

**ASHFIELD DISTRICT COUNCIL**



Council Offices,  
Urban Road,  
Kirkby in Ashfield  
Nottingham  
NG17 8DA

## Agenda

### Planning Committee

Date: **Wednesday, 22nd January, 2020**

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Time: **10.00 am**

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Venue: **Council Chamber, Council Offices, Urban Road,  
Kirkby-in-Ashfield**

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For any further information please contact:

**Lynn Cain**

[l.cain@ashfield.gov.uk](mailto:l.cain@ashfield.gov.uk)

01623 457317

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# PLANNING COMMITTEE

## Membership

**Chairman:** Councillor Rachel Madden

**Vice-Chairman:** Councillor Dale Grounds

**Councillors:**

Chris Baron

Samantha Deakin

David Martin

Helen-Ann Smith

Jason Zadrozny

Ciaran Brown

Tom Hollis

Lauren Mitchell

Daniel Williamson

## FILMING/AUDIO RECORDING NOTICE

This meeting may be subject to filming or audio recording. If you have any queries regarding this, please contact Members' Services on 01623 457317.

## SUMMONS

You are hereby requested to attend a meeting of the Planning Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



**Carol Cooper-Smith**  
Chief Executive

## **AGENDA**

**Page**

1. To receive apologies for absence, if any.
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.**
3. To receive and approve as a correct record the minutes of a meeting of the Planning Committee held on 23rd October, 2019. 5 - 10
4. To receive and consider the attached planning applications. 11 - 64
5. **Planning Appeal Decisions.** 65 - 68

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## PLANNING COMMITTEE

Meeting held in the Council Chamber, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Wednesday, 23rd October, 2019 at 10.00 am

**Present:** Councillor Rachel Madden in the Chair;

Councillors Chris Baron, Ciaran Brown, Dale Grounds  
Tom Hollis, David Martin, Lauren Mitchell,  
John Smallridge, Helen-Ann Smith, Daniel Williamson  
and Jason Zadrozny.

**Apology for Absence:** Councillor Samantha Deakin.

**Officers Present:** Lynn Cain, Mick Morley, Samantha Reynolds,  
Christine Sarris and Robbie Steel.

**In Attendance:** Councillor John Wilmott.

### **P.17 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests**

1. Councillor Tom Hollis declared a Non Disclosable Pecuniary/Other Interest in respect of respect of Application V/2019/0423, Mr M. Hollis, Outline Application with some Matters reserved for 5 Dwellings, Norcroft, 211 Wild Hill, Teversal, Kingsway. His interest arose from the fact that the applicant was a family member.
2. Councillor Lauren Mitchell declared a Non Disclosable Pecuniary/Other Interest in respect of Application V/2019/0511, Melcorpo Commercial Properties, New Main Entrance off Duke Street and replacement existing structural fin, Byron Cinema 8A High Street, Hucknall. Her interest arose from the fact that she had met with residents who lived adjacent to the cinema but in doing so had not expressed an opinion at any point.

### **P.18 Minutes**

RESOLVED

that the minutes of the meeting of the Planning Committee held on 25<sup>th</sup> September, 2019 be received and approved as a correct record.

### **P.19 Town and Country Planning Act 1990: Town Planning Applications Requiring Decisions**

RESOLVED that

1. **V/2019/0511, Melcorpo Commercial Properties, New Main Entrance off Duke Street and replacement existing structural fin, Byron Cinema, 8A High Street, Hucknall**

An objector, Ria Cash, took the opportunity to address the Committee in respect of this matter and Members were offered the opportunity to clarify any points raised during the submissions as required.

It was moved and seconded that the officer's recommendation for approval, as contained within the report, be rejected. Having been put to the vote, the recommendation duly fell.

It was then moved and seconded that conditional consent be granted as per the officer's recommendation with an additional informative to ensure installation of high quality acoustic glazing where designated. Having been put to the vote, the motion was duly carried.

The meeting was adjourned at 10.49am and reconvened at 10.56am.

## **2. V/2019/0562, Mr & Mrs Landers, Two Storey Side Extension and Ground Floor Rear Extension, 47 Garden Road, Hucknall**

Max Cully, as agent for the applicant, took the opportunity to address the Committee in respect of this matter and Members were offered the opportunity to clarify any points raised during the submissions as required.

It was moved and seconded that conditional consent be granted as per the officer's recommendation and having been put to the vote, the motion was duly carried.

## **3. V/2019/0129, Countryside Properties (WPL) Ltd, Demolition of Existing Building and Residential Development of 50 Dwellings, Land off Watnall Road/Daniels Way, Watnall Road, Hucknall**

In accordance with the Council's Policy for dealing with late matters in relation to planning applications (Minute No. D4.17, 1993/94 refers), officers proceeded to give a verbal report as to additional comments received in relation to the application as follows:-

An update was required to the approved plans condition (2) to include the latest revisions of two plans taking into account slight design changes for moving the white electricity boxes from prominent positions.

An additional letter of objection had also been received from a neighbouring resident detailing that:

1. The S106 contribution offered was unacceptable and the full contribution should be sought;
2. There was a likelihood for future housing development on the Fire Station and this would set the precedent;
3. Another set of development traffic should not be feeding onto Watnall Road;

4. Affordable housing would not fit in with the local community;
5. There was ample other housing developments within Hucknall;
6. A disagreement over the Air Quality report findings.

#### Officer Responses

The issues of Section 106 contributions and highways safety had been covered within the report. The Council could not demonstrate a 5-year land supply and there was a strong requirement for affordable housing in the District.

Each future application would be determined on its own individual merits and the application was supported by an Air Quality Assessment. This did not predict any exceedances of the air quality objectives and concluded that emissions from vehicles using the site would not be significant. The Council's Environmental Health Officers found this to be acceptable and raised no objections.

The applicant, Carl Oxley, took the opportunity to address the Committee in respect of this matter and Members were offered the opportunity to clarify any points raised during the submissions as required.

It was moved and seconded that conditional consent be granted as per the officer's recommendation and having been put to the vote, the motion was duly carried.

#### **4. V/2019/0423, Mr M. Hollis, Outline Application with All Matters Reserved for 5 Dwellings, Norcroft, 211 Wild Hill, Teversal**

(Councillor Tom Hollis had previously declared a Non Disclosable Pecuniary/Other Interest in respect of this item. In view of the nature of his interest, he left the room during consideration of the application and took no part in the discussion and voting thereon.

Councillor Lauren Mitchell left the meeting at 11.48am.

Councillors Chris Baron and Dale Grounds having earlier left the room, returned to the meeting during consideration of the above item and consequently, in accordance with Part 9 (7e) of the Code of Conduct and Procedures in respect of the Planning Service, they were not permitted to vote on the application).

The meeting was adjourned at 11.50am and reconvened at 10.54am.

It was moved by Councillor Rachel Madden and seconded by Councillor Jason Zadrozny that the officer's recommendation contained within the report be rejected and:

- a) conditional outline planning consent be granted as follows:

### Conditions

1. all matters reserved
2. standard time limits to submit reserved matters
3. standard time limits to commence
4. approved plans
5. drainage details required
6. site boundary treatment required including indigenous hedge
7. aboricultural survey required

b) the Chairman and Vice Chairman of the Committee, in consultation with officers, be instructed to finalise and agree the conditions attached to the consent.

### Reasons for rejecting officers' recommendation:

1. Do not agree that it is inappropriate development in the countryside;
2. Agree it is a satisfactory form of development; in keeping with the broken linear pattern of the established properties found within the vicinity of the site.

### For the motion:

Councillors Ciaran Brown, Rachel Madden, David Martin, John Smallridge, Helen-Ann Smith, Daniel Williamson and Jason Zadrozny.

### Against the motion:

None.

### Abstention:

None.

Accordingly, the motion was duly carried.

### **5. V/2019/0488, Mr & Mrs Leivers and Mr & Mrs Wood, Felling of 30 Lime Trees, The Limes, Dukes Close, Hamilton Road, Sutton in Ashfield**

(At this point in the proceedings, Councillor Helen-Ann Smith declared a Non Disclosable Pecuniary/Other Interest in respect of this item as she had a relative that currently resided on Duke Street. In view of the nature of her interest, she remained in the room during consideration of the application and took part in the discussion and voting thereon.)

In accordance with the Council's Policy for dealing with late matters in relation to planning applications (Minute No. D4.17, 1993/94 refers), officers proceeded to give a verbal report as to additional comments received in relation to the application as follows:-

The Applicant had submitted further information follow the site visit by Members including the submission of examples of fungi and a photo of the leaves collected. It had not been evidenced that the fungi was because of the trees or that felling of the trees would result in no fungi.



The Applicant, Catherine Wood, took the opportunity to address the Committee in respect of this matter and Members were offered the opportunity to clarify any points raised during the submissions as required.

The Chairman also took the opportunity to read out some comments from Councillor Matthew Relf who had called in the application but was on holiday and absent from the meeting.

It was moved by Councillor Jason Zadrozny and seconded by Councillor David Martin that the officer's recommendation contained within the report be rejected and planning consent be granted to fell the 30 Lime Trees.

Reasons for rejecting officers' recommendation:

1. The trees have been a blight on resident's lives for 30 years and have a significant detrimental impact on residents' wellbeing.
2. removal of the trees will not have an impact on the visual amenity.

For the motion:

Councillors Ciaran Brown, Dale Grounds, David Martin, John Smallridge, Helen-Ann Smith, Daniel Williamson and Jason Zadrozny.

Against the motion:

Councillor Chris Baron, Tom Hollis and Rachel Madden.

Abstention:

None.

Accordingly, the motion was duly carried.

**P.20 Planning Appeal Decisions**

Members were asked to note the recent Planning Appeal decisions as outlined in the report.

RESOLVED

that the report be received and noted.

The meeting closed at 12.55 pm

Chairman.

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## **BACKGROUND PAPERS AND AVAILABILITY OF PLANS**

Under the terms of the Local Government (Access to Information) Act 1985 the Authority is required to list the background papers used in preparing all recommendations relating to planning applications.

The background papers forming the planning application file include:

- A Planning Application file, incorporating consultation records, site appraisal and records of meetings and telephone conversations.
- B Planning Policy
- C Local Resident Comments
- D Highway Authority Consultation
- E Environmental Health (ADC)
- F Severn Trent Water plc/Environment Agency
- G Parish Council
- H Local Societies
- I Government Circulars/PPGs
- J Listed Building Consultees
- K Other

Letters received prior to preparation of the Agenda are summarised to indicate the main points and incorporated in the Report to the Members. Any comments received after that date, but before 3pm of the day before Committee, will be reported verbally.

The full text of all correspondence is available to Members.

If a member of the public wishes to view any Background Papers an appointment should be made (giving at least 48 hours notice) with the appropriate Officer in the Council's Development Control Section.

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## **Site Visits Planning Committee**

Members will be aware of the procedure regarding Site Visits as outlined in the Councils Constitution.

Should any Planning Committee Member wish to visit any site on this agenda they are advised to contact either the Director – Place and Communities or the Corporate Manager by 5pm 16<sup>th</sup> January 2020.

This can be done by either telephone or e-mail and should include the reason as to the request for the site visit. The necessary arrangements will then be made to obtain access to the site or an objector's property, if such is required.

Members are asked to use their own means of transport and those Members attending site visits should meet at the Council Offices at Urban Road at 10am on the Monday before Planning Committee. If there is any difficulty in obtaining transport please make contact with the above named officers where alternative arrangements can be made.

T. Hodgkinson

Service Director – Place and Communities

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**PLANNING COMMITTEE – 22nd January  
2020**

<b>Page</b>	<b>App No</b>	<b>Applicant</b>	<b>Recommendation</b>	<b>Proposal</b>	<b>Location</b>
<b>Ashfields</b>					
<b>17-26</b>	V/2019/0638	Mr J Beeley	Approval	Dwelling with Associated Access and Parking	Land off The Avenue Sutton in Ashfield
<b>Huthwaite and Brierley</b>					
<b>27-42</b>	V/2018/0212	Mr M Fishleigh	Approval	Outline Application for Demolition of Existing Industrial Premises and Construction of Up To 23 Dwellings with Associated Access and Parking	The Pattern House Crossley Avenue Huthwaite Sutton in Ashfield
<b>The Dales</b>					
<b>43-63</b>	V/2019/0449	Ms V Robb	Approval	Residential Development of 22 Dwellings	Land Off Davies Avenue Sutton In Ashfield

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**Ashfield**  
DISTRICT COUNCIL  
**MAP SCALE 1: 1250**  
**CREATED DATE: 08/01/2020**

**COMMITTEE DATE**    22/01/2020                      **WARD**        Ashfields

**APP REF**                      V/2019/0638

**APPLICANT**                      J Beeley

**PROPOSAL**                      Dwelling with Associated Access and Parking

**LOCATION**                      Land off, The Avenue, Sutton in Ashfield, Nottinghamshire,  
NG17 1GH

**BACKGROUND PAPERS**

App Registered 07/10/2019                      Expiry Date 01/12/2019

*Consideration has been given to the Equalities Act 2010 in processing this application.*

*This application has been referred to Planning Committee by Councillor Walters on the grounds of the impact on highway safety.*

**The Application**

This is an outline application for one dwelling with associated access and parking, with all matters reserved, except for access and layout.

**Consultations**

Site Notices have been posted together with individual notification of surrounding residents.

**First Consultation**

Resident comments:

In respect of the original design, 13 letters of objection and 1 letter of support was received. The following issues have been raised:

**Objections:**

- Access to the site is via an un adopted road:
  - Poor state of repair
  - Narrow
  - No road lighting
  - No pedestrian walkways
  - Result in increased traffic

- No access for emergency vehicles
- Inadequate access for refuse collection
- Cannot take heavy vehicles carrying materials
- Poor visibility from the plot and from the junction where the private road intersects The Avenue
- Lack of parking and turning space on the site
- Lack of bin storage
- Detrimental to the character and appearance of the street scene (overdevelopment)
- Detrimental impact to the amenity of neighbouring properties as a result of potential overlooking/overshadowing
- Detrimental impact to the amenity of neighbouring properties in terms of noise and dirt caused during the construction phase
- Poor drainage within the area
- Planning permission has been refused previously for residential development on a different plot
- Other matters:
  - The application should be decided at planning committee
  - The proposed development will affect house process
  - Ownership issues
  - Increase future development within the neighbourhood

**Support:**

- Interested in living in the proposed dwelling
- Access appears adequate
- Relatively small number of cars use the private road

**Nottinghamshire County Councils Highways:**

The initial comments stated that planning permission was granted for 2 dwellings (v/2019/0042) with access off this drive. The access width where the private highway should also be checked. Private drives serving up to 25 dwellings should be a minimum of 4.8m in width for minimum of 5m behind the highway boundary, this surface should be hard bound. Is the driveway adequate to accommodate refuse collection?

**Second Consultation**

**Resident comments:**

In respect of the revised design, 11 letters of objection have been received and the following issues have been raised:

## Objections:

A number of additional objections attached their original letter confirming that there concerns remain. In addition to the original objections the following concerns have been raised:

- Lack of parking and turning space on the site for construction vehicles, emergency vehicles and future occupiers
- Other matters:
  - Impact on wildlife and habitats
  - Impact on trees
  - Revised plans are inaccurate
  - Re-consultation of 7 days was not enough time

## Nottinghamshire County Council Highways:

Raised no objections to the revised plan since appropriate turning and parking space has been provided and waste collection is currently carried out for existing properties, in particular April Cottage which lies opposite the proposal, therefore adding a further property does not exacerbate the issue.

## ADC Drainage:

There are no known drainage issues with the site. Percolation tests will need to be carried out to determine if the ground conditions are suitable for the use of soakaways to dispose of surface water. Severn Trent need to be consulted on the foul water connection to the main sewer but the applicant would need to identify where this connection would be. These issues can be resolved in consideration for details at reserved matters stage.

## Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

### **Ashfield Local Plan Review ALPR 2002**

ST1 – Development

ST2 – Main urban area

HG5 – New residential development

### **National Planning Policy Framework NPPF 2019**

Part 2 – Achieving sustainable development

Part 5 – Delivering a sufficient supply of housing

Part 9 – Promoting sustainable transport

Part 12 – Achieving well designed places

### **Supplementary Planning Documents 2014**

Residential Design Guide

Residential Car Parking Standards

### **Relevant Planning History**

There is no relevant planning history for the site. However, a number of planning applications for 1 dwelling, located Off The Avenue, have been granted and refused planning permission historically. Most recently, in 2019 outline planning consent has been granted for 2 dwellings at the end of Off The Avenue and access to the site was assessed to be acceptable (v/2019/0042).

### **Comment :**

The application seeks planning outline planning consent for the erection of one dwelling, with associated access and parking, with all matters reserved, except for access and layout.

The site forms part of the rear garden land to 102 Kirkby Road, located within Sutton in Ashfield and is located approximately half way down an unadopted road, known as 'Off the Avenue' which presently serves 6 dwellings.

Planning permission has been previously granted outline consent for 2 dwellings located at the end of the unadopted road. Amongst other considerations, planning permission was granted as appropriate off-street parking and turning facilities were demonstrated in accordance with the requirements of the Highway Authority.

The site comprises of an overgrown parcel of land measuring approximately 10m in width and 37m in depth, bounded to the east and west by residential development and to the north and south by a number of garages and outbuildings.

The site is located within the Main Urban Area of Sutton in Ashfield, where the principle of development is acceptable under policy ST2 of the ALPR 2002.

### ***Highway Safety/Access***

A number of concerns have been raised by local residents in respect of the use of the unadopted road to access the proposed dwelling. Such concerns include the narrowness of the road resulting in insufficient access for emergency vehicles, the proposal resulting in increased vehicular usage and the roads poor state of repair.

Off The Avenue is an unadopted residential cul de sac; which is accessed off an existing adopted highway, known as The Avenue. All residential properties along this unadopted road presently exhibit off-street parking, allowing easy maneuverability along the driveway for users.

The layout plan submitted demonstrates that the proposed dwelling will have sufficient space forward of the dwelling to accommodate a minimum of two off-street parking spaces, in accordance with the Councils minimum Residential Car Parking Standards 2014.

Vehicle tracking details have also been provided to demonstrate that the proposed vehicular turning point within the site is adequate to provide turning facilities for the turning of larger vehicles, including emergency vehicles, such as a fire engine.

Residents have also raised concerns in regards to the poor state of repair that Off The Avenue is in, which is presently constructed of road stone, and contains numerous pot holes. Concerns are raised that the development will put the existing road under further use and strain, resulting in further deterioration of the road and causing danger to local residents. Whilst it is acknowledged that this is a source of frustration and aggravation for local residents, the liability for the maintenance of the road lies beyond that of the Local and County Council, and is unfortunately a civil matter that would need to be resolved between residents, outside of the planning system.

Concerns initially raised by the Highway Authority have been mitigated as a result of further details being submitted. Where a private drive serves up to 25 dwellings, the access should be a minimum of 4.8m for a minimum distance of 5m behind the highway boundary. This requirement should be increased by 0.5m on each side that is bounded. As the access is bounded by a hedge on one side, the access in this location is required to be a minimum of 5.3m in width. As demonstrated on the submitted plans the access meets the requirement of being 5.3m in width, and therefore meets the required standards, as set out by the Highway Authority and allows for two vehicles to pass each other when using the private drive.

With regard to waste collection, it would appear the refuse vehicles currently reverse to access the private drive, in particular to April Cottage which lies opposite to the site. Therefore it is considered there is not to be an issue and turning would be possible through this development to enable the refuses vehicles to access and egress the private drive in a forward gear, therefore resulting in a significant benefit from this proposal.

As part of a previous planning application, outline consent was granted for 2 dwellings located at the end of the unadopted road (v/2019/0042). Similar concerns were raised in respect of access width and refuse collection, these were measured and considered acceptable and planning permission was granted. Further to this, the Councils Waste Services Team, have confirmed that the refuse truck reverses the length of Off The Avenue to collect residents refuse bins and the situation could only be improved with the provision of turning facilities.

As the site provides off-street car parking in accordance with the Councils Residential Car Parking Standards (2014) and complies with the required standards, in terms of access width and turning space, as set out by the Highway Authority, the proposal complies with saved policy ST1 (C) of the ALPR 2002. The proposal also complies with Part 9 – Promoting Sustainable Transport of the NPPF 2019, as development should only be refused if there would be an unacceptable impact on highway safety.

### ***Layout***

Although the application seeks outline planning consent, the site layout in addition to access is also required to be considered. The site forms part of rear garden to 102 Kirkby Road, Sutton in Ashfield. To the west, the proposed dwelling is approximately 23.5m away from the front elevation of April Cottage. To the east, approximately 40m away from the host dwelling is 102 Kirkby Road. To the north and south of the site are the rear gardens of properties fronting Kirkby Road, where gardens and outbuildings are mostly found. It is considered that due to the siting of the proposal, there are limited concerns to any neighbouring properties in terms of any loss of amenity by overlooking, overbearing or overshadowing impact.

The proposed layout demonstrates adequate internal space for a 3 bedroom dwelling. The rear garden space for the proposed dwelling exceeds minimum outside amenity space requirements in accordance with the Councils Residential Design Guide 2014. The application includes indicative plans which demonstrate a suitably designed, single storey scheme that could be achieved on the site which would not be significantly detrimental to the character of the street scene. Details regarding hard and soft landscaping is a reserved matters consideration.

The proposal consists of a sustainable development and therefore complies with saved policies ST1 and HG5 of the ALPR 2002. The proposal would also conform with Part 12 – Achieving Well Designed Places of the NPPF 2019, which seeks to ensure that developments add to the overall quality of an area, and are sympathetic to local character and history, including the surrounding built environment.

### ***Other Matters***

#### **Drainage:**

Concerns have been raised by local residents in respect of poor drainage and flooding in the area. The Councils Drainage team have confirmed that there are no known drainage issues with the site, however a condition recommending the submission of drainage plans for surface water and foul sewage, would be required as part of any approval to be submitted with the reserved matters application.

#### **Wildlife/trees:**

Concerns have also be raised in respect of any potential loss of wildlife and trees. The site appears to be an overgrown disused garden area and there are no known protected wildlife located on this site or within the sites vicinity. The submitted tree survey identifies which trees may be affected by the proposal. A number of low value hawthorn and apple trees will be felled to facilitate the proposed development. One Ash tree overhangs the rear boundary, however this tree will be unaffected by the proposal.

#### **Inaccurate plans:**

The plans have been checked and it is considered that they adequately identify the site and show the access and layout can be achieved.

Re-consultation:

Amended plans have been received to show that the parking and turning area can be achieved. All interested parties were re-consulted and comments have been received. It is not clear why anyone has been disadvantaged by the time required for comments to be received. Comments are received up to the day of the planning committee meeting and will be considered and taken into account.

**Conclusion :**

The proposal provides one new dwelling that complies with the relevant requirements within the Councils adopted Supplementary Planning Documents 2014. At the reserved matters stage any potential concerns in respect of the design and appearance of the development can be considered. The site can accommodate the minimum requirements for off-street car parking and appropriate turning facilities for future occupiers, visitors or emergency vehicles. It is considered that the proposal constitutes an appropriate form of development, and it is subsequently recommended that this application is granted conditional consent.

**Recommendation: - Outline Conditional Consent**

**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) Scale**
  - (b) Appearance**
  - (c) Landscaping**



2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development to which this permission relates shall be begun not later than the expiration of 2 years from the final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. This permission shall be read in accordance with the following plans: site location plan 1:1250 (01/10/19), proposed site layout plan 1.1 Rev. A (17/12/19), Off the Avenue junction plan 1:200, Off the Avenue road width plan 1:200 (23/10/19). The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
5. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
6. The parking and turning area shall be provided before the dwelling is occupied and maintained as such and not used for any other purpose for the lifetime of the development.

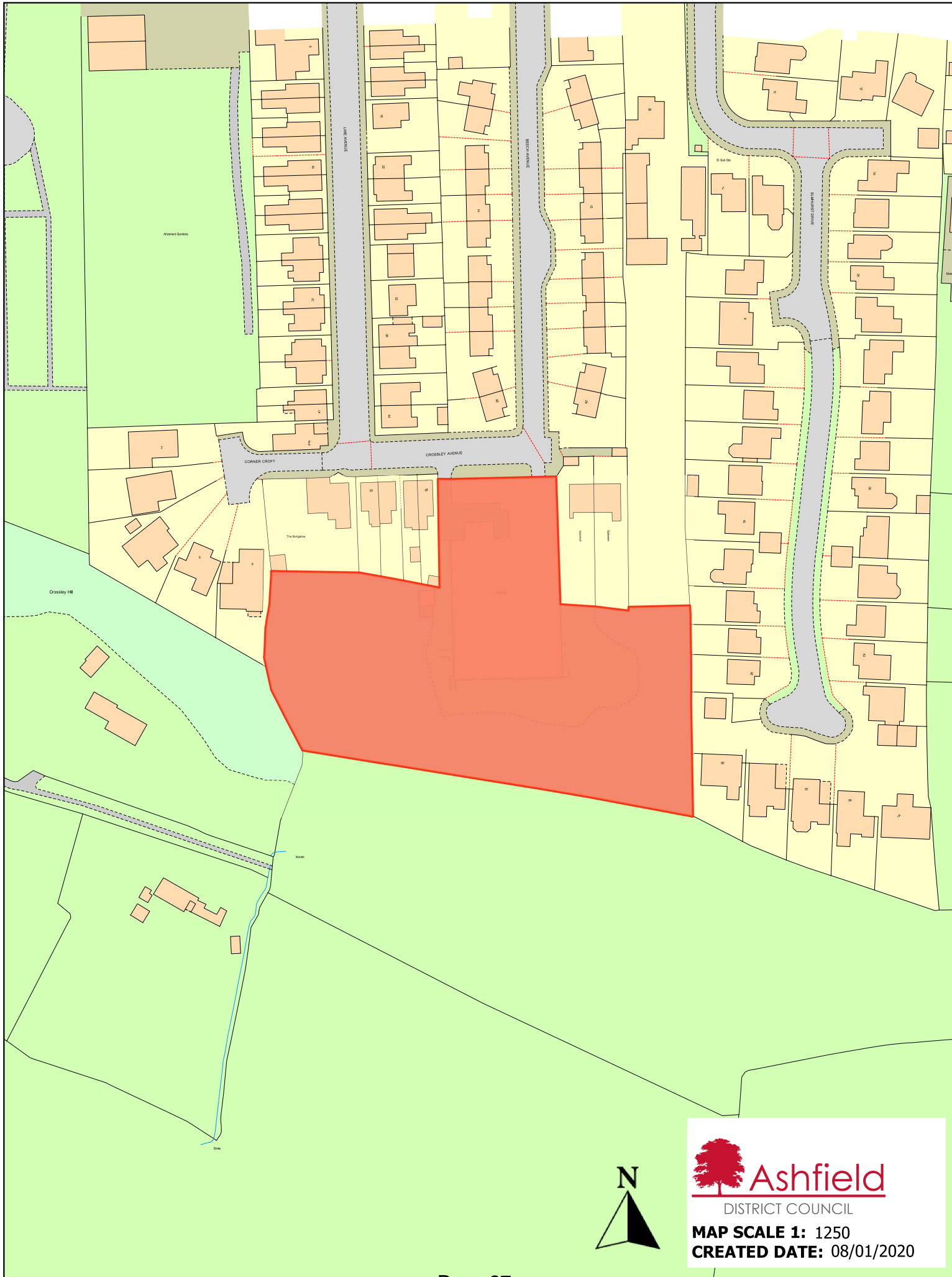
## **REASONS**

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
2. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
3. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
4. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
5. To ensure that the development provides a satisfactory means of drainage, in order to reduce the risk of creating; or exacerbating a flooding problem, and to minimise the risk of pollution.
6. In the interests of highway safety.

## **INFORMATIVE**

1. Landowners, individual property owners and users are responsible for managing the drainage of their own land. The applicant must satisfy themselves that drainage is managed in such a way as to prevent

**adverse impacts of neighbouring land. The council take no responsibility for incorrect information or interpretations made by the applicant or their representatives. The responsibility for the checking of the design, calculations and details remain with the developer, or agent acting on their behalf.**



**Ashfield**  
DISTRICT COUNCIL  
**MAP SCALE 1: 1250**  
**CREATED DATE: 08/01/2020**

**COMMITTEE DATE** 22<sup>nd</sup> January 2020      **WARD** Huthwaite and Brierley

**APP REF** V/2018/0212

**APPLICANT** M Fishleigh

**PROPOSAL** Outline Application for Demolition of Existing Industrial Premises and Construction of Up To 23 Dwellings with Associated Access and Parking

**LOCATION** The Pattern House, Crossley Avenue, Huthwaite, Sutton in Ashfield, Nottingham, NG17 2NT

**BACKGROUND PAPERS** A; B; C; D; E; F; I; K

App Registered 05/04/2018

Expiry Date 05/07/2018

*Consideration has been given to the Equalities Act 2010 in processing this application.*

*This application has been referred to Planning Committee as the application is a departure from the Ashfield Local Plan Review (2002)*

### **The Application**

This is an application for Outline Planning Permission for the demolition of the existing industrial premises and construction of up to 23 dwellings. All matters, including access, are reserved for future consideration.

### **Comment**

The application was previously presented to the June Planning Committee; where members decided to defer the application, to enable officers to negotiate with the Developer regarding a potential increase in Section 106 contributions. The applicant has reflected on this and advises:

- The independent viability adviser (District Valuers Service) and the applicants viability adviser agree that the proposed development is not viable for any contributions.
- Officers sought a contribution of £80,275 towards education and open space requirements. In response, and on a reduced profit basis, the applicant offered £34,365 towards education and this formed the basis of the officer recommendation.
- The Committee sought to achieve a contribution £120,000.

- Following the deferral and with the committee report now a public document, their client's marketing agent, Musson Liggins, marketed the site for residential development in August 2019.
- Consideration was given to an 100% Affordable housing scheme.
- Whilst there have been some expressions of interest, these have predominantly been from within the affordable housing sector and to date no offers have been received.
- In the context that the market testing has not delivered any firm offers, our client is unable to increase the contribution offered, which is above the viability position (i.e.: Nil).
- The absence of any firm offer is an indication of the precarious viability issue.

An assessment of the proposal is detailed within the original report, which is attached. This sets out a total of £210,315 should be provided to ensure the necessary infrastructure can be met. However, this also sets out that the viability evidence demonstrates that the scheme cannot viably provide any affordable units, or Section 106 contributions. Members, at the meeting in June, therefore sought £120,000 towards infrastructure, which is still below the total required.

The applicant had made an offer of £34,365 towards primary education; which is considered to be a reasonable, when taking into account the viability information, recent appeal decisions and the applicants efforts to market the site following the previous committees comments requesting a higher contribution. The applicant has agreed to meet the £34,365, but cannot agree to the additional contributions as this will make the development unviable.

**Recommendation:** - **Approve, subject to the satisfactory completion of a Section 106 Agreement for a contribution of £34,365 towards primary education. And with the conditions contained in the original report.**

**COMMITTEE DATE** 26<sup>th</sup> June 2019      **WARD** Huthwaite and Brierley

**APP REF** V/2018/0212

**APPLICANT** M Fishleigh

**PROPOSAL** Outline Application for Demolition of Existing Industrial Premises and Construction of Up To 23 Dwellings

**LOCATION** The Pattern House, Crossley Avenue, Huthwaite, Sutton in Ashfield, Nottingham, NG17 2NT

**BACKGROUND PAPERS** A; B; C; D; E; F; I; K

**App Registered 05/04/2018      Expiry Date 05/07/2018**

**Consideration has been given to the Equalities Act 2010 in processing this application.**

**This application has been referred to Planning Committee as the application is a departure from the Ashfield Local Plan Review (2002)**

**The Application**

*This is an application for Outline Planning Permission for the demolition of the existing industrial premises and construction of up to 23 dwellings. All matters, including access, are reserved for future consideration.*

**The Site**

*The application site is located at the southern end of Crossley Avenue and consists of a factory premises, formed by a collection of buildings joined together. The remainder of the site is undeveloped containing a number of trees, some of which are subject to a Tree Preservation Orders. To the south of the site lies Rockery Park, the remainder of the surrounding area is residential in character.*

**Consultations**

*Site and Press Notices have been posted together with individual notification of surrounding residents. The response from consultees and the local community are summarised as follows:*

**Coal Authority** – *The application falls within an area defined as Low Risk and as such the Coal Authority have referred to standing advice.*

**Nottinghamshire Wildlife Trust** – No comments received.

**A.D.C Place and Wellbeing** - The proposed new tree planting, enhancement of the existing hedgerows and demolition of the factory unit would comply with the landscape actions set out within the Greater Nottinghamshire Landscape Character Assessment 2009. Details should, however, be provided of the exact planting specifications.

A contribution should also be sought for the following:

- £46,000 towards public realm improvement at Low Street, or Albert Square (Sutton Town Centre) including but not limited to paving works, signage and new street furniture.
- £23,000 towards upgrading junior teenage play provision at Huthwaite Welfare or visitor car parking improvements to Brierley Forest Park.

**A.D.C Drainage** – No known drainage issues with the site, but percolation tests are required to check the grounds suitability for soakaways.

**A.D.C Environmental Health (Land Contamination)** – The site is used for a factory, which is considered to have the potential to result in land contamination. A full four stage contamination condition is therefore recommended.

**Nottinghamshire County Council Planning Policy** – Have provided comments setting out the relevant policies in relation to waste, minerals, transport and education. It has also been advised that as a number of mature trees are to be felled, bat surveys should be carried out prior to determination.

Developer contributions have been sought in respect of bus stop improvements £15,000, with Travel and Transport also wishing to negotiate with the developer regarding a bus service to the site. A contribution has also been sought for education for £57,275 (5 primary school places) and £69,040 (4 secondary places).

**Nottinghamshire County Council Highways Authority** – Have objected to the access details. Plans were submitted attempting to overcome the issues raised, however the swept path required for refuse vehicle means it would be necessary to move the access road further to the east. The HA are satisfied that an access can be achieved but details are required.

**Severn Trent Water** – Recommend a condition is attached for drainage plans to be submitted to the Local Planning Authority.

### **Community**

A total of 5 letters of objection have been received from 4 households. Their concerns are summarised below:

- *The Access to the development should be taken off Beech Avenue, as the existing entrance across from a garage may cause road safety issues;*
- *The road is inadequate to serve the development;*
- *The development is too close to existing houses;*
- *There would be a loss of natural habitat and trees;*
- *The vacation of the existing factory could result in safety issues;*
- *There is a storage tank which protrudes onto a neighbouring property;*
- *Parking would become an issue;*
- *Concerns over the boundary treatments;*
- *There may be job losses at the existing industrial premises;*

*The concerns raised by local residents are addressed within the main body of the report.*

### **Policy**

*Under the Planning and Compulsory Purchase Act 2004, section 38(6) applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, the starting point for decision-making are the policies set out in the Ashfield Local Plan Review 2002 (saved policies). The National Planning Policy Framework (NPPF) is a material consideration. The policies listed below are considered relevant to this application:*

#### ***Ashfield Local Plan Review 2002 as amended by "saved policies" 2007 (ALPR)***

- *Policy ST1: Development.*
- *Policy ST2: Main Urban Areas.*
- *Policy EV6: Sites of Importance for Nature Conservation.*
- *Policy EV8: Trees and woodlands.*
- *Policy EM5: Protection of Existing Employment Sites.*
- *Policy HG3: Housing density.*
- *Policy HG4: Affordable Housing.*
- *Policy HG5: New residential development.*
- *Policy HG6: Open space in residential developments.*
- *Policy TR6: Developer contributions to transport improvements*

#### ***Material considerations***

*National Planning Policy Framework (NPPF) policies relevant to the application are:*

- *Para 11: Sustainable Development.*
- *Part 5: Delivering a sufficient supply of homes.*
- *Part 6: Building a strong, competitive economy.*
- *Part 8: Promoting healthy and safe communities*
- *Part 9: Promoting sustainable transport.*
- *Part 11: Making effective use of land.*



- *Part 12: Achieving well designed places.*
- *Part 14: Meeting the challenge of climate change, flooding and coastal change*
- *Part 15: Conserving and enhancing the natural environment.*

### ***Supplementary Planning Documents***

- *Residential Design Guide SPD 2014*
- *Residential Car Parking Standards 2014*

### **Relevant Planning History**

*V/1987/0283 – Site for residential development. Consent. 30/07/1987*

*V/2008/0009 – Demolition of factory and erection of 23 houses with associated access and parking. Withdrawn.*

*V/2017/0228 – Outline Application with some matters reserved for demolition of industrial unit and erection of up 23 dwellings with associated access and parking. Withdrawn.*

### **Comment:**

*The main issues in the determination of this application are:*

- 1. Principal of Development*
- 2. Impact on Landscape Character*
- 3. Loss of Trees*
- 4. Ecology*
- 5. Residential Amenity*
- 6. Highways Safety*
- 7. Developer Contributions and Viability*
- 8. Planning Balance*

### **1. Principal of Development**

*The proposal site is located in the Main Urban Area as defined by Ashfield Local Plan Review 2002 (ALPR), Policy ST2 and the Proposals Map. The Policy identifies that development will be concentrated within the Main Urban Areas. The proposal would comply with this policy.*

*The application site is partially occupied as a factory. Policy EM5 of the Ashfield Local Plan Review 2002 sets out a policy protection for existing employment sites and buildings, as employments sites in urban areas are subject to pressures for their conversion to alternative uses. Under Policy EM5 the loss of an employment site would only be permitted where:*

- a. *Retention of the employment use would cause unacceptable environmental problems; or*
- b. *The building or site is no longer capable of providing an acceptable standard of accommodation for employment purposes and this can be demonstrated by lack of demand.*

*The Design and Access Statement and covering letter sets out that the premises are nearing the end of their functional life. The initial buildings were constructed in the 1950s and are currently in poor condition, with water ingress into the property and a number of windows missing. A substantial issue is that the property can only be accessed by either Lime Avenue, or Beech Avenue. These are both residential streets, requiring on street parking for residents, which makes it less attractive to potential occupiers. The supporting information demonstrates that the site has been marketed through a sale board, social media, direct mailing and on property websites, however no serious offers have been received.*

*Although the site is currently occupied and thus in some conflict with Policy EM5, this conflict has to be set in the context of the existing state of the employment site, lack of demand and the provisions of the NPPF. The NPPF identifies that a positive approach should be taken to alternative uses of land, which is currently developed but not allocated. This includes employment land for homes in areas of high demand. (NPPF para 121). Paragraph 118 of the NPPF also identifies that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes.*

## **2. Impact on Landscape Character**

*The site is located on the edge of the defined main urban area at the top of a relatively steep sloping site. The land to the south of the site slopes away and comprises agricultural fields and the old landfill site, which has been redeveloped to form Rookery Park. The frontage of the site facing onto Crosseley Avenue comprises the existing factory unit.*

*The proposed new tree planting, enhancement of the existing hedgerows and demolition of the factory unit would comply with the landscape actions set out within the Greater Nottinghamshire Landscape Character Assessment 2009. The submitted layout plan shows the proposed residential development could be screened from the surrounding open areas, particularly to the south, where there are a number of TPO trees to be retained along with new planting.*

*The existing factory is currently in a poor state of repair, and although the design of the properties has not been submitted at this stage, it is likely these could be designed to enhance the appearance of the area.*

### **3. Loss of Trees**

*There is a Tree Preservation Order which covers much of the site. An up to date Tree Survey has been submitted, which identifies that a number of the trees listed by the Order have died, or are in poor health and unsuitable for retention on arboricultural grounds. The majority of trees to be removed for the site are considered to be of the lowest quality, offering fairly limited amenity value. The trees of higher quality are shown to be retained on the indicative layout. A scheme of new tree planting is also to be undertaken using a species considered more appropriate for a residential area.*

*The Councils Tree Officer has confirmed the veracity of the report and its recommendations, noting the works are considered appropriate in the context of safe tree retention and site safety. The Tree Officer has however identified further information is required in the form of an updated arboricultural method statement and a post felling works assessment of the retained trees. This information will be secured through an appropriately worded planning condition.*

*On the basis of the above, the proposal is considered not to be in conflict with Policy EV8 of the Local Plan, which seeks to protect trees worthy of retention.*

### **4. Ecology**

*The application site has no ecological designation, although it is covered by a number of trees and as a result, a Phase 1 Ecological Survey has been undertaken. The report identifies that there are mature trees on site, which have potential roosting value for bats.*

*As detailed above, the trees on site, which are being felled are being done so on the grounds of site safety and safe tree retention. The works have been considered appropriate by the Councils tree officer and therefore necessary. The submitted Ecological report identifies that prior to any felling further surveys are to be carried out. If roosts are located, then a Conservation Regulations Licence for the works will be required from Natural England.*

*In terms of mitigation and compensation, the application proposes to retain the majority of trees identified as moderate quality and value. Further tree planting is proposed to be undertaken along the sites boundaries, potentially providing additional foraging resources for a range of species. Bat friendly planting (designed to help attract bats) is also to be included in the landscaping, along with a sensitive lighting strategy. These measures are to be secured through a planning condition.*

*The tree works are considered necessary for site safety purposes and adequate mitigation/compensation will be secured, thus ensuring the favourable species status of any potential bats will be maintained. The proposal has been assessed against*

*the three licensing criteria within Natural England Guidance and in accordance with the Habitat and Species Regulations (2017).*

## **5. Residential Amenity**

*A resident has raised concerns surrounding the development being too close to existing dwellings. Although, this is an outline application, an indicative layout plan has been submitted, which shows that a development for 23 dwellings could be accommodated and achieve the Councils minimum required separation distances, as set out within supplementary planning guidance.*

*Any subsequent Reserved Matters application will be closely examined to ensure the guidance is complied with and that there would be no adverse impact on the living conditions of neighbouring occupiers, through loss of privacy, or overshadowing impacts.*

## **6. Highways Safety**

*The Highways Authority have raised concerns over the location of the proposed access shown on the submitted layout plan, noting it may be necessary to move the access road further to the east, due to the requirement to manoeuvre refuse vehicles. As this application is an Outline, with all matters reserved for future consideration, the access position will be fully considered at Reserved Matters stage*

*Residents have raised concerns regarding the adequacy of the road to service an additional 23 dwellings. The road currently serves a factory unit, along with a number of other residential dwellings and appears to be constructed to a good standard.*

*No in-principal objection has been received from the Highways Authority, and as a result, it is considered that the proposal would not give rise to any highways safety concerns. Accordingly, the proposal would comply with Policy ST1 (c), which identifies that development will be permitted where it will not adversely affect highway safety.*

## **7. Developer Contributions and Viability**

*The following contributions have been requested/required:*

- £15K Bus stop improvements by Nottinghamshire County Council Transport and Travel*
- £23k Public open space and £46k Public Realm by Ashfield District Council Place and Wellbeing.*
- £57,275 Primary Education and £69,040 Secondary education by Nottinghamshire County Council Education.*

*In accordance with the NPPF paragraph 64 it is considered that 10% affordable housing should be provided.*

*The developer has, however, confirmed that they are unable to provide any contributions for the scheme. A viability report has been submitted, which demonstrates that the scheme cannot viably provide any affordable units, or Section 106 contributions. The viability report has been assessed by the District Valuer, whom have confirmed the veracity of the report and that the scheme cannot meet any planning obligations.*

*The Council did raise concern over the land value being too high. However, the District Valuer confirmed that the figure is in line with other brownfield sites they have appraised, which have similar abnormal costs.*

*Planning Practice Guidance identifies for the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers. The submitted viability appraisal demonstrates that with no S106 contributions, developer profit would be at 18.07%, with a contribution of £69,000 – even below the figure required by the Council – this would fall to 15.5%. The district valuers appraisal identifies that at a profit margin of 17.5%, even with no developer contributions, the development would still be unviable.*

*Notwithstanding the submitted Viability Assessment, Officers of the Council have suggested a contribution of £80,275 to meet the primary education and open space requirements. The applicant has considered this request and made an offer of £34,365 for the cost of 3 primary school places. They have also provided recent appeal decisions in Gedling and Mansfield, where viability was a significant concern and the Inspector concluded that a reduced contribution would still serve a useful purpose.*

*There is a significant shortfall in terms of the required contributions that would normally be expected. However, when taking into account the viability appraisal, the contribution offered toward education is, on balance, considered to be reasonable.*

## **8. Conclusions and Planning Balance**

*There would be some degree of conflict with Policy EM5 of the Ashfield Local Plan Review, as the unit is still currently occupied, although this conflict is reduced given the current state of the building and its attractiveness to any future occupiers. Moreover, the NPPF identifies that a positive approach should be taken to alternative uses of land, which is currently developed but not allocated.*

*The proposal would involve the loss of Trees Covered by a Preservation Order, some of which hold potential for Bat roosting. However, the Councils Tree Officer has raised no objection to the removal of the trees and a scheme of replacement*

*planting is to be provided, along with other ecological mitigation and enhancement measures.*

*Given the shortfall in terms of the required infrastructure contributions, there are concerns regarding the sustainability of the development. However, following negotiation, Officers have achieved what is considered to be a reasonable contribution towards primary education. On balance, this reduced contribution is considered to be acceptable when taking into account the viability information and also recent appeal decisions in neighbouring authorities.*

*The proposal would bring substantial social benefits through the provision of 23 additional homes. The NPPF seeks to significantly boost the supply of housing and this benefit is afforded significant weight within the planning balance. Further benefits are likely to accrue from the re-development of a brownfield site and its potential to enhance the appearance of the area.*

*Overall, it is considered that the harms arising from the development do not significantly and demonstrably outweigh the benefits. Therefore, the proposals would be compliant with the NPPF when considered as a whole and amount to sustainable development.*

**Recommendation: - Approve, subject to the satisfactory completion of a Section 106 Agreement for a contribution of £34,365 towards primary education.**

## **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
  - (e) Access
2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development to which this permission relates shall be begun not later than the expiration of 2 years from the final approval of the Reserved Matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. 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. fencing, walling, boundary treatments and means of enclosure;
  - iii. a scheme of hard and soft landscaping, including additional planting along the boundaries of the site, the specification of trees, hedges and shrub planting and details of species, density and size of stock;
  - iv. existing and proposed ground levels and those of surrounding buildings;
  - v. refuse/recycling storage and collection points;
  - vi. provision for electric vehicle charging points;
  - vii. measures to minimise the risk of crime;
5. The landscaping works shall be carried out in accordance with the approved details agreed by the Local Planning Authority and any trees or plants which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the local planning authority gives written approval to any variation.
6. No dwelling shall be occupied until an external lighting strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall ensure adequate illumination of roads and paths and avoid any unnecessary light pollution. The strategy shall: (i) identify areas and features on site that are particularly sensitive for bats, and (ii) provide details of how and where external lighting will be installed so that lit areas will not disturb and prevent bats using their territory, including breeding sites and resting places. The strategy shall be implemented and thereafter managed and maintained in accordance with the approved details.
7. The development shall be undertaken in accordance with the submitted Arboricultural Assessment dated March 2017. However, prior to the commencement of development an Arboricultural Method Statement and Management Plan shall be submitted and agreed in writing by the Local Planning Authority. These shall detail the exact nature of any engineering works required within close proximity to the retained trees detailed and a post felling works assessment of the retained trees.
8. The development shall be undertaken in accordance with the Ecological Assessment dated 22<sup>nd</sup> February 2017. Prior to the felling of any trees, further Bat Surveys shall be carried out in accordance with the submitted Ecological Assessment. The results of these bat surveys, along with the details of any Licence that may be required from Natural England, shall be submitted to and agreed in writing by the Local Planning Authority, prior to the felling of any trees.

9. Prior to the commencement of development, a detailed Landscape and Ecological Management Plan (LEMP) for the site shall be submitted to and approved in writing in accordance with the recommendations set out within the Ecological Assessment dated 22<sup>nd</sup> February 2017. The plan shall include full details of landscape and ecological management objectives, operations and maintenance prescriptions, together with their timings. The plan shall also include the following details:

- details of new habitat created on site (Inc. bird and bat boxes)
- details of maintenance regimes and management responsibilities

The LEMP shall be carried out as approved, and the site maintained thereafter in accordance with it.

10. Prior to the commencement of development, a demolition method statement shall be submitted to and approved in writing by the Local Planning Authority.

11. Prior to the commencement of development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority, this should include:

- How construction traffic will access the site;
- Proposed hours and days of working;
- The parking of vehicles of site personnel, operatives and visitors;
- Location of the site storage areas and compounds;
- Wheel washing facilities;
- A strategy for the minimization of dust and vibration;
- A strategy for the minimisation of noise, vibration and dust;
- Site contact detail in case of complaints;

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

12. The dwellings shall not be occupied until a travel plan to promote and encourage the use of alternative modes of transport to the car has been submitted to and approved in writing by the local planning authority. The travel plan shall include raising awareness in respect of cycling, walking, car share initiatives, car clubs and providing details of a nominated travel plan co-ordinator. The scheme shall include, for the first occupier of each dwellings, the provision of a travel information welcome pack to raise awareness in respect of sustainable transport modes.

13. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and



approved by the Local Planning Authority. The surface water drainage scheme shall include sustainable drainage principles and be implemented in accordance with the approved details before the development is first brought into use.

14. Prior to the commencement of any works pursuant to this permission the applicant shall submit the following to the Local Planning Authority (LPA):

1. A Desktop Study/Phase I Report documenting the historical use(s) of the site and its immediate environs. This shall include a conceptual site model indicating all potential pollutant linkages.

2. A Site Investigation/Phase II Report where any previous use of the site indicates a potential contaminative use. The applicant/developer shall submit a Site Investigation/Phase II Report documenting the characteristics of the ground at the site. The Site Investigation should establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas monitoring and chemical analysis, identified as being appropriate by the Desktop Study, should be carried out in accordance with current guidance using UKAS/MCERTS accredited methods. All technical data must be submitted to the LPA.

3. A Scheme of Remedial Works where the Site Investigation has identified the presence of significant levels of harmful ground gas and/or significant levels of chemical contamination. The scheme should include a Remediation Statement and Risk Assessment Strategy to prevent any significant risk arising when the site is being developed or subsequently occupied.

Any variation to the Remediation Scheme shall be agreed in writing with the LPA, in advance of works being undertaken.

All remediation should be carried out safely, ensuring that no significant risk(s) remain. The applicant will need to have a contingency plan should the primary remediation or subsequent construction phase reveal any additional contamination. Where additional contamination is found the applicant must submit in writing, details of the contingency plan for written approval by the LPA.

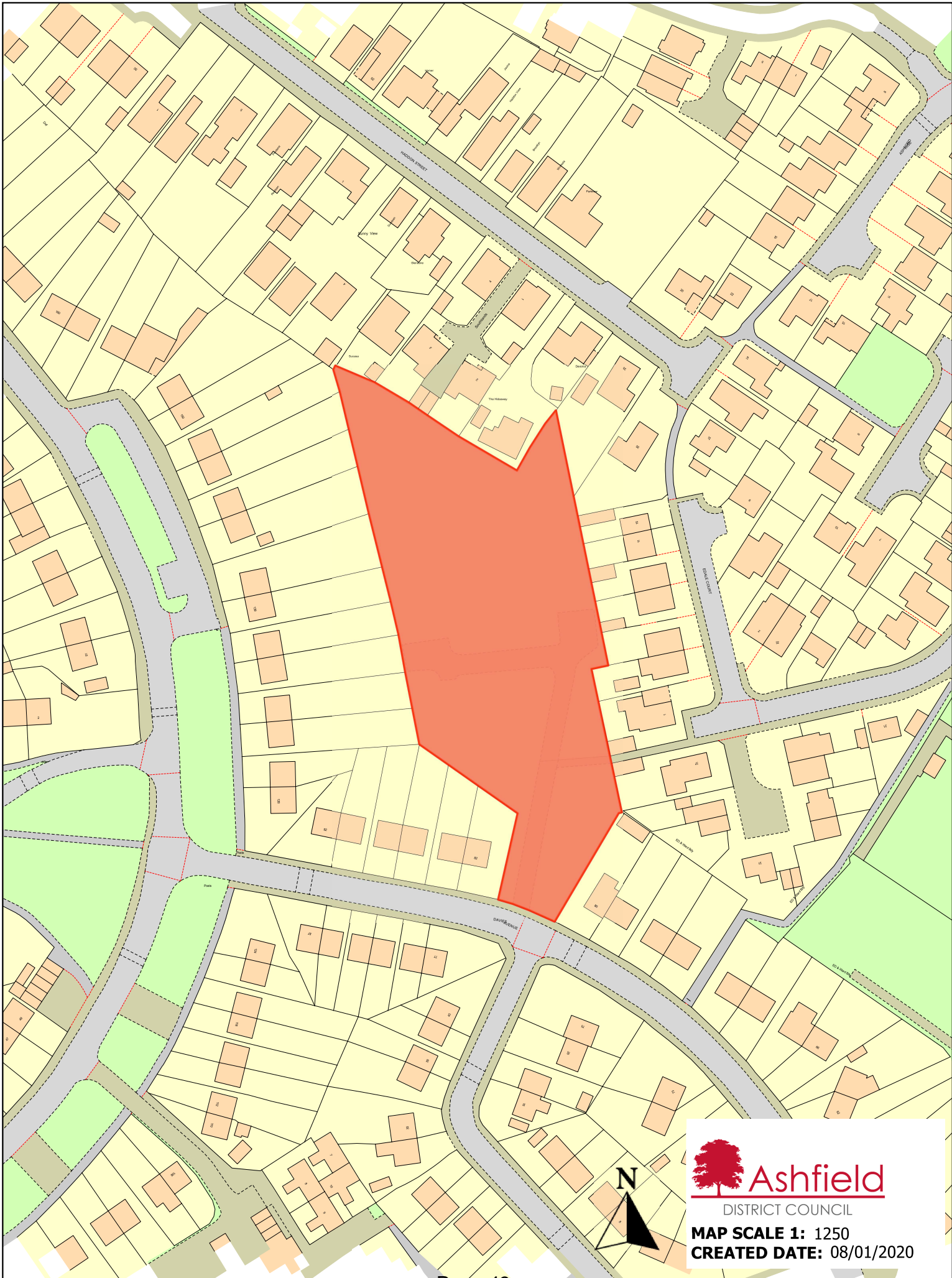
On completion of remedial works and prior to the occupation/use of the development, the applicant must submit to the LPA:

4. A Validation Report with confirmation that all remedial works have been completed and validated, in accordance with the agreed details. The Validation Report must be submitted for the written approval of the LPA prior to the development being put to its intended use.

15. Prior to the commencement of any works on site, full details of the new roads shall be submitted to and approved in writing by the Local Planning Authority, including longitudinal and cross sectional gradients, street lighting, parking & turning facilities, access widths, gradients, surfacing, visibility splays, drainage & outfall proposals, construction specification, provision of and diversion of utilities services, materials and any proposed structural works. Drawings must indicate key dimensions. All details submitted for approval shall comply with the Nottinghamshire County Council's current Highway Design Guide and shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.

### **Reasons**

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
2. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
3. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
4. In the interests of visual amenity.
5. In the interests of visual amenity.
6. To ensure an adequate lighting strategy is employed that does not affect bats.
7. To protect trees worthy of retention.
8. To protect protected species.
9. In the interest of visual amenity and ensuring the site is maintained.
10. To protect residential amenity.
11. To protect residential amenity.
12. In the interests of sustainability.
13. To ensure the site is adequately drained.
14. To ensure the site is developed free from contamination.
15. In the interests of highways safety.



**Ashfield**  
DISTRICT COUNCIL  
**MAP SCALE 1: 1250**  
**CREATED DATE: 08/01/2020**

**COMMITTEE DATE** 22/01/2020                      **WARD** Dales Ward

**APP REF** V/2019/0449

**APPLICANT** EMH Group - Victoria Robb

**PROPOSAL** Residential Development of 22 Dwellings

**LOCATION** Land Off, Davies Avenue, Sutton In Ashfield

**WEB LINK** <https://www.google.com/maps/place/Davies+Ave,+Sutton-in-Ashfield/@53.1310404,-1.266664,17z/data=!4m5!3m4!1s0x48799683e083bee1:0xbbbabd2bdbc31c6f!8m2!3d53.1286972!4d-1.264706>

**BACKGROUND PAPERS** A B C D F K

App Registered 12/07/2019

Expiry Date 11/10/2019

*Consideration has been given to the Equalities Act 2010 in processing this application.*

*This application has been referred to Planning Committee as the Council are the landowners.*

**The Application**

This is a full application for a residential development of 22 properties, for affordable rent, at the former Sutton Town Social Club. The mix of dwellings are as follows:

- 8 x 2 bed house
- 8 x 3 bed house
- 4 x 2 bed maisonettes
- 1 x 2 bed bungalow and 1 x 3 bed bungalow.

**Consultations**

A site notice and press notice have been posted together with individual notification of surrounding residents. The comments received are summarised below:

**A.D.C Land Contamination** – A condition needs to be applied to ensure the site is developed free from contamination.

**A.D.C Landscape Officer** – The site is broadly acceptable in outline terms. Any retained trees should be protected during construction. Full landscaping and boundary details should also be provided. A section 106 request has also been

made for £44,000 towards landscape improvements at one of the following greenspace sites:

- The Oval Recreation Ground.
- Priestic Road Recreation Ground.
- Brierley Forest Park.

**A.D.C Tree Officer** – The tree survey is accurate. However, concerns are raised that the drainage may affect some of the retained trees and more information should be requested. It is also noted that the overall quality of trees on site is generally poor.

**Severn Trent** – Due to surcharging on this system, a hydraulic modelling study may be required to determine if the proposed foul water flows from this development can be accommodated in the existing system, and if not to identify what improvements may be required.

**Highways Authority** –The vehicular access has sufficient width and visibility. The layout has also been tracked with an appropriately sized refuse vehicle. Each property has two spaces, which accords with the Councils Residential Car Parking SPD.

**Nottinghamshire County Council Strategic Planning** – No objections from a minerals perspective, although a waste audit should be provided. Strategic highways contributions should also be sought, along with conditions for bus stop improvements along Brierly Road.

#### **Nottinghamshire County Council Education -**

##### *Primary*

The development is located in the Sutton Town Primary Planning Area and would generate 5 additional primary places. Based on current projections there is insufficient capacity to accommodate these additional places. As a result, the County Council would seek a primary school contribution of £84,460 (5 places x £16,892 per place). This would be used to extend Priestic Primary, or a school within 2 miles.

##### *Secondary*

The development is located in the catchment of Sutton Community Academy and would generate 4 additional secondary school places. Based on current projections there is insufficient capacity to accommodate these additional places. As a result, the County Council would seek a secondary school contribution of £90,080 (4 places x £22,520 per place). This would be used to extend Sutton Community Academy.

**Nottinghamshire County Council Rights of Way** – Sutton Footpath 123 runs through the site. However, no objections are raised as the public footpath has been considered in the application. A number of advisory notes should be added to the decision notice regarding the developers responsibilities with the footpath.

**Local Lead Flood Authority** – Raised concerns, objecting to the initial scheme, as it had not fully addressed the implications of surface water flood risk. However, revised information has been submitted to overcome these concerns and comments are still awaited from the LLFA. These comments will be presented at Planning Committee.

The site is shown to be on a surface water flood path and the application fails to properly consider the implications of surface water flooding.

11 x Letters of objection have been received on the following grounds:

- Affordable housing would create additional problems in the area and the existing problems with anti-social behavior will be exacerbated.
- Wrongly advised that the new-builds would be bungalows for the elderly and the dwellings should be altered to single storey.
- The alley-way should be closed off.
- The dwellings would block out light, overshadow and result in a loss of privacy.
- Detrimental effect on house prices.
- Traffic noise.
- An existing large tree at bottom of 3 Edale Court should be removed.
- The boundaries should be replaced.
- Questions over the sites levels.

### **Policy**

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

#### **Ashfield LP Review 2002 – Saved Policies**

- ST1: Development.
- ST2: Main Urban Areas.
- ST4: Remainder of the District.
- TR6: Developer contributions to transport improvements.
- HG3: Housing density.
- HG4: Affordable Housing.
- HG5: New residential development.
- HG6: Open space in residential developments.

**National Planning Policy Framework (NPPF)** policies relevant to the application are:

- The Presumption in favour of Sustainable Development.
- Part 5: Delivering a sufficient supply of homes.
- Part 8 Promoting healthy and safe communities.
- Part 9 Promoting sustainable transport.
- Part 11: making effective use of land.
- Part 12: Achieving well-designed places.
- Part 14: Meeting the challenge of climate change, flooding and coastal change.
- Part 15: Conserving and enhancing the natural environment.

## **Guidance**

- Ashfield Affordable housing SPD 2009.
- Ashfield Residential Design SPD 2014.
- Ashfield Residential Extensions Design SPD 2014.
- Ashfield Residential Car Parking Standards SPD 2014.
- Nottinghamshire County Council Highways Design Guide
- National Design Guide 2019
- Site layout planning for daylight and sunlight: a guide to good practice (BR 209). (BRE Guide)

## **Relevant Planning History**

- **V/1983/0112** – Site for residential development. Consent. 24/05/1983.
- **V/2013/0575** – Demolition of existing social building. Consent. 23/01/2014.
- **V/2019/0298** – Display of 2 Vinyl Banners. Consent. 28/06/2019.

## **Comment:**

## **The Site**

The application site is the former Sutton Town Social Club, which has since been demolished. The site is located off Davies Avenue, in a residential area to the north of Sutton-in-Ashfield town centre. It is surrounded by the back gardens of residential dwellings on its northern, eastern and western sides - with access into the site taken off Davies Avenue from the south. The site has a number of mature trees around its boundary and a public right of way linking Davies Avenue to Milldale Walk and Edale Court. In terms of levels, the site itself is relatively flat, with the neighbouring dwellings to the north located on higher land. The site area measures approximately 0.6 hectares.

## **Main Considerations**

The main issues to consider in the determination of this application are:

- The Principle of Development,
- Residential Amenity,
- Visual Amenity,
- Housing Density
- Highways Safety,
- Ecology and Trees,
- Flooding,
- Other Issues,
- Developer Contributions and 'CIL' Compliance,
- Viability,
- Planning Balance and Conclusions.

### **The Principle of Development**

The application site comprises previously developed land within the main urban area of Sutton in Ashfield. The general principle of residential development is therefore acceptable in this location – in accordance with Policy ST2 of the Local Plan.

### **Residential Amenity**

#### **Existing Residents**

A number of residents have raised concerns surrounding issues of a loss of privacy and light. Saved Policy HG5 of the Local Plan is a criteria based policy which seeks to ensure that new residential development is acceptable. This includes protecting the amenity of neighboring properties; minimising overlooking, provision of adequate amenity space, adequate boundary treatment, suitable access and parking. Policy HG5 is backed up by the Ashfield Residential Design Guide SPD 2014, which contains the main requirements for separation distances and garden sizes. The assessment below sets out a summary of key relationships:

#### *Edale Court*

There would be a separation distance of approximately 12.2m from the conservatory at No.1 Edale Court to the side elevation of Plots 19 and 20, which accords with the Council's minimum standards. There are two existing large trees along this boundary, currently shading the rear garden of No. 1; these are to be removed and as the proposed dwellings are to be located approximately 5.2m from the shared boundary, it is unlikely the garden area would be unduly affected through loss of light – nor would the dwelling appear as overbearing.

There is a separation distance of approximately 18.3m between plot 18 and the conservatory at No.3 Edale court, this meets the minimum standards, due to the



relative angle of the dwellings. There is also a large tree to be retained on the boundary, which provides screening to No.3 from the development. This tree, coupled with a separation distance, ensures the development itself would not materially affect the living conditions of the occupiers at No.3 through loss of privacy, or overshadowing. A resident has requested the tree be removed, however as the tree is healthy and provides screening, this is considered to be unnecessary.

There would be a separation distance of approximately 21m between plots 17 – 18 to 5 Edale Court, this has been increased since the submission of the application and meets with the Councils guidance. Likewise the relationships between plots 15 – 17 to 7 – 11 Edale Court achieves the Councils minimum back-to-back separation distance. This ensures the development would not adversely affect the living conditions of those neighbouring residents.

### *Haddon Street*

The dwelling at plot 12 is to be positioned to the south west of the neighbouring property at No.2 Southlands. It would be located to the rear of the garage, but also extends beyond the garage and overlaps the garden by approximately 3.4m. The side gable wall is positioned approximately 2.1m from the shared boundary.

There is a primary habitable (kitchen and dining room) window located on the rear of No.2 Southlands, which is approximately 10m away from plot 12. This falls short of the 12m set out in the Councils Residential Extensions SPD Design Guide (2014). However, the floor level of plot 12 is significantly lower than no. 2 (approximately 2.3m), the dwelling has also been revised from a gable end to a hipped roof, with the roof pitch also being reduced. A 25-degree measurement has been taken from the kitchen window and this demonstrates that the light entering into this room would not be unduly affected. The lounge room window on the rear elevation of No.2 would meet the required 12m separation distance and likewise light into the room would not be unduly affected.

From the rear garden of No.2, plot 12 would be visible projecting from the rear of the garage; however the impact is significantly reduced by the land level difference and roof design. The BRE guidelines – Site Layout Planning for Daylight and Sunlight recommend that the centre of the garden area receive at least two hours of sunlight on 21<sup>st</sup> March and the development of this dwelling would not impinge upon the garden area meeting this guidance.

It is considered the impact on No.2 could be reduced further should the dwellings at plot 10 – 12 be repositioned farther to the southwest. Such a revision has been suggested, although the applicant has been unwilling to amend the plans. They believe the relationship to be acceptable and that it would unduly impact upon the garden of plot 10. On the basis of the assessment above, it is considered a ground for refusal would be difficult to sustain on an adverse impact upon neighbouring residents.

A resident has raised concerns regarding overlooking to a property at Sucasa, on Haddon Street. The neighbouring property is located on higher ground and given the position of the proposed dwellings in relation to the existing dwelling and garden area of Sucasa, there would be no substantive loss of privacy.

#### *Milldale Walk*

There would be a separation distance of approximately 17m between the side elevation of plots 21-22 and 37 Milldale Walk. This exceeds the Council's minimum requirements of 12m. In addition, there are no windows located in the first floor side elevation of plots 21-22. As a result, there would be no harm to the residents of 37 Milldale Walk through loss of light, or privacy.

#### *Carsic Road and Davies Avenue*

The submitted layout demonstrates the development would achieve the minimum separation distances to dwellings on these streets. There would be some increased overlooking of garden areas, however this would be minimal and not be so significant as to refuse planning permission.

#### *Other issues*

A resident has raised concerns surrounding increased traffic noise, however, a residential development of this size, in already residential area is unlikely to give rise to a significant increase in volumes of traffic that would lead to undue noise disturbance. A construction management plan condition will be used to limit disturbance during the construction phase of the development and will include working hours.

Residents have raised issues surrounding boundary treatments and floor levels. It is considered to be appropriate to secure these details through planning conditions.

#### Future Residents

The proposed development would provide an acceptable standard of living for future residents. The dwellings are laid out to ensure they each receive sufficient light and privacy. Internally, the development would meet the National Minimum Space Standards; whilst externally, each of the garden areas would meet the minimum requirements. Although, two of the first floor flats would have no allocated garden space, this may suit the particular circumstance of a future occupier, whom may not wish to have garden space and when viewing the development as a whole it would provide an acceptable standard of living for residents.

## **Visual Amenity**

The development would be laid out in a cul-de-sac, featuring one adopted road and dwellings either side. The public footpath running through the site will remain open and has been considered in the design process. The layout ensures the dwellings have sufficient separation distance between them, with areas of landscaping and active frontages overlooking the parking courts.

The design of the dwellings are modern, with red facing brickwork, white colour render and black UPVC windows. These are relatively sympathetic to the wider area, which features a number of different styles. Building heights across the site are limited to two storeys, with two bungalows also included. This scale of development reflects the wider area.

The layout, appearance, design and scale is considered to be in keeping with the surrounding vicinity. Accordingly, there are no concerns surrounding the development affecting the character and appearance of the area.

## **Housing Density**

The density proposed is approximately 36.6 dwellings per hectare. This achieves the minimum requirement set out in Policy HG3 of the Local Plan.

## **Highways Safety**

The site will have one point of vehicular access off Davies Avenue. Visibility from the access is sufficient and the internal layout is considered to be acceptable from a highways safety perspective.

Each property has been provided with two off road parking spaces, which is in accordance with Ashfield District Council's Residential Car Parking Standards SPD. It is noted that several properties' parking spaces are not on plot, but elsewhere, including within parking courts. However, this is considered to be acceptable and unlikely to result in significant highways safety concern.

The Highways Authority have raised no objections, but request a number of conditions in relation to construction management, parking areas and visibility splays. In view of the above, it is considered that the proposed development would not adversely affect highways safety.

## **Ecology and Trees**

The application is supported by an Ecology Report and Tree Survey. The Ecology Report did not identify the presence of any protected species on the site. Although made a number of recommendations in relation to mitigation and enhancement

measures. These are to be subject to planning conditions and includes bird and bat boxes in the dwellings.

It is noted that the mature cherry tree at the south-eastern corner of the site is to be removed, despite the Ecology report recommending this be retained. However, the Councils Tree Officer has noted the overall quality of trees on site is generally poor. This tree is also not subject to a Preservation Order, so this could be removed without consent being required. There are, however, a number of trees shown to be retained on the plan and these are to be subject to a planning condition.

### **Right of Way**

A Public Right of Way runs within the site linking to Davies Avenue to Milldale Walk and Edale Court. The Footpath has been designed into the layout and will not be required to be diverted. A number of advisory notes will be included on the decision notice making the applicant aware of their responsibilities in respect of the footpath.

A resident has raised the possibility of closing this footpath off; however this is a Public Right of Way, providing legibility into the wider area. As such, it would not be appropriate to close off the footpath.

### **Flooding**

The application has received an objection from the Local Lead Flood Authority on the basis that the site is shown to be on a surface water flood path and the application fails to properly consider the implications. The applicant has submitted a revised mitigation strategy to overcome these concerns and this has been forwarded onto the Local Lead Flood Authority for comment. These comments will be presented at Planning Committee.

### **Other Issues**

The provision of affordable homes has raised concerns, by some residents, over issues of anti-social behaviour. The homes provided are a high quality new build and will be subject to the Councils lettings plan. There is also no evidence to suggest that the future occupiers of these dwellings would result in an increase in problems with antisocial behaviour in the surrounding area.

A number of residents have also raised concerns that they were led to believe the dwellings would be bungalows for the elderly. However, this is not a material planning consideration and the application must be determined on its individual merits and whether, or not, the proposals are considered to be acceptable.

The issue of houses prices has also been raised by some residents, however this is not a material planning consideration.

NCC have advised that it may be useful for the application to be accompanied by a Waste Audit, however the development is of such a scale that this is considered to be unnecessary.

### **Developer Contributions and 'CIL' Compliance**

The requirements of CIL Regulations are that a planning obligation can only be a reason to grant planning permission provided that it is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. The requirements for this application are set out below:

#### Affordable Housing

The proposal would provide 100% affordable housing, which accords with the NPPF. In this case, the affordable housing offer will be secured by a condition, rather than a Section 106 Agreement. Securing affordable housing through a planning condition is usually not the appropriate mechanism. However, the Council currently own the land and these will come into the Councils stock, once the development is complete. As a result, a simple condition would suffice to secure the affordable housing in this case.

#### Education

Nottinghamshire County Council have identified that there is insufficient capacity to accommodate pupils generated from the development. A contribution of £84,460 towards primary places and £90,080 towards secondary has been requested. Paragraph 94 of the National Planning Policy Framework ("NPPF") demonstrates the importance of education provision. The justification for the level of figure is set out within the County Councils Planning Obligation Strategy and is considered reasonable in kind and scale to the development. This contribution would meet the CIL tests.

#### Public Open Space

The Councils Localities team have made a request of £44,000 towards landscape improvements at one of the following greenspace sites:

- The Oval Recreation Ground.
- Priestsic Road Recreation Ground.
- Brierley Forest Park.

A contribution, which equates to £2,000 per plot – which is commensurate with other developments across the district – is considered reasonable in kind and scale to the development. This contribution would meet the CIL tests.

#### Healthcare

The development falls below 25 dwellings and as such the Clinical Commissioning Group do not require a healthcare contribution.

### Transport

NCC Travel and Transport have requested a condition requiring upgrades to two bus stops along Brierley Road. NCC have also advised that all major developments should contribute towards highways infrastructure improvements; although no details of the amount, or a specific scheme, have been given.

### Viability

The application has been supported by a Viability Appraisal. This has been assessed by an independent expert. The independent appraisal agrees with the applicants conclusion that the scheme is unable to viably support any Section 106 contributions. In addition, given the margins of the scheme, the bus stop improvements requested by NCC – by way of a planning condition – cannot reasonably be afforded.

In light of the evidence available, no contributions are to be secured as part of the scheme, although this must be weighed in the context of the planning balance, as set out below.

### Planning Balance and Conclusions.

The NPPF states that proposals should be considered in the context of the presumption of sustainable development, which is defined by economic, social and environmental dimensions and the interrelated roles they perform.

In social terms, the scheme would deliver 22 affordable dwellings. The Council cannot currently demonstrate a 5-year land supply and the provision of new affordable units carries significant weight in the determination of this planning application.

There would also be economic benefit through the construction phase and from increased Council Tax receipts and New Homes Bonus (NHB). These modest benefits carry weight in favour of granting planning permission. The proposal would also provide environmental benefit through the redevelopment of a brownfield site.

In terms of the negative side of the balance, the proposal would not provide any Section 106 contributions towards education, open space, or bus stop improvements. However, the evidence shows the scheme would not be viable should Section 106 contributions be sought. Nonetheless, this lack of contribution carries moderate to high adverse weight against granting permission.

As set out within the report, there would be no unacceptable harm resulting from highways safety concerns, or the impact on the character and appearance of the area. Although there would be some adverse impacts on a neighbouring resident, the impact has been assessed and is considered to be acceptable.

Overall, it is considered that the harms arising from the development do not significantly and demonstrably outweigh the benefits. Therefore, the proposals would be compliant with the NPPF when considered as a whole and amount to sustainable development

**Recommendation: - Approve, subject to the conditions set out below:**

## **CONDITIONS**

1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.
2. This permission shall be read in accordance with the latest revisions of the plans contained on the Drawing Issue Sheet (Job ref: 311-EMH) dated 6<sup>th</sup> January 2019.
3. All of the 22 dwellings hereby permitted shall be 'Affordable Rent' dwellings and retained as such in perpetuity.
4. The trees shown to be retained on the Site Layout Plan Drg. EMH 311 PA 001 revision C dated 2 October 2019 shall be protected in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction r- Recommendations (or in an equivalent British Standard if replaced).
5. The dwellings shall not be occupied until a scheme showing the provision of bird, bat and invertebrate boxes has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the agreed details.
6. The dwellings shall not be occupied until full details of all hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the first dwelling. Any trees, or plants, which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other of a similar size and species.
7. The dwellings shall not be occupied until full details of the sites boundaries treatments have been submitted to and agreed in writing by the Local

Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the agreed details and within an agreed time frame.

8. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - a) the parking of vehicles of site operatives and visitors
  - b) loading and unloading of plant and materials
  - c) storage of plant and materials used in constructing the development
  - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - e) wheel washing facilities
  - f) measures to control the emission of dust and dirt during construction
  - g) a scheme for recycling/disposing of waste resulting from demolition and construction works.
9. No part of the development hereby permitted shall be brought into use until the parking , turning and servicing areas are provided in accordance with the approved plan (MSquare Architects Ltd Site Layout Plan on drawing number EMH 311 PA 001 revision C dated 2 October 2019) The parking, turning and servicing areas shall not be used for any purpose other than parking, turning, loading and unloading of vehicles.
10. No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing no. (MSquare Architects Ltd Site Layout Plan on drawing number EMH 311 PA 001 revision C dated 2 October 2019) are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height.
11. Prior to the commencement of any works pursuant to this permission the Applicant shall submit the following to the Local Planning Authority (LPA):
  - A. The results from further necessary Additional Site Investigation Works as prior agreed with the Local Authority and the Environment Agency. The Applicant shall submit the results of such investigations in a suitable report documenting the characteristics of the ground at the site. Any further ground gas monitoring, chemical analysis of soils and/or ground water monitoring as necessary, should be carried out in accordance with current guidance using



UKAS/MCERTS accredited methods. All technical data must be submitted to the LPA.

- B. A Scheme of Remedial Works where the Site Investigation information has identified the presence of significant levels of harmful ground gas and/or significant levels of chemical contamination. The scheme should include a Remediation Statement and Risk Assessment Strategy to prevent any significant risk arising when the site is being developed or subsequently put to its intended use.

Any variation to the Remediation Scheme shall be agreed in writing with the LPA, in advance of works being undertaken.

All remediation should be carried out safely, ensuring that no significant risk(s) remain. The applicant will need to have a contingency plan should the primary remediation or subsequent construction phase reveal any additional contamination. Where additional contamination is found the applicant must submit in writing, details of the contingency plan for written approval by the LPA.

On completion of remedial works and prior to the occupation/use of the development, the Applicant must submit to the LPA:

- C. Validation Report with confirmation that all remedial works have been completed and validated, in accordance with the agreed details. The Validation Report must be submitted for the written approval of the LPA prior to the development being put to its intended use.
12. No development shall commence until a hydraulic modelling exercise is completed for the foul drainage of the site. The details of which shall be submitted to and approved in writing by the Local Planning Authority.
13. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The surface water drainage scheme shall include sustainable drainage principles and be implemented in accordance with the approved details before the development is first brought into use.
14. No work shall commence until such time as a scheme indicating proposed floor levels of all buildings, and the relationship of such to the existing dwellings has been submitted to and approved by the Local Planning Authority. The development shall be constructed in accordance with the agreed levels.

## **REASONS**

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.
2. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
3. To ensure the affordable housing offer is secured.
4. To protect the retained trees on site during construction.
5. In the interests of enhancing biodiversity.
6. In the interests of visual amenity.
7. In the interests of visual and residential amenity.
8. In the interests of highways safety and residential amenity.
9. In the interests of highways safety.
10. In the interests of highways safety.
11. To ensure the land is developed free from contamination.
12. To ensure the sewer has sufficient capacity to drain foul water.
13. To ensure the development has provision for adequate facilities to dispose surface and foul water.
14. In the interests of protecting residential and visual amenity.

## **INFORMATIVES**

1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could

result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).

2. In order to avoid impacts to nesting birds we also request that all tree/shrub/hedgerow/scrub and rough grassland removal work be undertaken outside of the bird-breeding season (March-September inclusive). If works are to be carried out during this time then a suitably qualified ecologist should be on site to survey for nesting birds prior to any vegetation clearance. As you will be aware all nesting birds', birds' nests, young and eggs (except pest species) are protected by the Wildlife and Countryside Act 1981 (and as amended). Nesting is taken to be from the point at which birds start to build a nest, to the point at which the last chick of the last brood of the season has fully fledged and left the nesting area.
3. The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the HA, the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.
  - a) The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the HA with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the HA as early as possible. Furthermore, any details submitted in relation to a reserved matters or discharge of condition planning application, are unlikely to be considered by the Highway Authority until technical approval of the Section 38 Agreement is issued.
  - b) It is strongly recommended that the developer contact the HA at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance. It is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site.
  - c) Correspondence with the HA should be addressed to [hdc.north@nottscc.gov.uk](mailto:hdc.north@nottscc.gov.uk)

4. In order to carry out the off-site works required, the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. In order to undertake the works, which must comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks, the applicant will need to enter into an Agreement under Section 278 of the Act. The Agreement can take some time to complete as timescales are dependent on the quality of the submission, as well as how quickly the applicant responds with any necessary alterations. Therefore, it is recommended that the applicant contacts the Highway Authority as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties. Furthermore, any details submitted in relation to a reserved matters or discharge of condition planning application, are unlikely to be considered by the Highway Authority until technical approval of the Section 278 Agreement is issued.
5. Planning permission is not permission to work on or from the public highway. In order to ensure all necessary licenses and permissions are in place you must contact [highwaysouth.admin@viaem.co.uk](mailto:highwaysouth.admin@viaem.co.uk)
6. It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.
7. The proposed development appears to require the temporary diversion of a public right of way. **The grant of planning permission for this development does not authorise the obstruction, the stopping up or diversion of this public right of way and an unlawful obstruction to the right of way is a criminal offence and may result in the obstructing development being required to be removed.** A separate application for an Order diverting the public right of way will be required. **This is a separate legal process and the applicant will need to contact the following (please cite the application no.):**

**For a Public Right of Way (footpath/bridleway)**

Countryside Access  
Planning Services  
Communities  
Trent Bridge House  
Fox Road  
West Bridgford  
Nottingham, NG2 6BJ

8. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)).

9. Public Right of Way Information:

- The footpath should remain open, unobstructed and be kept on its legal alignment at all times. Vehicles should not be parked on the RoW or materials unloaded or stored on the RoW so as to obstruct the path.
- There should be no disturbance to the surface of the footpath without prior authorisation the Rights of Way team.
- The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks notice is required to process the closure and an alternative route on should be provided if possible.
- If the route is to be fenced, ensure that the appropriate width is given to the path and that the fence is low level and open aspect to meet good design principles.
- If a structure is to be built adjacent to the public footpath, the width of the right of way is not to be encroached upon.
- Structures cannot be constructed on the line of the right of way without the prior authorisation of the Rights of way team. It should be noted that structures can only be authorised under certain criteria and such permission is not guaranteed.
- If the design of any proposed development requires the legally recorded route of the RoW to be diverted because it cannot be accommodated on the legal line within the scheme, then this should be addressed under the relevant provisions within the Town and Country Planning Act 1990 for the diverting/stopping up of public rights of way affected by development. An application way under this act should be made to the Planning authority and is a separate application to the planning permission.

- The existing boundary hedge/tree line directly bordering the development/boundary etc is the responsibility of the current owner/occupier of the land. On the assumption that this boundary is to be retained it should be made clear to all new property owners that they are responsible for the maintenance of that boundary, including the hedge/tree line ensuring that it is cut back so as not to interfere with right of way.
- Should scaffold be required on or over the RoW then the applicant should apply for a license and ensure that the scaffold is constructed so as to allow the public use without interruption.

<http://www.nottinghamshire.gov.uk/transport/licences-and-permits/scaffolding-hoarding-and-advertising-boards>

If this is not possible then an application to temporarily close the path for the duration should also be applied for (6 weeks' notice is required), email [countryside.access@nottscc.gov.uk](mailto:countryside.access@nottscc.gov.uk)

- If a skip is required and is sited on a highway, which includes a RoW then the company supplying the skip must apply for a permit.

<http://www.nottinghamshire.gov.uk/transport/licences-and-permits/skip-permit>

and also ensure that the RoW can still be accessed appropriately by the users permitted by its status i.e. equestrians if a on bridleway, motorised vehicles if on a byway open to all traffic

10. The affordable housing provisions secured by Condition 3 are not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the affordable dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the affordable dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the affordable dwellings to another affordable housing provider or to the District Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation

including all accrued principal monies, interest and costs and expenses; and

- if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the affordable dwellings free from the affordable housing provision secured by condition 3 which provisions shall determine absolutely

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<b>Report To:</b>	<b>Planning Committee</b>	<b>Date:</b>	<b>22<sup>nd</sup> January 2020</b>
<b>Heading:</b>	<b>PLANNING APPEAL DECISIONS</b>		
<b>Portfolio Holder:</b>	<b>PLACE, PLANNING AND REGENERATION</b>		
<b>Ward/s:</b>	<b>CENTRAL AND NEW CROSS, KIRKBY CROSS AND PORTLAND, HUCKNALL CENTRAL, KINGSWAY &amp; LARWOOD</b>		
<b>Key Decision:</b>	<b>No</b>		
<b>Subject to Call-In:</b>	<b>No</b>		

**Purpose of Report**

To inform Members of recent Planning Appeal Decisions.

**Recommendation(s)**

**To Note the Appeal Decisions.**

**Reasons for Recommendation(s)**

To bring to Members attention the recent Appeal Decisions.

**Alternative Options Considered**

*(with reasons why not adopted)*

N/A

**High Court Decisions**

**CENTRAL AND NEW CROSS**

Planning Application – V/2018/0221

**Site** – Land off Mansfield Road, Sutton in Ashfield NG17 4HR

**Proposal** – Erection of retail store with car parking and landscaping.

**High Court Decision** – Planning Permission Quashed.

The planning permission was quashed, as it was considered that insufficient reasons were given for granting planning permission. The central issue was whether the Council gave sufficient reasons for considering that the sequential test had been met. No rationale was also given from departing from an earlier refusal. The Council acknowledged that the decision to grant should be quashed. No order for costs was made.

## KIRKBY CROSS AND PORTLAND

Planning Application – V/2017/0588

**Site** – 1 Lower Portland Cottage, Lower Portland, Kirkby in Ashfield NG17 9LD

**Proposal** – Barn Conversion to Form 1 Dwelling

**High Court Decision** – Permission to pursue the claim refused

This was an application to convert a barn to a dwelling which was refused by the Council and dismissed on appeal. The appellant challenged the Inspectors decision to dismiss the appeal and refuse planning permission on 5 Grounds

1. The Inspector made errors of fact, which were based on an “*untutored inspection*”
2. The Inspector failed to allow an opportunity to make representations on the findings of fact, including by rejecting the views of the Claimant’s structural engineer ‘witness’
3. The Inspector erred by taking into account immaterial considerations, such as the effect of previous uses and the SPD
4. The Inspector failed to take into account material considerations, including the right of the Appellant to re-build the building to its pre-existing state
5. The Inspector irrationally concluded that there would be a material impact on the openness of the Green Belt

The Challenge was dismissed on all grounds following written submissions and permission to pursue the claim was dismissed following a verbal hearing.

## Appeal Decisions

### Hucknall Central

Planning Application – V/2018/0745

**Site** – Land rear of 17 Annesley Road, Hucknall

**Proposal** – Demolition of garage and erection of a dwelling

**Appeal Decision** – Dismissed

**Application for Costs** – Refused

The site is located within Flood Zones 2 and 3, and a sequential test was submitted in the planning application but not accepted to meet the test by the Council. The Inspector deemed that the methodology used in the sequential test was flawed and incorrectly discounted alternative available sites. The Inspector considered that the proposal fundamentally failed to meet the aims of reducing development in flood risk areas. The Inspector also deemed that the development would result in an unacceptable impact on highway safety due to parking concerns.

An application for costs was refused on the grounds that the Council reached a rounded view when coming to a decision having regard to all relevant matters. The Council had reasonable concerns about the impact of the proposed development and appropriately justified its decision.

### Kingsway

Planning Application – V/2019/0180

**Site** – Happy House (Classic Canton), 23 Kingsway, Kirkby in Ashfield

**Proposal** – Installation of roller shutters

**Appeal Decision** – Dismissed

The Inspector concluded that the installation of the roller shutter would cause harm to the character and appearance of the street scene and the area in general, and would cause visual harm to the external façade of the building by virtue of the scale and protrusion of the roller shutter box and the colour of the shutter. It was also concluded that given the use of the premises as a takeaway the shutter would create an inactive frontage and unwelcoming environment throughout much of the day.

## **Larwood**

Planning Application – V/2018/0563

**Site** – Van Elle Ltd, Summit Close, Kirkby in Ashfield

**Proposal** – Approval of details reserved by condition 5 of planning permission V/2016/0326 (scheme to control noise)

**Appeal Decision** – Dismissed

The Inspector concluded that the ‘Noise Plan and Assessment’ submitted, which included details of the location of outdoor training, hours of training delivery and the installation of white noise audible alarms to machinery, would be not be sufficient enough to prevent harm to the living conditions of neighbouring residential occupiers.

## **Implications**

### **Corporate Plan:**

Reporting these decisions ensures we are open and transparent in our decision making process.

### **Legal:**

Legal issues relating to specific planning appeals are set out in the report. As the report is for noting, there are no legal issues associated with the recommendation in the report.

### **Finance:**

<b>Budget Area</b>	<b>Implication</b>
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

### **Risk: N/A**

<b>Risk</b>	<b>Mitigation</b>

**Human Resources:**

No implications

**Equalities:**

*(to be completed by the author)*

None

**Other Implications:**

*(if applicable)*

None

**Reason(s) for Urgency**

*(if applicable)*

N/A

**Reason(s) for Exemption**

*(if applicable)*

N/A

**Background Papers**

*(if applicable)*

None

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