



## **TOWN AND COUNTRY PLANNING ACT 1990**

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### **SECTION 78 APPEAL BY DAVID WILSON HOMES LIMITED**

OUTLINE APPLICATION FOR UP TO 150 DWELLINGS, TOGETHER  
WITH NEW OPEN SPACE, LANDSCAPING, AND DRAINAGE  
INFRASTRUCTURE, WITH ALL MATTERS RESERVED EXCEPT FOR  
ACCESS

(AS AMENDED TO INCLUDE PROPOSED JUNCTION  
IMPROVEMENT WORKS AT BARKBY ROAD CROSS ROADS,  
RECEIVED 20/05/2022)

**BARKBY ROAD, QUENIBOROUGH**

**PLANNING APPLICATION REF: P/20/2380/2**

**APPEAL REFERENCE: APP/X2410/W/23/3316574**

**CHARNWOOD BOROUGH COUNCIL  
APPEAL STATEMENT**



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## Planning Appeal

Charnwood ref: P/20/2380/2

PINS Ref: APP/X2410/W/23/3316574

# Charnwood Borough Council's Statement of Case

**Proposal:** Outline application for up to 150 dwellings, together with new open space, landscaping, and drainage infrastructure, with all matters reserved except for access (as amended to include proposed junction improvement works at Barkby Road cross roads, received 20/05/2022)

**Location:** Barkby Road, Queniborough

**Applicant:** David Wilson Homes Ltd

### Refusal Reasons:

- The proposed development, in itself and cumulatively with other development, would result in a harmful impact upon on the character of the countryside in this location and the Area of Local Separation within which it is located. This would have an impact on the individual identity of Queniborough and Syston and result in coalescence between the settlements and the proposals would not protect and maintain the separate identities of the town and village.

The development would therefore be contrary Policies CS2 and CS11 of the Charnwood Local Plan Core Strategy 2015, saved Policies EV/1, CT/1, CT/2 and CT/4 of the Adopted Borough of Charnwood Local Plan 1991-2006 and Policy Q6 of the Queniborough Neighbourhood Plan 2021. The Council consider that such harm arising from the proposals would significantly and demonstrably outweigh the planning benefits of the scheme.
- In the absence of a signed Planning Obligation, although a Draft Heads of Terms is noted, the proposal fails to deliver an appropriate level of affordable housing and contributions towards sustainable travel, ecology, education, libraries, civic amenity, community facilities and open space and play provision that are necessary to make the development acceptable in planning terms.

The proposals would be contrary to Policies CS3, CS13, CS17 and CS24 of the Charnwood Local Plan 2011-2028, Core Strategy (2015) and adopted Housing Supplementary Planning Document (2017) and Community Infrastructure Levy Regulations.



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## 1. Introduction

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- 1.1 The subject planning application was made valid on 22<sup>nd</sup> January 2021. After considerable engagement with consultees, the agent and Charnwood Borough Council Members, planning permission was refused on 9<sup>th</sup> December 2022.
- 1.2 The body of the site is wholly outside the limits of development for Queniborough in the adopted Plan, and in the emerging draft Local Development Plan.
- 1.3 The appellant will argue that the tilted balance described in the National Planning Policy Framework (2021) (NPPF), paragraph 11(d), and the presumption in favour of sustainable development outweighs all other material considerations.
- 1.4 Since the decision was made the policy context has evolved, and it will likely be changed again before the Inquiry opens, and again before the Inspectorate's decision is made. The weight to be accorded to the most important policies is tipping toward those in the emerging plan, as it moves through its stages toward adoption.
- 1.5 The council contends that in an ever-changing planning policy context, the planning balance is more nuanced, and that in this case the refusal of planning permission is justified.

## 2. The Appeal Site and its Context

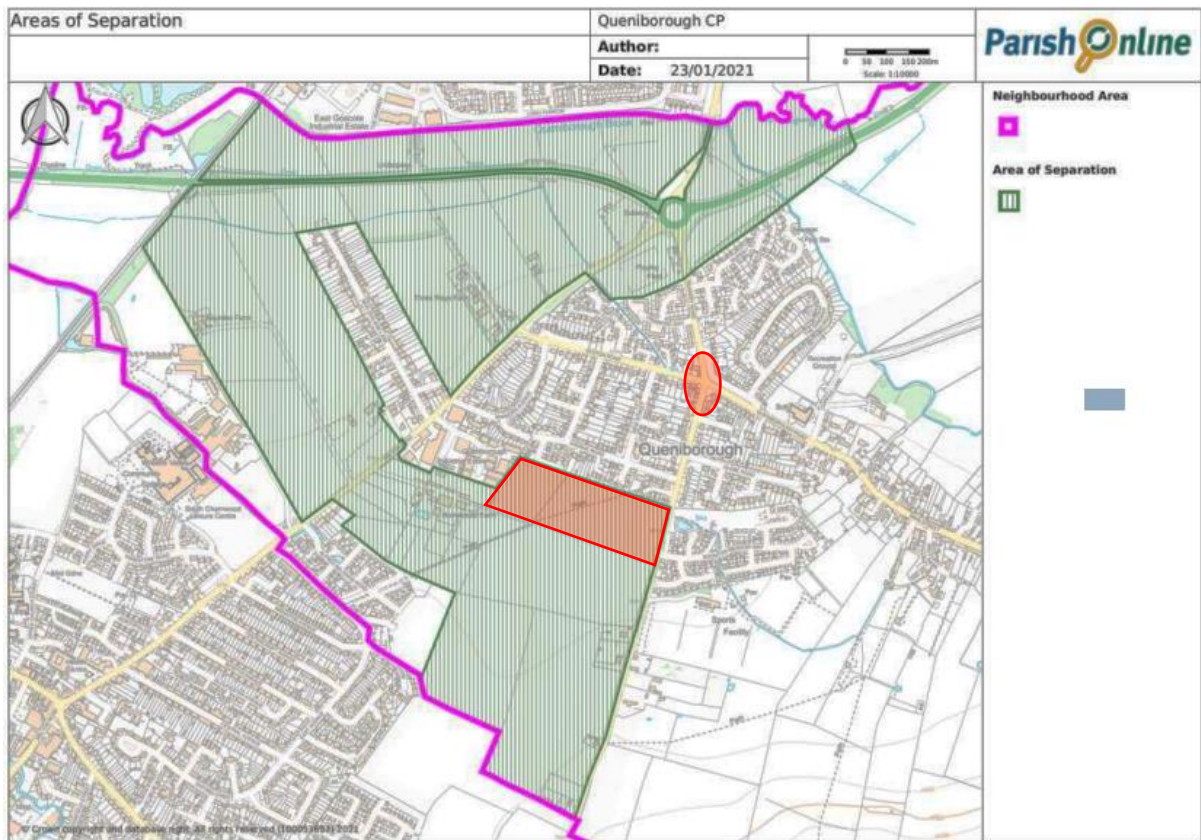
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- 2.1 The main body of the application site, measuring 5.82 Hectares lies to the south of the village of Queniborough, within Charnwood Borough Council district. In addition, the proposal includes off-site highway works at the junction of Rearsby Road, Syston, Queniborough Road and Barkby Road.
- 2.2 Whilst most matters of design are reserved, the details of the access, including the off-site work seek full planning approval.
- 2.3 The site is relatively flat agricultural land (formerly a tree nursery) with a public right of way crossing from Avenue Road, Queniborough to Syston. The site lies outside of the defined Limits to Development of Queniborough and within the defined Area of Separation between Queniborough and Syston.



Figure 1 - "Areas of Separation" map from Queniborough Neighbourhood Plan

Application site added as red polygon – Off-site junction location added as red oval



### 3. The Proposal

- 3.1 The applicant sought permission to develop up to 150 dwellings, together with associated landscaping and infrastructure. The existing public right of way's route, splitting the site diagonally, is to be retained, albeit traversed by illustrative development roads.
- 3.2 Further details of the proposal are described within the submitted Design & Access Statement and other supporting documents. There is no need to replicate that detail herein.

### 4. Planning History

- 4.1 The table below describes the relevant planning history on this site:



App Ref	Description	Decision
P/18/0309/2	Outline Application (considering access only) for up to 150 new dwellings with associated works including open space, landscaping, drainage and access from Barkby Road and pedestrian link to Chestnut Close. Development affects Public Right of Way I84	<b>Refused</b> 1 <sup>st</sup> June 2018

4.2 The following decisions were also material to the determination of this application:

App Ref	Site Address	Description	Decision
P/22/0263/2	Main Street, Queniborough	Various works to following trees as set out in supporting work schedule: Acer Pseudoplatanus, 210005, Aesulus Hippocastanum, 210055, Acer Pseudoplatanus, 210065. Robinia Pseudoacacia. 210080, Aesulus Hippocastanum. 210085, Acer Pseudoplatanus. Acer Plaitanoides. 210165, Acer Pseudoplatanus	<b>Approved</b> 8 <sup>th</sup> June 2022
P/22/1449/2	Main Street, Queniborough	Fell 1 x horse chestnut 210080 due to disease Reduce to approx 6m 1 x false acacia 210095 due to disease and structural damage	<b>Approved</b> 17 <sup>th</sup> Nov 2022
P/20/2349/2	Land off Boonton Meadow Way, Queniborough	Application for Outline Planning Permission for residential development for up to 50 no. dwellings, with associated landscaping, open space, drainage infrastructure and access and the demolition of number 65 Glebe Road Queniborough to facilitate the development of an emergency access (Outline access only to be considered)	<b>Approved</b> 8 <sup>th</sup> Nov 2022
P/21/0491/2	Land East of Cossington Road, Sileby	Outline planning application for up to 170 dwellings (including affordable housing) with all matters reserved other than access together with associated landscaping and other infrastructure (appeal ref. APP/X2410/W/21/3287864).	<b>Refused</b> 17 <sup>th</sup> Sept 2021 <b>Appeal Allowed</b> 13 <sup>th</sup> June 2022



## 5. Planning Policy Context

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- 5.1 Section 70(2) of the Town and Country Planning Act 1990 requires the decision maker to have regard to the development plan, so far as it is material to the application. Section 38(6) Planning and Compulsory Purchase Act 2004 provides that if 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.

### **Charnwood Local Plan 2011-2028 Core Strategy**

- 5.2 The Policies of the Core Strategy were Adopted in 2015. Those applicable to the appeal proposal are as follows:

#### **Policy CS1 – Development Strategy**

- 5.3 sets out the housing directions for growth over the plan period and establishes a settlement hierarchy of locations in terms of their sustainability.
- 5.4 Queniborough is one of the twelve “Other Settlements”. The strategy identifies a need to provide for (not a requirement to deliver) at least 500 new homes within settlement boundaries between 2011 and 2028.

#### **Policy CS2 – High Quality Design**

- 5.5 requires new development proposals to respond to their context and to reinforce a sense of place. Six tests are listed, as well as reference to national design quality assessments.

#### **Policy CS3 – Strategic Housing Needs**

- 5.6 seeks to manage the delivery of the Borough’s housing need and ensure a good mix of house types, tenures and size of properties, having regard to identified housing needs and the character of the area.

#### **Policy CS11 – Landscape and Countryside**





5.7 requires new development to protect landscape character and reinforce a sense of place, requiring new developments to protect landscape character and to reinforce sense of place and local distinctiveness.

#### **Policy CS12 – Green Infrastructure**

5.8 sets out how the Council will seek to protect and enhance green infrastructure assets for their community, economic and environmental values.

#### **Policy CS13 – Biodiversity and Geodiversity**

5.9 seeks to conserve and enhance the natural environment and which protects, enhances, recreates, or restores biodiversity.

#### **Policy CS15 – Open Spaces, Sports and Recreation**

5.10 sets out how the Council will work with its partners to meet the strategic open space needs of our community.

#### **Policy CS16 – Sustainable Construction and Energy**

5.11 supports sustainable design and construction techniques. It also encourages the effective use of land by reusing land that has been previously developed

#### **Policy CS17 – Sustainable Transport**

5.12 sets out how the Council will seek to achieve a 6% shift from travel by private car, to walking, cycling and public transport.

#### **Policy CS18 - The Local and Strategic Road Network**

5.13 Seeks to maximise the efficiency of the road network by delivering sustainable travel.

#### **Policy CS24 - Delivering Infrastructure**

5.14 is concerned with ensuring development is served by essential infrastructure. As part of this it seeks to relate the type, amount and timing of infrastructure to the scale of development, viability and impact on the surrounding area.

#### **Policy CS25 – Presumption in Favour of Sustainable Development**



5.15 sets out that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

5.16 The Borough of Charnwood Local Plan Core Strategy pre-dates the 2021 NPPF. Paragraph 219 of the Framework indicates that due weight should be given to various Plan **policies**, according to their consistency with the NPPF.

## **Borough of Charnwood Local Plan**

5.17 The following 'saved' policies of the Borough of Charnwood Local Plan (2004) are applicable to the development:

### **Policy ST/2 – Limits to Development**

5.18 States that built development will be confined to allocated sites and other land within the Limits to Development identified on the proposals map, subject to specific exceptions.

### **Policy CT/1 – General Principles for Areas of Countryside, Green Wedge and Local Separation**

5.19 Development in areas outside the defined Limits to Development, including Areas of Local Separation will be strictly controlled. Residential development of the scale proposed in this appeal would not fit one of the exception tests.

### **Policy CT/2 - Development in the Countryside**

5.20 In areas defined as Countryside, development(s) acceptable in principle will be permitted where it would not harm the character and appearance of the countryside and provided it could safeguard its historic, nature conservation, amenity, and other local interest

### **Policy CT/4 - Development in Areas of Local Separation**

5.21 In areas of local separation development acceptable in principle will only be permitted where the location, scale and design of development would ensure that:



- i) the predominantly open and undeveloped character of the area is retained; and
- ii) the already narrow gap between settlements is not reduced. Areas of local separation are defined on the Proposals Map to include land between Queniborough and Syston. The appeal site is within such an area.

### **Policy EV/1 – Design**

- 5.22 seeks to ensure a high standard of design and sets out nine design criteria which new developments should satisfy.

### **Policy TR/18**

- 5.23 indicates that planning permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimize harm to visual and local amenities.

## **Queniborough Neighbourhood Plan (QNP)**

- 5.1 On 10<sup>th</sup> June 2021, Charnwood Borough Council "made" the Queniborough Neighbourhood Plan part of Charnwood Borough Council's development plan, in accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended). The referendum was on the 6<sup>th</sup> May 2021.

### **Policy Q1: Parking:**

- 5.2 requires that new development adheres to CBC's parking standards.

### **Policy Q5: Infrastructure:**

- 5.3 supports new development where it contributes to new or improved infrastructure.

### **Policy Q6: Countryside and Landscape**

- 5.4 The aim is to protect the character of the landscape and countryside, defined as the area outside Limits of Development. The importance of maintaining the separate identities of Syston and Queniborough is emphasised by the application of the Area of Local Separation, which is illustrated in the map on page 29.

### **Policy Q7: Green Infrastructure**



5.5 seek to protect and enhance green infrastructure assets and local ecological features and habitats.

5.6 **Policy Q8: Ecology and Biodiversity**

5.7 requires new development to demonstrate an overall net gain in biodiversity.

### **Local Housing Needs**

5.8 The QNP authors made a rudimentary attempt to **identify** the future housing needs of the settlement. Based on responses to a questionnaire survey they suggest that the requirement is for around 128 additional homes. Provision for this need is translated into two policies Q9 and Q10.

### **Policy Q9: Infill Housing**

5.9 Although not quantified this policy aims to provide for some new homes by infilling of gap sites within the Limits to Development.

### **Policy Q10: Queniborough Lodge**

5.10 QNP identified a site upon which 132 dwellings could be built. The land is illustrated on the map on page 41 of the Plan.

### **Policy Q12: Housing Mix**

5.11 Proposals for 5 or more dwellings must provide for the needs of various household types, including affordable housing

### **Policy Q14: Design**

5.12 Lists a series of criteria which collectively are intended to lead to high quality design outcomes.

## **Draft Charnwood Local Plan 2021-2037**

5.13 This document sets out the Council's strategic and detailed policies for the Borough over the period 2019-37. The local plan was submitted for examination in December 2021 with hearings concluding in February 2023. It is anticipated that the Inspectors



will issue a letter setting out the requirement for main modifications to be made to make the plan sound. These modifications will be published for six weeks of public consultation so that the responses can assist the Inspectors in preparing their final report. The precise timings of these events is dictated by the Inspectors although, subject to their report, it is anticipated the Local Plan will be adopted by the Council in Autumn 2023.

5.14 In accordance with NPPF paragraph 48, the relevant emerging policies in the plan may be given weight in determining applications, according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight it may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- c) the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

5.15 The following emerging policies are considered relevant:

### **Policy DS1 - Development Strategy**

5.16 Sets out the Development Strategy for Charnwood between 2021– 2037.

### **Policy DS3 - Housing Allocations**

5.17 supports applications for housing on sites identified in the policy.

### **Policy C1 – Countryside**

5.18 manages development in the countryside to protect its largely undeveloped character, and its intrinsic character and beauty.

### **Policy H1 - Housing Mix**

5.19 seeks a mix of house types, tenures and sizes to meet the overall needs of the Borough.

### **Policy H2 - Housing for older people and people with disabilities**



5.20 expects the housing needs of the ageing population and those with disabilities to be met.

#### **Policy H4 - Affordable housing**

5.21 seeks 30% affordable housing from all major housing developments with the exception of brownfield sites where 10% affordable housing will be sought.

#### **Policy T3 - Car parking standards**

5.22 seeks to ensure adequate provision for all users of residential and non-residential parking in the Borough.

#### **Policy CC1 - Flood Risk Management**

5.23 manages flood risk by directing development to areas in the Borough with the lowest risk of flooding.

#### **Policy EV1 Landscape –**

5.24 Manage developments 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
- requiring new development to maintain the separate identities of our towns and villages.

#### **Policy EV3: Areas of Local Separation**

5.25 To protect the predominantly open and undeveloped character of Areas of Local Separation defined on the Policies Map.

5.26 The Council will only support development in Areas of Local Separation that:

- preserves settlement identity; and
- clearly maintains the physical and perceptual separation between the built-up areas of settlements. Charnwood Forest

5.27 The appeal site is within such an area between Queniborough and Syston (reference ALS10).



### **Policy EV7 Tree Planting**

5.28 seeks to protect and enhance our natural environment by increasing the number of trees in Charnwood. Policy EV9 - Open spaces, sport and recreation aims to meet the open space, sport and recreation facilities needs of our communities to support their health, well-being and cohesion.

### **Policy EV10 - indoor sports facilities**

5.29 encourages healthier lifestyles across our communities and increase the amount of regular physical activity undertaken through the provision of indoor sports facilities.

### **Policy EV11 - Air Quality**

5.30 expects developments to support our aim to improve air quality in the Borough

### **Policy INF1 - Infrastructure and Developer Contributions**

5.31 seeks to secure infrastructure providers, developers and partner organisations to ensure the delivery of new and improved infrastructure necessary to support our development strategy and maintain sustainable and healthy communities.

### **Policy INF2 - Local and Strategic Road Network**

5.32 seeks to mitigate the transport impacts of our development strategy and improve the efficiency of our local and strategic road network.

5.33 In accordance with NPPF paragraph 48, the relevant emerging policies in the plan may be given weight in determining applications.

## **Progress toward Adoption of draft Charnwood Local Plan 2021-2037**

5.34 The submitted Plan's Examination continues. The hearing sessions have now concluded, and unless required by the Inspector, no further evidence will be admitted.

5.35 It seems likely that there will need to be a consultation period which will consider additional evidence presented during the hearings, and submitted at the Inspector's request subsequent to the hearings.



- 5.36 Following that consultation period, the Inspector is likely to report to the Local Planning Authority recommending “main modifications” prior to adoption. At this stage those policies which do not require modification will carry significant weight. The timing of this report is in the Inspectorate’s gift, but it is the council’s expectation that the report will emerge around the time of the Inquiry’s sitting dates, or soon afterward.
- 5.37 The Examiner’s ruling on the soundness of the draft Plan is anticipated to be made after this Inquiry opens, with some possibility that it will be made before the Inspectorate’s decision is taken.
- 5.38 Assuming that there are no further delays arise it is anticipated that the draft Plan, as amended (if necessary), could be adopted during Q3 2023.
- 5.39 The Council reserved the right to provide updates on that progress during the course of the appeal, as necessary.

### **Weight to be attached to emerging policies**

- 5.1 As the emerging Local Plan progresses toward adoption more weight can be given to its policies, in accordance with NPPF paragraph 48. The table below illustrates those policies which are most important in the determination of this appeal, and the weight to be afforded at the date of drafting this Statement. The weight is typically greater today than at the date the Council’s decision on the planning application was made.

<b>Local Plan Policy</b>	<b>Consistency with NPPF paragraph 48</b>	<b>Weight</b>
OS1 Other Settlements	The plan is at an advanced stage – Examination. Hearing session on Other Settlements took place during discussions for Matter 2 (Vision, Objectives, Sustainable Development and the Development Strategy) in June 22.  No further discussion planned for Other Settlements and it is considered there are no unresolved objections thus far.  OS1 is consistent with NPPF paras 11, 16, 20 & 23	moderate
C1 Countryside	The plan is at an advanced stage – Examination. Hearing session on Countryside took place during discussions for Matter 2 (Vision, Objectives, Sustainable Development and the Development Strategy) in June 22.  No further discussion planned for Countryside and it is considered there are no unresolved objections thus far.	moderate





	C1 is consistent with NPPF paras 11, 16, 20, 23, 80, 84, 174	
DS5 High Quality Design	The plan is at an advanced stage – Examination. Hearing session on Design took place during discussions for Matter 3 (Environment & Climate Change) in June 22.  No further discussion planned for design and it is considered there are no unresolved objections thus far.  DS5 is consistent with the NPPF para 130.	moderate
EV1 Landscape	The plan is at an advanced stage – Examination. Hearing sessions on the Environment took place during June 22.  Representations to EV1 and issues identified through the MIQs were discussed at the hearing session in June 22.  EV1 is consistent with NPPF paras 20, 130	moderate
EV3 Areas of Local Separation	The plan is at an advanced stage – Examination. Hearing sessions on the Environment took place during June 22.  Representations to EV3 and issues identified through the MIQs were discussed at the hearing session in June 22.  EV3 is consistent with NPPF paras 11, 20, 130	moderate

5.2 The Council reserves the right to update the Inspector during the Inquiry if the respective weighting has altered, and in post inquiry submissions if the Local Plan has progressed further.

## **Minerals and Waste Local Plan (2019)**

5.3 Policy M11 seeks to safeguard mineral resources

## **National Planning Policy Framework (2021)**

5.4 The NPPF is a material consideration in planning decisions. The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are 3 dimensions to this;

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation
- A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services;



- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

## Chapter 1 – Introduction

5.5 The Framework should be read as a whole, including footnotes and annexes.

## Chapter 2. Achieving sustainable development

- 5.6 **Paragraph 10** states at the heart of the Framework is a presumption in favour of sustainable development.
- 5.7 **Paragraph 11** sets out the presumption in favour of sustainable development and how that might apply to development management decisions, if the most important policies in the relevant development plan are out of date.
- 5.8 **Footnote 8** explains that this tilted balance could apply in situations **including** where the local authority cannot demonstrate a five year supply of deliverable housing sites.
- 5.9 **Paragraph 12** The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 5.10 **Paragraph 14** In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
  - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;



- c) the local planning authority has at least a three-year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and
- d) the local planning authority's housing delivery was at least 45% of that required over the previous three years (Housing Delivery Test).

### **Chapter 3. Plan Making**

5.11 **Paragraphs 15-33** set out that the planning system should be genuinely plan-led and that succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities and a platform for local people to shape their surroundings. Paragraph 31 states that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence.

### **Chapter 4 – Decision Making**

5.12 **Paragraph 48** - Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

### **Chapter 5. Delivering a sufficient supply of homes**

5.13 **Paragraph 60** states that to support the government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.



- 5.14 **Paragraph 62** sets out that the size, type and tenure of housing need for different groups in the community should be assessed and reflected in planning policies (including but not limited to, those who require affordable housing, families with children older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.
- 5.15 **Paragraphs 68-71** requires local planning authorities to significantly boost the supply of land and requires them to maintain 5-year housing land supply. It is acknowledged that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built out quickly. The paragraph then goes on to explain how such sites might be promoted.
- 5.16 **Paragraph 74** sets out that local planning authorities are expected to maintain a 5 year housing land supply and should identify and annually update their supply of specific deliverable sites as measured against the overall housing requirement for the plan period. This should include a buffer and in Charnwood this is an additional 5% in order to ensure choice and competition in the market for land.

## **Chapter 12 – Achieving well-designed places**

- 5.17 **Paragraph 126** onward is concerned with achieving well- designed places and sets out that good design is a key aspect of sustainable development. The use of visual tools and design codes is encouraged as is the development of design policies alongside local communities and neighbourhood plans.

## **Chapter 15 - Conserving and enhancing the natural environment**

- 5.18 **Paragraph 174** onwards requires that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst further criteria):
- 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.



## **Annex 1 - Implementation**

5.19 **Paragraph 219** - Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

## **6. Other Material Considerations**

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### **National Planning Practice Guidance (PPG)**

6.1 The National Planning Practice Guidance (PPG) reinforces and provides additional guidance on the policy requirements of the Framework and provides extensive guidance on design and other planning objectives that can be achieved through getting good design. These include the consideration of local character, landscaping setting, safe, connected and efficient streets, crime prevention, security measures, access and inclusion, efficient use of natural resources and cohesive and vibrant neighbourhoods.

### **National Design Guide (2019)**

6.2 The National Planning Policy Framework makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve. This design guide, the National Design Guide, illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools. As well as helping to inform development proposals and their assessment by local planning authorities, it supports paragraph 134 of the National Planning Policy Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.



## **Leicester and Leicestershire Housing and Economic Development Needs Assessment (HENA) – 2022**

6.3 HENA Provides an up-to-date evidence base of local housing needs including an objectively assessed housing need figure to 2036 based on forecasts and an assessment of the recommended housing mix based on the expected demographic changes over the same period. The housing mix evidence can be accorded significant weight as it reflects known demographic changes.

## **Housing Supplementary Planning Document (adopted May 2017 – updated December 2017)**

6.4 The SPD provides guidance on affordable housing to support Core Strategy Policy CS3.  
6.6 The Crime and Disorder Act 1998 This places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the determination of planning applications.

## **The Equality Act 2010**

6.5 This Act requires local planning authorities, when making strategic decisions about the exercise of their functions to have regard to the desirability of reducing socio-economic inequalities in society. It consolidates 7 Acts including the Disability Discrimination Act. Whilst the accessible design of buildings is regulated by Part M of the Building Regulations, the Equality Act does require ‘reasonable adjustments’ to be made when providing access to goods, facilities, services and premises and this also applies to the design of proposed development. In terms of planning decisions, there is a need to have ‘due regard’ to the impact of planning application decisions and policies on anyone with a Protected Characteristic who may be affected by the decision.

## **The Leicestershire Highways Design Guide (2018)**

6.6 This is a guide for use by developers and published by Leicestershire County Council, the local highway authority, and provides information to developers and local planning authorities to assist in the design of road layouts in new development. The purpose of the guidance is to help achieve development that provides for the safe



and free movement of all road users, including cars, lorries, pedestrians, cyclists and public transport. Design elements are encouraged which provide road layouts which meet the needs of all users and restrain vehicle dominance, create an environment that is safe for all road users and in which people are encouraged to walk, cycle and use public transport and feel safe doing so; as well as to help create quality developments in which to live, work and play. The document also sets out the quantum of off-street car parking required to be provided in new housing development.

## **Landscape Character Appraisal**

6.7 The Borough of Charnwood Landscape Character Assessment was prepared in July 2012. The purpose of the report was to assess the baseline study of the landscape character, at a sub-regional level that gives a further understanding of the landscape resource. The document 'provides a structured evaluation of the landscape of the borough including a landscape strategy with guidelines for the protection, conservation and enhancement of the character of the landscape, which will inform development management decisions and development of plans for the future of the Borough'.

## **Supplementary Planning Document - Planning Guidance for Biodiversity**

6.8 Planning Guidance for Biodiversity and a local list of receptor sites, to support the delivery of adopted Core Strategy Local Plan policy CS13 and emerging Local Plan policy EV6. The Guidance will assist applicants for planning permission on how to avoid biodiversity loss or to mitigate it on site, and where this is not possible, compensated for offsite. Once adopted, the Planning Guidance for Biodiversity will become a material consideration in decision making, in accordance with the NPPF.

## **7. Refusal Reasons**

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### **Justification & Amplification of Refusal Reason 1**

*The proposed development, in itself and cumulatively with other development, would result in a harmful impact upon on the character of the countryside in this location and the Area of Local Separation within which it is located. This would have an impact on the individual identity of Queniborough and Syston and result in coalescence between the settlements*



*and the proposals would not protect and maintain the separate identities of the town and village.*

*The development would therefore be contrary Policies CS2 and CS11 of the Charnwood Local Plan Core Strategy 2015, saved Policies EV/1, CT/1, CT/2 and CT/4 of the Adopted Borough of Charnwood Local Plan 1991-2006 and Policy Q6 of the Queniborough Neighbourhood Plan 2021. The Council consider that such harm arising from the proposals would significantly and demonstrably outweigh the planning benefits of the scheme.*

## **Cumulative Impact**

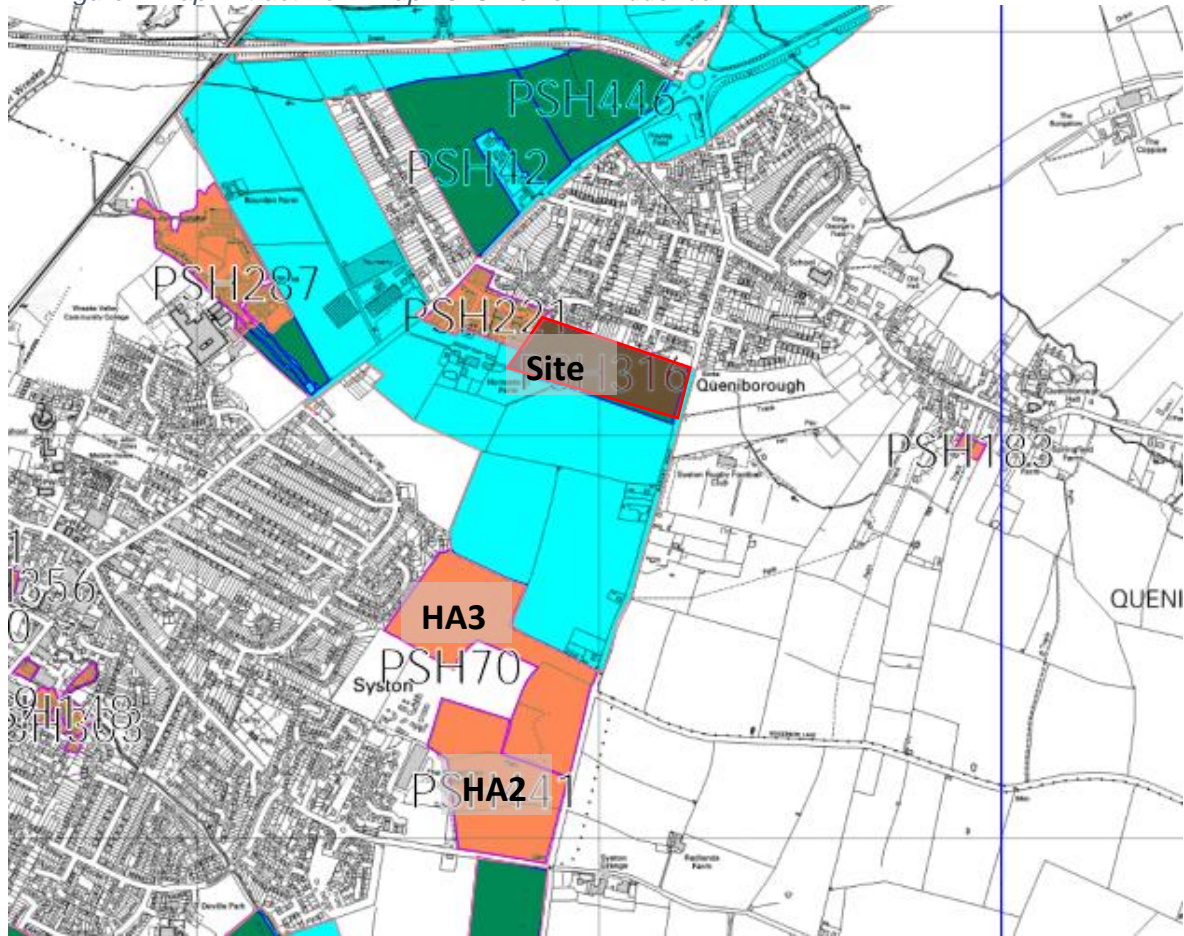
- 7.1 Syston and Queniborough are separated by open rural landscape which has been either in commercial tree production, pasture or open arable cultivation. By typology and definition rural character and land use is not urban and vice versa. There are a number of development proposals under consideration which could erode the Area of Local Separation (ALS). This proposal needs to be seen in light in relation to the Council's housing allocation which lies to the south as cumulative.

The emerging Local Plan 2021-37 has allocated land for residential development to the north of Syston. Although these allocated sites (HA2 & HA3) did not form part of the Queniborough ALS they were identified as Countryside in the 2004 Plan. They will, if developed, result in harm to the character of the countryside in this area, and will reduce the landscape gap between Syston and Queniborough. Both sites are the subject of current planning applications.





Figure 2 Map Extract from Arup 2016 Review - Addendum



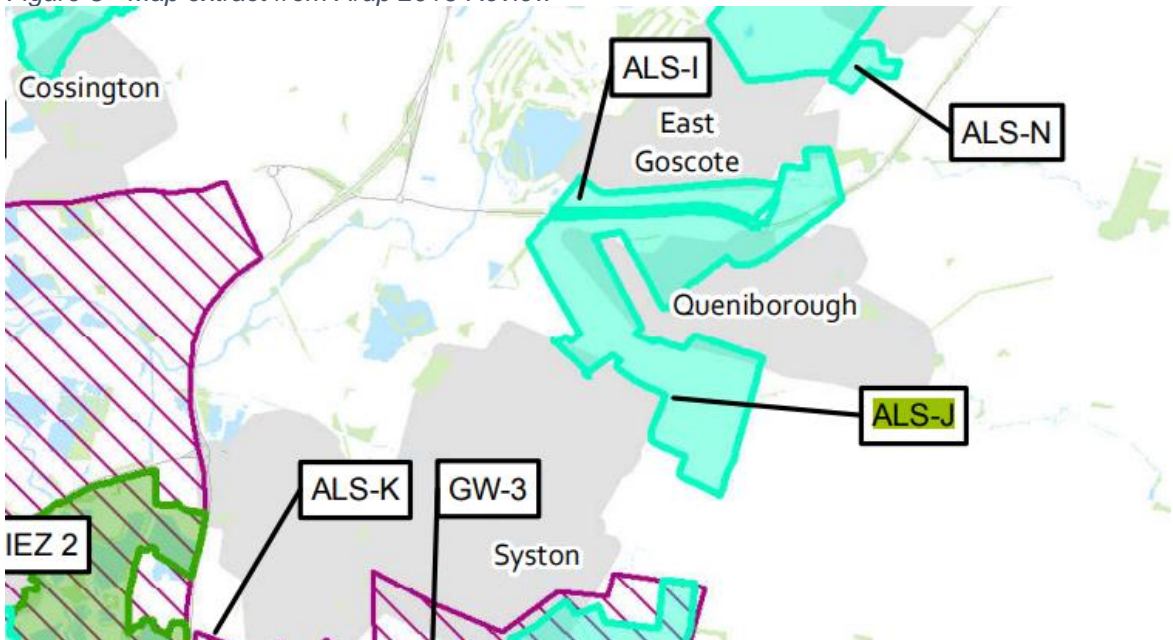
- 7.2 The existing spatial gap between Syston and Queniborough is limited, being small in scale and therefore of greater importance for the purpose of maintaining separation. The zone of the ALS to the west is considered to be weaker, placing greater importance on the remained zone to the east, that is, west of Barkby Road.
- 7.3 The consultation response (Landscape, 7th Nov 2022) from the Council's Conservation and Landscape experts offer a full description of the Council's landscape concern, and the harm which the proposed development would cause.



Table 1 – Extract from CBC Assessment 2016 (Arup, March 2016) – ALS-J applies

Assessment Area	Purpose Score	Zones of Weakness	Extension Opportunity Area	Relationship to other designation
ALS-I	<b>Moderate</b> - forms part of an important physical gap between Queniborough and East Goscote, playing a role in preventing their coalescence.	None identified	None identified	Physically adjacent to ALS-J and effectively forms part of the same gap between East Goscote and Queniborough.
ALS-J	<b>Strong</b> - provides the essential gaps between East Goscote, Queniborough and Syston, restricting development which would lead to the merging of these settlements. Although these gaps are very small in scale the settlements are visually and functionally separate, with unique characteristics.	Area in the west at the edge of Syston has been compromised by development and no longer functions as part of the gap between Syston and Queniborough.	There is an area to the north-east of the existing AoLS which, in landscape and functional terms, is strongly linked; this area plays an equal role in maintaining the gap between East Goscote and Queniborough.	Physically adjacent to ALS-I and effectively forms part of the same gap between East Goscote and Queniborough.

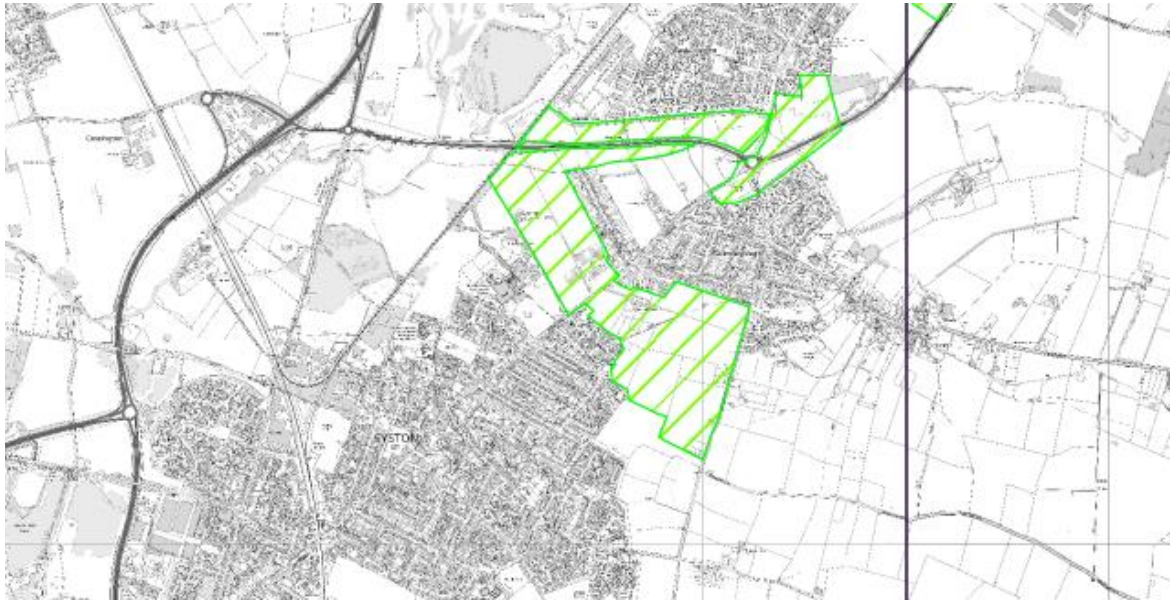
Figure 3 - Map extract from Arup 2016 Review



7.4 The necessity for, and extent of Areas of Local Separation has been considered in the Examination of the emerging Local Plan. The following map extract illustrates the proposed extent of the ALS in the new Local Development Plan.



Figure 4 - Map extract from Map 19 Policy EV3 Areas of Local Separation (emerging LDP)  
Exam 33 O



### **Contrary to Policy CS2**

- 7.5 The Core Strategy Policy CS2 aims to ensure that new developments are of a high design quality. It requires that development should respond positively to their context and reinforce a sense of place.
- 7.6 For the reasons described elsewhere in this statement one component of that sense of place is the distinctiveness of communities. The coalescence of Syston and Queniborough, or erosion of the valuable landscape separating the settlements would offend the part of policy described above.
- 7.7 This policy will be replaced in the emerging Local Plan by its policy DS5, which can be accorded moderate weight at the date of writing.
- 7.8 The appealed proposal fails policy test CS2, and its successor policy's similar tests in the emerging Local Plan's policy DS5

### **Contrary to Policy CS11**

- 7.9 Policy CS11 aims to support and protect the character of Charnwood's landscape and countryside. It includes six bullet pointed objectives. Amongst these the subject proposal would offend the first and third.
- 7.10 The protection of landscape character and reinforcing a sense of place are wholly at odds with a proposal to develop a protected landscape.



7.11 The proposal would injure the requirement to maintain the separate identities of Queniborough and Syston.

7.12 This policy will be replaced in the emerging Plan by a combination of its policies C1, EV1 and EV3 which share aims and objectives with CS11.

7.13 The appealed proposal fails policy test CS11, and its successor policy's similar tests in the emerging Local Plan's policies C1, EV1 and EV3.

### **Contrary to Policy EV/1**

7.14 The saved 2004 Policy EV/1 seeks to ensure that all new development would be of a high design standard. The policy sets nine tests, including respect for the form of existing settlements and the open and undeveloped countryside. For all the reasons discussed elsewhere in this statement the Council's opinion is that development in this location would offend that policy test.

7.15 The appealed proposal fails policy test EV/1.

### **Contrary to Policy CT/1**

7.16 The general principles for areas of countryside, green wedges and areas of local separation are that development should be strictly controlled. Aside from re-use of existing buildings and small-scale new development, any other development proposals must satisfy one of four tests.

7.17 The proposal is not essential for agriculture, is not rural diversification, is not improvement of leisure facilities, and is not strategically important for mineral, transport, services or utilities.

7.18 This policy will be replaced in the emerging Plan by its policy C1, which can be accorded moderate weight at the date of writing.

7.19 The appealed proposal fails policy test CT/1, and its successor policy's similar tests in the emerging Local Plan's Policy C1.

### **Contrary to Policy CT/2**

7.20 Had the proposal satisfied the tests in Policy CT/1 then policy CT/2 would seek to control the impact on the character and appearance of the countryside. It follows





that if this development is unacceptable under CT/1 must also be unacceptable under CT/2.

7.21 The appealed proposal fails policy test CT/2.

#### **Contrary to Policy CT/4**

7.22 The Queniborough/Syston area of local separation is explicitly described in the policy, whose objectives are to retain the predominantly open and undeveloped character of the area, and to ensure that the “already narrow” gap between settlements is not reduced. Local residents and policy makers recognise the importance of preserving the separate identities of communities.

7.23 The appeal proposal fails this policy test.

7.24 This policy will be replaced in the emerging Local Plan by its policy EV3, which can be accorded moderate weight at the date of writing.

7.25 The appealed proposal fails policy test CT/4, and its successor policy’s similar tests in the emerging Local Plan’s Policy EV3.

#### **Contrary to Policy Q6**

7.26 Queniborough Neighbourhood Plan’s Policy Q6 is aligned with Policy CS11 in the Core Strategy. Its expressed aims are to support and protect the character of the local landscape.

7.27 The policy adopts the map showing the Area of Local Separation between Syston and Queniborough.

7.28 The appealed proposal fails policy test Q6, and its similar tests in the emerging Plan’s policies C1, EV1 and EV3.

### **Justification & Amplification of Refusal Reason 2**

*In the absence of a signed Planning Obligation, although a Draft Heads of Terms is noted, the proposal fails to deliver an appropriate level of affordable housing and contributions towards sustainable travel, ecology, education, libraries, civic amenity, community facilities and open space and play provision that are necessary to make the development acceptable in planning terms.*

*The proposals would be contrary to Policies CS3, CS13, CS17 and CS24 of the Charnwood Local Plan 2011-2028, Core Strategy (2015) and adopted Housing Supplementary Planning Document (2017) and Community Infrastructure Levy Regulations.*



## Planning Obligations at decision date

7.29 Based on consultation responses received at the point the decision was made the planning obligations being tabled to the applicant were:

*Table 2 - Summary of planning obligations at decision date*

Affordable housing	40% (77% social or affordable rent, 23% shared ownership) and unit sizes
Provision of public open space	<p>a. Provision for young people – 1 NEAP, including 30m buffer or off-site contribution of £143,099 to meet development need through the provision of new or enhanced young people’s provision within Queniborough</p> <p>b. Outdoor sports facilities – 0.94ha off-site contribution of £48,247 for Syston Football Rugby Cricket and Tennis Club</p> <p>c. Allotments – 0.12ha onsite, or £16,938 for off-site provision within Queniborough</p>
Highways improvements	<p>a. Travel Packs: to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).</p> <p>b. Six-month bus passes, two per dwelling (two application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £510.00 per pass).</p> <p>c. Appointment of a Travel Plan Co-ordinator from commencement of development until 5 years after first occupation. The Travel Plan Co-ordinator shall be responsible for the implementation of measures, as well as monitoring and implementation of remedial measures.</p> <p>d. This travel plan will be monitored by LCC officers for the five-year duration of its life. Fees for this service are set at £6,000 for a full travel plan.</p> <p>e. Raised kerb provision at the nearest two bus stops Syston Rd (adjacent Barkby Rd) – 260007805 and at Syston Road (opposite Avenue Rd) - 260007804 at a cost of £3,500 per stop to support modern bus fleets with low floor capabilities.</p>
Education and early years	<p>a. Primary schools (£642,460 or per dwelling equivalent) for the provision, improvement, remodelling or enhancement of education facilities at Queniborough Church of England Primary School or any other school within the locality of the development, or the construction of a new school.</p> <p>b. Special schools (£84,672.65 or per dwelling equivalent) for the provision of additional capacity at Birch Wood or pooled, where</p>



	appropriate, to provide additional capacity at the school nearest to the development.
Libraries	£4,541 (or per dwelling equivalent) for East Goscote Library
Waste	£7,750.50 (or per dwelling equivalent) for Mountsorrel HWRC
Healthcare contributions	Improving capacity at local surgeries consisting of: a. The County Practice and Jubilee Medical Practice - £79,366.47 (or per dwelling equivalent)
Biodiversity Mitigation	To submit the Biodiversity Mitigation and Enhancement Scheme to the Council for its written approval with any Reserved Matters Application. a. To submit an updated Biodiversity Impact Assessment b. To provide the Biodiversity Net Gain on Site in accordance with the Approved Biodiversity Mitigation and Enhancement Scheme. c. Where the provision of the Biodiversity Net Gain on Site cannot be achieved to provide the mitigation measures off Site pursuant to the Approved Biodiversity Mitigation and Enhancement Scheme and pay the Biodiversity Impact Compensation to the Council.

7.30 The applicant had challenged these obligations, so an agreed heads of terms of agreement could not be found before the Council’s decision date.. We anticipate that an agreed S106 will be provided to the Inspector before the Inquiry

### Updated Obligations

7.31 In response to the notice of appeal Leicestershire County Council reviewed their consultation response and have consequently revised the contribution sum for primary schools. This revised number is based upon a review of its infrastructure requirements.

Education and early years	a. Primary schools (£532,324.00 or per dwelling equivalent) for the provision, improvement, remodelling or enhancement of education facilities at Queniborough Church of England Primary School or any other school within the locality of the development, or the construction of a new school.  b. Special schools (£84,672.65 or per dwelling equivalent) for the provision of additional capacity at Birch Wood or pooled, where appropriate, to provide additional capacity at the school nearest to the development.
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## **Benefits vs Adverse Impacts of the proposal**

- 7.1 Should this appeal be allowed, and a reserved matters application made quickly thereafter it seems improbable that any housing would be delivered before the emerging Local Plan has been adopted, at which time, if not sooner, the five-year supply would be restored.
- 7.2 In such circumstances the harm arising from conflict with the policies listed in the refusal reasons, and their successors in the emerging Local Plan would significantly and demonstrably outweigh any benefit of housing delivered outside a plan-led process.

## **8. The Tilted Balance**

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### **Purpose of Plan Making**

- 8.1 “The court will always keep in mind that the creation of development plan policy by a local planning authority is not an end in itself, but a means to the end of coherent and reasonably predictable decision-making, in the public interest.” (Gladman, 2019).
- 8.2 That coherence and predictability in how development is regulated can be found in this case in the thread of policies running through at least two decades of development planning, which aim to protect the countryside, the settlement limits and the separation between Queniborough and Syston.

### **Paragraph 11(d) and Tilted Balance**

- 8.3 As time has passed during the processing of the appealed proposals, including the previous near identical application on the same site (P/18/0309/2), the planning balance has altered, and it may continue to change between the date on which this statement of case was drafted and the Inspectorate’s decision date, as the emerging Local Plan’s policies gain weight. The Council has a published 5-year supply position of 3.04 years and so the tilted balance, qualified in paragraph 11dii) applies. Weight can be given to existing policies. Emerging policies are also a material consideration.

### **Most Important Policies**





8.4 Whilst all the policies considered in the case officer’s report to the Plans Committee are relevant in the assessment of a planning application, we must recognise that the subject proposal is an outline application, save for access details, so the most important planning policies are those which consider the principle of residential development on the site. The following table lists the most important policies, and identifies the document which they are described in.

8.5 Highways considerations are excluded from this aspect of the analysis.

*Table 3 - Most Important Planning Policies*

	Policy	Topic
Core Strategy	CS1	Development Strategy
	CS2	High Quality Design
	CS3	Strategic Housing Needs
	CS11	Landscape and Countryside
2004 Saved	ST2	Limits to Development
	CT1	General Principles for Areas of Countryside, Green Wedge and Local Separation
	CT2	Development in the Countryside
	CT4	Development in Areas of Local Separation
	EV1	Design
Queniborough Neighbourhood Plan	Q6	Countryside and Landscape – includes Area of Local Separation
	Q10	Queniborough Lodge
	Q12	Housing Mix
	Q14	Design
Emerging LDP	DS1	Development Strategy
	DS3	Housing Allocation
	C1	Countryside
	H4	Affordable Housing
	EV1	Landscape



	EV3	Areas of Local Separation
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## Consistency of Most Important Policies with the Framework

8.6 The following table illustrates the consistency of the most important policies within the three adopted plans and the emerging Local Plan at this time. At the date of submission of this Statement of Case the policies of the emerging plan carry limited to moderate weight, but that position is likely to change before this appeal decision is taken.

*Table 4 – Consistency of most important policies with Framework*

	Policy	Topic	Consistency with Framework
Core Strategy	CS1	Development Strategy	Housing provision for the Borough – out of date  Housing provision in smaller settlements was at least 500 between 2021 and <b>2028</b> . That period remains incomplete.  Consistent with Chapter 5 of NPPF
	CS2	High Quality Design	Consistent with Chapter 12 in NPPF
	CS3	Strategic Housing Needs	Out of Date
	CS11	Landscape and Countryside	Consistent with Chapter 15 in NPPF
2004 Saved	ST2	Limits to Development	Consistent with Chapter 12 in NPPF
	CT1	General Principles for Areas of Countryside, Green Wedge and Local Separation	Consistent with Chapter 13 in NPPF
	CT2	Development in the Countryside	Consistent with Chapter 15 in NPPF
	CT4	Development in Areas of Local Separation	Consistent with Chapter 15 in NPPF
	EV1	Design	Consistent with Chapter 12 in NPPF
Queniborough	Q6	Countryside and Landscape	Consistent with Chapter 15 in NPPF
	Q10	Queniborough Lodge	Consistent with Chapter 5 in NPPF



	Q12	Housing Mix	Consistent with Chapter 5 in NPPF
	Q14	Design	Consistent with Chapter 15 in NPPF
Emerging LDP	DS1	Development Strategy	Consistent with Chapter 5 in NPPF
	DS3	Housing Allocation	Consistent with Chapter 5 in NPPF
	C1	Countryside	Consistent with Chapter 15 in NPPF
	H4	Affordable Housing	Consistent with Chapter 5 in NPPF
	EV1	Landscape	Consistent with Chapter 15 in NPPF
	EV3	Areas of Local Separation	Consistent with Chapter 15 in NPPF

8.7 The site's status in the emerging Local Plan is a continuation of policies in the 2004 Plan, the Core Strategy and the Queniborough Neighbourhood Plan. The site remains outside the Limits to Development and as a designated Area of Local Separation. The emerging Plan's policies have been prepared on the basis of the Framework's policies and objectives, and the evidence base to the emerging Local Plan has been tested through the examination process.

### Assessment of Basket of Policies

8.8 Queniborough is in the unusual position of currently having four overlapping plans, together with national policy guiding development management decisions for its environs. For some forms of development proposal that suite of reference policies could prove problematic for decision takers. In this case the most important policies have a remarkable thread of consistency running through Charnwood Local Plan (2004) (saved policies), Charnwood Local Plan 2011-2028 Core Strategy, Charnwood Local Plan 2021-37 Pre-Submission Draft (July 21), Queniborough Neighbourhood Plan and the National Planning Policy Framework (2021).

8.9 In the pages of the Statement of Case which consider the most important policies for this appeal we have shown how that consistency in policy aims and objectives is wholly aligned with the Framework. The version of policies in the emerging Local Plan have gained weight since the decision was made.

8.10 The appealed proposal conflicts with each of the most important policies in each of the policy documents.



## The Tilted Balance

### Five Year Supply

- 8.11 It is acknowledged that the Council calculated that its housing land supply, on 1<sup>st</sup> April 2022, was the equivalent of 3.04 years of the calculated requirement, based on planning permissions at that time. The Council are currently updating the 5 years housing land supply position to 1<sup>st</sup> April 2023 and the Council will submit this to the Inspector when it is published.
- 8.12 The more recent “Charnwood Local Plan 2021-2037 Housing Trajectory” (Housing Trajectory, Jan 2023) submitted to the Local Plan examination evidenced that a 5-year supply was likely to be restored in 2023, based upon anticipated approvals on Strategic Urban Extension sites and forthcoming committed sites.
- 8.13 Should this appeal be allowed, and a reserved matters application submitted and approved quickly thereafter it seems improbable that any housing would be delivered before the emerging Plan has been adopted, at which time the five-year supply would be restored. Allowing this appeal would therefore not be contributing to a supply deficiency.

### Paragraph 11d i) – Assets of particular importance

- 8.14 Whilst the subject site is not within the list of designations listed in footnote 7 of the NPPF paragraph 11, the Area of Local Separation is particularly important at this location.

### Paragraph 11d ii) – Harm outweighs benefit

- 8.15 We argue that the adverse impact of development at this site significantly and demonstrably outweigh the benefits.
- 8.16 Paragraph 11(d)ii) is a policy designed to shape and direct the exercise of planning judgment.

8.17 In this case we contend that the balance has not been tipped. The most important policies for determining the application are largely not out of date and emerging policy can be given increased weight since the determination of the application. The harms arising from a breach of these policies must outweigh the benefits of development, on the facts and degrees.



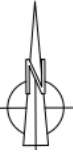
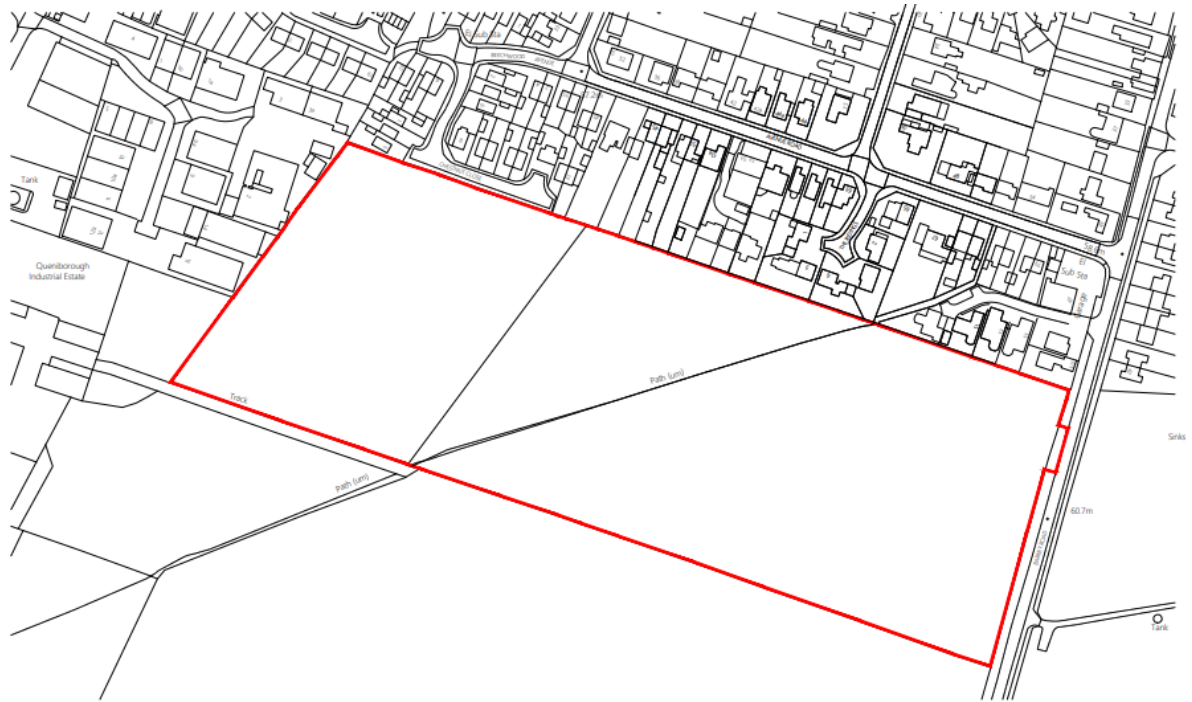
## 9. Summary & Conclusion

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- 9.1 This appeal relates to a proposal to build a residential development of up to 150 dwellings on land which is outside the Limits of Development of Queniborough.
- 9.2 The site lies within an Area of Local Separation, south of Queniborough and north of Syston. This designation is important for prevention of coalescence between the two settlements. The existing gap is comprised of three fields. The loss of one of those fields to this development proposal would be harmful.
- 9.3 The subject planning proposal would conflict the overlapping policy tests of the Charnwood Local Plan (2004) (saved policies), Charnwood Local Plan 2011-2028 Core Strategy, Charnwood Local Plan 2021-37 Pre-Submission Draft (July 21), and the Queniborough Neighbourhood Plan. We know that these are consistent with the National Planning Policy Framework (2021) because the most important policies are replicated in the emerging Local Plan, which has been examined and is highly likely to be adjudged “sound” by the Inspectorate.
- 9.4 The policies in the emerging Local Plan which will supersede those adopted and made policies cited in the refusal reasons can now be given limited to moderate weight.
- 9.5 The most important policies to be referenced in making this decision should now include those policies in the emerging Local Plan which overlap with the policies cited in the refusal reasons. The weighting has altered since the decision date.
- 9.6 The adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits.
- 9.7 “If 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” (Planning and Compulsory Purchase Act 2004, 38(6)).
- 9.8 Charnwood Borough Council contends that the refusal of planning permission was justified on the date it was taken, and that progress toward adoption of the Charnwood Local Plan 2021-37 adds weight to the decision.



## 10. APPENDIX 1 – Location Map





## 11. APPENDIX 2 - References

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