

ASHFIELD DISTRICT COUNCIL



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

Agenda

Planning Committee

Date: **Wednesday, 14th June, 2023**

Time: **10.00 am**

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

For any further information please contact:

Lynn Cain

lynn.cain@ashfield.gov.uk

01623 457317

Planning Committee

Membership

Chairman: Councillor Sarah Madigan

Vice-Chairman: Councillor Jamie Bell

Councillors:

Samantha Deakin

Rachel Madden

John Smallridge

Jason Zadrozny

Arnie Hankin

Andy Meakin

Helen-Ann Smith

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.



Theresa Hodgkinson
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. **Declarations of Disclosable Pecuniary or Personal Interests and/or Non-Registrable Interests.**
3. To receive and approve as a correct record the minutes of a meeting of the Committee held on 22 March 2023. 5 - 12
4. To receive and consider the attached planning applications. 13 - 124
5. **Planning Appeal Decisions.** 125 - 128

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PLANNING COMMITTEE

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

on Wednesday, 22nd March, 2023 at 10.00 am

Present: Councillor Andy Meakin in the Chair;

Councillors Jamie Bell, Samantha Deakin, Arnie Hankin, Rachel Madden, David Martin (as substitute for Helen-Ann Smith) and Jason Zadrozny.

Apologies for Absence: Councillors Lauren Mitchell and Helen-Ann Smith.

Officers Present: Alex Bonser, Lynn Cain, Louise Ellis, Abbie Smith, Mick Morley and Christine Sarris.

In Attendance: Hannah Cash, Robert Docherty, Sara Scott-Greene, Councillors Matthew Relf and John Wilmott.

P.30 Declarations of Disclosable Pecuniary or Personal Interests and/or Non-Registrable Interests

- 1) Application V/2022/0864, Mr L Smith, Detached Bungalow, Land to the Rear of 26 Main Road, Underwood:

Councillors David Martin and Jason Zadrozny declared Non-Registrable Interests due to the fact that they had previously been lobbied on the matter and spoken to interested parties, but in doing so had not expressed any opinions on the application at any point.

- 2) Application V/2022/0796, Mr S Wallace, Erection of a New Planetarium & Science Discovery Centre, including Conversion and use of Subterranean Reservoir, External Works and Landscaping, Sherwood Observatory, Coxmoor Road, Sutton in Ashfield:

Councillors, Samantha Deakin, Rachel Madden, David Martin and Jason Zadrozny declared general Non-Registrable Interests due to having considered this matter previously as a Cabinet Member.

- 3) Application V/2021/0792, Arc Partnership On Behalf Of Nottinghamshire County Council, Outline Planning Application with All Matters Reserved For a Residential Development Of Up To 235 Dwellings, Land at Rushley Farm North of Marr Route, Cauldwell Road, Mansfield:

Councillors, Samantha Deakin, Rachel Madden, David Martin, Andy Meakin and Jason Zadrozny declared general Non-Registrable Interests due to their current position as County Councillors.

- 4) Application V/2020/0627, Nasims Ltd, 38 No. New Dwellings with Associated Infrastructure, Public Open Space and Landscaping, Land off Laburnum Avenue, Kirkby in Ashfield:

Councillors Rachel Madden, Jason Zadrozny declared a Non-Registrable Interest due to the fact that he had previously been lobbied on the matter and spoken to interested parties, but in doing so had not expressed any opinions on the application at any point.

- 5) Application V/2023/0035, Mr J Zadrozny, Outline Planning Application with all Matters Reserved for 4 Dwellings, 74 Sutton Road, Kirkby in Ashfield:

Councillor Zadrozny declared a Disclosable Pecuniary Interest in his application and advised that he would be leaving the room whilst all deliberations took place to determine the matter.

Councillors Samantha Deakin and Rachel Madden declared Non-Registrable Interests due to their close personal friendships with the Applicant and advised that they would be leaving the room for the duration of the item.

Councillor David Martin declared a Non-Registrable Interest due to his personal friendship with the Applicant.

P.31 Minutes

RESOLVED

that the minutes of the meeting of the Planning Committee held on 1 February 2023, be received and approved as a correct record.

(Prior to consideration of the applications and in accordance with Council Procedure Rule 4 (Order of Business), the Chairman advised that he would be considering the fifth application V/2020/0627, Nasims Ltd, 38 No. New Dwellings with Associated Infrastructure, Public Open Space and Landscaping, Land off Laburnum Avenue, Kirkby in Ashfield, as the first item. Committee Members concurred with this course of action.)

P.32 Town and Country Planning Act 1990: Town Planning Applications Requiring Decisions

1. Application V/2022/0864, Mr L Smith, Detached Bungalow, Land to the Rear of 26 Main Road, Underwood

(In accordance with the Council's Constitution and the Members' Code of Conduct, Councillors David Martin and Jason Zadrozny had previously declared interests in respect of this application. Their interests were such that they stayed in the meeting and took part in the discussion and voting thereon.)

Late Item

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:-

Since publication of the Council's committee report, a further objection had been received from a resident. No new points were raised; however the resident was still dissatisfied with the proposed parking and access arrangements.

Sally Brackett, as an Objector, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submission as required.

It was moved and seconded that the application be refused as per officer's recommendation.

2. Application V/2020/0627, Nasims Ltd, 38 No. New Dwellings with Associated Infrastructure, Public Open Space and Landscaping, Land off Laburnum Avenue, Kirkby in Ashfield

Late Item

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:-

Since publication of the Council's committee report, a further objection had been received from a resident. The objection raised one new point regarding concerns that there would be an invasion of privacy with all other points having already been raised. Amended drawings had also been submitted which replaced those set out in Condition 2 of the Committee report.

Edward Oswick, as an Objector, and Councillor Daniel Williamson, who called in the application, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submissions as required. It was moved and seconded that the application be deferred to facilitate a site visit and enable the developer to liaise with Planning officers regarding submission of an alternative site design.

3. Application V/2022/0796, Mr S Wallace, Erection of a New Planetarium & Science Discovery Centre, including Conversion and use of Subterranean Reservoir, External Works and Landscaping, Sherwood Observatory, Coxmoor Road, Sutton in Ashfield

(In accordance with the Council's Constitution and the Members' Code of Conduct, Councillors Samantha Deakin, Rachel Madden, David Martin and Jason Zadrozny had previously declared interests in respect of this application. Their interests were such that they stayed in the meeting and took part in the discussion and voting thereon.)

Councillor Matthew Relf, as Ward Member, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submission as required.

It was moved and seconded that conditional consent be granted as per officer's recommendation.

The meeting was adjourned at 11.35am and reconvened at 11.47am.

(At this point in the proceedings and in accordance with Council Procedure Rule 4 (Order of Business), the Chairman advised that he would be considering the sixth application V/2022/0615, Mr N William, Change of Use From Car Showroom, Car Sales & Repair Garage to Self Storage (Class B8) Including Siting of Portable Storage Containers and Storage Units on Open Areas of the Site, 76 Portland Road, Hucknall, as the next item. Committee Members concurred with this course of action.)

4. Application V/2022/0615, Mr N William, Change of Use From Car Showroom, Car Sales & Repair Garage to Self Storage (Class B8) Including Siting of Portable Storage Containers and Storage Units on Open Areas of the Site, 76 Portland Road, Hucknall

Late Item

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:-

Since publication of the Council's committee report, a further comment had been received from the Council's Environmental Health Team stating that they still had no objections to the application, subject to the conditions in respect of the use of Kuboid units and opening hours.

Nik Williams, the Applicant and Councillor John Wilmott, as Ward Member, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submissions as required.

It was moved and seconded that the application be deferred to facilitate a site visit and also enable Members to gain perspective as to the view of the site (and any concerns) for residents on Bamkin Avenue.

5. Application V/2021/0792, Arc Partnership On Behalf Of Nottinghamshire County Council, Outline Planning Application with All Matters Reserved For a Residential Development Of Up To 235 Dwellings, Land at Rushley Farm North of Marr Route, Cauldwell Road, Mansfield

(In accordance with the Council's Constitution and the Members' Code of Conduct, Councillors Samantha Deakin, Rachel Madden, David Martin, Andy Meakin and Jason Zadrozny had previously declared interests in respect of this application. Their interests were such that they stayed in the meeting and took part in the discussion and voting thereon.)

Councillor Matthew Relf, as Ward Member, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submission as required.

It was moved and seconded that conditional consent be granted as per officer's recommendation subject to the agreed S106 monies being re-allocated as follows:

- the contribution of £83,728 to meet the needs of Specialist Education at Portland Training College;
- the contribution of £8288.00 to provide additional library stock at Sutton Library;
- the contribution of £14,356.03 to provide improvements to Kirkby recycling centre
- Skegby Medical Practice be added to the named group of practices to receive the contribution of £127,340.63 to meet the needs of the future residents

6. Application V/2022/0852, Ashfield District Council, Public Realm Improvements to Portland Square and Change of Use to Land Off Fox Street into a New Public Car Park, Land At Portland Square & Fox Street, Low Street, Sutton in Ashfield

Councillor Matthew Relf, as Executive Lead Member involved with the Towns Fund project, took the opportunity to address the Committee in respect of this matter. As per the agreed process, Members were then offered the opportunity to clarify any points raised during the submission as required.

It was moved and seconded that conditional consent be granted as per officer's recommendation.

The meeting was adjourned at 1.10pm and reconvened at 1.13pm.

7. Application V/2021/0172, Assetmax Design, Construction of 9 Dwellings and a Commercial B1 Unit with Parking and Amenity Spaces, Former Tag Building, Watnall Road, Hucknall

It was moved and seconded that conditional consent be granted as per officer's recommendation subject to the following additional condition and informative:

Additional Condition

Prior to the commencement of the development, details of a Traffic Regulation Order along the site frontage shall have been submitted to and agreed in writing by the Local Planning Authority. Thereafter, such Traffic Regulation Order shall be implemented prior to occupation of any part of the development and retained thereafter.

Additional Informative

The applicant is advised that, in the event of planning permission being granted to change the Business (B1) element of the development to residential use, this will result in an assessment being carried out of all dwellings within the site, including those with planning permission, for financial obligations and such obligations, where required, will be controlled by a legal agreement attached to the planning permission.

8. Application V/2023/0035, Mr J Zadrozny, Outline Planning Application with all Matters Reserved for 4 Dwellings, 74 Sutton Road, Kirkby in Ashfield

(In accordance with the Council's Constitution and the Members' Code of Conduct, Councillors Samantha Deakin, Rachel Madden, David Martin and Jason Zadrozny had previously declared interests in respect of this application. Councillor David Martin's interest was such that he stayed in the meeting and took part in the discussion and voting thereon. In respect of Councillors Samantha Deakin, Rachel Madden and Jason Zadrozny, they left the room and took no part in consideration of the application.)

It was moved and seconded that conditional consent be granted as per officer's recommendation.

P.33 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.

P.34 Update on Government Consultations

Members were advised of a current Government consultation regarding a potential uplift of Planning Fees across all types of applications. The additional funds raised by the proposed fee increases would be ring fenced for use by local authority planning teams and would be performance related.

Members were advised that the deadline for submission of comments was 25 April 2023 and if any responses were communicated to officers by 10 April 2023, they would be raised accordingly.

RESOLVED

that the report be received and noted.

The meeting closed at 1.45 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
- L Viability Information

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.

All Background Papers are only available to view online.

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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 Interim Executive Director – Place or the Assistant Director - Planning by 5pm 9th June 2023.

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, the time and date will be arranged.

J. Hundal

Interim Executive Director – Place

Tel: 01623 457365

E-mail: Jas.Hundal@ashfield.gov.uk

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PLANNING COMMITTEE – 14th June 2023

Page	App No	Applicant	Recommendation	Proposal	Location
Hucknall West					
19-40	V/2022/0298	Aldergate Properties Limited	Refuse	Outline Application with All Matters Reserved Except Means of Access for a Residential Development of a Maximum of 100 Dwellings	Land At, Common Lane, Hucknall
Abbey Hill					
41-70	V/2020/0518	Mrs D Marles, Mrs J Alexander, Mr R Holliday, Mr M and Mrs W Rollinson and Gleeson Regeneration Ltd	Approve	Residential Development of 196 dwellings and ancillary works	Coxmoor Lodge Farm, Farm View Road, Kirkby in Ashfield
Hucknall Central					
71-84	V/2022/0615	N William	Approve	Change of Use From Car Showroom, Car Sales & Repair Garage to Self Storage (Class B8) Including Siting of Portable Storage Containers and Storage Units on Open Areas of the Site	76, Portland Road, Hucknall
Hucknall West					
85-96	V/2023/0236	Mr Brian Willows	Refuse	Application to Remove Condition 8 (Rear Access Door Restrictions) and Condition 9 (Rear Service Yard Restrictions) of Planning Permission V/2021/0140	57 Nabbs Lane, Hucknall

PLANNING COMMITTEE – 14th June 2023

97-108	V/2023/0237	Mr Brian Willows	Refuse	Application to Remove Condition 2 (Temporary 12-Month Time Period for Front Outdoor Seating, and Full Opening of the Folding Shop Doors) of Planning Permission V/2021/0140.	57 Nabbs Lane, Hucknall
Stanton Hill and Teversal					
109-114	V/2023/0103	J Zadrozny	Approve	Change of Use from Shop with Flat Above to Ground Floor Flat With Flat Above	33 High Street, Stanton Hill, Sutton in Ashfield
Sutton Junction and Harlow Wood					
115-124	V/2022/0406	Ashfield District Council	Approve	Application to Vary Condition 10 - Acoustic Fencing Details of Planning Permission V/2022/0785	Land North of, Midland Road, Sutton in Ashfield



Silo Farm

W2022/0298

Reservoirs (cov)

Reservoir (cov)

WHYBURN LANE

128m

140m

Long Hill

121m

117m

Pit (dis)

Beacon Hill

145m

er Plantation

Mast

Misk Farm

135m

Leivers's Hill

COMMON LANE

SPRINGFIELD ROAD



Track

Drain

BADGER C

TAINSBOROUGH ROAD THE COMMON

DAWLISH CLOSE

-  Application site boundary (4.1ha)
-  Other land within client's ownership

Received By Ashfield District Council **12.4.2022**

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Drawn By	S.C.M.	Title	Land off Common Lane, Hucknall	Drawing No	21.113/01
Approved By	T.C.		SITE LOCATION PLAN	Planning and Design Group (P & DG) Pure Offices, Lake View Drive, Sherwood Park, Nottingham NG15 0DT Tel: 01623 726256 web: www.panddg.co.uk	
Revision Detail / Date		Scale @ A3	1:2,500	Note: P & DG accept no responsibility for any unauthorised amendments to drawings and does not permit unauthorised copying of drawings in order that subsequent reproduction of drawings are internally controlled. Copyright P & DG. This drawing should not be scaled for construction purposes.	
		Date	03/22		



COMMITTEE DATE 14/06/2023 **WARD** Hucknall West

APP REF V/2022/0298

APPLICANT Aldergate Properties Limited

PROPOSAL Outline Application with All Matters Reserved Except Means of Access for a Residential Development of a Maximum of 100 Dwellings

LOCATION Land At, Common Lane, Hucknall, Notts, NG15 6QB

WEB-LINK <https://www.google.co.uk/maps/@53.0347207,-1.2339289,18.25z?entry=ttu>

BACKGROUND PAPERS A, B, C, D, E, F, K

App Registered 13/04/2022 Expiry Date 23/06/2023

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

This application has been referred to Planning Committee by Councillors Locke, Shaw, Waters and Wilmott.

The Application

This is an application for Outline Planning Permission with All Matters Reserved Except Means of Access for a Residential Development of a Maximum of 100 Dwellings.

The site is located outside of the district's main urban areas and named settlements, in an area designated within the Nottinghamshire Green Belt, as identified by policies ST4 and EV1 of the ALPR 2002. The site is located within a Mature Landscape Area identified as Misk Hill. Policy EV4Rb is relevant. This covers land to the west of the reservoir, and south of Whyburn Lane. It includes Beacon Hill and Leivers Hill.

The application is seeking outline planning permission with all matters apart from access, reserved for a residential development of up to 100 dwellings. A broad-brush masterplan has been submitted for illustrative purposes showing zones of development across the two main parcels of sites.

The application is also supported by a Flood Risk Assessment, an Ecology Report and Biodiversity Survey, a Landscape and Open Space Strategy, A Planning

Statement, and Design and Access Statement, a Transport Assessment and Travel Plan, and a Landscape and Visual Appraisal.

The Council have provided the applicant/agent with the opportunity to submit additional/amended information to address concerns relating to highways, ecology, and drainage. The findings of which have been reviewed and considered.

The applicant claims that there are very special circumstances which outweigh the perceived harm to the Green Belt and has submitted a number of appeal decisions to support their argument where Inspectors have noted that there has been a lack of a five year supply of housing and granted planning permission at those sites. They further state that in these cases there is no likelihood of a new Local Plan being produced in the short term. The proposal would significantly boost housing supply in the local area. The absence of a timetable for the new Local Plan tends to weigh in favour of approving the development. The claim made is that no weight should be given to the absence of a proposed housing allocation and the tilted balance is engaged to allow for the very special circumstances demonstrated in this case. These claims are however disputed and discussed later.

The site consists of land which rises both towards the north east, very steeply at the northern end, and also, from the south east to the north west from the roadside on Common Lane. The portion of land to the south west side is grassed and suitable for pasture land. The two pieces of land to the north eastern side have a combination of pasture land on the north west piece and arable for the section nearest to Common Lane. The two parcels are separated by a hawthorn type hedgerow at approx. 1.5m high running up to the application site boundary. The eastern field is also bounded by a fence and hedge on the north side. Beyond this, the land rises steeply and consists of Gorse scrubland, as it rises to the top of the bank. There is a 1.5m high hedgerow along the southern boundary with Common Lane to the corner with the farm access track to Misk Farm.

There are two storey detached houses along Common Lane which face the larger parcel opposite the proposed entrance to the site. There is a slight rise in land between The Common and the farm access track to Misk Farm. There are some individual tree specimens along the southern boundary opposite dwellings along The Common. There are Silver Birch close to the dwelling at the corner along the Eastern boundary. There is a gated entrance that leads to the straight line public footpath which runs through the site.

The public footpath continues to travel in a northerly direction to the north western part of the field to avoid the steepest part of the hill up to Leivers Hill. There are a clump of trees just outside of the site boundary towards Beacon Hill.

Consultations

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

ADC Environmental Health:

No objection in principle. Request a condition regarding a Construction Management Plan to control noise from construction during the course of the development and also to control dust emissions across the site.

Due to the possibility of potential ground contamination from an infilled gravel pit to the north of the development, a condition is recommended for a remediation scheme to assess potential contaminants, and put together a strategy to deal with these and have a monitoring and maintenance plan to be implemented.

Environment Agency:

Identify that the site is located within flood zone 1 and therefore have no fluvial concerns associated with the proposal.

Natural England:

No comments to make on the application.

Notts CC Highways:

The Highway Authority has raised concerns about the piecemeal redevelopment of land off Common Lane and would prefer a comprehensive approach to the wider site. Nevertheless, an assessment has to be made on the application before the local planning authority as submitted. On this basis, the submitted application would not result in a detrimental impact on the highway network and the details of the access into the site are considered acceptable. Given that this is an application for Outline only, a number of other details would need to be agreed at the Reserved Matters stage. On this basis, the Highway Authority recommend conditional approval of the proposal subject to the imposition of appropriate conditions.

Notts CC Policy:

There are no minerals safeguarding and consultation areas in close proximity to the site. There is therefore no objection from a minerals viewpoint. In terms of waste, the development should be developed to minimise waste from the site. A waste audit would be useful.

The applicant owns a larger piece of land and consideration should be given to assessing any future build out of a larger site. A masterplan should be submitted to give a holistic approach to public transport provision including provision for buses within the site. There are bus stops near to the site at around 360 and 370m. There is a regular bus service 7 days a week for the Connect service. The 3B service is a Saturday and Sunday service every 30 minutes between Nottingham and Mansfield.

There is a demand for improvement to the quality of provision of two bus stops at Nabbs Lane. A contribution of **£26,825** is sought for real time boards, raised kerbs and extended footways. This would benefit the residents of the development. The payment trigger would be prior to commencement. No contribution towards school transport should be sought. The applicants Travel Plan identifies offers for discounted bus travel for residents for the first week. This should be extended. It is recommended that a condition be imposed in relation to this.

In terms of library requirements, the proposal could add up to 230 people that would require library services. Hucknall Library is the nearest. The County Council seek a developer contribution to provide additional stock for the library. This is costed at **£3524.00**.

In terms of education, there is a surplus of places at Primary School level, and therefore no requirement for contributions towards primary education. At Secondary level, there would be a forecast deficiency of provision. The County Council therefore seek **£388,016.00**. For post 16, a contribution of **£72,753.00** is required. For Special Educational Needs, the development would yield one additional pupil requiring a specialist place and therefore **£83,728.00** is requested.

Notts CC Public Rights of Way Team:

Hucknall Bridleway 33 runs through the site. The landscape strategy shows that the Public Right of Way (PROW) is to be retained. The applicants should ensure that the route is naturally surveilled and not diverted into a narrow jitty. Hedges and trees should not interfere with the route. Are there new routes to be permissive routes outside the application site, or any new dedicated PROW'S? The applicant should provide further details of surfacing of the bridleway. Any change of surface should be agreed with the Rights of Way Team. If to be fenced, this should be low level and have an open aspect. If the detailed layout requires an alteration of the alignment of the route, this should be addressed through a diversion order separate to the planning application.

Notts CC Local Lead Flood Authority:

The LLFA had raised some initial concerns. Following the receipt of additional supporting information, they have no objections to the proposal, and consider that conditional approval can be given. This will require the submission of a further detailed surface water drainage scheme to ensure that there are no detrimental impacts from surface water run-off.

Severn Trent Water:

Foul water is proposed to connect to a public sewer which will be the subject of a formal section 106 sewer connection approved. This is similar for surface water treatment. The disposal of surface water is preferably dealt with through soakaway as the primary method if practical. Evidence would be required to show this cannot

be done before a discharge to the public sewer is considered. An informative is advised to be imposed to this effect.

Natural England

No reply to consultation.

Nottinghamshire Wildlife Trust

The submitted ecological appraisal has been submitted using good practice. The bat survey was 2021, so if the development is delayed, an updated survey should be considered. Brown Hare was spotted on the site. This is a species of Principle Importance. Their presence on site warrants further assessment. The additional proposed site enhancement should benefit Brown Hare so as long as the site is permeable, there should be no overall detrimental impact. Some of the hedgerow is not as species rich as indicated. Nevertheless, the existing hedgerow should be retained and enhanced through a detailed landscape scheme. This would help the bird species identified as seen on site. A biodiversity management plan should be secured by condition. Nesting provision should be included in the new dwellings to assist urban birds.

The bat survey confirms that the site supports 7 different type of bat species. The proposals would create additional foraging opportunities in the retained and enhanced hedgerows. Additional trees could be planted near the new entrance to provide for the gap. Ponds were not surveyed, so reptiles cannot be ruled out as there are ponds nearby. Precautionary working measures can be included in an LEMP (Landscape and Ecological Management Plan) to protect these entering the site. There was evidence of badgers on site, but a pre-commencement survey should be carried out. Hedgehog highways should be provided on site. Precautionary working measures should be included in an LEMP in relation to the clearance of vegetation scrub sections of hedgerow. New planting should be native. A precautionary working method should be included in the LEMP for any Japanese Knotweed found on the site.

In conclusion, provided the habitat retention and new habitat creation is carried out, along with precautionary working measures are included, timing of works, sensitive lighting strategy, careful clearance of refugia, capping of pipes etc, are secured, the impacts on the priority species will be minimal and long term benefits could be achieved.

Nottingham and Nottinghamshire Integrated Care Board:

A calculation has been carried out on the basis of an average household size of 2.5 residents per dwelling. This is based on Dept of Health calculation HBN11-01 Facilities for Primary and Community Care Service. There are three practices in Hucknall which are expected to be affected by the development, namely: -

- The OM Surgery

- Torkard Medical Centre
- The Alice Medical Centre

All practices are working at capacity. Infrastructure financing will therefore be required in the form of S106 contributions to ensure that there is adequate primary care health facilities in the area. The practices are currently reviewing their options as to whether the proposal would result in a configuration of, or extension, of existing premises or a new build that this S106 contribution will contribute towards.

The indicative size of the premises requirements has been calculated based on current typical sizes of new surgery projects factoring in a range of list sizes recognising economies of scale in larger premises. The cost per sqm. has been identified by a quantity surveyor experienced in health care projects. For 250 patients, the calculated cost requirement is **£54.187.50**.

HS2 Ltd

A small area of the red line boundary overlaps the land safeguarded for HS2. The track is required during the construction and operation phase, and to enable environmental mitigation and for access to drainage attenuation. The land is still safeguarded and may be used for alternative schemes even without the final leg of HS2. There are potential solutions as the design develops beyond the outline stage. On this basis, there is no objection, subject to the imposition of an appropriate condition and informative.

Councillors Locke, Shaw, Waters and Wilmott have objected to the proposals. This can be summarised as follows: -

- The proposal would be a loss of Green Belt and loss of a local amenity enjoyed by walkers and wildlife enthusiasts.
- The proposal is contrary to paragraph 137 of the NPPF. The proposal would result in urban sprawl. There are no exceptional circumstances justified as required in paragraph 139 of the NPPF.
- In terms of transport, the proposal does not address the poor transport infrastructure. Common Lane is often gridlocked. There are no proposals for sustainable transport movements and public transport. The application will exacerbate traffic from the site.
- The proposal would be contrary to paragraph 189 of the NPPF. The Misk Hills are important local assets and should be conserved. Misk Hills is referenced by DH Lawrence and Sillitoe.
- The proposal would be damaging to wildlife and not enhance the area and contrary to paragraph 174 of the NPPF.
- There is a lack of GP services in Hucknall. Residents can't get an appointment. Schools are at bursting point. There are no proposals to improve educational attainment.

87 public representations have been submitted objecting to the proposal, at the time of writing, making the following comments:

- Highways
 - Busy roads. Traffic will be unbearable from the additional 200 cars on the road from the development. There are potholes in the road.
 - There will be more school traffic.
- Services
 - School full.
 - Doctors and dentists are struggling at over capacity.
 - Adds to pressure on services from other nearby developments.
- The site is contaminated – former landfill.
- Site contributes to character and enjoyment of the area. Sledging and flying kites have taken place at the site. DH Lawrence, Sillitoe, and Byron have written about the local area and the Misk Hills.
- Harm to Greenbelt – there are no ‘very special circumstances’ which should allow the development. The site is a great area for walkers. This area has helped my mental health.
- There would be a harm to a mature landscape area. Loss of the small amount of countryside left in Hucknall. The town is overpopulated. This site acts as a buffer zone.
- Site is not infill development.
- Development is not sustainable development. It will over dominate the area due to the higher topography. It would produce a visual scar at the foot of the hill and result in urban creep.
- Detrimental wildlife impact and destruction of the countryside. It will change the landscape. The ecological status of the area doesn't need improving, it needs leaving alone. There are outcrops of Gorse and scientific interest.
- Should build on brownfield sites first. There will be a loss of farmland for food production.
- The on-site trees should be protected.
- Potential drainage issues. The fields soak up rain. The rain will run off from the Misk Hills.
- It will increase air pollution.
- Travel Plan objectives are pie in the sky.
- Section 106 monies will not compensate for the loss of the land for development.

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.

ST4 – Remainder of the District

EV1 – Green Belt.

EV4 – Mature Landscape Area.

EV6 – Local Nature Reserves.

EV8 – Trees and Woodlands.

HG3- Housing Density.

HG4- Affordable Housing.

HG5- New Residential Development.

HG6- Public Open Space in New Residential Developments.

TR6- Developer Contributions.

National Planning Policy Framework (NPPF) (2021):

Part 2- Achieving Sustainable Development

Part 5 – Delivering a sufficient supply of homes.

Part 11 – Making effective use of land.

Part 12 – Achieving well designed places.

Part 13 – Protecting Green Belt land.

Part 15 – Conserving and enhancing the natural environment.

Supplementary Planning Documents:

Affordable Housing SPD 2009.

Residential Design Guide (2014).

Relevant Planning History

No relevant planning history.

Comment:

Principle of Development:

Saved Policy ST4 of the Ashfield Local Plan Review (APLR) 2002 clarifies that outside the main urban areas and named settlements, permission will only be given for sites allocated for development or development appropriate to the Green Belt or the countryside. The application site is located within the Nottinghamshire Green Belt (Policy EV1). Part 13 (Protecting Green Belt land) of the NPPF is applicable.

The Council does not have a 5-year housing land supply of deliverable housing sites. In these circumstances, the application must be seen in the context of NPPF paragraph 11d, the tilting balance.

The NPPF sets out the Government's objective to significantly boost the supply of homes (paragraph 60). Local authorities are required to identify, and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of housing (the 5 year housing supply, NPPF paragraph 74). Based on the 2021-22 Housing Monitoring Report, adjusted for a 20% buffer required by the results of the Ashfield Housing Delivery Test, the Council has a 2.26 year supply (this is based on an assumption of 467 dwellings per annum).

The proposal would result in houses which are likely to be able to be delivered within a five year period. The land is owned by one company and is readily available. Subject to securing Reserved Matters approval, there is no reason to suspect that the site could not deliver the dwellings stated as a maximum of 100 within the application details. Further Reserved Matters could result in a slightly different quantum of development below this, depending on further design considerations and technical site assessments.

Policy EV1 of the ALPR identifies that permission will not be granted for inappropriate development in the Green Belt, except in very special circumstances, and identifies various forms of 'appropriate' development. All development must be located and designed so as not to adversely affect the purposes of the Green Belt, its openness, and the purposes of including land within it. Openness has a spatial aspect as well as a visual aspect.

Part 13 of the NPPF identifies that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances (paragraph 147). Paragraph 149 of the NPPF goes on to identify various forms of development which are deemed to be 'appropriate' uses within the Green Belt, however residential dwellings are not identified, and as such, are considered to be an inappropriate use within the Green Belt.

Paragraph 148 of the NPPF states that "substantial weight" should be given to any harm to the Green Belt, and that 'very special circumstances' will not exist, unless the potential harm to the Greenbelt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

There are dwellings along the section of parcel A, to the north of The Common to the track to Misk Farm. The applicants argue that this is infilling. However, not all small

gaps are appropriate for infilling where, for example, they contribute towards the openness of the countryside (Policy EV2 (g) of the APLR). The site is located outside of the built development boundary of Hucknall. The properties to the west are part of the group of buildings around Misk Farm including Beacon Hill Farmhouse and Beacon Hill House. The dwelling at the corner of Common Lane and The Common predates the housing to the south, and is considered as an isolated dwelling within the countryside. The context of the development to the north of The Common and Common Lane is distinctly different in character. The current Green Belt boundary here is strong and defensible. In conclusion, development of parcel 'A' would not be considered as infill development.

Furthermore, the introduction of the dwellings on this part of the site would not preserve the openness of the site, or wider countryside in this location, through the introduction of built form. Although openness is not defined by the NPPF, it is considered that in the context of the Greenbelt, the focus must be on the absence of built development rather than the availability of view of, or the visibility of, any part(s) of the proposed development. It would urbanise this currently pleasant route through the land as people move from the urban development to the south into the open countryside along the public footpath.

The Council acknowledges its position with regards to its housing land shortfall and recognises that the delivery of housing would represent a significant benefit towards the Council's existing housing stock, alongside the inevitable contribution towards sustaining local services, as would temporary economic benefits by virtue of generating employment via construction. It is concluded that the housing development could be deliverable within the 5 year period of permission being granted.

Inevitably, any residential development on the application site would introduce built development on an undeveloped part of the application site, which would therefore result in an adverse impact on the openness and permanence of the Green Belt in this location. Furthermore, the introduction of residential paraphernalia associated with the dwellings in this location would result in a further urbanising impact, further reducing the openness of the Green Belt, resulting in the area having a suburban feel to it, and the rural character would be lost forever.

In terms of the impact from the loss of this part of the Green Belt, the Council have carried out assessments of the parcels of land subject of the application. These are, the Strategic Green Belt Review (SGBR) and Green Belt Harm Assessment July 2020.

A SGBR, 2016 and Addendum 2021 was undertaken by the Council using a framework agreed with the neighbouring Green Belt authorities of Broxtowe Brough Council, Gedling Borough Council and Nottingham City Council. The Strategic Framework has not been queried by the inspectors at these councils Local Plan Part 2 examinations.

In terms of detailed assessment, the development forming the application boundaries fall into two different sites for the 2016 Green Belt Review. The smaller parcel to the south of the farm track is H09/15. The greatest effect from the development of this section of land would be from failing to safeguard the openness of the countryside. The effects of the loss of this piece of land would be relatively localised and seen from properties to the south of The Common, and from users of the public footpath which runs through the site.

Site H09/ Site 4 is a slightly larger area of land than the application site. This includes the area of higher land between the farm track to Misk Farm and Long Hill, which is not part of this application. Its development would have a greater impact on the sprawl of the settlement and close up the land between Misk Farm and Long Hill. It also scores high for failing to safeguard the countryside from encroachment.

In terms of the 2020 study, the area was considered as one larger site including the higher parts of the land (HK047). This scored high in terms of impact from the failure to safeguard from encroachment in relation to the harm caused from the potential release of the land for development. The conclusion was that the release of the land would result in a 'relatively low' overall harmful impact on the Green Belt.

The development as part of this application could reasonably be considered to have a lower score than that, on the basis that it does not include development of the higher land where the Gorse is located on the top of Leivers Hill. The harmful impact could therefore be considered to be 'low' to 'relatively low' overall impact on the Green Belt, for the development site. Nevertheless, the fact that the site scores high in terms of safeguarding the encroachment into the countryside is considered to be of sufficient importance on that single purpose to require that the Green Belt stay intact in this location and to resist the proposed development.

As well as the impact on the Green Belt, a significant issue is the assessment of the impact on the landscape of the area, and as importantly, its impact on users of the area, in terms of how it makes people feel when they use the open areas and their appreciation of that space.

The whole of the development area is identified as a Mature Landscape Area (MLA) and covered by policy ER4 and specifically referred to as Rb: The Misk Hills. The proposal would not directly affect Misk Hill, which is also identified separately within policy EV6 as a Site of Importance for Nature Conservation. It would, however, have an impact on people's perception that urban development would be encroaching onto the foothills of the Misk Hills as they travel from The Common over the hill towards Silo Farm, and continuing on the public footpath up to Misk Hill and Misk Farm. The development of new houses within the area identified as a 'Mature Landscape Area' would have a significantly detrimental impact on footpath users' appreciation of the site. Although not yet defined, the likelihood is that the public footpath which goes straight through the middle of the field in a straight line, would need diversion, and become less usable and less direct, being located within the

housing site, according to the illustrative masterplan. This would have a significant detrimental impact on users.

Whilst views are not protected in terms of residential amenity implications, the development would result in significant harm to the enjoyment of this valued landscape and be considered a significant encroachment into what is an open countryside location where the topography of the site has resulted in greater prominence of the site for local residents.

Leivers Hill and the rise up to Beacon Hill are readily viewable from a number of different points in the locality. The hills form the backdrop to the late 20th Century estate to the south of the site. There are clear views of the hills from various vantage points up to a kilometre from the site, for example, from Polperro Way at its junction with Tiverton Close, and also Nixon Rise. Also, from further west at its junction with Lynstead Drive, moving in a northerly direction, and similar in views to the north from Stainsborough Road. There are also views towards the site from Nabbs Lane, from near its junction with Ascot Drive looking north.

Although there are references in the comments to use of the hill and the site, for example, sledging in winter and kite flying, the only public access is via the public footpath 33 which runs through the site. Any other use of the site is with the owner's permission only. Nevertheless, people have fond memories on being on, and within, the application site boundaries.

ALPR policy ST1 is a general policy which specifies a number of provisions, including that development will be permitted where, among other things, it will not adversely affect the character, quality, amenity, or safety of the environment. The policy is applicable to all development and, it is considered to be in conformity with the NPPF.

The NPPF and particularly paragraph 174(b) recognises the intrinsic character and beauty of the countryside. Paragraph 130 of the NPPF provides, amongst other things, that planning decisions should ensure that developments are: 'sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)'.

There are no nationally designated landscapes in Ashfield that meets the requirements of paragraph 176 (National Parks, the Broads and AONB). However, the NPPF identifies that decisions should 'protect and enhance valued landscapes' (NPPF para. 174 a). Neither the NPPF nor PPG defined what a valued landscape is. From various court decisions it can be seen that:

- A "valued landscape" need not be designated.
- The Stroud case identified that a valued landscape is that which is "out of the ordinary," "to be valued would require the site to show some demonstrable special attributes rather than just popularity". All landscapes are of value to at

least somebody but to fall under NPPF paragraph 174 a) it needs something more.

- It should be clear about the extent of landscape being considered. In the CEG court case, the inspector identified that a small site itself may not exhibit any of the demonstrable physical features, but as long as it forms an integral part of a wider 'valued landscape' it would deserve protection under the NPPF.

Policy EV4 of the APLR identifies that development which does not adversely affect the character and quality of mature landscaped areas will be permitted. MLA's are a local countryside designation, to identify and protect valuable and vulnerable parts of Nottinghamshire's landscape which have remained relatively unchanged over time.

The Landscape Institute have a Technical Guidance Note (TGN) 02-21 Assessing Landscape Value Outside National Designations, 2021. It identifies a range of factors that can be considered when identifying landscape value (Table 1) including associations, landscape which is connected with notable people, events, and the arts.

In this instance, there are references to the local landmark at Misk Hill by notable local artists, writers, and poets. Whilst the scheme would only affect the southern part of the foothills of The Misk Hills, nevertheless, it can be considered that the application site is a valued local landscape within the context of paragraph 174 of the NPPF.

It is considered that the site between The Common and the farm track has a higher level of sensitivity to residential development, than the low sensitivity concluded by the applicant's Landscape Study. Whilst there is a dwelling to the east and farm buildings to the west, the development of the site would be likely to enclose the public footpath and block out views of the lower part of Leivers and Beacon Hill. It would be seen as an add to the existing edge of settlement of Hucknall. It could be concluded to therefore, have at least a medium sensitivity to residential development.

Parcel B, north east of the farm track is much more open in terms of its feel. The land rises gently at the corner with Common Lane and The Common, but rises steeper in a north easterly direction to the top of Leivers Hill. A development providing up to 40 dwellings per hectare in this area, would have a significantly detrimental visual impact on the site, particularly given the steep increase in topography across the site.

Whilst the illustrative master plan indicates that there is likely to be some open space towards the top north west corner of the application site, this will not prevent the over dominance of the new residential development. The proposed dwellings would be up to 9m in height. Given the land level changes across the site, this would result in a predomination of rooftops, and gable ends, and have a very significant detrimental

impact on the area, and be seen from various vantage points across the local area. It is therefore concluded that the proposal would have a medium to high sensitivity to residential development. Common Lane is a strong defensible boundary to the limits to Development of Hucknall. The proposal would weaken the edge of the built development, and fail to create a soft transition between the urban and rural edge.

The applicants accept that the proposals would have a detrimental impact on the Green Belt and have some localised detrimental impacts on ecology and the landscape. For this reason, they are proposing significant additional ecological enhancement measures on land which is identified on the blue land owned by the applicants approx. 13.9ha.

The applicants consider that this would result in biodiversity enhancements to the site. The submitted Landscape and Ecological Enhancement Strategy identifies new woodland planting, enhanced green infrastructure, improvements to biodiversity at different locations within the larger blue land, opportunity for habitat connectivity, new or enhances walking routes, and new footpaths through the site. This wider site would remain undeveloped and be enhanced for ecology and landscape character. This would generally be on land to the north which wraps around the site. There would be a new woodland in the north western part of the site adjacent to Brier Plantation. It is proposed to be a new 3.6ha woodland with mixed planting. No public access is proposed; however, it could be possible be managed by a local volunteer group. This could help provide a biodiversity corridor by enhancing hedgerow planting near Leivers Hill.

The gorse grassland could be improved in quality with better lowland heath creation. Gaps can be enhanced for the existing hedgerows where they are species poor. New hedgerows are proposed at the northern edge of the site at the highest part of the site. The applicants would provide a new bridleway path from Common Lane to Beacon Hill. This would go from the north east side of Leivers Hill along the edge of the field boundary. This currently seems to be used informally without consent. These could be provided through a Section 106 Agreement. At the time of writing, no Heads of Terms have been submitted although the applicants have agreed in principle to provide this.

The applicants consider there would be the opportunity for enhancement through the provision of swales and wetland basins at the front of the site that could attract birds and aquatic life. These could also provide for natural play by local children. More standardised play equipment would also help to create a park life environment.

The proposal would help to add residential development to meet the significant shortage of available houses within the Ashfield Borough Council area. This needs to be given significant weight in the assessment of the application. This provision has to be balanced against the detrimental visual impacts to this locally valued landscape, and very special circumstances need to be provided in order to meet the requirements of paragraphs 147 and 148 of the NPPF in relation to the harmful impacts on the Green Belt. This is weighed below.

Amenity & Heritage:

As the application is seeking outline planning permission for all matters reserved apart from access, the Council is only considering the principle of residential development as part of this application, and the proposed access into the site from Common Lane.

Matters relating to the scale, layout, design, and landscaping of the proposed development will be considered as part of the Reserved Matters application to be submitted to the Council.

The potential impact upon neighbours would be subject to consideration and assessment at a later date, relating to possible impact on privacy, overshadowing, massing, overlooking etc. A Waste Audit could be assessed as part of a Reserved Matters application.

The proposal would require the provision of a minimum of 10% of the gross housing area of public open space, based on policy HG6 of the APLR. This policy is consistent with the NPPF at paragraphs 93 and 98 emphasising the important of open space within developments reflecting both good design and well-being aspects. The submitted illustrative masterplan is a bit light on detail about where this would be located. No large public open spaces have been shown within the red line development site boundary. Details will be required to be submitted as part of the Reserved Matters application. The applicants have indicated that some of this could be within the blue line land, but this could change the character of that land to become more residential and urbanised. This would need to be informal recreational areas only and not formal play space etc. It would not be appropriate to locate play equipment on the higher land outside of the red line boundaries.

Conditions could be imposed at outline stage to require provision of a minimum of provision based on the above local plan requirement. The layout plan would need to show how this can be achieved, and may result in the quantum of development reducing to meet these requirements.

It is concluded that there are no heritage issues associated with the development, and that the development would comply with paragraphs 197 and 203 of the NPPF.

Landscaping would be implemented at the site, and be the subject of any reserved matters submission in the event of an approval. Nevertheless, the proposed development would introduce built development on a site where currently no development exists, which would cause harm to the character and appearance of the area, reducing its openness. A landscape scheme within the site could not hide or ameliorate for the urbanising detrimental visual impact of the development. This overall planning balance is assessed further below.

Ecology and Arboriculture:

The application was supported by an ecological appraisal survey and a separate landscape and open space strategy.

The submitted habitat survey confirms the use of the site by protected species such as bats and badgers. The main findings and conclusions are as follows.

Site surveys have been carried out during the summer of 2022. The development site forms part of arable land and pasture land. Hedgerows are dominated by Hawthorn. Three hedges within the wider surveyed area are species rich. Bats were found within the development site, namely Common Pipistrelle, Nathusius's bats and Soprano Pipistrelle. These were congregated around the dwelling at the corner of Common Lane and The Common. There was greater activity around the Local Wildlife Site to the north. No trees within the development site are affected. There were no records of breeding birds nesting in the development area. There were over flights from a number.

There are no active badger sites within the site, but travel across the site is possible. There were no Hares within the site. For reptiles and amphibians there were no breeding habitats on the development site. There are ponds off the site in the vicinity, but these were not surveyed. There is concluded to be no direct impact on Designated SSSI in the vicinity. The Local Wildlife Site at Long Hill is not affected by the development.

There would be some minimal impact from loss of some hedgerow, particularly where the access is created from Common Lane. This could be mitigated with additional planting across the rest of the site, and particularly within the blue land owned by the applicants in the event of an agreement as part of the Section 106 Agreement.

The Council would expect protective fencing, as above, to be erected on site prior to the commencement of any development works, and to be retained until construction works on site have been completed. These should not be erected after some 'pre-development works' have taken place, as suggested by the submitted report.

In conclusion, it would seem that the overall impacts on the ecology of the site are relatively low, and could be mitigated, through some biodiversity enhancements, hedgerow replacements, new tree planting and additional bird and bat boxes within the new housing layout. Conditions are recommended to be imposed to provide for a LEMP as suggested by Nottinghamshire Wildlife Trust. On this basis, the proposal would comply with the requirements of paragraphs 179 and 180 of the NPPF.

Flood Risk and Drainage:

Objections have been raised in relation to potential detrimental impacts from flooding at the site, and effects from run off from the development and the treatment of surface water run-off.

There are no objections from the Environment Agency. The site is located within zone 1 of the flood zone, and therefore at the lowest level from fluvial flooding.

A development of this nature has the potential to have detrimental impacts from pluvial flooding, and surface water run-off. There are significant slopes across the site. Residential development will increase run off rates with the additional hard surfacing. This will need to be managed on the site to prevent issues of rainwater running off the site. The illustrative master plan indicates locations for attenuation basins, and swales. This would need to be worked out at Reserved Matters stage, in the event of a grant of planning permission.

Further technical work would be required to assess the ability of the site to deal with soakaway. The applicants have submitted further drainage information in the form of a Flood Risk Assessment at the request of the Local Lead Flood Authority. Based on this document, the conclusions are that the development could be acceptable in principle. Further detailed surface water drainage assessment would need to be carried out to provide for a sustainable drainage scheme at the Reserved Matters stage. This can be dealt with by condition. In conclusion therefore, there are no objections to the development on grounds of impact from flooding and drainage.

Highways and Transport:

The site is well located in relation to local public transport infrastructure and is close to bus stops with a good service to main town centres and other public transport nodes. Improvements can be secured through S106 contributions as requested by the Highway Authority. There are relatively close access to local shopping facilities. On this basis, the site is relatively sustainable, and not isolated from nearby services, which could be accessed on foot, bicycle, or bus for future residents.

The details of parking numbers and highway design each morning can be agreed at the Reserved Matters stage when each dwelling would need to provide adequate parking for its own needs.

In conclusion, based on the comments of the local highway authority, there are insufficient grounds to refuse the proposal based on the impact on highway safety and the local highway network. The proposal would therefore comply with the relevant guidance within Supplementary Planning Documents and paragraphs 109-113 of the NPPF.

Contaminated Land:

It is recommended that further site investigations and monitoring works are undertaken in order to establish the presence or absence of contamination and to enable a quantitative assessment of the associated environmental risks as part of a

Phase 2 intrusive investigation. The Council's Environmental Health Team and the Environment Agency concur with this approach/recommendation.

Section 106 Contributions:

There are several matters which have been raised as a result of the size of the development exceeding the thresholds where Section 106 monies are required to counter the potential impacts of the development on community infrastructure and transport. The requirements are as follows: -

Affordable Housing- A minimum number of dwellings required at the site would be 18.5 houses from 100 dwelling. The applicants had originally proposed 19 dwellings which meets the requirements. They have subsequently offered to increase this to 25 dwellings. These would need to be secured through a S106 Agreement.

Education- There are requests for contributions for Secondary School pupils based on potential demands from the development. These would need to be finalised dependant of final numbers of dwellings at the site, but on the basis of 100 units, these would be **£388,016.00**. For post 16 education this figure would be **£72,753.00**. for Special educational needs the requirement would be **£83,728.00**.

Library- for additional stock at Hucknall Library the requirement would be **£3,524.00**.

Transport- For improved quality of two bus stops on Nabbs Lane a request of **£26,825.00** is made. A bus pass scheme would also be required for new residents.

The applicants have indicated that they are willing to enter into a S106 Agreement to secure the provision of a number of community and transport infrastructure requirements from the development. A draft Heads of Terms has not been submitted at the time of writing, however.

Planning Balance:

The proposal would result in a significant boost to much needed housing supply in the district, with up to a 100 dwellings being provided, 25 of these being affordable houses. This should be given significant weight in the balancing exercise.

The Council does not have a five year supply of housing and is considerably short. The housing strategy and local plan is out of date, and it is possible that some Green Belt land will therefore need to be released to accommodate this shortfall, the locations of which are yet to be determined.

It is concluded that the current Green Belt boundaries in this location are strong and defensible. Common Lane has housing on the south side of the road, and there is a good hedgerow along the north side. The character of the Green Belt here is one of rolling hills, and significant topographical changes from the area of Beacon Hill Lodge to the Local Nature Reserve at Long Hill.

Although there are only relatively low impacts on the harm to the Green Belt from the development of the section of land to the south of the farm track, the visual impacts are higher, because as soon as the user travels along the public footpath, public footpath users feel like they are in the countryside, and not the urban fringe, as the views of Leivers Hill and Beacon Hill open up. Significant detrimental changes to the experience of the user would be experienced with any likely diversion of the footpath through the site. Nevertheless, the benefits of the development are significant.

However, whilst the benefits of an additional potential 100 dwellings would be significant, and whilst there could be opportunities secured through a Section 106 Agreement for some additional woodland planting, and increase in public access to private land, these are not considered 'very special circumstances' to warrant the release of the Green Belt land for residential development. It is therefore concluded that the harm to the openness of the Green Belt should receive a higher weight than the benefits of developing the site to provide some of the shortfall of the Council's housing supply.

Whilst the applicant has submitted a number of appeal decisions where Green Belt land has been agreed to be released for housing, on the basis of the tilted balance being reached of very special circumstances, the lack of a five year supply should not be the determinant factor in itself in terms of allowing the release. Each case is assessed on its merits and in this instance, it is concluded that the benefits identified do not outweigh the harm to the local landscape. A recent appeal decision in Beaconsfield was dismissed where there was a lack of a five year housing supply, and where the Local Plan was 'woefully out of date'. Another appeal decision was in St Albans in 2021 which was even on Previously Developed Land. At an appeal in Sevenoaks in 2021, an appeal was dismissed for residential development where there was only a 2-3 year land supply.

The development site is considered to be a valued local landscape. The provision of development of up to 9 metres in height rising above the existing built development along Common Lane is likely to result in significant harm to visual amenity, and result in a loss to this intrinsic quality and beauty of the countryside. The proposed higher density of development at this site would be inappropriate, and together with the rising land up to Leivers Hill result in a dominance of brick, and roof tile, and other urban domestic paraphernalia which would result in visual scar on this hillside location with rooftops masking the top of the hill from various points within Common Lane and The Common. Further away, the top of the hill is likely to be seen, but part of the green backdrop of Leivers Hill and Beacon Hill would also be dominated with roofscapes and brick walls and gables.

There is therefore considered to be a significantly detrimental impact on the loss of the Green Belt, and also to the visual appearance of the countryside, due to the topography and rising land to the north. The proposal would be contrary to saved policies EV1 and EV4 of the ALPR. It is concluded that the, albeit it 'low' to 'relatively low', the harm to the principles of the Green Belt, should be considered to be given

substantial weight, which outweighs the significant benefits of the housing scheme to help meet the shortfall of available housing land in Ashfield. It is concluded therefore that 'very special circumstances' in this case, do not exist for the development.

It is recognised that there is a severe deficit of housing land as required by the Framework. These circumstances, together with the age of the most important policies deems that they are out of date. The tilted balance is not invoked, however, because the Framework at Paragraph 11d(i) and footnote 7 protects both areas and assets of particular importance, which include the Green Belt, and provides a clear reason to dismiss the application.

Overall, the proposal is considered to conflict with policies contained within the ALPR and NPPF and represents an inappropriate form of development which is harmful to the fundamental aims and purposes of Green Belt policy, which amongst other things, seeks to prevent urban sprawl and safeguard the countryside from inappropriate encroachment.

The proposal would also be significantly detrimental to the character of the countryside, and result in significant harm to the intrinsic beauty of the countryside by virtue of failing to protect this locally valued landscape. The proposal would thereby be contrary to paragraph 174 of the NPPF.

It has been made clear by the Courts that the weighing up of every aspect of a case for or against a proposal is not a mathematical exercise, but rather a single exercise of judgement is required to assess whether there are very special circumstances which exist which would warrant the grant of planning permission.

It is ultimately concluded, in this instance, that the substantial weight which is attached to the harm to the Greenbelt by reason of inappropriateness, and the failure to protect this valued landscape, significantly and demonstrably outweighs the significant benefits associated with the delivery of the housing provision within this proposal, when assessed against the context of paragraph 11d of the NPPF and its relevant footnotes.

Conclusion:

Having reviewed all the submitted information and assessing this against all relevant policies and material planning considerations, within the planning balance, a refusal of planning permission is recommended for this application.

Recommendation: - Refuse Planning permission.

REASON

- 1. The proposal is considered to constitute an inappropriate form of development within the Green Belt, which is harmful to the fundamental aims and purposes of Green Belt policy, which seeks to safeguard the countryside from urban sprawl and encroachment to maintain the openness and permanence of the Green Belt. The substantial weight given to protecting the Green Belt from harm is not outweighed by any other matters, and thus the very special circumstances required to allow the development does not outweigh this harm. The proposal also fails to protect and enhance this locally valued mature landscape. The proposal therefore conflicts with Policies ST1 (a and b), ST4, EV1 and EV4 of the Ashfield Local Plan Review (2002), and Part 13 (Protecting Green Belt land) and part 15 (Conserving and enhancing the natural environment of the National Planning Policy Framework.**

INFORMATIVE

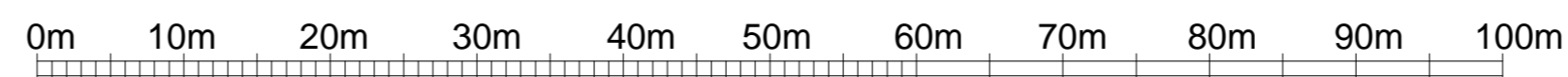
1. The application is clearly contrary to the Development Plan and other material planning considerations, as detailed within the above reason for refusal. Working proactively with the applicants would not have afforded the opportunity to overcome these problem, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.



Existing Electricity board compound, the o/h cables from this compound will run under the area and through the center of the site to the northern boundary.

HOUSE TYPE

code	type	no
202	2 bed semi det	26
212	2 bed semi det	9
350	2 bed semi det	12
353	2 bed detached	25
355	2 bed semi det	25
357	2 bed semi det	13
358	2 bed semi det	3
359	2 bed detached	24
360	2 bed detached	17
360C	2 bed detached	1
401	4 bed detached	18
403	4 bed detached	6
435	4 bed detached	6
436	4 bed detached	7
436C	4 bed detached	4
TOTAL		196



Richard Ward Design
 Chartered Architectural Technologist
 Architectural Design & Development Consultant
 Richard S. Ward 2. Buttern Close
 M.C.I.A.T. Weston Favell
 Telephone 01604 410943 Northampton NN3 3PH

**KIRKBY IN ASHFIELD
 WALESBY DRIVE**

**planning layout
 GLEESON
 HOMES & REGENERATION**

Scale	1:500 at A0
Date	17.03.21
Rev	1061-2/3 Rev-N2

COMMITTEE DATE 14/06/2023 **WARD** Abbey Hill

APP REF V/2020/0518

APPLICANT Mrs D Marles, Mrs J Alexander, Mr R Holliday, Mr M and Mrs W Rollinson and Gleeson Regeneration Ltd

PROPOSAL Residential Development of 196 dwellings and ancillary works

LOCATION Coxmoor Lodge Farm, Farm View Road, Kirkby in Ashfield

WEB-LINK <https://www.google.co.uk/maps/@53.1047902,-1.2308881,17.75z?entry=ttu>

BACKGROUND PAPERS A, B, C, D, E, F, K

App Registered 13/08/2020

Expiry Date 12/11/2020

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

This application has been referred to Planning Committee by Councillor Meakin to consider Highway concerns and impact on the street scene.

The Application.

This is a full planning application, as amended, for 196 dwellings. As originally submitted, the proposal was for 214 dwellings but this has been reduced following negotiations.

Background and Relevant Planning History.

There is no planning history relevant to this application. The site has been occupied by a farm with associated buildings, agricultural land and farm house for a long time and previous planning applications have been restricted to altering existing buildings and the farm's diversification during previous years.

Neighbour Consultations.

Site notices have been posted together with individual notification of neighbouring residents. Two rounds of public consultation were carried out, the second required because of the submission of amended drawings.

Round One.

146 letters were received from local residents which set out the following comments;

Amenity.

- There would be an adverse visual impact of the new houses affecting existing residents.

- The proposal would result in a loss of privacy and overlooking that would affect existing residents.
- There would be a long period of disruption, noise and pollution resulting from building works.
- The pollution from building works would increase poor health and illness in existing residents.
- Bracken Hill School which caters for special needs lies close to the site and the pupils, including those with autism, will suffer.
- The development would result in a loss of amenity for walkers.
- The position of electricity pylons is a health risk.
- The application site is located on land designated as Countryside in the Ashfield Local Plan and is contrary to policy EV2 because the proposal is not appropriate development as defined by this policy. This policy says that new development should not have an adverse impact on the countryside.
- The site is a valued area of open space as defined by the National Planning Policy Framework in paragraph 97.

Highways.

- The surrounding road network is not suitable for the extra traffic which will be generated by this proposal.
- The roads are in poor condition and lorries will make this worse.
- The roads around the site are narrow and subject to significant on-street parking which will cause problems with access into the application site.
- Emergency vehicle access into the site will be very restricted.
- The roads are unsafe for children.
- The extra traffic will result in increased accidents.
- There would be an increase in traffic on Walesby Drive and parking here is already a problem.
- On Walesby Road, there is a 'blind' hill which is dangerous and this will become worse with more traffic.

Ecology and Landscape.

- The application site is at the edge of the Green Belt and will destroy the character of the area.
- The land is adjacent to woodland and countryside.
- Loss of wildlife including birds and protected species.
- There would be a loss of 30 mature trees, mainly in the farm garden and along the western boundary. This is a wildlife haven.
- Loss of farmland.
- There would be a potential impact on the sources of two rivers.
- Bat detectors located close to the application site have identified two species foraging along Coxmoor Wood plantation.
- Bio-diversity mitigation measures for wildlife should be put in place.

Local Infrastructure.

- There is no capacity for extra children in primary or secondary schools.
- There are not enough doctor's surgeries to cater for extra people.

- There is only one large supermarket in the area, which is inadequate.
- Existing houses suffer from low levels of water pressure and this will be worse with extra houses.

Other Material Considerations.

- There are problems with the existing water supply in the area which would be made worse by this application.
- The application site is known locally as 'The Pond' because it is prone to flooding and not suitable for housing.
- Brownfield sites should be developed before those in the countryside.
- The site lies within one of the most deprived communities in the UK and this deprivation would be made worse by this application due to extra traffic and pollution. There is relevant case law – R (Harris) v. London Borough of Haringey (2010) EWCA Liv 703.
- Local businesses, including caravan storage on the site, would be lost.

Round Two.

253 further letters were received but the vast majority of these were standard letters with a list of comments that all those responding ticked. The list of comments about the amended scheme of 196 houses are set out below:

- This will reinforce shortages in local education.
- There would be further pressure on health care.
- There would be an increased demand on water supply.
- Problems with drainage would increase.
- The new houses would be detrimental to the wildlife corridor.
- There would be a negative impact on the health and well-being of existing residents.

The comments set out in the individual representations largely repeated comments made during Round One, but two additional comments were made;

- Land at Warwick Close would be a better housing site than this.
- Local residents have not been properly consulted.

Comments on the Above.

- It is considered that local residents have been properly consulted. Site notices were posted for both rounds and adjoining occupiers were sent letters inviting comments. This approach is over and above what is required as part of the council's statement of community involvement and legislative consultation requirements on planning applications.
- With respect to flooding and drainage on the site, a Sustainable Drainage System would deal with any drainage issues.
- Regarding wildlife on the site, much of the existing site is open land and the proposal would introduce trees and landscaping into gardens and a broad central corridor along with a large area of open space and a balancing pond in the north of the site. This, along with the retention of hedgerows around the exterior, would create a variety of habitats.

- The applicant would be liable to pay financial contributions to meet any shortfall in local health, education and other infrastructure resulting from the additional residents associated with the development.
- It is acknowledged that there will be increases in traffic during building work and when the development is occupied but highways assessments conclude that, with improvements, the existing road network can accommodate the increases. The roads are not considered to be too narrow.
- The distances between existing and proposed houses are such that there would be no unacceptable loss of privacy between existing and future residents.

Formal Consultation Responses.

ADC Planning 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) (ALPR). The National Planning Policy Framework (NPPF) is also a material consideration.

Housing Supply.

Paragraph 60 of the NPPF says that it is the Government's objective to significantly boost the supply of homes. NPPF paragraph 74 requires local planning authorities to identify a minimum of five years' worth of housing allowing for a buffer varying between 5% and 20%, dependent on the local planning authorities' circumstances.

Based on the Housing Land Monitoring Report of 31 March 2021 and applying a 20% buffer, Ashfield District has a 2.25 year housing land supply. There is, therefore, a serious and immediate need for more housing to be delivered in the District.

In accordance with NPPF paragraph 11 (footnote 8), the tilted balance should be engaged. This says that permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits when assessed against NPPF policies.

Development.

ALPR policy ST1 sets out the provisions for when development is acceptable. These are:

- a) It will not conflict with other local plan policies.
- b) It will not adversely affect the character, quality, amenity or safety of the environment.
- c) It will not adversely affect highway safety or the capacity of the transport system.
- d) It will not prejudice the comprehensive development of the area.
- e) It will not conflict with adjoining or nearby land use.

Policy ST1 is consistent with the provisions of the NPPF.

Countryside.

The ALPR proposals map shows that the application site lies adjacent to the Main Urban Area of Kirkby in Ashfield but is designated as Countryside. A key policy, therefore, is ALPR policy EV2 which seeks to protect such areas from inappropriate development, saying that development must be located and designed so as not to adversely affect the character of the countryside, in particular its openness.

None of the forms of 'appropriate' development, which are all small scale and/or appropriate in a countryside setting apply to this application so the proposal is contrary to policy EV2,

The NPPF, however, sets out a more flexible approach to rural housing in paragraphs 77 and 78. Policy EV2 does allow some development and does not impose a blanket ban in the countryside. Paragraph 170(b) also recognises the intrinsic character and beauty of the countryside. EV2 does, therefore, have some consistency with the NPPF and some weight can be attributed to this.

Environment.

The Council is under a duty under section 40 of the Natural Environment and Rural Communities Act (NERCA) 2006 to have regard to the conservation of biodiversity in England. This duty is to protect all nature, not just specific protected sites and species, and the Council must consider how a development might affect habitats and species on or near the development site when assessing a planning application.

There are no identified nature conservation sites within or adjacent to the application site boundary. Part of the adjacent Coxmoor Plantation is identified as Priority Habitat Deciduous Woodland under section 41 of the NERCA.

An ecological assessment has been submitted in support of this application which will be assessed later in this report.

Agricultural Land.

NPPF paragraph 170(b) says that consideration should be given to the benefits of the best and most versatile agricultural land (grades 1, 2 and 3a). Based on the Post 1988 Agricultural Land Classification (England) Maps, a substantial part of this site is identified as being grades 2 and 3b.

Brownfield Land.

The applicant, in the Planning Statement in support of this application, has asserted that a significant part of the site should be classified as brownfield land. However, it is understood that the site is agricultural and a farm and the NPPF, in Appendix 2, makes it clear that previously developed land does not include agricultural buildings.

Flooding.

Flooding was not an ALPR saved policy so any application needs to be set against NPPF Part 14 which seeks to meet the challenge of climate change and flooding. The site is identified as being in Flood Zone 1. This is a major development and Sustainable Drainage Systems (SuDS) should be used.

Sustainability.

The creation of sustainable communities is a cornerstone of government planning policy as set out in the NPPF and there is a need for the site to be comprehensively master planned to both allow for the prospect of future adjoining development and for the creation of a sustainable scheme within the site.

Design, Housing Density and Housing Mix.

Any development scheme for this site should aim to achieve a permeable, safe and accessible environment with clear pedestrian and cycle routes and high quality public space. Relevant ALPR and NPPF policies emphasise the importance of good design along with the creation of high quality buildings and places and effective use of land.

Housing density requirements are set out in ALPR policy HG3 and, in this location, a net minimum density of 34 dwellings per hectare (dph) is required. The NPPF emphasises the need to make effective use of land in meeting the need for homes.

Affordable Housing.

The current affordable housing requirement is set out in ALPR policy HG4 and the size and location of this proposal would require 6% affordable housing, preferably provided on-site. However, this is not consistent with NPPF paragraph 64 which says that for major development housing proposals, a minimum of 10% affordable housing is required.

Consequently, for Kirkby in Ashfield, 10% should be provided.

Highways and Transport.

ALPR policies ST1, TR2, TR3 and TR6 all seek to improve and enhance highways safety for all highways users. New development should not adversely affect highways safety. Cycling provision in new development should meet current requirements. There should be good provision for pedestrians and people with disabilities. Contributions towards highways improvements should be sought where the need is directly related to the development.

The NPPF has a comprehensive approach to transport, promoting sustainable transport and seeking to ensure that it contributes towards sustainability and health objectives. There is particular emphasis on opportunities to promote walking, cycling and the use of public transport.

Climate Change.

Addressing climate change is one of the core land use planning principles which the NPPF seeks to underpin in both plan making and decision taking. Opportunities to reduce climate change impacts should be reflected in development proposals.

Infrastructure.

A significant amount of local infrastructure is the responsibility of the County Council and this is set out in their Planning Obligations Strategy 2019. This includes education and it is important that new development contributes to new school places, health care and other infrastructure where necessary. NPPF paragraph 94 emphasises this requirement.

ADC Landscaping.

To the west of the site is public open space linking to play facilities on Holidays Hill and access footpaths towards Lowmoor Road industrial park. On the east side is Coxmoor Plantation which forms a development break and buffer between the Coxmoor estate and Derby Road. To the north is open farmland which forms a break between the urban fringes of Kirkby and Sutton in Ashfield.

There are a number of pedestrian desire lines across the application site and these should be formalised into green corridors for pedestrians and cyclists including from south-east to north-west.

From the south of the site, it is noted that the development would change the character by increasing the built environment into existing countryside views. From the east, the site is screened by Coxmoor Plantation and there would be a limited impact. Similarly, from the west, the landform would partially screen the development, thus reducing the impact.

From the north, the site is visible from a Public Right of Way (PRW) and the northern hedge boundary should be enhanced to limit the impact and create a transition between the site and the open countryside.

A detailed landscape plan should be submitted, including hard and soft elements and boundary treatments to dwellings and amenity spaces. Key boundaries to the north, east and west will need to be preserved.

In the event of the development being acceptable, the developer will be required to enter into a section 106 legal agreement for the improvement of off-site public open space and access contributions at Holidays Hill and footpath routes across Kirkby in Ashfield. The sum will be £428,000 which will include a sum for maintenance of 2.5% for 15 years.

ADC Urban Design.

An archaeological desk based assessment of the site and buildings has been submitted in support of the application but this does not provide a compelling justification for complete demolition of the farmstead. This is contrary to NPPF paragraph 189.

The group of buildings are a mix of older and more modern structures. The applicant has said, in their assessment, that the older buildings are worthy of consideration as non-designated heritage buildings but it is not agreed that they are of low significance. The barn, farmhouse and stables should be given further consideration regarding their retention. In addition, there are trees close to the farmstead that provide a high amenity value.

ADC Environmental Health – Land Contamination.

There are no records indicating previous land contamination. However, given the size of the proposal, and the possibility of past fly tipping, a condition is required which covers the possibility of contamination and any remedial measures which may be necessary.

ADC Place and Wellbeing.

This development includes the retention of a stone barn which is noted as an important heritage asset worthy of retention. Place and Wellbeing consider that the barn, subject to further due-diligence, should be included within the scheme as a community asset, aiding the integration of the new development with the surrounding residential area, contributing towards a coherent, place-making strategy.

This new asset would need to be included within a section 106 legal agreement.

Nottinghamshire County Council (NCC) Highway Authority.

The Highways Authority (HA) initially raised a number of concerns about the layout and impact on the surrounding highways network. These can be summarised as follows:

- Mitigation measures within the application site to create a safe highways layout.
- The possibility of any extra dwellings at this site will mean major improvements to the Low Moor Road/Alexandra Street junction and, potentially, the Low Moor Road/Southwell Lane roundabout.
- The amount of queueing space available on Low Moor Road between Alexandra Street and the mini roundabout. The predicted queue would extend beyond the roundabout.
- The lane length on Low Moor Road south approach is already at its maximum extent. Lengthening this further would involve third party land and the possibility of signalling this junction would be onerous.

Negotiations with the developer and the submission of additional, supporting highways statements and plans has resolved the outstanding issues.

Mitigation measures have been proposed and these, along with benefits set out in the supporting Travel Plan and those secured by way of financial contributions create an acceptable balance rendering the increase in traffic on the surrounding highways network acceptable. However, the situation regarding potential increases in house numbers on adjoining sites served by this proposal remains a concern and, in the event of this happening, major road improvements would be required.

With respect to queueing along Low Moor Road, additional modelling and traffic surveys have been submitted and it is acknowledged that the impact in this respect will be minimal and mitigated by Travel Plan proposals and conditions controlling highways. The HA also acknowledged that trip generation rates would result in a minimal increase in car trips generated by the proposal.

An amended Travel Plan has been submitted, the principles of which are acceptable. However, the Plan requires more detail and a condition would be attached requiring the submission of a full, detailed Travel Plan.

With respect to pedestrian routes, an audit has been carried out to establish the best routes between the site and key destinations, the two most important being Morrison's supermarket and the bus stops on Glenside. The footpath improvements would be funded by a £50,000 financial contribution controlled by a section 106 legal agreement.

Concern had been expressed during negotiations about the dimensions of the Walesby Drive/Woodland Walk junction and whether it could accommodate the turning manoeuvres of a refuse vehicle. However, a swept path analysis has been submitted which demonstrates that a refuse vehicle will be able to navigate this junction.

The applicant has agreed to provide the following financial contributions for highways and travel improvements:

- Upgrade the traffic signals to MOVA control at Low Moor Road/Sherwood Street - £25,000.
- Enhancement of bus stop infrastructure - £19,000.
- Sustainable Travel Plan contribution - £21,400.
- Provision of cycle parking at Kirkby in Ashfield railway station - £1,500.
- Upgrade pedestrian crossing points on key routes - £50,000.

- Provision of 'Keep Clear' road markings on Alexandra Street/Low Moor Road junction - £2,500.

In addition to the above financial contributions, the HA recommend that the following issues be controlled by conditions that would be attached to a planning consent:

- Pedestrian crossing facilities shown on plan ref. 18/355/SKH/015. The facilities will be located at:
 1. Dropped crossing and tactile paving at the junction of Coniston Road and beacon drive.
 2. Tactile paving at the junction of Glenside and Beacon Drive on east side of crossroads.
 3. Dropped crossing and tactile paving at the junction of Farm View Road and Coniston Road.
 4. Dropped crossing and tactile paving on Farm View Road.
 5. Dropped crossing and tactile paving at site entrance at the north end of Walesby Drive.
 6. Tactile paving at junction of Glenside and Beacon Drive on south side of crossroads.
 7. Dropped crossing and tactile paving at the junction of Laurel Grove and Clumber Street.
 8. Tactile paving at the junction of Clumber Street and Wellbeck Street.
 9. Tactile paving on School Street opposite the entrance to Morrison's store.
- A 'KEEP CLEAR' road marking on Low Moor Road at Alexander Street shown on plan ref. 18/355SKH/016. The road markings would be located on Low Moor Road opposite the end of Alexandra Street.
- A widening of the access arrangement at the junction of Walesby Drive and Woodland Walk shown on drawing ref. 18/355/ATR/002.
- Details of proposed new, proposed highways including long sections, road dimensions, lighting, street furniture, cycle/footway facilities and electric charging points.
- Detailed Travel Plan which promotes sustainable travel modes and a timetable for implementation.
- Measures to prevent deposits on the highways during construction.

NCC Area Health Authority.

The Area Health Authority has carried out an assessment of the impact of the extra houses on health provision in the local area. The three nearest medical practises are Kirkby Health Centre, the Family Medical Centre and the Healthcare Complex. The proposed development does not justify a new medical practise but investment in enhancing the capacity/infrastructure of existing practises will be required. The additional 196 houses would require a financial contribution of £108,375.

NCC Policy and Strategy.

The County Council have reviewed the amended proposal for 196 houses and require a number of financial contributions to improve local services.

With respect to education, there is a surplus of school spaces at both primary and secondary level so no contribution would be sought.

The increase in numbers of local people using the library will put pressure on stock levels so a financial contribution of £6,909 would be required to address this.

For improvements to local bus service infrastructure, a sum of £23,000 will be required and a sum of £19,600 would be required for sustainable travel.

Regarding waste management, Kirkby recycling centre is under increasing demand and the centre needs improvements to continue working efficiently. Consequently, a sum of £10,999 is required as a contribution to improvements.

NCC Constabulary.

The application has been reviewed by the local police who say that resistance to crime and disorder has a positive effect on community cohesion and sustainability. Advice and comments focus on secure parking and surveillance which should not be impeded by planting, accessibility and the principles of 'secure by design.'

NCC Heritage.

Coxmoor Lodge Farm is recorded as a group of buildings of local interest. The Heritage desk based assessment has identified the original stone barn and western range of the farmstead as being of local interest but incorrectly states that the site has not been included on the ADC list.

The identified heritage interest of the farmstead has not been recognised by the proposal and, consequently, the layout does not meet the requirements of section 16 of the NPPF. Substantial harm to the heritage buildings would result so this application is not supported.

Local Lead Flood Authority (LLFA).

The whole site lies within flood zone 1 so the site is subject to the minimum level of flood risk; 1 in 1,000 years. All major developments, require a Flood Risk Assessment and this has been submitted but no mitigation measures are required given the zone 1 designation.

The initial response from the LLFA raised an objection to the application due to insufficient information about surface water drainage having been submitted. The initial recommendation was for refusal on these grounds.

NPPF paragraph 165 says that all major applications should incorporate sustainable drainage systems which have appropriate operational standards, maintenance arrangements in place and, where possible, provide multifunctional benefits.

Additional information about surface water drainage including a storage pond has been submitted by the applicant which addresses outstanding matters. Consequently, all drainage matters are resolved subject to conditions relating to details.

Environment Agency.

The EA confirm that the site lies within Flood Zone 1 so have no fluvial concerns. It is noted that the site lies within a Source Protection Zone and all foul sewage will be disposed of via the main sewer. If the method of sewage disposal changes, then the EA requested that they be re-consulted.

Nottinghamshire Wildlife Trust.

A number of issues have been raised by Nottinghamshire Wildlife Trust (NWT).

With respect to bats, surveys have been carried out and bats were detected on the site. It is likely that two of the buildings on site could contain roosting bats so additional bat surveys will be required to confirm this. In addition, it is very likely that bats will forage along the edge of Coxmoor Plantation so a sensitive lighting scheme should be located here.

The Ecology Survey submitted in support of the application says that some bird species such as meadow pipit or skylark which favour open habitats might be adversely affected. Mitigation measures are offered by NWT in the form of providing, via landowners, breeding areas on adjoining land.

Vegetation clearance and building demolition should be carried out outside the bird breeding season (March to August).

On site mitigation measures in the form of new landscaping and trees, existing hedgerow enhancement, additional hedgerows and bird boxes can be controlled by conditions. The submission of a Landscape and Ecological Management Plan is also recommended.

NPPF Paragraph 170 says that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. A biodiversity metric should be used to assist in the creation of a wildlife corridor and ecological network within the site.

Natural England.

Natural England have confirmed that they wish to make no comments or objections.

Severn Trent Water Authority.

Severn Trent (ST) do not object to this application. However, they note that there are no public sewers within the site and sewage disposal will require a formal request to ST. A satisfactory drainage scheme should be submitted and it is also noted that a 15 inch water main lies within the site and no build over is permitted.

Coal Authority.

The application site does not fall within the defined Development High Risk Area. Consequently, there is no requirement to submit a Coal Mining Risk Assessment to be submitted or any further consultation with the Coal Authority (CA).

Comments on the Above.

- The hedgerows around the site will be retained, strengthened and maintained as part of the landscaping proposals for the development.
- Habitats for wildlife, including bats have been included in the development proposals.
- Highways improvements will be carried out to allow the surrounding road network to accommodate the extra traffic generated by the scheme. Also, financial contributions will be required for the same reason.
- Financial contributions will be required for improvements to health and other facilities so that new residents will be served by community infrastructure.
- A condition would ensure that a SuDS drainage scheme would deal with surface water disposal.

- The retention of farm buildings will be assessed later in this report and the stone barn has been retained as part of the proposal.

Policy.

With respect to Section 38 of the Planning and Compulsory Purchase Act 2004, the main policy considerations are as follows:

National Planning Policy Framework (NPPF).

Part 2: Achieving Sustainable Development.

Part 5: Delivering a Sufficient Supply of Homes including paragraph 65, Affordable Housing.

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.

Ashfield Local Plan Review (ALPR) 2002.

Policy ST1: Development.

Policy ST2: Main Urban Areas.

Policy ST4: Remainder of the District.

Policy HG3: Housing Density.

Policy HG4: Affordable housing.

Policy HG5: New Residential Development.

Policy HG6: Public Open Space in New Residential Development.

Policy EV2: The Countryside.

Policy EV8: Trees and Woodlands.

Policy TR2: Cycling Provision in New Developments.

Policy TR6: Developer Contributions to Transport Improvements.

Design Guidance.

Ashfield Residential Design Guide (2014).

Ashfield Residential Car Parking Standards (2014).

The National Design Guide (2020).

National Model Design Code (2021).

Building for a Healthy Life (2020).

Gear Change: a bold vision for cycling and walking (2020).

Cycle Infrastructure Design (LYN 1/20) (2020).

Manual for Streets 2 (2010).

Nottinghamshire Highway Design Guide (2021).

ODPM Circular 06/2002 Biodiversity and Geological Conservation.

- The presence of protected species that might be affected by the proposal is a material consideration.
- If potential harm cannot be ruled out in relation to this, then surveys shall be undertaken before planning consent is granted.
- The Circular identifies that the Biodiversity Action plan (BAP) is capable of being a material consideration.

Summary.

Site Description.

The application site lies at the edge of Kirkby in Ashfield, is broadly rectangular in shape, extending over 7.3 hectares. The land slopes gradually from east to west ending at the lowest point of the site in the middle of the northern boundary. The highest point is along the eastern boundary. The south-western part of the site is relatively flat and contains the existing farm yard and buildings. The difference between the highest and lowest points is about 11 metres.

Most of the site comprises a large area of grassland and scrub planting bordered by hedgerows. A collection of relatively recent and older farm buildings, farmyard, a house and associated gardens is located in the southwest of the site. Access to this building cluster is taken from Farm View Road. There are a number of trees within the site with most of these concentrated in the garden associated with the farm and house. There are also mature trees and hedgerow along the western edge. As well as the residential use within the group of buildings, this part of the site is part used for caravan storage and, in one building, vehicle repair.

The application site does not appear to be in any agricultural use as it is subject to well established scrub rather than controlled or grazed grassland.

There are no designated public rights of way through the site but there are several informal paths used by walkers and those exercising dogs, access to these being taken from various points around the site. There is a well-established path outside the site along the western boundary which leads from the formal path along the southwest boundary which separates the application site from six houses on Coniston Road.

The northern boundary comprises trees and hedgerow, more dense to the west with reduced planting to the east. Beyond this is agricultural land, open in character. The western boundary is trees and hedgerow with an area of open space beyond. To the south is existing housing. This comprises the rear and sides of houses that are served by Coniston Road, Harris Road, Springfield Way, Walesby Drive and Woodland Walk. There is a mix of treatment along the boundaries and some remain largely open. Also on the southern boundary is an electricity sub-station located next to the application site and overhead cables run from this across the middle of the south to the north.

The southern boundary also provides the access point into the site which is a private drive from Farm View Road. To the east of the site is Coxmoor Plantation which is mature woodland. Here, deciduous trees lie along the boundary with the application site with conifers further into the plantation.

The Application.

The application, as originally submitted, proposed a total of 214 houses comprising a mix of 2, 3 and 4 bedrooed detached and semi-detached houses. Vehicle access was taken from the existing access on Farm View Road and a new access point from Walesby Drive. In the north of the site, an area of open space including a balancing pond was proposed.

The road layout comprised a central loop system with feeder roads taken from the loop.

The application, as amended, proposes a reduction in the number of dwellings from 214 down to 196. The main change in the layout is in the central area. A broad, landscaped corridor with footpath links has been introduced linking the southern part of the site with the open space and balancing pond and this has resulted in a reduction in dwelling numbers. The purpose of the landscaped corridor is to allow for the overhead electricity cables to be placed underground as well as providing additional open space and planting. A new electricity sub-station would be introduced along the southern boundary just outside the application site.

The amended layout retains a similar balance and variety of dwellings, the two access points and the internal loop system and road layout. The footpath links within the site provide access into the surrounding countryside to the north and west. The open space and balancing pond, as amended, has reduced in size from the original submission.

To mitigate against increases in traffic in the immediate area, off-site road improvements would be required to the Lowmoor Road/Alexandra Street junction. Improvements to the local footpath network improving links to key locations would also be required.

Principle of Development.

Countryside.

The application site is designated as Countryside in the Local Plan and ADC policy EV2 seeks to protect such areas from inappropriate development, saying that development must be located and designed so as not to adversely affect the character of the countryside, in particular, it's openness.

Housing Supply.

NPPF paragraph 60 says that it is the Governments objective to significantly boost the supply of homes. NPPF paragraph 74 requires local planning authorities to identify a minimum of five years' worth of housing allowing for a buffer varying between 5% and 20%, dependent on the local planning authorities' circumstances.

Based on the Housing Land Monitoring Report of 31 March 2021 and applying a 20% buffer, Ashfield has a 2.25 year housing land supply. There is, therefore, a serious and immediate need for more housing to be delivered in the District.

In accordance with NPPF paragraph 11 (footnote 8), the tilted balance should be engaged. This says that permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits when assessed against NPPF policies.

Community Involvement.

As part of this planning application, there has been no pre-application prior engagement with the local community by the applicant, extensive consultation on the application has however taken place.

Layout, Appearance and Scale.

National and local planning policy and guidance require the design and layout and the external appearance of buildings to be of high quality.

Two points of access into the site are proposed, one of which make use of an existing access point from Farm View Road and a new one from Walesby Drive which will facilitate two way traffic with footways either side to access the site from two points. A single point of access would not be acceptable. These accesses serve an internal loop system which, in turn, have residential feeder roads and private drives with dwellings arranged around them.

The scale of housing development on the site would be two storey houses with a variety of dwelling types, exteriors and footprints.

The massing and appearance of the development will reflect the existing, nearby houses to the south but would be more spacious as the existing houses are modest in size with limited off-street parking. The external treatment would be a mix of red and buff brick with roof tiles to complement this. Elevations of the larger houses fronting the street will have gable features to create interest. The smaller houses will be plainer in appearance although some will have front porches that will break the elevations. Consistent ridge and eaves lines would create a balanced and well-proportioned built form.

Full details of the external treatment of houses have yet to be submitted so this will be the subject of a condition requiring full details to be submitted prior to commencement of development.

The development of 196 houses would be split between 3 and 4 bedroomed detached and 2 and 3 bedroomed semi-detached houses, 112 and 84 dwellings of each, respectively. The existing houses to the south are predominantly semi-detached but the massing and scale of the proposal will reflect existing houses.

Off-street car parking is provided for each dwelling, two spaces for 2 and 3 bedroomed houses and 3 spaces for those with 4 bedrooms. Each house has a garage included measuring 6 x 3 metres so there is ample space for a car to be parked inside. A small number of the houses have tandem parking spaces, which the Highways Authority generally do not support because of the resulting awkward manoeuvring that can result but, in this case, there are so few of these instances that there would be no impact on highways safety.

Double parking spaces in front of houses have been avoided apart from a few instances so the street scenes would not be subject to lines of cars dominating the streetscape. Instead, front gardens would soften the impact of the built form throughout the development.

The layout shows that the ends of cul-de-sacs being next to the edges of the site which allows for landscaping to be introduced here and create a planted buffer linking the development with the countryside.

Green space has been provided within the site in the form of garden spaces, the central landscaped corridor and the open space and balancing pond to the north. There is also a smaller area of open space either side of the entrance from Farm View Road which is currently hard surfacing.

At present, the bulk of the site is open, featureless grassland although there is a group of trees in the south west corner. This tree group would be lost to development but the development will allow many more trees to be planted that will, in time, allow a more diverse planted environment to emerge including the balancing pond, diverse plants, hedgerows and trees.

The application site is located next to the main urban area of Kirkby in Ashfield within countryside and the site borders a mix of woodland to the east and open fields to the north and east. The design and layout has taken advantage of the rural views and semi-rural character and ensured that, where possible, houses face onto the countryside and open space areas to improve outlook and enhance security overlooking the footpaths that run along the site perimeter. The land to the north falls away from the application site and this allows for long views out of the site from houses located here.

At present, there are overhead power lines that run across the site but, as part of the proposals, these will be replaced by cables that run beneath the ground.

Affordable Housing.

Policy HG4 of the Ashfield Local Plan review says that affordable housing will be provided on schemes of more than 25 dwellings or of one or more hectares in area. NPPF policy supports this. 10% of the total number of units on site would be affordable in the form of low cost housing as defined in the Glossary at Annex 2 of the NPPF. The 10% shall be split with 75% being for social rent and 25% being shared ownership.

Sustainability.

At the heart of the NPPF is a presumption in favour of sustainable development. The new houses would be built to current sustainable standards including solar gain, the use of photovoltaic panels, high level thermal efficiency, minimising energy and water use and a sustainable drainage system throughout the site.

The site is located at the edge of the main urban area of Kirkby in Ashfield where there are good links to bus and train services, local shops and facilities and schools. The Travel Plan submitted in support of the application sets out details of connections to the urban area and this is set out later in this report.

Residential Amenity.

As part of the two public consultation exercises, concerns were raised by local people about the potential impact of the proposal on the privacy of existing houses and the possibility of overlooking. This issue is confined to the southern edge of the development site where there are existing houses facing Coniston Road, Harris Road and Walesby Drive.

The minimum distance between the rear of dwellings to ensure the retention of privacy is 21 metres. Existing houses along Harris Road face the rear of proposed houses and the layout demonstrates that the 21 metre distance is adhered to throughout this part of the site.

There are houses on Coniston Road which have flank walls of proposed houses facing rear gardens and the minimum 12 metre distance between flank walls without windows and rear elevations is respected. On Walesby Drive, the flanks of proposed and existing houses are close to each other but there would be no loss of privacy.

The six houses on Coniston Drive are at a significantly lower level than the application site and shielded by an embankment and trees so there would be no overlooking here.

The applicant has demonstrated that there would not be any unacceptable impact on the privacy of existing residents.

With respect to the privacy of future residents, the layout demonstrates that the 21 and 12 metre minimum distances between houses will be respected and that there would be no overlooking or loss of privacy. The application site has a shallow fall from west to east of 11 metres but no sudden changes in level. This means that there are no pronounced changes in level where a building would over-dominate a neighbour.

Every house has a private rear garden which would provide an acceptable level of meaningful amenity space for each property. A schedule of garden sizes has been submitted in support of the application. These would all be enclosed by a mix of fencing, walls and planting to ensure privacy is retained. All fences and walls would be 1.8 metres high. All waste and recycling facilities will be contained within private gardens in the interests of security and the avoidance of street clutter.

A garden would also be provided at the front of each house although these would be of varying sizes, depending on the size of the house. The defensible space created by gardens will establish a clear definition between private and public space.

The proposal meets the requirements set out in National and local planning policy and guidance in terms of amenity standards for residents.

Highways.

The Highways Authority have been consulted throughout the application process and their detailed recommendations are set out earlier in this report.

To summarise the highways proposals, there would be two access points into the site. One of these currently exists, currently serving existing buildings on site and the second would be a new access from the end of Walesby Drive. Both accesses would be subject to improvements, allowing them to adequately serve the proposal and the amount of traffic it would generate. Because of the additional vehicle numbers, some road improvements would be required, namely at the junction of Walesby Drive and Woodland Walk where the junction would have to be widened to allow a refuse vehicle to pass safely. A swept path analysis has been provided to demonstrate this.

Highway improvements to Low Moor Road and Alexandra Street will be necessary to prevent queueing. Both of these roads are remote from the application site but the Highways Authority conclude that the extra traffic generated by the new development will require improvements.

The Highways Authority took into consideration the possibility of further development happening on land to the north of the application site. The proposed layout would allow for two further access points to be taken into the land to the north and it was concluded that, in the event of this happening, major improvements to the Low Moor Road/Alexandra Street junction and to the Low Moor Road/Southwell Lane roundabout would be required. However, such improvements would not be justified for the current application.

The two access roads would both connect to an internal loop road that would distribute vehicles evenly around the site and onto the five residential feeder roads and shorter private drives around the site. Measures set out in the Travel Plan will mitigate against the reliance of the private car. These include home electric vehicle charging points, encouraging 'car clubs', information about alternative travel modes and routes and the provision of free bus passes for a limited period.

The NPPF encourages reducing the reliance on travel by private car as this is part of the key objective of providing sustainable development. The Travel Plan lists the frequent bus connections to key destinations such as shops, schools and services which is supported by the availability of two railway stations.

Details of private, off street car parking has already been set out the earlier in this report. There is also provision for visitors and this is distributed around the site on the road network. The visitor spaces are all allocated on the streets in locations that would not be a hazard to other road users.

The main cycle/footpath link within the site is part of the landscaped corridor that runs north to south linking the southern part of the site with the open space and balancing pond to the north. There are also two separate footpath links from the eastern part of the site that are both continuations of a cul-de-sac.

With respect to footpath links with the surrounding area, it is noted that there are desire lines across the site where people currently walk and these have been incorporated into the scheme by two links each along the east and west edges of the site and one to the north which will link into the existing footpath network.

Conditions would be attached to any planning consent for this application controlling a pedestrian crossing, access improvements, internal highways details and the submission of a more detailed Travel Plan. In addition, the applicant has agreed to provide a number of financial contributions for highway and travel improvements and these have been set out earlier in this report. The financial contributions will be controlled by way of a section 106 legal agreement.

The highways and travel proposals for this application satisfy all national and local planning guidance and policy criteria.

Historic Environment.

No designated heritage assets in the form of Conservation Areas, Listed Buildings or Scheduled monuments are located within the site. However, part of the group of existing buildings located in the south-east corner of the site have been identified as being of local importance. As originally submitted, the developer proposed demolishing all the farm buildings but, after negotiations, the plans, as amended, now include the retention of the existing, centrally located stone barn.

Concerns have been raised during consultations about the loss of the farm buildings because they are considered to be of local historic importance. The two most important buildings are the original barn which is mainly stone built and the adjoining brick building to the west. Some of the group of buildings are modern, utilitarian sheds and are not worthy of retention. It is noted that none of the buildings are Listed so the weight that can be attributed to ensuring their retention is limited.

The amended proposal now includes the stone barn and the applicant has confirmed that the initial intention would be to convert this into two dwellings but the applicant is discussing at officers request the potential for a future community centre (this requires further consideration as to future viability but can be considered more widely as the S106 progresses) . The principle of retaining the barn for a future appropriate use is an acceptable compromise that meets the Heritage guidance set out in the NPPF and local plan policies.

The applicant has shown an indicative layout for use as two dwellings with off street car parking and gardens. However, the barn is not included in this planning application because details of the work required to make the building watertight and managed prior to an acceptable lawful use being established need to be identified.

Your officers have given consideration to the use of the barn and conclude that there is a potential opportunity to use the barn for community use should it be viable. The initial proposal for residential use within the housing proposal is acceptable but community use also meets appropriate policy criteria within housing areas.

Developing the barn for community use would enhance social cohesion and place making in this part of Kirkby and is part of a larger initiative to enhance communities throughout Ashfield District Council. The barn is located at the southern edge of the application site which is an ideal location as it is broadly central between the existing housing and the proposed development and will join the existing community with the new one.

The applicant has agreed, in principle, to hand over the barn to the Council for community use and your officers will pursue a variety of funding options to progress this initiative.

The use of the barn as a community asset would bring benefits to the existing and future communities and this will be included in the section 106 legal agreement that is required for this application (subject to wider viability).

Landscaping and Open Space.

The landscaping on the existing site largely comprises open grassland with Coxmoor Plantation to the east and hedgerows along boundaries, although the hedgerows are sporadic with numerous gaps. The hedgerow along the east boundary has significantly more planting, including trees, than other hedgerows around the site. There is also a stand of trees associated with the farmstead in the southwest corner of the site but these would be lost as part of the development proposals.

The application, as amended, shows hedgerows along the west and north boundaries and also along the southwest boundary with Coniston Road. Planting, including trees, will strengthen the existing hedgerows.

Internal planting comprises private gardens and also a broad, central, landscaped corridor leading from the lower, southern part of the internal loop road to the area of open space which

includes the balancing pond. Trees would be introduced into these areas as well as lower level planting. The open space and balancing pond provide a transition between the development and the open grassland to the north.

It is acknowledged that trees in the southwest of the site would be lost to development but new trees would compensate for this loss and there would be more trees and planting within and around the site than at present.

The planting in public areas and along boundaries will soften and complement the built form which would be safe, secure and attractive, encouraging physical activity and social interaction.

The landscape proposals are considered to be acceptable but the details, maintenance and management would be the subject of conditions.

Flooding and Drainage.

A Flood Risk Assessment (FRA) was submitted in support of this application which confirms that the site is located within Flood Zone 1. The likelihood of flooding is 1 : 1000 years so no mitigation measures are required.

The FRA stipulated that a balancing pond be included within the scheme and this has been sited next to the northern boundary in a central location being part of a larger area of public open space. The SuDS surface water drainage scheme would discharge into the balancing pond and a condition would be required to provide details of the drainage scheme.

Ecology, Natural Environment and Biodiversity.

Paragraph 180 of the NPPF recommends that development should aim to provide measurable net gain for biodiversity in and around the development. The Environment Act 2021 outlined a legal requirement of 10% measured against a DEFRA metric although this Act has yet to be implemented.

The applicant has submitted an Ecological Assessment in support of this application which provides a comprehensive survey of fauna and flora on and around the site. This confirms that most of the site is open grassland with sporadic hedgerows along boundaries. Although birds do nest in the site, there would not be a significant impact on ground nesting birds. There are no records of nightjar or wood lark on the site. However, no clearance or demolition works should take place during the bird breeding season and a condition would be attached controlling this.

Surveys for bats have been carried out and these confirm that bats forage within the site and also roost in the stone barn and the adjoining outbuilding. The barn will be retained as part of this proposal but the outbuilding will be demolished. A condition would require the submission of a mitigation package so that no harm to the roosting bats would result.

A condition would require the provision of bird and bat boxes, bee bricks and hedgehog gaps in fences. There is a good opportunity here to encourage wildlife inhabiting Coxmoor Plantation, boundary hedgerows and the farmland to the north to use the gardens and open space within the site.

There is a similar opportunity to develop the balancing pond and surrounding open space which would be next to the open farmland to the north to encourage wildlife by way of native species landscaping around and within the water.

Archaeology.

The applicant has submitted a desk based archaeological study in support of the application and this concludes that the potential for buried archaeological remains is low. There is no evidence of prehistoric, Roman or medieval remains. The first buildings were built on the site in 1854 and these are of local historic interest but the later buildings in the north of the group are of recent, utilitarian construction and of no interest.

A condition will be attached to cover the possibility of archaeological remains being found during construction works and ensuring that this issue is dealt with in a proper manner with appropriate mitigation measures, where necessary.

Land Stability and Ground Contamination.

There are no identified issues with ground contamination or land stability but it is necessary to include a condition which would require remediation measures to be put in place in the event of ground contamination being discovered during construction.

Developer Contributions.

The following developer contributions are required:

- 10% of the housing to be affordable of which at least 75% should be social rent and 25% shared ownership.
- £428,000 to be provided for off site POS improvements.
- Upgrade the traffic signals at Low Moor Road and Sherwood Street - £25,000.
- Improvements to bus stop infrastructure - £19,000.
- Sustainable Travel Plan contribution - £19,000.
- Cycle parking at Kirkby in Ashfield railway station - £1,500.
- Upgrade pedestrian crossing points on key routes - £50,000.
- 'Keep Clear' road markings on Low Moor Road and Alexandra Street - £2,500.
- Improvements to local health care facilities - £108,375.
- Improvements to the local bus infrastructure - £23,000.
- Sustainable travel contribution - £19,600.
- Increase in library stock - £6,909.
- Improvements to waste disposal and recycling centre - £10,999.
- The updated CIL legislation allows for a Section 106 monitoring fee to be charged to cover the Council's monitoring costs - £1,000.
- Potential transfer of barn

Conclusion.

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

The application site lies next to the main urban area of Kirkby in Ashfield and is able to benefit from the good public transport links, shops, schools and leisure and employment opportunities that lie close by. The site is considered to be in a sustainable location.

With respect to the three NPPF objectives of sustainable development, the development would have the following benefits:

Economic.

The scheme would provide accommodation for up to 196 families and a large number of these would have jobs serving the local community, bringing in revenue to the local area. Jobs would be created and be diverse in terms of hours worked and skill levels.

In addition to this, there would be indirect benefits by way of jobs during construction of the houses and the supply of materials by local businesses. There would be direct economic benefits to the immediate locality and the wider area.

Social.

In social terms, the scheme would deliver 196 high quality houses which would provide sustainable accommodation. The Council cannot currently demonstrate a five year housing land supply and the provision of new homes including at least 20 affordable homes, will make a significant contribution to much needed housing in the District.

The development of the stone barn as a community centre will bring significant benefits to the local community and enhance social cohesion in the area.

Environmental.

The proposal includes landscaping and a large pond which can incorporate a greater variety of native species and enhance the adjoining hedgerows and countryside. Currently, most of the site is grassland and the introduction of gardens and landscaping with more intensive planting will encourage a greater variety of garden birds and animals.

The development would be an attractive residential area which would reflect the scale and density of existing, nearby housing. The incorporation of a variety of sustainable features which would reduce reliance on fossil fuels will reduce the carbon footprint of the proposal.

The layout, appearance and scale of the development is acceptable. The impact on the surrounding highways network is also acceptable and any harm would be mitigated by improvements and financial contributions that will benefit the site. The internal highways layout including cycle and pedestrian provision is acceptable.

The amenity of existing and future residents, biodiversity, flood risk, landscape and all other material considerations are acceptable subject to conditions, where necessary.

The application site lies next to the main urban area of Kirkby in Ashfield but lies within an area allocated as Countryside. ADC policy EV2 is clear in that housing development of this scale is contrary to the terms of this policy. However, Ashfield Council cannot demonstrate a five-year land supply and there is a pressing need for additional housing in the district and the benefits of this outweigh the potential harm to the character of the countryside. NPPF policy clearly states that there should be a presumption in favour of development where the benefits of the proposal are greater, on balance, than the harm to the site, in this case, the countryside, that would accrue due to the application.

The application site is largely scrub and grassland that is not actively farmed and the proposal will introduce a greater variety and intensity of planting, improving bio-diversity in the area.

The layout, scale and appearance is acceptable. The impact on the surrounding highways network is also acceptable and any potential harm will be mitigated by improvements and financial contributions.

The amenity of existing and future residents, biodiversity, flood risk, landscape and other material considerations have been assessed and are acceptable subject to planning conditions, where necessary.

Overall, the balance is in favour of the proposed development and it is in line with both the NPPF and the development plan. Consequently, the application is recommended for approval subject to conditions and section 106 requirements set out below.

Recommendation. – Conditional Consent subject to a section 106 Agreement.

Heads of Terms of Section 106 Agreement.

1. A minimum of 10% of the houses shall be affordable of which at least 75% should be social rent and 25% shared ownership.
2. A sum of £428,000 to be provided for offsite POS improvements.
3. A sum of £25,000 to be provided to upgrade the traffic lights to MOVA control at the junction of Low Moor Road and Alexandra Street.
4. A sum of £19,000 to be provided to improve bus stop infrastructure.
5. A sum of £21,400 to be provided to improve sustainable travel.
6. A sum of £1,500 to be provide cycle parking at Kirkby in Ashfield railway station.
7. A sum of £50,000 to upgrade pedestrian crossing points along key routes.
8. A sum of £2,500 to be provided for 'Keep Clear' road markings at Low Moor Road and Alexandra Street.
9. A sum of £108,375 to improve the medical centre and health care facilities.
10. A sum of £23,000 to be provided to improve local bus infrastructure.
11. A sum of £19,600 to contribute to improvements to sustainable travel.
12. A sum of £6,909 to increase the stock at the local library.
13. A sum of £10,999 to be provided to improve waste disposal and recycling facilities.
14. A timetable to be provided which sets out the programme of building works and necessary application(s) to ensure the inclusion of the retained stone barn as an acceptable use within the development.
15. A programme to be provided which manages and controls the transfer of the stone barn building into the ownership of Ashfield District Council for use a community centre.
16. A Management Plan setting out details of the responsibility for maintaining and managing the landscaped areas of public open space which shall include a planting schedule and timetable of works.

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 following plans:
 - Planning Layout. 1061-2/3 Rev. X2.
 - Site Location Plan. 1061/5-
 - Forward Visibility based on 20 mph speed. 18/355/SKH/008 Rev F.
 - Swept Path Analysis of Turning Heads. 18/355/ATR/001 Rev B.
 - Internal Junction Visibility based on 20mph speed. 18/355/SKH/007 Rev A.
 - Detailed Landscape Proposals (1 of 3). 3631/5 Rev H.
 - Detailed Landscape Proposals (2 of 3). 3631/6 Rev H.
 - Detailed Landscape Proposals (3 of 3). 3631/7 Rev H.
 - Tree Protection Plan. 3631/8.
 - Flood Routing Plan. D206 Rev 2.
 - Drainage plan 1 of 3. Y20018-D201 Rev 2.
 - Drainage Plan 2 of 3. Y20018-D202 Rev 2.
 - Drainage Plan 3 of 3. Y20018-D203 Rev 2.
 - House type 358/9 Urban. 21-358/9-U-0001 Rev CO1.
 - House type 350 Urban. 21-350-U-0001 Rev CO1.
 - House type 353 Urban. 21-353-U-0001 Rev CO1.
 - House type 360 Urban. 21-360-U-0001 Rev CO1.
 - House type 436 Urban. 21-436-U-0001 Rev CO2.
 - House type 355 Urban. 21-436-U-0001 Rev CO1.
 - House type 357 Urban. 21-357-U-0001 Rev CO1.
 - House type 212 Urban. 21-212-U-0001 Rev CO1.
 - House type 401 Urban. 21-401-U-0001 Rev CO2.
 - House type 403 Urban. 21-403-U-0001 Rev CO2.
 - House type 435 Urban. 21-435-U-0001 Rev CO2.
 - House type 360C. 1061/100 Rev A.
 - House type 436C. 1061/101.
 - Detached Single Garage. 0282/SD700 Rev c.
 - Detached Double Garage. 0282/SD701 Rev D.
 - Sales Garage. 0282/SD704.
 - 1800mm Close Boarded Fence. 0282/SD-100 Rev F.
3. No development shall take place until details or samples of the materials and finishes to be used for external elevations and roofs of the development have been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out with those materials unless the Local Planning Authority gives written approval to any variation.
4. Prior to the commencement of development, details shall have been submitted to and agreed in writing by the Local Planning Authority of facilities around and within the drainage attenuation basin that contribute to the natural environment and biodiversity net gain. Such facilities shall be provided prior to the occupation of the first house and retained thereafter.
5. Prior to the commencement of development, details shall have been submitted to and agreed in writing by the Local Planning Authority of pedestrian crossing facilities shown indicatively on plan ref. 18/355/SKH/015. Such crossing facilities shall be provided prior to the occupation of any dwelling and retained thereafter.

6. Prior to the commencement of development, details shall have been submitted to and agreed in writing by the Local Planning Authority of the 'KEEP CLEAR' road markings shown indicatively on plan ref. 18/355/SKH/016. Such road markings shall be provided prior to the occupation of any dwelling and retained thereafter.
7. Prior to the commencement of development, details of the access arrangement at the junction of Walesby Drive and Woodland Walk shown indicatively on plan ref. 18/355/ATR/002 shall have been submitted to and agreed in writing by the LPA. Such access arrangement shall be implemented prior to the occupation of any dwelling and retained thereafter.
8. Prior to the commencement of development, details of any development with regard to the internal street layout, including longitudinal (maximum 1 in 15) and cross sectional gradients, footpath/road key dimensions, parking and turning facilities (private and public), surfacing, street lighting, highway structures, junction/pedestrian/forward visibility splays, cycleway/pedestrian facilities, VPA/tracking, electric vehicle charging points, drainage/outfall proposals, visitor parking on the street i.e. 5 metre lengths available not obstructing the highway, construction specification and provision of and/or diversion of utility services shall have been submitted to and agreed in writing by the Local Planning Authority. Such details shall be implemented prior to the occupation of any dwelling and retained thereafter.
9. Prior to the commencement of development, a detailed Travel Plan shall have been submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the Local Planning Authority and shall include arrangements for monitoring the progress of the proposals. Such agreed measures within the Travel Plan shall be implemented within a timetable to be agreed by the Local Planning Authority.
10. Prior to the commencement of development, a detailed hard and soft landscape scheme shall have been submitted to and agreed 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 building(s) or the completion of the development, whichever is the sooner; and 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 others of similar size or species, unless the Local Planning Authority gives written consent for any variation.
11. No development shall take place until full details of the proposed treatment of the site's boundaries and a phasing scheme for the implementation of the agreed boundary treatment have been submitted to and agreed in writing by the Local Planning Authority. Such boundary treatment shall be implemented in accordance with the agreed phasing scheme and retained thereafter.
12. Due to the possibility of potential ground contamination;
 - a) If during the construction works any potential land contamination or unusual odour is encountered, all construction works shall cease immediately and not resume until either: i) the potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority, or, ii) the timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority.

- b) If potential contamination is identified pursuant to part (a) of this condition, the development shall not be occupied until land contamination is fully remedied in accordance with a remediation scheme submitted to and approved in writing by the Local Planning Authority and a post completion verification report, including results of sampling and monitoring carried out, has been submitted to and approved in writing by the Local Planning Authority demonstrating that the site remediation criteria have been met.
13. Prior to the commencement of development, details shall have been submitted to and agreed in writing by the Local Planning Authority of a Sustainable Drainage System. Such drainage system shall be in accordance with CIRIA C753 and include the following information:
- An assessment of the nature of SuDS to be used.
 - Details of a proven outfall from the site in accordance with the following drainage hierarchy, in order of preference; infiltration, discharge to watercourse, discharge to surface water sewer or discharge to a combined sewer.
 - Justification for use or not of infiltration, including results of soakaway testing, in accordance with BRE 365.
 - Evidence that the maximum discharge is set to the QBar Greenfield run-off rate for the positively drained area of development.
 - Demonstrate the site drainage system will cater for all rainfall events up to and including the 1 in a 100 year event including a 40% allowance for climate change.
 - Provide details of exceedance flows; surface water should be contained within the site boundary without flooding any properties in a 1 in 100 year +CC storm.
 - Details of approval from any water authority that may be required to accept surface water discharge.
 - Show that SuDS systems will be incorporated into the surface water management scheme for the site, preference should be given to above ground SuDS which provide multi-functional benefits.
 - Details of who will manage and maintain all drainage features for the lifetime of the development to be submitted prior to construction.
14. Prior to the commencement of development, a construction management plan shall be submitted to and agreed in writing by the Local Planning Authority and this shall 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 site storage areas and compounds.
 - Wheel washing facilities.
 - A strategy for the minimisation of noise, vibration and dust.
 - Site contact detail in case of complaints.

Such agreed construction management plan shall be adhered to throughout the construction period.

15. Prior to the commencement of development, details of an Ecological Management Strategy shall have been submitted to and agreed in writing by the Local Planning Authority. The Strategy shall include: details of objectives to achieve ecological enhancement of the site; any required updated protected species surveys; details of measures for encouraging biodiversity within the site; review of site potential and

constraints; details of works to achieve objectives; details of the body or organisation responsible for implementation; the timetable for implementation; details of aftercare and long term maintenance; details of monitoring and remedial measures; details of a legal and funding mechanism by which the implementation of the Strategy will be secured. The Strategy shall be carried out as approved.

16. Prior to the commencement of development, details of bird, bat and bee boxes and hedgehog corridors, including gaps in boundary treatment, incorporated into the construction of dwellings and gardens shall have been submitted to and agreed in writing by the Local Planning Authority. Such boxes and corridors shall be implemented prior to the occupation of each dwelling and thereafter retained.

REASONS.

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.
2. To define the terms of this permission and for the avoidance of doubt.
3. To ensure the satisfactory appearance of the development.
4. To preserve and enhance the natural environment and biodiversity of the area.
5. In the interests of highways safety.
6. In the interests of highways safety.
7. In the interests of highway safety and to ensure users have access to improved access and sustainable facilities that encourage active travel.
8. To ensure the development is constructed to a satisfactory standard for use by the public and in the interest of highways safety.
9. To promote sustainable travel.
10. To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings.
11. To safeguard the amenities of residents.
12. To ensure that contaminated land is properly treated and made safe and to safeguard the health and safety of future occupiers in accordance with NPPF paragraph 178.
13. To ensure that satisfactory and sustainable drainage is provided.
14. To ensure the impact of construction works on residents' amenities is controlled to a minimum.
15. In the interests of promoting and encouraging biodiversity within the site.
16. In the interests of promoting and encouraging biodiversity within the site.

INFORMATIVES.

1. The developer is strongly advised to ensure compliance with all planning conditions attached to the decision. Failure to do so could result in LEGAL action being taken by Ashfield District Council at any 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 and Building Control Section of the Authority on 01623 450000. For further details on the decision, please see the application report by contacting the Development Section on 01623 457388.
2. 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 NCC's current highway design guidance and specification for roadworks.

3. Section 278 Agreement (Highways Act 1980).

To carry out 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. To undertake the works, which must comply with NCC'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 HA as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties. Contact hdc.north@nottsc.co.uk 0115 804 0022.

4. Section 38 Agreement (Highways Act 1980).

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 about 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 Highway Authority as early as possible.

Please note, any details submitted in relation to a reserved matters or discharge of condition planning application are unlikely to be considered by the HA until a technical approval of the Section 278-38 Agreement is issued.

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 circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the NCC in writing before any work commences on site. Contact hdc.north@nottsc.co.uk 0115804 0022.

5. Commuted Sums.

The applicant should note that any areas over the normal minimum, intended for adoption will require the payment of a commuted sum for future maintenance. (i.e. additional areas exceeding usual highway design requirements, additional street furniture, landscaping, Sustainable Drainage Systems, retaining walls, bollards and materials outside usual specification). The applicant is strongly advised to hold discussions with the HA as soon as possible to agree sums, ownership and responsibility for perpetuity.

6. Adoption of Roads/Streets.

The HA only seeks to adopt streets where the new street network is acceptable in all highways and transportation terms. Accordingly, the HA may refuse to accept future

maintenance liability of roads that do not meet the required standards and specification.

Planning consent is not an agreement to work on or adjacent to the public highway, therefore prior to any works commencing on site including demolition works you must contact Highways Network Management at licenses@viaem.co.uk to ensure all necessary licenses and permissions are in place.

7. Prevention of Mud.

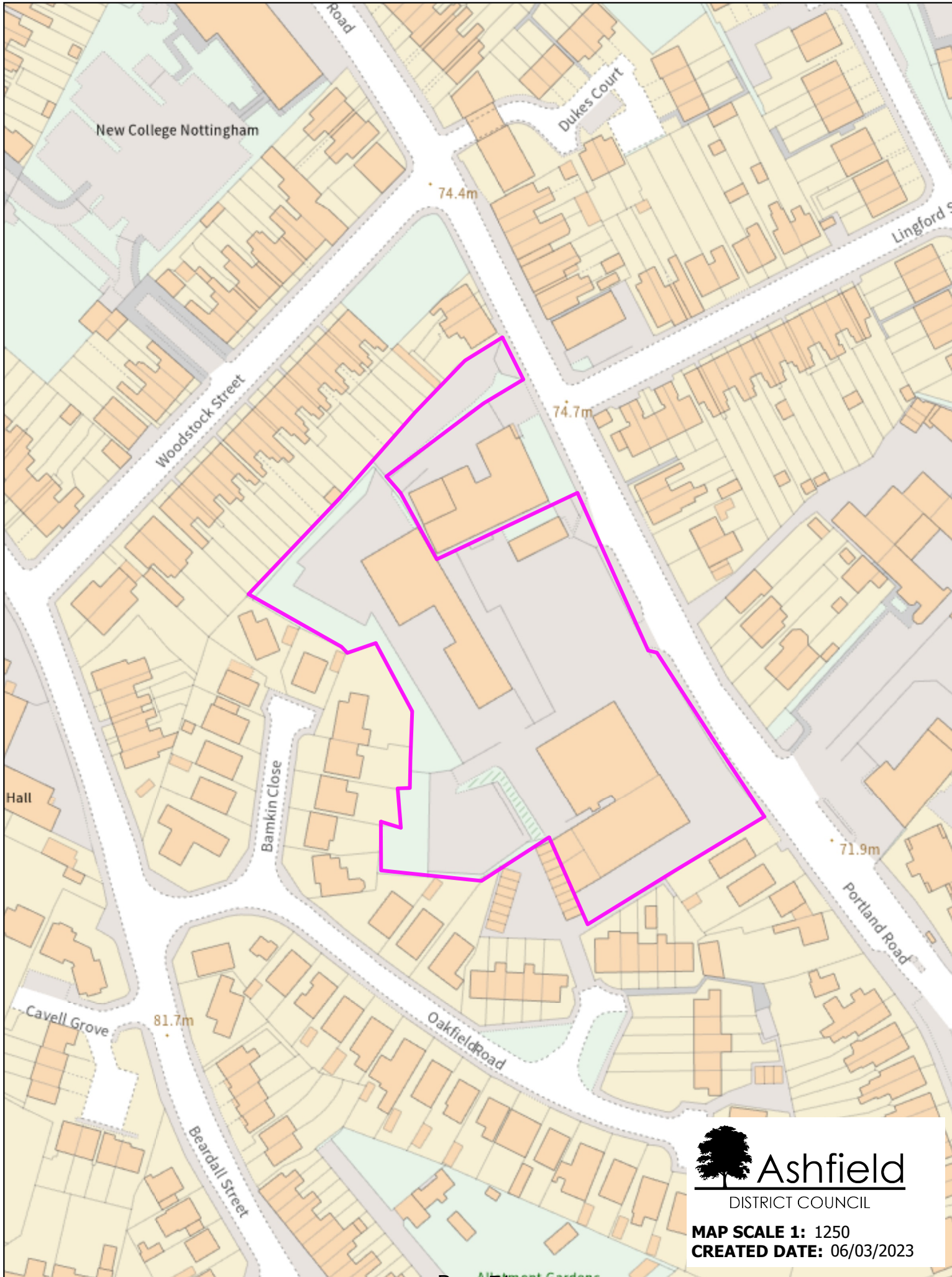
It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud and detritus on the public highway and, as such, you should take every effort to prevent it occurring.

8. Severn Trent Water advise that, although their statutory sewer records do not show any public sewers within the application site, there may be sewers that have recently been adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will assist you in obtaining a solution which protects both the public sewer and the development.

9. Sustainable Drainage Systems are a requirement for all major development schemes as set out in paragraphs 163 and 165 of the NPPF.

10. The Local Lead Flood Team does not consider oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at this site, alternative sustainable drainage should be used with a preference for above ground solutions.

11. Surface water run-off should be controlled as near its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage Systems (SuDS) are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off-site as quickly as possible.



COMMITTEE DATE 14/06/2023 **WARD** Hucknall Central

APP REF V/2022/0615

APPLICANT N William

PROPOSAL Change of Use From Car Showroom, Car Sales & Repair Garage to Self Storage (Class B8) Including Siting of Portable Storage Containers and Storage Units on Open Areas of the Site

LOCATION 76, Portland Road, Hucknall, Nottingham, NG15 7SA

WEB-LINK <https://www.google.com/maps/search/maps/@53.0348507,-1.1999762,18z/data=!4m2!2m1!6e1>

BACKGROUND PAPERS A, B, C, D, E & K

App Registered 18/08/2022

Expiry Date 12/10/2022

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

This application has been referred to Planning Committee by Cllr Mitchell to discuss residential amenity and Cllr Waters to discuss the character of the area, traffic and amenity.

Background

This application was brought before the planning committee in March 2023, where members requested that the application be deferred for a site visit to be carried out.

Since the deferral one comment has been received from a resident raising the following:

- Japanese Knotweed spread in neighboring gardens believed to be from the site.

A condition has previously been recommended for a Japanese Knotweed management plan to be submitted if any is found within the site and it is recommended that this remains.

Conclusion

The recommendation to grant consent subject to conditions remains the same.

COMMITTEE DATE 22/03/2023 **WARD** Hucknall Central

APP REF V/2022/0615

APPLICANT N William

PROPOSAL Change of Use From Car Showroom, Car Sales & Repair Garage to Self Storage (Class B8) Including Siting of Portable Storage Containers and Storage Units on Open Areas of the Site

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BACKGROUND PAPERS A, B, C, D, E & K

App Registered 18/08/2022

Expiry Date 12/10/2022

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

This application has been referred to Planning Committee by Cllr Mitchell to discuss residential amenity and Cllr Waters to discuss the character of the area, traffic and amenity.

The Application

This is an application for a change of use from car showroom, car sales & repair garage to self-storage (Class B8) including the siting of portable storage units on open areas of the site. The application seeks to use the existing buildings on the site for storage by sectioning off the interiors to provide separate units to customers but proposes no external alterations. In addition to this it is proposed to site a number of storage units of two different sizes to the hard standing to the front and rear of the site and provide a car park for customers to the front of the site.

The proposed storage units are detailed as being kuboid portable storage units with one size measuring 2m by 3.9m with a height of 2.1m and the other size measuring 2.07m by 2.07m with a height of 2.1m.

The front boundary wall will be replaced with a landscaping strip across the whole frontage and a 2.4m high fence and gate to half of the front boundary. There will also be 2.4m high gates within the site to provide additional security.

The Site

The application site was formerly an established car sales site including showroom and on-site repairs garage however the site has been vacant for a couple of years now. It is located off Portland Road in the main urban area of Hucknall a short distance away from the town centre. To the north of the site is the telephone exchange and residential properties. To the east, south and west of the site are residential properties.

Consultations

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

Residents

1st Consultation

30 comments were received raising the following concerns:

- Increase in noise and disturbance
- HGVs bringing shipping containers
- Impact on visual amenity, appearance of locality, not a good representation of Hucknall
- Customers/deliveries will have to wait for gates to open
- Not suitable use for location, Better suited in industrial setting
- Increased traffic, Inadequate turning
- Increased on street parking
- Busy road which is heavily congested
- Increased air pollution
- Area is mostly residential
- Increased industrial crime and waste
- Impact from operation hours
- Dirt and dust
- Impact from stacking containers, loss of flight
- Impact on house prices
- Impact financially
- Impact from lighting
- Impact on health of residents, quality of life
- Japanese knotweed
- Trees on site but no mention of retention
- Too close to houses
- Vandalism and anti-social behavior
- Could store hazardous material, fire risk
- Sites better suited for doctors surgery

Re-consultation

4 comments were received raising the following concerns:

- Original comments stand
- Danger form traffic congestion
- Knotweed
- No plans for derelict land adj 12 Portland road

2nd Re-consultation

4 comments were received raising the following concerns:

- Original comments stand
- Not a suitable use for the location
- Amended plans increase number of containers
- No information regarding derelict land adj to No.12 Portland Road which is overgrown and full of building materials
- Amended operating times now proposes earlier opening
- Noise Impact Assessment state no forklifts or pallet trucks but these are usually expected under B8

3rd Re-consultation

5 comments were received raising the following concerns:

- Japanese Knotweed
- Area is mostly residential
- Portland Road is busy main route
- Use would better suite industrial area
- Crime, vandalism and anti-social behavior associated
- Impact on house prices
- Concerns about what is stored in containers
- Too close to residential properties
- Increased noise and disturbance
- Security of other boundaries
- Why is only one acoustic fence proposed
- Amended hours of operation are earlier than originally proposed
- Disagree that use of forklifts would not happen as this is what is usually associated with B8

ADC Land Contamination

- Site has a historically contaminative use however the application is for a change of use for hard standing areas therefore recommend a watching brief in case possible contamination in encountered

NCC Highways

1st Consultation

- Site has historically been used as a car showroom, car sales and car repairs but has been vacant for over 2 years
- Site has 4 extant points of access along the Portland Road frontage. It is proposed to close off two and they would need to revert to full height footways which involves works on the highway. Site layout plan should be amended accordingly. Main site access is to be retained however it is not clear from the plans what is proposed for the access beside no 12 Portland Road, opposite funeral parlor.
- Being mindful of the sites historic use, further information needs to be provided to demonstrate that the sites proposed traffic generation is not beyond that of the historic use. There are 35 parking spaces at the front of the site, whilst sufficient parking will need to be provided for the proposed use it

will also need to be provided because of the inability to park on street due to existing traffic regulation orders. Is it unlikely that 35 containers will be accessed at the same time?

- How big are parking spaces? Customers are unlikely to just arrive in cars, consideration should be given to providing parking spaces for larger vehicles.
- Positioning of portable containers in close proximity to the main access is of concern. Demonstrate that 2 vehicles in this case 2 7.5t vans can pass one another using swept path analyses.
- All vehicles regularly expected to visit the site to pick up or drop off goods regardless of size must be able to enter and exit the site in a forward gear. Otherwise the number or position of the portable containers will need to be reconsidered.

Re-consultation

- Two extant accesses become redundant as part of the proposal therefore the applicant will need to permanently close them off and revert them to footway with full height kerbs prior to first use.
- Satisfied that the site is unlikely to generate any more traffic than what the site has historically and that a range of parking solutions are to be provided on site. Appropriate swept path analyses have been provided. The only caveat to this would be if the positioning of the portable containers were to change then the exercise should be repeated to ensure that vehicles won't end up reversing out onto Portland Road.
- No highways objections subject to conditions and informatives

2nd Re-consultation

- Amendments do not fundamentally change previous conclusion other than the need to update the proposed conditions to reflect the drawings.

ADC Environmental Health

1st Consultation

- Noise – premises backs onto a residential area which could be impacted by noise from the proposed use of the site however without a noise impact assessment provided to demonstrate the impact of the proposed use we cannot comment if the site usage is acceptable. Request condition for noise impact assessment to be submitted prior to use.
- Lighting – since the site is accessible during early mornings and later evenings throughout the year, the current lighting provision would not seem to facilitate secure access for users of the site, yet without a lighting scheme provided in the application cannot comment if the increase in lighting would negatively impact the local residents in the form of light pollution. Requested condition for lighting scheme to be submitted prior to occupation.

Re-consultation

- Noise – Noise impact assessment submitted. Agree with the methodology of the assessments and the proposed mitigations including the change of operation hours, the use of kuboid units instead of shipping containers and a screening wall at a height of 2.5m to the Southern border as acceptable.
- Requested condition

Policy

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

National Planning Policy Framework (NPPF) (2021)

- Part 2 – Achieving sustainable development
- Part 6 – Delivering a strong, competitive economy
- Part 8 – Promoting healthy and safe communities
- Part 9 - Promoting sustainable transport
- Part 12 – Achieving well designed places

Ashfield Local Plan Review (ALPR) (2002)

- ST1 – Development
- ST2 – Main Urban Area
- EM5 – Protection of Existing Employment Sites and Buildings

Relevant Planning History

- V/1974/0004 – Car Park – Conditional
- V/1978/0650 – Extension for Offices & Stores - Conditional
- V/1985/0045 – Canopy, Sales Kiosk and Underground Storage Tanks - Conditional
- V/1991/0202 – Single Storage Garage Workshop – Conditional
- V/1991/0847 – Single Storey Workshop – Conditional
- V/1996/0707 – Installation of Storage Boxes and Change of Use to allow Carriage or Spare Parts and Promotional Mat - Conditional
- V/2003/0970 – Showroom Extension & Rear Covered Way – Conditional
- V/2013/0058 – Change of Use of Petrol Station Forecourt and Kiosk to Car Sales Pitch and Sales Office – Conditional

Main Considerations

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

- Visual Amenity
- Residential Amenity
- Highway Safety

Visual Amenity

The application site is currently vacant with boarded up windows and has been subject to vandalism. The proposal will bring the site and existing buildings back into use.

Concerns have been raised by residents in relation to the proposal having a detrimental impact on the appearance of the locality, visual amenity and not being a good representation of Hucknall as Portland Road leads to the town centre.

The storage units proposed on the hard standing to the front of the site will be a prominent feature in the street scene along with the proposed fencing. However during the application process amendments to the scheme have been submitted which include moving the proposed fencing so it only runs down half of the front boundary and including a landscape strip with trees and shrubbery to help screen the fencing and storage units. Whilst it is acknowledged that the fencing and units will still be visible the landscaping will help to soften the appearance of them in the street scene.

Adjacent to the site is the telephone exchange which appears to be nominated for the local heritage list. Whilst the proposal will result in storage units being in proximity to this site it is considered unlikely to have an impact on the appearance of the neighbouring building and its character.

Overall it is considered that allowing a change of use of the site will bring a vacant derelict site back into use which in turn will improve the street scene. Whilst the proposal will be prominent to some extent in the street scene it is considered that the proposed landscaping will help to soften this and limit any impact the proposal may have in the visual amenity of the area and character of the street scene.

Residential Amenity

There have been a number of concerns raised by residents in relation to the proposal and its impact on residential amenity.

Due to the nature of the proposal and layout of the site it is considered unlikely that it would have a detrimental impact on the amenity of neighbouring properties in terms of overlooking, overbearing, loss of privacy and overshadowing. It is understood that there are concerns that the storage units may be stacked which could impact neighbouring properties however it is recommended that a condition is attached to any forthcoming approval which would state that the units can not be stacked on top of each other.

Due to the proximity to residential properties a noise impact assessment was requested. The assessment was submitted along with a number of amendments to the scheme which included removing the shipping containers from the proposal and replacing them with the Kuboid KB200 units as they are smaller, do not bang and are made of composite plastic so there would be no resonance from impact to the side of the containers etc. Also the opening hours were amended to 7am to 7pm Monday to Saturday only with no opening on Sundays and Bank holidays. Finally an acoustic screen is proposed along the southern boundary between adjacent properties and the site. ADC Environmental Health have commented that they agree with the methodology used and the proposed mitigation amendments and have requested a condition.

The proposed opening hours are considered acceptable and should be conditioned in the interest of protecting residential amenity. Many comments raised concerns

regarding the site operating 24 hours a day and through the night and early morning. However by conditioning the proposed 7am – 7pm opening hours this will ensure the site only operates between these times.

There have also been concerns raised in relation to comings and goings, noise from machinery and vehicle noise. It is considered that comings and goings and vehicle noise would potentially be on a similar scale to what they were for the car sales business. It is considered unlikely that machinery will be used within the site as it is proposed for storage only. It is acknowledged that whilst the site is getting up and running and the containers are being delivered there may be an increase in vehicles for a short time but once it is in operation it is considered unlikely that any significant noise and disturbance should occur from the proposed use and any that does is unlikely to go above that experienced for the car sales business.

Concerns have been raised in relation to lighting at the site and the impact this may have on residents. Further information has been submitted detailing that the existing lighting on the site is to be retained exactly as it was for the car sales business. This comprises of small floodlamps on buildings and poles. It is proposed to only have the lighting switched on during the hours of operation. To ensure this is the case a condition is recommended. Plans demonstrating the internal lighting in the 3 buildings have also been submitted and it has been detailed that the internal lights will be on and activated when detected by sensor. Due to the above it is considered unlikely that the proposed lighting would have an impact that would be more detrimental than what it was previously for the car sale business.

Highway Safety

The application proposes to utilise the existing main entrance of the site and will close off two of the other accesses whilst leaving the final access adjacent to No.12 Portland Road in situ with the existing gates and bollards to remain. A car park providing 17 car parking spaces, 7 van parking spaces and 2 7.5t lorry spaces is proposed.

Nottinghamshire County Council have been consulted on the proposal and in their initial comments raised a number of queries and requested further information and clarification on parking space sizes, access points and a swept path analyses. Further information was provided along with swept path analyses and the Highways Authority commented that they have no objections subject to four conditions and two informatives being appended to any forthcoming approval. They also commented that the two accesses to become redundant must be stopped up and reverted back to a footway. They were also satisfied that the site is unlikely to generate any more traffic than what the site has historically and that a range of parking solutions have been proposed. They did however raise that the only caveat to this would be that if the positioning of the containers were to change the swept path analyses would need to be repeated.

It is recommended that in the site layout proposed is conditioned to ensure that if the applicant wishes to amend the layout of the containers in the future or increase the

number of containers they would need to apply for permission. Therefore, the highways and access situation could be assessed again.

Concerns have been raised by residents in relation to increased traffic, inadequate turning and increased on-street parking on nearby streets. After assessing the submitted information and comments from the Highways Authority It is acknowledged that there will be more traffic whilst the site is being brought into use because of the siting of the units but once complete and open to customers is considered unlikely to lead to a detrimental increase in traffic. In addition to this the swept path analyses and layout plans provided demonstrate that vehicles can move within the site to access and egress in a forward gear and a number of parking spaces have been provided. Due to the nature of the proposal, it is unlikely that customers will park on neighboring streets as they will want to be as close to their unit as possible to drop off and pick up items being stored.

Taking the above into consideration it is considered that the proposal would not have a detrimental impact on highway safety or the highway network.

Other

Comments have been received from residents stating that there is Japanese Knotweed on the site. To ensure that the correct procedures are followed in relation to any potential Japanese knotweed and to stop the spread it is recommended that a condition be appended to any forthcoming approval requiring the applicant to establish the extent of Japanese knotweed on site and if any is found to submit a management plan.

There have also been concerns raised in relation to not knowing what is being stored and the potential for hazardous material to be in the units creating a risk. It has been detailed in the submitted design and access statement that customers are not allowed to store any goods which are hazardous, flammable, environmentally harmful, explosive, illegal or perishable.

Conclusion :

The application site is currently vacant and the proposal offers the opportunity to bring the site back into use. As discussed within this report whilst it is acknowledged that the proposal will be prominent in the street scene it is considered that with the addition of the landscaping proposed this will help to soften the appearance thus having less impact on the character of the street scene and visual amenity of the area. It is considered unlikely that the proposal will have a detrimental impact on the amenity of residents and conditions are recommended to control aspects of the business in the interest of protecting residential amenity. Access and movement within the site have been assessed and NCC Highways offer no objections subject to conditions therefore no concerns are raised in relation to highway safety and the highway network.

Therefore, the application is recommended for conditional consent subject to the conditions detailed below.

Recommendation: - Grant consent subject to the following conditions

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 following plans: Site Location Plan, Site Layout Plan, Storage Container Elevations, Boundary Elevations, Dwg No. LOFT-22-P01revF received 03/03/2023, Landscaping Plan Dwg No. LOFT-22-P03revA received 03/03/2023, Proposed Floor Plans Dwg No. LOFT0-22-P02 received 17/08/2022. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
3. The proposed storage containers shall not be stacked at any time.
4. No part of the development hereby permitted shall be brought into first use until two existing site accesses that have been made redundant as a consequence of this consent and as shown on plan LOFT-22-P01revF are permanently closed and the access crossings reinstated as full height footway to the satisfaction of the Local Planning Authority.
5. No part of the development hereby permitted shall be brought into first use until the parking and turning areas are provided in accordance with the approved plan, LOFT-22-P01revF. These areas thereafter shall not be used for any purpose other than parking, turning, loading, and unloading of vehicles.
6. 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 building or the completion of the development, whichever is the sooner; and 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 others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
7. Before the development hereby approved is operational, the recommended sound insulation scheme submitted as part of the application shall be implemented in full and validated by a competent person and the validation report submitted to and approved in writing by the local planning authority.
8. If during the construction works any potential land contamination or unusual odour is encountered, all construction works shall cease immediately and not resume until either:
 - i. The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority.

or

- ii. The timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority.

If potential contamination is identified pursuant to part (a) of this condition, the development shall not be occupied until land contamination is fully remedied in accordance with a remediation scheme submitted to and approved in writing by the Local Planning Authority and a post completion verification report, including results of sampling and monitoring carried out, has been submitted to and approved in writing by the Local Planning Authority demonstrating that the site remediation criteria have been met.

9. There shall be no storage outside the containers hereby permitted or buildings within the site at all times.
10. Prior to occupation of the development the extent of Japanese Knotweed on the site shall be established and if any is found within the site a management plan with time frames shall be submitted to and approved in writing by the Local Planning Authority and work shall be carried out in accordance with the agreed management plan.
11. The use of the hereby permitted development for Self-Storage shall take place during the hours of 7am – 7pm Monday to Saturday only and at no times outside of these hours or on Sundays and Bank Holidays.
12. No additional external lighting shall be installed unless a scheme has been submitted to and approved in writing by the Local Planning Authority. Any additional lighting installed shall be carried out in accordance with the approved scheme.
13. The existing lighting on site shall only be illuminated during the hours of 7am – 7pm Monday to Saturday.

REASONS

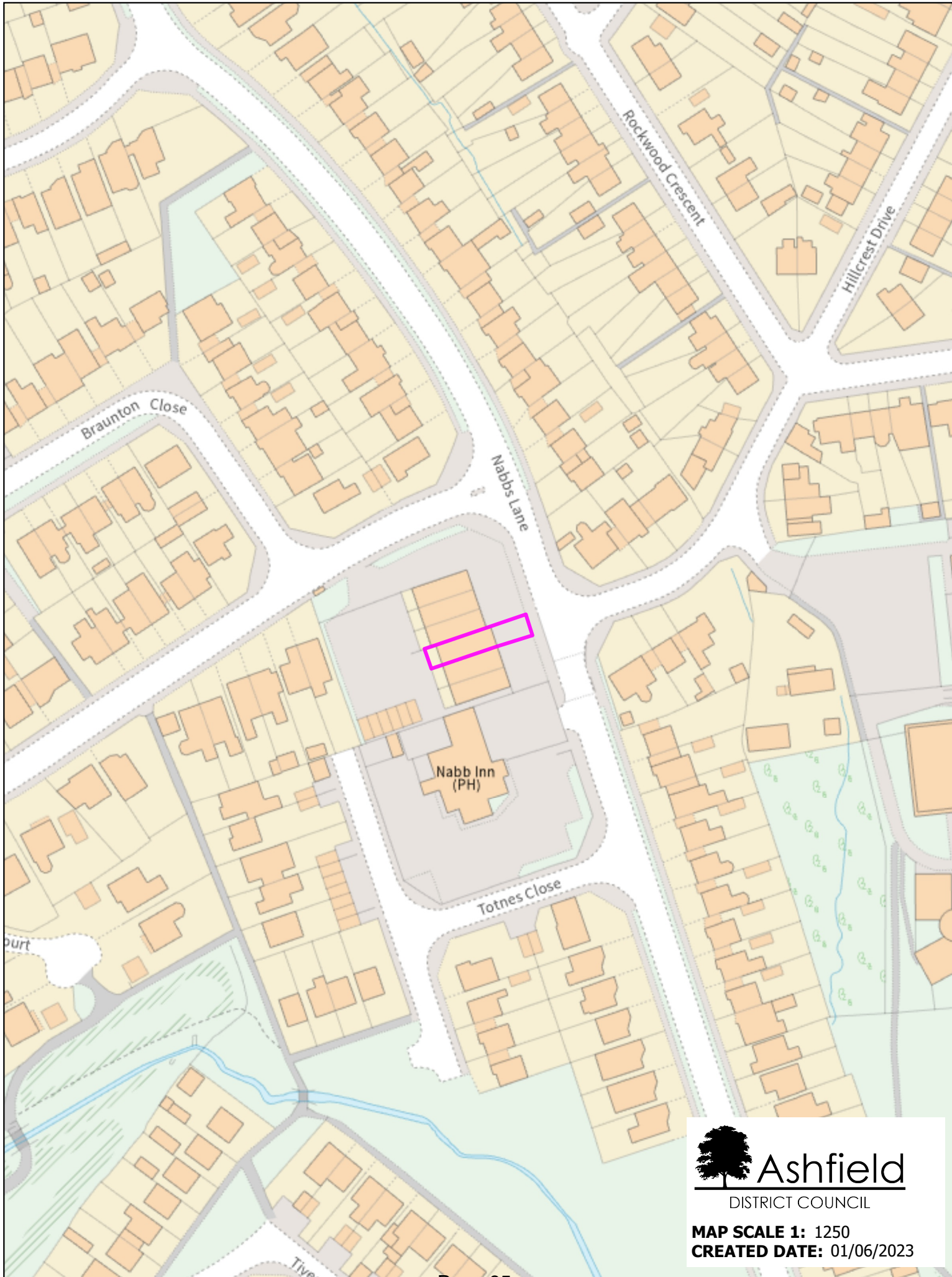
1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.
2. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
3. To protect visual amenity and safeguard the amenity of residents.
4. In the interests of pedestrian safety
5. To ensure that vehicles entering and leaving the site may pass each other clear of the highway. To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on street parking problems in the area and enable vehicles to enter and leave the site in a forward direction, all in the interests of Highway safety.
6. To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings.
7. To protect the aural amenity of future occupiers of the dwellings

8. To ensure that contaminated land is properly treated and made safe and to safeguard the health and safety of the future occupants in accordance with NPPF paragraphs 183 and 184.
9. To protect visual amenity
10. To prevent the spread of Japanese Knotweed
11. To safeguard the amenities of residents living in the vicinity of the application site.
12. In the interests of residential amenity.
13. In the interests of residential amenity.

INFORMATIVE

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. The development makes it necessary to reinstate 2 vehicular crossings to full height footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent, VIA East Midlands on 0300 500 8080 or email contactus@viaem.co.uk to commence the licensing process.
3. It may be necessary to temporarily close the adjacent footway to undertake site clearance, and demolition works; if this is the case it will be necessary to contact VIA East Midlands in good time to ensure all necessary licenses etc have been approved. They can be contacted on 0300 500 8080 or email contactus@viaem.co.uk

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Ashfield
DISTRICT COUNCIL

MAP SCALE 1: 1250
CREATED DATE: 01/06/2023

COMMITTEE DATE 14/06/2023 **WARD** Hucknall West

APP REF V/2023/0236

APPLICANT Mr Brian Willows

PROPOSAL Application to Remove Condition 8 (Rear Access Door Restrictions) and Condition 9 (Rear Service Yard Restrictions) of Planning Permission V/2021/0140.

LOCATION 57 Nabbs Lane, Hucknall, Nottinghamshire, NG15 6NT.

WEB-LINK <https://www.google.com/maps/place/57+Nabbs+Ln,+Hucknall,+Nottingham+NG15+6NT/@53.0324693,-1.2288144,19.04z/data=!4m6!3m5!1s0x4879eab626ab4705:0x6c2b74fc17afefcb!8m2!3d53.0324978!4d-1.2284748!16s%2Fq%2F11c4vj9d7t>

BACKGROUND PAPERS A, B, C, D, E & K.

App Registered: 21/04/2023

Expiry Date: 15/06/2023

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

This application has been referred to Planning Committee by Cllr Rostance to discuss disparity between other establishments, and new government guidelines relating to licensing.

The Application

Planning Permission is being sought to allow patrons of the drinking establishment to access and use the yard area to the rear of the premises as an additional outdoor drinking area. The application form suggests the rear outdoor seating/drinking area will only be used during the following days/times, with all tables and chairs to be stacked and stored inside the premises at all times outside of these hours:

- 1:00 pm to 9:00 pm Monday to Sunday (including Bank Holidays).

A separate planning application has been submitted under planning application reference V/2023/0237 to remove the temporary time period associated with the front outdoor seating/drinking area, which will also permit the full opening of the folding shop doors if application 0237 gains planning permission. If both of these latest applications are granted planning permission this would result in permanent areas of outdoor seating/drinking spaces to the front and rear of the premises.

Please see below a detailed explanation as to the sites planning history.

Consultations

A site notice has been posted together with individual notifications to nearby properties.

The following responses have been received:

Ashfield District Council Environmental Health:

- Environmental protection still hold the same concerns as previously given for application V/2023/0001. The concerns raised at the time centred on levels of noise experienced by residents of the flats over the bar and impacts on residents in dwellings to the front and rear of the outdoor areas. Concerns were also raised on how the premises will operate with permanent front and rear bear gardens.
- Proximity of flats located over the micropub raises concerns since the only outdoor amenity for the residents is located in the back, right above the proposed seating area and the use of this space will remove any availability for the residents to enjoy their outside terrace without the noise from patrons of the micropub.
- Since application V/2023/0001 a further noise complaint has been lodged with Environmental Protection, which raises significant concerns and causes us to question how a small micropub can be managed if additional seating is to be permitted seeing that noise complaints are already being raised and no comments are provided on how the applicant aims to manage noise from the use and its impact on nearby residents.

Ashfield District Council Licensing:

- Licensing can still issue Temporary Pavement Licences for siting on highways for the sole purpose of eating and drinking (Business & Planning Act 2020 – to alleviate business issues during Covid) until 30.09.2023.
- However, it is understood that this area is private land, therefore the Temporary Pavement Licence scheme cannot be used for such a purpose.

Nottinghamshire County Council Highways:

Comments dated 28/04/2023:

- No objections. The application does not have a detrimental effect on highway safety and capacity.

5 representations have been received from residents/businesses 3 objecting to and 2 supporting the proposal, raising the following comments:

Object:

- Rear seating will impact our business.
- Noise.
- Security.
- Smoking.
- Intimidating.
- Rear drinking area already in use without permission.

Support:

- The seating area is needed, especially during warmer spells of weather.
- Seating adds vibrancy to the shopping/business precinct.
- Caters for a different clientele.
- Any noise likely caused by other nearby premises.
- Loss of outdoor seating will impact businesses financial viability.

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.

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) as amended by ‘saved policies’ 2007:

ST1 – Development.

ST2 – Main Urban Area.

SH8 – Commercial / Retail Development.

National Planning Policy Framework (NPPF) (2021):

Part 6 – Building a strong, competitive economy.

Part 8 – Promoting healthy and safe communities.

Part 12 – Achieving well designed places.

Relevant Planning History

V/1977/0006 - Erection of 6 shop units with living accommodation above and block of 6 garages - Conditional.

V/2012/0455 - Change of Use from Residential Flat (C3) to Office (B1) - FUL CC.

V/2019/0401 - Change of Use from Retail (A1) to Micropub (A4) - FUL CC.

V/2019/0687 - Application for Approval of Details Reserved by Condition 4 of Planning Permission V/2019/0401 (Sound Test) - CD Determined.

V/2020/0148 - Application to Remove Condition 3 and 5 of Planning Permission V/2019/0401 to Allow Back Ground Music To Be Played and to Allow External Seating Area to the Front - FUL Refusal.

V/2021/0140 - Alterations to Shop Front, Installation of Retractable Awning and Decking, Outdoor Seating Area to Front and Alterations to Existing Opening Hours - FUL CC.

V/2023/0001 - Application to Remove Condition 2 (Temporary 12-month Time Period), Condition 8 (Rear Access Door Restrictions) and Condition 9 (Rear Service Yard Restrictions), and to Vary Condition 4 (Use of The Outdoor Spaces to the Front and Rear for the Siting of Tables and Chairs) of Planning Permission V/2021/0140 - RVC Refusal.

V/2023/0237 - Application to Remove Condition 2 (Temporary 12-Month Time Period for Front Outdoor Seating, and Full Opening of the Folding Shop Doors) of Planning Permission V/2021/0140 - PENDING.

Other application of relevance (No.57a Nabbs Lane):

X/2019/0042 - Prior Approval for A Proposed Change of use From Office (B1) to Dwelling (C3) at First Floor Only - Prior Approval - Conditional Consent.

Material Considerations:

- Site History and Context.
- Residential Amenity.
- Other.

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004

provides that, if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the 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 in the development plan have to be considered in relation to their degree of consistency with the provisions of the NPPF (NPPF paragraph 219). This will depend on the specific terms of the policies and of the corresponding parts of the NPPF when both are read in their full context. An overall judgement must be formed as to whether or not development plan policies, taken as a whole, are to be regarded as out of date for the purpose of the decision.

Site History and Context:

The site is located amongst a block of 6 properties, which present commercial uses at ground floor level and residential flats at first floor level (albeit the presence of 'Straw and Bramley Ltd' Accountants at first floor level at No.55a Nabbs Lane). At the time of the Council's site visit the application site (Door 57 micro-pub) was one of the central units within the block of 6, with the other ground floor uses comprising:

- 'Nabbs Food & Wine' convenience store.
- 'No.1 Barber shop'.
- 'Cutting Edge Hair and Beauty'.
- 'Deli Corner' café.
- 'Imaan Pharmacy'.

Within the general vicinity of the application site there are residential dwellings (in addition to the first floor flats) to the north, east, south and west of the premises, with the Nabbs Inn Public House also located to the south.

Planning / Site History:

Planning permission was granted in 2019 to change the use of No.57 Nabbs Lane from a retail unit to a micro-pub (drinking establishment) under planning application reference V/2019/0401. Although 8 objections were received as part of that 2019 application, it was considered that a condition requiring sound tests to be undertaken relating to internal noise levels was reasonable to help safeguard the amenities of residents living within the vicinity of the site.

The applicant subsequently undertook a Sound Insulation Test for the use of the internal area and submitted this report to the Council. As part of this the Council's Environmental Health team considered that the existing insulation within the building

was sufficient to adequately reduce the transmission of noise to neighbouring residential properties to an appropriate level.

A further application was then forthcoming, requesting planning permission to allow background music to be played and to allow an external seating/drinking area to the front of the premises, under planning application V/2020/0148. 12 objections were forthcoming from residents in relation to this application, with the Council's Environmental Health team also objecting due to the potential noise nuisance and impact on neighbours. Planning permission for this 2020 application was subsequently refused.

Despite the refusal of planning permission the applicant proceeded to create an outdoor seating/drinking area to the front of the premises, and also undertook alterations to the frontage of the property by installing folding doors comprising four glazed panels with retractable awning, all without planning permission.

In an attempt to regularise these a retrospective planning application was submitted in 2021 (under planning reference V/2021/0140), which received 10 objections from residents. Correspondence received from the Council's Environmental Health team as part of the 2021 application confirmed that two complaints had been received, one in relation to noise and one relating to overcrowding.

An additional consideration at the time as part of this 2021 application was the Covid-19 Pandemic, whereby the Government placed a far greater emphasis on trying to support local businesses who were trying to adapt during this time. As such additional weight was given to supporting the local businesses throughout this period, with the proposal ensuring customer numbers could remain at pre-covid levels whilst also adhering to additional guidelines such as social distancing etc. When all these factors were considered on balance, alongside other considerations such as the impact on residential enmity etc, it was determined a temporary 12-month permission for the use of the outdoor seating area to the front of the premises would allow the business to continue operating safely throughout the pandemic but also allow the Council to monitor how the premises is managed and any impacts arising from its operation.

The use of the outdoor seating/drinking area to the front of the premises is understood to have continued beyond the 12-month temporary period without planning permission.

An application was submitted in early 2023 (V/2023/0001) to make the use of the front outdoor seating/drinking area permanent, to allow the opening of the front glazed doors, and to create an additional seating/drinking area in the rear yard area. During the consideration of this early 2023 application 4 objections were received from residents, and confirmation was forthcoming from Environmental Health that an additional complaint had been received in relation to noise (shouting, singing, loud music). This application was subsequently refused planning permission due to the detrimental impact the proposal would have upon the amenity of nearby residents.

This new 2023 application (V/2023/0236) is again seeking planning permission to allow patrons to use the rear access door of the premises and an outdoor seating/drinking area to be created within the rear yard for use by patrons.

An additional separate planning application (V/2023/0237) has been submitted for the permanent use of the front outdoor seating/drinking area and to allow the opening of the front glazed doors.

Residential Amenity:

A key consideration as part of this application is the impact upon the amenity and living conditions of neighbouring properties. Aside from the small parade of shops, which the application site falls within, the area is considered to be predominantly residential in nature.

Policy ST1 of the ALPR 2002 sets out that development will be permitted where it does not adversely affect the character, quality, amenity or safety of the environment. This is also reflected in Paragraph 130 of the NPPF, which seeks to create places that are safe, inclusive and accessible and which promote health and wellbeing with a high standard of amenity for existing and future occupiers. Furthermore Paragraph 174 (e) of the NPPF also seeks to prevent new and existing development from contributing to, or being put at unacceptable levels of risk from/or being adversely affected by, unacceptable levels of noise pollution. Paragraph 185 also seeks to ensure that new development is appropriate for its location taking into account likely effects (including the cumulative effects) of pollution on health, living conditions and the wider environment, to avoid noise giving rise to significant adverse impacts on health and the quality of life of the wider area.

As previously mentioned the first floor of these block of 6 units are predominantly residential flats, who have a small balcony/terrace area to the rear at first floor level as their only form of outdoor amenity space. The flats are also accessed from the rear via individual staircases. Directly opposite and to the rear of the application site there are further residential properties.

It is acknowledged that the area around the flats would be subject to varying amount of activity throughout the day due to the nature of the shops below, in addition to a level of noise being generated by traffic flows along Nabbs Lane. However as it becomes later in the day and activity/noise levels within the vicinity reduce as a result of the shops below shutting etc, it is during this period when residents will reasonably expect a lower level of noise in their properties.

The noise generated by customers would have a specific character. It would be irregular enough to attract attention, and due to the nature of the noise generally

being voices and laughter etc, this would be particularly distracting to nearby residents.

The use of the outdoor seating to the rear of the premises is considered to cause a disturbance to neighbouring residents, particularly as the seating area is likely to be used during periods of fine weather when windows etc of neighbouring properties are likely to be open. Tables and chairs being moved/dragged etc along the hard surfacing is also considered to generate additional noise and disturbance to nearby residents.

When these impacts are then mirrored to the front of the premises, which would be on a larger scale (and is now subject to planning application V/2023/0237), this would generate noise and disturbance on both sides of the flats, creating an environment where there can be no 'escape' from the noise of patrons visiting the application site. It is considered that by subjecting existing/future occupiers of the flats to this type and scale of activity that they would be unable to achieve any respite from the noise and therefore the use of the premises as applied for under this application would cause significant harm to their living conditions and quality of life.

To the south of the application site is the Nabbs Inn Public house, which is understood (following a review of the owners website) to operate during the following hours:

- 11am - 11pm Monday – Thursday.
- 11am – Midnight Friday – Saturday.
- 11am - 10:30pm Sunday.

The Nabbs Inn is not restricted by virtue of any planning conditions and therefore could operate outside of these hours from a planning perspective. The Nabbs Inn has two areas of outdoor seating, one to the east fronting on to Nabbs Lane, and one to the rear of the Inn to the west. The Inn's western area of outdoor seating borders on to the car park/service yard which is to the rear (south-west) of the application site. These outdoor areas have been the subject of complaints in the past, their existence does not therefore provide justification for the application site to also have outdoor seating which would add to the noise and disturbance to local residents.

The Council acknowledges the economic and social benefits associated with the expansion of the drinking establishment, however these matters are considered not to outweigh the significant weight which is attributed to protecting the living conditions of nearby residents.

Overall due to the proximity between the application site and nearby dwellings, neighbouring residents would be aware of and subject to the noise generated by customers using the outdoor areas at the application site, with the level of noise and disturbance which would be generated being greater than what nearby residents

could reasonably expect. This would not only affect the external amenity areas of nearby dwellings but also habitable rooms, which is considered to significantly affect residential amenity and the quality of life of residents. This is reflected in the consultation comments received from the Council's Environmental Health Officer and is also reflected in some of the objections raised by residents in the area.

The 'lack' of objections does not mean that a proposal is acceptable in planning terms, nor is it sufficient justification to allow a proposal which is considered to be harmful to the amenity and living conditions of neighbouring residents.

The Council's Environmental Health Officer has significant reservations as to the impact the proposal will have on the amenity of nearby residents. They note that these are the same concerns raised previously under application V/2023/0001, which was refused due to the impact the proposal would have upon the amenity and living conditions of nearby residents. It has also been raised that deregulation under the Licensing Act has resulted in there being little enforceable conditions to manage outdoor areas in the interest of amenity outside of the planning process. Additionally raising that as a result of the above, that the removal/variation of conditions as applied for could indirectly create a statutory noise nuisance, with the Authority then having no legal remedy available to address any impacts.

Officer discussion with the Council's Licensing Team has also highlighted that as the land proposed for outdoor seating under this application is privately owned, then the provisions within the Temporary Pavement Licence (contained within the Business & Planning Act 2020) would not be applicable in this instance, which further reduces the mechanisms available to the Council to manage the use of these outdoor areas in the interests of nearby residents.

Other:

Bin Storage:

On the approved plans for the 2021 application (V/2021/0140) it was indicated that the rear yard area for No.57 was to be used for the storage of waste bins. At the time of the Council's site visit this rear yard area was subject to outdoor storage for kegs and other paraphernalia, and the waste bins were simply located within the rear car parking area, which is considered to negatively affect the visual amenity of the area.

By permitting the rear yard area to accommodate tables and chairs and be used by patrons this will likely see the permanent displacement of waste bins being located in the car parking area which is considered to be inappropriate.

No information has been submitted to indicate what will happen to the waste bins, and the rear car parking area where the bins are currently located does not form part of the red-boundary of site.

Highways:

The land upon which the seating is located is private land, and there are no obstructions to the public footway within the adopted highway.

Conclusion:

The economic and social benefits of the proposal for the business owner and local patrons are acknowledged, and whilst officers are keen to support businesses where possible, within the planning balance, the impact upon the amenity of nearby residential properties is considered to outweigh the benefits of the proposal in this instance.

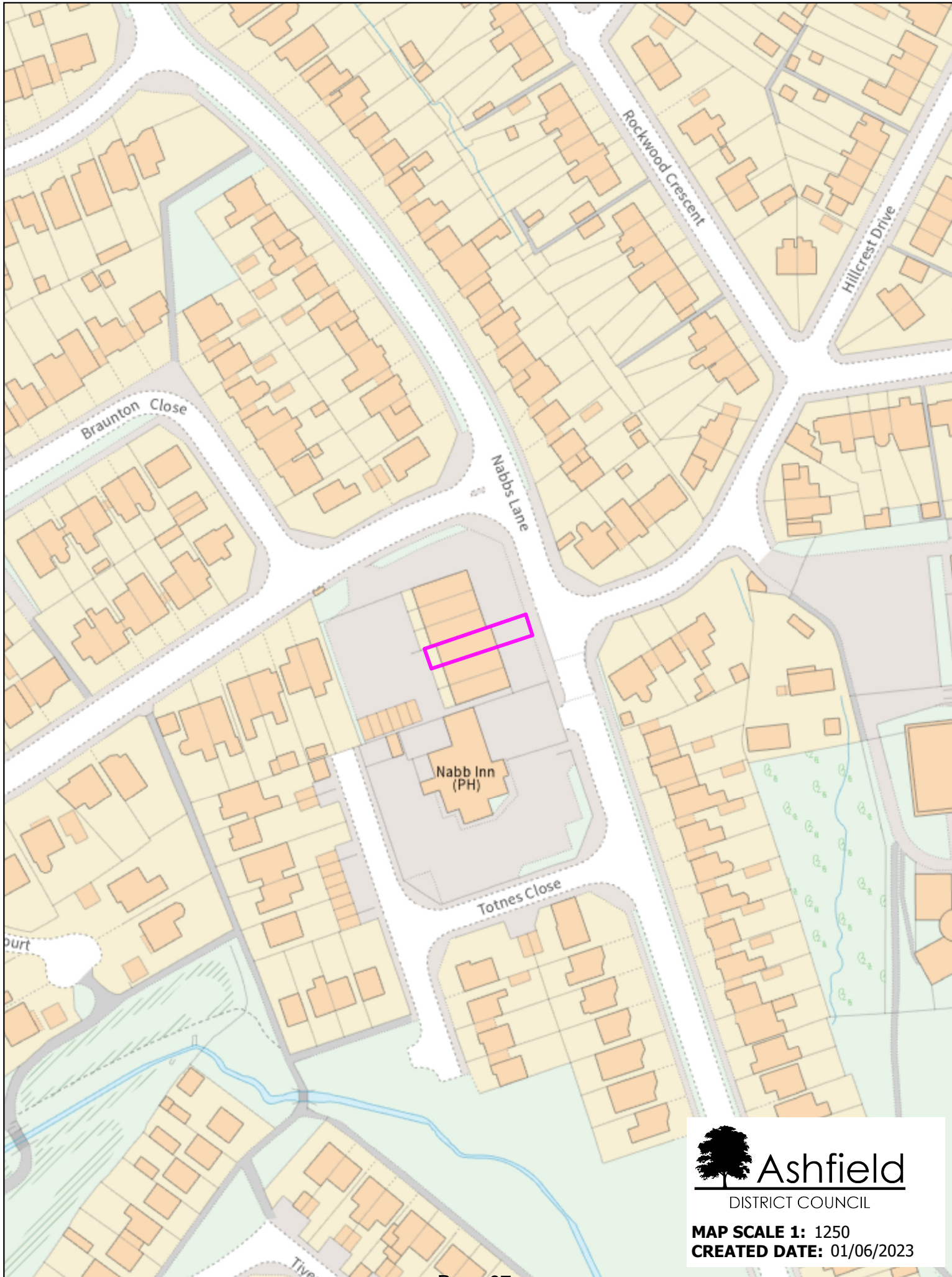
Therefore based on the above, it is recommended that this application is refused planning permission.

Recommendation: Refuse planning permission, for the following reason:

Reason for Refusal:

The removal of Condition 8 (rear access door restrictions) and Condition 9 (rear service yard restrictions) is considered to have a detrimental impact upon the amenity and living conditions of nearby residents by virtue of additional noise and general disturbance generated from the premises. This would be in the form of the placement, movement and collection of outdoor furniture, patrons sitting and congregating outside, and increased comings and goings to the premises generated by the additional seating capacity. As such the proposal is considered to be contrary to Policy ST1 (b) of the of the Ashfield Local Plan Review (2002), which seeks to ensure that development will not adversely affect the character, quality or amenity of the environment or will not conflict with an adjoining or nearby land use. Furthermore the proposal would be contrary to Part 12 (achieving well-designed places) of the National Planning Policy Framework (2021) which seeks to create places that, amongst other things, promote health and well-being, securing a high standard of amenity for existing and future occupiers.

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Ashfield
DISTRICT COUNCIL

MAP SCALE 1: 1250
CREATED DATE: 01/06/2023

COMMITTEE DATE 14/06/2023 **WARD** Hucknall West

APP REF V/2023/0237

APPLICANT Mr Brian Willows

PROPOSAL Application to Remove Condition 2 (Temporary 12-Month Time Period for Front Outdoor Seating, and Full Opening of the Folding Shop Doors) of Planning Permission V/2021/0140.

LOCATION 57 Nabbs Lane, Hucknall, Nottinghamshire, NG15 6NT.

WEB-LINK <https://www.google.com/maps/place/57+Nabbs+Ln,+Hucknall,+Nottingham+NG15+6NT/@53.0324693,-1.2288144,19.04z/data=!4m6!3m5!1s0x4879eab626ab4705:0x6c2b74fc17afefcb!8m2!3d53.0324978!4d-1.2284748!16s%2Fq%2F11c4vj9d7t>

BACKGROUND PAPERS A, B, C, D, E & K.

App Registered: 21/04/2023

Expiry Date: 15/06/2023

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

This application has been referred to Planning Committee by Cllr Rostance to discuss disparity between other establishments, and new government guidelines relating to licensing.

The Application

Planning permission is being sought to create a permanent seating/drinking area to the front of the premises and to allow the full opening of the glazed folding doors.

A separate planning application has been submitted under planning application reference V/2023/026 to remove measures currently in place to prevent patrons accessing and using the rear yard area for an additional seating / drinking space. If both of these latest applications are granted planning permission this would result in permanent areas of outdoor seating/drinking spaces to the front and rear of the premises.

Please see below a detailed explanation as to the sites planning history.

Consultations

A site notice has been posted together with individual notifications to nearby properties.

The following responses have been received:

Ashfield District Council Environmental Health:

- Outdoor seating was originally to help food and drink establishments survive during Covid when distancing restrictions were in place, yet now post lock down, we are viewing the use of the outside space of a micropub wholly on its own without context of the impact of Covid on the business in the previous years but on the impact on the local residents now and in the future.
- Since the last comment submitted by Environmental Health Officers on application V/2023/0001 on 31/03/2023, an additional noise complaint was lodged with the Council's Environmental Health Team on 26/05/2023 in relation to the use of the outside seating at Door 57.
- While the previous complaints (excluding the currently open investigation) has not demonstrated a legal noise nuisance, the amount of complaints related to a small scale micro pub indicates that the current noise levels are impacting nearby residents and the community, and raises concern in relation to the establishment of permanent seating to the front of the pub.
- Reservations are held on permitting the permanent use of the front for seating for the micropub.
- Due to deregulation provisions under the Licensing Act there are little enforceable conditions to manage outdoor areas in the interest of amenity outside of the planning process. It is possible that an approval at this stage, may indirectly regularise the creation of a statutory noise nuisance.

Ashfield District Council Licensing:

- Licensing can still issue Temporary Pavement Licences for siting on highways for the sole purpose of eating and drinking (Business & Planning Act 2020 – to alleviate business issues during Covid) until 30.09.2023.
- However it is understood that this area is private land, therefore the Temporary Pavement Licence scheme cannot be used for such a purpose.

Nottinghamshire County Council Highways:

Comments dated 27/04/2023:

- No objections. The application does not have a detrimental effect on highway safety and capacity.

1 representation has been received from a resident in support of the proposal, raising the following comments:

- Caters for a different clientele.
- Any noise likely caused by other nearby premises.
- Loss of outdoor seating will impact businesses financial viability.

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.

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) as amended by 'saved policies' 2007:

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ST2 – Main Urban Area.

SH8 – Commercial / Retail Development.

National Planning Policy Framework (NPPF) (2021):

Part 6 – Building a strong, competitive economy.

Part 8 – Promoting healthy and safe communities.

Part 12 – Achieving well designed places.

Relevant Planning History

V/1977/0006 - Erection of 6 shop units with living accommodation above and block of 6 garages - Conditional.

V/2012/0455 - Change of Use from Residential Flat (C3) to Office (B1) - FUL CC.

V/2019/0401 - Change of Use from Retail (A1) to Micropub (A4) - FUL CC.

V/2019/0687 - Application for Approval of Details Reserved by Condition 4 of Planning Permission V/2019/0401 (Sound Test) - CD Determined.

V/2020/0148 - Application to Remove Condition 3 and 5 of Planning Permission V/2019/0401 to Allow Back Ground Music To Be Played and to Allow External Seating Area to the Front - FUL Refusal.

V/2021/0140 - Alterations to Shop Front, Installation of Retractable Awning and Decking, Outdoor Seating Area to Front and Alterations to Existing Opening Hours - FUL CC.

V/2023/0001 - Application to Remove Condition 2 (Temporary 12-month Time Period), Condition 8 (Rear Access Door Restrictions) and Condition 9 (Rear Service Yard Restrictions), and to Vary Condition 4 (Use of The Outdoor Spaces to the Front and Rear for the Siting of Tables and Chairs) of Planning Permission V/2021/0140 - RVC Refusal.

V/2023/0236 - Application to Remove Condition 8 (Rear Access Door Restrictions) and Condition 9 (Rear Service Yard Restrictions) of Planning Permission V/2021/0140 - PENDING.

Other application of relevance (No.57a Nabbs Lane):

X/2019/0042 - Prior Approval for A Proposed Change of use From Office (B1) to Dwelling (C3) at First Floor Only - Prior Approval - Conditional Consent.

Material Considerations:

- Site History and Context.
- Residential Amenity.
- Other.

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the 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 in the development plan have to be considered in relation to their degree of consistency with the provisions of the NPPF (NPPF paragraph 219). This will depend on the specific terms of the policies and of the corresponding parts of the NPPF when both are read in their full context. An overall judgement must be formed as to whether or not development plan policies, taken as a whole, are to be regarded as out of date for the purpose of the decision.

Site History and Context:

The site is located amongst a block of 6 properties, which present commercial uses at ground floor level and residential flats at first floor level (albeit the presence of 'Straw and Bramley Ltd' Accountants at first floor level at No.55a Nabbs Lane). At the time of the Council's site visit the application site (Door 57 micro-pub) was one of the central units within the block of 6, with the other ground floor uses comprising:

- 'Nabbs Food & Wine' convenience store.
- 'No.1 Barber shop'.
- 'Cutting Edge Hair and Beauty'.
- 'Deli Corner' café.
- 'Imaan Pharmacy'.

Within the general vicinity of the application site there are residential dwellings (in addition to the first floor flats) to the north, east, south and west of the premises, with the Nabbs Inn Public House also located to the south.

Planning / Site History:

Planning permission was granted in 2019 to change the use of No.57 Nabbs Lane from a retail unit to a micro-pub (drinking establishment) under planning application reference V/2019/0401. Although 8 objections were received as part of that 2019 application, it was considered that a condition requiring sound tests to be undertaken relating to internal noise levels was reasonable to help safeguard the amenities of residents living within the vicinity of the site.

The applicant subsequently undertook a Sound Insulation Test for the use of the internal area and submitted this report to the Council. As part of this the Council's Environmental Health team considered that the existing insulation within the building was sufficient to adequately reduce the transmission of noise to neighbouring residential properties to an appropriate level.

A further application was then forthcoming, requesting planning permission to allow background music to be played and to allow an external seating/drinking area to the front of the premises, under planning application V/2020/0148. 12 objections were forthcoming from residents in relation to this application, with the Council's Environmental Health team also objecting due to the potential noise nuisance and impact on neighbours. Planning permission for this 2020 application was subsequently refused.

Despite the refusal of planning permission the applicant proceeded to create an outdoor seating/drinking area to the front of the premises, and also undertake

alterations to the frontage of the property by installing folding doors comprising four glazed panels with retractable awning, all without planning permission.

In an attempt to regularise these a retrospective planning application was submitted in 2021 (under planning reference V/2021/0140), which received 10 objections from residents. Correspondence received from the Council's Environmental Health team as part of the 2021 application confirmed that two complaints had been received, one in relation to noise and one relating to overcrowding.

An additional consideration at the time as part of this 2021 application was the Covid-19 Pandemic, whereby the Government placed a far greater emphasis on trying to support local businesses who were trying to adapt during this time. As such additional weight was given to supporting the local businesses throughout this period, with the proposal ensuring customer numbers could remain at pre-covid levels whilst also adhering to additional guidelines such as social distancing etc. When all these factors were considered on balance, alongside other considerations such as the impact on residential enmity etc, it was determined a temporary 12-month permission for the use of the outdoor seating area to the front of the premises would allow the business to continue operating safely throughout the pandemic but also allow the Council to monitor how the premises is managed and any impacts arising from its operation.

The use of the outdoor seating/drinking area to the front of the premises is understood to have continued beyond the 12-month temporary period without planning permission.

An application was submitted in early 2023 (V/2023/0001) to make the use of the front outdoor seating/drinking area permeant, to allow the opening of the front glazed doors, and to create an additional seating/drinking area in the rear yard area. During the consideration of this early 2023 application 4 objections were received from residents, and confirmation was forthcoming from Environmental Health that an additional complaint had been received in relation to noise (shouting, singing, loud music). This application was subsequently refused planning permission due to the detrimental impact the proposal would have upon the amenity of nearby residents.

This new 2023 application (V/2023/0237) is again seeking planning permission for the permanent use of the front outdoor seating/drinking area and to allow the opening of the front glazed doors.

An additional separate planning application (V/2023/0236) has been submitted seeking planning permission to allow patrons to use the rear access door of the premises and an outdoor seating/drinking area to be created within the rear yard for use by patrons.

Residential Amenity:

A key consideration as part of this application is the impact upon the amenity and living conditions of neighbouring properties. Aside from the small parade of shops,

which the application site falls within, the area is considered to be predominantly residential in nature.

Policy ST1 of the ALPR 2002 sets out that development will be permitted where it does not adversely affect the character, quality, amenity or safety of the environment. This is also reflected in Paragraph 130 of the NPPF, which seeks to create places that are safe, inclusive and accessible and which promote health and wellbeing with a high standard of amenity for existing and future occupiers. Furthermore Paragraph 174 (e) of the NPPF also seeks to prevent new and existing development from contributing to, or being put at unacceptable levels of risk from/or being adversely affected by, unacceptable levels of noise pollution. Paragraph 185 also seeks to ensure that new development is appropriate for its location taking into account likely effects (including the cumulative effects) of pollution on health, living conditions and the wider environment, to avoid noise giving rise to significant adverse impacts on health and the quality of life of the wider area.

The permanent use of the outdoor seating area to the front would effectively double (approx.) the amount of customers which could be accommodated at the premises, with the proposed use of the rear of the premises (under application V/2023/0236) seeking to increase customer numbers even further.

As previously mentioned the first floor of these block of 6 units are predominantly residential flats, who have a small balcony/terrace area to the rear at first floor level as their only form of outdoor amenity space. The flats are also accessed from the rear via individual staircases. Directly opposite and to the rear of the application site there are also residential properties.

It is acknowledged that the area around the flats would be subject to varying amount of activity throughout the day due to the nature of the shops below, in addition to a level of noise being generated by traffic flows along Nabbs Lane. However as it becomes later in the day and activity/noise levels within the vicinity reduce as a result of the shops below shutting etc, it is during this period when residents will reasonably expect a lower level of noise in their properties.

The noise generated by customers would have a specific character. It would be irregular enough to attract attention, and due to the nature of the noise generally being voices and laughter etc, this would be particularly distracting to nearby residents.

Therefore the use of the outdoor seating to the front is considered to cause a disturbance to neighbouring residents, particularly as the seating area is likely to be used during period of fine weather when windows etc of neighbouring properties are likely to be open. The removal of the tables and chairs twice daily, being dragged etc along the hard surfacing, is also considered to generate additional noise and disturbance to nearby residents. In addition to the outdoor seating areas this application to remove Condition 2 would allow the full opening of the folding shop doors on a permanent basis. This would allow the unobstructed transmission of

noise from inside the premises, and when viewed cumulatively with the outdoor seating areas, is further considered to contribute to detrimental harm to the amenity of nearby residents.

When these impacts of the seating are then mirrored to the rear of the premises, albeit on a smaller scale than the front seating area (which is now subject to planning application V/2023/0236), this would generate noise and disturbance on both sides of the flats, creating an environment where there can be no 'escape' from the noise of patrons visiting the application site. It is considered that by subjecting existing/future occupiers of the flats to this type and scale of activity that they would be unable to achieve any respite from the noise and therefore the use of the premises as applied for under this application would cause significant harm to their living conditions and quality of life.

To the south of the application site is the Nabbs Inn Public house, which is understood (following a review of the Greene King website) to operate during the following hours:

- 11am - 11pm Monday – Thursday.
- 11am – Midnight Friday – Saturday.
- 11am - 10:30pm Sunday.

The Nabbs Inn is not restricted by virtue of any planning conditions and therefore could operate outside of these hours from a planning perspective. The Nabbs Inn has two areas of outdoor seating, one to the east fronting on to Nabbs Lane, and one to the rear of the Inn to the west. The Inn's western area of outdoor seating borders on to the car park/service yard which is to the rear (south-west) of the application site. These outdoor areas have been the subject of complaints in the past, their existence does not therefore provide justification for the application site to also have outdoor seating which would add to the noise and disturbance to local residents.

The Council does recognise the economic and social benefits associated with the expansion of the drinking establishment, however these matters are considered not to outweigh the significant weight which is attributed to protecting the living conditions of nearby residents.

Overall due to the proximity between the application site and nearby dwellings, neighbouring residents would be aware of and subject to the noise generated by customers using the outdoor areas and when the doors are open at the application site, with the level of noise and disturbance which would be generated being greater than what nearby residents could reasonably expect. This would not only affect the external amenity areas of nearby dwellings but also habitable rooms, which is considered to significantly affect residential amenity and the quality of life of residents. This is reflected in the consultation comments received from the Council's Environmental Health Officer.

The 'lack' of objections does not mean that a proposal is acceptable in planning terms, nor is it sufficient justification to allow a proposal which is considered to be harmful to the amenity and living conditions of neighbouring residents.

The Council's Environmental Health Officer has significant reservations as to the impact the proposal will have on the amenity of nearby residents, as reflected in their consultation comments. They also raise that deregulation under the Licensing Act has resulted in there being little enforceable conditions to manage outdoor areas in the interest of amenity outside of the planning process. Additionally raising that as a result of the above, that the removal/variation of conditions as applied for could indirectly create a statutory noise nuisance, with the Authority then having no legal remedy available to address any impacts.

Officer discussion with the Council's Licensing Team has also highlighted that as the land proposed for outdoor seating under this application is privately owned, then the provisions within the Temporary Pavement Licence (contained within the Business & Planning Act 2020) would not be applicable in this instance, which further reduces the mechanisms available to the Council to manage the use of these outdoor areas in the interests of nearby residents.

Other:

Highways:

The land upon which the seating is located is private land, and there should be no obstructions to the public footway within the adopted highway.

Conclusion:

The economic and social benefits of the proposal for the business owner and local patrons are acknowledged, and whilst officers are keen to support businesses where possible, within the planning balance, the impact upon the amenity of nearby residential properties is considered to outweigh the benefits of the proposal in this instance. This has always been a significant concern with the granting of permission for the initial application where noise assessments were required. The applicant was aware of these concerns and has on numerous occasions sought to gain permission which impacts on the amenities of the neighbours. The Council sought to assist the applicant during the pandemic with granting a temporary planning permission and not requiring the frontage of the premises to return to the previous shop frontage. The bi fold doors and outdoor seating undermine the establishment that the property is adequately sound proofed as required by members in the original planning decision and will only add to the issues already experienced by residents from the nearby public house.


Therefore based on the above, it is recommended that this application is refused planning permission.

Recommendation: Refuse planning permission, for the following reason:

Reason for Refusal:

The removal of Condition 2 (temporary 12-month time limit for front outdoor seating, and full opening of the folding shop doors), is considered to have a detrimental impact upon the amenity and living conditions of nearby residents by virtue of additional noise and general disturbance generated from the premises. This would be in the form of the placement, movement and collection of outdoor furniture, patrons sitting and congregating outside, and increased comings and goings to the premises generated by the additional seating capacity. As such the proposal is considered to be contrary to Policy ST1 (b) of the of the Ashfield Local Plan Review (2002), which seeks to ensure that development will not adversely affect the character, quality or amenity of the environment or will not conflict with an adjoining or nearby land use. Furthermore the proposal would be contrary to Part 12 (achieving well-designed places) of the National Planning Policy Framework (2021) which seeks to create places that, amongst other things, promote health and well-being, securing a high standard of amenity for existing and future occupiers.

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Ashfield
DISTRICT COUNCIL

MAP SCALE 1: 1250
CREATED DATE: 10/03/2023

COMMITTEE DATE 22/03/2023 **WARD** Stanton Hill and Teversal

APP REF V/2023/0103

APPLICANT J Zadrozny

PROPOSAL Change of Use from Shop with Flat Above to Ground Floor Flat With Flat Above

LOCATION 33, High Street, Stanton Hill, Sutton in Ashfield, Nottinghamshire, NG17 3GG

WEB-LINK <https://www.google.com/maps/place/33+High+St,+Stanton+Hill,+Sutton-in-Ashfield+NG17+3GG/@53.1416691,-1.279222,19.88z/data=!4m6!3m5!1s0x487996941b78b2f1:0x87d6db08bea53e44!8m2!3d53.1415751!4d-1.2793088!16s%2Fq%2F11jt6j9mww>

BACKGROUND PAPERS A, B

App Registered 23/02/2023 Expiry Date 19/04/2023

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

This application has been referred to Planning Committee in the interests of transparency as the applicant is a member.

The Application

The application site comprises of an attached building with a shop at ground floor and flat at first floor located on High Street in the main urban area of Stanton Hill, Sutton in Ashfield. Within the vicinity of the site the properties are mainly residential with commercial properties further along High Street.

This is an application for the change of use from a shop with a flat above to a ground floor flat with flat above.

As part of the proposed change of use the following external alterations are proposed:

- Front elevation
 - o Removal of shop front and replace with two windows serving combined lounge, dining room and kitchen
 - o Render frontage where shop front was
 - o Install velux window

- Side elevation
 - o Make good render on brickwork infill
 - o Insert high level window serving combined lounge, dining room and kitchen
 - o Remove window in roof space and replace with 2 windows
 - o Install window at ground floor to serve bedroom 2
- Rear elevation
 - o Install velux window
 - o Replace flat roof at rear with pitched roof with velux window

Consultations

Individual notification of surrounding residents has been carried out.

No written representations have been received.

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

SH4 – Local Shopping Centre

HG8 – Residential Car Facilities, Houses in Multiple Occupation, Bedsits, Flats and Hostels

National Planning Policy Framework (NPPF) (2021)

Part 2 – Achieving sustainable development

Part 5 – Delivering a sufficient supply of homes

Part 8 – promoting healthy and safe communities

Part 9 – Promoting sustainable transport

Part 12 – Achieving well-designed places

Supplementary Planning Documents (SPD)

Residential Design Guide

Residential Extensions Design Guide

Residential Car Parking Standards

Teversal, Stanton Hill and Skegby Neighbourhood Plan 2016-2031

Relevant Planning History

V/1976/0752 – Installation of New Shop Front – Conditional

V/1979/1044 – Outhouse Extension and Alterations – Conditional

Material Considerations

- Principle of Development
- Visual Amenity
- Residential Amenity
- Highway Safety

Principle of Development

The application site is located in the main urban area of Stanton Hill, Sutton in Ashfield where the principle of development is considered to be acceptable, providing no other material planning considerations indicate otherwise. In addition to this the site is located on the edge of the local shopping centre, The immediate neighbouring property appears to have converted to residential use approximately 15 years ago.

Visual Amenity

As discussed as part of the proposed change of use various alterations are proposed to the elevations of the property.

The materials proposed for the alterations to the elevations are brick and render and concrete tiles are proposed for alterations to the roof, with a small area of grey cladding to the rear on the proposed pitched roof gable.

The proposed alterations to the property which includes making good the existing render are considered to be acceptable. Within the vicinity of the site are properties which vary in materials and design. It is considered that the proposal would not have a detrimental impact on visual amenity or the character of the street scene.

Residential Amenity

The Council's adopted supplementary planning document, 'Residential Design Guide' (2014) sets out minimum standards for internal room sizes and outdoor amenity spaces. Both flats will provide two bedrooms and a shower room. The ground floor flat will have a combined kitchen, living room and dining room whilst the first and second floor flat will have a separate kitchen, living room and dining room. It is considered that both of the proposed flats would provide acceptable internal standards for future occupiers.

To the rear of the property is a small area of outdoor amenity space and the site is within the 'Local Shopping Centre'. Although the outdoor amenity space would be limited, due to the site's proximity to amenities and services, this is considered to not be detrimental to the health and well-being of future occupiers.

One new window is proposed on the side elevation of the property at ground floor facing No. 1 Springwood Terrace however it will be sited facing the boundary and due to the angle of the property will face the blank element of the neighbouring gable wall therefore no concerns are raised in relation to overlooking. Two windows in the side elevation will remain at first floor and the window at second floor (attic) will be removed and replaced with two smaller windows. There is a window at first floor to

the rear of the side elevation of No.1 Springwood Terrace however the windows in the side of the application property will overlook the blank part of the neighbouring gable. In addition to this the level of overlooking that may occur would be no more than what is already experienced at the site from the existing flat.

The proposed pitched roof on the single storey element of the property is considered unlikely to have an impact on either of the adjacent neighbours due to its siting and will mimic the roof of No.31.

Overall, it is considered that the proposal would not result in a detrimental impact on neighbouring properties and provides an acceptable level of amenity for future and existing occupiers.

Highway Safety

One off-street parking space exists to the side of the property. The site is located within the 'local shopping centre' of High Street and within close proximity to a bus stop.

Converting the ground floor from a shop to a flat is also considered likely to reduce the number of vehicles that could be expected at the property along with a reduction in comings and goings that would also usually be associated with a retail use.

Due to the sites location close to amenities and other sustainable means of transport and taking into account its previous use it is considered that the lack of off-street parking would not result in a detrimental impact on highway safety or the capacity of the highway network.

Conclusion :

On balance, the proposed development is considered to be acceptable. It is considered not to have a detrimental impact on the character of the street scene or visual amenity of the area and will result in an improvement to the front elevation of the property. In addition to this it is considered that it would not have any detrimental impact on the residential amenity of existing and future occupiers. Whilst there may be a lack of off-street parking, due to the sites location and previous use it is considered unlikely that this would have an impact on highway safety.

It is therefore recommended that this application is granted planning permission, subject to the conditions detailed below.

Recommendation: - Grant planning permission, subject to conditions

CONDITIONS

1. The Development hereby approved shall be begun before the expiration of 3 years from the date of this permission.

2. The materials and finishes to be used for the external elevations and roof of the proposal shall match those used in the construction of the existing building.
3. This permission shall be read in accordance with the following plans:
 - Site Location Plan, received 22/02/2023
 - Proposed Side & Rear Elevations, Drawing No 513:PR:03 Rev A, received 24/02/2023
 - Proposed Section & Front Elevation, Drawing No 513:PR:02 Rev A, received 24/02/2023
 - Proposed GF, FF & SF Floor Plans, Drawing No 513:PR:01 Rev A, received 24/02/2023

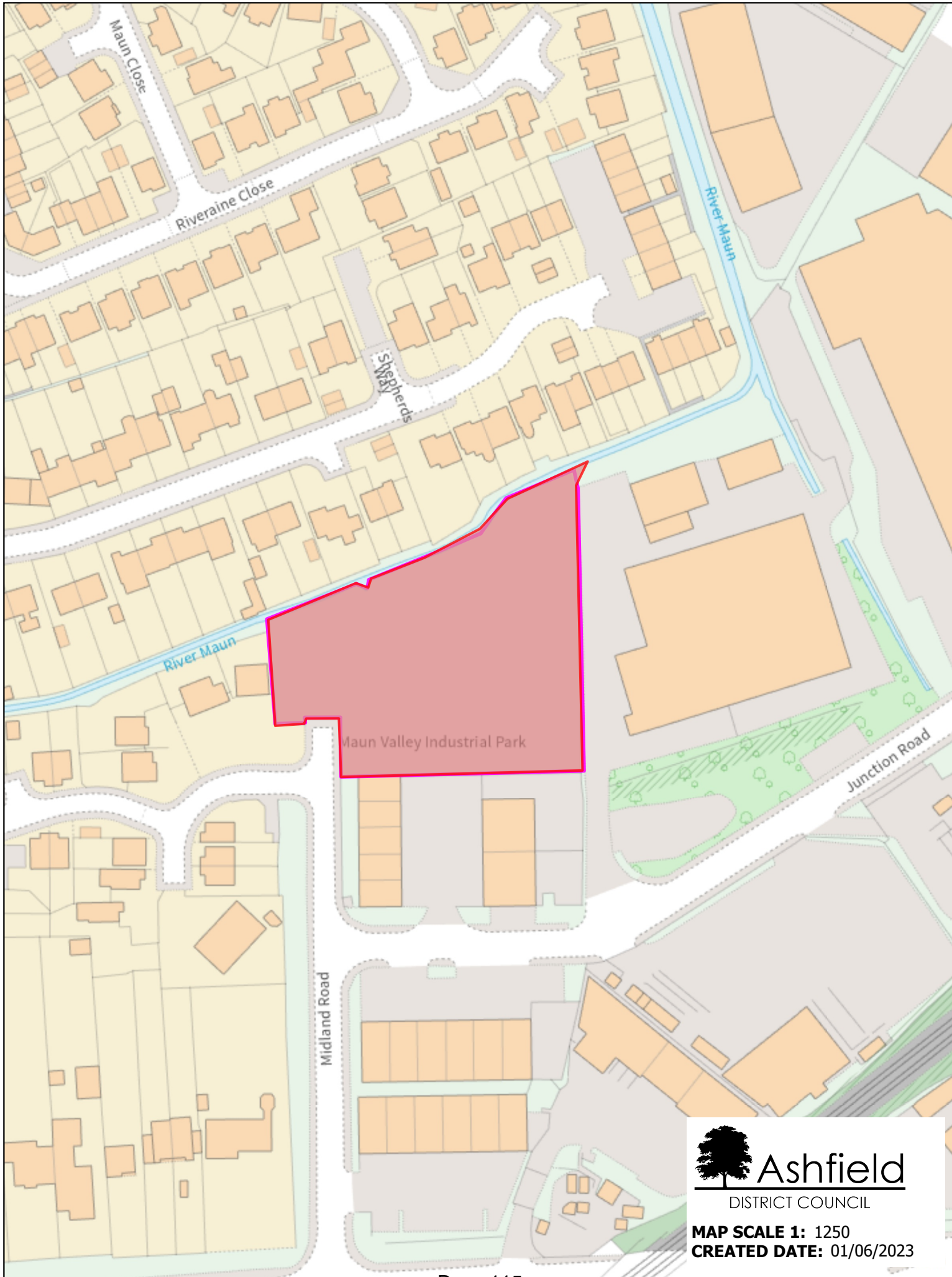
The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.

REASONS

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.
2. To ensure the satisfactory appearance of the development.
3. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.

INFORMATIVE

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).



Ashfield
DISTRICT COUNCIL
MAP SCALE 1: 1250
CREATED DATE: 01/06/2023

COMMITTEE DATE 14/06/2023 **WARD** Sutton Junction and Harlow Wood

APP REF V/2022/0406

APPLICANT Ashfield District Council

PROPOSAL Application to Vary Condition 10 - Acoustic Fencing Details of Planning Permission V/2022/0785

LOCATION Land North of, Midland Road, Sutton in Ashfield, Notts, NG17 5GR

WEB-LINK <https://www.google.com/maps/@53.1220665,-1.2403979,18.5z>

BACKGROUND PAPERS A, B, C, E

App Registered 26/05/2022

Expiry Date 20/07/2022

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

This application has been referred to Planning Committee as the condition was previously required by members.

The Application

The application site is located off Midland Road in the main urban area of Sutton in Ashfield. The site is located adjacent to industrial units to the east and south and adjacent to residential properties to the north and west.

This is an application to vary the condition on the previously approved planning application relating to the installation of an absorbent acoustic fence. The condition currently reads:

“No part of the development hereby permitted shall be occupied until the acoustic fencing, shown on approved plan 31468 539 11 Rev C has been installed. The acoustic fencing shall be absorbent acoustic fencing. The acoustic fencing shall be retained for the lifetime of the development.”

The application seeks to remove the requirement for the acoustic fencing to be ‘absorbent’ acoustic fencing and proposes to vary the condition as follows:

“No part of the development hereby permitted shall be occupied until the acoustic fencing, shown on approved plan 31468 539 11 Rev C has been installed. The acoustic fencing shall be retained for the lifetime of the development.”

Since the submission of this application there has been another variation of condition application determined which was a minor amendment to the approved drainage. The amendment did not change the function or capacity of the drainage scheme so was considered minor. Due to the variation being granted. the reference number and condition number within the description of this application have been amended for the condition to be varied on the latest application to ensure the discharge of conditions are in respect of the latest approval.

During the course of processing this application a noise impact assessment and a further technical note have been submitted to explain how the proposed variation would mitigate the noise levels and address concerns that members have. The details are discussed further below.

Consultations

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

Residents

1 comment has been received neither supporting or objecting and raising the following:

- Clarification on height
- Side facing the rear of properties on Mowlands Close should be maintained and graffiti free.

Local Lead Flood Team

- Considering the proposal the LLFA believes it is not required to respond, as such no bespoke comments made.

Network Rail

- No further comments to make and no objection to the variation of this condition

ADC Tree Officer

- Should the fencing affect any trees or vegetation on site, appropriate measures should be taken to avoid damage to root structures

Natural England

- Not able to fully assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes or provide detailed advice.
- Lack of detailed advice does not imply that there are no impacts

NCC Highways

- No comments

ADC Regeneration

- Site backs onto Lindhurst Engineering which can be quite a noisy plant
- Questioned whether a noise impact assessment has been carried out yet and if not maybe this should be considered before looking to approve the variation

ADC Environmental Protection

(1st Comments)

- The technical notes states In the case of the subject site, the absorption coefficient of the fence has no material impact on the amenity of future occupants, as any commercial noise is either absorbed by the fence or reflected away from the subject site, yet with the absence of a noise assessment report, we are unaware of the level of noise that the future residents would be exposed from the industrial sites or if the 10 kg/m² acoustic barrier would provide sufficient mitigation.
- While we agree technically that a fence with a surface density of at least 10 kg/m² with closed surface will meet the minimal requirements of an acoustic barrier, since an absorbent acoustic fence was requested, there is little evidence provided to justify changing the condition.

(2nd Comments following submission of noise impact assessment and technical note)

- Reviewed technical report which compares the acoustic performance of acoustically absorbent fence compared to standard acoustic fence and offers to support the proposal to use a standard acoustic fence.
- The noise modelling included in the report appears to present logical data outputs and from our review of the noise mapping it is our view are likely to represent real-world conditions at the application site. On this basis we would not question the outputs of the noise model or noise data included within the report.
- The report indicates that, with the installation of an acoustic absorbent fence, there is a slight acoustic benefit at the approximate position of MP2 compared to the use of a standard acoustic fence. This benefit is limited to a single area on that specific plot. Whilst it was reasonable to assume that there may be a slight benefit to the use of acoustic absorbent fencing, the model suggests that this is more limited than we would have originally assumed.
- In reviewing the noise modelling data, it is apparent that noise levels in all external amenity areas would be below the upper guideline noise level of 55 dB LAeq,16hr, with the majority of gardens exposed to noise levels ≤ 50 dB LAeq,16hr. Given that the majority of gardens are exposed to noise levels ≤ 50 dB LAeq,16hr this represents a reasonable standard of amenity for these dwellings, when using a standard acoustic fence. The lower (50 dB) level is the preferred design target that we would seek to achieve for dwellings located close to commercial and industrial areas. Had the majority of gardens been at or above the upper guidance level of 55 dB this would have caused us considerable concerns, clearly this is not the case in this instance and the lower level of noise likely to be experienced in these gardens is duly noted.
- The concern raised by Members about the variability of the commercial/industrial noise from the industrial estate is likely to have been

addressed by the duration of this survey and whilst it is possible that there could be noise sources on the estate that have not been present at their loudest level during the survey periods, the extended survey is longer than the vast majority of similar developments that we deal with, so would under any other circumstances, be considered extensive and therefore representative of a realistic worst case scenario.

- Taking into account the noise levels predicted within the garden areas and taking into account the requirements of paragraphs 56 & 185 of the NPPF, we do not consider that we could reasonably require the installation of acoustically absorbent fencing for this development site.

-

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

EM4 - Protection of Employment Land Allocations

HG5 – New Residential Development

National Planning Policy Framework (NPPF) (2021)

Part 2 – Achieving 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 11 – Making Effective Use of Land

Part 12 – Achieving Well Designed Places

Supplementary Planning Documents (SPD) (2014)

Residential Design Guide

Relevant Planning History

V/2021/0776 – 20no Dwellings Comprising of 4no 1 Bed Flats, 4no 2 Bed Flats, 6no 2 Bed Semi's & 6no 3 Bed Semi's – Conditional

V/2022/0237 – Application for Approval of Details Reserved by Conditions 3 – Ground Levels, 4-Road Details and 8 – Remediation Scheme of Planning Permission V/2021/0776 – CD Determined

V/2022/0444 – Revision to Previous Drainage Drawings for 20no Dwellings Comprising 4no 1 Bed Flats, 4no 2 Bed Flats and 6no 2 BED Semi's & 6no 3 Bed – Withdrawn

V/2022/0785 – Application to Remove/Vary Condition 15 of Planning Permission

V/2021/0776 – Revised Drainage Scheme - Conditional

V/2023/0024 – Application for Approval of Details Reserved by Condition 8 of Planning Permission V/2021/0776 – Remediation Scheme – CD Determined

Comment :

Main Considerations

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

- Principle of Development
- Residential Amenity

Principle of Development

Policy ST1 of the Ashfield Local Plan Review (2002) sets out that development will be permitted where it does not adversely affect the character, quality, amenity or safety of the environment. This is also reflected in paragraph 130 of the National Planning Policy Framework (2021), which seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Residential Amenity

One comment has been received from residents regarding the size of the fence and its maintenance. It should be noted that this application does not seek to vary the height or location of the fence but the type of acoustic fence to be installed.

The Council's Environmental Protection team have commented that the noise modelling and mapping represent real world conditions at the application site. They noted that the report indicates an absorbent fence would have a very slight acoustic benefit, but this benefit is limited to a single small area. The data shows that when using a standard acoustic fence noise levels in all external amenity areas would be below the upper guideline noise limit of 55db LAeq, 16hr with the majority of gardens exposed to noise levels ≤ 50 dB LAeq, 16hr which represents a reasonable standard of amenity for these dwellings. The lower level is the preferred target, and it is noted that the majority of gardens would be near this lower level. In relation to concerns surrounding the variability of the commercial/industrial noise it is possible there could be noise sources on the estate that have not been present at their loudest during the survey periods, however the extended survey is longer than the vast majority of similar surveys, so would under any other circumstances be considered extensive and representative of a realistic worst case scenario. Overall they have concluded in their comments that taking into account the noise levels predicted, they do not consider that we could reasonably require the installation of acoustically absorbent fencing.

Conclusion :

After considering the submitted information and comments received it is concluded that the difference between using an absorbent acoustic fence and standard acoustic fence would be negligible and both would be below the upper guideline noise limit. Therefore, in this case the benefits associated with using an absorbent acoustic fence do not outweigh the benefits associated in using a standard acoustic fence. Due to this the proposed variation would not warrant a refusal based on impact on residential amenity from noise from the adjacent industrial units and a standard

acoustic fence will ensure an acceptable standard of amenity to future occupiers is still achieved.

A new decision is required to be issued taking into account the required change from this application, this now applies to condition 13 with other conditions being changed to take account of the previous applications which has resulted in conditions previously being discharged or altered.

Recommendation: - Vary condition – conditional consent

CONDITIONS

1. The materials and finishes to be used for the external elevations and roof of the proposal shall match those detailed in the submitted application form.
2. The development hereby permitted shall be carried out in accordance with the finished floor level details previously agreed in writing by the Local Planning Authority on 23/05/2022.
3. The development hereby permitted shall be carried out in accordance with the new road details previously agreed by the Local Planning Authority on 23/05/2022.
4. No dwelling forming part of the development hereby permitted shall be occupied until its associated access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
5. The site access shall be constructed and surfaced in a bound material in accordance with the Proposed Site Plan on drawing number 31468 539 03 revision H and no other part of the development shall be commenced until the access has been completed in accordance with those plans.
6. No part of the development hereby permitted shall be occupied until the parking and turning areas are provided in accordance with the approved plan 31468 539 03 revision H. The parking and turning areas shall not be used for any purpose other than parking, turning of vehicles.
7. The hereby approved development shall be carried out in accordance with the verification report previously agreed by the Local Planning Authority on 10/03/2023.
8. The hereby permitted development shall be carried out in accordance with the recommendations and enhancement measures outlined in Sections 5 and 6 of the submitted Ecological Impact Appraisal prepared by RammSanderson (dated October 2021).
9. The close boarded fencing, shown on drawing no.31468 539 11 Rev A, shall be installed with the provision of 'Hedgehog Highways' as recommended on

pages 43-44 of the Ecological Impact Appraisal prepared by RammSanderson (dated October 2021).

10. The hereby permitted development shall be carried out in accordance with the submitted Arboricultural Method Statement and Tree Removal Plan prepared by RammSanderson (dated October 2021).
11. The hereby permitted development shall be carried out in accordance with the submitted Construction Management Plan prepared by Lindum (received 22/10/21).
12. The hereby permitted development shall be carried out in accordance with the recommendations contained within Section 3 of the Japanese Knotweed Report prepared by Oliver Brown Ltd (dated January 2021).
13. No part of the development hereby permitted shall be occupied until the acoustic fencing, shown on approved plan 31468 539 11 Rev C has been installed. The acoustic fencing shall be retained for the lifetime of the development.
14. This permission shall be read in accordance with the following plans:
 - Site Location Plan, Drawing No. 31468 539 01 Rev C
 - Proposed Site Layout Plan, Drawing No. 31468 539 03 Rev H
 - Proposed Floor Plans and Elevations - Type A, Drawing No. 31468 539 04
 - Proposed Floor Plans and Elevations - Type B, Drawing No. 31468 539 05
 - Proposed Floor Plans and Elevations – Type C Drawing No. 31468 539 06
 - Proposed Landscape Plan, Drawing No. 2122-PL1-02 Rev B
 - Proposed Boundary Treatment Plan, Drawing No. 31468 539 11 Rev C
 - Proposed Drainage Strategy, Drawing No. 0410 Rev C4, received 26/10/2022

The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.

REASONS

1. To ensure the satisfactory appearance of the development.
2. To ensure the satisfactory appearance of the development, in the interests of residential amenity.
3. To ensure the development is constructed to adoptable standards.
4. To ensure surface water from the site is not deposited on the public highway causing dangers to road users.
5. To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general highway safety.
6. To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems

- in the area and to enable vehicles to enter and leave the site in a forward direction all in the interests of Highway Safety.
7. To ensure that contaminated land is properly treated and made safe and to safeguard the health and safety of the future occupants in accordance with NPPF, paragraph 178. This condition is necessary as a pre-commencement condition because is the absence of a robust remediation plan even the early stages of the development process (other than as specified) could result in the spread of contamination and a risk to public health.
 8. In the interests of local ecology
 9. In the interests of local ecology
 10. In the interests of visual amenity
 11. In order to minimise disturbance to surrounding properties.
 12. To prevent the spread of an invasive species, in the interests of local amenity.
 13. In the interests of residential amenity
 14. To ensure that the development takes the form envisaged by the Local Planning Authority.

INFORMATIVE

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. The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority, then the new roads/footways and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks.
 - i) 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 Highway Authority 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 Highway Authority as early as possible.
 - ii) It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which

compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (or District Council) in writing before any work commences on site.

- iii) Correspondence with the Highway Authority should be addressed to: -
Highways Development Control North,
Nottinghamshire County Council,
Welbeck House
Sherwood Energy Village
Ollerton
Nottinghamshire
NG22 9FF
(E) hdc.north@nottsc.gov.uk
3. The contractor must ensure compliance with current legislation on noise and dust control including the Environmental Protection Act 1990 and the Control of Pollution Act 1974. Relevant Codes of Practice set out procedures for dealing with the control of noise on construction and demolition sites are contained in BS5228: 2009 Noise and Vibration Control on Construction and Open Sites.
 4. In order to avoid impacts to nesting birds, 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.
 5. Midland Road is not presently subject to any traffic regulation orders. The inclusion of traffic regulation orders along the road should be investigated by the applicant/developer in consultation with local residents and business owners, and the County Council. Should traffic regulation orders be required, these should be provided at the applicant/developer's expense. Any traffic regulation orders should be sought before development commences.



Report To:	Planning Committee
Date:	14 June 2023
Heading:	PLANNING APPEAL DECISIONS
Executive Lead Member:	COUNCILLOR MATTHEW RELF, EXECUTIVE LEAD MEMBER FOR REGENERATION AND PLANNING
Ward/s:	ASHFIELDS, HUCKNALL WEST, LARWOOD, SUTTON CENTRAL AND NEW CROSS
Key Decision:	No
Subject to Call-In:	No

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

Detailed Information

Planning Application – Appeal Decisions

Ashfields

Planning Application	V/2021/0090
Site	Front of former Crystal Martin site, Kirkby Road Sutton in Ashfield
Proposal	Erection of a B8 unit with ancillary Trade Counter.
Appeal Decision	Appeal dismissed

The Inspector considered the proposal which turns its back on to Kirkby Road would appear as a prominent and discordant addition to the street scene which results in the loss of green space and mature trees. The

proposed development therefore conflicts with policy due to the harm to the character and appearance of the area.

Hucknall West

Planning Application V/2022/0598
Site 55 Beauvale Crescent, Hucknall
Proposal Erection of a two storey side extension
Appeal Decision Appeal dismissed

This Inspector agreed with the Council that the extension without any setback, any realistic subordination to the host property and the impact on the symmetry of the corner properties would create a visual design that would look awkward, incongruous and out of character in the street scene. He therefore dismissed the appeal. He did not however agree that it would harm the living conditions of the neighbouring properties or that restricted parking spaces did not fulfil the parking requirements.

Larwood

Planning Application V/2022/0630
Site 89 Sutton Road Kirkby in Ashfield
Proposal Erection of a two storey side and single storey rear extension and loft conversion and rendering to dwelling
Appeal Decision Appeal dismissed

The Inspector agreed with the Council that the design and materials used in the extension disassociates it from the original dwelling and gives it a dominant and incongruous appearance when viewed from the front. He therefore concluded that the proposal is contrary to the Council's guidance in the Residential Extensions Supplementary Planning Document and thus contrary to policy because it would detract from the prevailing character and visual amenity of the locality.

For information a subsequent application with an improved design and materials has been approved we are therefore currently awaiting commencement of works to ensure the development is carried out satisfactorily.

Sutton Central and New Cross

Planning Application V/2022/0654
Site 87 Outram street Sutton in Ashfield
Proposal Retain of sixth flat created within the roof space at second floor level.
Appeal Decision Appeal dismissed

The Inspector noted that the proposal included alterations to the roof and considered the resulting eaves and ridge height gives the rear extension a large bulk which has a dominating effect on the host property and the shape of the roof is dominating with an unbalanced form. He therefore concluded that the proposal causes harm to the character and appearance of the area and dismissed the appeal.

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:

Budget Area	Implication
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

Risk	Mitigation
N/A	N/A

Human Resources:

No implications

Environmental/Sustainability

None

Equalities:

None

Other Implications:

None

Reason(s) for Urgency

(if applicable) N/A

Reason(s) for Exemption

(if applicable) N/A

Background Papers

(if applicable) None

Report Author and Contact Officer

Mick Morley

Development Team Manager

01623 457538

m.morley@ashfield.gov.uk

Jaz Hundal

Interim Director Place and Communities