

Land at Newark Road, Sutton-in-Ashfield

PINS ref: APP/W3005/W/24/3350529

LPA ref: V/2022/0629

OPENING STATEMENT
on behalf of
ASHFIELD DISTRICT COUNCIL

1. The position of Ashfield District Council (“the Council”) as the local planning authority at this inquiry was confirmed in a letter dated 17 December 2024 sent by the Executive Director – Place¹ and confirmed again at the second case management conference on 19 December 2024. In short:
 - (a) the Council has withdrawn its putative reasons for refusal and will not contest the appeal;
 - (b) the Council will not pursue any of the main issues at the inquiry;
 - (c) the Council will not field any witnesses and will not cross-examine the Appellant’s witnesses; and
 - (d) the Council’s engagement will be limited to the discussion of the proposed conditions and planning obligations, as well as assisting in any other way the Inspector sees fit.
2. The Council’s position was informed by a revised opinion given by its previously intended planning witness. One of the withdrawn putative reasons for refusal was that the Appellant had provided insufficient information in relation to ground contamination and risks from contamination. During the preparation of proofs of evidence, the Appellant provided the Council with two additional reports relating to ground contamination, both from 2022. The Council’s previously intended witness concluded that these reports provided the information to overcome the concerns raised by the Council. This ultimately led to the planning balance being tipped in favour of the proposal following the tilted balance in paragraph 11d)ii) of the National Planning Policy Framework (2024), such that the reasons for refusal needed to be withdrawn.
3. The Council therefore focuses on the proposed conditions and planning obligations.

¹ CD16.12.

4. The draft planning conditions are set out in the signed statement of common ground with the Appellant.² These are agreed between the Appellant and the Council. In addition to these, following the receipt of the further information by the Appellant, the Council's Contaminated Land Officer has proposed a revised condition on contamination. It is understood the Appellant does not resist this but the Council would be grateful for confirmation.
5. Draft planning obligations are contained in a draft agreement made pursuant to section 106 of the Town and Country Planning Act 1990.³ The Council's justifications for the obligations are contained in its CIL Compliance Statement, which explains how the obligations satisfy the criteria in regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010.⁴ The Appellant has helpfully provided its comments on the statement in advance.⁵ Following further discussion, the only dispute remaining between the Council and the Appellant concerns the provision of off-site public open space improvements. This will be discussed in further detail at the roundtable.
6. It is understood the Appellant and Nottinghamshire County Council do not agree as to secondary education contributions and waste management contributions. The County Council will be attending the roundtable discussion to set out their position.
7. Otherwise, Ashfield District Council is ready to assist in any other way that it can.

CHARLES BISHOP
Landmark Chambers
14 January 2025

² CD9.1 p17. The rest of this statement of common ground should not be relied upon given it was signed prior to the Council's revised position.

³ CD9.4.

⁴ CD9.5.

⁵ CD9.6.