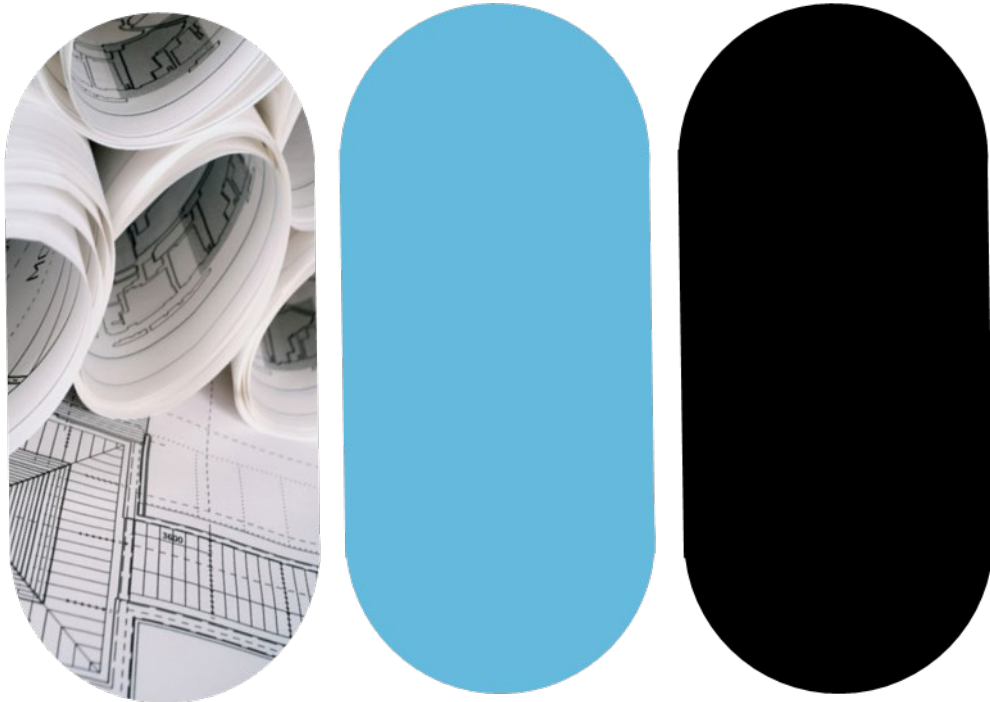




**REPRESENTATION TO THE CONSULTATION ON ADDITIONAL
HOUSING SITE ALLOCATIONS (FEBRUARY 2025)**

LAND NORTH OF FACKLEY ROAD (PHASE 2), TEVERSAL

On Behalf of Persimmon Homes Nottingham



Waterfront House, Waterfront Plaza, 35 Station Street, Nottingham
www.marrons.co.uk

1. INTRODUCTION

- 1.1 This representation is made on behalf of our client, Persimmon Homes Nottingham, in respect of their interests at Land North of Fackley Road (Phase 2), Teversal. It responds specifically to the Ashfield Local Plan 2023-2040: Consultation on Additional Housing Site Allocations.
- 1.2 The Additional Housing Site Allocations document is currently the subject of consultation and representations are invited until the Thursday 3rd April 2025.

2. ASHFIELD LOCAL PLAN 2023-2040: CONSULTATION ON ADDITIONAL HOUSING SITE ALLOCATIONS

- 2.1 The Local Plan was submitted in April 2024 with examination hearings held in November 2024 in respect of Matters 1, 2 and 3. A post hearing letter was then provided by the Inspector (INS05) which requested the Council undertake further work before hearings may continue for Matters 4 to 12. The hearings have therefore been postponed until further notice. The Council responded (ADC.09/ ADC.10) to the Inspector's letter setting out the intention to undertake immediate work in identifying further sites of less than 500 dwellings, in accordance with the submitted plan's spatial strategy.
- 2.2 As a result, Ashfield District Council is undertaking an additional public consultation under Regulation 19 to ensure the adequacy of its own housing land supply for the entire Local Plan period 2023-2040.
- 2.3 The additional housing sites were first considered at the Local Plan Development Committee on 5th February 2025 which resolved *"that the 'additional sites' option be endorsed as a suitable way forward and Cabinet be recommended to approve the sites and the public consultation exercise, as outlined in the report."* This related to 14 sites:
- H1Kl, Central Avenue, Kirkby – 16 homes
 - H1Km, Abbey Road, Kirkby – 38 homes
 - H1Kn, Southwell Lane, Kirkby – 60 homes
 - H1Ko, Former Kirkland's Care Home, Fairhaven, Kirkby – 20 homes
 - H1Kp, Pond Hole, Kirkby – 54 homes
 - H1Kq, Former Wyvern Club site, Lane End, Kirkby – 12 homes
 - H1Kr, Ellis Street, Kirkby – 24 homes
 - H1Sai, Pendean Way – 12 homes

-
- H1Saj, Between Redcliffe Street & Leyton Avenue, Sutton - 18 homes
 - H1Sak, Rookery Lane, Sutton - 78 homes
 - H1Sal, Newark Road/Coxmoor Road - 300 homes
 - H1Sam, Land north of Fackley Road (Phase 2) Teversal - 133 homes
 - H1San, Beck Lane South, Skegby - 106 homes
 - H1Sao, Radford's Farm, Dawgates Lane, Skegby – 90 homes.
- 2.4 These sites were then considered at the Council's Cabinet meeting on 17th February 2025 which resolved *"to approve the additional potential housing sites for allocation in the submitted Local Plan in order to meet the identified level of need for the entire Plan period, [...] subject to the removal of site H1Sam, Land north of Fackley Road (Phase 2) Teversal, from the list".* (emphasis added)
- 2.5 Therefore, it is these sites, minus the Land north of Fackley Road (Phase 2), Teversal, that are contained within the Consultation on Additional Housing Site Allocations document.
- 2.6 There is no detailed reasoning set out within the Cabinet Minutes to explain the removal of H1Sam, Land north of Fackley Road (Phase 2), Teversal from the additional sites for consultation. This information was requested from the Council directly with no further information forthcoming.
- 2.7 Table A1 identified 3 alternative housing sites reconsidered and reasons for non-selection which includes Land north of Fackley Road (Phase 2), Teversal (SA083) which is be considered in further detail within Section 3.
- 2.8 Critically, the Council recognise a shortfall of 882 dwellings against their housing requirement to 2040. The 13 additional sites identified within the Consultation on Additional Housing Site Allocations document total 828 dwellings, and this would represent a shortfall of 54 dwellings. However,
-

the Council has revised housing delivery from identified housing allocations which results in a over provision of 136 dwellings (as identified in paragraph 4.5). This position, an overprovision of 136 dwellings, differs from that identified in that identified at the Cabinet committee meeting at 146 dwellings inclusive of the 133 dwellings from Land north of Fackley Road (Phase 2), Teversal site (see **Appendix 1** pages 5 and 6).

- 2.9 The Additional Sites Allocations document does not include an updated table outlining the housing requirement and future supply source, as is contained within the Cabinet agenda, so there is no further reference to the 136 dwellings supply surplus elsewhere within the consultation document and therefore no clarity as to how this figure has been reached. This is particularly important given it directly conflicts with that prepared for the 17th February 2025 Cabinet meeting.
- 2.10 It is clear that the 14 additional sites considered at the Local Plan Development Committee and Cabinet Committee (inclusive of the Land north of Fackley Road (Phase 2), Teversal) had been identified for the purpose of meeting the identified shortfall in response to the questions raised through the initial examination hearings and providing a sufficient buffer to meet the tests within NPPF paragraph 35. These 14 sites would deliver a total of 961 dwellings, 133 dwellings more than the 13 sites identified, and provide the additional flexibility to ensure housing need is met.
- 2.11 Our client has consistently sought an increased buffer of 10-15% above the minimum housing requirement as being appropriate to ensure the necessary flexibility. A 2% buffer as identified within the Consultation or even the 3.5% buffer including the additional Fackley Road (Phase 2) site is not without risk of failing to meet the identified local housing need.
- 2.12 As set out, it is unclear within the Consultation document how the surplus of 136 dwellings has been identified. The updated Policy H1 table at

Appendix 1 represents an increase in housing numbers of just 593¹ dwellings, this remains short of the 882 dwellings required and is supported by no further explanation. There are particular questions as to what evidence has been used to support the amendments to the potential yield across the Policy H1 Housing Allocations. The explanatory text within the grey text box in Appendix 1 refers to “*updates to some site yields as a result of dwelling completions or re-plans*”, but there is no specific commentary to evidence why these changes have occurred. Without such evidence questions remain as to why yield figures have been revised both positively and negatively.

2.13 Appendix 1 paragraph 6.8 refers to Appendix 2 as illustrating the anticipated delivery of housing on each site over the plan period, together with a summary of small site provision. This is the unamended text from the submitted Local Plan given Appendix 2 to the Additional Housing Site Allocations consultation deals with Alternative Housing Sites not selected. An update to Appendix 2 of the Local Plan is therefore required given the proposed amendments to Policy H1. Without this update there is no certainty that sufficient housing sites have been identified to meet local need as requested by the Inspector.

2.14 Furthermore, our client has significant concerns as to the deliverability of H1Kn – Southwell Lane, Kirkby as a large proportion of the site is identified as a Local Wildlife Site (EV4wed). The Local Plan notes that EV4wed is a Local Wildlife Site (LWS) with a description of “*Interesting, neglected grasslands with a number of notable plant species*”. It is unclear how delivery could occur at the site given the relationship with the LWS and requirement for a 10% biodiversity net gain in line with Policy EV4. The site is not assessed in the SHELAA (2023) and the Brownfield Register make no reference to the LWS located on site, so there is concern as to whether the LWS was identified when considering the site for allocation. We recognise that there is a previous planning approval at the site (V/2014/0530), however this pre-dated the 10%

¹ 6382 dwellings vs 5789 dwellings

biodiversity net gain requirement and has subsequently lapsed suggesting historic deliverability concerns. It is considered that the previous approval does not provide any support to delivery at the site and the Council should not rely on the 60 units identified within the Consultation.

3. REPRESENTATIONS IN RESPECT OF LAND NORTH OF FACKLEY ROAD (PHASE 2), TEVERSAL

- 3.1 The Land north of Fackley Road (Phase 2), Teversal (the site) represents a second phase to a recently allowed planning appeal (reference APP/W3005/W/24/3345033) determined on 3rd January 2025 with the grant of planning permission for 124 number dwellings, access, attenuation basin and associated landscaping and infrastructure (application reference V/2022/0295, **Appendix 2**). The phase 1 site was also identified as an emerging allocation in the Local Plan 2023-2040 under reference H1SI.
- 3.2 The Phase 2 site constitutes two agricultural fields north of the River Meden and contained to the north by woodland. The site has been assessed as available, potentially suitable, and achievable in the SHELAA (ref.SA083). The site has a low level of flood risk and is primarily located in Flood Zone 1.
- 3.3 As set out in Section 2, the site was one of the 14 additional sites considered by the Local Plan Development Committee and Cabinet Committee on the basis of an allocation of 133 dwellings, notwithstanding our Client's view that approximately 150 dwellings could be delivered, with the Cabinet committee removing the site from the list prior to consultation.
- 3.4 Table A1 identified 3 alternative housing sites reconsidered and reasons for non-selection which includes the site (ref.SA083) with the following justification:
- "Not selected - The site extends into open countryside and encroaches into a highly valued green corridor as identified in the Teversal, Stanton Hill and Skegby Neighbourhood Plan (Policy NP4). The site remains isolated from the services and facilities at Stanton Hill Local Shopping Centre and Sutton town centre beyond."*
- 3.5 Taking these points in turn, Policy NP4 was considered by the appeal
-

Inspector in respect of the Phase 1 site with the green corridor that is particularly sensitive located south of the River Meden and south of the site itself. The Inspector noted that *“the green gap (variously referred to in the evidence as a gap or corridor) that separates Teversal village from Stanton Hill is substantial”* (paragraph 15) and the Phase 1 site (H1SI), *“is within the Teversal/ Stanton Hill green gap but outside the sensitive areas”* (paragraph 16). Overall, the Inspector considered that *“the sensitive areas identified in the Neighbourhood Plan green gap would be retained”* (paragraph 36) and *“that the development would not be harmful to the character or appearance of the area”* (paragraph 37) and in accordance with Policy NP4. The same conclusions remain true for the Phase 2 site and should be reconsidered as such.

- 3.6 Furthermore, it is illogical to consider the site is isolated from services and facilities given that the Phase 1 site, which it directly adjoins, is recognised as being in a sustainable location. The site is within walking distance of bus stops offering connections to Sutton Bus Station and Stanton Hill. Additionally, the Co-op, high Street facilities and surrounding schools are all within a walkable distance.
- 3.7 Importantly, prior to the outcome of the Cabinet meeting the site was considered suitable for allocation and it is clear that the reasons for non-selection are not able to withstand any considered interrogation. Moreover, they were not considered sufficient to not identify the site as an additional allocation prior to the Cabinet meeting and discussion.
- 3.8 Furthermore, the land is in single ownership and under control of our client, Persimmon Homes, who consider that delivery within the plan period is achievable to assist in meeting the identified housing need. Persimmon Homes are willing and able to take a flexible approach to the development of the site and would welcome further dialogue with the Council, particularly in light of the site being identified as an additional housing allocation and then changed to an alternative site.
- 3.9 There are no barriers to suggest that the site cannot come forward for development and as a result it should be considered suitable, available
-

and achievable and capable of contributing towards the delivery of homes in the short and medium term subject to the grant of a future planning permission.

3.10 As a result of the uncertainty around housing numbers and the significant lack of flexibility provided through a questionable 2% buffer, the site should be re-considered and re-identified as an additional housing site allocation within the Local Plan 2023-2040.

3.11 The site is located within a wholly sustainable location and there is clear evidence of deliverability given the site is in the control of an established house building with a positive track record and recent planning approval at the adjoining Phase 1 site.

The Sustainability Appraisal Addendum

3.12 The site has been assessed within the Sustainability Appraisal (SA) Addendum Appendix C as part of the updated appraisal of site alternatives. The Site (SA083) was considered a 'Reasonable Alternative' within the Regulation 19 SA with the updated justification in line with that contained at Table A1 of the Additional Site Allocation consultation document and set out in paragraph 3.4.

3.13 However, when the SA Objectives are considered in comparison to those of the additional housing allocations, as detailed at Table 3-2 of the SA Addendum, the Site scored better than several of the proposed additional allocations including H1Sam – Beck Lane South, Skegby and H1San – Radford's Farm, Dawgates Lane, Skegby.

Table 1: SA Addendum Extracts

Site Address	Proposed Allocation Reference	1. Housing	2. Health	3. Historic Environment	4. Community Safety	5. Social Inclusion Deprivation	6. Biodiversity & Green Infrastructure	7. Landscape	8. Natural Resources	9. Air & noise pollution	10. Water Quality	11. Waste	12. Climate Change and Flood Risk	13. Climate Change and Energy	14. Travel and accessibility	15. Employment	16. Economy	17. Town Centres
Land off Fackley Road (Phase 2), Teversal		++	+	0	0	++	-	-	-	-	0	0	-	0	+	+	+	+
Beck Lane South, Skegby	H1Sam	++	+	0	0	++	-	--	--	-	0	0	-	0	+	+	+	+
Radford's Farm, Dawgates Lane, Skegby	H1San	++	+	-	0	++	-	-	--	-	0	0	0	0	++	+	+	+

3.14 As is clear within Table 1, the SA Addendum demonstrates that the Fackley Road (Phase 2) site scores better against objectives 7 (landscape) and 8 (natural resources) than H1Sam. It also scores better than H1San in respect of objectives 3 (historic environment) and 8 (natural resources). This adds further weight to the position that the site is acceptable from a landscape perspective, in contrast to that set out within Table A1 and the site's reasons for non-selection, and in fact represents more positive effects than a number of sites that have been taken forward.

3.15 There is no rational to support the Council's approach of ignoring this information which clearly supported their original conclusion that the site represented a suitable site for allocation. The re-identification of the site as an additional allocation is the only logical conclusion.

4. CONCLUSION

- 4.1 In response to the Inspector's post hearing letter (INS05) which requested the Council undertake further work before hearings may continue for Matters 4 to 12 the Council is undertaking an additional public consultation to ensure the adequacy of its own housing land supply for the entire Local Plan period 2023-2040.
- 4.2 14 additional housing sites were first considered at the Local Plan Development Committee on 5th February 2025. These sites were then considered at the Council's Cabinet meeting on 17th February 2025 which resolved *"to approve the additional potential housing sites for allocation in the submitted Local Plan in order to meet the identified level of need for the entire Plan period, [...] subject to the removal of site H1Sam, Land north of Fackley Road (Phase 2) Teversal, from the list"* (emphasis added). These 13 sites are identified within the Consultation on Additional Housing Site Allocations document.
- 4.3 There is no detailed reasoning set out within the Cabinet Minutes to explain the removal of H1Sam, Land north of Fackley Road (Phase 2), Teversal from the additional sites for consultation.
- 4.4 The Council recognise a shortfall of 882 dwellings against their housing requirement to 2040. The 13 additional sites identified within the Consultation on Additional Housing Site Allocations document total just 828 dwellings. However, the Council has revised housing delivery from identified housing allocations which results in an over provision of 136 dwellings (as identified in paragraph 4.5). This position differs from that identified in that identified at the Cabinet committee meeting at 146 dwellings inclusive of the 133 dwellings from Land north of Fackley Road (Phase 2), Teversal site.
- 4.5 The Additional Sites Allocations document does not include an updated table outlining the housing requirement and future supply source, as is contained within the Cabinet agenda, so there is no further reference to the 136 dwellings supply surplus elsewhere within the consultation
-

document and therefore no clarity as to how this figure has been reached. This is particularly important given it directly conflicts with that prepared for the 17th February 2025 Cabinet meeting.

- 4.6 Our client has consistently sought an increased buffer of 10-15% above the minimum housing requirement as being appropriate to ensure the necessary flexibility. A 2% buffer as identified within the Consultation or even the 3.5% buffer including the additional Fackley Road (Phase 2) site is not without risk of failing to meet the identified local housing need.
- 4.7 The reason for non-selection of the site, as set out within Table A1 of the consultation document, are not able to withstand any considered interrogation. They directly conflict with the Inspector's recent conclusions in their determination of the Phase 1 appeal (ref: 3345033). The site is sustainably located and outside of the identified sensitive areas of the Teversal/ Stanton Hill green gap. Moreover, the reasons for non-selection themselves were not considered sufficient to justify not allocating the site prior to the recommendations of the Cabinet meeting.
- 4.8 Furthermore, when the SA Objectives are considered in comparison to those of the additional housing allocations the Site scored better than several of the proposed additional allocations including H1Sam – Beck Lane South, Skegby and H1San – Radford's Farm, Dawgates Lane, Skegby. There is no rational to support the Council's approach of ignoring this information which clearly supported their original conclusion that the site represented a suitable site for allocation.
- 4.9 It is clear that the site should be re-considered and re-identified as an additional housing site allocation within the Local Plan 2023-2040, particularly in light of the uncertainty around over provision and minimal supply buffer.

Appendix 1 – 17th February 2025 Cabinet Report

Report To:	CABINET
Date:	17TH FEBRUARY 2025
Heading:	ASHFIELD LOCAL PLAN 2023 TO 2040: ADDITIONAL SITES AND PUBLIC CONSULTATION
Executive Lead Member:	CLLR MATTHEW RELF
Ward/s:	ALL WARDS
Key Decision:	NOT APPLICABLE
Subject to Call-In:	NO

Purpose of Report

To report and respond to the Ashfield Local Plan 2023 – 2040 Inspectors' interim findings letter [Inspectors' initial findings](#) as received by the Council on 6th January 2025.

To consider the recommendations of the Local Plan Development Committee (LPDC) meeting of 5th February 2025 and consider additional potential housing sites for allocation in the Local Plan to address housing supply for the entire Plan period.

To authorise the undertaking of a 6-week public consultation on the allocation of additional potential housing sites as agreed.

Recommendation(s)

Cabinet resolves to:

- a) Consider the options for the submitted Local Plan moving forwards and endorse the recommendation of the Local Plan Development Committee.**
- b) Approve additional potential housing sites for allocation in the submitted Local Plan in order to meet the identified level of need for the entire Plan period and commend it to Council for approval for the purposes of public consultation and submission to the Secretary of State for Housing, Communities and Local Government in accordance with provisions of the Town and Country Planning (Local Planning) (England) Regulations 2012, as amended and the Planning and Compulsory Purchase Act 2004;**
- c) Authorise the updating of relevant policy, supporting text and other documents to reflect the inclusion of potential housing additional sites;**
- d) Authorise the Assistant Director of Planning to make amendments pre consultation to reflect up to date information on existing proposed site allocations;**
- e) Recommend to Council approval of proposals for a 6-week public consultation on additional potential housing sites;**
- f) Authorise the Executive Director of Place in consultation with the Executive Lead for Growth, Regeneration and Local Planning to agree minor amendments to policy, supporting text and other relevant documents accordingly, post consultation, prior to submission to the Inspectors and during the examination if required.**

Reasons for Recommendation(s)

To address concerns raised by the Inspectors subsequent to the Ashfield Local Plan 2023-2040 initial hearing sessions which took place in November 2024 and to enable the progression of the Examination to deliver a 'sound' Local Plan.

Alternative Options Considered

1. To not consider and recommend additional housing sites for allocation in line with the existing agreed spatial strategy. The Inspectors consider that Main modifications will be required to address the supply of housing and make the Plan effective.
2. To undertake a new 'call for sites' in order to assess the potential of any new available sites not previously submitted to the Strategic Housing and Economic Land Availability Assessment (SHELAA). Whilst the SHELAA is a 'live' document and new sites can be submitted to the Council at any point in time, a new 'call' could yield new sites. This exercise would typically involve a period of 3 to 6 weeks for submission of new sites, followed by assessment of

constraints and consultation with relevant bodies and subsequent consideration by Council Members. A key risk to this approach is that the Planning Inspectorate could determine that the pause in the Local Plan Examination is unacceptably extended (to more than 6 months), and that a new Local Plan should instead be delivered under the new NPPF 2024 (as in point 4 below).

3. To consider progressing with a new Spatial Strategy which does not limit the scale of site allocations to less than 500 dwellings. This could include the re-introduction of the 2 new settlements of Cauldwell Road and Whyburn Farm (previously consulted on at Regulation 18 stage), or the consideration of other sustainable urban extensions. This would provide an opportunity to consider large scale sites previously excluded under the agreed strategic approach and could potentially provide for a moderate 'buffer' to help future proof the Local Plan and reduce the need for future green belt release. This option would present a significant change to Member's preferred strategy for growth and may entail significant changes throughout the Local Plan, sustainability appraisal and supporting documents which could risk delaying the Plan Process further. This work would not be able to be completed within the Inspectors' six-month timeframe.
4. To withdraw the submitted Local Plan from Examination and embark on a new style Local Plan under the December 2024 National Planning Policy Framework (NPPF). This would involve planning for higher housing targets (currently 535 dwellings per annum as opposed to 446 dwellings per annum). This approach is not recommended as it is important for the Council to direct development to plan positively for our residents. The key risks associated with this approach will be a continued vulnerability to unplanned development due to a lack of housing land supply, significant additional cost with the potential of intervention. There would also be a reliance on other outdated local planning policy which could jeopardise successful sustainable development, for instance, affordable housing and other developer contributions.

Detailed Information

The Ashfield Local Plan 2023-2040 was submitted to the Secretary of State for Examination in April 2024. Initial hearing sessions were held for Matters 1-3 held on 12-14 November 2024.

A letter detailing the [Inspectors' initial findings](#) (INS 05) was received by the Council on 6th January 2025 (dated 3rd December 2024), with a deadline of 10th January 2025 by which the Council had to provide a [response](#) (ADC.09). Both letters and a timetable (ADC.10) are published on the Local Plan examination website here: [Ashfield Local Plan Examination latest news](#)

Summary of Inspectors' initial findings letter

The letter sets out the Inspectors' decision to postpone the January hearing sessions for Matters 4 - 12 and schedule in further hearing sessions at a suitable time once the Council has addressed the matters raised, given the importance of establishing a sound spatial strategy to set the context for the rest of the examination.

Key concerns raised were:

- The appropriateness of the Plan's Spatial Strategy and the role that the Sustainability Appraisal (SA) played in determining that strategy. Concerns centre upon the effectiveness and soundness of this strategy as the Council is currently unable to identify sufficient homes to meet the housing

requirement in the submitted plan, with a shortfall of 882 homes to 2040. This shortfall exists before examination of the soundness of sites in the Plan, or the robustness of the Council's housing trajectory.

- The justification for the release of Green Belt land. The NPPF sets out the Government's expectations on the exceptional circumstances that must exist before altering the Green Belt boundary. The Framework expects that before concluding that exceptional circumstances exist to justify changes to the Green Belt boundary, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for housing development. By focussing on sites of fewer than 500 dwellings, there may be other potential sites of over 500 dwellings which may result in the Council not needing to release land from the Green Belt. It appears from the representations that such sites may exist. Therefore, there is currently insufficient evidence to justify that exceptional circumstances exist to remove land from the Green Belt at the strategic level.
- Significant concerns that even if it was concluded exceptional circumstances exist to alter the Green Belt boundary based on the submitted plan, the current shortfall in housing would likely result in the need for further alterations to the Green Belt before the end of the plan period. The Framework seeks to avoid this scenario.

On the basis of the above, the Inspectors ask:

1. Whether the Council can identify any further sites for allocation in accordance with the submitted plan's spatial strategy to meet housing needs? If not, could any sites of greater than 500 dwellings be identified for allocation whilst maintaining the dispersed approach?
2. If further sites cannot be identified, then how could the Plan and its spatial strategy be modified to make it effective, justified and sound in seeking to meet housing needs in full over the plan period.

Attention is also drawn to the letter from the Housing Minister, Matthew Pennycook to the Planning Inspectorate dated 30 July 2024 [Housing Minister Letter 30 July 2024](#) which sets out the Government's expectations on the pragmatism that Inspectors should apply when pauses to Local Plan examinations may be required. Pragmatism should not be used to address fundamental issues with the soundness of a plan, which would be likely to require pausing or delaying the examination process for more than six months overall. Any extensions to the six-month pause (and therefore more time for additional work) should only be allowed at the Inspectors' discretion to deliver adopted local plans under the current system.

Council's response and next steps

The Council responded to the Inspectors' letter [ADC.09](#) setting out the intention to undertake immediate work in identifying further sites of less than 500 dwellings, in accordance with the submitted plan's spatial strategy. At this time, it is not considered necessary to have a 'call for sites' nor to modify the Plan and its spatial strategy, but this will be kept under review. A [timetable](#) for the additional work has been provided (ADC.10) to the Inspectors.

Attention was drawn to the extremely tight 4-day response period and the limited time to engage with Councillors for any formal decisions to be taken. As such, the Council reserved the right to change its approach subject to the outcome of future Council meetings.

Local Plan Development Committee (LPDC) meeting of 5th February 2025

Members were asked to consider various options to address the Inspectors' concerns and recommend to Cabinet a way forward. Those considered were as identified in the 'Alternative Options considered' section above.

LPDC Members recommended that Cabinet:

- Consider the options and endorse the 'additional sites' option as per the recommendation.

Potential additional housing sites

Officers have examined the potential for new housing site allocations for consideration. These have been drawn from:

- New permitted sites;
- Sites with a resolution to grant permission subject to signing a s106 agreement;
- Sites previously not selected from the Strategic Housing and Economic Land Assessment (SHELAA), including consideration of any new sites submitted to this process since the submitted Local Plan was finalised;
- Ashfield District Council and partnership pipeline projects.

Several sites have been identified as having potential to deliver additional housing which conform with the current Spatial Strategy as set out in Policy S1 of the submitted Local Plan. New Green Belt SHELAA sites have not been considered, reflecting the concerns of the Inspector's interim findings. The one exception is a planning application site at Abbey Road, Kirkby. Details of all new additional housing sites and location plans are included in Appendices 1a and 1b to this report.

The Inspector's interim findings referred to the overall supply of housing in the submitted Local Plan 2023-2040. This identified a shortfall of 882 dwellings against an identified need figure of 7582 dwellings overall and was based on the most up to date housing monitoring data (April 2023) alongside new proposed sites at the point of submission.

Housing monitoring is undertaken annually, with a base date of 1st April each year. As such, the most recent information is dated April 2024 and includes any completions, changes to yield, or new permissions since April 2023.

The housing allocations have subsequently been revised accordingly to give a more accurate position in respect of housing supply. This also includes any changes to yields on non-permissioned sites where additional information has been received by the Council, e.g., Sunnybank Farm masterplan illustrates a higher capacity than initially assessed. If the new sites proposed in Appendix 1 are also included, this will give a small over provision of 146 dwellings, or the equivalent of 2% - see table below.

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

It should be noted that the Council submitted a Housing Land Position Statement (ADC. 04) to the Local Plan examination using the updated April 2024 housing monitoring data. In addition to this, a revised small site windfall allowance was introduced. This was also based on more recent data and raised the annual figure from 60 to 91 dwellings per annum accordingly. It also asserted that there was a reasonable case to apply this allowance for the Plan period after year 3, as opposed to beyond year 5 as originally included.

If the new approach to small site windfalls is accepted by the Inspectors, the total over provision would raise to 669 dwellings, or 9.4%, giving a reasonable buffer to allow for choice of site or any non-implementation.

Proposed deletion of housing site allocation

It is recommended that the site allocation H1Vd adj.149 Stoney Lane is deleted from Policy H1 Housing Site Allocations. The justification is that the potential yield is lower than that normally considered for local plan allocation at 6 dwellings only – all other site allocations have a total yield of 10 dwellings or greater, i.e. 'major' development as defined in the NPPF. A minor amendment to rationalise the Green Belt boundary in this area is included within the Local Plan 2023-2040 which locates this site within the proposed Named Settlement boundary. A development proposal for housing could therefore be effectively delivered via the planning application process.

Sustainability Appraisal

The Sustainability Assessment (SA) is a means of ensuring that the likely social, economic and environmental effects of the Local Plan are identified, described and appraised. Section 19 of the Planning and Compulsory Purchase Act 2004 requires a local planning authority to carry out a sustainability appraisal of each of the proposals in a plan during its preparation.

A short technical note which identifies the scoring for the additional proposed housing sites has been provided by the consultants who undertook the Local Plan Sustainability Appraisal (SA). This is included in Appendix 2.

Habitats regulation assessment (HRA)

The HRA screens the Draft Local Plan development proposals to determine whether they would have a likely significant effect on habitat sites.

A short addendum has been provided by the consultants which undertook the HRA. This concludes that the addition of new sites proposed will not affect the conclusions of the HRA as submitted to the Local Plan Examination and is included in Appendix 3.

Revised Local Plan

Amendments are proposed to the following elements of the submitted Local Plan to reflect the new additional housing site allocations, and also an updated position in respect of existing proposed allocations.

- **Policy H1** – Updated list of Housing allocations, dwelling numbers and supporting text
- **Policies Maps** – Update of Policy Map only

These are included as Appendices 4 and 5 to this report.

Equalities Impact Assessment (EIA)

The purpose of this report is to enable a transparent decision-making process. It informs public consultation and assesses the policies within the Local Plan to ensure that they do not discriminate against particular people or groups.

Amendments are proposed to the Equalities Impact Assessment and are included at Appendix 6 to this report.

Public consultation on potential new housing sites

Under the Town and Country Planning (Local Planning) (England) Regulations 2012, as amended, the Council is required to carry out a minimum six-week period of public consultation on the potential new housing site allocations, as detailed in this report.

It is intended the period of consultation takes place as soon as possible after the Cabinet decision is ratified by Full Council on the 17th February 2025, in line with the provisions of the Council's Statement of Community Involvement [SCI](#) [Examination Ref. SD/06]. The Council will consult all

organisations and persons on the Council's Local Plan database, including the specific and general consultation bodies as set out in the SCI.

Whilst the Council will be compiling a summary of the representations received, it will not be responding to them or defending its Local Plan via public meetings. At this stage, it is the role of the public Examination to undertake this process, with the appointed Inspectors considering views and comments from different parties. If desired, respondents can request to speak at the public hearing sessions during the examination. However, this would be a matter for the Inspector to consider.

The Council will make a copy of each of the consultation documents available for public inspection and comment. The consultation documents will include the amended/updated:

- Ashfield Local Plan Policy H1 – Updated list of Housing allocations, dwelling numbers and supporting text
- New proposed housing site location plans
- Policies Maps (North)
- Sustainability Appraisal (SA) technical note
- Habitats Regulations Assessment (HRA) addendum
- Representation Forms and Guidance Notes.

The minimum requirements are for the consultation documents to be made available for inspection at the local Planning authority's principal office and at such other places within their area as the local planning authority consider appropriate, during normal office hours, and published on the local planning authority's website.

In undertaking the public consultation, the Council will use the following methods to inform people of the consultation:

- Make all relevant consultation documents available for inspection at the Council Offices, subject to the agreement of Inspire, all four major libraries throughout the District (Hucknall, Selston, Kirkby and Sutton) and Selston Parish Hall, for the duration of the consultation period.
- Publish all relevant consultation documents on the Council's website.
- Utilise an online consultation tool, allowing the public to comment on an interactive version of the document. Paper copies will be available.
- Make full use of the Council's social media platforms.
- Send letters or emails informing those individuals, companies and groups registered on the Local Plan Consultation Database of public consultation.
- Make full use of the local media.

Implications

Corporate Plan:

Planning, and the Local Plan has a cross-cutting role to play in helping to meet and deliver the priorities identified in the Corporate Plan. In particular, the Local Plan has a key responsibility in delivering the outcomes around the supply of appropriate and affordable homes, improving town centres, facilitating economic growth especially around transport hubs, and improving parks and green spaces.

Legal:

The Planning and Compulsory Purchase Act 2004 (as amended) requires Local Planning Authorities to prepare Local Plans. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) sets out the procedures to be followed in the preparation of such Plans and the consultation requirements that must be followed. The Sustainability Appraisal incorporates the Environmental Assessment of Plans and Programmes Regulations 2004 (commonly referred to as the 'Strategic Environmental Assessment Regulations'). The evidence base includes a Habitat Regulations Assessment reflecting the requirements of the Conservation of Habitats and Species Regulations 2017. [RLD 06/02/2025]

Finance:

The Local Plan has a dedicated budget with sufficient funds to cover the anticipated costs of undertaking the consultation and the examination in public.

Budget Area	Implication
General Fund – Revenue Budget	The cost of the Local Plan and the Examination in Public is funded from the budget allocated for the Local Plan.
General Fund – Capital Programme	None.
Housing Revenue Account – Revenue Budget	None.
Housing Revenue Account – Capital Programme	None.

Risk:

Risk	Mitigation
The Planning Inspectors have paused the Local Plan hearing sessions as they consider that the plan as drafted does not allocate sufficient sites to meet identified housing needs for the entire Plan period of 2023-2040, and that revised green belt boundaries may consequently require further changes before the end of the plan period.	Propose additional housing sites to meet the identified need for the entire plan period which conform with the agreed spatial strategy.

Human Resources:

There are no direct HR implications contained within this report.

Environmental/Sustainability:

The Local Plan's Vision, Objectives and Policies support the Council's aims of environmental sustainability, including addressing sustainable development, health & well-being, economic growth climate change and flood risk. A Health Impact Assessment of the Local Plan has been undertaken. This assessment concludes the implementation of the Local Plan will help enhance health and well-being across the District. A Sustainability Appraisal has been produced for the Local Plan.

Equalities:

An Equality Impact Assessment has been undertaken which has not highlighted any equality or diversity issues with the Local Plan

Other Implications:

None

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

None

Background Papers

Appendix 1a – List of additional proposed housing sites

Appendix 1b – New proposed housing site location plans

Appendix 2 – Sustainable Appraisal technical note

Appendix 3 – Habitat Regulations Assessment addendum

Appendix 4 –Local Plan H1 policy - Updated list of Housing allocations, dwelling numbers and supporting text

Appendix 5 – Updated policies map (North)

Appendix 6 - Equalities Impact Assessment

Report Author and Contact Officer

Lisa Furness

Planning Policy Officer

lisa.furness@ashfield.gov.uk

01623 457382

Melanie Wheelwright

Forward Planning & Economic Growth Team Manager

melanie.wheelwright@ashfield.gov.uk

01623 457379

Christine Sarris

Assistant Director Planning

christine.sarris@ashfield.gov.uk

01623 457375

Sponsoring Executive Director

John Bennett
Executive Director – Place
01623 457230
John.Bennett@ashfield.gov.uk

**Appendix 2 – APP/W3005/W/24/3345033: Land north of Fackley Road,
Teversal Appeal Decision**



Appeal Decision

Hearing held on 10 December 2024

Site visit made on 11 December 2024

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd of January 2025

Appeal Ref: APP/W3005/W/24/3345033

Land north of Fackley Road, Teversal, Sutton in Ashfield NG17 3HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Persimmon Homes Nottingham and Nouveau Homes and Land Limited and Locheil Homes & Developments Limited against the decision of Ashfield District Council.
 - The application Ref is V/2022/0295.
 - The development proposed is 124no. dwellings, access, attenuation basin and associated landscaping and infrastructure.
-

Decision

1. The appeal is allowed, and planning permission is granted for 124no. dwellings, access, attenuation basin and associated landscaping and infrastructure at land north of Fackley Road, Teversal, Sutton in Ashfield NG17 3HN in accordance with the terms of the application ref V/2022/0295 subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Persimmon Homes Nottingham and Nouveau Homes and Land Limited and Locheil Homes & Developments Limited against Ashfield District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellants submitted an amended plan as part of the appeal. However, given my conclusions on the sequential test set out in this decision it has not been necessary to accept this amendment and I have considered the appeal based on the original application site area.
4. A completed unilateral undertaking has been provided, the draft details of which were discussed at the Hearing. There are two versions of the undertaking, one referencing the proposed amended plan and one referencing the original application site area. I have not accepted the amended plan for the reasons set out elsewhere. For the avoidance of doubt, unilateral undertaking version A is relevant to my decision. Version B has no further effect. I return to the undertaking below.
5. The issues of prematurity, highways safety and possible anti-social behaviour referred to in reason for refusal 2 are no longer in dispute between the Council

and the appellants. Where relevant to interested parties comments I have addressed these issues in the other matters section of this decision.

Main Issues

6. The main issues are the effect of the development on:

- the character and appearance of the area;
- flood risk and surface water drainage, and;
- whether a financial contribution should be provided for broadband and public realm improvements.

Reasons

Planning policy context

7. The development plan includes the saved policies of the Ashfield Local Plan review adopted in 2002 (Local Plan) and the Teversal, Stanton Hill and Skegby Neighbourhood Plan (Neighbourhood Plan) adopted 2016. The adopted Local Plan identified housing land requirements for the period up to 2011.
8. The appeal site comprises farmland on the east side of Fackley Road, Fackley. Stanton Hill is to the south of the site. For policy purposes the appeal site is within the countryside. In such locations saved Policy ST4 of the Local Plan only supports development in accordance with saved Policy EV2. The criteria in saved Policy EV2 sets out that only a limited range of developments are appropriate. None of these criteria are relevant here.
9. The appeal site is allocated for residential development to accommodate up to 124 dwellings in the emerging Ashfield Local Plan 2023 to 2040. The emerging plan is currently being examined. There is no certainty that the emerging plan in its current form would be adopted. Therefore, I can only attribute limited weight to its policies.
10. Nevertheless, the Council does not have a 5-year supply of deliverable housing sites against the local housing need and the Council does not object to the principle of the development. The Council acknowledges that paragraph 11d) of the National Planning Policy Framework (the Framework) applies by virtue of footnote 8. I return to the matter of housing land supply below.

Character and appearance

11. The appeal site is approximately 5.62 Ha of land comprising two medium scale gently sloping arable and pasture fields situated in the Meden Valley between the wooded area adjacent to the Teversal Trail and the River Meden. A short section of the appeal site has a frontage to Fackley Road where the site boundary is defined by hedging. Broadly to the west the land extends up to the boundary with existing residential properties and recreational uses with open agricultural land to the east.
12. Together Policies ST1, ST4, and EV2 of the Local Plan require that development be located and designed so as not to adversely affect the character of the countryside. Neighbourhood Plan Policy NP4 requires the protection of landscape character. Similarly, the Framework recognises the intrinsic character and beauty of the countryside and seeks to ensure that

developments are sympathetic to local character and history including the surrounding built environment and landscape setting.

13. At the broadest scale, the appeal site lies within Natural England's National Character Area (NCA) 30. The NCA characteristics include river valleys, woodlands combining with open arable land and localised industrial influences.
14. At a more local level the site is identified in the Greater Nottingham Landscape Strategy 2009 (Nottingham Landscape Strategy) as being within Policy Zone NC08, a shallow valley associated with the River Meden with arable, pasture farmland and pockets of woodland. The character area is mostly rural in the north but extends to urban fringes in the southern part. Characteristic features include linear woodland following watercourses and disused railway lines, and varied field sizes tending to follow the shape of the landform. The landscape condition is identified as moderate, although increasing urban influences weaken the character of the south of the area.
15. The designated area of the Neighbourhood Plan includes the appeal site. The associated design guide does not analyse all green spaces in the plan area but identifies two gaps which are faced with development pressures. The green gap (variously referred to in the evidence as a gap or corridor) that separates Teversal village from Stanton Hill is substantial, extending from the edge of Teversal village and open land beyond Pleasley Road broadly to the north, to the treed area behind properties facing Barker Avenue to the south.
16. Maps in the Neighbourhood Plan identify the extent of the green gap with two areas considered to be particularly sensitive to change adjacent to Pleasley Road and the valley side behind Barker Avenue. Apart from a section of the frontage to Fackley Road, the appeal site is within the Teversal/ Stanton Hill green gap but outside the sensitive areas.
17. Most of the appeal site is farmland. It does not have any statutory landscape designation. Landscape features include field hedgerows, trees next to the River Meden and hedging and vegetation adjacent to Fackley Road. The landscape condition of the land is moderate. The eastern side of the site is more rural and tranquil because of the agricultural fields beyond the site boundary and woodland to the north. The land benefits from some scenic quality, although this is diminished by the proximity to existing development. There is no public access to the land, preventing any recreational value.
18. Nevertheless, as an area of farmland next to the River Meden and adjacent to the Teversal Trail with its wooded edges, the appeal site is representative of some of the key characteristics of the NCA, the Nottingham Landscape Strategy, and the character identified in the Neighbourhood Plan. The appeal site has medium landscape value.
19. The Nottingham Landscape Strategy identifies that views within the River Meden Valley are typically restricted over short distances with long views possible along the valley on higher ground. The sloping sides of the valley and enclosed nature of views are strong characterising features. Consistent with this character, views of the appeal site are at close range from residential properties, from adjacent roads and footpaths and recreation facilities. No significant views of the site occur from the Teversal Trail because of established belts of woodland and localised embankments. Similarly, there are no notable views from Teversal or its conservation area.

20. Elevated open views of the appeal site do occur from the public footpath between Barker Avenue and Fackley Road. Nevertheless, such views are experienced in the context of the existing residential development and recreation uses and with the buildings and structures associated with the golf driving range in the foreground. Any long distant views of the appeal site available from properties at the edge of Stanton Hill are filtered by established woodland. Overall, the visibility of the site in its setting is compatible with the wider river valley character.
21. The Neighbourhood Plan acknowledges some sites in the open countryside that adjoin existing development boundaries will be allocated, but impact on landscape character should be minimised. The Neighbourhood Plan design guide seeks to ensure that infill development within the Teversal and Stanton Hill green gap does not damage the rural feel of the trails that pass through it or reduce the distinct separation of Teversal from the more built-up areas to the south.
22. In this context Policy NP4, in seeking to protect landscape character, requires demonstration that landscaping, and boundary treatment reflect and where possible enhance existing landscape character. It also seeks to ensure that connections with and to the surrounding countryside is maintained and public views into and out of development to identified landscape features are provided.
23. The Council accepts the site is allocated and anticipates the site being developed. Their concern as articulated in the reason for refusal is the visual impact of the development on green fields, encroachment of the development into open countryside and reducing the green gap. Within the Council's statement and as explained at the Hearing the concern is that the development does not provide sufficient buffer between the built development and the river Meden and greenery would be squeezed to a bare minimum so that it significantly reduces the gap between Fackley and Stanton Hill.
24. It is difficult to envisage a circumstance where housing development on greenfield land would not cause some landscape and visual effect. However, the extent of such effects and whether they can be successfully mitigated in the longer term would depend on the site in question and the development being proposed.
25. The existing dwellings in the immediate appeal site circumstances are predominantly 2 storeys with examples of bungalows arranged around Copywood Close. The approach to the development with main access from Fackley Road and dwellings set on regular plots with similar building lines and materials would be compatible with the adjacent streets. The relatively narrow frontage to Fackley Road results in the appeal scheme being designed with a single dwelling and estate road adjacent to the frontage but this arrangement would allow space for planting next to the river consistent with the mature river edge character and would limit the visibility of the site when approaching from Stanton Hill.
26. The proposal would result in fields being urbanised, however, from Fackley Road the development would appear as a logical extension of the existing development. The route of the access road through the site would draw the eye towards the woodland adjacent to the Teversal Trail and these trees would

form the backdrop to the development in glimpses of it when travelling along Fackley Road.

27. From the public footpath adjacent to Crompton Street the development would be seen against the existing development and would extend to clearly defined boundaries. The proposed dwellings would mostly be of a similar scale to the surroundings. Vegetation cover and trees along and adjacent to the site would be supplemented by boundary planting and planting within the site would provide a strong landscape framework for the development. Conditions would secure the necessary planting with landscape designs based on the scheme proposals submitted as part of the application.
28. Although the erection of 124 dwellings and associated infrastructure would result in encroachment into open countryside, the visual effects of this would be localised and limited. Landscaping proposals would build on existing landscape structure and over time the development would fully assimilate into its surroundings.
29. At the Hearing, the Council raised concerns about rear elevations of dwellings and fencing facing the River Meden. However, many properties on the south side have been designed to face the river and the scheme indicates significant additional planting. In addition, much of the section of the site between the rear of properties facing Crompton Street and the river is outside the green gap and would not lead to its reduction. Within the green gap dwellings are set back significantly from the river because of the siting of the attenuation feature and the extent of planting proposed. There would be ample space retained adjacent to the river to the south side within the green gap.
30. The urban design statement clarifies that the development has been designed so that the primary tree lined street extends up to the eastern extent of the development, from which secondary and minor category streets are arranged. There is a transition to lower category street hierarchies towards the green edges of the development to manage the transition from built form to rural edge.
31. New footpaths would be accommodated on the north side along a green lane connecting the existing footpath adjacent to Crompton Street to the surrounding countryside and the Teversal Trail. The landscape details demonstrate that the development would reflect and enhance the existing landscape character and that connections with surrounding countryside would be enhanced and maintained.
32. Furthermore, the site is located within a low-lying part of the green gap that is already influenced by a range of existing developments. The scheme would be bordered by existing housing and established vegetation cover, inside and beyond the site within the wider green gap.
33. Teversal village is situated north of the site. Recreation facilities, the Teversal trail and significant tree cover visually and physically separate the village from the appeal site. The proposed development would not affect the setting of Teversal including the conservation area.
34. Although the development would be visible from the elevated footpath between Barker Avenue and Fackley Road the level of containment provided by existing features around the appeal site would limit the effects of the development in

these views. Furthermore, when viewed from the footpath, the sense of openness of the green gap would be maintained because the open fields to the east would be retained, as would the less developed recreation spaces to the north. In addition, the open space within the development would connect to the wooded area along the River Meden and the steeply rising land to the south, where a large swathe of less intensively used land would remain.

35. Acknowledging the Neighbourhood Plan's analysis that green connections are important wildlife corridors and provide space for biodiversity and ecology to thrive, the proposals would provide enhanced planting to the eastern boundary hedge and along the retained internal field hedge line. The retained boundary hedging and planting would provide a route for wildlife and biodiversity through the site, connecting to the Teversal Trail woodland and other vegetation on the site's north side.
36. Overall, the sensitive areas identified in the Neighbourhood Plan green gap would be retained. The appeal scheme has regard to the rural edges of the site and the landscape character of the area would not be detrimentally eroded. Furthermore, because of the proposed building forms, materials and styles and the associated landscaping the extension of the existing built form on to the appeal fields would not harmfully encroach into the countryside.
37. Consequently, the development would not be harmful to the character or appearance of the area. The proposals would accord with Policies ST1, ST4 and EV2 of the Local Plan and Policy NP4 of the Neighbourhood Plan as far as these policies seek to protect the character of the countryside and landscape character.

Flood risk and drainage

38. Most of the appeal site is within flood zone 1. Flood zone 2 and 3 are in the immediate vicinity of the River Meden. The Flood Risk Assessment (FRA) and appeal plans confirm that the flood zone 2 and 3 extents are small due to the topography of the site, with the majority of the development site greater than 2 metres above the channel and having no impact on the development area.
39. Although not a matter of dispute between the parties, the appellants proposed an amended plan as part of the appeal submission, removing flood zone 2 and 3 areas out of the application site red line boundary, apparently to provide certainty around the need for a sequential test.
40. The Framework explains that to avoid flood risk to people and property, a sequential, risk-based approach to the location of development should be taken to flood risk from all sources, and that this should be done by applying the sequential test. The PPG states that only if a site is in an area at a low risk of flooding from all sources should the sequential test not be undertaken¹.
41. In the recent changes to the Framework the Government has clarified (in accordance with previous Environment Agency guidance) that the sequential test should not be used in situations where a site-specific FRA demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).

¹ Planning Practice Guide - Paragraph: 027 Reference ID: 7-027-20220825

42. The area of the site in Flood Zone 2 and 3 would not contain any significant part of the development that could be adversely affected by flood water. Therefore, the sequential test would serve no purpose. I am satisfied a sequential test would be unnecessary. For these reasons as set out in preliminary matters the scheme has been considered based on the original red line site area.
43. The appellants clarified in their flood risk and drainage hearing statement that the earlier FRA submitted as part of the application had been audited and this has resulted in some changes on matters related to flood risk and surface water drainage, but this has not changed the overall outcomes.
44. Both the original FRA and the appellants' hearing statement clarify that the site's risk of flooding is low or very low. There is no evidence that the appeal scheme would increase flood risk elsewhere and the land is already contributing to surface water flows into the river Meden so the surface water flows being generated are not new. The original drainage design proposed control and management of surface water flows to existing greenfield runoff rates, whereas the proposals in the appeal evidence would control and manage surface water flows in a way that would result in a reduced discharge rate.
45. The original FRA clarifies that the surface water mitigation would be lower than Fackley Road and flood risk would likely be reduced. The Council officer's report similarly acknowledges controls in surface water runoff would very likely improve drainage in the immediate locality and this is reiterated in the appeal evidence.
46. I appreciate that the Neighbourhood Forum identifies that flooding has been noted on Fackley Road outside the site and reference is made to flooding on Fackley Road in the strategic FRA. However, there is nothing in the Council's submissions to counter the appellants' evidence that the development would lead to betterment in terms of surface water runoff. There has been opportunity for the Lead Local Flood authority (LLFA) to be consulted or to appear at the Hearing, but it remains that the LLFA raises no objections to the scheme. At the Hearing no notable further evidence was provided by the Council regarding flooding. Furthermore, there is no evidence offered to suggest that the sustainable urban drainage scheme (SuDs) proposed would not function adequately, a matter that in any case is proposed to be controlled by condition.
47. The evidence before me demonstrates that the surface water drainage system would discharge surface water into the River Meden. However, flows would be managed, and mitigation would lead to a significant reduction in the existing runoff rates and therefore flood risk would not be increased and more than likely notably improved. The Council did not provide any evidence at the Hearing to contradict the appellants' approach. Conditions would control the detail of the drainage scheme and its subsequent management and maintenance.
48. Consequently, I conclude that the development would not increase flood risk elsewhere and the drainage proposals are acceptable. I find no conflict with Policies ST1 and HG5 as far as these seek to ensure quality, amenity, and safety within developments.

Financial contributions

49. In line with the Community Infrastructure Levy Regulations (CIL tests), the Framework explains at paragraph 58 that planning obligations must only be sought where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Broadband

50. The Framework supports high quality communications including broadband connections. Policy NP8 of the Neighbourhood Plan seeks improvements to digital connectivity. Connectivity should be provided for residents and, if possible, contributions towards improvements in the service for existing residents and businesses. The appellants would provide broadband connections to all the dwellings within the development.
51. The Council says that digital connectivity is poor and the local community and businesses which the residents of the appeal site would rely on do not have connectivity. While existing residents attested to the inadequacy of the broadband at the Hearing, there is no evidence that improving existing resident's broadband would be necessary to make the development acceptable in planning terms. Nevertheless, the provision of broadband connection to the appeal site may well provide some improvements to existing residents connectivity through additional broadband infrastructure to service the appeal site.
52. Provision of a broadband connection for the wider business community could allow businesses to be more effective. However, as with existing residents, there is little to indicate that improvements to the connectivity of businesses in the area is necessary to make the development acceptable in planning terms.
53. In addition, as the contribution would be to support connection to the 'centre of the village' with no specific scheme identified and no evidence who would benefit from the broadband connection, there can be no clarity that the contribution is directly related to the development.
54. Further, while the Council considers that a contribution of £150,000 'would appear to be reasonable' there is no reasoned justification for this sum, and even if it could be shown that there would be some direct benefits of the connection to the village centre, I cannot be satisfied that the sum requested is reasonably related in scale and kind to the development.

Public realm

55. A contribution of £124,000 is sought for improvements to the public realm. The Council has clarified that the contribution is sought to improve the shopping area at Stanton Hill which is said to be the nearest to the site and an area where improvement schemes are being drawn up including improvements to pedestrian facilities. I acknowledge that Policy TR6 of the Local Plan requires developer contributions towards transport improvements including pedestrian facilities and that the Government has initiatives in place to tackle vacant shops. I also appreciate that having shops close by may reduce the need to travel further afield by car. Nevertheless, the Council agrees that the appeal site is in an accessible location. Pedestrian links within the appeal site and off-site highway works contribute to the site's connection to its surroundings and

no pedestrian improvements in Stanton Hill have been demonstrated to be necessary to reduce reliance on the car.

56. Furthermore, residents of the appeal site may visit Stanton Hill, however, it is not clear that improvements to the shops or pedestrian facilities are directly related to the development as there is no scheme before me to which any funding would contribute. Even though I am advised that other developments have contributed to Stanton Hill improvements there is little reasoned justification for the quantum of contribution per dwelling sought. Therefore, I cannot be satisfied that the amount of the contribution is fairly and reasonably related in scale and kind to the development.
57. Overall, it has not been demonstrated that financial contributions should be provided for broadband and public realm improvements. Accordingly, on the evidence before me the contributions sought would not meet all the relevant tests in regulation 122(2) of the CIL tests and the Framework. I conclude that the development without the contributions would not conflict with NP8 of the NP or Policy TR6 of the Local Plan.

Other Matters

58. I recognise that interested parties are concerned about the limitations of existing services and facilities to accommodate the proposed development. Nevertheless, the proposal includes, among others, contributions to improve health care, special needs education, transport, and open space facilities necessary to accommodate the housing development at the appeal site. Subject to these contributions the Council is satisfied that the development would not conflict with relevant policies in the development plan in this respect and I see no reason to disagree.
59. The main access into the appeal site is via a new estate road taken from Fackley Road which the Council anticipates would take most of the traffic into the site. Improvement works to Fackley Road would provide a right-hand ghost island as part of the scheme to provide refuge for waiting vehicles turning into the site as well as improved pedestrian crossing points.
60. The scheme also includes access via Crompton Street. Crompton Street would be extended from its existing position into the site with a turning head provided close to the existing road for vehicles to turn and return down Crompton Street in forward gear. Many properties on Crompton Street have off-road parking for one or two cars and are not completely reliant on on-street parking. Even so, I accept that on street parking is acknowledged to be high, particularly in the evenings and that traffic may be limited to one-way in places at times.
61. However, the provision of a turning area would resolve concerns about reversing down the street and there would also be the opportunity to continue through the appeal site and exit via Fackley Road. Larger vehicles can access the site via Fackley Road. The Council's highways authority has not raised any objections to the use of Crompton Street for access into the site and there is little to suggest that the increase of vehicle movements along the street would be detrimental to highway safety.
62. Interested parties raise concerns about loss of wildlife. The appeal site would change from an open field to residential development and the biodiversity of the land would be changed. The proposals would allow for the retention of the

existing hedged boundaries including the hedge between the two fields within the site area. Additional planting would take place within gardens and new buffer areas and planting to boundaries would be supplemented. The Council is satisfied that with the mitigation proposed the effect of the development on biodiversity would not be significant. I have no reason to conclude otherwise.

63. I have considered the effect of the development on the character and appearance of the area above. I have little to suggest that the change in view from adjacent dwellings would result in harm to living conditions. Therefore, the loss of private views for those existing properties that overlook the site is not a determining factor in assessing the proposals.
64. The parties agree that the Council cannot demonstrate a 5-year housing land supply. There is a difference of opinion about the actual supply figure; the range is between 3.21 and 3.67 years. While in the terms of paragraph 11d ii) of the Framework, the policies that are most important for determining the application may be considered out of date, that does not mean that no weight should be given to them. Rather the weight to be given to any conflict between the proposals and the policies of the development plan would depend on their consistency with the Framework.
65. Nevertheless, the Council does not object to the development of the appeal site in principle and in respect of the main issues in this appeal I find no conflict with the development plan. Therefore, housing land supply is not a determinative issue.

Unilateral Undertaking

66. A signed and dated unilateral undertaking (for the avoidance of doubt Unilateral Undertaking A) under section 106 of the Town and Country Planning Act 1990 has been submitted which provides for various obligations. It is therefore necessary for me to consider these obligations and reach a finding on them having regard to the CIL tests.
67. The unilateral undertaking secures 10% affordable housing identified as part of the scheme. The amount of affordable housing was agreed between the parties at application stage. Policy HG4 of the Local plan seeks to negotiate a proportion of affordable dwellings. Although the Council refers to the emerging plans requirement for 25% affordable housing based on the Ashfield Housing needs assessment report October 2020, the adopted policy requires negotiation. That negotiation has taken place, and no substantive evidence has been provided that would lead me to conclude that an alternative approach should be taken at this stage. The mix and tenure of the affordable housing would be secured through the unilateral undertaking which meets the relevant tests.
68. To encourage a modal shift in travel towards public transport the obligation makes provision for a local bus service contribution to enhance the Monday to Friday service and make provision for a Saturday service. Improvements to bus stops to provide real time and disruption information is also sought. All of these are necessary to make the proposal acceptable, are set at a proportionate level, and are required as a direct result of the development.
69. The proposal would generate a requirement for healthcare provision for residents of the scheme which is directly related to the development. I am

satisfied that the calculation of the contribution towards improving or enhancing facilities in the locality is necessary to make the development acceptable and is fairly related in scale and kind.

70. The County Council requires a contribution towards special education needs in accordance with the Nottingham County Council developer contribution strategy because of a shortage of such places. The contribution would be used to expand special school provision which is directly related to the proposal and necessary to make it acceptable. It is also fairly and reasonably related in scale and kind.
71. Policy HG6 requires the provision of 10% onsite open space provision including recreational equipment. Where equipment is not to be provided on site a negotiated sum will be sought towards improvements to existing open space provision. Recreational facilities are not provided as part of the development and a contribution is required to the nearest open space at Healdswood to improve the facilities. The requirement for adequate recreation facilities is directly related to the proposal. necessary to make it acceptable and fairly and reasonably related in scale and kind.
72. To mitigate the effects of, and secure measurable net gains in, biodiversity an off-site contribution to provide 3 area units, as calculated via the biodiversity metric, is required. The contribution of £126,000 is based on a recognised per unit figure.
73. On site open space would be provided as part of the development. The obligation makes provision for a management plan to be agreed so that the Council can be assured the open space would be retained and maintained in the future.
74. Waste disposal facilities are at capacity in the district and a contribution towards upgrading existing facilities is required. The calculation is proportionate to the size of the development.
75. As per the conditions section below a travel plan condition is reasonable and necessary. A travel plan monitoring contribution would provide £7500 to monitor the implementation of the travel plan. Contributions towards the monitoring of the agreement by the County and District Council are also sought and meet the relevant tests.
76. For the reasons I have set out elsewhere in this decision, the need for the contribution towards the provision of public realm and broad band improvements have not been demonstrated. Consequently, in respect of these contributions the CIL tests are not met and (in the terms expressed within the unilateral undertaking) I attach no weight to the contributions to public realm and broadband improvements in determining the appeal.
77. The unilateral undertaking is a material consideration. I am satisfied those provisions relating to affordable housing, open space management and financial contributions other than to public realm and broadband improvements meet the three CIL tests. I have therefore taken the unilateral undertaking into account in determining the appeal.

Conditions

78. A list of draft conditions was appended to the Statement of Common Grounds and discussed at the Hearing. I have considered the proposed conditions in line with the advice contained at paragraph 57 of the Framework i.e. that conditions are kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. After our discussions at the Hearing, I provided the parties with the opportunity to comment on the conditions and carried out minor editing and removed any duplication.
79. In addition to the standard time limit condition, I have included a plans condition for certainty. Details of surface water drainage are required to ensure that surface water is controlled to mimic natural drainage, to account for predicted impacts of climate change and to protect the Teversal Pastures Site of Special Scientific interest (SSSI) (condition 3). A construction management plan is needed to protect the living conditions of neighbours and for highway safety during the construction phase of the development (Condition 4). Condition 5 is needed to mitigate the effects of the development on the SSSI during the construction phase of the development. Conditions 6, 7, and 15 are imposed in the interests of highway safety and accessibility.
80. To ensure that the development has regard to the existing ecological value of the site and opportunities are taken to achieve a net gain in biodiversity an Ecological Management Strategy is required (Conditions 8 and 11) and condition 13 is necessary to protect nesting birds. Details of materials are necessary to ensure that the development has a satisfactory appearance (Condition 9).
81. So that the site assimilates into its surroundings, that existing trees and hedges are retained and protected, and to ensure enhanced boundary planting, conditions 10 and 14 are imposed. Condition 12 is imposed to ensure any potential land contamination is appropriately treated.
82. Conditions 3 to 8 inclusive are pre-commencement to avoid adverse impacts during the construction phase and to ensure suitable detailed design is available before construction is commenced. The appellants have agreed to the form of these conditions.

Conclusion

83. For the reasons given above, I conclude that the proposals would accord with the development plan. There are no material considerations that indicate a decision should be taken other than in accordance with the development plan therefore the appeal is allowed.

Diane Cragg

INSPECTOR

APPEARANCES:

FOR THE APPELLANTS:

Christopher Young KC – No. 5 Chambers Counsel for the appellants

Andrew Gore –Marrons

Alasdair Avila-Thorne – Marrons

Tim Jackson – FPCR

Mike Carr BA(Hons) – Pegasus

Robert Rodger – Tetra Tech

Alexander Bennett – M-EC

FOR THE COUNCIL:

Mick Morley - Development Team Manager

Cllr Helen-Ann Smith – Local Ward member

INTERESTED PARTIES:

Paul Parks

Jenny Parks

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan TGOP/FRT/LP1
 - Site Layout P23-1008-DE-06-B-01
 - Crompton Street Tie-in TV-CST1-001 28.9.23.
 - Proposed Access Junction B0302211-TTE-OO-XX-DR.0-0001 Rev.P06
 - Materials Plan P23-1008-DE-06-A-07
 - Character Pan P23-1008-DE-06-A-05
 - Place Making P23-1008-DE-06-A-02
 - Movement P23-1008-DE-06--03
 - Swept Path Analysis Public Transport Vehicle FRTEV/VT/01.
 - Swept Path Analysis Refuse Vehicle FRTEV/VT/01
 - Surrounding Area Plan TE-SAP-01 22.8.2023
 - Horizontal General Arrangement FRTEV/HGA/01
 - Hollicombe Detached elevations HoC-MA-Det-R21G-904 Rev.A03.
 - Hollicombe Detached floor plans HoC-MA-Det-R21G-901Rev.03. -
 - Kielder Detached floor plans Ki-MA-Det-R21G-901.-
 - Kielder Detached elevations Ki-MA-Det-R21G-903 Rev.A.
 - Lambridge Detached floor plans LB-MA-R21G-901 Rev.A.
 - Lambridge Detached elevations LB-MA-R21G-903.
 - Marston Detached floor plans Ma-MA-R21G -901 Rev.A
 - Marston Detached elevations Ma-MA-R21G-903 Rev.A.
 - Barnwood DT floor plans Bw-MA-DT-Det-R21G-901 Rev.c
 - Barnwood DT elevations Bw-MA-DT-Det-R21G-903 Rev.A.
 - Kennet Semi Detached floor plans Ke-MA-End-R21G 901 Rev.A.
 - Kennet Semi Detached elevations Ke-MA-End-R21G 903.
 - Burnham Detached floor plans Bu-MA-Det-R21G 901 Rev.A.
 - Burnham Detached elevations Bu-MA-Det-R21G 903 Rev.A.
 - Braunton End floor plans Br-MA-End-R21G 901 Rev.C.
 - Braunton End elevations Br-MA-End-R21G 903.
 - Dallington Mid floor plans Dg-MA-Mid-R21G 901 Rev.A
 - Dallington Mid elevations Dg-MA-Mid-R21G 903 Rev.A.
 - Dallington End floor plans Dg-MA-End-R21G 901 Rev.A.
 - Dallington End elevations Dg-MA-End-R21G 903 RevA.
 - Barnwood Detached floor plans Bw-MA-Det-R21G-901 RevD.
 - Barnwood Detached elevations Bw-MA-Det-R21G-903 Rev.B.
 - Sherwood Detached floor plans Sh-MA-Det-R21G-901Rev.B.
 - Sherwood Detached elevations Sh-MA-Det-R21G-903 Rev.B.
 - Deepdale Semi Detached floor plans Dp-MA-End-R21G-901 Rev.A.
 - Deepdale Semi Detached elevations Dp-MA-End-R21G-903 Rev.A.
 - Danbury Mid floor plans Da-MA-Mid-R21G-901.
 - Danbury Mid elevations Da-MA-Mid-R21G-903 Rev.A.
 - Danbury Semi Detached floor plans Da-MA-End-R21G-901
 - Danbury Semi Detached elevations Da-MA-End-R21G-903 Rev.A.
 - Alnmouth Mid floor plans Al-MA-Mid-R21G-901.
 - Alnmouth Mid elevations Al-MA-Mid-R21G-903.
 - Alnmouth Semi Detached floor plans Al-MA-End-R21G-901.

- Alnmouth Semi Detached elevations Al-MA-End-R21G-903.
- Double Garage floor plan and elevations Ga.2.1. 901.
- Single Garage floor plan and elevations Ga.1.1. 902.
- Single Garage floor plan and elevations Plot 1 Ga.1.1. 902.

3. Prior to the commencement of the development, details shall have been submitted to and agreed in writing by the Local Planning Authority (LPA) of a Sustainable Drainage System. Such drainage system shall be in accordance with report ref: Report Ref: 28507-INQ-0101 dated July 2024 and CIRIA C753 and shall include the following information:

- An assessment of the nature of SuDS to be used.
- Details of a proven outfall from the site in accordance with the following drainage hierarchy, in order of preference; infiltration, discharge to watercourse, discharge to surface water sewer or discharge to a combined sewer.
- Justification for use or not of infiltration, including results of soakaway testing in accordance with BRE 365.
- Evidence that the maximum discharge is set to the Qbar Greenfield run-off rate for the positively drained area of development.
- Demonstrate the site drainage system will cater for all rainfall events up to and including the 1 in a 100-year event including a 40% allowance for climate change.
- Provide details of exceedance flows; surface water should be contained within the site boundary without flooding any properties in a 1 in 100 year +climate change storm.
- Details of approval from any water authority that may be required to accept surface water discharge.
- Show that SuDs systems will be incorporated into the surface water management scheme for the site, preference should be given to above ground water SuDS which provide multi-functional benefits.
- Details of who will manage and maintain all drainage features for the lifetime of the development.

The approved scheme shall thereafter be retained and maintained.

4. Prior to the commencement of development, a construction management plan shall be submitted to and agreed in writing by the LPA, and this shall include:

- how construction traffic will access the site.
- proposed hours and days of working.
- the parking of vehicles of site personnel, operatives, and visitors.
- location of site storage areas and compounds.
- wheel washing facilities.
- a strategy for the minimisation of noise, vibration, and dust.
- site contact detail in case of complaints.

The agreed construction management plan shall be adhered to throughout the construction period.

5. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase of the development. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to

increased surface water run-off from site during the construction phase and shall be maintained throughout the construction phase of the development.

6. No development shall commence until, drawings of the highway improvements/traffic management scheme offsite works and site access comprising:
 - details of footway, refuge crossing facilities and access arrangements including associated signing and lighting on Fackley Road as indicated on drawing ref. B030221 TTE 00 XX DRO 0001 P06 and
 - details of footway tie-ins for Crompton Street as indicated on drawing ref. TVCSTI-001shall have been submitted to and approved in writing by the LPA; and the dwellings hereby approved shall not be occupied until those works have been constructed in accordance with the approved details.
7. Prior to the commencement of development, details of the internal street layout, including longitudinal (maximum 1 in 15) and cross sectional gradients, footpath/road key dimensions, parking and turning facilities (private and public), surfacing, street lighting, highway structures, junction/pedestrian/forward visibility splays, cycleway/pedestrian facilities, VPA/tracking, drainage/outfall proposals, on street visitor parking, construction specification and provision of and/or division of utility services shall have been submitted to and agreed in writing by the LPA. The approved details shall be implemented to the satisfaction of the LPA before any dwelling is first occupied and retained thereafter.
8. Prior to the commencement of development, details of an Ecological Management Strategy shall have been submitted to and agreed in writing by the LPA. The Strategy shall include details of:
 - objectives to achieve ecological enhancement of the site;
 - any required updated protected species surveys;
 - measures for encouraging biodiversity including facilities around and within the drainage attenuation basin;
 - review of site potential and constraints;
 - works to achieve objectives;
 - the body or organisation responsible for implementation;
 - the timetable for implementation;
 - aftercare and long term maintenance;
 - monitoring and remedial measures;
 - a legal and funding mechanism by which the implementation of the Strategy will be secured.The Strategy shall be carried out as approved and in accordance with the implementation programme and thereafter maintained in perpetuity. Any elements of the Ecological Management Strategy that within a period of five years after planting or completion, are removed, die, or become damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved.
9. The construction of the dwellings shall not proceed above slab level until details / samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details / samples.

10. The construction of the dwellings shall not proceed above slab level until details of both hard and soft landscape works, together with a programme for the implementation of the landscape works, have been submitted to and approved in writing by the LPA. The landscape works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme. The completed scheme shall be managed and maintained in accordance with an approved scheme of management and maintenance.
All planting, seeding, or turfing indicated on the approved landscaping scheme shall be carried out in accordance with the implementation programme which within a period of five years from completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size or species.
11. The construction of the dwellings shall not proceed above slab level until details of bird, bat and bee boxes and hedgehog corridors, including gaps in boundary treatment, incorporated into the construction of dwellings and gardens shall have been submitted to and agreed in writing by the LPA. Such boxes and corridors shall be implemented prior to the occupation of each dwelling and thereafter retained.
12. a) If during the construction works, any potential land contamination or unusual odour is encountered, all construction works 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 LPA, or, ii) the 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 LPA.
b) If potential contamination is identified pursuant to part a) of this condition, the development shall not be occupied until land contamination is fully remediated in accordance with a remediation scheme submitted to and approved in writing by the LPA and a post completion verification report, including results of sampling and monitoring carried out, has been submitted to and approved in writing by the LPA demonstrating that the site remediation criteria have been met.
13. No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.
14. The development hereby approved shall be undertaken in accordance with the arboricultural impact assessment, including the Tree Protection Plans in annex 2, contained in the submitted Arboricultural Impact Assessment Survey and report rev 3 dated November 2022.
15. No dwelling shall be first occupied unless and until a site-specific Residential Travel Plan has been submitted to and agreed in writing by the LPA. The Travel Plan shall set out proposals (including targets, a timetable and

enforcement mechanism) to promote travel by sustainable modes and shall include arrangements for monitoring the progress of the proposals. The approved Travel Plan shall be implemented upon first occupation of the development and subject to review as per details to be set out within the approved Travel Plan.