

# Appeal by David Wilson Homes East Midlands

## Land at Barkby Road, Queniborough

Against the refusal of outline planning permission by Charnwood Borough  
Council for application P/20/2380/2

*"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)."*

# Summary Planning

# Proof of Evidence

May 2023

Town and Country Planning Act 1990 – Section 78

Town and County Planning (Development Management Procedure) (England) Order 2015

Town and Country Planning (Inquiries Procedure) (England) Rules 2002

# 1. Introduction

- 1.1 This Proof of Evidence has been prepared on behalf of David Wilson Homes East Midlands (the Appellant) in relation to their appeal against the decision of Charnwood Borough Council (CBC) to refuse to grant outline planning application for up to 170 dwellings (all matters reserved other than access together with associated landscaping and other infrastructure) (LPA ref: P/21/0491/2, PINS ref: APP/X2410/W/21/3287864).
- 1.2 This summary and my main proof of evidence address the planning considerations relevant to the appeal and should be read in conjunction with the Landscape proof of evidence prepared by Mr Andrew Cook, which covers matters relating to Landscape and the Area of Local Separation.

## Qualifications

- 1.3 I am Angela Brooks, I am a Chartered Town Planner and Partner of Planning at Fisher German, based in Ashby de la Zouch, Leicestershire. I hold a B.A.(Hons) and Postgraduate Diploma in Town Planning from the University of Nottingham. I am a member of the Royal Town Planning Institute.
- 1.4 I have over 17 years professional planning experience in the private sector, with over 8 years at Fisher German, and have acted for a variety of clients on a wide range of projects including residential, commercial, retail and renewable energy on behalf of national, regional and local house builders, businesses, charities and private landowners.

# 2. The site and its surroundings

- 2.1 A description of the appeal site and its surroundings is set out in paragraphs 6 to 15 of the Planning SoCG.
- 2.2 As set out in paragraph 16 of the Planning SoCG, there is no known planning history in respect of the site.

# 3. The Appeal Proposal

- 3.1 As set out at paragraph 17 of the Planning SoCG, the appellant seeks outline planning permission with all matters reserved save for means of access, for a residential development comprising:
- Up to 150 dwellings which include a mix of dwelling types and sizes to meet a range of housebuilder needs;
  - 40% affordable housing
  - Vehicular access onto Barkby Road; and
  - New public open space and surface water attenuation, totalling approximately 1.81 ha (31% of the appeal site area), including a Locally Equipped Area of Play (LEAP) and green link through the site.
- 3.2 In addition to the above, the proposals include off-site highway works to create additional highway capacity at the Rearsby Road/Syston Road/Queniborough Road/Barkby Road crossroads with a left-hand turn lane from Rearsby Road. These works would utilise the existing footpath to minimise the extent of encroachment into the current grass verge. The alignment of the new highway would encroach into the

existing verge by 0.5m. The proposed works to trees to facilitate the revised highway layout as set out in the Arboricultural Impact Assessment include the following:

1. Judicious pruning of T12 (Cat C / Low Quality/ Value) - Lime trees close to the corner of Rearsby Road and Queniborough Road
2. Removal of T1 and T2 (Cat C / Low Quality/ Value) - Sycamores on western side of Rearsby Road, not within TPO
3. Works within root protection area of T5 (Lime), T6 (Maple) and memorial tree. (Cat B / Moderate Quality/ Value)

3.3 The application was brought before the Council's Plans committee on the 24<sup>th</sup> November 2022, with an Officer **recommendation to grant** outline planning permission.

3.4 The Plans Committee resolved to refuse the application, contrary to the Planning Officers' recommendation. The Decision Notice was issued on the 9<sup>th</sup> December 2022.

## 4. Planning Policy Context

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (the 'NPPF') is obviously an important material consideration.

### National Planning Policy and Guidance

4.2 The National Planning Policy Framework (the NPPF) and the Planning Practice Guidance set out the Government's planning policies, and how they are expected to be applied. Relevant parts are set out in the Planning SOCG.

### Development Plan

#### Adopted Planning Policy

4.3 As set out in Paragraph 24 of the Planning SoCG, the Development Plan comprises:

- The Saved Policies of the Charnwood Local Plan 2004 (CLP) (adopted January 2004). The Local Plan covered the period 1991 to 2006. The document was prepared in accordance with previous National Planning Policy, which has subsequently been replaced by the NPPF. The policies which form part of the Development Plan were saved by a direction of the Secretary of State in in September 2007. The saved policies remain part of the Development Plan some 15 years after the direction.
- The Charnwood Local Plan 2011 to 2028 Core Strategy (CCS) (Adopted November 2015) The Core Strategy is over five years old. The housing requirement contained within the Core Strategy, was based on the Leicester and Leicestershire Strategic Housing Market Assessment (2014) (SHMA), which is also out of date being well over five years old.
- Queniborough Neighbourhood Plan (SNP) (Made in June 2021). This Neighbourhood Plan passed a Referendum on 6<sup>th</sup> May 2021 and was Made on 10<sup>th</sup> June 2021.

### Emerging Planning Policy

- 4.4 The Council is in the process of preparing a new local plan for Charnwood to cover the period 2021-37. The Council submitted the Plan for Examination in December 2021. Hearing sessions were commenced in June 2022, but were paused following the Council's acceptance on the opening day that they were prepared, in principle, to meet their agreed proportion of Leicester City's unmet needs as part of the Plan, as set out in the Leicester & Leicestershire Authorities - Statement of Common Ground (SoCG) relating to Housing and Employment Land Needs (June 2022), having formally committed to do this through a subsequent Local Plan review.
- 4.5 Further hearing sessions have been undertaken in October 2022 and February 2023. However, in accordance with NPPF Paragraph 48, the Draft Local Plan at this point remains the subject of unresolved objections, notably in relation to both the housing requirement, with significant arguments for the use of an up-to-date affordability ratio and an extended plan period to provide a 15 year plan from adoption. In respect of housing supply, there remains significant objection to an over-reliance on Sustainable Urban Extensions with unrealistic start dates and high build out rates, as well as the LPAs revised approach to rely on substantial windfall development to meet its five year supply on adoption. Further, the newly identified increased supply, namely across existing allocations. Additional consultation is likely to give rise to further objection and issues requiring hearing sessions. Whilst the Council might argue that significant weight should be afforded to the emerging Plan, having regard for the requirements of Paragraph 48 of the Framework it is clear there remains significant unresolved objections and a high likelihood that additional housing sites will be required. It is therefore considered that the Plan can only be afforded limited weight as a material consideration in this appeal.

## 5. The Inspectors Main Issues

- 5.1 In Section 5-7 of my main proof of evidence, I address the Inspector's main issues with reference to Mr Cook's conclusions and within this context assess any conflict with the development plan policies and weight to be given to any conflict with those policies.
- 5.2 The main issues include:
- 1) The effect of the development on the character and appearance of the area including the Area of Local Separation
  - 2) Housing land supply and the policy implications
  - 3) Whether the development would provide acceptable contributions towards infrastructure

### Main Issue 1 - The effect of the development on the character and appearance of the area including the Area of Local Separation

- 5.3 Mr Cook's Proof addresses the effect of the proposed development on the character and appearance of the area in relation to landscape and the Area of Local Separation. I draw on his conclusions and within this context assess the conflict with the development plan policies and weight to be given to any conflict with those policies.
- 5.4 In respect of the ALS, Mr Cook confirms that there would be no narrowing of the gap in physical terms. There is therefore no conflict with Core Strategy Policy CS11. There is conflict with Saved Policies CT/1 and CT/4, at "first blush", as described by the Inspector considering the Land off Mountsorrel Lane, Rothley appeals, however there is no breach to the purpose of CT/4 and the breach relating to the control mechanism should have limited weight.

- 5.5 Mr Cook concludes that in terms of landscape impact the development would introduce a high-quality residential built environment which would be in keeping with the local settlement and character area, Wreake Valley and therefore, not at odds or out of character or appearance. However, adopting a precautionary approach the proposals would result in an overall adverse effect in landscape character terms. The proposal would accommodate significant new green infrastructure which would replace two arable fields and again change this character of the site to be more representative of the local landscape character area and therefore would result in some beneficial effects at the site level. This harm in respect of the built element of the development must be considered in the wider planning balance.
- 5.6 The reason for refusal alleges harm in combination with other development upon the countryside and the ALS which in turn would impact on the identity of both Queniborough and the individual identity of Syston and as such cause coalescence between these two settlements nor maintain their separate identities. The Officer's report makes no mention of any identified harm in combination with other development which is surprising if this were deemed to be so significant to be raised in a reason for refusal. There is no evidence to substantiate impact on the individual identity of Syston with the scheme in place. The physical distance between the two settlements at their closest point would remain unchanged along the Melton Road with countryside between the two which would prevail unchanged with the scheme in place. There is no evidence to support the proposition that the two settlements would coalesce with the proposed scheme.
- 5.7 For the reasons discussed it is Mr Cook's view that on landscape and visual grounds there are no substantive reasons for refusing planning permission for the proposed residential scheme on land adjacent to Barkby Road. I endorse and adopt Mr Cook's conclusions.

#### Main Issue 2 - Housing land supply and the policy implications

- 5.8 The Core Strategy is over five years old and thus requires review. The housing requirement contained within the Core Strategy, was based on the Leicester and Leicestershire Strategic Housing Market Assessment (2014) (SHMA), which is out of date being well over five years old.
- 5.9 The Saved Policies of the Charnwood Local Plan 2004 Local Plan covered the period 1991 to 2006. The document was prepared in accordance with previous National Planning Policy, which has subsequently been replaced by the NPPF. The policies which form part of the Development Plan were saved by a direction of the Secretary of State in in September 2007. The saved policies remain part of the Development Plan some 16 years later.
- 5.10 Given both the Core Strategy and Local Plan are more than 5 years old, as required by paragraph 74 of the NPPF, housing need is therefore now to be assessed based on the standard methodology set out in national planning guidance.
- 5.11 The most up-to-date published figure by the LPA is set out in its Five Year Supply Table and acknowledges that the LPA can demonstrate only a **3.04-year supply of deliverable housing land** as at 1st April 2022. This is based on a local housing need calculated using the Standard Method (1,160 dpa). and a 5% buffer.
- 5.12 Given the lack of five year supply of housing, some of the policies within the Charnwood Local Plan, namely Saved Policies ST/2, CT/1, CT/2, and CT/4, as well as Policies CS1 and CS11 of the Core Strategy 2015, are out of date - NPPF paragraph 11d. This is agreed in the Planning SoCG.
- 5.13 Accordingly, the tilted balance, identified in paragraph 11d of the NPPF, is engaged as the Council is unable to demonstrate the minimum five-year housing land supply required under paragraph 74 of the NPPF and because of the age of the plan and the seriously out of date evidence it relies on. This is agreed in the Planning SoCG.

- 5.14 The NPPF states that at Paragraph 14 that 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 a number of criteria are met. These criteria are discussed at paragraph 6.47-6.50 of the Planning Proof and conclude that at the point of the Inquiry (13<sup>th</sup> June 2023) criterion a) will not be met. In any event criteria b) is not met and any conflict with the Neighbourhood Plan cannot therefore be considered as significant and demonstrable harm to outweigh the identified benefits on its own.
- 5.15 Policies CS1, CS2 and CS11 of the Core Strategy, Policies ST/2, EV/1, CT/1, CT/2 and CT/4 of the Borough of Charnwood Local Plan and Policy Q6 and Q14 of the Queniborough Neighbourhood Plan are considered the most important for making a decision on the appeal application, as set out within the SOCG, a number of which are considered to be out of date as discussed above. Relevant policies are discussed below, with any conflict and the weight to be afforded summarised in **Table 1**.
- 5.16 There would be no conflict with Core Strategy Policy CS2 as the proposals would not result in the coalescence of Syston and Queniborough, or the erosion of the valuable landscape separating the settlements.
- 5.17 There would be limited conflict with Policy CS11 in relation to the last three bullet points, and Policy Q6 of the Queniborough Neighbourhood Plan, however the proposals accord with the first three bullet points and the latter statement, requiring a judgment to be made regarding maintaining the separation between the built-up areas of the settlements.
- 5.18 There would be no conflict with Saved Policy EV/1 of the Local Plan regarding design as the scheme accords with the criteria within the policy.
- 5.19 There would be some conflict with Saved Policy CT/1 of the Local Plan insofar as it seeks to restrict residential development beyond the existing settlement boundaries. However, I give limited weight to the conflict with the blanket restriction set by this policy because it is based on settlement boundaries which reflect an out-of-date housing requirement, and the Council cannot demonstrate a five-year housing land supply.
- 5.20 Policy CT/2 is not considered applicable as it relates to land designated as 'countryside'. The Local Plan Proposals Map clarifies that the 'countryside' designation applies to all land outside the Limits to Development which is not designated as Green Wedge or ALS. Accordingly, it is not applicable, and no conflict arises.
- 5.21 There would be conflict with Saved Policy CT/4, but no breach of the purpose of the policy, therefore affording limited weight only.
- 5.22 There would be no conflict with Core Strategy Policies CS3, CS13, CS17 and CS24 as the proposals will deliver an appropriate level of affordable housing with contributions towards sustainable travel, ecology, education, libraries, civic waste, community facilities and open space and play provision.
- 5.23 I give weight to these policies insofar as they would allow sustainable development where the landscape harm is not significant. However, I give limited weight to the conflict the proposed development has with these policies in this regard because Mr Cook's evidence concludes that the harm arising as a result of the proposed development would not be significant and highly localised.

Table 1: Summary Table of the Consistency of Most Important Policies with Framework, Weight and Conflict

Development Plan Document	Policy	Policy Name	Assessment of Consistency with Framework	Weight to Policy	Conflict with Policy
Charnwood Local Plan 2011 to 2028 Core Strategy (2015)	Policy CS1	Development Strategy	Housing requirement out of date Inconsistent with NPPF	Limited	No conflict
	Policy CS2	High Quality Design	Generally accords with NPPF	Should not be reduced	No conflict
	Policy CS11	Landscape and Countryside	Broadly consistent with NPPF	Moderate	No conflict
Charnwood Local Plan (2004)	Saved Policy EV/1	Design	Generally accords with NPPF	Should not be reduced	No conflict
	Saved Policy ST/2	Limits to Development	Limits to Development relates to out of date housing requirement Inconsistent with NPPF	Limited	Conflict – limited as inconsistent with NPPF
	Saved Policy CT/1	General Principles for Areas of Countryside, Green Wedge and Local Separation	Seeks to restrict development in a similar manner to Green Belt policy Inconsistent with NPPF	Limited	Conflict – limited as inconsistent with NPPF
	Saved Policy CT/2	Development in the Countryside	Seeks to restrict development in a similar manner to Green Belt policy Inconsistent with NPPF	Limited	Conflict – limited as inconsistent with NPPF
	Saved Policy CT/4	Development in Areas of Local Separation	Seeks to restrict development in a similar manner to Green Belt policy Inconsistent with NPPF	Limited	Conflict – limited, but no breach to the purpose
Queniborough Neighbourhood Plan 2021	Policy Q6	Countryside and Landscape	Broadly consistent with NPPF	Moderate	No conflict
	Policy Q14	Design	Generally accords	Should not be reduced	No conflict

### Main Issue 3 - Whether the development would provide acceptable contributions towards infrastructure

- 5.24 Policies CS3, CS13, CS17 and CS24 of the Core Strategy requires the delivery of appropriate infrastructure to meet the aspirations of sustainable development either on site or through appropriate contribution towards infrastructure off-site relating to a range of services.
- 5.25 At the time of writing the legal agreement is drafted with a number of matters agreed with some points of clarification outstanding in relation to healthcare in particular. This matter is to be the subject of round table discussions.
- 5.26 Each of the infrastructure requirements are listed below.

#### Affordable Housing

- 5.27 The appeal proposal provides adopted policy compliant 40% affordable housing onsite (up to 60 affordable dwellings) which accords with Policy CS3 of the Core Strategy and is secured through the S106. The tenure split and mix of the 60 Affordable Dwellings is to be agreed at Reserved Matters stage.

#### Open Space, Sports and Recreation

- 5.28 The illustrative masterplan shows areas of open space, a landscape gateway feature and children's play located within a green corridor that runs through the site along the route of the public right of way. The Illustrative Masterplan creates 1.81 ha of new, publicly accessible open space across the site – some 31% of the site.
- 5.29 The new area of public open space incorporates provision for Parks, Natural and Semi-Natural Open Space, Amenity Green Space and a LEAP, well in excess of the requirements for those typologies which totals just 0.96 ha – resulting in a surplus of 0.85 ha open space. Whilst the actual on-site provision is subject to a future Reserved Matters application, however the Illustrative Masterplan gives an indication of the typologies that could be provided.
- 5.30 The onsite open space provision and its ongoing management and maintenance is secured by planning condition and through the S106 agreement.
- 5.31 In addition to the onsite open space requirements, contributions are made towards offsite open space where need is not met on site in accordance with Policy CS15. Contributions secured through the S106 agreement include:
- 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
  - Outdoor sports facilities – 0.94ha off-site contribution of **£48,247** for Syston Football Rugby Cricket and Tennis Club
  - Allotments – 0.12ha onsite, or **£16,938** for off site provision within Queniborough
- 5.32 Accordingly, the proposed development makes adequate provision for open space, sports and recreation and complies with Policy CS15 of the Core Strategy.

#### Off-Site Highways Works and Tree Replacement

- 5.33 The proposals include off-site highways works to create additional highway capacity at the Rearsby Road / Syston Road / Queniborough Road / Barkby Road crossroads with a left-hand turn lane from Rearsby Road. These works would utilise the existing footpath to minimise the extent of encroachment into the current grass verge. The alignment of the new highway would encroach into the existing verge by 0.5m



5.34 The proposed works to trees to facilitate the revised highway layout as set out in the Arboricultural Impact Assessment include the following:

1. Judicious pruning of T12 (Cat C / Low Quality/ Value) - Lime trees close to the corner of Rearsby Road and Queniborough Road
2. Removal of T1 and T2 (Cat C / Low Quality/ Value) - Sycamores on western side of Rearsby Road, not within TPO
3. Works within root protection area of T5 (Lime), T6 (Maple) and memorial tree. (Cat B / Moderate Quality/ Value)

5.35 The Local Highway Authority require these to be completed prior to occupation of the development and this is secured by condition. The widening of the highway and footpath along the western side of Rearsby Road will require the removal of two LCC managed sycamore trees T1 & T2 – which are not covered by the TPO. The LHA advised that the removal of the two sycamore would require six new trees with a total contribution of £2,700.00 from the Applicant. This has been agreed by all parties subject to the above contribution for replacement planting. The tree replacement contribution was not covered in the Officers Report, nevertheless, it is considered reasonable and therefore is included within the S106.

5.36 An additional contribution for future tree maintenance of £5,000, has been offered to the Local Highway Authority. This will secure arboricultural management of the trees along Rearsby Road and Queniborough Road, ensuring the future of the existing trees, again secured through planning obligation. The management of the trees will preserve the existing character of the area.

#### Sustainable Travel

5.37 Policy CS17 seeks to increase sustainable travel patterns and requires that major development proposals provide well-lit streets and opportunities for walking, cycling and public transport access to key facilities.

5.38 A number of conditions relating to access and sustainable travel are included within the schedule of conditions, including implementation of the submitted Travel Plan to promote the use of sustainable modes of transport. In addition to these, contributions to be secured through the S106 agreement are made towards the provision of the following:

- Provision of Travel Packs (£52.85 x 150 dwelling) at a total cost of **£7,927.50**;
- Provision of 6-month bus passes (£510 x 2 x 150 dwelling) at a total cost of **£153,000**;
- Appointment of Travel Plan co-ordinator;
- Travel Plan monitoring fee at a cost of **£6,000**
- 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.

5.39 As a result of the above contributions the proposal is considered to comply with Policy CS17 of the Core Strategy.

#### Education

5.40 The development will yield 45 primary aged children and that Queniborough Church of England Primary School has a net capacity of 210, thereby the appeal proposals would create a deficit of 74 places. When taking into consideration the other primary schools within a two-mile walking distance from the development the County Council set out that there is an overall deficit of 29 places. Therefore, a part request for contributions in respect of the primary education sector of **£532,324.00** is justified.

- 5.41 The development will yield 26 secondary aged children. Wreake Valley Academy has a net capacity of 1050 and there will be a surplus of 20 places if the appeal proposals went ahead. There is a significant surplus forecast for Post 16 therefore a contribution in respect of secondary education is not justified under the tests of CIL Regulation 122 and LCC have acted appropriately not requesting such contributions.
- 5.42 The development will yield 12.75 children of Early Years age. Sufficient capacity is available for the pupil yield of the appeal scheme and as a result, there is no justification under the tests of CIL Regulation 122 for Early Years planning obligations LCC have acted appropriately not requesting such contributions.
- 5.43 LCC has requested proportionate contributions towards additional provision of **£84,672.65**. The Inspector at the recent Planning Appeal at Cossington Road, Sileby has confirmed that LCC's approach is CIL Reg 122 (2) compliant. On that basis, the contribution request is deemed to be acceptable and is contained within the legal agreement.
- 5.44 The above contributions are to be secured through the legal agreement and would be used to accommodate the capacity issues created by the proposed development by improving, remodelling, or enhancing existing facilities at either the named catchment school, within the DfE approved planning area serving the development, or any other school within the locality of the development, including the construction of a new school.

#### Library Services

- 5.45 In respect of Library Services, a contribution of **£4,541.40** is requested for improvements to the library and its facilities, including, but not limited to, books, materials, or associated equipment or to reconfigure the internal or external library space to account for additional usage of the venue at East Goscote Library. The contribution sought is considered to be compliant with the requirements of Community Infrastructure Levy Regulation 122 and is included in the S106 agreement.

#### Waste Services

- 5.46 In respect of Waste Services, a contribution of up to **£7,750.50** is requested to provide additional capacity for the proposed development at Mountsorrel HWRC site. The contribution sought is considered to be compliant with the requirements of Community Infrastructure Levy Regulation 122 and is included in the S106 agreement.

#### Healthcare

- 5.47 NHS West Leicestershire CCG considers that the development could result in an increased patient population of 363. The CCG consider that the two surgeries in Syston have seen significant increase in patient registration and demand for appointments over the past 5 years and therefore have requested a contribution of **£79,366.47** towards providing additional accommodation at the surgeries.
- 5.48 Mr Hunter's Proof of Evidence sets out that both facilities are accepting patients and therefore cannot be said to be at capacity. The monetary request is for 100% of the people that are expected to live on this development site, in spite of the fact that most people that move house do not move far, and they do not change GP Practices once habits have been formed, making the request excessive. Most NHS Practices have inflated rolls, as reported by UK Parliament, meaning that the roll is actually lower than forecast.
- 5.49 In order for planning obligations to be considered CIL Reg 122 compliant, there must be a deficit in places identified and evidenced, for which planning obligations would be utilised to increase the capacity to accommodate the growth in population. If there is no demonstrable deficit that would be made worse by new development, as in this case, the contribution is not necessary to make the development acceptable in planning terms. As such there are no policy conflicts arising. On the above basis, without adequate justification for the contributions, our position is for **£0** contribution towards healthcare provision.

### Biodiversity

- 5.50 Policy CS13, and NDP Policy Q8, seeks to conserve and enhance the natural environment with regard to biodiversity and ecological habitats.
- 5.51 The proposals provide a biodiversity betterment, with landscape gateway features, sustainable urban drainage, with vegetation surrounding the SUDS feature. The immature broadleaved trees will be enhanced to woodland through additional native tree planting and sowing of a shade tolerant understory seed mixture and managing and monitoring for 30 years. The retained poor semi-improved grassland will be enhanced through sowing of a wildflower seed mixture, also managed and monitored for 30 years. Assessing this change formally using the Natural England 3.1 Metric against the outline masterplan results in a 1.16 habitat unit net gain, or 7.37%
- 5.52 The site is bounded on all sides by hedgerows which are in poor condition. New native species rich hedgerows will be planted throughout the development - particularly around public open space. The hedgerows on site will be enhanced through the addition of native woody species to create species rich hedgerows, as well as appropriate management specifically for wildlife/biodiversity. Assessing this change formally using the Natural England 3.1 Metric shows a 6.66 hedgerow unit net gain, or 151.45%. Further, should the amended Conceptual Plan be delivered with the additional woodland planting along the southern boundary, this would enhance the biodiversity net gain to 12%, from 7.37% in respect of habitat units provided – hedgerows are unaffected.
- 5.53 A Landscape and Biodiversity Management Strategy to be submitted and approved by the local planning authority are secured by condition and through a S106, to ensure that the development takes the form agreed by the local planning authority and thus results in a satisfactory form of development and to ensure the protection and enhancement of biodiversity. This includes provision of mitigation onsite, or in the event this cannot be provided for onsite, to be provided off site or a contribution made to the Council to provide this elsewhere. This is fully secured through the S106 legal agreement. It is however the intention to deliver this onsite and as demonstrated through the BIA metric based on the Illustrative Masterplan, this is possible.
- 5.54 Accordingly, the proposed development makes adequate provision in respect of biodiversity and ecology and complies with Core Strategy Policy CS13 and Neighbourhood Plan Policy Q8

### Summary

- 5.55 As demonstrated, the proposed development makes adequate provision for infrastructure requirements, including provision of acceptable contributions, in accordance with policies Policy CS3, CS13, CS17 and 24 of the Core Strategy and Policy Q8 of the Queniborough Neighbourhood Plan.

## 6. Planning balance

- 6.1 The appeal proposals should be decided in accordance with the development plan unless material considerations indicate otherwise. The Council cannot demonstrate a deliverable five-year housing land supply and in addition, the housing policies in the adopted Core Strategy, the Local Plan, and Neighbourhood Plan are out of date.
- 6.2 In this context it is agreed that the titled balance in Paragraph 11 of the NPPF is engaged and that the appeal proposal should be approved unless the harms significantly and demonstrably outweigh the benefits of the Development when assessed against the policies in this NPPF taken as a whole.

### Harms arising from the Development

- 6.3 With the exception of CBC's Landscape Officer, no objection was received to the appeal proposal from any technical statutory consultee, as confirmed through the Planning SoCG. No case was put forward in the Officers Report that the appeal application should be refused on issues relating to impacts on infrastructure capacity, highways, layout/design, relationship to neighbouring properties, flood risk and drainage, ecology, wildlife and trees, loss of best and most versatile land or infrastructure.
- 6.4 I am very mindful of concerns raised by third parties explaining harms that they consider will arise from the development. As I explain at the Inspector's Main Issue 2, responses to third party concerns in respect of education/healthcare, highways, flood risk and drainage, ecology and trees are included as appendices 2-6 respectively. The responses confirm that none of the issues raised are considered to change the assessment or conclusions of the appeal application and that there are no policy conflicts arising.
- 6.5 As demonstrated by the lack of technical objections to the scheme and the notes provided to respond to the third parties' concerns, there are no wider harms, that cannot be mitigated arising from the appeal proposal sufficient to warrant the refusal of the application.
- 6.6 In respect of the ALS, Mr Cook's Proof of Evidence confirms that there would be no narrowing of the gap in physical terms. As I explain in response to the Inspector's Main Issue 1, there is therefore no conflict with Core Strategy Policy CS11. There is conflict with Saved Policies CT/1 and CT/4, at "first blush", as described by the Inspector considering the Land off Mountsorrel Lane, Rothley appeals, however there is no breach to the purpose of CT/4 and the breach relating to the control mechanism should have limited weight.
- 6.7 Mr Cook concludes that in terms of landscape impact the development would introduce a high-quality residential built environment which would be in keeping with the local settlement and character area, Wreake Valley and therefore, not at odds or out of character or appearance. However, adopting a precautionary approach the proposals would result in an adverse effect in landscape character terms. The proposal would accommodate significant new green infrastructure which would replace two arable fields and again change this character of the site to be more representative of the local landscape character area and therefore would result in some beneficial effects at the site level. This neutral harm in respect of the built element of the development must be considered in the wider planning balance.
- 6.8 As demonstrated, the proposed development makes adequate provision for infrastructure requirements, including provision of acceptable contributions, in accordance with policies Policy CS3, CS13, CS17 and CS24 of the Core Strategy and Policy Q8 of the Queniborough Neighbourhood Plan.

### Benefits of the development

- 6.9 Weighing in favour of the proposed development would be a range of tangible benefits as I have discussed in Section 8 of my proof of evidence:
- The proposed development would deliver market housing in a sustainable location, in a borough where the Council cannot demonstrate a five year housing land supply. New residential development should therefore be afforded **very significant weight**.
  - The proposals would also deliver a policy compliant level of affordable housing in an authority with very significant levels of unmet need. It would contribute to addressing the needs of Charnwood who are in urgent need of an affordable home. This should be afforded **very significant weight**.

- The delivery of substantial public open space, including an over provision, equating to approximately 31% of the site, will help to address existing shortfalls in Parkland, Natural and Semi-Natural Open Space, Amenity Green Space and Provision for Children in Queniborough and will benefit the existing community as well as its future residents. This should be afforded **significant weight**.
- The associated economic benefits of the proposed development (construction phase and long-term impacts) should be afforded **moderate weight**.
- The delivery of market and affordable housing within walking and cycling distance of a range of services and facilities, including primary schools and public transport facilities. This reduces the need for the use of a private car for everyday travel requirements. This should be afforded **moderate weight**.
- The environmental benefits of enhanced landscaping, including a substantial 10m tree belt along the southern boundary, which would enhance the well wooded character of the village and the self-contained character of the Wreake Valley, as suggested by the LUC (March 2019), should be afforded **significant weight**.
- The delivery of a new, high quality, sensitively designed edge to the settlement, creating a more positive interface to the countryside should be afforded **significant weight**.
- The delivery of biodiversity net gains should be afforded **significant weight**.
- The delivery of off-site highways works resulting in removal of 2 trees, but replacement tree planting on a 3 for 1 basis should be afforded **moderate weight**.
- The provision of funds for future tree maintenance for arboricultural management of the trees along Rearsby Road and Queniborough Road should be afforded **moderate weight**.

6.10 I consider that the benefits of the scheme are considerable and should be afforded significant weight. The harms arising from the appeal proposal are considered to be limited. Whilst it is agreed that there is conflict with the development plan taken as a whole, crucially it is also agreed within the Planning SoCG that the Saved Policies of the Charnwood Local Plan 2004 and the Core Strategy (2015) are now more than five years old.

6.11 With the tilted balance of NPPF Paragraph 11 (d) engaged, planning permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole. In my view, any limited landscape harm arising from the proposals does not significantly and demonstrably outweigh the benefits identified above.

## 7. Conclusions

7.1 This appeal proposes residential development on a site in Queniborough, an Other Settlement, acknowledged to be one of the more sustainable settlements within Charnwood to provide for additional growth, within the context of a shortfall in the Council's five-year supply of housing.

7.2 The appeal proposals should be decided in accordance with the development plan unless material considerations indicate otherwise. The Council cannot demonstrate a deliverable five-year housing land

supply and in addition, the housing policies in the adopted Core Strategy, the Local Plan, and Neighbourhood Plan are out of date.

- 7.3 In the context of the above it is agreed that the tilted balance in Paragraph 11 of the NPPF is engaged and that the appeal proposal should be approved unless the harms significantly and demonstrably outweigh the benefits of the Development when assessed against the policies in this NPPF taken as a whole.
- 7.4 In terms of paragraph 11d)ii. of the NPPF, Mr Cook has identified that there would be some adverse impacts but these are not significant and are highly localised and there is overall compliance with the NPPF in terms of respecting character and appearance.
- 7.5 In relation to other matters set out within the Planning SoCG, such as education, healthcare, highways, flood risk and drainage, ecology and trees, I consider that the proposed development has been demonstrated to be acceptable, in accordance with the development plan and the NPPF. The matters should be afforded neutral weight.
- 7.6 Weighing in favour of the proposed development would be a range of tangible benefits. I consider that the benefits of the scheme are considerable and should be afforded significant weight. The harms arising from the appeal proposal are considered to be limited. As I have demonstrated, I consider that the appeal scheme accords with the up-to-date Development Plan when considered as a whole, with conflicts arising only against policies which are out of date or for which only limited weight can be afforded.
- 7.7 The tilted balance is engaged, therefore planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. It is my professional opinion that the limited harm arising from granting permission is not considered to significantly and demonstrably outweigh the benefits of this proposals, and as a consequence planning permission should be granted.
- 7.8 Further, this is not only a case where harm does not significantly and demonstrably outweigh benefits. This in fact is a case where benefits significantly and demonstrably outweigh harm. The benefits in their own right could be seen as material considerations in indicating that permission should be granted because they will deliver benefits not only to the residents of the proposed development, but to the wider Queniborough community and beyond. Accordingly, I give these benefits significant weight.
- 7.9 In conclusion, the harm does not significantly and demonstrably outweigh the benefits, rather the benefits outweigh the harm, and therefore in accordance with the development plan as a whole and the NPPF, planning permission should be granted. I therefore respectfully invite the Inspector to allow the appeal.