



Appeal Decision

Inquiry held on 9-11 and 15-16 August 2023

Site visit made on 17 August 2023

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/N1025/W/23/3319160

Land north west of 1-12 Twelve Houses, Sowbrook Lane, Stanton By Dale, Derbyshire DE7 4QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Wulff Asset Management Limited against the decision of Erewash Borough Council.
 - The application Ref ERE/0722/0038, dated 28 June 2022, was refused by notice dated 13 October 2022.
 - The development proposed is outline application for up to 196 dwellings with all matters reserved other than the means of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023, the Government published a revised National Planning Policy Framework (the Framework). Comments were invited from the main parties on whether the revised Framework, and changes within it, had any relevance to their respective cases. Having due regard to these comments, which amongst other things related to the identification of a 4-year housing land supply, I am satisfied that the relevant and material points raised have been appropriately and reasonably considered in the determination of this appeal. For clarity, references to the Framework in this decision letter relate to the revised Framework published in December 2023.
3. I also note the additional points raised by the Council in their submission on the above matter. These referred firstly to the approval of full planning consent for warehousing on the Stanton Park development on land adjacent to Ilkeston Road and close to the appeal site. The Council highlighted that no limitations were placed on the hours of operation of the development or on any noise impacts given that the appeal site at the time of the consent was an empty agricultural field. Secondly, a Direction Letter was issued by the Secretary of State on 30 November 2023 preventing the Council from withdrawing the emerging Erewash Core Strategy Review (ECSR) from examination. As a result, the examination is proceeding. The Council considers this to add further weight to the emerging policies of the ECSR in the consideration of this appeal.

4. The application was for outline approval with all matters reserved other than access. As such, I have taken all plans submitted with the application to be illustrative except those relating to access and the site location plan. Updated plans relating to access were submitted during the Appeal.¹ These were subject to further public consultation where no substantive objections were made. I have also taken these plans into consideration.
5. Of the ten reasons for refusal on the Decision Notice, five have been resolved to some degree or withdrawn during the appeal prior to the Inquiry. These relate to highway safety, traffic congestion, biodiversity, landscape character and loss of amenity for future occupiers relating to noise. Following submissions during the appeal, it is now agreed that an appropriate living environment could be secured for future occupiers in terms of existing noise sources. Accordingly, the Council is no longer defending Reason 6.
6. Resolutions to issues regarding the other reasons for refusal have been reached between the parties. However, concerns have also been raised by interested parties, particularly relating to air quality, highway safety, landscape and biodiversity. In response, the appellant has provided written evidence on these matters. I also heard statements from interested parties at the Inquiry which I have taken account of in reaching my decision.
7. Statements of common ground (SoCG) have been produced dealing with planning matters, heritage, character and appearance and highways. Whilst common ground exists between the main parties on matters such as heritage impact and housing land supply, several issues remain in dispute. For example, the main parties now agree that harm to heritage assets would result from the proposal but disagree on the level of harm and the weight to be given to it. Nonetheless, Reason 7 is no longer being defended by the Council.
8. The main parties agree that the Council cannot demonstrate a five-year housing land supply (5YHLS). The latest supply figure identified (2.65 years) indicates a significant undersupply which, I note, has existed for some years. Furthermore, a requirement in the revised Framework to demonstrate a 4 year supply does not appear to materially improve the existing supply position.
9. It is also agreed in the SoCG² that relevant housing policies in the adopted development plan³ are out-of-date. Therefore, in accordance with paragraph 11(d) (ii) of the National Planning Policy Framework (the Framework), the tilted balance is engaged.
10. The ECSR⁴ plan was submitted to Government on 30 November 2022. At the time of this Inquiry, no examination hearings had been scheduled. The prematurity of the proposal in relation to the emerging ECSR is identified as a main issue and I will consider this and the weight to be given to emerging policies later.
11. I undertook two separate visits to the appeal site and surrounding area. The first was a preliminary visit before the Inquiry. Its purpose was to familiarise myself with the location, local area and some of the key elements of the area relevant to the main issues. The second visit took place after the Inquiry and was informed, in part, by the plans and notes of key locations, routes and

¹ Plan Ref: 450-TA10 rev B and 450-TA13 rev A

² CD L1

³ CD B1

⁴ CD B3

points to consider produced jointly by the main parties. The visit also allowed me to check or clarify points raised at the Inquiry.

Main Issues

12. The main issues are:

- 1) Whether the proposal would, in principle, be sustainable development in accordance with the development plan, its policies, the Framework and other relevant national guidance;
- 2) The effect of the proposal on the character, appearance and visual amenity of the local area, with particular regard to landscape;
- 3) The effect of the proposal on the Grade II listed New Stanton Cottages and whether it would preserve or enhance the significance and setting of the designated heritage asset;
- 4) Whether the proposal would undermine the plan-making process of the emerging ECSR in accordance with paragraph 49 of the Framework;
- 5) Whether the proposal would be contrary to the emerging ECSR with particular regard to it being on land proposed as Green Belt and, if so, the weight to be given to that Green Belt designation; and
- 6) Whether the proposal would be contrary to the emerging ECSR with particular regard to it being on land within a proposed Strategic Green Infrastructure Corridor (SGIC) and, if so, the weight to be given to that proposed designation.

Reasons

13. The site is an agricultural field located north and northwest of the junction between Sowbrook Lane and Ilkeston Road. These two routes provide strong and distinct southern and eastern boundaries to the site respectively and a section of the disused Nutbrook Canal and two ponds help to define the northern and western boundaries. The site is relatively flat and at a similar ground level to the adjacent highways. Boundaries consist of a mixture of mature hedgerows and trees and a portion of the site adjacent to its northern boundary lies within Flood Zone 2.
14. A Grade II listed row of cottages at Twelve Houses (New Stanton Cottages) and a substation are on the opposite (south) side of Sowbrook Lane. Beyond those to the south are active employment sites which appear well screened by existing mature trees and hedgerows and are hardly visible from the appeal site and Sowbrook Lane. The site is not currently in the Green Belt although it is proposed to be so within the emerging ECSR. New Stanton Park, a development area with outline and full planning permissions, is located east of the appeal site beyond Ilkeston Road. To the west is a brook and the Sowbrook Pond Local Wildlife Site. There is an existing bus route (No. 14) that runs along Ilkeston Road. Footpaths exist alongside some roads surrounding the site, such as the southern side of Sowbrook Lane and the eastern side of Ilkeston Road.

Whether the proposal would, in principle, be sustainable development

15. The Framework is clear at paragraph 12 that the presumption in favour of sustainable development does not change the statutory status of the

development plan as the starting point for decision-making. However, less weight can be placed on this approach where the development plan policies are considered out-of-date.

16. This main issue is considered in two parts. Firstly, whether the location of the proposal would be sustainable in terms of development plan policy and settlement geography and secondly, through an assessment of the connectivity and accessibility of the proposal to services and facilities.

Sustainable location

17. The Ilkeston Urban Area (IUA), as identified in the Erewash Core Strategy 2014 (CS 2014), is the closest identifiable settlement to areas identified in the emerging ECSR where new housing should be located. CS 2014 describes the IUA as comprising the settlements of Ilkeston and Kirk Hallam. This is shown on the Key Diagram in CS 2014. However, whilst an indication of the extent of the IUA is presented, it is only indicative. There is no definitive IUA boundary identified. It simply illustrates a general settlement area shaded yellow.
18. The appellant referred to Policy 2 of CS 2014 which states that sustainable development in the plan area will be achieved through a strategy of urban concentration and regeneration. To achieve this, most development is to be located within or adjoining the urban areas of Ilkeston and Long Eaton.
19. The red line boundary for the large Stanton Regeneration Site (SRS) planning permission⁵ extends along the entire length of Ilkeston Road that relates to the SRS. However, the northeast corner of the appeal site is separated from the SRS by not just the width of Ilkeston Road but also the highway verge, the Stanton Fishing Club car park and **Private's Pond**. Ilkeston Road alone would provide separation between the two sites for just a short section of highway. The distinct element of separation along the Ilkeston Road corridor strongly delineates between the existing or permitted urban edge east of Ilkeston Road and the undeveloped countryside west of Ilkeston Road, of which the site forms a part.
20. The development of the northern part of the SRS, north of Lows Lane, is understood to consist of employment uses including large warehousing and extensive parking areas, some of which has planning consent. Construction on part of the SRS has begun. In my view, such uses on so large a scale would not be conducive to the proposed housing that would be located close by. Furthermore, the northern part of the SRS will widen the wedge of non-residential development between the appeal site and existing residential areas of Ilkeston to the north. As a result, the development of around 200 homes would be located close to a very large industrial area and have no meaningful relationship with, or connection to, the existing settlement of Ilkeston.
21. I have considered whether the proposal would adjoin the IUA and the settlement of Ilkeston. It is a fact that the appeal site is not connected physically or geographically with Ilkeston. On site, the proposal would not read as part of Ilkeston. It would be clearly separated from it by the Nutbrook Canal, the Nutbrook Trail, several fields directly to the north and an existing and expanding industrial area to the northeast.

⁵ CD H2

22. It is understood that the intention of CS 2014 was to look to the future and set out what the Council wished to see delivered in that plan period. Effectively, this was the policy of urban concentration and regeneration and sets the context in which the SRS was allocated to become an integral part of Ilkeston. That vision was to be realised through mixed-use development – a sustainable new community - that was to be linked to Ilkeston. As is evident, that has not been achieved as the development of land north of Lows Lane is now solely for employment uses. The existing large industrial area north of the Nutbrook Canal and Nutbrook Trail is now being extended southwards by another large area of industrial and commercial uses. Moreover, the area that the Council is now proposing as a self-contained new settlement – South Stanton - is south of Lows Lane, as set out in Policy SP1 (3)(d) of the emerging ECSR.⁶
23. In this context, I find the **appellant's** approach stating that the SRS north of Lows Lane forms part of the IUA and anything adjoining the SRS also adjoins the IUA to be too simplistic. CS 2014 needs to be considered as a whole, as does what has taken place on the ground. The proposal would be located very close to effectively what will become a large industrial estate rather than the sustainable mixed development originally intended for the SRS. Furthermore, the appellant relying on the emerging mixed-use South Stanton allocation in the ECSR to support their case for sustainability seems somewhat contradictory as the appellant also argues that the emerging ECSR and its policies and designations, including South Stanton, should be given little weight.
24. Although an outline application, it is evident from the submitted plans and documents and my own observations during my visits that the proposal would not read as part of South Stanton. It would be an inward looking, unconnected and self-contained housing scheme. The appellant says that the proposal would be part of Ilkeston and not part of a different, yet to be designed or delivered, new self-contained settlement. This again is **at odds with the appellant's South Stanton** argument.
25. As noted from the location plan and other plans submitted by the appellant, **including within the appellant's evidence on landscape matters,**⁷ the appeal site is also geographically and physically separated from Kirk Hallam to the west. Indeed, the appellant argues that a clear and defensible boundary would remain between Kirk Hallam and the proposal. I note also that the proposal is not being presented as an extension to Kirk Hallam. From my visits, it is clear the site is not, and the proposal would not be, connected to Kirk Hallam visually or physically considering the fields situated between the two areas and the substantial trees and hedgerows that exist between them.
26. In my assessment, the proposal does not meet Policy 2 of CS 2014 and the strategy of urban concentration and regeneration. In any event, even if the appellant was correct that the proposal accords with Policy 2 as it would adjoin the IUA, this argument does not adequately engage with, or effectively address, the locational concerns about the proposal. Furthermore, CS 2014 provides no clear definition of the extent of the IUA either in its text or the Key **Diagram. The term 'settlement area' is used rather than 'the IUA'.** All land that is developed or is to be developed is shaded yellow **as 'settlement area.'** As such, graphically and geographically, from what I have seen, there is no

⁶ CD B3

⁷ CD S6

- definitive basis for equating 'settlement area' with 'the IUA'. Therefore, to define the extent of the IUA is a matter of planning judgement.
27. Moreover, whilst the appellant makes play of the proposals' compliance with Policy 2, a breach of Policy 2 is not cited in the reasons for refusal. Therefore, even were the proposal to accord with Policy 2, to my mind this does not provide an adequate and appropriate response to reasons 1 and 5 which rely on Policies 10 and 14 of CS 2014 and saved Local Plan 2005 (ELP) Policy H12.
 28. It has been debated at length as to whether the proposal would be within, adjacent to or adjoining the existing settlement of Ilkeston. This has been complicated somewhat by the emerging development at SRS east of the site. However, whether viewed on a map or experienced on the ground, to my mind the proposed site is clearly not within the settlement of Ilkeston, nor is it within Kirk Hallam. Therefore, the proposal would not be within a settlement that is part of the IUA. The site does not adjoin the settlement of Kirk Hallam, nor does it currently adjoin the settlement of Ilkeston. Therefore, it does not adjoin the IUA as it is neither physically connected to it nor would it read as an extension of it. Based on what is before me, whilst in outline, the proposal would be a self-enclosed housing development, significantly detached from other housing development and unconnected to any existing settlement.
 29. Furthermore, the proposal would not extend an existing settlement into adjoining countryside to meet housing needs. It would, instead, place a significant amount of housing in the countryside, several fields removed from the nearest existing settlement. It would be perceived negatively as a housing scheme that would appear as an isolated development in a countryside setting and unsustainable location.
 30. Consequently, I conclude that the proposal would breach Policy 10(1)(a) and (b) of CS 2014 as it would not make a positive contribution to a sense of place, would be clearly separate from any existing settlement and therefore would not be inclusive. It would be too small a development, lacking shops, services or facilities to recreate its own sense of place. As such, it would be unable to create an inclusive environment that would enhance or create a distinctive sense of place where people could feel proud of their neighbourhood. Moreover, due to its isolated situation, the proposal would be unlikely to **'reinforce local identity cohesively' as sought by CS 2014.**

Accessibility

31. The appellant has suggested that compliance with Policy 2 of CS 2014 means automatic accord with Policy 14 of CS 2014. However, even if the appeal site were adjoining the IUA in policy terms, this does not automatically mean that it, or the proposal on it, is sufficiently accessible. Accessibility needs to be demonstrated or achieved through suitable and appropriate improvements as in the case of the SRS, described as an integral part of Ilkeston and where CS 2014 made its acceptability for development dependent upon improvements to accessibility. Policy 14(2) says that development sites should be readily accessible by walking, cycling and public transport and where there are deficiencies, these must be fully addressed. An appraisal of accessibility is therefore required. As such, there can be no presumption that compliance with Policy 2 equates to compliance with Policy 14.

32. Policy 14 says that the need to travel, especially by private car, will be reduced by securing new developments of appropriate scale in the most accessible locations following the spatial strategy in Policy 2. This will be achieved in combination with the delivery of sustainable transport networks to serve these developments. **The Council's principle means of achieving this** policy aim is through the preparation of a new development plan and the allocation of land to deliver such developments. This is being undertaken through the ECSR, now submitted for examination.
33. From what I have seen, the appeal site has not been considered by the Council to be one of the most sustainable or accessible locations when assessed against other sites allocated in the ECSR. In the Highways SoCG⁸ it is agreed that the amenities set out on page 6 are accessible on foot within 30 minutes at a walking pace of 1.4 metres per second or 5 kilometres per hour and that facilities can be accessed more quickly by bicycle. The use of public transport is also noted as an option for access to Ilkeston services and facilities.
34. However, I find it likely that very few people would be persuaded to walk or cycle to services and facilities in Ilkeston from the proposal given the journey length and the inherently unattractive nature of the route. This would include crossing the busy Ilkeston Road. The proposed crossing point in **the appellant's** package of measures supporting the proposal is at the bridge on the north bank of Nutbrook Canal where visibility north along Ilkeston Road is very limited due to the proximity of the mature hedgerows to the narrow highway, a bend in the carriageway and the limited footpath space available.
35. A further barrier is an undulating woodland section of the route east side of Ilkeston Road for which there remains uncertainty as to whether the proposed enhancement to this section would in fact be delivered. There would also be the prospect of travelling through a very large unattractive industrial area at Quarry Hill Industrial Park to reach only the residential outskirts of Ilkeston rather than any key services and facilities. Alternatively, there is a substantial incline on Quarry Hill Road northwards towards Ilkeston town centre from the appeal site. I note also other significant inclines on the route to the town centre at Little Hallam Lane and along Stanton Road. To my mind, these also would likely be a barrier to those who may otherwise consider walking or cycling to amenities in Ilkeston town centre about 2.5km from the site.
36. A bus service would provide an option for travel to and from Ilkeston during the day for those who do not wish to, or who may be unable to, walk, cycle or use the private car. However, in my assessment, this would not be a realistic or reasonable option for those carrying anything substantial, such as a weekly grocery shop, on a return journey.
37. Whilst the appellant proposes to provide funding for the enhancement of facilities for, and frequency of, the existing No.14 bus service at peak times, this would leave the service still lacking availability in the evenings and on Sundays. This would not support leisure or work-related trips to and from Ilkeston sought by future residents of the proposal for whom alternative travel would still need to be found during those times. It is also noted that the bus operator currently running the service has not increased its frequency previously which indicates that potential demand for the service may not be as high as envisaged. Moreover, I have seen no evidence to indicate what the

⁸ CD L2

potential enhancement of the bus service for future residents of the proposal is likely to generate in terms of any substantive increase in use.

38. The appellant says that a clustering of services and facilities such as those at the local centre in Kirk Hallam would draw potential future residents of the proposal given that they would be able to undertake a series of linked trips as part of the same journey. In addition, the nearest primary school, community centre and day nursery are closer to the site than the local centre, being less than 800 metres away, and on the route to it. Therefore, in quantitative terms, the appellant argues that Kirk Hallam is very accessible on foot and that all its services and amenities are well within a reasonable cycling distance of 5km.
39. However, there is no bus service between the appeal site and Kirk Hallam. There also remains several key facilities and services identified in the **appellant's evidence**⁹ in both Kirk Hallam and Ilkeston, which are significantly distant from the appeal site. These are local secondary schools (2.35km) in Kirk Hallam and a library (2.5km) and supermarket (3.9km) in Ilkeston. These are all well in excess of the 2km one way journey criteria for a reasonable walkable journey. It is noted that relevant guidance states that a one-way 2km journey on foot is defined as a reasonable distance to walk and that most services and facilities in Kirk Hallam are within 2km of the appeal site. Nonetheless, other factors need to be assessed for the walkable journey to be considered feasible, reasonable and sufficiently attractive to be realistically undertaken and therefore be a genuine sustainable travel mode option.
40. These other factors include the section of Sowbrook Lane between the site and the edge of Kirk Hallam which, to my mind, would not be an attractive, safe or overlooked environment for pedestrians to use. Although the route along this section of Sowbrook Lane is relatively short, it involves having to negotiate passage along a narrow single carriageway highway and adjacent footpath that has winding bends with shortened forward visibility for significant parts of the route. The route is also well trafficked, often with medium to large sized commercial vehicles as well as cars which I have seen to be often travelling substantially in excess of the speed limit during my visits. Given the narrow nature of the highway, the presence of cyclists on the road is also likely to cause some issues and frustration for drivers of vehicles seeking to overtake slower cyclists but being unable to do so.
41. Furthermore, during my second site visit, and on three separate occasions within one hour, I observed vehicles mounting the footpath whilst taking the bends in the road when travelling west on this section of Sowbrook Lane. To my mind, this therefore results in an intimidating and potentially dangerous environment for cyclists and pedestrians alike.
42. There are no proposals to widen the carriageway along this part of Sowbrook Lane, although improvements are proposed to widen the footpath and provide an uncontrolled crossing point. I acknowledge that the highway authority considers the route, with the proposed enhancements, to be reasonable, acceptable and safe for pedestrians and cyclists. However, it is my view that the experience of walking along Sowbrook Lane to and from Kirk Hallam would remain intimidating and unattractive for many due to the volume and proximity of vehicles using the route combined with the narrow and winding nature of the highway. As a result, and notwithstanding the comments of the

⁹ CD S1

highway authority, the above observations add to my significant concern about pedestrian and cyclist safety, regardless of the proposals to widen the footpath and provide a crossing point.

43. It is argued that the relatively short length of Sowbrook Lane is unlikely to act as a barrier to walking as it would be lit, it would be safe in terms of any interactions with vehicular traffic and the level of traffic flows continuing in the hours of darkness would allow drivers to provide surveillance of pedestrians as they pass along the highway. In my assessment, these factors would not negate or overcome the unattractive and intimidating environment that would be experienced by pedestrians on the route, however short a distance it may be or how well lit, either by day or especially at night. Moreover, I find a lack of any overlooking of the route other than by passing motorists unsatisfactory and would likely be a further factor in discouraging pedestrian use.
44. It is accepted that the distance between the western side of the site and the outskirts of Kirk Hallam is relatively short. However, the overall distance between the eastern edge of the site and the local centre within Kirk Hallam must also be considered. The additional distance across the site would add up to 450 metres to the **one-way journey distances identified in the appellant's** evidence and would include most, if not all, of the proposed dwellings as indicated on the indicative masterplan. Taking this into account, the return journey to the local centre in Kirk Hallam would be around 3.3km for future residents on the eastern edge of the proposal, furthest from Kirk Hallam.
45. Once within Kirk Hallam, the route to the local centre takes a substantive incline for a significant distance along Dallimore Road, past the primary school and continues along Deepdale Avenue towards the local centre at Queen Elizabeth Way. I acknowledge that the return journey would be downhill to the proposed site. However, the substantive incline would likely be a considerable barrier to some who may otherwise choose to walk to the local centre.
46. These factors, combined with the potential return journey of up to 3.3km, would make walking unfeasible or an unrealistic option for many future residents, some of whom may have young children, be elderly, or may just consider that the geographical factors make walking such a distance unattractive. Furthermore, I find that such circumstances regarding distances to key services and facilities do not **align with the Government's aspirations** relating to the concept of 800 metre walkable neighbourhoods.
47. The appellant has emphasised that the test in paragraph 109 of the Framework is for development to offer a '**genuine choice of transport modes.**' Whilst this is correct, this should not be taken to mean that a site meets the test simply because it is theoretically possible for some people, however few, to undertake the journey in question using a particular sustainable mode of travel. The objective of the policy is to reduce reliance on the private car, congestion and emissions and to improve air quality and public health. This will be difficult to achieve unless the choice in question is one that a reasonable number of people, genuinely and realistically, are likely and able to make.
48. From the evidence, my analysis of it and my observations, I am neither satisfied nor convinced that the cycling and walking options to and from Kirk **Hallam's** services and facilities provide that genuine choice for a substantive and meaningful number of future residents of the proposal. Therefore, in my judgement, the policy test at paragraph 109 of the Framework is not met.

49. Similarly for Ilkeston, I have considered the potential options to walk and cycle to facilities and services from the site in the context of the proposed infrastructure improvements being in place. Whilst these enhancements and financial contributions have been agreed between the appellant and the highway authority,¹⁰ I note the **appellant's** view that these are unnecessary as it is likely that very few people will use Ilkeston because Kirk Hallam is much easier to access from the proposal. Without further substantive evidence from the highway authority to justify and explain the merits and suitability of the improved infrastructure and contributions proposed, I am not convinced of the suitability and effectiveness of such measures to encourage and enable more journeys on foot and cycle to Ilkeston.
50. There was disagreement between the main parties and some uncertainty as to whether some proposed enhancements would, in fact, be delivered. Funding is identified and agreed between the appellant and the highway authority in the submitted planning obligations and Draft Section 106 agreement to provide the infrastructure but there was no certainty that the highway authority would be required, or indeed be able, to implement the identified works. In particular, the Council has concerns that a critical part of the footpath link to Ilkeston, the woodland footpath section east of Ilkeston Road / Quarry Hill Road, may not be delivered. It had been suggested that this was due to the highway authority not confirming that the proposed mitigation was required and that acquiring third party land would be necessary.
51. It is acknowledged that this issue was sought to be resolved by the appellant at the Inquiry. Nonetheless, the debate of such matters and lack of clarity does not instil confidence that the mitigation identified is deliverable or indeed necessary. Following the hearings, suggested conditions¹¹ to resolve this issue were submitted and I have had regard to them. However, as I am dismissing the appeal, I have not considered these in further detail as it is not necessary.
52. I acknowledge that Kirk Hallam and much of its services and facilities would be within what is considered a reasonable walking and cycling distance for future residents of the proposal. However, this alone does not justify the granting of planning permission for housing that would clearly be unconnected to, and not form part of, any existing settlement. Making a site accessible essentially through an exercise based on distance arguments cannot, and does not, make a site sustainable if it is otherwise not in the correct location. Moreover, other aspects of sustainability must be considered which go beyond and are equally as important as accessibility.
53. Considering the above points concerning sustainable transport options for walking, cycling and public transport, whilst each option has some benefit, they also have several drawbacks. In my assessment, the options presented do not provide reasonable, genuine and realistic sustainable transport options for future residents of the proposal.
54. The accessibility and sustainability of the proposal does not only consist of public transport, walking and cycling options. I note that electric vehicle charging infrastructure is also proposed. Whilst elements of the charging infrastructure are proposed within the wider development site, most of it is to be connected to individual dwellings. This would largely be sought through

¹⁰ CD L5

¹¹ CD Q13

Building Regulations in any case. Therefore, the benefit of such provision is given little weight in favour of the proposal.

Conclusion

55. I conclude that the proposal would not, in principle, be sustainable development and material considerations assessed in relation to location and accessibility do not indicate otherwise. Therefore, it would not comply with Policy 10 and Policy 14 of CS 2014 and the relevant sustainability policies of the Framework.

Effect on the character, appearance and visual amenity of the local area, particularly with regard to landscape

56. Policy 10 states that outside of settlements, new development should conserve or, where appropriate, enhance landscape character. Furthermore, policies are to be assessed with regard to the Derbyshire Landscape Character Assessment (DLCA). Saved Policy H12 of the ELP reflects the requirements of Policy 10 in that proposals must have regard to distinctive landscape features and provide further landscaping where appropriate, particularly when on the urban fringe.

Character and appearance: The gap

57. Kirk Hallam and Ilkeston are treated as the same settlement in CS 2014 and this is continued in the ECSR. As such, the appellant finds it difficult to see how the proposal could be refused as it would effectively be development within the same settlement. It is also argued that the appeal site does not function as part of any sort of gap. Its relationship, in landscape terms, is with the built-up area of Ilkeston to the north and east, given the existing urban influences and mature landscaping along the western boundary of the site. The appellant has therefore sought to demonstrate that the proposal site is within an area heavily influenced by an urban context of residential and industrial development.
58. This urban development is anticipated to increase through the completion of the SRS to the east of the site. These urbanising influences in the wider area will increase further if the South Stanton site, around 500 metres to the southeast of the appeal site, comes forward with up to 1,000 homes as indicated in the ECSR.¹² In this context, the appellant believes that the site is in an urban edge location. The DLCA also recognises that the area is influenced by urban development.
59. The site has no landscape designation and it is agreed between the parties that any landscape or visual effects resulting from the proposal would be localised **given the site's level of self**-containment. Moreover, in an area where the Council is unable to meet its housing needs through brownfield sites and heavily constrained green belt, the appellant believes the site to be an obvious candidate for such development. The appellant also says that the **proposals'** compliance with the spatial strategy denotes acceptance, in policy terms, that there will be a change to the character and appearance of those sites which adjoin the IUA. Nonetheless, as with any greenfield site, its development for housing would result in some adverse effects on character, appearance, visual amenity and the surrounding landscape.

¹² CD B3

60. The site lies within a patchwork of open space comprising of fields and the Nutbrook corridor which includes the Canal and Trail. To the west of this is Kirk Hallam. To the south and east of the site are industrial and commercial developments. The Grade II listed building at New Stanton Cottages also sits to the south of the site alongside a substation. Within this context, the appeal site forms part of an open area between the industrial and commercial developments and the existing settlements of Ilkeston and Kirk Hallam.
61. Furthermore, when leaving Kirk Hallam, at the point where Dallimore Road becomes Sowbrook Lane, it is abundantly clear from the stark difference between the built development left behind you and the verdant scene ahead of you that one is leaving the settlement and moving into an area much more rural in character. A similar clear break is appreciated when approaching the site from the north along Quarry Hill Road which becomes Ilkeston Road and when approaching the site from the east along Lows Lane. Taking this into consideration, I agree with the Council that the site has rural surroundings.
62. **Whilst there is no formal designation of 'a gap'**, from what I have seen I find there to be a substantive perception and an understanding locally that a visual and physical gap exists between Kirk Hallam and Ilkeston which has a more rural appearance to it. This results from the Nutbrook corridor and the fields to the north and west of the proposed site which are bounded by mature trees and hedgerows. These features provide the rural context, character and appearance to the perceived 'gap' between settlement areas and the contrast with the more urban areas of Ilkeston and Kirk Hallam.
63. There is no policy support for identifying or protecting a gap within which the appeal site sits. Nonetheless, I have had regard to what is in place on the ground and were the appeal site to be developed, I find that the perceived landscape gap that exists would be significantly eroded or even lost. I take the point that there would remain a robust and defensible gap between the IUA and Kirk Hallam with the proposal in situ. However, the development of the appeal site as proposed would have a harmful impact on the visual character and appearance of its immediate surrounding area. Furthermore, it would significantly alter and diminish the rural nature of the locality which provides a clear defining contrast to, and separation of, the urban character of the settlement areas of Ilkeston and Kirk Hallam.

Character and appearance: Stand-alone development

64. **This part of the Council's case is** also based on a premise and understanding of how the proposal would be perceived. The premise is that residential development can only be acceptable if it adjoins another residential area, or residential settlement. The Council accepted at the Inquiry that a settlement is comprised of different elements such as residential, commercial, industrial, retail and civic uses. Therefore, as a planning concept, the idea that residential development must be seen as isolated because it is located next to an employment site is not reasonable in and of itself.
65. Furthermore, I note there is no local or national policy to support the **Council's** position on this point. Indeed, the Key Diagram in CS 2014¹³ does not make a distinction between uses in its indicated settlement areas. I also note that paragraph 2.4.5 of CS 2014 states that the SRS is described as an integral part

¹³ CD B1

- of Ilkeston. It is, as the Council has accepted, sensible planning to co-locate housing with employment and other uses, where appropriate.
66. Notwithstanding this, **the Council's stand-alone** development point refers not only to the physical relationship and interaction of the proposal to nearby development overall but also to its physical separation and lack of relationship and connection to other more complimentary uses, particularly housing.
67. The context plan at page 45 of the **appellant's landscape proof of evidence** (Volume 2)¹⁴ illustrates that the southern part of Ilkeston is characterised by residential and employment development being close to each other. The **Elka's Rise** development, to the north of the appeal site, is an example of a housing development that is close to employment and industrial uses located on the urban edge of Ilkeston and on the opposite side of Quarry Hill Road to the Quarry Hill Industrial Park.
68. Whilst there are similarities in the relationship between **Elka's Rise** and its neighbouring uses with the proposal and its neighbours, to my mind **Elka's Rise** is an entirely different scenario. It is adjacent to existing residential development in Ilkeston to the northeast and there is a direct and immediate relationship with existing housing nearby, particularly on Quarry Hill Road opposite the access to the development. The proposal would not have these attributes. Even where the proposal would be near the SRS on the opposite side of Ilkeston Road, I find the relationship between the two developments would not result in any greater connectivity or positive interaction as the highway would act as a significant barrier to any such connection.
69. **In contrast to Elka's Rise**, the proposal would appear more isolated in its relationship to neighbouring uses particularly to the north and the west. Whilst there would be more of a relationship with existing development on the opposite side of Sowbrook Lane to the south, the connection would be minimal and only where the proposed access would be located opposite the substation.
70. **Elka's Rise does not read as** an isolated or stand-alone development. It has a visual, physical and geographical connection to the existing settlement of Ilkeston. In contrast, the proposal would appear removed from Ilkeston and its physical and geographical separation from it would be greater by virtue of the Nutbrook corridor. The juxtaposition of the proposed housing with its surrounding uses would appear much starker in comparison to **Elka's Rise**.
71. Regarding **the appellant's points** about connectivity, **the proposal's** relationship to the proposed South Stanton allocation **and the Council's active promotion of** it, the South Stanton site would lie directly south of the consented employment area at SRS. In my assessment, the context for the relationship between South Stanton and the consented employment area at SRS is markedly different to that of SRS and the appeal site. The South Stanton allocation deals with a substantial amount of brownfield land that the Council is seeking to comprehensively redevelopment for mixed uses rather than the development of a comparatively small greenfield site for housing.
72. South Stanton **forms a key element of the Council's spatial strategy to deliver** housing which relates to wider development aspirations for the Borough put forward in the ECSR. The SRS is described **as a 'neighbourhood'** in the

¹⁴ CD S6

development plan which the appellant takes to mean that it is part of an existing settlement, not a new one. The appellant therefore considers that the SRS would form a sustainable part of the IUA providing integrated services and facilities to enable future residents to live sustainably. Whilst the appeal site may be considered as being close to the IUA, I find it would not have the same connection to its surroundings that the SRS and the South Stanton allocation would have as a comprehensive, sustainable mixed-use redevelopment.

73. The appellant says that the proposal would not be seen as a stand-alone or isolated development, making the point that when travelling from west to east along Sowbrook Lane with the illustrative masterplan¹⁵ in mind, one becomes very aware of the substantial development at Stanton and the Grade II listed New Stanton Cottages at Twelve Houses. However, in my experience of the site and surrounding area, I disagree. Travelling west to east on Sowbrook Lane, I find that the route and its surroundings continues to hold a rural character and appearance along much of its length. Indeed, it is some distance along the route until the New Stanton Cottages come into view and further still until one becomes aware of the Stanton development, situated further along Lows Lane. In my assessment, one would have to be almost at the junction of Sowbrook Lane and Ilkeston Road to become aware of it.
74. Accordingly, I find that the proposal would appear as a stand-alone development when travelling along Sowbrook Lane. The appeal site and its immediate surroundings give a rural context that provides an important visual and physical break in development in the wider surrounding landscape. Therefore, the proposed housing would be seen as a stark, contrasting development that would appear isolated in its visibly rural surroundings.
75. It is also presented that views of the proposed development would be filtered by buffer planting and that houses would be set back from Sowbrook Lane. This would be done with the intention that there would not be the impression that the proposed houses had just simply been built on a green field but rather that the development would be viewed as a transition from one part of Ilkeston to another. **In the appellant's view**, the proposal would be seen as a continuation of an existing settlement, not as a standalone proposal.
76. However, in experiencing the site and its surrounding area and transitioning from the IUA to Kirk Hallam for example, to my mind the proposal would not be seen as a continuation of an existing settlement. Nor would it be experienced as a transition between differing parts or settlement areas of Ilkeston. Notwithstanding the buffer planting and the setting back of housing from the edge of the site, in my judgement, the proposal would still appear as a stand-alone greenfield housing development.
77. Overall, given the character and appearance of the surrounding area and landscape, the proposal would clearly be read as separate from other existing settlements. It would also be seen as being within the perceived landscape gap between settlements. It would therefore have a stand-alone appearance which would have an adverse impact on the rural character and context of the proposal site. As such, having considered all other relevant points and for the reasons I have set out, I find that the proposal would have an adverse effect on the character and appearance of the local area and landscape.

¹⁵ CD C17

Visual amenity

78. I have considered whether the site is visually contained and whether it would be when developed. I have also considered whether the experience of the viewing public would be influenced by the context in which the site is located.
79. The appeal site is currently experienced as open countryside with fields bound mostly by mature hedgerows and trees. As a result, the site has a degree of visual self-containment. However, gaps in those boundaries allow longer views across the site to a distant semi-rural landscape. As such, the site and its surroundings are experienced as a more rural and natural landscape setting that provides a verdant character and appearance to the visual amenity of those in the area. It is accepted that any development will result in some visual impact on its immediate surroundings and on the local character of the area. Although the visual impacts of the proposal on amenity have been assessed and agreed between the main parties as locally limited, this does not diminish the impact that the proposal would have on the amenity of that local context and character for those experiencing it.
80. The proposal would clearly be visible from viewpoints adjacent to the site along Ilkeston Road and Sowbrook Lane. Notwithstanding the nature of these highways, their surrounding character and appearance resulting from the mature hedgerows and trees lining them provides a visual amenity and experience that reflects the countryside and natural environment. The mature hedgerows provide significant screening along the highways and therefore an element of visual self-containment to the site currently exists. However, where gaps in the hedgerows and trees exist, I have found that views across the site can be seen to extend into the distance, particularly when viewing north, northeast and northwest across the site from Sowbrook Lane.
81. The necessary removal of mature hedgerows and trees from highway verges to provide the proposed access points and visibility splays to the site on Sowbrook Lane and Ilkeston Road would further open views along significant portions of the adjacent highways and the site boundary. However, rather than these views being predominantly rural in character and appearance, they would reveal the new housing development and would be unequivocally urban in nature with dominant views of housing evident. This would be the case regardless of the proposed setting back of houses and buffer landscaping. Moreover, the substantial removal of large stretches of mature hedgerow to accommodate the access points would likely result in increasing the proposal's visibility in longer views.
82. The layout for the proposal¹⁶ indicates how the scheme would be landscaped, with planted buffers to filter views, green infrastructure to provide connectivity within and without the site, new tree planting and the retention and enhancement of hedgerows. Whilst I have little doubt the proposal would have elements of landscaping and tree-planting incorporated into the final scheme, the proposal before me is for outline permission. Therefore, the submitted layout can only be considered as indicative in this appeal.
83. In wider views, the proposed houses would be clearly visible and would be seen collectively as a large residential estate from surrounding and more distant viewpoints. For example, one such location would be an elevated point

¹⁶ CD C17

on Quarry Hill Road just south of its junction with Longfield Lane approximately 1km north of the appeal site. From here, the proposal would result in at least the rooftops of the dwellings being visible on the site. Due to the open view of the site from this point, it is likely that the houses would be clearly seen above and through the existing treeline around the site boundary. Some industrial development at the Stanton Precast Works site is visible in the far distance from this viewpoint. However, the proposal would visually puncture and erode the existing verdant view and rural character of the site which forms part of the semi-rural landscape beyond Ilkeston seen from this distant viewpoint.

84. The proposal would also be visible from a point on the Nutbrook Trail identified as viewpoint 12 in **the appellant's landscape proof of evidence (Volume 2)**.¹⁷ Whilst the view of the proposal from here would be filtered through trees and hedges lining the Trail as well as others between the Trail and the proposal site, the proposal would still be seen and have a harmful impact on visual amenity for users of the Trail. Moreover, the visual impact of the proposal would be apparent, albeit slightly filtered, in a longer view that is currently free from development.
85. In addition to viewpoint 12, I observed that the proposal would be seen in an unfiltered view from an adjacent field footpath to the south of the Trail, close to viewpoint 12. This is about 500 metres from the centre of the appeal site. The field is easily accessed from the Trail and, as I observed, the field is used by dog walkers and other walkers who take the footpath though it to connect to the Canal towpath to the south. The view of the proposal from this route would be substantially less screened or filtered by trees and hedges than from viewpoint 12 or from points along the Trail. It would therefore result in the proposal having a greater impact on visual amenity in the surrounding area.
86. In my assessment, as the proposal would also be visible in longer range views in the surrounding area, its impact locally would not be visually contained. Its impact on visual amenity would be greater than the mainly minor or moderate adverse visual effects suggested and agreed by the parties. Whilst it is agreed between the parties that views of the proposal would be localised, I have found the locational and visual impact of the proposal to be not just in the immediate locality of the site but also in the wider surrounding area. As such, the impact of the proposal on visual amenity would not be locally limited.
87. The visual amenity of the locality would be adversely and irrevocably harmed by the proposal. It is accepted that much of this adverse impact would be inevitable with a housing scheme in such a location. However, the character and appearance of the area surrounding the site would shift significantly from a substantive rural landscape and environment in and around the appeal site to an unequivocally urban character and appearance. Furthermore, the adverse visual impact of the proposal would not be locally limited or contained as they would also be experienced in longer, more distant views from vantage points identified around the surrounding area.

Conclusion

88. Consequently, I conclude that the proposal would have a substantive adverse impact on the character, appearance and visual amenity of the surrounding area and landscape. As a result, it would fail to accord with Policy 10 – Design

¹⁷ CD S6

and Enhancing Local Identity of CS 2014, saved Policy H12 – Quality and Design of the ELP and relevant policies within Section 12 of the Framework.

Effect on the significance and setting of the Grade II listed New Stanton Cottages

89. This issue has largely been resolved between the parties prior to the Inquiry. I have had regard to the submission proofs for the appellant¹⁸ and for the Council¹⁹ on heritage matters and also the Heritage SoCG.²⁰ As such, I note that agreement has been reached on a number of aspects set out within the SoCG and I have had due regard to these in my consideration of this issue. In particular, it is agreed that any effect of the proposal on designated heritage assets outside the site boundary would be limited to the Grade II listed New Stanton Cottages.
90. There is also agreement that less than substantial harm to New Stanton Cottages would result from the proposal and that such harm would be at the lower end of the less than substantial harm scale. The parties also concur at Paragraph 7.10 of the overarching SoCG²¹ that the proposal would have a minor adverse effect on the setting of the Grade II listed building. In addition, it is agreed that the public benefits identified as arising from the proposal would outweigh the less than substantial harm to New Stanton Cottages. As a result of this agreement, **the Council's reason for refusal 7 is overcome.**
91. Having taken account the above agreed points, the only remaining matter in dispute between the parties is the level of weight to be given to the harm to the significance and setting of the designated heritage asset which would arise from the proposal.
92. In considering the significance and setting of the listed building, and noting the submissions made, it is evident that the significance of New Stanton Cottages is recognised by its statutory designation. The principal significance of the listed building is found within its architectural and historic interest as a fine example **of a Victorian terrace of worker's cottages.** The setting of the heritage asset contributes to its significance and the appeal site contributes to this setting. The undeveloped, open and agrarian landscape character of the appeal site positively contributes to the setting of the heritage asset. Furthermore, and significantly, the appeal site represents the last surviving link between the listed building and its original agrarian landscape setting.
93. Therefore, the proposal would result in harm to this landscape, the setting and the significance of the listed building. The setting would not be preserved due to the visual impact of the proposal and other impacts including the loss of landscape and severing of the link to the original agrarian landscape setting. I find this undoubtedly would adversely affect how the heritage asset would be experienced and the ability to appreciate its significance and original setting.
94. The proposal would result in the negative alteration of views from and towards the listed building in and around the appeal site. It would fundamentally change the experience of the listed building and its setting and context which contributes to its significance. Furthermore, the irreversible severing of the last

¹⁸ CD S3

¹⁹ CD R8 and CD R9

²⁰ CD L4

²¹ CD L1

link between the designated heritage asset and its original landscape setting would have a significant and permanent adverse impact on the Grade II listed building, its setting and significance. I therefore find the harm caused to the significance of the listed building as a result of the proposal to be significant.

95. Accordingly, the proposal is not considered to have a beneficial or neutral effect on the significance of the designated heritage asset. The agreed position of the parties on harm to the significance of the designated heritage asset is less than substantial harm at the lower end of the scale. In accordance with paragraph 208 of the Framework, the harm is to be weighed against the public benefits of the proposal. As this is the agreed position, and having regard to the analysis submitted, I have taken this into account.
96. However, in my assessment, the fact that the proposal would result in the removal of the last part of the open, agrarian landscape that links to the original landscape setting for New Stanton Cottages is of considerable importance. I agree with the Council that the irreversible severing of this link is of significance and its loss would be particularly harmful in terms of ensuring the conservation of the heritage asset. As such, having regard to paragraph 205 of the Framework, this harmful effect on the setting and significance of the Grade II listed building as a result of the proposal attracts **the 'great weight'** to be given to the conservation of a heritage asset.

Conclusion

97. I find that in terms of the assessment of harm to the designated heritage asset resulting from the proposal, the harm would be less than substantial. Given the significance of the harm identified relating to the potential severing of the link between the heritage asset and its original landscape setting, I conclude that whilst the harm would be less than substantial, it would be at the upper end of that scale.
98. Consequently, the proposal would result in significant adverse changes to the setting of the Grade II listed building which would detract from how it is experienced, appreciated and understood and therefore impact on its significance. This meets the threshold of less than substantial harm to the significance of the designated heritage asset and, in accordance with paragraph 208 of the Framework, the public benefits of the scheme should be weighed against that harm. As no public benefits have been identified which are sufficient to overcome that harm, I therefore conclude that the proposal would be contrary to the relevant requirements of the Framework.

Whether the proposal would undermine the plan-making process of the emerging Erewash Core Strategy Review (Prematurity)

99. The ECSR was submitted for examination on 30 November 2022. Examination hearings have not yet been undertaken although it is understood that the examining Inspector has issued their initial questions regarding the submitted plan. These raised issues concerning aspects of the ECSR including the spatial strategy of the plan and the viability and deliverability of allocated sites. It is evident from the **Inspector's questions and the Council's responses that there** remain unresolved objections to the submitted ECSR.
100. The appellant argues that the **Council's** main justification for carrying out a review of its development plan is the failure of housing related policies and a

resultant failure in the supply of new homes coming forward within the Borough to meet local housing needs. As such, the appellant argues, this reason places added emphasis on the need to grant planning permission for new homes now, not when the emerging ECSR is adopted.

101. Paragraph 49 of the Framework states that arguments that an application or appeal is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:
- (a) The development proposed is so substantial, or its cumulative effect would be so significant, that to grant planning permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
 - (b) The emerging plan is at an advanced stage but is not yet formally adopted as part of the development plan for the area.

Is the emerging ECSR plan at an advanced stage?

102. Taking paragraph 49(b) first, whilst the examining Inspector's matters and issues have not yet been heard at hearings, the underlying principle is that the ECSR examination has commenced. The examining Inspector has issued their initial questions for which clarification has been sought from the Council. The Council has provided responses to the questions and is undertaking additional evidential work to provide a full response to the Inspector's queries. This is, in part, the reason for the delay in proceedings.
103. Whilst the appellant argues that because there are fundamental flaws and unresolved objections to the ECSR, there could be delays to the adoption of the plan and main modifications would be necessary, these matters relate to the weighting to be given to emerging policies in relation to paragraph 48 of the Framework, not whether the ECSR plan is, or is not, at an advanced stage.
104. In addition, paragraph 50 of the Framework details that refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination. In my assessment, this means that once an emerging plan is submitted, it can and should be considered as being **'at an advanced stage'**. The ECSR has now gone beyond the point of submission. Consequently, it is my judgement that the ECSR plan is at an advanced stage, in accordance with the Framework.

Would the proposal undermine the plan-making process?

105. Local planning authorities (LPAs) are required by Section 19 (1B to 1E) of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) to identify their strategic priorities and policies to address these in their development plans. Chapter 3 of the Framework gives guidance on the role and importance of plan-making, a principle central to **the Council's** reasons for refusal 8, 9 and 10. Paragraph 15 of the Framework states that the planning system should be genuinely plan-led. Amongst other aims, plans should provide a framework for meeting housing needs and addressing other economic, social and environmental priorities. Paragraph 17 of the Framework requires the development plan to include strategic policies to address each LPAs planning priorities for the development and use of land in its area.

106. As part of this function, no national definition exists as to what scale of **development represents a 'strategic' site**. The Framework and National Planning Policy Guidance are silent on this. As a result, what is found to be of strategic size to one LPA may not be of strategic size to another based on local factors and planning circumstances. Decisions regarding the threshold at which a site should be treated as strategic for plan-making purposes are therefore a matter of judgement for the LPA and this should be given due deference.
107. With no national guidance available, I note that through the plan-making process the Council undertook technical work that formed part of the ECSR evidence base and informed the size threshold of sites considered by the Council as strategic. The Council appraised a range of potential development locations, referred to as Strategic Growth Areas (SGAs), around the plan area ranging in size, the smallest of which was assessed to have capacity for about 200 homes. No smaller site was assessed through the SGA appraisals.
108. At the same time, it is understood that an emerging Housing Market Area (HMA) study, the *Greater Nottingham Growth Options Study (AECOM, July 2020)* also provided some direction on the matter of strategic sites. As part of that work, a call for sites across five HMA council areas, including Erewash, sought information from developers and landowners about sites able to accommodate a minimum of 250 homes. This threshold was indicative but nonetheless provided addition evidence in terms of a reasonable minimum threshold for strategic sites. Along with other technical work and evidence, the Council established a 200-home threshold for strategic development sites across the Borough. This benchmark was applied through the ECSR plan-making process. As such, it is evident that the Council has undertaken a significant amount of work to inform its emerging ECSR plan.
109. It is understood that the appeal site was initially promoted to the Council in response to the Revised Options for Growth consultation in March 2021, defined as a follow up stage to Regulation 18 in the plan-making process. However, by then the Council had issued a second iteration of preferred strategic allocation sites, with two sites of similar scale to the appeal site²² identified as preferred allocations for the ECSR. All site allocations from the ROFG were taken forward to the Regulation 19 stage of the plan-making process and, ultimately, the identified preferred sites have become part of the **Council's preferred growth framework** in the ECSR following approval from elected members of the Council and public consultation. Nonetheless, the appeal site has clear similarities with the two identified preferred allocations.
110. The Council states that had the appeal site been promoted for consideration earlier in the process when formulating its framework to address housing needs through the development plan, then it would have considered it as a strategic site for the purposes of the emerging ECSR. As such, it is my view that the appeal site, being comparable in size and scale to other sites considered strategic by the Council, should be dealt with and considered in an appropriate and consistent manner to those other sites through the plan-making process and examination. This would allow the Council to fully understand how development at the appeal site location would contribute now to the objectives and spatial strategy of the emerging ECSR. In my view, this would be more appropriate than an assessment through a Section 78 appeal.

²² CD B3: Strategic Policy 1.4 'North of Spendon' - 200 homes and Strategic Policy 1.6 'North of Cotmanhay' - 250 homes (reduced from 600 homes)

111. Paragraph 49(a) of the Framework speaks to decisions about the scale, location or phasing of new development that is central to an emerging plan. In other words, it is only where there is likely to be a substantial impact on decisions about allocating land for new development that Paragraph 49(a) can be satisfied. Given the strategic size, scale and location of the appeal site, I consider there to be a potentially substantial impact on the strategic growth framework proposed in the emerging ECSR were the appeal to be allowed. Furthermore, as I have found, the ECSR is at an advanced stage in the plan-making process and as such Paragraph 49(b) is also met.
112. ECSR Policy 1 – Housing requires the development of a minimum of 5,800 dwellings. The five Strategic Allocations within the ECSR are expected to provide 3,350 dwellings. As such, the residual requirement of 2,450 dwellings is expected to come forward on unallocated sites. At up to 196 dwellings, the appeal site would provide up to 8% of the unmet housing need. Furthermore, as the appellant points out, the housing requirement identified in the emerging ECSR plan is a minimum threshold.
113. The Council has indicated that it requires larger sites to meet the housing target and that brownfield land opportunities have been exhausted. As such, the appellant believes that development will have to go to locations such as the appeal site. The Council is seeking to meet its housing needs through plan-led planning. Larger site allocations have been identified in the ECSR to achieve this and an approach to directing development towards the IUA is proposed. This approach is rightly to be tested through the examination of the ECSR rather than through this appeal. Any proposals which come forward that fall outside of the emerging ECSR strategy and allocations should be assessed in that context and determined on their own merits and circumstances.
114. The ECSR **continues the Council's** approach of directing development towards the IUA – urban concentration and regeneration - that was evident in CS 2014. The appellant says that the Council needs to continue to grant planning permissions given the current housing land supply. Indeed, the appellant contends that were the appeal to be dismissed then any proposed housing site which falls outside of the emerging ECSR or which falls potentially within an area proposed to be designated for a non-housing purpose should be refused on prematurity grounds. As a result, there would be a '**planning paralysis**' across the Borough until the ECSR is adopted.
115. I disagree. Prematurity is but one consideration in determining a proposal. Applications could come forward and be granted on sites provisionally allocated for housing in the emerging ECSR. Equally, change of use proposals for housing on brownfield sites or within existing settlements which meet the **Council's approach** of directing development towards the IUA could also come forward and be granted permission. In any event, proposals are to be assessed on their own merits and circumstances in the context of local and national policy. These are the hallmarks of a plan-led planning system. There would be no '**planning paralysis**' prior to the adoption of the ECSR.
116. The appellant has argued that, were the appeal allowed, the dwellings provided **would become 'new build commitments' in the Council's housing supply** and **added to the Council's** allocated housing supply within the ECSR. Essentially, the appellant believes that the appeal site dwellings would be delivered in addition to, and before, many of the ECSR allocated sites. As such, the ECSR

strategy would not be affected adversely and a fully functioning plan would remain. I disagree with this view.

117. To my mind, this is an overly simplistic approach to assessing the impact because in granting planning permission on a strategic sized, non-allocated site, the potential option to develop on similar sites elsewhere, other than the ECSR allocated sites, would become available. This would make allocated sites potentially less attractive to developers in a broader development land market and would therefore be likely to adversely impact the implementation of the **ECSR's** development growth strategy. Whilst there is no substantive statistical evidence before me to prove that this would happen, granting consent in this case would clearly undermine the fundamental spatial strategy for development in the emerging ECSR and increase the potential for further speculative housing development proposals on unallocated land or non-residential designations within the emerging plan.
118. Furthermore, I note **the Council's argument** that the housing supply from the appeal site would, as a consequence, mean the Council would not be able to justify the continued allocation of all four ECSR site allocations in the Green Belt. These allocations **form a major strand of the Council's preferred housing** growth strategy to meet local housing needs. This strategic growth is based on **the Council's** substantial plan preparation work which I have outlined in part. This work is underpinned by **the ECSR's Sustainability Appraisal (SA)** which has reaffirmed the suitability and sustainability of the spatial growth strategy.
119. Were the ECSR strategy to be undermined by allowing this appeal, it would have significant implications for the **Council's ability to proceed with the ECSR's** current progress. It is highly probable that the Council would need to return to a much earlier stage of its plan preparation work to reconsider some aspects of the ECSR strategy. This would lead to further periods of consultation and add **substantial delay to the Council's** ability to make timely progress with the production and resubmission of its ECSR for examination. Such a delay, which the Council says could be up to two years, would subject the Council to further risk of unwanted and unsustainable housing development resulting from out-of-date development plan policies. The delay would also run contrary to the **Government's view** that the best way to secure more high-quality homes in the right places is through the adoption of local plans.
120. I note that the (up to) 196 homes proposed would help to significantly boost **the Council's** five-year supply of deliverable housing land and could be delivered in the short to medium term. I also acknowledge that the proposal would provide up to 8% of unmet housing need. However, the delay created by **'resetting' the ECSR** to a much earlier stage of plan-making would act in a counter-productive way in meeting housing need. A revised, redrafted and delayed ECSR plan would not begin to address the current shortfall of housing land as quickly as it might if the current ECSR was able to progress through the present examination to its adoption. As such, any relatively modest gains in housing supply achieved by allowing the appeal would be diminished and significantly outweighed by the delay to the ECSR examination and adoption.
121. There is a risk of the ECSR not being found sound at examination. However, I have had regard to the fact that the Council submitted for examination what it considers to be a sound plan that is positively prepared, justified, effective and consistent with national policy. Notwithstanding this, I re-emphasise that the

soundness of the ECSR is a matter for the examining Inspector and not for this appeal. The plan-making process and the adoption of development plans remains the most appropriate route to securing high-quality homes in the right places to meet housing needs.

122. **One of the Council's principal concerns** is that of unfairness in that it would be unfair for promoters of sites in the ECSR if those sites were downgraded or removed from the emerging plan. Whilst I understand and appreciate the point, I find that a generalised concern about fairness is not a justifiable reason for refusing planning permission and is not supported by Paragraph 49 of the Framework. Notwithstanding this, relationships between the Council and developers of sites allocated in a plan is something that is cultivated during plan-making process. Similarly, relationships between the Council and local people and organisations is also something that is nurtured during that process in order to reach a plan that is ready for submission. Such matters are not lost in my overall consideration of this main issue.

Conclusion

123. Consequently, taking all relevant matters into account, I conclude that the appeal site and its proposed development is strategic in scale and considered to be so substantial that granting planning permission would undermine the plan-making process of the emerging ECSR which is at an advanced stage in the plan-making process. Allowing the proposal would predetermine decisions about the scale, location or phasing of new development that is central to the emerging ECSR. Therefore, the proposal would undermine the plan-making process and the emerging ECSR and is unacceptable in terms of prematurity, having regard to paragraph 49 of the Framework.

Whether the proposal would be contrary to the emerging Erewash Core Strategy Review with particular regard to the proposed Green Belt and, if so, the weight to be given to that proposed designation

Whether the proposal would be contrary to the emerging Erewash Core Strategy Review with particular regard to the proposed Strategic Green Infrastructure Corridor and, if so, the weight to be given to that proposed designation

123. The main issues relating to the proposal and emerging ECSR policies on Green Belt and Strategic Green Infrastructure Corridors (SGICs) are considered and determined jointly here as the matters involved are similar in both issues.

Green Belt

124. It is understood that a number of aspects prompted the Council to deal with the issue of maintaining a continued, long-term separation between Ilkeston and Kirk Hallam as a strategic planning matter in the emerging ECSR plan. These were the **development of the Council's housing strategy at the Revised Options for Growth stage of the ECSR's plan**-making process, the growth of the proposed strategic site allocation Strategic Policy 1.5 (SP1.5) – South West Kirk Hallam from 600 to 1300 homes and the identification of a strategic employment site at Stanton North.
125. Following the provisions of paragraphs 74(e) and 145 of the Framework, the Council identified an additional 27 hectares of Green Belt land to assist with the continued separation of Ilkeston and Kirk Hallam. This land is intended to

provide adequate and robust protection to ensure the separation between an expanded Kirk Hallam and the Stanton North employment site. The Council says this meets the strategic purposes of including land within the Green Belt.

126. Mindful of the provisions of paragraph 48 of the Framework, the Council has confirmed its Green Belt proposals to designate additional land were of limited wider interest in the plan-making process. It is understood that only the appellant made representations on the specific matter **of the appeal site's** proposed designation as Green Belt. Nonetheless, as the Council has accepted, where there are unresolved objections to the emerging plan, it is not simply a question of how many objections have been made but rather their substance. The appellant has submitted substantive objections to the ECSR examination about the proposed Green Belt designation and these remain unresolved.
127. Regardless of the number or nature of unresolved objections made, the creation of new areas of Green Belt requires the Council to demonstrate that there are exceptional circumstances to justify the designation. This test must be met where objections exist or not.
128. Paragraph 145 of the Framework advises that Green Belt boundaries should only be reviewed and altered **where "exceptional circumstances" are fully** evidenced and justified through the plan-making process. Furthermore, strategic policies should establish the need for changes to the Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. The exceptional circumstances test exists for both including and excluding land from the Green Belt.
129. The appellant says that the Council has not produced any exceptional circumstances evidence to justify the inclusion of the appeal site and the surrounding land in the Green Belt. Whilst I have had regard to this point, paragraph 145 of the Framework makes it clear that the place to test exceptional circumstances is through the plan-making process. This appeal is not the appropriate place to determine the merits of whether the proposed Green Belt designation in a development plan meets the tests of soundness.
130. The appellant argues that, based on the evidence before the Inquiry, the emerging Green Belt designation of the site is not consistent with the Framework. The Council has not conducted a Green Belt review to assess the role that different parcels of land play in meeting the Green Belt purposes. There is also no site-specific assessment of how the appeal site fits with these purposes. It is correct that none of the assessments identified are before the Inquiry. The point is also made that the Council had the opportunity to persuade the Inspector examining the now adopted CS 2014 to designate the proposed site as Green Belt but failed to do so. As a result, the site was identified as white safeguarded land in CS 2014. Again, these are matters for the examining Inspector of the ECSR plan to consider and determine.
131. **It is noted that there appears to be 'significant' unresolved objections to the** emerging ECSR. These are in the process of being explored and resolved in the examination process by the examining Inspector. However, there is nothing in paragraph 48 to say that all three criteria identified within it are tests to be met before any weight can be attached to emerging policies. Furthermore, weight to be attributed to relevant emerging policies is a matter of judgement for the decision-maker. I find there to be nothing inconsistent with the Framework about the Council seeking to protect land outside of its settlement

through a Green Belt designation. Whether the approach is justified by reference to the exceptional circumstances test is a matter to be considered at the examination of the submitted ECSR and not one that is capable of being determined through this inquiry.

132. Consequently, in my judgement, it is a fact that the proposal is contrary to the **ECSR's proposed Green Belt designation** and SP1.5. Therefore, according to paragraph 48(a) of the Framework, the submitted ECSR plan and its policies and designations should be afforded significant weight.

Strategic Green Infrastructure Corridors (SGICs)

132. In meeting its plan-making duties, the Council must ensure its development plan includes strategic policies and designations to address strategic planning matters. Paragraph 20 of the Framework cites green infrastructure as one such strategic matter. Recognising the definition of green infrastructure in the glossary of the Framework, the Council understood that assets within the Borough were strongly compatible and resolved at an early stage of plan preparation that the identification of a green infrastructure network was justified. As such, the Council developed a suitable policy.
133. Strategic Policy 5 (SP5) of the emerging ECSR identifies four SGICs that have emerged during the plan-making process. The policy also identifies four key objectives. These are to provide sustainable flood water management; to improve biodiversity, including natural carbon capture; to improve and enhance active travel; and, to enhance open space recreational uses. SP5 is tasked with delivering improved conditions, recognising the collective importance of these objectives to achieve a successful network of SGICs.
134. **As the Inquiry progressed, the Council's position** on the proposal relating to SP5 changed and the area of dispute with the appellant has narrowed. The Council originally claimed conflict with SP5. However, as the Council accepted during the Inquiry, SP5 does not prevent built development within a SGIC. Indeed, as I have noted in the explanatory text to the policy, this point is made by stating that proposals within in the SGICs that further the four objectives set out above will be supported. Furthermore, it is stated that green infrastructure includes established green spaces and new sites and should thread through and surround the built environment and connect the urban area to the wider rural hinterland.²³
135. The Council now accepts that the objectives of SP5 could all be met by the proposal. The appellant argues, however, that none of the objectives could be secured if planning permission was refused. Notwithstanding this, I have assessed the proposal against the objectives of SP5. Relating to sustainable flood water management, the proposal would achieve this through the provision of sustainable urban drainage. In terms of biodiversity improvement, which includes natural carbon capture, the scheme would achieve biodiversity net gain. New pedestrian and cycling opportunities are proposed around the appeal site as part of the identified scheme which would contribute towards active travel and in relation to open space and recreational uses, the proposal would deliver new areas of public open space on site and on land that was formerly private.

²³ CD B3 – PDF p.14

136. Consequently, having taken account of all submissions made on this issue and the above observations, I find that even were Policy SP5 of the emerging ECSR to be given full weight, the proposal would not breach the policy.

Weight to be given to the emerging policies

137. The plan-led system is a cornerstone of planning and its importance is clearly evident throughout the Framework. Paragraph 48 of the Framework enables LPAs to give weight to relevant policies in emerging plans and assists in understanding what level of weight can be afforded to relevant policies. As I have determined, the submitted ECSR plan is at an advanced stage of its production and therefore its relevant policies and designations, attract significant weight in this respect.
138. Insofar as consistency with the provisions of the Framework is concerned, I find the Council has, through its plan-making activity, developed what it considers to be a positive framework in which to address housing need and other strategic priorities in the Borough, including Green Belt and Green Infrastructure. Based on what is before me, the Council appears to have developed strategic policies relevant to this appeal, such as SP1.5 – South West of Kirk Hallam and SP5 – Green Infrastructure Corridors that, subject to the rigours and findings of examination, accord with the Framework. As a result, for the purposes of this appeal, I attribute significant weight to them.

Conclusion

139. In conclusion, for the reasons given, I find that the proposal would not be in accordance with Policy SP5 - Green Infrastructure Corridor and would be contrary to SP1.5 – South West of Kirk Hallam and the proposed Green Belt designation. Moreover, based on the evidence before me and subject to the examination of the ECSR, I find these policies to be consistent with the Framework.

Other Matters

Planning Obligations

140. The planning obligations identified commit to providing affordable housing, public open space, biodiversity and ecology enhancements, library and education contributions, and contributions towards highway and public transport infrastructure improvements. I have had regard to these mitigation measures and benefits in determining this appeal. However, as the appeal is being dismissed, aside from those which are benefits in the overall balance, it has not been necessary to consider the obligations in any greater depth to reach my overall decision.

Other decisions and judgements

141. Other appeal decisions and judgements have been referenced to inform and support the respective cases of the main parties. I have had regard to them so far as necessary, whilst also noting that the facts and matters in this case turn on things which are materially different, either by location, housing supply, the main issues or other considerations. It is an accepted premise that each case is to be determined on its own merits and circumstances and it is a matter for the decision maker to undertake the planning balance. As such, I attach limited weight to the other decisions presented.

Planning Balance

The tilted balance

142. In accordance with paragraph 11(d) of the Framework, the presumption in favour of sustainable development should be applied where there are no relevant development plan policies, or the policies which are the most important for determining a proposal are out of date. Permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusal or where any adverse effects of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
143. Having regard to the development plan being out of date and also noting the agreement of the main parties that it is the case, the tilted balance is engaged in accordance with the Framework and as outlined above. Accordingly, in undertaking the tilted balance exercise, I have assessed the benefits and harms of the proposal below both cumulatively and individually.

Benefits

Market housing

144. There is a clear need to deliver more housing in the Borough as there has been a substantial housing land undersupply in recent years and the latest 5YHLS figure for the local authority area is 2.65 years. Furthermore, the delivery of new homes has been well below targets. It is noted that the proposal could help to address the housing shortfall, identified by the appellant as 1,550 dwellings (1,008 dwelling shortfall plus 462 windfall allowance)²⁴ during the Inquiry and as accepted by the Council.
145. Notwithstanding this, the benefit of new housing through the proposal is countered by the need to ensure that new housing is in sustainable and accessible locations where supporting infrastructure, services and facilities are in place. Moreover, consideration is also given to the prospect of a plan-led solution to meeting the housing needs of the Borough that is emerging through the ECSR. Accordingly, I give moderate weight to market housing.

Affordable housing

146. There is a need for affordable housing which is recognised by all parties. The proposal would deliver 30% affordable housing (up to 59 units) on the appeal site which is compliant with Policy 8 (Housing Size, Mix and Choice) of CS 2014. It is noted that the emerging ECSR does not provide a replacement to Policy 8 of CS 2014.
147. Although compliant with the requirements of Policy 8, subject to viability, the proposal would provide a significantly greater proportion of affordable housing on site than the five strategic allocations in the emerging ECSR where only 10% on-site affordable housing is required. It is noted that two of the five sites could potentially make a contribution towards off-site provision.
148. Notwithstanding this, the delivery of a policy compliant proportion of on-site affordable housing is recognised as a significant benefit in meeting local

²⁴ CD S8

housing needs that should attract positive weight in the overall balance. As with market housing, the weight to be given is countered somewhat by the sustainability and accessibility factors of the appeal site. However, affordable housing addresses a greater and more acute housing need. As such, I give the provision of on-site, policy compliant affordable housing significant weight.

Improvements to public transport

149. The increased frequency of bus service No.14 is a benefit and the £500,000 financial contribution to deliver this is a significant amount. Other benefits include the provision of bus shelters and bus stops adjacent to the appeal site. However, the benefits would be limited as the increased frequency of service in the am and pm peak from Monday to Saturday would result in only four additional services a day. Furthermore, the proposed enhancement would not provide any service in the evenings or on a Sunday. This means that the service would not be improved at these times and as such, no benefit would be gained in that regard. As a result, I give limited weight to the proposed improvements to public transport.

Improvements to footpath connections in the locality

150. The improved footpath provision would benefit not just future occupiers of the proposal. This is noted as a positive benefit. Improvements in particular areas of the footpath network around the appeal site would provide enhanced pedestrian facilities such as the widening of the footpath along a section of Sowbrook Lane and a crossing point on the route towards Kirk Hallam. Furthermore, improved pedestrian routes to Ilkeston and the crossing point on Ilkeston Road would provide some benefit to pedestrians using that route.
151. However, having assessed that the proposed routes to Ilkeston and Kirk Hallam would likely be used by only a small number of people, I find the benefits of the proposed footpath improvements to be limited in terms of their potential use, not only for future residents of the proposal but also for any wider users. Accordingly, I give this benefit limited weight.

Economic benefits

152. I have considered the economic benefits of the proposal as identified by the appellant which I note have not been challenged by the Council. Benefits such as construction jobs over the build period, supply chain jobs and increased expenditure and employment opportunities in the local area resulting from the expenditure of future residents of the proposed development are recognised as being benefits that are not special or unique to the proposal. Whilst these benefits would be delivered directly from this scheme, it is noted that they would not come forward unless planning permission was granted for the appeal scheme.
153. Such benefits could be realised through most development proposals coming forward. Similarly, the appellant identifies additional Council Tax revenue as a benefit arising from the proposed scheme and almost £500,000 of planning contributions. It is important not to double count the planning contributions which have already been accounted for elsewhere in the balancing exercise. Moreover, the Council Tax element is not a benefit to which I can give any substantive weight. As such, taking account of the above, in my judgement the economic benefits identified are afforded moderate weight.

Biodiversity Net Gain

154. It is agreed between both main parties that the proposal would provide a level of biodiversity net gain. This would be achieved through provisions including a nesting bird mitigation site and a Skylark Mitigation Strategy. However, these measures would be in mitigation of the proposed development and its impact on the existing biodiversity of the undeveloped appeal site. Therefore, I give limited weight to this benefit.

Provision of on-site public open space

155. The parties agree that this benefit should be afforded moderate weight in the planning balance. To my mind, this benefit arises solely to mitigate the harmful impact of the proposal on the site and surrounding area. The proposed open space would formalise such provision on the site replacing, in part, the extensive area of undeveloped open space and countryside that currently exists and is traversed by public and permissive footpaths and rights of way. The detail relating to the proposed public open space is very limited at this outline stage. Nonetheless, a substantive area of open space is identified on the indicative layout of the proposed development²⁵ and this would provide a recreational area for future residents which would enhance the amenity of the proposal. Therefore, I give the provision of on-site public open space moderate weight.

Harms

156. It is my assessment that placing a significant, strategic amount of housing in the countryside, with no substantive supporting services or infrastructure, outside of, and unconnected to, existing settlements where the proposal would detract visibly from the countryside and suffer from poor non-car accessibility is not an appropriate or sustainable approach to meeting housing needs. In this case, I find that the adopted development plan policies which rule out such development, whilst out-of-date, remain wholly consistent with the Framework and therefore continue to attract full weight in the tilted balance. As such, the relevant policies in CS 2014 which rule out development in the countryside such as the proposal are given significant weight.

157. The emerging ECSR is at an advanced stage in accordance with Paragraph 48 of the Framework. As such, the emerging policies and designations in that plan must be given due consideration and weight in the determination of this appeal. As the emerging ECSR is proceeding through examination, the weight to be attributed to its policies and designations cannot be considered as substantial given that elements of these could be withdrawn or amended as the examination proceeds. However, the overall strategy of the plan and the general direction of its policies and designations is clearly set out. Taking all of this into consideration, including the advanced stage reached, in my view, the emerging ECSR, its policies and designations are afforded significant weight.

158. My conclusions on character, appearance and visual amenity mean that there would be harm arising from the proposal. I give this harm significant weight.

159. Having regard to my conclusions on heritage harm resulting from the proposal and in accordance with paragraph 199 of the Framework, I give significant

²⁵ CD C17

weight to the less than substantial harm which the proposal would cause to the significance of the Grade II* listed building at New Stanton Cottages.

160. Critically, the cumulative impact of the proposal would be so significant that to grant planning consent would undermine the plan-making process by predetermining decisions about the scale, location and phasing of new development that is central to the emerging ECSR. Potential delay in the plan-making process to reassess the spatial strategy, policies and designations within the ECSR would risk a greater period where the Council would have no adopted plan in place to deliver housing in the most appropriate and sustainable places. As such, I give this harm substantial weight.

Balance

161. I have found the proposal to be contrary to the adopted development plan and its relevant policies and not in accordance with the Framework as a whole. Whilst the development plan is deemed to be out-of-date, the Framework states that significant weight should still be given to the development plan and its relevant policies where it is consistent with the Framework unless material considerations indicate otherwise.
162. In undertaking the tilted balance exercise, I have considered the weight to be afforded to each aspect of the proposal identified both in terms of benefits and harms. Whilst some aspects would cause more harm than others, when considered individually and cumulatively, I find that the proposal would result in significant harm. Notably, my findings on prematurity weigh heavily against planning permission. Although the benefits identified are extensive, I find that the considerations in favour of the proposal do not clearly outweigh the totality of harm that has been identified.
163. Accordingly, I conclude that the significant harmful impacts of the proposal that have been identified significantly and demonstrably outweigh the benefits in the overall balance. Furthermore, there are no material considerations before me which would justify or outweigh the significant harm identified.

Overall Conclusion

164. For the above reasons, and having regard to all other matters raised, I conclude that the appeal is dismissed.

Andrew McCormack

INSPECTOR

APPEARANCES

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Member

Paul Harvey

Kirk Hallam Green Squeeze

INQUIRY DOCUMENTS

- CD Q1 Opening Submission for Erewash Borough Council
- CD Q2 Opening Submission for the Appellant
- CD Q3 Statement of Paul Harvey, Kirk Hallam Green Squeeze
- CD Q4 Statement of John Frudd (Part 1), former Erewash Borough Council Member
- CD Q5 Statement of John Frudd (Part 2), former Erewash Borough Council Member
- CD Q6 Correspondence **dated 10 July 2023 from the Appellant's ecologist to the Derbyshire Wildlife Trust**
- CD Q7 Response from Derbyshire Wildlife Trust, dated 8 August 2023, to the letter from the **Appellant's ecologist** which sets out some additional submissions. This bundle of documents includes correspondence involving the Borough Council which indicates agreement with the proposed additional conditions identified.
- CD Q8 Schedule of suggested conditions (including conditions in dispute), submitted to the Inquiry on **11 August for discussion at the 'round table session'** as part of the Inquiry hearings programme.
- CD Q9 Closing Submissions for Erewash Borough Council
- CD Q10 Closing Submissions for the Appellant
- CD Q11 Revised Condition 13 (incorporates suggested conditions 5, 11 and 13)
- CD Q12 **Inspector's Note (dated 16 August 2023)**
- CD Q13 Schedule of suggested draft Grampian Conditions relating to the delivery and implementation of sustainable transport and highway measures and infrastructure enhancements.