

Our Ref. 1120273

2<sup>nd</sup> April 2025

Sent via online consultation form

Dear Sir or Madam,

[Consultation Response for Additional Housing Site Allocations Concerning the Examination into the Soundness and Legal Compliance of the Ashfield Local Plan 2023 to 2040](#)

I write on behalf of our client as the representor, Vistry Group, regarding the examination into the soundness and legal compliance of the Ashfield Local Plan 2023 to 2040 (emerging plan). Specifically, the consultation regarding the 13 additional housing site allocations proposed following the decision by Full Council on 17<sup>th</sup> February 2025 for their inclusion in the emerging plan.

The ability to provide representations during the examination into this emerging plan is welcomed by our client and it is hoped that feedback provided during this process will inform the composition of a robust plan to guide growth and development into the future.

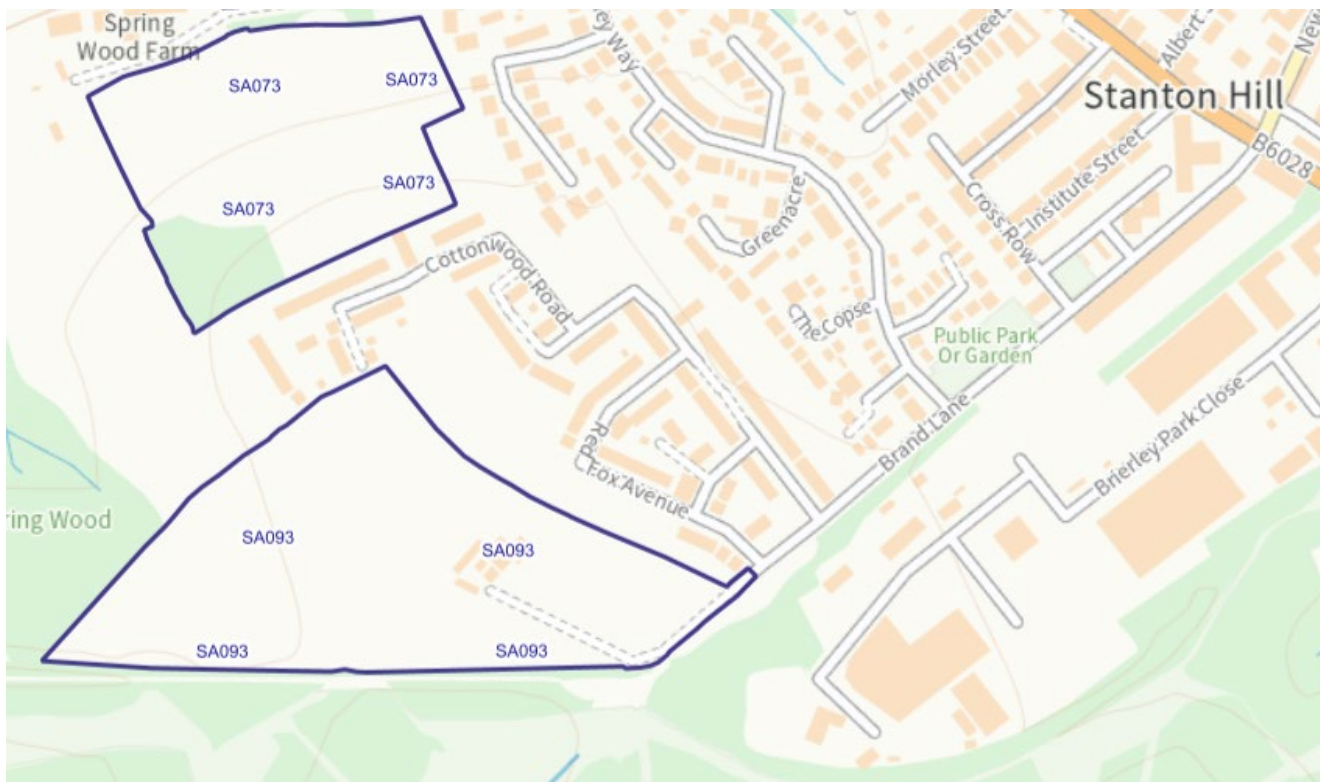
The following statement outlines the response our client wishes to make known after having reviewed the evidence base contained within the Local Plan 2023 to 2040 examination pages that can be viewed on the Ashfield District Council website.

We hope that by engaging with the examination process at this stage we can assist in the creation of a sound development plan to meet the present and future needs of the community.

[Consultation on Additional Housing Site Allocations](#)

Our client's interest in the consultation process stems from the submission of an outline planning application for up to 149 dwellings (ref: V/2025/0027) at Brand Lane, Stanton Hill which was validated by Ashfield District Council (the Council) on 20<sup>th</sup> January 2025. The application site was also submitted to the Council during the Call for Sites exercise that was conducted in conjunction with the development

of the emerging plan. The site was provided with the reference identifier SA093 which is viewable on the Strategic Housing Land Availability Assessment (SHLAA) and can be found on the Council website. **Figure 1** depicts the extent of ref ID: SA093 which is broadly identical to the application boundary of the submitted outline application on the site.



**Figure 1 – Extract from Strategic Housing Land Availability Assessment (SHLAA) Interactive Map**

Despite the application being validated in January 2025 and also being in the SHLAA, no reference was made to its suitability within the 'Ashfield Local Plan 2023 to 2040: Consultation on Additional Housing Site Allocations' which was published in February 2025. There is **no explanation provided** in any of the submission documents as to why Site SA093 has not been considered by the Council for a potential allocation. This appears to be a significant and surprising omission given need clearly exists in the District.

Planning Inspectors Philip Mileham and Graham Wyatt, in their correspondence dated 3<sup>rd</sup> December 2024, identified a shortfall during the examination of the Ashfield Local Plan of 882 homes to the year 2040. Their 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*".

Despite these questions into the Council's housing strategy, and the suggestion of an additional call for sites exercise by the Planning Inspectors, the Council chose not to conduct an additional call for sites

exercise. This was confirmed to the Inspectors in '*ADC.09 Ashfield District Council's response to INS05 Re Inspectors initial findings*'.

The questions below have been extracted from the Online Consultation Form for the Additional Housing Site Allocations. The questions our client has chosen to provide answers for are of relevance to their interests and that of the Council's as they respond directly to the Council's search for deliverable housing sites, as defined in the National Planning Policy Framework (NPPF) 2024.

Which proposed additional housing site allocation does this representation relate? Provide your comments on the housing site allocation identified.

The site this representation relates to is identified in the '*Ashfield Local Plan 2023 to 2040: Consultation on Additional Housing Site Allocations*' document as H1Kn Southwell Lane, Kirkby. The land is not associated with any extant planning permissions and no planning applications have been submitted in relation to the land since 2014 (ref: V/2014/0530). This application from 2014 was for outline permission with all matters reserved except for access.

The Consultation on Additional Housing Site Allocations document describes H1Kn as only "*potentially suitable and potentially achievable*" in paragraph 6.41 and goes on to state that "*likely existence of contamination and possible ground stability issues will require further investigation as part of any proposed housing scheme*" in paragraph 6.42.

Contamination and ground stability issues are significant constraints when considering a land use as sensitive as residential development. As planning application V/2014/0530 was only in outline, these issues were not adequately addressed at the time permission was granted to give confidence that remediation would be viable to allow for a housing development to materialise.

The Brownfield Register identifies the site as BFR 12 and confirms that the land is not owned by a public authority. Therefore, when confronted with the time and financial burdens of remediation, there are no incentives for the private landowner to progress this site as a housing development.

From February 2024, all planning applications for housing developments proposing 10 dwellings or more are required to demonstrate how 10% biodiversity net gains (BNG) will be secured as part of the Environment Act 2021. As planning application V/2014/0530 was validated in 2014, no requirement existed for the applicant to demonstrate biodiversity net gains of at least 10%. Therefore, any new application may have its developable area impacted by the provision of onsite BNG meaning the forecasted capacity is likely to be less than the stated 60 homes. Whether onsite or offsite provision is sought, the financial implications for the private landowner would have a cumulative impact on viability in addition to the remedial work required for contamination and ground stability.

Annex 2 of the NPPF 2024 states that: *"To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years"*.

Given that H1Kn does not have any extant planning permissions, has no live planning applications being determined, and has been identified as recently as February 2025 as having contamination and ground stability issues, it is not realistic to describe this site as deliverable. Therefore, this site should not have been chosen as an additional housing site allocation.

Please provide any comments on supporting text for Policy H1: Housing Site Allocations.

In relation to our client's comments above, the inclusion of site H1Kn in the supporting text of Policy H1: Housing Site Allocations is not deemed appropriate due to its questionable deliverability over the upcoming plan period covered by Ashfield Local Plan 2023 to 2040.

Also, the shortfall identified by Planning Inspectors Philip Mileham and Graham Wyatt was that of 882 homes to the year 2040. The additional housing allocations proposed by Full Council on 17<sup>th</sup> February 2025 would provide 828 homes. Our reasoned discounting of Site H1Kn, which is said to provide up to 60 dwellings, would result in an unresolved shortfall of 114 homes up to 2040.

There is no doubt that the persistence of this shortfall will be noted by the Inspectors and that the Council's position of not conducting an additional call for sites exercise when recommended will be challenged. The consequence of the Council proceeding against the advice offered could jeopardise the adoption of the emerging plan and the Inspectors make it clear in their correspondence on 3<sup>rd</sup> December 2024 that *"any extensions to the six-month pause should only be allowed at the Inspectors' discretion to deliver adopted local plans"*. Therefore, there is an element of risk associated with the approach taken by the Council in resolving the housing shortfall.

Do you consider the proposed additions to the Local Plan to be sound? Please provide precise details of why you believe the proposed additions to the Local Plan are, or are not, legally compliant, sound or in compliance with the duty to cooperate.

Paragraph 36 of the NPPF 2024 states that: *"Plans are 'sound' if they are:*

- a) Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
- b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*

*c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*

*d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant”.*

As explained in the answer to the above question, the plan cannot be described as Positively Prepared as the proposed housing allocation will not meet the area’s objectively assessed need for housing. Neither can the plan be described as Justified as the Council has failed to take into account reasonable alternatives when assessing proposed housing allocations, despite the suggestion of an additional call for sites exercise by the Inspectors. As the definition of Effective concerns deliverability over the plan period, our reasoning confirms that site H1Kn cannot be described as deliverable and that its inclusion within the emerging plan lacks credibility.

Paragraph 61 of the NPPF 2024 states that: *“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed”*. Despite significantly boosting the supply of homes being the objective, the Council has not achieved the minimum of providing the number of homes in line with the objectively assessed need.

As can be inferred from the above assessment, the emerging plan does not meet these four criteria and therefore the plan currently cannot be described as sound.

What change(s) do you consider necessary to make the proposed additions to the Local Plan legally compliant or sound or to meet the duty to co-operate, with regards to the issue(s) identified above?

Our client believes that the Council has an opportunity to produce a sound plan if it are willing to fairly assess additional housing sites, as suggested by the Inspectors. Given that outline application ref: V/2025/0027 is currently being determined for up to 149 homes at Brand Lane, our client would welcome engagement from the Council to include this land as a housing site allocation. The Site has been submitted to the Council and included within the SHLAA under Site Ref SA093, but for unknown reasons, the Site has not been considered for allocation.

Unlike the proposed allocation H1Kn, the land at Brand Lane does not have onerous contamination and ground stability issues which would jeopardise its deliverability within the plan period and is adjacent to existing housing developments in Stanton Hill. This would represent a significant boost in housing supply in a sustainable location and would assist the Council of meeting at least the minimum of its objectively assessed housing needs.

On behalf of our client, I would like to thank you for being able to provide a response in relation to the consultation into additional housing site allocations of the Ashfield Local Plan 2023 to 2040. We hope that proactively engaging with the Council can assist with developing a concise plan to sustainably meet the present and future needs of the community.

In relation to the Examination in Public, we would like to participate at the upcoming hearing sessions.

Should you have any questions or comments then please do not hesitate to get in touch using the channels provided.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Johal', with a stylized flourish underneath.

**Aaron Johal**  
**Senior Planner**