



APPEAL BY BOWBRIDGE HOMES (NANPANTAN) LIMITED

LAND OFF LECONFIELD ROAD, NANPANTAN, LOUHBOROUGH

**IN RELATION TO THE REFUSAL OF PLANNING PERMISSION BY CHARNWOOD
BOROUGH COUNCIL REFERENCE P/20/2199/2**

**OUTLINE PLANNING 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**

Summary Proof of Evidence: Mr. Sam Salt MPlan MRTPI

Acting on behalf of Charnwood Borough Council

Planning Inspectorate Reference: APP/X2410/W/22/3304644

Local Planning Authority Reference: P/20/2199/2

February 2023

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1 QUALIFICATIONS AND EXPERIENCE

- 1.1 I am Sam Salt, Associate Director at Heaton Planning Limited (Heatons). Heatons is a planning and design consultancy with an experienced team of planners and ecologists.
- 1.2 The evidence which I have provided for this appeal is true and is given in accordance with the guidance of my professional institution of the Royal Town Planning Institution. I confirm that the opinions given are my true and professional opinion.

2 SCOPE OF MY EVIDENCE

- 2.1 My evidence considers the grounds on which planning permission has been refused. It summarises and weighs the factors that need to be considered in accordance with the adopted Development Plan, National Planning Policy Framework and other material considerations.
- 2.2 My Proof of Evidence is structured as follows:
 - Section 3 The appeal site and its surroundings
 - Section 4 The appeal proposals
 - Section 5 The planning history relevant to the appeal
 - Section 6 Planning policies relevant to the appeal
 - Section 7 The case for the Local Planning Authority
 - Section 8 Conclusion

3 THE APPEAL SITE AND SURROUNDINGS

- 3.1 A full description of the Appeal Site and its surroundings are set out in Section 3 of the Statement of Common Ground (SoCG), the Planning Statement (CD.1.8), the Design and Access Statement (CD.1.9) and the Plans Committee Report (CD.3.1).

4 The Appeal Proposals

- 4.1 The appeal site is situated off Leconfield Road, Nanpantan, and measures approximately 1.69 hectares in size. The appeal relates to an outline planning application for the erection of up to 30 dwellings with all matters reserved (appearance, landscaping, layout, scale) except for access.

4.2 The Application was refused by Members of the Council's Plans Committee on 24th February 2022 against the officer recommendation of approval, which was subject to a series of conditions and a legal agreement.

4.3 The reasons for refusal are:

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.

5 Planning History Relevant to the Appeal

5.1 The planning history of the appeal site is set out the Plans Committee Report at Page 7 (CD.3.1).

6 Planning Policies relevant to the Appeal

6.1 Section 38(6) Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan

6.2 The Development Plan for Charnwood Borough Council comprises:

- The Charnwood Local Plan 2011 to 2028 Core Strategy (adopted 9th November 2015), (The Core Strategy).
- Saved Policies of the Borough of Charnwood Local Plan 1991-2006 (adopted 12th January 2004), where these have not been superseded by the document listed directly below, (The Local Plan).

6.3 The relevant development plan policies and other material considerations, including the policies of the emerging Local Plan, can be found in the Council's full Proof of Evidence (CD.4.3.2) and the Statement of Case (CD.4.3.1).

7 The Case for the Local Planning Authority

The Key Issues

- 7.1 The main materials consideration in the determination of this appeal are:
- 1) Impact on landscape character (Reason for Refusal #1)
 - 2) Biodiversity impacts (Reason for Refusal #2)
 - 3) Whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

Impact on Landscape Character (Reason for Refusal #1)

- 7.2 Policy CS11 is one of the most important policies in considering the proposals as it seeks to protect the character of the landscape and requires new development to reinforce a sense of place. Policy CS11 is not out of date and is considered to attract significant weight. Further, conflict is also found with emerging Policy EV1 which can be afforded moderate weight.
- 7.3 I would refer the Inspector to the Landscape Proof of Evidence prepared by Mr Simon Higson of Felstone Consulting which deals with the issue. In summary of this evidence, Mr Higson concludes the following:
- Major/moderate adverse visual effects for local residents with direct views onto the site and other users of Leconfield Road,
 - Moderate adverse effects for other residents within and around Leconfield Road,
 - Moderate/minor effects for road users
 - Minor adverse effects for recreational users of nearby Public Right of Way Network;
 - The potential influence of landscape treatments is not anticipated to significantly reduce the overriding loss of an open grassland field and introduction of permanent built form regardless of scale.
- 7.4 The evidence presented by Mr Higson, alongside the Council's Statement of Case (CD.4.2.1) demonstrates that, in the context of the identified landscape character and visual impact and harm, the Appeal proposal would result in unavoidable harm to the natural and local environment and cannot be seen to contribute to or enhance its intrinsic character and beauty and as such, is contrary to Policy CS11 and NPPF, Para 174(b) and the guidance contained within the PPG.
- 7.5 The Landscape Character Assessment shows the site to be within the Charnwood Forest Landscape Character Area, the characteristics of the site are

set out in the Council's Statement of Case (CD.4.3.1) and Proof of Evidence (CD.4.3.3) provided by Felstone Consulting. There are several such characteristics present on this site, including:

- i) A distinct landform;
- ii) Strong character associated with the ancient woodland
- iii) Transitional pastures from grassland to woodland;
- iv) Visually distinctive skyline views across Loughborough;
- v) Semi-natural habitat features;
- vi) A strong historical association with the Grade II listed Burleigh Farmhouse.

7.6 Whilst the proposal would be adjacent to existing built form, the specific characteristics of the site and its relationship with the ancient woodland to the west would not be retained or enhanced, as required by Policy CS11 and NPPF Para. 174.

7.7 It is therefore considered that the appeal site would be contrary to adopted Policy CS11, NPPF Paragraph 174(b) and emerging Policy EV1 as the proposal would not preserve or enhance the landscape character of the area.

Biodiversity Impacts (Reason for Refusal #2)

7.8 The Council's Statement of Case (CD.4.3.1) notes that the two ecological appraisals (CD.2.16 & CD.2.19) submitted to support the application were both significantly flawed for reasons set out in Paragraphs 7.42 to 7.47.

7.9 The second reason for refusal is addressed in the Proof of Evidence prepared by Ms Walsh of Heaton's to assist the Inspector in the consideration of this matter.

7.10 The development would lead to an adverse ecological impact through the loss of an area of acid grassland which represents a local priority habitat which is both characteristic of and rare within Charnwood Forest (CD.5.2.13). Such loss is considered to be significant. Beyond the direct impacts, the Council found an indirect impact on Burleigh Ancient Woodland through additional recreational uses.

7.11 The Framework, at Paragraph 180(c), confirms that development resulting in the loss of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

7.12 Footnote 63 of the NPPF indicate types of exceptional examples and requires that public benefits should clearly outweigh the loss or deterioration of habitat.

7.13 The appeal proposal does not constitute exceptional reasons nor does the application package demonstrate a suitable compensation strategy. A strong and clear conflict is found with adopted Policy CS13 and Paragraph 174 and 180 of the NPPF. Further, conflict is found with the emerging Local Plan Policy EV6 seeks to conserve, restore and enhance the natural environment. Due to the deterioration of the ancient woodland, Footnote 7 to Paragraph 11(d) is engaged and the tilted balance does not apply.

8 Planning Balance & Conclusion

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

8.2 The starting point for decision taking is the local development plan which includes the adopted Core Strategy (CD.6.1) and saved policies of the Local Plan (CD.6.2).

Harms Identified by the Appeal Scheme

8.3 NPPF Paragraph 11(d) states that planning permission should be granted unless the requirements of either alternative is met, if either (i) or (ii) is satisfied, the presumption in favour of sustainable development does not apply. Therefore, for reasons set out above, Footnote 7 is engaged, and the tilted balance is not applied.¹

8.4 Paragraph 180(c), forming the core of Reason for Refusal 2, confirms that development resulting in the loss or deterioration of irreplaceable habitats should be refused unless there are wholly exceptional reasons.

8.5 The loss of a priority habitat, leading to a deterioration of an ancient woodland, is given significant **negative weight** in the balance. As such, conflict is found with adopted Local Plan Policy CS11, Paragraph 180(c) of the NPPF, and emerging Local Plan Policy EV6.

8.6 The appeal site has a distinct landform with a characteristic of natural transition from grassland into woodland. The site is therefore considered to have a strong landscape character associated with the ancient woodland. It is naturally the

¹ Monkhill Limited v MHCLG & Waverley Borough Council [2019] EWHC 1993

case that the development would result in the loss of an open greenfield site which results in harm to the landscape character of the area.

- 8.7 With reference to Policy CS11, and NPPF Paragraph 174(b), and emerging Policies EV1 and EV4, it is considered, for the reasons above, that the site would not enhance the natural or local environment. The degree of harm on the intrinsic character and beauty of the site is considered to be permanent and significant which attracts **significant negative weight** in my assessment.
- 8.8 There are currently no known technical constraints that would preclude the development of the site. Any matters such as flood risk, access and highways remain neutral in the balance and are **not afforded weight** at this stage.

Conclusion

- 8.9 Since the determination of the application and the preparation of the Council's Statement of Case, the emerging Local Plan has progressed in that the remaining scheduled examination hearing sessions have taken place in February 2023. The policies contained within the emerging Local Plan can be afforded moderate weight.
- 8.10 Overall, when assessed against the policies of the local plan and NPPF when taken as a whole, the appeal scheme does not demonstrate **significant** benefits which are unique to the development of the site and the adverse impacts outlined above, demonstrably outweigh any benefits of the proposed scheme.