route that all construction vehicles shall take to the site avoiding the Sutton Junction Level Crossing.

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

**Reason:** To protect against the deposition of materials from the site and to protect the aural and olfactory amenity of existing dwellings in the vicinity of the site in accordance with paragraph 135(f) of the National Planning Policy Framework.

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

The scheme shall include:

1. A site investigation scheme, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
2. The results of the site investigation and detailed risk assessment referred to in (1) and based on these, an options appraisal and remediation strategy giving full details of the remediation and mitigation measures required and how they are to be undertaken;
3. A verification plan setting out the details of the data that will be collected to demonstrate that the works set out in the remediation strategy in (2) are complete to a satisfactory standard; and



4. The contamination remediation works shall be carried out in accordance with the approved details and completed prior to the first occupation of any area identified by the report.
5. If required, a monitoring and maintenance plan, setting out provisions for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.

**Reason:** To protect future occupiers of the development and the water environment from unacceptable land contamination risk in accordance with paragraphs 189 and 190 of the National Planning Policy Framework.

7. No development shall commence until a waste audit has been submitted to and approved in writing by the Local Planning Authority. The waste audit shall address the following:
  - The anticipated nature and volumes of waste that the development will generate.
  - Where appropriate, the steps to be taken to ensure the maximum amount of waste arising from development on previously developed land is incorporated within the new development.
  - The steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities.
  - Any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

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

**Reason:** To reduce waste in accordance with Policy WCS2 of the Nottinghamshire Waste Core Strategy.

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

The CEMP (Biodiversity) shall include the following:

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

- h) Use of protective fences, exclusion barriers and warning signs.

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

**Reason:** In the interests of protecting habitats and species during the construction phase of the development in accordance with paragraph 180 of the National Planning Policy Framework.

- 9. No development shall commence until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

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

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

**Reason:** In the interests of securing biodiversity net gains in accordance with paragraph 180 of the National Planning Policy Framework.

- 10. No development, including site clearance, shall take place until a method statement for the control of Japanese Knotweed has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be implemented in accordance with the approved details.

**Reason:** To prevent the spread of Japanese Knotweed in the interests of protecting native species and habitats in accordance with paragraph 180 of the National Planning Policy Framework.

- 11. No part of the development hereby permitted shall take place until the new access into the site has been provided broadly in accordance with the indicative Drawing No. ADC1580-DR-012 Rev P12.

*Informative: Note this does not have full s.278 technical approval.*



**Reason:** In the interests of highway safety.

12. No development shall take place until such time as a programme has been submitted to and approved by the Local Planning Authority covering the following works:
- i. The provision of the proposed signalised access junction including segregated footway/cycleway and associated highway improvements on Newark Road broadly in accordance with indicative drawing no. ADC1580-DR-012 Rev P12.
  - ii. The amendments to the existing signalised junction at Newark Road/Cauldwell Road/Coxmoor Road broadly in accordance with indicative drawing no. ADC1580-DR-012 Rev P12.
  - iii. The amendments to the existing mini-roundabout at Coxmoor Road/Hamilton Road broadly in accordance with indicative drawing no. ADC1580-DR-005 Rev P11 including provision of cycle facility and proposed toucan crossing and associated improvements.
  - iv. The provision of the proposed footway/cycleway scheme on Newark Road, including the provision of a sparrow crossing and associated improvements, broadly in accordance with indicative drawing no. ADC1580-DR-006 Rev P7.
  - v. The amendments to the existing mini-roundabout at Newark Road/Kirkby Folly Road broadly in accordance with indicative drawing no. ADC1580-DR-004 Rev P8.
  - vi. The provision of the pedestrian/cycle links to the existing Sutton-in-Ashfield locality including Searby Road, broadly in accordance with indicative plan no. ADC1580-DR-013 Rev P8 (Pedestrian/Cycle Access Strategy).
  - vii. The extension of the speed limit along Newark Road broadly in accordance with indicative drawing no. ADC1580-DR-012 Rev P12.

The works shall be carried out in accordance with the agreed programme unless otherwise agreed in writing with the Local Planning Authority. For clarity, these plans are conceptual ONLY and shall be subject to detailed technical appraisal during the s.278 process.

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

13. The development hereby permitted shall not commence until drainage details for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. These details shall include the following agreed requirements:
- i. The onsite sewers will be adopted pursuant to a s.104 Agreement (Water Industry Act).
  - ii. A s.106 (Water Industry Act) connection application has been approved by Severn Trent for a point of connection on the existing public system.

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



**Reason:** In the interests of providing a satisfactory means of drainage and the prevention of pollution and flooding in accordance with the National Planning Policy Framework.

14. Prior to the first occupation of the dwellings hereby approved a scheme of sound mitigation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms 30 dB LA<sub>eq</sub> (15 Minutes) (2300 hrs – 0700 hrs)  
Living/Bedrooms 35 dB LA<sub>eq</sub> (15 Minutes) (0700 hrs – 2300 hrs)  
All Other Habitable Rooms 40 dB LA<sub>eq</sub> (15 Minutes) (0700 hrs – 2300 hrs)  
All Habitable Rooms 45 dB LA<sub>max</sub> to occur no more than 10 times per night (2300 hrs – 0700 hrs)  
Any outdoor amenity areas 55 dB LA<sub>eq</sub> (1 hour) (0700 hrs – 2300 hrs)

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

**Reason:** To protect the aural amenity of future occupiers of the dwellings in accordance with paragraph 135(f) of the National Planning Policy Framework.

15. Before occupation of the development hereby approved, details of the external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall have regard to the "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" produced by the Institution of Lighting Professionals. The approved lighting scheme shall be implemented in full before the lighting is first used and shall be retained thereafter.

**Reason:** To prevent obtrusive light causing a loss of amenity to nearby dwellings and in the interests of providing a high standard of amenity in accordance with paragraph 135(f) of the National Planning Policy Framework.

16. If, during the works, any additional unsuspected contamination is encountered, all works in the relevant part of the site shall cease immediately and not resume until either:
- i. The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority; or
  - ii. Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority.

**Reason:** To protect future occupiers of the development and the water environment from unacceptable land contamination risk, in accordance with paragraphs 189 and 190 of the National Planning Policy Framework.

17. The development shall not be occupied until a post-completion verification report, including results of sampling and monitoring carried out, has first been submitted to and approved in writing by the Local Planning Authority demonstrating that the site remediation criteria have been met.



**Reason:** To protect future occupiers of the development and the aquatic environment from unacceptable land contamination risk in accordance with paragraphs 189 and 190 of the National Planning Policy Framework.

18. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

**Reason:** Piling can result in risks to groundwater quality from, for example, mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus, it should be demonstrated that any proposed piling will not result in contamination of groundwater.

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

19. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the development does not contribute to, and is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 174 of the National Planning Policy Framework.

20. As part of reserved matters, an updated Biodiversity Net Gain Assessment shall be submitted in writing to the Local Planning Authority that demonstrates a net gain in biodiversity. The approved Biodiversity Net Gain scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first planting season following occupation of the development.

**Reason:** In the interests of ensuring biodiversity net gains for habitats on site in accordance with paragraph 180 of the National Planning Policy Framework.

21. As part of the reserved matters, a scheme of biodiversity enhancement as recommended in section 7 Compensation and Enhancement Opportunities of the Ecological Impact Assessment prepared by RammSanderson to include features incorporated within the new buildings for roosting bats and nesting swifts along with hedgehog gaps and native planting within the details of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.

**Reason:** In the interests of ensuring biodiversity net gains for certain species of conservation concern in accordance with paragraph 180 of the National Planning Policy Framework.



22. The development shall be carried out in strict accordance with the details contained within Section 5 and Drawing ST19319-001 Rev B Tree Protection Plan Sheets 1 and 2 as set out in the Arboricultural Impact Assessment, reference ST19319-002-V2.0 dated 15/07/2022.

**Reason:** In the interests of protecting trees and hedges that make a positive impact on the character of the area.

23. The development shall be limited to include up to 300 residential dwellings.

**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.

24. No part of the development hereby approved shall be occupied until street lighting along the site frontage on Newark Road has been provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

**Reason:** In the interests of general highway safety.

25. No part of the development hereby permitted shall be brought into use unless or until plans denoting the location of new bus stops within the site have been made to the satisfaction of the Local Planning Authority and shall include any of the following: real time bus stop flags, poles & displays including low voltage power source to the real time information pole location; polycarbonate bus shelter; solar or electrical lighting in bus shelter; raised kerbs; enforceable bus stop clearway; lowered access kerbs; additional hard stand (3.5metres x 7metres if required), black top dressing (tarmacadam) and the above to be installed to an agreed timescale.

**Reason:** In the interests of promoting sustainable travel.

26. No part of the development shall be brought into use unless or until plans denoting a temporary bus turning facility within the site have been made to the satisfaction of the Local Planning Authority including a swept path analysis and the above to be installed to an agreed timescale.

**Reason:** In the interests of promoting sustainable travel.

27. No part of the development hereby permitted shall be occupied until the Travel Plan has been approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the Local Planning Authority and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of promoting sustainable travel.



## 10. Draft Planning Obligations

- 10.1. The Appellant has agreed to enter into a section 106 agreement which provides for a range of contributions. The planning obligations are provided below:

|                    |  |
|--------------------|--|
| Affordable Housing | 10% of the dwellings to be affordable; 75% affordable rent and 25% shared ownership. |
|--------------------|--|

|  |  |
|--|--|
| Nottingham and Nottinghamshire Integrated Care Board | £162,562.50  |
| Nottinghamshire County Council – Waste Management    | £28,860  |
| Nottinghamshire County Council – Library Services    | £10,571  |
| Nottinghamshire County Council – Public Transport    | <p>£220,000</p> <p>Contribution required for the improvement of the local bus services to serve the site. The contribution would enable either the enhancement of existing services to meet trip demands and/or potentially a diversion of a service into the site.</p> <p>50% of the total due upon completion of 25% of the dwellings; remaining 50% of the total due upon completion of 75% of the dwellings.</p> <p>£45,600</p> <p>Contribution required for the improvement of the two bus stops closest to the site. The current level of facilities at the specified bus stops are not at the standard set out in the Appendix to the Council's Public Transport Planning Obligations Funding Guidance.</p> <p>£10,000 for secure cycle parking at the Station</p> <p>One free three month adult bus pass per dwelling entitling the holder to three months free bus travel within Nottinghamshire.</p> |
| Nottinghamshire County Council – Education (SEND)    | £180,644 (as originally requested)   |
| Ashfield District Council – Monitoring               | £4,000   |
| Ashfield District Council – Ecology                  | Condition imposed to require the provision of a Landscape and Ecological Management Plan ("LEMP"). The LEMP to include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured   |



|                           |  |
|---------------------------|--|
|                           | by the developer with the management body(ies) responsible for its delivery.   |
| Ashfield District Council | As depicted on Drawing No. ADC1580-DR-012 Rev P12, 'Works A' to be delivered and 'Works B' to be added, subject to a 'reasonable endeavours' clause. |

Further obligations required by the Council

|   |  |
|---|--|
| Nottinghamshire County Council – Education- secondary school provision                  | £1,113,936 requested towards Secondary Education.  |
| Ashfield District Council – public open space off site sports and recreation facilities | £900,000 requested for Public Open Space improvements for sports and recreation facilities to be provided for the well being of the residents of the development |

## 11. Matters Not Agreed

- 11.1. The weight to be attributed to the out of date policies.
- 11.2. Whether the policies are consistent with national policy.
- 11.3. The robustness of the Council's housing land supply position.
- 11.4. The weight to be ascribed to the provision of market and affordable housing.
- 11.5. Whether the site is sufficiently accessible by public transport.
- 11.6. The weight to be attributed to the loss of some best and most versatile agricultural land.
- 11.7. Whether the proposed residential use would be suitable taking account of ground conditions and risks arising from potential contamination.
- 11.8. The weight to be attributed to landscape and visual effects
- 11.9. The economic benefits of the scheme and the weight it should be afforded in the planning balance.
- 11.10. The impact of the development on highway capacity as a consequence of the nearby level crossing, particularly at peak times.

There is also disagreement over the extent of the planning obligations. The Appellant and the Council disagree over whether the £900,000 requested for Public Open Space improvements satisfies the statutory tests. There is also disagreement as to the necessity of the £1,113,936 requested towards Secondary Education and a potential contribution towards improved cycle parking at Sutton Parkway Train Station.

# Appendix A – List of documents submitted with the planning application and in response to consultee comments

## Documents Submitted with the Planning Application

- Air Quality Assessment
- Application Form
- Arboricultural Impact Assessment (**Superseded**)
- Archaeology and Built Heritage Statement Parts 1 – 4
- Biodiversity Net Gain Assessment
- Commentary on Lighting Strategy and Mitigation Report
- Consolidated Transport Assessment Parts 1 – 5
- Consultation Statement
- Covering Letter (**Superseded**)
- Design and Access Statement
- Ecological Impact Appraisal (**Superseded**)
- Flood Risk Assessment and Drainage Strategy Report and Appendices A – K
- Illustrative Masterplan (EMS2254\_102 01 Rev G) (**Superseded**)
- Landscape and Visual Impact Assessment Parts 1 – 3
- Lighting Strategy and Mitigation Report
- Noise Impact Assessment
- Phase 1 Geo-Environmental Desk Study Parts 1 – 7
- Planning Statement
- Preliminary Utilities Appraisal
- Site Location Plan (EMS2254\_018 01 Rev B) (**Superseded**)
- Soils and Agricultural Quality Report
- Transport Assessment Parts 1 – 3
- Travel Plan (ADC1580-RP-O V3) (**Superseded**)

## List of all plans, drawings and documents submitted post submission of the original application

- Access Junction Layout Swept Path Assessment (ADC1580-DR-015 Rev P1)
- Access Technical Note (ADC1580-RP-P-v6)
- ADC Infrastructure Response Tracker (ADC1580-RP-Q-v2)
- Arboricultural Impact Assessment (February 2024)
- Covering Letter (March 2024)
- Ecological Impact Assessment (August 2023)
- Illustrative Masterplan (EMS2254\_102 01 Rev M)
- Land Use Plan (EMS2254\_110 01 Rev D)
- Ownership Certificate C (March 2024)
- Pedestrian/Cycle Access Strategy (ADC1580-DR-013 Rev P8)
- Pedestrian/Cycle Movement Strategy (EMS2254\_118 01)
- Proposed Access Junction Layout (ADC1580-DR-012 Rev P12)



- Proposed Footway/Cycleway Scheme on Newark Road (ADC1580-DR-006 Rev P7)
- Proposed Improvement Scheme Newark Road/Kirkby Folly Road (ADC1580-DR-004 Rev P8)
- Proposed Improvement Scheme B6139 Coxmoor Road/Hamilton Road (ADC1580-DR-005 Rev P11)
- Site Location Plan (EMS2254\_018 01 Rev D)
- Travel Plan (ADC1580-RP-O V4)
- Vertical Visibility Splays Newark Road (ADC1580-DR-014 Rev P1)
- Letter from Rodgers Leask dated the 16<sup>th</sup> September 2024.
- Letter from Pegasus Group to Ashfield District Council dated the 18<sup>th</sup> October 2024.





## Appendix B – List of Plans for Approval

- EMS2254\_018 01 Rev D (Site Location Plan)
- ADC1580-DR-012 Rev P12 (Proposed Access Junction Layout)



## **Appendix C – Minutes of 31st July 2024 Planning Committee**

## **PLANNING COMMITTEE**

**Meeting held in the Council Chamber, Council Offices, Urban Road, Kirkby-in-Ashfield,**

**on Wednesday, 31st July, 2024 at 10.00 am**

**Present:** Councillor Jamie Bell in the Chair;

Councillors Jodine Cronshaw, Samantha Deakin, Julie Gregory (as substitute for Sarah Madigan), Arnie Hankin, Rachel Madden, Andy Meakin, John Smallridge and Helen-Ann Smith.

**Apology for Absence:** Councillor Sarah Madigan.

**Officers Present:** John Bennett, Lynn Cain, James Carr, Louise Ellis, Mick Morley, Christine Sarris, Abbie Smith, Richard Sunter, Dean Wright and Shane Wright.

### **P.6 Declarations of Disclosable Pecuniary or Personal Interests and/or Non-Registrable Interests**

Councillor Arnie Hankin declared a Non-Registrable Interest in respect of Application V/2022/0360, outline application with all matters reserved except for access, for a logistics campus (B8), creation of a new access onto Willow Drive, associated earthworks, new structural green infrastructure and landscaping and other infrastructure works. Land at Junction of Mansfield Road, Annesley. His interest arose from the fact that he was known to the landowner, but confirmation was given that he would be coming to the meeting with an open mind and was prepared to consider all information and discussions put forward prior to making a decision.

### **P.7 Minutes**

RESOLVED

that the minutes of the meeting of the Planning Committee held on 12 June 2024, be received and approved as a correct record.

### **P.8 Town and Country Planning Act 1990: Town Planning Applications Requiring Decisions**

**1. V/2024/0127, Ashfield District Council, Construction of an Automated Distribution and Manufacturing Centre, Land Off Low Moor Road, Kirkby in Ashfield**

It was moved and seconded that conditional consent be granted as per the officer's recommendation contained in the report.

**2. V/2022/0360, Mr Jonathan Protheroe, Application made in accordance with the Town and Country planning (Environmental Impact Assessment Regulations) 2017: Application made in accordance with EIA Regulations 2017: Outline application with all matters reserved except for access, for a logistics campus (B8), creation of a new access onto Willow Drive, associated earthworks, new structural green infrastructure and landscaping and other infrastructure works. Land at Junction of Mansfield Road, Annesley**

(In accordance with the Council's Constitution and Member Code of Conduct, Councillor Arnie Hankin had previously declared an interest in respect of this item. His interest was such that he remained in the room and took part in the discussion and voting thereon.)

Late Item

In accordance with the Council's Policy for dealing with late matters in relation to planning applications, (Minute No. D4.17, 1993/94 refers), officers proceeded to give a verbal report as to additional comments received in relation to the application as follows:-

*There was an error in the report that needed to be corrected - on page 104 where the amount for Bus stop contributions should have read 120,000.00. There was a missing 0.*

*Following publication of the agenda, a letter of representation had been received from Annesley and Felley Parish Council. The parish council had objected to the application on the grounds that the proposed development would exacerbate existing problems of traffic congestion with consequent air quality and health impacts and that it would impact on local wildlife.*

*Officers advised that the issues raised had been addressed within the applicant's Environmental Statement and within the officer report.*

*The comments did not affect the overall conclusion of the officer report.*

Simon Bishop, as Chairman of Annesley & Felley Parish Council and John Holmes, as Agent for the Applicant, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submissions as required.

(At this point in the proceedings, Councillor Andy Meakin declared a Non-Registrable interest as a current member of Annesley & Felley Parish Council. His interest was such that he remained in the meeting and took part in the discussion and voting thereon.)

It was moved and seconded that conditional consent be granted subject to a Section 106 Agreement and referral of the application to the Secretary of State as a departure from the development plan.

The meeting adjourned at 11.00am and reconvened at 11.05am.

### **3. V/2023/0691, Mr J Taylor, Residential Development for 8 Dwellings, J.T. Timber Supplies, Cross Road, Annesley**

#### Late Item

In accordance with the Council's Policy for dealing with late matters in relation to planning applications, (Minute No. D4.17, 1993/94 refers), officers proceeded to give a verbal report as to additional comments received in relation to the application as follows:-

*Two further comments had been received supporting the application and stating:*

- *It would be a great addition to the area*
- *There is not enough accommodation to meet current need*
- *No problems with access on the road or vehicles parking on the kerb*
- *Main parking problem is on Byron Road*
- *Welcoming change of view to current street scene*
- *Builder should work with the Council to recalibrate Annesley cutting with traffic lights to mitigate increased volume of traffic.*

Simon Bishop, as Chairman of Annesley & Felley Parish Council, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submission as required.

It was moved and seconded that conditional consent be granted as per the officer's recommendation contained in the report.

### **4. V/2023/0669, Ashfield District Council, Demolition of Former Community Centre and Garages and Construction of 2no. Semi Detached Dwellings, Former Community Centre, Mill Close, Huthwaite**

#### Late Item

In accordance with the Council's Policy for dealing with late matters in relation to planning applications, (Minute No. D4.17, 1993/94 refers), officers proceeded to give a verbal report as to additional comments received in relation to the application as follows:-

*There was an error in the report that needed correcting.*

*Condition 9 needed to be removed. The condition had been updated by Condition 6 in relation to stopping up of the public highway.*

Glenys Maxwell, as an Objector, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submission as required.

It was moved and seconded that conditional consent be granted as per the officer's recommendation contained in the report.

## **5. V/2024/0239, J Rouse, Change Of Use of Outbuildings to Dog Groomers and Hairdressers, 15 Alfreton Road, Selston**

County Councillor David Martin, on behalf of the Applicant, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submission as required.

(At this point in the proceedings, Councillor Julie Gregory declared a Non-Registrable interest as a current member of Selston Parish Council. Her interest was such that she remained in the meeting and took part in the discussion and voting thereon.)

- a) it was moved by Councillor Arnie Hankin and seconded by Councillor Helen-Ann Smith that the officer's recommendation contained within the report be rejected and planning consent be granted as per conditions and informatives to be agreed by officers under delegated authority, in consultation with the Planning Committee Chairman and Councillors Arnie Hankin and Helen-Ann Smith (as mover and seconder of the motion);
- b) as a result of a) above, the condition and informative are as follows:

### **Condition:**

The use of the hairdresser salon and the dog grooming business at 15 Alfreton Road, Selston, hereby permitted shall be carried out by the occupiers of the property and by no other persons.

### **Informative:**

All clients should be advised by the applicant, when taking bookings, that car parking is not available at the premises.

### Reasons for rejecting officers' recommendation:

ST1 and NP9, part 2b and 4a, 4b and 4c.

Members considered that the proposal would not have an adverse impact on the character, quality, amenity of safety of the environment outlined nor have an adverse impact upon highway safety as set out within ST1 of the Ashfield Local Plan Review (2002).

Members also were minded to suggest that the proposal had demonstrated that the nature of the operation would not affect the amenity of the surrounding area. In addition, the amenity of nearby residents would not be affected, the scale and design was sympathetic to the character of the area, and the operations of the business could be contained within the confines of the premises. As outlined within NP9 of the JUS-T Neighbourhood Plan (2017-2032).

### For the motion:

Councillors Jamie Bell, Jodine Cronshaw, Samantha Deakin, Julie Gregory, Arnie Hankin, Rachel Madden, Andy Meakin, John Smallridge and Helen-Ann Smith.

Against the motion:

None.

Abstentions:

None.

(Prior to consideration of the next application and in accordance with Council Procedure Rule 4 [Order of Business], the Chairman advised that he would be amending the order of the agenda and considering Application V/2023/0613 as the last item of business. Members concurred with this course of action.)

**6. V/2024/0063, Ashfield District Council, Construction of 40 Dwellings and Associated Infrastructure, Recreation Ground, Hardwick Lane, Sutton in Ashfield**

Late Item

In accordance with the Council's Policy for dealing with late matters in relation to planning applications, (Minute No. D4.17, 1993/94 refers), officers proceeded to give a verbal report as to additional comments received in relation to the application as follows:-

*After the Council sent notifications out about Planning Committee, two further representations were received from consultees:*

*The first was from the Health and Safety Executive, directing the Council to their online web portal in the event that the site fell within a major hazard area or major hazard pipeline zone. Having checked the web portal, the application site did not fall within the consultation distance of a hazard site, and therefore the Health and Safety Executive confirmed that they did not need to be consulted on any developments on this site.*

*The second was from Nottinghamshire Constabulary, who repeated their initial comments and suggested an informative.*

Maria Linfield, as an Objector, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submission as required.

It was moved and seconded that conditional consent be granted as per the officer's recommendation, subject to a legal undertaking as outlined in the report.

**7. V/2022/0629, Hallam Land Management, Outline planning application (with all matters reserved except access) for a residential development of up to 300 dwellings with associated infrastructure and landscaping, Land at Newark Road, Coxmoor Road, Sutton in Ashfield**

### Late Item

In accordance with the Council's Policy for dealing with late matters in relation to planning applications, (Minute No. D4.17, 1993/94 refers), officers proceeded to give a verbal report as to additional comments received in relation to the application as follows:-

*There was a typographical error in the report, the application was called in by Councillor Relf and his reasons for call in were highways, flooding, schools places, access to healthcare and disturbance to the landfill. Apologies were given to Councillor Relf and Members for this error.*

Alice Weaver, as an Objector and Clare Clarke, as Agent for the Applicant, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submissions as required. Councillor Samantha Deakin also addressed the Committee and read out a speech on behalf of Councillor Matthew Relf who had called in the application.

It was moved and seconded that the application be deferred until the next meeting, to enable further discussions to take place between Planning officers and the Applicant in respect of the following:

Members sought clarification and reassurance with regard to the proposed drainage and contamination strategies which might give rise to the potential for contamination of the watercourse from previous landfill and or provided conflicting strategies. Further information was required as to the sustainability of the site particularly in relation to bus provision, routes and frequency and the accessibility and security of the station to cyclists and others given distance from facilities. Members were concerned that this would lead to a more severe impact on the highway and junctions in the vicinity and sought more detail. A better understanding was required as to the impact development would have on the best and most versatile land.

(During consideration of this application, Councillor Helen-Ann Smith left the meeting at 12.55pm.)

The meeting was adjourned at 1.25pm and reconvened at 1.35pm.

### **8. V/2023/0613, C & J Holder and D & C Wright, Outline Application with all Matters Reserved for a Residential Development, Land Between Redcliffe Street & Leyton Avenue, Sutton in Ashfield**

It was moved and seconded that conditional consent be granted as per the officer's recommendation, as outlined in the report and subject to:

- a) a Section 106 Agreement;
- b) and limiting a development up to a maximum of 18 dwellings.



**P.9 Planning Appeal Decisions**

Members were asked to note the recent Planning Appeal decisions as outlined in the report.

RESOLVED  
that the report be received and noted.

(During consideration of this item, Councillor Jodine Cronshaw left the meeting at 1.50pm.)

The meeting closed at 1.52 pm

Chairman.



## **Appendix D – Rodgers Leask Consulting Engineers Letter dated 16th September 2024**

16 Sep 2024

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

Dear Clare

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

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

A Masterplan layout for the site together with Drainage Strategy Proposals are provided on RL Drawing 16530-RLL-17-XX-DR-C-201 rev E dated 20<sup>th</sup> June 2022. This shows a series of proposed land parcels for residential development sub-divided by roads and landscaping, with several attenuation ponds situated adjacent to the western boundaries. The attenuation basins are designed for storage of surface water runoff before discharge to the public sewer at agreed discharge rates. No infiltration is proposed.

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

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

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

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

Historically, the majority of the Site has mostly comprised greenfield land, with the exception of an area in the north of the site and a smaller area in the eastern corner. Earliest OS mapping shows sand pits in the north and easternmost corner of the site which



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

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

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

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

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

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

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

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

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

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stewart Friel'.

**Stewart Friel** MSc BSc (Hons) MEnvSc  
Director  
Email: [stewart.friel@rodgersleask.co.uk](mailto:stewart.friel@rodgersleask.co.uk)



## **Appendix E – Letter from the Applicant dated 18th October 2024**

EMS.2254

18 October 2024

Mr Richard Sunter  
Ashfield District Council  
Urban Road  
Kirkby-in-Ashfield  
Nottinghamshire  
NG17 8DA

Dear Richard,

**Land at Newark Road, Coxmoor Road, Sutton in Ashfield – V/2022/O629**

I am writing in order to provide some corrections to the recently published Committee Report for the above application.

I would be grateful if you can confirm that this letter will be provided to the Plans Committee Members in full ahead of the meeting on 23rd October 2024 to ensure there is no misunderstanding of our responses to the reasons for deferral and Members have all the information they require.

**Sustainability**

The Committee Report states that Member's directly requested information in relation to bus provision, routes and frequency and the accessibility and security of the station to cyclists and others. The report notes that the appellant has not responded to this request except to state that the County Council have not raised any concerns. This isn't correct.

**Agreed Bus Service Contribution – £220,000**

The requested information on bus provision was provided to the Case Officer on 21st August 2024. We forwarded correspondence with Nottinghamshire County Council's Public Transport Team on how the £220,000 bus service contribution, to be secured from the development, will be used to make the site accessible by bus. I have attached this correspondence. In summary the contribution will be spent in one of three ways:

- Trentbarton may decide that it becomes commercially viable for them to run the 3's service along Searby Road, bringing the service within walking distance of the development's residents. Additional patronage and hence income from the new residents would assist the viability.

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- Nottinghamshire County Council can use the £220,000 contribution to subsidise the 3's service, to allow it to once again run along Searby Road, bringing it within walking distance of the new residents.
- The development would be built with a spine road capable of taking a bus, which includes a turnaround area in the centre of the site. Hence, Nottinghamshire County Council can use the contribution to subsidise the 3's service and allow it to route into the development before coming out and returning to its original route.

#### Secure Cycle Parking Proposed Contribution - £10,000

In the same correspondence with the Case Officer, on 21st August, we highlighted that we had not received a request for a contribution for secure cycle parking at the railway station. We had described the cycle parking at the train station as secure because it is covered by CCTV but we understand the concern is about the degree of security. Whilst no request has been made for a contribution, from either your Council or the Local Highway Authority, Hallam Land can confirm that it would be willing to make a contribution of £10,000, to be secured via a Section 106 agreement, for improvements to the cycle parking provision at the train station, provided this is properly judged to be CIL compliant.

This suggested contribution is based on the evidence in the Transport Assessment. There are a range of different ways of providing cycle parking – see for example Bike Enclosures & Compounds ([bikedocksolutions.com](https://www.bikedocksolutions.com)). However, a basic shelter for 8 cycles is £3,439 + VAT. <https://www.bikedocksolutions.com/secure-cycle-compound>. On the basis that any cycle parking would need to be in line with government on Cycle Infrastructure Design (LTN 1/20) and there may be maintenance costs associated with it, we suggest a contribution of £10,000, would be reasonable in amount, if CIL compliant.

#### Highway Implications

In relation to whether there would be a more severe impact on the highway if residents do not use other modes of transport, it is important to emphasise that the amount of traffic generated by the development was forecast in the Transport Assessment agreed with Nottinghamshire County Council, the Local Highway Authority, by looking at traffic counts at comparable sites.

It is a robust assessment, selecting 85th percentile trip rates and assuming that traffic levels in the future when the new houses are built will be the same as recorded in the past surveys. There is however clear evidence that in fact trip rates are declining, underscoring the robustness of the assessment. When selecting comparable sites, the factors that have the most influence on the amount of traffic generated are locational ones, such as whether the site is in a town centre, or on the edge of a town, and the level of surrounding population. These factors were taken into account when determining the amount of traffic that would be created by Hallam's development, and the forecasts are accepted by Nottinghamshire County Council.

The modal share for bus use that was used in the traffic assessment is 6.4% of trips. This is not at all unrealistically high. Thus if no bus use took place and passengers instead use other modes of





transport including the car, the amount of extra car traffic would be very small. Any potential extra traffic would disperse immediately it leaves the site and would not materially increase traffic levels on the surrounding roads. The conclusions within the Transport Assessment would not change even if no buses were used at all and a severe impact on the road network could not be concluded. It is wholly unrealistic and unsupported by any evidence to suggest the location of the existing stops and the frequency and service level of buses would have such an effect, particularly when coupled with the bus contribution set out above.

### **Ground Contamination**

In response to the letter prepared by Rogers Leask, which is appended to the Committee Report, the Council's Contaminated Land Officer notes that the testing for asbestos is not mentioned, but goes on to still conclude the matter should be dealt with by condition (consistent with the previous consultation response).

The need for asbestos testing is not referred to in the Rodgers Leask letter as this was prepared to specifically address the issue raised by members, the potential impact of the drainage proposals on the land contamination risk. It is however noted by Rodgers Leask in the Phase 1 Geo-Environmental Desk Study submitted with the planning application and previously considered by the Council's Contamination Officer.

In section 6.3 of the desk study report, Rodgers Leask include a table of potential contaminants in the landfill material, including asbestos. The report goes on to say that 'Targeted investigation of the made ground should be undertaken to determine the presence of contaminants.' This is further confirmed in section 7.14, which sets out the risk register which specifically includes asbestos as an item, with a recommendation for 'Intrusive ground investigation testing in areas of landfill'. As the Council's Contaminated Land Officer notes (and has reconfirmed in the latest consultation response) this does not need to be done before the grant of an outline planning permission and will be secured by the conditions proposed.

Having reviewed the Phase 1 Geo- Environmental Desk Study conclusions that there is a low to moderate risk of contamination, the Committee Report sets out that the Council's Contaminated Land Officers has no objections, subject to the conditions proposed which require the submission, implementation and verification of a remediation scheme to deal with potential ground contamination. There is no evidential basis to depart from this conclusion.

### **Best and Most Versatile Land**

A Soils and Agricultural Quality Report was submitted with the planning application setting out that 97% of the site comprises subgrade 3a agricultural quality land. There is no question that this is Best and Most Versatile (BMV) Land and this has been clear throughout the application.

There is no embargo on the use of BMV land for development and therefore this loss of BMV agricultural land is to be weighed in the planning balance as set out in the Committee Report. The comment attributed to us that the loss of BMV agricultural land is inevitable has been taken out of context. This was stated in the context that Natural England's Agricultural Land Classification Map



East Midlands Region (ALC005) shows large swathes of similar land in and around the district, including Sutton-in-Ashfield and therefore the loss of some BMV land is evitable as the Council attempts to address its chronic housing supply position.

Please ensure the information above is shared with Members to assist with their deliberations and ensure they have all the information necessary to inform their decision.

Yours Sincerely,

A handwritten signature in blue ink that reads 'cc Clarke'.

Clare Clarke

Director  
clare.clarke@pegasusgroup.co.uk

Enc.

**From:** [David Cummins](#)  
**To:** [Clare Clarke](#)  
**Cc:** [Sam Muir](#)  
**Subject:** bus services for V/2022/0629 Newark Road, Sutton in Ashfield  
**Date:** 07 August 2024 18:27:26

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Hi Clare

Please see below an email exchange with NCC's bus team that confirms the various ways the £220,000 bus contribution secured by the S106 could be used to make the development accessible by bus. The precise mechanism would be determined at the appropriate future time. We can therefore take this as an area of common ground with NCC, the local highway authority, and I recommend it be provided to the planning case officer to inform their response to questions raised by planning committee members.

Best wishes

**David Cummins** BEng(Hons) MSc CEng MCIHT MCILT  
Director – [ADC Infrastructure Limited](#)  
mob: 07968 021158

City Buildings, 34-36 Carrington Street, Nottingham NG1 7FG  
[David.Cummins@ADCInfrastructure.com](mailto:David.Cummins@ADCInfrastructure.com)  
[www.ADCInfrastructure.com](http://www.ADCInfrastructure.com)

---

**From:** David Cummins  
**Sent:** Wednesday, August 7, 2024 6:16 PM  
**To:** Robin Riley <[robin.riley@nottsc.gov.uk](mailto:robin.riley@nottsc.gov.uk)>  
**Cc:** Stella Euerby1 <[Stella.Euerby1@nottsc.gov.uk](mailto:Stella.Euerby1@nottsc.gov.uk)>; Transport Network <[TransportNetwork@nottsc.gov.uk](mailto:TransportNetwork@nottsc.gov.uk)>  
**Subject:** RE: bus services for V/2022/0629 Newark Road, Sutton in Ashfield

Many thanks Robin, that is very helpful.

Sorry, I knew it was Trent Barton, not Arriva, a senior moment. And I'm grateful for the extra information about their vehicle investment and service 90. I will relay this to back to Hallam Land, who I expect will pass it to the planning officer.

Many thanks

**David Cummins** BEng(Hons) MSc CEng MCIHT MCILT  
Director – [ADC Infrastructure Limited](#)  
mob: 07968 021158

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[David.Cummins@ADCInfrastructure.com](mailto:David.Cummins@ADCInfrastructure.com)  
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**From:** Robin Riley <[robin.riley@nottsc.gov.uk](mailto:robin.riley@nottsc.gov.uk)>  
**Sent:** Wednesday, August 7, 2024 5:27 PM  
**To:** David Cummins <[david.cummins@ADCInfrastructure.com](mailto:david.cummins@ADCInfrastructure.com)>  
**Cc:** Stella Euerby1 <[Stella.Euerby1@nottsc.gov.uk](mailto:Stella.Euerby1@nottsc.gov.uk)>; Transport Network <[TransportNetwork@nottsc.gov.uk](mailto:TransportNetwork@nottsc.gov.uk)>  
**Subject:** RE: bus services for V/2022/0629 Newark Road, Sutton in Ashfield

Good afternoon, David

We've reviewed the information that you supplied. The planning officer's committee report comments reflect the current position. Their references to Highway widths reflect the guidance for bus service access; the appropriate dimensions should be determined in liaison with HDC.

Scenarios - We support the comments covering the potential scenarios - scenario 1 refers to Arriva which should be amended to state trentbarton. All three scenarios could apply. The withdrawal of the service along Sotheby Avenue coincided with the operator's capital investment in new vehicles on the route and related PVR, and to promote punctuality on the 'threes' routes which is commercially operated. Any enhancement of the 'threes' to revert to serving Sotheby Avenue would require the support of the operator and is likely to require an additional vehicle resource and associated cost. The Council's planning response also referred to the trentbarton [Service 90](#). In August 2023, the service was extended from Sutton-in-Ashfield to Mansfield via Oakham Business Park and West Notts College, funded by a partnership led by the County Council. Any enhancement of Service 90 is more likely to be supported by trentbarton, and likely to be a more cost-effective use of the proposed S106 contribution. The proposed turnaround area in the centre of the site is important to promote the option of bus access into the site.

To summarise, we support your assessment, subject to the above feedback. More than one scenario could be delivered as you have suggested, and this will be guided by phasing and build-out arrangements, including any development of adjacent sites. Please do not hesitate to get in touch if you have any queries.

Best regards,  
Robin

**Robin Riley**  
Development & Funding Manager | Transport and Travel Services  
Place Department | Nottinghamshire County Council

County Hall | West Bridgford | Nottingham | NG2 7QP  
Tel: 0115 9774520  
Working days: Mon, Tues, Weds (Thurs on alternate weeks)

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**From:** David Cummins <[david.cummins@ADCinfrastructure.com](mailto:david.cummins@ADCinfrastructure.com)>  
**Sent:** Monday, August 5, 2024 2:10 PM  
**To:** Robin Riley <[robin.riley@nottscc.gov.uk](mailto:robin.riley@nottscc.gov.uk)>  
**Cc:** PTDC <[PTDC@nottscc.gov.uk](mailto:PTDC@nottscc.gov.uk)>; Stella Euerby1 <[Stella.Euerby1@nottscc.gov.uk](mailto:Stella.Euerby1@nottscc.gov.uk)>  
**Subject:** bus services for V/2022/0629 Newark Road, Sutton in Ashfield

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Afternoon Robin

We have been working with Hallam Land on their development proposal at Newark Road in Sutton in Ashfield (Ashfield District Council application number V/2022/0629). The application went to planning committee last week and was deferred. One item on which further information was sought was the bus services. Hence I write to you, assuming you to be the author of NCC's consultation response (the latest being 19 February 2024). Should it be a colleague, I would be grateful if you could pass this to them. I come direct, rather than through Stella, given the time of year and because we seek a quick response in advance of the next committee meeting.

The planning officer's committee report summarises bus access from your consultation response as follows:

*"The closest existing bus stops are located Kirkby Folly Road approximately 840 metres from the centre of the site. A summary of the current services that serve the closest stop(s) are detailed below:*

*In August 2023 Trent Barton withdrew their 3's (C variant) along Searby Road/ Sotheby Avenue with a revised line of route serving the Kirkby Folly Road stops, situated more than 800 metres from the centre of the site. This exceeds the guideline walk distance. The internal roads within the proposed development would be designed to facilitate bus access (minimum 6.2m width) and provide suitable locations for bus stops within the development, should they be required in the future. The current linear spine road configuration, as submitted, appears to terminate within the site with no through access. Any through access in the future would allow for a service to be extended through the development. The current closest stops exceed the Highway Design Guidance, so any service access into the site would make the site acceptable in terms of access to sustainable transport.*

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

*The Council request that a Planning Obligation be added to state: A Bus Service contribution of £220,000 is paid to provide improvements to the local bus services to serve the site."*

Hallam Land have accepted that contribution request, and it is one of the heads of terms items for the S106 agreement that was in the committee report, along with the contribution to enhance bus stop infrastructure. Hallam Land also accept the request for new bus stop infrastructure to be installed close to/within the development through Section 38 and 278 agreements.

Given that context, we wish to go back to Ashfield District Council to explain why the accessibility of the development by bus would be appropriate.

We anticipate the following future scenarios.

[1] As bus patronage continues to recover post Covid, Arriva may decide that it becomes commercially viable again for them to run the 3's service along Searby Road, bringing the service within walking distance of the development's residents. Additional patronage and hence income from the new residents would assist the viability.

[2] Nottinghamshire County Council can use the £220,000 contribution to subsidise the 3's service, to allow it to once again run along Searby Road, bringing it within walking distance of the new residents.

[3] The development would be built with a spine road capable of taking a bus, which includes a turnaround area in the centre of the site. Hence Nottinghamshire County Council can use the £220,000 contribution to subsidise the 3's service and allow it to route into the development before coming out and returnig to its original route.

The scenario that is implemented will depend on the situation at the time. Further, as building 300 dwellings will take some years, more than one scenario could be delivered as the development is built and residents occupy, creating revenue. Whichever scenario emerges, the development would be adequately served by a bus service that was within walking distance of the development's residents.

We would be grateful if you would confirm that our understanding is correct, so that we may report back to the planning officer.

Many thanks  
**David Cummins** BEng(Hons) MSc CEng MCIHT MCILT  
Director – ADC Infrastructure Limited  
mob: 07968 021158

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