



MAP SCALE 1: 750
CREATED DATE: 25/10/2023

COMMITTEE DATE 01/11/2023 **WARD** Huthwaite & Brierley

APP REF V/2022/0601

APPLICANT L Evans

PROPOSAL Development of 9 new dwellings at land adjacent to Trevelyan

LOCATION Land Adjacent Trevelyan, Blackwell Road, Huthwaite

WEB-LINK <https://www.google.com/maps/@53.1273666,-1.3072937,17.46z?entry=ttu>

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

App Registered: 09/08/2022 Expiry Date: 31/10/2022

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

This application has been referred to the Planning Committee by Cllr Hollis, to discuss the impacts of the proposal on ecology, infrastructure, green spaces, highways and flooding.

The Application

This is a full planning application for the erection of 9 dwellings on land north of Blackwell Road.

Consultations

A site notice has been posted, together with individual notifications to surrounding residents and statutory consultees.

The following representations have been received:

ADC Contaminated Land

As the land for the proposed development has been subject to potentially contaminative uses, including a brick yard, full contaminated land condition recommended.

Condition to take into account the satisfactory Phase 1 Geo-Environmental Desk Study.

ADC Ecology

The Site Block Plan shows two off-shoot access roads to the north of the red line boundary that will 'facilitate future development'. Will there be public access to the land north of the red line boundary from the proposed development? If yes, then the potential impacts from recreational use such as dog walking on the grassland have not been addressed. Given that

the habitats to the north of the red line boundary have been assessed as being of Local Wildlife Site quality, these impacts should be given due consideration.

I agree with the NWT consultation response regarding the hedgerows qualifying as 'important' under the Hedgerow Regulations 1997 due to the age of the hedgerow. However, the ecology survey found the hedgerow along the southern boundary to be 'species-poor and generally unmanaged'. On this basis I do not agree that the hedgerow is 'irreplaceable habitat' as described by NWT. The proposals will require a section of the southern hedgerow to be removed with hedgerow trees employed to reduce the vegetation gap across the canopy. Further native hedgerow planting has been proposed along the boundaries to the west, east and north of the site which will result in an overall increase of hedgerow within the application site. It is therefore considered that sufficient mitigation has been provided for the small loss of hedgerow along the southern boundary.

The proposals have not been assessed using the current Defra Biodiversity Metric 4.0 for calculating Biodiversity Net Gain (BNG). It is recommended that a Biodiversity Net Gain (BNG) Design Stage Report in accordance with best practice guidelines will also be required that will need to demonstrate a 10% net gain.

The proposed installation of bat and swift boxes in Appendix 7 of the updated ecological report is commended, however the suggested placement of bat and swift boxes is inappropriate in some cases as both species require a clear approach to the box which would not be provided in the narrow gap between neighbouring houses.

The biodiversity enhancements described in Appendix 7 should be adhered to. Although no evidence of badgers using the site have been recorded, the habitat is considered suitable to provide foraging and sett building opportunities. Given that badgers are a highly mobile species, it is recommended that a pre-commencement badger survey is undertaken.

ADC Environmental Protection

Comments provided in respect of noise and odour. Two conditions requested.

Noise

The application site is located on a busy road which has the potential to generate adverse noise impacts. The application is not supported by a Noise Impact Assessment.

Odour

Odour may be emitted from the Axalta Coatings site in line with the requirements of the Environmental Permit, but still impact the amenity of future residents. Odour could have a detrimental impact for future residents despite Axalta taking all reasonable and practical steps to minimise their impacts.

Conclusions

Noise impacts could be addressed for this first phase of development. However, significant concerns in respect of odour and noise for the area of the site adjacent to Axalta Coatings. In the absence of both a noise and odour impact assessment for the area of the site adjacent to Axalta Coatings we would not support the development of the wider site.

Environment Agency

The development falls within flood zone 1 and therefore no fluvial flood risk concerns associated with the site. There are no other environmental constraints associated with the application site which fall within the remit of the Environment Agency.

Lead Local Flood Authority

Standing advice.

NCC Highways (3rd of October 2022)

This proposal forms part of a larger site that will require a formal Transport Assessment/TP and dedicated right turn lane, with additional pedestrian facilities on Blackwell Road.

Piece-meal approach represents fragmented development. Considering and accepting such development could prejudice further development, which is discouraged by policy in the LPA's draft local plan.

No consideration for visitor parking. Resident parking depends on several private garages. Whilst this is not unacceptable, in practice garages are seldom utilised for parking. As a result, displaced parking onto the private access drives and/or Blackwell Road could occur, which would impede access, prevent turning and cause obstruction to the highway.

No details pertaining to bin storage/bin collection. A refuse vehicle does not generally enter a private drive, therefore refuse collection would be assumed from the highway. Details of bin collection should be provided. Bins being left on the public footway would not be acceptable.

Highway Authority needs to consider the overall impact of new development on highway safety and measures to mitigate the increase in demand on the transport network. Need to deliver connected opportunities for sustainable travel that benefit health, wellbeing and improve air quality as part of a larger-scale development. Such issues are impossible to consider comprehensively when development is presented unintegrated.

Future submission of the full scheme will require the applicant to provide defined improvements to local transport facilities, with new and improved pedestrian/cyclist facilities, within the development and to connect with the neighbouring areas.

The HA objects to the principle of development as it is difficult to understand the future transportation & highway safety implications of what appears to be a piece-meal approach to residential development.

NCC Highways (5th of June 2023)

Additional details submitted in the form of a transport scoping study. The applicant should determine the appropriate geometry for the intended development. Road safety audit may only be required if the design is not to that set out in the NHDG and/or there is a noted safety concern pertaining to the proposals.

A development of 9 dwellings will not require a Transport Statement or Assessment.

As a stand-alone development, the proposed access road to serve just four dwellings is not acceptable and a dropped kerb vehicular access is required, in order to ensure that pedestrian priority is not unnecessarily compromised. If it is intended to serve more dwellings in the future, the applicant should safeguard the land required to provide the required access geometry in the future.

Given that the road serves 4 dwellings, the HA would not adopt it. Accordingly, previous comments regarding bin storage stand as a refuse vehicle is unlikely to enter. Previous comments regarding visitor parking remain unaddressed.

The HA recommends that this application is deferred so that the applicant can provide sufficient information to confirm the full intentions of their proposals and submit relevant drawings, so that the HA may appropriately assess the highways implications.

NCC Highways (27th of September 2023)

In response to the most recent amended drawings and technical note submitted as part of this application, we can confirm that the general layout, parking and turning provisions presented are considered acceptable, but it would be unlikely that the Highway Authority would adopt the access road as it serves insufficient public benefit.

As a private access, refuse vehicles would not generally enter and as such refuse collection would be assumed from the highway, which would necessitate the provision of a suitable bin collection point to prevent bins being left out on the public footway.

The Highway Authority acknowledge the large parcel of land to the rear of the site, for which we are aware there has been interest in terms of residential development. Whilst this is an application for nine dwellings alone, should this development form part of an access for a future larger development, we would recommend that the applicant ensures sufficient land is kept within their control to enable delivery of highway improvements required for such development, as the current proposed access arrangements may not be adequate.

However, it appears feasible and proportionate that a 2-metre-wide footway is provided as part of this application along the site frontage, to support pedestrian access to and from the site.

Given the apparent adverse vertical alignment of the site, it may be necessary to provide retaining structures, which will increase the footprint of the required highway and the applicant should ensure there is sufficient land remaining in the control of the applicant to allow for this. A condition will be requested to ensure that appropriate gradients are provided.

Please note that whilst we are unlikely to offer to adopt the roads at this time, should the development be extended in future it will be necessary for this current section of the road to be designed and constructed to adoptable standard.

In consideration of the above, the Highway Authority do not object to the proposals as currently presented but would request conditions. Informative also requested.

Nottinghamshire Wildlife Trust (15th of August 2022)

An ecological desktop assessment and Phase-1 Habitat Survey (together with any detailed protected species surveys required) should be submitted.

The site contains grassland and hedgerows. Some of the hedgerows appear on historic Sanderson maps (c1835) suggesting that the habitats have been in situ for over 150 years and may qualify as 'Important' under the Hedgerow Regulations 1997. A Hedgerow Evaluation and Grading System (HEGS) assessment should therefore be undertaken.

Identified several Local Wildlife Sites (LWS) in the vicinity, the closest of which is located approximately 30m from application site, namely Sunnyside Farm Meadows LWS. Given the habitats on and adjacent to the site, we cannot rule out the potential presence of protected and priority species, which are a material consideration in the planning process.

Furthermore, under the Environment Act, all developments must demonstrate a minimum of 10% Biodiversity Net Gain (BNG). All hedgerows should be retained and where necessary, gapped up with native species. Grassland creation should be species-rich (i.e., flowering lawn mix), bird and bat boxes should be integrated into each new property and hedgehog highways should be installed into all non-permeable boundaries.

Nottinghamshire Wildlife Trust (15th of September 2022)

The ecology survey and report has been undertaken according to good practice guidelines.

Many of the hedgerows are 'Priority Habitats'. However, the majority of hedgerows are present on the Sanderson Map of 1835. The older hedgerows would therefore qualify as 'Important Hedgerows' due to their historic value, making them 'irreplaceable habitats'.

The bat transects and static surveys recorded at least 6 out of the 12 species of bat known to reside on Nottinghamshire. Under the Local Wildlife Site (LWS) selection criteria, the site would qualify as a LWS for its bat assemblage.

The ecologist has assessed the site as being of 'Local Value' for bats. However, we would argue that the site is of 'District Value' given that the hedgerows and grassland provide *"foraging habitat frequently used by a rarer or scarce [Leislars] species in the county, or consistently used by low levels of a nationally rare species"*.

According to the ecology report, two of the four field parcels are of 'county value' and meet the LWS criteria for their botanical assemblage. The ecologist has noted that the grasslands are currently in poor condition due to unsuitable management.

Surveys recorded common toad on site including juveniles, which would suggest the presence of a breeding pond in the landscape. Toads are Species of principal Importance under the NERC Act (2006).

The site and wider landscape are mapped as 'Mature Landscape Area EV4Rm' due to the fact that the landscape has remained relatively unchanged over time. Development should be complementary to the historic habitats. The site is marked as allocated land within the emerging Ashfield Local Plan. However, given that the emerging plan is yet to be adopted, we believe that it is too early to consider the site for development.

This application fails to demonstrate that the proposal will not result in an adverse impact on UK and Nottinghamshire Priority habitats and Priority species, as well as the fragmentation of a key wildlife corridor and ecological network. In the absence of demonstration that such impacts can be avoided; mitigated or adequately compensated, we believe this application should be refused.

Severn Trent Water

Condition and informative requested.

The Coal Authority

The application site **does not** fall within the defined Development High Risk Area.

Community Representations

89 letters/emails have been received from 58 individuals. The contents of these are summarised below:

Objections

Environment and Wildlife

- Destroying habitats
- Unfair to people who use the site.
- Hedge should be kept.
- There are mature established trees and hedgerows at risk.
- No eco-friendly credentials.
- Numerous bats.
- Area of outstanding natural beauty.
- Need to preserve green belt spaces.
- Ancient field system.

Highway Safety Issues

- Blackwell Road is a very busy road.
- Cars will not be able to park on Blackwell Road.
- Users have little respect for speed limit.
- Increased risk of traffic accidents. School in close proximity.
- Increased traffic noise.
- Insufficient parking.

Flooding/Drainage

- Nowhere for rainwater to be absorbed.
- Sewage will need to be addressed. A new pumping station will have to be built.

Infrastructure

- Infrastructure is at capacity.
- No bus services.
- Smokescreen for further development.

Visual & Residential Amenity

- Design and appearance not in keeping.
- Houses should be in line with the bungalows.
- Disruption to local residents.

Other

- Contamination is suspected.
- Concerns over coal mining activities.
- Sufficient brownfield land elsewhere.
- No need for new housing.
- Water supply issues.

Support

- Land has lain vacant for years.
- Use the site for its full potential.
- Shortage of housing.

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)

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

- Policy ST1: Development
- Policy ST4: The Remainder of the District
- Policy EV2: The Countryside
- Policy EV4: Mature Landscape Areas
- Policy EV6: Sites of Importance for Nature Conservation and Geological Significance
- Policy EV8: Trees and Woodlands
- Policy HG3: Housing Density
- Policy HG5: New Residential Development
- Policy TR2: Cycling Provision in New Developments
- Policy TR3: Pedestrians and People with Limited Mobility

Material Considerations

National Planning Policy Framework (NPPF) (2021)

- Chapter 2: Achieving Sustainable Development
- Chapter 5: Delivering a Sufficient Supply of Homes
- Chapter 8: Promoting Healthy and Safe Communities
- Chapter 9: Promoting Sustainable Transport
- Chapter 11: Making Effective Use of Land
- Chapter 12: Achieving Well-Designed Places
- Chapter 14: Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Chapter 15: Conserving and Enhancing the Natural Environment

Together with supporting Planning Practice Guidance.

Other Documents

- Residential Design Guide SPD (2014)
- Residential Extensions Design Guide SPD (2014)
- Residential Car Parking Standards SPD (2014)
- Nottinghamshire County Council Highway Design Guide
- The National Design Guide (2020)
- ADC Planning Guidance Climate Change (2022)
- ADC Developer Guide to Biodiversity and Nature Conservation (2022)

Relevant Planning History

There is no planning history relevant to this application.

Comment

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

1. Principle of Development
2. Impact on the Countryside
3. Sustainable Location
4. Layout, Appearance and Design
5. Residential Amenity
6. Comprehensive Development
7. Ecology and Conservation
8. Highway Safety and Capacity
9. Other Matters
10. Planning Balance

Principle of Development

Policy ST1 of the Ashfield Local Plan Review 2002 states that development will be permitted where, amongst other things, it does not conflict with other policies in the Local Plan.

The spatial strategy defines a clear settlement hierarchy within Ashfield. The first level comprises the main urban areas, the second comprises the villages, or “named settlements”, and the third consists of other small settlements within the Countryside.

As regards its location, the site falls within the third tier, or the “Remainder of the District”. Policy ST4 (ALPR) (2002) sets out that planning permission will only be granted in respect of sites allocated for development, or for development, which is appropriate to the Countryside, as set out under Policy EV2 (ALPR) (2002).

Impact on the Countryside

Policy EV2 (ALPR) (2002) sets out that, within the Countryside, permission will not be given for inappropriate development. Development must be located and designed so as not to adversely affect the character of the Countryside, in particular its openness.

Various forms of development are considered appropriate within the Countryside; these are stated expressly within Policy EV2 and the policy subtext. The applicant’s “Design and Access Statement” (dated the 30th of June 2022) concedes that the proposal does not comply with criteria (a), (b), (c), (d), (e), (f) and (h) of Policy EV2. However, the applicant states that the proposal constitutes infill development (criterion g), “fitting within a gap in the pattern of development.”

Nevertheless, the policy subtext sets out that infill will normally comprise one or two dwellings in a small gap in existing development. Not all small gaps are appropriate for infilling where, for example, they contribute towards the openness of the Countryside. Despite the site having built form on either side, given the significant width of the plot, the policy context and the scale of development, the proposal could not reasonably be considered infill development.

Paragraph 3.33 of the policy subtext sets out that new dwellings will not normally be permitted in the open Countryside. The Framework, however, adopts a slightly less restrictive approach. Paragraph 174(b) of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the Countryside.

Nevertheless, Policy EV2 broadly echoes, and is thus consistent with, the Framework’s approach, insofar as it limits development in the Countryside to that which protects its character. To conclude, the proposal does not meet the exceptions criteria prescribed by Policy EV2 and does not, therefore, constitute appropriate development in the Countryside. This matter is addressed in the ‘Planning Balance’ below.

Sustainable Location

Paragraph 110 of the NPPF requires that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.

To the east, south and west, the site adjoins the defined settlement boundary. The Local Shopping Centre “Huthwaite Market Place” (ref. SH4Sb) lies approximately 240m east/northeast. The existing conditions demonstrate that Huthwaite has a reasonable range of services and facilities, including food stores, takeaways, a post office and a health centre. The walk from the site to Huthwaite Market Place is uphill, which may prove unattractive to those persons with mobility issues. However, given its proximity, this issue does not negate the site’s sustainable location.

The application site is well-connected to public transport; approximately a 6-minute walk to the “Blackwell Road” and the “Market Place” bus stops. These stops offer transport links to Alfreton, Sutton-in-Ashfield, Mansfield and Mansfield Woodhouse. Destinations farther afield can then be accessed from these locations.

The No. 1 bus service operates 7 days a week, commencing as early as 05:03, Monday through Saturday. Due to its hours of operation, and its regularity over weekends and bank holidays, this presents a viable and attractive alternative for future occupants.

As regards pedestrians, footways are to be provided along both sides of the access road, measuring 2m in width. These footways connect with the existing provision on Blackwell Road and develop the scheme’s legibility. The Highway Authority have also requested a condition to ensure that a 2m wide footway is provided along the entire site frontage.

National planning policy assesses the sustainability of the transport in the context of the location; what is required is a “choice of transport modes.” Each dwelling is furnished with cycle parking and, as detailed above, the site offers connectivity for pedestrians, with good links to public transport.

As such, the site would not be reliant on private car ownership - opportunities for sustainable transport modes have been maximised. The site occupies a sustainable location.

Layout, Appearance and Design

Policy HG5 (ALPR) (2002) has regard to the acceptability of new residential development, setting out that development should not adversely affect the visual amenity of the locality.

Paragraph 130(a) of the NPPF sets out that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Paragraph 130(b) requires development to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Landscape, Openness and Character of the Area

The site is designated as a “Mature Landscape Area” (“MLA”) (ref. EV4Rm), which confers protection to valuable and vulnerable parts of Nottinghamshire’s Landscape which have remained relatively unchanged over time. However, Policy EV4 states that development which does not adversely affect the character and quality of MLAs will be permitted.

The site comprises a parcel of undeveloped land on Blackwell Road. Despite falling within the “remainder of the district”, the site has a close relationship to the existing settlement, due to its physical connection, similar topography and proximity to built form. The proposal represents a relatively minor encroachment into the Countryside and the MLA; following the pattern and grain of development along Blackwell Road.

Built form and vegetation bound the site, which afford a sense of enclosure and contribute to the verdant feel of the locale. Save for the access point, the hedgerow along the site frontage is to be retained and enhanced. Species-rich hedgerow and hedgerow tree planting are also proposed throughout the site. The Site Layout Plan (Drawing No. 053-Site Block Plan Rev B) depicts areas of “indicative planting”, details of which can be secured by condition. Taken together, intervisibility between the site and Blackwell Road is restricted. The number of visual receptors would be limited, or at least not significantly different to the existing situation. As such, the proposal would not appear unduly prominent.

The linear arrangement of Plots 1-7 contributes positively to the existing ribbon development along Blackwell Road. The proposal departs from this prevailing pattern in respect of Plots 8 & 9; however, these plots would not be overly visible from the public realm and, in any event, the northern site boundary extends to much the same depth as “Trevelyan” and “Westholme”.

The development would form a natural extension to the existing settlement, comprising an appropriate scale and character. The proposal, viewed in its context, would form part of a coherent settlement which “fills a gap” along Blackwell Road. The configuration of the 9 dwellings enables a spacious development, with room for landscaping, whilst maintaining some degree of openness.

Character of the Development

The locality displays a variety of architectural styles. In the instant case, the development comprises 9 no. detached and semi-detached dwellings with a mix of 3- and 4-bedroom properties. Paragraph 4.1 of the applicant’s Design and Access Statement submits that all properties exceed the minimum space requirements, that they are of an attractive and functional layout, and that they assimilate into their surroundings.

Furthermore, paragraph 4.3 sets out that the proposal would comprise traditional brick and slate roof construction. Cobble details and architectural detailing (cills and flush casement windows) enhance design. A suitably worded condition will ensure that materials and finishes match those outlined in the submitted details.

Residential Amenity

Retained Policy HG5 (ALPR) (2002) seeks to ensure that new residential development does not adversely affect the residential amenity of neighbouring properties. This aligns with the thrust of the Council’s Residential Design Guide SPD (2014) (“RDG”).

Separation Distances/Privacy

At paragraph 3.48, the RDG sets out that homes should provide a comfortable, safe and private space which can be enjoyed by the occupants. In order to ensure this can be achieved, minimum separation distances should be applied having regard to site conditions and context. Satisfactory separation distances are achievable within the development site and in relation to existing properties.

As regards existing residential properties, Plots 1-5 would be flush with the building line of No. 113 Blackwell Road. At first floor level (of the new plots), the only window openings in the side elevations serve non-habitable rooms.

Plots 6 & 7 are sited forward of Plots 1-5; however, the access road affords severance. Plot 6 will overlook the front gardens/driveways of Plots 1-5 which, in turn, increases levels of natural surveillance. Plots 6 & 7 are also forward of "Trevelyan". However, this does not appear to infract the 45* code. Along this eastern boundary, the applicant has proposed the planting of a species-rich hedgerow, together with the retention of the existing non-native/privet garden hedgerow. These measures, together with the difference in land levels, will soften the appearance of the proposal.

Amenity Space

All plots comprise either 3 or 4-bedroom properties. For 3-bedroom properties, paragraph 3.50 of the RDG sets out that the minimum outdoor amenity space required is 70sqm. As regards 4-bedroom properties, this requirement increases to 90sqm. Following a series of measurements, the proposal broadly complies with these minimum standards. There are some minor deficiencies, however, these would not, in themselves, result in harm.

Internal Space Standards/Outlook

At paragraph 3.52, the RDG provides guidance in respect of internal space standards, to protect the amenity and wellbeing of future occupants. Following a series of measurements, the proposal is in broad compliance with the space standards.

Furthermore, the proposal would not result in poor outlook onto unsightly areas, in accordance with paragraph 3.51 of the RDG. Adequate separation distances and amenity space result in a verdant and spacious feel.

Noise/Odour

Paragraph 185 of the NPPF sets out that new development should be appropriate for its location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment.

The Council's Environmental Protection Team have been consulted on this application and have provided comments in respect of noise and odour. As regards noise, they state that the application site is located on a busy road which has the potential to generate adverse noise impacts. Despite this, the application is not supported by a Noise Impact Assessment ("NIA"). As such, a suitably worded condition has been requested.

The concerns in respect of odour relate to the wider development, given the proximity of the Axalta Coatings site. For the reasons set out under the heading of “Comprehensive Development”, these factors do not obstruct the deliverability of this proposal.

Comprehensive Development

Paragraph 48(a) of the NPPF sets out that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given).

Paragraph 49 is also relevant, insofar as it sets out that in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in limited circumstances. In accordance with paragraph 50 of the NPPF, where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

Within the Council’s Emerging Local Plan (“ELP”), the application site forms part of a wider housing allocation, “Land off Blackwell Road/Main Street, Huthwaite” (ref. H1St). However, the ELP has not been the subject of Examination in Public and is not sufficiently advanced to the Regulation 19 consultation. To this end, the policies within the ELP carry no material weight for the purposes of the assessment of the development proposal.

Criterion (c) of Policy ST1 of the Ashfield Local Plan Review 2002 sets out that development will be permitted where it will not prejudice the comprehensive development of an area. In this respect, the Council’s Strategic Housing and Employment Land Availability Assessment (“SHELAA”) classifies the site as “potentially suitable and potentially achievable”. Additionally, on the Site Location Plan, the blue line demarcates land to the rear of the application site as being under the applicant’s ownership.

This application must be determined in light of its own facts. Whilst the revised plans intimate future development, this is not the subject of the current application. In any event, the applicant has implemented measures to avoid prejudicing a more comprehensive scheme. For instance, the access road travels from Blackwell Road up to the northern site boundary, leaving no ransom strip.

Successive schemes would be assessed on their merits and would, where appropriate, provide contributions towards infrastructure. As evidenced above, there is no substantive evidence to suggest that the proposal would prevent the delivery of a more comprehensive housing scheme. Refusals predicated on the question of comprehensive development (which may, or may never, be delivered) are seldom successful when tested at appeal. Indeed, the application makes a reasonable contribution to the supply of homes, set against the context of a significant shortfall. This scheme could be delivered relatively quickly, and there remains the option to develop neighbouring land.

Ecology and Conservation

Paragraph 180 of the NPPF sets out that, in determining planning applications, local planning authorities should apply the following principle: that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

In support of this application, an Ecological Impact Assessment (“EclA”) (by *Baker Consultants, January 2022*) has been submitted. This should be read in conjunction with the “Ecology Update and Biodiversity Plan” (“EUBP”) (by *Armstrong Ecology Ltd, July 2023*). For the avoidance of doubt, the EclA relates to the entire landholding.

Statutory and Non-Statutory Sites

As regards statutory sites of nature conservation interest, paragraph 3.7 of the EUBP sets out that, the proposed development, which is confined to the application site, is not anticipated to pose a risk to statutory sites. This is due to their distance from the site and the character/scale of the proposal.

As regards non-statutory sites of nature conservation interest, there are eight Local Wildlife Sites (“LWS”) within 500m of the site. However, paragraphs 3.8 – 3.11 of the EUBP set out that the application site has a slightly different context to the wider, surveyed site, as it does not adjoin Local Wildlife Sites. The nearest LWS to the application site, “Sunnyside Farm Meadows”, is 30m northwest of the application site at its nearest point. The remainder of LWS’ are 160m or more from the application site.

Given the separation between the application site and the LWS’ and its relationship to them, the proposal is not anticipated to pose a risk to non-statutory sites of nature conservation.

Hedgerows and Boundaries

Section 4.3.10 of the EclA sets out that the site contains mature overgrown and unmanaged hedgerows (TN30, 31, & 32). These hedgerows are species-poor but are considered to be of value due to their condition. They are also likely to provide opportunities for nesting and foraging birds. To the southeast of the site is a Japanese privet garden hedgerow (TN33).

In their consultation response, the NWT have confirmed that the ecology survey and report has been undertaken according to good practice guidelines and that they are generally satisfied with the resulting conclusions. They state that that ‘the majority’ of hedgerows on site are present on the Sanderson Map of 1835. The older hedgerows would therefore qualify as “important hedgerows” due to their historic value, making them “irreplaceable habitats”.

Paragraph 180(c) of the NPPF sets out that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Footnote 63 is not intended to be exhaustive, although it

does helpfully demonstrate the nature, or the type of development that might be considered “wholly exceptional”.

Nevertheless, the Council’s Ecology Officer has provided a consultation response (dated the 4th of September 2023). Within that response, the officer agrees with the findings of NWT insofar as the hedgerows qualifying as “important” under the Hedgerow Regulations 1997 due to the age of the hedgerow. However, the ecology survey found the hedgerow along the southern boundary to be “species-poor and generally unmanaged”. On this basis, the Council’s Ecology Officer does not agree that the hedgerow is “irreplaceable habitat” as described by NWT. Whilst the proposals will require a section of the southern hedgerow to be removed, hedgerow trees are employed to reduce the vegetation gap across the canopy. Further native hedgerow planting has been proposed along the boundaries to the west, east and north of the site which will result in an overall increase of hedgerow within the application site. As such, sufficient mitigation has been provided for the small loss of hedgerow along the southern boundary.

Habitats

The consultation response(s) from the Nottinghamshire Wildlife Trust (“NWT”) preceded the submission of the EUBP. A period of re-consultation has been undertaken; however, NWT have not provided further comments. In their consultation response (dated the 15th of September 2022), NWT stated that the site would qualify as a LWS for its bat assemblage and that the site is of “District Value” due to foraging habitats. They also stated that, according to the ecology report, two of the four field parcels are of ‘county value’ and meet the LWS criteria for their botanical assemblage.

Notwithstanding the above, paragraphs 3.14 – 3.19 of the EUBP set out that 75 (of 145) of the bat records relate to the wider site (including the application site). The remainder of the records are 470m from the centre of the application site. No trees with bat roosting potential were recorded within the site during the most recent visit (06/01/2023). In addition to this, Section 3 of the EUBP sets out that the application site does not include the area where most bat activity was recorded during transects and it does not adjoin this area.

As regards the botanical assemblage, the applicant’s reports note that, these grasslands are in poor condition due to their management and undesirable characteristics (e.g., presence of weeds, uniform sward height and presence of non-natives). In relation to other habitats, the EUBP finds that there are no ponds within the application site and that it is not reasonably likely that great crested newt or common toad will be present.

Biodiversity and Enhancement Measures

The Council’s Ecology Officer has stated that the biodiversity enhancements described in Appendix 7 should be adhered to. Although no evidence of badgers using the site has been recorded, the habitat is considered suitable for foraging and sett building opportunities. Given that badgers are a highly mobile species, it is recommended that a pre-commencement badger survey is undertaken.

Furthermore, Section 4 of the EUBP prescribes a biodiversity plan for the site. Various mitigation measures are incorporated:

- Retention of trees/hedgerows within the site;
- Hedgerow/hedgerow tree planting;
- Inclusion of bird and bat boxes;
- Sensitive lighting strategy;
- Hedgehog corridors to be incorporated; and
- Excavations to be covered overnight.

Greater detail is provided within the EUBP as to each biodiversity measure. These details can be secured by condition.

Highways Safety and Capacity

Retained Policy HG5(f) (ALPR) (2002) sets out that new residential development will be permitted where parking facilities are provided in accordance with Council standards. The Council's Residential Car Parking Standards SPD (2014) ("RCPS") sets the requirement for parking provision to serve new residential developments within the District. Criterion (e) of Policy HG5 (ALPR) (2002) sets out that development will be permitted where access for vehicles, pedestrians and cyclists and public transport where appropriate, is safe and convenient, and integrated with existing provision.

Paragraph 110 of the NPPF sets out that safe and suitable access to the site should be achieved for all users. Paragraph 111 sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The southern site boundary fronts Blackwell Road, a classified B-road. A number of residents' objections draw on the capacity and safety of the highway network.

1st Consultation Response – 3rd October 2022

The Highways Authority ("HA") have been consulted on three occasions. These consultation responses are addressed chronologically. In their original consultation response (dated the 3rd of October 2022), the HA raised objection, stating that, where the proposal forms part of a larger site, a formal Transport Assessment/TP would be required, together with a dedicated right turn lane and additional pedestrian facilities on Blackwell Road.

The HA found that this 'piecemeal' approach represents fragmented development, which could prejudice further development. In addition to this, no consideration had been given for visitor parking, whilst resident parking depended on private garages. Whilst this is not unacceptable, in practice garages are seldom utilised for parking. As a result, displaced parking onto the private access drives and/or Blackwell Road could occur, which would impede access, prevent turning and cause obstruction to the highway. The HA also noted that no details had been provided pertaining to bin storage and bin collection points.

Finally, the HA stated that any future submission of the full scheme will require the applicant to provide defined improvements to local transport facilities, with new and improved pedestrian/cyclist facilities, both within the development and to connect with the neighbouring areas.

2nd Consultation Response – 5th June 2023

The applicant subsequently provided a “Transport Scoping Study” (by HSP Consulting Engineers Ltd), the content of which was reviewed by the HA. In a consultation response (dated the 5th of June 2023), the HA appeared to retract their earlier position, stating that a development of 9 dwellings would not require a Transport Statement or Assessment.

The HA further advised that, as a stand-alone development, the proposed access road to serve just four dwellings is unacceptable and a dropped kerb vehicular access is required. If it is intended to serve more dwellings in the future, the applicant should safeguard the land required to provide the required access geometry in the future. Given that the road serves 4 dwellings, the HA would not adopt it. Previous comments in respect of visitor parking were unaddressed. To conclude, the HA recommended that the application be deferred so that the applicant could provide sufficient information to confirm the full intentions of their proposals and then submit drawings accordingly. This would allow the HA to appropriately assess the highway implications.

3rd Consultation Response – 27th September 2023

Following these consultation response(s), a revised scheme has been submitted, together with a Transport Technical Note (by HSP Consulting Engineers Ltd) (“TTN”).

At section 1.2.1, the TTN sets out that the development site layout has been adjusted in line with feedback. These ‘improvements’ are detailed at section 1.2.1 of the TTN, though in summary the revised scheme includes: cycle stores, a shared driveway, allocated visitor parking spaces, turning facilities, pedestrian footways and a bin storage area. The additional access point off Blackwell Road has been deleted.

After a period of re-consultation, a response was received from the HA on the 27th of September 2023. Within that response, the HA confirmed that the general layout, parking and turning provisions are acceptable, but it would be unlikely that the HA would adopt the access road as it serves insufficient public benefit. As a private access, refuse vehicles would not generally enter, and as such, refuse collection would be assumed from the highway, which would necessitate the provision of a suitable bin collection point to prevent bins being left out on the public footway.

The HA acknowledge the large parcel of land to the rear of the site, for which there has been interest in terms of residential development. They state that, should this development form part of an access for future development, it is recommended that sufficient land is kept within the applicant’s control, to enable the delivery of highway improvements required for such development, as the current proposed access arrangements may not be adequate. Given the apparent adverse vertical alignment of the site, it may be necessary to provide retaining structures which will increase the footprint of the required highway.

Section 5 of the RCPS dictates the requisite quantum of off-street parking. All dwellings are either 3- or 4-bedroom properties; thereby requiring 2 or 3 spaces. The amended drawings depict parking provision to accord with this requirement.

In conclusion, the HA do not object to the proposals as currently presented but have requested a number of conditions.

Other Matters

Coal Mining

The application site lies adjacent to, but not within, the defined Development High Risk Area. The National Planning Practice Guidance (“NPPG”) on *Planning Applications and Coal Mining Risk Assessments*, sets out that where a site falls within the Development High Risk Area, for most planning applications a Coal Mining Risk Assessment (“CMRA”) will be required.

The applicant has submitted a CMRA in support of this application (by HSP Consulting). Section 5 of the CMRA sets out that, the risk of exposure and subsequent combustion of a shallow coal seam is considered to be low.

For completeness, the Coal Authority have been consulted on this application. Within their consultation response(s), they state that the application site does not fall within the defined Development High Risk Area and have requested only that an informative note is added to the planning permission.

Land Contamination

As confirmed by the Council’s Contaminated Land Officer (“CLO”), the site has been subject to potentially contaminative uses, including a brick yard.

The applicant has submitted a Phase I Geo-Environmental Report (by HSP Consulting). Section 6.3 of the report sets out that a ground investigation is recommended, to provide information as part of the feasibility study and assess the geo-environmental constraints identified. As such, the Council’s CLO has requested that a condition be added to any planning permission.

Flood Risk

The Environment Agency (“EA”) have been consulted as part of this application. Within their consultation response (dated the 10th of August 2022), the EA state that the development falls within Flood Zone 1 and therefore there are no fluvial flood risk concerns associated with the site.

Severn Trent Water have also been consulted and have requested that one condition be imposed.

Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

The Council cannot currently demonstrate a five-year supply of deliverable housing land. This point has been highlighted in recent appeal decisions and in the Council’s Housing Land Monitoring Report 2023.

The Council's position is stated as 2.93 years, which represents a significant shortfall. Accordingly, in line with paragraph 11(d) of the NPPF, the policies most important for determining the application are out of date. Planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Paragraph 219 of the NPPF (Annex 1: Implementation) sets out that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Of the development plan policies, the proposal would conflict with Policy EV2 (ALPR) (2002). Policy EV2 broadly echoes, and is thus consistent with, the Framework's approach, insofar as it limits development in the Countryside to that which protects its character. The proposal does not meet the exceptions criteria prescribed by Policy EV2 and does not, therefore, constitute appropriate development in the Countryside.

Notwithstanding the conflict with Policy EV2, the harms in this case do not "significantly and demonstrably" outweigh the benefits. As amended, the harm that arises relates to the character and openness of the Countryside. However, even then, such harm is reduced, having regard to both the spatial and visual aspects of openness. For the reasons set out within this report, the site has a close relationship to the existing settlement; the development would form a natural extension, comprising an appropriate scale and character. Such harm should therefore be afforded moderate weight, given the degree of the shortfall in 5-year housing land supply across the district.

Furthermore, no harm would arise from reliance on private motor vehicles; the application site is in a sustainable location and the applicant has maximised opportunities for sustainable transport.

There would also be a number of benefits associated with the proposal. These include the provision of 9 market homes, in the context of a significant shortfall in 5YHLS. Within the district there is an acute need for market housing, which must be met. This represents a significant benefit and should be attributed substantial weight. There would be other, moderate benefits, including employment at the construction stage. Future occupiers would also help to support local facilities and services which, again, should be attributed moderate weight. In summary, the weight to be attached to the benefits should be substantial.

The harms in this case are limited. Overall, the adverse impacts would not significantly and demonstrably outweigh the benefits of the development. It is recommended that planning permission should be granted.

Recommendation: Approve, subject to the conditions detailed below.

Conditions

1. The development hereby approved shall be begun before the expiration of the 3 years from the date of this permission.
2. This permission shall be read in accordance with the following plans:
 - 053-101 Revision B (The “Bridgebank” Plot 1 - Floorplans and Elevations)
 - 053-102 Revision B (The “Mapperley” Plot 2 – Floorplans and Elevations)
 - 053-103 Revision B (The “Lutterworth” Plot 3 – Floorplans and Elevations)
 - 053-104 Revision A (The “Mapperley” Plot 4 – Floorplans and Elevations)
 - 053-105 Revision B (The “Mapperley” Plot 5 – Floorplans and Elevations)
 - 053-106 Revision B (The “Chelmsford” Plot 6 – Floorplans and Elevations)
 - 053-107 Revision B (The “Bridgebank” Plot 7 – Floorplans and Elevations)
 - 053-108 Revision B (The “Ripon” Plots 8 & 9 – Floorplans and Elevations)
 - 053-109 Revision B (Garages Plots 6 & 7 – Floorplans and Elevations)
 - 053-Site Block Plan Revision B (Site Block Plan)
 - 053-Location Plan Revision A (Site Location Plan)
 - “Reenee’s View, Blackwell Road, Huthwaite” (Proposed Street Scenes)

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

3. The materials and finishes to be used for the external elevations and roof of the proposal shall match those outlined in the submitted details.
4. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
5. Prior to the first occupation of the dwelling(s) hereby approved a scheme of sound mitigation shall be submitted to and approved in writing by the local planning authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, where an open window would not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms 30 dB LA_{eq} (15 Minutes) (2300 hrs – 0700 hrs)
Living/Bedrooms 35 dB LA_{eq} (15 Minutes) (0700 hrs – 2300 hrs)
All Other Habitable Rooms 40 dB LA_{eq} (15 Minutes) (0700 hrs – 2300 hrs)
All Habitable Rooms 45 dB LA_{max} to occur no more than 10 times per night (2300 hrs – 0700 hrs)
Any outdoor amenity areas 55 dB LA_{eq} (1 hour) (0700 hrs – 2300 hrs)

The approved scheme shall be implemented in full and retained thereafter.

6. No dwelling hereby permitted shall be occupied 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 building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.
7. Details of the proposed treatment of the site's boundaries shall be submitted to and approved in writing by the Local Planning Authority. Any garden fence or other non-permeable structure should be provided with small holes (gaps 130mm x 130mm) to allow a continuous pathway in which hedgehogs and other small mammals can move through the developed residential site. The holes in the boundary treatments shall thereafter be retained in perpetuity.
8. No part of the development hereby permitted shall be brought into use until the access is constructed with a gradient not exceeding 1 in 20 for a distance of 10m from the rear of the highway boundary unless otherwise agreed with and approved in writing by the Local Planning Authority.
9. No part of the development shall be occupied on any part of the application site until a minimum 2-metre-wide footway has been provided along the entire site frontage, the details of which shall be first submitted to, and approved in writing and thereafter constructed to the satisfaction of the Local Planning Authority.
10. No part of the development shall be occupied on any part of the application site until a suitable bin collection point is provided for all proposed dwellings to enable refuse collection from the public highway, the details of which shall be first submitted to, and approved in writing and thereafter constructed to the satisfaction of the Local Planning Authority.
11. No development shall be commenced until technical details of the roads and proposed arrangements for future management/maintenance of the proposed streets and private accessways including associated drainage have been submitted to and approved in writing by the Local Planning Authority.
12. All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of badgers, hedgehogs and other wildlife. All pipework with a diameter greater than 150mm should be capped off at the end of the day and chemicals should be stored securely.
13. Prior to the occupation of the hereby approved dwellings, one bee brick shall be installed within each of the dwellings.

14. Land Contamination

- a) No works shall take place (save for above ground demolition works and site preparation works) until a remediation scheme to deal with the potential ground contamination of the site has been submitted to and approved in writing by the local planning authority.

The scheme shall include:

- i. A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
- ii. The results of the site investigation and detailed risk assessment referred to in (ii) 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;
- iii. A verification plan setting out the details of the data that will be collected to demonstrate that the works set out in the remediation strategy in (iii) are complete to a satisfactory standard; and
- iv. If required, a monitoring and maintenance plan, setting out 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 any area identified by the report. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.

- b) If during the works any additional suspected 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 has been 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 remediated prior to the first occupation of any area identified by the report.

- c) The development shall not be occupied until a post completion verification report, including results of sampling and monitoring carried out, has first been submitted to and approved in writing by the local planning authority demonstrating that the site remediation criteria have been met.

15. The development hereby permitted shall be carried out in accordance with the Ecological Impact Assessment (dated 01/2022) and the Ecology Update and

Biodiversity Plan (dated 07/2023). The recommendations made within these documents, including Section 4 (Biodiversity Plan) of the Ecology Update and Biodiversity Plan, shall be strictly adhered to.

16. Prior to the commencement of development, a walk over badger survey shall be completed and the results, along with details of any necessary mitigation measures, shall be submitted to and approved in writing by the local planning authority. All works and measures shall proceed in accordance with the approved details.
17. The highway proposed as part of this development shall be completed and available for use up to the site boundary to the north before the occupation of the 8th dwelling on the site.

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 provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.
5. To protect the aural amenity of future occupiers of the dwellings.
6. To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings.
7. In the interests of enhancing local ecology.
8. In the interests of highway safety.
9. In the interests of pedestrian safety and sustainable travel.
10. In the interests of pedestrian safety.
11. In the interests of highway safety and to ensure that the liability of bringing roads up to standards to meet those required for highway safety purposes does not become the responsibility of the Highway Authority.
12. To minimise harm to any species which may enter the application site during construction.
13. In the interests of enhancing local ecology.

14. To protect future occupiers of the development from unacceptable land contamination risk in accordance with NPPF, paragraphs 183 & 184. This condition is necessary as a pre-commencement condition because in the absence of a robust remediation plan the development process could result in the spread of contamination and a risk to public health.
15. In the interests of protecting wildlife.
16. In the interests of protecting wildlife.
17. To ensure the development as a whole is completed and access is provided to the land to the north.

Informative

1. The planning permission hereby granted is in respect of 9 dwellings which is below the threshold for contributions to be sought to ensure the development is sustainable and provides the necessary infrastructure. If this is the first phase of a larger development, which it appears to be so because of the highway design then when the development of further land which is reliant on this land, solely or in part, then any contributions which become necessary shall include the amount which would have been required for these 9 plots.
2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.
Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority
3. Severn Trent Water advise that although our 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.
4. 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.
5. In order to carry out the off-site works required you 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 you have no control. In order to undertake the works, you will need to enter into an agreement under Section 278 of the Act. Please contact Highways Development Control North by email at hdc.north@nottscc.gov.uk for details.

6. Any details submitted in relation to a reserved matters or discharge of condition planning application, are unlikely to be considered by the Highway Authority until technical approval is issued.