



Ashfield
DISTRICT COUNCIL
MAP SCALE 1: 2500
CREATED DATE: 06/10/2022

COMMITTEE DATE 22/03/2023 **WARD** Kirkby Cross and Portland

APP REF V/2020/0627

APPLICANT Nasims Ltd

PROPOSAL 38 No. New Dwellings with Associated Infrastructure,
Public Open Space and Landscaping

LOCATION Land off, Laburnum Avenue, Kirkby in Ashfield,
Nottingham

WEB LINK <https://www.google.com/maps/@53.0937198,-1.2703497,17.17z?entry=ttu>

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

App Registered: 24/09/2020

Expiry Date: 24/12/2020

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

This application was originally referred to Planning Committee by Councillor Williamson on the grounds of Highways Safety and was subsequently deferred at Planning Committee to seek amendments in respect of highways and layout.

SUPPLEMENTARY REPORT

The Application

This is an application which seeks full permission for the construction of 38 dwellings, with associated infrastructure, landscaping and public open space on site. The proposal includes the retention of a Traveller's site in the south-west corner.

The application was previously presented to the March Planning Committee, where members resolved to defer the application to allow Members to benefit from a site visit and for the applicant to submit revised plans to improve amenities for existing and future residents and to amend on-site car parking to improve highways safety.

Amendments to Planning Application

Further to the resolution to defer, the applicant has submitted three sets of amended drawings.

Amendment One (received 11th May):

The first submission showed the following amendments:

- A garage court behind plots 5 to 12 inclusive.
- Speed restriction humps either side of plots 17 and 18.
- Off-street car parking for plot 23 amended so that the tandem parking on the east side of the plot has been replaced by two parking spaces in front of the house.
- Plots 1 and 2 shown as a pair of semi-detached properties with a similar building line as the existing houses to the west and plots 3 and 4 also as a pair of semi-detached houses but significantly further forward than plots 1 and 2. The off-street car parking provision in front of these four plots had been increased from 8 to 9 spaces.

Amendment Two (received 5th June):

The second submission provided the following amendments:

- Plots 1 to 4 reduced to 3 plots with reduced off-street parking in front.
- An additional plot introduced next to plot 8 close to the corner of Laburnum Avenue and Mill Lane, creating a row of five terrace properties (plots 4-8). Plots 9-12 amended from two pairs of semi-detached dwellings to a row of four terraced properties.

Amendment Three (received 23rd June):

The third submission provides the following additional amendments:

- Omitted the terraced properties on the corner of Laburnum Avenue and Mill Lane and introduced four pairs of semi-detached properties with the parking court remaining to the rear.
- An additional plot has been added in the south-western corner, comprising of two pairs of semi-detached dwellings, and two sets of terraced houses, each comprising four dwellings.
- Off-street parking for plot 22 (previously plot 23), located forward of the dwelling off the neighbouring boundary fence.

Consultations

Amendment One:

One letter from the neighbour at 2, Laburnum Avenue has been received who objected to the first set of amended drawings because of the following:

- The plans show no change to the relationship between plot 4 and 2, Laburnum Avenue.
- There would still be an unacceptable impact of plot 4 affecting 2, Laburnum Avenue.
- An improvement to the layout would be to reduce the number of plots 1 to 4 to three plots which would move the plot nearest 2, Laburnum Avenue further away, reducing overlooking and overdominance.

The Highways Authority (HA) raised the following matters:

- The dimensions of the car parking court are such that this does not meet adoptable standards so will be a private drive reached by way of a cross-over at the entrance.
- The speed restriction facilities near the entrance need to be relocated.
- The new off-street parking layout in front of plots 1 to 4 is restricted resulting in difficult vehicle manoeuvres.
- The traffic calming measures close to the site access will need to be relocated because they clash with the access to plot 15.

Amendment Two:

A further letter from the neighbour at 2, Laburnum Avenue notes that the reduction next to his house from four to three houses has significantly improved the impact on his house and garden.

A letter has also been received from a neighbour which sets out the following comments:

- There would be an increase in traffic and more car parking required.
- There would be problems with drainage.
- The proposal would have an impact on residents' amenities.
- There would be a loss of historic mining culture which exists in the local community. This would be swamped by new housing.
- Existing residents respect the past and have retained this in how their houses have been maintained.
- The proposal does not reflect the design of existing houses.

The Highway Authority (HA) have made the following comments:

- The omission of plot 4 is welcomed with only three plots now served off the private drive.
- The relocated speed table continues to clash with numerous accesses to off-street parking such as plots 13 and 18.
- The private parking court access for plots 4 to 12 should not have junction radii but revert to a vehicle crossover to prioritise pedestrian movements along the main access road.
- The HA have questioned whether the initial speed table is required and consideration should be given to lengthening the second one. This detail can be controlled by a condition.
- The forward visibility splay is now shown on Mill Lane and further detail will be required at the detailed design stage to demarcate the area needed to be dedicated as public open space.

The HA no longer object to the proposal and support the most recent layout. They have provided amended conditions and these are set out later in this report.

Response

With respect to the neighbour comments, the issues of traffic and parking, residential amenity and drainage issues have already been assessed in the main report already presented to the Committee.

The relevance of the historic mining culture is acknowledged and this will be retained in existing communities. However, the scale of the new houses is not dissimilar to existing and the design closely reflects that of many new houses in new developments throughout Ashfield.

Amendment Three:

Representations have been received from three local residents raising the following:

- Impact on local biodiversity
- Impact on highway network – increased congestion, inappropriate access location
- Impact on residential amenity – loss of light and privacy
- Impact on local air quality from increased vehicular movements

No further comments have been received from the neighbour at 2 Laburnum Avenue at the time of writing.

The following responses have been received from statutory consultees:

Environment Agency

No new comments to make on the application.

Nottinghamshire County Council Highways Authority

No further comments to add. The conditions and informatives previously requested should be applied to any grant of permission.

Nottingham and Nottinghamshire ICB

The alterations do not alter the section 106 requests previously submitted.

Comment

There is no requirement to re-examine much of the main report as the amendments to the proposal set out in this supplementary report relate to only a limited number of material considerations which are set out below.

Layout and Design

The layout of the proposal has changed in three specific areas since the application last appeared before Members.

Plots 1 to 4 which are located to the west of 2 Laburnum Avenue have been reduced down to three plots. This is a significant improvement as it allows this part of the scheme to become more open in character, increase garden sizes and have fewer cars parked at the front. The dwellings have also been staggered to improve their relationship with existing dwellings both to the east and west of the site, by providing a link between the front building lines of the adjoining houses either side. In doing so, the proposal significantly reduces the impact on existing dwellings in respect of massing and overshadowing impacts which will be discussed in turn later in this report.

The layout close to the corner of Laburnum Avenue and Mill Lane has changed. There is an additional pair of semi-detached dwellings in this location, taking the total in this location to eight. The eight houses here all front directly on to the roads with off-street parking provided in a parking court behind them. In visual terms, the houses fronting the road is more pleasing than lines of cars in front which can give rise to a cluttered appearance. The garden sizes of plots 7 and 8 have reduced in size because of their corner location but still meet the standards of acceptable private amenity space.

The layout of the development in the south-western corner of the site (north of the area of public open space) has also been altered to accommodate the dwelling lost adjacent to 2 Laburnum Avenue. The scheme has been altered from four sets of semi-detached dwellings and a row of three terraced properties, to two pairs of semi-detached dwellings, and two sets of terraced houses, each comprising four dwellings. From a visual perspective, the alterations proposed helps to create a more definitive line of development.

The design of the houses remains unaltered.

Residential Amenity

The key issue here is the relationship between plot 3, as amended, and 2 Laburnum Avenue. The neighbour at 2 Laburnum Avenue had raised concerns about the impact of plot 4 in the previous layout and the impact this would have on their amenities. The neighbour was concerned that the siting of plot 4 close to the existing house would have a detrimental impact by way of over-dominance and overlooking.

Reducing the number of houses from four to three has significantly improved the relationship between the existing and proposed houses, a point that has been acknowledged by the neighbour at No. 2. Plot 3 is further away from 2 Laburnum Avenue – increased from 4.5m to 7m – and there is no breach of the ‘45 degree rule’. Subsequently there would be no significant overshadowing of the house or garden, nor any significant loss of privacy.

The relationship between the two dwellings is a significant improvement on the scheme last put before Members and is acceptable in amenity terms.

Concerns were also raised by the owner of 2 Laburnum Avenue regarding the siting of the parking provision for plot 23, located centrally within the site adjacent to their eastern boundary, and the impact that the parking provision in this location would have on their amenity and the stability of their boundary fence. The amended plan illustrates that the parking provision for this property – now plot 22 – has been repositioned so that it lies forward of the proposed dwelling, away from the boundary fence, thus reducing the likelihood of disturbance to existing neighbours using the adjacent garden space. The repositioning of the parking will also ensure that the stability of the boundary fence remains unaffected.

With respect to the impact of the revised layout on amenities of future residents, the only significant amendment is that the properties in the north-eastern corner would have smaller gardens as a result on the rear parking court, however these will still meet the acceptable standards for private amenity space.

Highways Safety

There are two significant changes in terms of the highway's layout.

The parking court serving the three houses fronting Laburnum Avenue has reduced in number. This will allow for easier manoeuvring of cars and a visitor parking space.

A new parking court served by a private access has been introduced behind and serving plots 4 to 11. Due to the limited dimensions of the parking, this would be retained as a private access taken off the main access road via a crossover. Even though the dimensions are limited, there would be no highways safety issues.

Speed restriction measures are shown on the layout plan but these need to be relocated because of potential clashes with parking provision.

There are highways details which need to be amended but all of these can be controlled by conditions which will be set out later in this report.

Conclusion:

The National Planning Policy Framework (NPPF) says that proposals should be considered in the context of a presumption in favour of sustainable development which is defined by economic, social and environmental dimensions and the interrelated roles they perform.

There is no change to the conclusions reached in the earlier agenda report but the following additional comments are relevant.

Environmental.

In terms of environmental benefits, there would be additional improvements in the form of improving the amenities of existing and future occupiers and re-locating some of the car parking into an off-street parking court which will visually improve the proposal.

Officers consider that the amended layout resolves the concerns expressed by Members and the adjoining neighbour and the proposed development complies with the policies contained within both the development plan and the NPPF. Consequently, the application, as amended, is recommended for approval subject to the conditions set out below and the requirements of the section 106 agreement.

Recommendation: Conditional Consent Subject to a Section 106 Legal Agreement.

1. A sum of £14,500 to be provided for improvements to a bus stop.
2. A sum of £25,468 to be provided for improvements to health care.
3. A sum of £141,000 to be provided for improvements to public open space.
4. A sum of £1,000 to be provided to cover the cost of monitoring the Section 106 Agreement in accordance with C.I.L. legislation.
5. The development shall completely comprise affordable housing managed by a registered Housing Association.
6. A Residents Management Scheme for all the public areas of the development.

CONDITIONS

For the sake of clarity, the list of plans set out in condition 2 has been amended from the earlier Committee report and two highways conditions, numbered 11 and 12 have been added which relate to the amended highways and parking layout.

1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.
2. This permission shall be read in accordance with the following plans:
 - Site Location Plan – 220028-PL01 rev. N.
 - Site Finishes Plan – 220028-PL02 rev. M.
 - Boundary Treatment – 220028-PL08 rev. N.
 - Street Scenes – 220028-PL04 rev. K.
 - Street Scenes – 220028-PL05 rev. H.
 - Site Development Plan – 220028-PL07 rev. C.
 - House Type 1 – 220028-LUB-PL110 rev. B.
 - House Type 2 – 220028-LUB-PL100.
 - House Type 3 and 4 – 220028-LUB-PL101.
 - House Type 5 and 6 – 220028-LUB-PL102.
 - House Type 7 and 8 – 220028-LUB-PL103.
 - House Type 10 – 220028-LUB-PL105.
 - House Type 11 – 220028-LUB-PL106.

- House Type 12 Floor plans and Elevations 220028-LUB-PL121 rev. A.
- Tree Construction Plan RSE – 4060 – TCP – rev. V1.
- Additional Provisions Layout 220028-PL06 rev.E.
- Indicative Gypsy Site 220028 – PL08.
- Link Footway to B.6018 – 7707-MJM-XX-XX-SK-D-6690.
- Vehicle Movement Analysis – Fire Tender – 7707-MJM-XX-XX-DR-D-6652.
- Vehicle Movement Analysis – Removal Van – 7707-MJM-XX-XX-DR-D-6651.
- Vehicle Movement Analysis – Refuse Vehicle – 7707-MJM-XX-XX-DR-D-6650.
- General Arrangement – 7707-MJM-XX-XX-DR-D-6601.
- Drainage Layout – 7707-XX-XX-DR-D-5210.

3. No development shall take place until details or samples of the materials and finishes to be used for the external elevations and roof of the development have been agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out with those materials unless the Local Planning Authority gives written approval to any variation.
4. No part of the development shall take place until full technical details of the new roads have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross-sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services and any proposed structural works. The development shall be implemented prior to the occupation of any dwelling to the satisfaction of the Local Planning Authority.
5. No part of the development shall be brought into use until all drives and parking areas are surfaced in a bound material (not loose gravel). The surfaced drives and parking areas shall be thereafter retained and maintained in such bound material.
6. No part of the development shall be brought into use until the access driveways and parking areas are constructed with provision to prevent unregulated discharge of surface water from the driveways and parking areas to the public highway. The provision to prevent the unregulated discharge of water to the public highway shall be implemented prior to the occupation of any dwelling and thereafter retained.
7. No part of the development shall commence until details of the proposed arrangements and plans for future management and maintenance of the proposed streets including associated drainage of the development have been submitted to and agreed in writing by the Local Planning Authority. The streets and drainage shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980.
8. No development shall take place, including any demolition works, until a Construction Method Statement has been submitted to and agreed in writing by the Local Planning

Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors.
 - Loading and unloading of plant and materials.
 - Storage of plant and materials used in construction of the development.
 - The erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate.
 - Wheel washing facilities.
 - Measures to control the emission of dust and dirt during construction.
 - A scheme of recycling/disposing of waste resulting from demolition and construction works.
9. Prior to the commencement of development, full details of a new 2 metre wide footpath linking the development to the existing bus stop on Park Lane have been submitted to and approved in writing by the Local Planning Authority. Such details shall include appropriate kerbing, retaining structures and relocation of signage and street furniture.
10. Prior to the commencement of development, details of the off-site traffic management works comprising an extension/relocation of the existing 30mph speed limit along Mill Lane past the site frontage to the south. These works shall include provision of footways, street lighting, signs and lining and any required physical speed restraint feature in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Such Management Works shall be implemented prior to the occupation of any dwelling and retained thereafter.
11. No development shall take place until technical details of the site frontage improvements along Mill Lane and Laburnum Avenue have been submitted to and agreed in writing by the Local Planning Authority. Such details shall include a 2 metre wide footway, 47 metre clear forward visibility envelope for the Mill Lane/Laburnum Avenue bend and associated maintenance thereafter, speed control measures, signing and lining, street lighting, drainage, construction specification and any other proposed works that might affect the public highway. Such works shall be implemented prior to the occupation of any dwelling and retained thereafter.
12. Prior to the commencement of development, details and a timetable of upgrading works to bus stops on Park Lane ref. AS0030 and ref. AS0031 shall have been submitted to and agreed in writing by the Local Planning Authority. Such upgrading works shall include real time bus stop poles and displays including associated electrical connections, enforceable bus stop clearways and raised boarding kerbs where appropriate. The works shall be implemented in accordance with the agreed timetable and retained thereafter.

13. Prior to the commencement of development, a detailed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and the design shall be 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 SCO 30219 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 of any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm systems 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 100 year plus 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 and for the lifetime of the development.

Such approved surface water drainage scheme shall be implemented prior to the occupation of any dwelling and retained thereafter.

14. Prior to the commencement of development, a Tree Protection Method Statement shall be submitted to and agreed in writing by the Local Planning Authority. Such Method Statement shall be implemented during the duration of construction works and remain in place until all works are complete.

15. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

16. The hours of use of the hereby permitted development for 38 houses shall only take place during the following hours:

- 08.00 hours to 18.00 hours Monday to Friday
- 08.30 hours to 13.00 hours Saturday.
- No working Sunday and Bank Holidays.

17. No works shall take place (save for above ground demolition works, site preparation, erection of fencing, laying of or provision of any services, laying of temporary services and erection of temporary site buildings for construction purposes until a remediation scheme to deal with the potential ground contamination of the site has been submitted to and agreed in writing by the Local Planning Authority.

The scheme shall include:

- i. A preliminary risk assessment which identifies:
 - All previous uses.
 - Potential contaminants associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors, and
 - Potentially unacceptable risks arising from contamination of the site.
- ii. A site investigation scheme based on 1 to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii. The results of the site investigation and detailed risk assessment referred to in 2 and based on these an options appraisal and remediation strategy giving full details of the remediation and mitigation measures required and how they are to be undertaken.
- iv. A verification plan setting out the details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in 3 are complete to a satisfactory standard, and;
- v. A monitoring and maintenance plan, setting out the provisions for long term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The contamination remediation works shall be carried out in accordance with the approved details and completed prior to the first occupation of the development. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.

If, during the works, any additional contamination is encountered, all works in the relevant part of the site shall cease immediately and not resume until either;

- i. The potential contamination has been assessed and a remediation scheme submitted to and approved in writing by the Local Planning Authority, or
- ii. Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority. Any additional land contamination shall be fully remedied prior to the occupation of the development.

The development shall not be occupied until a post completion verification report, including the results of sampling and monitoring carried out, has first been submitted to and agreed in writing by the Local Planning Authority demonstrating that the site remediation criteria has been met.

18. Prior to the commencement of development, details of bird, bat boxes and swift and bee bricks to be included as part of this development shall have been submitted to and agreed in writing by the Local Planning Authority. Such boxes shall be implemented prior to the occupation of dwellings and retained thereafter.
19. Prior to the commencement of development, details of a management scheme for the two areas of open space shall have been submitted to and agreed in writing by the Local Planning Authority. Such plan shall be implemented following the occupation of the first dwelling and remain in place thereafter.

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. To ensure that the development is constructed to safe and adoptable standards.
5. To reduce the possibility of loose material being deposited on the public highway.
6. To ensure that surface water is not deposited on the public highway causing a danger to road users.
7. To ensure that the road infrastructure is maintained to an acceptable standard.
8. To reduce the possibility of deleterious material being deposited on the public highway in the general interests of highways safety.
9. To encourage active travel and the use of public transport facilities.
10. In the interests of highways safety.
11. In the interests of highways safety and to afford adequate visibility for traffic joining the highways network.

12. In the interests of sustainable travel and to encourage the use of public transport facilities.
13. To ensure that the development is in accordance with the NPPF and local planning policies. It should be ensured that all major developments have sufficient water management, are not increasing the risk of flooding and do not increase flood risk off-site.
14. In the interests of retaining trees and landscaping.
15. In the interests of the visual amenities of the area.
16. To safeguard the amenities of local residents living in the vicinity of the application site.
17. To ensure that contaminated land is properly treated and made safe and to safeguard the health and safety of the future occupants in accordance with the NPPF paragraph 178. This condition is necessary as a pre-commencement condition because in the absence of a robust remediation plan even the early stages of the development process (other than as specified) could result in the spread of contamination and a risk to public health.
18. In the interests of biodiversity and nature conservation.
19. In the interests of the amenities of the future occupiers and visual amenities of the development.

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 and Building Control Section of the Authority on Mansfield (01623 450000).
2. Section 278 Agreement (Highways Act 1980). To carry out then off-site works required, the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. To undertake the works, which must comply with NCC's current highway design guidance and specification for roadworks, the applicant will need to enter into an agreement under section 278 of the Act. The Agreement can take some time to complete as timescales are dependent on the quality of the submission, as well as how quickly the applicant responds with any necessary alterations. Therefore, it is recommended that the applicant contacts the

HA as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties. Contact hdc.north@nottscc.co.uk 0115 804 0022.

3. Section 38 Agreement (Highways Act 1980). The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act, payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the HA about compliance with the Code or, alternatively, to the issue of a Section 38 agreement and bond under the Highways act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

It is strongly recommended that the developer contacts the HA at an early stage to clarify the codes etc. with which compliance will be required in the circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the NCC in writing before any work commences on site. Contact hdc.north@nottscc.co.uk 0115 804 0022.

4. Commuted Sums. The applicant should note that any areas over the normal minimum, intended for adoption will require the payment of a commuted sum for future maintenance. (i.e. additional areas exceeding usual highway design requirements, additional street furniture, landscaping, Sustainable Drainage systems, retaining walls, bollards and materials outside usual specification). The applicant is strongly advised to hold discussions with the HA as soon as possible to agree sums, ownership and responsibility for perpetuity.
5. Adoption of roads/streets. The HA only seeks to adopt streets where the new street network is acceptable in all highways and transportation terms. Accordingly, the HA may refuse to accept future maintenance liability of roads that do not meet the required standards and specification.

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

6. It is an offence under sections 148 and 151 of the Highways Act 1980 to deposit mud on the public highway and, as such, you should undertake every effort to prevent it occurring.
7. The applicant should note that notwithstanding any planning permission, if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with Nottinghamshire County Council's current highway design guidance and specification for roadworks.

8. The Local Lead Flood Team should be re-consulted with any changes to be submitted and approved details of any FRA or Drainage Strategy which has been provided. Any deviation from the principles agreed in the approved documents may lead to the LLFT objecting to the discharge of conditions. Bespoke comments will be provided within a period of 21 days of receiving formal consultation.

COMMITTEE DATE 22/03/2023 **WARD** Kirkby Cross and Portland

APP REF V/2020/0627

APPLICANT Nasims Ltd

PROPOSAL 38 No. New Dwellings with Associated Infrastructure, Public Open Space and Landscaping

LOCATION Land off, Laburnum Avenue, Kirkby in Ashfield, Nottingham

WEB LINK <https://www.google.com/maps/place/Laburnum+Ave,+Kirkby+in+Ashfield,+Nottingham/@53.093287,-1.2726246,339m/data=!3m1!1e3!4m6!3m5!1s0x4879944ff6273c7b:0x46b574ed2d266d0c!8m2!3d53.0937203!4d-1.2658493!16s%2Fg%2F1td64v6s>

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

App Registered 24/09/2020 **Expiry Date** 24/12/2020

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

This application has been referred to Planning Committee by Councillor Williamson on the grounds of Highways Safety.

Site Description.

The application site which extends for about 1.5 hectares, is located on the urban fringe of Kirkby in Ashfield in an area of Countryside between the main built-up area to the north, the re-developed Bentinck Colliery to the south and the developed frontage of Park Lane to the west. To the east is Mill Lane and, beyond, farmland which is part of the designated Green Belt.

All boundaries of the site are marked by a mix of fences and hedgerows apart from along Laburnum Avenue where there are some open areas.

The site slopes gently down from Laburnum Avenue towards the south. The site is currently a grassed field with some trees within the site. There is an area of hardstanding in the south-west corner of the site close to an existing access into the site from Park Lane, this was carried out when the planning application for the Traveller's site was partially implemented following the appeal decision in 2012 and is to be retained to be used to serve the Traveller's site.

Planning Application.

The application, as submitted, sought planning approval for 48 dwellings with associated landscaping and public open space on the site, served by a single access from Mill Lane to the east. This was subsequently amended to 38 dwellings because the land in the south-west corner of the site had gained planning consent for a Traveller's site which had been partially implemented.

The application, as amended, is a mix of two and three bedroomed houses of two storeys, having pitched roofs. Eight of these would front Laburnum Avenue, four would front Mill Lane and the remainder would be within the application site.

The drawings submitted in support of the application show that a larger area of Public Open Space (POS) would be provided between the Traveller's site and plot 38 in the south-west of the site and a much smaller area of POS is proposed between the site boundary and the main access road into the site along the south boundary.

Consultations

Site Notices have been posted together with individual notification of surrounding residents. Further consultations have also been carried out in respect of amended drawings.

Initial neighbour consultation responses.

Ten letters of objection from neighbours were received which set out the following comments:

- There would be a loss of landscape and attractive scenery.
- There would be a loss of wildlife and protected species.
- Extra traffic would cause congestion and a build-up of vehicles around the site.
- There would be a detrimental impact on highways safety with extra cars being a danger to pedestrians.
- Mill Lane is already a dangerous road having a blind corner adjacent to the application site with cars driving too fast.
- Mill Lane is too narrow to deal with the extra traffic and traffic surveys along here should be done during the rush hours.
- The new access into the development would be hazardous and increase the probability of accidents.
- Noise and air pollution would result from extra vehicles.
- It would be a chaotic environment for both vehicles and pedestrians.
- Car headlights would shine into the windows of existing residents.
- Laburnum Avenue is already heavily used for on street parking and this application would make it worse.

- The development would overshadow existing houses and result in a loss of natural light.
- There would be a significant loss of privacy affecting existing houses on South View to the northwest of the application site which only have small rear gardens. The high wall proposed here would block light.
- There would be direct views into windows of South View.
- This is a cramped development; too many houses on a small site.
- Private rear gardens would be overshadowed by the development.
- The wooden fencing proposed along the boundary with 'The Stables' to the south would not be strong enough to protect livestock and there should be a hedgerow planted to strengthen the boundary.
- Water and electricity supplies to 'The Stables' run through the application site.
- It would be much better to develop on other 'brown field' sites.
- This development would result in visual and environmental pollution.
- The local infrastructure including doctors' surgeries and dentists would not be able to absorb the extra pressure created by this development.
- Noise and disturbance during construction works would affect existing residents.
- The surrounding roads flood frequently during heavy rain.

Two letters of objection were received from a neighbour living adjacent to the site raising the following reasons:

- This application does not conform to normal planning considerations.
- Traffic congestion would make the busy nearby junction at Laburnum Avenue much worse.
- Many heavy vehicles use this road and it is used as a 'rat run'.
- The new site entrance would result in a loss of existing on-street car parking spaces.
- It would be difficult to widen the road close to the new entrance.
- Noise from heavy traffic.
- The developer has not looked at the impact on the local community.
- The houses are sited too close to fence lines.
- It would not be possible to maintain the garden boundary fence because there would be no gap. The gap here should be 1 metre.
- There would be a loss of light and privacy affecting the rear of the house and garden at 2, Laburnum Avenue.
- The entrance to the Travellers site is too close to the nearby road junction.

2nd consultation responses.

A further 23 letters have been received from local residents objecting to the amended layout. The existing objections are claimed to remain but there are the following additional representations:

- The development is still too big.
- There is no change from the original scheme and all earlier objections stand.

- The houses should be further away from existing houses.
- Plot 25 should be removed.
- The roads will not be able to cope with the additional traffic. Between 2,000 and 3,600 cars already use Mill Lane each day.
- There would be an escalated risk to pedestrians as there are already frequent accidents.
- It would be better to find an alternative site as there are too many houses on a small site.
- There would be a detrimental impact on local wildlife.
- The services to an adjoining property run beneath plots 8, 9, 10, 15 and 16.

A further 17 letters of objection have been received from the neighbour who wrote twice on the original scheme he maintains and repeats his former objections but also has the following additional comments:

- There are no changes to the plans so all former objections remain in place.
- The access is dangerous and will lead to accidents.
- There could be possible future disputes about boundaries because of the inability to maintain boundaries.
- Parked vehicles could damage existing fencing.
- Plots 1 to 4 should be reduced in height and be converted to bungalows.
- The amended plans show plots 3 and 4 being re-located to mitigate against overlooking and loss of natural light. These amendments have not resolved the issues and the application is still unacceptable resulting in overlooking and a loss of light to the rear of the house and garden.

ADC Environmental Health.

A condition is required setting out dust mitigation measures and site operation hours during building works which should be 08.00 18.00 hours Monday to Friday and 08.30 to 13.00 hours on Saturday with no working during Sundays and Bank Holidays.

A further condition dealing with possible land contamination is suggested and this would require the submission of a remediation scheme to deal with potential ground contamination found during building works.

ADC Landscaping.

Details of the landscape treatment of the larger of the two areas of Public Open Space (POS) need to be submitted which can be controlled by a condition. Due to the close proximity of the Mayfield Street play area, there is no need to install any play equipment on the POS. However, a financial contribution of £141,000 is required for improvements to Mayfield Street POS, which would include a maintenance payment of £52,875 spread over a 15 year period at £3,525 per year.

A condition should be attached providing details of tree protection during building works.

NCC Planning Policy.

With respect to financial planning obligations, there is a predicted surplus of primary and secondary school places so this application would not attract a financial contribution to provide extra school places.

A contribution of £14,500 is required to provide a real time display at a nearby bus stop, at stop AS0031.

NCC Area Health Authority.

Due to the increase in population in the locality caused by the proposed development, a financial contribution of £25,468 is required to enhance the capacity/infrastructure of either Kirkby Community Primary Care Centre, Kirkby Family Medical Centre or Lowmoor Road Surgery.

Highways Authority.

The Highways Authority have no objection to the application, as amended, and have set out nine conditions which should be attached to any planning consent.

Initial concerns were expressed about the parking density of plots 1 to 4 but these were not significant enough to merit resisting the application.

The nine conditions would control the following issues:

- Full technical details of the proposed roads including cross sections.
- Frontage improvements along Mill Lane and Laburnum Avenue including a forward visibility splay of 47 metres for the bend and a 2 metre wide footway.
- A 2 metre wide connection to the bus stop on Park lane (B6018).
- All drives to be surfaces in a bonded material; loose gravel would not be acceptable.
- All access drives and parking areas to be able to prevent discharge of surface water.
- The two closest bus stops on Park Lane to be upgraded.
- Details of proposed street management, including drainage, to be submitted.
- A 30mph scheme to be implemented on Mill Lane.
- A Construction Method Statement to be submitted.

Notts Wildlife Trust.

It is recommended that no development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved by the LPA. This will ensure that the biodiversity on the site would not be harmed during construction work. Precautionary measures of work should be taken to ensure that protected species are not compromised.

It is understood that an invasive species is present on the site, Field Horsetail, in this instance, and a non-native species protocol needs to be submitted to control its removal

Under the NPPF 2019, all development is required to ensure a biodiversity net gain and Notts Wildlife Trust wish to ensure this is achieved. It is therefore recommended that a 10m deep landscaped buffer zone be introduced along the southern boundary, all vegetation clearance should be timed to avoid the main bird breeding season of March to September, hedgerows should be retained where possible to help support wildlife and bird, bat boxes and hedgehog runs should be incorporated into the development.

Natural England.

No objections or comments.

Local Lead Flood Team.

No objections or comments have been lodged with the Council but a condition is required controlling the submission and implementation of a detailed scheme for surface water drainage.

Environment Agency.

There is no objection to the application but the Agency draw attention to the distance between the application site and the Bentinck Generating site which thermally treats waste derived fuel to create a suitable gaseous fuel. The proposed development would not breach the air impact assessment at the generating site.

Severn Trent Water

Advice was provided regarding public sewer connections and an informative/advisory note is required dealing with this issue. There were no other comments or objections.

Relevant Planning History.

V/20009/0625 - Change of Use of Land to Traveller Site for Eight Plots with Associated Development (Hardstanding, Utility Blocks, Shared Bio Disc Treatment Plant, Fencing and Children's Play Area) Granted on appeal 20 March 2012

Adjacent site V/2015/0066 - Land corner of Laburnum Avenue and Park Lane, Kirkby in Ashfield. Outline application for residential development. Allowed on appeal

The Inspector concluded the site represented a sustainable location for new development. It is located on the edge of the settlement and future residents would have good access to the existing local services. It would make efficient and effective use of the land and given that the Council were unable to demonstrate a five-year supply of housing land he afforded these matters considerable weight.

Subsequently 6 dwellings were approved and constructed

Policy

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

Applications for planning permission must be determined in accordance with national planning policy guidance and the local development plan unless material considerations indicate otherwise.

National Planning Policy Framework.

The relevant sections of the National Planning Policy Framework (NPPF) are:

- Part 2 Presumption in favour of sustainable development.
- Part 5 Delivering a sufficient supply of homes.
- Part 8 Promoting Healthy and Safe Communities.
- Part 9 Promoting Sustainable Transport.
- Part 11 Making Effective Use of Land.
- Part 12 Achieving Well Designed Spaces.
- Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change.

Ashfield Local Plan Review (ALPR) 2002 (saved policies).

- ST1 Development.
- ST4 Remainder of the District.
- EV2 Countryside.
- EV6 Sites of Importance for Nature Conservation.
- EV8 Trees and Woodland.
- EM1 Employment Land Allocations.
- EM4 Protection of Employment Allocations.
- HG3 Housing Density.
- HG4 Affordable Housing.
- HG5 New Residential Development.
- HG6 Open Space in Residential Development.
- TR2 Cycling Provision in New Development.
- TR3 Pedestrians and People with Limited Mobility.
- TR6 Developer Contributions to Transport Improvements.

Material Considerations:

- Principle of Development
- Layout and Design.
- Residents' Amenity
- Sustainability.
- Highways Safety.
- Contamination, Noise Impact and Air Quality.

- Landscape and Public Open Space.
- Ecology and Biodiversity.
- Drainage and Flood Risk Assessment.
- Developer Contributions.
- Planning Balance

Principle of Development.

Most of the application site lies within land allocated as Countryside. ALPR policy EV2 sets out appropriate development in Countryside and residential development is not included on this list.

A small part of the site in the south-west corner is allocated for Employment under ALPR policy EM1, however, this part of the site forms part of the approved Traveller's site.

Housing Supply.

Paragraph 60 of the NPPF sets out the Government's objective to significantly boost the supply of homes. Paragraph 74 requires Local Planning Authorities (LPA) to identify a minimum of five year's supply of housing against the local housing requirement allowing for a buffer varying between 5% and 20% dependent on the LPAs circumstances.

Based on the Housing Land Monitoring Report 31.3.2021 and applying a 20% buffer, Ashfield Council has a 2.25 year housing land supply which is well below the 5 year requirement. There is, therefore, a serious and immediate need for more housing to be delivered in the District.

In accordance with paragraph 11 of the NPPF, the tilted balance is, therefore, engaged. Accordingly, planning permission should be granted unless any adverse impacts of doing so would significantly outweigh the benefits of the scheme as a whole.

Tilted Balance.

The application site which is vacant land, lies at the edge of a sustainable main urban area. The NPPF confirms that planning policies and decisions should give substantial weight to the value of using sustainable sites for homes and other identified needs. Therefore, there is an emphasis on surplus and vacant land being used for a productive purpose.

This site represents an opportunity to deliver 38 new housing units in a sustainable and accessible location. Whilst this is a modest amount, the proposal will nonetheless help to address the significant under-provision of housing within the District. The principle of developing the site for housing is, therefore, acceptable but is required to be balanced against all other material considerations to ensure that the development provides an acceptable, sustainable development.

Affordable Housing.

The provision of adequate levels of Affordable Housing is an important requirement of new housing schemes and, at this location, 10% of the total provision needs to be affordable. As an alternative to provision on-site, it is possible to provide a financial contribution towards a location where there is an identified need for affordable housing.

The applicant, early in the consideration of this application, provided a Financial Viability Assessment which concluded that the provision of any Affordable Housing would not be possible because it would render the scheme financially unviable.

Negotiations between your officers and the applicant have resulted in the entire scheme being developed by a Housing Association and formal confirmation of this has been submitted by the applicant. This means that the entire proposal would comprise Affordable Housing which would be entirely acceptable. Control over this would be established by way of a legal agreement under Section 106 of the Planning Act.

Layout and Design.

The layout of the site is split into four identifiable parcels, the first of these comprising plots 1 to 4 which front onto Laburnum Avenue with existing houses sited either side to the east and west. As originally submitted, plots 1 to 4 were sited in a terrace of four dwellings with parking in front. However, there were issues concerning loss of privacy and overlooking, which are set out later in this report, which required the terrace to be amended by way of moving them forward to create a shallow crescent with parking located in two banks of four spaces either side.

This modified arrangement is considered to be acceptable and in keeping with the surrounding area.

The second parcel also comprises 4 plots, taking the form of two pairs of semi-detached houses which are located at the north-east corner of the site, fronting close to the junction with Mill Lane. The front building line of the proposal is set back from the pair of semi-detached houses to the west but the rear building lines are in line with each other.

To the south of the four houses are a further 10 houses, proposed as 5 pairs of semi-detached houses arranged around the access road into the site. Two pairs of semi-detached houses are sited symmetrically either side of the main entrance from Mill Lane creating a balanced gateway into the site. The remaining six are arranged either side of the internal access road.

The remaining 20 houses form the fourth parcel and nine of these face onto the road laid out as two short terraces of three and four houses, respectively and a pair of semi-detached houses. The remaining eleven houses, in the form of one short terrace of three with the remaining eight as semi-detached dwellings.

The design approach proposes modest, two storey high, traditional brick dwellings with tiled roofs with some having a pale render feature at first floor level. The elevations would have projecting gables and brick soldier courses on the heads and cills of windows.

The dwellings are all modest in size and the whole development is smaller in scale than the pair of existing semi-detached houses fronting Laburnum Avenue. These two houses and their garden space are larger than those proposed, however, there are other houses around the site to the north and west which are of varying size and scale, particularly to the west which are of similar proportions to the proposal. Consequently, the proposed development would not be out of keeping with the surrounding area.

Residents' Amenity.

Concerns were raised in both rounds of neighbour's consultations, particularly in relation to overlooking and loss of privacy, overdominance and loss of light. One neighbour at 2, Laburnum Avenue lives next door to proposed plot 4 and he has submitted 19 objection letters the details of which are summarised above.

The application, as submitted, proposed a short terrace of 4 houses broadly along the same line as 6 houses to the west, known as South View. The original position of plot 4 was set back in relation to plot 4 was such that it would have had an unacceptable impact on 2, Laburnum Avenue because of loss of privacy, loss of natural light and overdominance.

The loss of privacy would have resulted from the mutual overlooking between rear and side windows of 2, Laburnum Avenue and the front bedroom windows of plot 4. Plot 4 has now been relocated so that the front elevation follows the same line as the rear facing elevation of 2, Laburnum Avenue.

Moving plot 4 forward of its original position has reduced the impact in terms of both loss of light and overdominance. This issue is assessed by way of taking a line at 45 degrees from the edge of the ground floor window which should not be transgressed by the proposal. In this instance, there is a slight transgression by the corner of plot 4 but this is mitigated by the orientation of the large garden of 2, Laburnum Avenue which faces southwest so will get a considerable amount of sun and natural light and also there is 4.5 m. distance between the two flank walls.

Mitigation for 2, Laburnum Avenue is provided by the fact that the existing rear garden is large, faces southwest and slopes down towards the south, thus maximizing light and sunshine. It is noted that plot 4 would only impact the top northwest corner of the existing garden.

The flank wall of plot 23 lies 3 metres from the bottom southwest corner of the garden of 2, Laburnum Avenue. This would have negligible impact on the amenities of the adjoining rear garden.

The occupier of 2, Laburnum Avenue has also raised concerns about the possibility of cars damaging his boundary fence by cars setting on fire, for example. Valid though these concerns may be, they are not material planning considerations so cannot be taken into account when assessing this application.

Other neighbours have also raised concerns. There are six houses directly adjoining the application site to the northwest and occupiers here have objected to the proposal because the new houses at plots 27 to 31 are too close to the existing rear boundaries. The distance between the rear of the proposed and existing houses is 21 metres throughout this part of the application which complies with the minimum standard in this respect. The new houses would also be at a lower level than those existing which would mitigate against the impact of the proposal.

With respect to the amenities of future residents, the distances between houses are acceptable and meet minimum standards. All the houses are a mix of 2 or 3 bedrooms and the garden sizes are acceptable. The amount of rear private space for some plots is limited, such as plots 10 and 15 but there is useable space at the sides of the houses which increases garden sizes.

The layouts of plots 18 and 19 are impacted by the pinch point between the rear site boundary and the gardens of existing houses fronting Laburnum Avenue so the depth of each of the gardens is restricted but there is space at the side which increases useable private space. On balance, these are acceptable and meet the council's standards.

Those plots along the southern boundary will all benefit from south facing gardens and also benefit from long views across open countryside.

Sustainability.

The site is located close to shops, amenities and has good transport links.

Construction methods will include cavity walls which will allow high insulation levels to be introduced.

A minimum of 10% reduction in carbon emissions will be achieved by using low u-values for external elements, thus reducing energy demand. Provision of highly efficient boilers with effective heating controls, low carbon electricity from solar panels and the provision of electric car charging points on the properties will contribute to a sustainable proposal.

Highways Safety.

Policy ST1 of the ALP says that development will be permitted where it does not adversely affect highway safety or the capacity of the transport system. NPPF paragraph 111 states that development should only be prevented or refused on highways grounds if

there would be an unacceptable impact on highway safety or the impacts on surrounding roads would be severe.

A Transport Assessment has been submitted in support of this application.

The single access into the site is taken from Mill Lane on the east side of the site. An access from the west side, from Park Lane was considered but the Highways Authority considered this to be unsafe because of traffic speeds and the road dimensions.

The Mill Lane access is considered to be safe with good visibility in both directions. Neighbours, in their representations, have expressed concerns about this proposed access because of excessive traffic speeds along Mill Lane. However, the access is close to the junction of Mill Lane with Laburnum Avenue where traffic has to slow down. To mitigate against high speeds potentially causing a traffic hazard at the proposed site access, a speed restriction of 30mph would be sought along Mill Lane along the east side of the site.

With respect to car parking provision, each house has two on-plot spaces in accordance with the Nottinghamshire Highway Design Guide 2021 and these are all either in front or to the side of the houses. Tandem parking is generally discouraged because this leads to on street parking but only four houses would have tandem parking and this low number is acceptable as it would not lead to significant on street parking.

Eight visitor parking spaces are included, four either side of the small area of open space.

The parking for plots 1 to 4 is contained within a parking area in front of the houses. This parking area is restricted but does meet design requirements. There is adequate visibility along Laburnum Avenue in both directions.

The parking for plots 5 to 10 and 15 and 16 is accessed directly from Laburnum Avenue and Mill Lane so there would be reversing into or out of the plots on to the roads. Space has been allocated as part of the garden of plot 8 that would be kept clear to allow for visibility around the bend of Laburnum Avenue and Mill Lane. This, along with reduced vehicle speeds at this point will render vehicle access and egress acceptable at this point.

A footpath link to Park Lane is proposed and would be very convenient for future residents to access bus stops, however, part falls outside the site boundary so the provision of this would be controlled by a 'Grampian' style condition.

Contamination, Noise Impact and Air Quality.

With respect to potential land contamination, a condition would be attached which, in the event of contamination being discovered during construction, a programme of

remediation measures would be required to mitigate against the impact of the contamination.

A Noise Assessment has been submitted in support of the application. This has examined the impact of dust and construction vehicle traffic exhaust fumes on the surrounding area and concludes that, due to the scale of development, there would be a negligible impact.

A condition would be attached which restricts construction hours to 08.00 to 18.00 hours Monday to Friday, 08.30 to 13.00 hours Saturday with no working on Sundays or Bank Holidays.

Landscape and Public Open Space.

The applicant has submitted a Landscape Assessment in support of the planning application and states that, although the site is designated as Countryside, this is an unused area of wasteland with development on two sides. Consequently, development of the site with landscaped mitigation measures would not have an adverse impact on the scale and character of the local area.

As part of the landscaping proposals for the site, all existing boundary hedges would be retained, enhanced with native species such as hawthorn and managed. The west boundary hedge is proposed to be grown to 6 to 7 metres high to screen adjoining development. Additional planting would also be introduced along the south and east boundaries.

New trees and shrubs would be introduced both within and along the boundaries to soften the outline of the site when viewed from higher ground such as Rose Hill.

Conditions will be imposed that control the submission of detailed landscaping proposals and tree protection measures during construction.

There are two areas of Public Open Space (POS) proposed within the site. The larger is in the southeast corner between housing and the Travellers site. No play equipment is required here but, due to the increased demands on POS by future occupants, a financial contribution of £141,000 is required for improvements to play equipment in the vicinity. This would be sought through a S106 agreement.

There is also a much smaller area of POS next to the southern boundary. Either side of this space is visitor car parking and the small area will be used as buffer planting to enhance the southern boundary.

Both areas of POS will be maintained as part of a management plan and this will be controlled by an appropriate condition and the S106 agreement.

Ecology and Biodiversity.

It is a requirement of the NPPF (2019) that developments provide a measurable net gain for post development biodiversity.

An Ecology Report has been submitted in support of the application. This points out that the site currently comprises a mix of grassland, scrub planting and bare ground with perimeter hedgerows. A number of trees lie around and within the site. There are also invasive species on site, namely Field Horsetail and Golden Rod which would need to be removed, a matter which would be controlled by a condition requiring the submission of a Method Statement relating to the species removal.

There are no protected species active on the site.

The Ecology Report concludes that there is poor species diversity on site but there are a number of opportunities to enhance the site in this respect.

A hedgerow runs east to west through the site which would be lost as part of the proposal but there is ample opportunity to replace planting with new native species to be lost by infilling the hedgerows along the site boundaries. These would also function as wildlife corridors.

Areas of wildflower planting could be introduced along the sides of the access road and within the POS areas, the smaller one being completely given over to planting.

Habitat boxes for bats, birds and insects can be incorporated into the design of houses.

Nottinghamshire Wildlife Trust recommended that a 10 metre deep buffer strip be introduced along the southern site boundary. However, introduction of this within the site would split the site in two and outside the site to the south, the land is in third party ownership, not within the control of the applicant.

Drainage and Flood Risk Assessment.

A Flood Risk Assessment (FRA) and Drainage Strategy has been submitted in support of the application. The FRA confirms that the whole site is part of a much larger area contained within Flood risk Zone 1 which has a low probability of flooding (less than 1 in 1,000 annual probability). The risk of flooding is, therefore, negligible.

The supporting information states that a Sustainable Drainage Strategy (SuDS) will be incorporated into the scheme. As a result of consultations, a condition will be necessary requiring a detailed scheme for surface water drainage.

Developer Contributions.

The requirements of the CIL Regulations state 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 relate to the development and fairly and reasonably related to the scale of the development.

A number of developer contributions are required which would be controlled by a section 106 agreement and these are set out below.

Affordable Housing.

The applicant has confirmed that this development will be carried out by a Housing Association, therefore the proposal would comprise 100% affordable housing.

Bus Stop Improvements.

A sum of £14,500 is required to provide a real time bus display to bus stop no. AS0031 close to the site on Park Lane.

Health Care Improvements.

Following consultations with Nottinghamshire Area Health Authority, a sum of £25,468 is required to provide the additional level of care resulting from the additional residents at this development.

Public Open Space.

Two areas of POS are proposed as part of this development but there is no requirement to provide any play equipment on site. There is an existing play area at Mayfield Street POS and a sum of £141,000 is required to enhance and improve play facilities here.

Monitoring Contribution.

The updated CIL legislation allows for a section 106 monitoring fee to be charged. This will amount to £1,000 and will cover the Council's fees for monitoring payment.

Planning Balance and Conclusion :

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

The application site is contained within an area of Countryside located at the edge of a sustainable main urban area.

Having regard to the three objectives of sustainable development which is set out in the NPPF (2021), the proposal would have the following benefits:

Economic.

The proposal will bring forward jobs associated with people living on the site and the jobs created will be diverse in terms of full and part time positions and the level of skills required.

In addition to this, construction of the site will result in local construction jobs and demand for goods and materials from local suppliers and businesses. As such, the proposal will bring forward economic benefits to the surrounding area.

Social.

In social terms, the scheme would deliver 38 affordable houses managed by a Housing Association. The Council cannot currently demonstrate a 5 year housing land supply and the provision of 38 affordable homes carries significant weight in the determination of this application.

Environmental.

The proposal will bring forward a housing scheme of good quality on disused land and comprises flattened rubble areas and scrub planting. The housing will benefit the surrounding area by way of visual quality and residential amenity. The proposal has been designed to incorporate a variety of sustainable features to reduce the reliance on fossil fuels in order to mitigate the developments' carbon footprint.

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

Overall, the proposed development is considered to comply with policies contained within both the development plan and the NPPF. Consequently, the application is recommended for approval, subject to the conditions set out below and the requirements of the section 106 agreement.

Recommendation: Conditional Consent subject to a Section 106 legal Agreement.

Heads of Terms of section 106 Agreement.

1. A sum of £14,500 to be provided for improvements to a bus stop.
2. A sum of £25,468 to be provided for improvements to health care.
3. A sum of £141,000 to be provided for improvements to public open space.
4. A sum of £1,000 to be provided to cover the cost of monitoring the section 106 Agreement in accordance with C.I.L. legislation.
5. The development shall completely comprise affordable housing managed by a registered Housing Association.

6. A Residents Management Scheme for all the public areas of the development.

CONDITIONS

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

2. This permission shall be read in accordance with the following plans:

- Site Location Plan – 220028-PL01 rev. J.
- Site Finishes Plan – 220028-PL01 rev. J.
- Boundary Treatment – 220028-PL03 rev. J.
- Street Scenes – 220028-PL04 rev. F.
- Street Scenes – 220028-PL05 rev. F.
- Site Development Plan – 220028-PL07 rev. C.
- House Type 1 and 2 – 220028-LUB-PL100.
- House Type 3 and 4 – 220028-LUB-PL101.
- House Type 5 and 6 – 220028-LUB-PL102.
- House Type 7 and 8 – 220028-LUB-PL103.
- House Type 9 – 220028-LUB-PL104.
- House Type 10-220028-LUB-PL105.
- House Type 11 – 220028-LUB-PL106.
- House Type 11B – 220028-LUB-PL121.
- House Type 11A – 220028-LUB-PL121 rev. A.
- House Type 11A Floor Plans and Elevations 220028-LUB-PL120 rev. A.
- House Type 11B Floor Plans and Elevations 220028-LUB-PL121.
- Tree Construction Plan RSE – 4060 – TCP – rev. V1.
- Additional Provisions Layout 220028-PL06 rev.E.
- Indicative Gypsy Site 220028 – PL08.
- Link Footway to B.6018 – 7707-MJM-XX-XX-SK-D-6690.
- Vehicle Movement Analysis – Fire Tender – 7707-MJM-XX-XX-DR-D-6652.
- Vehicle Movement Analysis – Removal Van – 7707-MJM-XX-XX-DR-D-6651.
- Vehicle Movement Analysis – Refuse Vehicle – 7707-MJM-XX-XX-DR-D-6650.
- General Arrangement – 7707-MJM-XX-XX-DR-D-6601.
- Drainage Layout – 7707-XX-XX-DR-D-5210.

3. No development shall take place until details or samples of the materials and finishes to be used for the external elevations and roof of the development have been agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out with those materials unless the Local Planning Authority gives written approval to any variation.

4. No part of the development shall take place until full technical details of the new roads have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross-sectional gradients, street lighting, drainage and

outfall proposals, construction specification, provision of and diversion of utilities services and any proposed structural works. The development shall be implemented prior to the occupation of any dwelling to the satisfaction of the Local Planning Authority.

5. No part of the development shall be brought into use until all drives and parking areas are surfaces in a bound material (not loose gravel). The surfaced drives and parking areas shall be thereafter retained and maintained in such bound material.
6. No part of the development shall be brought into use until the access driveways and parking areas are constructed with provision to prevent unregulated discharge of surface water from the driveways and parking areas to the public highway. The provision to prevent the unregulated discharge of water to the public highway shall be implemented prior to the occupation of any dwelling and thereafter retained.
7. No part of the development shall commence until details of the proposed arrangements and plans for future management and maintenance of the proposed streets including associated drainage of the development have been submitted to and agreed in writing by the Local Planning Authority. The streets and drainage shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980.
8. No development shall take place, including any demolition works, until a Construction Method Statement has been submitted to and agreed in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - The parking of vehicles of site operatives and visitors.
 - Loading and unloading of plant and materials.
 - Storage of plant and materials used in construction of the development.
 - The erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate.
 - Wheel washing facilities.
 - Measures to control the emission of dust and dirt during construction.
 - A scheme of recycling/disposing of waste resulting from demolition and construction works.
9. Prior to the commencement of development, full details of a new 2 metre wide footpath linking the development to the existing bus stop on Park Lane have been submitted to and approved in writing by the Local Planning Authority. Such details shall include appropriate kerbing, retaining structures and relocation of signage and street furniture.
10. Prior to the commencement of development, details of the off-site traffic management works comprising an extension/relocation of the existing 30mph speed limit along Mill Lane past the site frontage to the south. These works shall include provision of

footways, street lighting, signs and lining and any required physical speed restraint feature in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Such Management Works shall be implemented prior to the occupation of any dwelling and retained thereafter.

11. Prior to the commencement of development, a detailed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall :

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and the design shall be 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 SCO 30219 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 of any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm systems 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 100 year plus 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 and for the lifetime of the development.

Such approved surface water drainage scheme shall be implemented prior to the occupation of any dwelling and retained thereafter.

12. Prior to the commencement of development, a Tree Protection Method Statement shall be submitted to and agreed in writing by the Local Planning Authority. Such Method Statement shall be implemented during the duration of construction works and remain in place until all works are complete.

13. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

14. The hours of use of the hereby permitted development for 38 houses shall only take place during the following hours:

- 08.00 hours to 18.00 hours Monday to Friday
- 08.30 hours to 13.00 hours Saturday.
- No working Sunday and Bank Holidays..

15. No works shall take place (save for above ground demolition works, site preparation, erection of fencing, laying of or provision of any services, laying of temporary services and erection of temporary site buildings for construction purposes until a remediation scheme to deal with the potential ground contamination of the site has been submitted to and agreed in writing by the Local Planning Authority.

The scheme shall include:

- vi. A preliminary risk assessment which identifies:
 - All previous uses.
 - Potential contaminates associated with those uses
 - A conceptual model of the site indicating sources, pathways and receptors, and
 - Potentially unacceptable risks arising from contamination of the site.
- vii. A site investigation scheme based on 1 to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- viii. The results of the site investigation and detailed risk assessment referred to in 2 and based on these an options appraisal and remediation strategy giving full details of the remediation and mitigation measures required and how they are to be undertaken.
- ix. A verification plan setting out the details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in 3 are complete to a satisfactory standard, and;
- x. A monitoring and maintenance plan, setting out the provisions for long term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The contamination remediation works shall be carried out in accordance with the approved details and completed prior to the first occupation of the development. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.

If, during the works, any additional contamination is encountered, all works in the relevant part of the site shall cease immediately and not resume until either;

- iii. The potential contamination has been assessed and a remediation scheme submitted to and approved in writing by the Local Planning Authority, or
- iv. Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local

Planning Authority. Any additional land contamination shall be fully remedied prior to the occupation of the development.

The development shall not be occupied until a post completion verification report, including the results of sampling and monitoring carried out, has first been submitted to and agreed in writing by the Local Planning Authority demonstrating that the site remediation criteria has been met.

16. Prior to the commencement of development, details of bird, bat and bee boxes to be included as part of this development shall have been submitted to and agreed in writing by the Local Planning Authority. Such boxes shall be implemented prior to the occupation of dwellings and retained thereafter.
17. Prior to the commencement of development, details of a management scheme for the two areas of open space shall have been submitted to and agreed in writing by the Local Planning Authority. Such plan shall be implemented following the occupation of the first dwelling and remain in place thereafter.

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. To ensure that the development is constructed to safe and adoptable standards.
5. To reduce the possibility of loose material being deposited on the public highway.
6. To ensure that surface water is not deposited on the public highway causing a danger to road users.
7. To ensure that the road infrastructure is maintained to an acceptable standard.
8. To reduce the possibility of deleterious material being deposited on the public highway in the general interests of highways safety.
9. To encourage active travel and the use of public transport facilities.
10. In the interests of highways safety.
11. To ensure that the development is in accordance with the NPPF and local planning policies. It should be ensured that all major developments have sufficient water

management, are not increasing the risk of flooding and do not increase flood risk off-site.

12. In the interests of retaining trees and landscaping.

13. In the interests of the visual amenities of the area.

14. To safeguard the amenities of local residents living in the vicinity of the application site.

15. To ensure that contaminated land is properly treated and made safe and to safeguard the health and safety of the future occupants in accordance with the NPPF paragraph 178. This condition is necessary as a pre-commencement condition because in the absence of a robust remediation plan even the early stages of the development process (other than as specified) could result in the spread of contamination and a risk to public health.

16. In the interests of biodiversity and nature conservation.

17. In the interests of the amenities of the future occupiers and visual amenities of the development.

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 and Building Control Section of the Authority on Mansfield (01623 450000).
2. Section 278 Agreement (Highways Act 1980). To carry out then off-site works required, the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. To undertake the works, which must comply with NCC's current highway design guidance and specification for roadworks, the applicant will need to enter into an agreement under section 278 of the Act. The Agreement can take some time to complete as timescales are dependent on the quality of the submission, as well as how quickly the applicant responds with any necessary alterations. Therefore, it is recommended that the applicant contacts the HA as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties. Contact hdc.north@nottscc.co.uk 0115 804 0022.

3. Section 38 Agreement (Highways Act 1980). The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act, payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the HA about compliance with the Code or, alternatively, to the issue of a Section 38 agreement and bond under the Highways act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.

It is strongly recommended that the developer contacts the HA at an early stage to clarify the codes etc. with which compliance will be required in the circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the NCC in writing before any work commences on site. Contact hdc.north@nottscc.co.uk 0115 804 0022.

4. Commuted Sums. The applicant should note that any areas over the normal minimum, intended for adoption will require the payment of a commuted sum for future maintenance. (i.e. additional areas exceeding usual highway design requirements, additional street furniture, landscaping, Sustainable Drainage systems, retaining walls, bollards and materials outside usual specification). The applicant is strongly advised to hold discussions with the HA as soon as possible to agree sums, ownership and responsibility for perpetuity.
5. Adoption of roads/streets. The HA only seeks to adopt streets where the new street network is acceptable in all highways and transportation terms. Accordingly, the HA may refuse to accept future maintenance liability of roads that do not meet the required standards and specification.

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

6. The Local Lead Flood Team should be re-consulted with any changes to be submitted and approved details of any FRA or Drainage Strategy which has been provided. Any deviation from the principles agreed in the approved documents may lead to the LLFT objecting to the discharge of conditions. Bespoke comments will be provided within a period of 21 days of receiving formal consultation.