



**Ashfield**  
DISTRICT COUNCIL  
**MAP SCALE 1: 1250**  
**CREATED DATE: 07/07/2020**

<b><u>COMMITTEE DATE</u></b>	<b>21/10/2020</b>	<b><u>WARD</u></b>	<b>Summit</b>
<b><u>APP REF</u></b>	<b>V/2019/0756</b>		
<b><u>APPLICANT</u></b>	<b>T Broster – Peveril Homes Limited</b>		
<b><u>PROPOSAL</u></b>	<b>54 Dwellings and Associated Highways, Drainage and Landscaping Infrastructure</b>		
<b><u>LOCATION</u></b>	<b>Land off Millers Way, Kirkby in Ashfield, Nottingham, NG17 8RF</b>		
<b><u>WEB LINK</u></b>	<a href="https://www.google.co.uk/maps/place/Millers+Way,+Kirkby+in+Ashfield,+Nottingham/@53.1020321,-1.2524141,17z/data=!4m5!3m4!1s0x487995b42552a697:0xd44dcee18ebd28f7!8m2!3d53.1004282!4d-1.2521888">https://www.google.co.uk/maps/place/Millers+Way,+Kirkby+in+Ashfield,+Nottingham/@53.1020321,-1.2524141,17z/data=!4m5!3m4!1s0x487995b42552a697:0xd44dcee18ebd28f7!8m2!3d53.1004282!4d-1.2521888</a>		

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

**App Registered 26/11/2019**

**Expiry Date 25/02/2020**

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

***This application has been referred to Planning Committee due to a potential conflict with the development plan.***

***Councillors Zadrozny, Baird, Madden and Nuthall have all shown an interest in the application.***

**The Application**

This is a full application for 54 dwellings, associated highways, drainage and landscaping infrastructure. The proposed mix of properties is as follows:

- 1 bed duplex apartment x 8
- 2 bed semi/detached x 12
- 3 bed semi/detached x 34

The application site is flat, measures 1.4 hectares, and is located at the end of Millers Way, Kirkby in Ashfield. It is located in close proximity to Kirkby railway station and town centre. To the north of the site is a former colliery spoil heap, which has now greened over. To the west the Robin Hood line sits at a lower level. Whilst to the east and south respectively is the Ashfield Health and Wellbeing Centre and the existing residential dwellings.

The site was last in use as a football pitch, by Beaufort United FC, with portacabin changing rooms and a small parking area. The pitch is privately owned, but has been maintained by the Council for a number of years.

### **Consultations**

A press notice and site notices have been posted together with individual notification of surrounding residents.

During the processing of the application the number of dwellings was reduced from 59 to 54. This alteration was required to ensure the proposed dwellings meet the Councils minimum floor space requirements. It was considered unnecessary to re-consult all consultees on the basis of the changes. Any contribution requests made by consultees have been appropriated accordingly and these are detailed later in the report. Below is a summary of responses received:

**A.D.C Conservation Officer** - The locally listed heritage asset Kirkby in Ashfield and Selston Railway Line (Ref: 112) does not meet the criteria to be considered as a non-designated heritage asset at this location. The proposed development will therefore not result in any loss of significance. The willingness of the developer to provide some form of interpretation relating to the sites history is more than adequate mitigation in this instance.

**A.D.C Environmental Protection (Land Contamination)** - The submitted Phase 1 Deskstudy and Phase 2 Ground Investigation Reports have demonstrated that the site is currently suitable for use, with no remedial works necessary for building works to commence. Radon protection measures for the dwellings are, however, necessary.

**A.D.C Environmental Protection (Air)** – Originally requested a condition for an Air Quality Assessment to be submitted, however conditions to control dust during construction and the provision of electric charging points are considered to be satisfactory.

**A.D.C Environmental Protection (Noise)** – Based on the Noise and Vibrations Impact Assessment no objections are raised. However, a condition should be applied for a dust, noise and odour management scheme to be submitted along with limits on working hours.

**A.D.C Housing** – Provision should be made for Affordable Private Rent dwellings in line with the NPPF requirements.

### **A.D.C Planning Policy -**

- Ashfield District Council cannot demonstrate a 5-year land supply (2.67 years) and as such the application will need to be considered against the provisions of the NPPF paragraph 11.

- The proposal will need to be considered against Policies ST1 and ST2 of the Ashfield Local Plan Review (2002).
- Under the ALPR Policy RC3, site RC3KI the application site is identified as part of an area of Formal Open Space. Under this Policy, development will only be permitted under specific circumstances.
- Open spaces and recreation buildings are also protected under paragraph 92 of the NPPF.
- A local listed asset Kirkby in Ashfield and Selston Railway Line (Site Ref: 112 Railway line) is located within the site (eastern boundary area).
- A Tree Preservation Order (Ref 117 - Ash Tree) is identified on the boundary of the application site.
- Land to the north of the site form deciduous woodland, which is identified under the Natural Environment & Rural Community Act 2006, Section 41 as a Priority Habitat.
- The adjacent site is also subject to a Section 106 Agreement date 9<sup>th</sup> April 2013 in relation to planning permission V/2013/0006. This relates to the translocation of the Dingy Skipper from the employment allocation of Welshcroft Close site.
- Comments were also provided in respect of the relevant local and national planning policies which govern: Housing (density, mix, affordable), Highways, Infrastructure and Flooding.

**A.D.C Places and Localities** – A detailed landscape plan should be provided, along with details of boundary treatments and protection measures for any retained trees/hedgerows. This includes the hedgerows along the south and south eastern boundary. The parking layout for dwellings 8 and 9 should be reviewed and the pedestrian access to the woodland should be a chicane entrance.

Section 106 contribution should be secured toward public open space improvements at Kingsway Park, which includes maintenance for 15 years. This payment would be used to offset the loss of open space caused by the development.

**Natural England** – No comments.

**Nottinghamshire County Council [NCC]** - The County Councils comments set out the policy position in respect of Waste, Minerals, Transport and Education. The county planning context is set out below:

**NCC Minerals** – The site lies within the Mineral Safeguarding and Consultation Area for limestone in the emerging Minerals Local Plan (July 2019). However, considering the proposal is within an urban area, the County Council do not consider the development to be inappropriate in this location. Although, it must be demonstrated there is a sound argument of the need for non-mineral development and that the practicality of prior extraction has been fully considered.

**NCC Waste** – There are no existing waste sites in the vicinity, which the development could sterilise. It would be useful if the application was supported by a waste audit.

**NCC Strategic Transport** – No specific observations to make, although every significant development in the district should provide strategic transport infrastructure improvements.

#### **NCC Transport and Travel -**

- The closest bus stop is approx. 420m from the centre of the site on Urban Road. This is slightly in excess of the Council's Highways Design guide, but is considered to be acceptable considering the frequency of services serving the closest stops.
- The frequency of services, serving key destinations, means that a contribution is not required towards local bus service provision.
- A bus stop service infrastructure contribution is required for improvements at two bus stops (Council Offices). This will include the installation of a replacement bus shelter and solar lighting.

**NCC Rights of Way** – There are no public rights of way affected by the development. There are two informal existing paths joining the northern boundary; however, these will not be taken on as public rights of way.

**NCC Libraries** – A contribution is required for additional stock at the Kirkby Library.

**NCC Education** - Based on current data there is projected to be sufficient capacity to accommodate the additional primary and secondary school aged pupils projected to arise from the proposed development. As a result, the County Council will not be seeking any primary, or secondary education, contributions to mitigate the impact of this development.

**NCC Highways Authority** – Whilst there are some areas of contention with the Transport Assessment, they are in agreement with the overall conclusion that the development will not have a significant or unacceptable impact on capacity or road safety on the existing network. The amount of dwellings served off a singular point of access, does not exceed the relevant guidance in the Nottinghamshire Design Guide. Though, the extension of Millers Way will require speed attenuation features with a maximum spacing of 60m.

In terms of the internal layout suitably sized parking spaces are provided, although conditions are required to stop residents erecting fences that could affect their usage. Conditions are also required to ensure the spaces are hard surfaced and adequate drainage is provided

**NCC Local Lead Flood Authority** – No objections, subject to condition requiring a drainage scheme to be submitted, which is based on the principles in the submitted Flood Risk Assessment and Drainage Strategy.

**NCC Archaeology** - No comments provided for the application.

**North Nottinghamshire Health Authority** – All practices in the area are working at capacity and therefore in order to make the development acceptable a contribution is required to accommodate the increased population. This will be used for investment in enhancing capacity/infrastructure within existing local practices.

**Network Rail** – Recommend that details of drainage, boundary fencing, working method statements, soundproofing, lighting and landscaping are subject to conditions for the safety, operational needs and integrity of the railway. Informative notes should also be attached to the decision notice, making the applicant aware of various matters to ensure the safe operation of the railway.

**Nottinghamshire Wildlife Trust** – Concerns were raised about the Phase 1 habitat surveys been undertaken just outside the optimum survey season and that the Reptile Survey and Preliminary Ecological appraisal states these are only valid for 12 months, which has now recently passed.

However, after speaking with the applicants ecologist, NWT are happy that on the basis the management of the site has not changed since the 2019 surveys, there would be no requirement for these to be updated. This is because as the management of the grassland habitat remains unchanged, it is considered likely that the baseline ecological value of the site remains as was recorded during the original surveys.

Additional guidance and comments are also provided in respect of birds, badgers, bats, hedgehogs, reptiles, habitats and the ecological enhancement scheme for the Dinghy Skipper.

**Sports England** – No objections. The application will result in the loss of an existing playing field located at the northern end of Millers Way. However, the proposal will meet exception 1 of the Playing Fields Policy, which sets out that an assessment has shown that the field is surplus to requirements.

**Severn Trent** – Recommend a condition is applied requiring the applicant to submit details of foul and surface water drainage. Also request that an informative note is added to the decision notice, advising the applicant of the public sewer located within the site.

**Councillor R Madden** – There were considerable concerns about the adjacent development given the unusual geology and ecology. A survey should be carried out

and Notts Wildlife Trust/NCC Biodiversity consulted. Also, the land is thought to be the source of the Erewash system.

*Officer Note: All of these issues are addressed within the body of the report.*

## **Local Community**

### **(1<sup>st</sup> Round of Consultation)**

38 letters/emails were received from 28 individual households/residents. The contents of these are summarised below:

#### Highways Safety Issues

- The proposal and the extra vehicles it will lead to will exacerbate traffic and parking problems in the area, putting children, the elderly, and disabled people at risk.
- The adjacent road network and junction off Millers Way is already heavily congested by people using the Aldi, train station and the social club.
- Tight space for emergency vehicle access and concerns over the entrance to be used during building works.

#### Residential Amenity

- Invasion of privacy due to the overlooking aspect of the three storey properties.
- Noise impact on residents, including people using Ashfield Hospital.
- Noise, dirt and disruption during building works, particularly for those who work from home or work shifts.
- Children currently play out due to the quiet nature of the area and there being no through roads, this will stop them being able to do so.
- Extra noise to the area once the properties are erected will ruin the quiet and peaceful location.

#### Green Space

- Loss of green space, which are already scarce in Kirkby in Ashfield
- Displacement of children who use the green space for sports and the local football club.
- Loss of green space for dog walkers, children and the public in general.

#### Environment and Wildlife

- Wildlife, vegetation, grassland and other natural surrounding being displaced, uprooted & destroyed.
- Rare species of moth inhabits the area.
- Concerns if relevant surveys have been carried out as birds of prey, squirrels and foxes inhabit the area.
- Calcareous native grassland on the field.
- Pollution caused by extra traffic.

#### Other Issues

- Public footpath runs along the side of the site.

- Infrastructure. Extra demands upon utilities, health, education, community and other services.
- Impact on value of properties in surrounding area.
- New properties already being built in the local area and properties standing empty, which could be redeveloped.
- Application submitted at Christmas reducing opportunities for residents to respond and at the time of General Election when correspondence easily overlooked due to the volume of political material being posted.
- Lack of consultation with residents.

### **(2<sup>nd</sup> Round of Consultation)**

Another re-consultation was undertaken with residents, as the layout was altered to include a 3m wide cycle/footway. The proposed development remained substantially the same; however some of the built form was brought slightly closer to dwellings off Millers Way. Accordingly, it was felt appropriate to send out additional letters. A total of four additional letters were received from three separate households. The issues raised remained the same; although one resident pointed out that the green space was even more important in light of Covid-19.

### **(3<sup>rd</sup> Round of Consultation)**

As the development was reduced from 59 to 54 dwellings, it was considered appropriate to keep local residents informed, given the interest received in the first round of consultation. A total of two responses were received from two separate households. No new issues were raised.

### **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 2002 as amended by "saved policies" 2007. (ALPR)**

The following ALPR 'saved' policies are considered to be relevant to the application:-

- Policy ST1: Development.
- Policy ST2: Main Urban Areas.
- Policy EV6: Local Nature Reserves and Sites of Importance for Nature Conservation and Geological Significance (Now known as Local Wildlife Sites).
- Policy EV8: Trees and woodlands.
- Policy HG3: Housing density.
- Policy HG4: Affordable Housing.
- Policy HG5: New residential development.
- Policy HG6: Open space in residential developments.
- Policy TR2 Cycling provision in new developments.



- Policy TR3 Pedestrians and People with limited mobility.
- Policy TR6 Developer contributions to transport improvements.
- Policy RC3: Formal Open Space.

There is no neighbourhood plan relating to the area in question.

### **Material considerations**

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

- Para 11 Sustainable Development.
- Part 5: Delivering a sufficient supply of homes.
- Part 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.
- Part 16: Conserving and enhancing the historic environment.

The NPPF at para. 3 identifies that the NPPF should be read as a whole including its footnotes and annexes.

### Other Documents

- Residential Design Guide SPD 2014
- Residential Car Parking Standards 2014
- National Design Guide
- Nottinghamshire Highways Design Guide

### **Relevant Planning History**

- **V/1999/0732** – Site for residential development. Outline Permission - 08/06/2000
- **V/2001/0287** – Residential Development of 43 houses and 24 flats. Reserved Matter Consent. 19/07/2001.
- **V/2002/0892** – Removal of condition 9 of planning permission 2001/0287 – requiring on site provision of affordable housing. Consent. 02/12/2002.

## **Comment :**

The main issues in the determination of this application are as follows:

1. Background and Context
2. Principle of Development - Loss of Formal Open Space
3. Layout, Appearance and Design,
4. Impact upon Residential Amenity,
5. Housing Density and Mix
6. Ecology and Trees,
7. Drainage and Flooding,
8. Highways,
9. Developer Contributions,
10. Other Issues,
11. The Planning Balance,

### **1. Background and Context**

The requirement for this football pitch arose from a planning condition attached to the Outline Permission for the adjacent residential development to the south (Ref V/1999/0287). There was no Section 106 Agreement attached to the Outline and the condition did not require the land to be transferred to the Council, simply that a replacement pitch was provided.

It appears there was engagement between the Councils Leisure Services and Peveril Homes, but there is no record that any agreement was entered into to transfer the land. There is also no obligation requiring the land owner to do so. The pitch is therefore still in private ownership, albeit it has been maintained by the Council for a number of years.

The planning file for the reserved matters application of the adjacent land (V/2001/0287) sets out that 'all conditions relating to the development have been complied with and as such can be discharged.' Therefore, there are currently no outstanding planning issues relating to the adjacent development.

### **2. Principle of Development - Loss of Formal Open Space**

The Council cannot currently demonstrate a 5 year housing land supply (2.53 years) and as a result, the tilted balance under paragraph 11 of the NPPF is engaged. This is a case where planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

The development plan is the starting point for decision making and the presumption in favour of sustainable development does not change the statutory status of the plan. The NPPF stresses, in paragraph 213, that due weight should be attached to development plan policies dependent upon their alignment with the NPPF.

Consequently, while the tilted balance means that the decision-maker should be disposed to grant the application unless the presumption can be displaced. It still requires matters on either side of the balance to be identified and given appropriate weight in determining the application. For the ALPR, the weight to be given to policies in the plan will depend on their degree of consistency with the policies of the NPPF.

The application needs to be considered against Policy ST1, which is a general criteria based policy for development in the district. This includes, amongst other things, that development must not conflict with other policies in the local plan. The application site falls within the main urban area as defined by Policy ST2, which sets out where development should be concentrated.

Under the ALPR Policy RC3 (KI) the application site is identified as part of an area of Formal Open Space. Policy RC3 seeks to protect the loss of formal open space and is clear that development will only be permitted under specific circumstances. This includes:

- Adequate replacement provision of new formal open space is provided in the locality;
- It is proposed to make significant improvements to the overall quality of recreation provision.

Similarly, the NPPF in Part 8: 'Promoting healthy and safe communities' places substantial emphasis on supporting healthy lifestyles. This requires that planning decisions should guard against the unnecessary loss of value facilities and services. (Para 92 c)). The NPPF, in paragraph 97, identifies that existing open spaces and recreational buildings and land should not be built on unless it meets three criteria, this includes:

- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

In this context, it is considered that ALPR Policy RC3 is generally consistent with the NPPF paragraph 97. Although, the NPPF also includes the allowance for undertaking an assessment, which shows that the open space is surplus to requirements.

Until recently, Beaufort United FC used the pitch. Prior to submission of the application, the applicant held discussions with Beaufort, resulting in their relocation to the Polly Bowls Sports Club on Unwin Road, which is also owed by the applicant and allocated as formal open space under Policy RC3.

Ashfield Rugby Club used the sports pitch, adjacent to the Bowls facility, however, the Rugby Club has already relocated to a purposely built facility. Consequently, the pitch was available and Beaufort indicated a desire to move from Millers Way because the new location provides them with improved facilities.

As suggested by Sports England, the applicant has undertaken a pitch assessment of the Polly Bowls site, which recommends improvements to the playing surface. These improvements are to be undertaken. The applicant is also providing a contribution of £162,000 towards improvements on Kingsway Park, as well as a contribution of £54,000 towards the new leisure centre for Kirkby-in-Ashfield.

Two of the exception requirements of Policy RC3 are that adequate replacement provision is provided or significant improvements to provision. The sports pitch at the bowls club is an existing area of formal open space and therefore it would not amount to replacement provision. However, the applicant has worked to relocate Beaufort United, necessitating improvements to the playing surface at the Bowls Club. Separately, contributions are also being provided towards improvements on Kingsway Park and towards the new Leisure Centre. Accordingly, it is considered that the development would meet with the requirements of Policy RC3, as significant improvements would be provided.

It is also considered that the proposal meet with the NPPF paragraph 97, as an assessment has shown the site to be surplus to requirements. Specifically, Sports England have not objected to the application advising that an assessment has demonstrated there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted. The factors in Sports England's Assessment including the following:

#### Millers Way

- The Ashfield Playing Pitch Strategy 2017-2020 (PPS) advises that this site (referenced BRSA (Millers Way)) has the ability to accommodate a 9v9 pitch and a 7v7 pitch aerial photographs show that one pitch has been regularly marked.
- Overall, the Ashfield Playing Pitch Strategy (PPS) identifies that some adult pitches are available, but identifies need for junior pitches.
- The PPS advocates the consolidation of a number of single adult (Mainly council owned) to hub sites.
- The site has limited ancillary facilities, which are provided by a portacabin type structure.

- Car parking is limited and the site is susceptible to anti-social behaviour, dog fouling etc.
- The site is considered to be unsuitable as a new venue for cricket given the access issues and site boundaries being restricted.
- Whilst the site could accommodate a rugby pitch, the site is unlikely to be used for rugby as Ashfield Rugby Club have consolidated at the existing Swans site and the new Larwood Park site.
- Given the restricted nature of the site and the limited potential for a long term lease, the relevant governing bodies are unlikely to invest in ancillary facilities or pitch improvements.

### Unwin Road Polly Ground

- The PPS advises that once rugby has relocated to Larwood Park that the area is likely to revert to a football use.
- Beaufort United have already relocated to the Unwin Road site, providing them with a permanent home.
- There is a potential to retain the Rugby club floodlights for evening training.
- The Football Foundation advises on behalf of the Football Association, that the FF and Notts FA have met with Beaufort United FC at its new home on and begun discussing potential grant support.
- Polly Bowls Club confirm that they have been supported by Ashfield Rugby since 2010 and hope that Beaufort United will continue to help to sustain the continuation of the site.

In summary, it is considered that the proposed development would not be contrary to Policy RC3 as significant improvements are being provided to recreation facilities in the locality. It is also considered that, on the advice and assessment received from Sports England, the pitch is currently surplus to requirements and as such the application would be consistent with the provisions of NPPF paragraph 97.

### **3. Layout, Appearance and Design,**

The ALPR sets out policies on design in Policies ST1 and HG5. The policies within the development plan are supported by the provisions of the NPPF, particularly part 12, which places a key emphasis on good design. The Councils Residential Design Guide SPD (2014) also provides useful local context when assessing proposals. The application is supported by a Building For Life 12 Assessment, which provides a detailed analysis behind the design of the proposed development.

Firstly, the development will fundamentally alter the character of the existing greenfield site. However, the site is located within the main urban area and surrounded by development on three sides. The introduction of built form, at this location, would not give rise to any adverse landscape impacts.

The site will be developed as an extension to the existing housing scheme to the south, utilizing the highway access into a Y shaped layout with cul-de-sac arrangements to the west and east. New cycle and footpaths are to be provided, which link into the informal open space to the north of the site and out into the wider area of Kirkby. The proposed layout provides a good degree of connectivity.

Adequate separation distance is provided between proposed and existing dwellings. Consideration has also been given to how dwellings turn corners to provide a continuous street scene at key vantage points. The existing landscaping along the eastern boundary and south eastern corner is to be retained.

The scale and design of the dwellings are in keeping with adjacent dwellings in the vicinity. The use of materials will be subject to a planning condition, however it is envisioned these will be redbrick, to match properties immediately adjacent to the site.

Taking this all into account, it is considered that the layout, appearance, scale and design of the development is considered to be acceptable.

#### **4. Impact upon Residential Amenity**

Saved Policy HG5 of the Local Plan is a criteria based policy which seeks to ensure that new residential development is acceptable. This includes, inter alia, protecting the amenity of neighboring properties; minimising overlooking, provision of adequate amenity space and adequate boundary treatment. Policy HG5 is backed up by the Ashfield Residential Design Guide (SPD) 2014, which contains key requirements for garden, room sizes and separation distances.

The layout has been carefully designed to ensure that there will be no overlooking, overbearing or overshadowing to neighbouring dwellings, with the Councils minimum separation distances being achieved.

In terms of existing occupiers, the garden sizes across the development are acceptable and generally meet with the requirements of the SPD. Just one property fails to meet the garden standard. The application was also amended, with new house types being introduced that meet the Councils minimum floor space standard. Accordingly, the proposals will provide an acceptable standard of living for future residents.

## Noise

A number of residents have raised concerns about the impact of increased noise during construction. To alleviate this issue, it is recommended that a Construction Environment Management Plan is provided. This will take into account matters such as contractor parking, working/delivery hours, where the site compound will be positioned etc.

In terms of proposed residents, to the west of the site lies an existing railway line. The application is supported by a Noise Impact Assessment and both Network Rail and the Council's Environmental Health Team have been consulted. Neither of these have objected to the proposals on this basis. Indeed, it is common for housing to back onto railway lines and the proposed relationship, with rear gardens backing onto the boundary, is considered to be acceptable.

## **5. Housing Density and Mix**

The development provides the following mix of houses, which is considered to be acceptable in accordance with the Strategic Housing Market Assessment 2015:

- 1 bed duplex apartment x 8
- 2 bed semi/detached x 12
- 3 bed semi/detached x 34

Housing density requirements are set out in ALPR saved Policy HG3. In this location, the Policy requires a net minimum density of 40 dwellings per hectare (dph) reflecting that the site is within 400 metres of Kirkby-in-Ashfield Railway Station.

The net density of the site sits at 38 dwellings per-hectare, so therefore below the minimum required by the ALPR Policy. However, the application provides an acceptable mix of dwellings, which meet the Council's standards for floor area and parking. The shortfall is considered not to be significant as to withstand a reason for refusal, especially where a reduction in numbers came about following discussions with officers to increase the quality of the development.

## **6. Ecology and Trees**

The NPPF at paragraphs 170 (d), 171, 174 and 175 sets out protection for biodiversity. Policy EV6 of the Local Plan, amongst other matters, seeks to protect local nature reserves and sites of importance for nature conservation. Policy EV8 sets out protection for trees worthy of retention and states that where trees are lost, mitigation will be required. The application is supported by a Preliminary Ecology Appraisal.

A Tree Preservation Order (Ref 117 - Ash Tree) is identified adjacent to the boundary of the site. There is no building shown within the root protection area of

the tree and a planning condition will be applied to secure it is appropriately protected during construction.

### Designated Sites

The Kirkby Grives SSSI and Portland Park LNR are located 660 m and 1.04 km respectively to the south of the application site. However, given the nature of the development, surrounding land use and distances between the application site and these sites, it is not considered that the development will impact these sites.

This site is not subject to any specific ecological designation. Though, the land to the north of the site forms deciduous woodland, which is identified under the Natural Environment & Rural Community Act 2006, Section 41 as a Priority Habitat. Some of the canopy over hanging the site will be trimmed; though the Construction Environment Management Plan will seek to ensure any disturbance to this area, in ecological terms, is minimised.

### Habitats

The dominant habitat within the site is intensively managed amenity grassland. Other habitats/features within the site included a porta cabin, boundary hedgerows and trees, scrub habitat and an area of compacted hardstanding. Species diversity within the grassland habitat around the edges of the site was greater due to the less intensive management regime.

Specifically, it is noted that boundary vegetation and some of the hedgerow along the southern boundary will be removed to facilitate the provision of the housing. This is identified as being of ecological value and potential importance to protected species, as noted by NWT. It is also noted that Hedgerows are identified as important under Section 41 of the NERC Act. Conditions will, however, be used to protect the hedge along the south eastern boundary, where practical, and the landscape strategy will also look to include native species, with additional hedging and tree planting. This will also include a significant area of wildflower planting to the north of the site and creation of a butterfly bank.

### Species

#### *Bats*

Bats are fully protected through The Conservation of Habitats and Species Regulations 2010 as European Protected Species (EPS). Furthermore, it is an offence to damage or destroy a breeding site or resting place of a bat. The site does not contain any suitable roosting for bats. Although, some areas of the vegetation, especially by the woodland and hedgerows, maybe suitable for foraging. Artificial bat boxes will be installed and a sensitive artificial lighting strategy will be devised, in



accordance with the Bat Conservation Trust guidance. Nottinghamshire Wildlife Trust are in agreement with the ecologists recommendations for bats.

### *Hedgehog*

Hedgehogs are protected by law under Schedule 6 of the Wildlife and Countryside Act 1981, making it illegal to kill or capture them and they're listed as a Species of Principle Importance in England under the Natural Environment and Rural Communities (NERC) Act 2006 Section 41. Nottinghamshire Wildlife Trust (NWT) have made additional recommendations for Hedgehogs in the form of holes within garden fences and suitable refugia within the site.

### *Reptiles*

The Preliminary Ecological Appraisal recommended that reptile surveys should be carried out. A total of seven survey were undertaken between 31<sup>st</sup> May and 24<sup>th</sup> June 2019, with no evidence of reptiles found on the site. However, as records indicate grass snake in the area and with potential habitat on the site, construction works will need to be completed in accordance with best practice guidelines.

NWT have also advised that a Reasonable Avoidance Measures Statement (RAMS) is produced for the site and should outline a methodology to prevent any harm to reptiles e.g. vegetational checks, directional strimming. This will be conditioned as part of the Construction Environment Management Plan (CEMP) for the site.

### *Badger*

The site itself was identified as being sub optimal for badgers however the surrounding habitat is considered to be suitable for badger activity (i.e. woodland to the north and railway embankments to the west). NWT have, however, pointed out that badgers are highly mobile and can easily colonise new areas. For this reason, NWT would recommend pre-commencements checks immediately prior to works for any new setts that may have arisen (within a 30m radius of the site) between the time of the original survey and start of construction work.

### *Dinghy Skipper*

The adjacent site is subject to a Section 106 Agreement date 9<sup>th</sup> April 2013 in relation to planning permission V/2013/0006. This relates to the translocation of the Dingy Skipper from the employment allocation of Welshcroft Close site. A Construction Environment Management Plan, will ensure this area is appropriately protected during construction.

The applicant also owns a section of land at the north west edge of the site, which extends upwards. An Ecological Enhancement scheme for the Dingy Skipper has been prepared by the applicants ecologist and landscape architect. This will provide for a Butterfly Earth bank, together with meadow seeded grassland.

NWT have advised that to make a fully comprehensive assessment of this scheme we would again require further information including the exact location, detailed planting scheme and further details regarding the management of this area. These matters are subject to a planning condition, requiring the submission of a Landscape and Ecological Management Plan (LEMP).

### *Other*

The Ecological report identifies the site is highly unlikely to contain great crested newts and that there is no suitable habitat for Water Vole. Artificial bird boxes are however recommended along with standard mitigation measures to protect wildlife during the construction phase.

The condition recommended for a Landscape and Ecological Management Plan (LEMP) will ensure that the recommendations within the Ecological Surveys are carried out and that appropriate planting is provided within the development.

## **7. Drainage and Flooding**

A site specific Flood Risk Assessment (FRA) and Drainage Strategy have been submitted with the application. This identifies that the site is located within Flood Zone 1 and so is considered to have the lowest risk of flooding from rivers. The report looks at all other sources of flood risk, including: groundwater, sewer overflow and land drainage and considers the risk to be low.

The FRA notes that the sites drainage strategy will restrict surface water to a maximum of 5l/s, which is consistent with greenfield runoff rates. The Local Lead Flood Authority and Severn Trent have both been consulted on the application, neither have raised an objection, but request that a condition is imposed requiring details of the final drainage strategy to be submitted. Subject to a condition requiring a suitable drainage plan to be submitted, there are no concerns surrounding flood risk at this site.

Severn Trent Water have advised 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 require consent to build close to, or over. The applicant has shown the line of the sewer on the layout plan, with a note that an easement reduction is required. Severn Trent have been consulted on the application, which clearly shows a reduction in the easement being proposed, however they have not objected on this basis. Simply, advising that an informative note be included on the decision notice. It will be incumbent on the applicant to resolve this with Severn Trent.

## **8. Highways**

Saved ALPR Policy HG5 seeks to protect amenity and safety in respect of access for vehicles, pedestrians and cyclists is safe, convenient and integrated with existing provision. The scheme should also be consistent with the Residential Car Parking SPD (2014).

The application proposes the creation of a new access from the end of Millers Way. The site then splits into a Y shaped layout with cul-de-sac arrangements. The existing 3m cycle path along Millers Way will be continued up through the site and into the woodland to the rear. This enhances the sustainability of the site and ensure potential future links are catered for.

The applicant has submitted a Transport Assessment, which models the capacity of the existing road network and the impact of traffic from the proposed development. Whilst the Highways Authority do have some areas of contention with the Assessment, they are in agreement with the overall conclusion that the development will not have a significant or unacceptable impact on capacity, or road safety on the existing network. On the basis of this, it is considered that the development will not have a detrimental impact upon the existing highway network.

The car parking for each dwelling would be provided in accordance with the Councils Car Parking SPD. Acceptable pedestrian visibility details have also been shown to private drives and adjacent to boundaries.

It is therefore considered that the application is acceptable in highways safety terms and would not have an adverse impact on the area or surrounding road network. A refusal on the basis of Highways impact would be very difficult to sustain on this application.

## **9. Developer Contributions**

The requirements of CIL Regulation 122 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. An assessment of the requested contributions against these tests are set out below:

- Public Open Space for Kingsway Park - £162,000 and Leisure Facilities £54,000.

The application site is currently designated as Formal Open Space under policy RC3 within the Local Plan. Whilst the application may deal with relocating Beaufort United to Polly Bowls Club site; the development still results in the loss of formal open space.

Policy HG6 of the ALPR sets out that residential development will only be permitted where open space is provided to meet certain requirements. Where it is not appropriate to provide open space within a site boundary, a planning obligation will be negotiated.

A contribution of £162,000 is sought towards improvements at Kingsway Park. This is worked out on the basis of £3,000 per dwelling. Which is reasonable in kind and scale to the development. It also includes maintenance (2.5% of £162k = £4,050 a year; £60,750 over 15 years). This is in accordance with the Councils playing pitch strategy, which sets out the Council is to provide better quality facilities on a smaller number of 'hub' sites.

The leisure centre is a £15.5m project which will provide facilities for the Kirkby area. £54k is sought, which is considered to be a reasonable contribution towards the new facility, which is close to the new development and likely to generate an increased usage.

The contributions are directly related to the development, necessary to make the development acceptable in planning terms. They also fairly related in scale and kind and therefore meets the necessary tests.

- Healthcare - £29,261.25.

The CCG has provided its standard formula for the cost of extensions as identified by a quantity surveyor experienced in health care projects, which equates to a total contribution of £29,261.25 on the basis of 54 dwellings. This formula has been devised by a suitably qualified expert and is therefore fairly and reasonably related in scale and kind to the development. The proposal would generate a requirement for healthcare provision for residents and is therefore directly related. This contribution therefore satisfies the necessary tests.

- Libraries - £1,899.68

The nearest existing library to the proposed development is Kirkby in Ashfield Library. The Museums, Libraries and Archives Council (MLA) recommends a standard stock figure of 1,532 items per 1,000 population. NCC have provided evidence to show Kirkby Library is currently below the MLA optimum stock level and so a developer contribution is sought to ensure current stock levels are not put under further pressure as a result of the new development.

A developer contribution for the additional stock that would be required to meet the needs of the 124 population that would be occupying the new dwellings. This is costed at  $124 \text{ (population)} \times 1.532 \text{ (items)} \times £10.00 \text{ (cost per item)} = £1,899.68$ . This contribution is directly related, necessary and reasonable in kind and scale. It therefore meets the CIL tests.

- Bus Stop Infrastructure - £8,500

A Bus Stop Infrastructure contribution of £8,500 is required to provide improvements to the bus stop denoted as AS0316, Council Offices. This shall include installation of a replacement bus shelter and solar lighting. Nottinghamshire County Council seek to achieve the standard for bus stop facilities as set out in their response to the application.

The improvements are at the nearest bus stops which are situated adjacent to the site, so are relevant to the development, precisely specified, and fairly and reasonably related in scale and kind. The contribution therefore meet the statutory tests.

- Highways - £54,000

Policy TR6 sets out that where a development places additional demands on transport infrastructure, planning obligations will be negotiated to allow a sum to be paid towards a number of improvements; including, inter alia, improvements to the cycling network, pedestrian improvements, rail facilities etc. The contribution will be used towards improvements in the immediate vicinity and is therefore directly related. The quantum proposed of £54,000 is also reasonable in kind and scale. The contribution therefore meet the statutory tests.

- 10% - Affordable Housing

The NPPF paragraph 64 sets out that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership.

## **10. Other Issues**

### *Air Quality*

The Councils Environmental Health team originally requested that an Air Quality Assessment be conditioned. However, the development is for 59 dwellings, and located a short walking distance from the train station, town centre and bus services – meaning residents would not necessarily need to own cars here.

Conditions are to be recommended for the installation of electric charging ports and a Travel Plan to help reduce reliance on private transport. A Construction Environment Management Plan would also seek to ensure dust is appropriately controlled during construction. The Councils Environmental Health Officer is happy with the approach recommended.

### *Source of the Erewash River*

A representation has been received from a local Councillor regarding the site being a potential source of the Erewash River. It is understood this arises from historic mapping in the area. This has been raised with the applicant who has undertaken a review of site investigation data and web-based research and can find no further evidence the River Erewash was historically located at this site. This includes assessment using the following sources:

- Phase I Geo-Environmental Assessment for Peveril Homes Ltd, Project No: GML19148/1/0, dated April 2019 (Geo-Matters Consulting Engineers).
- Phase II Geo-Environmental Investigation for Peveril Homes Ltd, Project No: GML19148/2/1, dated July 2019 (Geo-Matters Consulting Engineers).
- Summit Colliery Phase 2 Ecological Mitigation Progress Report, Ref: 496\_03\_R\_mw\_final.docx, dated 1 December 2014 (Baker Consultants).
- Environment Agency website
- British Geological Survey 1:50,000 Scale Mapping Sheet 112 Solid & Drift and associated memoir Geology of the Country around Chesterfield, Matlock & Mansfield.
- Ashfield District Council-Strategic Flood Risk Assessment, Level 1, dated February 2009.

### *Climate Change*

A condition is to be recommended for a sustainability statement to be submitted. This will be required to indicate what measures are proposed to reduce the schemes carbon footprint: from waste management to material choice and energy efficiency.

### *Heritage and Archaeology*

The constraint map identifies that locally listed asset Kirkby in Ashfield and Selston Railway Line (Ref: 112 Railway line) is located within the red-line of site (underneath the eastern boundary area). However, the Conservation Officer has noted that because virtually nothing remains of its physical presence, the area in question does not actually meet the criteria to be considered as a non-designated heritage asset. As such, the development will not result in the loss of any significance.

A condition is to be applied for some form of interpretation board to be provided adjacent to the footpath link. This proposed interpretation will go some way to reconnecting the community with this part of the town's economic and social history - providing a tangible public benefit.

The Conservation Officer suspects an archaeological watching brief would not be merited, however advises that the County archaeologist should be consulted. It is considered not to be prudent to include a condition for a watching brief based on the

consultation with the Historic Environment Record, historic mapping and the fact this brief would be complicated by potential contamination adjacent to the railway.

### *Minerals*

The site lies within the Mineral Safeguarding and Consultation Area for limestone in the emerging Minerals Local Plan (July 2019). However, considering the proposal is within an urban area, the County Council do not consider the development to be inappropriate in this location.

The applicant has argued that given the 5 year supply of deliverable sites, this indicates a clear need for non-minerals development. The site covers 1.4ha and is adjacent to the town centre. If mineral activities were undertaken, HGV traffic would have to pass through Millers Way. A cordon sanitaire would be required to protect neighbouring land uses, especially the live railway line to the west. It is considered that the site would not be suitable for mineral extraction.

### *Insufficient Infrastructure*

A number of comments have been made by local residents raising concerns about infrastructure provision for the development. As detailed above, the proposals will make contributions towards healthcare, libraries, public open space, the leisure centre and bus stops. These are considered necessary to offset the impacts of the development and will ensure the site served by the appropriate infrastructure. No objections have been received from any consultees on this basis.

### *Development of Greenfield*

A substantial area of brownfield land (33.22ha since 2001) has already been developed in the district for housing. However, the availability of brownfield land in the district falls far short of being able to accommodate the districts housing need, therefore it is inevitable that some greenfields will be required for development. The Council currently has a significant shortfall of housing supply and this weighs heavily for granting planning permission. The issue of developing on Formal Open Space has been addressed earlier in the report.

### *Insufficient Consultation*

Residents have raised concerns over the consultation process. However, this has been fully undertaken in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015 and Councils Statement of Community Involvement. This includes individual neighbouring residents, a site notice and press notice. Additional consultation was also undertaken with residents following a revision to the plans.

## **Planning Balance**

The proposal would result in the loss of an area of formal open space; however, the proposals are not considered to be contrary to Policy RC3. This is because significant improvements are being provided to recreation facilities in the locality - in the form of financial contributions towards Kingsway Park (162k), the new Leisure Centre in Kirkby (54k) and pitch improvements at the Bowls Club. It is also considered that, and based on the advice and assessment received from Sports England, the pitch is currently surplus to requirements.

The Council cannot currently demonstrate a 5-year housing land supply with a significant shortfall of 2.53 years. Accordingly, the titled balance is engaged. This is a case where planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

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, there would be benefit from the provision of 54 new homes, including 10% of these being affordable. The site is within a highly sustainable location - adjacent to the train station and town centre, with a good mix of housing being provided: including 1,2, and 3 bed homes. This carries significant weight in favour of granting planning permission.

In economic terms, construction works would create employment opportunities and the provision of housing would increase local spending, all of which would contribute towards the local economy. This is of moderate weight. The planning obligation proposes numerous other monetary contributions to off-set the effect of the development, but these would be essentially of neutral value since they would mitigate the effect.

In Environmental Terms, the application provides for ecological enhancements in the form of a meadow seeded grassland area and Butterfly bank to the north of the site. There would also be a landscape scheme secured and other standard measures such as bird and bat boxes. A 3m wide cycle way is also provided through the site, linking into the woodland at the rear, this enhances the sites overall sustainability. Finally, a condition is also proposed for the creation of an interpretation board adjacent to the footpath, which will provide details of the Kirkby in Ashfield and Selston Railway Line. These improvements carry modest weight in favour of granting permission.

The layout, appearance and scale of the development is considered to be acceptable. The impact upon highways safety, existing local residents amenity, flooding and landscape have all been assessed and considered acceptable.



Overall, the proposed development is considered to broadly accord with both the development plan and the NPPF. Accordingly, approval is recommended, subject to the conditions outlined below and relevant Section 106 contributions.

**Recommendation:** - Approve, subject to the conditions detailed below and a Section 106, which secures the following:

- **Public Open Space for Kingsway Park - £162,000**
- **Healthcare - £29,261.25.**
- **Bus Stop Infrastructure - £8,500**
- **Libraries - £1,899.68**
- **Leisure Facilities (leisure centre) - £54,000.**
- **Highways - £54,000**
- **10% - Affordable Housing.**

## 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:
  - Millers Way - Kirkby in Ashfield Location Plan 19-404-03 280819
  - Millers Way - Kirkby In Ashfield Planning Layout 19-404-02 F
  - Acresford Planning Drawing 19-404-100 14.09.20
  - Brassington Detached Planning Drawing 19-404-101 28.08.20
  - Brassington Semi-Detached Planning Drawing 19-404-102 28.08.20
  - Carsington Planning Drawing 19-404-103 28.08.20
  - Litton Elevations Planning Drawing 19-404-105 28.08.20
  - Litton Floor Plans Planning Drawing 19-404-104 24.08.20
  - Tissington Planning Drawing 19-404-106 28.08.20
  - Ecological Enhancement Scheme Dinghy Skipper Butterfly Drg No. GL123402.
3. No works above damp proof course shall take place until samples of the materials and finishes to be used for the external elevations and roof of the proposal have been submitted to and agreed in writing by the Local Planning Authority. The submitted detail shall also include the type, size, colour and positioning of meter reading boxes on the dwellings. The development shall thereafter be carried out in accordance with the approved detail.
4. No site clearance, preparatory work or development shall take place until a detailed Landscape and Ecological Management Plan (LEMP) has been submitted to and approved, in writing, by the Local Planning Authority. This shall be based on the recommendations set out within the following documents/plans:
  - Preliminary Ecological Appraisal by Quants dated May 2019.
  - Reptile Survey by Quants dated June 2019.
  - Ecological Enhancement Scheme Dinghy Skipper Butterfly Drg No. GL123402.

This shall include full details of all the sites soft landscaping and ecological management objectives, operations and maintenance prescriptions, together with their timings. The LEMP shall be carried out as approved and the site maintained thereafter in accordance with it.

5. No site clearance, preparatory work or development shall take place until a method statement detailing the protection of the retained hedgerow and the TPO Tree (Ref 117 - Ash Tree) on the south eastern boundary has been submitted to and approved in writing by the Local Planning Authority. The statement shall accord with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced).
  
6. Prior to commencement of development a detailed surface water drainage, scheme based on the principles set forward by the approved AB Civils Design Flood Risk Assessment (FRA) and Drainage Strategy ref AB-119 Dated November 2019 – as amended by Site layout 19-404-02 F - shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:
  - Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
  - Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm 5 l/s rates for the developable area.
  - Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA
  - Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
  - For all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.
  - Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
  - Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion for the lifetime of the development.
  
7. Prior to the commencement of development, details of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority.

8. Prior to the commencement of development, details of all the finished floor levels, surrounding ground levels and levels of existing dwellings shall be submitted to and agreed in writing by the Local Planning Authority. The dwellings shall thereafter be built in accordance with the agreed details.
9. Prior to the occupation of the first dwellinghouse, details shall be submitted showing the erection of an interpretation board/information plaque/way marker/ freestanding sculpture in the vicinity of the footpath and cycleway leading into the woodland. This shall contain relevant details about the Kirkby in Ashfield and Selston Railway Line non-designated heritage asset. The approved details shall thereafter be implemented and within an agreed time frame.
10. Notwithstanding the approved plans, no above ground works shall take place until full details of the following have been submitted to and approved in writing by the Local Planning Authority:
  - a) Details of the sites boundary treatments and individual plot boundaries;
  - b) Details of hard landscaping across the site;
  - c) Details of a chicane entrance to the woodland paths;
  - d) A lighting strategy;
  - e) Details of bin storage size, type and locations;
  - f) A plan showing the provision of electric charging points for the dwellings;

The approved details shall thereafter be implemented and within an agreed time frame.

11. No part of the development shall commence until full details of the new roads and any required changes to the existing highway for speed attenuation purposes have been submitted to and approved in writing by the LPA. This shall include road/footway/cycleway longitudinal and cross sectional gradients/levels, parking provision, turning facilities, access widths, visibility splays (including pedestrian, junction and forward visibilities), street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, TRO's/road markings, signage/street name plates, and any proposed structural works. All details submitted to the LPA shall comply with the County Council's current Highway Design & Parking Guides and shall be implemented as approved. Any visibility splays/sightlines shall be kept clear of any obstructions over 600 mm high for the life of the development.

12. Prior to the commencement of development, including any site preparation works, an Construction Environment Management Plan shall be submitted to and approved in writing by the Local Planning Authority, this should include:

- How construction traffic will access the site;
- Proposed hours and days of working;
- Protection measures for the woodland to the north of the site:
- A risk assessment for the railway line to the west;
- Details of any earthworks adjacent to the Network Rail boundary;
- Management of parking by persons involved in the construction of the development, including operatives & visitors;
- Proposed temporary traffic restrictions and arrangement for loading/unloading & turning of vehicles;
- Location of the site storage areas and compounds;
- The segregation of construction vehicle and pedestrian movements on site and the adjacent public highway;
  - Wheel wash facility to prevent the deposit of debris on the public highway, (periodic street sweeping & cleansing of the public highway will not be accepted as a proactive method to address this issue;
- A strategy for the minimisation of noise, odour, vibration and dust;
- Site contact detail in case of complaints;

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

13. Notwithstanding the provisions of the Town & Country Planning [General Permitted Development][England] Order 2015 [or any Order revoking and re-enacting that Order with or without modification] no development relating to; Schedule 2, Part 2, Class A – Erection of fences forward of the dwellinghouse, shall be undertaken without the prior written approval of the Local Planning Authority.

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

the provision of a travel information welcome pack to raise awareness in respect of sustainable transport modes.

15. No works above damp proof course shall take place until the applicant has submitted a sustainability statement. This shall include details of measures such as solar panels, rainwater collection, waste reduction, ground/air source heat pumps, construction materials and energy efficiency. All approved details shall thereafter be implemented within the scheme.
16. All pedestrian visibility splays from the private drives as shown on drawing numbered 19-404-02F shall be maintained free of all obstruction over 0.6 metres above the carriageway level at all times.
17. The footpaths and cycleway into the woodland to the north of the site, as shown on drawing numbered 19-404-02F, shall be provided prior to ending of construction and kept open for use in perpetuity.

#### 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 satisfactory appearance of the development.
4. In the interests of promoting biodiversity at the site.
5. To ensure the satisfactory protection of retained trees and hedgerows.
6. To ensure adequate means of surface water disposal.
7. To ensure adequate means of foul water disposal.
8. In the interests of visual and residential amenity.
9. In the interests of maintaining the significance of the sites non-designated heritage asset.
10. In the interests of visual and residential amenity.

11. In the interests of ensuring highways safety.
12. In the interests of protecting residential amenity.
13. In the interests of visual and residential amenity.
14. To promote sustainable travel.
15. To reduce the carbon footprint of the development.
16. In the interests of highways safety.
17. To ensure the footpath and cycleway links into the woodland are provided.

## **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. 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.

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.

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.

Correspondence with the HA should be addressed to [hdc.north@nottscc.gov.uk](mailto:hdc.north@nottscc.gov.uk).

Please note that 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 is sought by the developer and issued by NCC.

3. 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.
4. 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. If the applicant proposes to divert the sewer, the applicant will be required to make a formal application to the Company under Section 185 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our Developer Services Team (Tel: 0800 707 6600).
5. Network Rail

#### **Drainage**

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure.

#### **Fail Safe Use of Crane and Plant**

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a fail safe manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the



nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

### **Excavations/Earthworks**

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail.

Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken.

Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

### **Security of Mutual Boundary**

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rails Asset Protection Project Manager.

### **Fencing**

It should be noted that the NR fence should not be altered or moved in any way and nothing should be put in place to prevent them from maintaining our boundary fence as we are obliged to do so in law. We would advise that the developer should provide a trespass proof fence adjacent to Network Rails boundary (minimum 1.8m high) and make provision for its future maintenance and renewal. Network Rails existing fencing / wall must not be removed or damaged.

### **Method Statements/Fail Safe/Possessions**

The Method Statement will need to be agreed with Network Rail prior to construction, please see details below:

Asset Protection Project Manager  
Network Rail (London North Eastern)

Floor 3B  
George Stephenson House  
Toft Green  
York  
Y01 6JT

Email: assetprotectionlneem@networkrail.co.uk

The Protection Project Manager will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

### **ENCROACHMENT**

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicants land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (**s55 British Transport Commission Act 1949**). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

### **Trees/Shrubs/Landscaping**

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary.

#### **Acceptable:**

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaegus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata, Zebria

#### **Not Acceptable:**

Acer (Acer pseudoplatanus), Aspen – Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus)

Hippocastanum), Sweet Chestnut (*Castanea Sativa*), Ash (*Fraxinus excelsior*), Black poplar (*Populus nigra* var, *betulifolia*), Lombardy Poplar (*Populus nigra* var, *italica*), Large-leaved lime (*Tilia platyphyllos*), Common lime (*Tilia x europea*)

A comprehensive list of permitted tree species is available upon request.

### **Lighting**

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

### **Access to Railway**

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

