

Appeal Decision

Inquiry held on 14 and 15 November 2023

Site visit made on 15 November 2023

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 29th February 2024

Appeal Ref: APP/X2410/W/23/3325902

Land north of Barkby Road, Syston, Leicestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Taylor Wimpey (UK) Ltd against Charnwood Borough Council.
 - The application Ref P/21/2639/2, is dated 13 December 2021.
 - The development proposed is up to 195 dwellings, together with associated affordable housing, open space, landscaping, drainage and play space facilities.
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Decision

1. The appeal is allowed and planning permission is granted for up to 195 dwellings, together with associated affordable housing, open space, landscaping, drainage and play space facilities at land north of Barkby Road, Syston, Leicestershire in accordance with the terms of the application, Ref P/21/2639/2, dated 13 December 2021, subject to the attached Schedule of Conditions.

Preliminary Matters

2. I have used the description of development from the application form, and omitted wording that are not acts of development.
3. The application was submitted in outline with all matters reserved except for access. I have therefore considered the Concept Masterplan, drawings and documents relating to the other matters on an indicative but informative basis.
4. The site, as well as surrounding land to the north and south, is allocated under Policy DS3 for housing as allocation HA3 for 195 dwellings in the Charnwood Local Plan 2021-37 Pre-Submission Draft July 2021 (emerging Local Plan).
5. The proposed strategic allocation HA1: Land South East of Syston identified in the emerging Local Plan lies to the south of the site and would provide 960 dwellings to the housing supply. Allocation HA2: Barkby Road identified in the Policy would provide some 270 dwellings.
6. The emerging Local Plan was examined, and post-examination consultations on certain matters were concluded in November 2023. There was no indication in the Inspectors' letter of any intention to remove the allocations. However, as there is no certainty that the emerging Local Plan in its current form will be adopted, I can attribute only limited weight to its policies.
7. Updated versions of the site location plan and concept masterplan were submitted with the appeal. As the changes include a minor alteration of the red line boundary and changes to the illustrative concept masterplan, they would

not fundamentally alter the proposal and would not prejudice the interests of interested parties. I have therefore had regard to the drawings in my assessment of the appeal.

8. A court judgement¹ was submitted by the Appellant after the close of the inquiry. As the judgement was issued after the close of the inquiry, I have accepted this evidence and provided the Council with opportunity to respond. As the judgement does not alter the proposal, interested parties would not be prejudiced by my acceptance of the document.
9. The Leicester, Leicestershire and Rutland Integrated Care Board (LLR ICB) submitted a letter in response to an appeal decision that was issued a few days before the Inquiry opened. Given the timing of the decision letter, the ICB letter was submitted after the close of the Inquiry and the main parties were given opportunity to respond. I will return to the matters raised in the letter later in my assessment.
10. The National Planning Policy Framework (Framework) was revised and updated in December 2023. The Planning Practice Guidance was updated in February 2024. The parties were consulted and their comments taken into account. I will return to the matters raised in my assessment.

Main Issue

11. The appeal is against a failure to give notice within the prescribed period of a decision on an application for outline planning permission. At the close of the Inquiry, the Council and the Appellant were in agreement that the proposed development should be allowed subject to appropriate conditions and obligations. Nonetheless, I have taken into account the entirety of the evidence in forming the main issue.
12. Therefore, the main issue is:
 - whether the proposed development would accord with the Council's development plan strategy for the location of housing; and
 - in the planning balance, whether there are any material considerations that would indicate a decision other than in accordance with the development plan.

Reasons

Development plan

13. The site lies outside the development limits of Syston and within the countryside as identified in the Borough of Charnwood Local Plan 1991 - 2006 Adopted January 2004 (LP).
14. LP Policy CT/1 sets out general principles for areas of countryside, green wedge and local separation. As the proposal for housing would not accord with the principles, the proposal would conflict with this Policy.
15. As the proposal would not be acceptable in principle as per LP Policy CT/1, it would also conflict with LP Policy CT/2 which relates to development in the countryside that are acceptable in principle. The proposal would therefore

¹ NRS Saredon Aggregates -v- Secretary of State [2023] EWHC 2795 (Admin)

- conflict with LP Policy ST/2 which restricts built development to allocated sites and other land within development limits, subject to specific exceptions.
16. The proposal would also conflict with Policy M11 of the Leicestershire Minerals and Waste Local Plan Up to 2031 (Adoption 2019) (MWLP) which requires that planning applications for non-mineral development within a Mineral Safeguarding Area should be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to it.
 17. MWLP Policy M11 provides a number of exemptions from safeguarding of mineral resources. These include applications that are in accordance with the development plan where the plan took account of the prevention of unnecessary mineral sterilisation and determined that prior extraction should not be considered when development applications came forward.
 18. The site is not allocated for housing in the adopted LP. However, it was assessed as part of the emerging Local Plan process. This assessment considered the need to avoid unnecessary sterilisation and balanced the impact on minerals areas with a range of other factors to identify the sites proposed for allocation. The site is allocated for housing in the emerging Local Plan and there is no substantive evidence before me to conclude that the allocated sites would not come forward.
 19. Furthermore, a Preliminary Mineral Resource Assessment within the Phase 1 and 2 Geo-Environmental Site Investigation was submitted with the application. It remarked that considering the close proximity of existing residential dwellings to the western boundary of the site, and the anticipated low volume of mineral deposits, it is considered unlikely that this will be seen as a viable source of aggregate. Accordingly, I attribute limited weight to the conflict with MWLP Policy M11.
 20. Given the above, the proposed development would not accord with the Council's development plan strategy for the location of housing.

Planning balance

21. Paragraph 226 of the Framework states that certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework.
22. It goes on to say that this policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.
23. As confirmed by the parties, the Council has an emerging Local Plan that has been submitted to the Secretary of State for Examination and includes both a policies map and proposed allocations towards meeting housing need (the appeal site being one of the proposed allocations). It is therefore required to identify and update annually a supply of specific deliverable sites sufficient to

provide a minimum of four years' worth of housing. This replaces the previous requirement to demonstrate a minimum of five years' worth of housing supply.

24. The Council's housing supply over a five year target including a 5% buffer, lies in the region of 4.27 years. Omitting the 5% buffer from the housing calculation as required by the revised Framework increases the housing supply figure to some 4.49 years. Therefore, in relation to paragraph 11d, the Council's housing land supply position would not of itself trigger the 'presumption in favour'.
25. However, paragraph 225 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
26. Paragraph 11d states that plans and decisions should apply a presumption in favour of sustainable development where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Most important policies

27. I note that the Council has identified a wider range of Policies that are most important for determining this appeal than those identified by the Appellant. As the application was made in outline with only access sought for approval, I consider that the most important policies for determining the appeal are LP Policies CT/1, CT/2 and ST/2 and Policies CS1, CS3, CS17 and CS18 of the Charnwood Local Plan 2011 to 2028 Core Strategy Adopted 9th November 2015 (CS).
28. LP Policies CT/1, CT/2 and ST/2 sets out principles for development in the countryside and outside development limits. They are more restrictive than the policies in the Framework as they do not allow for housing development outside of settlement limits. Therefore, they are not fully consistent with the Framework and are out-of-date.
29. The development limits boundaries identified within the LP were made in the context of housing requirements of around 8,350 dwellings for the period 1991-2006 which amounts to around 557 homes a year. In contrast, the latest Local Housing Need figure for the district using the standard methodology is around 1,105 homes a year. This is substantially greater than the housing need that the development limits in the LP were based on. Accordingly, I attribute limited weight to the conflict with these Policies.
30. CS Policy CS1 makes provision for at least 13,940 new homes between 2011 and 2028. In addition, the Policy directs new development to larger settlements without restricting new development to within settlement boundaries. Therefore, while the requirement identified by Policy CS1 is derived from an assessment of housing need which has been superseded, the Policy is consistent with the Framework, and is therefore not out-of date. The proposal would not conflict with CS Policy CS1 which seeks to provide new homes within and adjoining Service Centres including Syston.

31. CS Policies CS17 and CS18 relate to sustainable travel and the local and strategic road network and are consistent with the Framework. They are therefore not out-of-date and the proposal would not conflict with these Policies.
32. As LP Policies CT/1, CT/2 and ST/2 relate to Limits to Development and land lying outside the defined Limits to Development, and are out of date, the basket of policies most important for determining the appeal are out of date. Therefore, the provisions of paragraph 11dii of the Framework are engaged.

Paragraph 11dii balance

33. Given the policy conflicts I have identified above, the proposal would conflict with the development plan as a whole.
34. The proposal for up to 195 dwellings would introduce a significant amount of built development including buildings, roads and driveways on an undeveloped site. The resulting loss of green space would alter the open rural character of the site to an urban residential character.
35. However, the site lies adjacent to an existing settlement. Accordingly, the proposal would be seen as a continuation of built development when viewed from Barkby Road. In addition, there is a clear direction of travel with respect to the allocations in the emerging Local Plan. As such, it is likely that the site would also lie adjacent to built development to the north and south on the basis that the allocations come forward.
36. Long distance views of the scheme would be restricted due to the undulating topography of the wider area and Queniborough to the north. The proposal would in any event be seen against the backdrop of Syston. Therefore, any landscape harm would be limited and localised.
37. Moreover, the proposal is in outline at this stage and there is no reason why the scale, layout and appearance of the development could not be designed in a manner which would not unacceptably impact on the character and appearance of the area. In any event, the Council retain control over these reserved matters as and when they are sought. I also note that the site is not a 'valued landscape' for the purposes of paragraph 180 of the Framework. Accordingly, any landscape harm could be mitigated at reserved matters stage and the proposal would not conflict with LP Policy EV/1 which seeks development that respects and enhances the local environment. It would also not conflict with the Framework in this respect.
38. Turning to the benefits of the proposal, the scheme would contribute up to 195 dwellings to the housing land supply. Given the substantial shortfall of housing, and mindful of the Government's objective of significantly boosting the supply of homes as set out in the Framework, I attach significant weight to this benefit.
39. The scheme would also deliver 30% affordable housing which would amount to around 59 homes. The Leicester & Leicestershire Housing and Economic Needs Assessment Updated June 2022 finds a total need of some 827 affordable homes a year which is significantly higher than the levels of affordable housing currently being delivered. I therefore attach significant weight to the provision of affordable housing.
40. The site would be within walking and cycling distance of a number of services and facilities albeit the proposal would not remove entirely the dependence on

the private vehicle for daily needs. As such, the scheme would accord with the Framework which seeks to promote sustainable development in rural areas. Therefore, given the number of dwellings proposed, the social and economic benefit that future occupiers would provide to these services is afforded significant weight.

41. A s106 legal agreement was submitted as part of the appeal. It includes financial contributions towards an increased frequency of the bus service. This would benefit existing residents of the area as well as future occupiers of the proposal. Therefore, I attribute limited weight to the social and economic benefits that arise from highways improvements.
42. The Biodiversity Net Gain Assessment Technical Note submitted during the appeal identified the potential for some 15% net gain in habitat units and around 48% net gain in linear units. The proposal also includes an open space provision which would be available for existing local residents as well as future residents of the scheme. I therefore attach moderate weight to these benefits which could be secured through reserved matters stage via a condition and planning obligation.
43. Consequently, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This material consideration indicates a decision other than in accordance with the development plan.
44. Whilst I have concluded that the most important policies are out of date, even if I had drawn the alternative conclusion and paragraph 11dii of the Framework was not engaged, the outcome would have been the same. This is because the benefits of the scheme would outweigh development plan conflict.

Other Matters

45. Local concerns were raised regarding the effect of the proposal on highway safety and the local road network. The Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
46. The site lies adjacent to Syston which is identified in the CS as a Service Centre with a good range of services and facilities and good transport links which provide for the daily needs of the people living there as well as supporting nearby communities. The site lies within walking distance of shops and services including a primary school with all main facilities falling within 2km walk of the site. As such, while the proposal would not remove entirely the reliance on the private vehicle for daily needs, it would provide a suitable location for housing.
47. Turning to ecology, the application was accompanied by an Ecological Appraisal (Appraisal) which was informed by ecological surveys that were carried out on the site in 2012 and 2014. The surveys were updated in 2018, 2021 and 2023. The Appraisal takes into account the effect of the proposal on a range of wildlife including bats, badgers, wild birds and other wildlife. Proposed mitigation measures include retention and buffering of the majority of hedges and mature trees, new planting and sensitive clearance methodologies in relation to nesting birds and reptiles. I see no reason why these measures could not be secured through conditions and at reserved matters stage. Therefore, given the evidence

I am satisfied that the proposed mitigation measures would acceptably deal with the risk of any harm to ecology including protected species.

48. With regard to contamination, a Phase 1 and 2 Geo-Environmental Site Investigation was prepared by RSK in support of the application (RSK report). It considered the risk of ground gas from infilled ponds on the site and historic landfill on the adjacent site. The potential for ground gas was low given the time that has passed since the infilling of the pond. Accordingly, a condition requiring details of ground gas mitigation would adequately deal with any associated risks.
49. As well as assessment of the risk of ground gas, the RSK report found that no potentially significant risks associated with soil contamination have been identified. As such, a suitably worded condition would effectively deal with any risk of contamination.
50. I acknowledge local opinion that the site could be utilised for other purposes such as a nature reserve. However, I have necessarily assessed the scheme before me, which I find acceptable for the reasons given.

Planning obligation

51. The appellant has completed a legal agreement under Section 106 of the Act (a s106) in conjunction with Charnwood Borough Council, Leicestershire County Council and two owners which includes a number of obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. They relate to the following matters.
52. Highways: The s106 includes a local highways mitigation contribution which consists of two primary elements relating to highways. The first is a financial contribution that consists of the site allocation's proportion (of the group of allocations HA1, HA2 and HA3) of costed improvement schemes at two junctions.
53. Given the number of dwellings proposed, the proposal would be likely to result in some increase in delay at local junctions. The Transport Assessment² (TA) includes modelling of a number of junctions. The proposal would not alter the operation of the junctions. The modelling confirmed, however, that two junctions within Syston will likely experience capacity issues at the end of the Local Plan period when other growth including from the allocations in the emerging Local Plan is taken into account. The s106 secures financial contributions towards mitigation for the effect of the proposal on the capacity of these two junctions.
54. One of these junctions is at Goodes Lane and Melton Road. The modelling identifies that, as traffic flows increase in the future, vehicles turning right into Goodes Lane could restrict through traffic. This could result in a severe residual impact on the highway network. The proposed mitigation would include some localised widening of the road and the removal of some on-street parking to facilitate a right turn lane at the junction. While I acknowledge local concerns regarding the effect of removing the on street spaces on local businesses, parking surveys indicate that the parking bays are lightly used and there is no substantive evidence to indicate that their removal would be detrimental to the

² SJT/JLA/20060-08b Transport Assessment

- viability of these businesses. Therefore, this mitigation would adequately alleviate the effect of the proposal on traffic at this junction and is necessary.
55. The other junction is at Fosse Way and High Street. Proposed mitigation that would be funded by the financial contributions could include widening of the carriageway and relaxing a radii kerb. As the junction would be operating at capacity by 2037, the residual cumulative impact on the development on this junction would be severe. Therefore, the proposal's proportionate financial contribution in this respect is also necessary.
56. The proposal is predicted to increase the queue by four vehicles on the High Street arm only in the afternoon peak at the junction of Melton Road, High Street and Barkby Road. As the increase would be minor, mitigation for the effect of the development on this junction is not necessary.
57. The junction of Queniborough Road with Barkby Road, Syston Road and Rearsby Road in Queniborough was also assessed as part of the TA. The traffic flow through this junction amounts to one additional vehicle every eight to nine minutes on the network. The junction of Queniborough Road with Main Street in Barkby was also assessed in the TA. The evidence indicates that this junction would operate within capacity in 2026. Accordingly, the proposal would not have an unacceptable or severe effect on these junctions. As such, I have no reason to conclude that the proposal would have a severe effect on the road network in Queniborough and Barkby.
58. I observed the road network in Barkby Thorpe as part of my site visit. Although the roads are primarily single lane carriageways some with sharp turns, given the evidence I do not consider that the proposal would have a severe effect on the road network in this area.
59. The draft allocations including at the site would together result in severe cumulative impacts at the two junctions without the proportional contributions. Therefore, this contribution is necessary and meets the tests in Reg 122 of the CIL Regulations 2011.
60. The other primary element relating to highways is a proportional financial contribution towards public transport improvements. There are bus stops on Barkby Road near the site access which currently serve the No 100 bus that runs every 2 hours and travels between Leicester and Melton Mowbray. The financial contribution would help to improve the frequency of the bus service. The financial contribution also includes money towards a Traffic Regulation Order. This contribution is necessary to mitigate against the risk of a severe effect on the local road network.
61. Affordable housing: CS Policy CS3 requires that 30% of new dwellings in Syston be provided as affordable housing. The agreement makes for this provision which I consider is fairly and reasonably related to the development proposed and as such passes the statutory tests.
62. Open Space: The s106 includes a number of obligations regarding open space including that an Open Space scheme be submitted with the reserved matters application, restricts the occupation of a number of dwellings until a Practical Completion Certificate is issued to the Council and provisions for the maintenance of the open space. These obligations pass the statutory tests.

63. Health: The s106 includes a healthcare contribution to be paid to the Council prior to the occupation of any dwellings. The closest GP surgeries to the proposed development are The County Practice and The Jubilee Medical Practice, both part of Syston Health Centre. It is therefore likely that future occupiers would register at one of these practices.
64. I note the comments of the LLR ICB in their letter which relate to the effect of the proposal on primary healthcare. I also acknowledge the comments of the Inspector for the appeal at Queniborough³ who found that the healthcare contribution was not justified in that case and did not meet the tests. The healthcare contribution in the s106 for this appeal was calculated using the same formula as the Queniborough case. The affected practices in the Queniborough case are the same as for this appeal.
65. I acknowledge the difficulty of anticipating the precise number of patients that would arise from a new development. The standard formula is based on 2.42 persons per dwelling which is an average of national household occupancy. The contribution is therefore based on the proposal generating some 472 new patients. Some future occupiers may move to the development from within their surgery's catchment area and would therefore remain at the same surgery. As such, it is possible, that fewer patients than that used in the formula would result from the proposal. However, as the figure is an average and does not take into account the number of proposed bedrooms, the proposal could also result in a greater number of patients.
66. The LLR ICB stated that the two surgeries are up to their capacity meaning they are unable to absorb the number of patients arising from the proposed development. As such, given the average number of future occupiers that would be generated by the proposal, it is likely that the proposal would significantly impact the two surgeries.
67. In terms of how the capacity of the surgeries would be increased by the financial contribution, the evidence from the ICB indicates that there is a shortage of seven clinical rooms and that the proposal would give rise to a need for two additional clinical rooms. The expansion of the surgeries' capacity would involve the conversion of a meeting room into suitable admin space, the moving of the admin staff into that area and the conversion of their current spaces into two additional consulting rooms. Associated finishes, furniture and the cost of works being carried out at weekends and evenings would be likely to add to the costs.
68. For the foregoing reasons the healthcare contribution is necessary and meets the relevant tests. This finding is different to that of the Inspector for the Queniborough case. However, full details of the evidence as presented in that case is not before me to lead me to the same conclusion as that Inspector.
69. The s106 also secures a number of other financial contributions including relating to education, waste, libraries, travel packs, bus pass vouchers, travel plan monitoring, youth facilities, allotments and outdoor sports.
70. I am satisfied that in each case the obligations meet the three tests set out in Paragraph 57 of the Framework for planning obligations, which reflect those set out in Reg 122 of the CIL Regulations 2011. As a result, I have taken the s106 into account.

³ Appeal Ref: APP/X2410/W/23/3316574

71. A Unilateral Undertaking (UU) was also submitted during the appeal which would safeguard the land required to provide a roundabout junction in the future to serve the appeal site and the proposed strategic allocation HA1: Land South East of Syston in the emerging Local Plan to the south of the site.
72. The plan attached to the UU shows an area annotated as indicative area of land to be safeguarded for future provision of a roundabout junction. I note the Council's concern regarding the definition of Barkby Roundabout Land. However, I consider that the annotation provides sufficient flexibility to allow for the inclusion of land necessary to deliver the future roundabout. This provision is necessary for proper planning and meets the statutory tests.
73. The UU also secures financial contribution for Local Sustainable Travel Mitigation. As this contribution will be provided through the s106 legal agreement, this obligation is not necessary.

Conditions

74. The conditions relating to time limits, reserved matters and specifying plans are necessary in the interests of certainty. The conditions relating to landscaping, existing trees and hedgerow and ecology are necessary to safeguard the character and appearance of the area and local ecology. The reference to the Landscape and Visual Appraisal is not necessary as the document relates to areas outside the red line boundary as well as the site. Sections 4 and 5 of the Ecological Appraisal (EDP, Nov 2021) as updated by the Biodiversity Net Gain Assessment Technical Note (EDP, October 2022) and the Arboricultural Impact Assessment (EDP, Nov 2021) provide assessments of the site and their inclusion in the condition is not necessary.
75. In the interests of accessibility, the condition regarding building regulations is necessary. The condition regarding the mix of housing for markets homes is necessary to secure an appropriate mix of homes. The conditions regarding open space, Nationally Described Space Standards, finished levels, flooding, surface water drainage, the Public Right of Way, contamination and ground gas are necessary to safeguard the living environment of future occupiers. Conditions relating to archaeology are necessary given the items identified on site.
76. A Construction Management Plan condition is necessary to safeguard the living conditions of neighbouring occupiers. In the interests of ecology, conditions relating to a Construction Environmental Management Plan, Landscape and Ecology Management Plan, site clearance and external lighting are necessary. In the interests of highway safety, conditions relating to implementation of the site access and visibility are necessary. The condition regarding a Residential Travel Plan is necessary in the interests of sustainable transport.
77. The suggested condition relating to planting, seeding or turfing is not necessary as it could be dealt with as part of a reserved matters application. The suggested condition relating to housing mix for market homes is not precise and has therefore not been attached.
78. A condition was suggested by the Appellant which sets out that if any further planning application for the access is approved, the remaining development may still be developed as approved. The purpose of the condition was that the proposed access would be severable in planning terms from the rest of the

development and the avoidance of doubt that any subsequent permission relating to the access would not render the remaining approved development unlawful.

79. The UU submitted with the appeal allocates an indicative area of land to be safeguarded for future provision of a roundabout junction. In addition, the plans condition requires general accordance with the principles in the Concept Masterplan which indicates an area of land to be dedicated as public highways. Therefore, it would not be physically impossible to develop remainder site subject to reserved matters applications. Accordingly, I find that the suggested condition is not necessary.

Conclusion

80. For the reasons given above, the appeal should be allowed.

R Sabu

INSPECTOR

Richborough

SCHEDULE OF CONDITIONS

- 1) Application for approval of all the reserved matters shall be made to the local planning authority not later than three years from the date of this permission, and the development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the layout, scale, appearance, and landscaping (hereinafter referred to as '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 and details:
 - P20-3155 001 Rev C Sheet No: 1 (Site Location Plan)
 - 20060-02 Rev F (Site Access Plan).

The development shall be carried out in general accordance with the principles contained in the following plan:

 - P20-3155 003 Sheet No: 1 Rev: H (Concept Masterplan)
- 4) Notwithstanding the approved Concept Masterplan (P20-3155 003 Sheet 1 Rev H), the landscaping and layout details submitted pursuant to condition 2 shall be in general accordance with Plan EDP L8: Landscape Strategy EDP4685_d032a.
- 5) Notwithstanding the approved Concept Masterplan (P20-3155 003 Sheet 1 Rev H), the landscaping and layout details submitted pursuant to condition 2 shall be in general accordance with the Tree Removal and Retention Plan (edp-4685_d031b), to mitigate identified impacts and enhance the site where possible and deliver a minimum of 10% net gain in biodiversity.
- 6) The hard and soft landscaping details submitted pursuant to condition 2 shall include:
 - the treatment proposed for all ground surfaces, including hard surfaced areas.
 - 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.
 - finished levels or contours within any landscaped areas.
 - any structures to be erected or constructed within any landscaped areas including play equipment, street furniture and means of enclosure.
 - functional services above and below ground within landscaped areas;
 - all existing trees, hedges and other landscape features, indicating clearly any to be removed.
 - all proposed boundary treatments
 - position and type of bins to be provided.
 - A programme for the phased implementation.

- The landscaping shall be implemented in accordance with the approved details.
- 7) The layout details submitted pursuant to condition 2 shall include full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels.
 - 8) The layout and landscaping details submitted pursuant to condition 2, shall include the following minimum amounts and typologies of open space:
 - i. Multi-function green space (minimum 0.66Ha)
 - ii. Natural and semi-natural open space (minimum 0.94Ha)
 - iii. A LEAP facility
 - 9) The layout details submitted pursuant to condition 2, shall include that 10% of new market homes and all of the affordable homes will meet the Building Regulations Part M4(2) standard for being accessible and adaptable. Subject to need identified by the Registered Provider, and to an assessment of viability and/or site-specific constraints, some of the affordable homes on the site shall meet the M4(3) standards being suitable for wheelchair users.
 - 10) The details submitted pursuant to condition 2 shall show all units in compliance with the Nationally Described Space Standards.
 - 11) The details submitted pursuant to condition 2 shall include revised flood modelling against the proposed layout demonstrating sufficient flood risk mitigation is to be provided by the development. The development shall be carried out in accordance with the approved details.
 - 12) The details submitted pursuant to condition 2 shall include the results of the further archaeological excavation and recording, arising from the results of the Report on an Archaeological Trial Trench Evaluation (York Archaeology, YA/2023/217), on the southern field identified in Figure 10 of the Report, completed in accordance with a written scheme of investigation (WSI), which has been approved by the local planning authority in writing. The WSI shall include, but is not limited to:
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination, and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.For land that is included within the WSI, no development shall take place other than in accordance with the agreed mitigation.
 - 13) The details submitted pursuant to condition 2 shall include a Detailed Design Report for Ground Gas Mitigation, as described in the submitted Ground Gas Risk Assessment (RSK, May 2018 section 8). The report shall be submitted to, and approved in writing by the local planning authority prior to the construction of any dwellings. The report shall be in accordance with BS8485, and shall include as a minimum:

- i. Ground conditions and gas conceptualisation (severity of gas regime and sensitivity of proposed end-use)
 - ii. Building and construction related details pertinent to the design of gas mitigation system/measures including, but not limited to; foundation type, floor slab, wall construction and any complex detailing.
 - iii. Gas protection system design that is sufficient to mitigate the gas risk and be practically installed given the building and construction related details. This is likely to include venting calculations (to demonstrate air exchange of one volume per day), specification details for products and components suitable for constructing the system, installation methodology and installer qualifications/experience.
 - iv. A verification plan (prepared in accordance with CIRIA C735 and as discussed below).
 - v. A monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation, proportionate to risks identified in the assessment.
- 14) No development shall take place where (following the Detailed Design Report for Ground Gas Mitigation) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a Detailed Remediation Scheme shall have been submitted to and approved in writing by the local planning authority. The Scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The Remediation Scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 15) No development shall take place until a monitoring and maintenance scheme, proportionate to the risk identified in the Detailed Design Report for Ground Gas Mitigation or discovered during site works, to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing within 28 days of receipt. If any of these reports identifies any discrepancy with the verification report then a protocol, including timescale, for the necessary remediation shall be submitted to the local planning authority within a further 28 days and approved in writing within 28 days of receipt. Thereafter, any necessary remediation and verification shall be carried out in accordance with the approved protocol.
- 16) No development shall take place until the existing trees on the site and existing hedgerows to be retained have been protected in accordance with a Tree and Hedgerow Protection Plan that shall have been submitted to and approved in writing by the Local Planning Authority. The barriers shall

be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

- 17) No development approved by this planning permission shall take place until such time as a surface water drainage scheme (including details of its phased implementation and infiltration testing) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details and completed prior to first occupation within the relevant phase.
- 18) 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 must be carried out in accordance with these approved details.
- 19) No development shall take place until a scheme for the treatment of the Public Right of Way J37 within the development site, to the site boundary between the northeast of the site and Queniborough Road, and to the site boundary between the west of the site and north of John Frear Drive has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include provision for the management of the PROW during construction, details of surfacing, width, structures, signing and landscaping in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers together with a programme for implementation of the works. The scheme shall be implemented in accordance with the approved details and programme.
- 20) No development shall commence on the site until such time as a Construction Management Plan, including as a minimum:
 - details of site working hours;
 - means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
 - measures to control and monitor construction noise;
 - an undertaking that there must be no burning of materials on site at any time during construction;
 - removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - contact details for the responsible person (site manager/office) who can be contacted in the event of any issue arising;
 - details of wheel cleansing facilities; and
 - vehicle parking facilities;

and a timetable for their provision, 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 and timetable.

- 21) No development, including site clearance, shall commence until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted and approved by the Local Planning Authority. The CEMP: Biodiversity shall include the following:
 - i. risk assessment of potentially damaging construction activities, with particular care taken with protected species.
 - ii. identification of biodiversity protection zones.
 - iii. practical measures to avoid or reduce impacts during construction.
 - iv. the location and timing of sensitive works to avoid harm to biodiversity.
 - v. construction lighting proposals which are sensitive to protected species.
 - vi. the requirements for when an ecological clerk of works (EcoW) or similarly competent person is needed to oversee works.
 - vii. the use of protective fences, exclusion barriers and warning signs.The approved CEMP shall be adhered to and implemented throughout the construction period.
- 22) Prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include long term design objectives, management responsibilities and maintenance schedules for all public open spaces, ecological mitigation areas and surface water drainage system. Thereafter, the LEMP shall be carried out in accordance with the approved details.
- 23) 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 surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.
- 24) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Proposed Site Access Right Turn Lane Northern Site, drawing no. 20060-02 Rev F have been implemented in full.
- 25) No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 120 metres to the right (eastbound approach) and 2.4 metres by 75 metres to the left (westbound approach) have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 26) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until and a risk assessment is carried

out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development (or relevant part of development) is resumed or continued.

- 27) All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority.
- 28) The details submitted pursuant to condition 2 shall include until details of lighting. The lighting scheme proposed should consider the impact on protected species. The development shall be carried out in accordance with the approved details.
- 29) The agreed Residential Travel Plan SJT/JLA/RM/RT 20060-02b dated 23rd September 2021 shall be implemented in accordance with the approved details.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

James Pereira KC of FTB Chambers

Instructed by Pegasus Group

Clare Clarke BA(Hons) MA MRTPI

Planning

Simon Tucker BSc (Hons) MCIHT

Transport

Stuart Andrews

Solicitor for Legal Agreements

FOR THE LOCAL PLANNING AUTHORITY:

Odette Chalaby

Instructed by Charnwood Borough
Council

Liam Ward

Principal Planning Officer

Susan Garbutt

Team Leader - Development
Management

INTERESTED PARTIES:

Alexandra Hastings Smith

Solicitor, Wilkes

Kate Hubbard

Local resident

Cllr Andy Haynes

Councillor for Syston

Phil Saunders

Barkby Parish Council

David Murray FEI FRGS FMA

Local resident

DOCUMENTS SUBMITTED AFTER THE OPENING OF THE INQUIRY

ID01 – Appearances for the Appellant
ID02 – Appellant Opening Submissions
ID03 – Council’s Opening Statement
ID05 – Council’s Closing Statement
ID06 – Appellant’s Closing Statement

Witness Statement of Lorna Simpson, Head of Strategic Estates for Leicester, Leicestershire and Rutland Integrated Care Board – 15 November 2023

NRS Saredon Aggregates -v- Secretary of State [2023] EWHC 2795 (Admin)

Signed S106 agreement and deed – 6 December 2023

Supplementary Proof Of Evidence on the implications of the revised NPPF for this appeal and other changes to material considerations by Liam Ward Principal Planning Officer at Charnwood Borough Council– 16 January 2024

Appellant’s case on the implications of the National Planning Policy Framework by Clare Clarke - 16 January 2024

Appellant’s response to comments from Charnwood Borough Council regarding the revised National Planning Policy Framework - 26 January 2024

E-mail from Council regarding revised Planning Practice Guidance (PPG) – 6 February 2024

Letter from Appellant providing comments on the revised Planning Practice Guidance (PPG) – 12 February 2024

2nd Supplementary Proof Of Evidence on the implications of the revised PPG for this appeal and other changes to material considerations by Liam Ward Principal Planning Officer at Charnwood Borough Council – 12 February 2024

Appellant’s response to revised Planning Practice Guidance – 20 February 2024