

**Town & Country Planning Act 1990 (As amended)**

Appeal by  
Wulff Asset Management Limited

Against the refusal of Outline Application for up to 196 dwellings with all matters reserved other than the means of access.

At  
Land North West Of 1 To 12 Twelve Houses, Sowbrook Lane, Stanton By Dale,  
Derbyshire DE7 4QX.

**PROOF OF EVIDENCE**

**OF**

**ADAM REDDISH**  
BA (HONS), DIP TP, MRTPI

**SUMMARY**

PINS Appeal Ref: APP/N1025/W/23/3319160  
Council Ref: ERE/0722/0038

### **Weight accorded to policies in emerging plans:**

1. The plan-led system is a cornerstone of the planning system. Its primacy is a clear theme that flows throughout the National Planning Policy Framework (NPPF).
2. Paragraph 48 of the NPPF enables LPAs to give weight to relevant policies in emerging plans, such as those within the LPA's Core Strategy Review (CSR). Criteria at Para 48 assists in understanding what level of weight can be afforded to relevant policies.
3. After its submission in November 2022, the LPA's CSR is currently at examination. After passing through three separate stages of public consultation, with political support obtained at each, not only does the emerging plan represent the LPA's preferred growth strategy, but by virtue of the stage of plan-making reached then it should be considered very well advanced in its production.
4. The LPA asserts that the remaining criteria concerning the extent of unresolved objections to draft policies and conformity of policies with national planning guidance are fulfilled. The appellant has made objections to the LPA in respect of how emerging policies impact upon the appeal site, although the wider interest in the site is extremely limited. Insofar as conformity to provisions of the NPPF, the LPA has, through its plan-making activity, developed a positive framework in which to address housing need in the Borough. It has also developed other relevant policies to this appeal (Strategic Policies 1.5 – South West of Kirk Hallam and Strategic Policy 5 – Green Infrastructure) in accordance with provisions of national planning policy.
5. All three criteria at Para 48 are therefore considered to be fulfilled and as the planning system is very heavily predicated on the primacy of the plan-making system, moderate to significant weight to emerging policies should be given when assessing the merits of the appeal proposal.

### **Reason for Refusal 8:**

6. Consideration of what represents a strategic development has been necessary through the LPA's local plan review process. LPAs are required by the Planning & Compulsory Purchase Act 2004 to identify strategic priorities and then develop policies through their Development Plan Documents. As such, determining what represents a strategic scale development is a vital element of plan-making. Despite this, no such steer exists in national planning guidance, leaving such a matter to the LPA's judgement.
7. A combination of evidence assisted the LPA to reach a conclusion on a suitable scale of a strategic development site. In-house technical work resulted in the identification of a number of Strategic Growth Areas (SGA) with these comprehensively appraised by Strategic Growth Assessments. Combined with a range of other factors, the LPA were able to establish a 200-home strategic development threshold.

8. The role of plan-making is considered significant in ensuring LPAs have up-to-date plans and policies in which to make decisions against. The LPA recognises its Local Plan is out-of-date and has invested considerable time and resource into developing a draft plan to address strategic planning matters.
9. The appeal site, at 196 homes, is strongly comparable both in size and housing capacity to strategic allocations in the draft plan. As a result, it should be dealt with in a consistent manner alongside the other allocations, allowing the LPA to understand how development would contribute to strategic environmental, economic and social objectives.
10. Guidance at Paragraph 49 of the NPPF is significant in this appeal. It sets out the limited circumstances in which an application can be deemed as premature. The LPA are firmly of the view that both circumstances are relevant and applicable in this instance. At 196 homes, the development is so substantial that granting permission would undermine the plan-making process by pre-determining decisions about scale, location or phasing of development that are central to an emerging plan. Additionally, with the CSR now at examination, the LPA's plan-making constitutes an 'advanced stage' referred to in Para 49b.
11. The LPA's plan-making efforts has been carried out in accordance with provisions at Para 16(a)-(f) of the NPPF and all Local Planning regulations. Allowing the appeal will circumnavigate the plan-led system, with a site of strategic scale not able to be considered as part of formal Hearing Sessions.
12. Further impacts on plan-making would arise from allowing the appeal owing to the doubt over the status of the four Green Belt strategic sites, with the housing supply from the appeal site meaning the LPA could no longer justify all four's continued allocation. Each allocation forms part of the LPA's preferred housing strategy that has been subject to extensive public consultation.
13. Such impact on the emerging plan would have serious implications to the LPA's ability to continue its plan-making activities. A return to a potentially much earlier stage of plan production subjects the LPA to a much longer and prolonged period of risk without having an up-to-date Local Plan, with significant work and time required to bring the CSR back to its current status. Such an outcome is a significant attack on the importance placed by the current Government on the importance of having an up-to-date Local Plan. It would also set back the LPA's efforts to address a serious housing shortfall, with a potentially long delay to return to submission/examination to put in place a positively prepared housing framework.

#### **Reason for Refusal 9:**

14. The evolving position around the development of the LPA's housing strategy at the Revised Options for Growth stage of the CSR's development, seeing the South-West Kirk Hallam allocation grow from 600 to 1,300 homes and the identification of a strategic employment site at Stanton North, prompted the

issue of maintaining a continued, long-term separation between Ilkeston & Kirk Hallam becoming a strategic planning matter.

15. The LPA, following the provisions of the NPPF at Paras 73e and 140, identified an additional 27 hectares of Green Belt to help with the continued separation. This would help provide adequate and robust protection ensuring separation between an expanded Kirk Hallam and the Stanton North employment site, meeting the strategic purposes of including land as Green Belt.
16. The LPA, mindful of the provisions of NPPF Paras 48, are able to confirm that its Green Belt proposals to designate additional land were of limited wider interest with only the appellant making representations through the plan review. In light of this, the LPA view Strategic Policy 1.5 – South West Kirk Hallam as meriting moderate to significant weight through determining the appeal proposal.

#### **Reason for Refusal 10:**

17. In meeting its plan-making duties, the LPA must ensure its development plan includes strategic policies to address its strategic planning matters. Para 20 of the NPPF cites Green Infrastructure (GI) as one such matter.
18. Recognising the definition of GI in the NPPF glossary, the LPA understood that assets within the Borough were strongly compatible and resolved at an early stage of its plan preparation that the identification of a GI network was justified, developing a suitable policy.
19. Similarly to concerns over Strategic Policy 1.5 – South West Kirk Hallam, Harris Lamb also submitted representations setting out their concern over Strategic Policy 5 – Green Infrastructure and the implications for their client's site and interests. However, the LPA contends that the nature of the objection should be a matter examined and explored in further detail through the Local Plan process as opposed to a standalone s78 appeal.
20. Waterways and GI combine to form an important network running between the LPA's most populous areas. These have significant potential to form a strategic asset and deliver a number of key benefits including better non-motorised connections between the LPA's areas of major housing and employment growth.
21. Four strategic green infrastructure corridors (SGIC) around the LPA area have been identified by the draft plan with four key policy objectives identified. Strategic policy in the emerging plan will help to strengthen the stated conditions described as being of significance in each SGIC. Strategic Policy 5 is tasked with delivering improved conditions, recognising the collective importance of the four characteristics to achieving a successful network of SGICs.

22. The conflict between the appeal proposal and Strategic Policy 5, but particularly in terms of the impact the proposal would have on the identified Nutbrook SGIC should be considered at the Local Plan examination in public.
23. The LPA disagrees that the appeal proposal could be successfully implemented without compromising the four objectives set out by the draft policy. At 196 homes, such a development would fundamentally alter the character of the SGIC at this location. The remainder of the proposed SGIC network identified by the draft policy is almost exclusively free of such dense forms and types of development. This helps to demonstrate that the identification of the SGICs, in alignment with the aims of the policy, are not compatible with strategic-scale housing growth proposals.
24. Allowing the appeal would not only serve to pre-determine decisions about the policy in general (contrary to the plan-led system), but may see other land within the extent of corridors become vulnerable to residential schemes of varying size, which on an individual and cumulative basis, would be detrimental to the overall function and role of the SGIC network.