



Appeal Decision

Inquiry held on 28 March to 1 April 2023

Site visit made on 30 March 2023

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2023

Appeal Ref: APP/X2410/W/22/3304644

Land off Leconfield Road, Nanpantan

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Bowbridge Homes (Nanpantan) Ltd. against the decision of Charnwood Borough Council.
 - The application Ref P/20/2199/2, dated 23 December 2020, was refused by notice dated 2 March 2022.
 - The development proposed is residential development with associated infrastructure for up to 30 dwellings, including detail of associated point of access. All other matters (landscaping, scale, layout and appearance) reserved.
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Decision

1. The appeal is allowed, and outline planning permission is granted for residential development with associated infrastructure for up to 30 dwellings, including detail of associated point of access, all other matters (landscaping, scale, layout and appearance) reserved, on Land off Leconfield Road, Nanpantan, in accordance with the terms of the application, Ref P/20/2199/2, dated 23 December 2020, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The application is in outline with all matters except for means of access reserved for later approval. The submitted Illustrative Masterplan and Parameters Plan are for indicative purposes only and I have considered them accordingly.
3. On the third day of the Inquiry, the Council reviewed its position and determined that it could no longer defend its reasons for refusal. The Council withdrew all submitted evidence. Accordingly, I have determined the appeal on the basis of the Appellant's evidence and that of interested parties including the Nanpantan Ward Residents Group (NWRG).
4. A draft planning obligation by way of an agreement made under section 106 of the Town and Country Planning Act 1990 (s106) was submitted at the Inquiry. The obligation relates to the provision of affordable housing, open space both on site and off site, financial contributions towards libraries, health facilities, waste and recycling facilities, highway improvements, measures to encourage sustainable travel choices, and a Biodiversity Mitigation Strategy. A signed and dated agreement was provided after the event. The agreement has been drafted to include so called 'blue pencil' clauses for potentially different play provision and biodiversity net gain measures. This is due to a disagreement on

these matters between the appellant and the Council. Provisions that I consider are unnecessary and unjustified will not take effect. I discuss this document in more detail later in my decision.

Main Issues

5. The main issues in this case are:

- the effect of the development on the character and appearance of the site and the surrounding area;
- the effect of the development on biodiversity;
- whether or not the adverse impacts of the development significantly and demonstrably outweigh the benefits.

Reasons

Policy Context

6. The site is located within the settlement limits of Loughborough as defined in the Charnwood Local Plan 2011-2028 Core Strategy (adopted November 2015). Policy CS1 sets out the Development Strategy and describes Loughborough as one of two main towns in the Borough where growth will be met. The principle of development therefore accords with Local Plan Policy.
7. Policy CS3 seeks 30% affordable homes in Loughborough and an appropriate mix of types, tenure and sizes of homes having regard to identified housing need and the character of the area.
8. Saved Policy ST/2 of the Charnwood Borough Local Plan 1999-2006 states that built development will be confined to allocated sites and other land within the Limits of Development identified on the Proposals Map. The appeal site lies within this defined area.
9. Core Strategy Policy CS11 seeks to support and protect the character of the landscape and countryside by amongst other things requiring new developments to protect landscape character and to reinforce sense of place and local distinctiveness.
10. Policy CS13 of the Core Strategy supports developments that protect biodiversity and geodiversity and those that enhance restore or recreate biodiversity. It goes on to state that developments resulting in the loss of ecological or geological features will only be supported in exceptional circumstances and that impacts will require mitigation or as a last resort compensation for that lost.
11. The emerging Charnwood Local Plan 2021-2037 was submitted for Examination in December 2021 and hearing sessions have been held. Objections remain and the post hearings advice from the Examining Inspectors is awaited. As such the Plan attracts limited weight. Should the Plan proceed, the settlement boundaries would be altered, and the appeal site would be designated as countryside. Draft Policy DS1 would then apply which sets out the spatial strategy for the Borough. It states that in circumstances where a 5-year supply of deliverable housing cannot be demonstrated, as in this case, proposals are likely to be permitted in certain circumstances including on sites adjoining the

limits of development. The appeal scheme would therefore in principle comply with this policy.

Character and appearance

12. The appeal site extends to approximately 1.69 hectares and consists of a single field currently maintained as rough grassland. The site rises from a low point of around 80 metres AOD in the eastern corner to a high point of approximately 87.5 metres AOD with a localised ridge at the mid-point of its southern boundary that continues to fall to the south.
13. The site is surrounded by existing residential development to the north, south and east. To the west lies Burleigh Wood, an area of Ancient Woodland and a Local Wildlife Site (LWS).
14. Policy CS11 of the Core Strategy seeks to support and protect the character of Charnwood's landscape and countryside. Amongst other things it requires new development to protect landscape character and to reinforce sense of place and local distinctiveness by taking account of Landscape Character Assessments.
15. The site is located within the Charnwood Forest Landscape Character area. This is subdivided into eleven sub areas with the site falling within Area 7, Loughborough /Shepshed Mixed Farmland. This is characterised as a low lying predominantly arable landscape with small pockets of pasture and small blocks of ancient woodland. The description states that this area is heavily influenced by settlement from the urban edges of Shepshed and Loughborough. I consider that the appeal site is representative of this landscape character and due to its location on the edge of the settlement, can in my view be described as urban fringe.
16. The site does not form a valued landscape in the terms of paragraph 174a) of the National Planning Policy Framework (The Framework). The Council's Landscape Sensitivity Assessment of Strategic Housing Land Availability Assessment (SHLAA) Sites (2019) describes the site as having a low-moderate landscape sensitivity, as it is more closely associated with existing development and screened from the wider landscape by existing woodland.
17. Longer range views of the site from public rights of way to the south and south east are limited. Where views are available, the development would be seen nestled beyond existing development on Leconfield Road and with intervening woodland screening and filtering direct views. Where visible, the site would be seen as a very limited continuation of the existing settlement. It would not break the skyline and would have a minimal effect on panoramic views. As a result, the impact in the wider landscape would be very minor.
18. As would be expected, the proposed development would have a much greater landscape impact on the site itself and its immediate surroundings. The appeal site provides an attractive green view at the end of Leconfield Road and contributes positively to the character of the area (Appellants verified view VP02). The appeal proposal would change this view to one of an access road with new dwellings beyond. This would have a negative impact on the character and appearance of the area.
19. At the northern edge of the site, above the bungalows on Montague Drive, the appeal site is just visible (Appellant's verified view VP6). The appeal proposal would result in the loss of this green backdrop and its replacement with the

roof tops and side gables of the proposed dwellings. However, as this change is in the context of built development, it would have a limited impact on the character of the area.

20. It is proposed that the development would take account of the topography of the site creating upper and lower development plateaus. Properties on the upper plateau would have higher rooflines with the potential to have a negative impact on the character of the area. I noted on my site visit that the existing residential area around the site has a rising topography. The proposed development would in this regard, be consistent with the character of the surrounding development.
21. I am mindful that around a third of the site would be retained as public open space such that built form would not extend across the whole of the site. Furthermore, landscape improvements including new planting would be provided. Whilst these measures would assist to reduce the impact of the proposal, they would not be sufficient to overcome the overall harm to landscape character.
22. Neighbours directly adjacent to the site, particularly those on Montague Drive, would experience the greatest impact with existing views of an attractive field replaced by built development. Residents on Tynedale Road to the eastern site boundary would face the proposed attenuation pond and the proposed mitigation planting would assist to reduce the impact on their visual amenity.
23. Another key viewpoint into the site is from Burleigh Wood. Those using the permissive path close to the western site boundary currently experience a view into the appeal site. However, the path is set a short distance into the wood so that it is not directly on the boundary. I also observed on my site visit that the views are filtered by the existing trees and hedgerow and are achieved through gaps in the vegetation. My visit was in early spring when the vegetation was not in full leaf, so the screening effect would be less effective than in the summer months.
24. Residential properties on Montague Drive and Compton Close are currently visible from the woodland path through the boundary vegetation. The closest proposed dwellings would be a similar distance from the path. Whilst the development would result in a change to the current view experienced by users of the wood, the proposed dwellings would in my view have no greater visual impact than the existing residential development.
25. Interested parties have brought my attention to the skyline views over Loughborough available from the elevated part of the site. Whilst I agree these views are attractive, they are experienced from within a privately owned site with no public access. I cannot therefore assess them or take them into account as they cannot lawfully be viewed by a public receptor. Such views are not lost as a result of the development rather they become available to the public and future residents of the development.
26. In summary, the appeal proposal would result in a significant adverse change to the character of the site from an open field to a small housing estate. The impact is limited to the immediate setting of the site and rapidly reduces with distance due to its contained nature. The development would have a very limited impact on the wider landscape and the scheme would not be prominent in longer distance views.

27. The proposal would result in significant localised harm to visual amenity in particular to the small number of houses close to the site boundaries. I acknowledge that this impact would be expected of any new development on a greenfield site on the urban fringe. Visual harm reduces with distance from the site again due in part to its contained nature.
28. Clearly the adverse landscape and visual impacts of the proposal are highly localised. I have taken account of the relatively small scale of the development and the proposed planting and landscape improvements that would assist to soften the appearance of the development in the longer term. For these reasons, I attribute moderate weight to the harm caused to the character and appearance of the area.
29. The proposal would therefore conflict with Core Strategy Policy CS11 and paragraph 174 of the Framework which seek to protect landscape character and recognise the intrinsic character and beauty of the countryside.

Biodiversity

30. The site is not subject to any ecological or biodiversity designations. It has been the subject of a number of ecological assessments. As part of the evidence base for the emerging Local Plan, the site was assessed in the Council's Ecological Assessment Report in 2019. This described the site as semi natural grassland with areas of bramble and raspberry scrub, lying adjacent to ancient broadleaved woodland. The site was graded C/D which indicated that development could be acceptable from an ecological perspective if the developable area was reduced.
31. An update survey was undertaken in 2021 which reviewed the site and graded it D, suggesting the site contained a large proportion of priority habitat or botanically diverse habitat or contained potential for protected species. It is stated that sites in this category are unlikely to achieve sufficient on site mitigation to make development acceptable but it may be possible if the development area is significantly reduced. Whilst this report provides an indication of the ecological value of the site, it forms a high-level survey with limitations. It did not involve detailed site appraisal and did not take account of possible mitigation.
32. Detailed surveys of the site have been undertaken by the appellant. These have identified the presence of acid grassland, a priority habitat, within the site with an estimated total area of around 0.02 hectares. I was advised in the Round Table discussion, and I noted on my site visit, that indicator species for this habitat type are located in small patches to the south east corner of the site and also in the central area.
33. The Leicestershire Biodiversity Action Plan BAP sets out minimum qualifying requirement for Lowland Dry Acid Grassland to be considered a priority habitat. These requirements are an area of at least 1000 square metres in which at least 3 indicator species should be frequent, abundant or dominant or at least 5 species should be present. The area of acid grassland on the site is less than the required area and the number and abundance criteria are not met.
34. Interested parties and the NWRG have suggested that the appellant's surveys may underestimate the number of acid grassland species as the surveys were not undertaken at the optimum time of year in summer. Based on the evidence

before me, I am satisfied that the area of acid grassland is very small, is of limited value and does not constitute a priority habitat. The appellant is proposing an off setting site where an area of acid grassland can be recreated. Whilst I accept there may be some difficulties in establishing such an area, I have no evidence that this could not be achieved with the creation of appropriate on-site conditions and future monitoring and management secured through the section 106 agreement.

35. The appeal scheme would not directly impact on Burleigh Wood, an ancient woodland and irreplaceable habitat. No part of the woodland would be lost. It is proposed to provide a buffer to Burleigh Wood ranging from around 20 metres to 45 metres. Natural England's Standing Advice for Ancient Woodland states that buffer zones can protect ancient woodlands and provide valuable habitat for woodland wildlife. It recommends that a buffer zone should be a minimum of 15 metres from the boundary of a wood to avoid root damage, though a larger buffer zone may be appropriate to address other impacts which could cause a deterioration of the woodland. These other indirect impacts could include recreational damage, increased pet ownership, noise, air pollution including dust and hydrological changes.
36. I accept that recreational damage can cause harm to an ancient woodland. It is already evident within Burleigh Wood that damage due to walkers not using paths and creating new desire lines is already occurring. Loughborough University who manage the site are trying to control this. I acknowledge that the path through the wood is permissive and the landowner could prevent access if they wished to do so to protect the woodland. However, an additional 30 dwellings is a modest development which would not result in a significant number of new users of the wood. Any additional impacts are likely to be slight and can be addressed through ongoing management measures. Similarly, any associated increase in pet ownership can be addressed through management measures or through the provision of cat fencing on the site boundary with the wood.
37. A Construction Environmental Management Plan (CEMP) could be secured through an appropriate planning condition should the appeal be allowed, which would include measures to control dust, air pollution and noise during the construction phase. In relation to hydrological impacts, the appellant has produced a report as part of the rebuttal evidence. This assesses pre development and post development conditions.
38. The impermeable nature of underlying soils limits infiltration capacity and the likelihood of groundwater flows. In terms of surface water, the topography of the site in the west would be the same post development therefore the route and direction of surface water would be unchanged. The retention of open space in the western part of the site would maintain the same ground conditions for surface water flows to the woodland. I am therefore satisfied that the development would not result in unacceptable hydrological impacts on the ancient woodland.
39. Natural England (NE) have raised no objection to the development subject to appropriate mitigation being secured including a CEMP to reduce the potential impacts of dust. NE also comment that an appropriately sized buffer area is included along the western boundary of the site. The Forestry Commission neither object or support but refer to the Standing Advice as a material

consideration. In summary I am satisfied that the development would not cause loss or deterioration to the ancient woodland.

40. On the western boundary of the appeal site is an area of scrub and self-seeded trees which can be viewed as a natural extension to Burleigh Wood. Whilst it is not with the designated boundary of the ancient woodland or the LWS, it has importance as habitat supporting the woodland. This area is to be retained as part of the buffer area.
41. With regard to protected species, surveys have identified the presence of bats with high quality commuting and foraging habitat being located on the periphery of the appeal site. Any adverse impacts can be avoided through the CEMP referred to above and also through an appropriate condition requiring the submission of a lighting scheme.
42. Badgers are known to be present in Burleigh Wood. Surveys have indicated that the closest mammal holes to the site were inactive at the time of the assessment. Preconstruction surveys can be required by condition to ensure this remains the case. Should mammal holes be found to be active, it is likely that they could be retained given the proposed buffer on the site's western boundary. Appropriate construction methods can be employed, secured through the CEMP and supervised by an ecological clerk of works. Should it prove necessary for mammal holes to be closed, a licence would be required. I am satisfied that there is a reasonable prospect that this could be secured.
43. Turning to Great Crested Newts, surveys undertaken of ponds within 500 metres of the site have found them either to be dry at the time of survey or that the presence of newts is unlikely, for example due to fish in ponds in residential back gardens. The distance from certain surveyed ponds to the appeal site, with barriers to dispersal such as existing development and roads also suggests the presence of newts is unlikely.
44. NWRG and other interested parties have questioned the adequacy of surveys. In particular that the pond found to be dry is wet at certain times of the year. However, amphibian populations require a site to remain wet throughout the breeding season (March to June). The appellant advises that the pond was scoped out on this basis. I am also advised by residents that newts have been found on residential ponds. Whilst this may be the case, they are unlikely to be successfully using the ponds for breeding, as fish predate on their eggs. In light of the above, I am not persuaded that the development would cause harm to this protected species.
45. The Environment Act, which requires development to achieve a minimum 10% biodiversity net gain, came into effect after the submission of the planning application. The appellant has provided a Biodiversity Impact Assessment Metric and a Biodiversity Net Gain Strategy which includes both on-site and off-site biodiversity measures.
46. On site these measures include the provision of the buffer to Burleigh Wood which would include a natural play area with additional landscaping along the western site boundary. Further planting around the periphery of the site would be provided as well as a surface water attenuation basin which would diversify the habitat on the site. This provision would be maintained by a management company in perpetuity.

47. Additionally, the appellant has secured an area of land approximately 300 metres from the appeal site to facilitate a net gain through habitat creation and management. A Management Plan would be secured through the section 106 agreement to manage the site as grassland including an area of acid grassland. The site would be managed for a minimum of 30 years. Factoring both on site and off-site measures into the Biodiversity Metric results in a net gain of 37% in habitat units and approximately 117% in hedgerow units. This is significantly above the 10% required by the Environment Act.
48. Residents have raised concern that the biodiversity value of the existing site has been inaccurately assessed. The Council's senior ecologist accepted and agreed this baseline and accepted the ecological surveys had been undertaken adequately to inform the assessments. I have no reason to disagree.
49. Policy CS13 of the Core Strategy seeks to conserve and enhance the natural environment. It expects development proposals to consider and take account of the impacts on biodiversity with particular regard amongst other things, to local wildlife sites, protected species and priority habitats. Where there are impacts on biodiversity the policy requires mitigation or as a last resort compensation which results in replacement provision of equal or greater value and potential than that which will be lost and is likely to result in a net gain in biodiversity. The appeal scheme would comply with this policy and also the objectives of section 15 of the Framework which seek to conserve and enhance the natural environment.

Other Matters

Public Open Space

50. The appeal site is privately owned agricultural land and has no lawful public access into it or through it. I am aware from local residents and the NWRG that access to the land for recreational purposes has been permitted by the landowner for a significant number of years but since the appeal scheme was submitted, the site has been fenced off.
51. I note that an application to designate the site as an Asset of Community Value was refused in March 2021 and that there is a current application to Leicestershire County Council to create a public right of way through the site. As the appeal scheme is in outline, should the right of way be confirmed, I see no reason why the detailed layout at reserved matters stage could not take account of this.
52. The appeal site has no open space designation. I am aware that the evidence base for the emerging Local Plan considers whether the site is suitable for designation as Local Greenspace and concludes that the site should not be designated. I note that NWRG have objected to the lack of designation in the emerging Local Plan and this is a matter still under consideration by the Examining Inspectors.
53. The Charnwood Open Space Assessment 2017 identifies a shortfall in public open space for the majority of open space typologies in the Nantpantan Ward. This shortfall is a matter for the local plan to address. Development proposals are not required to address existing deficiencies but to provide open space to serve the development and ensure any additional impacts are addressed in accordance with the local plan policies.

54. I take account of the proximity of the site to alternative areas of public open space both within and outside Nanpantan ward. Within the ward there is Kirkstone Road play area, green corridors running along cycleways linking Forest Road to the university and there is permissive access to parts of the university grounds and sports pitches. Outside the ward, there is good access to Jubilee Woods and Outwoods via footpaths and bridleways linking from Watermead Lane into the National Forest. There are also sports facilities located off Watermead Lane with a bowls club, tennis club, football pitches, cricket pitches. There are also allotments off Forest Road and Holt Drive play area with associated green corridor on Woodbrook Way.
55. I accept that many of the above facilities are located further away from the appeal site than suggested by the accessibility criteria in the Council's Open Space Strategy. They may also not be accessible by foot for those with mobility issues or by public transport and may also require crossing busy roads such as Nanpantan Road, which may be too dangerous for unaccompanied children. However, it does demonstrate that there is alternative provision in the Borough.
56. I was advised by interested parties that Kirkstone Drive play area is owned by Loughborough University and leased by the Council. If the lease is not renewed the site could be lost, further exacerbating existing shortfalls in provision. This is however a matter for the Council and not one for this appeal.
57. It is material that the appeal scheme proposes to provide 0.66 hectares (39% of the site area) as open space including natural and semi natural open space and amenity green space as well as an off-site contribution for outdoor sports facilities and allotments. The on-site provision would not only provide for future residents of the development but would also be available for the existing community.
58. The NWRG have expressed a desire to buy the appeal site and establish it as an area of open space for the benefit of all residents. This is a laudable aspiration. It is however a separate matter between the Group and the landowner and not a matter I can consider in this appeal.
59. In light of the above, I find that the proposed development complies with Core Strategy Policy CS15 Open Spaces, Sport and Recreation which requires new developments to meet the standards in the Open Space Strategy.

Heritage

60. The appeal site lies to the north of Burleigh Farmhouse a Grade II Listed building. In accordance with my statutory duty under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I must consider whether the proposal preserves the setting of the listed building.
61. Burleigh Farmhouse forms a two-storey 17th century timber framed property with white painted brick infill, a slate roof and sliding sash windows with glazing bars. The appeal site forms an integral part of its setting and contributes to the understanding and significance of the asset. The development of the site for housing would cause harm to its setting.
62. During the application, an amended indicative layout was provided. This retains more open space to ensure that any proposed dwellings do not overlap the rear boundary of the farmhouse. Whilst the application is in outline, this

demonstrates that a layout could be provided, that minimises the harm to the setting of the heritage asset.

63. Having regard to the separation distance between the farmhouse and the site and the indicative offset of proposed dwellings from the listed building, I consider that less than substantial harm would be caused to its setting.
64. In line with paragraph 202 of the Framework this harm must be weighed against the public benefits of the proposal. I consider this harm, the policy conflict and the weight to be given to it in the overall planning balance.

Infrastructure, ground conditions and amenity

65. The appeal proposal includes improvement to the existing site access off Leconfield Road. The additional traffic generated by this modest development of 30 dwellings, would not result in adverse highway safety or capacity issues in the locality. The site has good access to public transport, cycleways and pedestrian links to employment, services and facilities. No objection has been received from the Highway Authority.
66. Interested parties have raised concern about health provision in the area and the lack of capacity at Holywell Primary School. In terms of healthcare, the NHS seeks a financial contribution to increase and improve facilities at Forest Edge Medical Centre. This is to be secured through the section 106 agreement. The Education Authority has commented that whilst Holywell Primary School is at capacity, other primary schools in the locality have surplus places. Neither of these matters from a constraint to the development.
67. With regard to drainage, it is proposed that surface water drains to an onsite attenuation pond in the north east corner of the site before being discharged at an appropriate rate to the surface water sewer. I am satisfied that the site can be appropriately drained and that there would be no unavoidable flood risk to future or existing residents.
68. Interested parties have raised the issue of ground conditions and that the site is underlain by Pre Cambrian rock. The appellant has undertaken a Phase 1 Geo Environmental Desk Study and Phase II Exploratory Investigation Report to review site geology, contamination, and stability issues. These conclude that the site is underlain with Swithland Formation Mudstone with Tarporley Siltstone. The underlying ground conditions are considered to be suitable for the development proposed and the reports make recommendations for excavations and foundation design. Based on the evidence, I am satisfied that there are no unresolvable issues in terms of ground conditions.
69. The appeal scheme is in outline. I have no reason to conclude that an appropriate layout, respecting the privacy and amenity of existing residential properties on the periphery of the site cannot be achieved.
70. Overall, I am satisfied that the proposal would be acceptable in terms of highways, infrastructure provision and amenity complying with Core Strategy Policies CS2 (High Quality Design), CS16 (Sustainable Construction and Energy) and CS17 (Sustainable Travel).

Planning Balance

71. S38(6) of the Planning and Compulsory Purchase Act 2004 states that

development should be in accordance with the development plan unless material considerations indicate otherwise.

72. As at 1 April 2022, the Council can demonstrate a 3.04 years supply of housing. Accordingly, in line with paragraph 11d) of the Framework and footnote 8, the development policies most important for determining the appeal are out of date, and planning permission should be granted unless one of the exceptions apply. The first exception relates to the application of policies in the Framework which protect areas or assets of particular importance. This includes irreplaceable habitat such as ancient woodland. As I have found no harm to the ancient woodland either through its loss or deterioration this does not apply. The second exception provides that any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the Framework taken as a whole.
73. The most important policies for determining this appeal are Core Strategy Policies CS1 Development Strategy, CS3 Strategic Housing Needs, CS11 Landscape and Countryside, CS13 Biodiversity and Geodiversity, Policy CS25 Presumption in Favour of Sustainable Development and saved Local Plan Policy ST/2 Limits to Development. The lack of a five-year supply renders all these policies out of date.
74. Being out of date does not mean that little or no weight should be attributed to the above policies. Policy CS1 which sets out the Development Strategy, is consistent with the Framework objective of securing sustainable development. It should therefore attract significant weight. Saved Local Plan Policy ST/2 sets out the limits to development and identifies settlement boundaries within which development would be acceptable. I have already found that the appeal scheme complies with this policy, being located in the settlement limits of Loughborough. However, the settlement boundaries were set at a time when the housing requirement was lower and in the context of a lack of 5 year supply the policy is restrictive to development in the countryside outside settlement limits. I therefore afford this policy moderate weight.
75. Policy CS3 seeks an appropriate mix of houstypes, tenure and size of homes and is consistent with the Framework. It should therefore attract significant weight.
76. Policy CS11 seeks to support and protect the character of Charnwood's landscape and countryside. In so far as it requires new development to reinforce sense of place and local distinctiveness, it is in compliance with the design objectives of the Framework. However, in protecting the character of the countryside, it is more restrictive than paragraph 174b of the Framework which seeks to recognise the intrinsic character and beauty of the countryside. As it partially complies with the Framework, I attribute it moderate weight.
77. Core Strategy CS13 seeks to conserve and enhance the natural environment. It states that development resulting in a loss of ecological or geological features will only be supported in exceptional circumstances. This goes further than paragraph 180a) of the Framework which states that only if significant harm cannot be avoided, mitigated or compensated then permission should be refused. This policy therefore attracts moderate weight.
78. With regard to the scheme's benefits, in light of the lack of a five-year supply of housing in the Borough, the appeal scheme would make a significant

contribution to this provision. Turning to the extent of the shortfall, the Council suggest that the emerging Local Plan will be adopted by September 2023. Whilst the Plan is going through examination, no post hearing advice from Examining Inspectors has been received so that it is unclear whether further work would be required. Furthermore, main modifications need to be collated and consulted upon and the final report will then need to be written. I would suggest adoption by the end of the year was more likely, but it is of course difficult to be certain. Moreover, once adopted, it will take some time for allocations to go through the planning process and start to deliver. Therefore, the shortfall will take some time to be addressed. Whilst the proposal is relatively modest, 30 dwellings, I attribute significant weight to its contribution to housing supply.

79. There is also a shortfall of affordable housing in Charnwood. The development's contribution of 30% affordable housing ie 9 units, should also be given significant weight. The site is in a sustainable location with good access to services and facilities with public transport available nearby. This also weighs in favour of the scheme.
80. Turning to economic benefits, during construction the development will support jobs and the supply chain, though this will of course be time limited. Future residents would make use of local shops and services helping to ensure their viability. Altogether I attribute limited weight to these economic benefits having regard to the scale of the development.
81. The appellant mentions other benefits in terms of Council Tax and New Homes Bonus payments. The Council Tax receipt would contribute to the infrastructure needs of the development and so would not be a benefit. There is no evidence that the Council would ringfence the New Homes Bonus to advantage the locality in some way. In the circumstances, I consider neither of these matters as a benefit of the scheme.
82. The scheme provides Biodiversity Net Gain of 37% habitat units and 117 % hedgerow units. This is significantly above the Government's target of 10%. The scheme also provides public open space which goes beyond policy requirements for a development of this scale which would be available to the wider community. However, the weight to be attributed to these benefits must an extent, be tempered by the fact that they are requirements of planning policy. I give no more than moderate weight to these factors.
83. With regard to the adverse impacts of the scheme, I have found harm in relation to the effect of the proposal on the character and appearance of the area to which I have afforded moderate weight. I give moderate weight to the conflict with Policy CS11 for the reasons I have set out above.
84. Turning to heritage harm, as noted earlier in my decision, I must balance the less than substantial harm with the public benefits of the scheme that I set out above. I find that the benefits of the proposal would clearly outweigh the heritage harm. The proposal would therefore comply with the objectives of section 16 of the Framework and Policy CS14 of the Core Strategy which seek to conserve and enhance historic assets and their setting. This adds no further weight against the development.
85. In conclusion, the adverse effects of the proposal do not significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in

this case are of sufficient weight to indicate that the appeal proposal should be determined otherwise than in accordance with the development plan.

Planning obligation

86. A signed section 106 agreement was provided by the appellant after the event. It provides for a financial contribution towards several areas of infrastructure including libraries, public open space, affordable housing, health, waste and recycling provision and highway improvements. Improving provision at Loughborough Library is necessary to account for increased usage by additional residents and to accord with Core Strategy Policy CS24 which seeks to ensure that development provides appropriate contributions to both on and off-site infrastructure in order to mitigate the impact of developments.
87. Provisions relating to on site public open space and financial contributions towards off site outdoor sports facilities and the provision and enhancement of allotments in Loughborough are supported by Policy CS15. In relation to the provision of a locally equipped area for play (LEAP), the obligation is so worded that I need to determine whether such provision should be required on site. Bearing in mind the scale of the development, I do not consider that such provision is required. This approach is supported by Table 11 in the emerging Local Plan which does not indicate the need for the provision of children's play facilities in schemes below 100 units.
88. To ensure the scheme complies with Policy CS3, the obligation requires 30% affordable housing to be provided in the scheme. Furthermore, a financial contribution towards the improvement of facilities at Forest Edge Medical Centre and a contribution to improve waste and recycling facilities in Shepshed are also required in line with Policy CS24.
89. The obligation also provides for the provision of highway improvements in the form of a raised kerb at the local bus stop on Leconfield Road to support modern bus fleets. It also includes the provision of Travel Packs for each dwelling to inform residents about sustainable travel choices in the area and bus passes, 2 per dwelling, to encourage new residents to use public transport. These measures are necessary to encourage sustainable travel and to comply with Policy CS24.
90. With regard to biodiversity mitigation, the obligation is drafted such that I must determine the approach to biodiversity and habitat management. I consider that the approach set out in paragraphs 48–53 of the obligation would be most appropriate in this case. This requires the submission of a Biodiversity Mitigation Strategy which may include an on-site biodiversity area, an off-site biodiversity area or biodiversity compensation (either one or a combination of these measures as agreed by the main parties). It would provide sufficient flexibility to ensure an overall biodiversity net gain is achieved and ensure compliance with Core Strategy Policy CS13.
91. The obligation includes monitoring fees to be paid to the Council and the County Council. This requirement is set out in the Council's Section 106 Developer Contributions Supplementary Planning Document 2017. Planning Practice Guidance allows for monitoring costs if proportionate and reasonable. The obligations would have to be checked by the Council staff throughout the progress of the development and payments would need to be requested,

received, and actioned. I therefore find that the monitoring fees are necessary and reasonably related to the proposal

92. Other fees included in the obligation include a Site Inspection Fee, Approval of Details Fee and a Travel Pack Review Fee. The Council has provided a detailed justification for these in a report on a Decision under Delegated Powers dated February 2022.
93. The obligation requires the submission of certain details and documents which would create additional work above the average time spent on monitoring the obligation. Furthermore, open space which is transferred to the Council, or the Parish Council requires site inspections to ensure the layout is in accordance with the agreed details. The number of visits is dependent on the development. This forms an additional time cost outside of the average time spent on the usual monitoring of an agreement. The Travel Pack Review Fee is to fund the cost to the County Council of reviewing and approving the draft Travel Pack. Again, this is an additional administrative task which is not covered by the monitoring fee. In the circumstances I am satisfied that the above fees are necessary and proportionate to the appeal scheme.
94. I have been provided with a compliance statement setting out how the different elements of the planning obligation meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended and paragraph 57 of the Framework. I am content, on the basis of the information provided to me, that all the contributions described above meet the test of necessity; are directly related to the development and are fairly and reasonably related in scale and kind. I am therefore able to take them into account in my decision.

Conditions

95. An agreed schedule of planning conditions was discussed at the Inquiry following which a revised schedule was provided by the parties. I have considered the conditions against the advice within the Framework and PPG. I have amended the wording of some conditions as necessary so that they meet the relevant tests.
96. Conditions 1 and 2 are standard conditions relating to the submission of Reserved Matters and the commencement of development. Condition 3 sets out the approved plans. These conditions are imposed for the avoidance of doubt.
97. In order to protect the character and appearance of the area, I impose condition 4 which requires the submission of a detailed landscaping scheme and condition 5 which requires details of existing and proposed levels. Condition 6 requires a Construction Traffic Management Plan and condition 9 requires the access arrangements to be in accordance with the Highway General Arrangement Plan. These conditions are necessary in the interests of highway safety.
98. Condition 8 is needed to control the hours of construction to protect the amenity of existing residents. In the interests of minimising adverse effects on ecology, I impose condition 7 which requires the submission of a Construction Environmental Management Plan (CEMP) informed by an updated protected species survey in relation to badgers and bats. This is to include measures to prevent and mitigate any impacts from dust, noise, smoke, light and land

contamination. The CEMP is also necessary to protect the amenity of nearby residents.

99. Condition 10 is needed to require the submission of a Biodiversity Impact Assessment at reserved matters stage. This is required to assess the impact of development in relation to site ecology and to include mitigation measures to offset any negative impacts to habitat.

100. To ensure the site is properly drained and surface water appropriately managed, conditions 12, 13 and 14 are necessary. I impose conditions 15 and 16 to ensure that existing hedgerows and trees within the site are retained and protected. This is to safeguard the visual amenity and character and appearance of the area.

101. Condition 17 is necessary to ensure the provision of a suitable unsupervised outdoor play area for younger children. Finally condition 18 is required to require the submission of a lighting scheme to prevent disturbance to protected species such as bats.

Conclusion

102. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be allowed, and outline planning permission granted.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Isabella Tafur	Counsel
She called	
Carl Scott BA (Hons) MA TP(UC) MRTPI	Director, nineteen47 Ltd
Sara Boland BA (Hons) CMLI	Director Influence Landscape Planning and Design Ltd
Oliver Ramm BSc MCIEEM	Director RammSanderson Ecology

FOR THE LOCAL PLANNING AUTHORITY:

Howard Leithead	Counsel Instructed by Kathryn Harrison, Principal Solicitor, Charnwood Borough Council
He called	
Simon Higson BA (Hons) MA CMLI	Director Felstone Consulting Ltd
Justine Walsh BSc	Director of Ecology, Heatons Planning Ltd
Sam Salt MPlan MRTPI	Associate Director, Heatons Planning Ltd
Linda Walker ¹	Planning Officer, Charnwood Borough Council
Richard Brown ²	Planning Officer, Charnwood Borough Council

INTERESTED PARTIES:

Cllr Margaret Smidowicz	Ward Councillor
Cllr Geoff Parsons	Ward Councillor
Cllr David Snartt	Borough councillor
David Mulvaney	Nanpantan Ward Residents Group
Steve Cuff	Nanpantan Ward Residents Group
Julian Jones	Resident

¹ Took part in Round Table discussion on conditions and planning obligation

² Took part in Round Table discussion on Public Open Space

Caroline Mulvaney	Resident
Jayna Patel	Resident
David Miller	Resident
Roy Faulkner	Resident
Matthew Martin	Resident
Alan McPherson	Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Appellant's opening statement
2. Council's opening statement
3. Statement by Mr Jones, resident
4. CIL Compliance Schedule
5. Statement by Mr Martin, resident

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

1. Revised list of agreed conditions
2. Signed section 106 agreement dated 26 April 2023

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission and the development hereby permitted shall take place not later than 2 years from the final approval of the last of the reserved matters.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Parameter Plan Drawing No. n1249_010B, POS Provision Plan Drawing No. n1249_400A and Highways General Arrangement Plan Drawing No ADC1905-DR-100 Rev P5.
- 4) The landscaping details submitted pursuant to Condition 2 above shall include:
 - i. the treatment proposed for all ground surfaces, including hard surfaced areas;
 - ii. planting schedules across the site, noting the species, sizes, numbers and densities of plants and trees; including tree planting within the planting belt to the east of the site;
 - iii. finished levels or contours within any landscaped areas;
 - iv. any structures to be erected or constructed within any landscaped areas including play equipment, street furniture and means of enclosure.
 - v. utility services above and below ground within landscaped areas; and
 - vi. all existing trees, hedges and other landscape features, indicating clearly any to be removed.
- 5) The details submitted pursuant to Condition 2 above shall include full details of existing and proposed ground levels and finished floor levels of all buildings relative to the proposed ground levels. The development shall be carried out in accordance with the approved levels.
- 6) No development shall commence on the site until such time as a construction traffic management plan, including as a minimum detail of:
 - i. the routing of construction traffic,
 - ii. wheel cleansing facilities,
 - iii. vehicle parking facilities, and
 - iv. a timetable for their provisionhas been submitted to and approved in writing by the Local Planning Authority.

- The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 7) Prior to commencement of development a Construction Environmental Management Plan (CEMP), informed by an updated protected species survey in relation to Badgers and Bats, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The CEMP shall be in broad accordance with the submitted Construction and Ecological Management Plan (RSE_492_02_V2 August 2021). The plan shall detail how such controls will be monitored and a procedure for the investigation of complaints. The construction of the development shall thereafter be carried out in accordance with the approved plan.
 - 8) Construction work of the development, hereby permitted, shall not take place other than between the hours of 07:30hrs and 18:00hrs on weekdays and 08:00hrs and 13:00hrs on Saturdays and at any time on Sundays and Bank Holidays.
 - 9) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on ADC drawing number ADC1905-DR-100 Revision P5, ' Onsite Highway General Arrangement', have been implemented in full.
 - 10) A Biodiversity Impact Assessment shall be submitted with the 'Reserved Matters' to assess the impact of the development in relation to the site ecology based on the agreed baseline ecology measurement as set out in the BIA (17th December 2021) and shall include the provision of mitigation measures to offset any negative impact on habitat along with timescales for implementation. The approved ecological mitigation shall then be fully implemented in accordance with the approved timescales.
 - 11) No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details.
 - 12) No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details.
 - 13) No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be maintained in accordance with the approved details
 - 14) No development approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable

evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.

- 15) The existing hedges and trees located within the application site boundaries, other than at the point of the new access shall be retained and maintained at all times, unless otherwise agreed in writing by the local planning authority. Any part of the boundary hedge removed, dying or being severely damaged within a five year period from the date of commencement of the development shall be replaced within one year of the date of any such loss with hedge plants of such size and species as previously agreed in writing by the local planning authority.
- 16) No development, including site works, shall begin until the hedges and trees located within the application site boundaries that are to be retained, have been protected, in a manner previously agreed in writing by the Local Planning Authority. The hedges shall be protected in the agreed manner for the duration of building operations on the application site.
- 17) The details submitted pursuant to Condition 2 above shall include details of the design and specification of the bespoke area for unsupervised outdoor play for younger children.
- 18) Prior to the commencement of development, a 'lighting design strategy for biodiversity' shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
 - i. identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - ii. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specification and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.