

APPEAL PURSUANT TO SECTION 78 OF THE TOWN AND COUNTRY

PLANNING ACT 1990 IN RELATION TO

LAND AT BARKBY ROAD, QUENIBOROUGH,

LEICESTERSHIRE

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

LPA REF: P/20/2380/2

CLOSING SUBMISSIONS ON BEHALF OF

CHARNWOOD BOROUGH COUNCIL

INTRODUCTION

1. Both the appeal scheme and the revised scheme would cause considerable harm to an ALS which is already under pressure. At the narrowest point it is just 175m, though for most of its extent it is wider. The harm would be considerable, including to a highly valued public footpath, footpath I84.
2. The appeal comes at a time when its 5YHLS is showing a strong upwards trajectory. It is currently 4.27 years a substantial improvement on last year's supply. Further, the Council is making good progress on adopting its emerging LP by the end of the year. And if the Government introduces its track-changed NPPF, as anticipated, the Council would only need to demonstrate a 5YHLS of 4 years. Both parties have accepted that this could have a material effect on this appeal.

The appeal schemes

3. The introduction of the revised scheme at a very late stage, just before the submission of Proofs, has been a curious feature of this appeal and the Appellant's position has been confused.
4. On the one hand, the Appellant has argued that it is not a revised scheme and that it is not "integral" to the development¹, but on the other it should be taken into account for the purposes of improving the BNG.²
5. The Appellant cannot even decide whether it is necessary. On the eve of the inquiry, Monday 12 June, it circulated a Draft Unilateral Undertaking to the Council that stated that the Owner and Developers considered that the obligations contained within the UU were "necessary to make the Development acceptable in planning terms" in accordance with reg. 122 of the Community Infrastructure Levy Regulations 2010.
6. Three days later, on Thursday 15 June, the Appellant had confirmed that it did not think that the obligations contained within the UU were necessary in planning terms.³ In addition, its Landscape witness, further said that he did not think that they were necessary in landscape terms.
7. As mentioned in its Opening submissions, the Council referred to its arguments that there should have been further consultation on the revised scheme, but that it had respected the Inspector's decision to consider it.
8. During the inquiry, the Council considered both schemes. While the revised scheme, on balance, is less harmful than the appeal scheme, its late introduction does not compensate for weaknesses in the latter.
9. The Council has given considerable thought to its housing strategy as part of the emerging LP examination. That the Council cannot quite yet demonstrate a

¹ Brooks XX.

² Brooks Proof, §7.46.

³ Brooks XX.

5YHLS of more than five years, does not justify the attempt to erode this important ALS, which is already under pressure.

CHARACTER AND APPEARANCE

Background

The two schemes

10. As Mr Neesam explained, in his Proof, he considered the impact of the appeal scheme and, in his Rebuttal Proof, he responded to Mr Cook's evidence and considered the impact of the revised scheme.⁴
11. The key difference between the two landscape schemes is the addition of a 10m wide native woodland belt with shrub understorey beyond the entire southern boundary of the appeal site, save for a gap to allow access along public footpath I84. As a result, a cross section through the resulting landscape buffer would comprise 5m of existing planting, infilled with native trees and shrubs, within the appeal site and 10m of native woodland planting beyond the site, to give a total planted buffer of 15m wide. It should be noted that the existing hedge is accommodated within the 15m.

Mr Cook's criticisms of Mr Neesam

12. Mr Cook commenced his XIC by declaring a number of errata in his evidence. he further claimed there were inaccuracies in Mr Neesam's Rebuttal Appendix SJN 05⁵ and SJN 06⁶. These related to the transposition of judgements made in the Golby & Luck ("G &L") LVA.⁷
13. The G&L LVA considers the effects of the appeal scheme on two geographical areas. Firstly, the appeal site itself and secondly the appeal site and its context.

⁴ Neesam XIC.

⁵ CD 8.80.

⁶ CD 8.81.

⁷ CD 1.06.

14. At §6.6, the G&L LVA considers the effects of the proposed development on the character of the appeal site and notes:

“The development of the site will result in the permanent loss of the existing agricultural land use that will be transformed into housing with associated highways, public open space, water attenuation, and structural landscaping. This change in landscape terms will be of significance to the planning decision making process.”

15. At §6.7, the G&L LVA moves on to the effects of the development on the character of the site and its wider landscape setting, wherein, the area of study is very clearly identified:

“In terms of the wider landscape setting that includes the farmland extending between Queniborough and Syston (Zone 21), the development proposal will result in the loss of and [*sic*] existing field that contributes to the open setting of farmland at the settlement edge. However, the site is set within the immediate settlement edge, contained to the north and east by modern residential development, and to the west by commercial development. The loss of farmland will result in an adverse effect to the character of this landscape setting but due to the location of the site and its immediate relationship with the settlement the proposal is likely to result in a medium magnitude of change, leading to a short-term adverse landscape effect of moderate significance. In the long-term, the structural landscaping measures will have matured to soften to the settlement edge, and likewise the landscaping within the site and its associated open spaces will have matured limited any likely adverse landscape effect to moderate/minor significance.”

16. Mr Cook suggested that this judgement applied to the appeal site alone, but the wording is very clear that it refers to the site and its landscape setting: “The loss of farmland will result in an adverse effect to the character of this landscape setting ...”

17. As such, Mr Neesam was entirely correct when recording effects of Moderate significance at year 1 and Moderate/Minor at year 15.
18. In relation to the comparison of visual effects recorded in Appendix SJN 06, Mr Cooke suggested Mr Neesam was incorrect in interpreting the effects within the G&L LVA at year 15 for some of the viewpoints.
19. For example, for Viewpoint 1, the text at §6.11 notes:

“...In View 1 the proposal will be dominant and cause a complete change to the view, resulting in a high magnitude of change, leading to a short-term major/moderate visual effects. As the structural planting measures at this boundary of the site mature views of the development will become softened and filtered. However, due to the proximity of receptors the degree of change is likely to remain the same.”

20. Mr Neesam interpreted this to mean effects of Major significance would continue to year 15. Mr Cook suggested such interpretation was incorrect. However, for other views, the G&L LVA is clear to record where the significance of effect at year 15 would reduce from that at year 1.
21. For example, for Viewpoint 2, where a judgement of Moderate significance at year 1 is recorded, the text (at §6.12) notes:

“... Over time the new planting measures at the southern boundary of the site will have matured that [*sic*] will in turn so often the appearance of the development and existing settlement edge, reducing any adverse visual effect to moderate and minor significance respectively.”

22. Mr Neesam’s evidence was markedly fair throughout. Mr Cook’s criticisms of him were undeserved and unfounded.

Justification for the woodland belt

23. Woodland planting belts are not a particular feature of the landscape to the south of Queniborough.

24. There is some mention of them in the Landscape Sensitivity Assessment of SHLAA Sites for Charnwood Borough, March 2019. A combined assessment of a grouping of sites on the north-western and southern edges of Queniborough and to the immediate north of Syston (west of Melton Road) include suggestions for mitigation:

“Increase tree cover at the settlement edges to enhance the well wooded character of Queniborough village and self-contained character of the Wreake Valley.”

25. However, this recommendation for additional tree cover is to enhance the character of Queniborough and there is no mention of it being to help maintain separation. And it is not even clear that it relates to the appeal site itself. Arguably it has greater relevance to other sites in the grouping that have more relationship with the Wreake Valley.
26. Thus, the introduction of a wooded planted belt as a means of maintaining separation would not be typical.

Effects on the character of the countryside

27. Mr Neesam assessed that the study area for his local landscape character assessment (“LLCA”) would have a Medium sensitivity to change, a similar view to that in the G&L LVA, whereas Mr Cook assessed the sensitivity as being Low.
28. The revised scheme would exert the following effects on the character of the LLCA study area:
- a. adverse changes to the landscape arising from the appeal proposals, which would extend further southward into the countryside than for the appeal scheme, thereby resulting in additional disturbance;
 - b. the wholesale adverse change in land use at the site and the effect of introducing dwellings up to 2.5 storeys high, which does not reflect the character of the adjacent residential area;

- c. the loss of an area of farmland that currently forms part of a wider continuum of countryside;
 - d. the loss of sections of the hedgerow that divides the eastern and western parts of the appeal site;
 - e. adverse change to the landscape setting of Queniborough;
 - f. adverse changes to the experience of users of public footpath 184, on the northward approach to the development;
 - g. a decrease in the sense of openness currently afforded within the LLCA study area, despite the proximity of settlements;
 - h. a reduction in the visual openness and views across agricultural fields as a result of the addition of the woodland belt; the revised scheme would result in a further reduction in the ability to view the spire of Queniborough church, as compared to the appeal scheme.
 - i. while the woodland belt would afford an increased sense of containment to the appeal site, it should not be necessary to screen good development from view. Instead, there should be created a positive and robust relationship between urban areas and countryside;
 - j. while the landscape belt associated with the revised scheme would bring a new green edge to Queniborough, that edge would extend further out into the countryside;
 - k. the revised scheme would have the potential create a more robust entrance to Queniborough, as experienced from Barkby Road, in place of the views across fields to the settlement edge that exist now.
29. Mr Neesam judged that there would be an effect on the character of the LLCA study area of Medium-High magnitude and Major-Moderate significance at year 1, and that the effect would reduce to Medium-Low magnitude by year 15 as the

proposed planting starts to establish, leaving a residual effect of Moderate-Minor significance.

30. Regarding cumulative effects, it is relevant that in future years, the LLCA study area will likely serve a greater function in maintaining the openness between Queniborough and Syston if the housing allocations in the emerging local plan on the edge of the ALS are built out and so exert an influence on the character of the land within.
31. In summary, the development would cause harm to the character of the countryside, on its own and cumulatively, by reason of adverse effects on the landscape character of the appeal site, on the appreciation of features in the surrounding landscape, and on the landscape setting of Queniborough.

Effects on visual receptors

32. The appeal site affords a relatively limited zone of visibility, though a number of visual receptors (i.e. people) are currently able to experience clear, open and close-proximity views of the site from publicly accessible points and residential dwellings.
33. In particular, the revised scheme would be visible by users of public footpath I84 and by receptors on Barkby Road. From many viewpoints, the proposed development would remain clearly visible, even when the proposed mitigation planting was established.
34. The 10m wide woodland belt associated with the revised scheme would, when established, result in the following effects on visual receptors, as compared to the appeal scheme:
 - a. a reduction in visual effects experienced by pedestrians travelling on public footpath I84 to the south of the appeal site to Moderate significance (Viewpoint 5) and Moderate-Minor significance (Viewpoint 6);
 - b. some, limited, mitigation for those travelling northward on the section of Barkby Road south of the appeal site;

- c. the woodland belt would, as a consequence of its geographical location have minimal influence on the view experienced by other visual receptors. As such, effects of Major-Moderate adverse significance would be experienced from points in the vicinity of Chestnut Close, and of Moderate adverse significance from points on the section of Barkby Road closest to the appeal site.
35. Mr Cook recorded visual effects at Year 1 only, and provided no evidence in his Proof as to whether the proposed planting, when established, would provide any mitigation. He recorded judgements of Major adverse effect for receptors at Chestnut Close (Viewpoints 3 and 4), Barkby Road to the east of the site (Viewpoint 1) and for public footpath I84. Under cross examination, he conceded that there would be no improvement in relation to viewpoints 1, 3, and 4.
36. In conclusion, the development would cause harm to visual receptors in the vicinity of the revised scheme, through the introduction of new housing, the loss of longer distance views across farmland and, from localised points, the loss of views to the spire of Queniborough church.

Effects on the separation and separate identity of Queniborough and Syston

Effects on the physical and perceived separation of Queniborough and Syston

37. There is no dispute that the revised scheme would extend wholly into the ALS, nor that it would not cause the coalescence of Syston and Queniborough.
38. If it were built out, the width of the ALS between the southern boundary of the appeal site and the northern edge of Syston would be c.210m. Therefore, there would be a material reduction in the width of the ALS between Queniborough and Syston of up to 43.4%.
39. The Appellant has emphasised that there would be no narrowing of the narrowest part of the ALS – the width along Melton Road is c.175m. But the degree of effect cannot be quantified by a simple mathematical calculation alone. Instead, it is the contribution of the land that is lost to the overall sense of separation and openness that is most important, not the quantity lost.

40. The revised scheme would clearly compromise the physical separation of Queniborough and Syston. But it would cause greater harm to the perceived separation of the two settlements. The purpose of the ALS is to safeguard the separation by maintaining the predominantly open and undeveloped character of the land within.
41. Queniborough and Syston have developed as two separate settlements, separated by a tract of farmed countryside. This gap has reduced over time as both settlements have expanded. If the sites allocated in the emerging local plan were built out as proposed, this trend would only continue.
42. The part of the ALS to the east of Melton Road is largely devoid of built form, save the buildings associated with Homestead Farm, and has successfully maintained the predominantly open and undeveloped character of this tract of farmland. As such, it has played an important role in safeguarding the separation and separate identity of the two settlements. The introduction of the revised scheme would compromise this perceived separation of Queniborough and Syston.

How the revised scheme would affect the appreciation of the separate identity of the two settlements

43. So that the separation and the separate identity of Queniborough and Syston can be appreciated, it is important there is a visual and neutral break when travelling between the two settlements. This is so that there is a perception that travellers are leaving one settlement and arrive in another, having passed through open countryside without strong affinity to either settlement.

Existing situation

44. This separation can currently be experienced from three routes connecting Queniborough and Syston: Barkby Road to the immediate east of the appeal site, Melton Road to the west, and public footpath I84 that crosses the appeal site.
45. As one travels south from Queniborough along Barkby Road, there is a sense of leaving the urban core and travelling along the edge of the village. The Boonton

Meadows development is to the left and to the right there is farmland. The sense of arrival at Syston is experienced by views of the settlement edge across arable fields. This would be even clearer if allocation HA2 in the emerging plan were built out.

46. As to public footpath I84, pedestrians travelling in both directions experience a clearly defined break between urban areas and farmland, despite the proximity of the existing settlement edges of Queniborough and Syston being frequently present in the background of views from the public footpath and across the ALS. The land within the ALS retains a predominantly open and largely undeveloped character.
47. Thus, in summary, there is a clear sense of leaving Queniborough and passing through a more neutral and predominantly open and undeveloped landscape (despite the presence of the edge of Syston in the background of the view) before arriving at the edge of Syston, and vice-versa in the opposite direction. As such, Mr Neesam considered that the separate identities of the two settlements can be clearly appreciated.

Effects on Barkby Road

48. If planning permission were granted for the revised scheme, a very different character for the section of Barkby Road closest to Queniborough would be created.
49. There would be urban forms visible on both sides of the road. The sense of leaving the village and passing through countryside would be pushed southward to beyond the appeal site. Mr Neesam concluded that receptors on this part of Barkby Road would experience a residual visual effect of Moderate adverse significance, and the G&L LVA concluded a greater degree of change of Major-Moderate significance.
50. If planning permission were granted there would be an adverse impact effect on the sense of openness of the ALS, as experienced in views from Barkby Road in the vicinity of Queniborough, and a lesser adverse effect on the sense of

separation of Queniborough and Syston. This effect would be reinforced were allocation HA2 were built out.

Footpath I84

51. If planning permission were granted for either scheme, users would experience significant changes to the experience of using public footpath I84.

Travelling southwards

52. As a user travelled south, the revised scheme would appear as part of Queniborough. Although, the Appellant's Detailed Landscape Planting Plan illustrates the footpath passing through a corridor of open space, the route would not have a farmland setting and would not have the sense of undeveloped openness that can currently be experienced.
53. There would be a significant decrease in the portion of the footpath from which the largely open and undeveloped character could be experienced: from c.545m to c.291m. A 46.6% reduction in length.
54. For this remaining length, users would be very aware of the presence of Syston in the background and the remaining 291m portion of the footpath would be of an insufficient length to be considered neutral.
55. The section of the path that currently exhibits the greatest qualities of openness when travelling southward – that which passes through the appeal site – would be entirely lost.

Travelling northwards

56. Travelling northwards, after passing through the hedge on the edge of Syston, the new edge of Queniborough would be increasingly visible, especially in the early years. The new houses on the edge of the development would be up to 2.5 storeys high, taller than the houses that currently make up this edge of the village. Over time the proposed landscape would begin to provide some mitigation.

57. Notwithstanding this, the views of the Grade I listed St Mary's Church in Queniborough, with its distinctive spire, would be even more obscured by the revised scheme than they would be by the appeal scheme.
58. When travelling northwards, there would be a similar reduction in the length of the footpath passing through undeveloped land, leaving the same 291m portion of open countryside, which is too short to be neutral in reality. The only difference would be that the negative influence of the destination urban edge would not be quite so marked.

Effects on individual and separate identities of Queniborough and Syston

59. If planning permission for the revised scheme were granted, it would have the following implications regarding the ALS and the separate identity of Queniborough and Syston:
 - a. an area of c.5.8ha of undeveloped agricultural land would be removed from the ALS and used for residential development;
 - b. there would be a substantial reduction in the width of the predominantly open and undeveloped gap between Queniborough and Syston;
 - c. even if it were assumed that the woodland belt continued to form part of the undeveloped land, there would be a 46.6% reduction in the length of footpath I84, the main means by which the character of the ALS can be appreciated;
 - d. compared to the appeal scheme, a new green settlement edge would be created for Queniborough as a result of the landscape buffer and the additional planting that would better assimilate the proposed development into its landscape setting;
 - e. notwithstanding the above, the introduction of the landscape buffer associated with the revised scheme would mean the disturbance of the appeal development would extend even further into undeveloped countryside than appeal scheme would;

- f. the woodland belt would minimise the presence of the settlement edge;
- g. while the woodland belt would help to define the separation of the two settlements, it would also be a feature that blocked views; and
- h. the woodland planting belt would, in comparison to the appeal scheme, help to reinforce the perceived separation between Queniborough and Syston, by reducing the visual influence of Queniborough on the character of the remaining ALS. However, it would do nothing to mitigate the reduced distance over which this separation is experienced.

Summary of the effects of the revised scheme on the individual and separate identities of Queniborough and Syston

- 60. In summary, the revised scheme would compromise the separation, and influence the separate identity, of Queniborough and Syston. The proposed development would change the appeal site from agricultural farmland to an urbanised development. It would reduce the physical distance between Queniborough and Syston. And it would shorten the length of routes between the settlements from where the predominantly open and undeveloped character of the remaining portion of the ALS could be best experienced, so undermining the perceived separation between the two settlements, particularly as experienced from the popular and well used public footpath I84.
- 61. The Appellant has largely adopted a mathematical approach. But people do not experience the ALS on an aerial image with a ruler. They experience it primarily by enjoying footpath I84. While the revised scheme has some benefits over the appeal scheme, the main means of enjoying the ALS, walking on footpath I84, will be severely compromised. There would be 291m in the open countryside and those few metres will neither feel open or like countryside.
- 62. Something very important would be all but lost and the separate identity of Queniborough and Syston that is currently experienced would be relinquished.

PLANNING BALANCE

Emerging LP

The adoption process

63. Following submission of the emerging LP, examination hearing sessions began in June 2022 and concluded in February 2023.⁸ The plan is expected to be adopted before the end of the year.

64. On 23 May 2023, following the Council elections in May 2023, the Examination Inspectors issued a letter setting out next steps for the examination (“the Inspectors’ letter”).⁹ The Inspectors said:

“Based on all that we have read to date and heard at the hearing sessions, we consider that updates to the work in relation to Transport and Viability matters are necessary. We also consider that there should be a period of consultation on the outcome of that work, and on a limited number of other matters in advance of the formal consultation on main modifications.”

65. The other matters were:

- “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.”

66. When the OR for the application was completed last year, the officer recommended that the emerging LP was given limited weight in the assessment of the application. Following the progress of the plan, the Council argues that

⁸ See Hopkins Proof, §§6.3 to 6.5.

⁹ CD 8.18.

certain policies should now be given moderate weight in accordance with §48 of the NPPF.

67. The Appellant takes an unnecessarily pessimistic view of the likely adoption date, despite the fact that the hearings have concluded and limited further information is required. It has suggested, for instance, that the work on strategies requested by the Inspectors would require further modelling. This work is described in the Inspectors' letter as consisting of "the broad contents of, and the framework for, the Transport Strategies" and there is no suggestion in their letter that any modelling will be required.
68. Further, the Council has already prepared main modification responses based on its action lists which were agreed verbally with the Inspectors at the end of each matter.

Five Year Housing Supply on Adoption

69. The Appellant has further expressed concern that the Council might not be able to demonstrate a 5YHLS on adoption of the emerging LP. Whether the Council would be able to do so was discussed at the hearing sessions. This issue was addressed by Dr Hopkins in his Rebuttal Proof at §§3.6 to 3.7.
70. The Council agrees that adopting the Sedgefield method to the most up to date trajectory submitted to the examination would produce a housing land supply on adoption of the plan in 2023/24 of 5.05 years.¹⁰ The supply of 7,227 homes is the position following significant scrutiny through the process of an examination in public and incorporates modifications that the Inspectors requested as a result of that scrutiny. However, it is possible that the Inspectors could conclude that the Liverpool method is appropriate.
71. In addition, the improved 5YHLS position identified by the Council in its update to 31 March 2023 will improve 5YHLS on adoption figure.

¹⁰ CD 5.29.

Conclusion on the emerging LP

72. There is no evidence to suggest that the Examining Inspectors will require the Council to identify additional supply or that the emerging LP will not be adopted for some other reason.
73. A reasonable timetable for the stages to adoption incorporating the consultation identified by the Inspectors, consultation on main modifications and the issuing of the Inspectors' report would enable the Local Plan to be adopted by the end of 2023.
74. It is plainly in the interests of the Council to progress the emerging LP as quickly as possible. The plan has made good progress and there is every reason to conclude that it will continue to do so.

Conflict with development plan policies

75. Both versions of the appeal scheme conflict with numerous development plan policies.

Policy CS 2 – High Quality Design

76. The proposals conflict with the first bullet point which requires new developments to “respect and enhance the character of the area, having regard to scale, density, massing, height, landscape, layout, materials and access arrangements.”
77. There is no dispute between the parties that the policy is up-to-date and it is consistent with the NPPF. Full weight should be given to the policy and significant weight to the breach.

Policy CS 11 – Landscape and Countryside

78. Policy CS 11 states that the Council will “support and protect the character of our countryside” by complying with various requirements, including:

“

- 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”.
79. The policy is up-to-date and consistent with the NPPF (specifically §§11, 16, 20, 23, 80, 84, 174, and 175). Full weight should be given to the policy and significant weight to the conflict.

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

80. Policy CT/1 restricts development in the areas specified in the title, including ALSs. It permits development in four prescribed circumstances and is breached as none applies.
81. It does not apply to all development, just development around selected settlements.
82. There was some suggestion by the Appellant that the policy was incompatible with Green Belt policy in the NPPF. This scheme is not in the Green Belt, so that is not relevant.
83. The Council accepts that it is not up-to-date, but notes that its performance up to 2023 was consistent with §61 of the NPPF and it should be given some weight.
84. Significant weight should be given to the breach.

Policy CT/2 Development in the Countryside

85. Notwithstanding the reference to Policy CT/2 on the decision notice, the Council accepts that it is not breached. This is because it restricts development in the

countryside, but the ALS is not defined as countryside in the 2004 Local Plan Proposals Map.¹¹

86. As is noted below, there is though a breach of the corresponding policy in the emerging LP, Policy C1.

Policy CT/4 Development in Areas of Local Separation

87. **Policy CT/4 requires that:**

“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.”

88. The proposals breach both limbs.

89. It was suggested by the Appellant that landscape considerations were not relevant, but this is undoubtedly a landscape policy. It comes within a suite of policies in Chapter 6 which are concerned with protecting the rural landscape. This approach is in accordance with Policy CS 11, where the development is required to maintain the “separate identities of our towns and villages” specifically to support and protect the character of our countryside.

90. While the policy is not up-to-date it is consistent with the NPPF (specifically §§174 and 175) and full weight should be given to it. The breach is very significant.

¹¹ CD 5.02.

Policy EV/1 Design

91. As its title suggests, Policy EV/1 seeks to ensure a high standard of design in all new developments. Planning permission will only be granted for developments which meet the stated criteria. These include development which:

“i) respects and enhances the local environment including the scale, location, character, form and function of existing settlements and the open and undeveloped nature of the countryside.”

92. While the policy is out-of-date it is again consistent with the NPPF and full weight should be afforded. The breach is significant.

Policy Q6

93. Policy Q6 (of the Queniborough Neighbourhood Plan) mirrors CS11 and replicates the ALS. It is accepted that it is out-of-date, but again it is consistent with the NPPF (and specifically §§11, 16, 20, 23, 80, 84, and 174).

Emerging LP

94. The proposals both conflict with the following emerging LP policies:

- a. Policy DS1 – Development Strategy
- b. Policy DS3 – Housing Allocations
- c. Policy C1 – Countryside
- d. Policy EV1 – Landscape
- e. Policy EV3 – Areas of Local Separation

95. They are all consistent with the NPPF and moderate weight should be afforded to them as explained above. The breaches are all significant with the exception of Policy EV3, where the breach is very significant.

96. Policy C1 can be differentiated from Policy CT/2 in that there is overlap between areas of countryside and ALSs including the ALS in this appeal.

Application of the planning balance

Benefits

97. While the Council accepts that the proposals would provide several benefits, these have been exaggerated. The Council's position can be summarised as follows:
- a. **provision of market housing in an area of need where Council cannot show a 5YHLS:** the immediate delivery of housing would be a benefit, but if planning permission were to be granted it would add 150 units to the other 8,515 dwellings on major applications sites with outline approval and any housing allowed would not become deliverable until after the emerging Local Plan had been adopted. Further the Inspector should take into account the limited extent of the shortfall in affording weight in accordance with the judgment of the Court of Appeal in *Hallam Land v. SSCLG* [2018] EWCA Civ 1808); – **limited weight**;
 - a. **provision of affordable housing:** this is explained in more detail below, but it would be provided after the emerging LP is adopted and provides the minimum required by policy – **moderate weight**;
 - b. **mix of housing in a sustainable location:** this repeats the benefit of the provision of marketing housing already counted – **no weight**;
 - c. **delivery of a new edge and gateway to Queniborough:** enhancement of the urban/rural landscape buffer would be a benefit, but as presented this benefit would be minimal – **limited weight**;
 - d. **economic benefits:** economic benefits would be temporary as far as the construction was concerned and modest – **limited weight**;

- e. **Council benefits, including New Homes Bonus:** there is no suggestion that the Council would ringfence any sums that accrued for the benefit of the local community – **no weight**;
- f. **reduction in need for private car as sustainable location:** whilst Queniborough scored well as a sustainable location, this was on the basis of the planned growth rate – **limited weight**;
- g. **provision of tree belt:** a 10-15m wide tree belt would provide some benefit, but would not be in keeping with the local character – **limited weight**;
- h. **BNG:** the Appellant argues that the appeal scheme would provide a 7.37% BNG, this is below the minimum statutory requirement that will shortly come into effect and the revised scheme is said to provide 12%, which would be barely compliant – **limited weight**; and
- i. **off-site tree planting re off-site roadworks and tree management contribution:** these provide mitigation for the purposes of road safety and are not benefits – **no weight**.

Affordable Housing

98. While the Council has been able to come close to meeting the gross affordable housing delivery target in the CS (173 affordable homes pa compared to 180 affordable homes pa for the period since 2011/12), it accepts that there is a negative effect of Right to Buy sales and an increasing need for affordable housing in the Borough.¹²
99. There is no disagreement between the parties in relation to the most recent evidence regarding the current net need for affordable homes for rent of 476

¹² CD 8.47 Figure 6.2.

homes pa (2020 Housing Needs Assessment¹³) or 455 homes pa (2022 Housing and Economic Needs Assessment¹⁴).

100. As set out in §9.73 of the 2022 Housing and Economic Needs Assessment there is a second source of supply for homes for affordable home ownership that could be used to calculate the net need for this type of affordable housing. This states:

“If a further supply of dwellings below lower quartile were taken from the estimated need then it would be suggested that there is actually a surplus of affordable home ownership properties (of around 700 per annum). This figure should be treated as theoretical, not least because it is the case that market housing is not allocated in the same way as social/affordable rented homes (i.e. anyone is able to buy a home as long as they can afford it and it is possible that a number of lower quartile homes would be sold to households able to afford more, or potentially to investment buyers). However, it is clear that looking at a wider definition of supply does make it difficult to conclude what the need for affordable home ownership is (and indeed if there is one).”

101. This uncertainty does not diminish the need for affordable homes for rent and the scheme would contribute to meeting that need in accordance with Policy CS3. The Council therefore attaches greater weight to the proposed development’s benefits in relation to the provision of affordable housing than it does to those in relation to market housing.

Adverse impacts

102. **Significant weight** should be afforded to the adverse impacts that arise from the impact on the landscape and particularly on the ALS as well as to the development plan as set out above.
103. These impacts are not academic. As the inquiry heard, they directly impact on local residents, particularly as they use footpath I84 as an opportunity to

¹³ CD 5.15 Figure 4.16.

¹⁴ CD 5.17 Table 9.9.

experience countryside and a sense of being away from the built form of the settlements it passes between.

104. Cllr Needham, spoke eloquently of how she walks her children along the footpath, so that they would be safer than walking along the busy road, and so that they could enjoy the tranquillity experienced when emerging into the appeal site from Avenue Road. The loss cannot be fully understood by simple measurements, but in the perception of users, and the diminished experience they would have if planning permission were granted.
105. Finally, it is important to remember that the adverse impacts harm the development plan and its policies, including the Council's development strategy, as well as those of the emerging plan (*Gladman Developments Ltd v SSHCLG* [2021] EWCA Civ 104).

CONCLUSION

106. The last minute submission of the revised scheme does not rescue a proposal that would cause considerable harm to the DP and to real people who value the sense of separation that the ALS provides. It should be protected and they should be entitled to continue to enjoy the sense of tranquillity and separateness of being between the two settlements of Queniborough and Syston.
107. For all the reasons in these submissions and in the Council's evidence, the Inspector is respectfully invited to dismiss the appeal and to refuse planning permission.

Howard Leithead

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