



**COMMITTEE DATE**    31/07/2024                      **WARD**            Abbey Hill

**APP REF**                      V/2024/0127

**APPLICANT**                      Ashfield District Council

**PROPOSAL**                      Construction of an Automated Distribution and Manufacturing Centre

**LOCATION**                      Land Off, Lowmoor Road, Kirkby in Ashfield, Nottinghamshire

**WEB-LINK**                      <https://www.google.co.uk/maps/@53.1146335,-1.2406986,16.58z?entry=ttu>

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

App Registered: 02/04/2024

Expiry Date: 02/07/2024

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

*This application has been referred to Planning Committee in the interest of transparency since Ashfield District Council are the applicant.*

### **The Application**

This is an application which seeks full planning permission for the construction of a purpose-built, multi-functional centre for the advancement and adoption of automation in distribution and manufacturing, with associated access, car parking, landscaping and infrastructure on land to the east of Lowmoor Road, Kirkby in Ashfield.

### **Consultations**

A site notice has been erected and a press notice issued, together with individual notification to surrounding residents and businesses.

The following consultation responses have been received:

#### **Active Travel England:**

No comment to make on the application (application does not meet statutory thresholds).

#### **ADC Arboricultural Officer:**

The supplied arboricultural information is satisfactory and accurately reflects the trees and hedges on the site. The information should form part of the approved details as part of any grant of permission.

**ADC Conservation Officer:**

Whilst the site lies in proximity to the locally listed Kirkby Hardwick railway bridge, and Kirkby Hardwick, considering the surroundings and that Lowmoor Road and the railway sit between the site and these non-designated heritage assets, there will not be an affect on their respective significance. Confirmation also received that on the basis of the results of the Desk Based Archaeological assessment, the use of geo-physics can be secured pre-commencement through the use of condition. Any requirement for geo-physics to be carried out prior to determination would be disproportionate. Have no objections to the proposal.

**ADC Ecology:**

Based on the submitted plan, the habitats that will be lost mainly comprise of a portion of hedgerow for access, scrub, neutral grassland and modified grassland. Some existing hedgerow and tree planting will be retained. Based on the submitted information there is unlikely to be any issues with regard to protected species. The proposed development provides opportunities to enhance biodiversity.

A Biodiversity Net Gain assessment has been submitted which shows that a minimum 10% net gain is achievable. This should be secured by a pre-commencement condition requiring the submission and approval of the BNG report plan. Recommend further conditions relating to ecology as part of any grant of permission.

**ADC Environmental Health (Noise & Air):**

The application is supported by a Noise Assessment. Whilst the data in the report is limited, it would appear that the data is likely to be representative of that environment and so it is likely that that if these values are achieved the level of impact is likely to be low. The assessment does however not include a mechanism to ensure that the proposed targets a met. A condition is therefore required to ensure compliance.

An external lighting statement is provided in support of the application, which states that any future lighting strategy shall be designed in compliance with the ILE Guidance notes for the reduction of obtrusive light. A scheme of lighting will be needed as part of any proposal for the site and therefore a condition is recommended to ensure that the scheme of lighting meets the suggested criteria.

**ADC Environmental Health (Contamination):**

As the site is either a former Environment Agency licensed landfill site or lies within a 250m buffer zone for an Environment Agency licenced landfill, a full contaminated land condition is requested as part of any grant of permission.

**ADC Housing Officer:**

There are no affordable housing matters related to this application.

**ADC Planning Policy:**

The application site is located within designated countryside under the current local plan. Permission will only be given for development appropriate to the countryside and in all cases, must be located and designed so as not to adversely affect the character of the countryside, in particular its openness. The site comprises an employment land allocation within the emerging local plan (Policy EM2 K4: Employment Land Allocations – Land to the East of Lowmoor Road, Kirkby). This allocation has received no objections. Given that the emerging local plan is at an advance stage (submitted to secretary of state), the emerging local plan is therefore a material consideration in the decision-making process.

Consideration should also be given to strategic objective 6 of the emerging local plan, which is to provide economic opportunity for all and to be ambitious for economic growth and productivity in Ashfield. This includes.

- a) Creating a climate for business and enterprise growth with an emphasis on making investment happen.
- b) To encourage economic development and regeneration of the District and diversification of the local economy by ensuring the provision of a range and choice of employment sites in terms of size, quality and location.
- c) Promoting a higher wage and higher skilled economy.
- d) Supporting the growth of a diverse range of economic sectors, promoting development to parts of the district where it is needed to build and strengthen vibrant and cohesive communities.
- f) Facilitating access to a skilled and educated labour force.

The Council therefore recognises the importance of bringing forward sufficient employment land to meet demand and to underpin the further economic growth of the District and its residents. Ashfield's Education and Skills Improvement Plan (2022) provides the evidence base for local education and skills insights, priorities, and initiatives, delivered by Ashfield's Education and Skills Partnerships. The vision is that by 2031 Ashfield will have a high quality, local education and skills offer that is accessible and responsive to resident and employer needs.

Consideration should also be given to climate change, heritage, ecology, flood risk and highway/transport requirements.

**Coal Authority:**

Have reviewed the site location plan provided and can confirm that the site falls within the Coal Authority's defined Development Low Risk Area. On this basis we have no specific comments to make.

**Environment Agency:**

The geological map indicates that the bedrock underlying the site is designated as a Principal Aquifer. The site is within Source Protection Zone 3 (SPZ3) for potable water abstractions. There is a historic landfill recorded on site and therefore, contamination is highly likely to be present on site. The area is highly sensitive, due

to the Principal Aquifer and being within SPZ3, in addition the previous land use creates a high risk of contamination that could be mobilised during construction. Planning conditions are therefore requested as part of any grant of permission.

**Health and Safety Executive:**

Confirm that the proposed development does not lie within the Consultation Zone of any of the major hazard sites or major accident hazard pipelines considered by HSE.

**Nottinghamshire Integrated Care Board:**

No comment to make on the application (the scheme does not contain any residential development).

**Nottinghamshire County Council (NCC):**

The County Council's comments set out the policy position in respect of Waste, Minerals and Transport. The county planning context is set out below:

**NCC Minerals:**

There are no Minerals Safeguarding and Consultation Areas covering, or in close proximity to, the site. There are no current or permitted minerals sites close to the application site.

**NCC Waste:**

There are no existing waste sites in the vicinity, which the development could cause issue to. The proposal is likely to generate significant volumes of waste through both the development and operational phases. It would be useful if the application was supported by a waste audit.

There is a historic landfill site off Lowmoor Road listed in the Environment Agency Historic Landfill Database (EAHLD). There is very little information available about this site as it would have been operational prior to 1974. The EAHLD listing shows that this site was operated and owned by the former 'Sutton Urban District Council'. Any wastes deposited at the site before 1974 would not have been subject to any regulatory controls.

**NCC Archaeology:**

The submitted Archaeological Desk Based Assessment (DBA) notes there is little available information to provide insight into the archaeological potential of the application site though it lies a short distance from the remains of the prominent medieval manor house of Kirkby Hardwick. Without further information for the site on the archaeological resource and significance it is not possible to determine impacts or design any mitigation. In line with the DBA it is recommended that geophysical survey and evaluation via trial trenching be carried out. The County Council recommend this is undertaken prior to determination.

**NCC Travel and Transport Services:**

Site access is from Lowmoor Road which provides good access to local bus routes and train services at Sutton Parkway Station. The closest bus stops served by scheduled services are situated approximately 240 metres from the centre of the site.

- The current infrastructure at the nearest bus stops do not meet access standards. A bus stop infrastructure contribution of **£15,600** is required for improvements at one bus stop (AS0319 Sutton Parkway Rail Station). This will include re-lining the clearway and TRO for enforceable clearway, removal of the existing bus shelter and replacement polycarbonate shelter, or other enhancements as required.
- LTN1/20 requirements for a segregated cycle route and remodelling of Bus Stop AS0320 and layby are included within the submitted Transport Assessment and include a raised table crossing (across the segregated cycle route).
- The proposed site plan includes an access / spine road from the junction with Lowmoor Road. The developer should add safeguarded locations for bus stops meeting highway design guidelines on the access road, and a bus turning facility to facilitate the potential for future bus access, including to adjacent land parcels.
- Contributions towards local bus service provision is not requested at this time. The current service level of the local public transport network is sufficient.
- Planning condition requesting the provision of free introductory bus travel to be made available to all employees.

**NCC Highways:**

No objections subject to conditions.

**NCC Rights of Way:**

Confirm that no recorded public rights of way are affected by the proposal.

**NCC Local Lead Flood Authority:**

Based on the submitted information there is no objections to the proposal and recommend approval subject to a surface water condition.

**Nottinghamshire Constabulary:**

Confirm that they have no holding objections with regard to the scheme but request an informative note be added to any decision notice.

**Severn Trent Water:**

Foul is proposed to connect into the public foul water sewer from a rising main, which will be subject to a formal section 106 sewer connection approval. Surface water is proposed to discharge to a watercourse, which we have no comment. There is a water asset within the area of the application site. No build over is permitted.

### **Community Representations:**

4 representations have been received in objection to the proposal on the following grounds:

- Loss of countryside / green space.
- Impact on local wildlife.
- Impact on local highway network – congestion, increased on-street parking
- Noise and pollution from the site.
- Proposal paves the way for further development of the site for industrial/commercial purposes.
- Wider site too close to residential development to the north of the site.

### **Policy**

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

#### **National Planning Policy Framework (NPPF) December 2023**

Part 2 – Achieving Sustainable Development

Part 6 – Building a Strong, Competitive Economy

Part 8 – Promoting Healthy & Safe Communities

Part 9 – Promoting Sustainable Transport

Part 11 – Making Effective Use of Land

Part 12 – Achieving Well-Designed and Beautiful Places

Part 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change

Part 15 – Conserving and Enhancing the Natural Environment

Part 16 – Conserving and Enhancing the Historic Environment

Together with supporting Planning Practice Guidance.

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

Policy ST1 – Development

Policy ST4 – Remainder of the District

Policy EM1 – Employment Land Allocations

Policy EV2 – Countryside

Policy EV4 – Mature Landscape Areas

Policy EV8 – Trees and Woodlands

Policy TR2 – Cycling Provisions in New Development

Policy TR3 – Pedestrians and People with Limited Mobility

Policy TR6 – Developer Contributions to Transport Improvements

#### **Emerging Local Plan 2023-2040**

Policy S1 – Spatial Strategy to Deliver the Vision

Policy S2 – Achieving Sustainable Development

Policy S3 – Meeting the Challenge of Climate Change

Policy S5 – High Quality Buildings & Places through Place Making & Design

Policy S8 – Delivering Economic Growth  
Policy S9 – Aligning Growth and Infrastructure  
Policy S10 – Improving Transport Infrastructure  
Policy S12 – Tackling Health Inequalities and Facilitating Healthier Lifestyles  
Policy S13 – Protecting and Enhancing Our Green Infrastructure and Natural Environment  
Policy S14 – Conserving and Enhancing Our Historic Environment  
Policy CC1 – Zero/Low Carbon Developments  
Policy CC2 – Water Resource Management  
Policy CC3 – Flood Risk and SuDs  
Policy EV2 – Countryside  
Policy EV4 – Green Infrastructure, Biodiversity and Geodiversity  
Policy EV6 – Trees, Woodland and Hedgerows  
Policy EV9 – The Historic Environment  
Policy EV10 – Protection and Enhancement of Landscape Character  
Policy EM1 – Business and Economic Development  
Policy EM2 – Employment Land Allocations  
Policy SD1 – Social Value  
Policy SD2 – Good Design Considerations for Development  
Policy SD3 – Amenity  
Policy SD4 – Recycling and Refuse Provision in New Development  
Policy SD5 – Developer Contributions  
Policy SD8 – Contaminated Land and Unstable Land  
Policy SD9 – Environmental Protection  
Policy SD10 – Transport Infrastructure  
Policy SD11 – Parking

### **Guidance**

ADC Planning and Climate Change (2022)  
ADC Developer Guide to Biodiversity and Nature Conservation (2022)  
ADC Education and Skills Improvement Plan (2022)  
The National Design Guide (2021)  
National Model Design Code (2021)  
Building for a Healthy Life (2020)  
Gear Change: A Bold Vision for Cycling and Walking (2020)  
Cycle Infrastructure Design (LTN 1/20) (2020)  
Manual for Streets 2 (2010)

### **Relevant Planning History**

None.

### **Comment:**

#### **The Site:**

The application site measures approximately 2.89 hectares and comprises of agricultural grassland. Existing industrial and commercial uses located within the



main urban area of Kirkby in Ashfield lie immediately to the south of the site on Observatory Way and Prospect Close. To the immediate west of the site is existing residential flats, Sutton Parkway train station and further commercial and industrial uses off Julia's Way. Open grassland and fields lie immediately to the north and west of the site, with further residential development situated approximately 300m to the north of the site.

The application site is demarcated to its boundary with Lowmoor Road, by low post and rail fencing, with established hedgerow planting at around 2m in height, which limits the views of the site from the public highway. Similar mature planting lies to the southern boundary of the site, with the remaining boundaries of the site being more open. In terms of topography, the site generally rises from east to west and climbs towards the northern boundary of the site.

### **Main Considerations:**

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

- The Principle of Development
- Landscape Character
- Ecology and Biodiversity
- Layout, Appearance and Scale
- Residential Amenity
- Highway Capacity and Safety
- Flood Risk and Drainage
- Other Matters
- Developer Contributions
- Planning Balance and Conclusions

### **The Principle of Development:**

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

Whilst there are a range of policies in the emerging Ashfield Local Plan (2023-2040) the plan is not at a sufficiently developed stage to give those policies '*significant*' weight. Some policies may however be given some degree of weight depending upon the level and type of objections received during the Regulation 19 Consultation process.

The National Planning Policy Framework (NPPF) is a material consideration. The policies in the development plan must be considered in relation to their degree of

consistency with the provisions of the NPPF (NPPF paragraph 225). This will depend on the specific terms of the policies and of the corresponding parts of the NPPF when both are read in their full context. An overall judgement must be formed as to whether development plan policies, taken as a whole, are to be regarded as out of date for the purpose of the decision.

The application site is located within the countryside, as set out in policy ST4 of the ALPR 2002. Under the provisions of policy EV2 of the development plan, permission will only be given for appropriate development. Development must be located and designed so as not to adversely affect the character of the countryside, in particular its openness. The application does not meet any of the forms of appropriate development set out in Policy EV2. In relation to openness the courts have held that it can have a visual component, depending on the circumstances, but a widely accepted meaning is also, simply, the absence of development. Applying the simple meaning of openness, the proposed development would result in a loss of openness. Consequently, the proposal does not fall readily within this definition and therefore conflicts with Policy EV2. This must however be considered within the planning balance.

Notwithstanding the above, the NPPF, which is also a material consideration in the determination of this application, is underpinned by a presumption in favour of sustainable development. Paragraph 7 of the Framework states that the purpose of planning is to contribute to the achievement of sustainable development, whilst Paragraph 8 goes on to state that the planning system, in the context of sustainable development, has 3 overarching interdependent objectives: an economic objective; a social objective; and an environmental objective.

Paragraph 85 of the Framework notes the importance of planning decisions creating the conditions in which businesses can invest, adapt, and expand. It adds that significant weight will be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development. Paragraph 87 goes on to advise that planning policies and decisions must respond to the specific locational requirements of different sectors which includes making provision for clusters or networks of knowledge and data-driven, creative, or high technology industries; thus setting out a more flexible approach to economic development outside of settlement boundaries.

In respect of the emerging development plan, this has recently been subject to a Regulation 19 Consultation and was submitted to the Secretary for examination on the 29<sup>th</sup> April 2024. As such, the plan can be considered to be at a relatively advanced stage of preparation and it is considered that a moderate level of weight can be afforded at this stage, based on the principles as set out in paragraph 48 of the NPPF.

The site comprises an employment land allocation within the emerging local plan (Policy EM2 K4: Employment Land Allocations – Land to the East of Lowmoor Road,

Kirkby). The allocation received no objections during the consultation process and therefore moderate weight can be attributed to the proposed employment allocation. This is further supported by strategic objective 6 of the emerging local plan, which is to provide economic opportunity for all and to be ambitious for economic growth and productivity in Ashfield.

The site is immediately adjacent to the urban area and in 'real' terms already forms part of the physical settlement of Kirby in Ashfield, with consolidated existing built-up development facing the site opposite to the west and on the opposite side of Lowmoor Road. Moreover, existing residential development to the north and commercial development to the south, wraps around the site and extends significantly further to the east than the application site.

Taking account of the existing pattern of development and the sustainability credentials of the site, which is served by existing public transport and cycle links and is otherwise in easy reach of a number of services and amenities within Kirkby in Ashfield, the site is considered a suitable and appropriate location for growth, which responds to and also reflects the existing pattern of development in the locality.

In terms of the economic benefits of the scheme, the proposal comprises of a unique and bespoke purpose-built development that seeks to develop and enhance automation in the manufacturing and distribution process. The proposal, known as the Automotive Distribution and Manufacturing Centre (ADMC), will include a dedicated mix of space that will comprise of the following elements:

- Research and Development.
- New Product Development and Testing.
- Education and Skills Development.
- Technology Showcasing.
- Networking, Collaboration, and Event Hosting.

The Council recognises the importance of bringing forward sufficient employment land to meet demand and to underpin the further economic growth of the District and its residents. Ashfield's Education and Skills Improvement Plan (2022) provides the evidence base for local education and skills insights, priorities, and initiatives, delivered by Ashfield's Education and Skills Partnerships. The vision is that by 2031 Ashfield will have a high quality, local education and skills offer that is accessible and responsive to resident and employer needs.

It is envisaged that the proposed development will be occupied and encompass a multitude of specialists within their sector, to comprise researchers, engineers, and other technical specialists. This mix of personnel will include a range of people that are directly employed and those individuals that will be connected to the ADCM, through working with a range of partners. Partners will include, amongst others, Vision West Notts College and universities, with the development acting as a platform and therefore an enabler in addressing the growing demand for talent and

upskilling. It will also function as a space for business CPD programmes, alongside providing for formal educational training requirements. The proposed development will inherently result in new job creation and improve training and skills within the local area. The proposal will also subsequently assist in delivering the Council's vision in respect of education and skills partnership, which in light of the aims of the NPPF, should be supported.

It is concluded that whilst the proposed development is on a site that is designated as being outside of the main urban area and currently sits within designated countryside under Policy EV2 of the ALPR, the emerging local plan is considered to carry moderate weight with respect to the site as a proposed employment allocation that would sit within the defined main urban area. The proposal will provide valuable and important economic benefits for the District and is considered to be located in a highly sustainable location for growth, being afforded excellent access to both road and rail public transport links, alongside direct access to existing established cycleways that serve the site. The proposal also represents a natural and appropriate addition to the existing established pattern of development that surrounds the site and would naturally integrate into the settlement of Kirkby in Ashfield, without significant harm to the character and appearance of the surrounding countryside. The principle of the development is therefore considered, on balance, acceptable, subject to all other material planning considerations being satisfied.

### **Landscape Character:**

Paragraph 180 of the NPPF identifies that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

The proposed development is located on the edge of the urban fringe of Kirkby in Ashfield in an area designated as countryside. A Landscape and Visual Impact Assessment (LVIA) forms part of the application. The LVIA is comprehensive and assess the impact of the development on the wider landscape.

The site is not identified as having any landscape designations under policies within the ALPR. The Greater Nottinghamshire Landscape Character Assessment (2009) identifies the site as falling at the edge of Landscape Character Area 5: Sherwood Region - Forest Sandlands, where it adjoins the rising ground of the Magnesian Limestone Ridge – Limestone Farmlands. It should be noted that the adjoining Limestone Farmlands is already developed to industrial/ commercial land uses to the north of Penny Emma Way, off Oddicroft Way in Sutton in Ashfield, whilst the growth of Lowmoor Business Park to the south of the site has already extended similar uses into the edge of the Forest Sandlands.

The Landscape Character Assessment further identifies Draft Policy Zones (DPZs) where distinctive characteristics exist. The site is identified as falling into the Urban Areas category, where it displays strong urban fringe characteristics as a result of a

number of factors such as the strong influence of built development at the settlement edges on three sides (north, south and west), together with the landform which faces inwards towards Kirkby in Ashfield and, although the site has an open boundary to the east provides some containment from the wider landscape as a result of the lower lying nature of the land. As such the sites character overall is more associated with the urban area, as opposed to the wider Forest Sandlands, which are also more elevated and undulating. Having regard to the Landscape Character Assessment, the topography and context of the site, it is considered that the site makes a relatively limited contribution to the local landscape character beyond serving as a component of open land at the transition between the built-up area and the wider undeveloped landscape.

With regard to visual receptors, views to and from the site are relatively localised due to the low-lying nature of the landform at the settlement edge. The sites relative containment is further amplified by its strong relationship to the existing settlement edges locally to the north, south and west, as well as the containment provided by the wider landform to the sites only open, eastern boundary. As such the sensitivity of the site is considered to range from 'low' to 'medium'. The most notable visual change will be those experienced close to the site itself, and by a range of receptors including the residents of the 4-storey apartment block, users of the railway station and users of Lowmoor Road, all to the west of the site where the changes will be most apparent. From other locations, the effects are more limited and almost always seen in combination with other built development, with views of the existing industrial/commercial developments forming a key component of most views already.

Taking the above into account, the proposed development will inevitably bring direct and permanent change to the land from agricultural, to a site containing a commercial unit and associated infrastructure. Whilst it is acknowledged that the proposed development would bring new built elements into an undeveloped part of the open landscape which would inevitably change the character of the site itself, it is considered that the proposed elements are compatible with adjacent land uses (and comparable in terms of type, scale, height and footprint) to the extent that whilst it would change the character of the site itself, this would not extend or influence the character in a much wider area and would be confined to a location where existing influences already exist in the surroundings locally. The proposed development would therefore have a slight adverse to negligible effect on landscape resource and character long-term following establishment of landscaping.

### **Ecology and Biodiversity:**

The NPPF at paragraphs 180(d), 185, 186 and 188 sets out protection for biodiversity. Policy EV6 of the Local Plan, amongst other matters, seeks to protect local nature reserves and sites of importance for nature conservation. Policy EV8 sets out protection for trees worthy of retention and states that where trees are lost, mitigation will be required. The application is supported by the following documents:

- Ecological Impact Assessment (EclA) (Prepared by RammSanderson, Ref: RSE\_6138\_R1\_V1\_ECIA, Dated March 2024).
- Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (Prepared by RammSanderson, Ref: RSE\_6138\_R1\_V1\_ARB, Dated March 2024).
- Statutory Biodiversity Metric 4 (Dated March 2024).

### *Designated Sites*

No statutorily designated sites have been identified within 1km of the development site. Two non-statutory designated sites have been identified within 1km of the site; this includes 'Kirkby Dismantled Railway' Local Wildlife Site located circa 0.5km west of the site and 'Kirkby Wasteland' Local Wildlife Site located circa 0.8km to the south of the site. In addition, the site lies within the 5km buffer of the possible potential Sherwood Forest SPA (Sherwood Forest ppSPA), which is not yet designated, nor being formally considered for designation at this stage and therefore has no legal status at this time as an international protected site. However, the ppSPA is being considered due to breeding woodlark, nightjar and honey buzzard whereby the site forms 1-2% of the UK population.

### *Habitats*

The EclA identifies that the habitats on site are of limited botanical interest, dominated by neutral grassland with species-poor hedgerow and bramble dominated scrub. Species identified were common and widespread and were not considered of significant ecological importance. The hedgerows along the sites boundaries are of some higher ecological value, largely noted for their value to protected species and as a commutative resource rather than their botanical value. The hedgerow located on site comprises of over 80% native species and is considered a Habitat of Principal Importance.

The development would result in the loss of the neutral grassland and the existing hedgerow along the sites western boundary to facilitate the required highway improvement works. The hedgerow and trees along the sites southern boundary would however be retained and protected. A landscape strategy has been developed which will include prioritising the planting of structural native hedgerow and screen planting to enable the creation of habitats which tie into the surrounding local ecology. The strategy would also include significant areas of wildflower and wet meadow seeding.

### *Protected Species*

#### *Bats*

The site has some suitable foraging and commuting value for bats, comprising of the hedgerow, grassland, and scrub habitats. The site also has connectivity to nearby

woodlands and a golf course through a network of hedgerows and lines of trees which provide suitable commuting habitat. Records identify the presence of two bat species within the Desk Study Area (Common Pipistrelle and Noctule), the closest of which was recorded approximately 180m to the north-east of the site. All trees on site have been surveyed and deemed unsuitable for roosting bats due to their size, maturity and lack of suitable features.

It is considered that the proposed development would have no significant adverse impact on bats due to the lack of suitable roosting features within the site boundary or directly adjacent to the site. Furthermore, as the scheme is of a small footprint, with suitable habitat present further afield, it is unlikely the development would significantly impact any commuting or foraging routes.

### *Badgers*

No evidence of badger was identified on site during the walkover survey; however, the hedgerows and scrub may provide opportunities for foraging, sett digging and commuting. The site also has connectivity to suitable badger habitat further afield to the north and east. Whilst it is unlikely that the proposed development would result in the injury or disturbance to Badgers, the EclA provides recommendations for a pre-commencement site walkover to ensure no setts have been created, as well as the developer following best-practice guidelines. These recommendations could be conditioned as part of any favourable decision.

### *Water Vole*

The EclA identifies that one recent record of Water Vole has been recorded within 0.1km of the site associated with the River Maun. Whilst ditches are present on site, these were deemed to be unsuitable to support Water Vole burrowing.

### *Great Crested Newts*

A total of 10 water bodies are present within 500m of the site, however seven of these were screened out by the EclA due to them either comprising of a flowing watercourse (which are unsuitable for Great Crested Newts (GCN)) or there are major barriers to GCN movement between the waterbody and the site. A further one water body was screened out on the basis that it was sited beyond 250m from the site, with widely accepted studies showing most adults will stay within 250m of a breeding pond, depending on the quality of surrounding habitat. The two remaining bodies of water were surveyed, and both were deemed unsuitable to support the breeding phase of GCN due to holding insufficient depths of water year-round. Given the site's location within an urbanised setting and lack of suitable breeding ponds within 500m of the Site GCN are likely absent from the site and no further surveys are required.

### *Reptiles*

No recent records of reptile have been returned within the Desk Study Area. The tussocky grassland habitats may provide opportunities for foraging reptiles and the hedgerow and scrub habitats offer opportunities for hibernating and refuge seeking. However, it is unlikely that the site forms a core habitat for reptiles, with more suitable habitat located further afield to the east. The EclA makes recommendations for the clearance of vegetation during the reptile active season when any individuals, should they be present, be able to disperse outside of the working area, in addition to recommendations if reptiles are observed. These recommendations would be conditioned as part of any favourable decision.

### *Birds*

All the on-site habitats provide opportunities for nesting birds. Given the sites location within an agricultural but urban setting it is likely to attract a range of common garden and farmland birds; however, the site is unlikely to support Schedule 1 birds. The EclA includes recommendations to protect nesting birds; this will be conditioned as part of any favourable decision.

### *Arboriculture*

The Arboriculture Survey assessed 41 individual trees, 15 groups of trees and 3 hedgerows, most of which were deemed low quality (Category C). However, a dividing established hedgerow and larger mature trees to the south of the site were of moderate quality (Category B) and were the main arboricultural features present. The proposed development will require the removal of approximately 120 metres of low quality (Category C) hedgerow, as well as the partial removals of two low quality (Category C) tree groups.

The scheme results in a moderate reduction in arboricultural and amenity due to the loss of a large section of low-quality hedgerow along the sites western boundary with Lowmoor Road, and substantial sections of low-quality tree groups. The arboricultural report therefore recommends that compensatory planting is implemented through an effective landscaping scheme, with the aim to promote long-term arboricultural and amenity on the site.

The Council's Tree Officer has reviewed the submitted Arboricultural Report, which also includes a tree protection plan and arboricultural method statement and has advised that the information submitted is satisfactory and will ensure the safe retention of trees on site. It is requested that the details submitted form a condition as part of any favourable decision.

### *Biodiversity Net Gain*



Paragraph 186 (d) of the NPPF outlines that development should aim to provide measurable net gains for biodiversity. The Environment Act 2021 outlines a legal requirement for developers to deliver a net gain in biodiversity of 10%.

A statutory biodiversity metric has been submitted in support of the application:

- Species rich meadow and wet meadow grassland created along the southern and western edges of the site, and around the proposed attenuation basin along the sites eastern boundary.
- Woodland edge planting, comprising of structural native hedgerow and screen planting, along the eastern, southern and western edges of the site.
- Several sections of ornamental and native shrub planting.
- An off-site tree planting zone, approximately 260m to the north of the site and within the applicant's ownership.

These enhancements will result in a 12.25% increase in habitat units and a 33.14% increase in hedgerow units. The Council's Ecologist has confirmed the assessment to be acceptable and has advised that the net gain in biodiversity should be secured through the use of a pre-commencement condition, which requires the submission of a biodiversity gain plan, which demonstrates how biodiversity net gain will be achieved, managed and maintained for a minimum period of 30 years. The proposal is therefore consistent with the policy requirements of Section 15 – Conserving and Enhancing the Natural Environment of the NPPF and the Environment Act 2021.

### *Summary*

The NPPF, at paragraph 186, states that if significant harm to biodiversity resulting from 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.

Whilst there will be a short-term negative effect on the biodiversity value of the site, in the long-term it is anticipated that full mitigation and enhancement measures will be achieved and there will be no significant residual effects on protected species resulting from the proposed development. Habitat creation measures would also facilitate in reducing the potential adverse effects of the development.

### **Layout, Appearance and Scale:**

Paragraph 131 of the NPPF states 'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve' adding 'Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'.

Furthermore, paragraph 135 of the NPPF goes on to state planning policies and decisions should ensure that developments, amongst other things: -

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); and
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

The applicant's Design and Access Statement sets out that the ADMC consists of two distinct components: an automation factory/ warehouse space and an office, R&D and events/conferencing space, with a central entrance reception. The total GIA would be 2,806m<sup>2</sup>. The office block would be 2- storeys with a GIA of approximately 1,600m<sup>2</sup> and the warehouse/ manufacturing block would be single-storey with a GIA of approximately 1,200m<sup>2</sup>.

The plans show a 2-storey central entrance space between the 2 blocks which would provide access into the building from the access road and from the car park to the rear. This space would be a light, airy and welcoming space with north-facing curtain wall glazing admitting high-quality daylight into the space.

The office block would have accommodation arranged around a central atrium space which allows daylight into the centre of the building through a series of north-lights. The office and training block is proposed to clad in a sinusoidal PPC metal cladding and smooth pressed metal panels in a terracotta finish and with regular window spacings.

The manufacturing/warehouse block would take the form of a high-bay industrial-style building. It would be clad in corrugated metal cladding in warm grey.

The building would be set in landscaped grounds with a broad landscaped area and set back from Low Moor Road. Parking would be to the south of the building and a service yard would be provided to the east.

It is considered that the proposed building would fall with the height and scale parameters and palette of materials of its wider commercial setting provided by industrial buildings off Observatory Way and to the west of Low Moor Road.

In this respect it is considered that the development would be visually attractive as a result of good architecture, layout and effective landscaping, be sympathetic to local character and would create an attractive, welcoming and distinctive places to work in accordance with paragraph 135 of the NPPF.

**Residential Amenity:**

Paragraph 135(f) of the NPPF states planning should create, amongst other things, places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users’.

The proposed development by virtue of its height and in particular its distance from neighbouring residential premises would not result in unacceptable levels of overlooking or overshadowing, nor would it result in an oppressive outlook from any dwelling.

However, concerns have been raised from occupiers of dwellings in the local area on the potential for the development to create noise and pollution from site. In support of the application the applicant has submitted an Air Quality Assessment, which considers impacts on air quality from road traffic and during the construction phase and operational phases.

The report concludes the Proposed Development during the construction phase was found to be ‘medium risk’ in relation to dust soiling effects on people and property and ‘low risk’ in relation to human health impacts’ adding ‘Providing effective mitigation measures are implemented residual effects from dust emissions during the construction phase would be ‘not significant’.

During the operational phase the Proposed Development is predicted to generate operational phase road traffic volumes below the relevant Environmental Policy Implementation Community (EPIC) (previously EPUK) & Institute of Air Quality Management (IAQM) screening criteria on the local road network. The report concludes ‘road traffic impacts associated with the operation of the Proposed Development can be considered to have ‘insignificant’ effects on local air quality.

The report has been assessed by the ADC Environmental Health Officer who has advised that subject to conditions go control external lighting and noise and requiring the approval of a construction management plan the proposed development would be acceptable in respect of air quality.

Therefore, subject to the attached conditions, it is considered that high standard of amenity for existing and future users of the building and neighbouring properties and the proposal is considered to accord with paragraph 135(f) of the NPPF.

**Highway Capacity and Safety:**

Paragraph 115 of the National Planning Policy Framework states ‘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 applicant has been working with County Highways to come forward with an acceptable scheme of highway works at the entrance to the site. The applicant has submitted amended plans to resolve minor matters of detail, and these have been forwarded to the Highway Authority.

On the basis of the amended plans the Highway Authority has no objection subject to a suite of conditions in respect to improvements to the highway, the improvement of bus stops near the site and the provision of new bus stops and a turning facility within the site. These conditions are accepted apart from the two conditions requiring the provision of bus stops and a turning facility within the site. All conditions must meet the tests for the use of conditions which require, amongst other things, that they are necessary and not merely desirable. Whilst it is recognised that such improvements may be necessary to serve the wider site subject to allocation in the emerging plan it is not necessary to make the application proposal acceptable in planning terms. The site lies adjacent to Low Moor Road and therefore users of the site would have ready access to the existing bus stops on Low Moor Road. As such the proposal is considered acceptable on its own merits without the need to be served directly by an onsite bus stop and turning facility.

It is considered that the proposal would not have an unacceptable impact on highway safety, that the residual cumulative impacts on the road network would not be severe and that the proposal could be adequately served by a range of sustainable transport means. As such the proposal, subject to the attached conditions, is in accordance with the provisions within the NPPF in respect to the promotion of sustainable transport.

**Flood Risk and Drainage:**

The application site is located within Flood Zone 1 (Low Risk of Flooding, 1 in 1000 years). Due to the site area, a Flood Risk Assessment (FRA) has been submitted along with a Drainage Strategy.

The submitted details indicate that surface water from the development site will be directed to a series of SuDs features including swales, permeable paving and a dry basin that will provide attenuation before discharging at a restricted rate to the adopted sewer network. Surface water generated on site will drain via a gravity outfall.

In respect of foul water, based upon the site levels, the site will drain via gravity to a central foul water pumping station, positioned to the north of the proposed building. The station will pump foul water up to Julius Way where a 150mm diameter Severn Trent Water foul sewer is located.

The Local Lead Flood Authority, the Environment Agency and Severn Trent Water have provided consultation responses to the application, none of which raise any objections to the proposed scheme or the means for the disposal of surface water and foul sewage, subject to appropriate planning conditions and informative notes as part of any favourable decision.

### **Best and Most Versatile Agricultural Land**

Paragraph 180 of the NPPF state planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things]: -

- (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and
- (b) recognising the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.

The Agricultural Land Classification framework is system used to grade agricultural land on the basis of its adaptability and productiveness. It comprises of five grades, Grade 1 being considered to be 'excellent' and Grade 5 considered to be 'very poor' quality.

Best and most versatile land refers to land classified as grade 1, 2, or 3a within the Agricultural Land Classification framework. This land is recognised as the most adaptable, productive, and efficient for delivering crops, both for food and non-food purposes.

The applicant's Desk Top Study Geotechnical Report grades the land as falling, in the main falling within agricultural land classification 3a, which is defined as 'good to moderate'.

As such the proposal would result in the loss of 2.89 ha of best and most versatile agricultural land. This weighs against the proposal especially given the need for food security highlighted by recent world events. Given the land area concerned and that it is Grade 3a it is considered that this carries moderate weight against the proposal.

This loss of the best and most versatile agricultural land is considered in the overall planning balance at the end of this report.

### **Tackling Climate Change**

Addressing climate change is one of the planning principles, which the NPPF seeks to underpin in both plan making and decision taking.

Paragraph 159 of the NPPF states

'New development should be planned for in ways that:

- a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and
- b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.'

The Council has set out that it "recognises the scale and urgency of the global challenge from climate change." This Council recognises that local action on global warming can make a difference and has resolved to "Reaffirm its commitment to doing everything possible to combat climate change including committing to a robust climate change strategy." The Council's Planning Guidance Climate Change reflects that:

- a) Proposals for development should demonstrate an ambitious approach to the use of renewable energy, sustainable design and construction methods, with a high level of energy efficiency in new buildings.
- b) The measures set out in this Planning Guidance will need to be integrated into the design and layout of development within Ashfield, as climate change adaptation and mitigation will be considered in all development decisions.
- c) Applicants for planning permission should demonstrate how they have met the requirements set out in this Planning Guidance.

The Climate Change Committee's 2022 Report to Parliament notes that for the United Kingdom to achieve net zero carbon status by 2050, action is needed to support a modal shift away from car travel. This is reflected in the NPPF paragraphs 159 and 162 in relation to significant development and paragraphs 108 and 114 emphasising the need to promote walking, cycling and public transport. These issues have been fully addressed in the transport section of this report and therefore do not need to be reiterated here.

In response to the above the applicant has submitted an energy statement and the Design and Access Statement includes a section on sustainability. Together, these two documents provide details in respect of minimising energy consumption, the use of onsite renewable energy, adaption to climate change, sustainable water drainage,

wildlife and landscaping, the use of sustainable materials and encouraging the use of sustainable transport to access the site.

It should be noted that issues such as renewable energy, sustainable design and construction methods and energy efficiency fall within the remit of the Building Control. Notwithstanding this the Planning System does have a role to play, especially in respect to promoting sustainable travel, encouraging biodiversity through sensitive landscaping and ensuring resilience to the impacts of climate change through avoidance of areas prone to flooding. These have been addressed under the appropriate sections of this report

As such, where appropriate the proposal is in line with the general thrust of the Council's guidance on Climate Change, paragraph 159 of the NPPF and various policies within the Council's Emerging Local Plan.

### **Historic Environment**

The site lies in proximity to the locally listed Kirkby Hardwick railway bridge, and a short distance from the remains of the prominent medieval manor house of Kirkby Hardwick. The proposal therefore has the potential to affect the setting of non-designated heritage assets and in the case of the medieval hall underground archaeology.

As such the proposal engages the policies in Section 16 'Historic Environment' of the NPPF. This requires at para 200 that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Furthermore, paragraph 201 sets out that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Furthermore, in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness (para 203).

Given that the application would potentially only impact non-designated heritage assets the proposal engages paragraph 209 which states 'the effect of an application on the significance of a non-designated heritage asset should be taken

into account in determining the application' and adding 'In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'

In accordance with paragraph 200 the applicant has submitted a desk-based archaeology study, which looks at the development of the wider area from prehistoric to modern times. The study concludes: -

'There will be no impacts on any designated assets in the immediate area.

There is Low potential for prehistoric, Roman and medieval archaeology and Moderate potential for post-medieval remains within the PDA and the value of any previously unidentified archaeology is likely to be Low – Medium.

Geophysical survey or trial trenching across the area will help to determine the impact of the proposed development and provide information upon which to base a mitigation strategy.

The historic landscape character will change from agricultural fields to industrial and therefore there will be a Slight Adverse effect.'

Having had regard to this the ADC Conservation Officer has stated that in respect to the locally listed Kirkby Hardwick railway bridge considering its modern setting and separation by the road the proposal would not have a significant impact on the significance of its setting.

In respect to archaeology the NCC archaeologist has noted the contents of the submitted Archaeological Desk Based Assessment and has agreed that a geophysical survey and evaluation via trial trenching should be carried out, but at the predetermination stage. However, given that there is only Low potential for prehistoric, Roman and medieval archaeology the requirement for predetermination work is disproportionate.

As such it is considered that the issue of mitigating potential harm to archaeology can be adequately addressed by condition which would require the submission of a written scheme investigation and means of preservation should unexpected archaeological remains be encountered.

### **Ground Stability and Contamination**

The site lies within a 250m buffer zone for an Environment Agency licenced landfill site, a 'Coal Authority Development Low Risk Area', a 'Source Protection Zone 3 (SPZ3) for potable water abstractions' and there is a historic landfill recorded on the site. As such the proposal gives potential rise to issues of both contamination and land stability.



The proposal therefore engages paragraphs 189 and 190 of the NPPF. Paragraph 189 makes it clear that: -

'Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.'

Paragraph 190 goes on to make it clear that: -

'Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.'

In support of the application the applicant has submitted a Phase 1 Geo-Environmental Study which concludes the contamination risk at the site is considered to be moderate/high at this stage and should be confirmed by intrusive ground investigation.

The report has been considered by the ADC Contaminated Land Officer and the Environment Agency who have no objections subject to a requirement that a Phase 2 Assessment is carried out and a remediation plan with verification is secured by condition.

Officers advise that this is standard practice for this level of contamination and that subject to a condition securing further investigation along with remediation and verification the proposal would be acceptable in respect to ground and water contamination.

In respect to the Coal Authority's defined Development Low Risk Area the issue can be adequately dealt with by attaching the standing advisory note from the Coal Authority to any decision issued.

### **Developer Contributions:**

The only elements that would potentially require a contribution is for off-site highway works to improve two bus stops. Given the limited nature of this obligation it is

considered that it can be adequately controlled using a suitably worded conditions for a scheme of works to be submitted and approved and for the implementation of that scheme prior to use commencing.

### **Planning Balance and Conclusions:**

The application site is located within the countryside, as set out in policy ST4 of the ALPR 2002. Under the provisions of policy EV2 of the development plan, permission will only be given for appropriate development. Furthermore, Development must be located and designed so as not to adversely affect the character of the countryside, in particular its openness.

The proposed development does not meet any of the forms of appropriate development set out in Policy EV2. In addition, it would result in a loss of openness. As such the proposal is contrary to the provisions of the development plan and therefore should be refused unless material considerations indicate otherwise

The National Planning Policy Framework (NPPF) is a material consideration. It sets out a presumption in favour of sustainable development and how this works for decision taking. Paragraph 11 of the NPPF sets out that for decision-taking this means:

‘approving development proposals that accord with an up-to-date development plan without delay; or

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date <sup>8</sup>, granting permission unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.’

It is clear from the age of the current adopted development plan and the need to allocate a range of new industrial and commercial sites in the emerging plan, such as at Junction 27 of the M1, Annesley that the current plan is out of date in respect of economic/ industrial development. It is also clear from the above report that the proposal does not engage any policies in the Framework that protect areas or assets of particular importance which would provide a clear reason for refusing the development proposed.

As such the application rests of whether any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In this respect the proposal would cause harm to the character of the countryside and loss of 2.89 ha of best and most versatile agricultural land. However, that harm is considered, for the reasons outlined in the report to be slight adverse to negligible in respect to the effect on landscape resource and character long-term following establishment of landscaping and moderate in respect to loss of agricultural land.

Subject to the attached conditions it is considered that no other significant harm has been identified.

In terms of the economic benefits of the scheme, the proposal comprises of a unique and bespoke purpose-built development that seeks to develop and enhance automation in the manufacturing and distribution process.

The proposed development would be occupied and encompass a multitude of specialists within their sector, to comprise researchers, engineers, and other technical specialists. Partners include, amongst others, Vision West Notts College and universities, with the development acting as a platform and therefore an enabler in addressing the growing demand for talent and upskilling.

It is clear that the facility proposed will play an incredibly important role in enabling the District to meet the vision that Ashfield will have a high quality, local education and skills offer that is accessible and responsive to resident and employer needs. This is a matter that should be given substantial weight in the determination of the application.

Whilst there are a range of policies in the emerging Ashfield Local Plan (2023-2040) the plan is not at a sufficiently developed stage to give those policies '*significant*' weight. Some policies may however be given some degree of weight depending upon the level and type of objections received during the Regulation 19 Consultation process.

The emerging development plan has recently been subject to a Regulation 19 Consultation and was submitted to the Secretary for examination on the 29<sup>th</sup> April 2024. As such, the plan is at a relatively advanced stage of preparation. The site comprises an employment land allocation within the emerging local plan (Policy EM2 K4: Employment Land Allocations – Land to the East of Low Moor Road, Kirkby). The allocation received no objections during the consultation process and therefore moderate weight can be attributed to the proposed employment allocation. This is further supported by strategic objective 6 of the emerging local plan, which is to provide economic opportunity for all and to be ambitious for economic growth and productivity in Ashfield.

It is therefore concluded that the limited weight attributed to the harm to the loss of countryside and landscape character and moderate weight given to the loss of best and most versatile loss of agricultural land is clearly outweighed by the substantial weight to the economic benefits of the proposal and the more moderate weight attributed to the support from the emerging Local Plan.

As such, on balance, in accordance with the provisions of paragraph 11 of the NPPF the proposal is recommended for approval subject to the attached conditions.

**Recommendation:     Approve Subject to the Conditions outlined below.**

## **CONDITIONS**

### **General conditions**

1. The development hereby permitted shall commence before the expiration of 3 years from the date of this permission.
2. The development authorised by this permission shall be carried out in complete accordance with the approved drawings and specification listed below:

22008-RLL-24-XX-DR-D-5007 (P02)	
ADMC-MAB-00-00-D-L-4000_Landscape Masterplan-S2-P04	
ADMC-MAB-00-00-D-A-0106 S2 / P01	Proposed Site Plan
ADMC-MAB-00-00-D-A-0120 S2 / P03	Proposed Ground Floor Plan
ADMC-MAB-00-01-D-A-0121 S2 / P02	Proposed First Floor Plan
ADMC-MAB-00-02-D-A-0122 S2 / P01	Roof Layout Plan
ADMC-MAB-00-ZZ-D-A-0160 S2 / P02	Proposed Elevations
ADMC-MAB-00-ZZ-D-A-0170 S2 / P01	Proposed Sections
ADMC-MAB-00-ZZ-D-A-0171 S2 / P01	Proposed Sections

### **Pre-Commencement Conditions**

3. 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 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 at the Site.
- ii. 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;
  - iii. 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;
  - iv. 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
  - v. If required, a monitoring and maintenance plan, setting out provisions for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.
  - vi. 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.
- 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
- c) Any additional land contamination shall be fully remediated prior to the first occupation of any area identified by the report.
4. No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Rogers Leask Ltd Flood Risk Assessment (FRA) ref 22008-RLL-24-XX-RP-C-2001 dated 05/06/24, has been submitted to and approved in writing

by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753 and NPPF Paragraph 169.
- Limit the discharge generated by all rainfall events up to the 100 year plus 40% (climate change) critical rain storm to QBar rates for the developable area.
- Provide detailed design (plans, network details, calculations and supporting summary documentation) in support of any surface water drainage scheme, including details on any attenuation system, the outfall arrangements and any private drainage assets.
  - No surcharge shown in a 1 in 1 year.
  - No flooding shown in a 1 in 30 year.

Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 30 year and 1 in 100 year plus climate change return periods.

For all exceedance to be contained within the site boundary without flooding properties in a 100 year plus 40% storm.

- Evidence to demonstrate the viability (e.g Condition, Capacity and positive onward connection) of any receiving watercourse to accept and convey all surface water from the site.
  - Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.
  - Evidence of approval for drainage infrastructure crossing third party land where applicable.
  - Provide a surface water management plan demonstrating how surface water flows will be managed during construction to ensure no increase in flood risk off site.
  - Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term effectiveness.
5. No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP:

Biodiversity) has been submitted to and approved in writing by the local planning authority.

The CEMP (Biodiversity) shall include the following: -

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (to include consideration of lighting) (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

6. No development shall take place (including ground works and vegetation clearance) until a landscape and ecological management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following: -

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

Thereafter the site and, or any area arising from Biodiversity Net Gain obligations shall be managed in accordance with the approved LEMP.

7. No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall provide details of the following:
  - a) Details of noise, dust and vibration suppression;
  - b) Details of any compound and welfare areas to include their location and appearance, heights of any cabins to be sited, and details of any associated external lighting;
  - c) Details of on-site materials storage areas;
  - d) Details of on-site construction parking and manoeuvring area, including loading and unloading of plant and materials;
  - e) Details of any crusher to be used on site;
  - f) Details of any piling which is required;
  - g) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - h) Details of wheel washing facilities during construction;
  - i) A scheme for recycling/disposing of waste resulting from demolition and construction works;
  - j) Proposed hours and days of working;
  - k) site contact details in case of complaints.

The development shall be carried out in accordance with the approved details for its entire construction phase.

8. No development shall take place until such time as a programme has been submitted to and approved by the Local Planning Authority covering the following works:
  - i) The provision of the proposed signalised access junction including segregated footway/cycleway facilities in accordance with LTN1/20 from Observatory Way to Kirkby Folly Road and associated highway improvements, including alterations to the bus layby, on Low Moor Road broadly in accordance with indicative drawing no. 22008-RLL-24-XX-DR-D-5002 Rev. P04.
  - ii) The provision of a segregated footway/cycleway on the proposed 'new access road' to the ADMC from Low Moor Road in accordance with details



to be first submitted to and approved in writing by the Local Planning Authority.

**Note**

The works shall be carried out in accordance with the agreed programme unless otherwise agreed in writing with the Local Planning Authority. For clarity, any plans submitted are conceptual ONLY and will be subject to detailed technical appraisal during the S278 process.

9. No part of the development hereby permitted shall take place until the new access into the site has been provided broadly in accordance with the indicative drawing no. ADMC-MAB-00-00-D-A-0105 Rev. P01.

Note this does not have full S278 technical approval.

**Other Conditions**

10. No external materials shall be used other than those shown on approved elevation drawing ADMC-MAB-00-ZZ-D-A-0160 S2 / P02.
11. Prior to any construction above foundations level, a scheme of biodiversity enhancement based on the recommendations provided in Section 7 of the Ecological Impact Assessment prepared by RammSanderson dated March 2024 shall be submitted to and approved in writing by the Local Planning Authority. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.
12. Prior to any part of the permitted development being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.
13. No part of the development hereby permitted shall be brought into use until a scheme detailing the reconfiguration and enhancements to the bus stop AS0320 Sutton Parkway Rail Station and lay-by have been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of a real time bus stop flag, pole & display including low voltage power source to the real time information pole location; polycarbonate bus shelter; solar or electrical lighting in the bus shelter; raised kerbs; bus stop clearway; lowered access kerbs; additional hard stand (3.5metres x 7metres), black top dressing (tarmacadam). The development shall not be

brought into use until the works comprising the approved scheme have been implemented in full.

14. The development hereby approved shall not be brought into use until an assessment of sound emanating from the site has been undertaken and a scheme specifying the provisions to be made for the control of sound has been submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate that the rating level of the sound, corrected for acoustic features, measured at or calculated to, a position representing any residential façade which may suffer a loss of aural amenity from sound associated with the development, does not exceed the residual sound level. The development hereby approved shall not be brought into use until the works comprising the approved scheme have been implemented in full. Thereafter the works shall be retained for the life time of the development.

The references in this condition to rating level and residual sound level have the same meaning as those defined in BS4142: 2014 Methods for rating and assessing industrial and commercial sound.

15. The development hereby approved shall not be brought into use until details of the external lighting scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall have regard to the "Guidance Note GN01/21 The Reduction of Obtrusive Light" produced by the Institution of Lighting Professionals. The approved lighting scheme shall be implemented in full before any form of external lighting is first brought into use and shall be retained thereafter. Thereafter, no form of external lighting shall be used unless it conforms to the approved scheme.
16. The development shall be carried out in strict accordance with the Tree Protection Plan, Drawing No RSE\_6138\_TPP V1 and the Arboricultural Method Statement in the BS 5837:2012 Tree Survey, Arboricultural Impact Assessment (AIA), Arboricultural Method Statement (AMS) & Tree Protection Plan (TPP) Report, reference RSE\_6138\_R1\_V1\_ARB prepared by RammSanderson.
17. No part of the development hereby approved shall be brought into use until the street lighting in the vicinity has been assessed and additional lighting provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
18. No part of the development hereby permitted shall be brought in into use until improvements, compliant with LTN1/20, to the existing shared footway/cycleway facility on Low Moor Road between Observatory Way and Kirkby Folly Road have been provided broadly in accordance with indicative drawing no. 22008-RLL-24-XX-DR-D-5002 Rev. P04.

19. No part of the development hereby permitted shall be brought into use until a segregated footway/cycleway facility, compliant with LTN1/20, on the southern side of the proposed new access road, between the ADMC development site and Low Moor Road has been provided in accordance with details and plans to be first submitted to and approved in writing by the Local Planning Authority.
20. No part of the development hereby permitted shall be brought into use until a turning head has been provided on the new access road in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
21. No part of the development hereby permitted shall be brought into use until the Travel Plan submitted has been approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority.
22. No part of the development hereby permitted shall be brought into use until a scheme to provide improvements to the bus stop AS0319 Sutton Parkway Rail Station have been submitted to the satisfaction of the Local Planning Authority to include the following: re-lining the clearway and Traffic Regulation Order for enforceable clearway, remove bus shelter, replacement polycarbonate shelter and other enhancements as required.

## **REASONS**

1. To comply with the requirements of Section 91(1) of the Town and Country Planning Act 1990 (as amended).
2. To define the permission and for the avoidance of doubt
3. To protect future occupiers of the development from unacceptable land contamination risk and ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution in accordance with paragraphs 180, 189 and 190 of the National Planning Policy Framework. 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.

4. A detailed surface water management plan is required to ensure that the development is in accordance with NPPF and local planning policies. It should be ensured that all major developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site.
5. To protect wildlife from harm during the construction period in accordance with paragraph 180 of the National Planning Policy Framework.
6. In the interests of securing biodiversity net gain in accordance with paragraph 180 of the National Planning Policy Framework.
7. To ensure the development is constructed in an appropriate sustainable manner which takes into consideration the National Planning Policy Framework.
8. In the interests of pedestrian and general highway safety.
9. In the interests of general highway safety
10. In the interests of protecting the amenity of the area and for the avoidance of doubt.
11. In the interests of obtaining a net gain in biodiversity in accordance with paragraph 180 of the National Planning Policy Framework.
12. To ensure that the site does not pose any further risk to the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 180 of the National Planning Policy Framework.
13. In the interests of promoting sustainable forms of travel in accordance with the National Planning Policy Framework.
14. In the interest of the aural amenity of nearby dwellings in accordance with paragraph 135(f) of the National Planning Policy Framework.
15. To protect against obtrusive light causing adverse impacts for nearby dwellings in accordance with paragraph 135(f) of the National Planning Policy Framework.
16. In the interests of protecting trees and the positive contribution they make to the character of the area.

17. In the interests of general highway safety.
18. To promote sustainable travel.
19. To promote sustainable travel.
20. To ensure adequate turning facilities for users of the proposed highway.
21. In the interests of promoting sustainable travel in accordance with the National Planning Policy Framework.
22. In the interests of promoting sustainable travel in accordance with the National Planning Policy Framework.

## **INFORMATIVES**

### **Environment Agency**

Environment Agency - Model Procedures and good practice

The Environment Agency recommend that developers should:

- Follow the risk management framework provided in LCRM – Land Contamination Risk Management when dealing with land affected by contamination.
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
- Refer to the contaminated land pages on GOV.UK for more information.

### **The Environment Agency's approach to groundwater protection**

We would like to refer the applicant/enquirer to our groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents

- Land contamination
- Ground source heat pumps
- Cemetery developments
- Drainage

## **Nottinghamshire Constabulary**

### **Secured by Design**

The developer is directed to the latest Secured By Design (SBD) Homes Guide 2023 which can be found at the following link:

[https://www.securedbydesign.com/images/HOMES\\_GUIDE\\_2023\\_web.pdf](https://www.securedbydesign.com/images/HOMES_GUIDE_2023_web.pdf) and which contains details of the specifications recognised nationally as providing the security aspirations for the developer. Ideally, the site would also apply for, and achieve the Secured by Design Gold Standard.

Construction site security is also of concern when this development progresses, and there is also guidance provided by Secured by Design, and this can be viewed at:

[https://www.securedbydesign.com/images/CONSTRUCTION\\_SITE\\_SECURITY\\_GUIDE\\_A4\\_8pp.pdf](https://www.securedbydesign.com/images/CONSTRUCTION_SITE_SECURITY_GUIDE_A4_8pp.pdf)

## **Severn Trent Water**

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. If the applicant proposes to divert the sewer, the applicant will be required to make a formal application to the Company under Section 185 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our Developer Services Team (Tel: [0800 707 6600](tel:08007076600)).

It is an offence under S174(1) of the Water Industry Act 1991 to intentionally or recklessly interfere with any structure, installation or apparatus belonging to a water undertaker without consent.

## **Nottinghamshire County Council**

In order to carry out the off-site works required, the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. In order to undertake the works, which must comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks, the

applicant will need to enter into an Agreement under Section 278 of the Act. The Agreement can take some time to complete as timescales are dependent on the quality of the submission, as well as how quickly the applicant responds with any necessary alterations. Therefore, it is recommended that the applicant contacts the Highway Authority as early as possible. Work in the public highway will not be permitted until the Section 278 Agreement is signed by all parties. Furthermore, any details submitted in relation to a reserved matters or discharge of condition planning application, are unlikely to be considered by the Highway Authority until technical approval of the Section 278 Agreement is issued.

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the road.