

**LAND WEST OF STAPLEFORD LANE,
STAPLEFORD, NOTTINGHAMSHIRE**

APPEAL REFERENCE: 6006412

OPENING ON BEHALF OF NOTTINGHAMSHIRE COUNTY COUNCIL

Introduction

1. Prior to the submission of the application subject of this appeal, throughout the currency of the planning application and throughout the currency of the appeal Nottinghamshire County Council (“NCC”) in its capacity as local highways authority has been clear and consistent about the scope of highways work it required the Appellant to produce in order to allow the highways impacts, in particular the cumulative highways impact, of the proposed development to be properly assessed.
2. At all stages the Appellant’s highways consultants have indicated that the work would be submitted but it is only in the last couple of weeks that a firm timetable for the submission of the necessary work has been provided. Clearly, the outstanding work should have been provided much sooner, however, NCC have taken the pragmatic approach of agreeing with the other parties to adjourn this Inquiry to allow for the submission of the necessary further technical work, its review and any refinement. NCC have taken this approach because they do not have an in principle objection to the appeal proposals, they recognise the appeal site is allocated for housing development and that as a result the proper and full assessment of the highways impacts of the proposal are something that must be dealt with sooner or later. NCC’s concern is simply that the impacts on the highways network is properly assessed and any necessary mitigation appropriately secured.

3. As NCC have made clear, their position is not that the receipt of this further information will necessarily resolve all outstanding matters but that a pathway now exists by which the technical evidence can be completed and the parties can then establish whether their respective concerns are addressed, narrowed or remain in dispute. In the event the technical work that the Appellant submits addresses all the relevant issues in a satisfactory manner then there will be a need to ensure that any necessary mitigation is properly secured by conditions and/or s.106 obligations. NCC will continue to engage with the Appellant to agree, so far as possible, the terms of any such conditions and/or s.106 obligations.

The need for a cumulative highways impact assessment

4. The appeal site is one of a series of allocated sites which makes up the Toton Strategic Location for Growth (“SLG”) in the development plan. The Toton SLG neighbours another strategic allocation in the development plan, the Chetwynd Barracks Strategic Allocation (“the Chetwynd Barracks SA”). Without needing to have any regard to the background policy documents, given the proximity of the appeal site to the other elements of the Toton SLG and to the Chetwyn Barracks SA, it is readily apparent that the delivery of these strategic allocations has the potential to have cumulative effects on the highway network and that those impacts could be severe. This has never been disputed by the Appellant.
5. It should be obvious to anyone looking at bringing forward the development of a parcel that makes up these strategic allocations that there is a need to ensure the cumulative effects on the highway network are understood and any necessary mitigation is properly planned for and secured. If this is not done there is the clear potential for severe harm to the highway network and the potential for the delivery for the earlier phases of development to create problems for the delivery of the later phases of the development.
6. This commonsense observation has consistently been recognised in the adopted development plan. The Toton SLG was first allocated by the ACS Part 1 at Policy 2¹. The supporting text to which identifies that the infrastructure requirements of the

¹ CD 6.01, page 44 - 47

allocations are summarised in Appendix B. Appendix B identifies that for the Toton SLG *“Improvements to A52 between M1 J25 and A6007”*² as critical infrastructure which are *“To be reviewed as part of master planning and detailed modelling”*. Policy 19 requires all development to: *“contribute to the delivery of necessary infrastructure to enable the cumulative impacts of developments to be managed, including identified transport infrastructure requirements”*³; in order to do this you need to have assessed the cumulative impacts.

7. The ACS Part 2 contains the key development requirements for the Toton SLG at policy 3.2⁴. This states: *“Highway infrastructure must be considered in conjunction with requirements for the Chetwynd Barracks allocation (Policy 3.1) and wider area as progressed through the Gateway Study and transport modelling”*. That is a clear requirement for a cumulative assessment of highways impacts. The supporting text recognises that highway improvements *“will be required”*⁵.
8. Policy 3.1 requires the preparation of a Strategic Masterplan for delivery beyond the plan period i.e. beyond 2028. The approved Toton and Chetwynd Barracks Strategic Masterplan⁶ recognises the need for improvements to prevent severe impacts on the highway⁷ and the need for delivery of improvements to be considered *“jointly”* across the Toton SLG and Chetwynd Barracks SA⁸. A joint consideration is a cumulative one.
9. The Neighbourhood Plan at policy INF01⁹ requires development to come forward in accordance with the Strategic Masterplan, once again reinforcing the requirement for a cumulative assessment.
10. The local requirement for a cumulative assessment is abundantly clear as is the rationale for it.

² *Ibid* page 223

³ *Ibid* page 123

⁴ CD 6.02, page 32 - 36

⁵ *Ibid*, para 3.33, page 41

⁶ CD 7.01

⁷ *Ibid* Para 3.24

⁸ *Ibid* Para 3.53 and para 5.6

⁹ CD 6.03, page 67

11. Given the recent introduction of the new NPPF there will be a requirement for the parties to update their evidence to reflect the latest national policy requirements. Policy TR6 (3) and (4) recognises the need to assess and address cumulative impacts. Accordingly, a cumulative assessment is required to comply with national policy.
12. In the absence of an adequate assessment of cumulative impacts stemming from the development of the Toton SLG and Chetwynd Barracks SA the proposal is not in accordance with the adopted development plan and in breach of national policy. Further, both national and local policy requires that where cumulative impacts are found and necessary mitigation to address them is identified then that mitigation must be appropriately secured. It remains unclear to NCC how the Appellant can contend otherwise.

NCC Engagement

13. A full chronology of NCC's engagement with the Appellant regarding highways matters is set out in the PoE of Jan Witko at section 4.3¹⁰ and it is helpful to provide a summary of this in opening so that those in attendance can understand NCC's approach and the agreement that has been reached regarding the submission of further technical work.
14. In May 2022 NCC advised the Appellant that as the Toton and Chetwynd Barracks Strategic Masterplan SPD was still being progressed it was not appropriate at that point in time to provide detailed advice on an individual development parcel. NCC were clear that a strategic approach, not a piecemeal one, was required for the assessment of the sites that made up the strategic allocation.
15. Following submission of the application, NCC in their first consultee response in June 2025 were clear that the proposal should not be considered in isolation:

“Part D of Policy 3.2 requires the presence of a Strategic Masterplan and Infrastructure Delivery Plan to ensure development fully integrates with its surrounds

¹⁰ Post the submission of the proof the parties have continued to engage regarding the submission of further technical highways work

*in a consistent manner, and to prevent piecemeal schemes from coming forward that could otherwise compromise the objectives of the Plan. The withdrawal of HS2 means these details have to be updated otherwise we will not be able to consider the allocation holistically which will dilute our ability to minimise the impact of development on the network. Our preference therefore is to wait for the SPD to be completed before any grant of approval.”*¹¹

16. The need for a full cumulative assessment of the Toton and Chetwynd allocations was recognised by the Appellant themselves in the Transport Assessment submitted with the planning application¹² and in light of this the Transport Assessment described itself as “*an initial assessment only*”¹³ and repeatedly recognised that it would require updating¹⁴.

17. Several months later in November 2026 NCC received correspondence from the Appellant’s highways consultant regarding the Area of Influence and the validation and calibration of the East Midlands Gateway Model. NCC replied and then awaited updated cumulative assessment work.

18. An updated Transport Assessment was then submitted in January 2026. This did not contain a complete assessment of the cumulative impacts of the Toton and Chetwynd Allocations and made it clear its purpose was “*to assess the merits of the proposed development at Toton West independently to the wider Toton development parcels*”¹⁵. The update made it clear that a wider cumulative assessment was being progressed: “*As aforementioned, a wider assessment is currently being progressed by mode, in which developments at Toton West, Toton East and Toton North will be cumulatively assessed, using the NCC approved East Midlands Gateway Model (EMGM).*”¹⁶

19. Despite the repeated clear indications from the Appellant’s that further work was being carried out and would be provided, the Appellant lodged an appeal against non-

¹¹ CD 5.04

¹² CD 2.10.1

¹³ *Ibid* para 4.7, page 21

¹⁴ For example paras 4.6, 4.42, 4.43 and 5.6

¹⁵ CD 4.06 (A), para 1.2.7, pdf page 8

¹⁶ CD 4.06 (A), para 1.4.2, pdf page 9

determination on 13th March 2026. At that point in time, the Appellant had not provided the work it had repeatedly stated was being undertaken and to date that work has still not been provided. Yet once again, in their Statement of Case, they promised that such further work would be provided once completed¹⁷.

20. It is clear on the face of the Appellant's own material submitted with the application and appeal that further work to assess the cumulative impacts of the appeal proposal and wider Toton and Chetwynd allocation was being prepared and would be submitted. What is not clear is why at the date scheduled for the commencement of an appeal brought by the Appellant against non-determination, that promised work has still not been provided.

21. Whatever the explanation for the lack of submission of the necessary technical work to date, it remains the case that it is necessary. NCC will continue, as it has done throughout this process, to engage with the Appellant's highways consultants to review and respond to further work as and when it is submitted to ensure that the cumulative impacts of this proposal are assessed.

Conclusion

22. NCC is grateful to the Inspector for granting the parties request to adjourn this Inquiry to allow for further technical work to be completed which properly assess the cumulative impacts of the Toton and Chetwynd sites. If that work is carried out in a satisfactory manner and shows that the cumulative impacts are acceptable then there will be a need to properly secure the relevant mitigation. If that work is not carried out in a satisfactory manner or demonstrates that there is a problem or identifies necessary mitigation that is not properly secured then the Inquiry will need to proceed to consider the relevant disputes, but at the very least the issues should have been narrowed and/or clarified further.

¹⁷ CD 9.15, paras 1.26, 1.27, 9.8

FREDDIE HUMPHREYS

25TH AUGUST 2026

Kings Chambers

Manchester – Leeds – Birmingham – London