

**Appeal by Hallam Land against non-determination
of an outline planning application for up to 300 dwellings with all matters reserved
except access Land at Newark Road, Sutton-in-Ashfield**

**Statement
by**

Councillor Jason Zadrozny, Leader of Ashfield District Council

Planning Inspectorate Reference: APP/W3005/W/24/3350529

Council Reference: V/2022/0629

- 1.1 My name is Jason Zadrozny, and I have been a Councillor at Ashfield District Council for 18 years. During my time as a Councillor, I have served on the Planning Committee for almost all of that time and was cabinet member for planning policy for three years too.
- 1.2 At the meeting of Planning Committee on 31 July 2024 the Council's Planning Committee, following careful consideration of the officer report, representations made by members of the local community and all other relevant matters, members decided unanimously to defer a decision on the application and asked the applicant to provide further information in respect of a number of issues which are stated in the Statement of Common Ground.
- 1.3 The applicant submitted an appeal against non determination rather than provide the information requested and wait for a decision to be made on the application. Officers reported the appeal to the Planning Committee on the 23rd October 2024, interested parties including the applicant were invited to address the committee a local resident spoke and raised concerns the applicant submitted a letter which officers advised members of. Because a decision was not being made consideration was given to the report by members and officers in private. The committee informed officers that if the appeal not been made against non determination, they would have been minded to refuse the planning application for the 5 reasons set out below:

Reason 1:

The site is not a sustainable location for further residential development by virtue of the limited public transport opportunities and the need to travel by car to access higher level services. The development would therefore be contrary to Policy ST1 of the Ashfield Local Plan Review 2002 and the aims and objectives of the National Planning Policy Framework (2023).

Reason 2:

The proposed development would result in the loss of best and most versatile agricultural land contrary to Paragraph 180 of the National Planning Policy Framework (2023).

Reason 3:

The proposed development would have an adverse impact on the character and appearance of the open countryside. The development is therefore contrary to Policy ST1 of the Ashfield Local Plan Review 2002 and objectives of the National Planning Policy Framework (2023).

Reason 4:

Insufficient information has been provided to demonstrate that the development proposed would be suitable to provide a residential use taking account of ground conditions and risks arising from contamination. The development is therefore contrary to paragraphs 180c) and 189 of the National Planning Policy Framework (2023).

Reason 5

Insufficient information has been provided to fully assess the impact upon the local highway network. In particular there is insufficient information on the impact of the development having regard to its proximity to the existing the level crossing and the implications when the crossing gates are closed during peak times. Consequently, this lack of information means that it has not been demonstrated that the proposal would not have a severe impact upon the highway, which would be contrary to Policy ST1 of the Ashfield Local Plan Review 2002 and paragraph 115 of the NPPF.

1.3 I will now expand upon these points in turn.

1.4 Site is not a Sustainable Location for Further Residential Development

1.4.1 It is my opinion that the site is not in a sustainable location for residential development. Although there are bus stops on Sotheby Avenue which used to provide access to Trent Barton Service 3C this service has been terminated. The nearest bus stops that are in use are on Kirby Folly Road and are between 490m and 950m walking distance. This is contrary to the Nottinghamshire Highway Design Guide which states that 80% of dwellings should be within 250-400m maximum walking distance of a bus stop location where there is an existing, or to be secured, bus route.

1.4.2 The applicant's Travel Plan states that: -

‘Sutton Parkway train station is within walking and cycling distance, and is also accessible via the bus Service 3C. The station provides secure cycle parking, so there are good opportunities for train travel as part of a multi-modal journey.’

1.4.3 However, I would point out that the railway station is over 1km from the site and therefore is not within easy walking distance, especially when considering the range of abilities of the whole of the community including people with disabilities and older persons.

1.4.4 Although I would accept that the railway station is within cycling distance, I would suggest that the cycle parking is far from secure. Cycle parking facilities consist of

only a frame and CCTV. This leaves cycles open to vandalism and theft and therefore current facilities are not conducive to the promotion of cycling as a means of travel.

1.4.5 The request by Members of Planning Committee about the accessibility and security of the station to cyclists has been answered by the appellant as follows:

“We have not contacted the County or other organisations as Nottinghamshire Highway Authority have not raised any issues with cycle parking at the train station and nor have any other consultees. If the Council consider a CIL complaint request can be justified, then this justification should be provided by the Council. We have said we are happy to secure a CIL compliant request through a S106 Agreement, it is not appropriate for us as the applicant to justify a developer contribution.”

1.4.6 It is my opinion that the appellant has failed to demonstrate that the cycle facilities at Sutton park Railway Station are adequate and, or, to provide a mechanism through which they can be enhanced to provide an appropriate standard of security. Given this the Travel Plan is flawed and unlikely to encourage a modal shift away from the use of the private car.

1.4.7 The appellant’s Travel Plan states: -

‘Guidelines for Providing for Journeys on Foot² describe acceptable walking distances for commuters and school pupils, where up to 500 metres is the desirable walking distance, up to 1,000 metres is an acceptable walking distance, and up to 2,000 metres is the preferred maximum walking distance. Figure 4 shows the pedestrian catchment area based on a 2,000 metres walking distance from the centre of the site, via footways along the local highway network and traffic-free public footpaths. The catchment area covers the education, employment, health and retail facilities within the south-eastern parts of Sutton in Ashfield, including Sutton Forest Side, New Cross and Round Hill, as well as northern parts of Kirkby in Ashfield.’

1.4.8 I would point out that whilst this may be the case a pedestrian catchment area based on a 500 metres walking distance from the centre of the site is likely to exclude most of these facilities, such as Bleak Hills Industrial Estate (c1.2km), Kingsmill Hospital (c1.75km), Aldi (c 1.5km), Hillcock Primary (c1.2km) and Lowmoor Business Park (c1.32km). These are substantially above the 500m ‘desirable walking distance’ and it is my opinion that Figure 4 of the Travel Plan adequately demonstrates that the site is not in a sustainable location.

1.4.9 Therefore, the site is located beyond what is considered to be a ‘desirable walking distance’ from many if not all of the education, employment, health and retail facilities identified within Figure 4 of the Travel Plan. This is hardly conducive to promoting a shift towards encouraging walking as a realistic alternative to the private car.

1.4.10 The above means that any proposed residential development of the site needs to demonstrate that it could be made sustainable through enhanced public transport and pedestrian/ cycle links and facilities. As stated earlier the appellant has failed to do this in respect of enhancing cycling facilities at Sutton Park Railway Station and has

shown in Figure 4 of the Travel Plan that walking is not an attractive option which only leaves the issue of public transport.

1.4.11 The appellants Travel Plan at paragraph 3.20 alludes to the ‘two bus stops on the northern part of Sotheby Avenue’ which are ‘approximately 190 metres from the closest development plots’. The Travel Plan also makes it clear that ‘With regards to bus travel, a bus service would not be routed through the development, and instead improvements would be made to the existing off-site bus stops and services’. This is proposed to include

- ASO566 Searby Road – real time bus stop pole and display, including associated electrical connections
- ASO567 Searby Road – real time bus stop pole and display, including associated electrical connections.

1.4.12 However, I would point out that the services on Searby Road no longer run.

1.4.13 Furthermore, although Nottinghamshire County Council Planning has subsequently requested an indicative bus contribution of £150,000 this may not be sufficient to provide long term assurance that a bus service would operate for the life-time of the development. I would therefore assert that should the bus service fail then the development would be located in an unsustainable location with the only realistic means of travel would be by private car.

1.4.14 The unsustainable location of the site is a major concern to myself and Ashfield District Council Planning Committee. Sustainability should be the golden thread that runs through the planning system to ensure that the right development is built in the right places. It is my opinion that the site by virtue of its location and the poor opportunities to encourage the use of public transport, walking and cycling would inevitably lead to reliance on the private car and undermine the Council’s strategies that seek to promote high levels of sustainability. This is matter that I consider should be given substantial weight against the proposal.

1.5 Loss of Best and Most Versatile Agricultural

1.5.1 On considering the officer report it was clear that the NPPF directs that the decision taker to have regard to the wider benefits of best and most versatile agricultural land. The officer report set out that 97% of the site area (19.2 ha) comprises Grade 3a agricultural land and therefore best and most versatile agricultural land.

1.5.2 I considered that this would be a substantial area of land that would be lost to agricultural production should the application (now appeal) be allowed. Whilst this would be regrettable at the best of times, I was very concerned by this potential loss in an increasingly volatile and uncertain world, particularly demonstrated by the last few years following the invasion of the Ukraine and subsequent cost of living crisis. I consider that food security is of paramount importance and due weight should be afforded to the loss of best and most versatile agricultural land.

1.5.3 Therefore, like the officer report recommends, I consider that moderate weight should be afforded to the loss of 19.2 ha of agricultural land.

1.6 Adverse Impact on the Character and Appearance of the Countryside

- 1.6.1 The officer report made it clear that the decision taker should have proper regard to paragraph 180 of the NPPF paragraph 180 which states decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 1.6.2 I noted from the officer report that the site comprises 21.4 hectares of open countryside set to arable production on the edge of the town of Sutton in Ashfield. Furthermore, the site slopes down from Coxmoor Road and from the south-east of the site to the north-west.
- 1.6.3 I also noted that the north-west of the site is bounded by the B6022 Newark Road and that the boundary here is comprised of mature trees and an over mature hedgerow. Being familiar with is road I consider that it provides a pleasant, green, rural entrance to the town from this direction.
- 1.6.4 To the north-east the site bounds the B6139 Coxmoor Road across which is open countryside. The boundary along Coxmoor Road is comprised of a hedgerow with occasional gaps through which views can be had across the site towards Sutton in Ashfield.
- 1.6.5 In my opinion the proposal would irreversibly alter the character and appearance of this site in that open, green, fields surrounded by hedges would be replaced by houses and roads. I consider that the visual impact would be made worse by the removal of much of the mature vegetation along the north-western boundary with Newark Road which would be required to provide the sight lines to serve the vehicular access. Although the applicant has provided an indicative or illustrative plans showing how the site could be landscaped to mitigate impacts, this would not take effect until any new planting has begun to mature. However, the loss of the hedgerow and mature trees along Newark Road would be lost at the earliest stages and it would take considerable time for any new planting to mitigate this impact.
- 1.6.6 Furthermore, whilst I note that the indicative layout shows significant new planting this would only partly mitigate the loss of countryside and in any case would take considerable time to do so.
- 1.6.7 It is therefore my opinion that due weight should be afforded to the loss of countryside.

1.7 Insufficient Information Regarding Ground Conditions and Risks Arising from Contamination

- 1.7.1 I note from the officer report that the site has formerly been used as a quarry which has been subsequently back filled with waste. Furthermore, I note that the potential release of toxins from the site as a result of the development is a major concern of the local community.
- 1.7.2 I also note that Paragraph 189 of the NPPF makes it clear that 'Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

1.7.3 In support of the application the then applicant had submitted a Phase 1 Geo-environmental Desk Study, a Technical Note comprising a Ground Gas Risk Assessment and a further letter from RodgersLeask which aimed to address concerns raised by Planning Committee at its meeting on 31st September 2024.

1.7.4 The Report concluded that an intrusive Phase 2 site investigation to confirm ground conditions of the wider site, chemical testing on the landfill area and further gas monitoring may be needed. Despite this Planning Committee and myself have been dismayed and concerned that this work has not been done and the appropriate reports have not been provided with the planning application.

1.7.5 It is my belief that without a proper established understanding of the nature of the contamination on the site, it is not possible to establish appropriate mitigation and the extent of works that mitigation would entail. For example, mitigation may require a level of compaction or piling, both of which could have an impact on the amenity of local residents, thorough noise, dust and vibration, and, or potentially allow contaminants to enter local water courses or the underground aquifer. Furthermore, avoidance of the area affected by contamination (as mentioned in the Rolls Royce report) may result in a reduction of the number of dwellings that could be accommodated on the site, the location of internal spine roads both of which could affect the planning balance.

1.7.6 I would therefore assert that without the submission of a Phase 2 Geotechnical Report and a full remediation strategy that can be considered by all relevant consultees any decision taker would not have sufficient information to make a fully informed decision.

1.8 Insufficient Information to Determine the Impact of Development on the Existing Highway Network Pressures

1.8.1 The site is located XXm from a level crossing on the Robin Hood Line (Nottingham to Worksop). The level crossing gates are closed for safety reasons for an extraordinary length of time because of the distance to Sutton Parkway Station. This requires the gates to close when the train approaches the station from Nottingham. The gates then remain closed for the time it takes the passengers to exit and board the train and then for the train journey passed the crossing. This results in significant delays in the traffic and it backs up along Newark Road past the proposed site entrance to the junction

with Coxmoor Road. It is considered insufficient information on the impact of the development having regard to its proximity to the existing the level crossing and the implications when the crossing gates are closed during peak times. Consequently, this lack of information means that it has not been demonstrated that the proposal would not have a severe impact upon the highway, which would be contrary to Policy ST1 of the Ashfield Local Plan Review 2002 and paragraph 115 of the NPPF.

- 1.8.2 It is understood that a solution to this would be the reconfiguration of the train signals and where the trip to close the gates is located but this has not been sought by the applicants and not resolved with Network Rail.

2.0 Planning Balance

- 2.1 Whilst I acknowledge that the Council has not got a 4-year housing supply and that the tilted balance within the presumption in favour of sustainable development applies to the determination of the appeal I consider that there are several matters that not only weigh against the proposal but that when taken together outweigh the benefits of the proposal when considered against policies in the NPPF taken as a whole.
- 2.2 Accordingly I accept that the proposal would make a significant contribution to the Council's housing supply and the supply of affordable homes to which I would suggest should be given moderate weight. I also accept that the proposal would make a significant but modest contribution to biodiversity net gain and to the economy, both of which I would respectfully suggest should be given limited weight.
- 2.3 However, despite that there are outstanding questions in respect to land contamination I would respectfully suggest that substantial weight should be given to the appeal site's unsustainable location and that it has not been demonstrated that it can be made sustainable for the lifetime of the development.
- 2.4 Furthermore it is my opinion that the loss of countryside and of best and most versatile agricultural land are matters which should both be given moderate weight.
- 2.5 Taken together it is my opinion that, on balance, the disbenefits of the proposal outweigh the benefits when considered against the NPPF as whole. As such I respectfully request the Inspector to dismiss the appeal.