

Ashfield Local Plan Examination:

Matter 2 Statement

Document prepared by Fisher German LLP on
behalf of the Joint Executors to the Estate of the
Late Mrs Barbara Keeling



Project

Tibshelf Road, Fackley

Agent

Angela Brooks MRTPI

Fisher German LLP

Contact details

The Estates Office

Norman Court

Ashby de la Zouch

LE65 2UZ

1. Introduction

1.1 These representations are submitted by Fisher German on behalf of the Joint Executors to the Estate of the Late Mrs Barbara Keeling and relates to their land interests at of Field 3911, Tibshelf Road, Fackley, Sutton in Ashfield (Figure 1 below).



1.2 An outline planning application for the residential development of up to 9 dwellings, all matters reserved was refused on the site earlier this year (Ref: V/2023/0088) and dismissed at appeal. The application was refused predominantly on the basis of conflict with extant Policy EV2 and the site representing an unsustainable location, despite being demonstrably more sustainable than approved schemes in the vicinity and proposed Local Plan allocations.

1.3 This site formed a draft allocation in the Regulation 18 Plan (H1Sp) for around 10 dwellings, however, was removed at Regulation 19 stage.

1.4 The Regulation 19 consultation was commenced in November 2023, in accordance with the transitional arrangements of Annex 1, the applicable NPPF is the September 2023 NPPF (save for matters relating to policy on renewable and low carbon energy and heat, though we do not comment on these matters).

2. Matter 2

Issue 1

Whether the Local Plan has been positively prepared and whether it is justified, effective and consistent with national policy in relation to meeting housing needs. Relevant policies – S1, S7, H2, H2a, H3, H4, H5, H6, H7, H8

2.1 Has the calculation of Local Housing Need (LHN) (446 dwellings per annum) been undertaken correctly?

- 2.1 The NPPF (September 2023) is clear at Paragraph 61 that *“to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals”*.
- 2.2 The PPG sets out the steps required to be undertaken to calculate Local Housing Need. The PPG is clear (Paragraph: 008 Reference ID: 2a-008-20190220) that a *“local housing need calculated using the standard method may be relied upon for a period of 2 years from the time that a plan is submitted to the Planning Inspectorate for examination”*. Ashfield District Council submitted its Local Plan and supporting documents to the Secretary of State for Levelling Up, Housing and Communities for independent examination on Monday 29 April 2024, giving until the 29 April 2026 for the LHN to be utilised, assuming it was calculated correctly. If the Local Housing Need has not been calculated correctly, we are unclear as to whether this can be afforded the same protection, as if the calculation was incorrect the figure provided is not Local Housing Need.
- 2.3 Paragraph 3.62 of the submitted Local Plan confirms that the Plan is formed on the basis of the Local Housing Need for Ashfield equating to 446 dwellings per annum (dpa) as of April 2023 [note our Regulation 19 response agreed to this as the LHN, but we had not calculated LHN and assumed it will have been calculated correctly]. The underlying household projections have remained unchanged under all versions of the Standard Method (2014 household projections). The only element that changes is the requirement to use the latest available Median House Price to Median Gross Annual (where available) Residence-based Earnings by Local Authority District ratio. Using 2023 as the base date for the calculation, and using the latest available Affordability Ratio at that time, we calculate at the time LHN should have been 453 per annum, not 446 per annum. Whilst a version of the published House price to residence-based earnings ratio was amended in April 2023, it made no change to the ratio applicable (6.01 - calculation Appendix 1) to Ashfield, thus the time in April the calculation was undertaken is not material to the ratio used.

2.4 We have been unable to arrive at the Authority's figure, so are unclear on the basis for it, but our understanding is the submitted LHN was incorrectly calculated at the time. We have also undertaken a calculation of Local Housing Need in October 2024, which ironically now does result in a need of 446 per annum. However, we do not believe this figure benefits from the 2-year protection.

2.2 Has the correct median workplace-based affordability ratio been used to undertake the LHN calculation having regard to the date of submission of the Plan?

2.5 We calculate that there has been an error in calculating the LHN but cannot attribute precisely what the error has been. It is conceivable that an incorrect median workplace-based affordability ratio has been utilised, or incorrect household projection figures.

2.4 Is the plan positively prepared in light of the under-identification of homes over the full Plan period compared with the requirement under the standard method (6,825 compared to the LHN of 7,582)?

2.6 Notwithstanding the potential error in calculation of the LHN, there is no justification for delivering less than the housing requirement in Ashfield. Returning to paragraph 61 of the applicable NPPF (Sep 2023), LHN should be used to determine the minimum number of houses needed, therefore, the quantum of housing proposed to be delivered should be formulated on the basis of a number equal to, or in excess of, LHN, whatever that ultimately be confirmed to be.

2.7 Paragraph 11 is clear for Plan-making that "strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:

- I) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or
- II) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

2.8 The Council acknowledge and attempt to justify this shortfall at Paragraph 10.3 of the Background Paper 1: Spatial Strategy and Site Section (October 2023). We do not feel it is necessary to cover all points raised by the Council, however, we will respond to specific points as raised by the Council below. Prior to this however, your attention is drawn to the Erewash Core Strategy Review examination and the recently published initial conclusions of the Inspector of that Plan. For context,

Erewash is more constrained than Ashfield in respect of Green Belt, both in the quantum of Green Belt (74% of Erewash is designated Green Belt, compared with only 41% in Ashfield), but also the strategic importance of the Green Belt in Erewash when compared to that within Ashfield. The Green Belt in Erewash provides a highly important strategic role of separating Derby City and Nottingham City, which is the overriding key strategic purpose of the East Midlands Green Belt, and whilst that does not wholly downplay the importance of the Green Belt in Ashfield, it is important context in light of the below.

- 2.9 The Inspector for the Erewash Core Strategy Review in her Post Hearings Note (4 September 2024) confirmed the following.
- 2.10 Paragraph 4.4 *"irrespective of the shortcomings of the trajectory presented, for the plan period the trajectory contained in EBC 11a estimates a total supply of 6,128 dwellings. This is less than the total requirement of 6,948. Consequently, the housing requirement for the plan will not be met"* [note in Erewash the Housing Requirement is already base LHN, not a figure below LHN] [our emphasis].
- 2.11 Paragraph 4.6 states *"over the lifetime of the plan period there will be a shortfall of at least 820 dwellings, with at least 218 being needed to count towards the 5 year housing land supply. Given the marginal supply in relation to requirements it would be sensible to identify sufficient capacity to provide a reasonable amount of flexibility in addition to this"* [our emphasis].
- 2.12 Paragraph 9.1 which confirms the Inspector's key concerns includes that *"the Plan fails to identify land sufficient to meet housing needs over the plan period"* [our emphasis].
- 2.13 Despite being more significantly constrained by Green Belt, Erewash Borough Council have now essentially been instructed to go away and identify further sites for allocation to ensure the Council can meet its Local Housing Need in full in both the first 5-years from adoption, but also over the Plan period in total. Moreover, the Inspector has suggested that there should be provision made to provide a reasonable amount of flexibility above that required to meet base Local Housing Need. There is no reason why these conclusions would not be applicable to Ashfield, particularly in light of the comparison between the two authorities which reasonably confirm Ashfield is less constrained than Erewash.

- 2.14 Turning to the arguments raised by Ashfield at Paragraph 10.3 of the Background Paper 1: Spatial Strategy and Site Section (October 2023) we make the following comments:

It is consistent with the Council's spatial strategy for dispersed development focussing on sites of less than 500 dwellings within and adjacent to existing urban areas

- 2.15 A reliance on sites under 500 dwellings is not an argument for absolution of the requirements to meet housing needs in full. Additional sites of this typology can be provided to provide the minimum quantum of supply.

It supports the towns and key villages in a proportionate manner whilst minimising impact on the Green Belt:

- 2.16 The Council has proposed Green Belt release. Regardless, again this is not justification for meeting needs in full having regards for the conclusions of the Inspector in Erewash. There is non-Green Belt land available which could be allocated for development without further harm to the Green Belt.

It maximises the use of available brownfield land and utilises increased densities in the most sustainable locations:

- 2.17 Whilst a brownfield first approach is endorsed, once brownfield sites have been exhausted the Council should maximise greenfield, then Green Belt sites, until sufficient provision has been made.

It reflects the Council's response to the significant level of objections to new settlement proposals in the Regulation 18 Draft Local Plan:

- 2.18 Whilst this is noted, it is not justification for not meeting housing needs in full. When the Council opted to adopt a new spatial strategy, it should have been fully cognisant that that spatial strategy should be capable of meeting its identified development needs. Additional sites can however be provided to provide the minimum quantum of supply.

It takes account of the uncertainty of future Government approach to assessing housing need which is currently under review:

- 2.19 This is not a material consideration and there are no allowances for such justification in the NPPF and PPG. Regardless, housing needs are to increase in Ashfield, not decrease, according to the latest publications. Therefore, should consultation on amended housing need be a valid justification for amending the approach adopted, then the outcome would be the provision of more housing, not less.

It will provide a supply of specific, deliverable sites for years one to five of the plan period, and also years 6-10 of the Plan and beyond

- 2.20 As per the Inspector of the Erewash Core Strategy, full plan delivery is a key concern of the Examination and provision should be made now, not deferred to Local Plan reviews.

It reflects the District's key characteristics and constraints which are fundamental in considering the overall scale and location of new development

- 2.21 As established Ashfield is no more constrained than Erewash but this was not a factor in the consideration. There is a definitive requirement for base LHN to be met in full, with appropriate buffer.

Neighbouring local authorities have confirmed that they do not have capacity to meet any of Ashfield's housing need for this Plan period (included in Statements of Common Ground)

- 2.22 There is capacity within Ashfield to meet its housing needs in full without reliance on neighbouring authorities.

- 2.23 Ashfield's leadership were elected on the basis of withdrawal of the previous Local Plan, but it still remains fully incumbent on Ashfield to meet its development needs in full in accordance with Paragraph 11 of the NPPF. There is no rationale that would justify Ashfield not meeting its identified needs in full, and as per the Erewash examination the Council should seek to rectify this through main modifications, if this can be delivered in reasonable timescales in accordance with Mathew Pennycook's direction to the Planning Inspectorate (July 2024). If this cannot be achieved, the only recourse is withdrawal of the Local Plan.

2.5 The plan identified a shortfall in housing allocations over the full plan period but nonetheless proposes the release of a number of sites from the Green Belt. Is this approach consistent with paragraph 143(e) of the Framework which indicates that when defining Green Belt boundaries, plans should be able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period?

- 2.24 We do not believe the Council has adequately exhausted available non-Green Belt sites. Whilst these sites would be available at the end of the Plan period, they should be used now before any Green Belt is released. The Council cannot justify Green Belt release at this stage if it has not exhausted available non-Green Belt sites.

2.6 How has the SA considered the under-allocation of housing compared to the housing requirement over the full plan period?

- 2.25 The SA does not appear to have adequately considered growth below Local Housing Need as a reasonable alternative. The approach advocated by the submitted SA is predicated on delivery of base Local Housing need, not a lower figure. This means the Plan has fundamentally failed to test its proposed strategy through the SA.
- 2.26 Through the SA process, particularly the latter stages, the Council should have tested its proposed strategy against reasonable alternatives. However, in this case the Council has tested reasonable alternatives, but not the strategy proposed to be advanced. This is a critical failing and is in our opinion open to judicial challenge if endorsed as an approach. The only way to remedy this, in our view, is to increase housing delivery so it accords with the options tested through the SA, at the very least the “*Standard Methodology 446 dpa 7,582 2023-2040 Preferred Option*” as set out at Appendix E of the SA. It would not, in light of the above, and the process undertaken, be sound or legally compliant for the Council to attempt to simply undertake SA of the option now advanced, as the SA should inform the policy decision making process, not be used to retrospectively justify it and delivery of a quantum of housing below LHN is not supported by the Framework.

2.7 Do the Council’s latest Housing Delivery Test results have implications for the housing delivery and trajectory expectations in the submitted plan?

- 2.27 Yes, paragraph 74 of the NPPF affirms that “*Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period*”. It continues “*The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:*
- A) *5% to ensure choice and competition in the market for land; or*
 - B) *10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or*
 - C) *20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply*”
- 2.28 Footnote 41 of the NPPF confirms that in respect of the 20% buffer, this is engaged wherein the most recent Housing Delivery Test results “*indicates that delivery was below 85% of the housing requirement*”. The most recently available Housing Delivery Test results for Ashfield show delivery as being 74% of the requirement, therefore the 20% buffer is applicable in Ashfield. Importantly, the NPPF is clear the buffer consists of supply brought forward from later in the Plan period, but the

Council cannot demonstrate full delivery of the housing requirement over the Plan period.

Issue 2

Whether the plan will deliver an appropriate mix of housing to meet the various housing needs over the plan period and whether these are justified, effective and consistent with national policy.

2.8 How does the need for affordable housing compare to the housing requirement? Based on the thresholds and requirements in Policy H3, will affordable housing needs be met?

- 2.29 The Greater Nottingham and Ashfield Housing Needs Update (2024) sets out that Ashfield has a net Estimated Need for Social/Affordable Rented Housing of 476 dwellings per annum. This is 30 dwellings per annum more than the Council's proposed housing requirement. There is a further annual need of 103 affordable home ownership dwellings also. This is a significant increase from the HNA, which is more dated and likely doesn't reflect more recent issues of affordability associated with the obvious implications for inflation on housing affordability.
- 2.30 Irrespective of whether Ashfield had a 100% requirement for affordable housing, affordable housing needs would not be met. Whilst it is considered unreasonable in many cases to uplift the housing requirements to deliver affordable housing needs in full, this level of need indicates very strongly that the Council should be seeking to deliver a higher level of housing than that proposed in the Plan, which is currently set out to be below base Local Housing Need. The Council's tested reasonable alternative at Appendix E of the SA (Flexible Buffer - 535 dpa: 9,095 dwellings 2023-2040) would appear to be better suited to help ameliorate the significant affordable housing needs of Ashfield, not completely, but to a much better degree than the strategy advocated by the Council.

Appendix 1 – 2023 Local Housing Need Calculation

Household Projection 2023	57,043
Household Projection 2033	61,067
Household Growth	4,024
Annual Growth	402
Affordability Ratio (2022)	6.01
Adjusted Local Housing Need	453