

**Statement of Case for Appeal by
Derby City Council**

**PINS ref: APP/C1055/W/24/3356476
Application ref:23/01631/OUT**

APPELLANT: Miller Homes

SITE: Land West of Royal Hill Road, Spondon, Derby

PROPOSAL: Residential development for up to 90 dwellings, including access
arrangement

1. Introduction

- 1.1 This Statement of Case sets out the Local Planning Authority's case for this planning appeal for residential development, for up to 90 dwellings, on land west of Royal Hill Road in Spondon, in the city of Derby. The application is in outline, with all matters reserved except for means of access, to be determined at this stage. The appeal has been made pursuant to Section 78 of the Town and Country Planning Act 1990 ("TCPA 1990"), against the City Council's decision to refuse the grant of planning permission.
- 1.2 The appellant (Miller Homes) has requested that the appeal be considered by a public inquiry under the inquiry procedure, under 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 by the Town and Country Planning (Hearings and Inquiries Procedure) (England) (Amendment) Rules 2013.
- 1.3 The planning application (ref: DER/23/01631/OUT) was accompanied by a suite of supporting information and documents. During the life of the application, 117 comments in objection to the proposal were received from third parties. Objections were also received from Councillor Smale (the local ward member) and on behalf of Council for Protection of Rural England. Comments were also received from consultees to the application. The application was reported to the Planning Control Committee meeting on 23 May 2024, with a recommendation to approve with relevant planning conditions and a planning obligation. Members of the committee, voted to reject the officer's recommendation and refuse permission for the following reason:
 1. *In the opinion of the Local Planning Authority, the proposed residential development would result in the narrowing of the Spondon and Chaddesden Green Wedge, which provides an important strategic function by maintaining an open and undeveloped area between these two distinct residential areas of the city. The proposal would reduce the extent to which the countryside is able to penetrate the urban area, increase the likelihood of coalescence between the Spondon and Chaddesden neighbourhoods and would, therefore, amount to inappropriate development in this Green*

Wedge. For these reasons, the proposed development would be contrary to the intentions of Policy CP18 (Green Wedges) of the Derby City Local Plan - Part 1: Core Strategy.

The Local Planning Authority accepts that this proposal should be determined in the context of the 'tilted balance' which has been invoked and accordingly, the relevant guidance in Paragraph 11d of the National Planning Policy Framework has been duly considered. In this particular case the proposed residential development would lead to the unacceptable narrowing of the Spondon and Chaddesden Green Wedge and, as a result, this important policy contravention would significantly and demonstrably outweigh the planning benefits of the proposal.

2. Proposal and Site Description

- 2.1 The proposal relates to land west of Royal Hill Road in Spondon, which is a green field site, that is in agricultural use. The land all sits within the Chaddesden/ Spondon Green Wedge. The site area is 4.5 hectares and is grazing land subdivided by mature hedges and trees. There are four trees which are covered by a Tree Preservation Order (these trees would not be harmed by the proposed development). The land levels are sloping downhill north to south.
- 2.2 To the west are three detached dwellings served by a private access road and there is an existing residential area around Royal Hill Road to the east of the application site, which comprises mainly of two storey dwelling houses. The wider area to the east and south, is also residential and suburban in character. To the south is Springfield Primary School with its playing fields and to the north is a redundant covered reservoir. Land to the west and north of the site is agricultural and includes Brookfield Farm. There are also existing public rights of way which run adjacent to the boundaries to the north and south of the site.
- 2.3 The proposal is for the development of up to 90 dwellings on the greenfield site. A vehicular access is proposed to be formed onto Royal Hill Road, opposite 50 and 52 Royal Hill Road, south of an existing private access road to three existing houses. Pedestrian links with the existing public rights of way would also be created, with three to the south and one to the north of the site. An illustrative layout plan was submitted with the application which shows an indicative housing layout in the central part of the site, with open spaces and surface water attenuation in the northern spur and to the southern boundary with retention of TPO trees and some hedges.
- 2.4 It is noted that the position of the proposed access road onto Royal Hill Road is revised in the appellant's appeal submission ref: RHR-BWB-GEN-XX-DR-TR-101 S2-P3 Proposed Access. It is relocated to the north of the position

shown on the application drawing, although all other layout details are unchanged. The Council's Highways Officer is satisfied that the revised site access position would not impact adversely on the highway network and there are no changes to the officer's comments which were made on the application. The Council is content for the appeal to be determined on the basis of the revised access proposal.

- 2.5 The application is supported by a set of technical and environmental documents, a Design and Access Statement and a Landscape and Visual Assessment.

3. Planning Policy

- 3.1 The Derby City Local Plan: Part 1 - Core Strategy (DCLP1) was adopted by the Council on 25 January 2017. The DCLP1 forms the statutory Development Plan for the City alongside the remaining 'saved' policies of the adopted City of Derby Local Plan Review (2006) (CDLPR). It provides both the development strategy for the City up to 2028 and the policies which are used in determining planning applications.
- 3.2 The adopted DCLP1 and saved CDLPR policies form the Development Plan for the purposes of Section 70 (2) of the Town and Country Planning Act 1990 and Section 38 (6) of the Planning and Compulsory Purchase Act 2004. Planning decisions are required to be taken in accordance with the Development Plan unless material considerations indicate otherwise.
- 3.3 All of the policies of the Local Plan except Policy CP6 (Housing Delivery) remain consistent with national policies, including the latest revisions to the NPPF and can be given weight in decision making. Policy CP6 (Housing Delivery) sets a housing requirement of 11,000 new homes over the 17 year Plan period. The Council's housing need and supply position has altered following the Government's change in policy in relation to housing need. The city's annual housing need (calculated using the Standard Method) has reduced since the application was determined in June 2024. However, there is still a significant housing need and a five year supply of housing cannot be demonstrated. The standard method housing need calculation for Derby now stands at 906 dwellings a year. The current supply of deliverable sites is sufficient to provide 3.85 years of dwellings against the annual 906 requirement. The committee was advised that there was a 3.88 year supply. There is therefore no material difference today. For the purposes of decision making, the lack of a demonstrable five year housing land supply means that the presumption in favour of development and the 'tilted balance' set out in the updated NPPF is invoked (paragraph 11, footnote 8 of the NPPF). This effectively requires greater weight to be afforded to the benefits of proposals which involve housing in the planning balance.

3.4 The Local Plan policies which are relevant to this appeal are as follows:

DCLP1 policies:

CP1a)	Presumption in Favour of Sustainable Development
CP2	Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP6	Housing Delivery
CP7	Affordable and Specialist Housing
CP16	Green Infrastructure
CP17	Public Green Space
CP18	Green Wedges
CP19	Biodiversity
MH1	Making it Happen

CDLPR policies

GD5	Amenity
H13	Residential Development – General Criteria
E12	Pollution
E24	Community Safety
T10	Access for Disabled People
T15	Protection of Footpaths, Cycleways and Routes for Horses

4. Local Planning Authority's case

4.1 The Local Planning Authority will demonstrate that its position, in relation to the adverse impacts of the proposed development, is both supported by robust evidence and Development Plan policies alongside relevant decisions on planning applications and appeals.

4.2 The application site lies wholly within the Chaddesden/ Spondon Green Wedge and therefore falls to be considered under the provisions of Policy CP18 (Green Wedges). The role of Green Wedges is to define and enhance the urban areas of the city as a whole and reinforce local identity by maintaining open areas of land between residential neighbourhoods and allowing uninterrupted links into the countryside. Whilst a range of activities are acceptable in Green Wedges, the aim of Policy CP18 is to restrict development that would adversely affect the predominantly open and undeveloped nature of wedges. Policy CP18 restricts development within Green Wedges to the following categories:

1. Agriculture and forestry

2. Green space, outdoor sport, recreation and community uses providing the character of the Green Wedge and its amenity is not adversely affected
3. Nature conservation, including improvements which provide multiple benefits to Derby's green infrastructure, or which link the Green Wedge to the wider Green Infrastructure network
4. Cemeteries
5. Essential buildings and activities ancillary to existing education establishments
6. Public utilities where it can be shown that a suitable site outside the Green Wedge is not available
7. The extension or alteration of existing dwellings and the erection of ancillary buildings.

4.3 The proposed development, which is residential, for the erection of up to 90 dwellings including the access arrangement and all other matters reserved, is not included in the list of appropriate development in Green Wedges. It therefore conflicts with Policy CP18. The role of the Chaddesden/ Spondon Green Wedge is to form a generally open and undeveloped area between the two predominantly residential areas of the city, which are Chaddesden and Spondon. The Green Wedge defines the urban structure of these two distinct neighbourhoods in the city and allows the open countryside to the north to penetrate into the urban area. It also acts as a buffer to separate and prevent coalescence of the two long standing residential communities. Green Wedges are a long-standing feature of the city and have been protected from unacceptable development for many years to define and reinforce the character and distinctiveness of the city's neighbourhoods. In this particular case the wedge defines the separate character and identities of the two suburbs of Chaddesden and Spondon. The proximity and narrowness of this Green Wedge, to the residential neighbourhoods of Spondon and Chaddesden make it vulnerable to pressure for new development. The narrowing of the Wedge in this location would endanger the open and undeveloped character of the Wedge by reducing the gap and increasing the potential for merging of the existing residential areas.

4.4 The Derby City Local Plan – Part 1 (Core Strategy), Policy CP18 Green Wedge is considered to be still relevant and up-to-date. The policies of the Local Plan – Part 1 were reviewed in December 2021, just before the plan became five years old. This review considered that Policy CP18 was still consistent with the aims and objectives in the NPPF and therefore was still up to date. Although the NPPF has been updated since the 2021 policy review, with the latest iteration being the current 12 December 2024 version, Policy CP18 still remains consistent with national planning policy. To meet the objectives of sustainable development, which is at the heart of the planning system, plans and decisions

should take local circumstances into account, to reflect the character, needs and opportunities of each area (Paragraph 9). Paragraph 117 goes on to state that applications should respond to local character and paragraph 135 then requires that decisions are sympathetic to local character, including landscape setting (criterion C) and establish a strong sense of place and welcoming and distinctive places to live. All of these national policies support the principle and strategic function of the city's Green Wedges as well as the specific issues relating to the wedge between Chaddesden and Spondon.

- 4.5 The Green Wedge policy therefore remains relevant. This has been established at previous planning appeals. It can therefore be afforded due weight in the decision-making process. The policy is not a landscape designation and consideration of the impacts of the development on the Green Wedge, have regard for the identity of residential neighbourhoods and the retention of green infrastructure linkages with the open countryside and through the urban area.
- 4.6 The Green Wedge Review (October 2012) carried out as part of the evidence base for the DCLP – Part 1 (Core Strategy), assessed the Chaddesden / Spondon Green Wedge as being of importance to define the edges of these two residential areas, contributing to the separation, character and identity of these areas and enhancing the urban structure of the city. The review also notes the contribution of the Wedge in allowing the open countryside to penetrate the city, with benefits for recreation, wildlife habitat and flood storage. This Green Wedge is noted for its strong and logical boundaries, which contribute to the functioning of the Wedge and there are no areas, which were identified as being justified for deletion. The Review considered that the Green Wedge in this location performs an important function and should be maintained and where possible, opportunities for enhancement should be pursued.
- 4.7 A site within the Chaddesden/ Spondon Green Wedge was the subject to an outline application for residential development (DER/10/14/01417/PRI) which was refused and dismissed by an appeal decision in April 2016 (APP/C1055/W/15/3132386). Whilst this appeal related to a different part of the Green Wedge, adjacent to Acorn Way and Derby Road, Spondon, the Inspector's conclusions are considered to be relevant to this appeal. The Inspector made reference to the Green Wedge Review in his decision to resist the development of up to 125 houses in the Green Wedge. There is also support in the appeal decision for the long-standing concept and role of Green Wedges in the policies of the Local Plan and the NPPF, such that *“Derby's “Green Wedges” serve an important planning function in maintaining the different character and identity of the suburbs and enhancing the urban form and structure of the city. They are integral to the character and distinctiveness of the place, so that their supporting policies (reference to Policy CP18) are potentially consistent with elements of the “core principles” and a raft of advice set in the Framework.”* The Inspector considered that this Green Wedge performed its functions well and contributes to the character of the city. This decision was

also made in the context of an absence of a five year supply of housing and a significant need for deliverable housing. In the planning balance, in weighing up the housing need against the harm to the Green Wedge, the adverse impacts were considered to be “*very damaging*” and outweigh the benefits resulting from the proposed housing.

- 4.8 In making its decision on this application, the Local Planning Authority has considered the proposed residential development in the context of the tilted balance as set out in paragraph 11 d) of the NPPF, for housing applications, where the adverse impacts of the proposal significantly and demonstrably outweigh the benefits. The housing requirement in the city is very significant and exceeds the amount set out in the adopted Local Plan. The city’s housing need and supply are material considerations and there is a significant shortfall in housing delivery, such that the city does not have a five year supply of housing. There would be significant benefits to delivery of the substantial number of houses which are proposed for the site in the Spondon area of the city. This was considered by officers to be a significant benefit and was one of a number of benefits which led to an officer view that the adverse impacts of the proposal did not significantly and demonstrably outweigh the benefits. Members of the Planning Control Committee took a different view, having regard for the NPPF and para. 11 d) and concluded that the harm to the Green Wedge would significantly and demonstrably outweigh the benefits.
- 4.9 The importance of this Green Wedge, is such that the harm, through loss of part of the Wedge which abuts the residential area of Spondon, at Royal Hill Road, is considered to outweigh the significant need for housing in this part of the city. The Green Wedge which separates Spondon and Chaddesden performs an important strategic function in forming an open and undeveloped area between the two residential neighbourhoods and allows the open countryside to penetrate the city from the north. It is a local designation, which is similar in importance to the Green Belt function, in maintaining openness and separation between distinct areas of the city. In this location, the form of the Green Wedge is agricultural land, with hedgerows and trees, which give an open and rural setting to the edge of the residential area in Spondon. The extent of the narrowing of the Green Wedge as a result of proposed development, would bring the Spondon housing area unacceptably closer to the Chaddesden area. This would undermine the function and openness of the Wedge, such that it would reduce the extent to which the countryside is able to penetrate into the city from the north and unacceptably narrow the gap between the two distinct residential areas.
- 4.10 The adverse impacts of siting the proposed residential development, are also related to its large scale (up to 90 dwellings) of built development, with an urbanising effect on the Green Wedge and development of a greenfield site, with associated loss of habitat and biodiversity.

- 4.11 The city has a significant housing need as acknowledged in paragraph 3.3 above and cannot demonstrate a five-year housing supply. Some of this housing need will be met outside of the city's boundary in the neighbouring authority areas of Amber Valley and South Derbyshire districts. These authorities form part of Derby's Housing Market Area (HMA). The provision of the city's housing need within Green Wedges, would result in the permanent erosion of these important areas of green space and permanently reduce the overall quantity and quality of Green Wedges for the city's residents.

5. Benefits of the proposal

- 5.1 There are acknowledged benefits of the proposed development and as set out in the NPPF, these must be considered and weighed against the harm in the planning balance.

Social benefits

- 5.2 The proposal would support the government's objectives to significantly increase housing supply by delivering a sufficient number and range of homes in well designed and sustainable locations. This would include the delivery of affordable housing as part of the development, which meets a significant need for social housing. The development would also provide accessible on-site open space and pedestrian routes, to link with existing public rights of way. These are social benefits which can therefore be given moderate weight in the planning balance.

Economic benefits

- 5.3 There are economic benefits to the local economy arising from the investment in construction activity and the creation of jobs, through the delivery of the development. The Section 106 package would deliver additional bus provision to serve the development. The development would support economic growth in the city and this can be given a small amount of weight in the planning balance.

Environmental benefits

- 5.4 There are environmental benefits which would result from the on-site provision of 10% biodiversity net gain, through the landscaping scheme and habitat creation which is proposed on-site. Associated delivery of on-site public open space, with play area provision and footpath and cycle linkages, to the existing public rights of way would also provide benefits for future residents, as well as the wider community. A sustainable drainage strategy is also proposed and would reduce flood risk to the wider area. The intended provision of on-site open space, drainage and ecological enhancements, which would form part of a detailed reserved matters submission can be afforded moderate weight in the planning balance.

Planning Obligations (Section 106 Agreement)

A package of contributions to be secured through a Section 106 Agreement has been agreed with the appellant. This package is the same as was agreed during the life of the application and set out in Section 7.7 of the Committee Report.

6. Conclusion

- 6.1 The City Council's case is that the proposed residential development of the land off Royal Hill Road in Spondon is contrary to Policy CP18 (Green Wedges) for the reason set out in the decision notice. This is on the grounds that the development would result in an unacceptable development in and narrowing of the Chaddesden / Spondon Green Wedge, which would reduce the width of the Green Wedge in this location, such that it would increase the likelihood of coalescence of the two distinct residential neighbourhoods and reduce the penetration of the open countryside into the city from the north. The DCLP – Part 1 (Core Strategy) Policy CP18 is still relevant and is not considered to be out of date. It has been tested at previous planning appeals during the life of the current development plan and through a Green Wedge review in 2021 and has been found to be sound.
- 6.2 Having regard to the significant housing need and the absence of a five year supply of housing in the city, as well as the other benefits detailed above, this has been given due weight in the tilted balance, against the loss of the Green Wedge for the development of housing and the adverse impact on the Chaddesden/ Spondon Green Wedge, in terms of the reduced width of the Wedge and the loss of openness and green space separating the two residential areas of the city. The City Council thereby considers that in the planning balance, the harm to this Green Wedge would significantly and demonstrably outweigh the substantial benefits of housing delivery and the economic, social and environmental benefits of the development as proposed.