



TOWN AND COUNTRY PLANNING ACT 1990

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

PROOF OF EVIDENCE

PLANNING (Development Management)

By Liam Ward



Planning Appeal

Charnwood ref: P/20/2380/2

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

Charnwood Borough Council's Proof of Evidence

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:

- 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.

- 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.



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1. Introduction

The Planning Application

- 1.1 The subject planning application¹ was made valid on 22nd January 2021. After considerable engagement with consultees, the agent and Charnwood Borough Council Members, planning permission was refused on 9th December 2022. The planning appeal was then submitted on 13th February 2023.
- 1.2 The applicant, and the appellant is “David Wilson Homes East Midlands”
- 1.3 The body of the site is in the Countryside, wholly outside the limits of development for Queniborough in the adopted Plan, and in the emerging draft Charnwood Local Development Plan 2021-37, and within an Area of Local Separation.

Author

- 1.4 This evidence is presented on behalf of Charnwood Borough Council (CBC) by me, Liam Ward.
- 1.5 I have been acting as a Principal Planning Officer at CBC since January 2023, as a contractor. I am employed on a six-month contract by Advance Contracting Solutions Limited. I was not employed by, nor contracted to work with Charnwood Borough Council (CBC) while the case officer was preparing their report, or when the Members made the decision to refuse planning permission.
- 1.6 I am a member of the Royal Institute of Town Planning and have been a professional in a planning environment for more than 30 years. Most of my career has been spent in the private sector, and most of that work was promoting development proposals. I have participated in more than 200 planning appeals, with roughly half of those involving in-person hearings.
- 1.7 In addition, I have submitted, or managed the submission of roughly 6,000 planning applications, with around 300 of these being for major residential developments. I have given evidence in planning based Judicial Reviews, participated in Local Plan Examinations, amongst other professional planning work.

¹ Core Documents group CD1 and group CD2



- 1.8 The planning judgement expressed herein is founded upon my experience and my reading of material considerations.

2. Preliminary Matters

Fluid Policy Environment

- 2.1 Planning policy and material considerations often change during the consideration of development proposals. This appeal is being considered during a period when there is more potential for change, important to the decision taker, than is normal.

Emerging Charnwood Local Plan

- 2.2 The emerging Charnwood Local Plan 2021-37 is moving through the various stages, with adoption expected during quarter 4 of 2023.

Draft revision to National Planning Policy Framework

- 2.3 The Department for Levelling Up, Housing and Communities issued a draft revision to the National Planning Policy Framework for consultation in December 2022. The consultation draft includes changes to paragraph 11 and its footnotes, and to Chapter 5 which could impact upon the decision, if adopted in the tracked changes form.
- 2.4 It is not known when the NPPF will be replaced, nor the final form of words and footnotes which will be in the adopted version. The draft has no weight at the date of submission of this evidence, but should the revised version be adopted before the Inspector's decision date it would be a material consideration.

Highways Cost Recovery

- 2.5 The appellant had received the letter from the Leader of Leicestershire County Council (LCC), issued on 31st March 2023², which indicated that the County Council would seek full cost

² Core Document CD8.17



recovery from developers for the cost of strategic highway works, and sustainable travel proposals thought necessary to support the planned housing and employment growth within the county, and in this case within Charnwood Borough. LCC have advised the Borough Council and the Appellant that they do not intend to revise their original contributions request.

Amended Proposal

2.6 The appellant has submitted three new plans, including a revised illustrative masterplan on 28th April 2023 (17 days **after** the submission deadline for the council's Statement of Case), together with a new location map and planting plan. The principal difference between these drawings and the application documents is that additional structural planting has been shown on land outside the application site's red line. A new blue line has been added to each of the three new drawings³, which had not appeared in the planning application documentation, nor in the 2018 application described in the planning history.

2.7 This raises three issues:

- firstly, that the local planning authority has not had the opportunity to comply with the publicity and consultation requirements regarding the revised plans,
- secondly the information is tabled late in the process, and
- thirdly whether the blue line should have been on the application documentation, and it raises queries about the certification of ownership of the red and blue land

2.8 The appealed decision was based upon the documents which were current at the date of that decision. The appellant's Statement of Case was based upon the same information. The council's Statement of Case was based on the same information. The council wrote to the appellant and the Inspectorate on the 9th May, the first day after the appellant's agent return from holiday saying that it did not accept the amended proposal. On the 19th May the council wrote to the Inspectorate asking whether the late submission was to be admitted. There has been no response from the Inspectorate. Therefore, the council has relied in its evidence to this Inquiry upon the planning application's drawings and documents, and the appellant's Statement of Case which was founded upon these.

³ Location Map H6823/LOC/01; Conceptual Plan, Quen-Conc-Sk2 rev H; Planting Plan, P23-0196-EN-10 rev A



Planning Application

- 2.9 The application form⁴ included a certificate of ownership (Certificate B) identifying the landowner of the lands edged in red on the Location Plan (Quen-LOCA-01 rev A, submitted on 21/12/2020), and extending to 5.82 Hectares. That Plan was superseded on 22nd January 2021 by its revision B, which in turn was superseded by its revision C⁵ on 15th March 2021. Each of these Plans included a red line, but no blue line. Differences between the 3 versions largely related to the extension of the red line to Barkby Road at the position of the proposed access.
- 2.10 The application's "Conceptual Plan", as revised (QUEN-CONC-Sk2 rev G)⁶ indicates landscape buffers along the eastern and southern boundaries, within the red line, which measure approximately 11m and 8m respectively.

Planning History

- 2.11 Pre-application advice was sought on this site in 2017, informed in part by a drawing entitled "Conceptual Plan QUEN-CONC-Sk2". That drawing was an earlier revision of the conceptual plan submitted with the appealed application. The site boundary matches the application red line.
- 2.12 The previous application on the site, P/18/0309/2 was refused permission on 1st June 2018. The Location Plan which accompanied that application was the same version which was submitted with the current appealed application (Quen-LOCA-01 rev A). That plan includes a red line, but no blue line.

Legislation

- 2.13 The general requirements for applications for planning permission are set out at Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMP Order). These should be accompanied by i) a plan which identifies the land to which the application relates, and ii) any other plans, drawings and information necessary to describe the development which is the subject of the application.

⁴ Core Document CD1.01

⁵ Core Document CD1.02

⁶ Core Document CD1.03



- 2.14 Section 15 of the Order requires that the local planning authority publicises, with that publicity to include a site notice and a notice in a local newspaper. Further, a council is required to publish proposals on a website, and to describe that proposal, and how it might be viewed. Article 15(8), dealing with the period after which any appeal has been referred to the Secretary of State, requires a local authority to adhere to the requirements to publicise proposals. It is difficult to see how any third parties might be able to engage in discussion about the amended proposals at this late stage in the appeal process.
- 2.15 The DMP Order requires in Article 13 that notice is served on landowners, if the applicant is not a landowner. There is no evidence of such a notice having been served in respect of the lands outlined in blue on the recently submitted plans.

PINS Guidance

- 2.16 Section 16 of the Planning Inspectorate's Procedural Guide for planning appeals considers amendments to a proposed scheme after the appeal has been made. Importantly, at 16.1 the guidance makes clear that the appeal process should not be used to evolve a scheme. The proposals being assessed by the Inspector should be essentially the same as the scheme assessed by the local planning authority and interested parties at the application stage.
- 2.17 In paragraph of the Case Management Summary Note, issued on 26th April (two days before the additional information was submitted) the Inspector listed issues which the Inquiry will need to consider in addition to the three main issues listed. These included addressing the concerns of interested parties. When the note was drafted that could only have meant concerns in respect of the planning application information, and Statements of Case. The parties who might be interested in the new drawings cannot be limited to those who are in the email circulation which attached the three drawings. Neither could it be limited to the people who have objected to the application.

Planning Practice Guidance

- 2.18 The PPG offers guidance on what information should be included on a location plan:

The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (eg land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings). A blue line should be drawn around any



*other land owned by the applicant, close to or adjoining the application site
(Paragraph: 024 Reference ID: 14-024-20140306)*

Third Parties

- 2.19 The appealed application attracted 155 objections and was called in by a ward councillor for consideration at the council's Plans Committee. Six of those objectors spoke at the committee meeting. Objectors and speakers included Queniborough Parish Council and its elected councillors, and Syston Town Council. The local Member of Parliament was another objector.
- 2.20 The local council elections in May 2023 saw 29 new councillors elected in Charnwood, including councillors in this ward. One of the departing councillors had called-in the application. The newly constituted Plans Committee will not have met before the date this Proof is due.
- 2.21 To consider the revised drawings at this stage in the process, after which no further advertisement would normally be made, and after the latest date on which members of the public, or elected representatives could initiate participate in correspondence or discussion on the late information would be unfair. It would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
- 2.22 I refer the Inspector to the case of R (Holborn Studios Ltd v Hackney LBC [2017] EWHC 2823 (Admin). The Judge was John Howell QC sitting as a Deputy Judge of the High Court.⁷ Mr Howell addressed the failure of a council to re-consult with third parties about a change to the design. In that case the officers appeared to have thought that the new design offered betterment and would not cause any significant adverse impact. The judgement was that the officers asked themselves the wrong question and settled on an inappropriate response to that question.

The question they needed to consider was whether, without re-consultation, any of those who were entitled to be consulted on the application would be deprived of the opportunity to make any representations that they may have wanted to make on the application as amended. It does not follow that, because officers may have welcomed

⁷ Core Document CD8.20



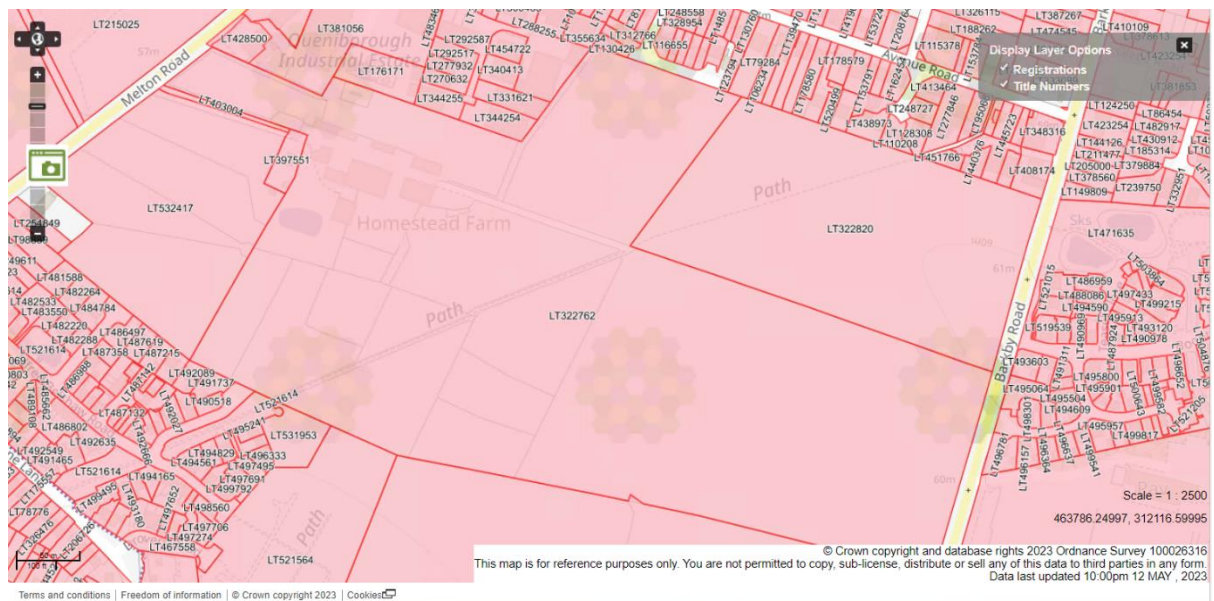
the changes and did not consider that they would have any adverse impact, others might not take a different view. (paragraph 91)

2.23 Given that the applicant has been managing planning applications on this site for five years, starting when the 2018 application was being prepared for submission, and that during all that time has asked the council, and the public to restrict its consideration of that proposal to an area defined by a red line, it seems unreasonable, and unfair to consider a varied proposal at this late stage. We contend that this late submission should not be admitted to the appeal documentation and should not be considered during the Inquiry. The revised submission has not been publicly advertised, nor has it been submitted at the earliest possible opportunity.

Certification

2.24 The application site includes all of Land Registry folio LT322820 and part of folio LT322762. Both folios are owned by John Edmund Mansell and Jane Mansell. Both have a charge registered against their title dated 14th October 2014 in favour of BDW Trading Limited. The extent of the lands included with those charges, being options to purchase, is described as being land edged blue.

Figure 1 - Screenshot from Land Registry website



2.25 The planning applicant is David Wilson Homes East Midlands, who completed the application form online. At question 25 they certified and declared that requisite notice was given to



everyone else, listed on the form, who was an owner of the land. The landowner is not named.

- 2.26 Given that the applicant differs from the entity holding a Charge over some parts of the folios it cannot be assumed that the land ownership certification has been completed in accordance with the requirements of Section 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015:

an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates, or a tenant—

(a) by serving the notice on every such person whose name and address is known to the applicant; and

(b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated.

- 2.27 The recent submission of three drawings which alter the landscaping issues considered during the processing of the planning application, and which were submitted after the council's Statement of Case, and after the Case Management Conference should not be admitted we say because:

- a) They were tabled very late in the process, when the appellant had at least 9 years (since the Option to Purchase was signed in October 2014) to have identified them
- b) At the stage when they were introduced there was no opportunity for public consultation or for publicising this alteration
- c) The certificate of ownership which accompanied the application did not relate to the lands purported to be added to the proposals in April 2023.



3. Decision-Taking Framework

- 3.1 Section 70(2) of the Town and Country Planning Act 1990 requires the decision taker to have regard to the development plan, so far as it is material to the application.
- 3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires 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.”
- 3.3 During this transitional period, as the Borough moves toward adoption of a new local plan, we are in the unusual position of having four Plans which are material to this appeal.

Local Plans

- 3.4 The policies in the suite of relevant Plans which the proposal has been tested against are:

Borough of Charnwood Local Plan (2004)

- Policy ST/2 – Limits to Development
- Policy CT/1 – General Principles for Areas of Countryside, Green Wedge and Local Separation
- Policy CT/2 - Development in the Countryside
- Policy CT/4 - Development in Areas of Local Separation
- Policy EV/1 – Design
- Policy TR/18 – Car Parking

Charnwood Local Plan 2011-2028 Core Strategy

- Policy CS1 – Development Strategy
- Policy CS2 – High Quality Design
- Policy CS3 – Strategic Housing Needs
- Policy CS11 – Landscape and Countryside
- Policy CS12 – Green Infrastructure
- Policy CS13 – Biodiversity and Geodiversity
- Policy CS15 – Open Spaces, Sports, and Recreation



- Policy CS16 – Sustainable Construction and Energy
- Policy CS17 – Sustainable Transport
- Policy CS18 - The Local and Strategic Road Network
- Policy CS24 - Delivering Infrastructure
- Policy CS25 – Presumption in Favour of Sustainable Development

Queniborough Neighbourhood Plan (2021)

- Policy Q1: Parking
- Policy Q5: Infrastructure:
- Policy Q6: Countryside and Landscape
- Policy Q7: Green Infrastructure
- Local Housing Needs
- Policy Q9: Infill Housing
- Policy Q10: Queniborough Lodge
- Policy Q12: Housing Mix
- Policy Q14: Design

Draft Charnwood Local Plan 2021-2037

3.5 Hereinafter referred to as the emerging Local Plan

- Policy DS1 - Development Strategy
- Policy DS3 - Housing Allocations
- Policy C1 – Countryside
- Policy H1 - Housing Mix
- Policy H2 - Housing for older people and people with disabilities
- Policy H4 - Affordable housing
- Policy T3 - Car parking standards
- Policy CC1 - Flood Risk Management
- Policy EV1 - Landscape
- Policy EV3 - Areas of Local Separation
- Policy EV7 - Tree Planting
- Policy EV10 - indoor sports facilities



- Policy EV11 - Air Quality
- Policy INF1 - Infrastructure and Developer Contributions
- Policy INF2 - Local and Strategic Road Network

Weight to be attached to emerging Local Plan Policies

3.1 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 Proof. The weight is typically greater today than at the date the Council's decision on the planning application was made (Dec 22). Since then the hearing sessions for the Examination have concluded (Feb 23), and the remaining contested matters have narrowed.

Table 1 - Weight to be afforded to emerging Local Plan Policies

Local Plan Policy	Consistency with NPPF paragraph 48	Weight
OS1 Other Settlements	<p>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.</p> <p>Since hearing sessions have closed, no further discussion planned for Other Settlements, and it is considered there are no unresolved objections thus far.</p> <p>OS1 is consistent with NPPF paras 11, 16, 20 & 23</p>	moderate
C1 Countryside	<p>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.</p> <p>Since hearing sessions have closed, no further discussion planned for Countryside, and it is considered there are no unresolved objections thus far.</p> <p>C1 is consistent with NPPF paras 11, 16, 20, 23, 80, 84, 174</p>	moderate
DS5 High Quality Design	<p>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.</p>	moderate



	Since hearing sessions have closed, no further discussion planned for design, and it is considered there are no unresolved objections. DS5 is consistent with the NPPF para 130.	
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

- 3.2 The Council will update the Inspector during the Inquiry if the respective weighting has altered, and in post Inquiry submissions if the Local Plan has progressed further.

Other Material Considerations

National Planning Policy Framework

- 3.3 The National Planning Policy Framework (NPPF) (2021) is a material planning consideration to the appeal proposal. Relevant sections include, but are not limited to:
- Chapter 1 – Introduction
 - Chapter 2 - Achieving sustainable development
 - Chapter 3. Plan Making
 - Chapter 4 – Decision Making
 - Chapter 5 - Delivering a sufficient supply of homes
 - Chapter 12 - Achieving well-designed places
 - Chapter 15 - Conserving and enhancing the natural environment
 - Annex 1 - Implementation

Other Material Considerations



- National Planning Practice Guidance (PPG)
- National Design Guide (2019)
- Leicester and Leicestershire Housing and Economic Development Needs Assessment (HENA) – 2022
- Housing Supplementary Planning Document (adopted May 2017 – updated December 2017)
- The Equality Act 2010
- The Leicestershire Highways Design Guide (2018)
- Landscape Character Appraisal
- Supplementary Planning Document - Planning Guidance for Biodiversity

3.4 The agreed bundle of Core Documents may include additional material considerations which arise from ongoing discussion with the appellant.

4. Main Issue 2 – Housing Land Supply

4.1 The Planning Inspectorate’s Case Management Conference Summary Note dated 26th April 2023 identified three main issues to be discussed at the forthcoming Inquiry. The first and third of these relate closely to the reasons for refusal.

4.2 I defer to details within the Proof of Evidence on “Housing Land Supply” by Dr Hopkins.



5. Main Issue 1 – Character and Area of Local Separation

5.1 The first reason for refusal reads:

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.

- 5.2 Syston is defined as a “Service Centre” in the Core Strategy’s Policy CS1. It has a population of roughly 13,000 people. Queniborough, with a history extending back as far as the Domesday Book of 1086, is an “Other Settlement” in the Core Strategy, with a population of around 2,500. Syston has a Town Council, and Queniborough has a Parish Council. Each settlement has its own distinct and independent history and character.
- 5.3 Syston and Queniborough are separated by open countryside which has been in pasture or open arable cultivation. Some of the critical places from which that separation might be assessed are Barkby Road, to the east of the appeal site, Melton Road further to the west, and perhaps most importantly from the ancient Public Right of Way 184 which connects the villages across open countryside, running diagonally through the appeal site.
- 5.4 I defer to details within the Proof of Evidence on landscape matters by Mr Neesam of The Landscape Partnership.

Cumulative Impact on Area of Local Separation

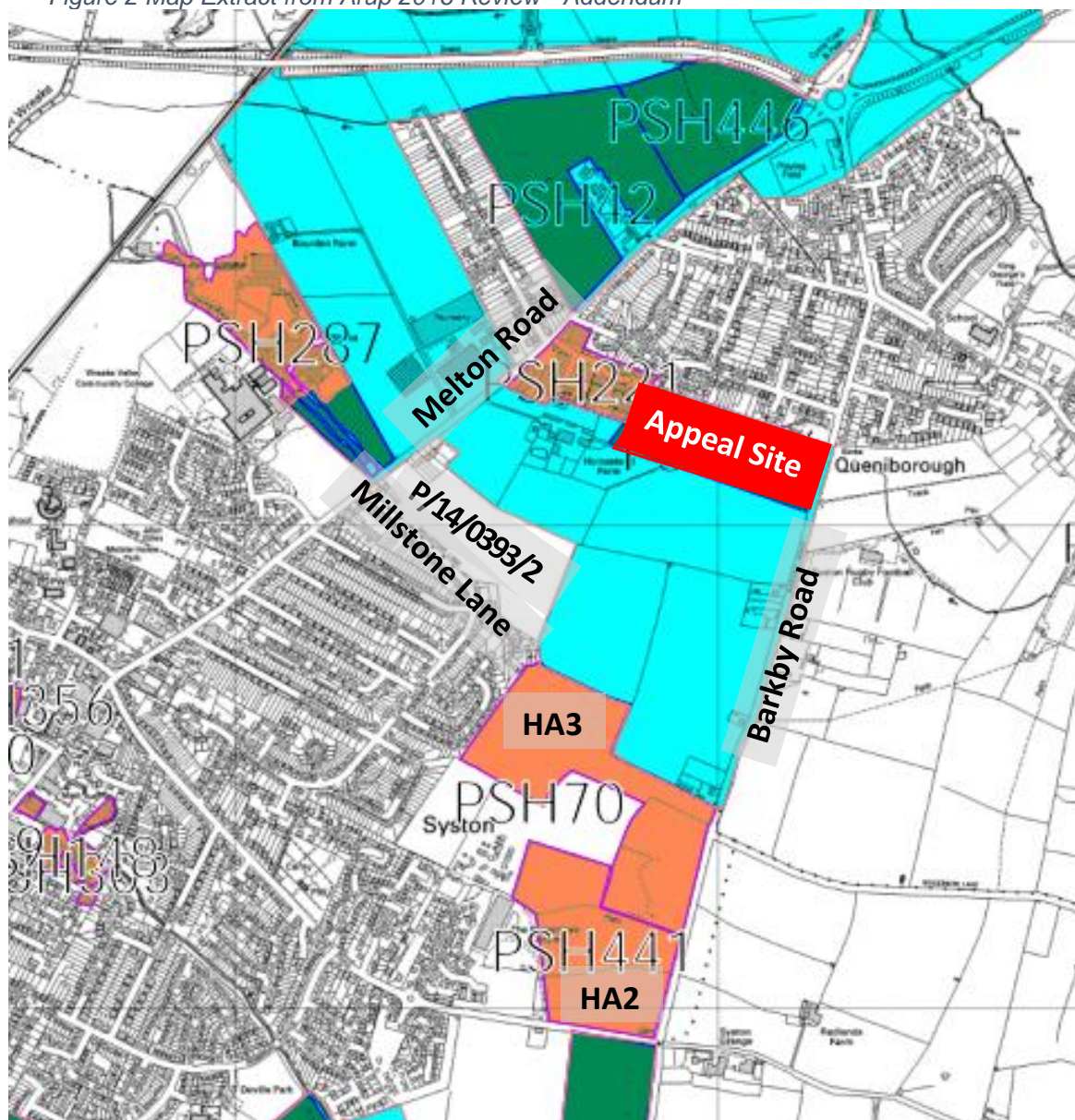
- 5.5 The Area of Local Separation (ALS) had extended from the southern built form of Queniborough to Millstone Lane in Syston until 2014. Planning application P/14/0393/2, made by the appellant in this current appeal, was granted full approval in October 2014 for



residential development and a cemetery within the ALS, and is now built. That decision was taken partly on the basis that the Examination of the Council's **Core Strategy** was just beginning, and that the council was unable to demonstrate a 5-year housing land supply.

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

Figure 2 Map Extract from Arup 2016 Review - Addendum⁸



⁸ Core Document CD5.08



- 5.7 The light blue areas in Figure 2, plus the appeal site were being considered by Arup as the potential extent of the ALS. The dark green areas, labelled PSH42 and PSH446 were being considered as potential residential development sites when the base map above was produced in 2016.

ALS in emerging Local Plan

- 5.8 The need for Areas of Local Separation, and their extent have been tested during the preparation of the emerging Local Plan, and during the Examination of the draft Charnwood Local Plan 2021-37.
- 5.9 Part of the supporting information was a report prepared by Arup entitled “Green Wedges, Urban Fringe, Green Infrastructure, Enhancement Zones and Areas of Local Separation - Methodology and Assessment Findings Report”. The appeal site is within that study’s area “ALS-J”.

Figure 3 - Map extract from Arup 2016 Review

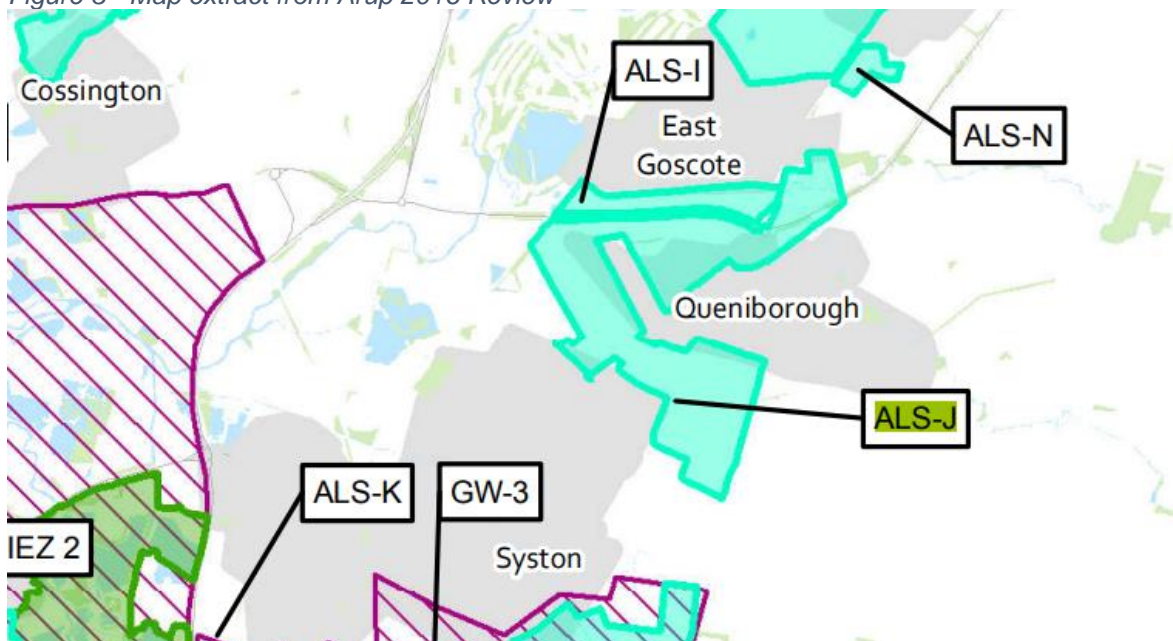




Table 2 – Extract from CBC Assessment 2016⁹ – ALS-J applies

Assessment Area	Purpose Score	Zones of Weakness	Extension Opportunity Area	Relationship to other designation
ALS-I	Moderate - 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	Strong - 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.

5.10 Conscious that the text in the table above is hard to read at this scale the key passages are duplicated below:

Purpose Score: *Strong – 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.*

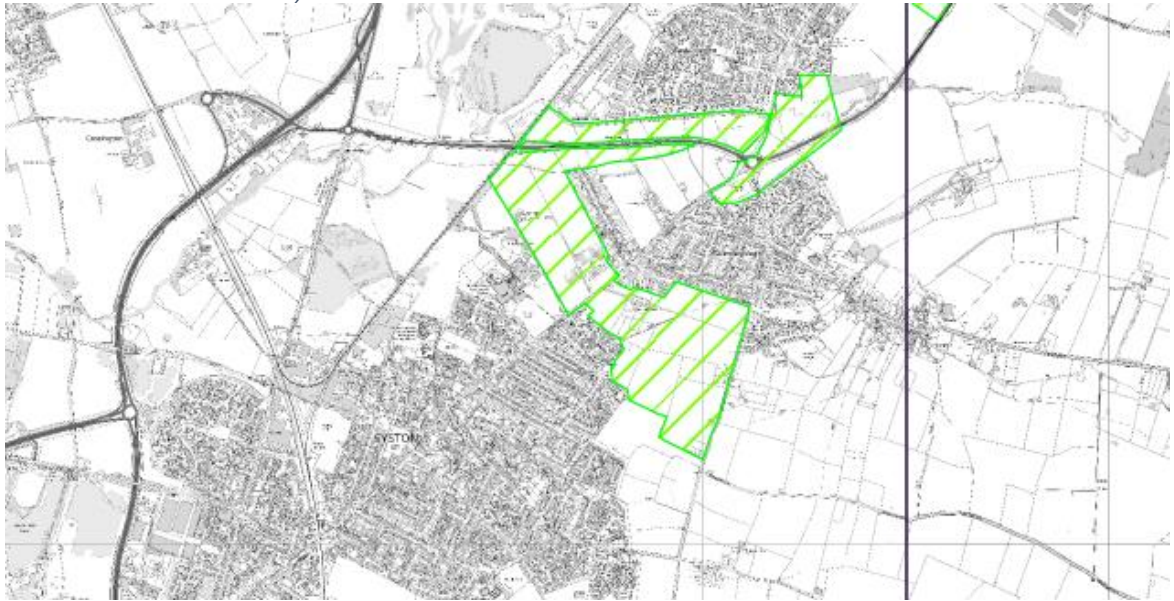
Zones of Weakness: *Area in the west at the edge of Syston has been compromised by development and no longer functions as part of the gap between Syston and Queniborough.*

5.11 The following map extract illustrates the proposed extent of the ALS in the emerging Local Plan, which has now been taken through Examination. The appeal site is within the draft ALS. The evolution of mapping used to illustrate the extent of the ALS over time demonstrates a refinement of the consideration of the extent on the area in need of policy protection.

⁹ Core Document CD5.07 page 45 and page 73



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



Policies cited in Reason for Refusal 1

Contrary to Policy CS2 – High Quality Design

5.12 The Core Strategy Policy CS2¹⁰ 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.

5.13 For the reasons described elsewhere in this statement one component of that sense of place is the distinctiveness of communities. The Arup assessment thought it very important (strong purpose) to restrict development in this area which could lead toward a merging of the settlements of Syston and Queniborough. The erosion of the valuable landscape separating the settlements would conflict with the part of policy described above.

5.14 This policy will be replaced in the emerging Local Plan by its policy DS5-High Quality Design¹¹, which can be accorded moderate weight at the date of writing.

¹⁰ Core Document CD5.03 page 34

¹¹ Core Document CD5.04 page 73



5.15 The appealed proposal conflicts with policy test CS2, and its successor policy's similar tests in the emerging Local Plan's policy DS5.

Contrary to Policy CS11 – Landscape and Countryside

5.16 Policy CS11¹² 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.

5.17 The protection of landscape character and reinforcing a sense of place are wholly at odds with a proposal to develop a protected landscape.

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

5.19 This policy will be replaced in the emerging Local Plan by a combination of its policies C1-Countryside¹³, EV1-Landscape¹⁴ and EV3-Areas of Local Separation¹⁵ which share aims and objectives with CS11. These emerging Local Plan Policies now have moderate weight.

5.20 The appealed proposal conflicts with 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 - Design

5.21 The saved 2004 Policy EV/1¹⁶ 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.

5.22 The appealed proposal conflicts with policy test EV/1.

¹² Core Document CD5.03 page 68

¹³ Core Document CD5.04 page 132

¹⁴ Core Document CD5.04 page 180

¹⁵ Core Document CD5.04 page 182

¹⁶ Core Document CD5.01 page 26



Contrary to Policy CT/1 – General Principles for Areas of Countryside, Green Wedges and Local Separation¹⁷

- 5.23 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.
- 5.24 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.
- 5.25 This policy will be replaced in the emerging Plan by its policy C1-Countryside, which can be accorded moderate weight at the date of writing.
- 5.26 **The appealed proposal conflicts with policy test CT/1, and its successor policy's similar tests in the emerging Local Plan's Policy C1.**
-

Contrary to Policy CT/2 – Development in the Countryside

- 5.27 Had the proposal satisfied the tests in Policy CT/1, then policy CT/2¹⁸ 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 it cannot satisfy CT/2.
- 5.28 **The appealed proposal conflicts with policy test CT/2.**
-

Contrary to Policy CT/4 – Development in Areas of Local Separation¹⁹

- 5.29 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.

¹⁷ Core Document CD5.01 page 107

¹⁸ Core Document CD5.01 page 107

¹⁹ Core Document CD5.01 page 109



5.30 The appeal proposal fails this policy test.

5.31 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.

5.32 The appealed proposal conflicts with policy test CT/4, and its successor policy's similar tests in the emerging Local Plan's Policy EV3.

Contrary to Policy Q6

5.33 Queniborough Neighbourhood Plan's Policy Q6²⁰ is aligned with Policy CS11 in the Core Strategy. Its expressed aims are to support and protect the character of the local landscape.

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

5.35 The appealed proposal conflicts with policy test Q6, and its similar tests in the emerging Plan's policies C1, EV1 and EV3.

²⁰ Core Document CD5.06 page 30



6. Main Issue 3 – Obligations

6.1 The second reason for refusal reads:

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 Agreement Obligations

Planning Obligations at decision date

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

Table 3 - 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</p>



	<p>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 appropriate, to provide additional capacity at the school nearest to the development.</p>
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.

Updated Obligations



- 6.3 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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- 6.4 Based on the revised education figures all other obligations have been agreed, except for that requested in respect of healthcare.

National Health Service

- 6.5 My colleagues at the National Health Service's Leicestershire and Rutland Integrated Care Board will provide an independent Proof of Evidence to support their requested contribution. That remains a disputed matter.
- 6.6 **The appellant has challenged the obligations sought during the processing of the application and the appeal, so an agreed heads of terms of agreement could not be found before the Council's decision date. We anticipate that most of these obligations will be agreed before the Inquiry, but that not all will be agreed. The position will be updated in the Statement of Common Ground**



7. Planning Balance

Deliverable Housing

Purpose of the Tilted Balance

- 7.1 The appellant's core argument (para 4.9 FG SoC)²¹ is that the Council is unable to demonstrate a five-year housing land supply, and that therefore the "tilted balance" under paragraph 11d(ii) of the National Planning Policy Framework (NPPF) is engaged.
- 7.2 Chapter 5 of the NPPF discusses the methodologies to be used by councils which will support the Government's objective of boosting the supply of homes. These include annual monitoring of deliverable sites, set against the local housing need, in order to ensure that the pace of development satisfies the Housing Delivery Test, and that there is a five-year forward supply of deliverable housing sites, together with a buffer of an additional 5% (NPPF para 74a).
- 7.3 It is not contested that Charnwood Borough has been satisfying the Housing Delivery Test.

Definition of Deliverable

- 7.4 The Glossary to the NPPF (p.66) tells us what can be considered deliverable, as required by footnote 8 (p.6).

*"To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that **housing will be delivered on the site within five years**. In particular:*

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer **viable**, there is no longer a demand for the type of units or sites have long term phasing plans).*

²¹ Core Document CD8.01



b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”

7.5 Limb (b) of the definition in the NPPF requires that sites with outline planning permission should only be considered deliverable if there is clear evidence that housing completions will begin on the site within five years.

Contribution of Appealed Proposal to 5-year supply

7.6 The granting or allowing of an outline planning permission does not by itself contribute to the deliverable housing supply. “It should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”²²

7.7 The intended purpose of paragraph 11d is to add approved housing land to relieve a housing supply constraint. Therefore, any additional approvals granted on this basis must surely offer some betterment to that constrained supply. Simply adding an outline approval for 150 homes would not be meaningful in this context.

Reserved Matters


7.8 If the appeal is allowed, with conditions, one or more applications for approval of reserved matters would be required before this site can deliver housing.

7.9 Should the Inspector determine this appeal during the next few months, and allow the appeal, during August for example, the appellant will need several weeks to prepare a reserved matters application. The appellant has asked for an 18-month time limit in the draft SoCG. The council, upon receipt of that application will consult with third parties, before making its decision. There is often a need to seek additional information and re-consult. It would seem unlikely that a reserved matters approval could be granted during 2023, and unlikely to be before the emerging Local Plan is adopted.

²² NPPF page 66 paragraph b) in definition of Deliverable



Table 4 - Potential Timeline: Appeal, Reserved Matters and Local Plan

Date	Appeal Progress	Local Plan Progress
May-23		Post Hearing letter from Inspector requesting some additional information
Jun-23	Inquiry	
Jul-23		Main Modifications consultation
Aug-23	Decision (possible)	
Sep-23	RM Pre-app discussion	Final submissions to Inspector
Oct-23		Adoption 
Nov-23		
Dec-23		
Jan-24	RM Application	
Feb-24		
Mar-24	RM Approval	

7.10 The evidence in the appendix of the Proof on Housing Land Supply illustrates the typical length of the delay between the granting of outline approval and the submission of applications for approval of reserved matters. The table above makes an assumption about the rapidity with which the appellant might be ready to submit a follow up application which is more optimistic than the experience in Charnwood would indicate.

7.11 Whilst the timelines illustrated above are provisional, with some of the dates being outside the control of the council, it indicates that although it seems likely that the Inspector’s decision might be made before the emerging Local Plan is adopted, it seems probable that any Reserved Matters approval would be some time after adoption of that Charnwood Local Plan 2021-37.

Weight to emerging plan policies

7.12 The appellant has relied, in part, upon earlier decisions taken by the council and the Inspectorate which address paragraph 11d of the Framework. Each appeal must be considered on its own merits, and in its own context. As time has passed the council has moved closer to adoption of its new Local Plan, other decisions change the housing supply, and some other policies and strategies change. Therefore, we afford limited weight to the



decisions of the Inspectorate in respect appeals decided on the basis of wholly different evidence.

7.13 Paragraph 48 of the NPPF describes how the weight of policies in emerging plans increases as the Plan progresses through its various stages of progress toward adoption. That weight increases with progress of the emerging plan through the stages of preparation, and with the degree of consistency of the policies in the emerging plan with those in the Framework. In the current case the emerging Local Plan has progressed through another stage of its processes since the impugned Decision Notice²³ was issued, and is likely to pass through one, or two more stages before the Inspector's decision is issued. In section 8 of this Proof of Evidence I consider how the most important policies are consistent with those in the Framework.

Purpose of Plan Making

7.14 "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. *Gladman Developments Limited v Canterbury City Council EWCA Civ 669*²⁴ (paragraph 22).

7.15 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 11d and Tilted Balance

7.16 As time has passed during the processing of the appealed proposals, including the previous near identical application on the same site, P/18/0309/2²⁵, the planning balance has altered, and it may continue to change between the date on which this Proof was drafted and the Inspector's decision date, as the emerging Local Plan's policies gain weight. The Council will soon publish an updated housing land supply position of less than 5 years²⁶ and so the tilted balance, qualified in paragraph 11d(ii) is engaged, as a consequence of the wording of

²³ Core Document CD4.01

²⁴ Core Documents CB8.23

²⁵ Core Document CD6.05

²⁶ Defer to evidence of Housing Land Supply Proof of Evidence and expert witness



footnote 8. Weight can be given to existing policies which are not out of date. Emerging policies are also a material consideration.

7.17 The provisions on "decision-taking" in the second part of paragraph 11 set out a policy to guide decision-makers on the performance of their statutory responsibilities under section 70(2) of the 1990 Act and section 38(6) of the 2004 Act, in the specific circumstances to which they relate. They describe two different situations in which the "presumption in favour of sustainable development" will be disapplied. In the current case paragraph 11d)ii describes the balancing judgement which the decision taker must employ.

Most Important Policies for Determining this Appeal

7.18 In the case of *Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 104 (03 February 2021) Sir Keith Lindblom LJ records that:

The lack of an express reference to the policies of the development plan in paragraph 11d)ii does not mean that such policies are therefore excluded. There is no justification for reading that exclusion into paragraph 11d)ii, and to do so despite the evidently deliberate decision not to insert words, or to attach a footnote, having that particular effect.²⁷

7.19 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.

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

Table 5 - Most Important Planning Policies

	Policy	Topic
Core strategy	CS1	Development Strategy
	CS2	High Quality Design

²⁷ Core Document CD8.19 paragraph 52



	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 Local Plan	DS1	Development Strategy
	DS3	Housing Allocation
	C1	Countryside
	H4	Affordable Housing
	EV1	Landscape
	EV3	Areas of Local Separation

Consistency of Most Important Policies with the Framework

7.21 The following table illustrates the consistency of the most important policies within the two adopted Development Plan Documents, the Made Neighbourhood Plan and the emerging Local Plan at this time. At the date of submission of this Proof the policies of the emerging plan carry limited to moderate weight, as described in Table 1, but that weighting is subject to change before this appeal decision is taken, as the emerging Local Plan progresses towards adoption.



Table 6 – 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 2028 . 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 Neighbourhood Plan	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 Local Plan	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



7.22 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.

Weighing benefits against adverse impacts

7.23 The appellant identifies seven claimed benefits arising from the proposed development at paragraph 4.12 of their Statement of Case. In the following table these claimed benefits are assessed. In some cases, the seven claims are broken apart, with some components assessed separately.

Table 7 - Assessment of the purported benefits of the proposal

Author	Argument	Weight
FG	<i>The provision of market housing in a location with an identified need, where the Council is unable to demonstrate anywhere close to the minimum five-year housing land supply required by national policy;</i>	
CBC	<p>The immediate delivery of housing would be of benefit, but this is an outline planning application, which would, if allowed add 150 sites to the other 8515 dwellings on major application sites with outline approval.</p> <p>Any housing allowed would not become deliverable until after the emerging Local Plan had been adopted.</p>	limited
FG	<i>The provision of affordable housing in a location where the affordability of housing is higher than the East Midlands average, and the Council’s own Housing Need Assessment (September 2020) confirms an increase in affordable housing need from 392 dwellings per annum in 2017 to 476 dwellings per annum in 2020</i>	
CBC	<p>Any housing allowed would not become deliverable until after the emerging Local Plan had been adopted. The affordable housing percentage is in line with policy CS3 and would be required if the appeal were allowed. It is acknowledged that there is a need for affordable housing, and any offer above the policy minimum would have had greater weight</p>	moderate
FG	<i>A mix (size, type and tenure) of housing in a sustainable location, which will help to create a mixed and balanced community as well as integrating with the existing community</i>	



CBC	This is a repetition of the benefits claimed above, so no additional benefit can be ascribed	none
FG	<i>The provision of new publicly accessible green infrastructure for existing and future residents to extensive open space</i>	
CBC	The addition of public open space would be a benefit, but it is a policy requirement within a major residential development, and so limited weight can be ascribed.	limited
FG	<i>Highly sustainable and accessible location, retention of Public Right of Way, and provision of travel packs and bus passes</i>	
CBC	No credit for retaining an existing Prow No credit for the location being sustainable or accessible The travel packs and bus passes for new residents are a mitigation, not a benefit	none
FG	<i>The delivery of a new, high quality, sensitively designed edge and attractive gateway to Queniborough, helping to better define existing communities</i>	
CBC	Enhancement of the urban/rural landscape buffer would be a benefit. However, as presented in the planning application that benefit would be minimal	limited
FG	<i>Economic benefits in respect of construction and supply-chain logistics as well as retaining local spend, contributing to the economic dimension of sustainable development. The increase in local expenditure will help to sustain local facilities and services</i>	
CBC	Agreed	limited
FG	<i>local authority benefits including New Homes Bonus payments and Council Tax revenues.</i>	
CBC	There is no evidence that the local authority would ringfence any sums accruing for the benefit of the local community	none

Harms Assessed

7.24 The planning system is structured as a plan-led framework. The preparation of each successor local plan involves careful consideration of the societal, environmental and technical merits and demerits of a variety of possible development sites, and identifies those most suitable for additional house building, amongst other land uses. Proposals such as that described in this appeal which sit outside that carefully considered broader site selection process, operating in the public interest, represent the antithesis of good long term town planning.



- 7.25 The emerging Local Plan has identified a need for additional housing in Queniborough and quantified that need in line with the strategic housing allocation across the Borough's settlements, based upon their ability to absorb more development, measured across a broad range of factors, including sustainability, housing need, environmental impact and accessibility. The appeal site was not selected, when measured against the criteria used, and tested in the public domain during the recent Independent Examination.
- 7.26 The need to deliver homes across the country is undeniable, and in Charnwood's case some of that additional housing pressure relates to its proximity to the city of Leicester. In order to make provision for that added pressure strategic urban extensions were granted permission for several thousand homes and are now under construction. These SUE's are designed to be large, well-planned communities, which will grow rapidly. Their masterplans provide for the development of green spaces, schools, service centres and sustainable travel.
- 7.27 Villages like Queniborough, with its ancient history were not planned with that type of growth in mind. The opposite is true. Its growth should be carefully planned and managed, in part so that its uniqueness and distinctiveness can be protected. Some of the local objectors to the development will speak more eloquently than I ever could about what the village means to them, and about the identity of Queniborough. Where those feelings about a place intersect with the planning system is, in this case about how we protect the spaces around the village which contribute that distinctiveness of place.
- 7.28 In section 5 of this Proof I have considered the harm which will be caused to the Area of Local Separation against the policies cited in the reason for refusal. That analysis should be cross referenced with Landscape Proof of Evidence by Mr Neesam. He draws attention in particular to some of the critical viewpoints. Amongst these are the views along the length of the public footpath as one travels between Syston and Queniborough. This ancient public right of way has unfortunately been effectively shortened by the recent development to the north of Syston, permitted on the basis of a tilted balance argument. Should this appeal be allowed, that gap which existed for a thousand years would be reduced by two field widths within the period of time Charnwood Borough Council has been working to replace its Local Plan. More than half of its length between the two settlements would become subsumed into built environments during a single decade.
- 7.29 The separation between the built forms of the two settlements prior to the 2014 approved development was 705m. If this appeal is allowed that would reduce to approximately 290m.



Figure 5 - Aerial photograph showing the separation and the P_{RoW}



7.30 Mr Neesam's Proof of Evidence demonstrates the significant harm which would be caused by the proposal to the landscape character and to the Area of Local Separation.

Planning Judgement

7.31 Section 70(2) of the Town and Country Planning Act 1990 requires the decision taker to have regard to the development plan, so far as it is material to the application.

7.32 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires 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."

7.33 My planning judgement is that the adverse impacts of allowing this appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. That judgement takes into account all the material circumstances, which are unique to this site, in this location at this time.

7.34 The harm which would be caused by the proposed development to the landscape is significant and demonstrated in the evidence to this Inquiry.



7.35 The benefits described by the appellant are similar to those described by other appellants in similar appeals, where sites are outside limits of development. However, the circumstances differ. For the reasons given in Table 7 I have ascribed less weight to the claimed benefits than Inspectors at earlier appeals have. That is not to say that those Inspectors were wrong, but rather it is a reflection of the progress of the Charnwood Local Plan 2021-37 toward adoption.

8. Conclusion

- 8.1 The Framework aims, amongst other things, to deliver a sufficient supply of homes, and to conserve and enhance the natural environment. It includes the tilted balance toward allowing housing as an emergency position, to ensure a continuous supply of new homes where local authorities have not updated their land-use planning in a timely manner.
- 8.2 In accordance with paragraph 48 of the National Planning Policy Framework the weight afforded to the policies in an emerging plan increases as that process toward adoption advances. Logically there must be a tipping point somewhere along that process's pathway after which the weight to be afforded to material considerations reverts to the plan-led expectations defined in the legislation.
- 8.3 When the timetables for the emerging plan and the outworking of this appeal are compared it is evident that an outline permission, if allowed, might just about be determined before the emerging Local Plan is adopted, but that for this site to become deliverable, as defined in the NPPF, more work would be required. The appellant has asked for a time limit of 18 months for the submission of any follow-on application for approval of reserved matters. It is therefore improbable that this appeal, if allowed would contribute to a remedy for the emergency housing supply envisaged in the Framework.
- 8.4 In my opinion the critical date in respect of the appeal proposal is the date at which it can become a deliverable contributor to the housing land supply. That date seems inevitably to be some time after adoption of Charnwood's emerging Local Plan. If it does not become deliverable until some date after Plan adoption, I could not argue that it should benefit from a mechanism which is intended to accelerate the provision of deliverable sites.



8.5 The benefits claimed by the appellant are much reduced in weight because of the proximity of adoption of the emerging Local Plan. The adverse impacts are significant, demonstrable, and irreversible. Therefore, I content that the appeal should be dismissed.

