



## Appeal Decision

Inquiry held on 21-24 & 28 September 2021

Site Visit made on 28 September 2021

**by Andrew Dawe BSc (Hons), MSc, MPhil, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 13 December 2021**

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**Appeal Ref: APP/W3005/W/21/3274818**

**Land off Ashland Road West, Sutton in Ashfield NG17 2EZ**

- 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 Bellway Homes Ltd against the decision of Ashfield District Council.
  - The application Ref V/2020/0184, dated 6 March 2020, was refused by notice dated 23 March 2021.
  - The development proposed is residential development of up to 300 dwellings with associated infrastructure and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 300 dwellings with associated infrastructure and landscaping at Land off Ashland Road West, Sutton in Ashfield NG17 2EZ in accordance with the terms of the application, Ref V/2020/0184, dated 6 March 2020, subject to the conditions in the attached Annex.

### Applications for costs

2. Applications for costs were made by Bellway Homes Ltd against Ashfield District Council and by Ashfield District Council against Bellway Homes Ltd. These applications are the subject of separate Decisions.

### Preliminary Matter

3. The appeal relates to an outline planning application with all matters reserved for future consideration other than access. The matters of appearance, landscaping, layout and scale would therefore be for future consideration were the appeal allowed. The Appellant has however submitted an illustrative masterplan to show how, in a non-detailed way, the proposed development could be achieved on the site. Furthermore, in terms of considering access at this outline stage, this only relates to the proposed vehicular accesses to the site and not the internal road layout or indicative footpath connections shown on the illustrative masterplan. I have determined the appeal on that basis.

### Main Issues

4. The main issues are:
  - i) the effect of the proposed development on the character and appearance of the area and surrounding landscape;

- ii) the effect of the proposed development on the biodiversity relating to the site; and
- iii) whether or not the proposed development would represent an acceptable density.

## **Reasons**

### *Character and appearance*

5. Policy ST1 of the Ashfield Local Plan Review (the Local Plan) states that development will be permitted where, amongst other things, it will not conflict with other policies in the Local Plan, it will not adversely affect the character, quality, amenity or safety of the environment, and it will not conflict with an adjoining or nearby land use. Policy ST2 goes on to state that development will be concentrated within the main urban areas, with Policy ST4 clarifying that outside the main urban areas and named settlements permission will only be given for sites allocated for development or development appropriate to the Green Belt or the countryside. In this case the site is not in the Green Belt but is in the countryside. In this respect Policy EV2 sets out the specific development defined as being appropriate in the countryside, of which the proposed development is not one, which in itself would result in a conflict with these policies.
6. The appeal site comprises two fields, separated by a mature hedgerow, on the edge of Sutton in Ashfield. The main urban area is to the south, from where the fields concerned slope gently down towards Brierley Forest Park (BFP), a Local Nature Reserve (LNR), to the north of the site. Alongside the western site boundary are also residential properties which back onto the site, relating to North Street which leads down to and has a pedestrian access into BFP, with a brownfield vacant site, where buildings have been demolished, on the opposite side of that street and further residential development beyond that. The site narrows at its eastern end where again there is residential development beyond, albeit only relating to dwellings fronting onto Ashland Road West and not extending along the whole of that eastern site boundary.
7. The fields concerned are therefore enclosed by a combination of urban area and BFP and as such are disconnected from the wider open countryside. Furthermore, the local topography and nature of surrounding built and natural features is such that views into and out of the site are generally localised, other than from the higher ground further into BFP.
8. From outside of the site, as well as glimpses from other adjacent streets, public views relate to vantage points mainly from Ashland Road West, where it runs alongside the eastern end of the site, and those roads leading onto it to the south-east of the site, albeit variable depending on the degree of site boundary vegetation; the southern side of BFP, filtered to varying degrees dependent on the extent of intervening vegetation and the time of year having regard to the extent of leaf cover; and the higher ground more centrally within BFP. That intervening vegetation within BFP is generally thicker adjacent to the western field of the site. There is only a hedgerow separating the site from the BFP footpath running alongside the eastern field which nevertheless forms a clear demarcation between the Park and the site, being a mature and generally fairly dense feature, albeit with some gaps. The site is also clearly visible from those properties immediately surrounding the site.

9. In considering this issue I have also had regard to the Landscape and Visual Impact Assessment submitted by the Appellant. I also acknowledge that although the local landscape is not formally designated as a valued landscape, the site and BFP, and the associated sense of openness and tranquillity, is clearly of value to the local community, a factor that I have therefore taken into consideration.
10. Given the already urban context of the site, relating to it not only being immediately on the edge of the settlement but partially enclosed with residential properties without any connection to the wider open countryside, notwithstanding being adjacent to BFP, in this respect the proposed development would not be an unexpected addition to that urban fabric. BFP does nevertheless comprise a pleasant and extensive open space with vegetation that has matured since its inception as a LNR adding to its character. It is a pleasant environment for recreation and appreciating the natural environment.
11. The existing site does provide an open setting to that adjacent part of BFP and would inevitably change the site's character from one of open fields to largely built form. However, that open setting adjacent to BFP is not a consistent characteristic whereby the urban edge currently extends to the Park to the west of the site, and I saw that further to the east, beyond the site, other parts of the Park are bordered by residential properties. Furthermore, that existing vegetation along the Park's southern side adjacent to the site provides a strong sense of containment, albeit to varying degrees. As such, the Park's visual character on that southern side is largely derived from within the Park rather than views outwards. Views of the site through or over that vegetation from BFP are also generally in the context of a backdrop of urban development, glimpsed to varying degrees beyond and set on slightly higher ground than the site.
12. The proposed development would nevertheless be much closer and inevitably more prominent than those existing dwellings to the south of the site as seen from BFP, albeit to varying degrees depending on the degree of intervening vegetation and time of year in respect of leaf cover. However, the proposals would include a substantial area of open space relating to the intended attenuation basin alongside a significant stretch of that nearest BFP footpath to the site at its eastern end. The submissions also illustrate how those proposed dwellings closest to BFP could be set away from the BFP boundary particularly where relating to intervening associated private driveways. Furthermore, the Appellant has indicated that any detailed layout could include additional buffer planting along that northern site boundary. I will consider such a buffer further in respect of the other main issues. However, in respect of this issue, I consider that the extent and nature of any additional vegetation planting would be a matter that could be appropriately considered at the Reserved Matters stage in conjunction with a detailed layout, without materially changing the proposed development.
13. Together with that existing level of containment to the Park, the closer proximity of houses alongside the Park would therefore be subject to a good degree of filtering or softening in views from the closer, lower parts of the Park due to the intervening existing and potentially enhanced vegetation, albeit dependent on its longer term maintenance and survival. Furthermore, together with the degree to which dwellings would be set apart from BFP, their scale and

- appearance could be appropriately controlled at the Reserved Matters stage to avoid dominating features on that edge of BFP. As such, although there would likely be some reduction to the sense of openness, fundamentally, the park itself would continue to afford a high degree and sense of openness to Park users.
14. There would be clear views of the proposed development from the higher ground further into BFP, to varying degrees depending on the viewing point and extent of screening by intervening topography and vegetation. As such the transition to urban development would be clearly apparent. However, that would be in the context of the existing distinctly urban landscape within the wider views, both in the immediate vicinity of the site and beyond.
  15. There would inevitably be more activity associated with the proposed development in comparison with the existing agricultural use of the site, including car movements closer to the section of BFP concerned, having regard to the sense of tranquillity that may be experienced by Park users. However, the more direct experience of such activity from within the Park would only relate to a relatively short section of footpath in the context of the wider path network of BFP. This would also be in the context of the north-eastern corner of the proposed development intended to comprise an open attenuation basin with a likely low level of activity. Furthermore, the level of activity would be that of an urban fringe suburban location and therefore unlikely to be of a high intensity.
  16. In terms of the effects of new lighting associated with the proposed development close to the edge of BFP where there is currently no lighting, this would be a matter for the detailed design at the reserved matters stage, and subject to a lighting strategy that could be secured by condition. There is therefore no reason to consider that any new lighting within the proposed development would be harmfully obtrusive.
  17. I have had regard to a previous appeal decision dated 19 March 1990, with reference ending in 127643, relating to a proposed residential development of the site at the time that the former colliery tip to the north of the site, now BFP, was being reclaimed. I do not have the full details of that case before me and the decision was also taken a long time ago, undoubtedly under a different planning policy framework. Nevertheless, it is evident from the decision that, other than the nature of the land to the north of the site, the context of surrounding development was similar to that now.
  18. The Inspector in that 1990 case found, amongst other things, that the existing development along the western boundary consisted of a fairly weak single ribbon of houses and bungalows which did not serve to contain visually this broad site within the built-up area. It was further described that the main area of development to the south of the site occupies the crest and upper slopes of a fairly pronounced ridge running out more towards the east. In that context the Inspector found that it would be wrong to allow major development to extend further down the slopes of the ridge into the bottom of this small valley and area of countryside.
  19. The Inspector further found that the small brook and the public footpath would not form a logical boundary to the built up area when viewed in the wider landscape, even with a substantial landscape scheme; stating that the proposed development would be a major intrusion into the bottom of this small

valley and an area of countryside, which although not subject to very extensive views seemed to the Inspector to have potential for passive recreation using the open space and the footpaths in the area. It was further stated that the reclamation of the former colliery tip seemed likely to continue recent improvements in the appearance, character and enjoyment of the area.

20. Whilst I note the Inspector's reference to the single ribbon of houses to the west, I have also taken account of the brown field land beyond that, albeit currently relating to a demolished building(s), and the further residential development beyond that, which together continues the urban environment to the west of the site. Furthermore, whilst the vacant brownfield land currently exposes North Street as a ribbon form of development, from vantage points in the vicinity of the site, the extent to which that is clearly apparent is very localised to the immediate vicinity of that street. I have therefore afforded little weight to this point of concern.
21. In terms of that previous Inspector's concerns about the proposed development down the valley side, bound by the footpath and brook to the north, and it being considered as a major intrusion into the bottom of the valley and the countryside, I do not have the full details relating to the nature of that northern boundary at the time of that previous appeal or any intended landscaping relating to it. However, the vegetation now comprising that existing boundary currently provides a clear demarcation between the site and BFG whereby the footpath and brook are not the most distinct features of that northern site boundary, thereby representing a partially different context to that relating to the previous appeal proposal. Furthermore, it remains the case that despite those previous concerns, the proposed development down to the valley bottom would be seen in the context of existing development relating to North Street to the immediate west, which itself projects down that gently sloping land.
22. In conclusion on this issue the proposed development would conflict with the above relevant Local Plan policies in terms of its location in existing countryside. It would therefore inevitably change the site's character from one of open fields to built form, and as such would be detrimental to the intrinsic character and beauty of this area of existing countryside. Furthermore, despite some mitigating factors, it would impinge to some degree on the open setting to BFP in this location and the sense of openness and tranquillity experienced from within BFP. The proposed development would therefore cause some harm to the character and appearance of the area and surrounding landscape. As such, in respect of this issue, it would be in conflict with Local Plan policies ST1, ST2, ST4 and EV2; and with section 15 of the National Planning Policy Framework (the Framework), which states in paragraph 174 that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. However, for the reasons set out above, and having considered the concerns relating to the previous appeal decision on the site, the extent of that harm would be limited, which I shall consider further in the planning balance.

#### *Biodiversity*

23. Paragraph 174(d) of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by

minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 180(a) of the Framework then states that when determining planning applications, local planning authorities should apply, amongst others, the principle that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

24. The proposed development would involve the loss of existing field habitat. However, with the proposed provision for new on-site habitat and an intended financial contribution for off-site biodiversity enhancements on selected local sites as identified in the submitted Unilateral Undertaking (UU), there is proposed to be a 10% biodiversity net gain (BNG).
25. The site's eastern field was originally classified as 'modified grassland', based on survey work undertaken by the Appellant. However, that survey was undertaken following the cutting of the grass and removal of the arisings. Following additional survey work conducted by the Council, undertaken when arisings were still present following cutting, additional grassland species to those picked up from the Appellant's survey were identified, which is not disputed by the Appellant. With the use of the Natural England (NE) Biodiversity Metric this would result in a re-classification of the eastern field on the site from 'modified grassland' to 'other neutral grassland' given the significant number of additional grassland species found and increased condition and distinctiveness, which again is not disputed. It remains a disputed position as to whether the ecological connectivity of the hay meadow concerned should be classified as being at least 'medium', rather than 'low', given the site's location adjacent to the high quality grasslands within BFP. However, based on the Council's calculations, the difference in terms of BNG units would only be just over two units and therefore not substantial even if I were to take account of the higher figure.
26. Having regard to the metric, in order to maintain the same level of biodiversity value as was calculated prior to the re-classification of the eastern field, this would currently result in a reduced developable area to that shown on the illustrative masterplan. I do not have before me any amendment to that illustrative masterplan showing such a reduced area, albeit acknowledging that it is only an illustrative plan and not a detailed final layout with a precise developable area set in stone. The revised metric figures would therefore indicate that the proposed development, based on the submitted illustrative masterplan, would have a worse effect on the site's biodiversity value than previously envisaged. As such, having regard to the metrics, I cannot be certain that there would not be a net overall loss of biodiversity, let alone that a 10% net gain could be provided, albeit that the latter is not currently a requirement under the Environment Act 2021 or local planning policy, particularly if the developable area were to remain similar to that relating to the illustrative masterplan.
27. Notwithstanding the above, this should be seen in the context of the eastern field still not being a rare habitat, and I have no substantive basis to consider it as one that would be regarded as anything more than of local level importance or that would attain the status of a Local Wildlife Site now or in the future, particularly in light of the degree of intensity of its management. Furthermore,



existing good quality habitat is proposed to be retained and new habitat created. In this respect, the peripheral field margin environments, including hedgerows, would be largely retained as proposed other than where new site access points would be created. Furthermore, the proposal would involve some new planting, with the potential degree of habitat benefit associated with that, and the likely significant benefit of a newly provided area suitable for Great Crested Newts.

28. In addition, there would be the proposed Planning Obligation, as referred to above relating to a financial contribution towards off-site biodiversity enhancements on selected local sites. In respect of those local sites, they are all either County or District owned sites and I have no substantive basis to consider any of them to be inappropriate for the delivery of biodiversity enhancement or that such enhancements would be undeliverable. The proposed contribution is also disputed by the Council as not specifically relating to Ashfield District, having regard to the basis for the level of contribution concerned. Nevertheless, as I cannot be certain that there would not be a net overall loss of biodiversity relating to the proposed development, the contribution concerned would at least off-set part of the lost on-site habitat and so would be appropriate in that context.
29. Having regard to badgers, surveys that have been carried out by the Appellant indicate a change in use of the sett concerned from an active main sett in 2019 to an inactive one in 2020 and then as an outlier in 2021. This shows how changes in the use of setts can occur over relatively short periods of time. As such there is no substantive evidence to indicate that a main sett could not be re-established. However, that is not the current situation based on the above most recent survey work undertaken which was conducted with the use of cameras and thereby increasing the likelihood of observing activity. Were it to resume use as a main sett in the future, prior to any development of the site, then that would have to be a matter for later consideration were that to occur, including whether there would need to be provision for a replacement sett.
30. I have had regard to whether the survey work relating to badgers was sufficient in terms of the time of year it was undertaken, outside of the optimal periods. I acknowledge that the Appellant could have carried out surveys at other times of the year to build up a clearer picture. However, it was not disputed that there is no policy or statutory requirement for survey work to be conducted at any particular time of year. Furthermore, the submitted Independent Ecological Review dated July 2020 (the IER) does not highlight the timings of the survey work undertaken as being unacceptable.
31. I therefore have no substantive evidence to indicate that if a main set was present this would not have been detected, or that the proposed development would be likely to adversely affect badgers. Furthermore, based on current circumstances I have no substantive basis to consider the potential re-establishment of the sett concerned as an active main sett to be a determinative factor for this appeal. Additionally, as to whether a license would be issued by NE, this is not a direct planning matter but nevertheless I have no firm basis to consider this unlikely to be forthcoming or to be a barrier to the proposed development of the site.
32. Having regard to breeding birds, the nature of the site, being primarily managed farmland would be a less conducive environment for breeding birds,

more so given that it is already adjacent to significant existing residential development with the associated potential for anthropogenic disturbance and access by domestic pets. Although survey work was not conducted by the Appellant, there is no substantive evidence to indicate this to have been absolutely necessary in this case due in particular to the nature of the site, albeit that such survey work would have inevitably helped to clarify and inform matters in this respect. Furthermore, whilst there are records of protected species of birds and Species of Principal Importance in the locality, they do not relate to locations on the site. As such there is no substantive evidence to indicate reliance on the appeal site for their breeding and foraging.

33. I have also had regard to the proposed retention of substantial amounts of existing hedgerow and vegetation around the edges of the site and the hedge running through it, which would therefore remain as habitat for breeding birds generally. The proposed new planting would also have the potential to provide suitable habitat for birds, and provision for an ecological management strategy could be secured by condition. It would also remain the case that all wild bird species are protected while nesting through other legislation. As such, it is unlikely that there would be unacceptable harm caused by the proposed development in respect of breeding birds. Furthermore, I note that the IER does not raise any concerns in respect of the effects on birds, subject to the proposed mitigation.
34. With regard to reptiles, again, due to the current intensity of management of the site, including the grassland being cut at least once a year, it is more likely that any suitable habitat for reptiles would be around the edges of the site. In this respect, much of that habitat is proposed to be retained together with the proposed creation of land for Great Crested Newts on the site. Again, subject to a condition to secure the provision for an ecological management strategy, it is unlikely that any unacceptable harm would be caused in respect of reptiles. Furthermore, the IER raises no particular concerns in respect of reptiles other than the potential for their dispersal across the wider site if parts were to be left unmanaged in the intervening period between ceasing of agricultural practices and commencement of any development. However, this would be a matter for the developer of the site in complying with any separate legislation.
35. In respect of the effect of the proposed development on the biodiversity of BFP, I have also had regard to policy EV6 of the Local Plan which sets out, amongst other things, that development which adversely affects LNRs or sites of importance for nature conservation or geological significance will only be permitted where provision is made within the development for the protection of features of nature conservation or geological significance, or the development cannot be located elsewhere.
36. The proposed development would inevitably generate a significant number of additional Park users, with prospective residents living immediately adjacent to it, particularly given the proposed direct pedestrian accesses to BFP from the site. However, the Park is currently intended to be and is designed and managed for recreational use alongside being a LNR, enabling those using the Park to enjoy and benefit from the nature associated with it. In this respect, I also note that the BFP Management Plan states that LNRs are usually close to or within urban areas and provide considerable opportunities for introducing large numbers of people to sustainable enjoyment of the countryside.



37. Having regard to that recreational use of the LNR, there is a network of suitably wide footpaths within the Park, along with clearly designed areas off the paths for people to use. As such, whilst the wider open areas are not fenced off, there is no substantive evidence to indicate that the biodiversity of the Park is harmfully compromised by public access in a location easily accessible and in close proximity to a substantial urban population. The proportion of people from the proposed development using the park would be likely to be higher than from locations further afield due to convenience. However, there is also no substantive evidence to indicate that, in itself, such additional numbers would significantly or harmfully alter the balance between protection of biodiversity interests and recreational use given the above circumstances.
38. The proposed new pedestrian access points to BFP would inevitably cut through existing vegetation along the southern edge of the Park. However, the extent of clearance would be relatively very limited in the context of the Park as a whole. I acknowledge that there are rare plant species, with the orchid broadleaved helleborine mentioned in particular as being locally uncommon in Nottinghamshire and which is found within the vegetation on that southern edge of the Park. However, appropriate locations for any such access points could be identified at the detailed reserved matters stage so as to avoid harmful damage to such species which I saw are in any case already present to some extent in close proximity to the existing footpath on that edge of the Park.
39. Furthermore, having regard to such new pedestrian access into the Park, appropriate interpretation facilities relating to ecology and recreation in BFP, which could include measures such as interpretation boards and homeowner information leaflets, could be secured by condition. The proposed accesses would also be likely to prevent the likelihood of people making their own unofficial access into the Park. They would therefore act as a control measure in this respect together with the proposed retention and any appropriate enhancement of the remaining boundary vegetation and any new buffer planting.
40. In terms of any potential harm caused by fly tipping due to the proximity of the proposed development to the Park's edge, any such risk could be mitigated by the appropriate layout and design of the proposals at the reserved matters stage, again together with any new boundary planting. In this respect, I also note that the illustrative masterplan demonstrates how the layout could be designed to allow a significant amount of natural surveillance of the Park's edge, likely to deter antisocial behaviour.
41. I have had regard to the IER which, amongst other things, refers to a buffer of densely planted scrub species alongside the woodland edge of BFP in respect of mitigating any potential disturbance impacts on the woodland edge, and the Appellant also states that a 10 metre buffer could be provided. Notwithstanding that and any other proposed enhancement to the vegetation along the northern site boundary, and any need that may be identified at the reserved matters stage to protect the root zone of trees within BFP, I have not received any substantive evidence to indicate the need for a specific, rigidly prescribed, width of vegetation buffer in terms of protecting the Park's biodiversity interests. The precise width, nature and extent of any such buffer would need to be appropriately addressed at the reserved matters stage. This would be in

conjunction with an ecological management strategy that, as previously referred to, could be secured by a condition, including details that would relate to the layout and landscaping proposals at that reserved matters stage.

42. The increased number of houses located close to the Park would inevitably generate an increase in domestic pets in the vicinity, having regard to concerns over predation within BFP. However, this should be considered in the context of the current proximity of a large urban area to the Park. With that in mind, there is no substantive evidence to indicate the likelihood of any predation being to such an extent as to significantly exacerbate any existing situation or that a level would be reached that would affect the Park's biodiversity to a harmful degree.
43. Internal house lights and any external security lights relating to the proposed dwellings closest to BFP would have the potential to adversely affect nesting birds and bats in that vicinity. However, again this would be a matter for detailed design at the reserved matters stage in terms of the layout and siting of the proposed dwellings.
44. Notwithstanding that no formal assessment of the likely impact of the proposed development on BFP has been undertaken, for the above reasons the circumstances are such that, with adequate mitigation, it would be unlikely to cause unacceptable harm to the Park's biodiversity.
45. For the above reasons, subject to proposed on and off-site measures relating to new or enhanced habitat creation and on the basis that an ecological management strategy could be secured by condition for submission at the reserved matters stage, I conclude on this issue that the proposed development would not cause unacceptable harm to biodiversity. As such, in respect of this issue, the proposed development would accord with section 15 of the Framework relating to conserving and enhancing the natural environment, having particular regard to paragraphs 174(d) and 180(a) and, in relation to the adjacent LNR of BFP, policy EV6 of the Local Plan.

### *Density*

46. I have had regard to the Council's submissions, including Court of Appeal and High Court judgements, regarding the consideration of density at the outline stage. In this respect, I acknowledge that density is not in itself a reserved matter and that it is a relevant consideration at this outline stage, albeit also at the reserved matters stage. Notwithstanding the matters that I have considered above relating to the first main issue, I now also consider density of development in the context of that relating to the adjacent local existing settlement.
47. An average density of 34 dwellings per hectare (dph), as referred to on the illustrative masterplan, albeit not fixed at this outline stage where approval is sought for up to 300 units, would be at the higher end of the existing local density range, stated by the Council as being between 20-37dph. Nevertheless, and notwithstanding the edge of settlement location, it would still be within that existing local range. As such, that density in itself would not be completely unexpected and importantly it would provide clear scope at the reserved matters stage for a scheme to be designed that would be appropriate in its local context, including scope for varying densities across the site.

48. I acknowledge that, having regard to local density, there are a significant number of bungalows in the immediate vicinity of the site. However, there are also two storey houses adjacent to the site. As such, in this respect, the existence of nearby bungalows should not be a determinative factor on its own as to what an acceptable density should be for the proposed development.
49. The illustrative masterplan does not clearly show provision for well-defined new buffer planting between the proposed development and BFP on the northern side of the site. However, I have found above that in respect of protecting the biodiversity interests of BFP the width, nature and extent of any such buffer would be a matter for the detailed reserved matters stage, as would matters concerning design and layout of the proposed development generally. As such, any buffer would not necessarily take out a blanket 10 metre strip of land from the developable area. In any case, based on the submitted evidence relating to the effect of losing such a 10 metre strip, it would still be unlikely that the density would be significantly greater, if at all, than the upper end of the local existing density range in the surrounding area, even if the number of dwellings at the reserved matters stage were to be the maximum 300 units. I therefore consider this factor alone relating to the inclusion of any buffer strip not to be a determinative one in respect of this issue.
50. Based on the table submitted at the Inquiry (ID23), showing a comparison of indicative potential development areas, 300 dwellings on a reduced developable area to accommodate increased biodiversity units would translate to a density stated by the Council, and not disputed by the Appellant, to be 48dph. That would be higher than the existing local density range referred to above. However, an amended illustrative masterplan showing a reduced developable area has not been submitted and I have concluded on the second main issue that the proposed development would not cause unacceptable harm to biodiversity. I therefore have no substantive basis to consider it likely that the average density on the site would be significantly different to that shown on the illustrative masterplan at the detailed reserved matters stage.
51. It would also remain the case that an acceptable detailed design, scale, layout and mix of dwellings, taking account of the context of the site and surrounding area, would need to be secured through the reserved matters, also taking into account the need in the Framework, as set out in paragraphs 124 and 125, to achieve appropriate densities.
52. For the above reasons, I conclude on this issue that the proposed development would be likely to comprise an acceptable density. As such, in respect of this issue, it would accord with policy ST1 of the Local Plan which states that development will be permitted where, amongst other things, it will not adversely affect the character, quality, amenity or safety of the environment, or that it will not conflict with an adjoining or nearby land use.

#### *Other matters*

53. Having regard to highways issues relating to the proposed development, I have taken account of the Transport Assessment (TA) submitted by the Appellant together with an addendum to that document. I have also taken account of concerns raised by local residents about the capacity of the local roads and junctions to accommodate the additional traffic that would be generated by the proposed development. I also note concern raised about whether adequate

traffic data has been collected given the difficulties in obtaining accurate traffic count data during the Covid-19 pandemic.

54. In respect of the latter point, the data provided has taken account of the average reduction in traffic flows across the County resulting from the Covid-19 impacts, with an appropriate uplift applied to the data collected. Although the Highway Authority (the HA) have reservations about the data in respect of turning movements at junctions due to changed journey purposes, the HA has accepted the assessments based on the data supplied as the best available at that time, and I have no substantive basis to consider differently or that they would not be sufficient to inform appropriate mitigation works.
55. The TA assessed a number of junctions in the locality and where it was found that they would not operate within capacity as a result of the proposed development's traffic, mitigation has been proposed relating to the following junctions: Blackwell Road/Common Road, Lammas Road/Hack Lane, A38 Kings Mill Road/Station Road, Mansfield Road/Stoneyford Road and Mansfield Road/Dalestorth Street. That mitigation would take varying forms depending on the circumstances of the junction concerned, including improved crossing facilities, financial contribution towards sustainable transport measures with the aim of reducing vehicle numbers, and improved vehicle control measures.
56. I have had regard to the Carsic Road/Stoneyford Road junction, opposite Quarrydale Academy, not having been considered in the TA, along with associated concerns about narrow intervening roads with flows restricted by on-street parking. Although it is inevitable that traffic would travel from the site to that junction, that does not mean that the numbers of vehicles at any particular time of the day would necessarily be so high as to harmfully add to existing flows and junction use. Furthermore, that junction was clearly not considered necessary to be included with the study area as agreed by the HA and I have no substantive basis to consider differently.
57. In terms of the proposed vehicular access points to the site, the HA has found them to be acceptable in terms of highway safety, along with provision for localised improvements for pedestrians. Again, I have no substantive basis to consider differently.
58. Subject to appropriate highways details at the reserved matters stage together with the above mitigation measures, that would be secured through conditions and planning obligations, the HA raises no objections to the proposed development and, for the above reasons, I have no substantive basis to consider differently. I also have no substantive basis to consider that adequate vehicle parking for prospective future residents of the proposed development could not be achieved at the reserved matters stage. Furthermore, in terms of concerns over highway safety and accessibility on the steeper part of Ashland Road West during wintery conditions, I have no reason to consider that road to be unsuitable generally for the existing and proposed level of traffic in terms of its gradients.
59. With regard to concerns over existing local drainage problems, including in respect of sewers and flooding, I have no substantive basis to consider that the proposed development would exacerbate any existing situation, particularly with appropriate provision made for surface water drainage that could be secured by a condition. Furthermore, I note that no objections have been raised by the Local Lead Flood Authority, the Environment Agency or the

- Council's drainage Officer, subject to appropriate measures being secured by conditions.
60. The proposed development would inevitably introduce more activity and traffic movements in the vicinity of the site, likely to be more so in the vicinity of the vehicular access points, having regard to the living conditions of neighbouring residents, including matters such as noise and disturbance and intrusion from car headlights. However, that level of increased activity, relating to a residential development, would be unlikely to be at an unexpected or harmful level in an existing residential area, albeit on the periphery of the settlement. Furthermore, in terms of car headlights, I have no substantive basis to consider that the location, nature and design of the vehicular accesses would cause such intrusion to nearby properties as to result in unacceptable harm to living conditions of the residents concerned. Elsewhere around the site, the relationship between the proposed development and existing surrounding properties would be a matter for detailed design at the reserved matters stage, so as to avoid unacceptable harm to the living conditions of those residents whose properties adjoin or are close to the site boundary.
  61. The issue of noise for prospective residents of the proposed development is addressed by the Appellant in a Noise Assessment which concludes that, with appropriate and achievable mitigation, future residents of the proposed development would not be subject to unacceptable living conditions in this respect. I have no substantive basis to consider differently.
  62. In respect of the amenities of residents in the vicinity of the proposed development during any construction work, including in respect of associated traffic, measures to prevent unacceptable harm through adherence to a construction management plan could be secured by condition.
  63. Having regard to air quality and pollution issues, I have taken account of the submitted Air Quality Assessment. This indicates that annual mean air quality objectives would be met at the most exposed receptor locations and that since the actual changes due to traffic generated by development would be small and insignificant, the air quality over the site is acceptable for residential development and the baseline with the addition of development traffic would not have any adverse impacts on ambient air quality for existing dwellings. Furthermore, I note that the Council's Environmental Health Officer raises no objections in this regard and I have no substantive basis to consider otherwise.
  64. In terms of the capacity of the local infrastructure and services to accommodate the increase in local population, the proposed planning obligations would, amongst other things, include provision relating to education, sport and recreation, public transport, health care and libraries. I consider this further in the below section.
  65. In respect of Japanese Knotweed on the site, the Appellant states that this would be removed in conjunction with the proposed development.
  66. Fears of increased risk of crime as a result of the proposed development would be a design matter particularly addressed at the reserved matters stage, whereby the creation of a safe and secure environment would be an important factor.



67. In respect of concerns over the potential for anti-social behaviour in the vicinity of the boundary with BFP, this again would be a matter for the detailed design stage, as I have considered above relating to the second main issue, including scope for natural surveillance.
68. The site falls within the Site of Special Scientific Interest (SSSI) Impact Risk Zones for Dovetail Wood SSSI and Teversal Pastures SSSI. These SSSIs are both partially designated for the presence of wetland habitats and will be susceptible to changes in hydrology. Natural England responded to consultation on the original planning application with no comments to make. The submitted IER highlights that both increases and decreases in flow rates and volumes, especially during storm events, have the potential to alter both the extent and condition of SSSI wetland habitats. In this respect the Appellant has clarified that the proposed formal surface water drainage system and SuDs feature have been designed to ensure sufficient controls would be in place to regulate the flows into the SSSIs and any other wetland habitats of value. Such measures, incorporated in a detailed surface water drainage scheme, could be secured by condition.

*Conditions and planning obligations*

69. Planning Obligations have been submitted within a Section 106 Agreement (s106) making provision for the following:
- 10% of the proposed dwellings shall be affordable housing, in accordance with paragraph 65 of the Framework.
  - Appropriate financial contributions towards: local off-site public open space, in accordance with Local Plan policy HG6, and built sports facilities, necessary specifically to mitigate additional likely demand for use of the Lammas Leisure Centre. This relates to the importance of providing access to a network of high quality open spaces and opportunities for sport and physical activity for the health and well-being of communities, as set out in paragraph 98 of the Framework.
  - Appropriate financial contributions towards: improvements to local bus services to serve the site; bus stop infrastructure; provision of up to 2-month or equivalent bus passes; and cycling measures to support sustainable transport. The s106 would also make provision for a Travel Plan together with Travel Plan Co-ordinator, and Residents Travel Information Pack. These relate to the need to actively manage patterns of growth to support objectives relating to promoting sustainable transport, making the fullest possible use of public transport, walking and cycling, and providing people with a real choice about how they travel, as set out in the Framework and the Nottinghamshire County Council Planning Obligations Strategy (NCCPOS).
  - Appropriate financial contribution towards additional stock at Sutton-in-Ashfield library, in accordance with the Framework which, in paragraph 93, sets out that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, amongst other things, plan positively for the provision and use of community facilities and other local services to enhance the sustainability of communities and residential environments; and with the NCCPOS which highlights, amongst other things, the need to inspire the



enjoyment of books and reading and create knowledge through access to learning.

- Appropriate financial contribution towards primary education provision. This would be on the basis that despite a current relatively small surplus of places, there is sufficient certainty that enough other new residential developments will come forward, such that the proposed development when considered cumulatively with those others (undetermined planning applications or extant planning permissions) would result in a shortfall of places and the need for a new school. This would be in accordance with paragraph 95 of the Framework which states amongst other things that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities; and as set out in the NCCPOS relating to planning to meet increasing demand for school places.
- Appropriate financial contribution towards additional healthcare provisions relating to the need for reconfiguration or extension of local GP practices or a new build facility. This would be in order to accommodate demand from the increased patient population that would likely result from the proposed development, and given that all practices in the area are working at capacity.
- Appropriate financial contribution towards the Council's costs in monitoring compliance with the planning obligations.

70. As referred to above under the second main issue, a further Planning Obligation has been submitted within a separate UU that would make provision for a financial contribution towards biodiversity enhancement schemes at specific locations in the local area.

71. Whilst the proposed financial contributions relate to fixed amounts, I have determined the appeal on the basis of upto 300 dwellings. Whilst that number of dwellings could be reduced at the reserved matters stage, that would not necessarily be the case, which I will address further in the planning balance.

72. The Council has submitted a statement of compliance of the planning obligations with Regulation 122 of the CIL Regulations, albeit reflecting that the Council disputes the appropriateness of the proposed financial contribution relating to off-site biodiversity enhancement schemes referred to above. Based on that evidence, the relevant aspects of the Framework, development plan policy and NCCPOS, and in light of my findings in respect of the proposed biodiversity financial contribution, I am satisfied that the provisions in both the s106 and UU would meet the tests set out in paragraph 57 of the Framework and Regulation 122(2) of the CIL Regulations. Furthermore, in respect of the proposed provision for affordable housing, this would represent a benefit of the development, weighing in its favour.

73. The Council has submitted 11 suggested conditions were I minded to allow the appeal. These are generally agreed by the Appellant. I have considered these in the light of advice in the National Planning Practice Guidance (the PPG) and have, in the interests of clarity and precision, amended some of the wording. I have referred to the condition numbers, cross referenced to the attached annex, in brackets for clarity purposes.

74. The standard condition (1) would be necessary to ensure the submission of details relating to the reserved matters. For certainty, a condition requiring the development to be carried out in accordance with the approved plans would also be necessary (2).
75. In order to ensure adequate details are provided at the Reserved Matters stage, a condition would be necessary to clarify what those details relating appearance, landscaping and layout shall include (3). Furthermore, in the interests of achieving high quality design, a condition to secure the submission of a sitewide Design Code for the development at the Reserved Matters stage would be necessary (4).
76. So as to protect the amenities of nearby residents, a condition to secure the submission, approval and implementation of a construction management plan would be necessary (5).
77. In the interests of the character and appearance of the site and surrounding area and the biodiversity on the site, a condition would be necessary to ensure provision for retained tree and hedge protection during construction of the proposed development (6). Also, in the interests of the biodiversity of the site, a condition would be necessary to secure the submission, approval and implementation of an ecological management strategy (9).
78. To protect future residents and the local environment from the effects of any contamination found on the site during the course of the construction of the proposed development, a condition would be necessary in the event of any contamination being found to ensure the submission, approval and implementation of a remediation strategy, followed by its verification and reporting (7). A condition would also be necessary, in the interests of making provision for adequate surface water drainage, prevention of flooding and protecting the hydrological regime relating to the Dovetail Wood and Teversal Pastures Sites of Special Scientific Interest, to secure the submission, approval and implementation of a detailed surface water drainage scheme (8).
79. In the interests of the archaeological integrity of the site, a condition would be necessary to secure a programme of archaeological work in accordance with a written scheme of investigation (10).
80. In the interests of highway safety, a condition would be necessary to ensure that proposed highways works relating to the vehicular accesses and various off-site measures are implemented to an appropriate programme (11).

#### *Planning balance*

81. The proposed development would conflict with Local Plan policies ST1, ST2, ST4 and EV2 in terms of its location in existing countryside and I have found that it would cause some harm to the character and appearance of the area and surrounding landscape. However, for the reasons set out, the extent of that harm would be limited. I have also found that the proposed development would be likely to comprise an acceptable density.
82. Furthermore, I have found that whilst I cannot be certain that there would not be a net overall loss of biodiversity, the proposed development would not cause unacceptable harm to biodiversity. However, as I can also not be certain that there would be BNG, I have afforded no weight to the intended benefit of such provision.

83. It is not disputed that the Council is not able to demonstrate a five year supply of deliverable housing sites (5 year HLS). Furthermore, the supply of 2.21 years' worth of supply is significantly short of the 5 years, and the Housing Delivery Test indicates that the delivery of housing in the District has been less than 75% of the housing requirements over the past three years. As such, in relation to paragraph 11(d) of the Framework, those policies which are most important for determining the application would be out-of-date, thereby engaging the tilted balance in paragraph 11(d)(ii) of the Framework.
84. Although the site was included in a previous draft Local Plan, that Plan has been withdrawn and so I have afforded no weight to that previous inclusion. I acknowledge that the emerging Local Plan indicates the Council's intent to address local housing needs. I have also had regard to representations relating to the emerging Local Plan addressing housing land supply without the inclusion of the appeal site, that there are other more suitable brownfield sites available for residential development and that there are other residential developments granted planning permission but not yet started or deemed deliverable for the purpose of the current 5 year HLS. However, whilst I heard that consultation was intended to commence in October 2021, that plan is still in its early stages towards adoption such that there is no certainty about whether all of the currently intended provisions to address housing need will be adopted. I have therefore afforded that emerging Local Plan little weight. Furthermore, any such future development, any extant planning permissions, or any availability of brownfield land does not change the current situation that there is a significant deficit in the supply of land against the 5 year HLS requirement.
85. Having regard to the Government's objective of significantly boosting the supply of homes, the proposed development would have the benefit of contributing up to 300 dwellings towards the supply of housing in the District. Of those dwellings, the proposed 10% contribution to the local supply of affordable housing would be an added benefit, particularly due to the likely numbers involved and the clear need for such housing in the District. Such combined benefits attract substantial weight, particularly in the scenario whereby the Council is not only unable to demonstrate a 5 year HLS but that the deficit concerned is significant.
86. Whilst the actual number of houses at the detailed design stage could be less than 300, that would not necessarily be the case based on my findings on the main issues in particular. Furthermore, and again based on those findings, I have no reason to consider it likely that, were the number of units to be less than 300, it would be so much less as to materially change or depart from the principle of the proposed development or to not still have a substantial benefit in terms of HLS and provision for affordable housing.
87. There would also be likely significant economic benefits relating to the provision of construction related jobs during the construction phase, albeit on a temporary basis for the duration of that phase; and then in terms of local spending by prospective residents of the proposed development, such as in shops and on other services. Furthermore, there are aspects of the proposed development and associated planning obligations, in particular the proposed additional pedestrian access into BFP via the site and provision for improved local bus services which, although required in respect of the proposed development, would also be likely to benefit existing local people.

88. Notwithstanding my findings in relation to the main issues, I have found there to be no other matters that would cause unacceptable harm, subject to appropriate conditions and planning obligations where applicable.
89. Taking all of the above into account, in applying paragraph 11(d)(ii) of the Framework, the extent to which there would be adverse impacts of granting planning permission relating to the first main issue, would not significantly and demonstrably outweigh the above benefits of the proposed development, when assessed against the policies in the Framework taken as a whole.

**Conclusion**

90. For the above reasons, I conclude that the appeal should be allowed.

*Andrew Dawe*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Hashi Mohamed, Barrister No5 Chambers      Instructed by the Appellant

He called:

Kurt Goodman      Director, FPCR

Jim Lomas      Regional Director, DLP Planning Ltd

Also appearing for the Appellant in the round table discussions on character and appearance matters:

Gary Holliday      Director, FPCR

### FOR THE LOCAL PLANNING AUTHORITY:

Merrow Golden, Barrister FTB Chambers      Instructed by the Council

She called:

Andrew Baker      Director, Baker Consultants Limited

Bob Woollard      Director, P&DG

### INTERESTED PARTIES (in order of appearance):

S Harker      Local resident

Ramon Buttery      Local resident

Cllr Tom Hollis      Deputy Leader of the Council

Iryna Bykova-Mimmo      Local resident

Christine Morrell      Local resident

Paul Grafton      Local resident

Susan Allwood      Local resident

Jane Grafton      Local resident

Alderman David Shooter      Local Resident  
FRSPU FInst Ln FIIRSM GCGI DipSM LCGI  
CMIOSU(RT)

Cllr Andrew Harding      Councillor and local resident

Cllr Jason Zadrozny

Leader of the Council

Malcolm Hull

Local resident and representing Ashton Road West and Brierley Park Residents Action Group; and also read a statement from Kevin Plowman

Jo Dyson

Local resident



## **INQUIRY DOCUMENTS (IDs):**

1. Opening statement on behalf of the Appellant.
2. Opening statement on behalf of Ashfield District Council.
3. Natural England Joint Publication JP029: The Biodiversity Metric 2.0, auditing and accounting for biodiversity User Guide Beta Version.
4. Extract from the NPPG relating to biodiversity net gain.
5. Copy of 1990 Appeal decision relating to the site in question.
6. Copy of Independent Ecological Review for the site dated July 2020.
7. Extract from the Interim Report of the Building Better, Building Beautiful Commission: Creating space for beauty.
8. Examples of interested party comments regarding character, appearance and landscape.
9. Statement, and associated documents, made by Paul Grafton.
10. Statement, and associated documents, made by Jane Grafton.
11. Statement made by Honorary Alderman David Shooter.
12. Statement made by Christine Morrell.
13. Statement made by Malcolm Hull.
14. Statement of Kevin Plowman read out by Malcolm Hull.
15. Photograph from 1998, showing the edge of Sutton in Ashfield including part of the site and part of the land relating to Brierley Forest Park.
16. Extract from National Model Design Code relating to Master Planning.
17. Updated version of statement made by Honorary Alderman David Shooter.
18. Extract from the Planning Encyclopaedia relating to applications for outline planning permission.
19. Documents submitted by the Council relating to updated information concerning local developments in the area and their associated education requirements; and suggested ecological enhancement schemes as contained in Planning Officer Report.
20. Costs application on behalf of the Appellant.
21. Skeletal/draft costs application on behalf of Ashfield District Council.
22. Statement made by Paul Grafton prior to the closing statements of the Council and Appellant.
23. Table showing comparison of indicative potential development areas on the site.
24. Closing submissions, and associated documents, on behalf of Ashfield District Council.
25. Closing submissions, and associated documents, on behalf of the Appellant.

## **ANNEX – Conditions**

1. The formal approval of the Local Planning Authority shall be obtained prior to the commencement of any development with regard to the following Reserved Matters: (a) Layout (b) Scale (c) Appearance (d) Landscaping. Application for approval of reserved matters shall be made to the Local Planning Authority not later than 24 months from the date of this permission. The development hereby permitted shall be begun not later than one year from the date of approval of the last reserved matters to be approved.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no. ADC1032-DR-001 Rev P10 (Proposed Access Junction Layout); drawing no. P19-1014 002 Rev B (Site Location Plan).
3. Details of appearance, landscaping and layout required to be submitted and approved under Condition 1 shall include details of:
  - i. The design, layout and form of the dwellings, including details of the external surfaces and materials to be used;
  - ii. details of highways and private street works including all key dimensions, junction and forward visibility splays and swept path analyses of a 11.6 m refuse vehicle;
  - iii. the layout and marking of car parking, servicing and manoeuvring areas;
  - iv. fencing, walling, boundary treatments and means of enclosure;
  - v. a scheme of hard and soft landscaping, including the specification of trees, hedges and shrub planting and details of species, density and size of stock, and also including existing trees and hedges proposed to be retained;
  - vi. existing and proposed ground levels and those of surrounding buildings;
  - vii. proposed pedestrian routes within the site, including details and locations of connections into Brierly Forest Park (BFP) and associated interpretation facilities relating to ecology and recreation in BFP, which could include measures such as interpretation boards and homeowner information leaflets, and links to existing footpaths within BFP;
  - viii. refuse/recycling storage and collection points;
  - ix. provision for electric vehicle charging points and cycle storage facilities;
  - x. a lighting strategy for the development;
  - xi. measures to minimise the risk of crime;
  - xii. an open space masterplan for the site, including long term design objectives;
  - xiii. management responsibilities and maintenance schedules.

4. Any Reserved Matters application made pursuant to condition 1 shall include the submission of a sitewide Design Code for the development.
5. Prior to the commencement of development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority, this shall include:
  - i. How construction traffic will access the site;
  - ii. Proposed hours and days of working;
  - iii. The parking of vehicles of site personnel, operatives and visitors;
  - iv. Location of the site storage areas and compounds;
  - v. Wheel washing facilities;
  - vi. A strategy for the minimisation of noise, vibration and dust;
  - vii. Site contact detail in case of complaints.

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

6. No site clearance, preparatory work or development shall take place in any phase until a scheme for the protection of the retained trees and hedgerows in that phase (the tree and hedgerow 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 in the phase shall be carried out as approved for that phase and retained throughout the construction period for that phase.
7. If during the course of development, contamination is found to be present on the site, then no further development (unless otherwise agreed in writing by the local planning authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for a remediation strategy detailing how the contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the local planning authority.
8. Prior to commencement of development a detailed surface water drainage scheme based on the principles set forward in the Flood Risk Assessment Prepared by EWE Associates Ltd Rev D dated November 2020 (the FRA) shall be submitted to and approved in writing by the Local Planning Authority. The scheme concerned shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- i. Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
  - ii. Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm to 5 l/s rates for the developable area.
  - iii. Make provision for surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA.
  - iv. Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations shall demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
  - v. Make provision for all exceedance to be contained within the site boundary without flooding new properties in a 100 year +40% storm.
  - vi. Provide details of Severn Trent Water approval for connections to existing network and any adoption of site drainage infrastructure.
  - vii. Provide evidence of how the on-site surface water drainage systems shall be maintained and managed after completion for the lifetime of the development.
9. Any Reserved matters application made pursuant to condition 1 shall be accompanied by the submission of an ecological management strategy. The strategy shall include: details of objectives to achieve ecological enhancement of the site; any required updated protected species surveys; details of measures for encouraging biodiversity within the site; review of site potential and constraints; details of works to achieve objectives; details of the body or organisation responsible for implementation; the timetable for implementation; details of aftercare and long term maintenance; details of monitoring and remedial measures; details of a legal and funding mechanism by which the implementation of the Strategy will be secured. The strategy shall be carried out as approved.
10. No development shall take place within the site until a programme of archaeological work for the development has been implemented in accordance with a written scheme of investigation which has firstly been submitted to and approved in writing by the local planning authority.
11. No development shall take place until a programme has been submitted to and approved in writing by the Local Planning Authority covering the following works:

- i. The provision of the vehicular accesses to the site, as shown on drawing number ADC1032-DR-001 Rev P10;
- ii. The provision of on-crossing and kerbside pedestrian detection at the junction of Blackwell Road/Common Road;
- iii. The provision of MOVA and CCTV at both the junctions of Mansfield Road/Stoneyford Road and Mansfield Road/Dalestorth Street;
- iv. The provision of the pedestrian refuge and associated build out with crossing points as shown on drawing number ADC1032-DR-002 Rev P1).

The works shall then be carried out in accordance with the agreed programme unless otherwise agreed in writing with the Local Planning Authority. For clarity these plans are conceptual only and will be subject to detailed technical appraisal during the S278 process.