



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

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

APP REF V/2019/0449

APPLICANT EMH Group - Victoria Robb

PROPOSAL Residential Development of 22 Dwellings

LOCATION Land Off, Davies Avenue, Sutton In Ashfield

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

BACKGROUND PAPERS A B C D F K

App Registered 12/07/2019

Expiry Date 11/10/2019

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

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

The Application

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

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

Consultations

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

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

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

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

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

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

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

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

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

Nottinghamshire County Council Education -

Primary

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

Secondary

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

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

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

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

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

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

Policy

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

Ashfield LP Review 2002 – Saved Policies

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

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

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

Guidance

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

Relevant Planning History

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

Comment:

The Site

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

Main Considerations

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

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

The Principle of Development

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

Residential Amenity

Existing Residents

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

Edale Court

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

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

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

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

Haddon Street

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

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

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

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

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

Milldale Walk

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

Carsic Road and Davies Avenue

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

Other issues

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

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

Future Residents

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

Visual Amenity

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

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

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

Housing Density

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

Highways Safety

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

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

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

Ecology and Trees

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

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

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

Right of Way

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

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

Flooding

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

Other Issues

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

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

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

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

Developer Contributions and 'CIL' Compliance

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

Affordable Housing

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

Education

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

Public Open Space

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

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

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

Healthcare

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

Transport

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

Viability

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

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

Planning Balance and Conclusions.

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

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

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

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

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

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

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

CONDITIONS

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

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

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

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

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

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

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

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

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

REASONS

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

INFORMATIVES

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

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

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

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

For a Public Right of Way (footpath/bridleway)

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

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

9. Public Right of Way Information:

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

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

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

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

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

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

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

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

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

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

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