



Charnwood Local Plan.

Post Examination Consultation Representations.

On behalf of Redrow Homes, Davidsons Developments Limited
and the Helen Jean Cope Charity.

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1. Introduction

- 1.1. These representations have been submitted by Pegasus Group on behalf of Redrow Homes, Davidsons Developments Limited and the Helen Jean Cope Charity in response to the Post Local Plan Examination Hearing Consultation relating to the Sustainability Appraisal Addendum, Five Year Supply Update, Housing Trajectory, Draft Transport Strategy and updated Viability Evidence.
- 1.2. They relate to our clients' interests in Land at Watermead Lane, South West Loughborough. The site is owned by a local Charity, who donated Outwoods to the Borough Council.
- 1.3. Our clients have sought to engage fully in the preparation of the plan, making submissions on the Call for Sites, Regulation 18 and Regulation 19 consultations and the Examination in Public process, and are actively seeking the allocation of their site in the plan. The proposed allocation is appropriate and deliverable, being promoted by two regional house-builders with an enviable track record of delivery locally.
- 1.4. The following sections set out our comments on the documents included in this consultation.



2. The Sustainability Appraisal Addendum

- 2.1. The Charnwood Local Plan Sustainability Appraisal (SA) (December 2022) produced by AECOM has been prepared to explore options to meet Charnwood's share of unmet housing needs arising from Leicester and retail site options in Loughborough. In terms of Charnwood's share of unmet need, the report looks at three reasonable alternatives that have been identified for the delivery of an additional 78 dwellings per year, each of which have been appraised; Option 1 – site intensification on existing site allocations, Option 2 – additional sites in Shepshed, Loughborough and the Leicester Urban Area, and Option 3 – Cotes (new settlement).
- 2.2. In summary, Option 1 seeks to increase capacity on existing allocations as part of the approach to meeting Leicester's unmet needs. Option 2 considers the allocation of additional sites in Shepshed, Loughborough and the Leicester Urban Area, and includes land at South West Loughborough – land south of Watermead Lane, South West Loughborough (PSH467) as a potential suitable and sustainable additional site. Option 3 notes that the Council has ruled out a 'new settlement' approach on several occasions but advises that there are continued representations in support of Cotes, and therefore this option has also been considered.
- 2.3. The Council is also aiming to increase the capacity on proposed allocations in order to address the increased housing requirement resulting from the apportionment of unmet needs (Option 1). Whilst this approach may be appropriate on some allocations, in certain circumstances where detailed master-planning as part of planning applications has identified additional capacity, we question whether increasing capacity is realistic and whether it would represent the most appropriate approach for all of the identified sites. This is particularly important given the requirement to provide 10% biodiversity net gain, as well as onsite public open space, surface water attenuation and formal sports provision, in order to adequately mitigate development. It is not simply the case that every site can accommodate an intensification of housing numbers as there may not be sufficient land to accommodate the inevitable increase in associated public open space and infrastructure, as well as landscape mitigation that may be required.
- 2.4. With regard to landscape mitigation, each site would need to be assessed on its own merits to see if it is capable of accommodating additional numbers without giving rise to any significant detrimental impacts. The blanket approach of assuming an increased yield in numbers on existing allocations to meet the unmet need from Leicester is therefore considered problematic and overly simplistic and, in some cases, not achievable when reserved matters applications come forward. The alternative of providing a new site under Option 2 to meet the additional need would provide additional benefits in terms of open space provision, ecological and landscape improvements.
- 2.5. The overall assessment discounts Option 2 largely on the basis of landscape and ecological impacts, with 'Appendix A: Appraisal of Housing Alternatives' making specific reference to the land at Watermead Lane (PSH467). The SA Addendum landscape comments for Watermead Lane (PSH467) are set out at page 40, as follows:

"The site proposed at Loughborough (PSH467) is in a relatively sensitive location for landscape character, being on the edge of the Charnwood Forest. Though there would be potential to incorporate green infrastructure, the currently open nature of the site would be



permanently altered, and long range views towards the site could be negatively affected. This could lead to moderate negative effects in this location.”

- 2.6. This assessment fails to properly consider or meaningfully engage with the detailed landscape assessment work prepared by Golby and Luck (**Appendix 1**), submitted previously as part of our evidence, and the significant opportunities presented to incorporate extensive green infrastructure as part of a more comprehensive South West Loughborough development solution as set out in the Cope Wood Vision Document by Nineteen47 (**Appendix 2**).
- 2.7. The SA Addendum at page 42 notes the proximity of PSH467 to the Beacon Hill, Hangingstone and Outwoods SSSI and in combination significant negative effects with regards to biodiversity. The assessment considers that the large scale of growth could bring potential pressures in terms of increased recreation, light and noise pollution, and temporary construction related issues. Contrary to the Council’s analysis, the assessment notes that it is expected that built development areas would not encroach close to the SSSI and advises that the Illustrative Masterplan submitted shows this is the case and notes the enhanced recreation areas proposed.
- 2.8. This assessment is wholly disputed, and fails to acknowledge any of the detailed work which has been undertaken to demonstrate that such an allocation would ensure that the development of the site would not result in detrimental impacts, through a combination of separation distance from the SSSI and the provision of substantial areas of open space, which deliver substantial biodiversity gains and other benefits including biodiversity landbank opportunities with wider benefits for other allocations. The Preliminary Ecological Appraisal Report (PEAR) by Ramm Sanderson (**Appendix 3**) confirms that buffering and ample walking routes are proposed around the development site, together with adjacent landscaping, to mitigate the effects of visitor pressure on the SSSI. The Illustrative Masterplan (**Appendix 4**) includes a 25m wide area of new mixed woodland planting along the SSSI boundary, and beyond this a buffer of locally native, gorse & broom dominated scrub will provide a further buffer, and help to guide and restrict visitor movements to established paths.
- 2.9. The site extends to approximately 74ha, with only approximately 16ha of the site proposed for residential development, which can accommodate in the region of 600 dwellings. The remainder of the site (approximately 58ha) would be reserved for various elements of green infrastructure, including significant new tree planting, wildflower meadows and a network of footpath and cycle routes, to provide significant opportunities for Biodiversity Net Gain.
- 2.10. The Vision Document (**Appendix 2**) illustrates how the development of the site is the key to unlocking a range of benefits to Loughborough, by joining up the proposed allocations as a series of Forest Communities, with a new highway, similar in character to Woodhouse Lane. In doing so, an even greater expanse of publicly accessible green space can be delivered, connecting communities and promoting movements towards the regional park on foot/bicycle. Furthermore, the site would provide opportunities for Biodiversity Net Gain both for the proposed development and to assist other developments in the area in achieving net gain through the provision of a Biodiversity Bank.
- 2.11. The SA Addendum’s conclusions in relation to the potential landscape and biodiversity impacts of the proposals at Watermead Lane, South West Loughborough, also are therefore not only wrong, but are also inconsistent with the conclusions set out within the Council’s pre-application advice response on these matters.



- 2.12. Pegasus Group submitted a Pre-Application Advice Request (**Appendix 5**) in relation to land interests at Watermead Lane, South West Loughborough in January 2023. The submission included the appended Vision Document, Illustrative Masterplan and Preliminary Ecological Appraisal Report, as well as a Highways Statement by ADC Infrastructure.
- 2.13. A Pre-Application Advice Meeting was held with Charnwood Borough Council on 24th April 2023. The Pre-Application Advice Response was received from Charnwood Borough Council on 7th June 2023 (**Appendix 6**), following a period of consultation with internal consultees. PDF page 8 sets out the response in terms of landscape, and whilst the response advises that the emerging Local Plan position and Landscape Sensitivity Study 2021 would weigh against the proposal and pose a risk to the success of an application, the response advises that:
- “However, it is also considered that the Masterplan document at its current stage of development demonstrates effectively that development could be contained within the lower parts of the site and its size is such that it could accommodate the mitigation referred to in the Sensitivity Assessments in the landscape study. Therefore, whilst not supported by the current policy framework, it is considered that the masterplan provides sufficient detail to allow for consideration in future development plan analysis.”*
- 2.14. The Sustainability Appraisal Addendum concludes at paragraph 5.14 that:
- “ultimately, there is no ‘best’ or ‘worst’ option, as this depends on the weight that the Council gives to different aspects of sustainability, the extent to which the Council think that issues can be resolved through mitigation and enhancement, and whether there are other issues to consider such as market factors.”*
- 2.15. Paragraph 5.15 also confirms that:
- “on the face of it though, the sustainability appraisal would suggest that Option 1 performs in a balanced manner and is most favourable in terms of avoiding significant negative effects and securing positive effects”.*
- 2.16. The consideration and subsequent dismissal of Option 2 altogether as a reasonable alternative is fundamentally flawed. The assessment has not sufficiently considered the benefits that would be secured by the additional allocation of PSH467 as part of a deliverable, comprehensive development solution for South West Loughborough, which is in the single ownership of a local Charity (who donated the Outwoods to the Council many years ago). Instead, the SA places significant weight on how development *could* lead to moderate negative effects. The inclusion of the land at Watermead Lane, South West Loughborough as a reasonable alternative is welcomed and the results highlight the strong sustainability and environmental/BNG credentials of the site. The Council’s positive pre-application advice response acknowledges that the careful masterplanning of the site can accommodate the mitigation referred to in the Landscape Sensitivity Study through containing development within the lower parts of the site. The dismissal of Option 2 and PSH467 as an allocation is not adequately justified, as the evidence submitted on behalf of the developer/landowner has not been properly considered.



3. Charnwood Additional Housing Supply Update September 2023

- 3.1. The Additional Housing Supply Technical Note (September 2023) updates the previous Technical Note and includes an explanatory note and tracked changes to clearly set out the changes that have been made. The document demonstrates the effects of updating the housing land supply position to 31st March 2023 (the previous version was the position at 31st March 2022).
- 3.2. Appendix A provides a table that sets out the revised capacity of various housing allocations, comparing the Submission Version Local Plan capacity to the new revised capacity through increasing densities (Table 1), through expanding housing parcels within allocations (Table 2), and through expanding allocation boundaries (Table 3). Table 4 confirms the other allocations whereby increased capacity has been considered but has been discounted.
- 3.3. Appendix C sets out an Updated Local Plan Table 5, which summarises the additional supply from the existing allocations. This results in an additional 443 dwellings across the plan period through the intensification of existing allocations.
- 3.4. As set out at Section 2 there is a fine balance between providing Biodiversity Net Gain on sites and delivering housing numbers. An example of this is Site HA60 Melton Road, East Goscote. Outline planning permission was granted for 270 dwellings (application reference number: P/20/2382/2), significantly more dwellings than the original allocation of 223 dwellings. A reserved matters application has subsequently been submitted by Redrow Homes (application reference number: P/22/2279/2) which provides for 258 dwellings, 12 fewer homes than the outline application following the completion of detailed masterplanning work. It is important to note that an application to discharge Condition 25 – Ecological Mitigation Strategy (application reference number: P/23/1318/2) of the outline consent confirm that whilst a net gain can be achieved this is a small net gain of 0.56%. This application demonstrates the delicate balance between delivering increased housing numbers on site and the delivery of Biodiversity Net Gain on site.
- 3.5. Furthermore, the intensification of some proposed sites, for example Site HA35 Land North of Hallamford Road and West of Shepshed, where there are significant environmental constraints such as flood risk and site topography, may mean that achieving a higher number of dwellings might not be deliverable.

4. Updated Housing Trajectory (completions information and update note) and Update to Five Year Supply on Adoption and Site List

Five Year Supply

- 4.1. The updated documents provide the 5 year housing land supply position on adoption of the Local Plan, taking account of the site intensification work undertaken by the Council to accommodate its apportionment of Leicester's unmet need for housing. The housing requirement has been amended from 1,111 dwellings per annum to 1,189 dwellings per annum to take account of the City's unmet need (78 dwellings per annum). The housing supply trajectory has been updated to look at the period 2023 – 2028, updating completions information and the effects of the site intensification work undertaken.
- 4.2. The 5 year period on adoption of the Local Plan is 2023 – 2028, and at 1st April 2023 the document claims that there is a 5.16 year supply (224 dwellings surplus over requirement). The detailed trajectory claims a 5.74 year supply at 2024/25 and 6 year supply at 2025/26.
- 4.3. The housing trajectory includes a 63 dwellings per year windfall allowance from 2026/27. This projection is based on historic completions in a scenario prior to the adoption of the Local Plan where there has been no 5 year supply and thus the likelihood of speculative applications being successful and contributing to delivery is far greater – to simply project this rate forwards is therefore misconceived. Following the adoption of the Local Plan, and therefore the confirmation of a 5 year supply, the submission of speculative planning applications is likely to be greatly reduced. It is therefore considered that projecting this figure forward is grossly over-optimistic.
- 4.4. Whilst a 5.16 year supply (as claimed) upon adoption of the Local Plan is only at best marginal, the updated housing trajectory does demonstrate an increase in supply in subsequent years.

Plan Period

- 4.5. The updated housing trajectory covers a plan period to 2037. The Local Plan is now not due to be adopted until 2024, which would mean that the plan will fail to cover the minimum 15 year period from adoption as required by paragraph 22 of the NPPF. If the plan is adopted before 31st March 2024 the plan period should be extended to 2039, which is an additional two years. If the plan is adopted after 31st March 2024, consideration should be given to extending the plan period to 2040.
- 4.6. An appropriate plan period would further increase the housing requirement by an additional two years and this matter does not appear to have been resolved through the Examination hearings or the Council's current consultation.
- 4.7. Addressing this additional need further highlights the importance of considering new allocations (Option 2), rather than solely focusing on intensifying existing sites.



5. Draft Transport Strategy Document

- 5.1. The Transport Strategies to Enable Growth in the Borough of Charnwood document has been prepared by Leicestershire County Council (LCC) and has been submitted as part of the Examination evidence base. LCC have undertaken a series of reports testing the cumulative transport impact of the proposed growth within Charnwood, and conclude that three strategies are required, focussed on the three distinctive geographies in the Soar Valley Area, Loughborough/Shepshed Area and the North of Leicester Area.
- 5.2. There are three elements to the proposed package; enhanced sustainable transport measures, improvements to the Major Road Network, and improvements to the Strategic Road Network. The report then goes on to estimate costs for each of the three areas for each of these elements, and LCC then propose a 'contribution strategy', effectively a roof tax, whereby each dwelling in its strategy area contributes proportionately to the total costs identified. The total anticipated cost is £183m. The legal basis for such a strategy is however dubious and has not been properly demonstrated (see *Aberdeen City v Elsick* [2017] UKSC 66 – **Appendix 7**). The Community Infrastructure Levy was introduced because it is not lawful to introduce a generalised tariff based approach to raise money from development to fund infrastructure in the manner contended for.
- 5.3. The cost allocation is counterintuitive, in that the most sustainable location to develop (North of Leicester) will attract the greatest contribution, and the least sustainable, where reliance on the car is greatest, is cheapest (Soar Valley). That is because there is greater opportunity to enable walking and cycling in the more sustainable areas, and hence greater costs associated with the provisions. The £86m for walking and cycling measures in North of Leicester would be 47% of the mitigation costs for the whole Borough.
- 5.4. Section 5 of the document notes that based on the County Council's experience of similar strategies and schemes, it is possible that the complete mitigation package will cost at least £180m, and given current market conditions and based on 2022 prices, as acknowledged by the County Council, could rise over the life of the Plan. The report notes that funding to deliver the strategy will come from two key sources; public funding and private funding (i.e. developer contributions). Section 6 sets out the next steps, advising of the programme to consult on the actual draft strategy documents for further public consultation ahead of securing their approval by the County Council's Cabinet in summer 2024, and confirming that the strategies will need to be reviewed and assessed in light of, for example, evidence from initial delivery and changes in Government policy. Paragraph 6.7 confirms that the County Council has sought to reach agreement with Charnwood Borough Council on the approach to securing developer contributions towards the Strategies' delivery, pending the Local Plan's adoption. As noted above the legality of this approach is questioned and it would be useful to understand whether the Council has sought legal advice on that point.
- 5.5. Charnwood Borough Council is not proposing that the Local Plan will include a policy to set a requirement for a per dwelling contribution towards highways infrastructure. In order to implement the per dwelling Section 106 costs, this will need to be converted into policy through a future SPD, and subject to the necessary public consultation process, taking account of the Viability Report. We question such an approach which would seem to be at odds with NPPF paragraph 34 which requires:

"Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other



*infrastructure (such as that needed for education, health, **transport**, flood and water management, green and digital infrastructure)."* (emphasis added)

- 5.6. It would seem that the approach of the County is that it would be implemented through an update to Leicestershire County Council's Planning Obligations Policy (July 2019) document, however, by the time this process is complete many of the allocations will have already come forward and have secured planning permission under the current policy context in terms of obligations. This must not place a greater burden on future planning applications (including allocations) to meet the shortfall in funding, which will not be viable, resulting in the potential non-delivery of sites, with severe implications arising therefore to the proposed housing trajectory and associated impacts on the 5 year housing land supply position.
- 5.7. It is important to note that developers will have already signed up promotion/option agreements with landowners that cover significant time periods, which is key to demonstrating the deliverability of allocations, however these agreements will have been based on achieving minimum land values that will not have taken into account these additional proposed per dwelling infrastructure costs. This may result in planning applications on allocated sites not being able to deliver policy compliant affordable housing given the per dwelling financial contribution proposed to cover highways, education and other offsite infrastructure costs. It is unrealistic to assume that existing commercial land agreements between landowner/developer can be easily re-negotiated; even if that proved possible the timescales for variations to be negotiated and concluded would be uncertain thereby impacting directly on housing delivery.
- 5.8. It is therefore respectfully suggested that the Council needs to allocate additional sites to both contribute towards the necessary infrastructure, and sufficient housing supply and affordable housing delivery across the plan period. And that its currently suggested approach needs to be urgently revisited.



6. Updated Viability Work

- 6.1. The Consolidated Viability Report by Aspinall Verdi (August 2023) has updated and consolidated previous viability assessments prepared for the Charnwood Local Plan. The report concludes at paragraph 9.1 that *“having regard to the proposed changes to the S106 contributions approach... the plan is viable”*. Paragraph 9.4 however confirms that *“further work is required to monitor and manage the infrastructure requirements (particularly for education and off-site transport costs) depending upon the business case for additional public sector funding. There is clearly a funding gap between the amounts which are required to deliver the plan and the amounts that can reasonably sought from developers through Section 106 contributions alone. This will come as no surprise because Leicestershire County Council have always recognised (see paragraph 6.32) that alternative funding would be required from a range of Government sources to fill this funding gap.”*
- 6.2. The report confirms that developers cannot afford to pay for the full infrastructure costs through developer contributions, and that additional public sector funding is necessary. Table 9.1 sets out the maximum total S106 obligations per dwelling across the three Housing Market Areas (Leicester Fringe, Loughborough/Shepshed and Wider Charnwood), for both greenfield and brownfield sites. Table 9.2 sets out the indicative maximum amounts of S106 funding, and for the total Borough this is £200m.
- 6.3. A report to Leicestershire County Council’s (LCC) Cabinet meeting on 24th October 2023 sets out the £140m current estimate for education requirements and the £183m current estimate for highways and transport requirements, totalling £323m. The LCC Cabinet report sets out that of the £200m maximum developer funding from the Aspinall Verdi report; this is based on all allocated housing sites contributing the maximum level of S106 funding, noting that it does not discount those sites that have already secured planning permission (which it notes is approximately 1,500 dwellings to date, out of approximately 9,300 dwellings). The report notes that it is not recommended to set contributions right up to the margins of viability and confirms that £200m is the maximum for all contributions, not just highways and/or education contributions. The LCC report confirms that LCC will continue to support the Charnwood Local Plan.
- 6.4. Therefore, there is a minimum funding gap of at least £120m. It is important to note that approximately 16% (1,500/9,300 LCC Cabinet report figure) of Local Plan allocations already have planning permission and therefore will not be contributing to the Local Plan infrastructure costs required. Again, this must not add an additional financial burden to the remaining Local Plan allocations, which will continue to increase with the approval of further planning applications prior to the implementation of any future revised policy to accord with NPPF and/or SPD to secure additional Section 106 contributions towards infrastructure.
- 6.5. Whilst the report at Table 6.7 includes residential cost assumptions in relation to ‘net biodiversity’ for brownfield/greenfield sites on a per dwelling basis, it is unclear whether this cost assumption would also cover the costs of providing Biodiversity Net Gain offsite if provision cannot be made onsite.
- 6.6. Approximately 16% of Local Plan allocations (approximately 1,500 dwellings) already have outline planning permission and have not contributed to the strategic highway infrastructure. The allocation of additional sites through the Local Plan to compensate for this further shortfall in contributions would help significantly with ensuring that the already large funding gap is not even greater. The evidence leaves significant gaps in the funding needed to secure



the necessary infrastructure and therefore choices will need to be made about what development can contribute alongside the need to provide affordable housing and Biodiversity Net Gain on or offsite.



7. The Alternative

- 7.1. The preferred approach would be to release (allocate) a site such as that promoted by our clients whose infrastructure requirements have been properly assessed and which is demonstrably deliverable and viable by the Council through the Local Plan process and a thorough pre-application submission.
- 7.2. Accordingly, the principle of residential development on the site, as proposed, is acknowledged by the Borough Council. There is no technical or other constraint to prevent the early delivery of new homes on this site in a sustainable location that will deliver significant environmental, BNG and landscape benefits and high-quality design of all dwellings by two well respected regional housebuilders.



Appendix 1 – Landscape Assessment Work by Golby & Luck

Land off Watermead Lane, Loughborough (PSH467)

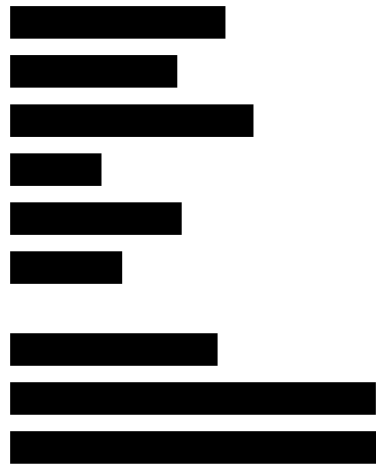
Landscape Note

Clients: Davidsons Developments, Redrow Homes, and The Jean Cope Charity

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1 INTRODUCTION

- 1.1 The following note has been prepared by Golby + Luck landscape architects following instruction by our clients Davidsons Developments, Redrow Homes, and The Jean Cope Trust, in respect of the land at Watermead Lane, Loughborough (PSH467).
- 1.2 This note has been prepared following the rejection of the promotion in the recently published Sustainability Appraisal and the Development Strategy and Site Selection Topic Paper July 2021 (the Topic Paper), published by Charnwood Borough Council (the Local Authority). The Topic Paper explains its reason for rejection at page 31 stating landscape impact and the supposed greater difficulty of mitigating that impact compared to other sites at the edge of Loughborough.
- 1.3 In reaching this decision the Local Authority has prepared two new studies that are referenced in this note:
 - LUC - Charnwood Landscape Capacity and Sensitivity Assessment Addendum – Charnwood Borough Council – February 2021 (the LUC 2021 Assessment); and
 - Charnwood Borough Council – Charnwood Landscape Sensitivity Assessment – July 2021 (the Charnwood 2021 Assessment).
- 1.4 These form part of a series of landscape sensitivity and capacity assessments that also include:
 - Charnwood Borough Council – Landscape Character Assessment – July 2012 (the Charnwood 2012 Assessment); and
 - LUC – Landscape Sensitivity Assessment of SHLAA Sites for Charnwood Borough Council – March 2019 (the LUC 2019 Assessment).
- 1.5 This note should be read in conjunction with the Pegasus Group Representations in respect of the Regulation 19 Consultation on the Charnwood Local Plan – August 2021, and the Nineteen47 revised masterplan.



2 DEVELOPMENT CONTEXT

2.1 The promotion of this land follows initial consideration of development options by the Jean Cope Charity for south-west Loughborough. This work identified the context of physical constraints to the further expansion of Loughborough to the north, south, east, and west, leaving the only viable option for major growth to the south-west of the settlement. This work also considered the constraints and opportunities to development at the south-west edge of Loughborough with the principal constraint being identified as the relationship between the settlement and the Charnwood Forest.

2.2 This constraint was also considered to present obvious opportunities for a considered and planned expansion of the Town in a manner that would secure development reflecting the setting of the Charnwood Forest in combination with major new green infrastructure that would:

- Define the gateway to the Charnwood Forest from Loughborough;
- Improve public access and provide a significant increase in green space provision;
- Provide extensive landscape enhancement measures; and
- Secure significant gains in biodiversity.

2.3 These measures are entirely consistent with the objectives of draft Policy EV4: Charnwood Forest and the Nation Forest that seeks to support development that:

- *“supports the woodland economy and rural diversification, including sustainable smallscale tourism and recreation opportunities which protect, and enhance the distinctive landscape character of the Charnwood Forest;*
- *protects and enhances the biodiversity of the Charnwood Forest Regional Park, consistent with the aims of the National Character Area profile of Charnwood;*
- *provides tree planting within the Charnwood Forest Regional Park, in accordance with the National Forest Planting Guidelines;*
- *provides an improved network of public rights of way within Charnwood Forest and between nearby settlements including the establishment of a network of off-road links for walkers, cyclists and equestrians; and*
- *improves accessibility for people with mobility issues including improved footpaths and parking for people with disabilities.”*



- 2.4 It is accepted that all development options to the south-west of Loughborough are sensitive in landscape terms due to the relationship between the Town and the Forest edge, but it is unclear from the recent studies prepared by the Local Authority why the proposal for land to the south of Watermead Lane is considered to be of increased sensitivity when compared to other options considered for allocation, or why this proposal is said to be less effective in securing the aims and objectives of draft Policy EV4.
- 2.5 When considered against other options at the south-west edge of the settlement (draft allocations HA16 and HA17) all options for development share an immediate relationship with the landscape that transitions between the Town and the edge of the Charnwood Forest. A relationship that is visible and can be experienced from the network of public rights of way that extend between the settlement and Forest edge. Likewise, all options are openly visible from the elevated Forest edge, viewed in the wider panorama of Loughborough and the wider valley setting of the River Soar.
- 2.6 A key issue that does not appear to have been considered in the recent reports is the effect of these promotions on the setting of Beacon Hill Country Park that alongside Bradgate Country Park form the most valued landscapes within Charnwood Forest. This issue is considered in further detail in the following section of this note.
- 2.7 The expansion of Loughborough to the south-west in fact provides an opportunity to secure a gateway to the Charnwood Forest of a quality reflecting the asset. However, the only way of achieving this objective is through a strategic approach to development with a weighted commitment to the delivery of green infrastructure in tandem with the required leisure and tourism facility. The 'field-by-field' approach to development currently set out in the draft Local Plan is highly unlikely to achieve this.



3 LANDSCAPE SENSITIVITY

- 3.1 It is accepted that the sensitivity of the landscape between the existing south-west edge of Loughborough and the edge of the Charnwood Forest increases with distance and elevation from the settlement edge.
- 3.2 It is also accepted that the land to the immediate south of Nanpantan Road is considered sensitive due to the view from the public rights of way and settlement edge towards Jubilee Wood and Out Woods. Although it is not accepted that the land in its own right is of any greater sensitivity than any other intensively farmed arable field at the immediate urban edge. This is acknowledged in the LUC 2019 Assessment on page 74.
- 3.3 In terms of sensitivity and capacity assessments there are a number of studies which consider this landscape that include the 2012 assessment by the Local Authority forming part of their Landscape Character Assessment, the 2019 LUC Assessment, the 2021 LUC Assessment, and finally the Charnwood 2021 Assessment.
- 3.4 The Charnwood 2012 Assessment assesses two land parcels identified as Zones 2 and 3 on page 206 of the assessment. Zone 2 extends across the more elevated slopes at the edge of the Charnwood Forest (broadly correlating with the 85m contour) with Zone 3 extending across the remaining land up to the settlement edge. In this assessment Zone 2 is assessed as having a low capacity for development (assumed high sensitivity), and Zone 3 is assessment as having a medium to low capacity for development (assumed medium to high sensitivity). It is this study that draws the distinction in development capacity/sensitivity between the more elevated land above the 85m contour and lower land below the contour that extends to the settlement edge.
- 3.5 The LUC 2019 Assessment assesses the entirety of Zones 2 and 3 as a whole (PSH106) concluding that it is of moderate to high landscape sensitivity. It continues by assessing the eastern parts of PSH106 as being of moderate landscape sensitivity, and western parts on elevated sloping land as high sensitivity. Unhelpfully, there is no plan to define the boundary between the eastern and western parts of PSH106 unlike the Charnwood 2012 Assessment.
- 3.6 The LUC 2021 Assessment identifies part of the land under this promotion as PSH467, adjoining an assessment parcel to the south (PSH21) that extends across draft allocation H16. In this assessment PSH467 is assessed as being of moderate to high landscape sensitivity, and PSH21 moderate landscape sensitivity.
- 3.7 The assessment tables for each parcel are very similar. PSH467 is assessed as being slightly more sensitive in terms of its physical character with the only difference identified as its



slightly increased elevation. Beyond this both assessments remain the same up to the consideration of 'views and visual character including skylines'. PSH21 is assessed as moderate sensitivity, and PSH467 is assessed as moderate to high sensitivity. It is clear from both summaries that the land parcels are visible from the respective settlement edges and associated public rights of way. Both are also visible from the more elevated edges of the Forest. However, what this assessment inexplicably fails to acknowledge is the contribution that PSH21 makes to the setting of views from Beacon Hill Country Park; see View 14 in the Golby + Luck Landscape and Visual Baseline Report (**GL0978 12**). Beacon Hill comprises an elevated granite outcrop providing some of the most elevated and extensive views in the Borough. The Country Park is highly valued, providing open public access with views looking down across Loughborough and into the valley setting of the River Soar. In views from the Country Park PSH21 is openly visible forming part of the open farmland setting sweeping down from the Forest up to the edge of Loughborough. From this location PSH467 is not visible.

- 3.8 An analysis of View 14 has been provided in this note, illustrating the likely visibility of draft allocations H15, H16 and H17 from the summit of Beacon Hill. In contrast the land to the south of Watermead Lane is substantially screened by a combination of intervening landform and vegetation cover; see **GL0978 13**.
- 3.9 The final assessment criteria considered perceptual and experiential qualities. PSH21 is assessed as moderate sensitivity and PSH467 as moderate to high. It is unclear why a different assessment has been made for these parcels as the same issues are identified for each.
- 3.10 These inconsistencies are key as this assessment resulted in PSH467 being taken forward into the Charnwood 2021 Assessment.
- 3.11 The Charnwood 2021 Assessment relies heavily on the LUC 2021 Assessment, the inaccuracies, and inconsistencies of which have been set out. The Charnwood 2021 Assessment draws out two new issues that include:
 - The 'standard' development density of 37.5 dwellings per hectare; and
 - Setting issues from the Charnwood Forest Edge, the wider urban edge, and Nanpantan Road.
- 3.12 In terms of the first point regarding density, to apply an average density in such a crude manner is not indicative of the quality of the proposal. All developments being promoted in the plan will be required to reach an average density, in part being a requirement to



meet the Housing and Economic Development Needs Assessment (HEDNA) mix for new housing developments.

- 3.13 The reality is that any development will deliver a varied pattern of density responding to the local setting and constraints of the site. This is acknowledged by the Local Authority in the Charnwood 2021 Assessment stating:

“Mitigation would require low density development overall with clusters of higher density with emphasis on woodland block planting, larger plot sizes accommodating trees and or copse such that high canopy trees would have sufficient space to grow without constraint.”

- 3.14 In terms of the second point regarding setting, the Charnwood 2021 Assessment considers three key areas. In relation to the Charnwood Forest edge the assessment states:

“Some vantages from Jubilee Woods and Outwoods area looking back towards existing built up area of Loughborough are obscured where there is a combined effect of elevated landform and mature high canopy tree lined hedgerow or small wooded areas. From this direction a case could be made to significantly enhance high canopy tree cover in the form of 15-20m wide tree belts either augmenting the existing line of hedgerow or as stand along woodland.”

- 3.15 This is entirely consistent with the development strategy being proposed.

- 3.16 In terms of the setting of Nanpantan Road the assessment states:

“Due to the rising nature of the landform from approximately 137m south of the SW corner of the Nanpantan Road playing fields, the residual effect of development would adversely impact the character and appearance of this valued landscape as the setting for the Outwoods as a key area of the Charnwood Forest for experiential perception and a sequence of views from Nanpantan Road, along Watermead Lane, and routes to the Outwoods.”

- 3.17 The development vision has specifically retained the land immediately south of Nanpantan Road as open green space to protect this setting.

- 3.18 The assessment also references a series of views from Bramcote Road, Lark Rise and Laburnum Way. It is unclear why these are referenced as they are not identified as sensitive views, and clearly whatever value the Local Authority may suggest they have has not precluded their consideration as draft allocations (H16 and H17). Both are located in closer proximity to these views and will arguably have a greater effect on their setting.



- 3.19 In summary, the correct assessment of landscape sensitivity has been clearly set out in the Golby + Luck Landscape and Visual Baseline Report (see GL0978 05) that identifies PSH21 as medium landscape sensitivity, and the majority of PSH467 as medium landscape sensitivity, excluding the field to the immediate south of Nanpantan Road and the land above the 85m contour that are assessed as medium to high landscape sensitivity.
- 3.20 This level of landscape sensitivity would patently not preclude PSH467 from being considered as a draft housing allocation.



4 LANDSCAPE OPPORTUNITIES

- 4.1 As already outlined, this promotion presents the opportunity to secure major new green infrastructure with the potential to define the gateway from Loughborough into the Charnwood Forest.
- 4.2 In all the landscape assessment documents in the Local Authorities' evidence base the land to the south-west of Loughborough is continually referenced as the 'gateway' to the Charnwood Forest. Given this strategic relationship the absence of any defined strategy to deliver meaningful gateway development in the draft Local Plan is notable. At present the chosen strategy considers isolated development creating enclaves extending from the existing settlement edge, with little if any opportunity, or land control, to deliver meaningful and connected improvements within the landscape that extends between Loughborough and the Charnwood Forest.
- 4.3 The land under consideration in this promotion is distinct in this regard. It is the only development option that can secure continuous improvement in doorstep to countryside access between Loughborough and the Charnwood Forest. The nature of The Helen Jean Cope Charity means that as part of this promotion the charity intends to gift significant areas of accessible greenspace to Loughborough, building on the Charity's legacy of gifts of part of the Out Woods, followed by Jubilee Wood, which both have since become valued public assets for the town.
- 4.4 The following section of this note considers three key areas in response to the landscape issues raised by the Local Authority that include:
- The extent and density of the proposed development;
 - The ability to secure meaningful and effective landscape mitigation; and
 - The scale and nature of the landscape proposed landscape framework.

Extent and Density of Development

- 4.5 In terms of extent, the proposed area of development is clearly identified on the amended masterplan. As already noted, development has been specifically excluded from the field to the immediate south of Nanpantan Road to protect the view from this part of the settlement edge towards the Charnwood Forest.
- 4.6 Towards the south-west the extent of development is proposed to be retained below the 85m contour in response to the field work completed as part of the Golby + Luck



Landscape Baseline Assessment, and the evidence set out in the various sensitivity assessments applicable to this landscape.

- 4.7 In terms of density, the proposal will adopt a varied pattern of density in response to the location and setting new housing within the site. However, the overarching principle will be maintained that with increased distance to the south and west, and increased elevation, the density of new housing will reduce. This in turn will secure a looser form of development at the more sensitive edges of the proposal, allowing for increased levels of new landscaping to permeate into around the new housing.
- 4.8 These measures comprise effective primary landscape mitigation responding to the immediate constraints of the site.
- 4.9 Further details on the density and pattern of development are provided on the revised masterplan.

Landscape Mitigation

- 4.10 The scope for landscape mitigation within the proposal is extensive. The strategy seeks to retain and enhance the existing landscape features of the site, including its tree cover, hedgerows, and watercourse.
- 4.11 In addition, the proposal will be able to secure meaningful new areas of woodland planting capable of delivering the mitigation described in the Charnwood 2021 Assessment. These planting measures will be designed to complement and reinforce the character of this landscape and secure a softer landscape edge to the settlement in views from the edge of the Charnwood Forest looking back towards Loughborough.
- 4.12 The extent of land committed to landscaping and environmental enhancement is summarised in the description of the landscape framework; and comprises a significant benefit of allocating this area of land.

Landscape Framework

- 4.13 The landscape framework seeks to deliver strategic greenspace between Loughborough and the Charnwood Forest. This framework comprises two key gateway spaces linked by a continuous network of green corridors and pocket parks running through the new housing.
- 4.14 'Forest View' will be a strategic greenspace created within the field to the south of Nanpantan Road. This space will celebrate the visual connection between Loughborough and the Charnwood Forest and define its gateway through the provision of associated leisure and recreation facilities. Access to the Forest and its associated



assets is promoted through the provision of car parks, information centres and cafés, but these are located at the assets promoting car usage to access them for most visitors. At present there is no such visitor provision at the edge of Loughborough with only the existing rights of way network providing non-vehicular access to the able-bodied.

4.15 This proposal will secure a new gateway, promoting non-vehicular and inclusive access into the Forest environment. 'Forest View' will extend to approximately 5 hectares and will include a range of leisure and tourism features including:

- Visitor/information centre with associated parking;
- Bike hire and modes of inclusive access transport;
- New play and recreation features to help meet the existing deficiency in the Nanpantan Ward; and
- Nature conservation and biodiversity enhancement through the transformation of the land from arable use to species rich meadows in tandem with the safeguarding and enhancement of the local watercourse.

4.16 'Forest View' will not only secure benefits in leisure, recreation and nature conservation, it will also provide opportunities for local employment, and importantly set the benchmark for other developments within the 'gateway' landscape between Loughborough and the Charnwood Forest.

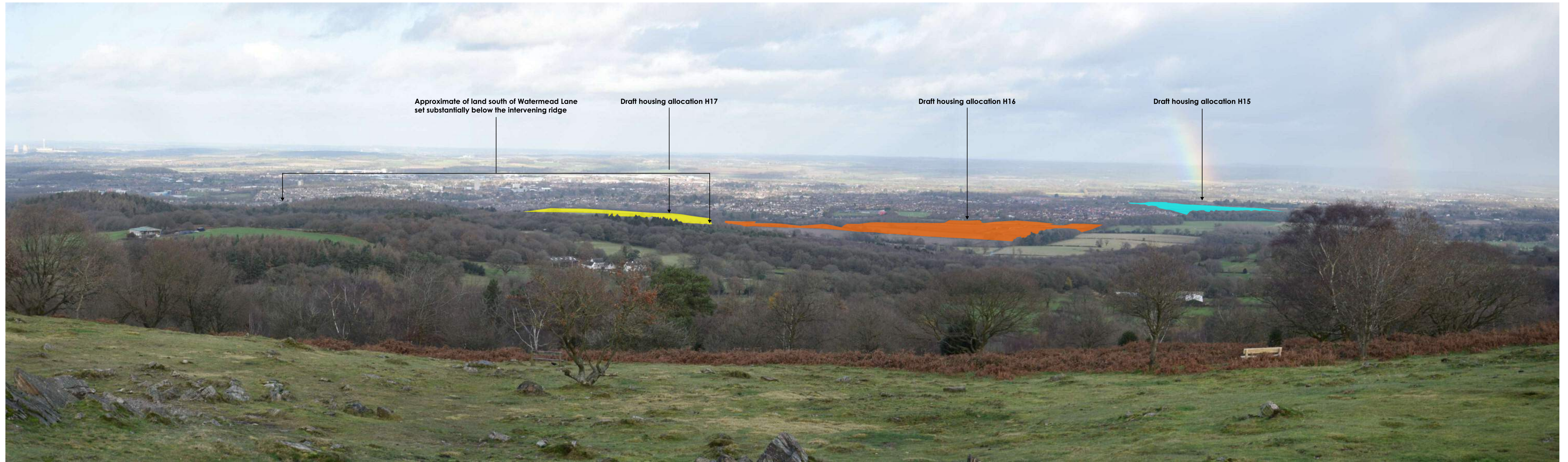
4.17 'Forest Meadow' comprises the land under The Jean Cope Charity control extending across the upper farmed slopes leading up to the edge of Jubilee Wood and Out Woods. The meadows will extend to approximately 35 hectares of land that will be transformed from intensively managed arable farmland to species rich grassland with public access via a network of surfaced and mown pathways.

4.18 The existing boundary with Jubilee Wood and Outwoods is abrupt with arable land extending up to the fenced boundary with the adjoining woodland. In addition to the creation of new meadows the proposal will also help to secure an improved edge to the woodland with a range of transitional habitats.

4.19 'Forest Meadow' will provide a new accessible landscape, distinct from much of the wider setting of accessible woodland. The meadows will provide more open access with areas to picnic, play and relax, away from the network of pathways, combined with striking views across Loughborough.



- 4.20 'Forest View' and 'Forest Meadow' will be linked via a network of green corridors and pocket parks within the development that will extend to approximately 6 hectares. This in combination with the wider commitments to greenspace provision will secure a green infrastructure commitment of approximately 46 hectares, equating to approximately 80% of the land under promotion.
- 4.21 It is intended that this land would be identified within any allocation policy to ensure that it is safeguarded for this purpose and then delivered. This level of commitment is a material consideration and underlines the intention of this promotion to deliver a true gateway development between Loughborough and the Charnwood Forest.



View 14 analysis illustrating extent of draft housing allocation visibility from summit of Beacon Hill comparative to the land south of Watermead Way

Project
Land at Southwest Loughborough

Drawing title
View 14 - Beacon Hill Country Park Analysis

Client
 Redrow Homes & Davidsons Developments Limited

Scale
 NTS

Checked
 SG

Date
 19/08/2021

Number/Figure
GL0978 13

golby+luck 
l a n d s c a p e a r c h i t e c t s



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A vision for South West Loughborough
Nanpantan Forest Suburb

Vision Addendum

Client: Redrow Homes Limited & Davidsons Developments Limited

June 2022 – Issue 2



Report Issue 1: 01/06/2022

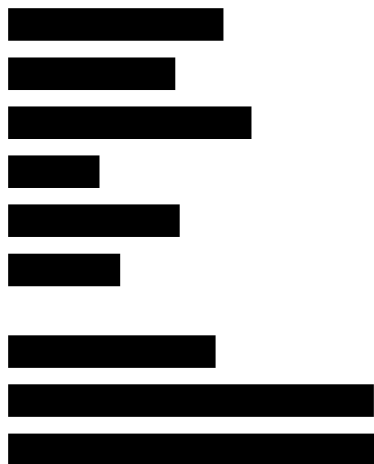
Status: Draft

Author: Jonathan Golby CMLI

Report Issue 2: 06/06/2022

Status: Final

Author: Jonathan Golby CMLI





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- Nineteen47 – n1312-002 – Wider Masterplan
- Nineteen47 – n1312-102 – Accessible Green Infrastructure Plan
- Nineteen47 – n1312-108 – Facilities Plan
- GL0978 13 – View 14 Beacon Hill Country Park



1 INTRODUCTION

- 1.1 This Vision Addendum has been prepared by Golby + Luck Landscape Architects on behalf of Redrow Homes and Davidsons Development Limited as an update to the Nanpantan Forest Suburb Vision Document – January 2020 submitted as part of the Regulation 18 consultation relevant to Land South of Nanpantan Road, South West Loughborough.
- 1.2 The addendum takes account of the changes to the vision and development parameters resulting from the iterative design and planning process adopted between the Regulation 18 and 19 consultations and includes:
- A response to the development/landscape strategy set out in the Submission Draft Local Plan relevant to South West Loughborough and the transition between the urban area and Charnwood Forest;
 - Amended figures relating to areas of open space and green infrastructure; and
 - Amended plans showing the scale/distribution of development/green infrastructure, and updated plans illustrating a wider vision for development at South West Loughborough



2 VISION SUMMARY

2.1 The Charnwood Forest is identified as a Regional Park and is fringed by towns and villages, as well as being accessible to the wider sub-region that includes Leicester and Nottingham. The Draft Local Plan recognises the pressure placed in the forest stating at paragraph 8.25:

“It experiences significant pressure from visitors with much of the visitor pressure focussed on a few honey pot sites including Bradgate Park, Beacon Hill Country Park and the Outwoods all of which are in our Borough. Similarly, we will support the aims of the Landscape Partnership Scheme to provide a high-quality experience for visitors through both new or improved small-scale tourism facilities and through rural diversification. It is essential that visitor growth is managed in a way that is compatible with the special and unique character of Charnwood Forest.”

2.2 The Draft Local Plan continues to state at paragraph 8.29:

“Our vision recognises the importance of Charnwood Forest and it has shaped our development strategy for homes and jobs, especially around Loughborough and Shepshed.”

2.3 The land to the south-west of Loughborough provides one of the few unconstrained opportunities for sustainable growth, with the land to the north and south constrained by separation issues, the land to the east constrained by the flood plain of the River Soar, and the land to the west at capacity having accommodated the emerging Garendon Park and Loughborough Science Park developments.

2.4 The land to the immediate south-west of Loughborough provides a strategic opportunity for growth, in combination with the delivery of the infrastructure to support the Regional Park and protect the setting of the Charnwood Forest. At present this has not been realised through the draft housing allocations that are considered to be piecemeal with limited opportunity to deliver the enhanced green infrastructure and associated facilities envisaged under draft Policy EV4.

2.5 Much of the focus of the draft strategy for growth at south-west Loughborough has sought to restrict development rather than securing a holistic environmentally led strategy that identifies potential for growth in tandem with an extensive and robust network of green



infrastructure to contain development and maintain the transition between the urban edge and the forest in perpetuity.

2.6 The initial approach to CBC for this site looked at south-west Loughborough as a whole, rather than taking the site in isolation. The consideration of the site as part of a wider strategy for a series of Forest Communities looked at a holistic, deliverable and well-conceived strategy for development that addresses the transition between Loughborough and the Charnwood Forest. It is only by promoting such a strategy that there can be certainty of the development prospects within this landscape, but more importantly certainty of the green infrastructure and Regional Park facilities that will be delivered as part of it. The danger of not adopting such a strategy is that developments are considered in isolation or piecemeal over consecutive plan periods and fail to deliver a strategic vision.

2.7 The Helen Jean Cope Charity (HJC) has been central to gifting Loughborough some of its most important forest assets such as Outwoods and Jubilee Wood. Central to this proposal is the continued gifting of land extending to approximately 42 hectares that will provide:

- Publicly accessible land at the edge of the main urban area taking pressure away from the more sensitive central areas of the forest;
- The much-needed Regional Park green and other infrastructure as identified in the Draft Local Plan;
- Enhanced and inclusive access allowing more varied access to a wider population close to their homes;
- Improved public interpretation and understanding of the forest through the delivery of a gateway hub;
- A commitment to securing biodiversity net gain in accordance with merging policy; and
- The long-term management and security of these new green public spaces as part of the legacy of the HJC.

2.8 The supporting vision for the Nanpantan Forest Communities clearly set out how this strategy could be delivered as part of a wider strategy for growth at south-west Loughborough. It considered the existing assets of the Moat Park, Sports Ground and



woods and demonstrates how these could be seamlessly linked as part of a strategic network of green infrastructure that includes the creation of Nanpantan Park, the Wood Brook Coppice and the extensive meadows at Outwoods Approach.

2.9 Of equal importance is the quality of development within each Forest Suburb. This cannot be 'anywhere' development and must represent an understandable transition between the best architectural quality of Loughborough and the vernacular of the Charnwood Forest. The vision looked at creating a transitional quality between the more formal, and dense Woodbrook Street and less dense and sylvan character of the Loughborough Holts. Such an approach is critical to the success of any strategy for development to the south-west of Loughborough and would be delivered by the two developers, Redrow Homes and Davidson Developments, specifically chosen by HJC for their acknowledged reputation for place making and delivering high-quality, well-designed housing.

2.10 The quality and strength of the vision is best reflected in its offer:

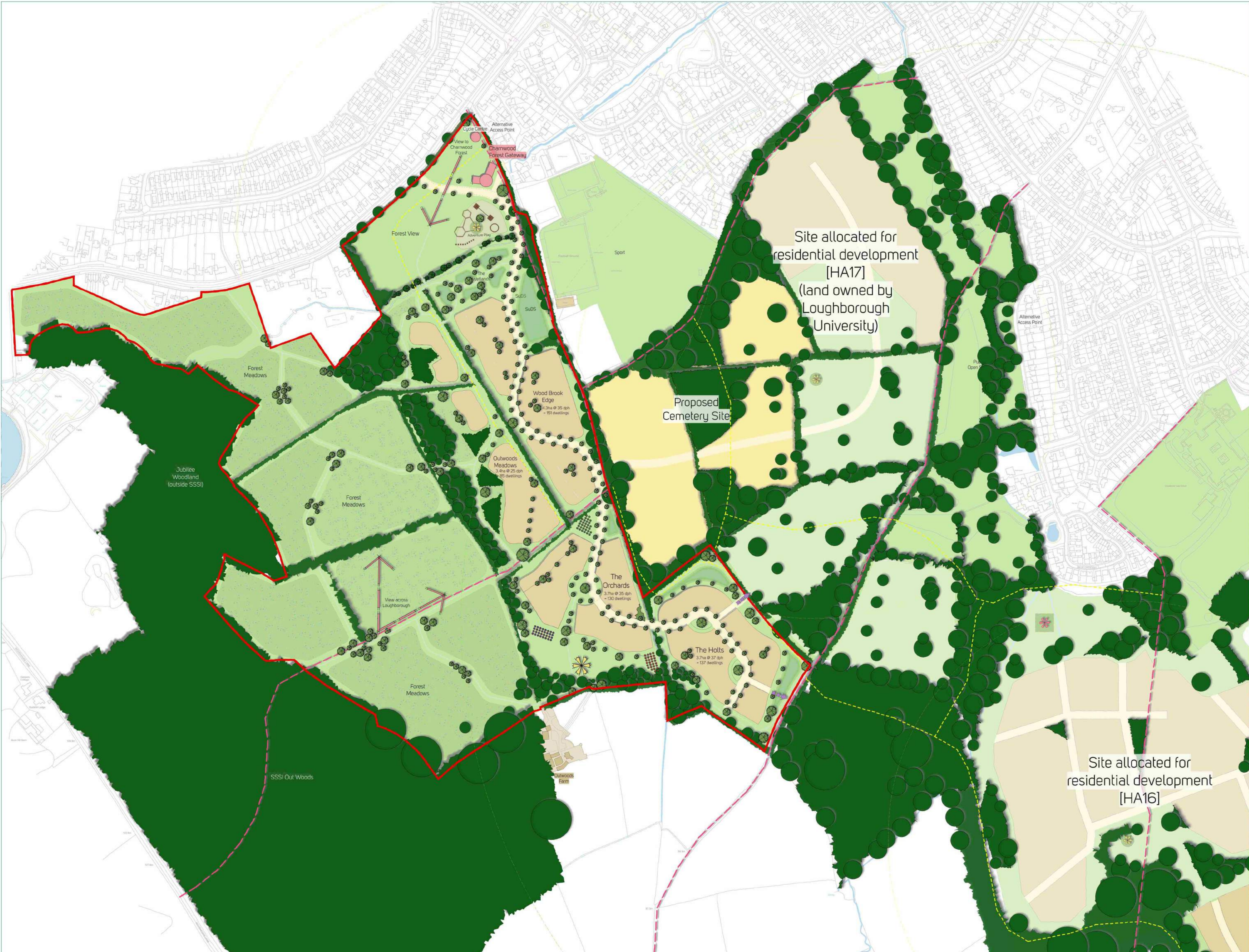
- Up to 600 new high-quality and well-designed homes;
- The commitment of the Helen Jean Cope Charity as landowner to reinvest sales proceeds back into charitable purposes in this area. This is unique to this landowner and will raise significant amounts of money that will directly benefit local projects;
- Extensive planting across 32 hectares of land;
- The creation of 42 hectares of public access land that will be managed for the people of Loughborough in perpetuity;
- Provision of a more diverse and inclusive access offer close to the urban area;
- A commitment to large-scale biodiversity net gain (42 hectares of land);
- The delivery of Regional Park facilities to meet the need identified in the Draft Local Plan that will ease pressure from the more sensitive central areas of the forest and provide access to a wider population together with a better understanding and interpretation of the asset through a gateway hub;
- Improved highway connectivity to the south-west of Loughborough; and
- Improved public transport connections.



2.11 Most importantly, the strategy provides a definitive position on the commitment to housing at south-west Loughborough as part of a considered and high-quality landscape and green space transition with the forest.



Figures



- Key
- Application site boundary
 - Existing (retained) trees & hedgerow
 - Indicative proposed planting
 - Open space
 - Visual links
 - Potential for equipped play/LEAP
 - Forest Meadows
 - Indicative surface water attenuation basin
 - Indicative development cell
 - Housing allocation boundary
 - Existing public footpath
 - Proposed footpath links

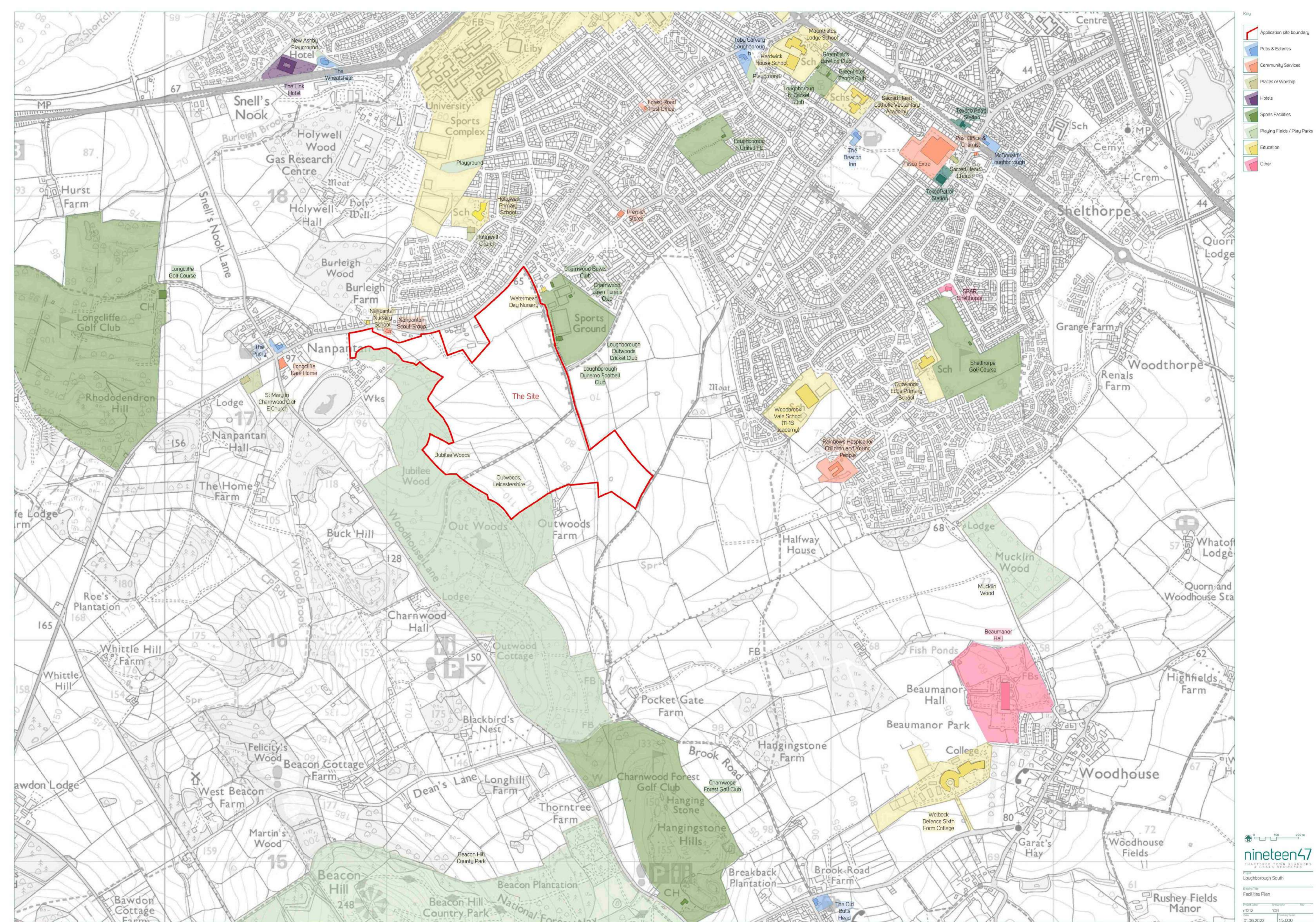


Key

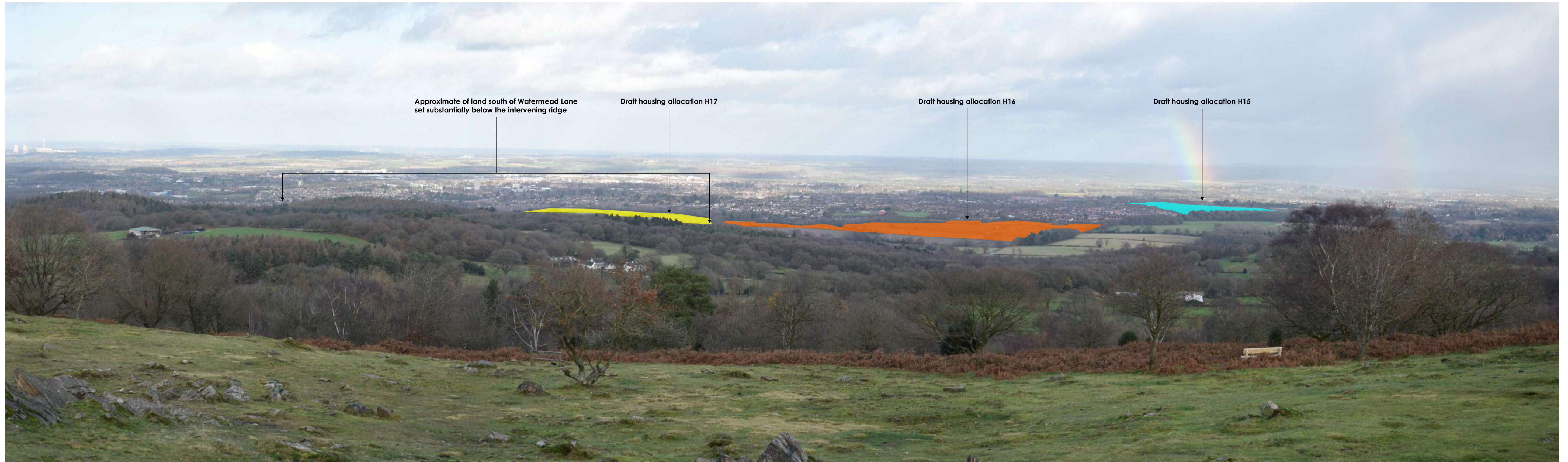
- Application site boundary
- Public open space

Site allocated for residential development [HA17] (land owned by Loughborough University)

Proposed Cemetery Site



- Key
- ▬ Application site boundary
 - Pubs & Eateries
 - Community Services
 - Places of Worship
 - Hotels
 - Sports Facilities
 - Playing Fields / Play Parks
 - Education
 - Other



View 14 analysis illustrating extent of draft housing allocation visibility from summit of Beacon Hill comparative to the land south of Watermead Way

Project
Land at Southwest
Loughborough

Drawing title
View 14 - Beacon Hill
Country Park Analysis

Client
Redrow Homes & Davidsons
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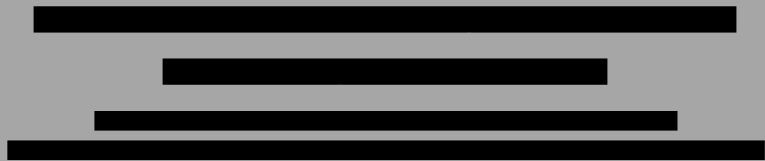
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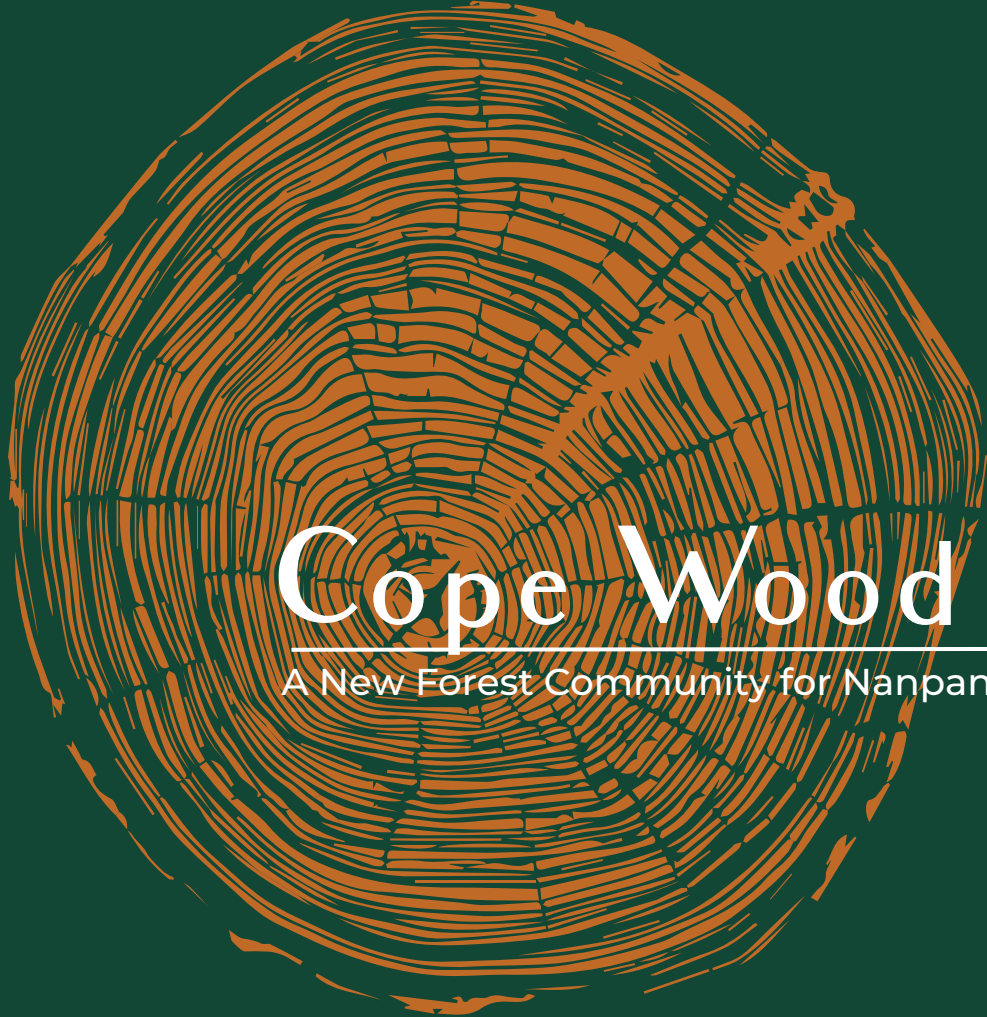
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golby+luck 
landscape architects





Appendix 2 – Cope Wood Vision Document by Nineteen47



Cope Wood

A New Forest Community for Nanpantan



Vision Document
November 2022



*A Vision for the South West
Loughborough Allocations*



*Creation of a Loughborough
Gateway to the Regional Park*



*Biodiversity Net Gain
and a Biodiversity Bank*



*Creating a Forest
Community*



*Investing in
Loughborough*



Deliverability





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Section 1: Foreword

Section 2: The 6 Key Principles

Section 3: The Masterplan

Section 4: Summary





The Vision

Cope Wood will deliver sensitively designed high quality new housing within but respecting the character and appearance of the forest setting, securing a seamless transition between the town and countryside and include extensive networks of green infrastructure providing doorstep to countryside access and achieving a net gain in biodiversity and a biodiversity bank for the wider area.

The protection of the Forest is central to our vision shaping the scale, character and appearance of this exciting development opportunity. The proposal will integrate the Local Plan proposed allocations at south west Loughborough, creating a comprehensive and cohesive strategy for south west Loughborough and will importantly secure a gateway hub between the Town and the Forest, delivering on the objective to create a 'Regional Park'. It should be remembered that Outwoods was donated to the Council and the Charity see it's vision for a Regional Park in this location being fulfilled through these proposals for the benefit and enjoyment of all who come to the Charnwood Forest.





Section 1 Foreword

Redrow Homes and Davidsons Developments are proud to be working with the Helen Jean Cope Charity, the landowner, in the delivery of a truly unique development opportunity in Loughborough. This Vision Document for *Cope Wood - A New Forest Community for Nanpantan* has been prepared as an update to the document prepared in January 2020 which outlined the exceptional opportunity presented by the site to deliver new housing, a range of tangible benefits to the natural environment and direct investment into the Town through the Charity.

This document will illustrate that the case for allocating the site is now even stronger given:

- the policy objective to expand the regional park;
- the scope to achieve a net gain in biodiversity and create a biodiversity bank for the wider area; and,
- how the site represents the 'missing' and most important 'piece of the jigsaw', in the context of other proposed allocations in the Policy EV4 of emerging Local Plan.

This document will illustrate that the site is a suitable and sustainable development option that should be granted planning permission to help address the chronic housing land supply shortfall. As well as delivering much needed housing in a highly sustainable location, the proposals support the emerging Local Plan's policy objective to expand the regional park and offers the scope to achieve net gain in biodiversity along with a Biodiversity Bank for use by other developments in the Loughborough area

The site holds the key to unlocking a publicly accessible regional park, a resource for all the allocated sites to deliver a biodiversity net gain and transport links which can only be connected through the site onto Nanpantan Road and then to the M1 rather than navigating through side streets and suburban rat runs. Without Cope Wood, none of these significant benefits can be realised.

Key Benefits:-

HJC

Land value of up to 600 new homes invested on local projects



Creation of 58 hectares of publicly accessible green space



The expansion of a Regional Park through a Loughborough Gateway in accordance with Policy EV4



Provision of new cycle routes



Creation of new Charnwood Forest Gateway Hub



Approximately 80% of the total site committed to Green Infrastructure.



A net gain in biodiversity and a biodiversity bank for the wider area



A variety of equipped timber children's play and facilities play throughout the scheme, taking inspiration from the National Forest.



New wildflower meadow planting, returning 46ha of land from arable fields, enhancing biodiversity;



Potential to create a logical and feasible extension of 4 existing bus services through the site;



Significant new tree planting across 42 hectares of land on the slopes up to Outwoods;



Up to 600 high quality new homes to be delivered with a unique, National Forest identity.

What is needed?

Planned Growth for South West Loughborough

Given the constrained nature of the land to the north, south and east of Loughborough where the floodplain of the River Soar and separate settlement identity restrict the further v of the Town, and the commitment to development to the west in the form of Garedon Park and the Loughborough Science Park, this leaves the planned development to the south-west as the only unconstrained option for growth. This option has historically been discarded due to the perceived difficulty of expanding the urban area while protecting the setting of the Forest and understanding how development could be brought forward in a contained and controlled manner that would set a permanent edge to the Town.

This proposal begins with the consideration of the sensitive relationship between the Town and Forest and provides a robust and permanent landscape framework to contain and control development within it. The adoption of a landscape led approach to development has the potential to:

- Safeguard the setting of the Forest;
- Secure a permanent and managed transition between the urban area and the Forest;
- Provide continuous doorstep to countryside access between the urban area and Forest through the delivery of a significant piece of public green infrastructure;
- Deliver the Loughborough gateway to the Forest with associated community level infrastructure; and
- Deliver a major biodiversity land bank capable of servicing development offsetting requirements across the Borough.

This planned approach to development at south-west Loughborough is the only way to sensibly safeguard the setting of the Forest in perpetuity whilst delivering the vision for the Regional Park.



Section 2

The 6 Key Principles



A Vision for South West Loughborough Allocations



Creation of a Loughborough Gateway to the Regional Park



A Biodiversity Bank for Loughborough



Investment in Loughborough



A Commitment to Creating a Sense of Place



Deliverability

1 A Vision for South West Loughborough Allocations



An assessment of the character of the edges around south west Loughborough illustrates the historical approach to development which was inward looking and piecemeal. A greater vision is required which moves from a protectionist approach to a development strategy which focuses on enhancement of the local area.

Our 'landscape first' approach to south west Loughborough considered how the forest could be enhanced and extended to create a high quality and permanent edge to the settlement which would never be breached due to the value and quality of the natural environment created. This landscape led approach then informed the extent of land available for development, allowing the creation of a permanent, lasting edge to Loughborough which is outward looking and integrates with the Forest.

This approach is supported by the Draft Local Plan which states at paragraph 8.29:



Our vision recognises the importance of Charnwood Forest and has shaped our development strategy for homes and jobs, especially around Loughborough and Shepshed.

However, much of the focus of the draft strategy for growth at south-west Loughborough has not been consistent with this aspiration and sought to restrict development rather than securing a holistic environmentally led strategy that identifies potential for growth in tandem with an extensive and robust network of green infrastructure to contain development and maintain the transition between the urban edge and the forest in perpetuity.

The initial approach to CBC for this site looked at south-west Loughborough as a whole, rather than taking the site in isolation. The consideration of the site as part of a wider strategy for a series of Forest Communities looked at a holistic, deliverable and well-conceived strategy for development that addresses the transition between Loughborough and the Charnwood Forest.

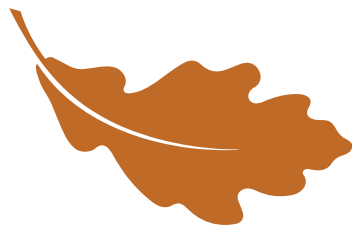
It is only by promoting such a strategy that there can be certainty of the development prospects within this landscape, but more importantly certainty of the green infrastructure and Regional Park facilities that will be delivered as part of it. The danger of not adopting such a strategy is twofold. Firstly, if developments are considered in isolation or piecemeal over consecutive plan periods, they will fail to deliver a strategic vision. Secondly, the lack of strategic thinking with regard to the green infrastructure creates uncertainty and risks further development along this edge in the future, without the landscape benefits.

The accompanying plans illustrate the current strategy in comparison to the opportunity that is presented by the development of this site.

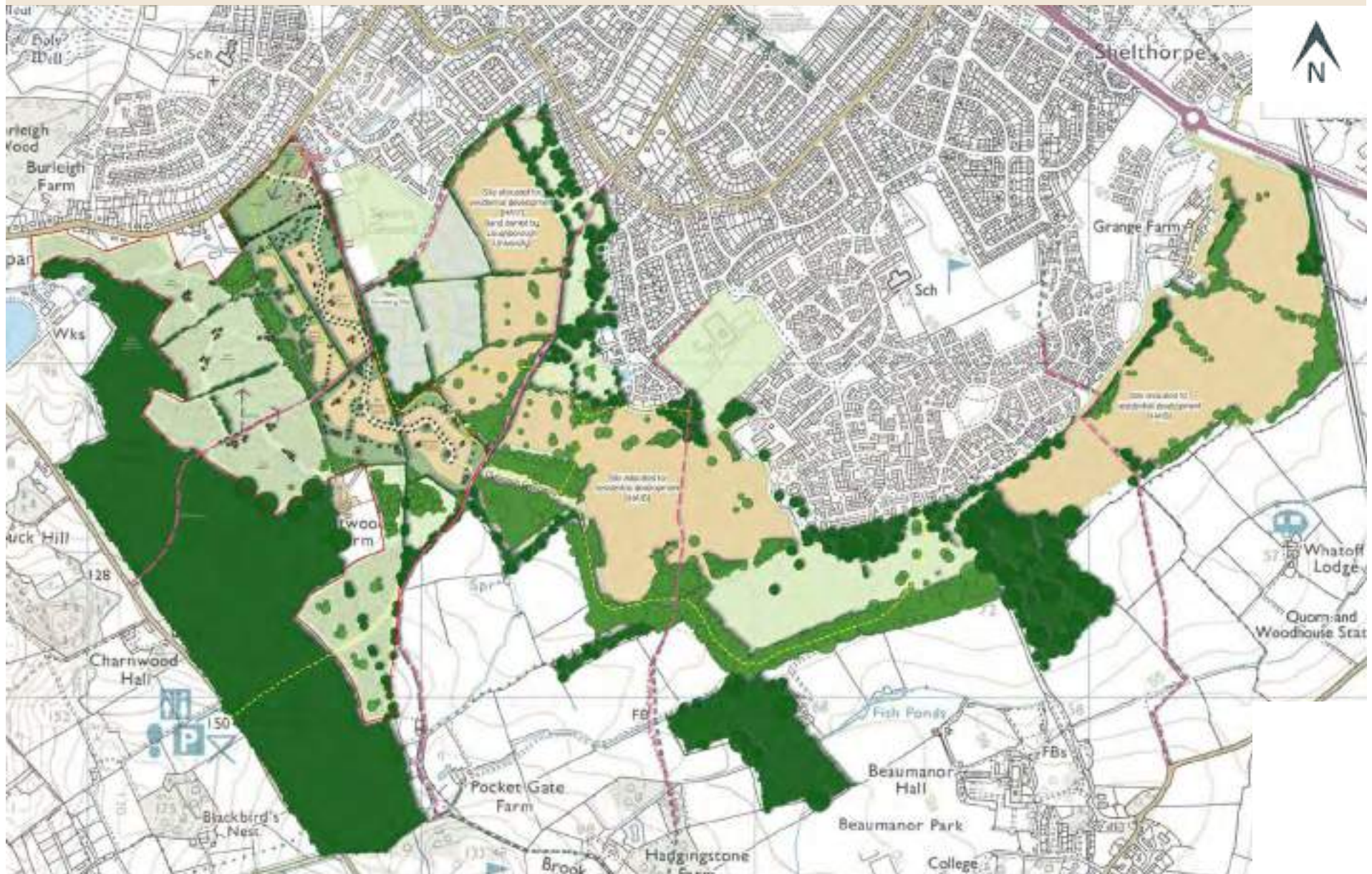
The wider masterplan illustrates how the development of Cope Wood is the key to unlocking a range of benefits to Loughborough by joining up the Submission Draft Plan proposed allocations as a series of Forest Communities with a new highway, similar in character to Woodhouse Lane. In doing so an even greater expanse of publicly accessible green space can be delivered, connecting communities and promoting movements towards the regional park on foot/bicycle. Furthermore, the subject site provides a potential solution to the biodiversity requirements associated with the allocations in South West Loughborough.

In addition, Cope Wood benefits from an access solution which provides direct access onto a primary route through Loughborough/Nanpantan as opposed to other allocations which are 'bolt-ons' to existing suburban areas, with traffic weaving through the existing suburban network. A comprehensive strategy to the allocations in south west Loughborough has clear highway benefits, facilitating direct access to Nanpantan Road and the M1 for the wider allocations as well.

A Piecemeal Approach



A Comprehensive Vision



2

Creation of a Loughborough Gateway to the Regional Park

The Draft Local Plan recognises the pressure placed on the forest stating at paragraph 8.25:

“

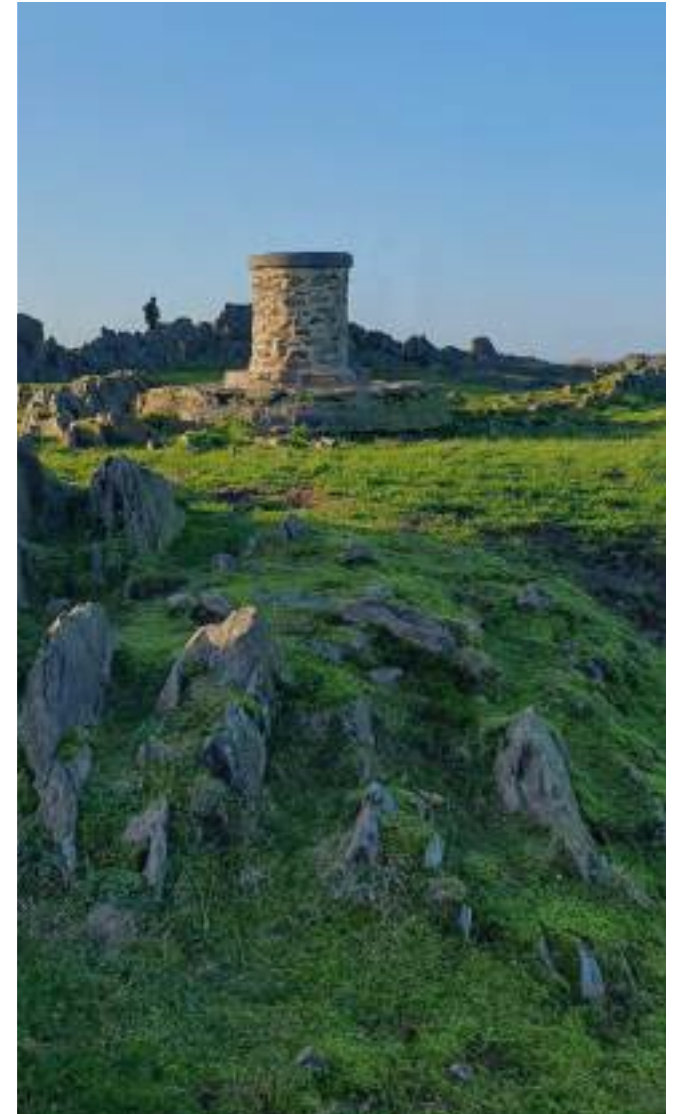
It experiences significant pressure from visitors with much of the visitor pressure focussed on a few honey pot sites including Bradgate Park, Beacon Hill Country Park and the Outwoods all of which are in our Borough. Similarly, we will support the aims of the Landscape Partnership Scheme to provide a high-quality experience for visitors through both new or improved small-scale tourism facilities and through rural diversification. It is essential that visitor growth is managed in a way that is compatible with the special and unique character of Charnwood Forest.

Policy EV4: Charnwood Forest and the National Forest states that the LPA “will work with our partners to protect and enhance the Charnwood Forest Regional Park and support the aims of the National Forest Strategy”.

The LPA will support development that:

- supports the woodland economy and rural diversification, including sustainable small-scale tourism and recreation opportunities which protect, and enhance the distinctive landscape character of the Charnwood Forest;
- protects and enhances the biodiversity of the Charnwood Forest Regional Park, consistent with the aims of the National Character Area profile of Charnwood;
- provides tree planting within the Charnwood Forest Regional Park, in accordance with the National Forest Planting Guidelines;
- provides an improved network of public rights of way within Charnwood Forest and between nearby settlements including the establishment of a network of off-road links for walkers, cyclists and equestrians; and
- improves accessibility for people with mobility issues including improved footpaths and parking for people with disabilities.

The current approach to the proposed allocations in south west Loughborough fails to meet this policy objective. The allocation of Cope Wood remedies this position, significantly increasing publicly accessible greenspace in and around the Charnwood Forest.





The Helen Jean Cope Charity (HJC) has been central to its philanthropic gifting for the benefit of Loughborough some of its most important forest assets such as Outwoods and Jubilee Wood. Central to this proposal is the completion of that philanthropy by the gifting of land extending to approximately 58 hectares which will provide:

- Publicly accessible land at the edge of the main urban area taking pressure away from the more sensitive central areas of the forest;
- Creation of a Loughborough Gateway to the Regional Park
- Enhanced and inclusive access allowing more varied access to a wider population close to their homes;
- Improved public interpretation and understanding of the forest through the delivery of a gateway hub;
- The long-term management and security of these new green public spaces as part of the legacy of the HJC.

The illustrative masterplan highlights the strategy for public open space, integrating the existing assets of the Moat Park, Sports Ground and the woods and demonstrates how these could be seamlessly linked as part of a strategic network of green infrastructure that will become an intrinsic part of Cope Wood. This strategy includes the creation of Nanpantan Park, the Wood Brook Coppice and Jubilee Meadows.



CHARNWOOD FOREST GATEWAY HUB

- A potential facility delivered by the Helen Jean Cope Charitable Trust. The vision for this feature is for it to be a centre for information with the potential for additional uses such as cycle hire and a small shop/café, for example.



THE GATEWAY

- An attractive view of the forest on the slopes above the site is experienced from Nanpantan Road at the entrance into the scheme. Given the vision for the site is to celebrate the forest setting this view is a key opportunity in creating a distinctive gateway to the scheme.



NANPANTAN PARK

- This northernmost field, parallel to Nanpantan Road, will remain undeveloped and form a new community park;
- This will protect the view across to the woodlands, with houses to be nestled behind Wood Brook
- This is also an ideal location for a neighbourhood equipped area of play (NEAP) as it will benefit both existing and new residents.



WOOD BROOK COPPICE

- New areas of woodland planting are proposed at the foot of the slope leading up to Outwoods/Jubilee Woods which will create an edge for the built form and contain the development;
- The new woodland will link through to Nanpantan Park at the western edge, crossing Wood Brook;
- New pedestrian routes will be formed through this area of woodland;



JUBILEE MEADOWS

- The slopes extending west from Wood Brook Coppice leading up to Outwoods will be opened up for public access;
- New clusters of parkland trees and wildflowers are proposed to be planted across the slopes;
- Opportunities for sitting and enjoying the views across Loughborough from the elevated slopes above the proposed new housing will be created.



Overall, it is maintained that the site can deliver attractive and accessible green space with approximately 80% of the Charity's land ownership to be made publicly accessible and enhanced open space. This will deliver new areas of woodland, wildflower meadows, new tree planting and wetland areas (sustainable urban drainage and retention of existing ponds) and meet the aspiration within the draft Local Plan to enhance a Regional Park.

3 A Biodiversity Bank for Loughborough

Alongside the benefits of new housing Cope Wood will deliver a net gain in biodiversity for the subject site and the creation of a “biodiversity bank” for the surrounding allocations. The proposals provide 58ha of publicly accessible green space, constituting 80% of the total site area. Large areas of arable farmland will be changed to new areas of woodland, wildflower meadows, new tree planting and wetland areas (sustainable urban drainage and retention of existing ponds).

The network of existing hedgerows will be integrated into the public realm, ensuring habitats and foraging routes are protected and the ‘green feel’ to the proposals is maximised.

A substantial element of tree planting will also be introduced throughout the residential areas to break up the built form and ensure that the character of the forest is embedded within the new streets and spaces. This will be achieved through a combination of tree lined streets and small copses or ‘holts’ of trees in pockets of green space.

The green infrastructure framework identifies an appropriate sustainable urban drainage strategy for the site with attenuation basins at various low points within catchment areas across the site to appropriate manage surface water. These features can also be designed as wetlands to enhance the biodiversity of the site.





4 Investment in Loughborough

The Helen Jean Cope Charity is based in Loughborough and was formed in 1998 to manage the distribution to charity of Jean Cope's estate, who's family had previously gifted part of The Outwoods and also Jubilee Wood to the town. Over the last 21 years the charity has provided over £5million to assist schools, village halls, churches, playgroups, art festivals, and all manner of groups catering for the needs of young, the old, the disabled, the homeless and the sick.

The Charity's Trustees make grants to Registered Charities, usually to achieve specific objectives. Grants normally range in size between £500 and £5000, although larger grants are made in some circumstances. It prefers applications to be from charities based in the East Midlands, but grants are also made to national charities where they can demonstrate that they will provide a benefit to the local catchment area. Grants are usually made for specific purposes, which can be made directly from proceeds arising from the charity's land interests.

This relationship with the Helen Jean Cope Charity is an important part of the background context to the land being promoted as not only does the site and its setting represent a real opportunity to deliver a high-quality and distinctive new housing development which is a step above other sites in the borough, but it will also deliver tangible benefits to local people, projects and charities in the East Midlands.





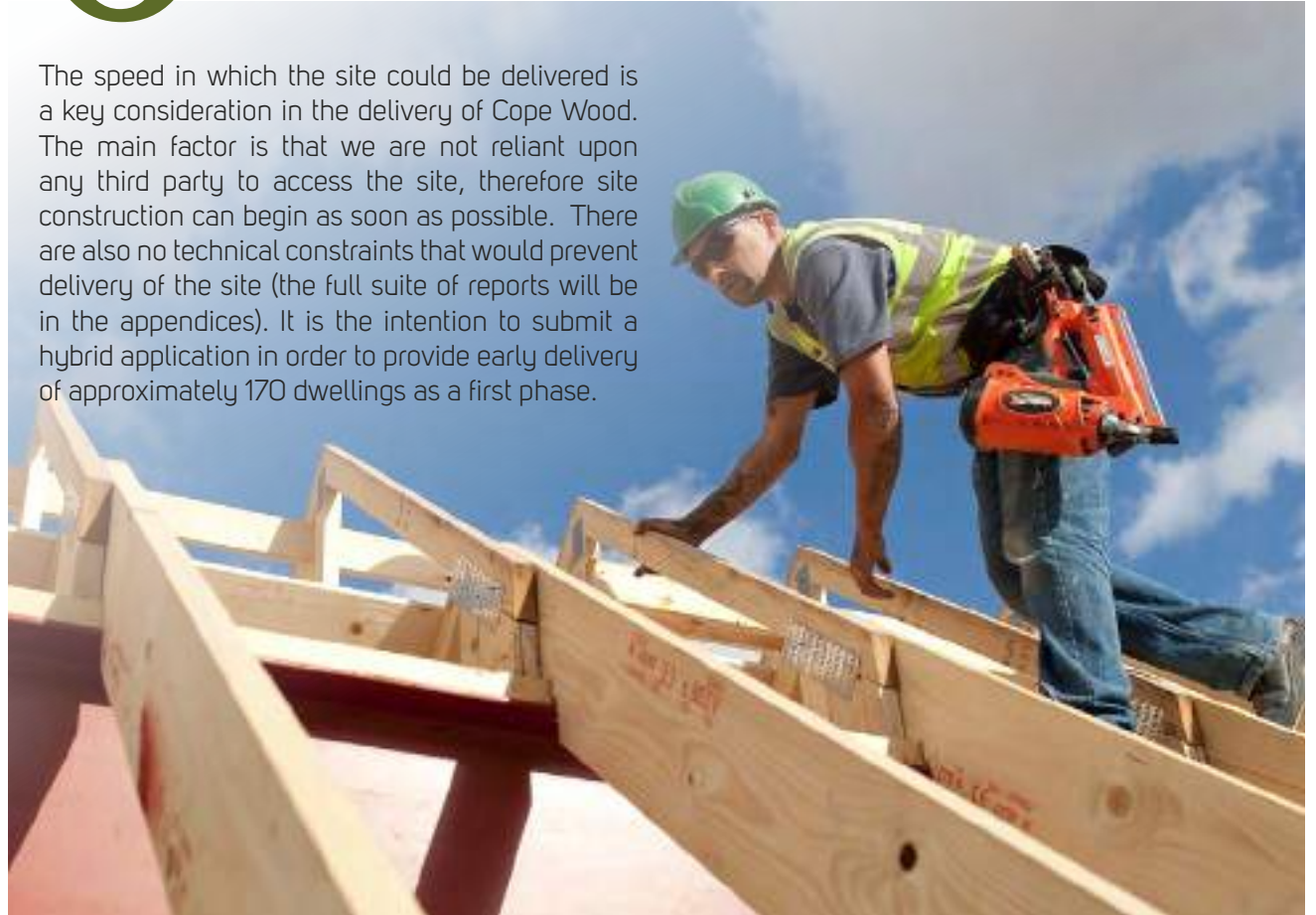
5 A Commitment to Creating a Sense of Place

Davidsons and Redrow are two of the region's premium housebuilders with a reputation for high quality new homes and placemaking. Both developers are committed to creating a forest inspired scheme which has a sense of place and reflects the characteristics of the forest. The scheme will represent an understandable transition between the best architectural quality of Loughborough and the vernacular of the Charnwood Forest. The vision is to create a transitional quality between the more formal, and dense Wood Brook Edge to the less sense and sylvan character of Outwoods Meadows, The Orchards and the Holts. Such an approach is critical to the success of any strategy for development to the south-west of Loughborough and would be delivered by the two developers, Redrow Homes and Davidsons Developments, specifically chosen by HJC for their acknowledged reputation for place making and delivering high-quality, well-designed housing.



6 Deliverability

The speed in which the site could be delivered is a key consideration in the delivery of Cope Wood. The main factor is that we are not reliant upon any third party to access the site, therefore site construction can begin as soon as possible. There are also no technical constraints that would prevent delivery of the site (the full suite of reports will be in the appendices). It is the intention to submit a hybrid application in order to provide early delivery of approximately 170 dwellings as a first phase.



Phase 1
170 dwellings

Phase 2
100 dwellings

Phase 3
145 dwellings

Phase 4
150 dwellings



Section 3

The Masterplan

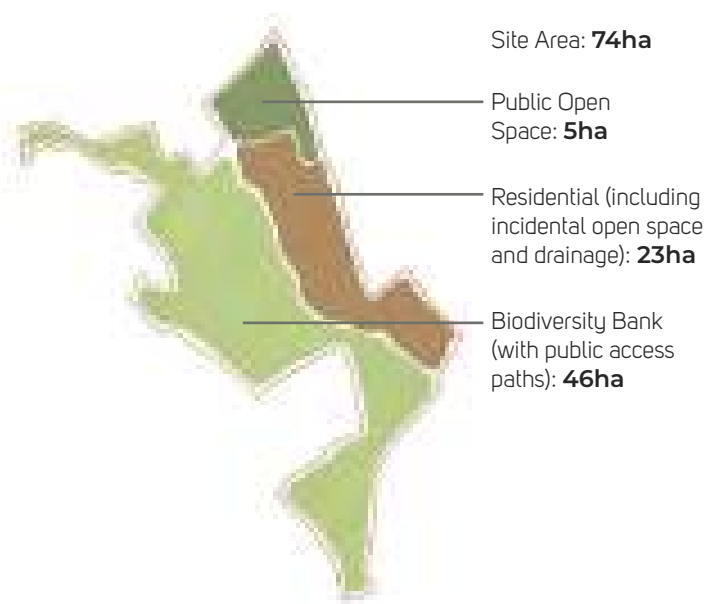


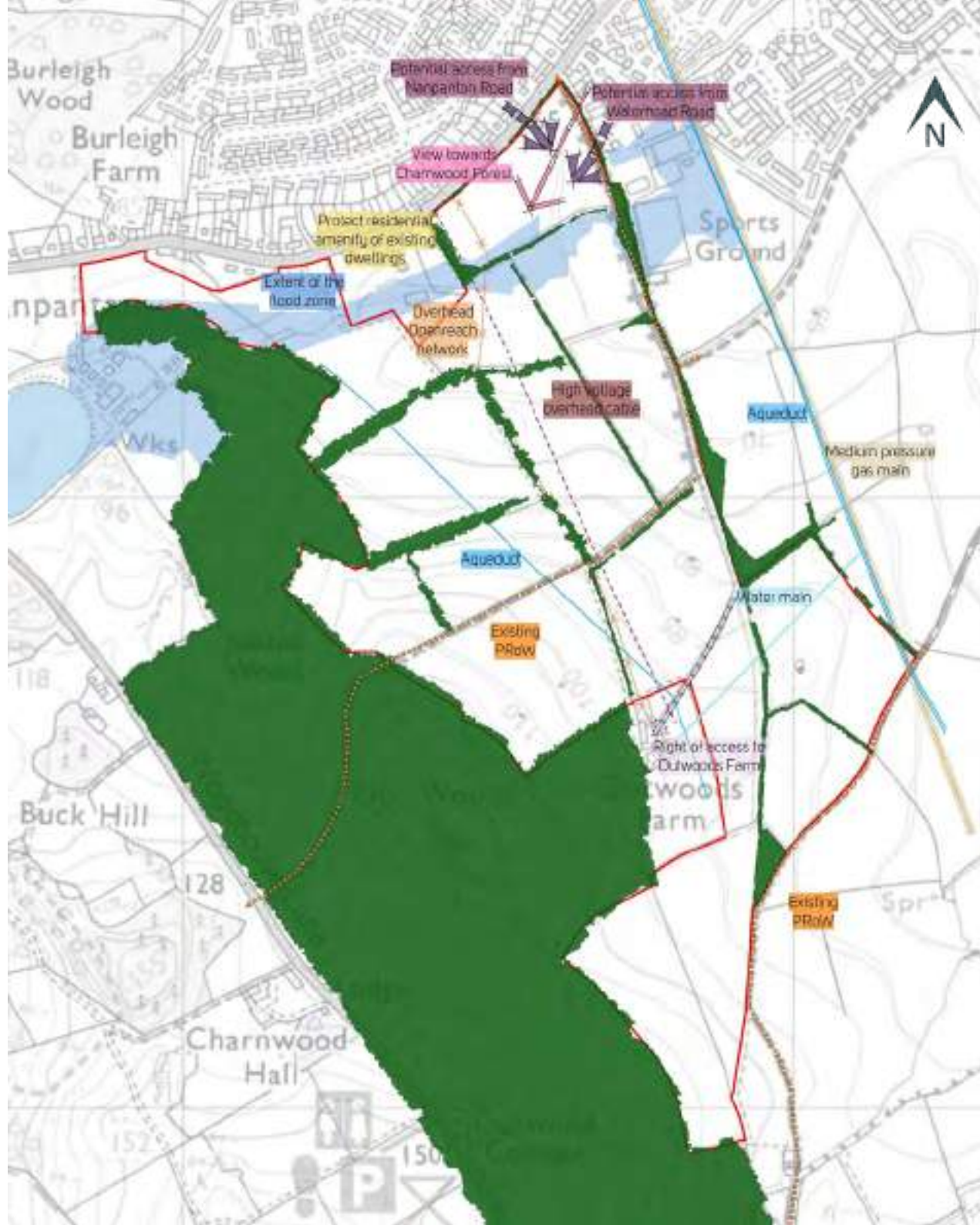
The previous sections of this document have outlined an exciting vision for the south west of Loughborough which will not only deliver housing but also extensive and lasting benefits to the community. This section provides further details on the subject site in particular, as a site that is immediately available, appropriate and deliverable.

Site Description

The site extends between Nanpantan Road to the north and Outwoods Farm to the south. The land within the red line measures approximately 74ha, with the main body of the site to comprise residential development and associated open space measuring 23ha. The main body of the site comprises a series of medium to large scale geometrically shapes fields maintained as mixture of arable and pastoral farmland. The land is bound to the north and east by the urban setting of Loughborough. To the west the land rises towards the wooded ridge line of Outwoods and Jubilee Woods that extend up to Woodhouse Lane marking the eastern fringes of the Charnwood Forest. To the south the farmland setting transitions towards the farmed parkland setting of Beaumanor Hall at Woodhouse, to the east lies Nanpantan Sports Ground and proposed cemetery land. The balance of land reserved for biodiversity within the ownership of the charity extends to 46 hectares out towards Charnwood Forest. Outwoods and Jubilee Wood to the west are both publicly accessible forming part of a number of recreation areas that include the Beacon Hill Country Park, West Beacon Fields, Windmill Hill and deeper into the Forest to the south Bradgate Country Park.

Davidsons Homes and Redrow Homes have commissioned a suite of background reports to inform the preparation of a robust development proposal for land south west of Loughborough. The scope of the technical assessment has been extended beyond the site in order to fully appreciate the wider context and any potential constraints to development.





Constraints and Opportunities Plan





Landscape & Visual

The Landscape and Visual Baseline Report prepared by Golby+Luck in support of these representations has undertaken a detailed analysis of the broad area south west of Loughborough, in order to identify the parcels of land most suited for development, and sets out a landscape strategy for development in this location.

The report highlights that the primary constraint to development is the transition between the urban fringe of Loughborough to the east and the edge of Charnwood Forest to the west, which is linked to changing character and topography within the wider area. This forms the starting point for our landscape-led approach to development, which is key to ensuring a successful site which respects and responds to its setting whilst delivering a high-quality scheme in a sustainable location.

The land adjacent to the urban fringe comprises a relatively flat arable landscape that both in terms of character and visual setting engenders a less complex and standard landscape setting. Moving to the west at around the 85m AOD contours the landform begins to steepen developing a rolling character with increased complexity and when combined with the wooded setting of the ridge greater scenic quality.

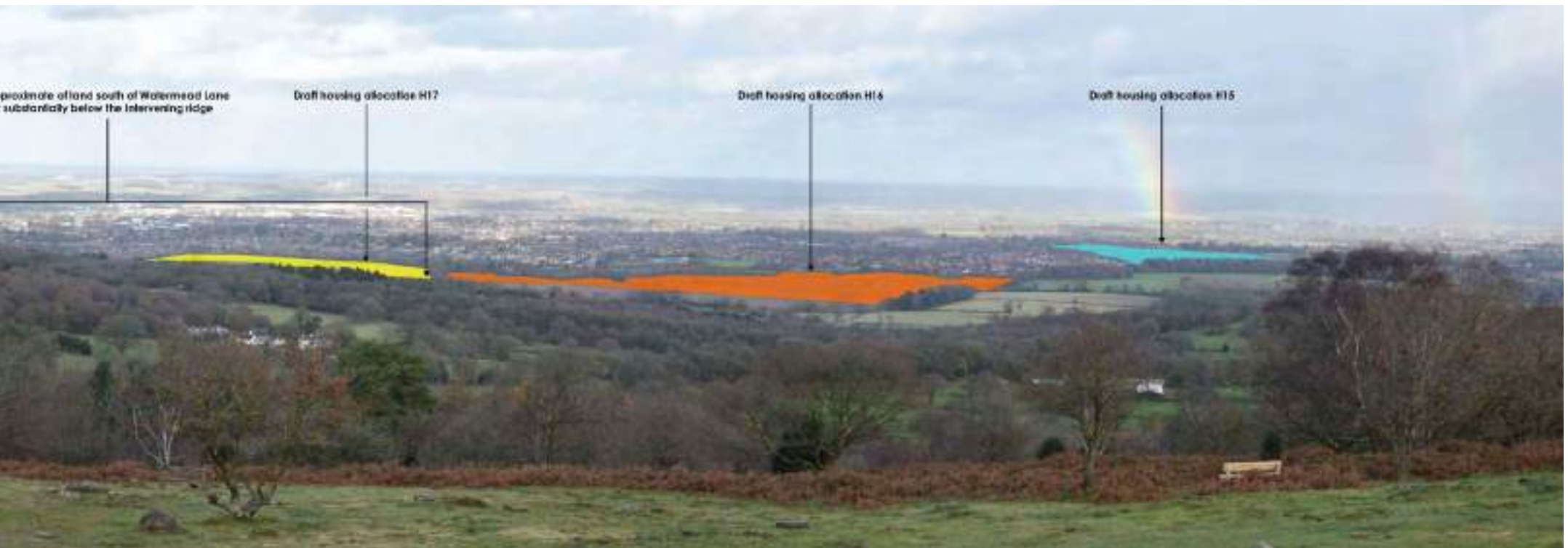
Key views have also been taken into account, both of the site itself, and across it to its wider landscape setting. These views confirm the need for development to secure a robust woodland setting for development, creating parcels which are compartmentalised and facilitate significant new areas of landscaping to be incorporated throughout.

Having understood these constraints, it is clear that the scale, form, mass and appearance of the development must respond to the transitional quality of the landscape. This has informed the proposed approach of creating small clusters of development in Forest Communities, which emphasise the changing character of the development as it moves west from the urban fringe.

The Landscape and Visual Baseline Report identifies the following key landscape guidelines for the successful delivery of the Forest Communities concept:



1. Ensure that development is retained on the lower lying section;
2. Set development back from the Nanpantan Road frontage to safeguard the view towards Charnwood Forest;
3. Safeguard and enhance the existing public access and recreation function of this landscape. Consider the creation of a Forest Gateway or Hub providing information and services for the local user groups;
4. Create a strong framework of woodland and open meadows to replicate the mosaic pattern of land uses that are typical of the Charnwood Forest;
5. Identify development cells that can be pepper-potted within this framework creating the Forest Suburbs that will present as enclaves of development carved out of the mosaic setting of woodland and meadows;
6. Secure buildings that reflect the transition from the suburban setting of Loughborough to the rural character of the Charnwood Forest. Building scale and materials will be central to this.
7. Avoid built form that would be prominent in views from the ridge line and Beacon Hill either in height or materials, most notably colour.





Movement & Connections

The site is in an inherently sustainable location, on the edge of the largest town in Charnwood Borough. There are numerous local facilities and considerable existing infrastructure available to facilitate journeys by sustainable modes of transport, which the development will connect to and enhance.

The masterplan is underpinned by the following movement principles: -

- two suitable and deliverable vehicular access points are achievable, one off Nanpanton Road via a ghost island T Junction and a second as an extension and reconfiguration of Watermead Lane.
- the two proposed access points are connected by a spine route which loops through the site.
- a 6.75m wide carriageway is proposed to accommodate future public transport penetration of the site;
- the route of the loop would ensure all residents are within 400m of the bus route.
- a 3m pedestrian/cycle footway will be provided on one side of the spine road
- existing public footpath routes run through the site connecting it with the neighbouring Outwoods and Jubilee Woods to the west and surrounding countryside to the south.



- new pedestrian routes to connect up the existing rights of way and create a permeable network of walking;
- the pedestrian routes promote localised journeys within the new community on foot and also open up the countryside and woodland to each doorstep, both of which will bring health and well-being benefits to new residents.





Masterplan



The Masterplan

The illustrative masterplan has been informed by the emerging technical information and the priorities to set a clear vision for the delivery of up to 600 new homes.

The masterplan gives a realistic idea of the site capacity:

- approximately 16 hectares of the site is identified for development, factoring the parameters of the site, which equates to less than 20% of the land within the ownership of the charity.
- this will deliver between 400-600 new homes depending on mix and density. Testing layouts will be undertaken in the future to establish capacity.
- approximately 80% of the land within the charity's ownership will be set out as green infrastructure with less than 20% of the land developed.
- the accompanying phasing plan identifies that the site can be developed in 4 phases, each of between 100-200 dwellings via deliverable access points.

As previously identified the overarching vision for the masterplan is to reflect the setting of the Charnwood Forest and therefore new tree planting is the thread running through the masterplan to create a cohesive new development. In order to bring variety to the scheme the delivery of this sylvan character will be achieved through the provision of character areas will create a varying densities and different features: -

- Wood Brook Edge: More formal and planned housing with tree lined streets – 35 dph
- Outwoods Meadows: Lower density housing with woodland areas pedestrian – 25 dph
- The Orchards: Housing areas with fruit trees and allotments – 35 dph
- The Holts: Featuring groups of trees located in key green spaces – 37 dph

The architectural style of the proposed houses will be explored as the proposals progress and evolve however the general appearance will seek to portray the Arts and Crafts heritage of the local area in this document illustrate how the development can respond to the local vernacular in conjunction with the creation of a high quality landscape setting for the scheme.

Overall, it is maintained that the masterplan creates an exciting vision for a place with a unique identity which responds to the context and landscape setting, meeting the principles of Building for Life 12 to form a high quality new community.



Section 4

Summary



Redrow Homes and Davidsons Developments are proud to be working with the Helen Jean Cope Charity in the delivery of a truly unique development opportunity in Loughborough. Cope Wood will not only secure direct investment into the Town through the Charity but also a development of the highest quality that embellishes the identity of Charnwood and the Forest environment.

Cope Wood will secure a seamless transition between the Town and countryside and include extensive networks of green infrastructure and a net gain in biodiversity and a “biodiversity bank” for the wider area.

The protection of the Forest is central to our vision shaping the scale, character and appearance of this exciting development opportunity. The proposal will secure a gateway hub between the Town and the Forest helping to expand and enhance key recreation and tourism infrastructure as part of the emerging Regional Park.

Cope Wood will secure a mosaic of woodland, meadows and recreation space encapsulating new areas of housing and providing doorstep to countryside access. Our new homes will be designed in response to the local vernacular, transitioning from the prominent architecture of the late 19th and early 20th Century that defines the urban setting of the Town to the more intimate scale and appearance of the Arts and Crafts architecture of the Forest.

Cope Wood aims to set a benchmark for new housing development in Charnwood through a commitment to place making and the delivery of high environmental and design standards.



HJC

Land value of up to 600 new homes invested on local projects



The expansion and enhancement of a Regional Park through a Loughborough Gateway in accordance with Policy EV4



Creation of new Charnwood Forest Gateway Hub



A net gain in biodiversity and a biodiversity bank for the wider area



New wildflower meadow planting, returning 46ha of land from arable fields, enhancing biodiversity;



Significant new tree planting across 42 hectares of land on the slopes up to Outwoods;



Creation of 58 hectares of publicly accessible green space



Provision of new cycle routes



Approximately 80% of the total site committed to Green Infrastructure.



A variety of equipped timber children's play and facilities play throughout the scheme, taking inspiration from the National Forest.



Potential to create a logical and feasible extension of 4 existing bus services through the site;



Up to 600 high quality new homes to be delivered with a unique, National Forest identity.

In conclusion it is maintained that this vision document clearly outlines the unique opportunity and significant benefits that development of the land under the ownership of Helen Jean Cope Charity for residential development. These benefits are: -

- the site's suitability, availability and achievability for residential-led development
- the tangible and significant local benefits of this site;
- the flexibility for the site to yield various quanta of development;
- the ability of the site to deliver housing in the short term;
- the wider opportunity to integrate this scheme with other potential housing sites; and
- certainty through the creation of a lasting and permanent edge to this side of Loughborough.





Appendix 3 – Preliminary Ecological Appraisal Report by Ramm Sanderson

South West Loughborough

Preliminary Ecological Appraisal Report (PEAR)



Client:

Davidsons Developments and
Redrow Homes

Report Reference:

RSE_5960_01_V1

Issue Date:

June 2022

PROJECT

Client: Davidsons Developments & Redrow Homes

Project: South West Loughborough

Reference: RSE_5960_01_V1

Report Title: Preliminary Ecological Appraisal

DOCUMENT CONTROL

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Revisions:

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1 EXECUTIVE SUMMARY

1.1 Background

- i RammSanderson Ecology Ltd was instructed by Davidsons Developments and Redrow Homes to carry out a Preliminary Ecological Appraisal and to produce a Biodiversity Impact Assessment and Biodiversity Net Gain Strategy based on an illustrative masterplan for at Land at South West Loughborough (central grid reference: SK 51545 17068) to inform the land promotion for a proposed new residential development with a large area between the residential boundary and the Out Woods SSSI proposed for new habitat creation, including new woodland and scrub in keeping with the local landscape character, and reversion from arable land to grassland. This will bring forward both a buffer between the proposed development and the Out Woods, and a bank of biodiversity units, both to offset this development proposal, and to be available for other proposals in the Borough which may not be able to deliver a net gain within their boundaries. This report is based on the proposals provided by the client which can be seen in the appendices (Plan Ref: n1312-005G Illustrative Masterplan).
- ii The development area of the site has been surveyed by RammSanderson previously in November 2019 (report ref: RSE_3326_01_V1), this report provides an updated site assessment of this land, plus the land between the development edge and the Outwoods.
- iii The site comprises a number of large arable and grassland fields, intersected with hedgerows and Beacon Hill, Hangingstone and Out Woods SSSI adjacent to the western boundary. Wood Brook runs through the northern section of the site, eventually feeding into the River Soar in the east. The residential area of Nanpantan is located to the north, with Woodthorpe and Shellthorpe residential areas to the east, the main town of Loughborough c.2.5km north east, and further arable land to the south.
- iv Further surveys are required to inform an ecological impact assessment, as set out below:

Table 1: Summary of Ecological Features & Recommendations

Ecological Feature	Comment	Further Surveys Recommended	Avoidance	Mitigation	Compensation/Enhancement	Residual Impact
Designated Sites	The works fall within the impact risk zone for Beacon Hill, Hangingstone and Outwoods SSSI which is adjacent to the western site boundary. Natural England will therefore be a consultee on the Local Plan and any subsequent application for the site.	Detailed assessments of the SSSI and current visitor levels, plus a SSSI Impact Assessment required to support an application.	Buffering and ample walking route (SANGS) provision around the development site and adjacent landscaping to avoid	Buffering and ample walking route (SANGS) provision around the development site and adjacent landscaping to mitigate effects of visitor pressure on the SSSI.	TBC following consultation with NE A 25m wide area of new mixed woodland planting is included within the proposals along the SSSI boundary to create a buffer	TBC - a positive effect will be sought through the measures proposed and via consultation.

Ecological Feature	Comment	Further Surveys Recommended	Avoidance	Mitigation	Compensation/Enhancement	Residual Impact
			air/light/noise impacts		to the development. Beyond this a buffer of locally native, gorse & broom dominated scrub will provide a further buffer and help to guide and restrict visitor movements to established paths.	
Habitats	The majority of habitats on site were of limited botanical diversity and were common and widespread. Wood Brook flows through the northern section of the site from the west to the east, this habitat is of high distinctiveness. Discharges into Wood Brook will seek to be avoided through design proposals.	Although this habitat is being retained and enhanced, Wood Brook will require a MoRPh survey in order to assess its condition and river habitat type. This assessment will then feed into the BIA metric. If discharges to Wood Brook cannot be avoided, a Water Framework Directive assessment will be required.	Only remove habitat that is essential to permit the works. Select design option which results in the least removal possible. Most hedgerows are being retained throughout the proposals, w	Protect retained areas with fencing and signage designating them as 'no works zones'. Follow pollution prevention guidelines in order to prevent pollution to this watercourse during construction	Native species planting, underplanting of hedgerows with additional species, the incorporation of habitat boxes and hibernacula will all enhance the site post development. A detailed enhancement section is included within this report.	Indicative significant net gain for habitats
Great Crested Newt	Two ponds are located within the site, with a third on the site boundary. A further four	Yes, - Suitability	Habitat Index	To be informed by further surveys	To be informed by further surveys	Unknown - further

Ecological Feature	Comment	Further Surveys Recommended	Avoidance	Mitigation	Compensation/Enhancement	Residual Impact
	ponds are located within 250m of the site boundary. These ponds may provide suitable habitat for GCN. It is recommended that these ponds are subject to eDNA surveys for GCN to assess their potential presence on site. If present, the proposals will need to consider the potential assignation of land to this species in a reserve. Further survey work and licensing may also be required if present.	Assessment and potentially Presence /likely absence survey (eDNA or traditional methods – depending on timings and type of application being sought)				surveys required
Bats	During the phase 1 habitat survey, several trees were noted though these were not assessed for their potential to support roosting bats. The site has been assessed as moderate quality for foraging/commuting bats, and their use of the site will need further investigation.	Yes, Ground Level Tree Assessment followed by roped access or nocturnal bat surveys on any trees to be removed or impacted. Monthly bat activity transect and static monitoring surveys April to September to determine species presence, abundance and use of the site.	Masterplan to avoid losses of habitats noted for importance to bats (woodland, hedgerows, flowing/standing water).	Sensitive bat lighting strategy detailed within a CEMP.	Enhancements could include features integrated into buildings	Unknown – further surveys required
Birds	Habitats on site may create a valuable resource for bird species and as such this	Further bird surveys required.	Avoid any works in main bird	TBC	As per 'habitats', removed vegetation to be	Unknown – depends on

Ecological Feature	Comment	Further Surveys Recommended	Avoidance	Mitigation	Compensation/Enhancement	Residual Impact
	site may support a core population of the birds within the locality.		nesting season (March to September, inclusive). Avoid habitat loss.		compensated for by replacement planting. Addition of bird boxes to retained trees and new buildings	results of further surveys
Reptiles	Hedgerows, scrub, semi-improved grassland, and tall ruderal vegetation provided opportunities for foraging, refuge and commuting for reptiles.	A suite of reptile presence absence surveys is required.	The masterplan avoids the most suitable habitats.	To be confirmed following further survey.	The inclusion of hibernacula and native planting will enhance the site for reptiles post development	Further surveys needed, but sensitive habitats retained.
Water vole and otter	Wood brook runs through the northern section of the site, and a ditch is also present through the central section of the site running from north to south. There is therefore the potential for these species to be present on site.	Two otter and water vole surveys should be conducted between April and September in order to assess the brook and determine presence / likely absence	To be informed by further surveys	To be informed by further surveys	To be informed by further surveys	Unknown – depends on results of further surveys
Badgers	No signs of badger identified during the survey but badgers have been identified on site during the 2019 surveys indicating that badgers were present locally. Additionally	Yes – badger survey required to identify presence / likely absence of setts on site	To be informed by further surveys	To be informed by further surveys	To be informed by further surveys	Unknown – depends on results of further surveys

Ecological Feature	Comment	Further Surveys Recommended	Avoidance	Mitigation	Compensation/Enhancement	Residual Impact
	the hedgerows and adjacent woodland do offer suitable sett building habitat.					
Terrestrial invertebrates	The habitat on site is of limited value to terrestrial invertebrates as the majority of the site comprises monoculture arable land which lacks the suitable mosaic and species diversity that diverse invertebrate assemblages require. However, the woodland edge and hedgerows may prove a conduit for important invertebrate species.	Yes	Retention and establishment of new hedgerows and habitats will avoid direct impacts.	Change of use from intensive arable farming will likely lessen impact from pesticide applications.	The habitat creation proposed within this development has the potential to significantly increase the provisions for invertebrates at this site through planting and management schemes.	Negligible
Biodiversity Net Gain	The majority of the development includes the removal of low diversity and common habitats that support only limited protected species. The site contains 144.5 baseline biodiversity units for habitat areas, and 72.2 units for hedgerow. Based on the current proposed plan there will be quantified net gain in biodiversity of 160.3 habitat units (110.8%) across habitat areas and a gain of 8.6 hedgerow units (11.9%).	Monitoring surveys post construction	N/A	N/A	It should be noted that hedgerow units will be a gain when the landscape plan is finalised as all removed hedgerows are being replaced at a 2:1 ratio. See enhancement section for more details	Possible significant positive outcome
Principal species	Species such as hedgehog are potentially present locally.	No	N/A	Best practice measures to avoid harm to fauna passing through the site	N/A	Negligible

Ecological Feature	Comment	Further Surveys Recommended	Avoidance	Mitigation	Compensation/Enhancement	Residual Impact
				(see Section 5). Any log/brash piles to be moved carefully by hand.		

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2 INTRODUCTION AND BACKGROUND

2.1 Purpose and Scope of this Report

- i RammSanderson Ecology Ltd was commissioned by Davidsons Developments and Redrow Homes to review the ecological constraints and opportunities, to complete a BIA assessment to put forward the current baseline condition of the site, and the potential for change based on the current illustrative masterplan and to assess the potential for protected species and habitats to be present on the site at South West Loughborough (central grid reference: SK 51545 17068) for representation at Charnwood Borough Council's Local Plan Examination in Public. The current proposals indicate a residential development along the eastern edge of the site with the boundaries and surrounding land being retained and enhanced, bringing forward a bank of **160.32 biodiversity habitat units (a 110% net gain) and 8.61 hedgerow units (an 11.93% net gain)** to be used to offset the development proposals for this site, and potentially other nearby schemes which may be less able to within the confines of their boundaries.
- ii To complete a preliminary ecological assessment of the proposals, a desk-based assessment, Extended Phase 1 Habitat Survey and a preliminary protected species assessment (including Ground level Tree Assessments in this instance) were carried out. Taken together, in common with the Chartered Institute of Ecology & Environmental Management's (CIEEM) 2017 publication this is termed as a Preliminary Ecological Appraisal (PEA). This report aims to provide general advice on ecological constraints associated with any development of the site and includes recommendations for further survey. Therefore, this assessment is considered 'preliminary' until any required protected species, habitat or invasive species surveys can be completed and the results are then updated into a final 'Ecological Impact Assessment', which can be used to determine any subsequent planning application for the site, in line with current planning policy¹.
- iii The study area included the site itself as well as considering desk study data and applicable legislation as shown in the enclosed Site Location Plan and Phase 1 Habitat plan (appendices). A buffer zone was also considered that included the Zone of Influence (see section below) of the proposals (hereafter referred to as the 'site').
- iv This preliminary appraisal is based on a review of the development proposals provided by the Client, desk study data (third party information), a previous and a survey of the site. The results from a previous Environmental Statement² (ES) of the wider development (much of which has been completed) which was published in 2011 was consulted and has been referenced in this report. The aims of this report are to:
 - Classify the habitat types at the site based on standard Phase 1 Habitat survey methodology
 - Evaluate any potential for protected or priority species/habitats to be present
 - Identify any ecological constraints that may affect the scheme design
 - Provide recommendations for any further surveys that might be required (for example to confirm presence / likely absence of protected species), which would need to be obtained for a subsequent EclA in order for a planning decision to be concurrent with current planning policy
 - Identify opportunities for ecological enhancement to provide net biodiversity gain in line with the National Planning Policy Framework (NPPF, 2021) and Environment Act (2021).

¹ Office of the Deputy Prime Minister Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System

² Hallam Land Management, Land north of Bromham Road, Biddenham – Refreshed Environmental Statement ES/2079.23/August11

- v This report pertains to these results only; recommendations included within this report are the professional opinion of an experienced ecologist and therefore the view of RammSanderson Ecology Ltd.
- vi The surveys and desk-based assessments undertaken as part of this review and subsequent report including the Ecological Constraints and Opportunities Plan are prepared in accordance with the British Standard for Biodiversity Code of Practice for Planning and Development (BS42020:2013).

2.2 Zone of Influence

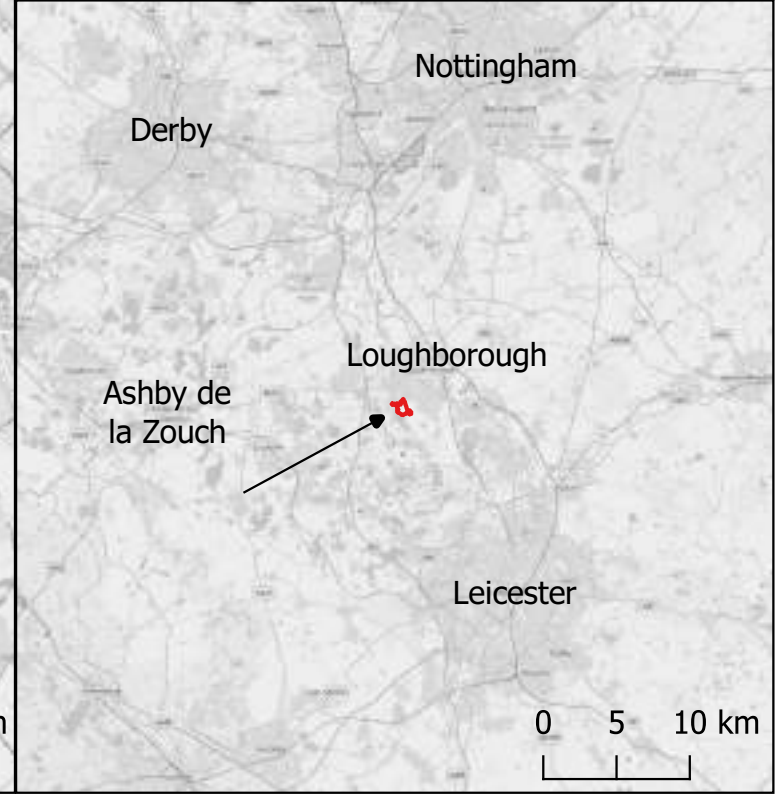
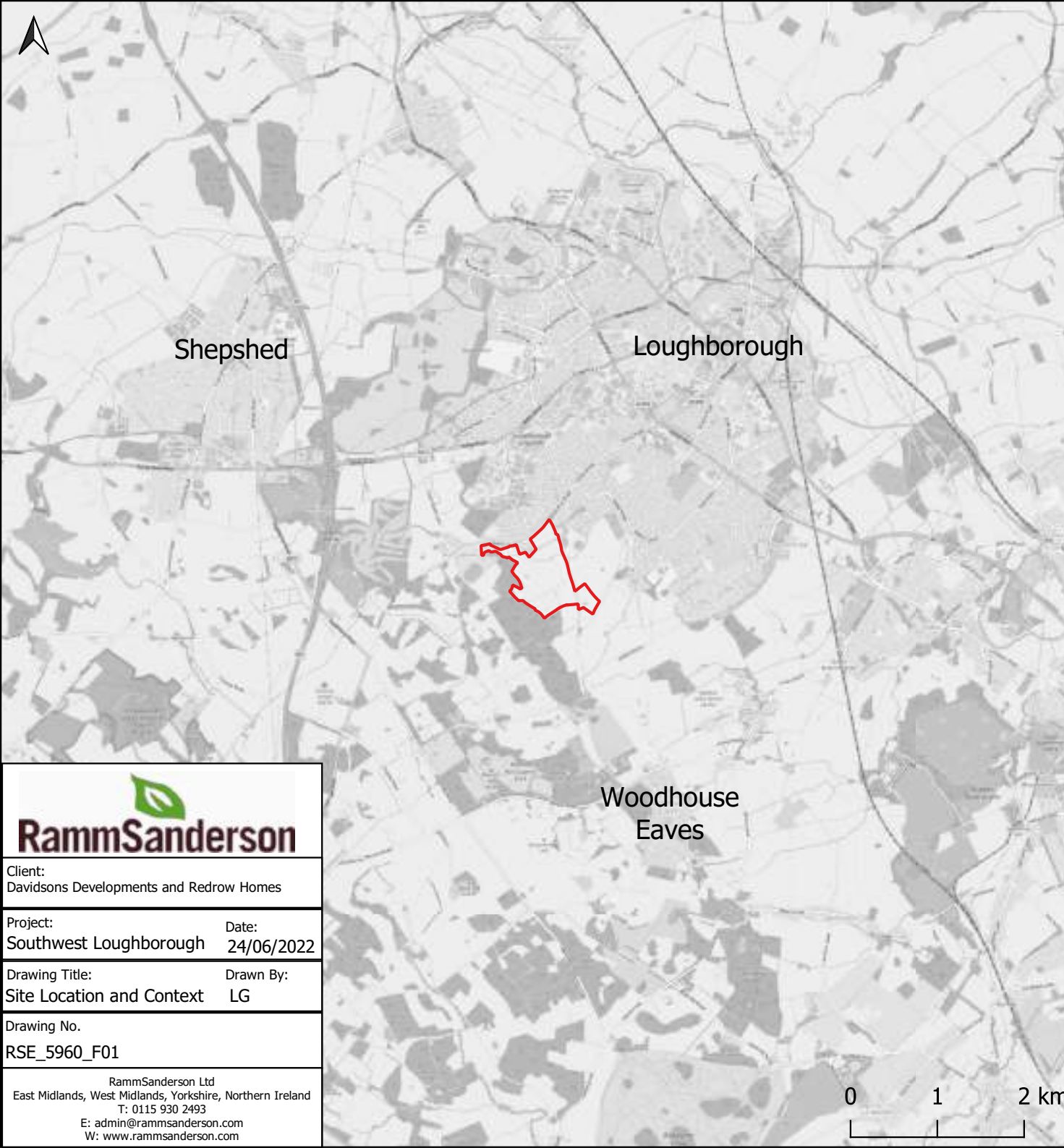
- i The Zone of Influence (Zoi) is used to describe the geographic extent of potential impacts of a proposed development. The Zone is determined by the development proposals in relation to individual species ecological requirements indicated in best practice guidelines.
- ii In relation to great crested newts (GCN), the Zoi is considered to be up to 500m from the site boundaries, as this is the distance that Natural England would require to be considered in relation to GCN licensing. However, for this site the ZOI is only considered for water bodies within 250m of the site boundary. Guidance set out within Natural England's Method Statement template, to be used when applying for a Great Crested Newt development licence, states that surveys of ponds within 500m of the site boundary are only required when '(a) data indicates that the pond(s) has potential to support a large great crested newt population, (b) the footprint contains particularly favourable habitat, (c) the development would have a substantial negative effect on that habitat and (d) there is an absence of dispersal barriers.' Given that in this instance, the terrestrial habitat surrounding the site is generally considered 'suboptimal' with hardstanding, and grassland lacking a tussocky thatch to support GCN refuge and the scheme is small in scale with localised impacts, it is considered that survey of ponds within 500m of the site boundary is not required, and that survey of ponds within 250m represents adequate survey effort.
- iii For badgers, the zone of influence is typically 30-50m from the Site boundary as this is the distance within which a sett can be damaged or disturbed by heavy machinery.
- iv As bats are highly mobile species, the Zoi for these can be 5km from a site wherein high-quality habitat will be impacted by proposals.
- v For designated sites, the Zone of Influence can be >10km from the site and this is termed the Impact Risk Zone (IRZ). Where European sites (SAC³'s, or SPA⁴'s) occur within an IRZ the requirement for a Habitat's Regulations Assessment or Environmental Impact Assessment may be triggered.

2.3 Site Context and Location

- i The site is predominantly arable cropland with some areas of grassland and Beacon Hill, Hangingstone and Outwoods, a SSSI woodland is to the west of the site boundary. Residential areas (Nanpantan and Shellthorpe) are present to the north and east, with further arable land to the south. The town of Loughborough is located to the north east c.2.5km.

³ Special Areas of Conservation, as designated under the EU Habitats Directive

⁴ Special Protection Areas, as classified under the EU Birds Directive



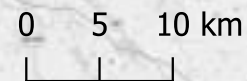
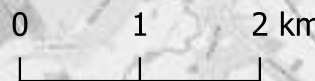
Client:
Davidsons Developments and Redrow Homes

Project: Southwest Loughborough Date: 24/06/2022

Drawing Title: Site Location and Context Drawn By: LG

Drawing No.
RSE_5960_F01

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3 METHODOLOGY

3.1 Preliminary Appraisal

- i The preliminary ecological appraisal is based on the standard best practice methodology provided by the Guidelines for Preliminary Ecological Appraisal (CIEEM, 2017). The assessment identifies sites, habitats, species and other ecological features that are of value based on factors such as legal protection, statutory or local site designations such as Sites of Special Scientific Interest (SSSI) or Local Wildlife Sites (LWS) or inclusion on Red Data Book Lists or Local Biodiversity Action Plans. Based upon this, recommendations for further, more detailed surveys are made as appropriate to confirm presence / likely absence of a protected species.
- ii In identifying constraints, the review considers the Client's Site proposals and any subsequent recommendations made are proportionate / appropriate to the site and have considered the Mitigation Hierarchy as identified below:
 - **Avoid:** Provide advice on how the development may proceed by avoiding impacts to any species or sites by either consideration of site design or identification of an alternative option.
 - **Mitigate:** Where avoidance cannot be implemented mitigation proposals are put forward to minimise impacts to species or sites as a result of the proposals. Mitigation put forward is proportionate to the site.
 - **Compensate:** Where avoidance cannot be achieved any mitigation strategy will consider the requirements for site compensatory measures.
 - **Enhance:** The assessment refers to planning policy guidance (e.g. NPPF 2021) to relate the ecological value of the site and identify appropriate and proportionate ecological enhancement in line with both national and local policy.

3.2 Phase 1 Habitat & UK HAB Survey

- i An extended Phase 1 Habitat Survey of the site was completed to identify habitats present. All habitats within the site boundary were described and mapped following standard Phase 1 Habitat Survey methodology (JNCC, 2010), which categorises habitat type through the identification of individual plant species.
- ii Simultaneously, surveyors also categorised the habitats on site, and assessed their condition, using the more recently introduced UK HAB survey methodology (UKHab Ltd, 2018), to, aside from gleaning further detailed information on the site, to robustly inform the BIA process.

3.3 Desk-based Assessment

- i Data regarding statutory and non-statutory designated sites, plus any records of protected or priority species and habitats was requested from the local ecological records centre and online resources, details of which are provided in Table 2 below.

Table 2: Consulted resources

Consultee/Resource	Data Sought	Search Radius from Boundary
Leicestershire and Rutland Local Records Centre	Non-Statutory Site Designations	2km
	Protected/Principal Species Records	2km
www.magic.gov.uk ^{5 6}	Statutory Site Designations (Impact Risk Zones)	20km
	Habitats of Principal Importance (NERC Act, 2006)	1km
	European Protected Species Licences	5km

NB: Desk study data is third party controlled data, purchased or consulted for the purposes of this report only. RammSanderson Ecology Ltd cannot vouch for its accuracy and cannot be held liable for any error(s) in these data.

3.4 Bats

3.4.1 Preliminary Bat Roosting Assessment

- i The overall value of the site and its connectivity to the wider countryside was assessed in relation to bats. The likelihood of bats roosting at the site or moving through the site between local roost sites and foraging/mating/hibernation habitats was considered.
- ii The site, including the trees and boundary trees, were assessed by an ecologist and graded as to their suitability for supporting roosting bats using the Bat Conservation Trust's *Bat Surveys for Professional Ecologists: Good Survey Guidelines* (Collins, J. Eds. 2016), an extract of which is provided interpreted in the Table below.

Table 3: Criteria for bat roost potential assessment of buildings and trees

Roost Potential	Description	Surveys Required (Trees)
Confirmed roost	Evidence of roosting bats found during initial daytime inspection.	3 - including 1 dawn as a minimum
High *	Structures with one or more features suitable for bat roosting, with obvious suitability for larger numbers of bats.	3 - including 1 dawn as a minimum
Moderate	Structure with one or more potential roost sites that could be used due to size, shelter and protection but unlikely to support a roost of high conservation status.	2- including 1 dawn as a minimum
Low	Structure with one or more potential roosting sites used by individual bats opportunistically. Insufficient space, shelter or protection to be used by large numbers of bats.	Precautionary Mitigation Approach, some instances may require further survey
Negligible	No or negligible features identified that are likely to be used by roosting bats	None

⁵ Multi Agency Geographic Information for the Countryside Interactive GIS Map.

⁶ MAGIC resource was reviewed on the 14/05/2022

* Unless it is a confirmed roost, additional surveys are required of buildings to assess presence / likely absence of a roost. The number of surveys are indicative to give confidence in a negative result, i.e. where no bats are found, confidence in a result can be taken.

3.4.2 Preliminary Assessment of Bat Activity – Habitat Quality

- iii The habitat quality of the site for bat activity and foraging was assessed in line with the aforementioned methodology.

3.5 Great Crested Newt (GCN) Habitat Suitability Assessment (H.S.I)

- i Waterbodies within 500m of the survey area were evaluated against the GCN HSI criteria (Oldham *et al*, 2000). The HSI provides a measure of the suitability of a water body to support GCN by assigning an overall score of between 0 and 1, which is based on ten key criteria as follows:

- SI1 Geographic location
- SI2 Pond area
- SI3 Pond drying
- SI4 Water quality
- SI5 Shade
- SI6 Presence of water-fowl
- SI7 Presence of fish
- SI8 Number of local ponds
- SI9 Terrestrial habitat quality
- SI10 Plant coverage

- ii In general, ponds with a higher score are more likely to support GCN than those with lower score. Suitability for GCN is determined in accordance with the scale outlined in the table below.

Table 4: HSI Scoring Criteria

HSI Score	Pond Suitability
<0.5	Poor
0.5 – 0.59	Below average
0.6 – 0.69	Average
0.7 – 0.79	Good
>0.8	Excellent

3.6 Phase 1 Habitat Survey

- i An extended Phase 1 Habitat Survey of the site was completed to identify habitats present. All habitats within the site boundary were described and mapped following standard Phase 1 Habitat Survey methodology (JNCC, 2010), which categorises habitat type through the identification of individual plant species.

3.7 Protected / Priority Species Scoping Assessment

- i The habitats on site were assessed for their suitability for supporting any legally protected or Priority species that would be affected by the proposed development. This includes invasive non-native plant species such as Japanese knotweed (*Fallopia japonica*), Himalayan balsam (*Impatiens glandulifera*) and giant hogweed (*Heracleum mantegazzianum*).

3.8 Biodiversity Impact Assessment

3.8.1 Outline Procedure

- i Biodiversity Impact Assessment of proposals was carried out in accordance with guidelines published by DEFRA and via the DEFRA Metric Calculation Tool 3.1. The existing value of individual habitats on site is initially calculated by accurately mapping the proposed development site from information collected during a Biodiversity Scoping Assessment/Phase 1 Habitat Survey and by dividing the land into individual habitat parcels. This part of the study is informed by JNCC Phase 1 habitat and UK habitats classification systems. The distinctiveness, condition, connectivity, and strategic significance of these parcels is then assessed and together with the area of each habitat, a value is assigned. A summary of how habitat distinctiveness, condition assessment, connectivity and strategic significance is determined is detailed within DEFRA best practice literature

3.8.2 Calculation

- i Once the habitat types have been input into the Biodiversity Impact Assessment calculator, along with their area, distinctiveness, condition, connectivity, and strategic significance an overall score in biodiversity units is calculated.

3.8.3 Compensation

- i Once the biodiversity value of existing on-site habitats has been quantified, the value of indicatively proposed habitats to achieve a net gain as part of development must be calculated. This is calculated using the methodology applied above, considering the area/length of indicatively proposed habitats, their distinctiveness, condition, connectivity, and strategic significance once this is established. A further two parameters are also taken into consideration at this stage. These are the time it will take to reach this target condition and the difficulty of creating/restoring each habitat type proposed. By using these parameters, the calculation takes into account that the time it takes for a habitat to establish may result in a loss of biodiversity for a period of time and also the risk of failure associated with any habitat creation/restoration

3.9 River condition assessment (MoRPh & River Type survey)

- i The River Condition Assessment (RCA) consists of a field survey and a desk-based assessment to evaluate the River Type and Condition Score of watercourses. This data is then inputted into the BIA metric to understand the impact of a development to watercourses. Under DEFRA Metric 3.1, an RCA will be required if works are to occur within 10m of the banks of a watercourse.
- ii The field survey comprises a minimum of 5 contiguous Modular River Physical Habitat (MoRPh) module surveys, also known as a MoRPh5 survey. Each MoRPh5 survey characterises a subreach of the watercourse being assessed, and MoRPh5 surveys are conducted to cover at least 20% of the watercourse length within the survey area. During this survey, all features of the watercourse are analysed to capture the morphology, sediments, physical features and vegetation structure of the watercourse channel and margins within 10m of the bank tops.
- iii The desk-based assessment then assesses the indicative River Type of the wider river reach that the survey area lies within. This is determined from a desk study including the measurements of planform, confinement and valley gradient of an extended reach enclosing the survey area, as well as information on the bed material of the river from the MoRPh field survey(s).

- iv These data sets are subsequently used to derive a Final Condition Assessment for each MoRPh5 subreach as follows:
- Thirty-two Condition Indicator scores are estimated from the MoRPh field survey data. The Condition Indicators score a series of 'natural' (positive) and human-impacted (negative) properties of the bank tops, bank faces, and riverbed within each MoRPh5 subreach. The Condition Indicators are assigned scores ranging from 0 to +4 (positive indicators) or 0 to -4 (negative indicators) based on a numerical synthesis of subsets of survey observations.
 - The average positive and average negative Condition Indicator scores for each MoRPh5 subreach are added together to generate a Preliminary Condition score.
 - A Final Condition Score is then assigned to each MoRPh5 subreach based on the Preliminary Condition score and the River Type being assessed
- v The Final Condition Score is then inputted into the DEFRA Metric BIA calculator, in addition to the further variables (including the distinctiveness, spatial location, strategic significance, time to target condition, difficulty of creation/enhancement and encroachment) to determine the impact of a development on the assessed watercourse.

3.10 Limitations

- i It should be noted that whilst every effort has been made to provide a comprehensive description of the site, no investigation could ensure the complete characterisation and prediction of the natural environment.
- ii It must be noted that any alteration of condition of both the baseline and the created habitats will alter the overall BNG score, and units lost / gained
- iii Additionally, there is a watercourse (Wood Brook) flowing through the northern section of the site, this has not yet been subjected to surveys to assess the baseline for aquatic habitats (MORPH survey) and as such this has been excluded from the calculation until further assessments can be undertaken. Although this watercourse is not to be impacted as part of the proposals, DEFRA 3.1 requires all watercourses that are on site to be assessed regardless of predicted impact.

3.11 Accurate lifespan of ecological data

- i The majority of ecological data remain valid for only short periods due to the inherently transient nature of the subject. The survey results contained in this report are considered accurate for approximately 18 months from the date of survey, notwithstanding any considerable changes to the site conditions, the presence of mobile species such as bats, otters and badgers or where species/county specific guidance dictates otherwise (CIEEM, 2019).

4 RESULTS

4.1 Surveyors and Survey Conditions

- i A walkover survey was completed by Oliver Ramm MCIEEM and Lauri Leivers ACIEEM, with further condition assessment and mapping completed by Nicola Woods QCIEEM and Tom Hewison QCIEEM. The survey was completed during suitable conditions as detailed in the table below.

Table 5: Summary of conditions during survey

Abiotic Factor	Survey 1	Survey 2
Survey type	Walkover survey	Phase 1, UK HAB and condition assessment survey
Date completed	20.05.2022	17.06.2022
Temperature (°C)	19	23
Wind speed (Beaufort Scale)	1	2
Cloud cover (Oktas Scale)	8	2
Precipitation	0	0

4.2 Desk Study

- i A total of 19 statutory designated sites were recorded within the search area, the details of which are summarised in the Appendices. The site is located within the Impact Risk Zone (IRZ) of Beacon Hill, Hanginstone and Out Woods SSSI and Johnson's Meadows SSSI. Out Woods SSSI is adjacent to the western boundary.

- i The Site lies within 5km of two LNR's, 16 SSSI's and Charnwood Lodge NNR. The proposals are of a type (listed below) that is included within the IRZ for these National designated sites.

- **Infrastructure:** Pipelines, pylons and overhead cables. Any transport proposal including road, rail and by water (excluding routine maintenance). Airports, helipads and other aviation proposals.
- **Wind and Solar Energy:** Solar schemes with footprint > 0.5ha, all wind turbines.
- **Minerals, Oil and Gas:** Planning applications for quarries, Incl: new proposals, Review of Minerals Permissions (ROMP), extensions, variations to conditions etc. Oil & gas exploration/extraction.
- **Rural Non-Residential:** Large non-residential developments outside existing settlements/urban areas where net additional gross internal floorspace is > 1,000m² or footprint exceeds 0.2ha.
- **Residential Development:** Residential development of 100 units or more.
- **Rural Residential:** Any residential development of 10 or more houses outside existing settlements/urban areas.
- **Air Pollution:** Any development that could cause air pollution (incl: industrial/commercial processes, livestock & poultry units, slurry lagoons & digestate stores, manure stores).
- **Combustion:** All general combustion processes. Incl: energy from waste incineration, other incineration, landfill gas generation plant, pyrolysis/gasification, anaerobic digestion, sewage treatment works, other incineration/combustion.

- **Waste:** Mechanical and biological waste treatment, inert landfill, non-hazardous landfill, hazardous landfill, household civic amenity recycling facilities construction, demolition and excavation waste, other waste management.
- **Composting:** Any composting proposal. Incl: open windrow composting, in-vessel composting, anaerobic digestion, other waste management.
- **Water Supply:** Large infrastructure such as warehousing / industry where net additional gross internal floorspace is > 1,000m² or any development needing its own water supply.

ii 30 non-statutorily designated sites were also identified within the search radius, details of which are provided in the Appendices.

ii There are 198 Habitats of Principal Importance under Section 41 of the NERC Act, 2006 located within a 1km radius of the site. These are shown in table 3 below, with the distance and direction of the closest habitats in regard to the site referenced. The closest is a section of woodland adjacent to site along the western side which is comprised of a variety of different woodland habitats.

Table 6: Habitats of Principal Importance within 1km of Site Boundary

Habitat	Quantity	Closest Habitat - Distance to Site	Closest Habitat - Direction to Site
Deciduous Woodland	137	Adjacent	West
Broadleaved Woodland	24	Adjacent	West
Woodland – Conifer	9	Adjacent	Southwest
Ancient and Semi-Natural Woodland	4	Adjacent	West
Ancient Replanted Woodland	2	Adjacent	Southwest
Woodland – Felled	2	Adjacent	Southwest
Woodland – Mixed Mainly Broadleaved	4	115m	South

iii Records of previous European Protected Species Licences (EPSL) were discovered within a 5km search area around the site. This included:

- 19 records of bat licences for common pipistrelle (*Pipistrellus pipistrellus*), Soprano pipistrelle (*Pipistrellus pygmaeus*), brown long-eared bat (*Plecotus auratus*) and Natterer's bat (*Myotis nattereri*). The closest licence was located 0.8km to the south of site allowing the destruction of common pipistrelle and Soprano pipistrelle resting places (2019-40630-EPS-MIT). The most recent licence was granted in 2020 allowing the destruction of a common pipistrelle and Soprano pipistrelle breeding site (2020-49321-EPS-MIT).
- Six records of great crested newt (*Triturus cristatus*) licenses. The closest licence was located 2.1km west-northwest of site allowing the damage and destruction of GCN resting places (2020-44928-EPS-MIT). The most recent licence was granted in 2021 which is currently unspecified what this licence was granted for (2020-45283-EPS-MIT-2).

- iv Protected species records were received from Leicestershire and Rutland Environmental Records Centre. A summary of the records considered most relevant to the site and/or proposed development are provided in the Appendices. Full species records are available to view upon request.
- v The desk study data is third party controlled data, purchased for the purposes of this report only. RammSanderson Ecology Ltd cannot vouch for its accuracy and cannot be held liable for any error(s) in these data.

4.3 Habitat Connectivity Analysis and Closest Relevant Records




- i In assessing the site, a review of online resources and desk study data was undertaken to assesses the site with respect to its connectivity to the wider environment, particularly along linear features (rivers, railways, canals etc.) and any designated or protected sites.
- i The site has connectivity to a large area of woodland adjacent to the western site boundary which forms part of Beacon Hill, Hangingstone and Out Woods SSSI. An extensive series of hedgerows onsite provides further connectivity with the surrounding landscape with Nanpantan Reservoir LWS being located just 80m southwest. These habitats will offer good connectivity and foraging for avian species such as birds and bats and for terrestrial mammals such as badgers.


4.4 Habitat Survey

- i Habitat descriptions and photos are provided below. For a Phase 1 Habitat Survey Plan refer to the appendices.
- ii Habitat types detailed below are listed in order of the JNCC (2010) Handbook. The species list provided in this report reflect only those taxa observed during the survey. Whilst UKHab surveys and coding was also collected, it was deemed confusing to include details of both classification types here.

Table 7: Results of Site Survey

Habitat	Description	Area (m ²)	Proportion of site (%)	Ecological Importance & Outcome of Proposal	Photograph
B2 neutral grassland	This area had a mix of species including equally abundant Yorkshire fog (<i>Holcus lanatus</i>), meadow foxtail (<i>Alopecurus pratensis</i>) and cocksfoot (<i>Dactylis glomerata</i>), frequently occurring were crested dogs tail (<i>Cynosurus cristatus</i>) and perennial ryegrass (<i>Lolium perenne</i>) occasionally occurring (<i>Ranunculus repens</i>), dandelion (<i>Taraxacum</i> sp.), white clover (<i>Trifolium repens</i>), and rarely occurring ribwort plantain (<i>Plantago lanceolata</i>)			To be retained and enhanced to other neutral or acid grassland as part of the proposals	
J2.4 Species rich hedgerows	The dominant species within the hedgerows on site was hawthorn (<i>Crataegus monogyna</i>), with frequent blackthorn (<i>Prunus spinosa</i>), occasional elder (<i>Sambucus nigra</i>) and dog rose (<i>Rosa canina</i>) and rarely occurring sycamore (<i>Acer pseudoplatanus</i>)			Some to be lost as part of the proposals. Ecologically valuable and to be replaced and enhanced where retained.	

Habitat	Description	Area (m ²)	Proportion of site (%)	Ecological Importance & Outcome of Proposal	Photograph
A2.1 Dense continuous scrub	This habitat was present across the site. Areas of scrub were dominated by willow and bramble, and in places mixed. Species included hawthorn, blackthorn, goat willow (<i>Salix caprea</i>), willow sp (<i>Salix sp</i>), bramble and gorse (<i>Ulex europaeus</i>)			Small areas of this will be lost in order to facilitate the proposals. However, extensive scrub planting is proposed in order to enhance the site.	
A3.1 Scattered trees	Scattered trees were present across the site. Species included ash (<i>Fraxinus excelsior</i>), oak (<i>Quercus sp</i>), goat willow, sycamore and field maple (<i>Acer campestre</i>)			Some of these trees will be lost to facilitate the proposals. Any lost trees are to be replaced like for like and an extensive number of trees are proposed in order to enhance the site	
G2 Running Water	Wood Brook runs through the northern section of the site, flowing from west to east. The channel was c.0.5m wide and with a depth of c.5-30cm. the banks were earth with scrub and nettle present.			Very high distinctiveness habitat with high ecological value. To be retained as part of the proposals though the banks will be enhanced with suitable planting.	

Habitat	Description	Area (m ²)	Proportion of site (%)	Ecological Importance & Outcome of Proposal	Photograph
J1.1 Arable	The majority of the site area comprised arable cereal or hay cropland.			Limited ecological and botanical value. To be lost or enhanced to grassland.	

4.5 Preliminary Protected / Priority Species Assessment

- i The potential for protected species to be present on site and impacted by the proposals is discussed under the headings below.

4.5.2 Habitats

- i The majority of the habitats on site comprised low diversity arable land and grassland, however a number of hedgerows were present across the site which were identified as intact native species rich. Some of these hedgerows will require removal or severance as part of the development scheme.

4.5.3 Biodiversity Impact Assessment

- ii The proposal plan (n1312-005G Illustrative Masterplan) for the site shows location of residential areas, enhancement areas and greenspace but does not yet show exact locations of the residential properties, as such an assumption of a 70:30 split between houses and hardstanding against garden habitat has been used as per the simplified methodology. This plan has been used to calculate the approximate net change on site, although this is not the finalised plan at this stage it can be utilised to give an approximate indication of net change resulting from this land promotion.
- iii The site contains 144 baseline habitat units and 72 hedgerow baseline units, river habitat has not yet been assessed.
- iv Post intervention, based on the above-referenced illustrative masterplan, the site will yield 304 baseline habitat units and 80 baseline hedgerow units, resulting in a change of +110% for habitats and +11.9% for hedgerows. All trading rules have been satisfied within the metric.

Figure 2: BIA Headline Results

Southwest Loughborough		Return to results menu	
Headline Results			
On-site baseline	Habitat units	144.59	
	Hedgerow units	72.22	
	River units	0.00	
On-site post-intervention (Including habitat retention, creation & enhancement)	Habitat units	304.91	
	Hedgerow units	80.84	
	River units	0.00	
On-site net % change (Including habitat retention, creation & enhancement)	Habitat units	110.88%	
	Hedgerow units	11.83%	
	River units	0.00%	
Off-site baseline	Habitat units	0.00	
	Hedgerow units	0.00	
	River units	0.00	
Off-site post-intervention (Including habitat retention, creation & enhancement)	Habitat units	0.00	
	Hedgerow units	0.00	
	River units	0.00	
Total net unit change (Including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	160.32	
	Hedgerow units	8.81	
	River units	0.00	
Total on-site net % change plus off-site surplus (Including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	110.88%	
	Hedgerow units	11.83%	
	River units	0.00%	
Trading rules Satisfied?	Yes ✓		

4.5.4 Great Crested Newt (GCN)

- i A number of waterbodies, water courses and ditches were identified on site and within 500m of the site boundary.
- ii One waterbody was present on site (P2), with P4 &5 and P9-16 being within 100m of the site boundary and P1, P3, P6-8 between 250-500m. None of these were located beyond a barrier to amphibian dispersal such as a road or river. Nanpantan Reservoir is stocked and used for recreational angling so is scoped out of any further assessment.
- iii The habitats on site were largely sub-optimal due to the regular disturbance resulting from arable crop farming activities such as spraying and cutting. However, there remains some scope for amphibian species in the hedgerows, ditches, pond and scrub habitats on site. P9-16 are situated beyond the SSSI woodland to the west, limiting the likelihood that any populations present within those water bodies would pass through optimal habitat to access sub-optimal farmland.

Figure 3: Waterbody Location Plan

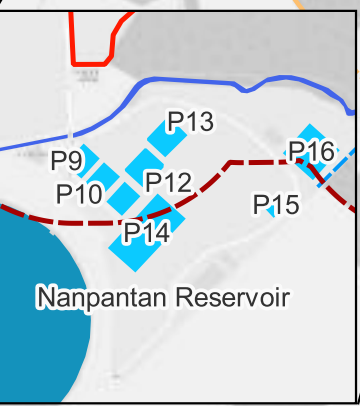
[Overleaf]



Burleigh Brook

Wood Brook

Nanpantan Reservoir



Key

- Site Boundary
- 100m Buffer
- 250m Buffer
- 500m Buffer
- Brook
- Reservoir
- Pond
- Ditch/Drain

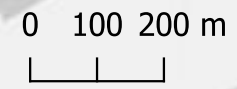
Client:
Davidsons Developments and Redrow Homes

Project:
Southwest Loughborough

Drawing Title:
Waterbody Plan

Drawing No. RSE_5960_F02	Rev: V3
Drawn By: LG	Date: 24/06/2022
Scale @A4: 1:11300	

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4.5.5 Bats

Roosts – initial assessment

- i A number of trees were identified on site during the survey, some of which will need to be removed as a result of this development. It is possible that bats may roost within these trees on site therefore more detailed surveys are recommended in the subsequent sections of this report.

Foraging and Commuting Habitat

- i The habitat on site includes areas of open grassland and arable land separated by hedgerows with scrub and woodland to the west, and wood brook flowing across the northern section of the site. As such, this site qualifies as **moderate** foraging habitat.
- ii Proposed works include removal of vegetation including the hedgerows, scattered trees and scrub that may be used for foraging and commuting purposes by local bat population and given the residential and woodland areas nearby within which bats may roost it is possible this site forms a core foraging or commuting resource for local bat species. Further surveys are recommended to assess the potential for impacts to bats as a result of the proposals.

4.5.6 Birds

- i The habitat on site is of value to foraging and nesting birds. The lines of hedgerow and open farmland and grassland areas are the only habitat of this type in the area and as such there may be many species of birds dependant on this resource.
- ii The trees, scrub, and grassland offers scope for birds to nest on site and as such this should be considered in relation to vegetation removal and timings of these works. The majority of these habitats are to be lost in order to facilitate this proposal.

4.5.7 Reptiles

- i The habitats on site include scrub, flowing water, grassland and adjacent woodland to the west of the site which increases connectivity for terrestrial fauna. The on site hedgerows offer good connectivity and refuge for reptile species.
- ii However, it should also be noted that the site is at present in rotation as arable farmland and would therefore be subject to disturbance in connection with farming activities.

4.5.8 Badgers

- i Badger setts have been identified on this site during a previous survey (RammSanderson, 2019) indicating that badgers are present in the locality and are using the site. During the updated survey no badger setts or signs of badger such as latrines, hairs or prints were identified, however several paths were observed across the site.
- ii Habitats that were suitable for sett creation and foraging such as hedgerows and dense continuous scrub were identified on site as such, the presence of badgers on site or passing through the site during the construction phase cannot be ruled out.

4.5.9 Terrestrial Invertebrates

- i Habitats on site such as the broad-leaved scattered trees, poor-semi improved grassland and scrub do offer scope to support invertebrate species. The majority of the site area however, is comprised of cropland which is sub optimal for invertebrates.

- ii As there are a number of species specialist to the Charnwood area, and a significant landscape change proposed, invertebrate surveys should be completed to inform impact assessment.

4.5.10 Other Priority Fauna Species

- i The habitats on site such as the hedgerows, grassland and scrub were suitable for the priority species hedgehog (*Erinaceus europaeus*). Due to a lack of suitable habitats, the site is not considered likely to support any other legally protected or priority species.

4.5.11 Invasive Species

- i No invasive species such as Japanese knotweed (*Fallopia japonica*) and Himalayan balsam (*Impatiens glandulifera*) were identified within the site boundary, though a number of invasive species were present within the locality such as signal crayfish (*Pacifastacus leniusculus*), Canadian waterweed (*Elodea canadensis*) and Japanese knotweed.

5 DISCUSSION & RECOMMENDATIONS

5.1 Statutory and Non-Statutory Designated Sites

5.1.1 Assessment of Ecological Effects

- i The site lies within an Impact Risk Zone (IRZ) for Beacon Hill, Hangingstone and Out Woods SSSI which is adjacent to the western site boundary and is therefore also the closest statutorily designated site to the Site boundary. This site was designated due to it being some of the best habitat in Leicestershire for breeding birds. The Out Woods support one of the most interesting stands of ancient semi natural alder woodland in the county. Due to the proximity of the proposed residential area to this SSSI further consultation will be required as this proposal does fall within the categories of impact to the SSSI site (any planning proposal). It should be noted however, that significant onsite enhancements are proposed in the area closest to the SSSI site, including a strip of woodland buffer planting and areas of scrub and grassland which will act as a buffer to the SSSI site.
- ii The closest non-statutorily designated site is Outwood LWS, which is adjacent to the southern boundary of the Site. This site is designated as it is an ancient woodland.

5.1.2 Further Survey

- i Further survey will be informed by the consultation with natural England.

5.1.3 Mitigation

- i Mitigation will be informed by the consultation with natural England and any potential further surveys that are undertaken

5.2 Habitats

5.2.1 Assessment of Ecological Effects

- i Wood brook runs through the site in the northern section, this is a habitat of high value and will provide core habitat for a number of terrestrial and aquatic species.
- ii No protected or priority plant species were observed and all plant species encountered were common, widespread and characteristic of the common habitat types they represent. The table below summarises the habitat types identified on site and the potential impacts as a result of the proposals and their ecological significance.
- iii All hedgerows on site were formed of >80% native woody species are therefore a Habitat of Principal Importance under the NERC Act (2006). The current proposals include retention of the majority of these hedgerows and reinforcement with native species, however some will be removed to make way for the proposed development.
- iv The adjacent SSSI woodland habitat was considered to be of very high ecological value both intrinsically as a habitat but also in its potential to support protected species.

5.2.2 Further Survey

- i Although wood brook is being retained as part of the proposals, as this habitat is of high value and is on site where encroachment of the development may happen, a MoRPh (Modular River Physical) survey is required in order to determine the habitat condition and river type, as well as inform how to enhance this watercourse.
- ii Due to the number of hedgerows on site it is recommended that a full hedgerow survey is undertaken and the hedges are assessed against HEGS/REGS in order to assess their ecological value.

- iii A SSSI Impact assessment including NVC surveys of the Out Woods SSSI and survey of visitor numbers currently using the Out Woods recreationally is recommended to help inform the proposals.
- iv No further survey is recommended for the remaining habitats on site due to their low value and diversity.

5.2.3 Mitigation

- i As Wood Brook is on site, all works should avoid silt and other materials from entering this water course.
- ii Any areas of hedgerow that are to be removed will be replaced at a 2:1 ratio with intact species rich hedges, the retained hedgerows will be underplanted with climbers such as honeysuckle and reinforcement planting of native species.
- iii A large proportion of this site is designated as enhancement areas. Other neutral and acid grassland as well as scrub, woodland and SUDS features are proposed, which is leading to an overall net gain in biodiversity for habitats on site, see the BIA and enhancement sections for more details.

5.3 Great Crested Newts

5.3.1 Assessment of Ecological Effects

- i A total of 16 ponds and five watercourses were present on site or within 500m of the site boundary these were not separated from the site by barriers to amphibian dispersal though there was habitat of higher value to terrestrial phase GCN in the form of the SSSI woodland to the west of the site boundary.
- ii Additionally there are records of great crested newts returned within the desk study, indicating they are present locally.

5.3.2 Further Survey

- i It is recommended that both habitat suitability assessments and eDNA surveys are carried out on onsite P2 and ditches, as well as the remaining 15 offsite waterbodies. In the event that this returns a positive result it may be necessary to undertake full population class assessments to establish the population size at site.

5.3.3 Mitigation

- i Mitigation will be informed by the above surveys.

5.4 Roosting Bats

5.4.1 Assessment of Ecological Effects

- i There were a number of trees identified on site which may offer roosting potential to bats in the locality.

5.4.2 Further Survey

- i The trees on site will require ground level tree assessments in order to identify any potential roosting features and grading from negligible bat potential, low, moderate or high.
- ii For any trees with bat roosting potential that are scheduled for removal, no further surveys would be required on negligible potential trees and trees with low roosting potential would require removal using soft fell methodology. Moderate to high potential trees would require an additional two or three (respectively) nocturnal or tree climbing surveys between May-September and in suitable weather conditions (no wind or rain and temperatures above 5 degrees). These surveys should be spaced in order to capture the seasonal changes of bat species from maternity season (early summer) to breeding (autumn).

5.4.3 Mitigation

- i Should further surveys be required, the recommended further surveys outlined above will inform mitigation required for any bats roosting within the trees on site.
- ii Where possible retention of any trees on site is recommended.

5.5 Bat Activity

5.5.1 Assessment of Ecological Effects

- i Habitats on site such as scattered trees and hedgerows provide suitable foraging and commuting routes for local bat populations. Bats follow natural 'corridors' such as hedgerows to travel between foraging sites. Although the site is situated between residential housing, there is some connectivity for bats to access the wider countryside via the site. The hedgerows and broad-leaved scattered trees will also support an invertebrate community that will provide a food source for local bat populations. As such, it is considered that the site has moderate suitability habitat for bats.

5.5.2 Further Survey

- i In light of the above, further survey is recommended in the form of bat activity transects to determine their presence/absence, which species are using the site and their activity levels. In line with the Bat Conservation Trust best practise guidelines (2016), bat activity transects will need to be carried out with one survey per month over the bat flight season (April-October inclusive) in suitable weather conditions, including at least one dusk-dawn survey. Static bat detectors will also need to be deployed in two locations on site for a consecutive five nights during each month of the bat flight season to monitor activity levels (Collins ed., 2016).

5.5.3 Mitigation

- i The above surveys will inform the mitigation with more accuracy, however it should be noted that artificial lighting can affect the way that bats use habitats in a number of ways, depending on the species and proximity to a roost. Direct bright lighting of a roost can cause bats to delay emergence from a roost and could even cause them to desert the roost or become entombed within it (BCT and ILP, 2018). The prey items for British bats are flying insects, and many flying insects are attracted to certain types of artificial light sources, especially those that emit light with an ultraviolet component or have a high blue spectral component (BCT and ILP, 2018). Lighting within the site could therefore be expected to affect the ways that the bats in the area are able to use the site.
- ii As a result, it is recommended that construction works are to be undertaken in daylight hours only with no night hours work permitted. During both the construction and operational phases of all areas of the site, efforts should be made to prevent impacts to foraging and commuting bats by the implementation of a bat friendly lighting scheme. This should follow the guidelines set out in Bats and Artificial Lighting in the UK (BCT, 2018). Therefore, associated site lighting proposals must consider the following:
 - Lighting of or light spill onto hedgerows, boundary vegetation and the central ditch should be avoided and lighting in general should only be used where necessary.
 - Luminaires should lack UV elements and metal halide; fluorescent sources should not be used.
 - LED luminaires should be used where possible, owing to their sharp cut-off, lower intensity, good colour rendition and dimming capability. A warm white spectrum (<2700Kelvin) to reduce the blue light component should also be utilised and luminaires should feature peak wavelengths higher than 550nm.
 - Any external security lighting of the site during construction should be set on motion-sensors and short (1 minute) timers.

- Lamps should be fitted with light spill accessories directing light downwards and avoiding upward spill and spill onto site boundaries and buildings.
- ii All new lighting will meet the current environmental standards of good practice in order to reduce potential light pollution and will use the lowest intensity for its purpose. This will minimise light spill onto dark corridors.

5.6 Birds

5.6.1 Assessment of ecological effects

- i The habitats on site, particularly the scattered trees and woodland adjacent may offer suitable foraging and nesting opportunities to a core population of local birds in the area. Arable and grassland areas may also be of value to overwintering and migratory birds.

5.6.2 Further Survey

- i Due to the suitability of the habitats on site for birds, birds of conservation concern (BoCC) and some schedule 1 species, breeding and overwintering bird surveys are recommended. In line with BTO methodology, an initial ground truthing visit will be undertaken to plan transect routes and record habitat types suitable for breeding birds. Then four breeding bird surveys will be undertaken throughout the nesting bird season of March – June. Four further wintering bird surveys will be undertaken between November and February.

5.6.3 Mitigation

- i Further mitigation will be informed from the results of the bird surveys.

5.7 Reptiles

5.7.1 Assessment of ecological Effects

- i The site is considered to offer some suitable habitat for reptile species such as the hedgerows and grasslands for commuting / foraging / refugia. However, there is good connectivity between the site and farmland to the south and the woodland to the west.
- ii The habitats on site are in the most part sub optimal arable, additionally, there are areas of higher value for reptile species offsite within the locality such as woodland, scrub, grasslands and hedgerows.

5.7.2 Further Survey

- i A suite of 7 presence or likely absence surveys are recommended to be undertaken for reptiles prior to a planning application coming forward for the site.

5.7.3 Mitigation

- i Further mitigation will be informed from the results of the reptile surveys.

5.8 Badgers

5.8.1 Assessment of Ecological Effects

- i The habitat such as scrub and hedgerows have the potential to encourage / allow sett creation, and the arable and grassland habitats may be utilised as a foraging resource. Additionally, badger setts have been identified on site previously.

5.8.2 Further Survey

- i An updated detailed badger survey and camera trap monitoring survey is recommended in order to establish presence / likely absence of badger on site.
- ii Badgers can establish new setts relatively quickly, as such if the works do not commence within 6 months of this walkover survey then it should be noted that should the works not commence within 6 months of the date of the survey, then an update survey for badgers should be undertaken to identify any new setts that may be present. If any new mammal holes or potential signs of badger (paw prints, hairs, dung pits) are found on site prior to or during the works, the advice of a suitably experienced ecologist should be sought, but will likely require a 30m buffer established from the sett entrance and a period of camera trap monitoring (min 2 weeks)

5.8.3 Mitigation

- i Further mitigation will be informed from the results of the badger survey.

6 ENHANCEMENTS AND HABITAT CREATION

- i It is a requirement of the NPPF (2021) that developments provide a gain for biodiversity post development.
- ii A BIA has been undertaken on this site, though in draft form at present due to the early stage of this proposal. The BIA identifies that a significant gain in habitat and hedgerow units is possible on this site due to the large area that has been selected for enhancements. Below are details of the habitat creation and enhancement that are proposed within the BIA, see the appendices for the visualisation plan indicating habitat locations and the metric 3.1 for areas of each habitat. Note that the DEFRA Metric technical guidance will be followed in order to assess and create habitat of moderate – good conditions as the BIA indicates.
- iii The site represents a great opportunity for habitat enhancements to be provided for a great many species also. Details would be provided with a planning submission. Several indicative measures are shown below.

6.2 Acid Grassland Creation

- i Acid grassland occurs on nutrient poor soils and is dominated by species that are able to cope with a soil pH of between 3.5 and 6.0 and typically have a short vegetation structure. Areas of the site have shown indication that the creation of this habitat would be possible with indicator species present such as gorse and sheep's sorrel.
- ii In order to create this habitat, the areas will first be mown, with all arisings removed from the site, then scarified and planted with acid grassland mixes, such as:
 - N12 acid soils meadow mixture: A mix of 20 native wildflower species and 8 species of grass which should be sown at a rate of 5g per square meter, 20kg per acre and 50kg per hectare
 - N12 acid soils plant collection: a minimum of 10 species
- iii This grassland will then be managed to prevent scrub and bracken encroachment, with additional planting as required. These areas should be mown twice a year after the habitat is established, in early spring and late autumn. Monitoring surveys will also be undertaken to assess the condition and extent of this habitat in future years and an updated species list will help inform additional planting. In order to create this habitat in moderate condition (location of habitat creation results in a good condition being unlikely due to pH of soil on site) the monitoring surveys will include condition assessments in order to help guide management.

6.3 Neutral Grassland Creation

- i In addition to the acid grassland, areas of neutral grassland in moderate condition are also proposed to be created within the enhancement areas. In order to create this habitat the same methodology as above will be applied but with the planting scheme including:
 - N1 general purpose meadow mixture: a mix of 15 native wildflower species and 6 species of grass
 - N4 summer flowering butterfly and bee mixture: a mix of 26 native wildflower species and 10 species of grasses
 - N5 long season meadow mixture: a mix of 29 native wildflowers and 10 species of grass.
- ii These areas will also be managed to prevent scrub and bracken encroachment, with additional planting as required. These areas should be mown twice a year after the habitat is established, in early spring and late autumn. Monitoring surveys will also be undertaken to assess the condition and extent of this habitat in future years and an updated species list will help inform additional planting. In order to create this habitat in moderate condition (location of habitat creation results in a good condition being unlikely due to pH of soil on site) the monitoring surveys will include condition assessments in order to help guide management.

6.4 Modified Grassland

This area is located at the edges of the proposed residential areas, this will be short mown and will be planted with NL1 lawn mixture, NL2 fine lawn mixture, N14 flowering lawn mixture or similar.

6.5 Scattered Trees and Woodland

i A way to easily enhance the ecological value of the site is to incorporate native species planting into proposals. Where new landscape planting is proposed species commonly occurring locally such as oak and silver birch (*Betula pendula*), could be used. Other species such as rowan (*Sorbus aucuparia*) and whitebeam (*Sorbus aria*) would make attractive additions to the Site. In particular rowan will provide a valuable source of berries late into the winter months and provide an important food source for native and migratory bird species. Ash and elm should currently be avoided due to the prevalence of 'Ash die-back' and 'Dutch elm disease', as stocks of these species cannot be guaranteed to be free from these afflictions. The use of native species in tree planting is also encouraged as these can harbour a high diversity of invertebrates. For example, English oak trees have over 400 associated invertebrate species (Kennedy & Southwood, 1984). Other suggested planting of benefit to invertebrates includes:

- Hawthorn (*Crataegus monogyna*);
- Blackthorn (*Prunus spinosa*);
- Hazel (*Corylus avellana*); and
- Birch (*Betula sp.*)
- Scots Pine (*Pinus sylvestris*)

ii This habitat will also be managed to prevent the understory being overrun with ivy, bramble, bracken or any other single species to allow for a diverse ground flora to emerge.

6.6 Hedgerow – Enhancement and Creation

i New hedgerows will be created across the site, acting as boundaries to newly planted grasslands and replacing lost hedgerows at a 2:1 ratio. These will be planted as species rich with at least 7 native species such as:

- Blackthorn
- Hawthorn
- Holly
- Beech
- Rowan
- Hazel
- Honeysuckle
- White Briony
- Beech
- Elder

ii The hedges will be underplanted with a shade tolerant mix such as N9 hedgerow meadow mix which contains species that are suitable for sun and shade conditions irrespective of the direction that the hedge faces.

6.7 Mixed Scrub

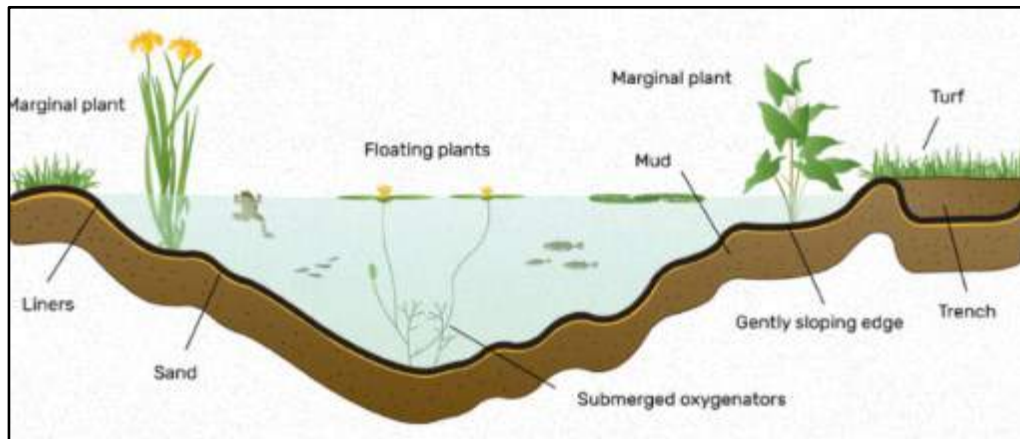
i This habitat is located along the proposed new woodland to act as a natural ecotone and gradually lead into the grasslands. This will be planted with a mix of the following species:

- Gorse
 - Broom
 - Willow sp
 - Dogwood
 - Juniper
 - Bracken
 - Wayfaring tree
 - Privet
 - Holly
 - Hazel
 - Whitebeam
 - Rowan
 - Honeysuckle
 - Field rose
 - Everlasting pea
 - White briony
- ii This area will be managed to prevent it becoming overrun with ivy, bramble or bracken, as well as pruned occasionally to maintain as scrub and prevent progression to woodland. Selective rotational clearance of scrub areas should also be implemented to maintain clearings/glades throughout this habitat. The ground flora should also be plated with the previously mentioned shade tolerant mixes such as N9.

6.8 Wood Brook, SUDS and Pond Creation

- i Standing water creation and enhancement of the banks of wood brook is included within proposals which would be a key enhancement to the site. To attract pollinators such as moths and butterflies to the proposed pond area, planting mixes should be used, such as:
- N8 waters edge meadow mixture: a mix of 24 wildflower species and 9 grass species
 - N7 wetland meadow mixture: a mix of 22 wildflower species and 12 grass species
- ii These areas will include logs and stones to create habitat for fauna, a gently sloping area will be present on one aspect to allow for easy escape, as well as creating variety in the levels of the pond which will encourage a more diverse assemblage of wildlife to utilise the pond.
- iii Algae and weed management will take place at least once a year to prevent the pond from becoming overgrown. It is important to not remove this in its entirety, only enough to help the waterbody to maintain its natural balance and not become overrun. Removed weeds should be left on the ground at the ponds edge for at least 24 hours to allow anything within them to return to the waterbody, after which it should be removed to prevent spread. This should be carried out over winter when species such as newts are not using the pond for breeding. Sediment removal may also be necessary to maintain the pond, this should be undertaken late autumn / winter, with no more than half removed in minimise disruption and loss of mud dwelling invertebrates / amphibians.
- iv In terms of aquatic planting, oxygenators such as water starwort (*Callitriche spp*) provide cover for wildlife. Emergent plants such as yellow flag iris (*Iris pseudacorus*) and rushes (*Juncus spp.*) provide habitat for emerging insect larvae such as dragonflies. Floating plants such as waterlilies (*Nymphaea spp*) provide refuge for invertebrates and other wildlife.

Figure 4: Pond Creation



(www.lincstrust.org.uk)

7 REFERENCES

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- xvi DEFRA 2022. Biodiversity Metric Calculation tool.
- xvii RammSanderson, 2022. RSE_5960_BIA_V6

APPENDIX 1: LEGISLATION AND PLANNING POLICY

7.2 General & Regionally Specific Policies

- i. Articles of British legislation, policy guidance and both Local Biodiversity Action Plans (BAPs) and the NERC Act 2006 are referred to throughout this report. Their context and application is explained in the relevant sections of this report. The relevant articles of legislation are:

- The National Planning Policy Framework (2021)
- ODPM Circular 06/2005 (retained as Technical Guidance on NPPF 2021)
- The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019
- The Wildlife and Countryside Act 1981 (as amended)
- EC Council Directive on the Conservation of Wild Birds 79/409/EEC
- National Parks and Access to the Countryside Act 1949
- The Protection of Badgers Act 1992
- The Countryside and Rights of Way Act 2000
- The Hedgerow Regulations 1997
- The Natural Environment and Rural Communities (NERC) Act 2006
- Leicestershire Biodiversity Action Plan

Regarding the NPPF 2021, the most pertinent paragraphs are:

8.c) “to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy”

174.d) “minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”

179.b) “promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.”

180.a) “if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.”

180.c) “development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁶³ and a suitable compensation strategy exists.”

7.3 Bats and Great Crested Newts

- i. Great crested newt and species of British bats are fully protected within UK Law under *Wildlife and Countryside Act 1981* (as amended) through their inclusion in Schedule 5. Under the Act, they are protected from:

- Intentional or reckless killing, injury, taking
- Damage to or destruction of or, obstruction of access to any place of shelter, breeding or rest
- Disturbance of an animal occupying a structure or place
- Possession or control (live or dead animals)
- Selling, bartering or exchange of these species, or parts of.

- i This law is reinforced by the UK's transposition of the EU Habitats Regulations under *The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019*. These Regulations also prohibit:
 - Deliberate killing, injuring or taking of great crested newt or bats
 - Deliberate disturbance of any great crested newt or bat species in such a way as to be significantly likely to affect their ability to survive, hibernate, migrate, breed, or rear or nurture their young; or the local distribution or abundance of that species
 - Damage or destruction of a breeding site or resting place
 - Possession or transport of great crested newt or bats or any other part of
- ii Under certain circumstances a licence may be granted by Natural England to permit activities that would otherwise constitute an offence. In relation to development, a scheme must have full planning permission before a licence application can be made.
- iii In addition, seven British bat species are listed as Species of Principal Importance (SPI) under the Natural Environment and Rural Communities (NERC) Act, 2006. These are barbastelle (*Barbastella barbastellus*), Bechstein's (*Myotis bechsteinii*), noctule (*Nyctalus noctula*), soprano pipistrelle (*Pipistrellus pygmaeus*), brown long-eared (*Plecotus auritus*), greater horseshoe (*Rhinolophus ferrumequinum*) and lesser horseshoe (*Rhinolophus hipposideros*).
- iv Under the National Planning Policy Framework 2021 the presence of any protected species is a material planning consideration. The Framework states that impacts arising from development proposals must be avoided where possible or adequately mitigated/compensated for and that opportunities for ecological enhancement should be sought.

7.4 Birds

- i The Wildlife and Countryside Act 1981 (as amended) is the Priority legislation affording protection to UK wild birds. Under this legislation all birds, their nests and eggs are protected by law and it is an offence, with certain exceptions, to recklessly or intentionally:
 - Kill, injure or take any wild bird
 - Take, damage or destroy the nest of any wild bird while it is in use or being built
 - Take or destroy the egg of any wild bird
- ii For birds listed on Schedule 1 of the Act, it is an offence to disturb any bird while it is building a nest, is at or near a nest with young; or disturb the dependant young of such a bird.
- iii Species listed in Annex 1 of the EU Birds Directive 1994 (e.g. barn owl) are required to have special conservation measures taken to preserve their habitats and sites to be classified as Special Protection Areas (SPAs) where appropriate.

7.5 Reptiles

- i All reptile species are partially protected under Schedule 5 (Sections 9(1) and 9(5)) of the Wildlife and Countryside Act 1981 (as amended). This legislation protects these animals from:
 - Reckless or intentional killing and injury
 - Selling, offering for sale, possessing or transporting for the purpose of the sale or publishing advertisements to buy or sell a protected species
- ii In addition to the above legislation, UK rare reptiles; sand lizards (*Lacerta agilis*) and smooth snakes (*Coronella austriaca*), are listed under The Conservation of Habitats and Species Regulations (2019). This makes it an offence to;
 - Capture, kill, injure and disturb

- Take or destroying eggs
 - Damage or destroy breeding/resting places
 - Obstruct access to resting places
 - Possess, advertise for sale, sell or transport for sale, live or dead (part or derivative)
- ii Where these animals are confirmed as present on land that is to be affected by development guidance recommends that:
- The animals should be protected from injury or killing during construction operations
 - Mitigation should be provided to maintain the conservation status of the species locally
 - Under the National Planning Policy Framework 2018 the presence of any protected species is a material planning consideration. The Framework states that impacts arising from development proposals must be avoided where possible or adequately mitigated/compensated for and that opportunities for ecological enhancement should be sought

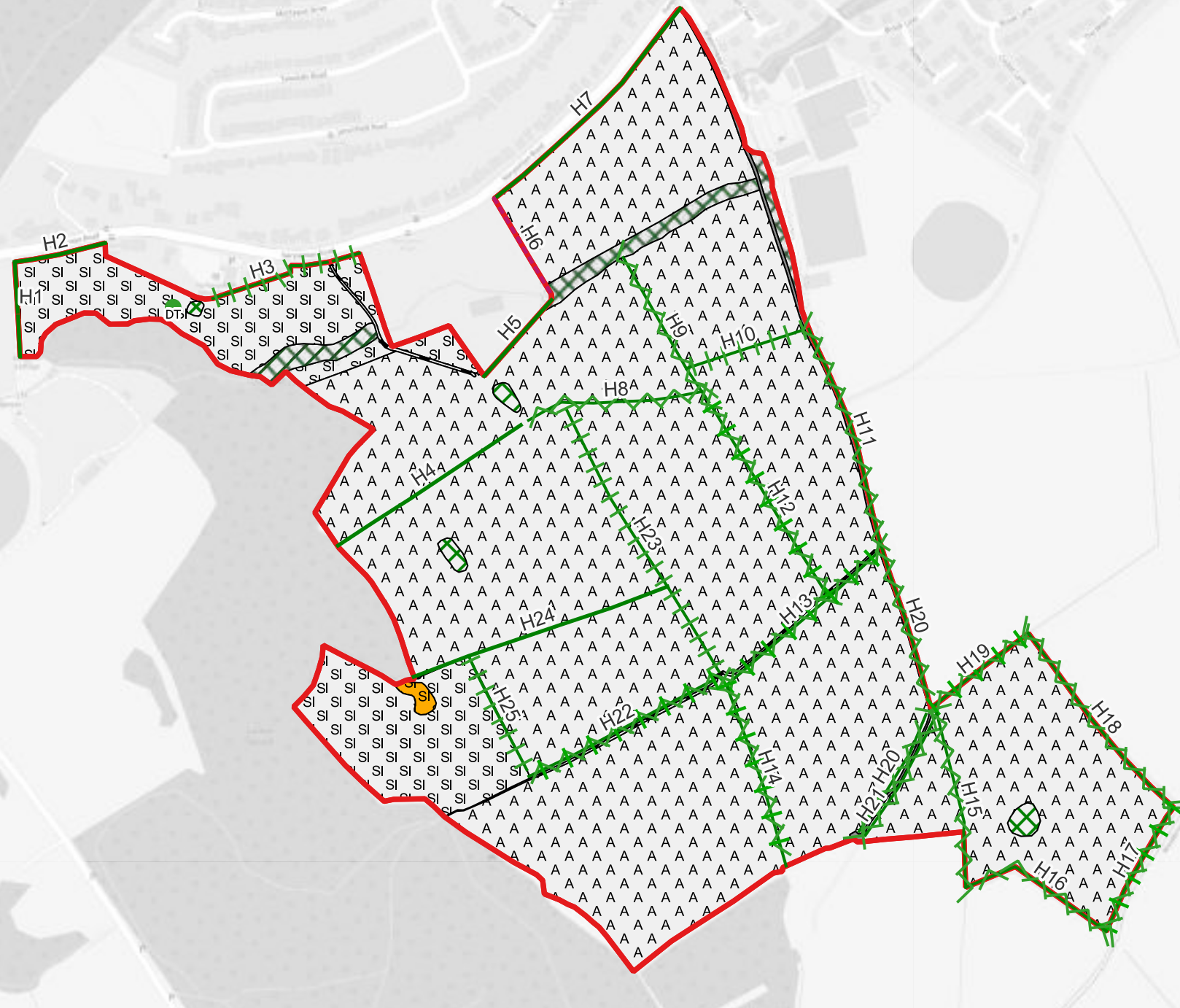
7.6 Badgers

- i Badgers (*Meles meles*) and their setts are protected by the Protection of Badgers Act 1992. This makes it an offence to:
- Intentionally capture, kill or injure a badger
 - Damage, destroy or block access to their setts
 - Disturb badgers in setts
 - Treat a badger cruelly
 - Deliberately send or intentionally allow a dog into a sett
 - Bait or dig for badgers.
- ii Case law for this species contains example prosecutions of imprisonment for six months and heavy fines.














7.7 Hedgehogs, Hare and Common Toads

- i Under the NERC Act 2006, the hedgehog (*Erinaceus europaeus*), hare (*Lepus europaeus*) and common toad (*Bufo bufo*) are categorised as a 'Species of Principal Importance' (SPI) for biodiversity. Furthermore, both are local biodiversity action plan species (LBAP) for Nottinghamshire. Listing as SPI reflects concerns that populations have suffered a rapid and sustained decline in the UK. As such, they are a material consideration during planning.

Appendix 2: Phase 1 Habitat Survey Plan



Key

-  Site Boundary
-  A2.1 - Scrub - dense/continuous
-  B2.2 - Neutral grassland - semi-improved
-  B6 - Poor semi-improved grassland
-  J1.1 - Cultivated/disturbed land - arable
-  J4 - Bare ground
-  J6 - Hard Standing
-  J2.1.1 - Intact hedge - native species-rich
-  J2.1.2 - Intact hedge - species-poor
-  J2.1.3 - Intact hedge - ornamental
-  J2.3.1 - Hedge with trees - native species-rich
-  J2.3.2 - Hedge with trees - species-poor
-  DT - Deciduous Tree



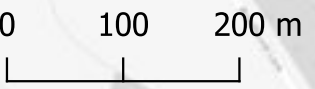
Client:
Davidsons Developments and Redrow Homes

Project:
Southwest Loughborough

Drawing Title:
Phase 1 Habitat Plan

Drawing No. RSE_5960_F03	Rev: V3
Drawn By: LG	Date: 24/06/2022
Scale @A4: 1:6500	

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Appendix 3: Illustrative Masterplan



- Key**
- Application site boundary
 - Existing (retained) trees & hedgerow
 - Indicative proposed planting
 - Open space
 - Visual links
 - Potential for equipped play/LEAP
 - Forest Meadows
 - Indicative surface water attenuation basin
 - Indicative development cell - Low Density
 - Indicative development cell - Low - Medium Density
 - Indicative development cell - Medium Density

Land Budget

- Green Infrastructure	43.62 ha/ 107.79 acres
- Residential Area	15.16 ha/ 37.46 acres



Project: Nanpantan Forest Suburb
Loughborough South

Drawing Title: Masterplan

Project Code	Drawing No	Rev
n1312	005	G
Date	Drawing Scale	
23.08.2021	1:2,500 @ A1	

Appendix 4: Condition assessments

Hedgerows and Line of Trees

H1 Hedgerow and line of Trees (Native Hedgerow)

A1 Height >1.5 m average along length	Pass	Ranging between 1.5 & 2.5m
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A2 Width >1.5 m average along length	Pass	
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B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	1 gap 3m in width
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B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	
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C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Pass	Cleavers and dock
---	------	-------------------

D1 >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Fail	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H2 Hedgerow and line of Trees (Native hedgerow)

A1 Height >1.5 m average along length	Pass	
---------------------------------------	------	--

A2 Width >1.5 m average along length	Pass	
--------------------------------------	------	--

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
--	------	--

B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	
---	------	--

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	
---	------	--

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H3 Hedgerow and line of Trees (Native hedgerow)

A1 Height >1.5 m average along length	Pass	Alongside the houses some areas are less than 1.5m
A2 Width >1.5 m average along length	Fail	There are scrub and trees in garden behind the hedge, but the hedge is thin
B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	
C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	Nettle and cleaver abundant around hedge base
D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Fail	Excessive trimming and areas where cuttings had been left

Condition Score: Moderate (only fails in one functional group)

H4 Hedgerow and line of Trees (Native hedgerow associated with bank or ditch)

Unmanaged hedgerow that is becoming a line of trees. Gaps present along the length. Hedgerow also has a small dry ditch

A1 Height >1.5 m average along length	Pass	
A2 Width >1.5 m average along length	Pass	
B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Fail	
B2 Gaps make up <10% of total length and no canopy gaps >5m	Fail	
C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	
D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities Pass

Condition Score: Moderate (only fails in one functional group)

H5 Hedgerow and line of Trees (Native hedgerow)

A1 Height >1.5 m average along length Pass Approximately 3m

A2 Width >1.5 m average along length Pass Approximately 1.5m

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees') Pass

B2 Gaps make up <10% of total length and no canopy gaps >5m Pass

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least) Pass Margin of arable field

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground Fail Mostly nettle, cleaver and doc leaf

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species Pass

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities Pass

Condition Score: Good

H6 Hedgerow and line of Trees (Non-native ornamental hedgerow)

Condition Score: Poor no assessment needed

H7 Hedgerow and line of Trees (Native hedgerow)

A1 Height >1.5 m average along length Pass 1.5-2m

A2 Width >1.5 m average along length Pass 1.5 m average

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees') Pass

B2 Gaps make up <10% of total length and no canopy gaps >5m Pass

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least) Fail Less than 1m between hedge and base and arable along the majority

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground Fail Nettle and Cleaver

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass
D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass
<i>Condition Score: Moderate (only fails in one functional group)</i>	
H8 Hedgerow and line of Trees (Native hedgerow associated with bank or ditch)	Wet ditch runs along hedgerow length. X3 semi mature trees. (Species: English oak, elder, ash, crack willow, hawthorn, field maple, dog rose, crab apple)
A1 Height >1.5 m average along length	Pass
A2 Width >1.5 m average along length	Pass
B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass
B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass
C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass
C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail
D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass
D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass
<i>Condition Score: Good</i>	
H9 Hedgerow and line of Trees (Native species rich hedgerow with trees)	
A1 Height >1.5 m average along length	Pass
A2 Width >1.5 m average along length	Pass
B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass
B2 Gaps make up <10% of total length and no canopy gaps >5m	Fail
C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground

Fail

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species

Pass

Small patch of rosebay willow herb

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities

Pass

Condition Score: Good

H10 Hedgerow and line of Trees (Native hedgerow)

Ditch with water on North

A1 Height >1.5 m average along length

Pass

A2 Width >1.5 m average along length

Fail

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')

Pass

B2 Gaps make up <10% of total length and no canopy gaps >5m

Fail

Lots of gaps on eastern end

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)

Fail

Some areas are 1m but not 90%

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground

Fail

Nettles

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species

Fail

Over 10% horsetail herb

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities

Pass

Condition Score: Poor (score of 3)

H11 Hedgerow and line of Trees (Native species rich hedgerow)

A1 Height >1.5 m average along length

Pass

Starts at approximately at 1.5m but increase in height

A2 Width >1.5 m average along length

Pass

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')

Pass

B2 Gaps make up <10% of total length and no canopy gaps >5m

Pass

One gap less than 5m

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)

Pass

Only present on one side but roughly 1m between arable

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Pass	Some present but mostly grasses
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D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H11 Hedgerow and line of Trees (Native species rich hedgerow)

A1 Height >1.5 m average along length	Pass	Starts at just about 1.5 but gets taller
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A2 Width >1.5 m average along length	Pass	
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B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
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B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	One gap but less than 5m
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C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	Only present one side but roughly 1m between arable
--	------	---

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Pass	Some present but mostly grasses
---	------	---------------------------------

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H12 Hedgerow and line of Trees (Native species rich hedgerow with trees - associated with bank or ditch)

Predominantly hawthorn along length with 7 species recorded. Wet ditch present as well as a large gap for farm access

A1 Height >1.5 m average along length	Pass	
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A2 Width >1.5 m average along length	Pass	
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B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
--	------	--

B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	4m gap in hedgerow for farm access but does not make up >10% of total length
---	------	--

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground

Fail

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species

Pass

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities

Pass

Condition Score: Good

H13 Hedgerow and line of Trees (Native species rich hedgerow with trees - associated with bank or ditch)

Species rich with many trees and a dry ditch

A1 Height >1.5 m average along length

Pass

A2 Width >1.5 m average along length

Pass

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')

Pass

B2 Gaps make up <10% of total length and no canopy gaps >5m

Fail

Gap over 5m with bramble and nettle and vetch

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)

Pass

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground

Pass

Mostly grasses

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species

Pass

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities

Pass

Condition Score: Good

H14 Hedgerow and line of Trees (Native hedgerow with trees - associated with bank or ditch)

Blackthorn, hawthorn, elder, oak, hazel, apple, willow, only 2x trees, dry ditch

A1 Height >1.5 m average along length

Pass

A2 Width >1.5 m average along length

Fail

Some areas very thin

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')

Fail

Hawthorn very leggy in parts

B2 Gaps make up <10% of total length and no canopy gaps >5m

Pass

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)

Pass

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	Nettles and docks dominant
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D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
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D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
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Condition Score: Moderate

H15 Hedgerow and line of Trees (Native species rich hedgerow)

X7 species. 3m gap in hedgerow for farm access.

A1 Height >1.5 m average along length	Pass	
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A2 Width >1.5 m average along length	Pass	
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B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
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B2 Gaps make up <10% of total length and no canopy gaps >5m	Fail	Gap in hedgerow for farm access plus several canopy gaps present.
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C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
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C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Pass	Some nettles present but mainly grasses
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D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
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D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
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Condition Score: Good

H16 Hedgerow and line of Trees (Native species rich hedgerow)

A1 Height >1.5 m average along length	Pass	
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A2 Width >1.5 m average along length	Pass	
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B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
--	------	--

B2 Gaps make up <10% of total length and no canopy gaps >5m	Fail	Lots of gaps present in canopy
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C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground Pass

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species Pass

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities Pass

Condition Score: Good

H17 Hedgerow and line of Trees (Native species rich hedgerow with trees)

Species hedgerow along track to far northeast. Several mature trees present along length

A1 Height >1.5 m average along length Pass

A2 Width >1.5 m average along length Pass

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees') Pass

B2 Gaps make up <10% of total length and no canopy gaps >5m Pass

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least) Pass

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground Pass

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species Pass

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities Pass

Condition Score: Good

H18 Hedgerow and line of Trees (Native species rich hedgerow)

A1 Height >1.5 m average along length Pass

A2 Width >1.5 m average along length Pass

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees') Pass

B2 Gaps make up <10% of total length and no canopy gaps >5m Pass A little gappy in parts but overall less than 10%

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least) Pass

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	Lots of docks and nettles present
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D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H19 Hedgerow and line of Trees (Native species rich hedgerow - associated with bank or ditch)

Species rich (x6 species) with dry ditch present

A1 Height >1.5 m average along length	Pass	
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A2 Width >1.5 m average along length	Pass	
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B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
--	------	--

B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	
---	------	--

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	Lots of nettles present
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D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H20 Hedgerow and line of Trees (Native species rich hedgerow with trees)

A1 Height >1.5 m average along length	Pass	
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A2 Width >1.5 m average along length	Pass	
--------------------------------------	------	--

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Fail	>5m gap present along hedgerow length
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B2 Gaps make up <10% of total length and no canopy gaps >5m	Fail	
---	------	--

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	Lots of docks and nettles present
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D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Moderate (Only fails in one functional group)

H21 Hedgerow and line of Trees (Native species rich hedgerow)

Six species present (Hawthorn, blackthorn, maple, elder, dogrose, oak). No trees

A1 Height >1.5 m average along length	Pass	
---------------------------------------	------	--

A2 Width >1.5 m average along length	Pass	
--------------------------------------	------	--

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
--	------	--

B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	
---	------	--

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	Lots of nettles present
---	------	-------------------------

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H22 Hedgerow and line of Trees (Native species rich hedgerow with trees)

A few semi-mature ash trees plus hawthorn, elder, dogrose and sycamore

A1 Height >1.5 m average along length	Pass	
---------------------------------------	------	--

A2 Width >1.5 m average along length	Pass	
--------------------------------------	------	--

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
--	------	--

B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	
---	------	--

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	Lots of nettles and some thistles present
---	------	---

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H23 Hedgerow and line of Trees (Native species rich hedgerow with trees)

A1 Height >1.5 m average along length	Pass	
---------------------------------------	------	--

A2 Width >1.5 m average along length	Pass	
--------------------------------------	------	--

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Pass	
--	------	--

B2 Gaps make up <10% of total length and no canopy gaps >5m	Pass	
---	------	--

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least)	Pass	
--	------	--

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground	Fail	Lots of nettles and some thistles and docks present
---	------	---

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species	Pass	
--	------	--

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities	Pass	
--	------	--

Condition Score: Good

H24 Hedgerow and line of Trees (Native species rich hedgerow with trees)

A1 Height >1.5 m average along length	Pass	
---------------------------------------	------	--

A2 Width >1.5 m average along length	Pass	
--------------------------------------	------	--

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees')	Fail	Large gaps present towards western end of hedgerow being comprised of nettle and low-lying bramble
--	------	--

B2 Gaps make up <10% of total length and no canopy gaps >5m	Fail	Large gaps present towards western end of hedgerow being comprised of nettle and low-lying bramble
---	------	--

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of	Pass	
--	------	--

length is present on one side of the hedge (at least)

C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground Fail Lots of nettle present

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species Pass

D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities Pass

Condition Score: Moderate (failing one functional group)

H25 Hedgerow and line of Trees (Native hedgerow with trees)

Ash trees with blackthorn, hawthorn and dogrose

A1 Height >1.5 m average along length Pass

A2 Width >1.5 m average along length Pass

B1 Gap between ground and base of canopy <0.5m for >90% of length (unless 'line of trees') Pass

B2 Gaps make up <10% of total length and no canopy gaps >5m Fail

C1 >1 m width of undisturbed ground with perennial herbaceous vegetation for >90% of length is present on one side of the hedge (at least) Pass

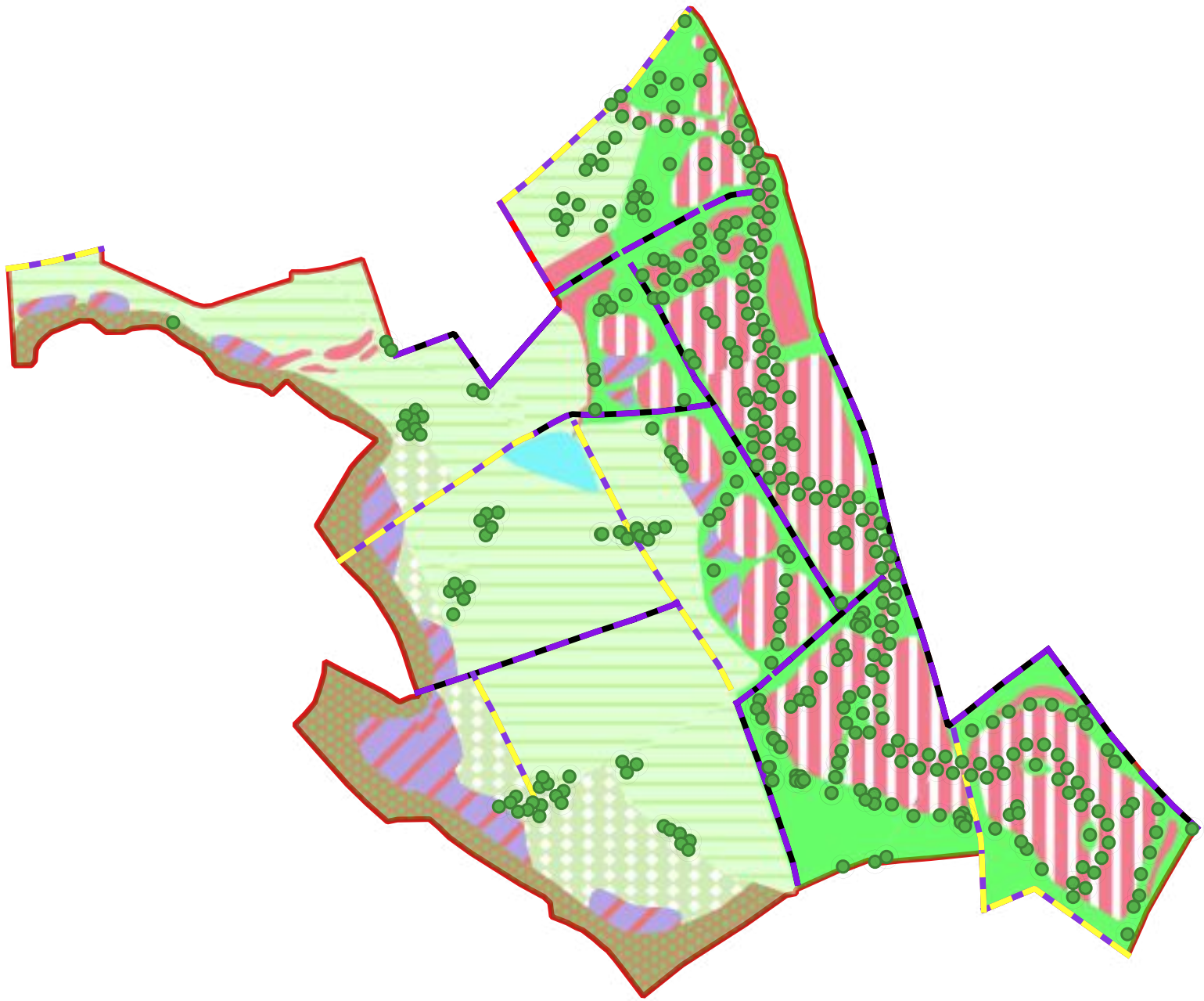
C2 Plant species indicative of nutrient enrichment of soils dominate <20% cover of the area of undisturbed ground Fail

D1 Invasive and neophyte species - >90% of the hedgerow and undisturbed ground is free of invasive non-native and neophyte species Pass



















D2 >90% of the hedgerow or undisturbed ground is free of damage caused by human activities Pass

Condition Score: Good (score of six and does not fail in any functional group)

Appendix 5: Visualisation plan (for enhancements)



Key

-  Red Line Boundary
-  Proposed Medium
-  Hedge Ornamental Non Native
-  Native Hedgerow
-  Native Hedgerow - Associated with bank or ditch
-  Native Hedgerow with trees
-  Native Species Rich Hedgerow
-  Native Species Rich Hedgerow - Associated with bank or ditch
-  Native Species Rich Hedgerow with trees
-  Native Species Rich Hedgerow with trees - Associated with bank or ditch
-  Developed land; sealed surface
-  Mixed scrub
-  Modified grassland
-  Other lowland acid grassland
-  Other neutral grassland
-  Other woodland; mixed
-  Ponds (Non-Priority Habitat)
-  Sustainable urban drainage feature



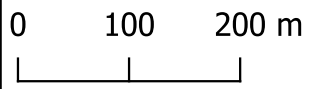
Client:
Davidsons Developments and Redrow Homes

Project:
Southwest Loughborough

Drawing Title:
Biodiversity Net Gain; Proposed Habitat Plan

Drawing No.	Rev:
RSE_5960_BNG02	V4
Drawn By:	Scale @A4:
LG	1:6800
	Date:
	24/06/2022

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Appendix 6: Protected/Notable/Invasive Species Records

Common Name	Scientific Name	Records	Conservation Status
Amphibians			
Common toad	<i>Bufo bufo</i>	11 records; closest record 435m SW	NERC ⁷ , Partial Protection under WCA ⁸
Common frog	<i>Rana temporaria</i>	15 records; closest record 440m E	Partial protection under WCA
Smooth newt	<i>Lissotriton vulgaris</i>	11 records; closest record 0.6km E	Partial protection under WCA
Great crested newt	<i>Triturus cristatus</i>	6 records; closest record 0.7km W	EPS ⁹ , NERC, WCA (5) ¹⁰
Palmate newt	<i>Lissotriton helveticus</i>	17 records; closest record 1.7km S	Partial protection under WCA
Mammal			
Eurasian badger	<i>Meles meles</i>	132 records within 2km of the site.	PBA ¹¹
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	163 records; closest record 1m S 4 roost records; closest record 480m W	EPS, WCA
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	93 records; closest record 1m S	EPS, WCA
Myotis sp.	<i>Myotis sp.</i>	82 records; closest record 15m NE 2 roost records; closest record 0.8km SW	EPS, WCA
European otter	<i>Lutra lutra</i>	2 records; closest record 20m N	EPS, WCA, NERC
Pipistrelle sp.	<i>Pipistrellus sp.</i>	12 records; closest record 35m E 10 roost records; closest record 0.5km N	EPS, WCA
Pine martin	<i>Martes martes</i>	1 record, 85m SW	NERC

⁷ NERC – Species of Principle Importance under Section 41 of the Natural Environment Rural Communities Act (2006) Species of Principal Conservation Importance; UKBAP & LBAP.

⁸ WCA – Wildlife & Countryside Act (1981) Section 5 protecting against trade or sale of species.

⁹ EPS – European Protected Species - protected by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

¹⁰ WCA (5) – Schedule 5 protected species - Wildlife & Countryside Act (1981).

¹¹ PBA – Protection of Badgers Act 1992

Common Name	Scientific Name	Records	Conservation Status
Brown long-eared bat	<i>Plecotus auritus</i>	36 records; closest record 95m W 48 roost records; closest record 415m W	EPS, WCA, NERC
Noctule	<i>Nyctalus noctula</i>	57 records; closest record 95m W	EPS, WCA, NERC
Nyctalus sp.	<i>Nyctalus sp.</i>	22 records; closest record 100m W	EPS, WCA, NERC
Daubenton's bat	<i>Myotis daubentonii</i>	3 records; closest record 140m SW	EPS, WCA
Western barbastelle	<i>Barbastella barbastellus</i>	1 record, 140m SW	EPS, WCA, NERC
Bat sp.	Chiroptera sp.	28 records; closest record 475m NE 4 roost records; closest 300m N	EPS, WCA
Brown hare	<i>Lepus europaeus</i>	19 records; closest record 475m NE	NERC
European hedgehog	<i>Erinaceus europaeus</i>	24 records; closest record 0.5km NE	NERC
Leisler's bat	<i>Nyctalus leisleri</i>	12 records; closest record 0.7km SW	EPS, WCA
Natterer's bat	<i>Myotis nattereri</i>	1 record (roost), 0.8km SW	EPS, WCA
Brandt's bat	<i>Myotis brandti</i>	2 roost records; closest record 0.8km SW	EPS, WCA
Birds			
Bullfinch	<i>Pyrrhula pyrrhula</i>	233 records; closest record 120m SE	BoCCAmber ¹² , NERC
Dunnock	<i>Prunella modularis</i>	243 records; closest record 120m SE	BoCCAmber
Kingfisher	<i>Alcedo atthis</i>	7 records; closest record 120m SE	BoCCAmber, WCA (1) ¹³
Linnet	<i>Linaria cannabina</i>	80 records; closest record 120m SE	BoCCRed, NERC

¹² BoCC - Birds of Conservation Concern 5, 2021 - split in to four categories of conservation importance - Red, Amber, Green and Black. Red is the highest conservation priority, with species needing urgent action. Amber is the next most critical group, followed by green. Black represents species that no longer breed within the British Isles.

¹³ WCA (1) - Schedule 1 Wildlife and Countryside Act 1981 (as amended).

Common Name	Scientific Name	Records	Conservation Status
Marsh tit	<i>Poecile palustris</i>	89 records; closest record 120m SE	BoCCRed, NERC
Peregrine	<i>Falco peregrinus</i>	60 records; closest record 120m SE	WCA (1)
Skylark	<i>Alauda arvensis</i>	79 records; closest record 120m SE	BoCCRed, NERC
Cuckoo	<i>Cuculus canorus</i>	106 records; closest record 120m SE	BoCCRed, NERC
Fieldfare	<i>Turdus pilaris</i>	173 records; closest record 120m SE	BoCCRed, WCA (1)
Lesser redpoll	<i>Acanthis cabaret</i>	186 records; closest record 120m SE	BoCCRed, NERC
Red kite	<i>Milvus milvus</i>	45 records; closest record 120m SE	WCA (1)
Redwing	<i>Turdus iliacus</i>	214 records; closest record 120m SE	BoCCAmber, WCA (1)
Reed bunting	<i>Emberiza schoeniclus</i>	14 records; closest record 120m SE	BoCCAmber, NERC
Greylag goose	<i>Anser anser</i>	10 records; closest record 215m SW	BoCCAmber, WCA (1)
Brambling	<i>Fringilla montifringilla</i>	257 records; closest record 295m SW	WCA (1)
Common crossbill	<i>Loxia curvirostra</i>	80 records; closest record 295m SW	WCA (1)
Grasshopper warbler	<i>Locustella naevia</i>	5 records; closest record 295m SW	BoCCRed, NERC
House martin	<i>Delichon urbicum</i>	67 records; closest record 330m W	BoCCRed
Barn owl	<i>Tyto alba</i>	2 records; closest record 330m W	WCA (1)
Hen harrier	<i>Circus cyaneus</i>	3 records; closest record 330m W	BoCCRed, WCA (1)
Lesser spotted woodpecker	<i>Dryobates minor</i>	11 records; closest record 330m W	BoCCRed, NERC
Firecrest	<i>Regulus ignicapilla</i>	2 records; closest record 355m SW	WCA (1)
Grey partridge	<i>Perdix perdix</i>	2 records; closest record 355m SW	BoCCRed, NERC
Herring gull	<i>Larus argentatus</i>	23 records; closest record 355m SW	BoCCRed, NERC

Common Name	Scientific Name	Records	Conservation Status
Red-throated diver	<i>Gavia stellata</i>	22 records; closest record 355m SW	WCA (1)
House sparrow	<i>Passer domesticus</i>	94 records; closest record 385m SE	BoCCRed, NERC
Hobby	<i>Falco subbuteo</i>	27 records; closest record 0.6km SE	WCA (1)
Lapwing	<i>Vanellus vanellus</i>	7 records; closest record 0.6km SE	BoCCRed, NERC
Whimbrel	<i>Numenius phaeopus</i>	1 record, 0.6km SE	BoCCRed, WCA (1)
Hoopoe	<i>Upupa epops</i>	12 records; closest record 0.9km NE	WCA (1)
Osprey	<i>Pandion haliaetus</i>	2 records; closest record 0.9km E	BoCCAmber, WCA (1)
Wryneck	<i>Jynx torquilla</i>	1 record, 1.1km NE	BoCCBlack, WCA (1)
Black redstart	<i>Phoenicurus ochruros</i>	2 records; closest record 1.4km E	BoCCAmber, WCA (1)
Arctic skua	<i>Stercorarius parasiticus</i>	2 records; closest record 1.5km SW	BoCCRed
Curlew	<i>Numenius arquata</i>	18 records; closest record 1.5km SW	BoCCRed, NERC
Hawfinch	<i>Coccothraustes coccothraustes</i>	10 records; closest record 1.5km SW	BoCCRed, NERC
Lapland bunting	<i>Calcarius lapponicus</i>	1 record, 1.5km SW	BoCCAmber, WCA (1)
Marsh harrier	<i>Circus aeruginosus</i>	1 record, 1.5km SW	BoCCAmber, WCA (1)
Merlin	<i>Falco columbarius</i>	5 records; closest record 1.5km SW	BoCCRed, WCA (1)
Ring ouzel	<i>Turdus torquatus</i>	33 records; closest record 1.5km SW	BoCCRed, NERC
Tundra swan	<i>Cygnus columbianus</i>	2 records; closest record 1.5km SW	WCA (1)
Whooper swan	<i>Cygnus cygnus</i>	1 record, 1.5km SW	BoCCAmber, WCA (1)
Woodlark	<i>Lullula arborea</i>	9 records; closest record 1.5km SW	WCA (1), NERC
Nightjar	<i>Caprimulgus europaeus</i>	2 records; closest record 1.6km S	BoCCAmber, NERC
Snow bunting	<i>Plectrophenax nivalis</i>	6 records; closest record 1.9km S	BoCCAmber, WCA (1)

Common Name	Scientific Name	Records	Conservation Status
Redstart	<i>Phoenicurus phoenicurus</i>	6 records; closest record 1.9km S	BoCCAmber
Reptile			
Adder	<i>Vipera berus</i>	5 records; closest record 75m SE	Partial protection under WCA, NERC
Common lizard	<i>Zootoca vivipara</i>	15 records; closest record 0.5km NE	Partial protection under WCA, NERC
Slow worm	<i>Anguis fragilis</i>	4 records; closest record 0.6km SW	Partial protection under WCA, NERC
Plants			
Common mouse-ear	<i>Cerastium fontanum</i>	8 records; closest record 170m S	LBAP ¹⁴
Bluebell	<i>Hyacinthoides non-scripta</i>	41 records; closest record 300m N	WCA (8) ¹⁵
Columbine	<i>Aquilegia vulgaris</i>	3 records; closest record 440m W	LRPR ¹⁶
Buck's-horn Plantain	<i>Plantago coronopus</i>	3 records; closest record 0.6km S	LRPR
Cornflower	<i>Centaurea cyanus</i>	2 records; closest record 1.5km NE	NERC
Invertebrates			
White-clawed crayfish	<i>Austropotamobius pallipes</i>	1 record, 40m W	NERC
Oak hook-tip	<i>Watsonalla binaria</i>	3 records; closest record 0.5km S	NERC
September thorn	<i>Ennomos erosaria</i>	1 record, 0.6km S	NERC
Feathered gothic	<i>Tholera decimalis</i>	2 records; closest record 0.6km S	NERC
Small square-spot	<i>Diarsia rubi</i>	2 records; closest record 0.9km N	NERC
Rustic	<i>Hoplodrina blanda</i>	3 records; closest record 0.9km N	NERC

¹⁴ LBAP – Species is included in Leicestershire and Rutlands Local Biodiversity Action Plan.

¹⁵ WCA (8) - Schedule 8 Wildlife and Countryside Act 1981 (as amended): Protected plant species.

¹⁶ LRPR – Locally Rare Plant Record.

Common Name	Scientific Name	Records	Conservation Status
Dot moth	<i>Melanchra persicariae</i>	1 record, 1km E	NERC
Mottled rustic	<i>Caradrina morpheus</i>	1 record, 1km E	NERC
Grey dagger	<i>Acronicta psi</i>	2 records; closest record 1km E	NERC
Centre-barred sallow	<i>Atethmia centrago</i>	1 record, 1.2km NE	NERC
Blood-vein	<i>Timandra comae</i>	2 records; closest record 1.2km NE	NERC
Dusky thorn	<i>Ennomos fuscantaria</i>	2 records; closest record 1.2km NE	NERC
Buff ermine	<i>Spilosoma lutea</i>	4 records; closest record 1.3km S	NERC
Small phoenix	<i>Ecliptopera silaceata</i>	2 records; closest record 1.5km SW	NERC
Shoulder-striped wainscot	<i>Leucania comma</i>	5 records; closest record 1.5km SW	NERC
Small heath	<i>Coenonympha pamphilus</i>	9 records; closest record 1.5km NW	NERC
Ghost moth	<i>Hepialus humuli</i>	3 records; closest record 1.6km S	NERC
Broom moth	<i>Ceramica pisi</i>	1 record, 1.7km SW	NERC
Green-brindled crescent	<i>Allophyes oxyacanthae</i>	2 records; closest record 1.7km N	NERC
Rosy minor	<i>Litoligia literosa</i>	1 record, 1.7km SW	NERC
Purple emperor	<i>Apatura iris</i>	3 records; closest record 1.8km S	NERC
White-letter hairstreak	<i>Satyrium w-album</i>	1 record, 2km S	NERC
Fish			
Brown trout	<i>Salmo trutta</i>	1 record, 0.5km SW	NERC
Invasive Species			
Signal crayfish	<i>Pacifastacus leniusculus</i>	9 records; closest record 40m W	WCA (9) ¹⁷

¹⁷ WCA (9) - Schedule 9 Wildlife and Countryside Act 1981 (as amended).

Common Name	Scientific Name	Records	Conservation Status
Chinese muntjac	<i>Muntiacus reevesi</i>	26 records; closest record 70m SW	WCA (9)
Canada goose	<i>Branta canadensis</i>	18 records; closest record 120m SE	WCA (9)
Canadian waterweed	<i>Elodea canadensis</i>	1 record, 170m S	WCA (9)
Mandarin duck	<i>Aix galericulata</i>	18 records; closest record 215m SW	WCA (9)
Japanese knotweed	<i>Reynoutria japonica</i>	5 records; closest record 0.5km NE	WCA (9)
Cherry laurel	<i>Prunus laurocerasus</i>	11 records; closest record 0.6km S	INNS
Himalayan cotoneaster	<i>Cotoneaster simonsii</i>	1 record, 0.6km S	WCA (9)
Montbretia	<i>Crocasmia x crocosmiiflora</i>	5 records; closest record 0.8km SW	WCA (9)
Himalayan balsam	<i>Impatiens glandulifera</i>	3 records; closest record 1km NW	WCA (9)

Appendix 7: Statutorily Designated Sites within 5km of Site Boundary

Site Name	Designation	Location	Brief Description
Beacon Hill, Hangingstone and Out Woods	SSSI ¹⁸	Adjacent to western boundary	Beacon Hill and Out Woods provide some of the best habitat in Leicestershire for breeding birds. The Out Woods support one of the most interesting stands of ancient semi natural alder woodland in the county.
Johnsons' Meadows	SSSI	2km SE	Johnsons' Meadows SSSI is of special interest for its nationally rare species-rich neutral grassland.
Newhurst Quarry	SSSI	2km WNW	A site of national geological importance.
Ives Head	SSSI	2.8km W	A site of national geological importance.
Morley Quarry	LNR ¹⁹	3.2km WNW	A series of disused stone quarries containing a pond which supports a large breeding toad (<i>Bufo bufo</i>) population as well as heath grassland.
Swithland Wood and The Brand	SSSI	3.4km SSE	The site includes some of the best remaining examples of oak-lime and alder woodland in Leicestershire and is representative of ancient woodland on somewhat acid, loamy soils in the English Midlands.
Benscliffe Wood	SSSI	3.7km S	Benscliffe Wood contains outcrops of siliceous rocks which support one of the richest Saxicolous lichen floras in the East Midlands. More than thirty species of lichen have been recorded from a small area, all of them growing on preCambrian rocks of the Maplewell Series which are subjected to varying degrees of shading from the surrounding woodland and scrub.
Buddon Wood and Swithland Reservoir	SSSI	3.7km SE	Despite clear felling and quarrying activities Buddon Wood remains one of the best birch-oak woodlands in Leicestershire of a type not found elsewhere in the East Midlands. The presence of small-leaved lime <i>Tilia cordata</i> is one feature indicating the ancient origins of the wood. Adjacent wet meadows and acidic flushes within the wood provide added diversity.
Ulverscroft Valley	SSSI	3.8km SW	The site supports a series of semi-natural habitats representative of those formerly more widespread on the siliceous clay soils or Charnwood Forest. These include permanent grassland, heath, woodland and wetlands. Over 200 plant species have been recorded, including several locally rare species.
Bishop's Meadow	LNR	4.1km NNE	Habitats include grassland, fen and swamp and a rich ground flora, fine beech trees and a rare mix of fungi and bryophytes.

¹⁸ SSSI - Sites of Special Scientific Interest

¹⁹ LNR - Local Nature Reserve

Charnwood Lodge	NNR ²⁰ , SSSI	4.1km WSW	Charnwood Lodge contains the best and most extensive examples of moorland habitats in the East Midlands, formerly typical of the Charnwood Forest area. It is dominated by a series of rocky outcrops and ridges of considerable geological importance. Ten species of bat have been recorded on the reserve with both species of pipistrelle and the rare Natterer's breeding here.
One Barrow Plantation	SSSI	4.1km W	A site of national geological importance.
Roecliffe Manor Lawns	SSSI	4.1km SSE	The site supports an unusually diverse community of fungi associated with old unimproved grassland, including several species listed in the provisional Red Data List for fungi which are restricted in their distribution in England to such habitats. This type of habitat and its associated rich fungal assemblage is a rare feature in Leicestershire and is generally scarce in the United Kingdom and across much of western Europe.
Loughborough Meadows	SSSI	4.2km NE	This site comprises the largest remaining example of unimproved alluvial flood meadow in Leicestershire (similar grasslands are more common in the Upper Thames region). Nationally, this habitat is becoming scarce as a result of agricultural improvement and flood prevention schemes.
Oakley Wood	SSSI	4.3km NNW	The site represents a unique example in Leicestershire of the transition from mixed oakwood, developed on free-draining acid soil, to ash-hazel woodland characteristic of the heavy clays of Eastern Central England.
Barrow Gravel Pits	SSSI	4.4km E	The site comprises one of the best remaining complexes of open water, grassland, scrub and woodland in Leicestershire and possesses a rich flora and fauna representative of flood plain habitats in the English Midlands.
Blackbrook Reservoir	SSSI	4.4km W	The reservoir is stocked with brown trout (<i>Salmo trutta</i>) and supports a healthy population of white-clawed crayfish (<i>Austropotambius pallipes</i>) which are isolated from populations of invasive crayfish species. The reservoir also has locally important flocks of wintering wildfowl and supports breeding great crested grebe (<i>Podiceps cristatus</i>) and little grebe (<i>Tachybaptus ruficollis</i>).
Shepshed Cutting	SSSI	4.7km WNW	A site of national geological importance.
Cotes Grassland	SSSI	4.8km NE	The primary interest of the site lies in the grassland sward developed on alluvial river gravels on a south-west facing bank overlooking the River Soar. The thin sward supports several species of plants which are

²⁰ NNR – National Nature Reserve

rare in Leicestershire and uncommon in the Midlands generally, including soft trefoil (*Trifolium striatum*).

Appendix 8: Non-Statutory Site Designations within 2km

Site Name	Designation	Location	Brief Description
Outwood	LWS ²¹	Adjacent S	A block of ancient woodland, containing both planted and semi-natural areas, with a rich ancient woodland ground flora. The site also contains a small area of wet alder woodland.
Nanpantan Reservoir	LWS	80m SW	This site comprises an artificial fishing lake with marginal, floating and submerged vegetation. The reservoir holds a population of white-clawed crayfish (<i>Austropotamobius pallipes</i>)
Burleigh Wood	LWS	95m NW	A block of ancient semi-natural woodland with a rich ancient woodland ground flora. The site borders a housing development and is heavily used by the public.
Buck Hill	LWS	350m W	Main habitats include acid grassland, mixed grassland, streams and rivers.
Loughborough, Snell's Nook and Burleigh Brook, hedges and trees	LWS	355m NW	Small site comprises of a brook with a series of species-rich hedgerow and mature trees.
Buck Hill Knoll	LWS	380m SW	A conifer plantation containing colonies of bluebells, with a large bracken-dominated clearing.
Hedgerows at Loughborough University	LWS	410m S	Two species-rich hedgerows with trees.
Nanpantan, The Home Farm grassland	LWS	435m W	Semi-improved neutral grassland.
Loughborough University, verge near Holy Well	LWS	0.5km N	Created grassland, but very attractive and species-rich. Abundant cowslips (<i>Primula veris</i>) and snakeshead fritillaries (<i>Fritillaria meleagris</i>); well-used path alongside.
Hedgerow at north end of Mile Lane	LWS	0.6km E	Native species-rich hedgerow with trees
Pignut Spinney Marsh	LWS	0.6km E	An area of marshy grassland adjacent to Wood Brook, with areas of dry neutral grassland, dense and scattered scrub, and willow pollards.
Holywell Wood	LWS	0.7km NNW	A block of ancient woodland, containing both planted and semi-natural areas, with a rich ancient woodland ground flora. The site also contains a small area of wet alder woodland.

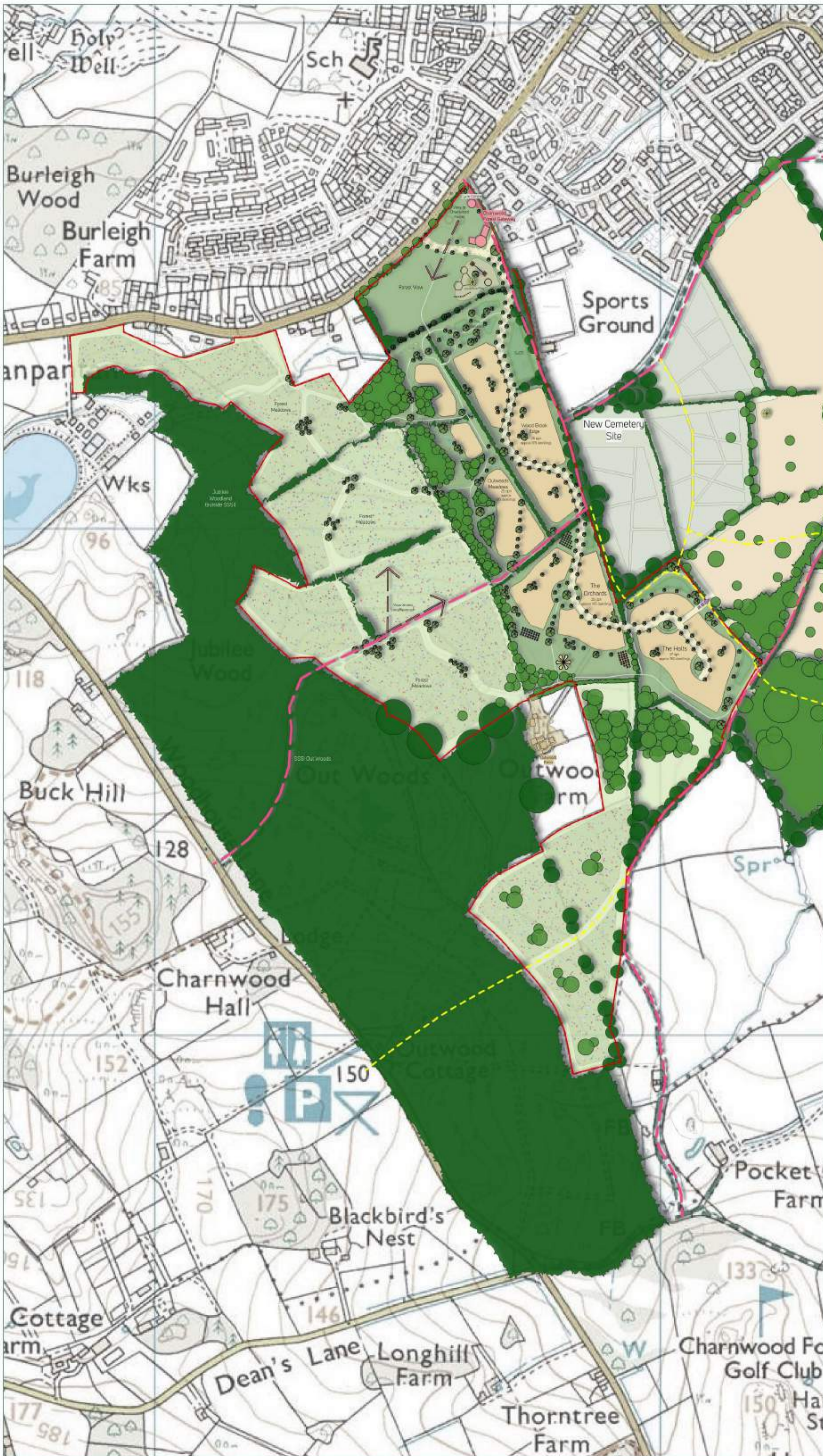
²¹ LWS – Local Wildlife Site


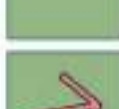


Site Name	Designation	Location	Brief Description
Nanpantan Hall Wood	LWS	0.7km W	Woodland and acid grassland.
Blackbird's Nest	LWS	0.8km SW	A mosaic of dense bracken, woodland and scrub, acidic and neutral grassland, rock outcrops and a small conifer plantation.
Longcliffe Golf Course	LWS	0.8km W	Acid grassland, woodland, Red Data Book species and mature trees - 5 <i>Quercus robur</i> , 1 <i>Salix fragilis</i> , 2 <i>Fagus sylvatica</i> , 1 unknown, with heathland.
North of Blackbird's Nest	LWS	0.8km SW	A mosaic of dense bracken, acid grassland, trees and scrub with rock outcrops and a pond.
Home Farm Wood	LWS	0.9km W	Broad-leaved woodland.
Blackbird's Nest Fields	LWS	1km SW	Three fields containing herb-rich neutral grassland, a pond, and mature oak (<i>Quercus sp.</i>) trees.
Loughborough, tree on edge of Longcliffe golf-course	LWS	1.3km WNW	Mature English oak (<i>Quercus robur</i>).
Five Tree Plantation	LWS	1.4km W	Plantation broadleaved woodland.
Five Tree Plantation, Beech	LWS	1.4km W	Mature beech tree (<i>Fagus sylvatica</i>).
Loughborough, Hedgerows N of A512	LWS	1.4km NW	Two hedgerows classified as 'important' under the Hedgerow Regulations, 1997.
Mucklin Wood	LWS	1.4km ESE	Broadleaved and mixed woodland plantation on an ancient woodland site, with a network of grassy rides.
Five Tree Plantation, Sweet Chestnut 1	LWS	1.5km W	Mature sweet chestnut (<i>Castanea sativa</i>).
Five Tree Plantation, Sweet Chestnut 2	LWS	1.5km W	Mature sweet chestnut.
Woodhouse, grassland strip in plantation off Breakback Rd	LWS	1.5km S	Semi-improved neutral grassland
Mick's Meadow, Beacon Hill Country Park	LWS	1.6km S	Mesotrophic grassland with a pond.
Booth Wood	LWS	1.7km N	A woodland with both semi-natural and plantation blocks. The wood is extensively used by the public and has its own community group.

Site Name	Designation	Location	Brief Description
Loughborough, Shortcliffe Brook	LWS	1.7km NW	A 420 m section of Shortcliffe Brook, a small watercourse that runs at the bottom of the M1 motorway embankment.
Charley Roadside Woodland	LWS	2km SW	A very small shallow stream overshadowed by species-rich broad-leaved woodland, with oaks (<i>Quercus sp.</i>) and crack willow (<i>Salix fragilis</i>).



Appendix 4 – Illustrative Masterplan by Nineteen47



- Key
-  Application site boundary
 -  Existing (retained) trees & hedgerow
 -  Indicative proposed planting
 -  Open space
 -  Visual links
 -  Potential for equipped play/LEAP
 -  Forest Meadows
 -  Indicative surface water attenuation basin
 -  Indicative development cell
 -  Existing public footpath
 -  Proposed footpath links

0 100 200m

nineteen47
 CHARTERED TOWN PLANNERS
 & URBAN DESIGNERS

Project
 South West Loughborough

Drawing Title
 Masterplan

Project Code	Drawing No	Rev
n1312	005	N
Date	Drawing Scale	
12.01.2023	1:5,000 @ A2	



Appendix 5 – Pre-Application Advice Submission

Glo.glo.P21-0492

15 January 2023

Development Management
Charnwood Borough Council
Southfield
Southfield Road
Loughborough
Leicestershire
LE11 2TX

CONFIDENTIAL

Dear Sir/Madam

Pre-Application Request – Land off Watermead Way, Loughborough

I write on behalf of our clients Redrow Homes, Davidsons Developments Limited and the Helen Jean Cope Charity, who are seeking pre-application advice in relation to land interests in land off Watermead Way, Loughborough. Please find attached a completed Pre-Application Enquiry Form, together with the following supporting documents:

- A Vision for South-West Loughborough – Copewood – A New Forest Community, Nineteen47, January 2023;
- Illustrative Masterplan (ref N1312 005 N), Nineteen47
- Highways Statement, ADC Infrastructure, August 2021;
- Preliminary Ecological Appraisal Report, RammSanderson, June 2022

The necessary fee of £3,600 will be paid direct by Davidsons/Redrow Homes.

We request that the pre-application submission and accompanying documents be treated as **CONFIDENTIAL** at this stage.

Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE



The site is located on the south-western edge of Loughborough, south of Nanpantan Road and Watermead Way. The site extends in total to some 74 hectares of land, with some 16 hectares of the site proposed for development to provide some 600 homes. The remainder of the site would be reserved for various elements of green infrastructure, including significant new tree planting, wildflower meadows and a network of footpath and cycle routes, to provide significant opportunities for Biodiversity Net Gain for both the scheme and to assist other developments in the area to achieve biodiversity net gain through the provision of a Biodiversity Bank.

The attached Promotional Document sets out the vision for the site and the key elements of the proposals.

The land provides an opportunity for residential led growth to help address critical shortfalls in the five year land supply. In combination with the delivery of infrastructure to support aspirations for a Regional Park set out in the submission version of the Local Plan and project the setting of the Charnwood Forest for the long term. These are issues that have not been addressed through housing allocations in this location proposed in the Deposit Draft Local Plan currently at Examination, which provide a piecemeal approach with limited opportunities to deliver enhanced green infrastructure and associated facilities.

As landowner, the Helen Jean Cope Charity has previously gifted to Loughborough some of its most important forest assets including The Outwoods and Jubilee Woods. The proposals continue this tradition with the proposals delivering:

- Publicly accessible land on the edge of Loughborough – the main urban centre, taking pressure off the more sensitive central areas in the Forest;
- Contributing towards the much-needed Regional Park green and other infrastructure;
- Enhanced and inclusive access to new informal recreational facilities
- Improved public interpretation and understanding of the forest through the delivery and gifting of a Forest Gateway recreational hub;



- A commitment to securing significant biodiversity net gain for the benefit of both the proposed development and wider development schemes in the area, including provision for land to form part of a Biodiversity Bank.

The proposed development as outlined in the supporting Promotional Document offers a comprehensive solution to development opportunities at south-west Loughborough that the proposed allocations in the emerging plan fail to deliver.

The scheme would provide for much needed additional homes to help address immediate and critical housing supply shortfalls, whilst also providing a package of wider benefits through informal recreational access, a Forest hub building and land secured for Biodiversity net gain to support the proposals and other development opportunities in the area as part of a Biodiversity Bank.

I hope the above and the attached provide sufficient information on the proposals to allow a pre-application response to be provided.

In accordance with the Pre-Application Advice Service Guidance, we would request a meeting to discuss the proposals. Given the nature of the scheme, we would request that a member of the Planning Policy Team also attends the meeting.

If you can provide some dates for a meeting to discuss the pre-application request that would be helpful. In the meantime, should you require any further information please let me know.

Yours faithfully

Enc. Pre-application submission and supporting documents



Appendix 6 – Pre-Application Advice Response

Guy Longley
Pegasus Group Ltd

Dear Guy,

APPLICATION NO: P/23/0073/2

PROPOSAL: Development of up to 600 homes along with supporting community and recreational infrastructure.

LOCATION: Land South of Watermead Way, Loughborough

Thank you for your enquiry dated 15th January 2023 in respect of the above and the information provided at your meeting on 24th April 2023 with Jim Worley.

We have reviewed the documents you have provided. Internal consultation has been carried out and where responses have been received, they are set out below.

With reference to the meeting on 24th April, we have sought to address both the shorter term prognosis in the manner typical of a traditional 'pre application enquiry', but also a longer term view in the context of production of the next local plan. Our response therefore adopts the following structure:

1. Introduction covering a description of the proposal, site and surroundings and the current policy context, including the emerging Charnwood Draft Local Plan 2021-2037
2. Advice regarding the principle of development in the current policy context and how these considerations might change in the context of the next local plan
3. Advice regarding other matters
4. Conclusion

1. INTRODUCTION

Proposal

The proposed development comprises 74 hectares of land, with some 16 hectares of the site proposed for development to provide some 600 homes complemented across the remainder of the site by the provision of green infrastructure of various types, a network of footpath and cycle routes, and a 'Biodiversity Bank' supporting the scheme and allowing for enhancement for other purposes.

Site and Surroundings

This enquiry relates to a site located on the south-western edge of Loughborough, south of Nanpantan Road and Watermead Way. It adjoins residential development to the north, across Nanpantan Road, and the Outwoods Sports complex in its north east

corner, but is otherwise surrounded by land in agricultural and forestry uses though it does adjoin residential and cemetery land uses currently being promoted through the emerging Charnwood Local Plan 2021-37. There are public footpaths along parts of its eastern boundary and, more notably, it is traversed by footpath K58 which travels east/west through approximately the middle of the site, giving access to the Outwoods\ further west.

Policy Context

The starting point for decision making on all planning applications is that they must be made in accordance with the adopted development plan unless material considerations indicate otherwise. The development plan for Charnwood comprises the Core Strategy 2015 and those saved policies within the 2004 Local Plan which have not been superseded by the Core Strategy and the Minerals and Waste Local Plan 2019. The most important policies for the determination of this proposal would be those listed below.

National

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide (NDG)
- Climate Change Act 2008 as amended by Climate Change Act 2008 (2050 Target Amendment) Order 2019

Charnwood Local Plan Core Strategy (2015)

- CS1 – Development Strategy
- CS2 – High Quality Design
- CS11 – Landscape and Countryside
- CS12 – Green Infrastructure
- CS13 – Biodiversity and Geodiversity
- CS14 – Heritage
- CS16 – Sustainable Construction and Energy
- CS17 – Sustainable Travel
- CS18 – Local and Strategic Network
- CS24 – Delivering Infrastructure
- CS25 – Presumption in Favour of Sustainable Development

Saved Policies of Borough of Charnwood Local Plan (2004)

- ST/2 – Limits to Development

- CT/1 - General Principles for areas of countryside
- CT/2 – Development in the Countryside
- EV1/1 – Design

The Charnwood Draft Local Plan 2021-2037 (submitted December 2021)

- DS1 Development Strategy
- DS5 High Design Quality

LUC1 Loughborough Urban Centre

- C1 Countryside
- CC1 Flood Risk Management
- CC2 Sustainable Drainage Systems
- CC3 Renewables and Low Carbon Energy Installations
- CC4 Sustainable Construction
- EV1 Landscape

EV4 Charnwood Forest and the National Forest

- EV6 Conserving and Enhancing Biodiversity and Geodiversity
- EV7 Tree Planting
- EV8 Heritage
- INF2 Local and Strategic Road Network

This document was submitted for Examination in December 2021. It sets out the Council's strategic and detailed policies for the plan period 2019-37. Hearing sessions have been held in June 2022, October 2022 and February 2023 and the conclusions of the Planning Inspectors are awaited.

In accordance with NPPF paragraph 48, the relevant emerging policies in the plan may be given weight in determining applications, according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight it may be given),
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given),
- c) the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The weight assigned to the relevant policies will be addressed in the assessment that follows, although it is worthy of note that the Plan is likely to be more advanced by the time any application is submitted and determined.

Supplementary Planning Documents, Guidance and Other Material Planning Considerations

- Biodiversity Planning Guidance (2022)
- The Leicestershire Highways Design Guide (2018)
- The Crime and Disorder Act 1998
- Conservation of Habitat and Species Regulations 2010 (as amended)
- Equality Act 2010
- Charnwood Borough Council Climate Change Strategy 2018-2030

2. ADVICE ON THE PRINCIPLE OF DEVELOPMENT

Current Policy Context

Policy CS1 of the Core Strategy directs development to a hierarchy of settlements and saved Local Plan Policy ST/2 defines the limits of development in those settlements. This site is situated within the open countryside, outside the limits to development of any settlement. Emerging Local Plan Policy DS1 similarly explains the development strategy and carries forward the approach of a concentration of development in Loughborough and other urban centres. Policy DS2 addresses unmet need within Leicester and Leicestershire with Main Modifications being discussed at the Local Plan hearing sessions and set out in Examination Document 69. . Though well advanced, DS1 remains the subject of some contention and, at present, is afforded limited weight.

Core Strategy Policy CS11 seeks to protect the character of our landscape and countryside, Similarly, Policies C1 and EV1 of the emerging Charnwood Local Plan 2021-37 reiterate similar aspirations.

The weight that can be assigned to these emerging Local Plan Policies is considered to be moderate at present but likely to acquire greater weight as these proposals evolve.

Core Strategy Policy CS12 and emerging Local Plan Policy EV4 have an important role owing to the site's location within the Charnwood Forest Regional Park and adjacent to the National Forest. The weight of the latter is considered to be moderate for the same reasons as C1 and EV1. These policies fundamentally address landscape and countryside issues but should be read together with the aforementioned policies to understand the development strategy. Further comments on landscape and countryside are provided later in this letter.

Though 'countryside', the site has no 'special' designation such as being an Area of Local Separation or Green Wedge in either existing or emerging local planning policy. It is not considered that the site is included in a 'valued landscape' within the terms provided by NPPF para 174 (a).

The Council recognises that because of the current lack of a 5-year supply of housing land (which stands at 4.27 years) and the age of Core Strategy Policy CS1 and Local Plan policies CT/1 and ST/2, the weight that can be ascribed to them is reduced, and paragraph 11d of the NPPF applies.

The site is located close to the settlement of Loughborough, where Core Strategy policy CS1 directs further housing growth as it is considered to be a sustainable location.

It is considered that the proposal does not accord with the pattern of development set out in DS1 of the emerging Charnwood Local Plan 2021-37 as the site is located outside limits to development and within the countryside; defined by emerging policy C1. Policy C1 does support small scale new built development in very limited circumstances and where there would not be significant adverse environmental impact but the development is not considered to be small scale, nor does it satisfy the other exceptions listed in Policy C1.

The proposal would be contrary to the Development Plan in principle but would result in 600 new dwellings at a time when the Local Planning Authority cannot demonstrate a five-year supply of housing land. This is regarded as a benefit of the development which is required to be balanced against any harm identified (the 'planning balance' is addressed at the conclusion of this report).

Context of a Future Local Plan

The site was considered as part of the preparation of the current draft Local Plan. The Landscape Sensitivity Assessment (LUC 2019) identified landscape sensitivity particularly associated with the parts of the site that slope upwards in a westerly direction and its role as the backdrop to the Loughborough urban area and impact on the footpath previously referenced. It was also subject to assessment under the SHELAA process and whilst reiterating the issues regarding landscape and the setting of Loughborough, identified only a single *physical* constraint in that a small part of the site is vulnerable to Flood Zones 2, 3A and 3B. This assessment concluded that there were no insurmountable physical or environmental constraints to its development.

Therefore, upon analysis of the proposals as presented, no insurmountable 'red lines' are identified and with appropriate design and mitigation it is considered that the site is capable of development. Such an analysis of the site is, of course, in isolation of the potential overall development strategy that is to be pursued in a future Local Plan. The site's 'fit' within this potential strategy will be fundamental in determining whether it is taken forward in a future Local Plan.

The information submitted provides a helpful explanation of what form development could take and therefore how the site's constraints and sensitivities can be approached. It is considered that the siting of the development 'parcels' are the optimum choices from within the confines of the site and the explanation of landscaping and the style of development are welcome. However, the stated densities within the parcels does not appear immediately commensurate with the 'Forest Community' to which the Vision document refers.

The document presents the prospect of protecting the setting of the Outwoods through control of the land up to the edge of the woodland. The safeguarding of this land from built development is clearly preferable than the prospect of new homes being built at this part of the site. This land is currently relatively open which forms part of its historic landscape character, providing a clear separation with the built form of Loughborough. The openness of the landscape also provides views up to the Outwoods forming a distinct gateway to the Charnwood Forest landscape, particularly when viewed along Forest Road, and there are currently many long distance views from the Outwoods. The way this land is brought forward would ideally realise benefits to recreation and biodiversity, support the integration of development into its setting without losing the current benefits of openness that are highlighted above. . The document refers to the gifting of this land in order to achieve these outcomes and it would be helpful to understand the mechanics of this in order to provide reassurance that it would deliver a permanent arrangement. It is also considered that in relation to some aspects of emerging Local Plan Policy EV4 and the objectives of the Charnwood Forest Regional Park these are positive benefits.

It is, of course, impossible to predict what future demand for growth may comprise and indeed what alternative opportunities and strategy(ies) the Council (and its neighbouring, partner, Local Planning Authorities) may adopt to fulfil them. It is therefore impossible to realistically offer prognosis of prospects of success in a Development Plan context. However, as stated above, the various constraints applicable to the site appear manageable and some may be less severe than those applicable to some other sites which may come forward.

I trust you take reassurance from the robust and objective manner in which the site was assessed in the evidence base for the current Local Plan, and as referred to above concluded that there were no insurmountable barriers to the *capability* of the site to be developed, and we can assure you of objective assessment in future exercises.

3. ADVICE ON OTHER MATTERS

Landscape and Visual Impact

Core Strategy Policy CS11 and Policies C1 and EV1 of the emerging Local Plan seeks to protect the character of our landscape and countryside and reinforce a sense of place and local distinctiveness, which is considered to be consistent with the NPPF, particularly paragraph 174.

The weight that can be assigned to emerging Policies C1 and EV1 of the emerging Local Plan is moderate. The plan is at an advanced stage and following the hearing sessions it is considered there are no unresolved objections in relation to these policies. They are consistent with the NPPF and therefore are considered to carry moderate weight.

The application site is situated within the Charnwood Forest Landscape Character Area and also the Charnwood Forest Regional Park as identified in the emerging Local Plan such that Policy EV4 is applicable.

This states that:

Policy EV4: Charnwood Forest and the National Forest

The Charnwood Forest Regional Park and National Forest are defined on the Policies Map. We will work with our partners to protect and enhance the Charnwood Forest Regional Park and support the aims of the National Forest Strategy. We will support development that:

- supports the woodland economy and rural diversification, including sustainable small-scale tourism and recreation opportunities which protect, and enhance the distinctive landscape character of the Charnwood Forest;*
- protects and enhances the biodiversity of the Charnwood Forest Regional Park, consistent with the aims of the National Character Area profile of Charnwood;*
- provides tree planting within the Charnwood Forest Regional Park, in accordance with the National Forest Planting Guidelines;*
- provides an improved network of public rights of way within Charnwood Forest and between nearby settlements including the establishment of a network of off-road links for walkers, cyclists and equestrians; and*
- improves accessibility for people with mobility issues including improved footpaths and parking for people with disabilities.*

The Landscape Sensitivity study 2021 identifies the site as medium-high sensitivity, making particular reference that:

- The site forms an undeveloped backdrop to the existing settlement, with the slopes containing Loughborough from the wider countryside.
- The adjacent settlement edges of Loughborough are well screened and integrated into the landscape by belts of woodland.
- Views and visual character including skylines
- The hills adjacent to the site create distinctive wooded skylines in views to the south and south-west.
- Visual prominence from Nanpantan Road.
- From higher ground the views over Loughborough to the undulating landform of the Wolds beyond.
- From Nanpantan Road there are long views south across the site towards the distinctive elevated landscape of the Charnwood Forest. M-H Access and recreation
- Several public rights of way (including PRow K57 and K58) cross the landscape, linking Loughborough with the wider countryside and nearby settlements.
- The site retains a strong rural character despite the proximity to Loughborough. The site feels removed from the existing settlement despite its proximity.
- The landscape provides part of the 'gateway' to the distinctive Charnwood Forest landscape which lies to the west and south.

The 2021 assessment provided emphasis that the higher parts of the site sloping towards the Outwoods were of particular sensitivity and recommended various design techniques and the retention and enhancement of hedgerows and copses and rows of trees.

There is concern that due to scale the development would significantly alter the characteristics in the immediate area from an undeveloped landscape containing the above qualities to a partially residential one which in turn would conflict with the stated policies. It is considered that the proposals cannot be said to protect the open characteristic nor “reinforce the sense of place” or “local distinctiveness”. In terms of the emerging Local Plan, it would not accord with Policy EV1 Landscape because of these impacts. Policy EV4 of the emerging Local Plan does not contemplate development of this scale and although it can be seen that the masterplan facilitates achievement of some of its objectives, it is opposed in principle and poses a further obstacle to the proposal within the current policy framework. Because the plan is at an advanced stage, hearing sessions on the Environment took place in June 2022 during which representations to EV4 and issues were discussed and the Council considers EV4 is consistent with NPPF paras 146, 174, as such it is considered to carry moderate weight at present.

It is considered that these findings would weigh against the proposal and pose a risk to the success of an application.

However, it is also considered that the Masterplan document at its current stage of development demonstrates effectively that development could be contained within the lower parts of the site and its size is such that it could accommodate the mitigation referred to in the Sensitivity Assessments in the landscape study. Therefore, whilst not supported by the current policy framework, it is considered that the masterplan provides sufficient detail to allow for consideration in future development plan analysis.

The development would either be adjacent to or traversed by Public Rights of Way (PROW). The proposal’s proximity to and incorporation of a PROW would lead to high to very high adverse impact on the experiential amenity use of such routes. At present these, K58 in particular, are tranquil and free from intrusion into the natural environment and provide an experience of rural undeveloped and unspoilt landscape.

Design & Character

Policy CS2 of the Core Strategy requires new developments to respect and enhance the character of the area and saved Policy EV/1 supports development that is of a design, scale, layout and mass compatible with the locality and which uses materials appropriate to the locality. Similarly, emerging Policy DS5 of Local Plan reiterates similar requirements such as high quality design, amenity, climate change and so on for new developments. The weight that can be assigned to this emerging Local Plan Policy DS5 is moderate for the same reasons as explained in respect of C1 and EV1 above.

Notwithstanding the assessment of the landscape impacts of the development as outlined above, it will be necessary to submit a Landscape and Visual Assessment

sufficient to enable an informed assessment to be made of the impact of the development.

The design of buildings, and how their setting will be configured to create the quality, sense of place and local distinctiveness referred to in the submission, would ideally be set out in a Design Brief (or similar), the adherence requirements to which would ultimately be incorporated into any permission granted.

Ecology and Trees

Policy CS13 of Charnwood Core Strategy seeks to protect or enhance biodiversity and ensure that where there is any potential loss this is avoided, mitigated or compensated.

The NPPF states that decisions should minimize impacts on and provide net gains to biodiversity (paragraph 174). Emerging Local Plan Policy EV6 seeks 10% biodiversity net gain and the protection and enhancement of habitats, species and networks.. Although the Environment Act 2021 makes provision for 10% biodiversity net gain, the relevant sections of the Act have not yet been brought into force to make it a legal requirement and this is not currently required by national policy. Therefore, emerging Local Plan Policy EV6 can be given only limited weight until the emerging policy is further progressed towards adoption.

The policy requires that proposals are accompanied by an ecological survey and Biodiversity Impact Assessment to demonstrate how a biodiversity net gain would be achieved on site (or by means of compensation elsewhere) Further guidance is provided in the Biodiversity Planning Guidance 2022: https://www.charnwood.gov.uk/pages/biodiversity_planning_guidance

Emerging Local Plan Policy EV7 seeks to protect and enhance natural environment by supporting the retention of existing trees and increasing the number of trees in Charnwood through new tree planting. The weight than can be assigned to this emerging policy is moderate for the same reasons as stated in regard to other polies previously.

An accurate, up to date tree survey/ Arboricultural Impact Assessment/ Arboricultural Method Statement in accordance with BS5837 of all of the tree and hedgerow to boundaries trees would need to be submitted with any forthcoming planning application.

Environmental and Residential Amenity

Policy CS2 of the Core Strategy requires new developments to respect and enhance the character of the area and saved policy EV/1 supports development that is of a design, scale, layout and mass compatible with the locality and which uses materials appropriate to the locality. Similarly, emerging Policy DS5 of Local Plan reiterates similar requirements such as high quality design, amenity, climate change and so on for new developments. The weight that can be assigned to this emerging Local Plan Policy DS5 is moderate.

There is limited concern regarding the proximity to dwellings and the size of the site is such that normal design techniques should be able to overcome such concerns.

Agricultural Land Classification

NPPF paragraph 174 indicates that decisions should recognise the economic and other benefits of best and most versatile (B&MV) agricultural land. PPG defines B&MV agricultural land as Grades 1, 2 and 3a indicating that agricultural land quality is a factor when assessing proposals. These considerations include, whether the use of any agricultural land is necessary and whether a proposal allows for continued agricultural use. Core Strategy Policy CS16 states that we will support 'new development that protects environmental resources including.....our most versatile agricultural land'.

Cultural Heritage

There are no designated heritage assets within the application site itself, but the site is close to Moat House, Bramcote Rd (Grade II) and the Outwoods Farmhouse and its outbuildings (both Grade II) and Halfway House, Hazel Road (Grade II) a little to the east.

We are able to conclude that impacts on Designated Heritage Assets would be very limited due to their distance and intervening landscape/townscape features and the measures proposed to maintain separation within the masterplan document, which would appear to be sufficient to protect their settings. A Heritage Statement is considered necessary to describe the significance of any heritage asset affected by the proposal, including their settings and to demonstrate compliance with the NPPF para. 198, Policy CS14 of Charnwood Core Strategy and emerging Policy EV8 of Local Plan.

Highways

Policy CS2 of the Core Strategy and TR/18 of Local Plan seeks to ensure safe access is provided to new development. Policy CS17 of the Core Strategy and emerging Policy CC5 of Local Plan is concerned with encouraging sustainable transport patterns. The weight that can be assigned to this emerging Policy CC5 of Local Plan is moderate. Policy CS18 requires network improvements as identified in Transport Assessments. The NPPF also sets out requirements for new developments which have some impact on the highway network. Paragraph 111 of the NPPF seeks to ensure new development does not result in an unacceptable impact on highway safety, or a severe residual cumulative impact on the road network. Paragraph 112 of the NPPF seeks to promote sustainable travel choices.

We have not consulted the Leicestershire County Highway Authority on the proposal as a result of the request for confidentiality but note the content of the ADC Highways Statement. However, it should be noted that committed and planned development has taken place since its production and also that the Local Highways Authority has recently declared its intention to seek developer contributions towards highways infrastructure requirements at 'plan level' arising from the combined demand of

widespread development. Detail of this approach can be reviewed the LCC Cabinet Report of 10 Feb 23, available at: <https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=7073&Ver=4>

The cabinet report covers both education and highways.

An extract of the report says: This area continues to develop and updates to the Highways Statement will be required going forward.

Flood Risk and Drainage

Policy CS16 of the Core Strategy seek to ensure that development is not at risk of flooding and that it does not cause flood risk elsewhere. Emerging Policy CC1 seeks to manage flood risk and the weight assigned to this Policy is limited. Policy CC2 of the emerging Local Plan seek to secure SuDS, only moderate weight can be afforded to this Policy.

The application site lies within Flood Zone 1 being at a low risk of surface water flooding. The LCC LLFA have not been consulted but we would expect their continued encouragement of Sustainable Drainage techniques and management of run off rates to ensure they are less than or equal to greenfield rates.

The development would be classed as a major application and would need to be accompanied by Flood Risk Assessment and SuDS, if applicable, that clearly demonstrates that the proposal can be satisfactorily drained and that there would be no flood risk created or exacerbated elsewhere.

Minerals Impact

The Leicestershire Minerals and Waste Local Plan 2019 (MWLP) does not identify that the site lies within a Safeguarding Area.

4. CONCLUSION

In the current policy context, weighing significantly against the benefits of the proposal is the likely harm which has been identified to the character and appearance of the landscape which could be considered to be contrary to local policies to include Adopted Local Plan Policy CT/1, Core Strategy Policy CS11 and the NPPF(para 174), and emerging Local Plan Policies C1 and EV1.

In the immediate and shorter term, it is considered that the harm arising from the proposal would be regarded as very significant and as such a proposal would only have a prospect of success, within these horizons, if very substantial benefits were to be accrued. It is not considered that the potential biodiversity and landscape/setting benefits of the proposal, alongside deliverability within the current housing land supply conditions, are sufficient to justify approval. Furthermore, the Council is optimistic that the Local Plan will reach adoption in a form similar to the submission version and with that will come an improvement in the land supply position. Therefore, the 'planning balance' in terms of policy harm and delivery issues is likely to evolve to the

disadvantage of the proposal in a time period commensurate with the preparation and determination of a planning application.

Based on the above analysis we would recommend against a planning application at present, but would invite your participation in any review or replacement of the Local Plan. Even though not yet adopted, under the current operation of the planning system, reviews are required every 5 years and these inevitably focus upon updated measures of demand based on recent delivery achievements and revised trajectories of need. In reality, preparation towards a review of the Local Plan is likely to be commenced well before the 5th anniversary of the Plan concerned to ensure an up to date Plan remains in place.

This advice is qualified that it is my best professional opinion at the time of writing. When determining an application submitted to it, the local planning authority will take into account all material considerations that are pertinent to the proposal at that time. This includes responses from statutory and non-statutory consultees and comments from members of the public. Nonetheless, the decision of the local planning authority will be made in accordance with the provisions of the development plan where relevant, unless material considerations indicate otherwise.

The above are my views and will hopefully enable you to decide whether to submit an application or not and what is required in the submission of an application. Please be aware that the Council may come to a different conclusion on a formal application or further matters may arise following consultation with interested parties, therefore I cannot provide any guarantee on the outcome of an application.

If you have any questions or require further information, please contact me on

[REDACTED]

Yours sincerely,

Richard Brown
Team Leader Local Plans Charnwood Borough Council



Appendix 7 – Aberdeen City v Elsick [2017] UKSC 66



Michaelmas Term
[2017] UKSC 66
On appeal from: [2016] CSIH 28

JUDGMENT

Aberdeen City and Shire Strategic Development Planning Authority (Appellant) v Elsick Development Company Limited (Respondent) (Scotland)

before

**Lord Neuberger
Lady Hale
Lord Mance
Lord Reed
Lord Hodge**

JUDGMENT GIVEN ON

25 October 2017

Heard on 13 June 2017

Appellant
Martin Kingston QC
Alasdair Sutherland
(Instructed by Morton
Fraser LLP)

Respondent
Roy Martin QC
Alasdair Burnet
(Instructed by Burness
Paul LLP)

LORD HODGE: (with whom Lord Neuberger, Lady Hale, Lord Mance and Lord Reed agree)

1. This appeal raises an important question of planning law. A planning authority foresees and plans for significant growth in its area. Major investment in transport infrastructure is required to accommodate the aggregate of the planned development. The planning authority seeks to achieve this investment by adopting a policy in its development plan which in substance requires developers to enter into planning obligations with it to make financial contributions to the pooled fund to be spent on the infrastructure, including interventions at places where a particular development has only a trivial impact. Is such a policy within the existing powers of the planning authority under current planning legislation?

Factual background

2. The Aberdeen City and Shire Strategic Development Planning Authority (“the Authority”) has the responsibility for preparing a strategic development plan for its area. The Authority foresaw the need for significant new and improved infrastructure to accommodate the cumulative impact of new development for which it planned. There were already proposals for transport infrastructure which involved major public sector investment, including the Aberdeen Western Peripheral Route (“AWPR”), new bridges, park and ride sites, making the A96 into a dual carriageway road and the creation of twin tracks on significant parts of the Aberdeen-Inverness railway line, all of which was to be paid for out of public funds. In 2010 the North-East of Scotland Transport Partnership (“Nestrans”) commissioned a cumulative transport appraisal for the area (“the CTA”), in which it estimated that £86.6m was required on top of already committed public sector investment in order to fund a package of infrastructure developments, which it identified, to address the cumulative impact of the proposed new development in the area.

3. In December 2011 the Authority approved non-statutory supplementary planning guidance which proposed the establishment of a Strategic Transport Fund (“the Fund”). In February 2013 the Authority published its proposed strategic development plan. In that plan the Authority stated that it intended to prepare supplementary guidance in support of the plan. This guidance would allow for the Fund to deliver the transport projects which were needed to deal with the combined effect of new development in four identified strategic growth areas within the Aberdeen Housing Market Area. The Authority stated that it would need to secure a higher percentage of the increase in land values, which resulted from the grant of

planning permission, than it had in the past in order to be able to create sustainable mixed communities.

4. Elsick Development Ltd (“Elsick”) proposes to develop approximately 4,000 houses together with commercial, retail and community facilities at Elsick, near Stonehaven. Elsick’s site is located within the southerly of the four strategic growth areas. In November 2011 Elsick objected to the draft supplementary planning guidance while it was subject to consultation.

5. Elsick also objected to the proposed strategic development plan and sought to have the reference to the Fund removed from that plan on the ground that it was contrary to the guidance of the Scottish Ministers on planning obligations which is set out in circular 3/2012, “Planning Obligations and Good Neighbour Agreements” (“the Circular”). The Circular advised planning authorities to seek to have developers enter into planning obligations only if the obligations met specified tests. These tests were that the obligations (i) were necessary to make the proposed development acceptable in planning terms (para 15), (ii) served a planning purpose (para 16), (iii) related to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paras 17-19), (iv) fairly and reasonably related in scale and kind to the proposed development (paras 20-23), and (v) were reasonable in all other respects. Elsick’s principal concern was with (iv); Elsick asserted that the contribution to the Fund which the proposed plan envisaged was out of all proportion to the demands which its development would make on the infrastructure which expenditure from the Fund was to improve.

6. In the meantime, on 30 September 2013 Elsick entered into a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) (“the 1997 Act”) with Aberdeenshire Council (“the Council”) to contribute to the Fund in terms of the draft non-statutory supplementary planning guidance or any revision or replacement of it in the proposed strategic development plan, but the agreement also provided that no contributions to the Fund needed to be paid if the supplementary planning guidance were found to be invalid. On 2 October 2013 the Council granted outline planning permission for the development and detailed planning permission for a first phase of 802 houses and other facilities.

7. The proposed strategic development plan was examined by a reporter appointed by the Scottish Ministers. In his report dated 21 January 2014 the reporter stated that it was right that the principle of the Fund should be established in the development plan and concluded that the CTA had demonstrated that the overall traffic growth, which the development promoted in the plan would create, would have harmful effects unless there were mitigation measures. He expressed concern that the mechanism for raising contributions to the Fund did not comply with

national policy in the Circular because there was not a sufficiently clear and direct relationship between the development supplying the contribution and the infrastructure to be delivered. He advised that para 5.9 of the proposed plan be amended “to establish that the Fund will only be used to gather contributions towards infrastructure improvements that are related to the developments concerned and strictly necessary in order to make any individual development acceptable in planning terms”.

8. The Strategic Development Plan was amended to take account of the reporter’s comments. As so amended the relevant paragraphs of the Plan stated:

“5.8 Developers will have to accept the need for contributions towards necessary infrastructure, services and facilities within their own site. However, in cases where development has wider effects, we will have to secure contributions to deal with these as well, although the public sector will also need to make an important contribution.

5.9 We will prepare supplementary guidance in support of this plan. This will allow (through a ‘Strategic Transport Fund’) transport projects which are needed as a result of the combined effect of new development to be funded and delivered. ... We will look for contributions from housing, business, industrial, retail and commercial leisure developments in the strategic growth areas within the Aberdeen Housing Market Area, (detailed criteria will be set out in the supplementary guidance). We will only use contributions to support projects that are related to the developments concerned and that are necessary to make those developments acceptable in planning terms.”

9. The Authority then resolved to convert the non-statutory supplementary planning guidance into statutory guidance. On 12 December 2014 the Authority issued a consultation draft of the proposed statutory guidance. In a report to the meeting of the Authority which approved the consultation draft it was explained that the consultants who had prepared the CTA had re-presented table 7.2 of the study, which I discuss in more detail in para 16 below, to show a clear and direct link between the development providing a contribution to the Fund and the infrastructure improvement to be delivered. The report also stated that the supplementary guidance was

“based on a strategic level evidence base and uses this to derive appropriate contribution levels for individual developments. The main driving force behind the preparation of the existing non-statutory guidance was the need to facilitate development rather than leave it to individual developers to try to satisfy Transport Scotland and the two councils that they had adequately mitigated all their cumulative impacts on the transport network.”

10. Elsick and others objected to the consultation draft on several grounds, including that it failed to comply with the Circular. The Authority responded to Elsick’s representations by stating that all but one of the transport interventions were within a three-mile radius of Aberdeen City centre and had strong inter-relationships and that the modelling of the CTA had demonstrated that there was a cumulative impact from all development areas to all of the interventions. The Authority approved the draft supplementary guidance on 24 April 2015 and sent it to the Scottish Ministers for ratification.

11. The Scottish Ministers advised that the Authority could adopt the draft supplementary guidance if they added a statement that the use of any planning obligation shall follow the guidance in the Circular. The Authority made that amendment and adopted the supplementary guidance (“SG”) on 25 June 2015. As I explain below when I discuss the legislative background, the SG forms part of the development plan for the purpose of determining planning applications.

The Supplementary Guidance

12. After setting out the purpose of and background to the SG and who would be expected to contribute, the SG explained that the purpose of the Fund was to mitigate the cumulative impact of developments at specific “hotspots” in the network which the CTA had identified. It continued (in para 4.8): “[t]here will still be a requirement to mitigate impacts specific to the development (defined as local impacts) whether they are on the local or strategic network”. In section 5 the SG set out the contributions which were required to deliver the proposed interventions at an estimated cost of £86.6m. In Table 1 in that section the SG set out contribution levels which for residential developments were fixed by reference to unit size, ranging from £1,350 per unit for a one bedroom unit to £3,148 per unit for a unit of five bedrooms or more. The table also provided for contributions from non-residential developments.

13. Because the Authority has argued that contribution to the Fund was voluntary (para 20 below), I set out para 5.4 so far as relevant. It provided:

“Developers can elect to assess and mitigate *their cumulative impact* outwith the [Fund], although this will require a considerably more comprehensive Transport Assessment and the design and delivery of the mitigation measures shown to be necessary. This will definitely be more time-consuming and almost certainly more expensive, *if it can be achieved at all.*” (emphasis added)

14. Section 6 of the SG addressed how and when contributions would be payable. Para 6.1 stated that a planning obligation or other legal agreement would normally be used to secure contributions. In accordance with the advice of the Scottish Ministers, the paragraph also stated that the use of any planning obligation shall follow the guidance in the Circular.

15. Section 7 of the SG explained that the contributions would be used only to fund the transport interventions which it listed. Para 7.3 stated:

“No contributions from development sites will be used to support projects where the development in question is predicted to gain no mitigation benefit from the infrastructure being provided and therefore is un-related to the development making the contribution. The CTA has shown that the delivery of each of the projects identified above is necessary to make *all developments* acceptable in planning terms (see appendix 2).” (emphasis added)

16. Appendix 2 summarised the CTA and listed the cumulative infrastructure requirements which it had identified. It reproduced as Table 3 the revised table 7.2 of the CTA, which had been prepared in response to the reporter’s criticism (para 7 above) that it had not been demonstrated that there was a clear and direct relationship between the development contributing to the Fund and the infrastructure which would be delivered. But that table showed the traffic generated by each development which would use the infrastructure at the identified “hotspots” as a percentage of the total traffic generated by that development. For example, the table showed the following in relation to the Elsick site:

Development Zone	Persley Bridge	A947	A96 East of AWPR	Kingswells North	A944	New Bridge of Dee
Elsick	3.45%	0.10%	0.76%	1.46%	0.79%	8.39%

Thus, taking the columns on the left, the table showed that 3.45% of the traffic which the Elswick development would generate would use Persley Bridge and 0.10% of that traffic would use the A947.

17. The previous table 7.2 in the CTA was more informative about the impact of the proposed developments on the infrastructure. It showed the percentage of the total traffic using the new infrastructure at the identified “hotspots” which the traffic generated by each proposed development was estimated to create. For example, in relation to the Elswick development, it had shown that the percentage of the total traffic predicted to use the same infrastructure as the following:

Development Zone	Persley Bridge	A947	A96 East of AWRP	Kingswells North	A944	New Bridge of Dee
Elswick	1%	0%	1%	2%	1%	7%

It also showed that 2% of the traffic on the Loirston Link would be generated by the Elswick development and 79% of the traffic on the Elswick Fastlink. In relation to a separate development at Blackdog the original table 7.2 of the CTA showed that 1% of the traffic on the A947 would be attributable to that site and 0% of the traffic on all of the other listed infrastructure.

18. Paragraph 7.4 explained that the contributions would be used to deliver the specified transport interventions. It stated:

“Nestrans as the Regional Transport Partnership will hold and administer contributions in a strategic transport fund. As contributions are received they will be placed into a ring-fenced account. The monies in this account will only be available for delivering the strategic transport projects listed above, including detailed assessment, development and design work.”

The challenge

19. Elswick appealed against the adoption of the SG to the Inner House of the Court of Session under section 238 of the 1997 Act. On 29 April 2016 the First Division of the Inner House (The Lord President (Lord Carloway), Lord Menzies and Lord

Drummond Young) allowed the appeal and quashed the SG: [2016] CSIH 28. The First Division upheld three of the four grounds of appeal which Elsick advanced. First, the court upheld the submission that the Authority had failed to comply with national policy on the use of planning obligations, holding that it was a fundamental principle of planning law, which was reflected in the Circular, that a condition attached to the grant of a planning permission, whether contained in a planning obligation or otherwise, must fairly and reasonably relate to the permitted development. The First Division accepted the distinction, which the reporter had drawn, between the sharing of costs among developments which had cumulatively required a particular investment in transport infrastructure on the one hand and the funding of a basket of measures, not all of which were relevant to every development. The court referred (in para 35 of its opinion) to the original Table 7.2 and held that many of the planned developments had no impact at all on several of the proposed infrastructure interventions. It added: “[t]his applies to both Elsick and Blackdog relative to a number of the interventions. In respect of others the impact is *de minimis*”. The result was that the additional sentence in the SG about complying with the guidance in the Circular, which was added at the request of the Scottish Ministers (para 11 above), could not prevent the obligation to contribute to the Fund, in which contributions were pooled, from breaching the Circular. The First Division also upheld Elsick’s submission that there was no rational basis for relying on Table 3 of Appendix 2 of the SG (ie the revised table 7.2 of the CTA) to support the contention that a particular intervention was made necessary by reason of either a particular development or the cumulative effect of it along with other developments.

20. The Authority applied for and was given permission to appeal to this court arguing that the policy tests in the Circular were not part of the legal tests for the validity of a planning obligation, that the Inner House had taken an unduly restrictive approach to policy, and that the Authority had substantially complied with the Circular when the SG afforded the opportunity to a developer to make mitigation contributions to infrastructure wholly outside the Fund (para 5.4 of the SG, which is set out in para 13 above). This court refused to allow the Authority to argue that the Inner House had erred in law and fact in finding that many of the planned developments, such as Elsick and Blackdog, have no impact on some of the proposed interventions and, in the case of Elsick and Blackdog, the impact on some other interventions is *de minimis*, because that was a finding of fact, based on the original table 7.2 of the CTA, the contents of which were not disputed.

Discussion

21. The central issue in this appeal is the lawfulness of the planning obligation which Elsick has entered into in conformity with the requirements of the SG. The Authority challenges the First Division’s conclusion that the tests applicable to a planning condition are properly to be applied to a planning obligation. To address

this challenge I examine (i) the correct legal test as to the lawfulness of a planning condition, (ii) the correct legal test as to the lawfulness of a planning obligation, (iii) the role of a planning obligation in the decision to grant or refuse planning permission, and (iv) the boundary between questions of legality and questions of policy.

22. I set out the legislative background before turning to each of the four questions. Finally, I will apply the answers to those questions to the facts in this appeal.

The legislative background

23. The 1997 Act was amended extensively by the Planning etc (Scotland) Act 2006 to provide in Part 2 for strategic development planning: see section 2 of the 2006 Act. Section 4 of the amended 1997 Act empowers the Scottish Ministers to designate a group of planning authorities as authorities which are jointly to prepare a strategic development plan for the area which the Scottish Ministers determine (section 5(3)). Section 7 provides that a strategic development plan is to include a vision statement, which is to be a broad statement setting out the strategic development planning authority's views on how development could and should occur in its area and the matters, including infrastructure, which might affect that development. The 1997 Act provides for the preparation and publication of a proposed strategic development plan (section 10), the appointment by the Scottish Ministers of a reporter to examine the proposed plan (section 12), the approval or rejection of the proposed plan by the Scottish Ministers (section 13), and, on such approval, the publication of the constituted strategic development plan.

24. Section 22 empowers a strategic development planning authority to adopt and issue supplementary guidance in connection with a strategic development plan, which guidance has to be submitted to the Scottish Ministers who can by notice require the authority to modify it. The Town and Country Planning (Development Planning) (Scotland) Regulations 2008 (SSI 2008/426) provide (in regulation 27(2)) that such supplementary guidance may only deal with the provision of "further information or detail in respect of the policies or proposals set out in [the] plan and then only provided that those are matters which are expressly identified in a statement contained in the plan as matters which are to be dealt with in supplementary guidance".

25. Section 24 defines the development plan, which is an important concept in relation to decisions taken under the planning Acts, as including the provisions of the approved strategic development plan for the time being in force for the area and also the supplementary guidance issued in connection with that plan. The central

importance of the development plan to planning decisions can be seen in two provisions of the 1997 Act. First, section 25(1) provides:

“Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise - (a) to be made in accordance with that plan ...”

Secondly, section 37(2) provides:

“In dealing with [an application for planning permission] the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.”

Sections 25(1) and 37(2) in combination set up what has been called “a presumption that the development plan is to govern the decision on an application for planning permission”: *City of Edinburgh Council v Secretary of State for Scotland* 1998 SC (HL) 33, 43G; [1997] 1 WLR 1447, 1458 per Lord Clyde. I will return to these two provisions when I consider question (ii) below.

26. In order to address question (i) (the lawfulness of a planning condition) I refer to section 37(1) which provides:

“Where an application is made to a planning authority for planning permission - (a) ... they may grant planning permission, either unconditionally or subject to such conditions as they think fit”,

and section 41(1) which provides so far as relevant:

“Without prejudice to the generality of section 37(1) to (3), conditions may be imposed on the grant of planning permission under that section -

- a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so

far as appears to the planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;

b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period. ...”

27. Of direct relevance to question (ii) (the lawfulness of a planning obligation) is section 75 (as substituted by section 23 of the 2006 Act) which, so far as relevant, provides:

“(1) A person may, in respect of land in the district of a planning authority -

(a) by agreement with that authority, or

(b) unilaterally,

enter into an obligation (referred to in this section and in sections 75A to 75C as a ‘planning obligation’) restricting or regulating the development or use of the land, either permanently or during such period as may be specified in the instrument by which the obligation is entered into (referred to in this section and in those sections as the ‘relevant instrument’)

(2) Without prejudice to the generality of subsection (1), the reference in that subsection to restricting or regulating the development or use of land includes - (a) requiring operations or activities specified in the relevant instrument to be carried out in, on, under or over the land, or (b) requiring the land to be used in a way so specified.

(3) A planning obligation may - ...

- (b) require the payment -
 - (i) of a specified amount or an amount determined in accordance with the relevant instrument. ...”

Section 75(5) provides that a relevant instrument, to which the owner of the land is a party, may be recorded in the Register of Sasines or registered in the Land Register of Scotland so that the planning authority may enforce certain obligations in the instrument against both the owner and his successors in title. Sections 75A and 75B provide for the modification and discharge of planning obligations by agreement with the planning authority or by the determination of the Scottish Ministers on an appeal.

Question (i): the lawfulness of a planning condition

28. A planning condition is a statutory creation. Section 37(1) of the 1997 Act (para 26 above) and similar legislative provisions in England and Wales (section 70(1) of the Town and Country Planning Act 1990 (“the 1990 Act”)) authorise a planning authority to impose planning conditions when it grants a planning permission. The apparently unlimited power (“subject to such conditions as they think fit”) has long been interpreted restrictively by the courts to prevent its abuse. The courts have formulated three principal constraints. First, the conditions must be imposed for a planning purpose and not solely to achieve some ulterior object, however desirable in the public interest that object may be. Secondly, the conditions must “fairly and reasonably relate to the permitted development”. Thirdly, the conditions must not be unreasonable in the *Wednesbury* sense (*Associated Provincial Picture Houses Ltd v Wednesbury Corpn* [1948] 1 KB 223, 233-234).

29. The first constraint arises from the statutory origin of the power of a planning authority to impose conditions: administrative law provides that it must be exercised for the purposes of the 1997 Act, namely planning purposes. The second constraint was first articulated by Lord Denning in *Pyx Granite Co Ltd v Ministry of Housing and Local Government* [1958] 1 QB 554, 575. His statement has been endorsed on several occasions by the House of Lords in *Fawcett Properties Ltd v Buckingham County Council* [1961] AC 636, *Mixnam’s Properties Ltd v Chertsey Urban District Council* [1965] AC 735, and *Newbury District Council v Secretary of State for the Environment* [1981] AC 578. It arises from the statutory context of the power in section 37: a planning authority is tasked with determining an application for planning permission on its merits having regard to the development plan so far as relevant and other material considerations; the power to attach conditions to the permission is an inherent part of the power to grant permission for the development

of land; therefore the conditions imposed on the grant of that permission must relate to the development for which permission is given. The third constraint is a feature of our administrative law.

30. The second legal requirement - that a condition must fairly and reasonably relate to the development - requires there to be a reasonably close relationship between the development and the condition which governs it. In *British Airports Authority v Secretary of State for Scotland* 1979 SC 200 the Inner House looked for a “clear relationship” between the condition and the permitted development (218 per the Lord President (Emslie)) or “a recognised and real relationship ... that is fair and reasonable” (220 per Lord Cameron).

31. Such a relationship between a condition and the permitted development existed where a planning authority imposed a negative suspensive condition, that development of a site should not commence until an event had occurred which the developer alone did not have power to bring about. In *Grampian Regional Council v Secretary of State for Scotland and City of Aberdeen District Council* 1984 SC (HL) 58 the House of Lords upheld the validity of such a condition which overcame an objection to a proposed industrial development on the ground of road traffic safety. The condition was that the development of the site could not commence until the road on the western boundary of the site had been closed by a road closure order which the Secretary of State would have to confirm. In the leading speech, Lord Keith of Kinkel (pp 66-67) accepted the three tests which I have stated in para 28 above and which have come to be associated with the *Newbury* case and held that the condition met the third test because it was not unreasonable to impose such a condition which was in the public interest and where there were reasonable prospects that a road closure order would be confirmed.

32. The three-fold legal test for validity, having been repeatedly approved by judges at the highest level, is an established part of planning law. Other rules of administrative law, such as the requirement to take account of all relevant considerations and not to take account of irrelevant considerations in decision-making, apply to a decision to impose a particular condition.

Question (ii): the lawfulness of a planning obligation

33. A planning obligation also is a statutory creation. As with a particular planning condition, the lawfulness of a particular obligation depends upon (i) the wording of the statute, and (ii) the rules of our administrative law.

34. Section 75 of the 1997 Act, like its predecessor legislation (section 50 of the Town and Country Planning (Scotland) Act 1972), requires that the obligation restricts or regulates the development or use of the land to which it relates. As section 75(3)(b) shows, the planning obligation can include the payment of money.

35. Prima facie the planning authority is given a wide discretion as to the circumstances in which it can seek a planning obligation and the nature of that obligation. While it is not uncommon for planning authorities to duplicate some planning conditions in a section 75 agreement and thereby obtain an alternative means of enforcement, planning obligations also enable a planning authority to control matters which it might otherwise have no power to control by the imposition of planning conditions. Planning obligations are most commonly required in the context of an application for planning permission, but they are not confined to such circumstances and are available as a means of keeping land free from any development. It is not surprising therefore that there is no general legal requirement that there be a relationship to a permitted development.

36. In *Good v Epping Forest District Council* [1994] 1 WLR 376, in which Ralph Gibson LJ delivered the leading judgment, the Court of Appeal addressed the question whether a planning authority could validly achieve by agreement any purpose which it could not validly achieve by planning condition or whether the test for validity was the same in each case. In substance, the Court held that the powers of a planning authority to bring about a planning obligation were not controlled by the nature and extent of its statutory powers to grant planning permission subject to conditions (p 387C). A planning obligation did not have to relate to a permitted development.

37. In *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, which I discuss more fully when addressing question (iii) below, both Lord Keith of Kinkel (769B-C) and Lord Hoffmann (779C-D) referred with approval to the judgment of the Court of Appeal in *Good v Epping Forest District Council* (above). Lord Hoffmann (779D) summarised the case thus: “the only tests for the validity of a planning obligation outside the express terms of section 106 [of the 1990 Act] are that it must be for a planning purpose and not *Wednesbury* unreasonable”. Thus beyond the restrictions implicit in the words of the section there are only the constraints of administrative law, which requires the planning authority to exercise its power to seek a planning obligation for a planning purpose: its exercise solely for a purpose unrelated to land use planning would be an abuse of power. Similarly, if a local planning authority acts unreasonably in the *Wednesbury* sense in requiring the undertaking of a planning obligation, the obligation may be reduced (nullified). Other rules of administrative law, such as the requirement to take into account all relevant considerations, also apply.

38. The express words of section 75 require a relationship between the planning obligation and the land to be burdened by the obligation because the obligation must in some way restrict or regulate the development or the use of that land. But those restrictions or regulation do not necessarily relate to a particular permitted development on the burdened land. A planning obligation may prohibit the development of the land in a particular way or the use of the land for particular purposes. A planning obligation may keep the burdened land free from any development and may be entered into in circumstances which are not connected with any planning application.

39. Restrictions may validly be imposed in the context of the development of another site. Thus, to take an example discussed in *Good v Epping Forest District Council*, the owner of two farms, A and B, within the area of a planning authority might apply for planning permission to develop and operate an intensive breeding establishment on farm A. The owner of the farms might offer, or the planning authority might require, a section 75 planning obligation preventing the use of farm B for that purpose. The restriction would relate to farm B and would be justified for the planning purpose of preventing an undesirable number of such establishments in the same area.

40. A planning obligation may also regulate the development or use of the burdened site. An example, in the context of a planning application, is where a planning obligation requires the developer to provide affordable housing as a component of a development on its site or to create specified infrastructure on its land to meet the needs of that development.

41. Similarly, a planning authority may contract for the payment of financial contributions towards, for example, educational facilities, healthcare facilities, sewerage or waste and re-cycling: requiring a development to contribute to, or meet, its own external costs in terms of infrastructure involves regulating the development of the land which is burdened by the obligation. The financial contribution can be applied towards infrastructure necessitated by the cumulative effects of various developments, so long as the land which is subject to the planning obligation contributes to that cumulative effect and thereby creates a sufficient relationship between the obligation in question and the land so that one can fairly speak of the obligation as regulating the development of the land.

42. In each of the examples in paras 38-41 above the restriction or regulation serves a purpose in relation to the development or use of the burdened site. In this appeal a question of principle arises: can a restriction or regulation of a site be imposed in the form of a negative suspensive planning obligation, analogous to the negative suspensive planning condition in the *Grampian Regional Council* case, for a purpose which does not relate to the development or use of the site? In particular,

is it lawful by planning obligation to restrict the commencement of the development of a site until the developer undertakes to make a financial contribution towards infrastructure which is unconnected to the development of the site? Alternatively, is it lawful to require contributions towards such infrastructure in a planning obligation which does not restrict the development of the site by means of a negative suspensive obligation?

43. The answer to each question is no. Dealing first with the latter question, a planning obligation which required a developer to contribute to infrastructure unconnected with its development but did not make the payment of the contribution a pre-condition of development of the site would not fall within section 75 as it would neither restrict nor regulate the development or use of the site. In *Tesco Stores Ltd v Secretary of State for the Environment* (1994) 68 P & CR 219, Beldam LJ (pp 234-235) stated:

“In section 106(1) [of the 1990 Act] the obligations referred to in subsections (a), (b) and (c) clearly relate to the land in which the person entering into the obligation is interested. The obligation entered into by a person interested in land under subsection (d) to pay money to the authority is not expressed to be restricted to the payment of money for any particular purpose or object. But all the planning obligations are, by section 106(3), enforceable not only against the person entering into the obligation but also against his successors in title to the land. Against the background that it is a fundamental principle that planning permission cannot be bought or sold, it does not seem unreasonable to interpret subsection (1)(d) so that a planning obligation requiring a sum or sums to be paid to the planning authority should be for a planning purpose or objective which should be in some way connected with or relate to the land in which the person entering into the obligation is interested.”

In my view, this analysis is equally applicable to section 75 of the 1997 Act which, in so far as is relevant, is in substantially similar terms as section 106 of the 1990 Act (as substituted by section 12(1) of the Planning and Compensation Act 1991) as the obligations in section 106(1)(a) - (d) are reflected in section 75(1)(2) and (3)(b).

44. A planning obligation, which required as a pre-condition for commencing development that a developer pay a financial contribution for a purpose which did not relate to the burdened land, could be said to restrict the development of the site, but it would also be unlawful. Were such a restriction lawful, a planning authority could use a planning obligation in the context of an application for planning

permission to extract from a developer benefits for the community which were wholly unconnected with the proposed development, thereby undermining the obligation on the planning authority to determine the application on its merits. Similarly, a developer could seek to obtain a planning permission by unilaterally undertaking a planning obligation not to develop its site until it had funded extraneous infrastructure or other community facilities unconnected with its development. This could amount to the buying and selling of a planning permission. Section 75, when interpreted in its statutory context, contains an implicit limitation on the purposes of a negative suspensive planning obligation, namely that the restriction must serve a purpose in relation to the development or use of the burdened site. An ulterior purpose, even if it could be categorised as a planning purpose in a broad sense, will not suffice. It is that implicit restriction which makes it both ultra vires and also unreasonable in the *Wednesbury* sense for a planning authority to use planning obligations for such an ulterior purpose.

45. It is, perhaps, surprising that the legal boundaries of a planning obligation have not been the subject of more extensive judicial comment, beyond the cases discussed in *Good v Epping Forest District Council*, the comment by Beldam LJ in the Court of Appeal in *Tesco* (para 43 above), and the opinion of Lord MacLean in *McIntosh v Aberdeenshire Council* 1999 SLT 93 (which upheld the validity of a planning obligation to build an estate road to serve the owner's development of his land and also to facilitate the development of neighbouring land in third party ownership) when the risk of misuse of planning obligations has long been recognised as a matter of policy. There were concerns that some planning authorities were tempted to make exorbitant demands for what has been called "planning gain", to confer benefits on the community which were not part of the developer's original proposal. A developer in order to obtain a planning permission might be forced to incur disproportionate costs in providing such gains which were unrelated or insufficiently related to its development or otherwise suffer the delay and expense of an appeal to the Scottish Ministers. This practice risked bringing the planning system into disrepute. In 1981, in a report to the Secretary of State for the Environment called "Planning Gain", the Property Advisory Group advised that planning obligations be used only to overcome legitimate planning objections to an application for planning permission and that the practice of bargaining with developers for planning gain was unacceptable. The report, which was criticised for taking too narrow an approach to the planning process, advocated that the Secretary of State should issue guidance. The Department of the Environment and the Welsh Office produced such guidance in 1983 in circular 22/83, which sought to control rather than exclude the pursuit of planning gain. In Scotland, the Scottish Development Department issued a circular in 1984, entitled "Section 50 Agreements" (SDD circular 22/1984). Current guidance on the use of planning obligations in Scotland is contained in the Circular (para 5 above). As I explain when addressing question (iv) below, this guidance, while an important statement of national policy, does not have the force of law.

46. There was also a perceived risk that developers, who were each promoting a different site in a competition for what might be an exclusive permission to develop one of the sites, would offer to enter into an obligation with the planning authority to fund infrastructure or other community facilities which were unrelated or only marginally related to their developments. This practice similarly threatened to bring the planning system into disrepute, by creating the impression that they were buying planning permissions. In the heady days of the “store wars”, major supermarket chains competed with each other before planning authorities and in planning appeals to obtain permission to develop rival sites up and down the United Kingdom. This competition, which often involved offers to provide “planning gain”, led to authoritative judicial guidance on the relevance of a planning obligation to the grant or refusal of a planning permission, which I now consider under question (iii).

Question (iii): the role of the planning obligation in the grant or refusal of planning permission

47. What is the role of a planning obligation in the decision to grant or refuse planning permission? In Scotland that decision is governed by section 37(2) of the 1997 Act which requires that the planning authority have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations (para 25 above). In *Tesco Stores Ltd v Secretary of State for the Environment* (above) the House of Lords, when considering a legislative provision in identical terms (section 70(2) of the 1990 Act), gave guidance on the relevance of a planning obligation to the grant or refusal of planning permission. That guidance is not challenged in this appeal.

48. In the leading speech, which Lord Keith of Kinkel delivered, the House held that for a planning obligation to be a “material consideration”, which it interpreted as a “relevant consideration” (764G), in the decision whether to grant planning permission, the obligation must have some connection with the proposed development which is not de minimis (ie too trifling for the law to be concerned with it). In what follows, I paraphrase the Latin phrase as “trivial”. Lord Keith described the relevance of a planning obligation in these terms (770A-B):

“An offered planning obligation which has nothing to do with the proposed development, apart from the fact that it is offered by the developer, will plainly not be a material consideration and could be regarded only as an attempt to buy planning permission. If it has some connection with the proposed development which is not de minimis, then regard must be had to it.”

49. In that case, developers, including Tesco and Tarmac, which was associated with Sainsburys, competed to obtain planning permission for their sites for a superstore outside the centre of Witney in Oxfordshire. The Witney local plan proposed a new link road, including a new river crossing, to relieve traffic congestion. Tesco entered into a planning obligation with the planning authority under section 106 of the 1990 Act to fund that road. The Secretary of State on appeal favoured the Tarmac site and refused permission to the Tesco application, holding that the link road was not needed to enable any of the food stores to be developed or so directly related to any of the developments or the use of the land after completion that any of the developments should not be permitted without it. Tesco appealed under section 288 of the 1990 Act, arguing that the Secretary of State had erred in law in not treating the offer to fund in the planning obligation as a material consideration. The House held that the Secretary of State had correctly had regard to the offer but had chosen in the exercise of his planning judgement to attach little weight to it and so had not erred in law.

50. No challenge was made in *Tesco*, in the House of Lords or in the courts below it, to the validity of the planning obligation: the question whether the obligation regulated the development of Tesco's site was not put in issue and only Beldam LJ commented on the legality of an obligation to contribute money (para 43 above).

51. The inclusion of a policy in the development plan, that the planning authority will seek such a planning obligation from developers, would not make relevant what otherwise would be irrelevant. Section 37(2) (para 25 above) requires the planning authority to have regard to the provisions of the development plan "*so far as material to the application*" and treats its provisions as a relevant consideration only to that extent. Thus, a green belt policy will be relevant to an application if the site of the application falls within the specified green belt and a requirement that a certain amount of open space is provided in a proposal for residential development will be relevant to an application for residential development. Similarly, a requirement in the plan that an applicant should agree to contribute to the cost of offsite infrastructure, which is related to its development, will be relevant to the application. But the words, which I have emphasised, mean that if a planning obligation, which is otherwise irrelevant to the planning application, is sought as a policy in the development plan, the policy seeking to impose such an obligation is an irrelevant consideration when the planning authority considers the application for planning permission.

52. It is important to recall that the question whether a benefit conferred by a planning obligation is a material consideration in the determination of an application for planning permission is quite separate from the question whether a planning obligation restricts or regulates the development or use of a particular piece of land. Thus, to use the example of the farmer with two farms, A and B. He wishes to develop farm A and is prepared to enter into a planning obligation to restrict the

development or use of farm B in the context of his negotiation of a permission for farm A. The legality of the planning obligation in relation to farm B will depend, among other things, on whether it restricts or regulates the development or use of farm B. The relevance of the planning obligation to the determination of the application in relation to farm A depends upon there being a more than trivial connection between the benefit conferred by controlling farm B and the development of farm A, as the *Tesco* case decided.

Question (iv): The boundary between questions of legality and questions of policy

53. Relevant ministerial guidance which sets out national planning policy is unquestionably a material consideration for any planning authority when it determines applications for planning permission. A failure by a planning authority to take into consideration national guidance, such as that in the Circular (para 5 above) on the tests which a planning authority should apply when deciding whether to seek a planning obligation, would be unlawful. Further, if a planning authority were to depart from national planning guidance when refusing an application for planning permission, it might risk an appeal by the disappointed applicant to the Scottish Ministers. But a decision by the planning authority is not illegal if it departs from ministerial guidance in a planning circular, provided that the authority has treated that guidance as a relevant consideration when it reached its decision.

54. In *Tesco* (above) Lord Hoffmann pointed out (780F-G) that the law has always made “a clear distinction between the question of whether something is a material consideration and the weight which it should be given”. The former is a question of law; the latter is a matter for the planning judgement of the planning authority. Accordingly, a failure by a planning authority to have regard to relevant guidance as a material planning consideration would be an error of law. A decision, after considering the guidance, not to follow it, would (absent another ground of challenge in administrative law) be a matter of planning judgement, in which the courts have no role.

The legality of Elswick’s planning obligation

55. What is the nature of the scheme which the SG has established?

56. First, it involves the payment by developers of financial contributions towards the funding of specified transport infrastructure in and around Aberdeen, principally through the mechanism of planning obligations. It involves the pooling of the contributions and no one developer is liable for the costs of any of the specified interventions (paras 1.5 and 3.3 and Appendix 2). Secondly, the obligation

to contribute to the Fund is in addition to the requirement that a developer mitigate impacts specific to its development (para 4.8). Thirdly, the contributions from residential developers are fixed at a sum per unit (Table 1 summarised in para 12 above). Fourthly, those payments are not tied to the impact of a particular development on the transport network. The original table 7.2 in the CTA suggested that there was no connection between traffic generated by certain developments and the need to intervene at particular hotspots. The revised table 7.2 which is referred to in para 7.3 of the SG and reproduced in Appendix 2 shows that some vehicles from each of the developments will use the proposed infrastructure but in many cases such use is at a very low level.

57. Fifthly, the opt-out which para 5.4 of the SG offers (para 13 above) does not make the scheme voluntary in any real sense. The developer is still expected to provide a contribution towards the cumulative impact of the developments on infrastructure over and above the impact of its individual development and the paragraph understandably expresses doubt whether a developer could create the needed assessment, design and provide for the necessary mitigation measures. Unless a developer were able to perform this daunting task and persuade the planning authority that it was robust, it is clear that the scheme envisages that it would not obtain planning permission for its development.

58. Sixthly, the statement in para 6.1 that the use of any planning obligation shall follow the guidance in the Circular is inconsistent with the nature of the scheme. This is because the pooling of fixed per unit contributions towards the funding of infrastructure interventions, which include many on which a particular development's impact is minimal, does not meet the criterion in the Circular that the obligation is fairly and reasonably related in scale and kind to the proposed development. The statement which the Scottish Ministers inserted into the SG therefore is no safeguard.

59. As the Lord President has observed, there appears to be much that can be said in favour of such a scheme. It enables a planning authority to facilitate development within its area. Inclusion of such a scheme in a development plan allows a public debate during the statutory process of the approval of the plan. The scheme allows developers in the area to assess the viability of their proposed developments knowing the extent of their liability to the Fund before they spend large sums pursuing their applications. In England and Wales Part 11 of the Planning Act 2008, which provided for a community infrastructure levy, was enacted to achieve similar ends.

60. But the 1997 Act does not allow for such a scheme. The Inner House has found that the connection between certain developments, including the development at Elsick, and some of the interventions which the pooled Fund is intended to finance

is at best trivial. The illegality of the scheme is not because it does not comply with the Circular. The guidance in the Circular is simply a material consideration which the planning authority must take into account when deciding whether to grant planning permission. The weight which the planning authority attaches to such guidance is a matter of planning judgement. The scheme of the SG and the planning obligations which it promotes are unlawful for two separate reasons.

61. First, the requirement imposed on a developer to contribute to the pooled Fund, which is to finance the transport infrastructure needed to make acceptable all of the developments which the development plan promotes, entails the use of a developer's contribution on infrastructure with which its development has no more than a trivial connection and thus is not imposed for a purpose in relation to the development and use of the burdened site as section 75 requires.

62. Further, the Council did not include any provision in the planning obligation restricting the development of the Elsick site until a contribution was made. Instead it resolved to grant planning permission for the development but to issue that permission only once Elsick had entered into the obligation. The planning obligation was therefore neither restricting nor regulating the development of the Elsick site and so was outside the ambit of section 75.

63. Secondly, *Tesco* (above) establishes that for a planning obligation, which is to contribute funding, to be a material consideration in the decision to grant planning permission, there must be more than a trivial connection between the development and the intervention or interventions which the proposed contribution will fund. The planning obligation which Elsick entered into could not be a relevant consideration in the grant of the planning permission. In my view, it was not within the power of the planning authority to require a developer to enter into such an obligation which would be irrelevant to its application for permission as a precondition of the grant of that permission.

64. If planning authorities in Scotland wish to establish a local development land levy in order to facilitate development, legislation is needed to empower them to do so.

Conclusion

65. I would dismiss the appeal.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004



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