

Proof Of Evidence.

Evidence of James Hicks BSc MA(TP) MRTPI.

In Respect of an S.78 Planning Appeal at Land West of
Stapleford Lane, Toton, Nottinghamshire.

On behalf of Bloor Homes Ltd.

Date: 4 August 2026 | Pegasus Ref: P23-2379 | Appeal Ref: 6006412 | LPA Ref: 25/00371/OUT





Contents.

1. Executive Summary	4
2. Introduction.....	6
3. The Site, Wider Allocation and Appeal Scheme	7
4. The Development Plan.....	10
5. Other Material Considerations	14
6. Main Matter – Highways.....	19
7. Wider Planning Assessment – Other Matters	24
8. Interested Party Representations.....	39
9. Planning Balance	45
10. Conclusion.....	63

Appendices

Appendix A: Bloor Homes Ltd– Matter 2 – Issue 6: Green Belt Hearing Statement

1. Executive Summary

Qualifications and Experience

- 1.1. My name is James Hicks. I hold a Bachelor of Science degree in Environmental Studies from the University of Derby, and a master's degree in Town Planning from the University of Central England. I am a Chartered Member of the Royal Town Planning Institute and an Executive Director of Pegasus Group.
- 1.2. I have over 24 years' experience working in a variety of planning roles in Local Government and planning consultancy. I joined Pegasus Group in 2014 and have over those years advised a range of clients in both the public and private sectors in relation to the development plan process and the determination of planning applications. I have appeared at multiple development plan examination hearings and planning appeal inquiries as a witness.

Scope of Evidence

- 1.3. My Proof of Evidence relates principally to matters of planning policy and the overall planning balance in respect of the appeal proposal. I also seek to address concerns raised by third parties.

Statement of Truth

- 1.4. The evidence I have prepared and provide to this Inquiry on behalf of Bloor Homes Limited is true and given in accordance with the code of conduct of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions, irrespective of by whom I am instructed.

Summary of Evidence

- 1.5. My Evidence demonstrates that the appeal proposals are suitable and should be allowed on three facets.
- 1.6. Firstly, the development accords with Section 38(6) and should be approved without delay as it accords with the Development Plan and there are no material considerations that identify otherwise.
- 1.7. Secondly, the development accords with NPPF Paragraph 11(c) as by being in accordance with the policies of Development Plan. The proposed appeal would see the delivery of the first phase of an allocated site contained within the Broxtowe Local Plan Part 2 Policy 3.2. The delivery of this site is important as the Council are relying on the delivery of part of allocation to contribute to the Council's 5 Year Housing Land Supply.
- 1.8. Thirdly, in the absence of Broxtowe not having an up to date 5 Year Housing Supply (4.85 years), the tilted balance detailed at Paragraph 11(d) is engaged. I conclude following assessment, that the benefits of this scheme significantly and demonstrably outweigh the adverse impacts.
- 1.9. My colleague Mr David Frisby has provided a Transport Proof of Evidence that addresses the specific issues raised by both the National Highways and Nottinghamshire County Council in relation to their view that the development has not met the requirements of NPPF Paragraph



116 in terms of cumulative assessment. It is mine and Mr Frisby's that NPPF Paragraph 116 has been satisfied.

- 1.10. I believe that the appeal proposal represents sustainable development in accordance with the NPPF as a whole and should therefore be allowed.

2. Introduction

Qualifications and Experience

- 2.1. My name is James Hicks. I hold a Bachelor of Science degree in Environmental Studies from the University of Derby, and a master's degree in Town Planning from the University of Central England. I am a Chartered Member of the Royal Town Planning Institute and an Executive Director of Pegasus Group.
- 2.2. I have over 24 years' experience working in a variety of planning roles in Local Government and planning consultancy. I joined Pegasus Group in 2014 and have over those years advised a range of clients in relation to the promotion of land through the development plan process and the submission of planning applications. I have appeared at development plan examination hearings and planning appeal inquiries as a witness.

Instruction

- 2.3. Pegasus Group and I are instructed by Bloor Homes Limited to provide planning support for the planning application and expert witness services in relation to the planning appeal before the Planning Inspector. I have acted as the Appellant's planning advisor in this matter since October 2023.

Appeal against Non-Determination & Approach to Planning Assessment

- 2.4. This proof of evidence has been prepared on behalf of Bloor Homes Limited ("the Appellant"), in respect of an appeal made pursuant to Section 78 of the Town and Country Planning Act 1990 (as amended) ("TCPA 1990"). This appeal has been made against Broxtowe Borough Council's ("the Council") refusal to not determine the planning application.
- 2.5. This Proof of Evidence is submitted pursuant to the Town and Country Planning (Inquiry Procedure) (England) Rules 2000, as amended by the Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009 and the Town and Country Planning (Hearings and Inquiries Procedure) (England) (Amendment) Rules 2013.

Statement of Truth

- 2.6. The evidence I have prepared and provide to this Inquiry on behalf of Bloor Homes Limited is true and given in accordance with the code of conduct of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions, irrespective of by whom I am instructed.

3. The Site, Wider Allocation and Appeal Scheme

The Appeal Site

- 3.1. The appeal site comprises and extends to approximately 19.62 hectares (ha). Situated within the administrative boundary of Broxtowe Borough Council, the Site is located to the west of the B6003 Stapleford Lane, which leads northwards, and southwards, towards the suburbs of Stapleford, and Toton, respectively. The appeal site is referred to as "Toton West", shown on the Site Location Plan submitted with this appeal.
- 3.2. The majority of the northern extent of the Site is bound by well-established mature hedgerows, beyond which are further field parcels which are in arable agricultural use. The north-eastern extent of the Site is bound by well-established trees and hedgerow, with an electricity transmission substation beyond. A series of electricity pylons and associated overhead lines traverse the Site in an approximate north-east to south-west direction, from the electricity transmission substation.
- 3.3. The east of the Site abuts the B6003 Stapleford Lane. The Toton Lane Tram Stop and Park and Ride is located c. 450m to the north east of the proposed site access, providing frequent tram connections into Nottingham City Centre, via Beeston and the University of Nottingham main campus. This tram stop meets the definition of a 'well-connected' station as defined in the draft of the National Planning Policy Framework published in December 2025.
- 3.4. The tram stop is located within one the top 60 Travel to Work Areas, by Gross Value Added and it has a service frequency (in the normal weekday timetable) of four trains or trams per hour overall, or two trams per hour in any one direction. It is in reality, an exceptionally sustainable location for development.
- 3.5. To the south, the Site is bound by sporadic hedgerow and tree line, beyond which are gardens and existing residential dwellings associated with the suburb of Toton. The south-western most extent of the Site is adjoined by Toton Fields Local Nature Reserve (LNR).
- 3.6. Finally, the west of the Site is bound by the Toton Sidings Local Wildlife Site (LWS), beyond which lies the DB Toton Cargo Railway Terminus.
- 3.7. The George Spencer Academy (secondary school) is located 500m to the north-west of the Site, within the suburb of Stapleford. The Bispham Drive Junior School is located 525m to the south-west of the Site.
- 3.8. The Site is proposed to be accessed from a single access from Stapleford Lane.
- 3.9. For planning purposes, the site is currently allocated as part of a mixed-use development within Broxtowe Borough Council's adopted Local Plan Part 2 under Policy 3.2 Land in the vicinity of the HS2 Station at Toton (Strategic Location for Growth).

The Wider Allocation

- 3.10. The site sits within the Local Plan Allocation Policy 3.2 that covers a much wider area, known as the Toton Strategic Location for Growth. The policy sets out the following requirements for the development of the allocation:

- In general accordance with Map 8: Toton Strategic Location for Growth Illustrative Concept Framework;
- 500–800 dwellings within the Plan Period (3,000 dwelling in total);
- Min 18,000sq.m for mixed employment (B Uses);
- Limited retail and community facilities;
- Undergrounding of the high voltage electricity cables at the south of the site;
- Development should be located and designed to complement and not prejudice proposals for access to the HS2 Hub Station and further build-out of the Innovation Campus which is to be delivered beyond the plan period;
- Highway infrastructure must be considered in conjunction with requirements for the Chetwynd Barracks allocation (Policy 3.1) and wider area.

3.11. At this time, Chetwynd Barracks remains in active use by the MOD and there is no application in respect of it. However, within the remainder of the Strategic Location there are 3 further underdetermined planning applications covering the wider allocation. These all relate to land under the control of the applicant. These are described/known by the applicant as Toton North, Toton East and Toton West, and all are currently subject to pending planning applications (the latter being a hybrid application covering the area of the appeal site. For information the references and development descriptions are detailed below:

- Toton North – Ref: 25/00306/OUT – Outline planning application for a residential development of up to 880 homes (with some matters reserved) link road (means of access only), local centre, country park, education provision (forest school) and associated infrastructure;
- Toton East – Ref: 25/00255/FUL – Construct 155 dwellings and associated open space and infrastructure;
- Toton West – Hybrid Planning Application: Ref: 25/00928/FUL: Full Planning permission – for 69 dwellings, vehicular access from Stapleford Lane, the provision of landscape buffer to allow undergrounding of high voltage cables, and associated infrastructure. Outline Planning Permission – for the Construction of up to 351 dwellings and relevant infrastructure. All matters reserved apart from the details of vehicular access from Stapleford Lane. This is a separate planning application that covers the appeal site land area.

The Appeal Scheme

3.12. The application subject of this appeal was registered as valid on 20th of May 2025 and assigned the reference 25/00371/OUT.

3.13. The description of development reads as follows:

"Outline Planning Application for the construction of a residential development of up to 420 residential dwellings and associated open space and infrastructure (With some

matters reserved). The proposed development is classified as EIA development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017."

- 3.14. The application was submitted in outline with all matters reserved, except access arrangements.
- 3.15. The application was supported by a suite of documents and plans, including an Illustrative Masterplan which depicts the general arrangement of the site. Up to 420 new dwellings are proposed, incorporating a mix of house types and a policy compliant 30% affordable housing.
- 3.16. The site would also provide:
 - 6.63ha of on-site public open space including drainage infrastructure and a LEAP;
 - Cycle and Pedestrian Links;
 - Provision of Tram Safeguarding Route;
 - Delivery of 4 arm access from Stapleford Lane – including first element of the Link Road proposed to the East of Stapleford Road;
 - Potential undergrounding of High Voltage Cables.
- 3.17. Amendments and supplementary details have been provided over the course of the application. The final list of documents submitted in support of the application is set out in the agreed Statement of Common Ground [CD 9.22] and as Core Documents [CD 1, CD 2, CD3 and CD4].
- 3.18. Following the submission of this appeal, the application was heard by Broxtowe Borough Council's Planning Committee on 1st July 2026 to provide what the Council's decision would have been. The Officer's recommendation read:

*"The Committee is asked to RESOLVE that, subject to the removal of objections from National Highways and Nottinghamshire County Council as the Highways Authority, planning permission **would have been granted** subject to:*

 - (i) *Prior completion of an agreement under Section 106 of the Town and Country Planning Act 1990 to secure the provision of landscape contributions and affordable units; and*
 - (ii) *the following conditions (25 in total):"*
- 3.19. The Planning Committee voted and confirmed this recommendation.

4. The Development Plan

- 4.1. Section 70(2) of the TCPA 1990 sets out that, in dealing with proposals for planning permission, regard must be had to the provisions of the Development Plan, so far as material to the application, and to any other material considerations.
- 4.2. Furthermore, Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") states that, if regard is to be had to the development plan for the purpose of any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise. Taking these sections together, a decision-maker must, therefore, consider the Development Plan, identify any provisions within it which are relevant, and then properly interpret them.

Adopted Development Plan

- 4.3. For the purposes of this appeal, the Development Plan comprises of the adopted Broxtowe, Gedling and Nottingham Aligned Core Strategies Part 1 Local Plan (2014), the adopted Broxtowe Part 2 Local Plan (2019) and the made Toton and Chetwynd Neighbourhood Plan (2024).
- 4.4. The following policies set out in Table 1, 2 and 3 below are relevant to this appeal. The most important policies for determining this appeal are denoted by an asterisk:

Table 1: Broxtowe, Gedling and Nottingham Aligned Core Strategies Part 1 Local Plan (2014)

Policy Ref:	Policy Title
ACS Policy A	Presumption in Favour of Sustainable Development
ACS Policy 1	Climate Change
ACS Policy 2*	The Spatial Strategy
ACS Policy 8	Housing Size, Mix and Choice
ACS Policy 10	Design and Enhancing Local Identity
ACS Policy 11	The Historic Environment
ACS Policy 12	Local Service and Healthy Lifestyles
ACS Policy 14*	Managing Travel Demand
ACS Policy 15*	Transport Infrastructure Priorities

ACS Policy 16	Green Infrastructure, Parks and Open Space
ACS Policy 17	Biodiversity
ACS Policy 18*	Infrastructure
ACS Policy 19	Developer Contributions

ACS Policy 2 Spatial Strategy

- 4.5. Although identified as a relevant policy by the Appellant and the LPA within the draft Statement of Common Ground (Para 6.5, Table 1) [CD 9.22], it has been agreed that both the Aligned Core Strategy (2014) and the Broxtowe Local Plan Part 2 are beyond 5 years in age, and housing policies have not been reviewed.
- 4.6. It is therefore agreed with the LPA, at Para 9.3 of the Statement of Common Ground [CD 9.22], that the Council's housing requirement for the calculation of five years housing land supply is now to be based upon the Standard Method calculation. As of the May 2025 the Council's annual housing requirement is now 621 dwellings per annum.
- 4.7. At Para 9.4 of [CD9.22], the LPA are in agreement that the housing requirement set out in ACS Policy 2 Spatial Strategy is out of date.

Table 2: Broxtowe Part 2 Local Plan (2019) Relevant Policies

Policy Ref:	Policy Title
Policy 1	Flood Risk
Policy 2	Site Allocations
Policy 3*	Main Built Up Site Allocations (Policy 3.2: Land in the vicinity of the HS2 Station at Toton (Strategic Location for Growth))
Policy 15	Housing Size Mix and Choice
Policy 17	Place-Making, Design and Amenity
Policy 19	Pollution, Hazardous Substances and Ground Conditions
Policy 20	Air Quality

Policy 23	Proposals affecting Designated and Non-Designated Heritage Assets
Policy 24	The Health Impacts of Development
Policy 26	Travel Plans
Policy 28	Green Infrastructure Assets
Policy 30	Landscape
Policy 31	Biodiversity Assets
Policy 32	Developer Contributions

4.8. Policy 3 of the Local Plan Part 2 contains the allocation policy for the development site.

4.9. The appeal site is a parcel contained within Local Plan Allocation Policy 3.2 which covers a much wider area. The policy sets out the following requirements in relation to the development of the whole allocation, these are summarised to read:

- In general accordance with Map 8: Toton Strategic Location for Growth Illustrative Concept Framework;
- 500–800 dwellings within the Plan Period (3,000 dwelling in total);
- Min 18,000sq.m for mixed employment (B Uses);
- Limited retail and community facilities;
- Undergrounding of the high voltage electricity cables at the south of the site;
- Development should be located and designed to complement and not prejudice proposals for access to the HS2 Hub Station and further build-out of the Innovation Campus which is to be delivered beyond the plan period;
- Highway infrastructure must be considered in conjunction with requirements for the Chetwynd Barracks allocation (Policy 3.1) and wider area.

4.10. The LPA is in agreement, at Para 9.18 of [CD 9.22], that the proposed development is considered to deliver the requirements of Local Plan Part 2 Policy 3.2. As yet no housing has been delivered anywhere within the Strategic Location.

Made Neighbourhood Plan

4.11. Broxtowe Borough Council resolved to 'make' (adopt) the Chetwynd: The Toton and Chilwell Neighbourhood Plan at its meeting of the Full Council on 15 May 2024. In accordance with the Regulations and the Borough Council's procedure, the Chetwynd: The Toton and Chilwell

Neighbourhood Plan is ‘made’ and planning applications in the area must be considered against the Chetwynd: The Toton and Chilwell Neighbourhood Plan, as well as existing planning policy.

Table 3: Chetwynd: The Toton and Chilwell Neighbourhood Plan (2024) Relevant Policies

Policy Ref:	Policy Title
Policy ENVO2	Natural Environment
Policy ENVO3	Green and Blue Infrastructure Requirements
Policy INFO1*	Road Infrastructure
Policy INFO2	Active Travel
Policy INFO3	Public Transport
Policy INFO4	Parking & Reducing Travel Demand
Policy HASO1	Housing Mix
Policy HASO2	Green Design & Sustainability
Policy HASO3	Broadband Connectivity
Policy HASO4	On-Site Construction
Policy LHCO2	Heritage Assets

4.12. Within the Council's Committee Report [CD 9.11] they identify that whilst the proposal may conflict with some policies contained in the CTCNP [CD 6.03] (this proof of evidence will identify these conflicts later in at Paragraphs 8.14–8.29), Paragraph 14 of the NPPF advises that *‘the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:*

- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69–70)‘.*

4.13. The Council confirm that the CTCNP [CD 6.03] does not contain an identified housing need and therefore limited weight is afforded to Paragraph 14 in consideration of the wider planning balance given that Paragraph 11(d) of NPPF is engaged.

5. Other Material Considerations

Emerging Local Plan

- 5.1. Broxtowe Borough, Nottingham City and Rushcliffe Borough Councils are preparing the Greater Nottingham Strategic Plan, which will set out policies to secure sustainable growth up to 2041.
- 5.2. On 22nd of December 2026 the Authorities submitted the Greater Nottingham Strategic Plan [CD 8.01] for Examination. The content and policies of the plan are at a comparatively early stage of plan preparation and therefore can only be afforded limited weight. Notably however there is no suggestion that the allocation within which the appeal site is located is likely to be removed, rather it continues to be an integral part of the plan.
- 5.3. Whilst an examination hearing took place in July, the Inspectors have not indicated whether or not the examination can move to the next stage of the process. An Interim Letter is awaited but is not expected before the start of the inquiry into this appeal. I am advised that at the least significant main modifications will be needed in order to make the plan sound.
- 5.4. It has been agreed, with LPA at Paragraph 8.8 of [CD 9.22], that the most relevant draft policies are considered to be relevant to the appeal (including the continued allocation of the application site), albeit with limited weight. These are listed in Table 4 below.

Table 4: Relevant Greater Nottingham Strategic Plan Regulation 19 Policies

Policy Ref:	Policy Title
Policy 1	Climate Change, Sustainable Design, Construction, Energy and Managing Flood Risk
Policy 2	The Spatial Strategy
Policy 3	Housing Target
Policy 21	Strategic Allocation Toton and Chetwynd Barracks (Broxtowe)

National Planning Policy Framework (NPPF) (December 2024)

- 5.5. The following sections of the National Planning Policy Framework [CD 6.04] (set out in Table 5 below) are relevant to the consideration of the proposed development:

Table 5: Relevant National Planning Policy Framework Sections

Section	Topic
2	Achieving sustainable development
4	Decision making
5	Delivering a sufficient supply of homes
6	Building a strong, competitive economy
8	Promoting healthy and safe communities
9	Promoting sustainable transport
11	Making effective use of land
12	Achieving well designed places
14	Meeting the challenge of climate change, flooding and coastal change
15	Conserving and enhancing the natural environment
16	Conserving and enhancing the historic environment
Annex 1	Implementation

- 5.6. Section 5 is particularly material in ensuring the delivery of a sufficient supply of homes.
- 5.7. Since coming into Office, the rhetoric on housing delivery by the Government has changed, the Government have driven forward reforms including the publication of the revised NPPF to boost the delivery of new housing. The Government have identified a need for 1.5 million new homes in this parliament.
- 5.8. The Government drive to deliver 1.5 million homes in this parliament is a material consideration in this appeal. The update to the NPPF, the additional planning reforms set out by the Government are stepped changes to delivering more housing. It is clear that more planning consents are required in the context of inadequate local plan coverage and has placed an importance on the weight attributed to the presumption in favour of sustainable development through the publication of the revised NPPF. This appeal is on an allocated development site, delivery is a must and planning permission should not be withheld.

Housing Land Supply

- 5.9. As agreed in the LPA Statement of Common Ground [CD 9.22], Broxtowe Borough Council have confirmed (see paragraph 9.2–9.6) that their local plan's policy (Aligned Core Strategy Policy 2) in relation housing requirements no longer reflect the national policy for housing delivery. As such the standard method is applicable. As of the May 2025 the Council's annual housing requirement is now 621 dwellings per annum.
- 5.10. Figure 1 below demonstrates that the Council's supply position contained in Broxtowe Borough Council Strategic Housing Land Availability Assessment (2025) [CD 9.32] equates to a shortfall of 104 dwellings across the next five years, with a base date of 1st April 2025, the most recently published and available data is detailed.

Figure 1: Broxtowe Borough Council Housing Land Supply Calculation (April 2025 – March 2030)

Housing Land Supply Calculation

Requirement

The requirement from 1st April 2025 to 31st March 2030 (as calculated by the Standard Method) is **3,245** dwellings (649 x 5). As per Paragraph 78 of the latest NPPF, a 5% buffer should be applied to the requirement, so this increases to **3,407**.

Supply

The supply for the same period (i.e. the number of dwellings on specific deliverable sites) is **2,974**. A 4% non-implementation rate has been applied to all sites which takes the figure down to **2,855** (2,974 x 0.96). A windfall allowance of **448** (224 x 2) was then added taking the sum total for the supply for 1st April 2025 to 31st March 2030 to **3,303**.

5 Year supply

$((3,303 / 3,407) \times 5) = 4.85 \text{ years.}$

The 5 year supply of Broxtowe Borough Council is therefore equivalent to 4.85 years' requirement.

- 5.11. It is important to note that the part of the current allocation 'Toton Strategic Location for Growth' contained in Policy 3.2 is included within the 5 years supply trajectory at Appendix 1 of the Broxtowe Borough Council SHLAA (2025) [CD 9.32], show in Figure 2 below. Without this development the Council's 5-year land supply position is even lower.

Figure 2: Extract of Broxtowe Borough Council Housing Land Supply Calculation Trajectory

957	Toton Strategic Location for Growth	100
-----	-------------------------------------	-----

- 5.12. Assumptions are made regarding the delivery of other sites contained within the trajectory. However, due to Council confirming that there is no 5-year housing land supply in place the position will not be scrutinised further.
- 5.13. The bottom line is that the Council is adrift of having an adequate supply of deliverable housing land, the appeal site being able to make a material, positive contribution to housing

delivery in the short term on an allocated site (market and affordable) and is assumed by the Council to do so.

- 5.14. The Appeal Site is under freehold control to Bloor Homes Limited. Applications for the approval of reserved matters are being finalised ready for submission as soon as this decision is released, should the appeal be allowed.
- 5.15. With the delivery including on-site 30% affordable housing provision, the site would thus make a positive, material contribution to the housing and affordable housing land supply shortfall over the next 5 years.

Supplementary Planning Document(s)

- 5.16. The following Supplementary Planning Documents are relevant to the proposals:
 - Toton and Chetwynd Barracks Strategic Masterplan Supplementary Planning Document (SPD) [CD 7.01].
- 5.17. The Toton and Chetwynd Barracks Strategic Masterplan SPD [CD 7.01] was adopted by Broxtowe Borough Council on 7th February 2023. The document confirms the key development requirements set out in the Part 2 Local Plan, both for development within the plan period to 2028 and beyond.
- 5.18. The SPD Masterplan sets out:
 - A vision and key development principles for the two sites;
 - Locations for different land uses and design principles for future development;
 - The transport and open space networks needed to support development;
 - New community facilities (schools, healthcare facilities, retail provision) required to support existing communities and new residents;
 - Key character areas to guide development and land uses in different parts of the sites;
 - Phasing of development and infrastructure so that they come forward at the right time.
- 5.19. The LPA in their Committee Report [CD 9.11] outline at Paragraphs 6.3.10, 6.5.5, 6.5.6, 6.5.9 and 6.8.3 that the proposed development delivers development in accordance with the SPD or does not compromise future delivery of the SPD in the future.

5 Year Housing Land Supply

- 5.20. Paragraph 8.2 and 8.3 of the Statement of Common Ground [CD 9.22] between the LPA and Appellant confirms the Council has no 5 Year Housing Land Supply in place.
- 5.21. The Council's last published housing land supply position identified in the Broxtowe Borough Council Strategic Housing Land Availability Assessment (SHLAA) 2025 [CD 9.32] covers the period from 1st April 2025 to 31st March 2041. The document states that the 5-year supply of Broxtowe Borough Council is equivalent to 4.85 years' requirement. Of this supply 100

homes within the Toton Strategic Location for Growth are included in the 5-year housing land supply, despite none having a deliverable planning permission in place.

- 5.22. The update establishes that Council's lack of housing supply is very tight and crucially reliant upon allocations such as Toton West being delivered in a timely manner in the context of Paragraphs 78 and 232 of the Framework and the revised Planning Practice Guidance (12th December 2024).

6. Main Matter – Highways

Overview

- 6.1. The Inspector in her Case Management Conference Note of 3rd July 2026 [CD 9.06] outlines the two key issues related to the current highways objections:
- a) the effect of the proposal on the safe operation of the highway network, including cumulative impacts;
 - b) whether the proposal would make appropriate provision for infrastructure.
- 6.2. There is no other basis upon which the LPA or the Rule 6 parties express concern. Accordingly, the key issue that forms the basis of the planning appeal results from the position of the highways consultees (National Highways and Nottinghamshire County Council). Both parties hold an objection to the appeal development due to the absence of a comprehensive transport assessment for the whole allocation and Chetwynd Barracks.
- 6.3. A Highways Statement of Common Ground [CD 9.23] has been prepared between the Appellant's Highways Consultant 'mode', National Highways and Nottinghamshire County Council.
- 6.4. In terms of matters still in dispute, in broad terms these relate to the wider Toton Strategic Location for Growth:
- The implications of the EMGM strategic transport modelling;
 - The identification of strategic transport infrastructure arising, from the above;
 - The timing, delivery and funding of such infrastructure; and,
 - The conclusions to be drawn from that evidence when applying it to paragraph 116 of the National Planning Policy Framework ("NPPF").
- 6.5. The Appellant's as part of their application and appeal submission have demonstrated that the Appeal Development is able to "wash its own face" as it does not have an unacceptable impact on highways safety or severe residual cumulative impact on the road network following mitigation; the sole issue is understood to be cumulative considerations. In this regard I rely upon the evidence of Mr Frisby who provides highway evidence on behalf of the Appellant.
- 6.6. The appeal development proposes mitigation schemes at Bardills Roundabout and the B603 Stapleford Lane/Swiney Way/Banks Road traffic signal to address the impacts of the appeal development. Disagreement remains as to whether the scope of junction assessment was sufficient and that the schemes are appropriate.
- 6.7. Fundamentally, the crux of the appeal is whether the appellant has adequately and fully considered the cumulative impacts having regard to the rest of the allocation. Within the Highways Statement of Common Ground [CD 9.23] it is acknowledged at Paragraph 3.5.1 that:

"NH is concerned that whilst the appeal may be able to "wash its own face" in respect of the proposed highway mitigation, it is not satisfied that the appellant has adequately and fully considered the implications on the rest of the allocation."

- 6.8. The Appellant's position is that the cumulative impacts have been sufficiently considered. However, in the interests of negotiation, they have liaised with and actioned modelling scenarios at the request of the Highways Authorities. It is important to note the scenarios that have been modelled are reflective of each of the Appellant's live planning applications (at Toton North, East and West) and the Chetwynd Barracks allocation. It should be highlighted that the land at Toton North is not entirely allocated; the substantial amount of land to the north of the tram line is not included on the policies map under Local Plan Part 2 Policy 3.2. Therefore, the modelled scenarios are assessing a greater quantum of development than is in fact currently allocated.
- 6.9. Notwithstanding the Appellant's compliance with these requests, any suggestions by the highways authorities to consider scenarios including the Link Road are overreaching the requirements of the Development Plan. Local Plan Part 2 Policy 3.2 does not actually require the provision of a Link Road for the consents to be granted on the allocated sites, let alone the hypothetical assessment of one. Therefore, any request to consider its implication or effectiveness in the context of Paragraph 116 of the NPPF is not supported by the Plan and the suggestion that the development should be refused without such consideration is unreasonable.
- 6.10. The requirement for the Link Road only arises in Policy 21 of the **emerging** Greater Nottingham Strategic Plan. This Plan is undergoing examination at the current time; the Appellant has represented themselves in respect of their landholdings and allocations at Toton.
- 6.11. For the avoidance of doubt, whilst Policy 21 introduces a requirement for a Link Road, it is the Appellant's position that there is insufficient land within the proposed allocation to viably deliver the Link Road in any case. The emerging plan can only carry limited weight. This has been put to the Local Plan Examination (see Appendix A (to this Proof) – Matter 2 – Issue 6: Green Belt Hearing Statement Paragraphs 3.5 –3.12) along with a proposal to include the whole of the Toton North application site as an omission site *because it is the only feasible way to ensure delivery of the link road to provide access to Toton East, North and Chetwynd*.
- 6.12. At Paragraph 5.3 of this Proof, I set out my conclusions in respect to the hearing sessions, whereby the Plan will need significant modifications. To this end, only limited weight can be attributed to Policy 21 and the requirement for a Link Road. Therefore, any suggestion by the highway authorities that the Link Road is required as a matter of policy and must therefore be considered as part of the cumulative assessment is incorrect.
- 6.13. What is difficult to understand is that the two highway authorities have represented the position to the EIP that the draft Toton allocations (excluding the non-allocated parts of Toton North) are sound and should be endorsed by the Inspectors, notwithstanding their continued position at this inquiry that there is insufficient information to assess the cumulative effects of the same allocations including the wider area of the Toton North application. No doubt this obviously inconsistent position will be explained by the two highway authorities in their evidence.
- 6.14. Notwithstanding the limited weight that can be attributed to Policy 21, the Appellant recognises the significance of the link road to the delivery of new housing at Toton, in which it has a clear commercial interest. However, Mr Frisby's proof sets out a case whereby the

appeal proposal itself can be delivered without in advance of the delivery of the Link Road, and without prejudicing that delivery in any way.

Interpretation of Policy

- 6.15. The Highways Consultees objection is based upon the requirements of NPPF Paragraph 116, where it states:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios."

- 6.16. The appellant's position is that the development will need to demonstrate that there would not be an unacceptable impact on highways safety as a standalone development and that the development can come forward when considered in the context of the requirements of the wider allocation. To address these aspects the appellant prepared their own Transport Assessment which demonstrated that the development could come forward with identified mitigation that would not ultimately result in a severe impact on highway safety or the highway networks.

- 6.17. Notwithstanding the appellant's position, in the spirit of productive cooperation and following the submission of the appeal, the appellants have also undertaken a cumulative assessment using the East Midlands Gateway Model (EMGM), as requested by the National Highways and NCC. The modelling demonstrated that a Link Road is required to support the delivery of the wider allocation, however this would not be required for the appeal site.

- 6.18. The Highways Consultees continue to require additional cumulative assessment to be undertaken to understand the requirement of the whole allocation. It is the Appellant's view that this requirement is excessive and unreasonable as the impacts are not attributable to this appeal proposal and relate to matters that are beyond the requirements of the extant Development Plan (i.e. the Link Road). The Appellant's are of the view that the requirements of NPPF Paragraph 116 have been satisfied.

Alleged Harm

- 6.19. From the objections received to date, no harm has been alleged by National Highways and NCC in relation to the appeal proposals. The Highways Statement of Common Ground [CD 9.23] confirms that the following matters are either expressly agreed or are no longer in dispute:

- The proposed site access arrangements;
- The suitability of the site's sustainable transport connections;
- The overall accessibility of the site by walking, cycling and public transport;
- The assessment years adopted;
- The application of TEMPro background traffic growth;
- The trip generation methodology;

- The trip distribution methodology;
- The general assignment methodology;
- The Transport Assessment methodology;
- Highway safety;
- The proposed Residential Travel Plan; and,
- The relevant policy framework, including the application of paragraph 116 of the National Planning Policy Framework.

- 6.20. Most of the technical methodology underpinning the Transport Assessment is now common ground between the parties.
- 6.21. The Appellant has undertaken both a standalone Transport Assessment and a cumulative assessment using the EMGM (which is still being progressed at the time of writing).
- 6.22. What remains is the interpretation and planning judgment, rather than the absence of assessment; which is different to the question of whether the Appeal site has been appropriately assessed.

Overall Conclusions

- 6.23. The appellants case, as detailed within Mr David Frisby's Proof of Evidence, is that appeal proposals have satisfied the requirements of NPPF Paragraph 116. The case demonstrates that the proposals will not severely impact highways safety or the highway network. Further to this, Strategic Modelling has been undertaken which shows what future mitigation is required to allow for the full delivery of the wider allocation and the Appellant's additional, unallocated land.
- 6.24. The Toton Link Road is only a requirement of the emerging Local Plan and should therefore be given limited weight. Regardless, it is the Appellant's view that it isn't required for the quantum development proposed as part of this appeal.
- 6.25. The appellant currently has two other live applications on other parts of the wider **3.2** allocation, which deliver all of the required Link Road. Evidence or justification has not been provided by the highways consultees as to why the appeal development should be delayed whilst the wider allocation infrastructure requirements are defined. No part of the appeal development would prejudice the wider allocation coming forward.
- 6.26. In fact, the proposals provide the first part of the Link Road from Stapleford Land by providing a 4 four arm junction access arrangement [**CD 3.07 – 3.08 and 4.06**] rather than a 3-arm junction access arrangement as would normally be expected. This is in order to facilitate the wider development, rather than merely meeting the needs of Toton West. By delivering this enhanced infrastructure Bloor Homes are demonstrating their commitment to the wider development proposals which will bring forward housing and the required Link Road.
- 6.27. As highlighted, the issue related to the cumulative assessment continues to be under discussion with a view to achieving a positive outcome for all relevant parties in relation to the wider allocation (including the appellant's other live applications).

- 6.28. Without prejudice to the Appellant's case as set out in Mr Frisby's Proof it could be reasonable to consider a case whereby the wider cumulative assessment is appropriately linked to the appeal case by way of a planning condition or planning obligation. Such an approach should follow a vision-led, monitor and manage methodology whereby the final outcomes (mitigation) can be derived, quantified and controlled following the conclusion of the cumulative assessment.
- 6.29. The following cases have used this type of condition when a review or update to the highways assessment is available:
- The Secretary of State decision Ref: APP/K3415/V/17/3174379 – Land North of Ashby Road, Tamworth, Staffordshire B79 OBY – Conditions 24, 25 and 26 [CD 9.33].
 - Ref: 100/2424 – Liverpool Central & Northern Docks (Bramley Moore, Nelson, Salisbury, Collingwood, Trafalgar, Clarence Graving, West Waterloo, Princes Half Tide & Princes Docks), L3 (Liverpool Waters) – Conditions 10, 70 and 71 [CD 9.34].
- 6.30. The examples given relate to large multi-phased developments under one permission, both include provision for a further trigger part way through the permission to provide additional highway information. Such a monitor and manage approach is commonplace and prevents beneficial development being delayed because of uncertainties later in the development process. They demonstrate that the concerns raised by NH and NCC are capable of being addressed by an appropriate means of control though the grant of permission. Thus, in the context of the appeal proposals an appropriate trigger could relate to the build out of the development. Discussions to this effect have taken place between the Appellant, NCC and the LPA with a view to seeking to reach an agreed position – albeit at the time of writing no such agreement has been reached. For the avoidance of doubt, the Appellant remains optimistic and committed to find such an agreement.

7. Wider Planning Assessment – Other Matters

Overview

- 7.1. Further to the highways issues identified in the previous section, my evidence will focus upon a wider planning assessment of the appeal proposals. The principle and technical matters assessed below are covered and agreed in the Statement of Common Ground [CD 9.22] between the Appellant and Broxtowe Borough Council.
- 7.2. This position is also endorsed by Broxtowe Borough Council's Planning Committee on 1st July 2026 [CD 9.12] who confirmed their Officer's recommendation that the Council's decision would have been:

"subject to the removal of objections from National Highways and Nottinghamshire County Council as the Highways Authority, planning permission would have been granted subject to:

- (i) Prior completion of an agreement under Section 106 of the Town and Country Planning Act 1990 to secure the provision of landscape contributions and affordable units; and*
- (ii) the following conditions (25 in total):"*

Assessment

Principle of Development

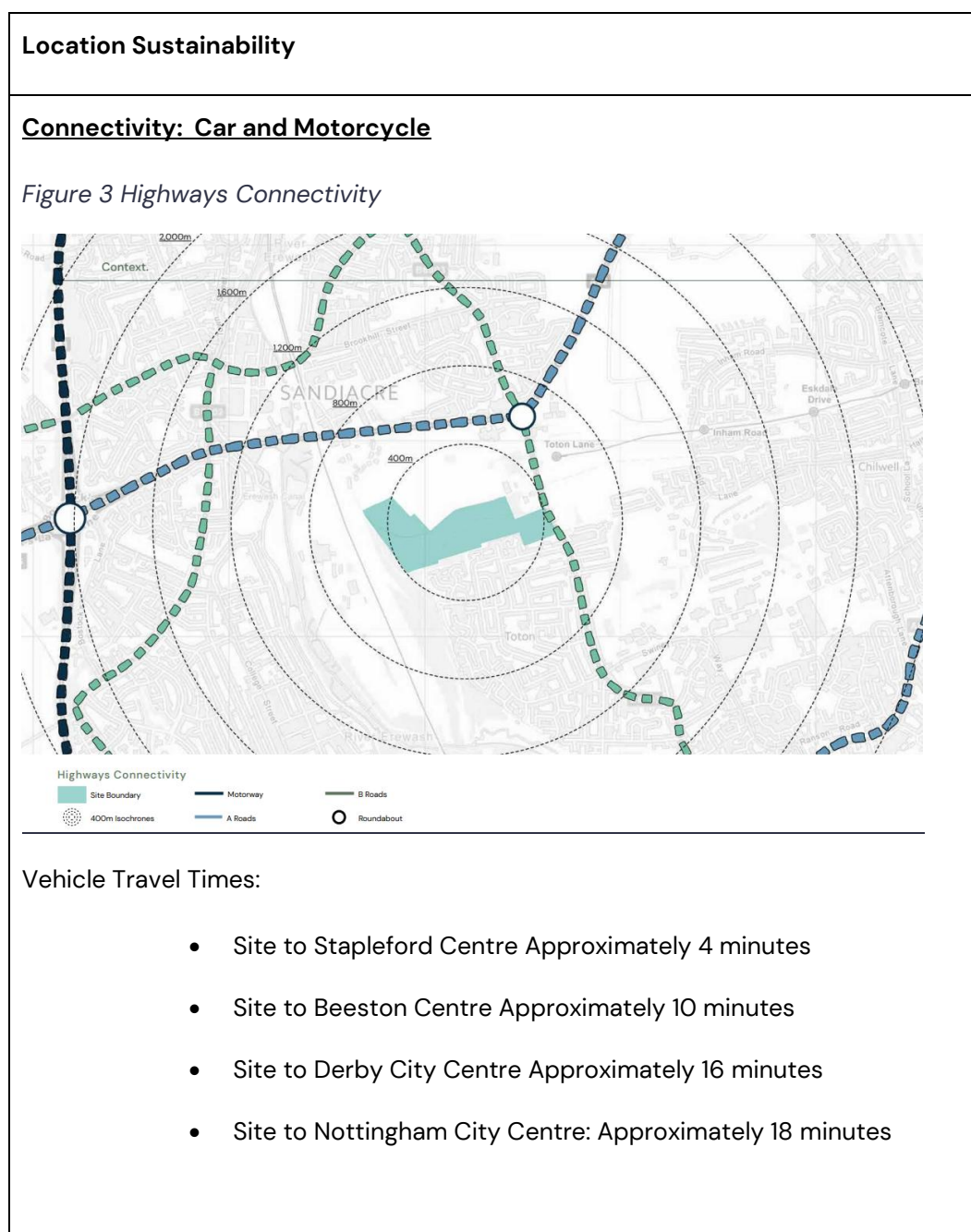
- 7.3. It is agreed at Paragraphs 9.9 – 9.18 of the Statement of Common Ground [CD 9.22] that the scheme either delivers, contributes to or not prejudice the policy requirements (for the wider allocation) identified and is in accordance with the allocation requirements outlined in Policy 3.2.
- In general accordance with Map 8: Toton Strategic Location for Growth Illustrative Concept Framework;
 - 500–800 dwellings within the Plan Period (3,000 dwelling in total);
 - Min 18,000sq.m for mixed employment (B Uses);
 - Limited retail and community facilities;
 - Undergrounding of the high voltage electricity cables at the south of the site;
 - Development should be located and designed to complement and not prejudice proposals for access to the HS2 Hub Station and further build-out of the Innovation Campus which is to be delivered beyond the plan period;
 - Highway infrastructure must be considered in conjunction with requirements for the Chetwynd Barracks allocation (Policy 3.1) and wider area.

- 7.4. The appeal development forms part of a Local Plan allocation and is considered to deliver the requirements of Local Plan Part 2 Policy 3.2, save for the matter of the cumulative highways impact.

Location Sustainability

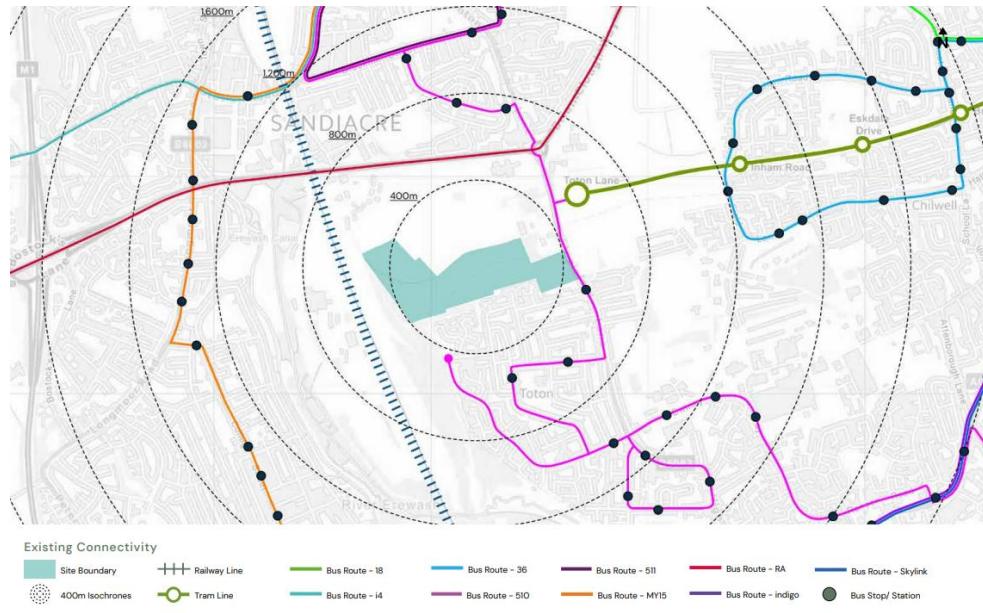
- 7.5. Although allocated, the site on its own merits, is a sustainable location for development in terms of existing sustainable transport provision (particularly NET (Tram Station)) and nearby local services and facilities. Table 6 lists the locational sustainability credentials of the site:

Table 6 Location Sustainability Credentials of the Appeal Site



Connectivity: Bus Services

Figure 4 Public Transport Connectivity

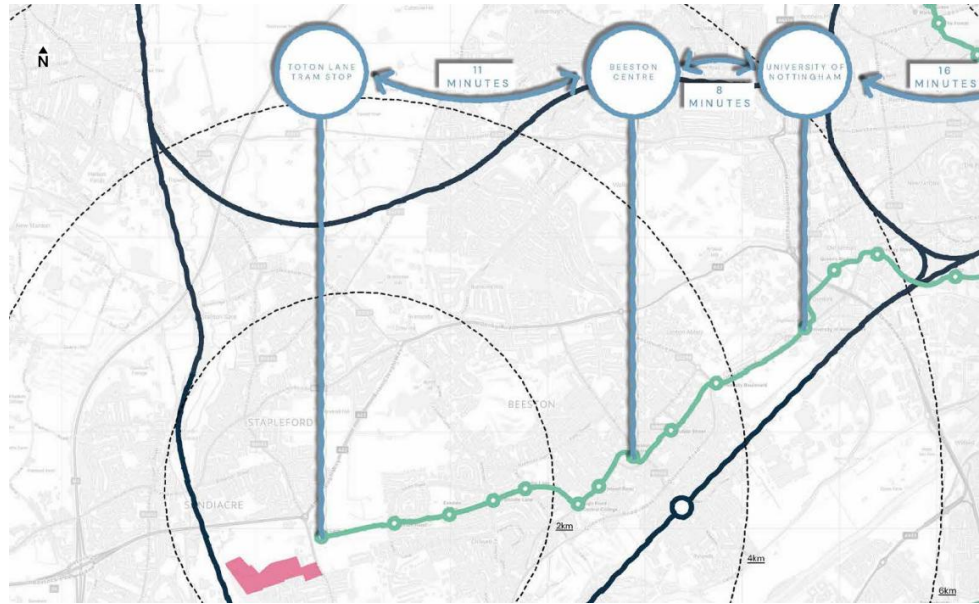


Several bus companies operate in the area, including Trentbarton, CT4N and Nottingham City Transport (NCT), ensuring good coverage for local travel.

- CT4N – 510 Bus every hour (Stapleford – Beeston Interchange)
- CT4N – 511 Bus every hour (Stapleford Circular)
- Trentbarton – i4 Bus every 10 minutes (Nottingham – Sandiacre – Derby)
- Trentbarton – My15 Bus every 15 minutes (Ilkeston – Stapleford – Sandiacre – Long Eaton – Castle Donnington – East Midlands Airport)
- Trentbarton – Indigo Bus every 10 minutes (Nottingham – Long Eaton – Derby)
- Trentbarton – Skylink Every 20 minutes (Nottingham – East Midlands Airport and Nottingham – Beeston – Long Eaton – Castle Donnington – East Midlands Airport)
- NCTX – 36 Bus every 12 minutes (Chilwell – Beeston – Nottingham)

Connectivity: Tram Services

Figure 5 Tram Connectivity



- Toton Lane Tram Station is the first stop on the Nottingham Express Transit (NET) tram network, located to the east of The Site. It provides a convenient transport link for local residents to the city centre of Nottingham and other parts of the region. The station serves as a major transport hub for commuters travelling into Nottingham, offering a quick and efficient route into the city.
- NET Tram Line 1 connects Toton, Chilwell and surrounding suburban areas to Nottingham city centre, including stops in Beeston, The Queens Medical Centre, The University of Nottingham, Nottingham Railway Station (for mainline rail connections) & Old Market Square

Connectivity: Pedestrian and Cycle Movement

Figure 6 Pedestrian and Cycle Movement

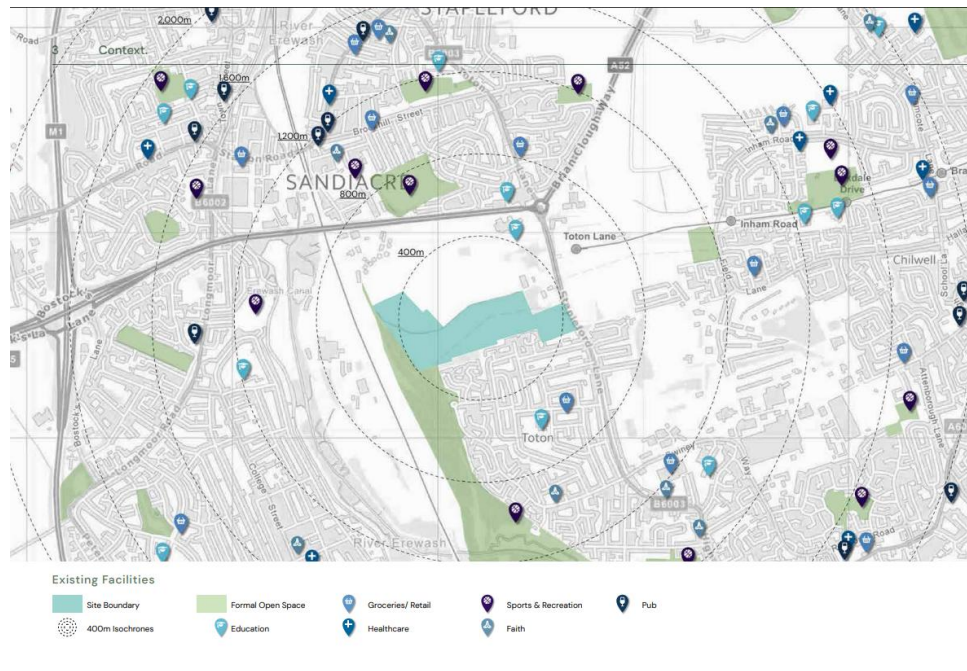


- There is an existing Public Right of Way (footpath) that runs through The Site, Beeston FP17 which runs from the south-west corner at the top of Toton Fields Nature Reserve, diagonally across The Site to the northern edge where it meets the B6003 to the east.
- The route formally runs across the open field, but the trodden path is along the field boundary, cutting across along the eastern boundary where it meets a more formal footpath running east-west to the B6003. It is predominantly used by pedestrians and is convenient and direct route linking Toton Lane Tram station with Toton Fields Nature Reserve.
- There are a number of additional public rights of way in the immediate area connecting The Site with the wider pedestrian and cycle network, including the BW27 bridleway connecting The Site via Stapleford Lane to Bramcote in the north.
- Additional permissive routes that are not designated public rights of way add to the pedestrian network, most notably with a pedestrian/cycle route that runs alongside the tramline to the east.

Local Facilities

- The Existing Facilities Plan (shown below) shows the location of the key local facilities and services in relation to The Site.
- The Site is well positioned to benefit from a range of local amenities and facilities, with well-established offerings within 15 minute walking distance at Stapleford, Bramcote, Chilwell and Toton.
- To the south and south-east, the facilities located in Toton and Chilwell are reachable on foot, including a nursery, several primary schools, a supermarket, a post office, recreation grounds and nature reserve.
- To the north-east, the village of Bramcote offers a number of schools, including two primary schools and two secondary schools, a leisure centre, a doctor's surgery, pubs, a nature reserve and woodland park with children's playground.
- The adjoining area of Stapleford to the north, has a wide range of facilities associated with a larger town, including education, sports and leisure facilities, retail and commercial uses, food and beverage and community facilities. These combined services and facilities place The Site at Toton West well in terms of walkable amenities.
- In addition to being in walking distance of these amenities, The Site is also in close proximity to the cities of Nottingham and Derby via public transport and can therefore be considered a sustainable location for residential development.

Figure 7 Extract of Existing Facilities Plan (taken from Submitted Design and Access Statement)



- 7.6. It is agreed in the Statement of Common Ground [CD 9.22] at Paragraph 9.142–9.143 that the site is sustainably located, even more so following the applicant’s commitment and delivery of planning obligations respect of education, healthcare etc,

Section 106 Obligations

- 7.7. It is also agreed that subject to the necessary conditions and obligations to be secured through a Section 106 Agreement, the proposed development can be appropriately catered for by services and provisions within the allocation and nearby communities of Toton, Stapleford and Chilwell.
- 7.8. These obligations include financial contribution requested by Nottinghamshire County Council from Primary and Secondary Education. The contributions requested are prorated by the size of development.
- 7.9. The Primary Education contribution is based on the future requirement for a 2FE primary school with 39 nursery places to serve the allocation. To date the Local Education Authority haven’t yet identified a site for this provision within the wider allocation.
- Primary Education – £1,755,180 – £4,179 per dwellings towards provision of a primary school (2 FE primary school with 39 nursery places) on allocation (calculated per dwelling across the strategic allocation of 2,700 dwelling).
- 7.10. The contribution request towards secondary education is exclusively focussed on the appeal development meeting its own capacity needs the Local Education see this capacity being met in 1 (or more) of 4 local secondary schools listed below.

- Secondary Education – £2,028,090 – Based on 67 place requirement charged x £30,270 per place to be used to create capacity at Alderman White School, Bramcote College, Chilwell School and/or the George Spencer Academy.

- 7.11. A SEND Provision contribution of £209,112 (2 places x £104,556) has been requested towards a current shortage of specialist places for pupils with SEND. Monies to be used towards expanding special school facilities or to fund the provision of specialist provision attached to a mainstream school.
- 7.12. A Bus Service Contribution of £578,000 (Charged at £1,376 per dwelling) is being sought by Nottinghamshire County Council as the current Service 510 terminates at the Toton NET Park & Ride terminus and provides a basic daytime Monday to Saturday service which focuses on local connectivity from the Toton NET stop. The nearest stop currently exceeds the 400 metre walk distance guidance for all of the site. Enhancements to the local bus network will be required to provide access to key destinations to access services including employment, education, health, shopping and leisure and to support access to the NET Tram interchange and Local Centre.
- 7.13. A contribution towards Bus Stop Infrastructure of £56,800 is sought to provide improvements to two of the nearest bus stops (BR0118 & BR0117) at Katherine Drive.
- 7.14. A financial contribution to Libraries of £18,750 966 (population) x 1.532 (items) x £12.67 (cost per item) is sought as there is an identified shortfall in stock at Stapleford Library.
- 7.15. A late request for a Primary Care Contribution was sought in advance of Planning Committee by the Local Planning Authority, it was estimated to be worth £200–£250k and was to be confirmed with the Integrated Care Board and if it was required and would subsequently be included in the S106 agreement if required.
- 7.16. On-site provision of Affordable Housing (30%) and Open Space (6.63ha) is also included within the Section 106 Agreement.
- 7.17. An Off-Site and Open Space Maintenance contribution has been identified and is included in the draft Section 106 Agreement.
- 7.18. Further contributions are sought by Nottinghamshire County Council in relation to the Cycling and Walking Contribution and Community Transport request, at the time of writing CIL Compliance Statements have been requested of these specific obligations. The Appellant reserves the right to comment further on this matter.
- 7.19. A Section 106 Agreement [CD 9.07] is being drafted to secure appropriate provision and financial contributions in accordance with the NPPF, Core Strategy Policy ACS Policy 19 Developer Contributions and Local Plan Part 2 Policy 32 Developer Contributions.

Socio-Economics and Health

- 7.20. It is agreed that significant economic benefits will be delivered during both construction and operational phase of the development in the Statement of Common Ground [CD 9.22] at Paragraph 9.20.

- 7.21. The completion of a Health Impact Assessment Checklist also demonstrates that the proposed development is likely to have a neutral – positive impact on development in term of health.
- 7.22. The proposed development is therefore considered to conform with the NPPF and the Part 2 Local Plan Policies 24 and 32.

Landscape and Visual Amenity

- 7.23. It is agreed that the impacts of development, mitigation and the considered acceptability of the development proposal in relation to landscape and visual amenity is confirmed at Paragraphs 9.23–9.33 of the Statement of Common Ground [CD 9.22].
- 7.24. It is assessed that there would be an inevitable degree of landscape and visual impact for any largely undeveloped settlement edge site seeking to deliver new residential development of this nature, although given the extent of influence from the settled edge and urbanising elements in the landscape, such impacts would be less than those relating to a site that has no existing urban influences. Such effects are considered to be mitigatable and highly localised.
- 7.25. Such mitigation measures delivered as part of the design of the scheme have sought to address the likely effects in order to avoid, reduce or offset adverse impacts wherever possible.
- 7.26. The mitigation measures include conserving the landscape character, retaining and enhancing existing vegetation, and incorporating substantial green infrastructure such as tree planting and enhancement proposals to strengthen tree belt, reinforcing existing hedgerow and improve species diversity and are shown on the Illustrative Landscape Masterplan [CD 1.05].
- 7.27. The proposed development is considered appropriate and is in accordance with the NPPF, Part 1 Local Plan Policies 10 and 16 and Part 2 Local Plan Policies 28 and 30.

Biodiversity and Arboriculture.

- 7.28. It is agreed that the impacts in relation to biodiversity and arboriculture matters have been considered and are confirmed within the Statement of Common Ground [CD 9.22] between Paragraphs 9.35 – 9.45.
- 7.29. The application submission demonstrates that the habitats present within and around the Site do not pose an ‘in principle’ constraint to the proposed development.
- 7.30. The results of the submitted BNG assessment [CD 2.08.2] demonstrate that the current proposals with the appropriate landscape detail are likely to be capable of meeting the required 10% gains for hedgerow and watercourse units onsite. It is agreed that the development could require offsite delivery of habitat units to ensure compliance with legislative and policy requirements, however this will not be confirmed until the development has been designed in detail and can be confirmed through the use of the standard BNG condition.
- 7.31. The supporting Arboricultural Assessment [CD 2.08.4] identifies that the construction of the Stapleford Lane access road junction necessitates the removal of specific trees to achieve

the required junction and its associated visibility splays. This includes four trees from group G9, and the complete removal of groups G10 and G14. This has sought to be minimised, however the access road's alignment significantly impacts the root protection areas of these trees, rendering their retention unsustainable. The part removal of G9 for access was shown in the previously approved outline application (12/00585/OUT). Notwithstanding the consideration of layout as a reserved matter, the proposed dwellings and internal road network proposed will result in the removal of entire tree group G13, and sections of groups G15 and G16. Additionally, a break in hedgerow H2 is required to establish a pedestrian connection to the off-site path.

- 7.32. The proposals however are agreed to meet the aims and objectives national policy through careful consideration of the design and retention of a high proportion of the existing tree cover. The retention of, coupled with targeted future management and enhancement of the existing and future tree cover will meet many of the individual aspirations set out in the policy.
- 7.33. It is agreed that the proposed development is considered to enhance biodiversity and protect species. It is therefore confirmed that the development is in accordance with the NPPF, Core Strategy Policy 16 and 17, Local Plan Part 2 Policy 31 and Neighbourhood Plan policies ENVO2 and ENVO3.

Cultural Heritage

- 7.34. It is agreed that heritage matters have been considered and are confirmed within the Statement of Common Ground [CD 9.22] between Paragraphs 9.47 – 9.56.
- 7.35. The appeal development is not considered to impact on the significance of the eleven Grade II Listed Buildings and one Conservation Area located within the 1km study area due to the spatial and visual separation, including large-scale infrastructure associated with the intervening railway. It is confirmed that intervisibility between the Proposed Development and all assets within the 1km study area would be wholly screened and not cause harm.
- 7.36. Further archaeological investigations will be required to establish the presence, extent, character, significance and level of development impact of the potential buried archaeological resource within the Site and to formulate specific mitigation strategies, as appropriate. It is agreed, as per the consultation response from the Nottinghamshire County Council Archaeologist, any further evaluation and any subsequent archaeological mitigation work could be secured as a condition of consent.
- 7.37. It is agreed that the proposed development accords with the NPPF, Core Strategy Policy 11 and 16; Local Plan Part 2 Policy 23 and the Neighbourhood Plan Policy LCHO2 in relation to the potential impact on the setting and significance of nearby heritage assets.

Air Quality

- 7.38. The impact of the proposals is considered and confirmed with the LPA within the Statement of Common Ground [CD 9.22] between Paragraphs 9.61 – 9.68 in relation to air quality.
- 7.39. The Council agree with the submission that that the overall construction and operational air quality effects of the appeal development are judged to be not significant. In order to monitor the construction phase a Construction Environment Management Plan (CEMP) and Construction Traffic Management Plan (CTMP) can be secured via condition.

- 7.40. It is agreed that the proposed package of mitigation (CEMP and CTMP) will ensure that the Proposed Development is acceptable and that there will be no adverse significant effects to air quality and be in accordance with the NPPF, Core Strategy Policies 1 and 10, Local Plan Part 2 Policy 20 and the Neighbourhood Plan.

Noise and Vibration

- 7.41. It is agreed that noise matters have been considered and are confirmed within the Statement of Common Ground [CD 9.22] between Paragraphs 9.70 – 9.76 in relation to noise matters.
- 7.42. The requirement for CEMP to be conditioned detailing the implementation of measures therein to address construction effects relating to noise and vibration on the environment, existing surrounding communities, businesses, and residents of the area was proposed to reduce any adverse effects as far as practical.
- 7.43. The proposed development from noise is considered to not be significant and a mitigation strategy has been proposed to achieve appropriate internal noise levels. The Council's Public Protection have reviewed the submission in terms of noise and have no objections or further comments to make regarding the above proposed development.
- 7.44. The development is assessed that it can come forward in accordance with the NPPF Core Strategy Policies 1 and 10, Local Plan Part 2 Policy 19 and the Neighbourhood Plan.

Flood Risk and Drainage

- 7.45. It is agreed that matters in relation to flood risk and drainage have been considered and are confirmed within the Statement of Common Ground [CD 9.22] between Paragraphs 9.78 – 9.95.
- 7.46. It is agreed with the LLFA, Severn Trent Water and the Environment Agency that there is no reason in terms of drainage or flood risk why the residential development should not be fully supported through the planning process.
- 7.47. The appeal site is located in Flood Zone 1 and that the majority of the appeal site is considered to be at risk of surface water flooding. The proposed appeal development ensures that all proposed residential dwellings are located outside areas identified as being at risk of surface water flooding from off-site flows.
- 7.48. Any identified locations of localised flooding would be acceptable on the basis that the risk will be mitigated by the proposed drainage strategy.
- 7.49. A Surface Water Drainage Strategy has been developed in accordance with the hierarchy for sustainable surface water disposal. The proposed surface water drainage strategy is to discharge runoff from the site into the existing ditch which crosses the site via two separate outfalls in the western extent of the site. The total site runoff will be restricted to 21.7l/s which is equivalent to the Qbar greenfield runoff rate of 1.93l/s/ha.
- 7.50. The surface water storage to be provided within the proposed attenuation basins situated in the western extent of the site. It is also agreed that the basins will be sized approximately to accommodate surface water runoff from the 100-year event plus allowances for 40% climate change and 10% urban creep.

- 7.51. The development proposals are considered sustainable from a flood risk and drainage perspective.
- 7.52. The Environment Agency have not offered comment due to the Flood Zone 1 location. The Local Lead Flood Authority raise no objection to the proposed development and have provided suggested wording for a condition, which is acceptable to the Council and the appellant. The proposed development in terms of flood risk is considered to accord with the NPPF, Core Strategy Policies 1 and 16, Local Plan Part Policy 1 and Neighbourhood Plan Policy ENVO2.

Contaminated Land / Ground Conditions

- 7.53. It is agreed that matters in relation to Contaminated Land and Ground Conditions have been considered and confirmed within the Statement of Common Ground [CD 9.22] between Paragraphs 9.97 – 9.105.
- 7.54. It is agreed with consultee (Environmental Health and the Coal Authority) that a Proposed Phase II Exploratory Works should be sufficient to investigate the possible issues raised in the Phase I Desk Study and should be undertaken in general accordance with current industry good practice.
- 7.55. A condition requiring the undertaking of further site investigations ahead of the commencement of development is agreed.
- 7.56. The Council have agreed and concluded that based on the evidence of the findings of the Phase I Desk Study enquiries and following the implementation of any necessary remedial measures, the site is considered likely to be suitable for the proposed end-use from a geotechnical and environmental perspective. The development therefore accords with the NPPF, the Core Strategy, Local Plan Part 2 Policy 19 and the Neighbourhood Plan.

Soils and Agricultural Land

- 7.57. It is agreed that matters in relation to soil and agricultural land have been considered and confirmed with the LPA within the Statement of Common Ground [CD 9.22] between Paragraphs 9.106 – 9.110.
- 7.58. The Proposed Development is estimated to result in the negligible magnitude loss of BMV Grade 2 (0.8 ha) and Subgrade 3a (0.9 ha) agricultural land – overall a permanent minor adverse impact that is not significant.
- 7.59. Mitigation is proposed to protect the soil resources through adherence to a Site-specific Soil Management Plan (SMP) that can form part of a wider CEMP (secured via planning condition). This will reduce the potential effect of the Proposed Development to negligible. There is no possible mitigation for the permanent loss of agricultural land, however given the limited amount that will be lost and there will be the provision of a significant amount of open space provided on-site it is considered the effects to be minor adverse.
- 7.60. The proposed loss of Best Most Versatile land is allowable as per the Framework Paragraph 188. It is agreed that Footnote 65 states where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The Council have chosen to allocate the site for development within its

Development Plan. The proposed development demonstrates that lower quality agricultural land has been utilised where possible alongside the better-quality land.

- 7.61. The Proposed Development will have a negligible effect to soil resources and a minor adverse effect to agricultural land quality. There are no resulting significant effects of the Proposed Development.

Climate Change

- 7.62. It is agreed that matters in relation to climate change have been considered and confirmed with the LPA within the Statement of Common Ground [CD 9.22 between Paragraphs 9.111 – 9.116.
- 7.63. Mitigation measures have been embedded into the Proposed Development, and additional measures have been proposed to increase resilience to climate change and reduce the influence on climate change. Within the design, a large number of trees and hedgerows will be retained, helping with flood alleviation and the drainage basin has been designed to account for climate change. Sustainable transport options such as walking and cycling have also been incorporated to reduce GHG emissions. The Proposed Development's energy demand has also been reduced by a 'fabric first' approach.
- 7.64. It is agreed that additional mitigations including a CEMP, CTMP, selective procurement of materials to reduce embodied carbon and use of the LETI Design 2030 Target for embodied carbon have been proposed for construction, with SWMP, Travel Plan, Operational Waste Management Plan and the implementation of low carbon technologies proposed for operation.
- 7.65. The 'fabric first' approach to the design of dwellings will provide an 81.60% carbon saving under the Building Regulations, which represents a 74.18% energy demand reduction.
- 7.66. The proposed approach outlined represents a significant reduction when considered against the Policy requirements set out in Core Strategy Policy 1 and the wider requirements of the NPPF and Local Plan Part 2 and the Neighbourhood Plan Policy HASO2.

Lighting

- 7.67. It is agreed that matters in relation to lighting have been considered and confirmed with the LPA within the Statement of Common Ground [CD 9.22] between Paragraphs 9.117 – 9.124.
- 7.68. The Lighting Strategy proposes good practice and outlines a suitable approach for the proposed lighting for the purpose of safety, security, wayfinding and amenity.
- 7.69. The strategy seeks to ensure that the lighting is not outside of the obtrusive light limits for the Environmental Zone in which the Proposed Development is located, is sensitive to the area, and provides a recognised standard level of lighting for all adoptable areas requiring illumination.
- 7.70. The proposed luminaires will distribute light downwards only, to reduce the potential for light spill onto the boundaries surrounding the buildings and upwards towards the sky.
- 7.71. Mitigation measures are proposed and will be embedded into the design of the final detailed scheme.

7.72. The proposed development is therefore designed and considered to be in accordance with the NPPF, the Core Strategy, Local Plan Part 2 and the Neighbourhood Plan.

Design

7.73. It is agreed that matters in relation to design have been considered and agreed with the LPA within the Statement of Common Ground [CD 9.22] between Paragraphs 9.125 – 9.129.

7.74. The Design and Access Statement [CD 1.07 and 3.06] explains how design principles have been derived from the site assessment in conjunction with the delivery of a high-quality development which achieves the criteria set out in NPPF Paragraph 135 namely:

- Function and Quality;
- Visually Attractive;
- Response to Context;
- Strong Sense of Place;
- Accessibility;
- Safe, Inclusive and Accessible Places.

7.75. The Design and Access Statement has set out a clear explanation of the design process, community engagement and consultation process undertaken with the local community and other key stakeholders. The design process has also included a comprehensive and thorough assessment of the site and its immediate context, the development of a clear set of principles to guide the design of the site.

7.76. The plans and design approach, together with the supporting illustrative strategies, demonstrate how the vision for Toton West can be delivered to meet the three key NPPF objectives of sustainable design:

- A social objective;
- An economic objective; and
- An environmental objective.

7.77. The appeal proposals are the realisation of a clear vision for the site, focused around creating a residential development scheme.

7.78. The proposed development is of appropriate design that will create a new well-designed connected community and is therefore considered to accord with the NPPF, Aligned Core Strategy Policy 10, Local Plan Part Policies 3.2 and 17 and the Neighbourhood Plan.

7.79. The undetermined hybrid application illustrates that design for the first phase of development is well advanced and that the Appellant remains keen to 'get started' on delivering much needed homes at the allocation.

Environmental Impact Assessment

- 7.80. It has been agreed that matters in relation to environmental impact have been considered and agreed with the LPA within the Statement of Common Ground [CD 9.22] between Paragraphs 9.133 – 9.140.
- 7.81. An ES and ES Addendum has assessed the ‘likely significant effects’ of the Proposed Development in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations).
- 7.82. Detailed assessments with respect to pertinent environmental topics have therefore been undertaken in accordance with definitive standards and legislation where available.
- 7.83. The design process has been informed by the detailed environmental assessments so to ensure that key design measures are integral to the Proposed Development (and its construction), so to limit any significant adverse effects.
- 7.84. The ES demonstrates that the design of the Proposed Development and its construction has taken into account the potential environmental effects and where necessary mitigation measures form an integral part of the Proposed Development so to ensure that the environment is suitably protected and any impacts from the Proposed Development are minimised.

Conclusions

- 7.85. Aside of the outstanding highways outlined in Section 6 above, it is agreed with the LPA in the Statement of Common Ground [CD 9.22] at Paragraphs 9.130 – 9.132 that the proposals are in accordance with the Development Plan consisting of the adopted Broxtowe, Gedling and Nottingham Aligned Core Strategies Part 1 Local Plan (2014), the adopted Broxtowe Part 2 Local Plan that was adopted in (2019) and the Toton and Chetwynd Neighbourhood Plan that was made in 2024.
- 7.86. With respect to the Neighbourhood Plan, the application broadly complies with most of the policies but not all of them (specifically on matters of detail). Planning Committee have resolved that there are no material planning considerations that outweigh non-compliance with the relevant policy.
- 7.87. With technical, EIA and policy requirements either addressed, mitigated or obligated there is nothing (other than highways objections) outstanding that means that planning permission should be withheld.

8. Interested Party Representations

Responses to Application

- 8.1. During the course of the planning application 42 responses having been received from 3rd parties. The issues raised are summarised below, a response to each of points raised is provided:
- Sense of enclosure.
- 8.2. Detailed design point that will be subject to future reserved matters – the appeal to be determined is made in outline (other than means of access)
- Loss of daylight/overlooking issues.
- 8.3. Detailed design point that will be subject to future reserved matters – the appeal to be determined is made in outline (other than means of access)
- Associated noise issues.
- 8.4. Supporting noise assessment has been undertaken. Council's Public Protection team have reviewed submissions and have no objections to the development proposals. Conditions proposed to ensure noise mitigations measure are included in the development.
- Loss of agricultural land.
- 8.5. Although the site is currently agricultural land, the site has been allocated by the Local Planning Authority for development in the Council's Local Plan Part 2 Policy 3.2. The proposed development proposals are seeking to deliver part of the quantum of dwelling identified for the development. As detailed above at Paragraph 7.60, the proposed development demonstrates that lower quality agricultural land has being utilised where possible alongside the better-quality land.
- Loss of Green Belt land and natural wildlife habitat.
- 8.6. The appeal development is not located in the Green Belt. The proposed development site is allocated in the Council's Local Plan Part 2. Although a greenfield site an Ecological Appraisal [CD 2.08.1] has been undertaken and confirms that the development will retain the majority of ecologically valuable habitats within the site design (hedgerows and treelines). The appraisal confirms that the creation of new habitats are proposed in the form of grasslands, scrub and hedgerows and additional wetlands. Additional nesting and roosting boxes for birds and bats is proposed and would ensure that habitat connectivity and opportunities for a range of protected and notable species will be maintained and enhanced across the site.
- Loss of Green Spaces.
- 8.7. The appeal development is allocated in the Council's Local Plan Part 2 for residential development. There is no formal open space designation. At present access to the development site is limited to public rights of ways. These routes will be retained and enhanced and/or rerouted where required. As part of the development formal open space will be created allowing more public access than was previously possible.

- Loss of trees.

8.8. It is acknowledged that some trees will be required be removed as part of the development to facilitate the access into the development, a small number of dwellings and to establish pedestrian connections. Most removals relate to Category C trees, no Category A trees are to be removed. A comprehensive Landscape Scheme will be required to be prepared as part of a reserved matters submission, enhancement of tree cover is a potential option.

- Lack of pedestrian and cycle infrastructure enhancements.

8.9. The proposed development includes a number of pedestrian and cycle infrastructure improvements across the site and into the wider network providing connectivity to Toton, Chilwell and Stapleford as well as providing access to nearby NET Tram Station that provides further links to the larger town of Beeston and the City of Nottingham where larger employers such as the University of Nottingham, Boots and the Queens Medical Centre are based.

- No provision for additional schools, doctors, dentists or other local services.

8.10. The appeal scheme doesn't deliver on-site provision, however the Appellant as agreed to a number of financial contributions requested by consultees including contributions to primary and secondary education, healthcare, libraries and public transport infrastructure.

- Traffic congestion and pollution.
- Increased traffic.
- Inadequate infrastructure and transport assessments.

8.11. A comprehensive transport assessment has been undertaken as part of the application submission. The proposal appeal development demonstrates that it will not have a severe impact upon highways safety or the wider network. The submitted transport assessment also confirms that it won't prejudice the delivery of future infrastructure that would be required as part of the wider allocation – such as the Link Road.

- Flooding.

8.12. Both the LLFA and the Environment Agency do not raise concern towards the development of the appeal site on flood risk or drainage grounds. The LLFA raise no objection to the proposed and have provided suggested wording for a condition. The appeal site is located in Flood Zone 1 and that majority of the site is not considered to be at risk of surface water flooding. The submitted Flood Risk Assessment and Drainage Strategy also confirms that it will not exacerbate the risk of flooding to third parties either upstream or downstream from the appeal site.

- Energy statement not complying with future homes standards.

8.13. The submitted Energy Statement sets out a potential approach to the proposed development. It does not rule out homes being delivered to the Future Homes Standard which will become applicable to all new developments in March 2027 via Building Regulations.

Responses to Appeal

- 8.14. Two responses from third parties have been received during the appeal. One from the Chetwynd and Toton Neighbourhood Forum and the other from 'Interested Party 2'. Comments and responses are detailed below:

The Chetwynd and Toton Neighbourhood Plan Forum

- The outline part of 25/00928/FUL should also be considered within the Appeal Inquiry as they are effectively, and to all intents and purposes, now the same application with most documents duplicated for both applications. It should therefore be considered as a material consideration.

8.15. The listed application is a separate planning application and will be considered on its own merits. The application is pending determination by the Local Planning Authority.

 - Difference between the appeal scheme and application is the site layout.

8.16. Updated access drawings have been submitted for the hybrid drawings, these have been provided to highway consultee for consideration as part of Appeal. The amendments made do not affect the principle of the access just the technical aspects that have been incorporated in response to NCC and Active Travel England.

 - Overall compliance with the Development Plan as a whole must be the focus of the inquiry, not just the transport issues.

8.17. The Local Planning Authority have made an assessment on this as part of the Committee Report presented to the Planning Committee who resolved that they would have approved the application subject to National Highways and NCC removing their objections. As part of this evidence an overview of the scheme's compatibility with the relevant policies of the Development Plan (see Table x).

 - Presumption in favour of sustainable development does not apply in this case because the LPA has demonstrated a five-year land supply (Broxtowe Strategic Housing Land Availability Assessment 2025), and it is expected that these proposals would be fully in compliance with the Development Plan.

8.18. It is the Appellant's view that the presumption in favour of sustainable development does apply as Broxtowe Borough Council have confirmed that they cannot demonstrate a 5 Year Housing Land Supply (see Para 5.9 – 5.15). The Appellant is of the view also that the proposed development accords with Development Plan as whole, this view shared by the Local Planning Authority in the Statement of Common Ground [CD 9.22] at Paragraph 9.130.

 - A full and comprehensive Transport Assessment encompassing all the developments should be completed to avoid multiple redevelopments of the Area's infrastructure.

8.19. The Appellants have undertaken Strategic Modelling that has confirmed the Link Road will be required beyond the appeal development. The modelling continues to be undertaken and will inform Toton East and Toton North planning applications, where appropriate triggers for this infrastructure will be required. As discussed, the Appellants are of the view that a proportionate cumulative assessment has been undertaken in respect to the quantum of development proposed.

- The Appellant's position that 25/0371/OUT is a standalone development and that this application should be decided on its own merits is not credible.

8.20. The Appellant's submissions confirm that the development can come forward with appropriate mitigation proportionate to the development. Notwithstanding, the appeal development does not prejudice the provision of further services and infrastructure required by the wider allocation.

- The appeal should be dismissed on the basis that a holistic approach has not been demonstrated.

8.21. The appellant is undertaking assessment of the wider allocation as part of other applications. Considering all development as one would strangle any delivery on the allocation. As stated above, the appeal development does not prejudice the provision of further services and infrastructure required by the wider allocation.

- The Appellant's Statement of Case refers to Map 8 (Illustrative Concept Framework) within Policy 3.2 of the P2LP as justification for an entirely residential development within the site at Toton 'West' without any community facilities or long-term employment opportunities. Whereas Map 8 actually states "Residential led development" for the site (also known as the Toton South* character area within the SM-SPD). In other words, mainly residential, but not exclusively.

8.22. The appeal development doesn't fully cover the extent of Toton South Character Area. The provision of community facilities, employment and services are not prejudiced by the appeal development. The Local Planning Authority have confirmed through their Committee Report and Decision [CD 9.11-9.12] that proposed land use is acceptable.

- An entirely residential development at Toton 'West' is not compliant with the P2LP, CTTCNP, SM-SPD nor the emerging GNSP.

8.23. The Appellant disagrees with the statement as the identified character area does not relate to the appeal site and the landholding of the applicant. The alternative uses identified are not prejudiced by the development.

- The public open space within the development, although large, is to the very edge of the development and at least 500m from the centre of the proposed housing. A large part of this area is also intended for stormwater attenuation and is therefore not realistically public open space. In addition, the layout of spaces throughout the housing areas suggests that they would be unsuitable as play spaces.

8.24. The appeal development at present is in outline form only. The proposed development delivers a policy compliant amount of open space including the delivery of a LEAP. The Illustrative Masterplan [CD 1.03 and 3.03] has been developed on the basis of the constraints of the site and to make efficient use of the site in terms of housing delivery.

- Sustainable drainage appears to be dependent on an end of pipe solution rather than being managed closer to sources. The layout for the more detailed area in the hybrid application is highway dominated. There could be opportunities to manage surface water in verges and grassed areas, but there is no indication of this. Trees are mostly in private gardens which will not guarantee their longevity.

8.25. Landscaping and drainages are currently illustrative and will be confirmed via reserved matters applications or discharge of conditions. The principle of drainage scheme has been accepted by the LLFA and will be appropriately conditioned. Detailed landscape designs will be formulated as a detailed layout is prepared, it is in the Appellant's interest to deliver a thought-out comprehensive landscaping scheme in order to make the development attractive to buyer and for them to meet their Biodiversity Net Gain requirements.

- Below is a list of all the CTCNP policies applicable to the Appellant's development site at Toton 'West'.
 - Compliant INFO3(1); URBO1(1B); URBO5(1)
 - Partially Compliant ENVO2(1); INFO2(1); INFO3(2&3); INFO4(1&2); HASO1(1); URBO3(2); URBO5(4)
 - Non-compliant ENVO1(1); ENVO2(2&3); ENVO3(1,2A&G,3); INFO1(1&2); INFO2(2&3); HASO1(2); HASO2(1); HASO3(1); HASO4(1); URBO1(1A&C); URBO1(2); URBO2(1); URBO2(2); URBO3(1); URBO4(1-4,5A,5C-G); URBO5(2&3); LHC01(1&3); LHC04(1); LHC05(1); LHC06(1); LHC08(1&2); EMP01(1&2); EMP03(1)
 - Policies Not applicable to 25/0371/OUT as Chetwynd Barracks specific or for Infill Development ENVO1(2); ENVO3(2B-F); URBO4(5B); URBO6(1); LHC01(2); LHC02(1-3); LHC03(1); LHC07(1); EMP02(1-3)

8.26. A review of compliance with the policies of the Development is detailed below in Table 7.

8.27. Areas of non-compliance are not detailed in the table result from either being not applicable to the appeal proposal or are linked to detail design matters which will be considered as part of future reserved matters. The appellant believes that this relevant to the following policies:

- URBO1 Amenity Space & Privacy;
- URBO2 Minimising Crime;
- URBO3 Street Design;
- URBO4 Well Designed Neighbourhoods;
- URBO5 Strategic Location for Growth, West of Toton Lane;
- LHC01 Local Centres;
- LHC04 Secondary Education;
- LHC05 Primary Education and Medical Facilities;
- LHC06 New Leisure Centre;
- EMP01 Strategic Location for Growth Business Zone;
- EMP03 Smart Building Technologies & Modern Methods of Construction;

- ENV01 – Local Green Spaces.

8.28. It should be noted that the Local Planning Authority in consideration of the appeal scheme identified the following:

"proposals may conflict with some policies contained in the CTTCNP, paragraph 14 of the NPPF advises that 'the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69–70)".*

8.29. In light of the above, the CTTCNP does not contain an identified housing need and therefore limited weight is afforded to paragraph 14 in the wider planning balance."

Interested Party 2

- Transport-planning should be for Toton/Chetwynd Development as a whole, not piecemeal for each land-parcel;
- General motor-traffic;
- Public transport, cycling and walking;
- Perverse interpretation, by Mode Transport Planning, of the meaning of "vision-led";
- Ludicrous ideas about how people will use public transport;
- Over-hyping NCC cycle map, and a falsehood.

8.30. The points raised by Interested Party 2 focus specifically upon highways matters with opinion-based responses without the provision of evidence, the appellants position in relation to the aspects covered above are discussed within the Appellant's Transport Assessment, Travel Plan, Highways Statement of Common Ground and Mr Frisby's Highways Proof of Evidence.

Conclusion

8.31. In conclusion I have read and considered the submissions made by local residents and understand the concerns that they hold. I am though confident that all valid issues raised have been appropriately addressed through the robust and comprehensive planning application submission, the careful consideration of various technical issues by statutory consultees and in the evidence presented to this inquiry on behalf of the appellant. There are no residual issues raised in my view that constitute a planning reason for refusal.

9. Planning Balance

Weight to be Afforded to Policy and any Material Considerations

- 9.1. Section 70(2) of the TCPA 1990 sets out that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as they are material to the application, and to any other material considerations.
- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) states that, if regard is to be had to the development plan for the purpose of any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise. Taking these sections together, a decision-maker must, therefore, consider the development plan, identify any provisions within it which are relevant, and then properly interpret them.
- 9.3. For the purposes of this appeal, the Development Plan comprises of the adopted Broxtowe, Gedling and Nottingham Aligned Core Strategies Part 1 Local Plan (2014), the adopted Broxtowe Part 2 Local Plan that was adopted in (2019) and the Toton and Chetwynd Neighbourhood Plan that was made in 2024.
- 9.4. The National Planning Policy Framework (“NPPF”) does not purport to change the statutory framework or displace the primacy of the development plan; rather, it is a material consideration for the purposes of sections 70(2) of the TCPA 1990 and section 38(6) of the PCPA 2004. The NPPF represents up-to-date government policy and is, therefore, an important material consideration that must be taken into account where it is relevant to a planning application/appeal. If decision takers choose not to follow the Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.
- 9.5. At the heart of the NPPF is a presumption in favour of sustainable development, where Paragraph 11 sets out the policy for decision making. Paragraphs 11(c) and 11(d) set out how this should be done, with 11(d) referred to as the ‘tilted balance’. Before turning to the development plan, it is useful to note some key aspects of recent judgments on the approach to be taken.

The NPPF

- 9.6. The policy presumption in favour of sustainable development is promulgated between Paragraphs 11 and 14 of the NPPF. At first instance, Holgate J provided a detailed analysis of the presumption and the circumstances in which it is engaged (see, Monkhill Ltd v SSHCLG) [CD 9.35]. This analysis was accepted by the Court of Appeal [CD 9.36]

Paragraph 11(c)

- 9.7. The appeal proposals are in accordance with the current allocation Policy 3.2 and the wider policies of the Development Plan, therefore the Presumption in Favour of Sustainable Development at Paragraph 11(c) of the NPPF is engaged for the purposes of this appeal.

Paragraph 11(d)

- 9.8. Notwithstanding the engagement of Paragraph 11(c), the absence of a Five Year Housing Land Supply, also engages Paragraph 11(d) of the NPPF.

- 9.9. When applying Paragraph 11(d), it is appropriate to consider the requirements of Footnote 7 and whether policies are relevant to the determination of the application or appeal (limb (i)). Footnote 7 policies are those that protect areas or assets of particularly importance. In the present case, no Footnote 7 policies apply.
- 9.10. As regards Paragraph 11(d), Footnote 8 confirms that the presumption is triggered for applications involving the provision of housing where:
- a) The local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 78); or
 - b) b) Where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years (emphasis added).
- 9.11. Footnote 8 qualifications are not contingent on one another; to engage the presumption, the satisfaction of one will suffice. As regards criterion (a), the Council cannot demonstrate a five-year supply of deliverable housing land. Their own supply analysis confirms a 4.85-year supply.
- 9.12. Footnote 8a) qualification is therefore satisfied, engaging the tilted balance. This means:
- The most important policies are deemed out of date. The weight to be given to them is a matter of judgment for the decision taker, albeit noting the Supreme Court judgment in *Suffolk Coastal DC v Hopkins Homes Ltd* [CD 9.37] that if a planning authority that was in default of the requirement of a five-years' supply were to continue to apply its environmental and amenity policies with full rigor, the objective of the Framework could be frustrated; and
 - That the decision taker should be disposed to grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 9.13. In light of this, and in the absence of any applicable Footnote 7 policies, the decision-taker must proceed to limb (ii) and determine the application accordingly. Planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. The tilted balance is therefore engaged, I will undertake that assessment in the 'Planning Balance' section below.

Adopted Development Plan

- 9.14. The relevant development plan policies are set out in the Table 1, 2 and 3 of SoCG with the LPA. The Council's decision taken on the undetermined outline application in their Committee Report and Minutes [CD 9.11 and 9.12] confirmed that they would have approved the application subject to the Highways Consultees removing their objections. There is thus no proposition from the Council that the appeal proposals are contrary to any other relevant development plan, or where there is relevant officer judgement has been applied.
- 9.15. Table 7 below, Section 7 above and the SoCG between paragraphs 9.6–9.132 details the scheme's accordance with the main policy requirements of the Development Plan.

Table 7: Development Scheme's Accordance with the Main Policy Requirements of the Development Plan

Policy	How the development meets the Policy requirements
Broxtowe, Gedling and Nottingham Aligned Core Strategies Part 1 Local Plan (2014)	
ACS Policy A – Presumption in Favour of Sustainable Development	The principle of Policy CP1a does remain up to date as it is consistent with the approach set out in the NPPF. Policy CP1a, however, is not considered to be one of the most important policies in relation to the consideration of this appeal as the requirements in NPPF Paragraph 11(d)(ii) takes precedence over Policy CP1a. Notwithstanding the development is considered to demonstrate that any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole. My proof will demonstrate this and the Officer's Committee Report considered this to be the case. There are no specific policies in the Framework that indicate that development should be restricted
ACS Policy 1 – Climate Change	The proposed development has addressed the key points of the policy with a development that: • Future design of units will build in Sustainable design and adaptation measures (which will be detailed within reserved matters submission). • will not be impacted by flood risk. All matters have been agreed or to be mitigated via condition.
ACS Policy 2 – The Spatial Strategy*	Agreed that policy is out-of-date. Notwithstanding, the appeal development would deliver a quantum of residential in an identified location of growth.
ACS Policy 8 – Housing Size, Mix and Choice	The proposed development has proposed the delivery of a policy compliant 30% on-site provision of affordable housing.
ACS Policy 10 – Design and Enhancing Local Identity	The development seeks to deliver a high-quality, well-designed development. The development responds to the key design requirements of policy. The development responds to the site

	context and characteristics providing significant areas of open space. The development has been designed to consider the character of neighbouring housing existing in Toton, Chilwell and Stapleford.
ACS Policy 11 – The Historic Environment	The proposed development does not harm the setting or significance of heritage assets with 1km of the site. Further archaeological investigations will be required to establish the presence, extent, character, significance and level of development impact of the potential buried archaeological resource within the Site. It has been agreed that further archaeological evaluation is required as per the consultation response from the Nottinghamshire County Council Archaeologist, any further evaluation and any subsequent archaeological mitigation work could be secured as a condition of consent.
ACS Policy 12 – Local Service and Healthy Lifestyles	The proposed development will provide financial contributions (via a S106 agreement) as per consultee requests to fund community facilities including education and healthcare facilities.
ACS Policy 14 – Managing Travel Demand*	The proposed appeal development is located in a highly sustainable location within walking distance to the NET Tram Station located off Stapleford Lane providing sustainable travel to Beeston and Nottingham. A Framework Travel Plan has been submitted which provides site specific and area wide travel demand management (measures to reduce travel by private car and incentives to use public transport, walking and cycling for appropriate journeys including intensive travel planning); The appeal development also provides improvements to public transport services, walking and cycling facilities which would encourage the opportunity to utilise sustainable modes of transport.
ACS Policy 15 – Transport Infrastructure Priorities*	The proposed development has been designed to safeguard a route for the potential tram extension. The proposed development would not prejudice future delivery of this.
ACS Policy 16 – Green Infrastructure,	The Proposed Development includes approximately 6.63 ha of 'open space', which will be formed by elements such as proposed landscaping, public open space, drainage areas, an approximate

Parks and Open Space	location for a play space, a pedestrian and cycle link, plot access (e.g., shared private drives) and landscaping buffers. The landscape strategy seeks to retain the pattern and structure created by the existing field boundaries around the periphery of, and within, the Site. The public open space comprising the Proposed Development includes a Locally Equipped Area of Play (LEAP), natural play spaces, surface water attenuation and structural landscaping.
ACS Policy 17 – Biodiversity	The application submission demonstrates that the habitats present within and around the Site do not pose an 'in principle' constraint to the proposed development. The results of submitted BNG assessment [CD 2.08.2] demonstrate that the current proposals with the appropriate landscape detail are likely to be capable of meeting the required 10% gains for hedgerow and watercourse units onsite. It is agreed that the development could require offsite delivery of habitat units to ensure compliance with legislative and policy requirements, however this will not be confirmed until the development has been designed in detail and can be confirmed through the use of the standard BNG condition.
ACS Policy 18 – Infrastructure*	Section 11 of the SoCG details the infrastructure requirement that the development is contributing towards. They confirm that in accordance with policy the development will ensure that improvements are made to necessary and appropriate infrastructure, facilities and amenities. A Section 106 agreement will be drafted in advance of the hearing sessions detailing the obligations resulting from the development.
ACS Policy 19 – Developer Contributions	As above
Broxtowe Part 2 Local Plan (2019)	
Policy 1 – Flood Risk	The proposed development has addressed the key points of the policy with a development that will not be impacted by flood risk. All matters have been agreed or to be mitigated via condition.
Policy 2 – Site Allocations	The proposed development is located within an identified site allocation in the 'Main Built Up Area'.

	The proposed development is considered to be: • Consistent with the amount, type and distribution of development listed in the Key Development Requirements of each policy and shown on the Policies Map; • Takes all reasonable steps to be consistent with the Key Development Aspirations of each policy; and • Is consistent with other relevant policies in this Local Plan.
Policy 3 – Main Built Up Site Allocations (Policy 3.2: Land in the vicinity of the HS2 Station at Toton (Strategic Location for Growth)) *	The site is identified as a 'Main Built Up Area' Site Allocation in Policy 3. Policy 3.2 allocates the site. It is agreed in the Statement of Common Ground at Paragraph 9.9 [CD 9.22] with the Council that the development accords with main requirements of the policy and does not prejudice requirements for the wider allocation. The requirements are: • In general accordance with Map 8: Toton Strategic Location for Growth Illustrative Concept Framework • 500–800 dwellings within the Plan Period (3,000 dwelling in total) • Min 18,000sq.m for mixed employment (B Uses) • Limited retail and community facilities • Undergrounding of the high voltage electricity cables at the south of the site. • Development should be located and designed to complement and not prejudice proposals for access to the HS2 Hub Station and further build-out of the Innovation Campus which is to be delivered beyond the plan period. • Highway infrastructure must be considered in conjunction with requirements for the Chetwynd Barracks allocation (Policy 3.1) and wider area.
Policy 15 – Housing Size Mix and Choice	The proposed development has proposed the delivery of a policy compliant 30% on-site provision of affordable housing. Exact mix and house types will be detailed at Reserved Matters.
Policy 17 – Place-Making, Design and Amenity	The development seeks to deliver a high-quality, well-designed development. The development responds to the key design requirements of the policy. The development responds to the site context and characteristics providing significant areas of open space

	The proposed development is considered to accord with the policy it has been designed to consider the following and ensure no unacceptable harm is created. • Loss of privacy; • Overbearing (massing) effect; • Loss of sunlight and daylight; • Noise, vibration, smells, fumes, smoke, soot, ash, dust or grit; • Air, water, noise and light pollution; • Hazardous substances and industrial processes; • Traffic generation, access and car parking. Conditions are identified to manage any impacts that would require mitigation.
Policy 19 – Pollution, Hazardous Substances and Ground Conditions	The proposed development will not generate pollutants that would be unacceptably detrimental to the health and amenity of users of the development, users of adjoining land or the environment; or where the level of existing pollutants would be unacceptably detrimental to the health and amenity of users of the proposed development. Consultees have confirmed that this is the case. Ground conditions are also confirmed to be acceptable by consultees. Where necessary conditions have been agreed for mitigation or further detailed assessment.
Policy 20 – Air Quality	No significant impact are identified. Conditions are identified to manage any impacts that would require mitigation through construction.
Policy 23 – Proposals affecting Designated and Non-Designated Heritage Assets	The proposed development does not harm the setting or significance of heritage assets with 1km of the site. Further archaeological investigations will be required to establish the presence, extent, character, significance and level of development impact of the potential buried archaeological resource within the Site. It has been agreed that further archaeological evaluation is required as per the consultation response from the Nottinghamshire County Council Archaeologist, any further evaluation and any subsequent archaeological mitigation work could be secured as a condition of consent.

Policy 24 – The Health Impacts of Development	A Health Impact Assessment Checklist has been prepared. The Checklist submitted demonstrates that the proposed development is likely to have a neutral – positive impact on development in term of health.
Policy 26 – Travel Plans	A Travel Plan was prepared and submitted and will be condition/obligated.
Policy 28 – Green Infrastructure Assets	The Proposed Development includes approximately 6.63 ha of ‘open space’, which will be formed by elements such as proposed landscaping, public open space, drainage areas, an approximate location for a play space, a pedestrian and cycle link, plot access (e.g., shared private drives) and landscaping buffers. Where required financial obligations are proposed to support improvements and maintenance of existing infrastructure.
Policy 30 – Landscape	The proposed development is located outside and won't affect the setting of an identified Local Landscape Character Area.
Policy 31 – Biodiversity Assets	The application submission demonstrates that the habitats present within and around the Site do not pose an ‘in principle’ constraint to the proposed development. The results of submitted BNG assessment [CD 2.08.2] demonstrate that the current proposals with the appropriate landscape detail are likely to be capable of meeting the required 10% gains for hedgerow and watercourse units onsite. It is agreed that the development could require offsite delivery of habitat units to ensure compliance with legislative and policy requirements, however this will not be confirmed until the development has been designed in detail and can be confirmed through the use of the standard BNG condition.
Policy 32 – Developer Contributions	Section 11 of the SoCG details the infrastructure requirement that the development is contributing towards. They confirm that in accordance with policy the development will ensure that improvements are made to necessary and appropriate infrastructure, facilities and amenities. A Section 106 agreement will be drafted in advance of the hearing sessions detailing the obligations resulting from the development.

Chetwynd: The Toton and Chilwell Neighbourhood Plan (2024)	
Policy ENVO2 – Natural Environment	The application submission demonstrates that the habitats present within and around the Site do not pose an ‘in principle’ constraint to the proposed development. The results of submitted BNG assessment [CD 2.08.2] demonstrate that the current proposals with the appropriate landscape detail are likely to be capable of meeting the required 10% gains for hedgerow and watercourse units onsite. It is agreed that the development could require offsite delivery of habitat units to ensure compliance with legislative and policy requirements, however this will not be confirmed until the development has been designed in detail and can be confirmed through the use of the standard BNG condition. The amendments to the access, alongside additional detailed design work within the adjacent residential areas, has resulted in additional tree loss on site by the site access; for transparency, this loss is shown on the updated Parameters Plan. The supporting Arboricultural Assessment (CD 2.08.4) confirms that the additional trees to be removed are of Category C quality. The Arboricultural Assessment confirms in terms of arboriculture, the proposals are considered to meet the aims and objectives national policy through careful consideration of the design and retention of a high proportion of the existing tree cover. The retention of, coupled with targeted future management and Toton West enhancement of the existing and future tree cover will meet many of the individual aspirations set out in the policy. The benefits of development outweigh the adverse impact of the tree removal.
Policy ENVO3 – Green and Blue Infrastructure Requirements	The Proposed Development includes approximately 6.63 ha of ‘open space’, which will be formed by elements such as proposed landscaping, public open space, drainage areas, an approximate location for a play space, a pedestrian and cycle link, plot access (e.g., shared private drives) and landscaping buffers. Along the southern boundary of the appeal site a green corridor is provided which will deliver a pedestrian link and landscaping. The provision accords with indicative location of the corridor shown on Figure 13.2 of the Neighbourhood Plan [CD 6.03]
Policy INFO1 – Road Infrastructure	The Proposed development will not have a severe impact on Stapleford Lane. As part of this application a 4-arm access will be created which see the delivery of the first element of the Toton Link road, which is identified as a key piece of infrastructure.

	The development proposals do not prejudice the delivery of a proposed railway station and interchange.
Policy INFO2 – Active Travel	The proposed development proposes to deliver pedestrian and cycle routes. Existing routes are proposed to be enhanced. The proposed design of routes within green corridors will be confirmed at reserved matters.
Policy INFO3 – Public Transport	The proposed development safeguard a route for a potential NET extension without prejudicing delivery. The scheme has been developed at a specification to allow bus routing into the site if providers deemed it viable. S106 contributions are proposed to support public transport in the locality.
Policy INFO4 – Parking & Reducing Travel Demand	Parking proposal will be forthcoming as part of reserved matters. The appellant has prepared a Travel Plan that seeks to reduce reliance on private car. This is by supporting sustainable transport options such walking and cycling and public transport (bus and tram services).
Policy HASO1 – Housing Mix	The proposals seek to deliver 30% affordable housing on-site with a mix of Affordable Rent and Shared Ownership tenure types. Housing mix will be confirmed at reserved matters but will be based upon local housing needs and market requirements.
Policy HASO2 – Green Design & Sustainability	The proposed development has addressed the key points of the policy: • The future design of units will build in Sustainable design and adaptation measures (which will be detailed within reserved matters submission). • These will be guided by Building Regulations.
Policy HASO3 – Broadband Connectivity	Part R of Building Regulations dictates developer need to install gigabit-ready physical infrastructure and gigabit-capable connections for new homes.
Policy HASO4 – On-Site Construction	The appellant will seek to limit their time on-site and will consider opportunities to limit this. Bloor Homes primarily builds traditional new-build properties rather than full modular housing, though they selectively utilize

	modern methods of construction (MMC) like off-site manufactured roof systems and energy-efficient standards
Policy LHC02 – Heritage Assets	The proposed development does not harm the setting or significance of heritage assets with 1km of the site. Further archaeological investigations will be required to establish the presence, extent, character, significance and level of development impact of the potential buried archaeological resource within the Site. It has been agreed that further archaeological evaluation is required as per the consultation response from the Nottinghamshire County Council Archaeologist, any further evaluation and any subsequent archaeological mitigation work could be secured as a condition of consent.

9.16. The Officer's Committee Report [**CD 9.11**] confirms that the development is in accordance with the Development Plan as a whole, to which I agree.

9.17. The Officer identifies that proposals may conflict with some policies contained in the CTTCNP, Paragraph 14 of the NPPF advises that 'the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see Paragraphs 69–70).

9.18. In light of the above, the CTTCNP does not contain an identified housing need and therefore limited weight is afforded to paragraph 14 in the wider planning balance.

9.19. As set out above, this appeal therefore centres on compliance with NPPF Paragraph 116.

The NPPF

9.20. The policy presumption in favour of sustainable development is promulgated between Paragraphs 11 and 14 of the NPPF. At first instance, Holgate J provided a detailed analysis of the presumption and the circumstances in which it is engaged (see, Monkhill Ltd v SSHCLG) [**CD 9.35**]. This analysis was accepted by the Court of Appeal [**CD 9.36**].

Paragraph 11(c)

9.21. The appeal proposals are in accordance with the current allocation Policy 3.2 and the wider policies of the Development Plan, therefore the Presumption in Favour of Sustainable Development at Paragraph 11(c) of the NPPF is engaged for the purposes of this appeal.

Paragraph 11(d)

- 9.22. Notwithstanding the engagement of Paragraph 11(c), the absence of a Five Year Housing Land Supply, also engages Paragraph 11(d) of the NPPF.
- 9.23. When applying Paragraph 11(d), it is appropriate to consider the requirements of Footnote 7 and whether policies are relevant to the determination of the application or appeal (limb (i)). Footnote 7 policies are those that protect areas or assets of particularly importance. In the present case, no Footnote 7 policies apply.
- 9.24. As regards Paragraph 11(d), Footnote 8 confirms that the presumption is triggered for applications involving the provision of housing where:
- a) The local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with a buffer, if applicable, as set out in Paragraph 78); or
 - b) Where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years (emphasis added).
- 9.25. Footnote 8 qualifications are not contingent on one another; to engage the presumption, the satisfaction of one will suffice. As regards criterion (a), the Council cannot demonstrate a five-year supply of deliverable housing land. Their own supply analysis confirms a 4.85-year supply.
- 9.26. Footnote 8a) qualification is therefore satisfied, engaging the tilted balance. This means:
- The most important policies are deemed out of date. The weight to be given to them is a matter of judgment for the decision taker, albeit noting the Supreme Court judgment in *Suffolk Coastal DC v Hopkins Homes Ltd* [CD 9.37] that if a planning authority that was in default of the requirement of a five-years' supply were to continue to apply its environmental and amenity policies with full rigor, the objective of the Framework could be frustrated; and
 - That the decision taker should be disposed to grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 9.27. In light of this, and in the absence of any applicable Footnote 7 policies, the decision-taker must proceed to limb (ii) and determine the application accordingly. Planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. The tilted balance is therefore also engaged here, and I will undertake that assessment in the 'Planning Balance' section below.

Presumption in Favour of Sustainable Development

- 9.28. Decision makers have a statutory duty to determine applications or appeals in accordance with the development plan unless material considerations indicate otherwise. The NPPF is an important material consideration, and in paragraph 11 the Government has set out its policy to guide decision makers in the performance of their statutory duty. As policy, paragraph 11

cannot displace the primacy of the development plan and functions within the statutory arrangements for decision taking (Section 38(6)).

- 9.29. My evidence has identified that this appeal can be successful on two fronts, namely by its compliance with Section 38(6) and also by virtue of the engagement of NPPF Paragraphs 11(c) and 11(d).
- 9.30. The discussion in Paragraphs 9.14 – 9.18 demonstrates how the proposed development is in accordance with Broxtowe Borough Council's Development Plan under the engagement of NPPF Paragraph 11(c) and as such the decision taker should approve development proposals that accord with an up-to-date development plan without delay.
- 9.31. It can also be inferred from the Statement of Common Ground with the Council's lack of 5-year housing land supply that the presumption in favour of sustainable development in paragraph 11 (d) from the NPPF, the 'tilted balance', is also engaged in this appeal by virtue of the Council's inability to demonstrate a five-year housing land supply.
- 9.32. In the absence of any applicable Footnote 7 policies, the decision-taker must proceed to limb (ii) of NPPF Paragraph 11(d) and determine the application accordingly. This states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Footnote 9 notes that this further detail in Paragraph 11(d) relates to those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12. I seek to have regard to these policies in undertaking the planning balance below.
- 9.33. In order to assess the benefits of the development, and any harm that would arise, it is useful to conduct this exercise in the context of the Government's approach to achieving sustainable development and the three overarching objectives of the planning system, set out in Paragraph 8 of the NPPF.

Consideration of Benefits and Harm

Benefits of Development – Social Benefits

- 9.34. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.
- 9.35. The Council cannot demonstrate a five-year supply of deliverable housing land. Indeed, the Council's position is stated as 4.85 years, which represents a shortfall.
- 9.36. As a result of this significant shortfall and, in the context of the Council's chronic failure to deliver housing, **very significant positive weight** should be attached to the delivery of up to 420 new dwellings on an allocated site within part of the next 5 years.
- 9.37. The provision of 30% affordable housing is, in its own right, is a significant benefit of the scheme. The provision accords with NPPF Paragraph 66 that when considering major development it is expected "that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home

ownership tenures". The mix as prescribed in the S106 agreement is 66% social rented and 34% shared ownership in line with the Council's identified needs. In accordance with NPPF Paragraph 11 d(ii), this affordable housing provision is a key benefit. Particular regard should be given to it in the balance of the adverse impacts and benefits of the development. On-site affordable housing provision should attract **very significant positive weight**.

9.38. In terms of on-site open space provision, an above policy compliant position is proposed. 6.63 ha of on-site open space is proposed. The scheme also provides a Local Equipped Area for Play (LEAP) that will be accessible to existing nearby children.

9.39. These substantial new areas of open space are to be delivered with new and enhanced pedestrian and cycling linkages into and out of the site as shown on the Illustrative Masterplan [CD 1.03 and 3.03]. These benefits will serve the wider community by providing accessibility across the site and to nearby service and sustainable transport links and should therefore attract **moderate positive weight**.

Economic Benefits

9.40. Paragraph 85 of the Framework sets out that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

9.41. The appellant has quantified a number of economic benefits that will flow from the proposals, these are stated below and have been agreed with the Council as part of the Statement of Common Ground [CD 9.22] at Paragraph 9.20. These are summarised as follows:

- An estimated 169 jobs could be supported on-site and in the wider economy per annum during the build phase;
- Around £10.7million of gross value added per annum is estimated to be generated over the two-year build period, or £68million over the entire build phase (present value);
- An estimated 438 economically active and employed residents are estimated to live in the Proposed Development;
- The Proposed Development could generate an additional household expenditure of £6.7million per annum once it is complete and fully occupied, of which around £2.1million would be retained within Broxtowe;
- The dwellings could generate additional £1million per annum in Council Tax payments;
- The dwellings could generate an estimated £2.5million in first occupation expenditure.

9.42. These are considerable economic benefits arising from the development proposals and to which I give **moderate positive weight**.

Environmental Benefits

9.43. The proposal would generate a host of environmental benefits, notably through delivering housing in a sustainable location. In the context of national planning policy, the appellant has maximised opportunities for sustainable transport in accordance with NPPF Paragraph 110 which states that "significant development should be focused on locations which are or can

be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes".

- 9.44. The proposed development through the provision of a detailed access design, provision of enhanced walking and cycling infrastructure (into the existing network and providing further linkages to existing infrastructure to the countryside and sustainable transport linkages) as detailed in the Design and Access Statement [CD 1.07 and 3.06], shows how the development accords with the requirements of NPPF Paragraph 115. This element of the development demonstrates how sustainable transport modes are prioritised within the development and shows how safe and suitable access to the site can be achieved for all users.
- 9.45. The development demonstrates that sustainable transport modes are being prioritised through the enhancement and new provision of cycling and pedestrian links and through the provision of a financial contributions towards public transport improvements. The development also provides excellent connections to the Toton Lane Tram Station which provides key linkages to Beeston and Nottingham as well as a host of large employers.
- 9.46. The proposed development is futureproofed and allows for the safeguarding of a route for an extension to the tram if this is pursued by relevant third parties. Further to this the application will also see the delivery of a 4-arm access, which includes for the first element of the Link Road proposed to the East of Stapleford Road, this provides a commitment to the construction of this key piece of infrastructure required as part of the delivery of the wider Masterplan.
- 9.47. A key element of the design is the potential undergrounding of High Voltage Cables that span across the site, the appellant is in discussion with the National Grid to agree the implementation of this strategy and will be agreed once a planning permission is in place. The undergrounding of these cables is a key environmental benefit as it will improve the visibility of the site removing a blighting feature on the current landscape.
- 9.48. The appeal site is considered to be in a sustainable location. The Design and Access Statement [CD 1.07 and 3.06] identifies the site is located on the north-western edge of Toton within walking distance of a large number of existing facilities, schools and recreation areas.
- 9.49. Toton, Chilwell and Stapleford provides a range of local shops (including a supermarket) and services for residents in the local area. The site is within 600-1,200m-minute walking distance of existing primary and secondary schools, doctors' surgeries, food stores, employment centres and a range of retail and leisure facilities. The site's proximity to Toton, Chilwell, Stapleford, Long Eaton, Beeston and Nottingham and its location within walking distance of these amenities demonstrates that it is a sustainable location for new residential development.
- 9.50. These factors weigh in favour of the scheme and should attract **moderate positive weight**.
- 9.51. The design of the development has been carefully considered and seeks to make effective use of the land as per the requirements of NPPF Paragraph 129. Bloor Homes will deliver family housing with gardens that is reflective of the character of Toton, Chilwell and Stapleford. The Design and Access Statement [CD 1.07 and 3.06] details that the development seeks to achieve an average density of 35 dpa across the site. It is envisaged that there will be a lower density on the southern development edge overlooking the existing properties in Toton.

- 9.52. The development is also considered to accord with the requirements of NPPF Paragraph 135, the principles of the design established in the DAS seeking to ensure that the development will be functional, visually attractive, sympathetic to local character and will be a welcoming, safe and distinctive place to live. The proposed development provides an appropriate split between built development and open space that will support and enhance local facilities and the transport network.
- 9.53. The Design and Access Statement identifies an approach that allows the design to reflect varying site characteristics. The Illustrative Masterplan [CD 1.07 and 3.06] provides opportunities to create character through:
- The overarching layout of the proposed Illustrative Masterplan and function of the different areas;
 - The combination of different dwelling types and density;
 - The potential for different building heights and roofscapes;
 - Changes in street typologies and public spaces.
- 9.54. As per NPPF Paragraph 139, the development will also help raise the standard of design in the general locality.
- 9.55. In accordance with NPPF Paragraph 11 d(ii), it is considered that this proposal is capable of securing a development that makes effective use of land and secures a well-designed place. This factor weighs in favour of the scheme and should attract **moderate positive weight**.

Harms

- 9.56. No adverse harms have been alleged by consultees (including the highways consultees). The only negatives identified have resulted from the preparation of the Environmental Statement. The effects relate to the change of landscape from an agricultural field to a residential development (as would be expected on a greenfield development site) and the loss of a limited amount of BMV quality of land. The Environmental Statement has mitigated these impacts as part of the design of the development. It is important to note that these harms have only arisen following the allocation of the site for development by Broxtowe Borough Council.
- 9.57. Both of these points are therefore attached with **limited negative weight**.
- 9.58. The appeal proposal adjoins the edge of the urban area of Toton, a suburb of Nottingham benefiting from variety of services and facilities; it is a sustainable location for new housing growth and an existing allocation.
- 9.59. We are in an acknowledged housing crisis where needs are far outstripping supply, nationally and in Broxtowe. In addition to helping to meet those acute and urgent needs, the appeal proposals deliver additional significant economic, social and environmental benefits with limited, localised adverse impacts.
- 9.60. Table 8 below clearly demonstrates that the appeal proposals benefits clearly outweigh the adverse impacts of the development.

Table 8: Visualisation of application of 'Tilted Balance'

Scheme Benefits	Scheme Adverse Impacts
Delivery of up to 420 dwellings (very significant positive weight)	Loss of limited amount of Best Most Versatile (BMV) quality (limited negative weight)
Delivery of 30% affordable housing (very significant positive weight)	Landscape visual impacts for development of agricultural field (limited negative weight)
Provision of 6.63 ha of Open Space (moderate positive weight)	
Construction and Operational Economic Benefits (moderate positive weight)	
Sustainably Located Site (moderate positive weight)	
Underground of High Voltage Calbes (moderate positive weight)	
Delivery of first element of Toton Link Road (moderate positive weight)	
Sustainable Transport Improvements (moderate positive weight)	
High standard of design (moderate positive weight)	

Improvements to Local Services and Facilities (moderate positive weight)	
--	--

- 9.61. The above evidence has identified that this appeal can be successful on three fronts:
1. A straight determination pursuant Section 38(6);
 2. A decision taken under NPPF Paragraph 11(c) due to the site being in accordance with the Development Plan;
 3. A decision taken under NPPF Paragraph 11(d) (tilted balance) due to the Council's failure to demonstrate an adequate five-year housing land supply.
- 9.62. In the context of Paragraph 11(d) I conclude that the benefits of this scheme significantly and demonstrably outweigh the adverse impacts.
- 9.63. I believe that the appeal proposal represents sustainable development in accordance with the NPPF as a whole and should therefore be allowed.

10. Conclusion

- 10.1. My proof of evidence has demonstrated that the appeal proposals are suitable and should be allowed on three facets.
- 10.2. Firstly, the development accords with Section 38(6) and should be approved without delay as it accords with the Development and there are no material considerations that identify otherwise.
- 10.3. Secondly, the development accords with NPPF Paragraph 11(c) as by being in accordance with the policies of Development Plan. The proposed appeal would see the delivery of the first phase of an allocated site contained within the Broxtowe Local Plan Part 2 Policy 3.2. The delivery of this site is important as the Council are relying on the delivery of part of allocation to contribute to the Council's 5 Year Housing Land Supply.
- 10.4. Thirdly, in the absence of Broxtowe not having an up to date 5 Year Housing Supply (4.85 years), the tilted balance detailed at Paragraph 11(d) is engaged. I conclude following assessment, that the benefits of this scheme significantly and demonstrably outweigh the adverse impacts.
- 10.5. My colleague Mr David Frisby has provided a Transport Proof of Evidence that addresses the specific issues raised by both the National Highways and Nottinghamshire County Council in relation to their view that the development has not met the requirements of NPPF Paragraph 116 in terms of cumulative assessment. It is mine and Mr Frisby's that NPPF Paragraph 116 has been satisfied.
- 10.6. I believe that the appeal proposal represents sustainable development in accordance with the NPPF as a whole and should therefore be allowed.



Appendix A: Bloor Homes Ltd- Matter 2 – Issue 6: Green Belt Hearing Statement

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

East Midlands

4 The Courtyard, Church Street, Lockington,
Derbyshire, DE74 2SL
T 01509 670806
E EastMidlands@pegasusgroup.co.uk
Offices throughout the UK.

Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE

Pegasus Group is a trading name of Pegasus Planning Group Limited (07277000) registered in England and Wales.

Registered office: 33 Sheep Street, Cirencester, GL7 1RQ
We are ISO certified 9001, 14001, 45001



Pegasus_Group



pegasusgroup



Pegasus_Group

PEGASUSGROUP.CO.UK