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# Ashfield District Local Plan Examination

## Matter 3 Hearing Statement

On behalf of Hallam Land.

Date: 22 October 2024 | Pegasus Ref: EMS.2254

Local Plan Respondent ID: 240

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## **Matter 3 – The spatial Strategy and Distribution of Development**

### **Issue 1**

**Whether the Spatial Strategy and the distribution of development are justified, and can be accommodated without releasing land from the Green Belt? If not, do exceptional circumstances exist that would justify altering the Green Belt boundary?**

**Relevant policies– S1, S4, S7, EV1**

- 1.1. **Is the spatial distribution of development across the borough justified and what factors influenced the Spatial Strategy, for example physical and environmental constraints and the capacity to accommodate development?**

As set out in detail in Matter 1, there is no clear justification provided in the submitted Local Plan (SD.01), Background Paper (BP.01) or Sustainability Appraisal (SD.03) for the spatial strategy.

The proposed strategy of dispersal has not been identified with reference to the physical and environmental constraints or other factors considered in the Sustainability Appraisal (SA). It appears to have been the result of a decision to remove the proposed new settlements identified in the Regulation 18 Draft Local Plan. Whilst this decision is documented, the justification for a dispersed approach is not provided and the implications for not being able to meet the housing needs of the District were not appraised.

There are no physical or environmental constraints that have prevented the Council identifying a spatial strategy that meets the housing needs of the District. The Green Belt, as a policy constraint, covers less than half of the District and does not cover large areas of land that are adjacent to main settlements such as Sutton.

The spatial strategy needs to be revisited, to ensure the findings of the Sustainability Appraisal are used to inform the decision about an appropriate strategy for growth and a strategy is selected that is capable of delivering the homes needed to meet the housing needs identified for the District. This should be very much cognisant that whilst housing need and delivering sustainable development can amount to exceptional circumstances for a Green Belt alteration, where housing needs are able to be met on suitable non-Green Belt land in sustainable locations adjacent to the main urban settlements, the existence of exceptional circumstances can no longer be soundly based on meeting these factors. No case is made out by the SA or Background Paper evidence that non Green Belt options are locationally unsustainable so as to provide exceptional circumstances to warrant Green belt release.

The proposed strategy does not meet the 'Justified' soundness test as it is not an appropriate strategy that has been identified taking into account the reasonable alternatives.

It does not meet the 'Positively Prepared' soundness test as the preferred strategy will fail to deliver the housing needs of the District over the plan period.

## 1.2. **What alternative options for the spatial strategy were considered?**

The SA considered a range of spatial strategies. Ten options were identified originally, but only eight of these were appraised, including two sub options for two of the strategies, broadly:

- Option 3 – Dispersed development
- Option 4 – One large sustainable urban extension:
  - 4a. Sub-option 1 considers Sutton Parkway as SUE.
  - 4b. Sub-option 2 considers Mowlands as SUE.
- Option 5 – One new settlement (outside Green Belt), one large SUE:
  - Sub-option 1 considers Sutton Parkway as SUE
  - Sub-option 2 considers Mowlands as SUE.
- Option 6 – Two SUEs adjacent Kirkby/Sutton with smaller sites.
- Option 7 – One new settlement in Hucknall's Green Belt and smaller sites.
- Option 8 – Two new settlements and smaller sites in/adjacent Sutton and Kirkby.
- Option 9 – Three new settlements including one in Green Belt.
- Option 10 – Two new settlements, more limited development at existing settlements.

Option 10 was originally identified as a preferred option as part of the Regulation 18 Draft Plan stage. Once the decision to not have a new settlement was taken, this should have led to a consideration of Options 4, 5 and 6 in addition to Option 3.

These other options scored well in the SA and provide good alternative options which would meet the housing requirement whilst directing growth to the most sustainable locations, the Main Urban Areas.

A reassessment of Option 4, 5 and 6 also needs to be accompanied by a reassessment of the existence of exceptional circumstances to justify the amount and location of Green Belt release, particularly in the context of suitable non-Green Belt sites, including our client's site, the Sutton Sustainable Urban Extension (site reference SA001) and the parcels within this wider area (sites reference KAO35: East of Sutton Parkway Station and SA024 South of Newark Road, Sutton-in-Ashfield).

One of the real opportunities presented by these options for growth is the co-location of homes and jobs, with new infrastructure to support both existing and new residents with improved cycle and walking routes linking homes, jobs, services and the Sutton Parkway Station.

These options are located in highly sustainable locations. Sutton-in-Ashfield is a sustainable location with a range of services and facilities available and existing infrastructure that development would benefit from. The Accessibility of Settlements Study identified that Sutton has the highest Settlement Accessibility Score in the whole District (Table 10,

Background Paper 1, BP.01). Comparatively, Selston scores lower, despite 9 sites being allocated within the Selston Parish Area. A number of these sites require release from Green Belt.

The proposed employment allocation in Strategic Policy S6 at Land to the East of Lowmoor Road, Kirkby-in-Ashfield (EM2 K4) comprising 11.11 hectares of employment land which is west of my client's land and has the potential to form part of a wider comprehensively planned sustainable urban extension to Kirkby and Sutton as shown in Appendix A.

There is no clear justification to pass over these sites in favour of Green Belt release when, at different scales, they meets all the aims of the preferred strategy of avoiding over development of the Named Settlements and isolated development and avoid significant impacts on heritage, landscape or wildlife. These non-Green Belt sites are deliverable, with the potential to deliver homes in the next five years, supporting the regeneration of the District's main towns whilst meeting needs.

1.3. **Why was the submitted approach to disperse development chosen and is it an appropriate strategy having regard to reasonable alternatives?**

The Plan sets out what the new strategy seeks to achieve but not why it was the chosen spatial option. Background Paper 1 (BP.01) simply states that *'Option 3 in the SA has now been taken forward as it represents the best option to deliver sustainable development and meet the Vision for the District'* (para 4.3).

As we set out in detail in our Matter 1 Statement, the new dispersed strategy appears to have been arrived at as a by-product of the decision to remove the new settlements. It avoids development sites that have the most local opposition, and this appears to have been a significant influence on the decision-making process rather than the social, economic and environmental opportunities and constraints. Our Matter 1 Statement provides evidence of this, both in terms of the decision to remove the new settlements and the previous decisions not to allocate sustainable urban extensions at the Main Urban Areas.

The lack of any sound planning justification for the selection of the preferred strategy or the rejection of strategy options 4, 5 and 6 calls into question the legal compliance of the Local Plan. The strategy has not been capable of identifying sufficient sites to meet the housing needs and seeks to allocate site from the Green Belt when suitable non Green Belt sites are available and therefore fails the tests of soundness set out in the Framework.

The strategy needs to be 'Justified', a test of whether it is an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence. The strategy needs to be 'Positively Prepared' and meet the needs identified.

1.4. **Are the Plan's Strategic Policies sufficiently clear about the scale of development envisaged in each settlement/ area?**

No. Policy S1 provides for the spatial strategy and sets out the settlement hierarchy, which, in the main, mirrors the approach of the current development plan. However, as regards each tier of the hierarchy, the policy neither provides for a 'floor' nor a 'ceiling'.

It is recognised that the Main Urban Areas are to accommodate the 'largest scale of growth' which, in principle, is supported. However, it is noted that the drafting of this policy is

imprecise and does not quantify the extent of development which is anticipated over the plan period.

It is unclear why the Council has not allocated additional, deliverable and sustainable sites on the outskirts of the Main Urban Areas to accord with the proposed settlement hierarchy, and to truly concentrate development within (and in proximity to) the largest settlements in the District. Instead, the Council has opted for the release of Green Belt sites which would skew the anticipated quantum of development in the lower tiers of the settlement hierarchy.

1.5. **Does the submitted Plan's approach strike an appropriate balance between the identification of land for new homes and employment?**

This has not been tested through the Housing Needs Assessments as would be expected. It is important to consider the economic and property market dynamics as part of establishing the housing need requirements, to understand the relationship between the homes and jobs planned in an area.

The dispersed spatial strategy also fails to ensure new homes are provided close to existing jobs in the Main Urban Areas.

1.6. **Is the settlement hierarchy set out in Policy S1 Justified?**

Strategic Policy S1 sets out a logical settlement hierarchy, which is supported. The hierarchy reflects the evidence on existing infrastructure and access to services and facilities. It correctly identifies Sutton-in-Ashfield as one of the Main Urban Areas, with a range of facilities, services and employment opportunities serving the local community and beyond.

However, whilst the policy subtext is clear that the spatial strategy promotes sustainability by directing development within and adjacent to the built-up areas of the District, this is not set out in the draft policy wording. Having regard to this omission within the policy text, there is a risk that the policy will fail to deliver the vision of the plan or support sustainable development.

The policy wording should be amended to clarify that 'a) Main Urban Areas to accommodate the largest scale of growth **within and adjoining the following built-up areas**'.

There is a disconnect between the proposed settlement hierarchy and proposed spatial strategy that is not clearly addressed by the Council and calls into question the conclusion set out in the Background Paper (BP.01, paragraph 4.3), that the dispersed growth option represents the best option to deliver sustainable development and meet the Vision for the District.

1.7. **What evidence is there to justify the identification of each settlement within the respective tiers of the hierarchy?**

The Accessible Settlements Study for Greater Nottingham (2010) appears to have been used to assess the level of accessibility of existing settlements in terms of their residents' access to jobs, shopping, education and other services by walking, cycling and public transport.

- 1.8. **What reliance does the Plan’s overall strategy have on the proposed Maid Marian line? Is there a reasonable prospect of it coming forward during the plan period? How will the Plan respond to it?**

The Plan and supporting evidence set out plans for significant infrastructure improvements related to new infrastructure associated with the Maid Marian Railway Line and the opportunity to reopen the freight-only line and convert it to a passenger train, connecting four existing stations in Ashfield and Mansfield to Derby/Leicester/Nottingham and beyond.

There is no indication in the supporting evidence for the Local Plan that the Plan responds to these infrastructure improvements and implications they may have for the District.

### **Green Belt**

- 1.9. **What proportion of new housing and employment proposed in the Plan would be on land currently designated as Green Belt?**

No comment. But we reserve the right to comment on the Councils answer at the examination.

- 1.10. **What other reasonable options for meeting the identified housing requirement were considered prior to the proposed release of land from the Green Belt?**

This is for the Council to answer but we would like to reserve the right to comment when they have done so as there appears to have been no consideration of whether the option of an alternative spatial strategy could have reduced or removed the need for Green Belt release.

- 1.11. **Not all of Ashfield District is within the Green Belt. Could the need for new housing and employment be met by locating such uses outside Green Belt? If not, why is this the case?**

There are non-Green Belt sites, in sustainable locations adjoining the Main Urban Areas which have not been selected for development and could have made a significant contribution to meeting the housing needs before Green Belt sites were considered.

The decision to pursue a dispersed strategy and not consider any site just because it is over 500 dwellings led to our client’s site south east of Sutton-in-Ashfield being discounted despite being in a sustainable location and, as set out in paragraph 74 of the National Planning Policy Framework, providing a large supply of homes that’s often best achieved through planning for larger scale development.

The proposed strategy also led to sites being proposed for allocation that are located in less sustainable locations, contrary to conclusion set out in the Background Paper (BP.01, paragraph 4.3), that the dispersed growth option represents the best option to deliver sustainable development and meet the Vision for the District.

The sustainable urban extension option at Sutton-in-Ashfield, site reference SA001, forms part of the rejected Options 4,5 and 6 discussed above.

This area south east of Sutton-in-Ashfield has been included in various forms in both of the two previous withdrawn iterations of the Local Plan. It was a draft allocation in the Preferred



Options Local Plan in 2010. A further Preferred Approach consultation in September 2012 however removed the two urban extensions. Once the plan reached Examination, the Local Plan Inspector set out significant concerns regarding the selection of the remaining sites and asked the Council to consider withdrawing the plan, which the Council did.

The site formed part of the second iteration of the Plan and featured in the Publication version of Local Plan in 2016 (draft allocation reference SKA3e – Land at Newark Road). This plan was unfortunately withdrawn to facilitate the new political administration’s economic growth aspirations and vision for the District, and to take account of changes in the National Planning Policy Framework.

The Council have consistently found the land south east of Sutton-in-Ashfield to be a suitable and sustainable option for growth, but despite this, it has not been considered through this latest iteration of the Plan, even when the ambition for new settlements fell away.

There are also two non-Green Belt parcels within this larger urban extension area that have been rejected KAO35 and SAO24. Site SAO24, South of Newark Road is assessed as part of the pool of sites identified from the Strategic Housing Land Availability Assessment as fitting with the preferred strategy. The reason for it not being allocated is set out in paragraph 8.18 of the Background Paper (BP.01) and is copied below:

**SA024: South of Newark Road.** Although this site was assessed in the SHELAA as potentially developable, there are 2 outstanding planning applications dating from October 2017 and August 2022 respectively. The applications refer to outline approval for up to 300 dwellings, but currently have unresolved highways issues. As such, it has not been put forward for allocation due to the uncertainty of delivering development. This site has an estimated yield of **377** dwellings in the SHELAA.

The site was only discounted on the basis of unresolved highways issues and uncertainty of delivering development, but this is factually incorrect. There are no unresolved highways concerns, the site is the subject of a planning application with no technical objections against it. There is no uncertainty of delivery, it is in single ownership being promoted by Hallam Land a national promoter with a National housebuilder developer partner ready to submit a Reserved Matters application as soon as the Outline is approved. The Councils view of delivery was simply an echo of its own repeated failure to determine planning applications on the site.

1.12. **How has the assessment of sites within the Green Belt informed the Council’s approach to site selection?**

This is for the Council to answer but we would like to reserve our position to comment when they have done so given the relationship this has to the other matters we have raised on the demonstration of expectational circumstances and concerns about the site selection process.

1.13. **Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, paragraph 141 of the Framework states that strategic policy-making authorities should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for housing. This will be assessed through the examination and will consider whether the strategy:**

- **Makes as much use as possible of suitable brownfield sites and underutilised land;**
- **Optimises the density of development, and**
- **Has been informed by discussions with neighbouring authorities about whether they can accommodate some of the identified need.**

**How has the preparation of the Plan sought to make as much use as possible of suitable brownfield sites and optimise the density of development?**

It is essential that we consider how the Plan has sought to make as much use as possible of non-Greenbelt land in addition to previously developed land and appropriate densities. The NPPF requires "all other reasonable options" to be examined before exceptional circumstances can be concluded. This clearly includes non Green Belt greenfield sites as well as brownfield sites. This is for the Council to answer but we would like to reserve our position to comment on this when they do so.

**1.14. How would the proposed release of land maintain the openness and permanence of the Green Belt?**

It would not. As regards openness, paragraph 1 of the Planning Practice Guidance ("PPG") on Green Belts sets out that openness is capable of having both spatial and visual aspects – in other words, the visual impact of development may be relevant, as could its volume.<sup>1</sup>

In any event, the effects on openness are not necessarily confined to permanent physical works, but also dependent on the use of the land. Having regard to the extent of Green Belt land proposed for release, one could not reasonably conclude that the impacts, whether cumulative, or individually, would maintain the openness and permanence of the Green Belt.

**1.15. How has the Green Belt assessment considered the potential for mitigation?**

The consideration in respect of mitigation is neither suitable nor appropriate given the extent of land to be released. In this regard, the conclusions of the Council's Background Paper 4 – Green Belt Harm Assessment (BP.04) are noted.

In particular, paragraph 6.2 notes that, whilst the ideal would be to minimise harm to the Green Belt, it may be that the most sustainable locations for development will result in high harm to the Green Belt. Furthermore, paragraph 6.3 recognises that many potential enhancement opportunities relate to land which is in private ownership and therefore careful consideration will need to be given to how and if these opportunities can be delivered.

**1.16. Do the Plan's strategic policies set out the scale and need for the release of land from the Green Belt as required by paragraph 140 of the Framework?**

No comment.

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<sup>1</sup> Guidance appears reflective of the judgement of the Supreme Court in *R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council* [2020] UKSC 3.

- 1.17. **Having regard to the shortfall of housing provision over the plan period, what evidence is there that the Green Belt boundary will not need to be altered at the end of the plan period as set out at paragraph 143(e) of the Framework?**

By virtue of the fact that the Council has failed to allocate sufficient housing allocations over the plan period, there can be no certainty as to whether the Green Belt boundaries will be subject to further alteration as set out at paragraph 148(e) of the Framework.

To provide such certainty, the Council should be seeking to address the proposed shortfall, through the allocation of additional sites, which are not constrained by Green Belt. One such site is our client's site south east of Sutton-in-Ashfield. This site is identified in the pool of developable sites that the draft allocations were selected from. Part of the site is the subject of a live planning application (V/2022/0629) with no statutory consultee objections. The site was not selected as a draft allocation despite the site fitting well with the preferred strategy, being located outside the Green Belt, adjoining a Main Urban Area of a top tier settlement in the Plans hierarchy and having no outstanding technical constraints.

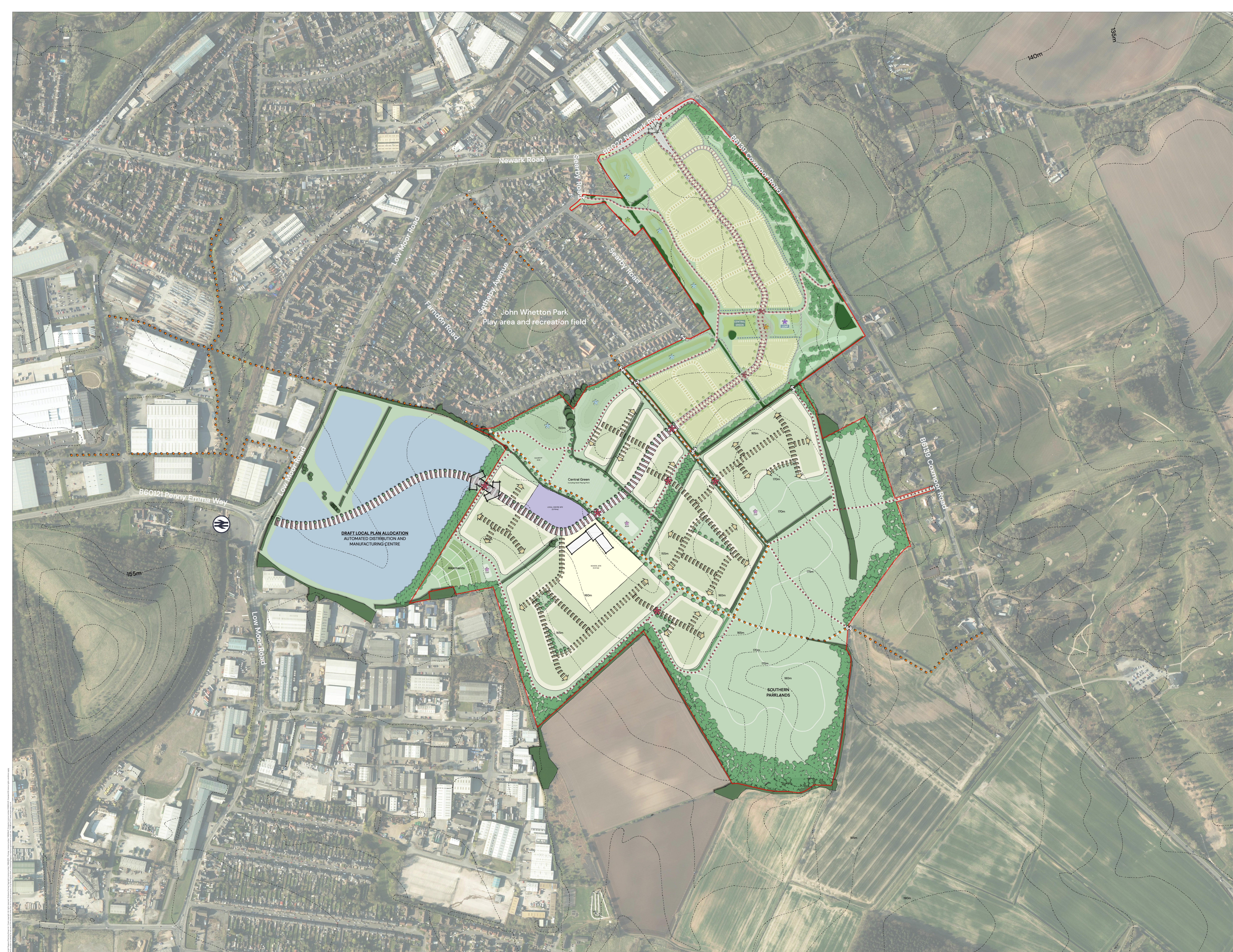
- 1.18. **At a strategic level, do exceptional circumstances exist to alter the Green Belt boundary, having particular regard to paragraphs 140 – 143 of the Framework? If not, how could housing and employment needs be met in other ways?**

Please refer to our response to 3.11 and the opportunities to meet housing need through urban extensions of the Main Urban Areas.

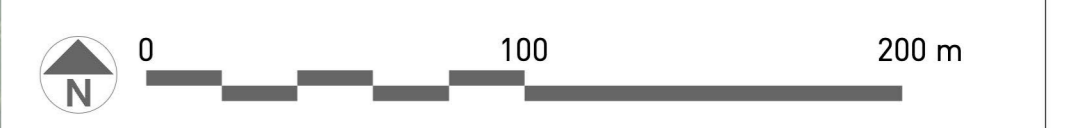
The Council appears to claim that the strategic level exceptional circumstances that justify the alteration of the Green Belt boundary are meeting the needs for housing and delivering sustainable development. This is however negated by the ability to meet that need on non-Green Belt land adjacent to the most sustainable settlements, as identified by the Council, on sites that have been discounted solely for being more than 500 homes.



## **Appendix A: South East of Sutton-in-Ashfield Concept Masterplan**



- Key**
- Site Boundary**  
Total: 75.64Ha  
[21.40Ha of total - Land off Newark Road (V/2022/0629)]
  - Residential Development**  
Total: 28.41Ha - circa 850 dwellings  
[0.62Ha of total - circa 300 dwellings - Land off Newark Road (V/2022/0629)]
  - Local Centre**  
0.70Ha
  - Primary School Site**  
2.00Ha
  - Adjacent Employment Land**  
Automated Distribution & Manufacturing Centre
  - ✦ **Sustainable Urban Drainage System**
  - ✦ **Play Space**  
NEAP, LEAP, Informal and Formal Play
  - ||| **Primary Street**
  - ||| **Streets & Lanes**
  - **Public Right of Way**
  - **Cycle and Pedestrian Movement**
  - ✦ **Key Pedestrian Crossing Point**
  - **Existing Vegetation**
  - **Proposed Buffer Planting**
  - **Proposed Trees**
  - Illustrative Sport Provision**



Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

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