

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 Rebuttal

June 2023

Town and Country Planning Act 1990 – Section 78

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

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

1. Appellant Response

Certification and Notice

- 1.1 Following consideration of the planning appeal, additional plans (Appendix 1) were submitted to the Local Planning Authority (LPA) on 28th April 2023 showing an additional 10m strip of off-site planting buffer along the site's southern boundary within blue land. The appended Site Location Plan identifies the blue land within the landowners ownership.
- 1.2 Within the LPA's Planning Proof of Evidence at paragraph 2.15, Mr Ward sets out that there is no evidence that demonstrates that notice has been served in relation to the 'blue land' relating to the proposed additional tree belt to the south of the site. This Mr Ward infers is a breach of requirements relating to DMP Order Article 13.
- 1.3 Article 13 (1) states that *"...an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of the land to which the application relates, or a tenant—*
 - (a) by serving the notice on every such person whose name and address is known to the applicant; and*
 - (b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated" [our emphasis].*
- 1.4 In respect of the land for which planning permission is sought (red line), Certificate B was completed and the requisite notice served. The documentation appended demonstrates that the requisite notices were served, in respect of the planning application and appeal, to the landowners via their appointed agent Mather Jamie, who in turn updated the landowner as part of the regular liaison between the two parties. Mather Jamie as agent are instructed to act on behalf of the landowners in respect of planning and land matters and thus are authorised to, amongst other things, accept notices on the landowners behalf.
- 1.5 The additional landscaping proposed on blue land is within the same ownership as the red line. There is no requirement to serve notice as the tree belt secured by means of a Unilateral Undertaking does not constitute development and does not require planning permission. As such, this could be planted at any point outside of the planning regime.
- 1.6 The agent and landowners were both fully aware of the proposals, both on red and blue land, and are fully supportive of the proposal and additional planting. As such the appellants remain firm in their view that the additional planting is entirely admissible for the determination of this appeal, but that the scheme is acceptable with or without it (as was the opinion of Charnwood Borough Council Planning Officer's initial recommendation to grant permission).
- 1.7 The documentation and evidence appended to this note is as follows:
 - Site Location Plan Drawing Ref: H6823/LOC/01 (Appendix 1)
 - Conceptual Plan Drawing Ref: QUEN-CONC-SK2 (Appendix 1)
 - Detailed Landscape Planting Plan Drawing Ref: P23-0196_EN_10 REV: A (Appendix 1)
 - Letter from Mather Jamie (Appendix 2)
 - Letter from the landowners (Appendix 3)