



Appeal Decision

Site visit made on 20 July 2026

by **Paul Thompson DipTRP MAUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 September 2026

Appeal Ref: 6008160

Land between 191 and 243 Nottingham Road, Selston, Nottingham NG16 6BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Stones Sankey Developments Ltd against the decision of Ashfield District Council.
 - The application Ref is V/2025/0464.
 - The development proposed is described as major outline planning application for some matters reserved for 42 dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Stones Sankey Developments Ltd against Ashfield District Council and is subject of a separate decision.

Preliminary Matters

3. The appellant's Appeal Statement refers to documents that were not submitted with the appeal. These were a new Biodiversity Net Gain Report (Elton Ecology, 2026) and the Elton Ecology Preliminary Ecological Appraisal Version 3, which were respectively replacements for the application documents, dated 2025 and noted as Version 1. I subsequently requested these documents to consider them against the 'Holborn Principles'¹, which set out substantive and procedural tests for whether late evidence should be accepted as part of an appeal. However, the appellant's agent confirmed that the appeal should be determined on the basis of the documents submitted to, and considered by, the Council at the application stage. I have therefore determined the appeal on that basis.
4. The National Planning Policy Framework was revised on 17 August 2026 (the Framework). The main parties have had the opportunity to comment on the relevance of any revised content of the Framework, and I have had regard to any responses received in my decision.

Main Issues

5. The planning application was submitted in outline with all matters reserved except for access, layout and scale. I have treated each element of the submitted drawings as indicative where they relate to appearance and landscaping when

¹ Established in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).

considering the likely impact of the proposal on the matters set out in the following main issues:

- the effect of the proposal on the character and appearance of the area;
- the impact of the proposal on protected species and their habitats, including through any effects to the Selston Common Grassland Local Wildlife Site;
- whether the proposal would provide safe and suitable access to the site for all users;
- whether the proposal could be made safe from flooding throughout its lifetime without increasing risk elsewhere, having regard to the proposed Sustainable Drainage System;
- the effect of the proposal on archaeological remains within the site; and
- the effect of the proposal on the significance of other Non-Designated Heritage Assets, through development within their setting(s).

Reasons

Character and Appearance

6. The appeal site is a wedge of land situated amongst residential development in Selston and has a direct frontage with Nottingham Road. The watercourse that runs through the centre, and the landscaping alongside it, effectively divide the site in two and the land either side falls to meet it. The higher part of the site, to the north of the watercourse, is within the Selston Common Grassland Local Wildlife Site. The perimeters of the site are also marked by hedgerow and other planting.
7. The homes to the south side of Nottingham Road differ markedly in form, scale and appearance. However, there is generally more consistency to the pairs of homes found to either side of the site and to the north in Holly Hill Road and neighbouring streets. The homes in Nottingham Road have a varied relationship with the street, and the plot sizes differ significantly, many incorporate front and rear gardens, with frontage parking. There are also instances of predominantly hard landscaped frontages, including on the same side of the road, either side of the site. The pairs of homes to the west of the site in Nottingham Road and north in Holly Hill Road, and neighbouring streets, respectively incorporate consistently sized plots and gardens with hedgerows. Parking is either on-street or in-plot alongside gardens, which are particularly generous in Holly Hill Road.
8. The proposed homes in the northern half of the site would be closely spaced like those to the south, but most plots would be significantly smaller, with shorter rear gardens. This aspect of the development would therefore appear cramped in comparison to the spacious arrangement of homes in Holly Hill Road. In contrast, the presence and linear arrangement of homes along the site's frontage with Nottingham Road would reflect the pattern of housing to the west. It would also be separated from the carriageway by landscaping, so this part of the development would not appear out of place within its context. Despite this, the layout of the northern half of the site would fail to reflect the prevailing characteristics of the plot sizes of neighbouring development, so the proposal would stand out as a visually harmful addition within its context.

9. The entrance into the development would be marked by triple perpendicular parking spaces on either side at the front of plots 12 and 36. Meanwhile, in the northern half of the site, the dominance of parking means that plots 14 to 35 would contain very few opportunities for planting. I appreciate that frontage parking is a feature of some houses nearby, and parking fronting onto Nottingham Road reflects this pattern. Some parking areas could also, to some extent, be screened by planting. Nevertheless, parking is not consistently the predominant feature within nearby streets, so its magnitude and extent within the development would visually degrade the arrival spaces, and the quality of the street environments that would be created. Consequently, as greater emphasis is given to accommodating vehicle parking rather than placemaking, this results in a consistent and significant weakness in the design of the proposed layout, which would result in parking being a prominent and visually intrusive aspect of the development.
10. Native hedgerows could be utilised to create a transition from rear boundaries of neighbouring properties to the open space in the northwest of the site, but it would remain inaccessible as part of the development. The other area of open space would be sandwiched between the rear boundaries of plots over the watercourse and adjoin the parking area and side boundary of Plot 33. Given their locations, and the limited size of the latter space, it is unclear how both areas would function as open space. The inclusion of open space in this manner is therefore unlikely to contribute in any meaningful way, so would amount to a further aspect of the development that would materially reduce the quality of the proposed layout.
11. The layout of homes either side of the main route between the north and south sections of the site shows large areas of garden alongside the carriageway, including into the buffer zone either side of the watercourse. Conventional wall or fence enclosures could result in a bland and imposing route at the heart of the development. However, the consistent approach to external boundaries of gardens in Holly Hill Road and neighbouring streets demonstrates that this could be satisfactorily addressed through landscaping at Reserved Matters and a scheme of boundary enclosures. I also have no doubt that it would be possible for the appearance of the proposed homes to be reflective of the character of the area.
12. Despite my positive findings in relation to aspects of the proposal, this would not address the main concerns that I have identified regarding how the proposal would be inconsistent with the prevailing character, and the overall quality of the residential environment that would be created. The proposal would therefore have a significant adverse effect on the character and appearance of the area. Hence, it would conflict with ALPR² Policy HG5, which indicates residential development will be permitted where, amongst other things, its design is acceptable in terms of its siting. This would also result in conflict with ALPR Policy ST1, which indicates that development will be permitted where, amongst other considerations, it does not adversely affect the character or quality of the environment. For similar reasons, the proposal would also fail to meet the key principles of the Framework's design policies DP3.1 and DP3.2, as it would not respond to its context, so that it integrates with and enhances its surroundings; and it would not create a visually attractive, distinctive and characterful development to establish or maintain a strong sense of place. It would also conflict with Framework Policy TR4 given that the transport considerations of the proposal would not be integral to its design to contribute to creating a well-designed place.

² Ashfield Local Plan Review, Adopted November 2002.

13. I have not found conflict in relation to ALPR Policies EV2 and EV4, as these relate to development in the countryside and in Mature Landscape Areas, and there is no indication that the site is situated within either of those areas.

Protected Species and Habitats

14. The Selston Common Grassland Local Wildlife Site (LWS), to the north of the site, comprises lowland acid grassland, with wet flushes. South of the watercourse, the land is assessed as being Modified Grassland.
15. The Preliminary Ecological Appraisal (PEA) and Biodiversity Net Gain Report (BNGR) were both based on a scheme of 18 homes, with development confined to the southern part of the site, with land solely for biodiversity enhancements to the north. The current proposal for 42 homes, and its submitted layout, do not reflect those assumptions. The areas of enhanced and retained habitats do not therefore correspond with the Baseline Habitat Retention Plan or the Proposed Habitat Plan in the BNGR.
16. The scheme of mitigation would include areas of open space which could be planted as wildflower meadows or a Grassland Management Plan utilised to maximise retention of existing grassland habitat. However, given the size of the areas identified, the potential use for drainage purposes, and the enclosure of one entirely by gardens, it is unclear how effective these would be. They would also not lead to the level of enhancement originally envisaged in the PEA and BNGR. In addition, landscaping is reserved for future consideration and some trees along the watercourse could remain, but the layout shows that many of the other existing features of the site's habitat would be unlikely to remain alongside the development, particularly those to the site's northern half.
17. While just under half of the proposed homes would be situated outside the LWS, gardens on either side of the watercourse would extend right up to it. It is unclear how parts of the numerous subdivided gardens of these properties could constitute a buffer and offer protection from development or enhancement of the biodiversity and habitat around the watercourse. It is also unlikely that subsequent controls could be maintained, in the long term, to retain wetland planting along the watercourse in gardens. This reduces the extent to which the removal of horses grazing within the site could reasonably be regarded as a long-term benefit.
18. Although a Construction Environmental Management Plan could minimise the effects of construction on the site and neighbouring Holly Hill Selston LWS, the PEA has identified that further surveys are required for otter, water vole and roosting bats. This is due to the watercourse and numerous trees within the site forming suitable habitat. As such, I cannot be certain that the proposal would not have a harmful effect on the habitat of protected species.
19. On this basis, the application and appeal have not been supported by sufficient information to enable me to conclude other than that the proposal would have a substantially adverse impact on protected species and their habitat, notably through the loss of the Selston Common Grassland LWS. Hence, it would conflict with the nature conservation aims of ALPR Policy EV6 and the protection afforded to the natural environment by ALPR Policy ST1.
20. The proposal would also conflict with Framework Policy N2, as this expects development to minimise any adverse impact on biodiversity, and the harm I have

identified has not been avoided, adequately mitigated or compensated for. Equally, Framework Policy N6(1), states development proposals affecting LWS should only be supported if the benefits of development in the location proposed clearly outweigh the likely impact on the features which make the site valuable for nature conservation. In this case, the absence of evidence regarding the identified matters means such a conclusion cannot be reached.

Highways

21. The evidence before me indicates that Nottingham Road is a very busy route through the district. While I appreciate it was a snapshot in time, during my site visit I observed a steady flow of traffic in either direction.
22. Both iterations of the appellant's Planning Statement³ (PS) refer to a transport assessment and travel plan. Neither are included in the documents submitted with the application, and they do not form part of the appeal submission. Nevertheless, the latest PS indicates that the proposed visibility splays are determined based on the Nottinghamshire Highway Design Guide (NHDG, 2021). The NHDG explains that, among other things, the Stopping Sight Distance (SSD) for streets inform the length of a visibility splay. The proposed splay for the adopted road is set at 43m. This corresponds to a road with a speed of 30mph, which Nottingham Road is restricted to, in both directions. Despite this, as the road is long and relatively straight next to the site, and rises beyond Annesley Lane, it is reasonable to assume that vehicles may be travelling above this limit. Accurate data for vehicle speeds is therefore justified to inform the SSD.
23. The NHDG states for existing streets, the measured 85th percentile wet weather speed should be used to determine the SSD. It is unclear whether the visibility splays for the main access were informed by a vehicle speed survey for each direction of travel, following the advice in the NHDG. Furthermore, the proposal does not include details of the visibility splay for the private drive with a direct access to Nottingham Road, proposed to serve several plots.
24. The NHDG also indicates that no more than five properties should be served from a private drive, but the layout plan is clear which roads are to be adopted. This of itself would therefore not make such a proposition unacceptable. However, turning heads are required for all private drives and none are shown to be provided throughout the development, with no explanation as to why this is the case. Similarly, the proposed layout shows private drives on either side of the adopted road, next to the main access, which would create a crossroads. The visibility from these drives has not been assessed, particularly as to whether their position would be effective or what visibility splays may be required. There is therefore a significant risk that these aspects of the proposal would result in conflict between road users manoeuvring in and out of the private drives and others in the development, notably those entering from or exiting to Nottingham Road.
25. The number of parking spaces appears to reflect the minimum standards outlined in the Council's SPD⁴. However, given the scale of the layout plan and the absence of other worked up drawings relating to the site's layout, it is unclear whether the required spaces could be accommodated at 2.5m by 5.5m for all plots.

³ February 2022 and September 2025.

⁴ Residential Car Parking Standards Supplementary Planning Document (November 2014).

The lack of clarity in this regard could result in inadequately sized spaces and parking displaced elsewhere.

26. Accordingly, taking a precautionary approach, planning conditions would not be an appropriate mechanism to resolve concerns regarding the provision of safe access arrangements for users of the development and the highway network. Such matters could impact on the principle of the proposed development, and the layout is fixed by the outline planning permission. Hence, alternate arrangements could not be made at Reserved Matters, and it would not be appropriate for this appeal to secure alterations to the design through conditions, when the outcome could affect the scheme which interested parties have been consulted on.
27. Due to the nature of the issues referred to above, I cannot be certain that the proposal would provide safe and suitable access to the site for all users. Hence, it would be contrary to ALPR Policy ST1 and the aim of Framework Policy TR6, regarding its unacceptable impact on highway safety.

Flood Risk

28. The site is situated within Flood Zone 1, but surface water management is required by virtue of its extent. The Council's concern, informed by consultation with the Lead Local Flood Authority, is that there is insufficient detail regarding the proposed surface water drainage scheme for the site to inform consideration of the risks of flooding. Sustainable Drainage Systems (SuDS) are designed to control surface water runoff onsite, often through a combination of built and nature-based techniques to closely resemble natural drainage. This also accounts for predicted impacts of climate change and urban creep from development.
29. If SuDS are to be effective, the layout and function of drainage systems need to be considered at the start of the design process to ensure that the layout of buildings, parking, footways and roads are integrated. Given that the application for outline planning permission includes consideration of access, layout and scale of the development, those are aspects of the development that are fixed and before me. It is therefore difficult to understand why the Flood Risk Assessment (FRA) states that a detailed site investigation and testing will be undertaken at the design stage to determine whether SuDS will be suitable for the disposal of surface water drainage on the site.
30. The FRA outlines the existing Greenfield runoff rate, the amount of storage required to accommodate runoff from the development, and the types of drainage features that could be employed, before outflow to the watercourse. However, it does not demonstrate how the drainage hierarchy has been followed, nor does it clearly identify a drainage strategy for the site based on that hierarchy. The absence of a strategy leaves doubt as to where and how surface water would be stored and conveyed to the watercourse in a manner that would be integrated with built forms and changes in surfacing. Equally, any SuDS scheme needs to reflect the topography and geology of the site, particularly how the topography varies either side of the watercourse. In the absence of detailed SuDS scheme, there is also insufficient evidence regarding how runoff from the completed development would be prevented from leading to flooding elsewhere, and how the SuDS scheme would be maintained for the lifetime of the development.
31. In conclusion, it has not been satisfactorily demonstrated that the proposal could be made safe from flooding throughout its lifetime without increasing risk

elsewhere, having regard to the proposed SuDS. Hence, the proposal would be contrary to ALPR Policy ST1, in so far as it relates to avoiding adverse effects of development on the safety of the environment. There would also be conflict with the aims regarding ensuring development is safe from flooding and SuDS outlined in Framework Policies F7 and F8.

Archaeology

32. As explained in Framework Policy HE5(5), where a development proposal involves, or has the potential to involve, a heritage asset with archaeological interest, there is an expectation that an appropriate desk-based assessment (DBA) should be undertaken and, where necessary, a field evaluation. The preparation of a DBA and consultation with the Nottinghamshire Historic Environment Record (HER), is therefore the minimum expected to inform the understanding of the archaeological potential of the site, including whether it could impact on the principle of the proposed development.
33. The evidence before me indicates HER provides little to inform consideration of the archaeological potential of the site, other than a prehistoric polished stone axe found at Selston Common, a short distance away. Nevertheless, the Council advises that rivers and streams, such as the one that crosses through the site, are focal points for prehistoric activity; and the absence of any development in the postmedieval period means that, if archaeological remains are present, they could be well preserved. This is not contested by the appellant, and no explanation has been provided as to why a Written Scheme of Investigation (WSI) was prepared for geophysical survey of the site, but was not carried out. Accordingly, taking a precautionary approach, the limited evidence in the HER relating to the site would not, on the information available, provide sufficient justification for a DBA or WSI to be agreed by planning conditions.
34. Consequently, given the absence of evidence to the contrary, I cannot conclude that the proposal would not have a harmful effect on archaeological remains within the site, and the proposal would conflict with Framework Policy HE5. As I cannot be certain that archaeological remains within the site would not constitute a Non-Designated Heritage Asset (NDHA), the proposal could directly or indirectly harm the significance of a NDHA. In such circumstances, Framework Policy HE7(2) requires any harm to a NDHA to be weighed against the benefits of the proposal, and a balanced judgement made, having regard to the scale of any harm or loss and the significance of the NDHA. I return to this in the Planning Balance, where I set out my conclusion in relation to the Framework.

Other Heritage Assets

35. The Council has identified three other NDHAs it considers would be affected by the proposal. There is limited information before me regarding the significance of these assets, but I have been able to form my own conclusions based on what I have seen and read.
36. The first of these assets is on the opposite side of Nottingham Road at Nos 224 and 226 and comprises a two-storey pair of brick cottages. The front of No 226 has a two-storey gable to the left side, beside which is the gabled first-floor window of No 224. Windows at first floor are set partly beneath the eaves level, which overhangs with modest detailing off its tiled roof. The door of No 226 is to the side whereas, it is to the front of No 224 and is embellished with recessed brick

detailing and a gabled canopy over. Most windows on the pair are marked by stone sills and simple brick arches. As far as it is relevant to this appeal, despite being extended to the rear in non-matching brickwork, the building remains of moderate significance, given its modest detailing and late 19th Century origins.

37. The cottages also draw significance from their surroundings, including their gardens and the views available out over the undeveloped site. However, the setting of the cottages has already evolved with nearby houses, including those on them. The retained hedgerow and frontages of the proposed homes in the site would also provide sufficient separation between the cottages and new homes to ensure that the proposal would not have a detrimental effect on the significance of the cottages as a NDHA, through development within their setting.
38. The second asset is at 240 Nottingham Road and is referred to as The White Lion Public House but is now in use as a restaurant. The building is of two-storeys and T-shaped, with its principal gable perpendicular to the road and a wider gable parallel with it. The eaves of this extend below that of the principal gable and the roadside slope has two very different dormers. One is tall and gabled and the other is small and flat-roofed. Although the building retains its roof form, prominent chimney stacks to its gable ends and banding between floors, it has been extended and altered to a significant extent, particularly with new windows and a flat-roofed extension away from the road. Accordingly, as far as it relates to this appeal, it too only holds moderate significance, and draws significance from its surroundings. This is in its relationship with its own open grounds and those that are more expansive opposite, but its parking area detracts from its setting. As it is situated around a bend and on a rising section of Nottingham Road, and there are numerous buildings between them, there would be very limited intervisibility between them. Consequently, the site does not contribute to the significance or understanding of the building and its development would not harm this.
39. The final NDHA is the Old Turnpike Toll Road, which is formed of Nottingham Road to the south and Annesley Lane to the east of the site. Roads within the vicinity of the site have historically, and evidently more recently, been the focus for development over time. As such, they have become urbanised, including through footpaths to either side and street lighting. Despite the undeveloped nature of the site and its enclosure by a hedgerow, this would not set the site apart from this context to mean that further development of it would harm the significance of this asset as a key historic routeway.
40. For the reasons outlined above, the proposal would not have a harmful effect on the significance of other NDHAs, through development within their settings. Thus, it would accord, in this respect, with the requirements of Framework Policy HE7.

Planning Balance and Conclusion

41. Framework Policy S4.1 states development proposals within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in the Framework. However, before undertaking this overall balance, I need to make the balanced judgement required by Framework Policy HE7.

Stated Benefits of the Proposal

42. The Council is currently able to demonstrate 4.39 years of deliverable housing land supply. This shortfall is not considerable and there is no evidence before me that the Council is not going to be able to address the shortfall in the short term. However, the Framework seeks to substantially increase the supply of homes, with an appropriate mix of accommodation. The proposal would deliver 42 homes, with a mix of 2-, 3-, and 4-bedroom homes, so these would represent social benefits of significant weight.
43. The proposed homes could be constructed of environmentally sustainable materials and components; and could meet Building Regulations requirements in relation to energy use and insulation. In the absence of any reference to relevant policies or guidance with measurable standards, and based on the very limited information before me, I can only conclude that the proposal would be capable of promoting high standards of sustainability and energy efficiency in the proposed homes. However, as the full details of these are not yet known, I afford these environmental and social benefits moderate weight.
44. The proposal would be sustainably located in relation to services and facilities, including nearby shops and schools; and there are employment uses nearby. The availability of public transport would equally provide access to other settlements. There would also be short-term economic benefits brought about by direct employment, and use of suppliers and providers, during the construction phase; and in the longer-term associated with spend from occupiers of the development. I afford these benefits moderate weight in favour of the proposal.
45. While the appellant has indicated a willingness to enter into a legal agreement with the Council and Nottinghamshire County Council, the draft agreement before me has not been finalised, signed and sealed. Hence, I am only able to afford very limited weight to the notion of the provision of eight affordable homes and contributions towards the provision of bus services, and NHS and secondary education infrastructure in the district. Equally, the information before me for the agreement excludes provision of pedestrian improvements to Nottingham Road.
46. The harm caused through the loss of the LWS has not been justified or mitigated, so the land could not reasonably be described as vacant or underutilised, nor does the evidence demonstrate that the proposal would amount to better or more effective use of it, as referred to in Framework Policy L2. Equally, Framework Policy L3 seeks to achieve appropriately higher densities, where these can be achieved alongside securing well-designed and attractive places. My findings regarding the site layout demonstrate that this proposal would not achieve this aim, so it would not represent an efficient use of land in the terms of that policy. Furthermore, the Biodiversity Net Gain calculated for the site has been based on layout of the site not incorporating homes to the north of the watercourse. As such, these factors do not amount to benefits of the proposal.
47. The proposal would not have a harmful effect on the significance of other NDHAs. Furthermore, although the final details of the appearance of the scheme have not been worked up, it should be possible to design the development to avoid harm to the living conditions of existing and future occupiers of neighbouring homes and those within the site. However, as these would all represent absences of harm, they would neither weigh for nor against the proposal. Equally, because I have

found conflict with Framework Policies F7 and F8 on flood risk and SuDS, the proposal would also fail to meet Framework Policy CC3, which draws these matters together in seeking to minimise the vulnerability of development to climate change. As such, CC3 cannot be relied on as weighing in favour of the proposal, contrary to the appellant's case.

Balanced Judgement in Relation to Archaeology as a NDHA

48. There would be a range of benefits associated with the proposal, including some of significant and moderate weight. However, the appeal is not supported by the evidence necessary to determine the extent or significance of any potential archaeological remains within the site, and if there would be any harm or loss caused through the proposal. Accordingly, a precautionary approach is the most appropriate way forward. In making the balanced judgement required to possible archaeological remains as a potential NDHA, I consider that the benefits of the proposal would not outweigh the potential harm. Consequently, the proposal would conflict with Framework Policy HE7.

Balance for Framework Policies S3 and S4

49. The adverse effects of the proposal on the character and appearance of the area, highway safety, and protected species and habitats (biodiversity), are all of such magnitude that, in accordance with Framework Policy S4, failure to comply with the relevant national decision-making policies means that the proposal should be refused. In addition, the harms in relation to flood risk and potential archaeological remains within the site would also be significant, as any potential effects have not been satisfactorily demonstrated. The weight I have afforded the stated benefits above ranges from significant to moderate, to very limited. Collectively, the adverse effects outlined in the main issues, and summarised here, would be sufficiently wide-ranging and of such magnitude and importance that they would substantially outweigh those benefits.

Final Balance and Conclusion

50. The appeal scheme would not accord with the development plan, when considered as a whole, and there are no other relevant material considerations, including the provisions of the Framework, that indicate the proposal should be determined otherwise than in accordance with the development plan. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR