



# The Planning Inspectorate

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Christine Sarris  
Ashfield District Council  
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Kirkby-In-Ashfield  
Nottingham  
NG17 8DA

Your Ref: V/2019/0491  
Our Ref: APP/W3005/W/20/3252949

12 May 2021

Dear Christine Sarris,

Town and Country Planning Act 1990  
Appeal by Ashfield Ltd  
Site Address: Land to the rear of 211 Alfreton Road , Sutton in Ashfield , NG17 1JP

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

<http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/>

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

**Zoe Day**

Zoe Day

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## Appeal Decision

Site visit made on 23 March 2021

by **S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 12 May 2021

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**Appeal Ref: APP/W3005/W/20/3252949**

**211 Alfreton Road, Sutton in Ashfield NG17 1JP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Ashfield Ltd against the decision of Ashfield District Council.
  - The application Ref V/2019/0491, dated 25 July 2019, was refused by notice dated 2 March 2020.
  - The development proposed is Outline application with some matters reserved for a maximum of 100 dwellings and associated access including demolition of 211 Alfreton Road.
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### Decision

1. The appeal is allowed and planning permission is granted for Outline application with some matters reserved for a maximum of 100 dwellings and associated access including demolition of 211 Alfreton Road at 211 Alfreton Road, Sutton in Ashfield NG17 1JP in accordance with the terms of the application, Ref V/2019/0491, dated 25 July 2019 subject to the conditions in the attached schedule.

### Application for costs

2. An application for costs was made by Ashfield Ltd against Ashfield District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The description of the application as set out in the banner heading above differs slightly from that on the application form. It is on the basis of this description which is set out in the Council's decision notice and on the appeal form that I have made my decision.
4. The application was submitted in outline form, with all matters reserved for future consideration except for access. The submitted indicative masterplan 2018-536-11 indicates how the dwellings could be arranged within the appeal site.
5. Since the submission of the appeal, a full planning application has been submitted by the appellant's development partner and is currently pending consideration by the Council. Given that the application is presently undetermined I do not give any weight to it, nonetheless the appellant has submitted a number of documents that were submitted for that application that are also relevant to this appeal. The Council has confirmed in their statement of case that they are content to remove the reason for refusal in relation to

land contamination/gas following receipt of further evidence and comments from the Environment Agency. Whilst this no longer forms a main issue, interested parties have continued to raise concerns (amongst others) therefore I deal with them in Other Matters below.

6. The appellant has submitted a signed and completed Unilateral Undertaking (UU), including obligations relating to various social and infrastructure contributions. I return to this matter later in the decision.

### **Main Issues**

7. The main issues are:

- The effect of the proposed development on the character and appearance of the site and surrounding area with particular reference to the loss of open space;
- The effects of the proposed development on biodiversity and protected species; and
- Whether social and infrastructure contributions required by the Council are justified, having regard to the tests in Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended), with particular reference to education contributions.

### **Reasons**

#### *Location and Policy Context*

8. The appeal site is located within the Main Urban Area of Sutton in Ashfield and currently comprises an open area of grassland and a bungalow at no. 211 Alfreton Road. The gardens of existing dwellings situated along Alfreton Road and Henning Lane border the site, and a new housing development is under construction at 'Sutton Heights' to the south. The western end of the site slopes downwards towards 'Rookery Park', which the evidence indicates is publicly accessible restored land on the site of a former landfill tip and colliery.
9. Together with Rookery Park, the site forms part of an area identified as an Open Area by Policy RC2 (Sa) of the Ashfield Local Plan Review 2002 (ALPR). Policy RC2 restricts development in such areas except for associated recreational uses which maintain the open character of the area.
10. The parties agree that the Council cannot currently demonstrate a five year supply of deliverable housing land, and that paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged.

#### *Character and Appearance; Loss of Open Space*

11. The development of the site does not encompass open space which is publicly accessible, therefore its recreational value is limited. Rather, it has value in its function as an open break or green corridor. It provides an attractive green setting and relief between the built up areas of residential dwellings to the edge of Sutton-on-Ashfield and the more industrial character of the A38. The vegetated boundaries provide a clear separation from the remainder of the RC2 open area, and I noted on my visit that the site has a distinctly different character to the restored colliery land at Rookery Park which is, in the main, publicly accessible.

12. Whilst the site is sizeable it forms a small proportion of the overall area of RC2 (Sa). Considerable areas of green space would remain to perform the functions as set out in the Policy. There would be sufficient space within the appeal site to provide publicly accessible areas of open space, and a suitable landscaping scheme could provide visual and ecological enhancements. In this respect, the loss of the appeal site as wholly open space would not result in significant harm.
13. In terms of the impact of residential development on landscape character, I concur with the appellant's assessment of the sensitivity of the appeal site as medium. Due to the topography of the site and its surroundings, public views are limited to small areas of Rookery Park. Users of the nearby public rights of way and residential occupiers bounding the site would be most affected by the change in views. Whilst the proposed dwellings would undoubtedly change the appearance of the site to a more urban character, from Rookery Park they would be seen against the backdrop of the existing residential development around Alfreton Road. A suitable landscaping scheme, together with retention of existing boundary vegetation, would assist in mitigating its effects. Whilst neighbouring occupiers would experience a change in their outlook, the existing dwellings have sufficiently lengthy gardens so that any development would not be overtly oppressive.
14. The scale, design and layout of the dwellings would be dealt with at reserved matters stage, but I am satisfied that 100 dwellings, together with generous areas of open space and landscaping, could be comfortably accommodated within the 4 ha site without significant harm to the character and appearance of the site or its surroundings. There is conflict with ALPR Policy RC2 as the development does not comprise a recreational use which maintains the open character of the area, but the proposals would be in general compliance with Policy ST1. This requires development to not adversely affect the character and quality of the environment. I give both Policies limited weight given that their restrictive nature is not fully compliant with the more up-to-date Framework.

#### *Biodiversity*

15. The evidence before me suggests that the habitat conditions of the site and its surroundings, including the presence of existing buildings and vegetation, have potential for the presence of protected species under the Wildlife and Countryside Act 1981 (WCA) and the Conservation of Habitats and Species Regulations 2017. I have a duty to consider the extent to which the presence of protected species may be affected by the proposed development before planning permission is granted<sup>1</sup>. Surveys should be carried out where there is a reasonable likelihood of species being present and affected by the development.
16. The appellant has submitted a range of documents to support their proposals in this respect<sup>2</sup>. They were prepared in accordance with the relevant guidance and appropriate surveys were taken of existing buildings and vegetation on the site for the presence of protected species. The surveys indicate no evidence of the presence of bats, badgers or reptiles, and whilst there is suitable habitat for nesting birds, suitable mitigation as detailed in the report could be satisfactorily

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<sup>1</sup> Natural Environment and Rural Communities Act 2006 and Circular 06/2005, paragraph 99

<sup>2</sup> Preliminary Ecological Appraisal (June 2019), Amended Ecological Appraisal (October 2019), and Addendum (relating to a single tree and its potential for bat habitat) (January 2020).

secured by condition. This does not preclude any licences that may be required under the WCA.

17. The presence of a Local Wildlife Site (Fulwood Grassland LWS) adjacent to the appeal site is of relevance. There is limited evidence before me about this LWS however the evidence indicates that it is separated from the site, and well screened by existing vegetation. Measures within the recommended Landscape and Ecological Management Plan (LEMP) condition could ensure its protection during construction. Additionally, potential pollution to run-off leading to Mapplewells stream and Nunn Brook during construction could be controlled by the construction method statement condition. As such, the presence of a LWS and other nearby habitats should not prohibit development.
18. Whilst I am aware that some vegetation has been removed, a good number of trees and hedges remain, largely to the boundaries of the site. Conditions should ensure they are retained and replaced or gaps filled where necessary in accordance with a tree protection plan and arboricultural method statement. As I have previously noted, there would be ample space within the 4ha site for enhancement measures including additional planting and green spaces which would benefit a variety of wildlife. Such details of mitigation and enhancement measures which could include bird and bat boxes, and suitable lighting details, could be included in the development at reserved matters stage and secured by the LEMP. I note that the Nottinghamshire Wildlife Trust are content with the submission and no comments are made by Natural England. Overall, I am satisfied that there is sufficient information at this outline stage and appropriate steps have been taken to establish the presence of protected species.
19. As such, the proposed development would be in compliance with ALPR Policy EV6 which seeks to protect sites of importance for nature conservation and for adequate provision for creation of habitats to be appropriately secured, and Policy EV8 which requires trees to be retained where possible and replacement planting where trees are lost. The Policies broadly accord with chapter 15 of the Framework, in particular paragraphs 170 and 175.

### *Planning Obligations*

20. The appellant has submitted a completed Unilateral Undertaking (UU) which provides for a range of contributions including affordable housing, education, open space, healthcare, libraries, Rookery Park and travel plan monitoring. The majority of the obligations are agreed between the parties, with the exception of education contributions. I have considered how each of the obligations would meet the tests set out in Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended) (CIL Regs) and reiterated at paragraph 56 of the Framework that require the obligations to be a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development ('the tests').
21. The UU includes a 'blue pencil' clause. This has the effect that if I find that any of the contributions fail to meet with the aforementioned tests, then they should not apply. I address each of the matters below.
22. 10% affordable housing is secured in the UU with an appropriate tenure mix, in compliance with Policy HG4 of the ALPR and paragraph 64 of the Framework.

The UU also provides for an open space contribution in compliance with Policy HG6 of the ALPR. I am satisfied that both of these obligations meet the tests. A contribution to Rookery Park is also included, specifically for improvements and maintenance for footpaths. The appeal site is adjacent to the Park, and use of footpaths linking to Hennings Lane would increase as a result of the proposed development. Consequently this obligation would be directly related and necessary.

23. The residential development would increase demand for healthcare services and Mansfield and Ashfield Clinical Commissioning Group have requested funds which would be spent towards reconfiguration or extension of existing premises which are working at capacity, or a new build practice. Nottinghamshire County Council (NCC) request a contribution for additional library stock as there is an identified deficiency in optimum stock levels at Sutton in Ashfield library. Both consultees have provided calculations to justify their requirements and I am content that these contributions would meet the tests. NCC as Highways Authority also request a Travel Plan monitoring fee to be secured. I am satisfied that the obligation is necessary having had regard to the consultation responses from the Highway Authority.
24. The main dispute between the parties relates to education contributions. A development of 100 dwellings would generate an additional 21 primary and 16 secondary age pupils. NCC as education authority have provided information regarding projected primary school capacity to accommodate the additional pupils generated by the proposed development cumulatively with a number of other residential proposals in the area.
25. NCC have changed their position relating to the calculation of pupil projections since the application was originally submitted. NCC's initial response indicated an insufficient capacity based on projections at that time. A further response<sup>3</sup>, following the refusal of the application, indicates a surplus of places in the Sutton Town area across the 5 year projection period. The most recent consultation response<sup>4</sup> continues to show a projected surplus of places in the area and indicates that the impact of the proposed development alone would not lead to a deficit in provision of primary places in the Sutton town primary planning area overall.
26. NCC have set out a range of undetermined planning applications totalling 897 dwellings in the area (188 primary places). With the 21 places generated by the proposed development, a 95 place deficit is predicted. It also sets out a further 3 housing sites with planning permission totalling 397 dwellings (generating 83 places), which are not included in the current pupil projections, increasing the potential shortfall further to 178 places. As a result of this projected deficit, NCC state that a new primary school site is required. This raises the contribution to £439,278 (21 x £20,918 per primary school place).
27. I am mindful that pupil projection calculations are liable to change on a regular basis for a number of reasons, including the submission and approval of new planning applications for residential development and changes in the local population and other data. Department for Education (DfE) guidance<sup>5</sup> sets out

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<sup>3</sup> Appellant's Response to the Statement of Case by Ashfield District Council - Appendix 5

<sup>4</sup> Ashfield District Council Statement of Case - Annex 1

<sup>5</sup> Department for Education School Capacity Survey – Guide for Local Authorities and Guide to forecasting pupil numbers in school place planning (June 2019) and Securing Developer Contributions for Education (November 2019)



that pupil forecasts should only include expected yields from housing developments that have a high probability of being delivered within the timeframe of the forecasts, and in most cases such developments will have full planning permission.

28. If the proposed development were assessed in isolation, there would not be a shortfall in primary school places in the Sutton area. There are no assurances that the quoted pending planning applications for residential development would all be approved, and if they were, that they would all be completed and fully occupied within the five year projection period. Nonetheless, despite this element of uncertainty, the capacity position with the primary schools in the area is a precarious one.
29. Overall, I am satisfied that even if some of the planning applications currently pending determination do not get approved and completed within 5 years, a shortfall in primary school places in the Sutton area is highly likely. There is already a 36 place deficit at the nearest primary school, Mapplewells, and I acknowledge that the District's housing land supply position is such that other residential developments would be likely to come forward in the intervening period.
30. I have considered the appellant's suggestion of an alternative, lower, ratio of primary school places per dwelling. However I am content to proceed with the contribution as indicated by NCC whose methodology is consistent with Appendix 5 of the Planning Obligations Strategy and DfE guidance. The contributions in the UU are on a per dwelling basis, which would be reasonable given that the proposals are in outline form and the final number of dwellings is unknown. Inconsistency by the Council in their requirements for planning obligations for other nearby developments is not a matter to which I give weight to given that full details of those proposals are not before me.
31. The submitted UU would properly secure the aforementioned obligations and meets all other requirements including addressing previous concerns from the Council that it would not be legally effective, and in considering this I have had regard to recent case law<sup>6</sup> regarding the binding of interests in a proposed development site. Overall I am satisfied that all the planning obligations as set out in the submitted UU are justified and would meet the tests, in compliance with paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010.

### **Other Matters**

32. Several local residents have raised objections relating to a number of other matters. Reference has been made to a previously withdrawn emerging local plan, other housing developments and potential sites on previously developed land in the area however details are not before me, and it has been established that there is a significant shortfall in housing land supply in the District.
33. Vehicular access to the site would be via a ghost right turn lane on Alfreton Road where no. 211 is currently located, with a 6m wide carriageway and footways to both sides. A Transport Assessment (TA), an Addendum to the TA and a RSA Stage 1 Safety Audit have been submitted to the satisfaction of the local highway authority. Modelling has been carried out of the relevant

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<sup>6</sup> R.(McLaren) v Woking BC [2021] WEHC 698 (Admin)



- junctions/roundabouts which are shown to be operating within capacity (as at 2019). Growth factors (including the neighbouring 'Gleeson' housing development) have been factored into the 2024 scenario, which continues to show the junctions would operate within capacity. Personal injury accident data has also been considered. Visibility splays would meet the required standard of 2.4m x 43m.
34. The evidence demonstrates that the proposed development would not have an unacceptable impact on highway safety in compliance with paragraphs 108-109 of the Framework. The conclusions are supported by the local highway authority. Further details of parking provision and the access into the site, including footways, internal roads and gradients could be agreed at reserved matters stage to ensure appropriate standards in accordance with NCC's Highway Design Guide.
  35. There are existing bus stops very close to the site. Whilst it is inevitable that a proportion of occupiers would use their private cars to access local shops, employment and services, the implementation of the Travel Plan would assist in reducing vehicle movements and there is no evidence to persuade me that the site is in a location which is inaccessible or remote from local services.
  36. The submission of a construction method statement, to be agreed by condition, would assist in minimising effects during construction on nearby occupiers both in relation to construction traffic and pollution.
  37. Reference has been made to sewage and drainage issues in the locality. There are no objections from the Lead Local Flood Authority or Severn Trent Water and there is no evidence that the development would exacerbate any existing drainage conditions. A sustainable drainage scheme can be submitted at reserved matters stage and controlled by condition.
  38. Any potential future proposals would be considered by the Council on their own merits having regard to relevant planning policies in place at the time. Additionally, whilst the site is mainly undeveloped greenfield land it is not Green Belt so does not carry those restrictions which relate to such a designation.
  39. The withdrawal of the Council's case against the part of the reason for refusal relating to the former landfill tip follows additional monitoring for the presence of landfill gas. A technical note addendum to the Geo-Environmental Investigation report was submitted and further comments have since been submitted by the Council's Environmental Health team and the Environment Agency<sup>7</sup> who are satisfied that there is no significant detection of methane on site. A standoff between the boundary of the housing site and the landfill site (to include the drainage attenuation basin and landscaping) and provision for gas protection measures in the dwellings could be secured by a suitable design and layout at reserved matters stage. The staged condition recommended by the Council would ensure that such matters are properly dealt with.
  40. Concerns relating to effects on living conditions such as overlooking would be a matter for future reserved matters applications when the design, layout and scale of the proposed dwellings would be fully assessed. There would be an increase in disturbance in particular to the occupiers of 209 and 213 Alfreton

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<sup>7</sup> Appellant's Response to the Statement of Case by Ashfield District Council (February 2021) – Appendix 2

Road, whose properties lie immediately adjacent to the proposed access road. This could be minimised by the erection of a 2m high acoustic barrier as recommended in the submitted noise impact assessment.

41. A power line running across the lower end of the site is a matter which would need to be dealt with by the appellant when designing the layout of the site in consultation with the relevant utility company. Likewise, levels are not detailed on the outline plans however there is no evidence that a residential development of 100 dwellings cannot be suitably accommodated with such constraints in place.

### **Conditions**

42. I have considered the suggested planning conditions against the advice given in paragraph 55 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability. Pre-commencement conditions have been agreed in advance by the appellant.
43. I have attached conditions limiting the life of the planning permission and setting out the requirements for the submission of reserved matters. I have imposed a condition relating to the approved site location plan and access plans in the interests of certainty. I have added an additional condition limiting the maximum number of dwellings which is necessary given that the planning obligations have been calculated based on 100 dwellings and any additional dwellings may result in the need for additional contributions.
44. The Council suggest that a number of details are submitted relating to materials, enclosure, landscaping, levels, refuse provision, measures to minimise crime and measures to aid energy efficiency however these relate directly to reserved matters and thus go beyond the scope of an outline consent. I acknowledge the importance of such matters, but the Council would have control on these matters at the reserved matters stage.
45. A condition requiring details of pedestrian links to adjoining land uses is necessary in the interests of connectivity and enhancing access to the nearby Rookery Park. I have slightly re-worded it to clarify that this should be via Hennings Lane. I note that the highway authority have requested further details of the access into the site, including footways and internal roads in accordance with NCC's Highway Design Guide. Parking provision and internal layout would be considered as part of a future reserved matters application. No condition is recommended by the Council; however to ensure matters relating to access and improvements to Alfreton Road are incorporated at reserved matters stage I have added a condition to this effect.
46. A LEMP is required to protect existing ecological interest and enhance biodiversity, and I have added reference to the more recent technical note and the adjacent LWS for certainty. Although landscaping is a reserved matter, it is appropriate at this stage to ensure that protective measures for retained trees and hedgerows are provided during construction to protect wildlife and visual screening.
47. A detailed surface water drainage scheme is required to reduce the risk of flooding to the site and surrounding land. I have simplified the condition to

- encompass sustainable drainage systems and have included a similar condition requiring details of foul drainage works.
48. The construction period would inevitably cause some disturbance and inconvenience to those living and working in the area as well as to road users. A single combined condition requiring a construction method statement Management Plans for construction, demolition, traffic and protection of the environment is necessary to minimise such disturbance.
  49. A staged condition relating to land contamination and remediation is necessary in light of the agricultural use of the site and the presence of the adjacent former landfill tip. I have removed reference to a desktop study/Phase I report given that this has already been carried out. I have added details requiring details of a standoff between the boundary of the housing site and the landfill site and provision for gas protection measures in the dwellings as recommended by the Environment Agency.
  50. Suggested condition 14 requires details of enhancements to bus stops to include installation of electrical displays and raised kerbs. The bus stops and bus services are already in place. Whilst their use is expected to increase as a result of the development there is no clear justification for the extent of the works and as such the condition would be unreasonable. An update to the Travel Plan is necessary but the measures set out in the suggested condition are too prescriptive. Instead, they should reflect the most up-to-date guidance in NCC's Guidance for the Preparation of Travel Plans in support of Planning Applications which are set out in the response by the local highway authority.
  51. The submitted noise impact assessment included mitigation measures (acoustic fence or wall) to reduce noise to adjoining occupiers from the increase in activity to the proposed access between 209 and 213 Alfreton Road. A condition is necessary to secure the measures and I have made it more precise to refer to the relevant section of the report.

### **Planning Balance and Conclusion**

52. The Council cannot currently demonstrate a five year supply of deliverable housing land, with the latest supply position<sup>8</sup> indicating that as at 1 April 2020 it stands at 2.53 years. This is a significant shortfall in housing supply and I give significant weight to the contribution the proposed development would make towards boosting the supply of new homes in an accessible location.
53. Other benefits include the provision of affordable housing and the provision of employment during construction as well as an increase in spending in the local area. Moderate benefits would arise from the provision of contributions as set out in the UU, most of which are intended to mitigate the development, but some would benefit residents in the wider area including provision of publicly accessible open space and Rookery Park footpath improvements.
54. The proposed development would be in conflict with ALPR Policy RC2 (Sa) however this policy restricts the supply of housing and is therefore rendered out-of-date by virtue of the lack of five year housing land supply. Overall the aforementioned benefits would outweigh the loss of part of the open area designated by this policy and the limited harm to the character and appearance of the area. I am satisfied that there is sufficient information on biodiversity at

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<sup>8</sup> Ashfield District Housing Land Monitoring Report August 2020

this outline stage such that it should not prevent development of the site for housing, subject to suitable mitigation.

55. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

*S Hunt*

INSPECTOR

## Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale [remove as appropriate depending on what is being reserved], (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan	2018-536-10A
Preliminary Site Access Design	P18-090-510
Proposed pedestrian access	P18-090-511
- 5) The number of residential dwellings submitted for details in accordance with condition 1 shall be limited to no more than 100.
- 6) The details submitted in accordance with condition 1 shall include details for the provision of pedestrian accesses onto Rookery Park via Henning Lane and the neighbouring residential development to the south.
- 7) The details submitted in accordance with condition 1 shall include details of the access into the site together with improvements to Alfreton Road (including a right turn lane) and Henning Lane and pedestrian/cyclist facilities. No dwellings shall be occupied until the access improvements have been completed in accordance with those details and they shall thereafter be retained.
- 8) No site clearance, preparatory work, demolition or development shall take place until a detailed Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority based on the recommendations for habitat enhancement and creation set out in the Ecological Appraisal (October 2019) and FPCR Technical Note (December 2020; Appendix 2 of the Appellant's Response to the Statement of Case by Ashfield District Council). The LEMP shall include:
  - details of landscape and ecological management objectives, operations and maintenance prescriptions, together with their timings;
  - details of measures to protect the adjacent Fulwood Grassland Local Wildlife Site;
  - details of new habitats created on site; and
  - details of maintenance regimes and management responsibilities.The LEMP shall be carried out as approved, and the site maintained thereafter in accordance with it.

- 9) No site clearance, preparatory work, demolition or development shall take place until a scheme for the protection of the retained trees and hedgerows (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and hedgerows shall be carried out as approved and retained throughout the construction period.
- 10) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority and based on the principles set forward by the approved Flood Risk Assessment (FRA) and Drainage Strategy 18090-RLL19-XX-RP-C001 dated June 2019. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority.
- 11) No building hereby permitted shall be occupied until foul water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. These details shall include the results of further mitigation hydraulic modelling testing and details of any improvement measures that maybe required. Any improvements shall be carried out prior to occupation of the first dwelling and the foul drainage strategy shall thereafter be implemented and maintained in accordance with the approved details.
- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i. construction traffic access to the site;
  - ii. proposed temporary traffic restrictions and the arrangements for loading and unloading of plant and materials;
  - iii. the parking of vehicles of site operatives and visitors;
  - iv. storage of plant and materials used in constructing the development;
  - v. wheel washing facilities;
  - vi. a demolition method statement detailing how 211 Alfreton Road is to be demolished;
  - vii. measures to control the emission of noise, vibration, dust and dirt during construction;
  - viii. pollution control measures to the adjacent stream;
  - ix. a scheme for recycling/disposing of waste resulting from demolition and construction works;

- x. delivery, demolition and construction working hours and days;
- xi. site contact details in case of complaints

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

The approved details shall be adhered to throughout the construction period.

- 13) Prior to the commencement of development the applicant shall submit the following to the Local Planning Authority:
  - i. A site investigation/Phase II report documenting the characteristics of the ground at the site and detailing where any previous use of the site indicates a potential contaminative use. The Site Investigation should establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas monitoring and chemical analysis, identified as being appropriate by the Desktop Study, should be carried out in accordance with current guidance using UKAS/MCERTS accredited methods. All technical data must be submitted to the Local Planning Authority.
  - ii. A Scheme of Remedial Works where the Site Investigation has identified the presence of significant levels of harmful ground gas and/or significant levels of chemical contamination to include details of a standoff between the approved dwellings and the adjacent landfill site and details for the provision for gas protection measures in the approved dwellings. The scheme should include a Remediation Statement and Risk Assessment Strategy to prevent any significant risk arising when the site is being developed or subsequently occupied. All remediation should be carried out safely, ensuring that no significant risks remain. Where additional contamination is found the applicant must submit in writing, details of the contingency plan for the written approval by the Local Planning Authority.
- 14) On completion of any remedial works and prior to the first occupation of any of the dwellings, the applicant must submit to the Local Planning Authority a Validation Report with confirmation that all remedial works have been completed and validated, in accordance with the agreed details. The Validation Report must be submitted for the written approval of the Local Planning Authority prior to the development being put to its intended use.
- 15) Prior to the first occupation of any dwelling an updated Travel Plan to reflect the most up-to-date guidance in Nottinghamshire County Council's 'Guidance for the Preparation of Travel Plans' shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented and monitored in accordance with the provisions contained therein.
- 16) Prior to the first occupation of any of the dwellings, all noise mitigation measures shown to be necessary within Chapter 5 of the submitted Noise Impact Assessment by REC (11 December 2019) should be installed and a validation report submitted to and approved in writing by the Local Planning Authority. The measures shall then be retained as approved.



**TOWN AND COUNTRY PLANNING ACT 1990**

Town and Country Planning (General Permitted Development) (England) Order 2015  
Town and Country Planning (Development Management Procedure) (England) Order 2015  
Town and Country Planning (Control of Advertisements) (England) Regulations 2007  
Town and Country Planning (Tree Preservation) England Regulations 2012  
Planning (Listed Buildings and Conservation Areas Act 1990  
Planning (Hazardous Substances) Act 1990  
Planning and Compensation Act 1991

## **Refusal Notice**

### **Major Outline**

The application referred to below has been refused by Ashfield District Council.

### **Application Details**

**Planning Reference Number:** V/2019/0491

**Location of Development:** Land to the rear of 211, Alfreton Road, Sutton In Ashfield, Nottinghamshire, NG17 1JP

**Description of Development:** Outline Application With Some Matters Reserved For a Maximum of 100 Dwellings and Associated Access. Including demolition of 211 Alfreton Road.

**Applicant Name:** Ashfield Ltd

**Date:** 02<sup>nd</sup> March 2020

**Address:** Council Offices, Urban Road, Kirkby-in-Ashfield, Nottingham. NG17 8DA  
**Tel:** 01623 450000 **Fax:** 01623 457585  
[www.ashfield.gov.uk](http://www.ashfield.gov.uk)

If reasonable adjustments are needed to fully engage with the Authority - contact 01623 450000

## **REASONS**

1. The proposal is considered to represent an unsustainable form of development, which does not meet the overarching social and environmental objectives set out within paragraph 8 of the National Planning Policy Framework (NPPF). This is because of the following:
  - There would be a loss of open space and adverse impact on the landscape character, which is contrary to Policies ST1 and RC2 of the Ashfield Local Plan Review (ALPR).
  - The primary schools within the area are at capacity and there is no specific site identified for a new school. This is contrary to paragraph 94 of the NPPF, which states that a great weight should be attached to education.
  - The development in proximity to the landfill tip could have a harmful impact on human health, contrary to paragraph 180 of the NPPF.
  - There would be an adverse impact on biodiversity in the area with the potential loss of hedgerows, trees and impact on wildlife contrary to Policy EV8 of the ALPR.

## **INFORMATIVE**

For further detail on the decision please see the application report by contacting the Development Section on 01623 457388.

## **PROACTIVE WORKING**

The processing of this application has been undertaken in accordance with the requirements of the National Planning Policy Framework 2018.

  
YP Carol Cooper-Smith  
Interim Chief Executive