



Appeal Decision

Site visit made on 3 December 2025

by **D Wilson BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 December 2025

Appeal Ref: APP/X2410/W/25/3371925

Marsh Road Trading Estate, Marsh Road, Mountsorrel, Leicestershire LE12 7JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Tony Markham on behalf of Elmslodge Construction Limited against the decision of Charnwood Borough Council.
 - The application Ref is P/24/1967/2.
 - The development proposed is demolition of existing factory buildings and erection of 16 dwellings, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted reports with the appeal which include a RSA Stage 1 Designer's Response March 2025 FW2506_RSA_DR_V1, Transport Statement March 2025 FW2506_TS_001_V2, Biodiversity Net Gain Assessment Report PEG565-08B and Report and Valuation with the appeal. The reports have provided clarification rather than propose any significant changes and the Council had the opportunity to comment on the reports. The reports have not resulted in any significant changes to the proposed scheme. Accordingly, I am satisfied that no one would be prejudiced were my decision to have had regard to the reports.
3. The Council's decision refers to policies of the emerging Charnwood Local Plan 2012-37 (the Emerging Local Plan). Based on the evidence before me, the Emerging Local Plan has reached an advanced stage and the policies relevant to this appeal are not subject to unresolved objections, as such, I give significant weight to the policies of the Emerging Local Plan referred to in the Council's reasons for refusal in accordance with Paragraph 49 of the National Planning Policy Framework (the Framework).
4. As part of the appeal, the appellant has submitted two planning obligations pursuant to s106 of the Town and Country Planning Act (as amended) in the form of a unilateral undertaking. The original obligation dated 28th August 2025 was superseded on the basis of suggestions from the Council, as a result a new planning obligation was submitted with a number of changes to the wording. As such, I have not had regard to the original obligation dated 28th August 2025 in my decision. Instead, I have only had regard to the more recent planning obligation dated 22nd October 2025.

5. The Council's third reason for refusal relates to highway safety and part of their fourth reason for refusal relates to protected species. The Council consider that on the basis of the reports submitted with this appeal that these reasons for refusal are overcome, I have no reason to conclude otherwise and have therefore not considered these matters further as part of this appeal.

Main Issues

6. The main issues are:
- whether the proposed development would be an effective use of land having regard to the Council's development plan policies,
 - the effect of the proposed development on the character and appearance of the area, and
 - whether the proposed development would secure biodiversity net gain (BNG).

Reasons

Whether an effective use of land

7. Policy CS1 of the Charnwood Local Plan 2011 to 2028 Core Strategy Adopted 9th November 2015 (CS) outlines the Council's development strategy for new houses and identifies Mountsorrel as a service centre. Amongst other things, service centres are identified as providing for at least 3,000 new homes and approximately 7 hectares of employment land.
8. Policy SC1 of the Emerging Local Plan seeks to support service centres in providing for the day-to-day needs of their residents, seek to improve their sustainability and maintain their unique character and separate identities. Amongst other things, policy SC1 specifically supports development that provides employment opportunities which reduces out commuting from service centres. As the proposed development would involve the loss of an employment facility the proposal would not reduce out commuting.
9. Policy E2 of the Emerging Local Plan seeks to protect existing employment sites. The appeal site is not identified as a good quality employment site on the policies map, however, for other employment sites, policy E2 of the Emerging Local Plan requires that amongst other things, proposals for alternative uses will be supported where the property or land is vacant and has been unsuccessfully marketed for employment use for at least six months, at reasonable market values.
10. The appellant has provided a report and valuation with the appeal which suggests that the appeal building is in a worn standard of repair and decoration. It also identifies the appeal site as having potential for residential or other use redevelopment with a sale that could be achieved within 12 and 18 months. The appellant considers that the condition of the appeal buildings would have affected future marketing for commercial use and any queries would have been in relation to the residential redevelopment of the site.

11. I note the appellants view and findings of the report and valuation, however, it has not been demonstrated that the appeal site has been marketed for employment use for at least six months, at reasonable market values. As such, it has not been demonstrated that the site could not be used for employment use.
12. I therefore conclude that the proposed development would not be an effective use of land and would be contrary to policy CS1 of the CS and policies E2 and SC1 of the Emerging Local Plan. Amongst other things, these seek to reduce out commuting and protecting existing employment sites.

Character and appearance

13. The appeal site is a large parcel of land which is mostly taken up by factory buildings with a moderately sized yard area to the rear. The area surrounding the appeal site is predominantly residential and consists of mostly terraced and semi-detached houses that line the roads around the appeal site. Many of the houses have a similar appearance through their simple form, design, modest size and use of similar materials as well as open frontages which contain small front gardens and results in a uniform and open character and appearance.
14. The proposed development would demolish the existing buildings within the appeal site, and the majority of the proposed development would be contained within a large block. The appeal site would be accessed by Marsh Road, and the predominant view would be the large block, car parking and access road which would dominate the frontage and detract from the uniform and open character and appearance of the area.
15. The appeal site would be a continuation of Marsh Road, however, the large block of houses would be incongruous when compared to the small rows of terraced houses along Marsh Road. Furthermore, dwellings along Marsh Road have small front gardens which would not be replicated on the proposed development, instead the frontages would be dominated by car parking spaces which would also be incongruous within this context. There is very little room for landscaping to the front of the dwellings, instead it is likely that further hardstanding will be required to access the dwellings by foot which would further highlight the car and highway dominated scheme.
16. There would be vehicular access to the rear of the block which would provide access to more car parking spaces. These spaces are mostly tandem spaces, some of which are side by side which would mean that when fully occupied there would be large blocks of cars close together which would dominate this part of the appeal site. There is also little room for landscaping around these areas and as such, even with a condition to secure a landscaping scheme, the car parking would still be prominent and incongruous.
17. The Council have suggested that the appeal site should be treated as a non-designated heritage asset. However, there is very limited evidence before me to support the Council's view and as such, I have not treated the appeal site as a non-designated heritage asset.

18. I therefore conclude that the proposed development would harm the character and appearance of the area. It would be contrary to policy EV/1 of the Borough of Charnwood Local Plan 1991-2006 Written Statement Adopted January 2004 (LP), policy CS2 of the CS, policy DS5 of the Emerging Local Plan and guidance contained within the Design Supplementary Planning Document January 2020. Amongst other things, these seek to ensure that developments achieve a high standard of design, provides positive and attractive built frontages and reinforces a sense of place.

BNG

19. Insufficient information was provided with the application to confirm that BNG can be achieved. However, additional reports have been submitted with the appeal which demonstrate that BNG can be achieved albeit it is likely that some off-site compensation would be required.
20. Under the statutory framework for BNG, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat.
21. I note the Council's concern that BNG has not secured as the off-site compensation has not been provided for, however, a legal agreement to secure these could be secured during the discharge of the biodiversity gain condition. As such, the absence of a legal agreement at this stage is not a sufficient reason to refuse the development and there is no reason why, if necessary, this could not be secured during the consideration of the biodiversity gain condition, and this would need to be satisfied before any development could take place.
22. I therefore conclude that subject to appropriately worded planning conditions, that the proposed development would provide BNG. I find no conflict with policy CS13 of the CS and policy EV6 of the Emerging Local Plan. Amongst other things, these support developments that enhance, restore or re-create biodiversity.

Other Matters

23. The Council have raised no concern with regard to the proposed housing mix, found that the proposed development would not harm the living conditions of neighbouring occupiers and would provide adequate living conditions for future occupiers. I have no reason to conclude otherwise; however, these are neutral matters.
24. The appellant suggests that the removal of a non-conforming use in a residential area has the potential to improve the amenity for existing residents, however, there is little evidence to support the claim that the current use is non-confirming or that the continued use of the appeal site is incapable of being carried out without harming the living conditions of neighbouring occupiers. As such I give this no weight in favour of the proposed development.

Planning Balance

25. The Council can identify a 5-year housing land supply; however, the CS and LP predate the Framework. Paragraph 232 of the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Instead, due weight should be given to existing policies according to their degree of consistency with the Framework. In this regard, the Framework supports development that makes efficient use of land and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. As such, policies CS1 and CS2 of the CS and policies EV/1 of the LP are consistent with the Framework, I attach full weight to the conflict with these policies. Therefore, the most important policies are not out-of-date and paragraph 11d) of the Framework is not engaged.
26. The proposed development would make a modest contribution to the supply of housing. It would also result in some short-term economic benefits through building out the scheme as well as long term economic benefits through the future occupiers spending within the locality. There would be some social benefits through affordable housing as well as environmental benefits through biodiversity improvements as well as sustainable travel options. While these benefits attract moderate weight in favour of the proposed scheme, they would not outweigh the harm I have identified.
27. The appellant's unilateral undertaking includes measures that seek to secure contributions towards off-site open space, library provision, waste provision and affordable housing. I have had regard to these matters insofar as they are benefits proposed by the appeal scheme. However, as I am dismissing the appeal for other reasons, it is not necessary for me to reach a finding on the details of the unilateral undertaking.

Conclusion

28. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR