



**COMMITTEE DATE**    22/03/2023                      **WARD**            Larwood

**APP REF**                      V/2023/0035

**APPLICANT**                Mr Jason Zadrozny

**PROPOSAL**                Outline planning application with all matters reserved for 4 dwellings.

**LOCATION**                    74 Sutton Road, Kirkby in Ashfield, NG17 8GZ.

**WEB LINK**                    <https://www.google.com/maps/place/Sutton+Road+Kirkby+in+Ashfield,+12+Sutton+Rd,+Kirkby+in+Ashfield,+Nottingham+NG17+8GS/@53.1050675,-1.2687903,170m/data=!3m1!1e3!4m6!3m5!1s0x487994486e92680d:0x6d1b179a77c1efc0!8m2!3d53.1019228!4d-1.2690608!16s%2Fq%2F1dltt0q>

**BACKGROUND PAPERS**    A, B, C, F and K.

App Registered 23/01/2023                      Expiry Date 19/03/2023

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

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

**The Application:**

This is an outline planning application with all matters reserved for a proposed residential development for 4 dwellings at 74 Sutton Road, Kirkby in Ashfield. The existing dwelling on site would be demolished to facilitate the development.

Therefore the Council is only considering whether the principle of residential development is acceptable as part of this application. Matters relating to the scale, layout, design and landscaping of the proposed development would be subject to consideration as part of any future planning application submitted to the Council.

**Consultations:**

A site notice have been posted together with individual notifications to surrounding residents. The following responses have been received:

## **Resident comments:**

10 representations have been submitted, 8 objecting to the proposal and 2 supporting it, raising the following points:

### Object:

- Amenity:
  - Too close to boundary.
  - Loss of privacy.
  - Overshadowing.
  - Noise and disturbance.
  - Impact on amenity during construction.
- Highways:
  - Highway is already busy and congested, especially at rush hour.
  - Highway safety will be compromised.
    - Including pedestrians and cyclists.
  - Will create parking issues.
- Will set a precedent.
- Devalue property.
- Loss of outlook.
- Asbestos on site.
- Impact on trees and hedgerows.
- Will require access to third party land for construction – i.e. scaffolding placement.
- Restrict access for maintenance.
- Drains run along boundary line.
- Applicant owns other land.

### Support:

- Creates modern family homes in a sustainable urban area.
- Other houses across from the site have done the same.

- Properties on Sutton Road are all different.

**Local Lead Flood Authority:**

No bespoke comments to make. General informatives advised.

**Severn Trent Water:**

Condition and informative advised.

**Policy:**

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

**Ashfield Local Plan Review (ALPR) (2002):**

ST1 – Development.

ST2 – Main Urban Area.

EV8 – Trees and Woodland.

HG3 – Housing Density.

HG5 – New Residential Development.

**National Planning Policy Framework (NPPF) (2021):**

Para 11 – Sustainable Development.

Part 5 – Delivering a sufficient supply of homes.

Part 11 – Making effective use of land.

Part 12 – Achieving well designed places.

**Supplementary Planning Documents:**

Residential Design Guide (2014).

Residential Extensions Design Guide (2014).

Residential Car Parking Standards (2014).

### **Relevant Planning History:**

- V/2012/0161 - Demolition of Existing Dwelling, Replacement Dwelling with Detached Garage - FULCC.
- V/2018/0630 - Fence and Posts - FULCC.
- V/2022/0456 - Replacement dwelling and detached garage - FULCC.

### **Material Considerations:**

- Principle of Development.
- Amenity.
- Other.

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the plan, unless material considerations indicate otherwise. Therefore, the starting point for decision-making are the policies set out in the Ashfield Local Plan Review 2002 (saved policies).

The National Planning Policy Framework (NPPF) is a material consideration. The policies in the development plan have to be considered in relation to their degree of consistency with the provisions of the NPPF (NPPF paragraph 219). This will depend on the specific terms of the policies and of the corresponding parts of the NPPF when both are read in their full context. An overall judgement must be formed as to whether or not development plan policies, taken as a whole, are to be regarded as out of date for the purpose of the decision.

### **Principle of Development:**

Based on the latest housing monitoring report, as of 1st April 2022 and applying a 20% buffer, Ashfield District Council had a 2.26 year housing land supply. Despite a number of planning permissions being granted since 1st April, the five year housing land supply is anticipated to have risen but will still be significantly below the five year housing requirement.

Under these circumstances, NPPF paragraph 11(d) together with any relevant footnote will be engaged. This means that 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 this Framework taken as a whole.

In relation to the operation of the 'tilted balance', it is a matter for the decision-maker to decide how much weight should be given to the policies of the development plan. The 'triggering' of the tilted balance does not automatically lead to the grant of planning permission, but instead involves the balancing of competing interests, but with the tilt towards granting permission. Each planning application is assessed on its own merits.

The application site is located within the main urban area of Kirkby in Ashfield, where the principle of development is acceptable under Policy ST2 of the ALPR (2002).

The site is enclosed by other residential properties to the north, east, south and west. To the east is a strip of overgrown landscaping between the application site and the residential properties on Elder Street.

The character of the street scene is mixed with a variety of property types and plot formations visible. Properties within the vicinity generally front onto a highway, be it in a north-south or east-west delineation, although there is evidence in the immediate vicinity (directly to the west of the application site) where other properties display a comparable plot arrangement to the proposal with residential development to the rear of existing properties.

The details submitted with the application, such as a layout plan and elevation/floor plan drawings, have been submitted for indicative purposes only and illustrate only one possible way in which the site could potentially be developed.

### **Amenity:**

Concerns have been raised by residents throughout the consultation process regarding, amongst other things, the impact the development will have on amenity (overlooking, overshadowing, disturbance etc) and highway capacity/safety.

As part of this outline planning application with all matters reserved, the Council is only considering the principle of residential development on the application site. Matters relating to the scale, layout, design, access and landscaping of the proposed development would need to be considered as part of any future planning application(s) submitted to the Council.

Therefore the potential impact upon neighbours would be subject to consideration and assessment at a later date relating to possible impact on privacy, overshadowing, massing, overlooking etc. Additionally ensuring adequate visibility splays and parking standards etc can be achieved would also be subject to further consideration at a later date.

With regards to resident concerns about disruption caused during any construction work, it is recognised that some disruption could be experienced during the construction phase of any development, however this would be for a temporary period only and as such would not warrant a refusal of the application on this basis. However there would be an expectation that any works associated with the construction of the dwellings would follow good practice advise and legislation in relation to reasonable working

hours, dust control etc. Should problems of this nature arise these would need to be raised through the appropriate channels, such as via the Council's Environment Health team, to be investigated further.

**Other:**

Impact on property value and loss of a view are not material planning considerations. Similarly any access to third party land for any works and access for maintenance purposes are civil matters between the relevant parties to resolve.

It has been alleged that there may be asbestos present on site. If this is the case it would be the landowners/developers responsibility to ensure safe handling and disposal on any hazardous material which may be encountered on site. The potential presence of asbestos on site would not prevent any planning application from being determined.

None of the trees on site are protected by a Tree Preservation Order.

**Conclusion:**

The Council are presently unable to demonstrate a five year housing land supply, and as such, the presumption in favour of sustainable development applies unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The application site is located within the main urban area of Kirkby in Ashfield, where the principle of development is acceptable. The Council is only considering the principle of residential development as part of this outline planning application with all matters reserved. Therefore the potential impact upon neighbours would be subject to consideration and assessment at a later date

The scheme provides an opportunity to improve local ecology via the use of conditions to secure enhancement measures relating to new landscaping, provision of bird nesting boxes, bee bricks and hedgehog friendly fencing.

It is therefore recommended this application be granted planning permission, subject to the below conditions:

**Recommendation: Grant planning permission, subject to the below conditions:**

**CONDITIONS**

1. The formal approval of the Local Planning Authority shall be obtained prior to the commencement of any development with regard to the following Reserved Matters:
  - (a) Layout

- (b) Scale
- (c) Appearance
- (d) Access
- (e) Landscaping

2. An application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development to which this approval relates shall be begun not later than whichever is the later of the following dates:
  - (a) The expiration of 3 years from the date of the outline planning permission;
  - (b) The expiration of 2 years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
4. This permission shall be read in accordance with the following plans: Site Location Plan, Drawing No.512:OS:01, Received 20/01/2023. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
5. The Reserved Matters details for the site layout shall include details which incorporate a formal vehicle turning facility within the site boundary which can accommodate emergency vehicles such as a fire engine. Vehicle tracking plans should be submitted to illustrate this. The formal turning facility shall thereafter be implemented in accordance with the agreed details prior to the occupation of the dwellings and be maintained as such in perpetuity.
6. The Reserved Matters details for landscaping shall also detail the proposed treatment of the site's boundaries. Any garden fence/wall should be provided with a small hole (130mm x 130mm) to allow a continuous pathway in which hedgehogs and other small mammals can move through the developed residential site. The boundary treatments shall thereafter be implemented in accordance with the agreed details prior to the occupation of the dwellings and be maintained as such in perpetuity.
7. The Reserved Matters details for the dwellings shall include the provision of at least one Bee brick to be included in the design for each property, and this detail shall be provided in the constructed dwellings prior to their occupation.
8. The Reserved Matters details for the dwellings shall include the type and number of bird and bat boxes/bricks which are to be installed within/on the new dwellings or elsewhere within the site. The boxes/bricks shall thereafter be installed in accordance with the approved details and maintained in perpetuity.



9. Drainage details and plans for the disposal of surface water and foul sewage shall be submitted with the Reserved Matters application and shall be implemented in accordance with the approved details before the development is first brought in to use.
10. The Reserved Matters details for access shall include the provision of vehicle and pedestrian visibility splays on each side of the vehicle access. These measurements should be taken from and along the highway boundary. The area of land within these splays shall be maintained free from all obstruction over 0.6 meters above the carriageway level at all times.
11. The Reserved Matters details for the dwellings shall indicate the proposed finished floor level of all buildings, and the relationship of such to the existing dwellings/land. The development must not be brought in to use until these details have been agreed in writing by the Local Planning Authority, and the development shall be constructed in accordance with the agreed levels.

## **REASONS**

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
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4. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
5. In the interest of highway safety.
6. To ensure the satisfactory appearance of the completed development, an adequate level of amenity, and to enhance biodiversity.
7. In the interests of enhancing local ecology.
8. To reduce the impact of the development on habitats and species.
9. To ensure that the development provides a satisfactory means of drainage, in order to reduce the risk of creating; or exacerbating a flooding problem, and to minimise the risk of pollution.
10. In the interest of pedestrian safety.
11. To protect the amenity of the area.

## 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 development should not increase flood risk to existing properties or put the development at risk of flooding.
3. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
4. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
5. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.
6. Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.
7. Severn Trent Water advise that although their statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.