

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)."

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

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1. Introduction

Witness Background & Qualifications

- 1.1 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.
- 1.2 I have over 17 years professional planning experience in the private sector, with over 9 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.
- 1.3 I understand my duty to the inquiry and have complied, and will continue to comply, with that duty. I confirm that this evidence identifies all facts which I regard as being relevant to the opinion that I have expressed, and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this Proof are true and comprise my true professional opinions which are expressed irrespective of by whom I am instructed.

Scope of Evidence

- 1.4 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 application for up to 150 dwellings, together with new open space, landscaping and drainage infrastructure, with all matters reserved accept for access (as amended to include proposed junction improvement works at Barkby Road cross roads) (LPA ref: P/20/2380/2, PINS ref: APP/X2410/W/23/3316574).
- 1.5 This Planning Proof of Evidence addresses 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, and other statements prepared by particular specialists. I have relied upon Mr Cook's judgments in forming my view.
- 1.6 I was not involved in the planning application but I was asked whether I would be willing to support the scheme at appeal. Before agreeing to do so I considered all of the supporting information submitted with the application as well as the various documentation before the Council, I visited the site and also discussed the proposals at length with colleagues. Thereafter I concluded that I was able to support the proposed appeal scheme and I therefore formally accepted the instructions.
- 1.7 I have provided a summary of my Proof and set of appendices. I also refer to several core documents, the Landscape Proof of Evidence, Planning Statement of Common Ground (SoCG) and Landscape SoCG.
- 1.8 This Proof of Evidence is structured under the following sections:
 - Section 2 – The site and its surroundings
 - Section 3 – The appeal proposal
 - Section 4 – Planning Policy Context
 - Section 5 – Main issue 1
 - Section 6 – Main issue 2
 - Section 7 – Main issue 3
 - Section 8 – Planning balance
 - Section 9 - Conclusions
 - Appendices

2. The site and its surroundings

Site description and location

- 2.1 A description of the appeal site and its surroundings is set out in paragraphs 6 to 15 of the Planning SoCG. In summary, the appeal site is approximately 5.82 hectares (ha) in area and is an undeveloped greenfield site immediately adjacent to the settlement of Queniborough.
- 2.2 The site is bound by the existing built residential form to the north comprising Avenue Road, The Riddings and Chestnut Close. The eastern boundary is defined by Barkby Road and the recently constructed residential development to the east of Barkby Road (Davidsons Homes development, known as Barley Fields). The southern extent of the Davidsons Homes development is marked by a gateway sign to the settlement of Queniborough, that is located well to the south east of the appeal site. To the west of the appeal site is the Queniborough Industrial Estate. To the south of the site is open countryside, beyond which is the settlement of Syston.
- 2.3 The site lies within a designated Area of Landscape Separation (ALS), but otherwise carries no specific policy designation. It is relatively flat with a high-point of approximately 60m AOD at the eastern boundary with Barkby Road, falling gently towards the western boundary.
- 2.4 It is agreed that the appeal site is locationally sustainable in transport and accessibility terms. There are a range of local services to meet day to day needs within relatively easy walking and cycling distance of the appeal site, as set out at within the Planning SoCG.
- 2.5 As set out at within the Planning SoCG, it is agreed that Queniborough is one of the more sustainable settlements within Charnwood and is able to provide for additional growth. The settlement provides a range of services and facilities including a medical practice, convenience food stores, post office, village hall, scout hut, restaurants and takeaways, public houses. There are a number of educational facilities within the settlement and in close proximity to the application site, including a nursery and primary schools. Wreake Valley Academy secondary school and sixth form is located just 1km from the appeal site. A Plan showing many of these facilities in proximity to the appeal site is located within the Design and Access (Page 14, CD1.05).
- 2.6 Queniborough also contains a number of parks and areas of public open space, with a tennis court, basketball court, outdoor gym and informal football pitch at the King George V Playing Field. Queniborough Football Club play their home matches at the Rearsby Road ground and Syston Rugby Club's grounds are on Barkby Road together with Queniborough Tennis Club and Cricket Club.
- 2.7 The nearest bus stops to the site are located on Syston Road, approximately 320m from the development. These bus stops are served by the No.5 service which runs between East Goscote to the centre of Leicester via Syston, which provides access to a wide variety of employment opportunities and larger retail facilities. The times of service and frequency would reasonably service commuting, and travel for other reasons. Syston Railway Station is 2.4km from the site and therefore within the acceptable cycling distance. This provides ready access to the wider region via the Midland Main Line. This includes services to Leicester, East Midlands Parkway and Nottingham.
- 2.8 Queniborough also benefits from its proximity to both East Goscote to the north and Syston to the south. Syston in particular contains a range of higher order services and facilities including larger supermarkets, medical facilities, a secondary school and a large high street with a range of retail, service and food and drink premises.

- 2.9 Queniborough is identified in the Core Strategy (**CD5.03**) as an 'Other Settlement'. To achieve the Core Strategy of 'urban concentration and regeneration' development is to be focussed in the Principal Urban Area, Loughborough and Shepshed, the Service Centres, then to Other Settlements. Other Settlements are acknowledged to be important in helping to protect and where possible increase services and facilities within them. Small Villages and Hamlets rely on larger settlements, including Queniborough, for the provision of services and facilities for their day-to-day needs. Nearby Small Villages and Hamlets include Barkby Thorpe (4.2km), Ratcliffe on the Wreake (4.2km) and South Croxton (5 km).

Planning History

Appeal Site

- 2.10 As set out within the Planning SoCG, the application, the subject of this appeal, represents a resubmission of an outline application submitted in 2018, for 150 dwellings, all matters reserved except for access (P/18/0309/2). This earlier application was submitted in February 2018 and refused in June 2018 (**CD6.05**) following a Committee decision. It was not subject to an appeal.

Other Relevant Sites

Land East of Barkby Road (Davidsons Homes - Barley Fields)

- 2.11 An outline planning application (P/14/0708/2) was submitted by Gladman Developments in May 2014 for 165 dwellings. This application received a resolution to grant planning permission by Charnwood's Plans Committee in April 2015 before receiving full approval in March 2015. Two Reserved Matters applications and a further Full application followed; the first phase fronting Barkby Road for 64 dwellings was approved March 2016 (P/15/1799/2). Phase 2 for the remaining 101 dwellings was approved in February 2017 (P/16/2090/2). The latter application was submitted in tandem with a Full application (P/16/2290/2) for an additional 11 dwellings to reflect increased capacity at the site, which became apparent during the Phase 2 Masterplanning. The Full application was approved in July 2017 (due to the additional time to agree variations to conditions and S106 agreement). At the time the application was determined, the Council could not demonstrate a five-year housing land supply. Officers Report at **CD6.41**.
- 2.12 In January 2021 Davidsons applied for an additional 50 dwellings to be built to the east of the completed Barkby Road site. Access is to be provided through the constructed site with the demolition of an existing dwelling (65 Glebe Road) included to deliver an emergency access (P/20/2349/2). This scheme was approved by the Plan's Committee in November 2022. At the time the application was determined, the Council could not demonstrate a five-year housing land supply. Officers Reports at **CD6.42 and CD6.43**.

Land at Millstone Lane, Syston (David Wilson Homes – The Millstones)

- 2.13 A full planning application for the development of 101 dwellings with associated works and creation of a cemetery (P/14/0393/2) was registered in March 2014 and approved at planning committee in October 2014. At the time the application was determined, the Council could not demonstrate a five-year housing land supply. Officers Report at **CD6.39**.

Threeways Farm, Lane at Melton Road, Queniborough

- 2.14 An outline planning application for up to 220 dwellings (P/18/0611/2) with access off Melton Road, registered in April 2018. The application was however refused at Planning Committee in November 2018. An appeal was lodged by the applicant in March 2019, but later withdrawn in July 2019. The application was located entirely within the ALS. At the time the application was determined, the Council considered that it could demonstrate a five-year housing land supply. Officers Report at **CD6.44**.
- 2.15 A second outline planning application (P/20/1605/2) for a reduced 200 dwellings was registered in October 2020. This application was on the same site as P/18/0611/2. This application was recommended

for approval but refused at Planning Committee in March 2021. Despite the two refused permissions it is noted that this site is now a proposed allocation in the emerging Local Plan (HA64) (with neighbouring land to the north east on Melton Road (HA65)). As such it is now proposed to be removed from the ALS (though as of today remains designated as such). Officers Report at **CD6.45**.

3. The Appeal Proposal

The Appeal Application

- 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 submitted in December 2020. It was supported by a comprehensive suite of technical reports in accordance with the Council's planning application validation requirements **(CD1.01 - 1.17)**. It was validated on 22nd February 2021 and given the reference: P/20/23802. During the determination of the application, the submission documents were supplemented by various documents **(CD2.01 - 2.14)** provided at the post submission stage in response to matters raised either by statutory consultees or Officers. The post submission documents addressed matters in relation to highways, arboriculture, ecology/biodiversity and landscape and included new off-site works on the Barkby Road crossroads (north of the site) to increase capacity through the junction **(CD2.07)** which resolved highways concerns. At the time of determination there was no outstanding request for information from the Council.
- 3.4 As confirmed in the Planning SoCG, no objection to the application was received by the following statutory consultees: CBC Affordable Housing, CBC Biodiversity, CBC Trees, CBC Open Spaces, CBC Environmental Health, LCC as Highway Authority, LCC Developer Contributions, including Education, LCC as Lead Flood Authority, NHS CCG, Environment Agency and Natural England.
- 3.5 Objections to the appeal application were nonetheless received from CBC's Landscape Officer, Queniborough Parish Council, Barkby and Barkby Thorpe Parish Council, Barkby and Barkby Thorpe Action Group (BABTAG) and Edward Argar MP and local residents.
- 3.6 CBC's Landscape Officer considered through original comments **(CD3.20)** as well as updated comments **(CD3.21)** that:

"the effects on the separation would result in harm by cumulatively advancing and consolidating the settlement edge of Queniborough toward Syston such that it would be difficult to distinguish where one settlement ends and another begins from key public vantages. Therefore, the proposal could not be said to "reinforce sense of place and local distinctiveness"; nor would it maintain the existing degree of separation and thereby the separate identities of Queniborough and Syston would be substantially diminished. Rather it would significantly contribute toward effective coalescence by reducing the physical gap to such an extent that it would give rise to perceptual coalescence resulting in the loss of vital characteristics of the ALS."

3.7 Both responses acknowledges that:

"the existing edge of Queniborough is exposed without the benefit of an effective tree belt or strong hedgerow. The proposed illustrative plan shows a potential for a softened screening green edge to the settlement. The effect would contribute toward mitigating the effect of built form. If the proposal were to be augmented with a much more substantial tree belt to the southern edge the new and advanced edge of the settlement would be softened and in time become screened. However, landscape enhancements are not capable of mitigating the impact of erosion of the ALS whose rural function would remain diminished. Any proposed tree belt is more likely to be interpreted as urbanised green infrastructure within a wider conurbation rather than as open countryside therefore would not in my opinion compensate for the impact on the Area of Separation".

3.8 The updated response (CD3.21) sets out that:

"All housing developments on rural land inevitably alter the landscape character. The proposal clearly would do so for this site. The conceptual plan indicates a possible layout yielding two built zones separated by a sequence of landscape open spaces aligned on a NE:SW axis along the existing PROW axis. The southern edge is shown enclosed by a landscape buffer comprised mostly of a tree belt which wraps around the edge along Barkby Road. This would provide a softening effect to the edge of the settlement and would in part fulfil the guidance set out in the LUC Landscape Sensitivity Assessment of SHLAA Sites March 2019 to "increase tree cover at the settlement edges to enhance the well wooded character of Queniborough village". The proposal in regard to the PROW would positively address CS12 by providing a green corridor which would enhance and protect the existing route.

The harm may be mitigated to a degree by screening with tree planting and provision of amenity green space but the illustrative landscape plant does not in my opinion afford sufficient depth of tree belt to achieve mitigation."

3.9 The Officer also concludes that: *"the visual effects of the proposal as illustrated would lead to visual impact harm and contribute to perceptual coalescence by interrupting the visual setting for Queniborough."*

3.10 Queniborough Parish Council objected on grounds including conflict with the Neighbourhood Plan, the Local Plan and the Core Strategy as the site is not identified for development and that other development will meet the future housing needs of the village. Other concerns are raised in respect of traffic at the crossroads and along Barkby Road, as well as vehicular speeds and local infrastructure capacity, namely primary school, healthcare provision and parking, not only in Queniborough but surrounding villages. The response **(CD3.24)** also advised that *"the application is an area of separation outside the built village environment. With the Millstone Lane and Queniborough Lodge developments this is further erosion of the area between Queniborough and Syston."*

3.11 Barkby & Barkby Thorpe Parish Council **(CD3.02 & CD3.03)** and the Barkby and Barkby Thorpe Action Group (BABTAG) **(CD3.26)** objected on the grounds of eroding the green boundary, particularly between Queniborough and Barkby and the impacts on rural character, increased traffic on the road between Queniborough and Barkby, impact of local infrastructure including local health centres and the local schools.

- 3.12 Edward Argar MP highlighted concerns from local residents (**CD3.27 & CD3.28**), focussing on the impact on the area of separation between Queniborough and Syston, local infrastructure capacity, namely roads, primary school and GP services.
- 3.13 The application was brought before the Council's Plans committee on the 24th November 2022, with an Officer **recommendation to grant** outline planning permission. The Officer's Report ("the OR") is provided at **CD4.02**.
- 3.14 The Plans Committee (audio available at **CD4.03**) resolved to refuse the application, contrary to the Planning Officers' recommendation. The Decision Notice was issued on the 9th December 2022 (**CD4.01**) and sets out the following reasons for refusal, repeated below for ease of reference:
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.*
- 3.15 The Decision Notice also notes:
- "The Council's Planning Committee decided to refuse planning permission for this proposal. The Council did however act pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme and an Officer recommendation to approve the application. The requirements of the National Planning Policy Framework (paragraph 38) have therefore been met in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015."*
- 3.16 The appeal scheme was determined on the basis of an illustrative layout in the Conceptual Plan prepared by Dominion Design. Subsequent to lodging the appeal the Appellant has liaised further with Charnwood Borough Council and submitted a modification to the proposed layout (**Updated Conceptual Plan - Rev H - CD8.11**) on 28th April 2023. This relates to the provision of a native tree belt to be planted along the southern boundary. This land lies outside of the red line but within land under the control of the Appellant and can be secured by way of a planning obligation triggered in the event that the appeal is allowed and development commences. The additional tree belt would be 10m in width and continuous along the full length of the boundary except for a gap to accommodate the existing public footpath. In effect, the southern boundary of the proposal would therefore include a 10m wide tree belt which would run alongside an existing retained hedgerow which would be allowed to grow freeform in shape, whilst a further 5m of trees and shrubs would be planted on the northside of this hedge which would encompass the existing young standard trees along this boundary. Collectively, this vegetation would form a substantial landscape feature which would significantly frame the proposed scheme in landscape and visual terms. It would

complement the planting around the industrial development to the immediate west and will in due course provide a soft landscaped edge to Queniborough, emphasising the separation which is retained by the intervening countryside. This is in contrast to the somewhat abrupt current edge. The proposed planting is illustrated in a Detailed Landscape Planting Plan prepared by Pegasus drawing ref no P23-0196-EN-10 Rev A **(CD8.12)**.

- 3.17 The LPA declined to accept the Updated Conceptual Plan on 9th May 2023 **(CD8.14)**. The Appellant considers that the Updated Conceptual Plan provides additional benefits to the scheme over and above that considered and is included within the legal agreement.

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 policies of the National Planning Policy Framework (the 'NPPF') is an important material consideration as confirmed at NPPF para 218.

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 applicable to the appeal site comprises:

- The Charnwood Local Plan 2011 to 2028 Core Strategy (CCS) (Adopted November 2015) **(CD5.03)**.
- The Saved Policies of the Charnwood Local Plan 2004 (CLP) (adopted January 2004) **(CD5.01)**.
- Queniborough Neighbourhood Plan (QNP) (Made in June 2021) **(CD5.6)**.

- 4.4 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) **(CD5.28)**, which is also out of date being almost a decade old.

- 4.5 The Local Plan covered the period 1991 to 2006. The document was prepared in accordance with previous National Planning Policy, which was replaced by the NPPF in 2012. 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.

- 4.6 Given the Core Strategy and Local Plans 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. The latest 5 year land supply monitoring report **(CD5.24)** confirms use of the Local Housing Need (LHN) of 1,160 dwellings per annum, resulting in just a 3.04 years supply of deliverable housing sites. The Officers Report refers to the 3.04 years supply throughout the Report and is also set out within the **Planning SoCG**. The Housing Land Supply is discussed in further detail at Section 6 of this Proof of Evidence, but importantly a five-year housing land supply will not be restored unless and until the emerging local plan is adopted and the only way of addressing the deficit in the short term is through the grant of suitable planning consents.

- 4.7 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 in the SOCG, and are discussed in turn below.

Core Strategy Policy CS1: Development Strategy

- 4.8 Policy CS1 of the Core Strategy sets out a development strategy and settlement hierarchy for the Borough, making provision for at least 13,940 dwellings, between 2011 and 2028, equivalent to 820 dwellings per year, based on the Leicester & Leicestershire Authorities SHMA (June 2014) **(CD5.28)**.

4.9 As noted above Queniborough is designated as an Other Settlement by the policy as it has four or more key services and facilities that exist within the settlement. The policy seeks at least 500 homes within settlement boundaries and aims to respond positively to sustainable development which contributes towards meeting development needs, supports the strategic vision, makes effective use of land and is in accordance with the policies elsewhere in the Core Strategy.

4.10 The Officers Report (**Page 17 and 32, CD4.02**) outlines that the site is in countryside, thereby contrary to Policy CS1. The LPA's reasons for refusal do not allege conflict with Policy CS1, seemingly upon the basis that the geographic extent of the settlement boundaries are out of date based upon long superseded needs.

Core Strategy Policy CS2: High Quality Design

4.11 Policy CS2 requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access; protect the amenity of people who live or work nearby, provide attractive well managed public and private spaces; well defined and legible streets and spaces and reduce their impact on climate change.

4.12 The Application sought outline planning permission only, with all matters reserved other than for the point of access into the site. The Officers Report (**CD4.02**) outlines that the proposals accord with Policy CS2 in respect of Infrastructure Capacity, subject to securing appropriate obligations through a S106 agreement (**Page 23**), highways (**Page 24**), and indicative layout (Page 26). Notwithstanding that advice, members refused permission on the basis of conflict with Policy CS2.

Core Strategy Policy CS3: Strategic Housing Needs

4.13 Policy CS3 of the Core Strategy sets an affordable housing target of 40% for residential developments of 5 or more dwellings in Queniborough, and seeks to deliver an appropriate mix of types, tenures and sizes. The Officers Report (**Page 26, CD4.02**) acknowledges that the proposal complies with Policy CS3, with the provision of up to 60 affordable units is also considered to be a significant benefit of the scheme which is to be weighed within the planning balance. Notwithstanding that advice, members refused permission on the basis of conflict with Policy CS3.

Core Strategy Policy CS11: Landscape and Countryside

4.14 Core Strategy Policy CS11 (**Page 68, CD5.03**) states that the Council *"will support and protect the character of our landscape and countryside"*. The policy states that it will do this by:

- "requiring new developments to protect landscape character and to reinforce sense of place and local distinctiveness by taking account of relevant local Landscape Character Assessments;
- requiring new development to take into account and mitigate its impact on tranquillity;
- requiring new development to maintain the separate identities of our towns and villages;
- supporting rural economic development, or residential development which has a strong relationship with the operational requirements of agriculture, horticulture, forestry and other land based industries and contributes to a low carbon economy, in accordance with Policy CS10;
- supporting the provision of community services and facilities that meet proven local needs as identified by a Neighbourhood Plan or other community-led plan; and
- supporting rural communities by allowing housing development for local needs in accordance with Policy CS3".

4.15 The policy goes on to state that:

*"We will protect the predominantly open and undeveloped character of Areas of Local Separation **unless new development clearly maintains the separation between the built-up areas of these settlements**".*

4.16 Policy CS11 is not an absolute bar upon any form of built development, but rather allows for a judgement to be made about whether *"new development clearly maintains the separation between the built-up areas of these settlements"*. This judgement is not one which can simply be made by looking at a plan; it is more nuanced requiring both qualitative and quantitative factors to be considered.

4.17 The Officers Report (**Page 19-22, CD4.02**) contains an analysis of the proposals in the context of landscape and settlement character (including the Area of Landscape Separation) which considers that the proposals would fail to maintain the separate identities of Queniborough and Syston and would also detract from the character of the countryside in this location. It does, however, note there is potential to reduce the level of harm to a certain extent by securing a robust landscaping strip on the southern boundary, opining (**Page 34, CD4.02**) that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with Policy CS11.

Local Plan 2004 Saved Policy ST/2: Limits to Development

4.18 Saved Local Plan Policy ST/2 is a 'settlement limits' policy. The Policy states:

"Built development will be confined to allocated sites and other land within the Limits to Development identified on the Proposals Map, subject to the specific exceptions set out in this Plan." (Page 22, Paragraph 2.65, CD5.01)

4.19 The Officers Report (**Page 32, CD4.02**) outlines that the proposal would be contrary to Policy ST/2 based on its location outside the settlement boundary, but notes (**Page 19, CD4.02**) that given the current lack of a 5-year supply of housing land, and the age of policy ST/2 (defining settlement boundaries to deliver the requirements of the 1994 Leicestershire Structure Plan), that the weight that can be ascribed to it (and the geographic extent of settlement boundaries) is reduced and in the planning balance the Officers Report considered that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The LPA's reasons for refusal understandably do not allege any conflict with Policy ST/2.

Local Plan 2004 Saved Policy EV/1: Design

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

4.21 The Officers Report (**Page 26, CD4.02**) outlines that the indicative details demonstrate that there is potential for an appropriately designed development to be achieved at this site in accordance with saved Local Plan Policy EV/1. Notwithstanding that advice, members refused permission on the basis of conflict with saved Local Plan Policy EV/1.

Local Plan 2004 Saved Policy CT/1: General Principles for Areas of Countryside, Green Wedge and Local Separation

4.22 Saved Local Plan Policy CT/1 sets out the 'general principles' for Areas of Countryside, Green Wedge and Local Separation.

- 4.23 The Officers Report (**Page 21, CD4.02**) outlines that the proposal would be contrary to Policy CT/1 based on the overall scale of the development presenting an incursion into an open section of countryside between Queniborough and Syston. It notes (**Page 19, CD4.02**) that given the current lack of a 5-year supply of housing land, and the age of Policy CT/1 that the weight that can be ascribed to it is reduced and in the planning balance the Officers Report considered that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with saved Local Plan Policy CT/1.

Local Plan 2004 Saved Policy CT/2: Development in the Countryside

- 4.24 Saved Local Plan Policy CT/2 indicates in areas defined as countryside, development acceptable in principle will be permitted where it would not harm the character and appearance of the countryside and safeguards its historic, nature conservation, amenity and other local interest. The range of developments acceptable in principle is defined in Policy CT/1.

- 4.25 The Officers Report (**Page 21, CD4.02**) outlines that the proposal would be contrary to Policy CT/2 based on the overall scale of the development within countryside, but notes (**Page 19, CD4.02**) that given the current lack of a 5-year supply of housing land, and the age of Policy CT/2 that the weight that can be ascribed to it is reduced and in the planning balance the Officers Report considered that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with saved Local Plan Policy CT/2, thereby giving undue weight to a conflict with this policy.

Local Plan 2004 Saved Policy CT/4: Development in Areas of Local Separation

- 4.26 As with Saved Policy CT/2, Saved Policy CT/4 is intrinsically linked to Saved Policy CT/1, its drafting suggesting a proposed development needs to have satisfied the tests of Saved Policy CT/1 before Saved Policy CT/4 is applied. The policy states:

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

- i) the predominantly open and undeveloped character of the area is retained; and*
- ii) the already narrow gap between settlements is not reduced"* (**Page 109, Paragraph 6.23, CD5.01**).

- 4.27 The Officers Report (**Page 21, CD4.02**) outlines that the proposal would be contrary to Policy CT/4 based on the overall scale of the development presenting an incursion into an open section of countryside between Queniborough and Syston, but notes (**Page 19, CD4.02**) that given the current lack of a 5-year supply of housing land, and the age of Policy CT/4, that the weight that can be ascribed to it is reduced. The planning balance in the Officers Report considered that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with saved Local Plan Policy CT/4.

Queniborough Neighbourhood Plan

- 4.28 The Queniborough Neighbourhood Plan (**CD5.6**) was Made on 10th June 2021, after a favourable Referendum on 6th May 2021. The QNP rolled forward the adopted settlement boundaries but included the recent consented and constructed development – it did not involve a review of those boundaries. The most important policies for determining the application are considered to be Policy Q6 and Q14, discussed below.

Queniborough Neighbourhood Plan Policy Q6: Countryside and Landscape

- 4.29 Queniborough Neighbourhood Plan Policy Q6 largely reflects Core Strategy Policy CS11. It states:

"We will support and protect the character of our landscape and countryside (the area outside Limits to Development) by applying the requirements of Policy CS11 of the Charnwood Local Plan 2011- 2028 Core Strategy or equivalent landscape or countryside policy. In respect of complying with the

requirement for new development to maintain the separate identities of our town and villages, the Area of Local Separation between Queniborough and Syston and East Goscote shall be as shown on this Neighbourhood Plan's Countryside Map unless the land is allocated for development in a development plan document" (Page 35, CD5.6).

- 4.30 Accordingly, the policy does not preclude the principle of all development within the Area of Separation and some development may be acceptable if it clearly maintains separation.
- 4.31 The Officers Report (**Page 19-22, CD4.02**) contains an analysis of the proposals in the context of landscape and settlement character (including the Area of Landscape Separation) which considers that the proposals would fail to maintain the separate identities of Queniborough and Syston and would detract from the character of the countryside in this location. It does, however, note there is potential to reduce the level of harm to a certain extent by securing a robust landscaping strip on the southern boundary, opining (**Page 34, CD4.02**) that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with Policy Q6.

Queniborough Neighbourhood Plan Policy Q14: Design

- 4.32 Queniborough Neighbourhood Plan Policy Q14 seeks to ensure that new development reflects the distinctive and traditional character of Queniborough.
- 4.33 The Officers Report (**Page 26, CD4.02**) outlines that the indicative details demonstrate that there is potential for an appropriately designed development to be achieved at this site in accordance with Neighbourhood Plan Policy Q14. Accordingly, the LPA's reasons for refusal do not allege conflict with Policy Q14.

Other Development Plan Policies

- 4.34 Other Development Plan policies of relevance to the determination of the appeal are considered to comprise the following.

Core Strategy Policy CS13: Biodiversity and Geodiversity

- 4.35 CS13 states that proposals will be expected to consider and take account of the impacts on biodiversity and geodiversity, with particular regard for SSSIs, Local Wildlife Sites, Regionally Important Geological Sites, UK and Local Biodiversity Actions Plans priority habitats and species, protected species and ecological networks.
- 4.36 Where there are impacts on biodiversity, the Council will require adequate mitigation, or as a last result, compensation resulting in replacement provision of equal or greater value than that lost, resulting in a net gain in biodiversity. This will be assessed by requiring development proposals to be accompanied by ecological surveys and assessments of the impacts on biodiversity and geodiversity.

Core Strategy Policy CS15: Open Spaces, Sports and Recreation

- 4.37 CS15 outlines that new developments must meet the open space standards set out in the Open Spaces Strategy, having regard for local provision and viability.

Core Strategy Policy CS17: Sustainable Travel Policy & CS18: The Local and Strategic Road Network

- 4.38 CS17 states that by 2028, the Council will try to achieve a 6% modal shift from travel by the private car to walking, cycling and by public transport. This will be achieved by ensuring new major development provide walking, cycling and public transport access to key facilities and services. New developments must provide safe and well-lit streets and routes for walking, cycling and integrated with the wider green infrastructure network. CS18 seeks to maximise the efficiency of the local highway network by delivering sustainable travel.

- 4.39 The Application was supported by a Transport Statement (CD2.03 and CD2.04) and a Travel Plan (CD2.05), as well as Proposed Access Junction Layout (CD1.11) and Proposed Junction Improvements (Crossroads) (CD2.07). The Officers Report (Page 24, CD4.02) sets out the Local Highway Authority are satisfied that safe access to the site can be achieved and that the traffic impacts generated by the site can adequately be addressed by off-site highway improvements to the extent that there are no highway objections. Subject to securing the highways works by condition, the proposals are considered to comply with policies CS2, CS17, TR18 and paragraph 109 of the NPPF.

Core Strategy Policy CS24: Delivering Infrastructure

- 4.40 CS24 sets out that new developments will be expected to contribute to the reasonable costs of on and off-site infrastructure needs arising through the proposal, through the use of S106 and S278 agreements. The amount, type and timing of infrastructure delivery will relate to the scale of the development, viability and the impacts on the site and surrounding area.
- 4.41 Paragraph 22 of the SOCG includes the Heads of Terms of a S106 legal agreement, which seeks to address the numerous infrastructure demands associated with the Proposed Development, as highlighted in consultation responses from statutory consultees during the consideration of the application. The Officers Report (Page 34, CD4.02) confirms that the impacts of the proposed development on local infrastructure can either be offset within the application site or otherwise secured via commuted payments to improve facilities in the area in accordance with Core Strategy Policy CS24.
- 4.42 Notwithstanding this, one item within the Heads of Terms sought is not agreed by the appellant and relates to the NHS Healthcare contribution sought. This is addressed in detail in Mr Hunters Proof of Evidence.

Core Strategy Policy CS25: Presumption in Favour of Sustainable Development

- 4.43 CS25 states that when considering development proposals, the council will adopt a positive approach reflective of the presumption in favour of sustainable development within the Framework. The Council will work proactively with applicants to jointly find solutions which mean the proposals can be approved wherever possible, to secure development that improves the economic, social and environmental conditions of the area.

Queniborough Neighbourhood Plan Policy Q5: Infrastructure

- 4.44 Policy Q5 supports new development where it contributes to new or improved infrastructure, as required by Core Strategy Policy CS24. It is considered that the proposals accord with CS24 thus also accord with Q5.

Queniborough Neighbourhood Plan Policy Q8: Ecology and Biodiversity

- 4.45 Policy Q8 requires new development to demonstrate an overall net gain in biodiversity. It is considered that the proposals accord with CS13 thus also accord with Q8.

Queniborough Neighbourhood Plan Policy Q12: Housing Mix

- 4.46 Policy Q12 requires new developments of five or more dwellings to demonstrate how it will meet the housing needs of older households and/or the need for smaller, low-cost homes for sale including as part of any affordable housing element. The proposal is in outline and includes provision of 40% affordable homes. The size, type, and design of these are not currently known and such detail would be established by later reserved matters and assessed in more detail against Policy Q12 at that stage. It is considered that the proposals accord with CS3 thus also accord with Q12.

Emerging Planning Policy

- 4.47 The Council is in the process of preparing a new local plan for Charnwood to cover the period 2021-37. A Pre-Submission Draft Plan was published for consultation in July 2021 (Regulation 19). The Council submitted the Plan for Examination in December 2021 (CD5.04 and CD5.05). The policies of the Draft

Local Plan of most importance to the determination of the Appeal are considered below, however it should also be noted that none of the emerging policies are cited on the Decision Notice.

Draft Local Plan Policy DS1 (Development Strategy)

4.48 Policy DS1 sets out the strategic housing requirement in the submitted Draft Plan (**CD5.04**) is a minimum of 17,776 dwellings for the period 2021 – 2037. The overall spatial strategy is one of urban concentration, with 81% of the housing requirement directed to the Leicester Urban Area, Loughborough Urban centre and Shepshed Urban Area. 14% is directed to Service Centres and the delivery of 5%, at least 934 dwellings, across the Other Settlements – of which Queniborough is identified.

4.49 The policy is supportive of sustainable development that minimises the need to travel, particularly by private car, and prioritises public transport, walking and cycling, protects the intrinsic character of the countryside; maintains the functions of Green Wedges and Areas of Local Separation; and safeguards and delivers a net gain in biodiversity. The policy goes on to state that where a five year supply of deliverable housing land cannot be demonstrated, proposals for development should only be refused where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In these circumstances, proposals are only likely be permitted where they:

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

4.50 The LPA's position regarding the housing requirement has changed during the Local Plan Examination, as discussed further in paragraphs 4.62-4.73 below.

Draft Local Plan Policy DS2 (Leicester & Leicestershire Unmet Needs)

4.51 Policy DS2 seeks to defer a review into the apportionment of unmet housing and employment need from Leicester City to be met within the Borough until after the adoption of the Draft Local Plan. Again, the LPA's position in this respect has changed during the Local Plan Examination, as discussed further in Paragraphs 4.62-4.64 below.

Draft Local Plan Policy DS3 (Housing Allocations)

4.52 Policy DS3 makes provision for homes in accordance with DS1, listing sites to be allocated for housing. The policy makes provision for 155 new dwellings in Queniborough across two sites, both of which are beyond the settlement boundary, on greenfield land and within an Area of Local Separation. The sites adjoin one another, as illustrated at Figure 1, and comprise:

- HA64 Land at Threeways Farm, Queniborough 100 dwellings
- HA65 Land off Melton Road, Queniborough 55 dwellings

Figure 1 – HA64 and HA65 Emerging Local Plan Diagram



4.53 Supporting Policy DS3 (HA64) Land at Threeways, Queniborough and Policy DS3 (HA65) Land off Melton Road, Queniborough support development proposals that:

- *restrict development to the southern part of the site; and*
- *through their design and layout, clearly maintains the physical and perceptual separation between Queniborough and East Goscote and preserves the separate identity of those settlements.*

Draft Local Plan Policy DS5 (High Quality Design)

4.54 Policy DS5 is similar to Core Strategy Policy CS2 and provides a number of criteria to ensure the delivery of high-quality design. As noted above, the Officers Report (CD4.02) outlines that the proposals accord with Policy CS2 in respect of Infrastructure Capacity, subject to securing appropriate obligations through a S106 agreement (Page 23), highways (Page 24), and indicative layout (Page 26). Accordingly, the proposals are considered to accord with emerging Policy DS3.

Draft Local Plan Policy OS1 (Other Settlements)

4.55 Policy OS1 sets out how development should be delivered in Other Settlements, essentially limiting that to allocations in accordance with Policy DS3, or small-scale development within defined Limits to Development. The supporting text confirms that whilst the 14 Other Settlements form a “recognisable tier” in the spatial hierarchy, there is also “significant degree of variation between them”, ranging from settlements with a population of only 217 (Swithland) to settlements of nearly 3,000 (East Goscote) (CD5.04, Paragraph 3.208). Queniborough is towards the higher of this scale having a population of 2,326 (Figure 2, CD5.12).

Draft Local Plan Policy H4 (Affordable Housing)

4.56 Policy H4 seeks 30% affordable housing from all major housing developments on greenfield sites. It is of note that the adopted policy requires 40% on the appeal site and forms part of the appeal proposals.

Draft Local Plan Policy EV1 (Landscape)

4.57 Policy EV1 seeks to carefully manage development to protect the Borough’s distinctive landscape by requiring new development to protect landscape character and to reinforce sense of place and local distinctiveness and requiring new development to maintain the separate identities of the Borough’s towns and villages.

Draft Local Plan Policy EV3 (Areas of Local Separation)

- 4.58 Policy EV3 seeks to protect the predominantly open and undeveloped character of Areas of Local Separation, only supporting development that preserves settlement identity and clearly maintains the physical and perceptual separation between the built-up areas of settlements.
- 4.59 Supporting text states that “In identifying our development strategy, we have carefully balanced the need for development against a range of sustainability indicators, and the scope to mitigate adverse effects. This process has resulted in housing allocations in areas previously identified as Areas of Local Separation, but these allocations will require careful planning through their design and layout to minimise the impact on the physical and perceptual separation between the built areas of settlements.” **(CD5.04, paragraph 8.20)**
- 4.60 Clearly the emerging policy acknowledges that impact can be minimised through a scheme’s design and layout. It is a more nuanced approach than the adopted plan policy therefore.
- 4.61 The preceding paragraph, 8.19 **(Page 182, CD5.04)** discusses a review of how existing Areas of Local Separation are working and whether there is a need for new ones and goes on to list the ALS areas proposed; ALS10 relates to Queniborough/Syston.

Local Plan Examination

- 4.62 The Draft Local Plan has been submitted to the Secretary of State and is currently undergoing scrutiny through the examination process. 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) **(CD5.16)**, having formally committed to do this through a subsequent Local Plan review. The housing requirement figure in the submitted plan being 1,111 dpa, comprising the local housing need based on the standard methodology. The SoCG apportions 78 dwellings per annum to Charnwood, increasing the overall housing requirement from 1,111 dpa to 1,189 dpa.
- 4.63 Given the significant change in circumstances, the Examination Inspectors postponed further hearing sessions in order to consider how the apportionment could be tested, subsequently confirming that further consultation should be undertaken on the SoCG and associated evidence base, including the Leicester & Leicestershire Housing and Economic Needs Assessment (June 2022) (HENA) **(CD5.18)**, with specific hearing sessions scheduled in October 2022 on these matters.
- 4.64 The Examination Inspectors subsequently published their initial findings on 18th November 2022 **(CD5.19)**, concluding that there was no reason to disagree with the HENA’s own conclusion that the standard method establishes a minimum housing need of 91,408 dwellings across the Housing Market Area (HMA)] to 2036 and that a figure of 18,700 dwellings represents a reasonable working assumption for the scale of Leicester’s unmet housing need from 2020 to 2036. The Examination Inspectors go on to state that based on the proposed apportionments set out in the SoCG, Charnwood’s minimum local housing need will increase by 78 dwellings per year, from 1,111 to 1,189 dwellings per year, also noting however, that whilst the HENA does not find a case for upward adjustments to overall housing need across the HMA, it recognises that there may be a case for considering some flexibility for specific Plans, including due to declining affordability. Therefore, whilst the minimum local housing need is 1,189 dpa, Inspectors state that the revised figure will be subject to further testing at further hearing sessions.
- 4.65 The Examination Inspectors also noted that based on their findings, an increase in supply to meet Charnwood’s local housing need plus Leicester’s unmet need, will be necessary. However, pending further testing of the housing requirement and the soundness of the proposed site allocations, the scale of the increase is still uncertain at this stage. Inspectors therefore requested that the Council consider the

options for an increase in supply, but within the context of some uncertainty about the precise figure that will be needed.

- 4.66 As part of its Matters Statements in respect of additional Hearing Sessions held in February 2023, the LPA published an Additional Housing Supply Technical Note (CD5.20), Sustainability Appraisal Addendum (CD5.21) and Housing Trajectory (CD5.22) in January 2023, on the same deadline as other participants of the Local Plan Examination, meaning no written statements were possible in response to the publication of these very substantive new Examination documents.
- 4.67 The Additional Housing Supply Technical Note concludes that an additional 1,458 dwellings will be needed across the Plan period of 2021 to 2037 to meet the requirement of 1,189 dpa whilst maintaining a 10% supply buffer. It considers that this would be best delivered by making more efficient use of existing sources of supply, rather than identifying new potential allocations. This includes proposals that land at Queniborough could accommodate a further 90 dwellings across the two draft allocations (an additional 60 at HA64 and additional 30 at HA65).
- 4.68 The new evidence documents were widely debated at the Examination, not least because of the importance of this evidence together with the timing of its production has meant that the opportunity for parties to review and respond are prejudiced. Accordingly, it has been put to the Examination Inspectors that a period of formal consultation must occur on the new evidence, to which written comments be invited as well as the potential for additional hearing sessions to be held to discuss the content of those written comments¹. The Council has set out its agreement with this approach to the Examination, through a legal opinion provided by their instructed advocate, Richard Humphreys KC (Paragraph 7, CD5.26). The Examination Inspectors have advised that they need to take into account steps for re-consultation on all of the additional material and would provide an update accordingly.
- 4.69 During the February Examination sessions the LPA further amended the Housing Trajectory which reduced the purported housing land supply from 6.06 years (CD5.22) to 5.79 years (CD5.29) on adoption of the Plan. The LPA had however, incorrectly calculated this, omitting the 875 dwelling shortfall from the initial two years of the emerging Plan – which had not gone unnoticed by the Examining Inspectors or participants of the Examination.
- 4.70 In accordance with the PPG (Paragraph: 031 Reference ID: 68-031-20190722) the LPA is required to deal with under delivery when the Plan being prepared is part way through the proposed plan period and delivery falls below the housing requirement level set out in emerging relevant strategic policies for housing. The level of deficit is calculated from the base date of the Plan, therefore under delivery in the first two years of the Plan period must be included when calculating Charnwood's future supply. The clear preference within the PPG is for such under delivery to be dealt with by means of the Sedgefield method, i.e. met in the next 5 year period thus included wholesale in the 5 year land supply calculation. Moreover, when calculating the housing land supply, the appropriate buffer (5% in Charnwood) is applied to both the proposed requirement in strategic policies and the shortfall. Despite being clear within the PPG, Charnwood's submissions within the EiP (CD5.27) did not include a calculation inclusive of the shortfall, therefore presenting an overly optimistic land supply figure for the current year.
- 4.71 Consequently, once applied, even using the LPAs own supply figures (7,227 dwellings), and before any critical examination of assumed supply is undertaken, this would equate to a supply of only 5.05 years which is clearly marginal, and relying on windfall development to achieve this (Appendix 1). The Appellants made representations at the Examination, utilising a more realistic supply (6,399 dwellings) outlining that at best, a supply of 4.47 years was possible, thereby necessitating additional sites to be identified to ensure

¹ Following the submission of an opinion from Paul Tucker KC, acting on behalf of the promoters of the SW Loughborough omission site.

the requisite five year supply was demonstrable at the time of Plan adoption. The Inspectors also noted that the five year supply would not be maintained throughout the Plan period. It therefore seems highly likely that the Examining Inspector's will require the LPA to identify additional supply.

4.72 Entwined with the above, is that the Council are anticipating it will publish a new five year housing land supply for 2022/2023 in May 2023. It is not anticipated that this will exceed the requisite supply of 5 years, and so does not alter the discussions set out in Section 6 of this Proof, however, in the event that it identifies further shortfall in delivery across the initial years of the plan period, this will need to be factored in to the five year housing land supply calculations for the Local Plan Examination, and depending on the outcome, may require further supply to be identified.

4.73 On 23 May 2023 the Inspector's wrote to the LPA (**CD8.17**) outlining the next steps for the Examination following the hearings in February. This sets out further work is required in respect of Transport Strategies and Viability Assessment, and that there should be a period of consultation on the outcome of that work in advance of the formal consultation on main modifications. The letter also outlines that a period of consultation should also take place on the following, in advance of the formal consultation on main modifications:

1. The Sustainability Appraisal Addendum (Exam 57)
2. The proposed approach to increasing housing land supply as set out in Exam 56, including the sites proposed for an increase in capacity in Appendix A Tables 1, 2 and 3.
3. Updated completions/housing land supply monitoring data to 31.3.23.

4.74 As noted above, the LPA are expecting to publish updated housing land supply calculations mid-May, for both development management purposes as well as for the Local Plan examination. At the time of writing this has not been published.

4.75 The Inspector's letter also sets out the following:

"The consultation we have proposed may raise issues that need to be addressed as part of our assessment of the legal compliance and soundness of the Plan, and we therefore reserve our position in terms of coming to our overall conclusions in due course."

4.76 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 to be undertaken and 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.

Other Material Considerations

[Leicestershire County Council's Interim Transport Contributions Strategy for Developments in Charnwood District](#)

4.77 Whilst formal consultation responses have been received from Leicestershire County Council (LCC) as the Local Highway Authority (LHA) and Local Education Authority (LEA), Officers at the LPA made the

Appellant aware that the LHA 'may' be seeking to implement an Interim Transport Contributions Strategy following a Cabinet meeting held on 10th February 2023. The Cabinet meeting sought approval of the Strategy, which could seek substantial contributions over and above those already sought, and agreed.

- 4.78 The Appellants subsequently wrote to LCC seeking clarification on the status of the strategies, whether they would be material to this appeal and the purported date of adoption of the strategies. A response was received from LCC on 10 May 2023 (**CD8.16**) which clarified the following:

"We would request a reasonable amount of time to reply to your questions. However, in order to be helpful, we would initially comment as follows:

1. *The status of the 'interim strategies' has not changed since the Cabinet decision.*
2. *This is a question for Charnwood Borough Council, as the relevant local planning authority. The strategies have not been implemented and as such, do not form part of the upcoming Barkby Road appeal. We attach the CIL compliance statement for this appeal which has been submitted to the Planning Inspectorate requesting the various County Council contributions. The County Council will not be requesting any contributions over and above those contained in the attached document.*
3. *The relevant policy is still under development and its implementation date is currently unknown."*

- 4.79 For clarity, all of the contributions sought through the CIL compliance statement (**CD8.15**) are agreed with the appellant.

- 4.80 LCC have subsequently confirmed their position in a letter to the appellants solicitor's (**CD8.16**), and that no additional consultation responses have been received requesting additional contributions. The matter is currently being addressed by way of preliminary legal exchanges. Should LCC resile from its current position in this appeal then the Appellant will seek to provide the inquiry with further details of those exchanges.

Other Relevant Documents

- 4.81 I also refer to the following evidence base and policy documents in my Proof of Evidence:

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (PPG)
- Charnwood Settlement Hierarchy Assessment October 2020 Update (**CD5.12**)
- Housing Supplementary Planning Document (adopted May 2017 – updated December 2017) (**CD5.11**)
- Development Strategy and Site Selection Topic Paper (July 2021 Updated December 2021) (**CD5.13**)

Planning Decisions

- 4.82 I refer to the following appeal and application decisions in Charnwood Borough which all relate to applications for outline planning permission for residential development on sites located outside of adopted settlement limits, which involved consideration of harmful landscape impacts in the overall planning balance:

- Development of up to 170no. dwellings on land east of Cossington Road, Sileby (PINS ref: APP/X2410/W/21/3287864), which was allowed on 13th June 2022 (**CD6.07**)
- P/12/2005/2 and P/12/2456/2 - APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929 - Secretary of State's (SoS) decision - Land off Mountsorrel Lane, Rothley (**CD6.08**)
- P/20/1605/2 - Officers Report - Land at Melton Road, Queniborough - Outline application for erection of up to 200 dwellings, all matters reserved except access (**CD6.10**)

5. Main Issue 1

The effect of the development on the character and appearance of the area including the Area of Local Separation

- 5.1 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.

Effects on Landscape Elements

- 5.2 In terms of the effect on landscape elements, Mr Cook explains that the appeal site comprises a number of landscape elements including topography, land cover, vegetation, trees and hedgerows. The majority of these individual elements would be retained and enhanced which would result in net beneficial effects with regard to landscape elements within the site. The scheme would inevitably result in the loss of some arable land, comprising two fields. There would be no change to landscape elements beyond the site, apart from the proposed off-site highway improvement works.

Effects on Landscape Character

- 5.3 In relation to the effect on landscape character, Mr Cook considers that the site and its surroundings and Queniborough all fall within the High Leicestershire NCA 93 and locally the Wreake Valley landscape, adding that all of the key characteristics that define the local landscape character beyond the site would remain physically unaffected (including experiential aspects), and there would be no material change to the landscape character of the area beyond the site with the proposed scheme in place. Mr Cook adds that the effect on landscape character beyond the site would be negligible. I endorse and adopt Mr Cook's conclusions.
- 5.4 Mr Cook goes on to explain that the site is proposed to accommodate a residential neighbourhood which as a high-quality scheme, would reflect the local vernacular architecture and which would be in keeping with other residential areas associated with Queniborough. Mr Cook adds that the proposal would result in a change to the character of the site, an inevitable consequence of accommodating housing on a greenfield site and thus resulting in a moderate (adverse) degree of effect, as it relates to the site itself and would be limited and highly localised.
- 5.5 Turning to the balance of the site, Mr Cook sets out that much of the site would form substantial green infrastructure, which would bring about a degree of change in character terms from the arable fields and be more in keeping with the area with grassland areas together with tree-belts, pond and improved recreational opportunities. Such change to the character of the site would bring about a degree of change and enhancement, which would be beneficial in nature. I endorse and adopt Mr Cook's conclusions.

Effects on Visual Amenity

- 5.6 Mr Cook's evidence considers how the proposed scheme would have a bearing upon general visual amenity. He explains that the potential to observe the scheme in terms of the visual envelope would be mainly restricted to the immediate environs of the site and contained within the local landscape. As such, the proposed housing would have a limited visual envelope. Where observed, the proposed scheme would be generally framed and screened by built form and vegetation such that it would be difficult to distinguish it from Queniborough, once in place.
- 5.7 Mr Cook adds that it would also always be seen in the context of adjacent industrial and residential development, meaning that the proposed scheme would not visually extend the visual envelope of Queniborough as it relates to the wider landscape, but rather it would fall within the existing visual envelope

associated with the wider environs of Queniborough. As a result, the magnitude in terms of the degree of effect would be quite limited and local to the environs of Queniborough. The scheme would also not materially impinge in visual terms upon the existing visual relationship between the Queniborough and Syston settlement further to the south, an aspect that the Council seeks to protect.

- 5.8 With regard to visual amenity, Mr Cook adopts a precautionary approach and assumes that the nature of effect would be adverse in overall terms even though the landscape design itself would be attractive and beneficial. The proposal would result in some physical loss of arable land, but in character terms Mr Cook considers that whilst the proposals would result in a change to the landscape at a very localised site level, that they would have a limited effect on the landscape character of the site and would not cause material harm. Once the green infrastructure is established and has the opportunity to mature, the proposals would have a more positive screening effect with regard to the site and as appreciated visually within the local environs. The proposed development would have some limited and highly localised visual adverse effects. I endorse and adopt Mr Cook's conclusions.

Area of Landscape Separation

- 5.9 Mr Cook's evidence considers loss of Area of Local Separation, explaining that whilst the proposal would physically extend and encroach into the ALS, what needs to be borne in mind is how the various parcels on land within the ALS are actually performing in the role to maintain separation between the two settlements. In considering this point Mr Cook notes that the area which would accommodate the proposed housing presently only has a limited role in realising the function of this separation policy, which would be mitigated by the proposed extensive new green infrastructure. As a result, whilst there would be some physical loss, the actual and perceived sense of separation would not materially change with the proposed scheme in place.
- 5.10 Mr Cook adds that the actual physical distance in terms of the gap between Queniborough and Syston is presently defined by the southernmost points of Queniborough and the northernmost point of Syston. This narrowest gap along Melton Road would remain unchanged and as such, there would be no narrowing of this gap in physical terms.
- 5.11 The actual gap of open undeveloped land at its narrowest point is formed by the southernmost point of Queniborough and the northernmost point of Syston and that this is most readily appreciated by travelling along the Melton Road, either as a pedestrian or road user. Mr Cook considers that with the proposed scheme in place, there would be no reduction in this narrowest actual gap. Even with encroaching into the ALS, the proposal would not reduce this actual distance between the two settlements which would appear as open undeveloped land.
- 5.12 Mr Cook notes that the Reason for Refusal states that coalescence would occur, but considers that this would not be the case here and sees no evidence to substantiate this actual proposition.
- 5.13 In terms of a perceived reduction of the gap Mr Cook explains that the two means by which members of the public can appreciate and have a perception of the gap is by passing through the area and appreciating the area from locations that are publicly accessible, which are generally public highways, rights of way and other publicly accessible areas such as the cemetery for instance. Having examined the gap from the local public highways and rights of way and other public locations, Mr Cook explains that the area proposed to accommodate the appeal scheme, performs a limited role in maintaining the perceived sense of separation between Queniborough and Syston and as such, would not materially change the perceived sense of separation between these two settlements.
- 5.14 Mr Cook notes that there are a number of recently consented developments and proposed housing allocations in the locality. I discuss these below.

The Millstones (David Wilson Homes)

- 5.15 The 2014 planning permission for 101 dwellings at land to the north of Syston, known as The Millstones, by David Wilson Homes, was complete by April 2018, leaving only the cemetery element which was complete by April 2020. The site was located within the ALS, but the Officers Report (**CD6.39**) noted that *"Although there would be some impact on the character of the edge of the open countryside and landscape, this impact would not be so significant or demonstrable as to outweigh the benefits of providing housing land."* The application was considered in the same context as the appeal application, with the Council being unable to demonstrate a five-year housing land supply and the Local Plan being out-of-date. At that stage the Core Strategy had been submitted for Examination.

Queniborough Lodge

- 5.16 The Queniborough Lodge site is an adopted allocation for 132 dwellings in the Queniborough Neighbourhood Plan (**Policy Q10 – CD5.06**), following three consents for 132 dwellings, the latter secured in January 2015. These applications have since lapsed. The site was located within the ALS, but the Officers Report (**Page 18, CD6.40**) noted that *"it is your officers opinion that although there would be some impact on the character of the edge of the open countryside and landscape, this impact would not be so significant or demonstrable as to outweigh the benefits of providing housing land"* The application was considered in the same context as the appeal application, with the Council being unable to demonstrate a five-year housing land supply and the Local Plan being out-of-date. At that stage the Core Strategy had been submitted for Examination and was afforded limited weight.

Barley Fields (Davidsons Homes)

- 5.17 Pertinent to framing of the appeal scheme and its context within the ALS is the neighbouring land east of Barkby Road (Barley Fields) developed by Davidsons Development – immediately opposite the appeal site. Whilst outside of the ALS, the development of this site is of relevance to the appeal site.
- 5.18 Outline consent was secured in March 2015 by Gladman Developments for 165 dwellings having received an officer recommendation for approval. The Officer's Report (**CD6.41**) highlighted that the lack of a 5-year housing land supply (4.42 years) being highly material to the determination of the planning application due to the presumption in favour of sustainable development.
- 5.19 Davidsons Homes purchased the site and two Reserved Matters applications, and a further Full application were subsequently approved. Google Earth imagery demonstrates that in April 2016 there had been initial groundworks. This had progressed to approximately 60 completions by April 2018. Construction continued until April 2020 wherein the scheme appeared to be largely complete, save for completion of the site's landscaping and open spaces which still needed to mature. This is pertinent as when the initial David Wilson Homes application P/18/0309//2 was refused in June 2018, the scheme east of Barkby Road was still incomplete, therefore providing a different context to the appeal proposal which is now framed by development on three sides, with the Davidsons development complete.

Allocations

- 5.20 In terms of proposed allocations, one of which lies to the east of Syston (HA2) with another to the north of Syston (HA4), whilst a third area is identified on the north side of Queniborough (HA64 and HA65 which adjoin). HA4 is the Queniborough Lodge site, which is allocated in the Queniborough Neighbourhood Plan. Site HA2 currently lies wholly outside of the ALS, whilst HA64 and HA65 currently lie within the Queniborough-East Goscote ALS, rather than the Queniborough-Syston ALS. An application for 220 dwellings at HA64 was refused at Planning Committee in November 2018. A second application for a reduced 200 dwellings was recommended for approval by Officers, but refused at Planning Committee in March 2021.
- 5.21 Despite the above, both HA64 and HA65 immediately adjacent are considered by the Council to clearly maintain the physical and perceptual separation between Queniborough and East Goscote and preserves the separate identity of those settlements (**paragraph 2.119 and 2.121 of CD5.04**).

5.22 Mr Cook considers that the proposed scheme would still maintain clear separation between the Syston and Queniborough, even in the context of other planning permissions and allocations in the locality. Mr Cook adds that reference is made in the reason for refusal to the proposal having a harmful effect cumulatively with other development (presumably in the locality). The Officer's Report does not identify any cumulative harm with other development in the locality. The local allocations do however form the baseline in terms of what the Council considers acceptable and as such any harm resulting from these proposals must be considered acceptable. Mr Cook cannot identify any material harm with regard to the proposal in combination with other development in the locality as the sense of separation and gap would continue to prevail with the scheme in place as would the separate identities of Queniborough and Syston. I endorse and adopt Mr Cook's conclusions.

Significant harmful impact to the character of the countryside

5.23 Mr Cook considers that the proposed residential scheme would change the character of the site from two arable fields to a residential neighbourhood with green spaces, but that what is proposed in this regard would be in keeping in character and consistent with other nearby residential neighbourhoods of Queniborough. Development of this greenfield site would involve the loss of a limited area which is currently countryside. An integral part of the scheme is to provide areas of naturalistic landscape as green infrastructure. This area would be managed as a series of spaces with various grassland areas punctuated with standard trees and shrubbery. Mr Cook considers that this overall change to the character of the site to be adverse in character terms with the proposed dwellings. Mr Cook opines that there would be no material harmful effect on the character of the countryside beyond the site and the remaining ALS. He adds that the limited and moderate harm would be highly localised to the immediate environs of the site. I endorse and adopt these conclusions.

Significant harmful impact to the separate identities of the villages

5.24 In terms of separate identities of the villages, Mr Cook explains that it is the character of the villages that defines these.

5.25 In respect of Queniborough, Mr Cook notes that the southern part of the village associated with Melton Road reveals a commercial and industrial character with various large buildings. He adds that further north along Melton Road, residential properties of various styles, form and size front onto this highway, with the southern part of Queniborough also defined by residential areas. These areas are characterised by residential roads with roadside pavements, street lighting and street furniture. The housing is primarily composed of terraced units, semi-detached and detached properties. There are also some single storey and 1 ½ storey dwellings whilst most are 2 storey. Most of the residential roads are flanked by pavements. Additionally, Mr Cook notes that immediately to the east of the site also forming the southern part of Queniborough is a recently constructed neighbourhood which is primarily characterised by a variety of two storey dwellings, also constructed of brick and rendered elevations. The predominant building material is a light coloured red brick with roofs constructed of clay and concrete tiles.

5.26 In terms of Syston, Mr Cook notes that the northern part reflects a relatively recently constructed residential neighbourhood, also constructed by David Wilson Homes. The houses are predominantly two storeys reflecting red brick and painted render for much of the properties which face onto a combination of residential roads and green urban spaces. Again, the residential roads are flanked with pavements. The older houses also are generally constructed of red brick and render, reflecting a range of architectural styles with some terraced units, semi-detached and detached properties characterising the area. Mr Cook considers that the separate identities of these settlements as perceived would remain unchanged with the proposed scheme in place. The actual physical minimum distances that separate the two villages would remain and both settlements would continue to be framed within the context of a rural landscape. Accordingly, Mr Cook considers there would be no change to the separate identities of the villages. I endorse and adopt these conclusions.

Prevent the coalescence of merging of villages

- 5.27 Mr Cook notes that countryside separates Queniborough from Syston and as such, prevents any coalescence and the merging of the two villages. The perceived and actual narrowest gap between the two villages would not materially change with the proposed scheme in place. The proposed landscaping would produce an effective southern edge to Queniborough in this location. Furthermore, the proposal would not bring about any physical coalescence of the villages and would maintain the purpose and integrity of the gap. I endorse and adopt these conclusions.

Conflict with the development plan and the weight to be given to any conflict with those policies

- 5.28 The development plan policies of relevance to Areas of Local Separation include Core Strategy Policy CS2, CS11, Saved Local Plan policies EV/1, CT/1, CT/2 and CT/4, and Neighbourhood Plan Policy Q6. Any conflict and weight to be afforded to these policies is set out in **Table 1** at page 44 of this Proof.

Core Strategy Policy CS2: High Quality Design

- 5.29 Policy CS2 requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access; protect the amenity of people who live or work nearby, provide attractive well managed public and private spaces; well defined and legible streets and spaces and reduce their impact on climate change.
- 5.30 The application sought outline planning permission only, with all matters reserved other than for the point of access into the site. As discussed in Mr Cook's Proof, the proposed scheme is designed to be of high quality both in terms of the built environment and its green infrastructure such that it would respond positively to the local urban context of Queniborough and reinforce its sense of place thus making a positive contribution to the locality. The scheme would not only respect but bring about enhancement to the character of the locality having regard to aspects such as scale, density, massing, height, layout, materials and landscape. The proposal would respect the residential amenity for existing properties adjacent to the site whilst provide a suitable attractive living environment for new residents of the scheme. The proposal would introduce a significant amount of green infrastructure and as such the maturation of the landscape, trees and hedges would increasingly enhance the quality of the area over the lifetime of the development. Furthermore, the proposal would provide attractive and safe environments for people to live. The layout of the design has been carefully considered to ensure that there is clear legibility with regard to the residential roads and open spaces. The open spaces accommodating substantial tree cover particularly the tree belt along the southern boundary would assist in mitigating the effects of climate change. In overall terms the proposed scheme would comply with Policy CS2.
- 5.31 Furthermore, the appeal proposal creates the opportunity to enhance the current 'harsh' edge of Queniborough including an enhanced tree belt along the southern boundary enhancing the structural and functional separation between the villages which would add to the remaining physical separation to help preserve separate identities.
- 5.32 The Officers Report (**CD4.02**) outlines that the proposals accord with Policy CS2 in respect of Infrastructure Capacity, subject to securing appropriate obligations through a S106 agreement (**Page 23**), highways (**Page 24**), and indicative layout (**Page 26**).
- 5.33 Notwithstanding Officer advice, members refused permission on the basis of conflict with Policy CS2. The LPA's Statement of Case refers to the coalescence of Syston and Queniborough, or erosion of the valuable landscape separating the settlements, as offending part of policy which requires that development should respond positively to their context and reinforce a sense of place.
- 5.34 As a design principles policy I consider it to be consistent with the NPPF and full weight can be afforded. Having regard to the above, I consider that there is no conflict with Policy CS2

Core Strategy Policy CS11

- 5.35 In terms of assessing the proposals against Policy CS11, as Mr Cook sets out in his Proof, the proposed scheme would protect the landscape character of the site (Policy CS11 bullet point 1), so far as is possible in the context of accommodating a new residential scheme. Apart from the loss of the arable land, an inevitable consequence of green field development, all other landscape elements would be retained and augmented to reinforce the sense of place and local distinctiveness as it relates to landscape character. The site currently exhibits a limited sense of tranquillity given its urban fringe, edge of settlement location. Against this baseline the proposed scheme would have little bearing upon the local tranquillity levels and would result in no material change (bullet point 2). Mr Cook considers that the proposal would read as part of Queniborough with clear separation between it and Syston to the south and as such would maintain the separate identities of these two villages (bullet point 3). This is in accordance with Policy CS11.
- 5.36 Further to the above, the policy allows for a judgement to be made about whether *“new development clearly maintains the separation between the built-up areas of these settlements”*. As I explained above, this judgement is not one which can simply be made by looking at a plan and assessing a reduction in area; it is far more nuanced requiring both qualitative and quantitative factors to be considered.
- 5.37 As discussed at paragraphs 5.10-5.14 Mr Cook considers that the proposed development would maintain the separation between the built-up areas of Queniborough and Syston. Both Mr Cook and I consider that the appeal proposal accords with the landscape and ALS aspects of Core Strategy Policy CS11.
- 5.38 The Officers Report (**Page 19-22, CD4.02**) contains an analysis of the proposals in the context of landscape and settlement character (including the Area of Landscape Separation) which, in contrast, considers that the proposals would fail to maintain the separate identities of Queniborough and Syston and would detract from the character of the countryside in this location. Officers noted, however, that there is potential to reduce the level of harm to a certain extent by securing a robust landscaping strip on the southern boundary, opining (**Page 34, CD4.02**) that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with Policy CS11. Importantly the extent of the proposed landscaping has now been strengthened with the proposed planting to the immediate south of the site.
- 5.39 A similar example to the appeal scheme is that of land east of Cossington Road, Sileby (P/21/0491/2 and APP/X2410/W/21/3287864). The proposals for up to 170 dwellings were outside of, but abutting, the settlement boundary and within an Area of Local Separation. In his appeal decision, the Inspector set out *“..the development would maintain the separate identities of Sileby and Cossington and clearly maintain the separation between the built-up areas in accordance with CCS Policy CS11”* Whilst the Inspector considered in that case that there would be conflict in terms of the effect on landscape character, given the 3.34 years housing land supply at the time of the appeal (now 3.04 years) the overall harm (moderate) of the development did not significantly outweigh the benefits, which include those of significant weight.
- 5.40 The appeal scheme represents a somewhat similar scheme to the Sileby appeal case with an overall ‘on the ground’ judgment being decisive - assessing all aspects of the scheme, including the proposed mitigation.
- 5.41 Notwithstanding conformity with Policy CS11, it is noted that the Council has previously recommended approval, consented or identified land for allocation within Areas of Local Separation in cases where a conflict with Policy CS11 was considered. In considering an outline planning application for 200 dwellings at Land at Melton Road, Queniborough (P/20/1605/2), the Officers Report (**CD6.10**) states:

“Whilst the development would be within the Area of Separation, the policy does not preclude the principle of all development as the wording recognises that some development may be acceptable if it clearly maintains separation. Consideration of the proposals therefore needs to be based on whether the proposed development, including the indicative layout, would fail to protect and maintain the area of separation and, if

it does, whether this constitutes a significant and adverse impact in terms of the NPPF paragraph 11 d)'s 'tilted balance'. (Page A16, CD6.10)

The weight given to the impact on the landscape and area of separation is to be considered in the planning balance of NPPF paragraph 11 d) as to whether it is significant and adverse such that the harm outweighs the benefits of providing much needed housing in a sustainable location. It is officer's opinion that the impact of the development on the appearance of the countryside and the purposes of the area of separation can be mitigated through substantial landscaping such that the harm would not be significant and demonstrable in its own right. Nevertheless, the proposals would have a degree of harm which is to be considered in the overall balance". (Page A16, CD6.10)

5.42 In undertaking the balance, the Officer concluded that:

"With its location in the countryside and a designated area of separation, the proposals would be contrary to the Core Strategy policies CS11 and saved local plan policies CT/1 and CT/4 as well as emerging neighbourhood plan policy Q6 however this harm is not considered to be significantly adverse to justify refusal under the provisions of NPPF 11 d)." (Page A16, CD.10)

5.43 The application, referred to above, is considered in the same context as the appeal application, with the Core Strategy being out-of-date and the Council being unable to demonstrate a five-year housing land supply. Whilst Mr Cook and I consider there to be no conflict with Policy CS11, even in the Council's scenario that significant harm arose as a result of the appeal application, this harm is not considered to be significantly adverse to justify refusal under the provisions of Paragraph 11d of the NPPF.

5.44 The Queniborough scheme was refused against the Officers recommendation to approve in March 2021. The site, located wholly within the ALS, has subsequently been identified as a proposed allocation (Ref: HA64) for 100 dwellings in the emerging Charnwood Local Plan (CD5.04 and CD5.05).

5.45 It should also be noted that the following proposed allocations are included in the emerging Local Plan on sites falling within ALS's:

Allocations Reflecting Consented sites within the ALS

- HA4 Queniborough Lodge, Syston – 132 dwellings

Proposed new Allocations

- HA64 Land at Threeways Farm, Queniborough – 100 dwellings
- HA65 Land off Melton Road, Queniborough – 55 dwellings

5.46 In my judgment, Policy CS11 carries 'moderate weight' as whilst the policy does not prohibit housing in the countryside or ALS, it does limit it, and there needs to be a balance between the retention of ALS and the need for new housing in the current scenario whereby the LPA are not delivering its housing needs. Regardless, having regard for the requirements of CS11 for proposals to clearly maintain the separation between the built-up areas of these settlements, it is considered the scheme is in accordance with the requirements of this policy.

Local Plan 2004 Saved Policy EV/1: Design

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

- 5.48 In design terms the proposal would deliver a high standard of design which could be secured through a reserved matters application. The proposal would respect and enhance the local environment and reinforce Queniborough whilst maintaining open and undeveloped countryside between Queniborough and Syston. The scheme would be compatible with the locality particularly the adjacent residential areas. The scheme would be able to use local materials to reinforce the local sense of place which would facilitate and deliver attractive dwellings set within a high quality landscape framework. No important viewpoint, landmark or skyline would be adversely affected as a consequence of this proposal. The existing landscape elements that currently define the site have been carefully integrated to form an attractive landscape framework. The adjacent residential properties would be protected in terms of their amenity. The scheme complies with the National Design Guide and as such would deliver a safe and secure living environment.
- 5.49 The Officers Report (**Page 26, CD4.02**) outlines that the indicative details demonstrate that there is potential for an appropriately designed development to be achieved at this site in accordance with saved Local Plan Policy EV/1. Notwithstanding that advice, members refused permission on the basis of conflict with saved Local Plan Policy EV/1. The updated illustrative masterplan shows an additional 10m tree planting belt within the blue line, the illustrative plan within the red line area remains as previous, and but equally accord with Policy EV/1.
- 5.50 As a design principles policy I consider it to be consistent with the NPPF and full weight can be afforded. Having regard to the above, I agree with officers and consider that there is no conflict with Policy EV/1.

Saved Local Plan Policy CT/1

- 5.51 Saved Local Plan Policy CT/1 seeks to 'strictly control' development outside of the defined limits to development, including in the countryside, Green Wedges and Areas of Local Separation. It is accepted that the proposal lies beyond the settlement and with the ALS, thus a conflict with this policy.
- 5.52 It is my view that Saved Local Plan Policy CT/1 is inconsistent with the NPPF. The policy seeks to restrict development in a similar manner to Green Belt policy. The NPPF is more permissive of development in the open countryside than previous iterations of National Planning Policy; Saved Local Plan Policy CT/1 does not reflect this position. Further, by its nature, Saved Local Plan Policy CT/1 reflects the limits to development, which as I referred to in respect of Saved Local Plan Policy ST/2, are out of date as they no longer respond to the current local housing need requirement. Saved Policy CT/1 cannot therefore be considered to be up to date. Saved Local Plan Policy CT/1 is out of date and only **limited weight** can be given to it.
- 5.53 As with Saved Local Plan Policy ST/2, CBC have allowed a breach of Saved Local Plan Policy CT/1 on numerous occasions by approving residential schemes on 'land lying outside the defined limits to development'.
- 5.54 The Officers Report (**Page 21, CD4.02**) outlines that the proposal would be contrary to Policy CT/1 based on the overall scale of the development presenting an incursion into an open section of countryside between Queniborough and Syston. It agrees however (**Page 19, CD4.02**) that given the current lack of a 5-year supply of housing land, and the age of Policy CT/1 that the weight that can be ascribed to it is reduced and in the planning balance the Officers Report considered that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with saved Local Plan Policy CT/1.

Saved Local Plan Policy CT/2

- 5.55 Saved Local Plan Policy CT/2 indicates in areas defined as countryside, development acceptable in principle will be permitted where it would not harm the character and appearance of the countryside and safeguards its historic, nature conservation, amenity and other local interest. The range of developments acceptable in principle is defined in Policy CT/1.

- 5.56 The Local Plan Proposals Map (**CD5.02**) clarifies that the 'countryside' designation applies to all land outside the Limits to Development which is not designated as Green Wedge or ALS. Therefore, Policy CT/2 is not applicable.
- 5.57 In any event, it is my view that Saved Local Plan Policy CT/2 is inconsistent with the NPPF. The policy reflects the limits to development, which as I referred to in respect of Saved Local Plan Policy ST/2, are out of date as they no longer respond to the current local housing need requirement. Saved Policy CT/2 cannot therefore be considered to be up to date. As with Saved Local Plan Policy ST/2, CBC have allowed a breach of Saved Local Plan Policy CT/2 on numerous occasions by approving residential schemes on 'land lying outside the defined limits to development'.
- 5.58 Saved Local Plan Policy CT/2 is out of date and only **limited weight** can be given to it.
- 5.59 The Officers Report (**Page 21, CD4.02**) outlines that the proposal would be contrary to Policy CT/2 based on the overall scale of the development within countryside, but agrees (**Page 19, CD4.02**) that given the current lack of a 5-year supply of housing land, and the age of Policy CT/2 that the weight that can be ascribed to it is reduced and in the planning balance the Officers Report considered that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with saved Local Plan Policy CT/2.

Saved Local Plan Policy CT/4

- 5.60 Saved Policy CT/4 specifically refers to Areas of Local Separation and is intrinsically linked to Saved Policy CT/1, its drafting suggesting a proposed development needs to have satisfied the tests of Saved Policy CT/1 before Saved Policy CT/4 is applied. The policy states:

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

- i) the predominantly open and undeveloped character of the area is retained; and*
- ii) the already narrow gap between settlements is not reduced"* (**Page 109, Paragraph 6.23, CD5.01**).

- 5.61 For the same reasons as I detail in respect of Saved Policy CT/1 and CT/2, I consider Local Plan Saved Policy CT/4 to be inconsistent with the NPPF. The settlement boundaries are out of date and do not respond to the current housing needs. As Policy CT/4 represents an outright ban on open market housing within the Area of Local Separation, then the effect of is therefore very relevant to the supply of housing. Accordingly, it is considered to be out-of-date.
- 5.62 Additionally, there are inconsistencies between Core Strategy Policy CS11, and Saved Local Plan Policies CT/1, CT/2 and CT/4. Core Strategy Policy CS11 allows for a judgement to be made about whether "*new development clearly maintains the separation between the built-up area*"; Saved Local Plan Policies CT/1, CT/2 and CT/4 take a much more restrictive approach with development that "*reduces*" the gap being prohibited. Given the inconsistencies and having regard to Section 38 (5) of the Planning and Compulsory Act (2004), it is my view that CS11 should be preferred in the policy matrix.
- 5.63 Further, Saved Local Plan Policy CT/4, through its restrictive approach, is a policy relevant to the supply of housing and it is therefore out of date and only **limited weight** can be afforded to it. This position has been confirmed through the Secretary of State's decision for the appeals for Land off Mountsorrel Lane, Rothley (APP/X2410/A/13/2196928 & APP/X2410/A/13/2196929) (**CD6.08**), as well as through decisions made by CBC before, and after the date of the SoS's decision.
- 5.64 The Inspector considering the Mountsorrel Lane, Rothley appeals concluded:

“Policy CT/4 cannot be given full weight because it represents an outright ban on open market housing within the ALS, without the possibility of any countervailing benefit outweighing the prohibition” (Page 51 of PDF, Paragraph 8.17, CD.08).

- 5.65 The Inspector goes on to assess whether Policy CT/4 is a policy for the supply of housing. In concluding on this, the Inspector states:

“The control mechanism in Policy CT/4 is clearly very relevant to the supply of housing: it represents an absolute ban on open market housing in the ALS. The effect of Policy CT/4 is therefore very relevant to the supply of housing.” (Page 51 of PDF, Paragraph 8.19, CD.08).

- 5.66 Whilst considered prior to the adoption of the Charnwood Local Plan Core Strategy (November 2015), the conclusions the Inspector draws in respect of the policy’s relationship with housing supply are just as applicable in the current context, if not more so, some nine years later. The Inspector goes on to state:

“the limits to development and ALS (and Green Wedge) boundaries were all drawn in the CBCLP 2004 reflecting housing needs up to 2006 only. Housing needs are obviously greater in 2013 and the emerging CS acknowledges that the ALS boundaries will have to be redrawn as part of the Site Allocations and Development Management Policies DPD process. This also serves to demonstrate the direct link between ALS and provision of housing” (Page 51 of PDF, Paragraph 8.19, CD.08).

“At first blush the proposals are contrary to Policy CT/4 of the CBCLP. However, if the matter is considered more closely it quickly becomes apparent that the proposal would maintain an adequate area of separation between Mountsorrel and Rothley. The ALS have a strategic role and are intended to act as small, open, rural buffers whose main purpose is to prevent neighbouring settlements from merging or coalescing. If that analysis is correct and there is no breach to the purpose of Policy CT/4 then the technical breach relating to the control mechanism ought to have little weight attached to it”. (Page 52 of PDF, Paragraph 8.20, CD.08).

- 5.67 This approach, of looking at the actual extent to which there is an erosion in the separate identity of two nearby settlements reflects the approach of Mr Cook and is reflective of determining whether there is harm to the underlying land use objective of the policy. Were the policy to be drafted today then I do not doubt that this more nuanced approach would have been followed which more closely reflects NPPF.

- 5.68 Having regard to Mr Cook’s evidence the same conclusion can be drawn in respect of the appeal application. The site falls within the Area of Separation between Queniborough and Syston but the physical distance between the two settlements defined by their settlement boundaries would not physically reduce with the proposed scheme in place. The visual sense of perceived separation again would not materially change or reduce with the proposed scheme in place. Accordingly, I consider there to be no breach to the purpose of Policy CT/4.

- 5.69 The appeal decision at Cossington Road, Sileby (APP/X2410/W/21/3287864) (CD6.07), is a more recent example of where Policy CT/4 has been determined as a policy which restricts the supply of housing and should only be given ‘limited weight’ in the consideration of the application:

“The parties agree that CCS Policies CS1 and CS11, CLP Policies ST/2, CT/1 and CT/4, and SNP Policies G1 and G2 are the most important policies for this appeal. The lack of a 5 year housing land supply renders all of these policies out of date. Additionally, the three CLP policies can also be regarded as out of date due to fact that the Limits to Development and ALS boundaries that they define are based on superseded development needs and have in any case been breached on multiple occasions by various permissions.” (Paragraph 72, CD6.07)

Being out of date does not mean that little or no weight should be given to the above policies. SNP Policy G2 for example is consistent with the NPPF's design principles and so can be afforded full weight. In contrast, CLP Policies ST/2, CT/1 and CT/4 and SNP Policy G1 are not consistent with NPPF paragraph 174 or with CCS Policy CS11 in terms of their more restrictive approach to development in the countryside as discussed above. Therefore, the weight to be given to these four policies is limited in that respect.”
(Paragraph 73, CD6.07)

- 5.70 Notwithstanding the above, Mr Cook's Proof of Evidence considers that the proposal is considered acceptable given its location, scale and design. Whilst it would be located in the countryside alongside Queniborough, the undeveloped character of the landscape to the south of the scheme would be retained and would not result in narrowing the gap between Queniborough and Syston.
- 5.71 There are a number of ALS's within the Borough which seek to maintain separation between settlements so as to maintain their individual identity. The ALS between Queniborough and Syston might arguably be considered to be a narrow gap it is nonetheless clearly perceptible and meaningful. With the proposed scheme in place this would not materially change the existing sense of separation between Queniborough and Syston and accordingly the proposal would not conflict with Saved Policy CT4.
- 5.72 It is also relevant to note that prior to the Rothley SoS decision and Sileby Appeal Decision, discussed above, and adoption of the Core Strategy, CBC allowed a breach to Saved Policy CT/4 by approving residential schemes within various ALS's, including:

ALS-A Loughborough and Woodthorpe

- P/12/2640/2 - Land West of Allendale Road, Loughborough – 130 dwellings
- P/12/2641/2 - Land North of Ling Road, Loughborough – 200 dwellings

ALS-C Mountsorrel and Rothley

- P/14/0058/2 - Land at West Cross Lane, Mountsorrel – 130 dwellings

ALS-J Queniborough and Syston

- P/13/1696/2 - Land at Queniborough Lodge – 125 dwellings
- P/14/0393/2 - Land off Millstone Lane, Queniborough – 101 dwellings

ALS-L Syston and Barkby

- P/13/0935/2 – 220 Barkby Road – 149 dwellings

- 5.73 It is pertinent to also note that the Officers Report (**Page 21, CD4.02**) outlines that the proposal would be contrary to Policy CT/4 based on the overall scale of the development presenting an incursion into an open section of countryside between Queniborough and Syston, but notes (**Page 19, CD4.02**) that given the current lack of a 5-year supply of housing land, and the age of Policy CT/4, that the weight that can be ascribed to it is **reduced**. I concur with this approach. The planning balance in the Officers Report considered that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits.

Neighbourhood Plan Policy Q6: Countryside and Landscape

- 5.74 Queniborough Neighbourhood Plan Policy Q6 largely reflects Core Strategy Policy CS11 and does not preclude the principle of all development within the Area of Local Separation, with development acceptable if it clearly maintains separation. It supports the Area of Local Separation boundaries within the Core Strategy, and in that regard, as the retention of Areas of Local Separation is balanced against the need to provide new development, including new homes, in the most sustainable locations, similarly to Policy CS11, is considered to relate to the supply of housing. Accordingly, it is considered to be out-of-date.

- 5.75 In terms of assessing the proposals against Policy Q6, as the policy states it applies the requirements of Policy CS11, this means that the policy allows for a judgement to be made about whether “*new development clearly maintains the separation between the built-up areas of these settlements*”. For brevity, I refer to paragraphs 5.35-5.46 of my Proof which equally apply to Policy Q6 therefore. Ultimately, the proposal would protect the character of the landscape and countryside beyond the site. The new development would maintain separation and thus the separate identities of Queniborough and Syston in the same way that proposed allocations for resident development also maintain separation. The proposal would not conflict with Policy Q6 when read in the round.
- 5.76 The Officers Report (**Page 19-22, CD4.02**) contains an analysis of the proposals in the context of landscape and settlement character (including the Area of Landscape Separation) which considers that the proposals would fail to maintain the separate identities of Queniborough and Syston and would detract from the character of the countryside in this location. It does, however, note there is potential to reduce the level of harm to a certain extent by securing a robust landscaping strip on the southern boundary, opining (**Page 34, CD4.02**) that, overall, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. Notwithstanding that advice, members refused permission on the basis of conflict with Policy Q6.
- 5.77 In my judgment, Policy Q6 carries ‘**moderate weight**’ as whilst the policy does not prohibit housing in the countryside or ALS, it does limit it, and there needs to be a balance between the retention of ALS and the need for new housing in the current scenario whereby the LPA are not delivering its housing needs. Regardless, having regard for the requirements of Q6 for proposals to clearly maintains the separation between the built-up areas of these settlements, Mr Cook and I consider there to be no conflict with Policy Q6. Even in the Council’s scenario that significant harm arose as a result of the appeal application, this harm is not considered to be significantly adverse to justify refusal under the provisions of Paragraph 11d of the NPPF.

Conclusion

- 5.78 In conclusion, the first 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 simply no evidence to support the proposition that the two settlements would coalesce with the proposed scheme.
- 5.79 For these reasons, the appeal proposals are considered to accord with the development plan so far as character and appearance of the area including the Area of Local Separation matters are concerned.

6. Main Issue 2

Housing land supply and the policy implications

- 6.1 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) (CD5.28), which is out of date being well over five years old.
- 6.2 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.
- 6.3 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.
- 6.4 The most up-to-date published figure by the LPA is set out in its Five Year Supply Table (CD5.24) 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.
- 6.5 The extent of the LPA's housing land supply shortfall is significant and results from a failure to deliver a sufficient supply over a number of years. As illustrated in the below table, of the 11 Annual Monitoring Reports available from 2011-2012 up to the present 2021-2022, the LPA have been unable to demonstrate the requisite five years supply of housing for 7 of these years. Indeed, the supply has been worsening over recent years – see Figure 2 below.

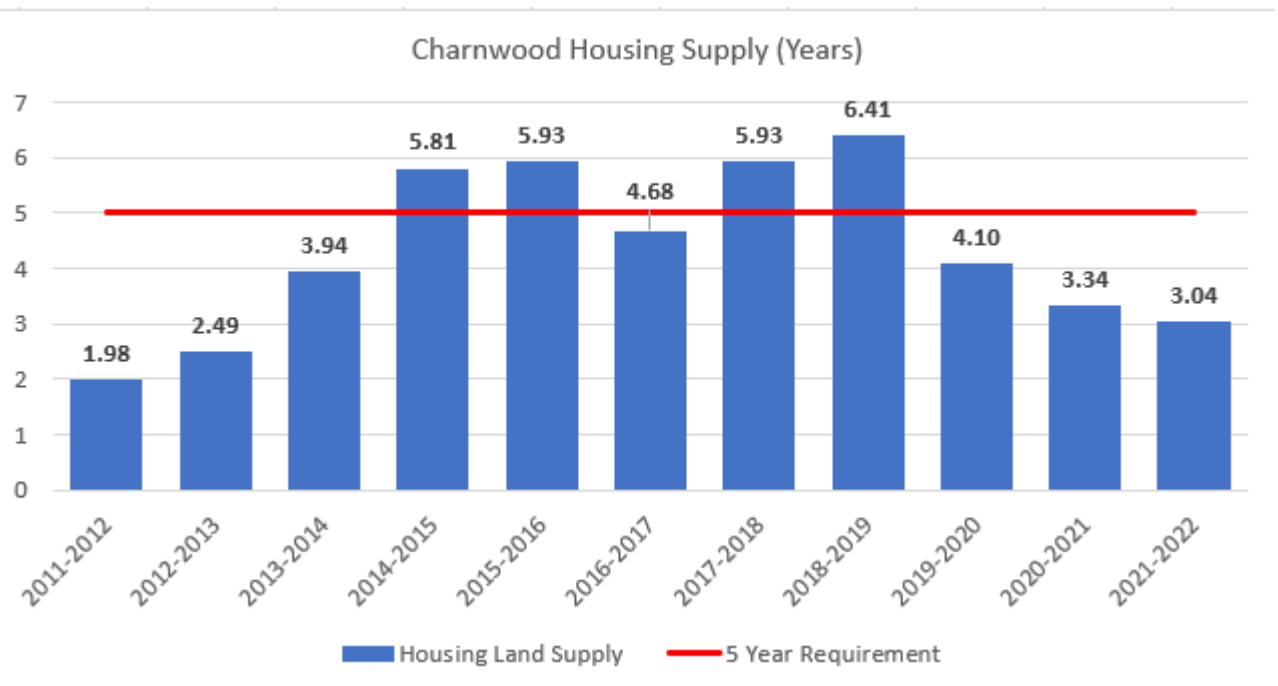


Figure 2 – Charnwood Housing Land Supply 2011/12-2021/22

- 6.6 In respect of the Housing Delivery Test, the Council are performing more favourably, but it should be noted that these results are assessed against the adopted Core Strategy housing requirement of 820 dpa, rather than the up-to-date local housing need of 1,160 dpa, and do not alter the fact that it cannot demonstrate a five year supply of housing which is a material consideration of significant weight.
- 6.7 Further, the shortfall in overall housing provision is also compounded by a shortfall in affordable housing provision. The LPA acknowledge this shortfall (Paragraph 2.10 of the Draft Local Plan **(CD5.04)** which notes *“Our evidence shows that provision of new affordable housing is an important and pressing issue in the Borough.”*
- 6.8 Looking back, Core Strategy (2015) Policy CS3 sets a target of 180 affordable dwellings per annum between 2011 and 2028. However, as set out in Mr Stacey’s Affordable Housing Proof of Evidence, affordable housing needs are increasing in Charnwood.
- The 2014 SHMA sets a need of 174 affordable dwellings per annum between 2011 and 2036.
 - The 2017 HEDNA identifies an annualised need for 384 affordable dwellings per annum between 2011 and 2036.
 - The 2020 HNA requires 469 affordable dwellings per annum between 2020 and 2037.
 - The most recent assessment of affordable housing need is contained within the 2022 HENA which sets a need of 827 affordable dwellings per annum between 2021 and 2031 (and 985 dpa including accumulated shortfall).
- 6.9 As can be seen each successive needs study has identified a higher net annual requirement for affordable housing. The annual need by 2021 is almost 5 times the annual need at the start of the Core Strategy period.
- 6.10 In terms of delivery, Mr Stacey’s Proof sets out that since the start of the Core Strategy (2015) period, only 1,498 affordable dwellings have been delivered, equivalent to 137 per annum. This rate of delivery equates to 16% affordable housing delivery against the total number of housing completions **(Figure 6.2, Mr Stacey’s Proof)**.
- 6.11 This level of affordable housing delivery has resulted in a shortfall of -2,726 affordable dwellings between 2011/12 and 2021/22 as required by the 2017 HEDNA needs, equivalent to a deficit of -248 per annum **(Figure 6.5, Mr Stacey’s Proof)**.
- 6.12 Against the most recent assessment of affordable housing need (2022 HENA), a shortfall of -792 affordable dwellings has arisen in the first year alone of the 2022 HENA period between 2021/22 and 2030/31 **(Figure 6.7, Mr Stacey’s Proof)**.
- 6.13 The affordable housing needs over the next five years, noting the HENA affordable needs of 985 dpa including accumulated shortfall, equates to 4,925 dwellings. As noted in Mr Stacey’s Proof, even assuming that all dwellings within the Councils’ Five Year Housing Land Supply Statement (December 2022) are brought forward (3,701 dwellings) with policy compliant levels of affordable housing (currently at 40%) this is likely to deliver only 1,480 affordable dwellings over the period, equating to just 296 new affordable dpa. This figure is likely to be much lower if the prevailing rate of Right to Buy losses continues, and in any event falls substantially short of the 985 per annum figure required when back log needs are addressed in the first five years in line with the Sedgefield approach and significantly short of the 827 net affordable housing needs per annum identified in the 2022 HENA.

- 6.14 Whilst for many years the LPA has sought to provide policies to deliver housing, especially affordable housing, the above demonstrates that there is a very worrying and increasing shortfall with hundreds of households not having their needs met, Mr Stacey's Proof demonstrates that the situation is seriously worsening with ever-increasing affordable housing needs, poor affordable housing delivery and increasing numbers of households on the Council's housing register. It is clear that a 'step change' in affordable housing delivery is needed now in Charnwood Borough to address these shortfalls and ensure that the future authority-wide needs for affordable housing can be met.
- 6.15 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.
- 6.16 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.
- 6.17 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, and conclude that at the point of the Inquiry (13th 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.
- 6.18 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 in turn below, with any conflict and the weight to be afforded summarised in **Table 1** at page 44 of this Proof.

Core Strategy Policy CS1

- 6.19 The LPA's reasons for refusal does not allege conflict with Policy CS1.
- 6.20 Queniborough is identified in the Core Strategy (**CD5.02**) as an Other Settlement. Paragraph 4.49 of the Core Strategy confirms that Other Settlements are designated as they benefit from a certain level of services and facilities, as set out at paragraph 4.9 of this Proof. It is clear therefore that settlements, such as Queniborough, are sustainable locations and play an important role across the Borough.
- 6.21 To achieve the Core Strategy's aim of 'urban concentration and regeneration' development was focussed in the Principal Urban Area, Loughborough and Shepshed, the Service Centres, then to Other Settlements. Other Settlements are acknowledged to be important in helping to protect and where possible increase services and facilities within them. Small Villages and Hamlets rely on larger settlements, including Queniborough, for the provision of services and facilities for their day-to-day needs. Nearby Small Villages and Hamlets include Barkby Thorpe (4.2km), Ratcliffe on the Wreake (4.2km) and South Croxton (5 km).
- 6.22 The policy seeks at least 500 homes within settlement boundaries over the plan period. I consider that the overall housing target which Policy CS1 seeks to deliver is clearly identified as a minimum figure and therefore, it follows that the housing figures for each of the settlement tiers must also be considered as minimums. There is nothing within the policy to place an upper limit on growth in a single settlement or tier.

- 6.23 Queniborough is acknowledged to be a one of the Council's most sustainable settlements, with a good range of services and facilities, illustrated on the Facilities and Services Plan at **CD8.13**. This is further demonstrated in the Councils Settlement Hierarchy Assessment October 2020 Update (**CD5.12**) prepared as part of the emerging Local Plan. The Assessment contains an audit table (Figure 10 – Page 24) which assesses the relative sustainability of all settlements within Charnwood by availability of key services, facilities and accessibility. The assessment considers food shops, primary schools, access to employment, secondary school access, higher order services access, high speed broadband, recreation, leisure and community facilities, doctors' surgery, post office, pharmacy and pre-school provision. Whilst not an exhaustive list of possible services and facilities, it is agreed that the provision of such services is an indicator of a high-level of sustainability. The highest scoring settlement scored 11 points, and the lowest just 2 points. In terms of the Other Settlements tier the degree of variation is noted between 9 points and 4 points. When assessed against these metrics, Queniborough scores 8 points, clearly one of the highest Other Settlements (third highest of 14), and only marginally (2 points) behind the larger Service Centres of Barrow upon Soar, Mountsorrel and Rothley, and just 3 points behind the remaining Service Centres of Anstey, Quorn and Sileby as well as the urban areas of Loughborough, Shepshed, Thurmaston, Syston and Birstall (11 points). Accordingly, Queniborough is one of the more sustainable Other Settlements within Charnwood to provide for additional growth.
- 6.24 In relation to food shops, Queniborough has the Crossroads Stores and Marks and Spencer's at the BP Service Station, illustrated on the Facilities and Services Plan at **CD8.13**. Other shops/general facilities within Queniborough, but not accounted for within the Settlement Hierarchy Assessment include:
- S&J News (newspapers/magazine, cards, bread, sweet shop)
 - Clarkes Butchers
 - Hair Salon
 - Cattery
 - Paw Patrol Dog Walking Services
 - Tyres & Exhausts Garage
- 6.25 Queniborough CofE Primary School is located on Coppice Lane providing education for 4-11 years olds. Whilst there are no secondary schools in Queniborough itself, Wreake Valley Academy is located just outside of Queniborough, in Syston. In respect of pre-school provision, The Laurels Nursery School and Pre-School is located on Melton Road.
- 6.26 In terms of access to employment and higher order services, Queniborough is acknowledged to benefit from good bus services both during the day as well as the evening. The Arriva 5/5A/X5 service runs from Melton Mowbray to the centre of Leicester via Thurmaston, Syston and East Goscote. Services are 20 minutes daytime and 30 minutes evening with a 34-minute journey time to the centre of Leicester. Services from Queniborough (Avenue Road) towards Leicester run from 06:10am to 21:55pm (Monday to Friday), 06:05am to 21:55 (Saturday) and 09:14 to 22:06 (Sunday) (with a later 23:06 service terminating at Thurmaston also available). Towards East Goscote, services run from 05:45am to 23:41pm (Monday to Friday), 07:12am to 23:41pm (Saturday) and 10:16 to 22:51 (Sunday). This is considered to be suitably regular to allow reasonable access to Leicester and other settlements for daily commuting and education, as well as wider social and health appointments.
- 6.27 Syston Railway Station is 2.4km from the site and therefore within the acceptable cycling distance. This provides ready access to the wider region via the Midland Main Line. This includes services to Leicester, East Midlands Parkway and Nottingham. On weekdays there are trains to Leicester and Nottingham every hour during the morning peak period and one train every 1-2 hours in the inter- peak and evening peak hours. Trains to Leicester have an approximate 10-minute duration, trains to Nottingham have an approximate 40-minute.
- 6.28 Superfast broadband is available in Queniborough having recently been upgraded.

- 6.29 In terms of recreation, leisure and community facilities, Queniborough has a vast array of these including:
- Queniborough Village Hall – regularly used by the Badminton Club, Bowls Club, Brooksby Gardening Club, Friendship Club, Queniborough Pre-School, Rainbows & Brownies, Fitness, Dance Academy, Syston Shotokan Karate Club, Women’s Institute and Zumba. The Village Hall also hosts an annual beer festival, barbecues, discos, music and theatre. The hall is available for hire and has a raised stage at one end and can host children’s parties, wedding receptions, fundraising events and other such events. There is a separate Committee Room.
 - 2 x public houses (The Britannia Inn, The Horse and Groom)
 - British Legion - which has a bar and hall.
 - Place of Worship (St Mary’s Church)
 - Scout Group (Beavers, Cubs, Scouts and Explorers) with a new scout hall in April 2021 also used by the Queniborough Cheerleaders Dance Company. The hall is also available for hire.
 - Formal Sports Provision includes; Queniborough Cricket Ground, Queniborough Football Club, Syston Rugby Club, Queniborough Tennis Club. The King George V Playing Field includes play equipment as well as a tennis court, basketball court, outdoor gym and informal football pitch.
- 6.30 Whilst there are no doctor’s surgeries in Queniborough itself, The County Practice and The Jubilee Medical Practice are located in Syston. A pharmacy is located adjacent to these.
- 6.31 Queniborough Post Office is open 6 days a week.
- 6.32 The above has demonstrated that Queniborough has far more than the ‘minimum’ services and facilities required in order to designate a settlement as an Other Settlement. I therefore consider Queniborough is a demonstrably sustainable settlement, suitable and capable for further residential growth. This is also demonstrated by the emerging Local Plan, which makes significant allocations within the settlement.
- 6.33 It is however agreed that Core Strategy Policy CS1 is out of date, firstly because the Council cannot demonstrate a five-year housing land supply and secondly because it seeks to support a level of growth based on a housing requirement, which is out of date. The housing requirement set out in Core Strategy Policy CS1 reflects growth levels derived from the Leicester and Leicestershire Strategic Housing Market Assessment (2014) (SHMA) **(CD5.28)**, which seeks the delivery of 820 dpa, some 291 dpa short of the Borough’s Local Housing Need derived from the Standard Methodology of 1,111 dwellings per annum. It was therefore inevitable that when the emerging Local Plan was prepared with a higher housing requirement that settlements, such as Queniborough, would need to deliver more housing.
- 6.34 Indeed, the suitability of Queniborough for new housing growth and its ability to accommodate further growth is acknowledged in the emerging Local Plan **(CD5.04)**. Accepting that the emerging Local Plan carries limited weight, the Plan proposes to allocate a further 934 dwellings in the Service Centres, (1,448 dwellings following additional supply proposed during the Local Plan Examination), of which, an additional 155 are proposed at Queniborough (245 dwellings following additional supply proposed during the Local Plan Examination). It is clear therefore that the Council accept that Queniborough is a suitable location for additional homes.
- 6.35 Both of the proposed allocations at Queniborough, contained in the emerging Local Plan are beyond the settlement boundary, on greenfield land and within an Area of Local Separation. The Council’s Development Strategy and Site Selection Topic Paper **(CD5.13)** sets out that appeal site was not selected as a proposed allocation solely due to impacts on the Area of Local Separation.
- 6.36 Queniborough is demonstrably a sustainable and suitable location for residential growth. Core Strategy Policy CS1 provides for a minimum level of housing at Service Centres, not a maximum. Further, the emerging Local Plan confirms the suitability of Queniborough for new housing through its intention to allocate more housing land. Policy CS1 is out of date, and can be given only **limited weight**, but

notwithstanding this, there is no conflict with the policy. There is therefore, no spatial justification why growth adjacent to Queniborough should be precluded, particularly in the context of the current housing land supply shortfall within the Borough. Furthermore, the LPA's reasons for refusal do not allege conflict with Policy CS1.

Core Strategy Policy CS2: High Quality Design

- 6.37 Accordance with Policy CS2 is discussed in more detail at paragraph 5.29-5.34 of this Proof. In summary, as a design principles policy I consider it to be consistent with the NPPF and **full weight** can be afforded. Having regard to the above, I consider that there is no conflict with Policy CS2.

Core Strategy Policy CS11: Landscape and Countryside

- 6.38 Accordance with Policy CS11 is discussed in more detail at paragraph 5.35-5.46 of this Proof. In summary, as the policy relates to the supply of housing, it is considered to be out-of-date and, in my judgment, Policy CS11 carries '**moderate weight**'. Regardless of this, having regard for the requirements of CS11 for proposals to clearly maintain the separation between the built-up areas of these settlements, it is considered the scheme is in accordance with the requirements of this policy.

Saved Local Plan Policy ST/2

- 6.39 The LPA's reasons for refusal do not allege conflict with Saved Local Plan Policy ST/2. Saved Local Plan Policy ST/2 is out of date as it relates to the supply of housing and the Council is unable to identify a five-year housing land supply. The 'limits to development' identified through the Local Plan were prepared to reflect a level of housing need derived from the replacement Structure Plan for Leicestershire (1991 – 2006), adopted in January 1994; some 556 dpa, almost half of the current annual housing need for the Borough of 1,111 dpa.
- 6.40 The Council has regularly assessed proposals against Saved Local Plan Policy ST/2 and allowed a breach of the policy by approving residential schemes beyond the limits to development and intend on allocating a large number of sites beyond the current limits to development in the emerging Local Plan.
- 6.41 It is agreed within the Planning SoCG that **limited weight** to a conflict can be given to Saved Local Plan Policy ST/2.

Local Plan 2004 Saved Policy EV/1: Design

- 6.42 Accordance with Policy EV/1 is discussed in more detail at paragraph 5.47-5.50 of this Proof. In summary, as a design principles policy I consider it to be consistent with the NPPF and full weight can be afforded. Having regard to the above, I consider that there is no conflict with Policy EV/1.

Local Plan 2004 Saved Policy CT/1: General Principles for Areas of Countryside, Green Wedge and Local Separation

- 6.43 Accordance with Policy CT/1 is discussed in more detail at paragraph 5.51-5.54 of this Proof. In summary, it is accepted that the proposal lies beyond the settlement and within the ALS, thus a conflict with this policy. It is my view that Saved Local Plan Policy CT/1 is inconsistent with the NPPF and out of date, to which only **limited weight** can be given to it.

Local Plan 2004 Saved Policy CT/2: Development in the Countryside

- 6.44 Accordance with Policy CT/2 is discussed in more detail at paragraph 5.55-5.59 of this Proof. In summary, the Local Plan Proposals Map (**CD5.02**) clarifies that the 'countryside' designation applies to all land outside the Limits to Development which is not designated as Green Wedge or ALS. Therefore, Policy CT/2 is not applicable.
- 6.45 Irrespective, it is my view that Saved Local Plan Policy CT/2 is inconsistent with the NPPF and out of date, to which only **limited weight** can be given to it.

Local Plan 2004 Saved Policy CT/4: Development in Areas of Local Separation

6.46 Accordance with Policy CT/4 is discussed in more detail at paragraph 5.60-5.73 of this Proof. In summary, the lack of a 5 year housing land supply renders Policy CT/4 out of date. Further, through its restrictive approach, it is my view that the policy is inconsistent with the NPPF, as well as inconsistencies with Core Strategy Policy CS11, and is therefore out of date in that regard. Accordingly, only **limited weight** can be given to it.

Queniborough Neighbourhood Plan

6.47 Queniborough Neighbourhood Plan was “Made” in June 2021 and forms part of the development plan. As Paragraph 11 d of the NPPF is engaged and there is a made Neighbourhood Plan, consideration has also been given as to whether the provisions of paragraph 14 apply. The NPPF states 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.

6.48 For paragraph 14 to be engaged, the four criteria to be met are considered in turn below. Note failure to satisfy just one criterion disengages the provisions of paragraph 14.

a) *the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;*

At the date of the Inquiry (13th June 2023) the Neighbourhood Plan will have formed part of the Development Plan for over two years.

b) *the neighbourhood plan contains policies and allocations to meet its identified housing requirement;*

The issue of whether or not Paragraph 14 was engaged in Queniborough was thoroughly explored in response to application P/20/2349/2 (land off Boonton Meadow Way, Queniborough), with no fewer than three legal opinions, one provided by Counsel instructed by Queniborough Borough Council (**CD6.01**), one by Counsel instructed by the applicant (**CD6.02**) and finally Counsel advice obtained by Charnwood Borough Council (**CD6.03**). The outcome of the latter two, and on which Charnwood sensibly based its decision, was that whilst reference is made in the Queniborough Neighbourhood Plan to the 500 dwelling housing requirement within the Core Strategy for Other Settlements, there is no defined requirement for Queniborough within the Plan therefore logically Paragraph 14 criterion b cannot be met.

c) *the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and*

It is agreed that the Council can demonstrate at least a 3-year housing land supply, with the agreed position being 3.04 years.

d) *the local planning authority's housing delivery was at least 45% of that required over the previous three years.*

The Council's most recent housing delivery test was at least 45% of that required (2021 result was 145% of the housing delivered)

6.49 At the point of the Inquiry (13th 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.

6.50 The Officer's Report agrees with this position and states:

“The Queniborough Neighbourhood Plan was made in June 2021 and is less than two years old. The Neighbourhood Plan bases its assessment of housing need on the Core Strategy's allocation of at least

500 dwellings across 'other settlements' and allocates land for some 132 dwellings at Queniborough Lodge. The latest 5 year land supply monitoring report demonstrates that the Authority has 3.04 years of deliverable housing sites. The Authority's housing delivery is more than 45% of that required over the previous three years. Noting that there are different opinions on this matter and based on recent Counsel advice received by the Council on this issue in respect of application P/20/2349/2, it remains considered that criteria b) of NPPF paragraph 14 has not been met such that the NPPF's 'significant and demonstrable' provisions within paragraph 14 do not apply. This is consistent with the Council's decision in relation to application P/20/2349/2 (Boonton Meadow Way) referred to above. Nevertheless, the policies of the Queniborough Neighbourhood Plan have been adopted and remain relevant, albeit in the context of NPPF paragraph 11d." (Page 18, CD4.02)

6.51 Neighbourhood Plan policies of relevance are discussed below.

Neighbourhood Plan Policy Q6: Countryside and Landscape

6.52 Accordance with Policy Q6 is discussed in more detail at paragraph 5.74-5.77 of this Proof. In summary, as the policy largely reflects Policy CS11 and relates to the supply of housing, it is considered to be out-of-date and, in my judgment, Policy Q6 carries '**limited weight**'. Regardless of this, having regard for the requirements of Q6 for proposals to clearly maintain the separation between the built-up areas of these settlements, it is considered the scheme is in accordance with the requirements of this policy.

Neighbourhood Plan Policy Q14: Design

6.53 The LPA's reasons for refusal do not allege conflict with Neighbourhood Plan Policy Q14: Design, however the LPA consider it as one of the most important policies in the determination of the application.

6.54 Policy Q14 seeks to ensure that new development reflects the distinctive and traditional character of Queniborough. As with Saved Local Plan Policy EV/1, the Officers Report (**Page 26, CD4.02**) outlines that the indicative details demonstrate that there is potential for an appropriately designed development to be achieved at this site in accordance with Neighbourhood Plan Policy Q14.

6.55 As a design policy I consider it to be consistent with the NPPF and full weight can be afforded. Having regard to the above, I consider that there is no conflict with Policy Q14.

Summary

6.56 Any conflict and weight to be afforded to the relevant policies discussed above is set out below in **Table 1** at page 44 of this Proof.

Suitability of Appeal Site

6.57 In terms of further suitability of the appeal site for development, matters relating to the ALS and the character and appearance of the area in relation to landscape are considered in response to the Inspectors Main Issue 1.

6.58 The site is adjacent and contiguous with Queniborough with regard to three sides of the site (north, east and west) and therefore is as close as possible in terms of proximity to the settlement itself and the services therein.

6.59 The sustainability of Queniborough, including the array of services and amenities on offer making it one of the more sustainable settlements within Charnwood, is discussed at paragraphs 6.23-6.32 of this Proof. Many of these services are located within 1km of the site, including: the Crossroads Stores and Post Office, Scout Hut, Village Hall, Methodist Church, Butchers, 2 x Public Houses, Leisure Centre, Wreake Valley Academy, St Mary's Church, and further facilities within 1.5km, including Jubilee Medical Practice, Boots Pharmacy and services facilities within Syston centre, meaning they are highly accessible for pedestrians and cyclists.

- 6.60 The site is adjacent to a main highway Barkby Road, and that the site frontage is adjacent to a pedestrian path as a roadside pavement providing a continuous, clear, safe and direct access to the heart of the village. Furthermore, this pedestrian path benefits from street lighting, again providing safe walking environment in hours of darkness.
- 6.61 Furthermore, Queniborough CofE Primary School is a short distance from the site (550m), again accessible by continuous footway provision from the site. Accordingly, the appeal proposal is well located to maximise opportunities for walking and cycling to and from key amenities within the immediate area.
- 6.62 In addition, the site is approximately 320m from the nearest bus stop on Syston Road. The stop is served by the Arriva 5/5A/X5 service which operates a route between Melton Mowbray to the centre of Leicester via Thurmaston, Syston and East Goscote. This service operates Monday to Friday with a frequency of one bus every 20 minutes (daytime) and 30 minutes (evening) and provides access to a variety of employment opportunities and larger retail facilities. Saturday services operate on a 30 minute frequency. Public transport is therefore a genuine alternative to the private car and should assist in encouraging a modal shift away from the private car.
- 6.63 The site is also within 2.4km of Syston Railway Station and therefore within the acceptable cycling distance and means that travel by train provides a genuine alternative to the private car and should assist in encouraging modal shift away from the private car. This provides access to the wider region via the Midland Main Line. This includes services to Leicester, East Midlands Parkway and Nottingham.
- 6.64 In respect of other site-specific matters, it is important to note that, 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 highways, flood risk, drainage, ecology or design.
- 6.65 Whilst there were no technical objections to the appeal application, nor detailed within RFR1, I am very mindful of concerns raised by third parties. Responses to third party concerns in respect of education/healthcare are included in Mr Hunter's Proof of Evidence, and summarised below. In addition, responses to third party concerns in respect of highways, flood risk and drainage, ecology / biodiversity and trees are included as appendices 2-5 respectively, also summarised below.

Education

- 6.66 The Education and Healthcare Note (**Appendix 2**) provided by EFM, reviews and responds to the LCC education consultation responses (**CD3.41 and CD3.42**) and considers the third-party representations which had raised concerns regarding capacity.
- 6.67 No objections are raised by the Local Education Authority, subject to the provision of a number of contributions.
- 6.68 As discussed in further detail at paragraph 7.23 of this Proof, the appeal proposals will generate primary aged pupils, resulting in a deficit of places amongst local schools. As a result, a contribution has been requested by the Local Education Authority to improve, remodel, or enhance existing facilities. These are agreed will be secured through the legal agreement.
- 6.69 There is surplus secondary school, post 16, and early years provision to accommodate pupils generated from the appeal proposals and the LHA have not sought contributions. The proposals also yield Special Educational Needs (SEN) pupils and a proportionate contribution has been sought. As a result, a contribution has been requested by the Local Education Authority to improve, remodel, or enhance existing facilities. These are agreed and will be secured through the legal agreement.

6.70 Mr Hunter's Proof of Evidence also reviews and responds to the NHS West Leicestershire CCG consultation response **(CD3.32)** and considers the third-party representations which had raised concerns regarding capacity. Mr Hunter outlines that the closest doctor's surgeries to the site are The County Practice and The Jubilee Medical Practice at Syston Health Centre, 1.3km from the site. Both of which are considered to be within acceptable distance of the site.

6.71 Further, Mr Hunter 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.

6.72 As a consequence of the above, there are no policy conflicts arising from educational and healthcare matters.

Highways Note in response to third party comments

6.73 The Highways Note **(Appendix 3)** provided by ADC sets out that they have reviewed the transport planning documentation submitted with the outline planning application and considers the third-party representations which had raised the following concerns:

1. impact on highways and congestion
2. that the proposed highway mitigation at the Queniborough Crossroads would be unsafe and impact on TPO trees
3. impact on traffic noise and pollution
4. a concern that the development would compromise safe pedestrian and cycle access.

6.74 The Note sets out a detailed response addressing these concerns. None of the issues raised are considered to change the assessment or conclusions of the appeal application in respect of highways and access, and ADC stand by the findings of their submitted reports. There are no policy conflicts arising.

Flood Risk/Drainage Note in response to third party comments

6.75 The Flood Risk/Drainage Note **(Appendix 4)** provided by RACE sets out that they have reviewed the flood risk and drainage planning documentation submitted with the outline planning application and considers the third-party representations which had raised general concerns regarding impacts on drainage and flooding.

6.76 The Note sets out a detailed response addressing this concern. The issues raised are not considered to change the assessment or conclusions of the appeal application in respect of flood risk and drainage, and RACE stand by the findings of their submitted reports. There are no policy conflicts arising.

Ecology and Biodiversity Note in response to third party comments

6.77 The Ecology and Biodiversity Note **(Appendix 5)** provided by Ramm Sanderson sets out that they have reviewed the ecological documentation submitted with the outline planning application and considers the third-party representations which had raised the following concerns:

- 1 Biodiversity loss/loss of Natural Habitat
- 2 Impact on Wildlife

6.78 The Note sets out a detailed response addressing each concern. None of the issues raised are considered to change the assessment or conclusions of the appeal application in respect of ecology, and Ramm Sanderson stand by the findings of their submitted reports. There are no policy conflicts arising.

Arboricultural Note in response to third party comments

6.79 The Arboricultural Note (Appendix 6) provided by FPCR sets out that they have reviewed the arboricultural documentation submitted with the outline planning application and considers the third-party representations which had raised the following concerns:

- 1 Removal of existing trees subjects of a Tree Preservation Order at the Barkby Crossroads to facilitate the proposed junction improvements.
- 2 Damage to trees subjects of a Tree Preservation Order at the Barkby Crossroads to facilitate the proposed junction improvements.

6.80 The Note sets out a detailed response addressing each concern. None of the issues raised are considered to change the assessment or conclusions of the appeal application in respect of ecology, and FPCR stand by the findings of their submitted reports. There are no policy conflicts arising.

Agricultural Land

6.81 Third party concerns have also been raised in respect of lost agricultural land. NPPF paragraph 174 states that decisions should contribute to and enhance the natural and local environment whilst recognising the economic and other benefits of the best and most versatile agricultural land.

6.82 Natural England designate the site as predominantly grade 2 agricultural land, and wheels considered of good quality, this is not to the extent that it would render the principle of the development as being unacceptable. It is considered that the loss of grade 2 land does not represent a significant or adverse loss that, on its own, would outweigh the benefit of providing housing and associated infrastructure on the site.

General Layout Concerns

6.83 A range of third party concerns have been raised in respect of detailed design including layout, parking, appearance, play area, noise and loss of light and privacy. The appeal scheme is however made in outline only and details relating to the detailed design including considerations relating to these matters will be assessed and safeguarded at the Reserved Matters stage.

Summary

6.84 The above has demonstrated that the appeal site is appropriate for residential development. In respect of other site-specific matters, it is important to note that, with the exception of CBC's Landscape Officer, no objection was received to the appeal proposal from any technical statutory consultee as confirmed through paragraphs 53 to 88 of 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 highways, flood risk, drainage, ecology or design.

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

7. Main Issue 3

Whether the development would provide acceptable contributions towards infrastructure

- 7.1 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.
- 7.2 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.
- 7.3 Each of the infrastructure requirements are discussed in turn below.

Affordable Housing

- 7.4 Policy CS3 Strategic Housing Needs supports an appropriate housing mix for the Borough and sets targets for affordable homes provision to meet need. For Queniborough it is expected that 40% of Affordable Housing will be provided on site. Queniborough Neighbourhood Plan does not have a specific affordable housing policy in relation to the quantum of overall provision, however Policy Q12 requires proposals to demonstrate how they will meet the housing needs of older households and/or the need for smaller, low-cost homes for sale including as part of any affordable housing element.
- 7.5 The Housing Supplementary Planning Document (**CD5.11**) provides guidance on affordable housing to support Core Strategy Policy CS3. Policy HSPD2 sets out that the preferred tenure mix for all developments providing affordable housing in the Borough is: Social or Affordable Rent 77% / Intermediate (Shared Ownership) 23%. National Planning Guidance (Paragraph: 012 Reference ID: 70-012-20210524) supersedes the SPD as this requires that a minimum of 25% of all affordable housing units secured through developer contributions should be First Homes.
- 7.6 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.
- 7.7 As per the Officers Report (**Page 25, CD4.02**) it is suggested that a size/mix profile should be detailed through reserved matters, adding that locally identified need and the character of the area could be achieved, although care would need to be taken (as per CS3) to ensure that the appearance of the area of separation is protected. Accordingly, the proposed development makes adequate provision for affordable housing.

Open Space, Sports and Recreation

- 7.8 Policy CS15 seeks to ensure adequate open space is provided to serve the needs of new development.
- 7.9 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.
- 7.10 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.

- 7.11 The onsite open space provision and its ongoing management and maintenance is secured by planning condition and through the S106 agreement.
- 7.12 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
- 7.13 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

- 7.14 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. 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)
- 7.15 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 Local Highway Authority response (**CD3.11**) outlined that the removal of the two sycamore would require six new trees with a total contribution of £2,700.00 from the Applicant. The loss 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.
- 7.16 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

- 7.17 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.
- 7.18 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.
- 7.19 As a result of the above contributions the proposal is considered to comply with Policy CS17 of the Core Strategy.

Education

- 7.20 Mr Hunter's Education and Healthcare Note (**Appendix 2**) reviews and responds to the LCC education consultation responses (**CD3.41, CD3.42 and CD3.44**) and considers the third-party representations which had raised concerns regarding capacity.
- 7.21 No objections are raised by the Local Education Authority, subject to the provision of a number of contributions as discussed below.

Primary

- 7.22 There are at least six schools accommodating Primary School aged children within a two-mile radius of the development site, the closest being Queniborough C of E Primary School, a short distance from the site.
- 7.23 The County Council response (**CD3.44**) states that 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.
- 7.24 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.

Secondary and Post 16

- 7.25 There are at least two schools accommodating Secondary School aged children and post-16 provision within a three-mile radius of the development site, the closest being Wreake Valley Academy and within 1km of the site.
- 7.26 The County Council response (**CD3.44**) states that 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.

Early Years

- 7.27 There are at least three local nurseries serving Queniborough, with the closest being The Laurels Nursery within 1km of the site.
- 7.28 The County Council response (**CD3.44**) states that 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.

SEN

- 7.29 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.
- 7.30 As a consequence of the above, there are no policy conflicts arising from educational matters.

Library Services

- 7.31 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

- 7.32 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

- 7.33 In respect of primary healthcare, the NHS West Leicestershire CCG, considers that the development could result in an increased patient population of 363 (**CD3.32**). 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.
- 7.34 The Education and Healthcare Note (Appendix 2) and Mr Hunters Proof of Evidence reviews and responds to the NHS West Leicestershire CCG consultation response and considers the third-party representations which had raised concerns regarding capacity.
- 7.35 The closest doctor's surgeries to the site are The County Practice and The Jubilee Medical Practice at Syston Health Centre, 1.3km from the site. This is considered to be within acceptable distance of the site.
- 7.36 Further, Mr Hunter's Proof 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.

7.37 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

7.38 Policy CS13, and NDP Policy Q8, seeks to conserve and enhance the natural environment with regard to biodiversity and ecological habitats.

7.39 The application is supported by an Ecological Impact Assessment and includes a BIA assessment based on the Illustrative Masterplan.

7.40 The site is currently undeveloped agricultural land adjoining a settlement; the western field is semi-improved grassland, and the eastern field is arable. Both fields are bounded by species poor hedgerows and broad-leaved scattered trees adjacent the hedgerows. Areas of dense scrub were present at the site boundaries. The site has no particular wildlife or ecological designation and there are no recorded protected species within the site.

7.41 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%

7.42 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%.²

7.43 The Officer's Report (**Page 12, CD4.02**) set out that the Borough Council's Senior Ecologist is content that an appropriate assessment of the baseline value of the site has been established and that there is reasonable likelihood for any detailed layout to achieve 'no net loss' in biodiversity habitat, subject to detailed assessment of any detailed plans which should be provided as part of any future reserved matters and provision made to secure appropriate mitigation, if necessary.

7.44 Clearly the appeal application is made in outline with approval sought for access only. The detailed design and layout would be determined at the reserved matters stage which would in turn inform the ecological impacts of the scheme. Nevertheless, the Officer's Report (**Page 12, CD4.02**) sets out that the Borough Council's Senior Ecologist is content that an appropriate assessment of the baseline value of the site has been established and that there is reasonable likelihood for any detailed layout to achieve 'no net loss' in biodiversity habitat, subject to detailed assessment of any detailed plans which should be provided as part of any future reserved matters and provision made to secure appropriate mitigation, if necessary.

² Mr Ramm's Statement of Evidence at Appendix 4 provides an updated version 4.0 of the BIA Metric which concurs with the submitted version 3.1 Metric.

- 7.45 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.
- 7.46 Further, should the amended Conceptual Plan (CD8.11) 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. This is evidenced at Appendix 4, through Mr Ramm's Statement or Evidence which provides both an updated version 4.0 of the BIA Metric for the proposed development with and without the additional woodland planting along the southern boundary.
- 7.47 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

- 7.48 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.

8. Planning Balance

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.2 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.
- 8.3 It is also agreed that the Council is unable to demonstrate a minimum five-year housing land supply as required under Paragraph 73 of the NPPF. The Council can demonstrate a 3.04 year supply as of the 31st March 2022.
- 8.4 In the context of the above 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.
- 8.5 It is also a point of agreement between parties that Paragraph 14 of the NPPF is not engaged as the Queniborough Neighbourhood Plan does not make any full housing allocations to meet an identified housing need. In addition, at the time of the Inquiry, the Queniborough Neighbourhood Plan also became part of the development plan more than two years ago. It is therefore agreed that conflict with the Neighbourhood Plan cannot be considered significant and demonstrable harm to outweigh the identified benefits on its own.

Harms arising from the Development

- 8.6 With the exception of CBC's Landscape Officer, no objection was received to the appeal proposal from any technical statutory consultee as confirmed through within 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.
- 8.7 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.
- 8.8 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.
- 8.9 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 (**CD6.08**), however there is no breach to the purpose of CT/4 and the breach relating to the control mechanism should have limited weight.
- 8.10 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.

- 8.11 As discussed in detail at Section 7 of this Proof, 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

- 8.12 Turning the benefits arising from the appeal proposal and the weight that should be attributed to them in the planning balance, I have set these out below.

Social Benefits

- 8.13 The proposal will result in a broad range of housing types, sizes and tenures for both market and affordable housing that helps to meet current and future housing needs.

Market Housing

- 8.14 The appeal proposal would deliver 150 dwellings, including 90 market dwellings. In the context of the Council not being able to demonstrate a five year housing supply and unresolved objections to the emerging Local Plan and an uncertain timeframe for adoption, I consider that this is a benefit which should be afforded **very significant weight**. The Officers Report attributes "significant positive weight" (Page 32, CD4.02) to this benefit.
- 8.15 As detailed within the Planning SoCG, it is agreed that a condition requiring the submission of reserved matters applications within two years (rather than three years), as per Draft Condition 1 within the Officer Report (CD4.02), could be imposed to ensure development is commenced at the earliest opportunity if the appeal is allowed. This will ensure housing is brought forward as soon as practically possible to assist in meeting the Council's shortfall in housing needs.

Affordable Housing

- 8.16 As demonstrated in Mr Stacey's Proof, the LPA have an acute need for affordable housing within Charnwood Borough and Queniborough. Needs have increased almost 5-fold since 2011, whilst delivery has fallen persistently short of meeting identified needs. Against the most recent assessment of affordable housing need, contained within the 2022 HENA, a shortfall of -792 affordable dwellings has arisen in the first year alone of the 2022 HENA period. This is a very worrying and increasing shortfall with hundreds of households not having their needs met.
- 8.17 The appeal proposal provides 40% affordable housing on site (60 affordable dwellings) which accords with Core Strategy Policy CS3. Note, emerging policy requires 30% on the appeal site, which would result in just 45 affordable units, rather than the 60 affordable units proposed.
- 8.18 The provision of 60 affordable homes, in a sustainable location, would make an important contribution to the annual affordable housing needs of the LPA, and Borough wide housing shortfall, particularly when viewed in the context of past rates of affordable housing delivery as discussed in Mr Stacey's Proof. I consider the benefits of such provision should be afforded **very significant weight**.
- 8.19 The LPA agree with this, confirming within the Officers Report (Page 32. CD4.02) that:

"The development would provide up to 150 new dwellings, of which 40% would be affordable homes, at a time when there is an acute need for these and that would be a significant benefit of the scheme. These would be

*provided adjacent to a settlement in the Borough where there is a reasonable level of local facilities and a bus service to Loughborough and Leicester. The site offers the potential for quality design and an acceptable mix of housing. These matters should be afforded **significant weight**.” (My emphasis)*

- 8.20 As is the case for market housing, the condition requiring the submission of reserved matters applications within two years will ensure affordable housing is also brought forward as soon as practically possible to assist in meeting the Council’s shortfall in affordable housing needs.

Public Open Space

- 8.21 The provision of new publicly accessible green infrastructure providing access for residents to the south of Queniborough to extensive open space. Whilst the primary purpose of this benefit is intended to make provision for the residents arising from the development, the over provision of open space for this size of scheme (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. In addition, contributions are secured towards Provision for Young People, Outdoor Sports Facilities and Allotments to be provided within Queniborough, further benefitting existing and future communities.
- 8.22 The open space provision will not only provide an attractive place for rest and relaxation, but will encourage natural outdoor play and recreation, supporting health and wellbeing of the community. I afford this **significant positive weight**.

Economic Benefits

- 8.23 The proposed development would assist in meeting the economic objective as during the build programme, construction related jobs and indirect jobs would be created. This would benefit local contractors and suppliers. The proposed development would help contribute to ensuring the Borough has a stable workforce in terms of ability and age.
- 8.24 Once occupied, the proposal is capable of supporting the existing range of local shops and services in Queniborough, increasing potential footfall that would help to ensure their long-term viability and vitality. The proposed development would therefore generate significant spending in the Borough, which would help create full time jobs in the local retail and leisure sectors.
- 8.25 The additional properties and residents will lead to an increase in Council Tax revenue and New Homes Bonus payments of benefit to the wider borough.
- 8.26 On this basis, I consider that **moderate weight** should be afforded to the economic benefits.

Environmental Benefits

- 8.27 The site is in a sustainable and accessible location, 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. I afford this **moderate weight**.
- 8.28 The immature broadleaved trees will be enhanced to woodland through additional native tree planting and grassland will also be enhanced through sowing of a wildflower seed mixture – all of which to be managed and monitored for a period of 30 years. Further, the proposals provide substantial landscaping through increased tree cover along the southern boundary, including an additional 10m tree belt to the scheme, 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 (CD5.09)). Having regard to Mr Cook’s evidence, I afford **this significant weight**.

- 8.29 The appeal proposal also provides the opportunity to deliver a new, high quality, sensitively designed edge to the settlement and create a more positive interface to the countryside through the delivery of high-quality housing designed to front onto the countryside. I afford this **significant weight**.
- 8.30 The appeal proposal (without the additional woodland planting) will deliver biodiversity net gains of 7.37% net gain in respect of habitat creation and 151.45% for hedgerows. This accords with current policy by providing a net gain, whilst in respect of hedgerows, is far in excess of the target 10% Biodiversity Net Gain which is being introduced through the Environment Bill. I afford this **significant weight**. The biodiversity net gains are increased to 12% in respect of habitat creation with the introduction of the additional tree planting along the southern boundary, clearly adding further benefits to the proposals.
- 8.31 The appeal proposal also includes off-site works to mitigate highways impacts at the Queniborough Crossroads. The widening of the highway and footpath along the western side of Rearsby Road will require the removal of two sycamore trees which are not covered by TPO. The loss has been agreed by all parties subject to a contribution for replacement planting on a 3 for 1 basis, totalling £2,700. This is secured through the planning obligation. A Concept Tree Planting Plan (Appendix 6 Arboricultural Note) shows the possible location of the additional tree planting which could partly occur within the vicinity of the crossroads if desired by the Local Highway Authority. I afford this **moderate weight**.
- 8.32 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, secured through planning obligation. The management of the trees will preserve the existing character of the area. I afford this **moderate weight**.

Summary of Benefits of the Appeal Proposals

- 8.33 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.
- 8.34 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 and therefore the appeal should be allowed and outline planning permission granted – this also being the conclusion reached on Page 34 of the Officers Report (CD4.02).

9. Conclusions

- 9.1 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.
- 9.2 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.
- 9.3 In the context of the above 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.
- 9.4 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.
- 9.5 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.
- 9.6 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.
- 9.7 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.
- 9.8 Policy CT/2 is not considered applicable as it relates to land designated as 'countryside'. The Local Plan Proposals Map (**CD5.02**) 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.
- 9.9 There would be conflict with Saved Policy CT/4, but no breach of the purpose of the policy, therefore affording limited weight only.
- 9.10 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.
- 9.11 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.

- 9.12 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.
- 9.13 In relation to other matters set out 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.
- 9.14 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. 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.
- 9.15 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.
- 9.16 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.
- 9.17 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.