

nineteen47

CHARTERED TOWN PLANNERS
& URBAN DESIGNERS

Proof of Evidence (Planning)

of Carl Stott BA (Hons) MA TP (UC) MRTPI

Appeal against the refusal of Outline Planning Permission for a residential development with associated infrastructure for up to 30no. dwellings, including detail of associated point of access. All other matters (landscaping, scale, layout and appearance) reserved.

Land off Leconfield Road, Nanpantan, Loughborough.

On Behalf of Bowbridge Homes (Nanpantan) Ltd.

PINS ref: APP/X2410/W/22/3304644 LPA ref: P/20/2199/2

Client:

Bowbridge Homes (Nanpantan) Ltd.

Project:

Land off Leconfield Road, Nanpantan

Report Title:

Proof of Evidence (Planning)

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Date:

28th February 2023

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APPENDIX 1: Correspondence relating to Statement of Common Ground

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SECTION 1: Introduction

- 1.1 This Proof of Evidence ["PoE"] (Planning) has been prepared on behalf of Bowbridge Homes (Nanpantan) Ltd. [the "Appellant"] in relation to its appeal ["the Appeal"] against the decision of Charnwood Borough Council ["the Council" or "the LPA"] to refuse to grant outline planning permission on land off Leconfield Road, Nanpantan, Loughborough [the "Appeal Site"].

Background

- 1.2 The Appeal follows the resolution of the Charnwood Borough Council Plans Committee meeting of 24th February 2022 to refuse the application for outline planning permission, referenced P/20/2199/2 ["the Application"] that proposed the following description of development ["the Appeal Proposals" or "the Proposed Development"]:

Outline application for residential development with associated infrastructure for up to 30 dwellings, including detail of associated point of access. All other matters (landscaping, scale, layout and appearance) reserved.

- 1.3 The Application was validated by the LPA on 23rd December 2020 and was supported by a comprehensive suite of plans and technical reports [CD.1], which were subsequently supplemented/superseded by updated/further documents [CD.2] to address matters raised by officers and statutory consultees following the submission of the Application.
- 1.4 The Application was recommended for approval by the planning officer, with a copy of their Committee Report and Extras Report to the Council's Plans Committee of 24th February 2022 provided at CD.3.1 and CD.3.2 respectively. Members of the Committee resolved to refuse the Application, contrary to the recommendation of its officers, as detailed in the Committee Minutes [CD.3.3]. The LPA subsequently issued its decision notice on 2nd March 2022 [CD.3.4] this setting out the following two Reasons for Refusal ["RfR"]:

- 1. The proposed development would fail to protect and enhance the unique landscape character of the site and surrounding area. The development would be contrary to the requirements of Core Strategy Policy CS11 and National Planning Policy Framework paragraph 174 and the identified harm would significantly and demonstrably outweigh the benefits when considered against the Framework as a whole.**
- 2. The proposed development would result in significant adverse biodiversity impacts that would be contrary to the provisions of Core Strategy Policy CS13 and National Planning Policy Framework paragraphs 174 and 180.**

- 1.5 When submitting the Appeal to the Inspectorate on 5th August 2022, the Appellant requested it be considered via the Inquiry procedure, though the

Inspectorate confirmed by way of its letter dated 16th August 2022 that it would instead be considered via the Hearing procedure under the reference APP/X2410/W/22/3304644. Following this, the Appellant's Statements of Case for Planning [CD.4.2.1], Landscape [CD.4.2.2] and Biodiversity [CD.4.2.3] were submitted to the Inspectorate on 13th September 2022 and with a Statement of Common Ground being agreed with the LPA and submitted to the Inspectorate on 17th November 2022 [CD.4.1.1]. Thereafter, following a further request from the Appellant on 22nd November 2022, the Inspectorate confirmed the upgrading of the Appeal by way of its emails of 1st and 12th December 2022, such that it is now to be considered via the Inquiry procedure.

Qualifications and Experience

- 1.6 I am Carl Stott, Director of nineteen47 Ltd, a planning and urban design consultancy, which employs an experienced team of planners and urban designers and works nationally from offices in the East Midlands, Sheffield and York. I hold a BA (Hons) Degree and a Master's Degree in Town Planning (Urban Conservation) from the University of Newcastle-upon-Tyne.
- 1.7 I have been a Chartered Town Planner (MRTPI) since 2003 and an Associate EIA Practitioner (IEMA) since 2016. I have 23 years of professional planning experience, with the first 9 of these spent in development management roles in the public sector at various local planning authorities and with the latter 14 spent in the private sector in planning consultancy. I act for a variety of clients on a wide range of residential and commercial schemes across the UK on behalf of national, regional and local housebuilders, businesses and private landowners.
- 1.8 I am familiar with the Appeal Site and the Appeal Proposals, having acted as the Appellant's planning agent throughout the Application process. I can confirm that the evidence which I have provided within this PoE (Planning) is true and is given in accordance with the guidelines of my professional institutions.

Scope of the Proof of Evidence (Planning)

- 1.9 This PoE (Planning) addresses the planning considerations relevant to the Appeal and should be read in conjunction with the separately-bound PoEs from the following members of the Appellant's team in respect of evidence on Landscape [CD.4.2.5] and Biodiversity [CD.4.2.6]:
 - **Landscape:**
Mrs Sara Boland, Managing Director, Influence Landscape Architects;
 - **Biodiversity:**
Mr Oliver Ramm, Director, RammSanderson.
- 1.10 The Appellant reserves the right to introduce additional members to address any other issues that may be raised by the LPA in its own PoE(s) or in representations received from other parties.

- 1.11 A Statement of Common Ground [“SoCG”] [CD.4.1.1] was agreed with the LPA and submitted to the Inspectorate by the LPA on 17th November 2022. Following a query the following day by the Inspectorate, the LPA confirmed in an email dated 18th November 2022 that the SoCG that had been submitted was the final agreed version, despite it not being signed in error (and with ‘draft’ still included on its cover) due to home-working and formatting issues. The LPA confirmed to the Inspectorate that a signed copy would be submitted the following week, though it is understood that this was never undertaken. Copies of these emails are included in the separately bound Appendix 1 of this PoE (Planning).
- 1.12 At the Inspectorate’s Case Management Conference of 20th February 2023, the LPA suggested that there may be some updates it wished to make to the previously-agreed SoCG. The Appellant raised concerns about changes to an agreed document at a late stage of the Appeal timetable and subsequently did not receive confirmation of the LPA’s proposed amendments to the SoCG in this respect until 27th February 2023, despite continued efforts for the release of that information. Following discussions with the LPA on 28th February 2023, an updated version of the SoCG was agreed, with the amendments limited to its Paragraphs 3.12, 4.5 and 7.18.
- 1.13 Without prejudice to the outcome of the Appeal, a draft list of planning conditions, in general accordance with those set out in the Plans Committee Report was agreed with the LPA and is included in Appendix 1 of the SoCG.
- 1.14 Without prejudice to the outcome of the Appeal, the Appellant will prepare a legal agreement via a s.106 Agreement or Unilateral Undertaking to ensure that financial contributions towards necessary off-site infrastructure can be secured and to ensure that specific and identified off-site biodiversity enhancements can be achieved. This will be presented to the Inspector within the prescribed timescales before the start of the Inquiry. The Heads of Terms of the obligations to be secured by the legal agreement are as listed in the Appendix 2 of the SoCG, subject to the matters of disagreement with the LPA, as listed under Issue 7 in Section 8 of the SoCG [CD.4.1.1].
- 1.15 The Appellant and LPA have also prepared a list of Core Documents [“CD”] to be referred to during the Appeal. The Appellant reserves the right to add to or amend this list of documents as necessary following review of the LPA’s PoE(s) or representations received from third-parties in due course.

Structure of the Proof of Evidence (Planning)

- 1.16 This PoE (Planning) is structured into the following sections:
1. Introduction
 2. The Appeal Site and its Surroundings;
 3. The Appeal Proposals;
 4. Planning Policy Context and Other Material Considerations;
 5. The Case in Support of the Appeal;
 6. Summary and Conclusions.

SECTION 2: The Appeal Site and its Surroundings

- 2.1 Detailed contextual analysis of the Site and its immediate surroundings is set out in Section 2 of the Planning Statement [CD.2.9] and Section 3 of the Design and Access Statement [CD.2.10] that accompanied the Application and is also provided in Paragraphs 3.2 to 3.15 of the SoCG [CD.4.1.1] and is summarised below.

The Appeal Site

- 2.2 The Appeal Site is located entirely within the administrative boundaries of Charnwood Borough Council to the west of Leconfield Road in the Nanpantan area of south-west Loughborough.
- 2.3 The Appeal Site extends to approximately 1.69ha (the extent of Highways land comprising an additional 0.04ha) and comprises a single field, currently maintained as rough grassland, with sections of native boundary hedgerow and tree cover, including Leylandii, to the north, south and east.
- 2.4 The Site is in the single ownership of the Helen Jean Cope Charity ["HJC"] (other than for a small extent of Highways land that abuts the Site boundary to Leconfield Road) and is available immediately for residential development. HJC has erected numerous signs indicating that the Site is private land with no public access authorised and with security fencing having been erected by the Appellant at various parts of its boundary. Both the signage and fencing have been tampered with/removed on numerous occasions by persons unknown. The matter of the Site's ownership is explored further in Paragraphs 5.28 of Section 5 of this PoE (Planning).
- 2.5 In terms of its landform, the Appeal Site rises from a low-point of 80m above ordnance datum (AOD) at its eastern boundary to a high-point of 87.5m AOD where there is a localised ridge at the mid-point of its southern boundary that continues to fall to the south. To the west, the landform falls towards the south-west boundary with Burleigh Wood at 84m AOD. To the north the ridge extends to its north-west corner at 83m AOD.
- 2.6 Access to the Appeal Site is via an existing agricultural access taken from Leconfield Road and the Site is not crossed by any existing designated public rights of way as identified by Leicestershire County Council ["LCC"]. However, the Site is currently the subject of a Definitive Map Modification Order ["DMMO"] application [CD.5.1.25] that was submitted to LCC by third parties in March 2021 under s.53 of the Wildlife & Countryside Act 1981, seeking the addition of a Public Footpath to the Definitive Map, which involves land within the Appeal Site. The landowner will be objecting to the DMMO application, as explained in further detail in Paragraphs 5.26 and 5.27 of Section 5 of this PoE (Planning).
- 2.7 The Site is wholly within the settlement limits of Loughborough as defined in the Charnwood Local Plan 2011-2028 Core Strategy (adopted November 2015). Loughborough is recognised in the Development Plan as the main town

in the Borough and is the largest settlement in Leicestershire outside the City of Leicester.

- 2.8 There are no statutory or non-statutory designations (SSSI / SAC / SPA / SAM/local nature designations/Listed Buildings/Conservation Areas/landscape designations) within the Appeal Site and it is wholly located within Flood Zone 1. Burleigh Wood lies to the west of the Appeal Site and comprises a mixed-species deciduous woodland that is designated as Ancient Woodland and a Local Nature Reserve.
- 2.9 The Site was previously designated as an Open Space of Special Character by Policy EV/18 of the Charnwood Borough Local Plan (adopted 2004), though this policy was not saved beyond the adoption of the Charnwood Local Plan 2011-2028 Core Strategy in November 2015 and was instead superseded by Core Strategy Policy CS11, which does not designate specific sites for landscape protection, as acknowledged on Pages A14 and A18 of the Plans Committee Report [CD.3.1]. This matter is explored further in Paragraph 5.23 of Section 5 of this PoE (Planning).
- 2.10 The Site was considered as a potential Local Green Space ["LGS"] designation in the Council's Local Green Space Assessment of May 2021 as part of the evidence base for the Draft Local Plan. However, the assessment ultimately concluded that the Site should not be designated as LGS, as acknowledged on Pages A19 and A20 of the Plans Committee Report [CD3.1] and in Paragraph 7.24 of the SoCG [CD.4.1.1]. This matter is explored further in Paragraph 5.24 of Section 5 of this PoE (Planning).
- 2.11 Submissions were previously made to the Council in March 2021 seeking the designation of the Site as an Asset of Community Value ["ACV"]. However, the request was refused by the Council on the basis that the primary use of the Site is agricultural. This matter, which is also explored in Paragraph 5.25 of Section 5 of this PoE (Planning), is acknowledged on Page A18 of the Plans Committee Report [CD3.1] and in Paragraph 7.22 of the SoCG [CD.4.1.1].

The Immediate Surroundings

- 2.12 The Appeal Site is bound by housing on all sides except for its western boundary that adjoins Burleigh Wood. The settlement to the north and east associated with Leconfield Road, Tynedale Road, Montague Drive and Compton Close comprises modern residential development generally constructed between the 1970s and 1990s. The immediate boundaries of the Appeal Site to the north and east comprise native hedgerows and intermittent tree cover, with the rear garden boundaries of the adjoining residential properties beyond.
- 2.13 To the south, the settlement is defined by ribbon development mainly from the 1960s, which extends alongside Nanpantan Road. There is more recent development between the Appeal Site and Nanpantan Road, including a relatively new residential property at its south-east corner. The Tudor Farmhouse, a Grade II Listed Building, is located beyond the south-west

boundary of the Appeal Site. The Application was accompanied by an Archaeological Desk-Based Assessment [CD.2.26] and a Built Heritage Statement [CD.2.27]. The LPA has not raised concerns as to the impact of the development on the Tudor Farmhouse, agreeing in Paragraphs 7.29 to 7.33 of the SoCG [CD.4.1.1] that the heritage and archaeological impacts of the Proposed Development are acceptable and that heritage impacts do not form part of its reasons for its refusal of the Application.

- 2.14 The southern boundary of the Appeal Site is also defined by sections of native hedgerow with intermittent tree cover, beyond which are the garden boundaries of the adjoining residential properties. These boundaries adjoin the gardens of properties associated with existing housing where there is evidence of domestication through the introduction of ornamental tree and shrub species, most notably a section of Leylandii hedgerows and coniferous tree cover. The western boundary of the Appeal Site is defined by a timber post and rail fence, beyond which is the woodland setting of Burleigh Wood, which is itself controlled by Loughborough University. Burleigh Wood constitutes private land which can be accessed on a permissive basis only, with no Public Rights of Way within the Wood and with the public therefore having no legal right to access it, as confirmed by Avison Young on behalf of Loughborough University in CD.5.1.26.

The Wider Surroundings

- 2.15 As part of the Loughborough Urban Centre, Nanpantan is well-served by a range of services and facilities and, when combined with the existing public transport links to the surrounding area, including Loughborough town centre, it represents a sustainable location for development, as acknowledged in Paragraphs 3.20 to 3.25 of the SoCG [CD.4.1.1].
- 2.16 The wider area surrounding the Appeal Site comprises the Loughborough University Campus to the north, with sports pitches, areas of car parking and campus buildings. To the west, there is mixed arable and pastoral farmland that extends either side of Snell's Nook Lane and Longcliffe Golf Club that extends between Nanpantan Road, Snell's Nook Lane and the M1 motorway. To the south, beyond the settlement are wider areas of typically arable farmland that extend across the slopes, rising towards the wooded ridgeline to the south-east where Jubilee Wood and Outwoods mark the transition between the farmland fringes of Loughborough and the elevated Charnwood Forest landscape that extends to the south and west.
- 2.17 In terms of wider landform, the Appeal Site is located on the southern slopes of the Soar Valley that fall to the east to approximately 40m AOD at the eastern fringes of Loughborough. To the west and south-west, the valley rises towards the ridgeline that is defined by the wooded setting of Charnwood Forest and the local high-point of Beacon Hill at approximately 248m AOD. The landform of the valley slopes and ridge is varied, with notable outlying hills at Outwoods at approximately 136m AOD and Buck Hill at approximately 155m AOD that combine with the woodland cover to create a more complex landscape setting.

Relevant Planning History

2.18 The Site has been the subject of two previous planning applications, as detailed below:

a) 15th December 1988 (P/88/2599/2):

Permission refused for residential development due to:

- Substantial detriment to the landscape character and visual amenity of the area;
- Loss of privacy to existing neighbouring properties; and
- Impact on the local highway network.

b) 26th October 2007 (P/07/1974/2):

Permission granted for the formation of an agricultural access.

SECTION 3: The Appeal Proposals

- 3.1 A detailed description of the Proposed Development and the Application is included in Section 4 of the SoCG [CD.4.1.1], as summarised below.
- 3.2 Pre-application discussions were undertaken with the LPA prior to the submission of the Application, as set out in the SoCG, and included general agreement on parameters associated with the development of the Site, as detailed in Paragraphs 5.3 to 5.5 of the SoCG [CD.4.1.1].
- 3.3 The Application was subsequently prepared and submitted to the LPA, being validated on 23rd December 2020 under the reference, P/20/2199/2.
- 3.4 The description of the development as stated on the decision notice, is as follows:

Outline application for residential development with associated infrastructure for up to 30 dwellings, including detail of associated point of access. All other matters (landscaping, scale, layout and appearance) reserved.

- 3.5 The Proposed Development is described in detail in the Design and Access Statement and Design and Access Statement Addendum [CD.2.10 and CD.2.11 respectively] and is summarised below.
- 3.6 The Application was supported by an Illustrative Layout Plan (n1249 007E) [CD.1.5], which was superseded by an updated version (n1249 007F) [CD.2.4] during the determination of the Application and which demonstrates how the Appeal Site could accommodate up to 30no. dwellings (1-5-bedrooms), of which a policy-compliant 30% will be affordable, equating in the delivery of 9no. affordable homes.
- 3.7 The Illustrative Layout Plan [CD.2.4] demonstrates that circa 1.03ha of the Appeal Site can be utilised to deliver new housing, with circa 0.66ha accommodating open space, surface water attenuation areas and other infrastructure – amounting to circa 61% and 39% respectively of the Appeal Site's 1.69ha area.
- 3.8 The exact number of dwellings (no more than 30no.) will be defined as part of a subsequent application for reserved matters consent, though it is anticipated that up to 30no. new homes can be accommodated across the Appeal Site, equating to a density of circa 29 (net) dwellings per hectare, which is considered appropriate for this urban area, taking account of existing constraints, whilst representing an efficient use of the land.
- 3.8 The housing mix will be for determination at the subsequent reserved matters stage, though the Illustrative Layout Plan [CD.2.4] is based generally on the delivery of a policy-compliant mix of housing (open market and affordable) comprising 4no. 1-bedroom, 8no. 2-bedroom, 12no. 3-bedroom, 3no. 4-bedroom and 3no. 5-bedroom dwellings.

- 3.9 It is anticipated that the proposed dwellings will be two-storeys in height, with a mix of front and side gables located to add variety to the street scene, enclosure to primary streets and spaces and massing to landmark buildings. Dwellings are likely to be proposed in detached, semi-detached and terraced formats.
- 3.10 The Illustrative Layout Plan [CD.2.4] creates approximately 0.66ha of green open space across the Proposed Development. The majority of this open space is along the western boundary, where a buffer of at least 20m will be retained against Burleigh Wood. Existing mature landscape features will be retained and the new dwellings will be set back from Burleigh Wood and areas of ecological interest, with a secure green corridor also along the northern boundary to serve as a buffer.
- 3.11 Surface water attenuation is proposed via the formation of a landscaped detention basin, which will be located to the north-eastern/eastern side of the Appeal Site.
- 3.12 The point of vehicular access to the Proposed Development will be via an extension of the existing Leconfield Road, which abuts the Site. The new access will be compliant with the Leicestershire Highway Design Guide and guidance set out in the Design Manual for Roads and Bridges. The Proposed Development includes no provision for any form of access through to the adjacent Burleigh Wood – this being at the request of Loughborough University, which controls the Wood.
- 3.13 Since the refusal of the Application, the Appellant has secured further land that will be utilised as an off-site offsetting receptor in order to achieve significant biodiversity net gains as part of the Appeal Proposals. This further land is in the same ownership as the Appeal Site and is situated within its locality, to the south-west of the Appeal Site, beyond Nanpantan Road and adjacent to Nanpantan Reservoir in an area of improved grassland in poor condition. The location of the off-site land and details of the proposed offsetting scheme are discussed in the PoE (Biodiversity) of Mr Ramm [CD.4.2.6]. The use of the site for ecological off-setting will be secured through a legal agreement (s.106 Agreement or Unilateral Undertaking).

SECTION 4: Planning Policy Context and Material Considerations

- 4.1 This Section considers the planning policy context and other material considerations relevant to the Appeal, including the Development Plan, national and local documents/publications, appeal decisions and the nation's housing crisis before establishing the status of the policies of the Development Plan and the weight to be afforded them in the consideration of the Appeal.

The Development Plan

- 4.2 The Development Plan for the purposes of determining planning applications under Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 comprises:
- Charnwood Local Plan 2011-2028 Core Strategy (adopted November 2015) ["the Core Strategy"] [CD.6.1]; and
 - The saved policies of the Charnwood Borough Local Plan 1999-2006 (adopted January 2004) ["the Local Plan"] [CD.6.2].
- 4.3 Both the Core Strategy and the Saved Policies of the Local Plan are more than 5 years old and have not been updated as required by Paragraph 33 of the National Planning Policy Framework (2021) – such reviews being a legal requirement for all local plans under Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 4.4 The Development Plan policies of most importance to the determination of the Appeal are considered below.
- a) **Core Strategy Policy CS1 (Development Strategy)** sets out a development strategy and settlement hierarchy for the Borough that sequentially guides development towards the most sustainable settlements. The housing requirement across the Plan period (2011 - 2028) includes the provision of at least 13,940 dwellings, equivalent to 820 dwellings per year, based on the Leicester & Leicestershire Authorities SHMA (June 2014) [CD.5.1.18]. The hierarchy establishes the Leicester Principal Urban Area as the priority location for growth in the Borough but with the majority of remaining growth to be met in Loughborough and Shepshed (at least 5,000 new homes across the Plan period). The policy aims to respond positively to sustainable development which contributes towards meeting development needs, supports the strategic vision, makes effective use of land and which is in accordance with policies elsewhere in the Core Strategy.

The Plans Committee Report [CD.3.1] includes on Page A8 the consultation response from the LPA's Plans, Policy and Placemaking Team which explains that:

“The site is located within the adopted settlement limits to development for Loughborough, as defined in the Borough of Charnwood Local Plan. This reflects the sustainable location of the site on the edge of Loughborough, with good access to jobs, services and facilities, in accordance with the adopted development strategy and Policy CS1 of the Core Strategy. On that basis the adopted development plan for Charnwood supports the principle of development in this location.”

Page A12 of the Plans Committee Report [CD.3.1] advises that the Proposed Development will not conflict with Core Strategy CS1 which seeks to encourage new residential development within the confines of Loughborough. Paragraph 7.6 of the SoCG [CD.4.1.1] acknowledges that the Proposed Development is in accordance with Policy CS1 and that the principle of the Proposed Development is acceptable. The LPA’s reasons for refusal do not allege conflict with Policy CS1.

- b) **Core Strategy Policy CS3 (Strategic Housing Needs)** sets an affordable housing target of 30% for residential developments of 10 or more dwellings in Loughborough, and seeks to deliver an appropriate mix of types, tenures and sizes.

Page A24 of the Plans Committee Report [CD.3.1] acknowledges that the Proposed Development complies with Policy CS3.

- c) **Core Strategy Policy CS11 (Landscape and Countryside)**, amongst other matters, requires new development to protect landscape character, reinforce a sense of place and local distinctiveness, tranquility and to maintain separate identities of settlements.

The Plans Committee Report [CD.3.1] contains an analysis of the landscape and visual impact of the Proposed Development on Pages A14 to A16 which finds that subject to appropriate conditions, landscape and visual impacts will be acceptable (Page A15) and that any harm to landscape and visual amenity will not be sufficient to justify refusal in relation to Policy CS11 (Page A16). Notwithstanding that advice, members refused permission on the basis of conflict with Policy CS11.

- d) **Core Strategy Policy CS13 (Biodiversity and Geodiversity)** expects development proposals to take account of impacts on biodiversity and geodiversity, seeking to ensure that any impacts on biodiversity can be adequately mitigated, and protecting both ecological and geological features.

The Plans Committee Report [CD.3.1] contains an analysis of ecological and biodiversity impacts of the Proposed Development on pages A16 to A18 which concludes that the Proposed Development complies with Policy CS13 (Page A18). Ecological matters are further discussed in the Plans Committee Extras Report [CD3.2]. In both reports, the planning officer confirms that the Council’s senior ecologist had no objection to

the Proposed Development, subject to suitable conditions and obligations. Notwithstanding that advice, members refused permission on the basis of conflict with Policy C13.

- e) **Core Strategy Policy CS25 (Presumption in Favour of Sustainable Development)** reiterates the presumption in favour of sustainable development as contained in the 2012 National Planning Policy Framework which was in place at the time of the Core Strategy's adoption and which has been maintained in the current July 2021 iteration. The policy confirms that applications which accord with the Development Plan will be approved without delay, unless material considerations indicate otherwise. Furthermore, where relevant policies are out of date at the time of making the decision, the policy states that permission will be granted unless any adverse impacts of the development would significantly and demonstrably outweigh the benefits.

Neither the Plans Committee Report [CD.3.1] nor the LPA's RfR allege conflict with Policy CS25.

- f) **Saved Local Plan Policy ST/2 (Limits to Development)** defines the settlement limits to development for various settlements in the Borough, as identified on the associated Proposals Map, and seeks to confine new development to allocated sites and other land within the settlement limits subject to specific exemptions set out elsewhere in the Local Plan. The Appeal Site is located wholly within the settlement limits defined for Loughborough.

The Plans Committee Report [CD.3.1] recognises on Page A14 that the Appeal Site lies within the defined settlement limits of Loughborough. The LPA's reasons for refusal do not allege any conflict with Saved Policy ST/2.

4.5 Consideration of these Development Plan policies of most importance to the determination of the Appeal is provided in Paragraphs 4.62 to 4.70 of this Section of this PoE (Planning) in terms of their status and the weight to be afforded to them, with consideration of the Appeal Proposals against these key policies addressed in Section 5.

4.6 Other Development Plan policies of relevance to the determination of the Appeal are considered to comprise:

- a) **Core Strategy Policy CS2 (High Quality Design)** provides a number of criteria to ensure the delivery of high-quality design, including in terms of scale, density, massing, landscape, layout, materials, access and protection of residential amenity.

The Application sought outline planning permission only, with all matters reserved other than for the point of access into the Site, though it was supported by a Parameter Plan (n1249_10B) [CD.2.5] and Illustrative

Layout Plan [CD.2.4]. The Plans Committee Report [CD.3.1] concludes on its Pages A23 and A29 that it was reasonable to expect that, with full details of design, layout and landscaping, the characteristics of the Site could be taken into account to achieve a suitable development in accordance with Core Strategy Policy CS2. These matters are acknowledged in Paragraph 7.35 of the SoCG [CD.4.1.1].

- b) **Core Strategy Policy CS14 (Heritage)** provides that development proposals need to protect heritage assets and their setting, and that proposals which incorporate distinctive local building materials and architectural details will be supported.

The Application was supported by an Archaeological Desk-Based Assessment [CD.2.26] and a Built Heritage Statement [CD.2.27], which confirm the Site includes no designated heritage assets and which acknowledged the presence of a listed building on adjacent land. The Plans Committee Report [CD.3.1] confirms on its Pages A22, A23 and A28 that the Application suitably demonstrated to the satisfaction of the Council's senior conservation officer that the Proposed Development could accommodate a suitable buffer that will ensure the scheme will result in less than substantial harm to the listed building on adjacent land and with the ensuing public benefits outweighing that limited heritage harm, thereby according with Core Strategy Policy CS14. These matters are acknowledged in Paragraphs 7.30 to 7.33 of the SoCG [CD.4.1.1].

- c) **Core Strategy Policy CS16 (Sustainable Construction and Energy)** seeks to, inter alia, direct developments to areas at lowest risk of flooding, and to manage surface water run-off such that there is no net increase beyond existing greenfield run-off rates. The policy also looks to protect the Borough's most versatile agricultural land.

The Application was supported by a Flood Risk Assessment and Drainage Strategy [CD.2.23] and the Plans Committee Report [CD.3.1] concludes on its Pages A25 and A27 that the Site can be satisfactorily drained and that there will be no unavoidable food risk to future or existing residents, in accordance with Core Strategy Policy CS16, as acknowledged in Paragraphs 7.44 to 7.46 of the SoCG. The Plans Committee Report also concludes on its Pages A25 and A26 that the loss of an isolated parcel of Grade 3 agricultural land will not result in a significant adverse impact that would justify refusal of the Application and that the Proposed Development will therefore be in accordance with Core Strategy Policy CS16 in this respect too, as acknowledged in Paragraphs 7.48 to 7.50 of the SoCG [CD.4.1.1].

- d) **Core Strategy Core Strategy Policy CS17 (Sustainable Travel)** promotes sustainable travel by siting major developments in locations accessible to key services and facilities. **Core Strategy Policy CS18 (The Local and Strategic Road Network)** seeks to maximise the efficiency of the local highway network by delivering sustainable travel.

The Application was supported by a Transport Statement [CD.2.22] and a Highways General Arrangement Plan [CD.2.8]. The Plans Committee Report [CD.3.1] acknowledges on its Pages A24, A25 and A27 that the Application was not the subject of objections from the Local Highway Authority and that the Site is located within the settlement limits of Loughborough, with good access to public transport as well as pedestrian and cycle routes, such that the Proposed Development will not conflict with Core Strategy Policies CS17 and CS18. These matters are acknowledged in Paragraphs 7.39 to 7.42 of the SoCG [CD.4.1.1].

- e) **Core Strategy Policy CS24 (Delivering Infrastructure)** seeks to ensure that developments provide appropriate contributions to both on and off-site infrastructure.

Schedule 2 of the SoCG [CD.4.1.1] includes the Heads of Terms of a legal agreement, which seeks to address the numerous infrastructure demands associated with the Proposed Development, as highlighted in consultation responses from statutory consultees during the consideration of the Application. The Plans Committee Report [CD.3.1] confirms on Pages A26 and A27 that these contributions will allow the Proposed Development to be in accordance with Core Strategy Policy CS24.

Notwithstanding this, two aspects of the Heads of Terms sought by the LPA are not agreed by the Appellant. These are highlighted in Paragraph 8.1 (Issue 7) of the SoCG [CDD.4.1.1] and relate to elements of play provision and the mechanism for securing biodiversity net gains. The former is addressed in the PoE (Landscape) of Mrs Boland [CD.4.2.5] and also in Paragraphs 5.73 to 5.81 of this PoE (Planning), whilst the latter is addressed in the PoE (Biodiversity) of Mr Ramm [CD.4.2.6].

- f) **Saved Local Plan Policy EV/1 (Design)** seeks to ensure a high standard of design in all new developments, including in terms of the scale, form and function of existing settlements and the open and undeveloped nature of the countryside, its design, layout, scale and massing, its use of materials, the safeguarding of important viewpoints, landmarks and skylines, the imaginative use of landform and existing features in and around the site, and the protection of residential amenity.

The Plans Committee Report [CD.3.1] concludes on its Pages A23 and A29 that it was reasonable to expect that, with full details of design, layout and landscaping, the characteristics of the Site could be taken into account to achieve a suitable development in accordance with Saved Local Plan Policy EV/1. These matters are acknowledged in Paragraph 7.35 of the SoCG [CD.4.1.1].

- g) **Saved Local Plan Policy TR/18 (Parking in New Development)** requires suitable off-street parking for vehicles, including cycles, to be included in new developments.

The Plans Committee Report [CD.3.1] acknowledges on its Pages A24 and A25 that further detail would need to be provided on parking provision based on the layout and house types proposed at the reserved matters stage but did not consider that the Application will conflict with Saved Local Plan Policy TR/18. These matters are acknowledged in Paragraph 7.41 of the SoCG [CD.4.1.1].

Other Material Considerations

National Documents/Publications

The National Planning Policy Framework (July 2021)

- 4.7 The National Planning Policy Framework (July 2021) [“the NPPF”] sets out the Government’s planning policies and explains how these are to be applied. It represents an important material consideration. The sections and paragraphs of the NPPF of most importance to the Appeal are set out below.
- 4.8 Paragraph 47 reaffirms the statutory requirement for decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Decisions on applications should also be made as quickly as possible and within statutory timescales unless a longer period has been agreed by the applicant in writing.
- 4.9 Paragraph 218 of Annex 1 confirms that the policies contained within the NPPF are material considerations to a particular decision or determination. Paragraph 219 confirms that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF and that due weight should be given to them, according to their degree of consistency with the NPPF – the closer the policies in the Plan to the policies in the NPPF, the greater the weight that may be given.
- 4.10 Section 2 of the Framework defines sustainable development, with Paragraph 8 detailing that there are three overarching objectives to achieving sustainable development which are interdependent. These objectives are:
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and

- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 4.11 Paragraph 9 provides that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 4.12 Paragraphs 10 and 11 state that at the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking, this means:
- c) Approving development proposals that accord with an up-to-date development plan without delay, or
 - d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 4.13 Paragraph 33 explains that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan and should take into account changing circumstances affecting the area or any relevant changes in national policy.
- 4.14 Section 5 supports the Government’s objective of significantly boosting the supply of housing. In this respect, Paragraph 60 details that it is important a sufficient amount and variety of land can come forward where it is needed.
- 4.15 Paragraph 65 notes that where major development involving the provision of housing is proposed, planning policies and decision should expect at least 10% of the homes to be available for affordable home ownership.

- 4.16 Paragraph 66 details that strategic policy-making authorities should establish a housing requirement figure for their whole area which shows the extent to which their identified housing need (and any need that cannot be met within neighbouring areas) can be met over the plan period.
- 4.17 Paragraph 68 explains that planning policies should identify a supply of specific, deliverable sites for years one to five of the Plan period with an appropriate buffer.
- 4.18 Paragraph 74 seeks to maintain supply and delivery and provides that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need, calculated using the standard method, where the strategic policies are more than five years old.
- 4.19 Section 11 promotes the effective use of land and, in this respect, Paragraph 119 explains that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 4.20 Consideration of the extent of compliance of the Development Plan policies of most importance to the determination of the Appeal with the aforementioned Sections 2, 4, 5 and 11 of the NPPF, as referenced above in respect of achieving sustainable development, decision-making, the delivery of a sufficient supply of homes and the effective use of land respectively, is included in Paragraphs 4.62 to 4.70 of this Section of this PoE (Planning), and with consideration of the Appeal Proposals in the context of those Sections of the NPPF addressed in Section 5.
- 4.21 Section 8 of the NPPF promotes healthy and safe communities, and requires the planning system to promote social interaction, create places which are safe and accessible, and enable and support healthy lifestyles.
- 4.22 The Plans Committee Report [CD.3.1] and Extras Report [CD.3.2] highlight no conflict with Section 8 of the NPPF in their assessment of the Appeal Proposals, including in terms of its proposed open space provision. These matters are acknowledged in Paragraphs 7.25 to 7.28 of the SoCG [CD.4.1.1].
- 4.23 Section 9 of the NPPF supports the promotion of sustainable transport and Paragraph 104 states that transport issues should be considered from the earliest stages of development proposals. Paragraph 110 of Section 9 adds that applications for development should ensure that appropriate opportunities to promote sustainable transport can be, or have been, taken up, that safe suitable access to the site can be achieved for all users and, that any significant impacts from the development on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree.

- 4.24 Paragraph 111 of Section 9 details that 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 would be severe.
- 4.25 Paragraph 112 of Section 9 adds that development should give priority first to pedestrian and cycle movement, and second, to facilitating access to high quality public transport services. Development should also address the needs of people with disabilities, allow for the efficient delivery of goods and access by service and emergency vehicles.
- 4.26 The Plans Committee Report [CD.3.1] and Extras Report [CD.3.2] do not identify any conflict between the Proposed Development and Section 9 of the NPPF, including in terms of its impacts on highway safety or the residual cumulative impacts on the road network not being severe. These matters are acknowledged in Paragraphs 7.41 to 7.42 of the SoCG [CD.4.1.1].
- 4.27 Section 12 of the NPPF refers to achieving well-designed places and notes that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 126 states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 4.28 Paragraph 130 states that planning decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 4.29 The Plans Committee Report [CD.3.1] acknowledges on its Pages A23 and A29 that the Application sought outline planning permission and concluded it was reasonable to expect that, with full details of design, layout and landscaping, the characteristics of the Site could be taken into account to achieve a suitable development in accordance with Section 12 of the NPPF. These matters are acknowledged in Paragraph 7.35 of the SoCG [CD.4.1.1].
- 4.30 Section 14 of the NPPF refers to meeting the challenge of climate change, flooding and coastal change and, in this respect, Paragraph 167 of Section 14 details that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that applications should be supported by a site-specific flood-risk assessment, where appropriate. Paragraph 169 provides that applications for major developments should incorporate sustainable drainage systems unless there is clear evidence this would be inappropriate.
- 4.31 The Plans Committee Report [CD.3.1] highlights no conflict with Section 14 of the NPPF in its assessment of the Proposed Development, including in terms of flood risk and drainage. These matters are acknowledged in Paragraphs 7.44 to 7.46 of the SoCG [CD.4.1.1].
- 4.32 Section 15 of the NPPF refers to conserving and enhancing the natural environment, with Paragraph 174 stating this should be by:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
 - c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
 - d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
 - e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
 - f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

- 4.33 Paragraph 180 seeks to protect and enhance biodiversity and geodiversity by stating that local planning authorities should apply the following principles when determining applications:
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
 - b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
 - c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
 - d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 4.34 Paragraph 183 states that planning policies and decisions should ensure that a site is suitable for its proposed use, taking account of ground conditions and any risks arising from land instability and contamination.
- 4.35 Paragraph 185 states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 4.36 Assessment of the impacts of the Proposed Development on landscape and biodiversity are included in the PoE (Landscape) of Mrs Boland [CD.4.2.5] and PoE (Biodiversity) of Mr Ramm [CD.4.2.6] respectively and are also summarised from a planning perspective in Section 5 of this PoE (Planning). It is relevant to note that the Plans Committee Report [CD.3.1] concludes on Page A28 that, whilst public objections were received to the Application in relation to landscape and ecological impacts, these were not supported by statutory consultees and that the issues raised were not considered to justify refusal, particularly as control remains to ensure a policy-compliant development through subsequent reserved matters submissions. Paragraphs 7.12 to 7.14

of the SoCG [CD.4.1.1] acknowledge that the Site is located between residential developments and Burleigh Wood and forms part of the wider landscape setting to existing development, with the woodland being dense in form and a robust boundary and backdrop to the west. Paragraphs 7.17 to 7.19 of the SoCG acknowledge that the Site is not subject to any ecological or biodiversity designations, that the Proposed Development will not result in any direct loss to the designated habitats of Burleigh Wood itself and that the Council's senior ecologist had no objections to the Proposed Development subject to conditions and a s.106 Agreement.

- 4.37 Section 16 seeks to conserve and enhance the historic environment. Paragraphs 190 to 196 state that when considering the impact of a proposed development on the significance or setting of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 4.38 The Plans Committee Report [CD.3.1] confirms on its Pages A22, A23 and A28 that the Application suitably demonstrated to the satisfaction of the Council's senior conservation officer that the Proposed Development could accommodate a suitable buffer that will ensure the scheme will result in less than substantial harm to the listed building on adjacent land and with the ensuing public benefits outweighing that limited heritage harm, thereby according with Section 16 of the NPPF. These matters are acknowledged in Paragraphs 7.30 to 7.33 of the SoCG [CD.4.1.1].

Other National Documents/Publications

- 4.39 The Appellant will refer to the other national documents as required during the Hearing, including, as necessary:
- The Conservation of Habitat and Species Regulations (2010) (as amended);
 - The Planning (Listed Buildings and Conservation Areas Act) 1990;
 - Natural England Standing Advice – Ancient Woodland and Veteran Trees (14.01.2022);
 - MHCLG's National Design Guide (updated January 2021);
 - The Landscape Institute/IEEMA's Guidelines for Landscape and Visual Impact Assessment – Third Edition (April 2013);
 - Fields in Trust's Guidance for Outdoor Sport and Play (November 2020);
 - Natural England's Green Infrastructure Framework (February 2023).

Local Documents/Publications

The Draft Local Plan 2021-37

- 4.40 The emerging/draft Local Plan 2021-37 (Pre-Submission Version) ["the Draft Local Plan"] is being prepared by the LPA and, if adopted, would replace the

Core Strategy and the saved policies of the Local Plan and include policies to guide development within the Borough through to 2037.

4.41 The Draft Local Plan [CD.6.3] was the subject of consultation in July/August 2021 – which the Appellant submitted representations to - and was submitted to the Secretary of State for consideration in December 2021. The policies of the Draft Local Plan of most importance to the determination of the Appeal are considered below.

a) **Strategic Local Plan Policy DS1 (Development Strategy)** outlines a housing requirement for the Borough of 17,776no. homes across the Plan period of 2021 to 2037, with provision made for at least 19,461no. homes being made. The overall spatial strategy is one of urban concentration, with Loughborough defined as an Urban Centre – a second tier settlement behind only Leicester Urban Area - which will accommodate 31% of the housing requirement, amounting to 6,073no. dwellings. The policy makes reference to new housing being supported within settlement limits and allocations. The Appeal Site is excluded from Loughborough’s settlement limits in the Draft Local Plan and is not proposed as a housing allocation. The policy is supportive of sustainable development that protects the intrinsic character of the countryside; conserves and enhances the built and natural environment and safeguards and delivers a net gain in biodiversity; and is located in areas of least environmental or amenity value. The policy states that where 5-year supply of deliverable housing land cannot be demonstrated, proposals for development should only be refused where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, in which circumstances, proposals will only likely be permitted where all of the following criteria apply:

- i. Accords with the pattern of development set out in the table to the policy;
- ii. Adjoins the defined settlement limits;
- iii. Does not prejudice the delivery of defined infrastructure; and
- iv. Accords with other policies of the Plan.

b) **Strategic Local Plan Policy DS2 (Leicester & Leicestershire Unmet Needs)** seeks to defer a review into the apportionment of unmet housing and employment need from Leicester City to be met within the Borough until after the adoption of the Draft Local Plan. However, the LPA’s position in this respect changed during the Local Plan Examination, which resulted in a significant delay to the Examination programme – as discussed further in Paragraphs 4.42 to 4.47 below.

c) **Strategic Local Plan Policy LUC1 (Loughborough Urban Centre)** identifies Loughborough Urban Centre as the main economic, social and cultural heart of the Borough. The policy is supportive of development which, inter alia, delivers sustainable development in accordance with the pattern of development outlined in Policy DS1 and which includes making effective use of land and which provides urban form that

integrates with the wider landscape setting in accordance with Policy EV1.

- d) **Strategic Local Plan Policy H4 (Affordable Housing)** seeks 30% affordable housing from all major housing developments on greenfield sites.
- e) **Strategic Local Plan Policy EV1 (Landscape)** seeks to carefully manage development to protect the Borough's distinctive landscape by requiring new development to protect landscape character and to reinforce sense of place and local distinctiveness and requires new development to maintain the separate identities of the Borough's towns and villages.
- f) **Strategic Local Plan Policy EV6 (Conserving and Enhancing Biodiversity and Geodiversity)** seeks to ensure that biodiversity, ecological networks and geodiversity interests are protected, restored, enhanced and resilient by supporting development that, inter alia, protects and enhances national and local priority habitats and species; protects and enhances irreplaceable habitats including trees, veteran trees and ancient woodland; protects and enhances biodiversity networks, including strategically important links in the wildlife network between the most valuable habitats; supports nature recovery particularly in areas which have protected species and priority habitats; protects features of geodiversity value and enhances their interpretation; and ensures biodiversity and geodiversity are maintained during construction. The policy provides that development proposals should achieve a 10% net gain on-site in the first instance or through biodiversity offsetting, where appropriate.

4.42 Examination hearing sessions for the Draft Local Plan commenced on 28th June 2022 but were postponed by the Examination Inspectors on 30th June 2022. This was because, during the Matter 1 hearing session on 28th June 2022, the LPA confirmed that it would, in principle, be willing to accommodate Charnwood's apportionment of Leicester's unmet housing need, as set out in the Leicester & Leicestershire Authorities - Statement of Common Ground relating to Housing and Employment Land Needs (June 2022) [CD.5.1.12]. As this represented a significant change in circumstances compared with the submitted Draft Local Plan, which had instead proposed that unmet housing need would be dealt with through a later Plan review, the Examination Inspectors postponed further hearing sessions in order for consideration to be given to how the apportionment could be tested and the Examination subsequently progressed.

4.43 The Examination Inspectors subsequently confirmed in a letter dated 8th July 2022 [CD.5.1.7] that further consultation should be undertaken on the Leicester & Leicestershire Authorities - Statement of Common Ground relating to Housing and Employment Land Needs (June 2022) [CD.5.1.12] and its Sustainability Appraisal and associated evidence base, including the Leicester & Leicestershire Housing and Economic Needs Assessment – Final Report and

Executive Summary (June 2022) ["HENA"] [CD.5.1.10] until 26th September 2022 with dedicated hearing sessions convened for 25th and 26th October 2022. The Examination Inspectors subsequently published their initial findings on 18th November 2022 [CD.5.1.21] and rescheduled the original hearing sessions postponed from June/July 2022 to dates between 7th and 23rd February 2023.

- 4.44 The Examination Inspectors' initial findings [CD.5.1.21] concluded that there was no reason to disagree with the HENA's own conclusion that the standard method establishes a minimum housing need of 91,408 dwellings across the Housing Market Area ["HMA"] to 2036. The Examination Inspectors considered a figure of 18,700 dwellings to represent a reasonable working assumption for the scale of Leicester's unmet housing need from 2020 to 2036. Accordingly, the Examination Inspectors anticipated Charnwood's minimum local housing need figure to 2036 will need to increase by an additional 78 dwellings per year, from 1,111 to 1,189 dwellings per year.
- 4.45 The LPA published its Additional Housing Supply Technical Note [CD.5.1.22] and Housing Trajectory [CD.5.1.24] in January 2023. The Additional Housing Supply Technical Note concludes that an additional 1,458 dwellings will be needed across the Plan period of 2021 to 2037 to meet the requirement of 1,189 dwellings per year whilst maintaining a 10% supply buffer and considers that this would be best delivered by making more efficient use of existing sources of supply rather than identifying new potential allocations.
- 4.46 However, the programmed Examination Hearing Sessions for the Draft Local Plan are not anticipated to be completed until late February 2023 and its various strategies and policies have therefore not been tested through formal online Examination at the time of writing this PoE (Planning), though it is clear from the Examination Library and my attendance of the Examination Hearing Sessions that the Draft Local Plan remains the subject of significant unresolved objections to the extent of its housing requirement and the LPA's anticipated housing trajectories in particular. Objections to the Draft Local Plan highlight matters such as a need to extend the Plan period to take account of delays in the Examination process since June/July 2022, a need to account for a greater supply buffer and a need to allocate additional sites for housing.
- 4.47 In accordance with NPPF Paragraph 48, the Draft Local Plan at this point remains the subject of unresolved objections, particularly to the extent of its housing requirement and has not completed the Examination process. Furthermore, the timescales associated with the Examination of the Draft Local Plan have become significantly protracted and it can therefore be afforded only limited weight in the consideration of the Appeal, as acknowledged Paragraph 6.14 of the SoCG [CD.4.1.1]. I do not consider the Draft Local Plan to have progressed to any material degree since the SoCG was agreed with the LPA in November 2022. In my view, it remains a material consideration of limited weight.

Other Relevant Local Documents

4.48 The Appellant will refer to the following other relevant local documents as required during the Inquiry:

- The Council's Housing Trajectory (January 2023) [CD.5.1.24];
- The Council's Sustainability Appraisal Addendum (December 2022) [CD.5.1.23];
- The Council's Additional Housing Supply Technical Note (January 2023) [CD.5.1.22];
- The Examination Inspectors' Letter to the LPA – Initial Findings on Unmet Need (18th November 2022) [CD.5.1.21];
- Leicester City Local Development Scheme (October 2022) [CD.5.1.20];
- The Examination Inspectors' Letter to the LPA – HENA and Examination (10th August 2022) [CD.5.1.19];
- The Examination Inspectors' Letter to the Council – Unmet Need Next Steps (8th July 2022) [CD.5.1.7];
- The Council's Further Unmet Need and Next Steps Statement (30th June 2022) [CD.5.1.8];
- The Council's Statement regarding Meeting Leicester City's Unmet Housing Need (28th June 2022) [CD.5.1.9];
- Leicester & Leicestershire Housing & Economic Needs Assessment – Final Report and Executive Summary ["HENA"] (June 2022) [CD.5.1.10];
- Leicester and Leicestershire Housing and Economic Needs Assessment ["HENA"] – Housing Distribution Paper (June 2022) [CD.5.1.11];
- Leicester & Leicestershire Authorities - Statement of Common Ground relating to Housing and Employment Land Needs (June 2022) [CD.5.1.12];
- Leicester & Leicestershire Authorities - Statement of Common Ground Sustainability Appraisal Report and Non-Technical Summary (June 2022) [CD.5.1.13];
- Leicestershire Highways Design Guide (Interim Guide April 2022) [CD.5.1.14];
- The Council's Housing Topic Paper (December 2021) [CD.5.1.15];
- The Council's Housing Needs Assessment (September 2020) [CD.5.1.16];
- Leicester & Leicestershire Authorities Housing and Economic Development Needs Assessment ["HEDNA"] (January 2017) [CD.5.1.17];
- The Council's Landscape Sensitivity Assessment (July 2021) [CD.5.2.1];
- The Council's Local Green Space Assessment (May 2021) [CD.5.2.2];
- The Council's Landscape Capacity and Sensitivity Assessment Addendum (February 2021) [CD.5.2.3];
- The Council's Landscape Sensitivity Assessment of SHLAA Sites (March 2019) [CD.5.2.4];
- The Council's Open Spaces Assessment (December 2017) [CD.5.2.5];

- The Council’s Landscape Character Assessment (July 2012) [CD.5.2.6];
- The Council’s SHELAA Report (December 2020) [CD.5.2.9];
- The Council’s Open Spaces Strategy (August 2019) [CD.5.2.10];
- The Council’s Design SPD (January 2020) [CD.6.7];
- The Council’s Housing SPD (updated December 2017) [CD.6.8];
- The Council’s Biodiversity Planning Guidance (June 2022) [CD.5.3.2].

Appeal Decisions in Charnwood Borough

- 4.49 The Appellant will refer to other appeal decisions which are considered relevant in the Inquiry, including recent appeals in Charnwood Borough relating to the development of up to 170no. dwellings on land east of Cossington Road, Sibleby (PINS ref: APP/X2410/W/21/3287864), which was allowed on 13th June 2022 [CD.7.1]; an appeal relating to the development of 63no. dwellings on land at Maplewood Road, Woodhouse Eaves (PINS ref: APP/X2410/W/21/3271340), which was allowed on 4th October 2021 [CD.7.2]; and an appeal relating to the development of up to 70no. dwellings on land off Melton Road, Burton-on-the-Wolds (PINS ref: APP/X2410/W/20/3264488), which was allowed on 24th June 2021 [CD.7.3].
- 4.50 The three appeal decisions all relate to applications for outline planning permission for residential development on sites located outside of adopted settlement limits, which involved consideration of harmful landscape impacts in the overall planning balance. The three appeal sites were situated in locations that are ranked lower in the settlement hierarchy than Loughborough and which also have poorer access to local facilities. They are all outside the settlement limits, unlike the Appeal Site which is within the settlement limits for Loughborough in the statutory Development Plan. The three appeals were also considered at points in time when the LPA was able to demonstrate a healthier 5 YHLS than at present. The three appeal decisions will provide a useful reference to the weight the respective Inspectors afforded to landscape harm and the benefits of the developments in the overall planning balance, mindful that the Appeal Proposals for Leconfield Road, Nanpantan provide an opportunity for the delivery of new housing, affordable housing and public open space on a site which includes no statutory designations and which is located wholly within the settlement limits of Loughborough as defined in the Development Plan, without incursion into the countryside.

The Nation’s Housing Crisis and Charnwood’s Five-Year Housing Land Supply [“5 YHLS”]

- 4.51 The ‘Housing White Paper: Fixing Our Broken Housing Market’ (February 2017) [CD.5.1.1] makes clear that this country is in a housing crisis now. The Prime Minister’s Foreword to the Housing White Paper is unequivocal:

“Our broken housing market is one of the greatest barriers to progress in Britain today... The starting point is to build more homes...we need to build many more houses, of the type people want to live in, in the places they want to live. To do so requires a comprehensive approach that

tackles failure at every point in the system”.

4.52 The Secretary of State’s Foreword goes on to state:

“This country doesn’t have enough homes. That’s not a personal opinion or a political calculation. It’s a simple statement of fact.

For decades the pace of house building has been sluggish at best. As a result, the number of new homes has not kept pace with a growing population. And that, in turn, has created a market which fails to work for far too many people.

That has to change. We need radical, lasting reform that will get more built right now and for many years to come.”

4.53 More recently, the Government published the Commons Library Research Briefing Paper titled ‘Tackling the Under-Supply of Housing’ [“the Paper”] [CD.5.1.2]. The Paper re-affirms the Government’s ambitions for new housing supply, in working towards a target of 300,000 homes per year by the mid-2020s. The Paper adds to this by stating that according to one estimate, commissioned by the National Housing Federation and Crisis from Heriot-Watt University, around 340,000 new homes need to be supplied in England each year, of which 145,000 should be affordable. This emphasises that the scale of the housing.

4.54 The Paper confirms that new housing supply is currently substantially lower than the Government’s ambition of 300,000 homes per year. Indeed, in 2020/21 only 216,000 new homes were supplied, which is lower than the 243,000 homes provided in 2019/20, which itself is significantly lower than the Government’s target.

4.55 Given this level of supply across the county in recent years, there remains an urgent need to increase the supply of housing if the Government’s target is to be met.

The Housing Supply Position

4.56 In the case of Charnwood Borough Council, the Core Strategy and Saved Policies of the Local Plan are now more than five years old. The most up-to-date published figure endorsed by the LPA for development management purposes and set out in its Five Year Supply Table [CD.5.1.3] acknowledges that the LPA can demonstrate only a 3.04-year supply of deliverable housing land as at 1st April 2022 based on a local housing need calculated using the Standard Method (namely 1,111no. dwellings per annum and also excluding any unmet need from Leicester City under the Duty to Co-operate). Furthermore, the requirement to demonstrate a 5 YHLS is a minimum and not a ceiling beyond which sustainable development should be resisted in principle.

4.57 The extent of the LPA’s shortfall in the housing land supply is significant and results from a failure to deliver a sufficient supply over a number of years.

Indeed, as identified in its Annual Monitoring Report [“AMR”] 2018 – 2019 (December 2019) [CD.5.1.4], the LPA was last able to demonstrate a 5 YHLS in March 2019. Since that time, the LPA’s supply has consistently reduced from a 4.10-year supply in March 2020 (as per AMR 2019 – 2020) [CD.5.1.5] to a 3.34-year supply in March 2021 (as per AMR 2020 – 2021 [CD.5.1.6] and to a 3.04-year supply in April 2022 [CD.5.1.3].

- 4.58 Table 4.1 below demonstrates the decline in the LPA’s Housing Land Supply since 2015 – 2016 and with this strengthening the level of weight to be given to proposals for residential development:

Table 4.1: LPA’s Housing Land Supply since 2015/16

Annual Monitoring Report (AMR)	Housing Land Supply
AMR 2015 – 2016	5.93 years
AMR 2016 – 2017	4.68 years
AMR 2017 – 2018	5.93 years
AMR 2018 – 2019	6.41 years
AMR 2019 – 2020	4.10 years
AMR 2020 – 2021	3.34 years
5 YHLS Table 1 st April 2022	3.04 years

- 4.59 Whilst the application of the Housing Delivery Test shows housing delivery in a more favourable light (2018: 123%; 2019: 132%; 2020: 135% and 2021: 145%), it should be noted that these previous calculations were based on the now out-of-date housing requirements of the Core Strategy, namely 820no. dwellings/year. The most recent calculation of 145% in 2021 would reduce to 66.75% if based on the up-to-date local housing need of 1,111no. dwellings/year. Ultimately, however, the LPA’s Housing Delivery Test calculations do not alter the fact that it cannot demonstrate a 5 YHLS. This is a material consideration of significant weight and engaged the tilted balance in paragraph 11(d) of the NPPF.

- 4.60 A key impact of the LPA’s significant shortfall in housing land supply is that there is also significant shortfall in its supply of affordable housing - as recognised in Paragraph 2.10 of the Draft Local Plan [CD.6.3] and also in Paragraph 7.59 of the SoCG [CD.4.1.1], the former of which states, inter-alia, that:

“ . . . our evidence shows that provision of new affordable housing is an important and pressing issue in the Borough . . . ”

- 4.61 The Draft Local Plan confirms that there is an identified need for 476no. affordable homes to rent per annum, which has increased by over 21.43% from 392no. dwellings identified in the 2017 HEDNA [CD.5.1.17]. This need equates to 42.84% of the current total annual housing need of the Borough, excluding that associated with meeting the unmet need of Leicester City.

Assessment of Status and Weight of the Most Important Policies of the Development Plan

- 4.62 An assessment of the Development Plan policies considered the most important in the determination of the Appeal is included below. I address the consistency of the relevant policies with the NPPF and the weight that can be afforded to them.
- 4.63 The Core Strategy was adopted in November 2015 and is now over 5 years old. A review of the Core Strategy should have been completed by November 2020. The housing requirement within the Core Strategy is based on the Leicester & Leicestershire Strategic Housing Market Assessment (June 2014) [CD.5.1.18], which is out of date, being over 5 years old itself. Furthermore, the Local Plan, as adopted in January 2004, covered the period up to 2006. Both the preparation of the Plan and the saving of selected policies in September 2007 pre-dated the publication of even the initial iteration of the NPPF in March 2012.
- 4.64 Core Strategy Policies CS1 (Development Strategy), CS3 (Strategic Housing Needs), CS11 (Landscape and Countryside), CS13 (Biodiversity and Geodiversity) and CS25 (Presumption in Favour of Sustainable Development) and Saved Local Plan Policy ST/2 (Limits to Development) are the most important Development Plan policies in the consideration of the Appeal. Given the LPA cannot demonstrate a 5 YHLS, these policies are all out-of-date in the context of Footnote 8 to NPPF Paragraph 11 (d).
- 4.65 No conflict with Core Strategy Policy CS1 is alleged in the LPA's RfR. In my view, this policy is broadly consistent with the over-arching objectives of sustainable development as defined in NPPF Paragraph 8 insofar as it sets out a settlement hierarchy and seeks to direct the majority of new development to the most sustainable locations. Given its consistency with the NPPF and the fact that it does not constrain the delivery of housing on the appeal site, my view is that this policy can be afforded significant weight in the determination of the Appeal, despite being out-of-date.
- 4.66 No conflict with Saved Local Plan Policy ST/2 is alleged in the LPA's RfR. The Appeal Site is located wholly within the settlement limits of Loughborough prescribed by the policy. While the policy was based on a different and lower housing requirement, this policy identifies settlement boundaries within which development will be acceptable in principle. It does not present a constraint to development in this case and does not restrict housing on the Appeal Site and in that context, my view is that it attracts significant weight.
- 4.67 No conflict with Core Strategy Policy CS3 is alleged in the LPA's RfR. I consider that the policy is broadly consistent with NPPF Paragraph 62 by seeking an appropriate mix of types, tenures and sizes of homes having regard to identified housing need; and also with NPPF Paragraph 65 in seeking to deliver at least 10% of the total number of homes to be available for affordable home ownership. In my view, this policy can be afforded significant weight in the determination of the Appeal, despite being out-of-date.

- 4.68 Core Strategy Policy CS11 finds some support in NPPF Paragraph 174 insofar as it requires new developments to contribute to and enhance the local environment. However, NPPF Paragraph 174 plainly draws a distinction between the need to “protect and enhance” valued landscapes (174 (a)) and the need to “recognise the intrinsic character and beauty” of other parts of the countryside (174(bb)). That distinction and gradation is not apparent in Policy CS11. In my view, Policy CS11 attracts moderate weight: it is restrictive of development; the LPA has a significant shortfall in its Housing Land Supply and the policy is not wholly consistent with the NPPF.
- 4.69 Core Strategy Policy CS13 is broadly consistent with NPPF Paragraphs 174 and 180 insofar as it seeks to minimise impacts from new developments on biodiversity. However, Paragraph 180(a) of the NPPF indicates that it is only if “significant harm” to biodiversity cannot be mitigated or compensated, that planning permission should be refused whereas Policy CS13 suggests that development resulting in any loss of ecological features will be refused other than in exceptional circumstances. In my view, Policy CS13 is more restrictive than the NPPF and in light of that inconsistency and the housing land supply position, it attracts moderate weight in this appeal in my opinion.
- 4.70 No conflict with Core Strategy Policy CS25 is alleged in the LPA’s RfR. In my view, it is broadly consistent with NPPF Paragraph 11 insofar as it sets out a presumption in favour of sustainable development. I consider this policy can be afforded significant weight in the consideration of the Appeal.

SECTION 5: The Case in Support of the Appeal

- 5.1 Since the drafting of its Statement of Case ["SoC"] [CD.4.2.1] in September 2022, a SoCG [CD.4.1.1] has been agreed with the LPA to help narrow down the issues that are likely to remain in dispute – a final version being submitted to the Inspectorate by the LPA on 17th November 2022 and later updated at the request of the LPA on 28th February 2023.
- 5.2 The SoCG [CD.4.1.1] records that the Appellant and the LPA agree on the following headline issues, as was the case in the Plans Committee Report [CD.3.1] and Plans Committee Extras Report [CD.3.2]:
- a) Format of Application and supporting technical documentation;
 - b) Development Plan designations;
 - c) Facilities and accessibility;
 - d) Principle of development (including illustrative housing mix);
 - e) Heritage and archaeology;
 - f) Impact on residential amenity;
 - g) Highway matters/Accessibility;
 - h) Flood risk and drainage;
 - i) Loss of agricultural land;
 - j) Contamination and ground conditions;
 - k) Air quality;
 - l) Planning obligations;
 - m) Benefits of the Proposed Development.
- 5.3 In addition to the above list, issues relating to open space are agreed between the Appellant and the LPA, as recorded in Paragraphs 7.20 to 7.28 of the SoCG [CD.4.1.1], other than in respect of the LPA's requirement for the delivery of an on-Site Locally Equipped Area of Play ["LEAP"] within the Heads of Terms of a legal agreement, as reported in Paragraph 8.1 (Issue 7) and Appendix 2 of the SoCG. This matter is addressed in Paragraphs 5.73 to 5.81 of this PoE (Planning).
- 5.4 In addition to the above matters, certain elements of matters relating to impacts on landscape and biodiversity are agreed in the SoCG [CD.4.1.1], though clearly not fully, given the LPA's two RfR. As referred to in Section 1 of this PoE (Planning), landscape and biodiversity-related matters pertaining to the Appeal are addressed within the separately-bound PoE (Landscape) of Mrs Boland [CD.4.2.5] and PoE (Biodiversity) of Mr Ramm [CD.4.2.6].
- 5.5 The Appellant reserves the right to address any further issues in the Inquiry that are not agreed by the LPA as included in the SoCG.

The Main Issues

- 5.6 Based on the two RfR of the Application, the Appellant anticipates that the main issues for the Appeal will be as follows:

- **Issue 1 (The Suitability of the Location for the Appeal Proposals):** Whether the Proposed Development would be in a suitable location having regard to the Development Plan and other material considerations;
- **Issue 2 (Impact of the Appeal Proposals on Landscape Character):** The impact of the Proposed Development on landscape character;
- **Issue 3 (Impact of the Appeal Proposals on Biodiversity):** The impact of the Proposed Development on biodiversity;
- **Issue 4 (Conflict with the Development Plan/Harm and Benefits of the Proposed Development):** Whether or not the adverse impacts of the Proposed Development significantly and demonstrably outweigh the benefits.

These main issues are addressed below.

Issue 1 (The Suitability of the Location for the Appeal Proposals)

- 5.7 The suitability of the Appeal Site's location is explored below in the context of its compliance with the development strategy as set out in the context of adopted Development Plan, the NPPF and the Draft Local Plan.

The Development Plan

- 5.8 The Site is located wholly within the settlement limits of Loughborough as defined by Saved Local Plan Policy ST/2 (Limits to Development) and is surrounded by residential development on three of its sides, as acknowledged on Page A12 of the Plans Committee Report [CD.3.1] and Paragraphs 3.5 and 3.10 of the SoCG [CD.4.1.1]. The Appeal Scheme will ensure the new housing will sensibly relate to the existing pattern of the settlement and help to ensure that development needs are met without unwarranted harm to the countryside and other rural interests, in accordance with the policy.
- 5.9 A key driver behind Policy CS1 (Development Strategy) is the need to create sustainable communities by focusing development on places best equipped to accommodate it. Accordingly, the policy seeks to encourage new residential development within the confines of Loughborough, as it is the largest settlement in the Borough, with good access to jobs, services and facilities and public transport. The explanatory text to Policy CS1 explains at Paragraph 4.16 the Core Strategy's vision to:
- “ . . . ensure new development is located where it helps provide people with good access to jobs, services and facilities”.*
- 5.10 It goes on to explain, at Paragraph 4.17, that the communities who enjoy best access to jobs, services and community facilities are those living and working on the edge of Leicester City and in the towns of Loughborough and Shepshed and that:

“We have limited brownfield opportunities in Charnwood and cannot meet our housing needs entirely on brownfield land in these urban areas”.

- 5.11 As acknowledged on Page A12 of the Plans Committee Report [CD.3.1] and Paragraph 7.6 of the SoCG [CD.4.1.1], the Appeal Scheme accords with Policy CS1 and the principle of residential development on the Site is considered by the LPA to be acceptable. The policy targets housing requirements of 13,940no. new dwellings to be delivered in the Borough across the Plan period, of which 5,000no. are to be delivered in Loughborough and Shepshed. These figures are not ceilings and are therefore expressed as minimum figures.
- 5.12 The Site is not the subject of any specific landscape or other designations or constraints which would render the residential development of the Appeal Site unacceptable in principle, as acknowledged in the SoCG [CD.4.1.1] at Paragraph 7.6. It is not within an area at high risk of flooding, is not within a conservation area and there are no known issues of contamination, as acknowledged on Page A14 of the Plans Committee Report [CD.3.1] and in Section 7 of the SoCG. The Appeal Proposals represent an effective use of the Site within the designated settlement boundary which is currently in agricultural use with no public access and no recreation value, as acknowledged on Pages A18 and A20 of the Plans Committee Report and in Paragraph 7.15 of the SoCG.
- 5.13 The Site is considered to represent a suitable location for new housing and one which therefore accords with and does not conflict with the relevant policies of the Development Plan, namely Saved Local Plan Policy ST/2 and Core Strategy Policy CS1. In this respect, Paragraph 6.5 of the SoCG [CD.4.1.1] acknowledges that, based on the Plans Committee Report [CD.3.1] and Extras Report [CD.3.2], there is no conflict with policies of the Development Plan other than that alleged with Core Strategy Policies CS11 and CS13 in respect of landscape and biodiversity-related impacts respectively. The LPA has agreed at Paragraph 7.6 of the SoCG that the principle of residential development on the Site is acceptable. Landscape and biodiversity matters are addressed in the PoE (Landscape) of Mrs Boland [CD.4.2.5] and PoE (Biodiversity) of Mr Ramm [CD.4.2.6] and are summarised later in this Section under the headings of Issues 2 and 3 respectively.

The NPPF

- 5.14 In terms of compliance with the NPPF, the Appeal Site represents a sustainable location for new residential development in line with the principles of sustainable development and the effective use of land as cited in NPPF Paragraphs 8 and 119 respectively.

The Draft Local Plan

- 5.15 As stated in Paragraph 4.47 of Section 4 of this PoE (Planning), the Draft Local Plan has only limited weight in the consideration of the Appeal, as

acknowledged in Paragraph 6.14 of the SoCG. Notwithstanding this, the residential development of the Site is considered to align with the policies of the Draft Local Plan in any case, as explored below.

- 5.16 As acknowledged on Page A13 of the Plans Committee Report [CD.3.1], the Site was previously considered appropriate for a potential residential allocation for approximately 41 dwellings, with no irresolvable or physical environment-related constraints identified in the SHELAA of December 2020 [CD.5.2.9] (the Appeal Site is given the reference PSH447 in the SHELAA) and was only excluded as a residential allocation in the Pre-Submission version of the Draft Local Plan following a high-level assessment of ecological constraints, including the proximity to Burleigh Wood and that other sites would be better-placed to meet the housing needs of the Borough. However, a subsequent detailed ecological assessment of the Site was submitted as part of the Application and resulted in no objections being raised by the Council's senior ecologist to the Proposed Development, as acknowledged on Page A28 of the Plans Committee Report [CD.3.1]. On that page, the Report explains that:

“While the site was proposed as a draft allocation, it was removed following a high-level review of potential impacts on ecology and other sites being better suited to meet housing need. However, a detailed assessment of the site as part of this application has been undertaken to the satisfaction of Charnwood’s Senior Ecologist and a baseline had been agreed to ensure that any future development of the site meets the requirement for there to be no net loss in biodiversity value. With regard to the potential for allocation, it is notable that the proximity of a site allocation to Burleigh Wood has not prevented the LUSEP site from being allocated through the Core Strategy and repeated in the emerging local plan, nor has it precluded a proposed allocation at Snells Nook Lane, abutting the western side of Burleigh Wood. As such, and subject to detailed assessment of any final details as reserved matters, the principle for development of the site is not constrained solely by its proximity to Burleigh Wood.”

- 5.17 The Plans Committee Extras Report [CD3.2] again considered the Appeal Scheme against the Draft Local Plan on Pages 6 – 7 and explained that:

“Part 14 of the report recognises that the site was previously proposed to be allocated through the emerging Local Plan and was not excluded following assessment through the Strategic Housing and Employment Land Availability Assessment (SHELAA), but it was not taken forward as an allocation in the submission version of the Local Plan following a high-level assessment of ecological constraints and that other sites would be preferable. However, the high-level assessment for the purposes of a Local Plan allocation do not taken into account the detailed assessment and potential mitigation which forms part of the consideration of a planning application...”

- 5.18 It is clear from the above that the reason for the non-allocation of the Appeal Site in the Draft Local Plan related to ecological impacts identified only through

a high-level assessment that did not take account of the particular details of the Appeal Scheme or its proposed mitigation. Having seen the further details provided through the Application documents, neither the Council's senior ecologist or planning officers considered that ecological impacts justified the refusal of outline planning permission. Had similar information been available to inform the production of the Draft Local Plan, there is every reason to believe the Appeal Site would have been allocated for residential development given the absence of any other constraints identified in the SHELAA [CD.5.2.9].

5.19 In the current version of the Draft Local Plan, the Appeal Site would lie outside but adjacent to the new settlement boundary. Policy DS1 of the Draft Local Plan continues to apply an overall spatial strategy of urban concentration, with 31% of the Borough's development within the Loughborough Urban Area. Whilst the policy explains the emerging spatial strategy is such that new built development will be confined to allocated sites and sites within settlement limits, it also states that, in circumstances where a five-year supply of deliverable housing land cannot be demonstrated, proposals for development should only be refused where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The policy recognises that proposals may be acceptable where they accord with the pattern of development as set out in the spatial strategy, adjoin settlement limits, do not prejudice the delivery of infrastructure and accord with other development plan policies. The Appeal Site adjoins the proposed new settlement boundary for Loughborough; will not prejudice the delivery of infrastructure and will accord with other policies of the Draft Local Plan. The Appeal Proposals are therefore considered to align with the emerging spatial strategy for the delivery of development within the Borough as set out Policy DS1 of the Draft Local Plan.

5.20 The Appeal Proposals are also considered to be in accordance with Policy DS1 by:

- Contributing towards the meeting of a defined housing need in the context of Loughborough being the main social, economic and cultural focus within the Borough;
- Reducing the need to travel, due to the sustainability and accessibility of the Site;
- Not resulting in any significant adverse effects on the character or appearance of the area;
- Not affecting a Green Wedge or Area of Local Separation; and
- Delivering a net gain in biodiversity.

5.21 As such, whilst Policy DS1 of the Draft Local Plan attracts only limited weight at the present time, my view is that it is supportive of the Appeal Scheme.

Other Considerations

5.22 Consideration is given below to various other matters which objecting third parties to the Appeal Proposals have suggested should influence the suitability of the Site for the Appeal Proposals, including in terms of previous Local Plan

designations, Local Green Space, Assets of Community Value, public rights of way, land ownership and existing levels of open space provision in the area.

Previous Local Plan Designations

- 5.23 As discussed in Section 2, the Site was previously designated as an Open Space of Special Character by Policy EV/18 of the 2004 Local Plan. However, that policy was not saved beyond the adoption of the Core Strategy in November 2015. Furthermore, the Plans Committee Report [CD.3.1] acknowledges on Page A18 that the previous designation was not on the basis of it being publicly accessible open space used for recreational purposes but on its landscape value and that there are no current or historic designations on the Site based on it being used or accessed for recreational purposes.

Local Green Space

- 5.24 As discussed in Section 2, the Site was considered as a potential LGS designation in the Council's Local Green Space Assessment of May 2021 [CD.5.2.2] as part of the evidence base for the Draft Local Plan. The conclusion of that assessment was that the Site should not be designated as a LGS, as acknowledged on Pages A19 and A20 of the Plans Committee Report [CD.3.1] and in Paragraph 7.24 of the SoCG [CD.4.1.1]. I understand that certain members of the community do not accept the LPA's decision not to propose the Site for designation as a LGS – that is one of many outstanding and unresolved objections to the Draft Local Plan. Other objections relate to the housing requirement figures, the LPA's anticipated housing trajectories and the need to allocate additional sites. Ultimately those matters will only be resolved through the Local Plan Examination process and this Appeal must proceed on the basis that the Appeal Site is not currently designated as a LGS and is not proposed for designation in the Draft Local Plan.

Assets of Community Value

- 5.25 As discussed in Section 2, the Site was the subject of a request made to the Council by third parties in March 2021 to designate it as an ACV. A piece of land will be an asset of community value if its main use has recently been, or is presently, to further the social wellbeing or social interests of the local community and it could be in the future. The application for designation was refused by the Council on the basis the primary use of the Site was agricultural. This matter is acknowledged on Page A18 of the Plans Committee Report [CD.3.1] and in Paragraph 7.22 of the SoCG [CD.4.1.1].

Public Rights of Way

- 5.26 As discussed in Section 2, an application was made to LCC by third parties for a definitive map modification order in March 2021 to establish a public footpath over the Site [CD.5.1.25]. The landowner will be objecting to the DMMO application through the appropriate channels within the required timescales. LCC advised in its initial consultation response for the Application, dated 15th December 2021, that the determination of a DMMO application can take a

number of years to go through the legal process and longer if objections are received. More recently LCC has advised the landowner, by way of an email dated 31st January 2023, that preliminary consultations are currently being undertaken to get an initial understanding of the views on the application and with this period to run until 14th March 2023, following which further investigations may be undertaken by LCC, with the views and actions of the landowner being taken into account.

- 5.27 The DMMO application was submitted to LCC prior to the LPA's refusal of the Application and is therefore addressed in the Plans Committee Report [CD3.1]. This concluded on Page A18 that the ongoing consideration for a new public right of way within the Site was not considered to be restrictive on the determination of the Application because, if outline planning permission was to be granted and the DMMO application approved before the reserved matters were subsequently determined, any detailed layout could take into account any new public footpath within the Site. This matter is also acknowledged in Paragraph 7.23 of the SoCG [CD.4.1.1], which concludes that there are no existing public rights of way within the Site and that any ongoing consideration for a new public right of way within it is not considered to be restrictive to the determination of the Appeal. At present, the Appeal should proceed on the basis that there is no designated footpath or public access to the Appeal Site. The landowner proposes to object to the DMMO and does not expect the application to be allowed. However, even if a footpath were to be designated across the Site at some future point, that could be accommodated into the detailed approval which will be determined at reserved matters stage and will not prevent the delivery of up to 30 dwellings on the Site.

Land Ownership

- 5.28 Comments submitted by third parties dispute the validity of the Application/Appeal on the basis they consider part of the Site is owned by other third parties or that it is not known who owns elements of the Site, such that the correct notification process has not been undertaken. However, other than for an area of Highway land within the vicinity of its existing/proposed access, the Site is wholly owned by the HJC Charity, as is confirmed by the LPA, which undertook its own assessment of this matter, as acknowledged on Pages 2 and 3 of the planning officer's Plans Committee Extras Report [CD.3.2] and in Paragraph 3.3 of the SoCG [CD.4.1.1].

Existing Deficit of Open Space

- 5.29 Representations submitted by third parties in objection to the Appeal Proposals refer to a lack of open space and recreational facilities in the area and claim that the Site should therefore be used by the community, with reference made to the Charnwood Open Spaces Assessment of December 2017 [CD.5.2.5], which forms part of the evidence base for the Draft Local Plan.
- 5.30 However, as acknowledged on Pages A20 to A22 of the Plans Committee Report [CD.3.1] and in Paragraph 7.25 of the SoCG [CD.4.1.1], the Nanpantan ward runs at a deficit for the majority of open space typologies but this is similar

to most wards within Loughborough and with Nanpantan having better access to open space than other wards in the study.

5.31 Numerous open space and recreation facilities within the Nanpantan ward, are listed in the Plans Committee Report [CD.3.1], including:

- The Kirkstone Road play area;
- Green corridors running along cycleways linking Forest Road to the University;
- Permissive access to parts of the University's grounds and sports pitches.

5.32 The Plans Committee Report [CD.3.1] advocates a 'real-world view' of the accessibility of open space to residents, including those facilities outside the Nanpantan ward that are within reasonable accessibility to the ward's residents, including:

- Jubilee Woods and Outwoods via footpaths and bridleways linking from Watermead Lane into the National Forest;
- Sports facilities located off Watermead Lane, with a bowls club, tennis club, football pitches, cricket pitches and a new multi-use games area;
- Allotments off Forest Road;
- Holt Drive play area;
- Green corridor on Woodbrook Way.

5.33 The separately bound Appendix 2 to this PoE (Planning) includes a map extract, which sets out the location of these and other existing open spaces and recreational facilities in the context of the Appeal Site. The LPA confirmed its agreement on 27th February 2023 to the location and extent of existing open spaces and recreational facilities shown on the map extract.

5.34 The Plans Committee Report [CD.3.1] and Paragraphs 7.26 and 7.59 of the SoCG [CD.4.1.1] conclude that, whilst there is a deficit of open space in the Nanpantan ward based on the methodology set out in the Council's Open Space Assessment of December 2017 [CD.5.2.5], the overall accessibility of the Site to existing open space and recreational facilities is not considered to be restrictive on the principle of residential development being allowed on the Site. Instead, it reports that efforts made by third parties to achieve a right of access or protection of the Site through various designations have not been successful, such that there remains no restriction on the principle of residential development on the Site in terms of open space by adopted or emerging policy; and with the Site remaining in private ownership with no public right of access, such that loss of the site to residential development does not weigh heavily in the planning balance.

5.35 The Plans Committee Report [CD.3.1] acknowledges on its Page A20 that it is not necessary for the Site to resolve existing deficiencies in open space, only to ensure that any additional impact created by the Proposed Development is suitably addressed. In this respect, the Appeal Proposals will deliver sufficient and appropriate open space on the Site and with contributions also secured via

a legal agreement towards the provision of various open space typologies off-site, thereby ensuring that any potential impacts of the Appeal Proposals on existing open space provision in the locality are appropriately and reasonably mitigated. Furthermore, the proposed open space to be created within the Site will be available for use by existing residents and will therefore represent an improvement on the current position, where no such authorised public access onto the Site exists and will therefore represent a benefit of the Appeal Proposals in this respect. In this latter respect, the Plans Committee Report [CD.3.1] acknowledges on its Page A22 that the Proposed Development could make a modest improvement to the accessibility of the Site to the local community, with potential for natural amenity space and a potential play area to be made available. This matter is explored further in Paragraphs 5.73 to 5.81 of this PoE (Planning).

Issue 2 (Impact of the Appeal Proposals on Landscape Character)

- 5.36 RfR 1 alleges the Proposed Development would fail to protect and enhance the unique landscape character of the Appeal Site and the surrounding area, such that it would be contrary to Core Strategy Policy CS11 (Landscape and Countryside) and NPPF Paragraph 174.
- 5.37 The only criterion of Core Strategy Policy CS11 that has any relevance to the consideration of the Appeal Proposals is the first, which seeks to support and protect the character of landscapes and countryside by requiring new developments to protect landscape character and to reinforce sense of place and local distinctiveness by taking account of relevant local landscape character assessments. The preamble to the policy states in Paragraph 7.7 that countryside is defined as
- “ . . . the largely undeveloped area beyond the defined limits of our villages and towns.”*
- 5.38 The Appeal Site is located within the settlement limits of Loughborough as defined in the Development Plan and therefore does not form countryside for the purposes of the policy. Notwithstanding the inapplicability of the policy to the Appeal Scheme, the impact of the development on the landscape character of the area is discussed in the evidence of Mrs Boland in her PoE (Landscape) [CD.4.2.5].
- 5.39 Criterion (a) of NPPF Paragraph 174 seeks to enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils. The landscape of the Site is not considered as ‘valued’ within the meaning of paragraph 174(a) of the NPPF having regard to the criteria set out in Box 5.1 of the GLVIA [CD.5.2.7], as acknowledged in Paragraph 7.10 of the SoCG. The Site has also not met the LPA’s own requirements for Local Green Space designation, as reported in the Council’s Local Green Space Assessment of May 2021 [CD.5.2.2] and as acknowledged on Pages A19 and A20 of the Plans Committee Report [CD.3.1] and in Paragraph 7.24 of the SoCG [CD.4.1.1].

- 5.40 NPPF Paragraph 174(b) provides that planning decisions should recognise the intrinsic character and beauty of the countryside. An assessment of the Appeal Proposals in the context of RfR 1 is included in the PoE (Landscape) of Mrs Boland [CD.4.2.5].
- 5.41 Mrs Boland's PoE (Landscape) [CD.4.2.5] assesses the Site to have a low to medium landscape sensitivity, which is supported by the LPA's own evidence base, including the Landscape Sensitivity Assessment of SHLAA Sites (March 2019) [CD.5.2.4]. Mrs Boland's detailed analysis of the Proposed Development and its potential impacts on the landscape character of the Site and the surrounding area finds that this is not a remarkable or unique site and that it makes very limited contribution to the character of the surrounding areas and the appearance of the settlement. Rather, it is a piece of land left over because of previous developments and, although it has some pleasant features and value is attributed to it by local residents, it is in private ownership with no public access and therefore has no recreational value and the panoramic views alleged by the LPA to be available from within the Site are not for consideration in this Appeal in terms of visual impact given that there are no legitimate visual receptors (i.e. people) to experience those views.
- 5.42 The PoE (Landscape) [CD.4.2.5] finds that when considering the adverse effects and the benefits and enhancements from a landscape perspective, the magnitude of change is medium which, when combined with the Site's low – medium sensitivity, results in a moderate, not significant impact on the Site which diminishes to minimal beyond the site boundaries.
- 5.43 The Appellant has agreed with the LPA's planning case-officer, Mark Pickrell [CD.8.36 and CD.8.37], that verifiable rendered montage views from within the adjacent residential area and the PRoW in countryside to the south will be submitted with the Appeal – these being Viewpoints 2/6 and 11/12 respectively as referenced in the LVIA [CD.2.12] that accompanied the Application. The Verified Views include both summer and winter scenarios and are included in Appendix A of the PoE (Landscape) [CD.4.2.5].
- 5.44 As discussed in Mrs Boland's PoE (Landscape) [CD.4.2.5], the Verified Views clearly demonstrate that, from within the surrounding streetscape, the Proposed Development will not be a prominent part of the views and is contiguous with the existing residential dwellings. From the PRoWs to the south, views are limited and, where available, the Proposed Development will be barely distinguishable and be set within a wider panoramic appreciation of the built features of Loughborough and the Soar Valley. The Proposed Development does not break the skyline or dilute these panoramic views. The Verified Views therefore demonstrate that the visual impact of the Proposed Development will be limited to the neighbours directly adjacent to the Site and will not have an adverse impact on the wider surrounding landscape and countryside.
- 5.45 The Appeal Proposals are therefore in accordance with the first criterion of Core Strategy Policy CS11. They will have only a limited impact on landscape character, which will not be significant, as acknowledged on Page A16 of the

Plans Committee Report [CD.3.1]. Given that the LPA accepts the principle of residential development on the Site is acceptable, as reported in Paragraph 7.6 of the SoCG [CD.4.1.1], it is incumbent on it to identify the features of this particular development which render the development unacceptable on account of its landscape impacts. Plainly it cannot be the case that any level of harm, however slight, would be unacceptable because that would render any residential development unacceptable in circumstances where the LPA recognises that residential development here is acceptable in principle.

- 5.46 The Appeal Proposals do not conflict with NPPF Paragraph 174 (a), as acknowledged on Page A16 of the Plans Committee Report as the Site is not considered a 'valued' landscape. Nor does it conflict with Paragraph 174(b), for the reasons discussed in Mrs Boland's PoE (Landscape) [CD.4.2.5].
- 5.47 The Appeal Proposals are also in accordance with Strategic Policy EV1 of the Draft Local Plan, given their limited impact on landscape character, notwithstanding its limited weight as reported in Paragraph 6.14 of the SoCG [CD.4.1.1].

Issue 3 (Impact of the Appeal Proposals on Biodiversity)

- 5.48 RfR 2 alleges that the Proposed Development would result in significant adverse biodiversity impacts that would be contrary to Policy CS13 (Biodiversity and Geodiversity) of the Core Strategy and NPPF Paragraphs 174 and 180.
- 5.49 Core Strategy Policy CS13 seeks to conserve and enhance the natural environment by supporting developments that protect biodiversity and geodiversity and those that enhance, restore or re-create biodiversity. The policy expects development proposals to consider and take account of the impacts on, inter alia, Local Wildlife Sites and priority habitats and species and with adequate mitigation/compensation that is likely to result in net gains, with development proposals to be accompanied by ecological surveys and an assessment of the impacts on biodiversity. The policy does not include a specific percentage target for such net gains.
- 5.50 Criterion (a) of NPPF Paragraph 174 seeks to enhance the natural and local environment by protecting, inter alia, sites of biodiversity or geological value and soils; and criterion (d) seeks to minimise impacts on and provide net gains for biodiversity.
- 5.51 Criterion (a) of NPPF Policy 180 provides that developments resulting in significant harm to biodiversity should be refused if their impacts cannot be avoided; suitably mitigated or compensated for. Criterion (c) provides that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. Criterion (d) provides that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.

- 5.52 The Application was supported by Ecological Impact Assessments and Biodiversity Impact Assessments ["BIA"] for the Site. An assessment of the Appeal Proposals in the context of RfR 2 is included in the PoE (Biodiversity) of Mr Ramm [CD.4.2.6].
- 5.53 The Site includes no specific ecological or biodiversity designations. It lies adjacent to Burleigh Wood, which is an Ancient Woodland and a Local Wildlife Site ["LWS"], as acknowledged in Paragraphs 3.15 and 7.18 of the SoCG [CD.4.1.1].
- 5.54 Natural England released new standing advice in January 2022 in relation to Ancient Woodlands and Veteran Trees [CD.5.3.1]. The standing advice states that the buffer zone adjacent to the edge of an Ancient Woodland should be at least 15m from the boundary of the woodland to avoid root damage. The advice goes on to discuss appropriate planting types in the buffer zone, stating that planting should consist of semi-natural habitats such as woodland; a mix of scrub, grassland, heathland and wetland and that local and appropriate native species should be specified. It further states that public access can be allowed within a buffer zone if habitats are not harmed by trampling. The Illustrative Layout Plan [CD.2.4] and Landscape Masterplan [CD.2.7] supporting the Application provide for a buffer zone of at least 20 metres, which therefore satisfies and exceeds the new standing advice of Natural England.
- 5.55 The proximity of Burleigh Wood is not a reason to restrict the principle of development on the Site. Proximity to the Wood has not prevented the allocation of the Loughborough University Science & Enterprise Park ["LSEP"] site in Core Strategy Policy CS23 and its continued allocation in Draft Local Plan Policy DS4, nor has it precluded the Snells Nook Lane site abutting the western side of Burleigh Wood from being included as a residential allocation in Draft Local Plan Policy DS3 (reference HA18) for the development of approximately 120no. dwellings, as acknowledged on Pages A16 and A28 of the Plans Committee Report [CD.3.1]. For context, Figure 5.1 below shows the location of the Appeal Site, the LSEP allocation and the Snells Nook Lane draft allocation adjacent to Burleigh Wood – the LSEP and Snells Nook Lane sites encompassing the entirety of the northern, western and southern edges to the Wood.

Figure 5.1: Location of Appeal Site, LSEP and Snells Nook Lane sites and Burleigh Wood



- 5.56 During consideration of the Application, the Council's senior ecologist accepted an updated Ecological Impact Assessment [CD.2.19] as providing a satisfactory assessment of the Appeal Site and accepted an updated BIA [CD.2.21, CD.8.18 and CD.8.25] as providing a suitable assessment of its baseline biodiversity value. The Council's senior ecologist ultimately raised no objections to the Proposed Development, subject to conditions and a legal agreement to secure potential for off-site contributions, if needed, to ensure a biodiversity net gain is achieved through any future application for reserved matters consent, as acknowledged on Pages A17 and A18 of the Plans Committee Report [CD.3.1] and in Paragraph 7.19 of the SoCG [CD.4.1.1].
- 5.57 Since the determination of the Application, and with the publication of DEFRA Biodiversity Metric 3.1, the Appellant has updated its ecological assessments and presents an updated BIA and a detailed Biodiversity Net Gain strategy, which, in addition to on-site biodiversity measures, involves a managed off-site biodiversity offsetting scheme. Full details of this off-site offsetting scheme are presented in the PoE (Biodiversity) [CD.4.2.6] and its appendices. The Appellant has secured the required land in this respect, which will deliver a significant net gain of 46.9% habitats and 117.6% hedgerows. The land secured off-site to facilitate this is local to the Appeal Site and will be managed for biodiversity benefit, with a management plan entered into between the Appellant and the landowner, to be secured by a legal agreement and managed as grassland and scrub for the next 30 years. The management plan period will commence once a reserved matters permission has been granted.
- 5.58 Management of the on and off-site offsetting land will be carried out by a management company appointed by the Appellant and monitoring surveys will be completed during the management plan period. A monitoring report will be

provided to the LPA every 5 years and, if required, the management plan will be reviewed and updated on this rotation also.

- 5.59 The Appeal Proposals are therefore in accordance with Core Strategy Policy CS13 as they help to protect biodiversity and will not result in the loss of ecological feature of significance. The Proposed Development will include a significant landscape buffer to the adjacent ancient woodland and will also help to deliver a scheme of on and off-site habitat creation to deliver significant biodiversity net gains.
- 5.60 The Appeal Proposals are in accordance with criteria (a) and (d) of NPPF Paragraph 174 as they help to protect biodiversity, minimise impacts on and provide net gains for biodiversity respectively. The other criteria of the paragraph are not relevant to biodiversity-related considerations for the Site and/or the Proposed Development.
- 5.61 The Appeal Proposals are in accordance with Criteria (a), (c) and (d) of NPPF Policy 180 as they do not result in harm to biodiversity that cannot be suitably mitigated or compensated for; do not result in loss or deterioration of irreplaceable habitats; and provide opportunities to improve biodiversity and secure significant measurable net gains.
- 5.62 The Appeal Proposals are also in accordance with Strategic Policy EV6 of the Draft Local Plan by ensuring that biodiversity interests and ancient woodland are protected and with biodiversity offsetting achieving significantly in excess of 10% net gains.

Issue 4 (The Planning Balance /Whether the Adverse Impacts of the Proposed Development Significantly and Demonstrably Outweigh its Benefits)

- 5.63 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.64 The Core Strategy and Saved Policies of the Local Plan are now more than 5 years old and require review, as acknowledged on Page A12 of the Plans Committee Report [CD.3.1] and in Paragraph 7.2 of the SoCG [CD.4.1.1].
- 5.65 The LPA is unable to demonstrate at least a 5 YHLS as required by NPPF Paragraph 74 and can only demonstrate only a 3.04 YHLS as of 1st April 2022, as acknowledged in Paragraph 7.3 of the SoCG [CD.4.1.1].
- 5.66 As a consequence, the tilted balance of NPPF Paragraph 11 (d) is engaged, as acknowledged on Pages A12 and A13 of the Plans Committee Report [CD.3.1] and in Paragraph 7.3 of the SoCG [CD.4.1.1]. As a result of the housing land supply position, planning permission should be granted unless one of two exceptions apply.

- 5.67 The first of these exceptions, relating to policies of the NPPF which protect areas or assets of particular importance, is not applicable to the Appeal, as there are no areas or assets of particular importance affected by the Proposed Development, as acknowledged on Page A12 of the Plans Committee Report [CD.3.1] – this also being confirmed in the PoEs for Landscape [CD.4.2.5] and Biodiversity [CD.4.2.6].
- 5.68 The second exception states that permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Performance against the Development Plan

- 5.69 As concluded under the heading of Issue 1 in Paragraphs 5.7 to 5.35 of this PoE (Planning), the principle of residential development on the Site is wholly in accordance with Saved Local Plan Policy ST/2 and Core Strategy Policy CS1. It is acknowledged on Page A12 of the Plans Committee Report [CD.3.1] and in Paragraph 7.6 of the SoCG [CD.4.1.1] that the Appeal Proposals are in accordance with Core Strategy Policy CS1 and are acceptable in principle.
- 5.70 The Appeal Proposals include the provision of 30% of the proposed dwellings as affordable homes (to be secured via a legal agreement) as required by Core Strategy Policy CS3, and with the mix of house types, tenures and sizes of all dwellings to be determined at the reserved matters stage. As such, the Appeal Scheme accord with Policy CS3, as acknowledged on Page 24 of the Plans Committee Report [CD.3.1] in Paragraph 7.8 of the SoCG [CD.4.1.1].
- 5.71 As set out in the PoE (Landscape) of Mrs Boland [CD.4.2.5], the Appeal Proposals are considered to be in accordance with the first criterion of Core Strategy Policy CS11 as they will have only a limited impact on landscape character, which will not be significant and with the other criteria of the policy not being relevant to the Site and/or the Proposed Development. The Plans Committee Report [CD.3.1] concludes on its Page A16 that the overall landscape harm resulting from the Proposed Development is not considered to be significant or demonstrable in its own right so as to justify refusal in relation to Core Strategy Policy CS11 (and the NPPF). Page A28 acknowledges that control remains to ensure a policy-compliant development through a subsequent application for reserved matters consent. There is therefore considered to be no conflict with Core Strategy Policy CS11.
- 5.72 As set out in the PoE (Biodiversity) of Mr Ramm [CD.4.2.6], the Appeal Proposals are in accordance with Core Strategy Policy CS13 as they help to protect biodiversity and will not result in the loss of ecological feature of significance. The Proposed Development will include a significant landscape buffer to the adjacent ancient woodland and will also help to deliver a scheme of on and off-site habitat creation to deliver significant biodiversity net gains. The Plans Committee Report [CD.3.1] acknowledges on its Page A18 that there are no objections to the principle of development on the site in terms of ecology and biodiversity and that officers were content that any future reserved matters

application could achieve the required 'no-net-loss' of biodiversity, such that the Appeal Proposals are considered to comply with Core Strategy Policy CS13 and Saved Local Policy EV/1. There is therefore no conflict with this policy.

5.73 Core Strategy Policy CS15 relates to open spaces, sports and recreation but is a policy that is not recorded as being either a key or other policy of relevance to the determination of the Appeal in Paragraphs 6.3 or 6.4 of the SoCG respectively and nor has the LPA indicated conflict with this policy in either of its two RfR, as recorded in Paragraph 6.5 of the SoCG [CD.4.1.1]. Notwithstanding this, Policy CS15 requires new development to meet the standards set out in the Council's Open Space Strategy (2019) [CD.5.2.10] – albeit with the Strategy not recorded in Paragraph 6.6 of the SoCG as being a material consideration for the Appeal. The standards within the Strategy require the provision of specified open space typologies based broadly on accessibility criteria rather than by establishing minimum or typical thresholds for developments in the context of the number of dwellings proposed.

5.74 As referenced in Paragraph 5.3 of this PoE (Planning), there is general agreement between the Appellant and LPA in terms of matters pertaining to open space in respect of the Appeal Proposals, as recorded in Paragraphs 7.20 to 7.28 of the SoCG [CD.4.1.1]. Paragraph 7.27 of the SoCG acknowledges that there are no objections to the Appeal Proposals from the Open Spaces Team in relation to the availability of open space to future residents, subject to securing, inter alia:

“Appropriate play provision on-site or, if provision cannot be achieved on-site, a reasonable contribution (to be agreed with the Council during the Appeal process) towards off-site provision via a s.106 Agreement”.

5.75 However, this flexible approach of the LPA appears at odds with its own uncompromising stance in insisting that the Proposed Development must deliver an on-site LEAP (Local Equipped Area for Play) rather than a combination of on-site provision and financial contributions, as reported in Paragraph 8.1 (Issue 7) of the SoCG [CD.4.1.1].

5.76 This approach of the Council's Open Space Strategy (2019) [CD.5.2.10] is also rather distinct from the approach of the Draft Local Plan [CD.6.3], Table 11 of which sets out indicative typologies of open space and recreational provision based the amount of development. Table 11 of the Draft Local Plan refers to schemes for 10 to 99no. new dwellings being typically required to include on-site provision for Amenity Green Space plus Natural & Semi-Natural Green Space but with off-site contributions towards, inter alia, provision for children and young people. Indeed, Table 11 refers to on-site provision of facilities for children and young people typically only being required for schemes in excess of 100no. dwellings.

5.77 Reference to the requirement for the delivery of an on-site LEAP is included in the Council's Open Space Team's consultation response of 11th January 2022 [CD.8.41] on the Application, along with a requirement for various other open space typologies either specifically on-site or, in terms of certain typologies,

with the alternative option of off-site contributions to be secured via a legal agreement, in lieu of on-site provision. The POS Provision Plan (n1249_400A) [CD.2.6] submitted to the LPA in August 2021 in support of the updated Illustrative Planning Layout (n1249_007F) [CD.2.4] demonstrate how the delivery of the minimum amounts of the on-site typologies of Parks (0.02ha), Natural & Semi-Natural Open Space (0.14ha) and Amenity Green Space (0.03ha) as required by the Open Spaces Team could be achieved, as acknowledged in Paragraph 7.27 of the SoCG [CD.4.1.1], albeit mindful that the Application does not seek approval of layout or landscaping. Indeed, the POS Provision Plan demonstrates that 0.63ha of Natural & Semi-Natural Open Space could be achieved on-site, significantly in excess of the minimum policy requirement – again, as acknowledged in Paragraph 7.27 of the SoCG. The Appellant is also agreeable to payment of off-site contributions towards Play Provision, Outdoor Sports Facilities and Allotments via a legal agreement, as required by the Open Space Team’s consultation response and as recorded in Paragraph 7.27 of the SoCG.

- 5.78 However, the Appellant maintains that the Appeal Proposals do not specifically warrant the provision of a LEAP on-site, based on the yield of up to only 30no. dwellings and with the Plans Committee Report [CD.3.1] acknowledging on its Page A20 that it is not necessary for the Proposed Development to contribute to any existing deficit in the locality. The amount of development proposed in this instance falls significantly below the typical thresholds for on-site play provision as advocated in Table 11 of the Draft Local Plan [CD.6.3], notwithstanding its limited weight.
- 5.79 The proposed play facility will comprise a bespoke offer, which is intended to address the setting of the Ancient Woodland. The POS Provision Plan [CD.2.6] demonstrates the on-site delivery of a play facility extending to 0.04ha, which is akin to the minimum activity zone of a LEAP, and how the play area could be located such that it would not encroach into the proposed buffers to the Wood, as defined in the Parameter Plan (n1249_010B) [CD.2.5], though with the matters of layout and landscaping reserved for future consideration in any case.
- 5.80 Delivery of a play facility as proposed will align with Natural England’s Green Infrastructure Framework (February 2023) [CD.5.2.11], the Design Guide to which is critical of conventional playground design due to it resulting in play devoid of vegetation and natural features and with unvegetated surfaces dominating, meaning that play space does not usually provide the full range of benefits associated with green infrastructure. Similarly, delivery of a play facility as proposed will also align with the Fields in Trust Guidance for Outdoor Sport and Play [CD.5.2.12], which advocates taking a step back from the sometimes-limiting stereotype of a public playground and which promotes schemes that use equipment creatively, acknowledging that landscaping and planting can offer children as much play value as apparatus.
- 5.81 I therefore consider that, whilst the Proposed Development does not seek to deliver an on-site LEAP, this results in minimal conflict with Core Strategy Policy CS15 and the Council’s Open Spaces Strategy (2019) [CD.5.2.10], neither of which are recorded as either a key or other policy/material consideration of

relevance to the Appeal in the SoCG [CD.4.1.1]. The Appeal Proposals will deliver sufficient and appropriate open space and play facilities via on-site provision and off-site contributions without the rigidity of being specifically required to deliver an on-site LEAP and will also provide wider social and environmental benefits, given their ability to be accessed and utilised by existing residents and with the significant over-provision of new on-site Natural & Semi-Natural Open Space contributing to a reduction in the 22.55ha shortfall of this typology in the Nanpantan ward acknowledged in the Open Space Officer's aforementioned consultation response.

- 5.82 In broad summary, therefore, I consider the Proposed Development is in accordance with the Development Plan policies of most importance to the Appeal, namely Core Strategy Policies CS1, CS11 and CS13 and Saved Local Plan Policy ST/2, as well as Core Strategy Policy CS25, which promotes a presumption in favour of sustainable development. While I acknowledge that there may be some limited conflict with policy CS15 in respect of open space, given that the Proposed Development accords with the most important policies of the development plan, and with its fundamental spatial strategy of focusing housing development within the settlement limits of the most sustainable settlements such as Loughborough, my firm view is that the Appeal Scheme accords with the development plan, read as a whole.
- 5.83 Paragraphs 6.3 to 6.5 of the SoCG [CD.4.1.1] record that the LPA considers the Appeal Proposals conflict only with Core Strategy Policies CS11 and CS13 and not with any other policy of the Development Plan. The Plans Committee Report [CD.3.1] concludes on its Page A27 that the Appeal Proposals are in accordance with the adopted Development Plan, read as a whole, subject to details to be considered in a subsequent application for reserved matters consent. I agree with this conclusion of the Plans Committee Report.

Harms Arising from the Appeal Proposals

- 5.84 As stated on Page A27 of the Plans Committee Report [CD.3.1], the Application was the subject of no objections from statutory consultees with regard to the technical details of the scheme. That Report, in addition to the Plans Committee Extras Report [CD.3.2], did not find that the Application should be refused on grounds relating to landscape character or visual impact, ecology and biodiversity, open space, heritage and archaeology, residential amenity, housing mix, highway matters, flooding and drainage, loss of agricultural land, or infrastructure. The SoCG [CD.4.1.1] confirms that Proposed Development is acceptable in principle (Paragraph 7.6) and in terms of Open Space (Paragraphs 7.20 to 7.28), Heritage and Archaeology (Paragraphs 7.29 to 7.33), Residential Amenity (Paragraphs 7.34 to 7.37), Highways Matters/Accessibility (Paragraphs 7.38 to 7.42), Flood Risk and Drainage (Paragraphs 7.43 to 7.46), Loss of Agricultural Land (Paragraphs 7.47 to 7.50), Contamination and Ground Conditions (Paragraphs 7.51 to 7.53) and Air Quality (Paragraphs 7.54 to 7.56).
- 5.85 Whilst the Council's Plans Committee ultimately chose to refuse the Application, contrary to the recommendation of its planning officer, the refusal

was based on impacts on landscape character and biodiversity alone, with reference made in its two RfR to only Core Strategy Policies CS11 (and NPPF Paragraph 174) and CS13 (and NPPF Paragraphs 174 and 180) respectively. For the reasons discussed above, I do not consider the appeal scheme to conflict with policies CS11 or CS13 or with paragraphs 174 and 180 of the NPPF.

- 5.86 I consider the Proposed Development will result in no unacceptable harm that cannot be suitably mitigated such as to warrant the dismissal of the Appeal, as demonstrated by the lack of technical objections to the Application.

Benefits of the Appeal Proposals

- 5.87 The benefits arising from the Appeal Proposals and the weight to be afforded to each of these is provided below for the purposes of applying the overall planning balance.

Social Benefits

- 5.88 The Appeal Proposals will result in a broad mix of housing types, sizes and tenures for both market and affordable housing to help meet current and future housing needs within the Borough. The Appeal Site is available and the Appeal Proposals are capable of being fully delivered within the current 5-year period and therefore make a meaningful contribution towards the significant existing shortfall. The principle of the delivery of new residential development on a greenfield site in Loughborough is given significant positive weight on Page A14 of the Plans Committee Report [CD.3.1]. Paragraph 7.59 of the SoCG [CD.4.1.1] also acknowledges the delivery of market housing in a sustainable location at a time when the LPA continues to be unable to demonstrate a 5 YHLS to be a benefit of the Appeal Proposals.
- 5.89 The Appeal Proposals will deliver up to 30no. dwellings, including 21no. market dwellings at a time when the LPA continues to be unable to demonstrate a 5 YHLS – its latest position amounting to only a 3.04 YHLS as of 1st April 2022. Despite the LPA suggesting that the Site is not immediately deliverable in Paragraph 8.1 (Issue 4) of the SoCG [CD.4.1.1], the Appellant considers the Appeal Proposals to be deliverable within the first five years from an Appeal being allowed – the Site being controlled by the Appellant - a house builder - and with the scheme being economically viable. Subject to the Appeal being allowed, the Appellant anticipates an application for reserved matters consent being submitted within 6-9 months and with a start on site on receipt of reserved matters approval and the discharge of associated conditions. The first completions will be within 12 months from the start on-site and the whole development will be completed 18 months thereafter. Assuming 18 months from the Appeal being allowed to approval of reserved matters and pre-commencement conditions being discharged, this will see the entire development completed within 4 years. The Appellant considers these anticipated delivery rates to be fairly cautious, allowing for a market slow down and with actual delivery potentially being quicker.

- 5.90 I consider the delivery of market housing in this respect to constitute a **social benefit of very significant weight**. By way of context, the Inspectors in the recent Sileby [CD.7.1 – Paragraph 77], Woodhouse Eaves [CD.7.2 – Paragraph 59] and Burton-on-the-Wolds [CD.7.3 – Paragraph 91] appeals afforded ‘significant’, ‘great’ and ‘very substantial’ weight respectively to the delivery of new housing in Charnwood, at points in time when the LPA’s shortfall in its 5 YHLS was not as pronounced as it is at present.
- 5.91 The Appeal Proposals will deliver a policy-compliant level of affordable housing within the Borough, namely 30% of the total yield amounting to 9no. affordable houses, which continues to demonstrate significant levels of unmet need, as acknowledged in the Draft Local Plan and its evidence base, as explained in Paragraphs 4.60 to 4.61 of this PoE (Planning). Paragraph 7.59 of the SoCG [CD.4.1.1] acknowledges the delivery of a policy-compliant level of affordable housing within a Borough which continues to demonstrate significant levels of unmet need to be a benefit of the Appeal Proposals. I consider this to constitute a **social benefit of very significant weight**. By way of context, the Inspectors in the Sileby [CD.7.1 – Paragraph 77], Woodhouse Eaves [CD.7.2 – Paragraph 60], and Burton-on-the-Wolds [CD.7.3 – Paragraph 91] appeals afforded ‘significant’, ‘significant’ and ‘very substantial’ weight respectively to the delivery of new affordable housing, as acknowledged in Paragraph 7.59 of the SoCG.
- 5.92 The Appeal Proposals will result in the creation and maintenance of publicly accessible natural green space, landscaping and a play facility on the Site, which is currently private and which currently has no public access or recreation value. This will be accessible to existing residents within Nanpantan as well as future occupants of the proposed housing. I consider this to constitute a **social benefit of moderate weight**, as acknowledged in Paragraph 7.59 of the SoCG [CD.4.1.1].
- 5.93 The Appeal Proposals will result in the delivery of new family housing within walking distance of primary and secondary schools with a current surplus of places. I consider this to constitute a **social benefit of moderate weight**.

Economic Benefits

- 5.94 The Appeal Proposals will help to meet economic objectives through job creation during the construction phase of the development, with other indirect jobs also being created as a result, including in terms of contractors and suppliers. I consider this to constitute an **economic benefit of moderate weight**, as acknowledged in Paragraph 7.59 of the SoCG [CD.4.1.1].
- 5.95 Once completed the additional population generated by the Appeal Proposals will help to support existing shops and facilities in the locality, helping to ensure their viability and helping to indirectly create new employment opportunities in the retail and leisure services. I consider this to constitute an **economic benefit of moderate weight**.

- 5.96 The Appeal Proposals will also result in the generation of increased Council Tax receipts and New Homes Bonus payments for the Council. I consider this to constitute an **economic benefit of moderate weight**.
- 5.97 By way of context, the Inspectors in the Sibleby [CD.7.1 – Paragraph 78] and Burton-on-the-Wolds [CD.7.3 – Paragraph 92] appeals afforded ‘moderate’ weight to such economic benefits.

Environmental Benefits

- 5.98 The Appeal Site is in a sustainable location, with good access to local services and facilities and with good public transport linkages, therefore reducing the need for future residents of the new housing to rely on the private car for travel, as acknowledged in Paragraphs 3.19 to 3.25 and 7.40 of the SoCG [CD.4.1.1]. Paragraph 7.59 of the SoCG also acknowledges this to be a benefit of the Appeal Proposals. I consider this to constitute an **environmental benefit of moderate weight**.
- 5.99 The Appeal Proposals will result in the delivery of biodiversity net gains considerably in excess of the requirement for 10% net gains, which is being introduced through the Environment Bill, through a combination of on and off-site provision. I consider this to constitute an **environmental benefit of significant weight**.

Summary of Benefits of the Appeal Proposals

- 5.100 As referred to above, the Appeal Proposals are in accordance with the Development Plan, read as a whole.
- 5.101 With the tilted balance of NPPF Paragraph 11 (d) engaged, planning permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole. In my view, any limited landscape harm arising from the Appeal Proposals does not significantly and demonstrably outweigh the benefits identified above and therefore the Appeal should be allowed and outline planning permission granted – this also being the conclusion reached on Page A29 of the Plans Committee Report [CD.3.1].
- 5.102 Indeed, I consider that the benefits of the Appeal Proposals actually outweigh any limited landscape harm arising from the Appeal Proposals, given their benefits to the wider Nanpantan community and beyond.

SECTION 6: Summary and Conclusions

- 6.1 The Appeal follows the decision of Charnwood Borough Council to refuse the application for outline planning permission referenced P/20/2199/2 for the following description of development on 2nd March 2022:

Outline application for residential development with associated infrastructure for up to 30 dwellings, including detail of associated point of access. All other matters (Landscaping, scale, layout and appearance) reserved.

- 6.2 The Appeal Proposals seek to deliver new residential development on a site at Leconfield Road, Nanpantan, which lies within the settlement limits of Loughborough, as defined in the Development Plan.
- 6.3 The Appeal is supported by a comprehensive suite of plans, including a Parameter Plan (n1249_10B) [CD.2.5] and an Illustrative Layout Plan (n1249_007F) [CD.2.4], which, along with other associated supporting plans and technical assessments, demonstrate how the Appeal Site can accommodate up to 30no. dwellings.
- 6.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan in this instance comprises the Charnwood Local Plan 2011-2028 Core Strategy (adopted November 2015) and the Saved Policies of the Charnwood Borough Local Plan 1999 – 2006 (adopted January 2004).
- 6.5 The NPPF (July 2021) is a material consideration in the determination of the Appeal. Both the Core Strategy and the Saved Policies of the Local Plan are more than five years old and have not been updated as required by NPPF Paragraph 33.
- 6.6 The Appeal Proposals are in accordance with Core Strategy Policy CS1, which seeks to encourage new residential development within Loughborough and with the housing requirement within that policy representing minimum amounts rather than a ceiling. Loughborough is acknowledged in the Development Plan as the largest settlement in the Borough, with good access to jobs, services and facilities and public transport and, as such it represents a sustainable location for new residential development to provide for additional growth.
- 6.7 The Appeal Proposals are in accordance with Saved Local Plan Policy ST/2, which seeks to restrict development beyond the existing settlement limits. The Appeal Site is located wholly within the settlement limits of Loughborough as defined in the associated Proposals Map. The LPA does not allege conflict with policies CS1 or ST/2 and accepts that the Proposed Development is acceptable in principle.
- 6.8 The Appeal Proposals are in accordance with Core Strategy Policy CS3, which seeks the delivery of 30% of the total number of dwellings proposed as

affordable homes, and with details of housetypes, tenures and sizes to be determined in a subsequent application for reserved matters consent.

- 6.9 The Appeal Proposals are in accordance with the first criterion of Core Strategy Policy CS11 as they will have only a limited impact on landscape character, which will not be significant. The other criteria of this policy are not relevant to the Site and/or the Proposed Development from a landscape perspective.
- 6.10 The Appeal Proposals are in accordance with Core Strategy Policy CS13 as they help to protect biodiversity and will not result in the loss of ecological features of significance. The Proposed Development will include a significant landscape buffer to the adjacent Ancient Woodland and will also help to deliver a scheme of on and off-site habitat creation to deliver significant biodiversity net gains.
- 6.11 The Appeal Proposals are in accordance with Core Strategy Policy CS25, which promotes a presumption in favour of sustainable development in that the Scheme accords with the development plan and furthermore, given the most important policies of the development plan are out of date, the tilted balance incorporated in Policy CS25 is engaged and the adverse effects of the development do not significantly and demonstrably outweigh the benefits: in fact, the converse is true.
- 6.12 The Appeal Proposals are therefore in accordance with the relevant policies of the Development Plan and the Appeal should be allowed.
- 6.13 The Appeal Proposals are also in accordance with Policies DS1, LUC1, H4, EV1 and EV6 of the Draft Local Plan, albeit that it attracts limited weight at present.
- 6.14 Furthermore, the LPA can only demonstrate a 3.04 YHLS as of 1st April 2022 and, the evidence base of the Development Plan is also out-of-date. The tilted balance of NPPF Paragraph 11(d) is therefore engaged, meaning that the Appeal should be allowed unless any harms arising from the Appeal Proposals significantly and demonstrably outweigh the resulting benefits when assessed against the policies in the NPPF taken as a whole.
- 6.15 Recent appeal decisions within Charnwood Borough demonstrate that new residential developments have been allowed in areas of countryside as a result of the LPA's shortfall in its 5 YHLS position, including those at Sileby [CD.7.1], Woodhouse Eaves [CD.7.2] and Burton-on-the-Wolds [CD.7.3] and with that at Sileby allowing 170no. new dwellings in an Area of Local Separation. Comparisons with the Woodhouse Eaves decision in particular is provided on Page A16 of the Plans Committee Report [CD.3.1], with the distinction being that, unlike that site, the Appeal Site at Leconfield Road is within settlement limits as defined by the Development Plan, is more confined within existing residential development, has better access to services and facilities and is less visible in views of the wider landscape than the site at Woodhouse Eaves. In contrast, the Appeal Proposals for Leconfield Road, Nanpantan provide an opportunity for the delivery of new housing, affordable housing and public open

space on a site which includes no statutory designations and which is located wholly within the settlement limits of Loughborough without incursion into the countryside.

- 6.16 Also weighing in favour of the Appeal Proposals are a range of social, economic and environmental benefits, as referenced from Paragraph 5.87 onwards of Section 5 of this PoE (Planning), which are considered to constitute significant benefits and which are not outweighed (let alone significantly and demonstrably outweighed) by the limited landscape harm.
- 6.17 In conclusion, I consider the limited landscape harm arising from the Appeal Proposals does not significantly and demonstrably outweigh the benefits – rather, the benefits significantly outweigh the limited landscape harm – and the Appeal should therefore be allowed and planning permission granted in accordance with the relevant policies of the Development Plan and the policies of the NPPF taken as a whole.

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CHARTERED TOWN PLANNERS
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