



Appeal Decision

Inquiry held on 10 -12 February, 25 -26 March, 30 March and 20 April 2026

Site visit made on 24 April 2026.

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th May 2026

Appeal Ref: APP/X2410/W/25/3370033

Land to the rear (west) of 83 Cotes Road, Barrow upon Soar, LE12 8JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 William Davis Limited against Charnwood Borough Council.
 - The application Ref is P/23/1582/2.
 - The development proposed is outline planning application for residential development including associated infrastructure and open space, demolition of 87 Cotes Road and refurbishment works to 83 Cotes Road, plus details of access.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development including associated infrastructure and open space, demolition of 87 Cotes Road and refurbishment works to 83 Cotes Road, plus details of access at land to the rear (west) of 83 Cotes Road, Barrow upon Soar, LE12 8JP in accordance with the terms of the application, Ref P/23/1582/2, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal is submitted in outline with all matters reserved except for that of access. An Illustrative layout plan was submitted with the application. I have considered it on this basis.
3. After submission of statements of case but before the Inquiry commenced, the Charnwood Local Plan was adopted. The proofs of evidence were able to take this updated policy position into account.
4. The site forms the southern part of a residential allocation for 220 dwellings the subject of Policy DS2 (HA49) in the recently adopted Charnwood Local Plan. A development brief and concept plan for the whole allocation were also submitted with the application to comply with the requirements of the policy.
5. The appeal was against a failure to determine the application. The Council subsequently resolved that had it been able to determine the application it would have been refused for five reasons which in summary relate to:
 - the inadequacy of the concept plan and the development brief (Rev E)
 - ecology and biodiversity
 - the loss of protected and mature trees without mitigation

- design constraints and overdevelopment
 - the need to secure necessary Infrastructure to mitigate the impact of development.
6. Within an agreed timeframe after the Inquiry, the appellant submitted a final completed section 106 agreement and Unilateral Undertaking. These documents set out a number of provisions to come into effect if the appeal is allowed. I return to this later in my decision.
7. During the course of the appeal, a consultation on a revised National Planning Policy Framework (the Framework) took place. There is nothing within the consultation which suggests policy might change in a manner which would require revisiting any of the issues set out below. In any event the consultation is at an early stage and any proposed changes to the Framework can carry no weight at this stage.

Main Issues

8. The main issues in this case are:
- Whether the concept masterplan and development brief achieve a comprehensive development for the wider allocation achieving high quality design in respect to access, open space, landscape, education, ecology and heritage.
 - Whether the proposed development represents high quality design and whether the site capacity is appropriate.
 - Whether the appeal proposal achieves an appropriate biodiversity net gain having regard to the biodiversity mitigation hierarchy.
 - Whether the proposed development protects and enhances the natural environment including existing trees on the site and whether appropriate mitigation is proposed.
 - Whether the proposed drainage strategy is appropriate to address surface water and avoid adverse impacts on the nearby Local Wildlife Site (LWS) and landscape character.
 - Whether the proposal provides the necessary Infrastructure to mitigate its impacts with particular regard to the provision of open space, education and off-site highway improvement works.

Reasons

Background

9. The appeal site comprises greenfield land of approximately 3.71 ha located to the rear (west) of 83 Cotes Road, Barrow upon Soar. It encompasses the two vacant properties of no's 83 and 87 Cotes Road, their curtilages and land to the south west extending to the Midland Mainline railway which runs alongside the north west bank of the River Soar. Lime trees along the site frontage with Cotes Road are the subject of a group Tree Preservation Order. A large black poplar tree in the centre of the site is similarly protected but unfortunately it suffered a catastrophic failure during a storm just before the Inquiry began. The site also lies south east of

Railway Fields LWS and a public right of way runs along the southern boundary and then through the western section of the site.

10. The appeal site lies at the southern end of a larger parcel of land allocated for residential development of 220 dwellings in Policy DS2 (HA49) of the adopted Charnwood Local Plan. The allocation comprises five development parcels in different ownerships. I shall refer to them as parcels A-E as described in the submitted concept masterplan. The appeal site is Parcel E. Two other parcels are the subject of outline planning applications for residential development which have yet to be determined by the Council. This includes Parcel D, immediately north of the appeal site submitted by Ashberry Strategic Land (Ashberry) and Parcel B further to the north submitted by St. Phillips Land Ltd (St. Phillips), who are a Rule 6 party to this appeal.

Concept Masterplan and Development Brief

11. Policy DS2(HA49) requires that before outline planning permission is granted for the allocation or any part of it, a masterplan will be agreed which includes delivery and phasing arrangements for the whole allocation in order to achieve comprehensive development. It also requires a development brief, design code or equivalent to be prepared to inform decisions on detailed planning applications or reserved matters applications to ensure a cohesive approach to design and ensure impacts are satisfactorily mitigated.
12. The appeal proposals include a concept masterplan which is included within a development brief. Whilst the policy requires the masterplan to be agreed, the Local Plan does not specifically state who it is to be agreed with. In my view it seems reasonable to conclude that the masterplan should be agreed by all landowners and the Council. This is the view of the appellant and St. Philips Land.
13. The landowner for Parcel C has not engaged in the planning process to date. So that it cannot be said that all landowners are in agreement. The owner of Parcel A did not respond to their invitation to collaborate on the masterplan but did respond at the planning application stage, raising no objection.
14. It is worth clarifying that the masterplan and development brief were prepared by consultants led by St. Phillips through a joint instruction between the three active developers, the appellant, St. Phillips and Ashberry Strategic Land. The documents were then submitted to the Council in support of the respective outline planning applications in 2023.
15. Following negotiations with the Council, St. Phillips and Ashberry have produced different iterations of the original brief and masterplan taking on board comments from the Council as well as further technical information. Most notably the Ashberry masterplan proposes vehicular access to the appeal site through their land parcel, with the appeal site having no separate vehicular access. It does however show a pedestrian/cycle/ emergency access from the appeal site onto Cotes Road. It also indicates a reduced capacity for the appeal site of 55 dwellings.
16. The Council argues that on this basis, there is no longer agreement on the masterplan by the active developers. However, it is not surprising that the individual developers have different views with regard their individual parcels as they seek to maximise their development potential.

17. Masterplans are a framework to guide development. They are not meant to be rigid fixed proposals but instead flexible frameworks that accommodate different development scenarios. They should be living documents, which can evolve with changed circumstances and more information following technical investigations. The Council's Urban Design witness in cross examination accepted that there is nothing in national policy or guidance which indicates that development briefs cannot change and a feature of their use was that they evolve over time having regard to information available at later stages.
18. I acknowledge there is a risk of different masterplans for different parcels of development that are materially different, contrary to the policy objective of a masterplan ensuring a comprehensive and cohesive development. If one accepts the premise that the first approved masterplan and development brief becomes the starting point or the governing framework, further iterations from subsequent applications can be based upon it, still ensuring the objective of comprehensive development. The task of achieving this and ensuring that there are not a series of conflicting masterplans but broad accordance, lies with the Council in determining subsequent applications. Taking this approach there should be no need for subsequent section 73 applications on parcels already granted planning permission.
19. I recognise that Policy DS2(HA49) does not envisage a series of masterplans and development briefs. In an ideal situation, there would be one masterplan and development brief for the whole allocation, agreed by all parties and stakeholders, secured through planning conditions and legal agreements. However, that is not the position here.
20. St. Phillips Urban Design witness set out the collaboration that has taken place between the Council and the three active developers which has resulted in the submission of five versions of the masterplan and development brief between November 2023 to August 2025. Whilst the development brief has not been agreed by the Council to date, it has been amended to take on board their comments.
21. Through the application of Policy DS2(HA49), the Council are expecting the five landowners to produce a masterplan and development brief. However, to require this with the respective landowners having different levels of current involvement, at different stages in the development process is very challenging. The Council have not prepared any guidance or design code for the allocation themselves. Indeed, the Barrow upon Soar Village Design Statement appended to the Neighbourhood Plan, provides no site-specific guidance but good practice urban design guidance.
22. The approach put forward by the appellant and St. Phillips, with the masterplan and development brief being viewed as living documents that can evolve as the individual parcels come forward, seems to me to be a pragmatic solution to bring the allocation forward and build much needed market and affordable housing in the Borough.
23. For the sake of clarity, should I allow the appeal, the approved masterplan and development brief for the appeal scheme, could not in law, be binding on the other parcels in the allocation. They would however form material considerations for their determination.

24. The question I must now address is whether the submitted masterplan and development brief are fit for purpose and comply with the requirements of Policy DS2(HA49).
25. The Policy requires the masterplan to include delivery and phasing arrangements. The Phasing and Delivery Parameter Plan in the development brief shows the phasing arrangements are largely based on the timing of the applications on the various parcels. This is not unacceptable. In fact, there is some logic in the appeal scheme and the adjacent Parcel D, at the southern end of the allocation being in the first phase of development. I acknowledge that the proposed phasing in the brief does not take account of education capacity, unlike the Ashberry brief which states that beyond the figure of 220 dwellings additional capacity would be needed. I do not consider that the brief specifically needs to address this, as this matter would be considered in any event through the development management process.
26. The Policy also requires that the masterplan achieves comprehensive development. There is no explanation in the Plan as to what this means, and I am not directed to any other definition in national policy or guidance. My view is that in essence it means consideration of connectivity both to and within the allocation site, achieving a high quality of development with its own identity taking account of context, built form, movement, open spaces and biodiversity.
27. Policy DS4 of the adopted Local Plan seeks to ensure high quality design and provides that planning permission will be refused for development that is not well designed, with reference to design methods such as Building for Healthy Life. (BfHL). The submitted development brief includes a BfHL assessment and shows that against every metric, the brief scores green. This contrasts with the Council's assessment which identifies a number of deficiencies. Clearly a development brief is a high-level document, and it may be more difficult to assess certain criteria than others with the level of detail available at this stage. I discuss these criticisms further below.
28. The Access and Movement Parameter Plan in the development brief illustrates a primary street which is not continuous throughout the allocation. The Parameter Plan also shows that the three northernmost parcels, A, B and C are in effect served by cul de sacs from multiple accesses from Cotes Road. There is, however, pedestrian and cycle connectivity through the allocation. This provides an awkward break in the street hierarchy resulting in a fragmentation and lack of permeability. This matter can however be resolved in the submission of the respective planning applications for Parcels A, B and C, for example by upgrading the secondary street indicated on the parameter plan to a primary route.
29. The Constraints and Opportunities Plan points out the long views to Beacon Hill which can be achieved from the cemetery. The Building Heights Parameter Plan indicates up to two storey development at the south west boundary of the cemetery. The Council expresses concern that development of this height could adversely affect these views. Having looked at these on site, I do not find that buildings of this height would completely block these vistas. Furthermore, up to two storeys does not mean that all the development in this location would be this height. One and half storey dwellings with accommodation in the roof space could be provided which further safeguards these views. This would be a matter for the

Council to consider further when a reserved matters application on Parcel D comes forward.

30. The Landscape and Green Infrastructure Parameter Plan shows a hedge between Parcel A and B which is to be retained. It is however sandwiched between residential blocks. There are also breaks proposed within it to facilitate pedestrian/cycle connectivity. There is a risk that this hedge would be compromised over time and would eventually be lost. Furthermore, the open space provision is not policy compliant, overproviding natural and semi natural spaces and failing to deliver parks and play provision particularly in respect to Parcel A. Again, this can be considered in more detail when applications come forward on this parcel.
31. The development brief acknowledges the need for sensitive design by the cemetery. Whilst there is no buffer indicated between the cemetery and the proposed housing block indicated on the masterplan, the car park extension to the southern end of the cemetery itself, acts as a buffer between residential development and the more reflective areas of the cemetery. Further consideration can be given to the need for further measures to protect this sensitive area at detailed planning stage for Parcel D. The implications of development on the setting of the locally listed chapels within the cemetery is considered in a Heritage Report prepared by Ashberry to accompany their outline planning application on Parcel D. Further consideration of this matter can again be made at reserved matters stage.
32. In respect to the scheme before me in this appeal, I am satisfied that due to the mature landscaping on the boundary of the cemetery and the distance between the locally listed buildings and the appeal site, there is no harm to their setting.
33. St. Phillips the Rule 6 party have prepared an updated masterplan and development brief to accompany their live outline application taking on board a number of the above criticisms. This demonstrates that a further iteration of the masterplan and development brief can be prepared that remains in broad accordance with the version submitted with this appeal.
34. The criticisms raised by the Council relate to detailed design matters in relation to individual parcels. They are matters of planning judgment which are capable of being addressed at later stages in the planning process. It is pertinent to my consideration of this appeal, that Policy HA49 does not require the Development Brief to be agreed but to be prepared. To provide clarity and certainty, conditions could be imposed to require accordance with the Key Site Wide Design Principles stated in the development brief and broad accordance with the remaining content of the document ie the parameter plans and concept masterplan.
35. In summary given the above, I am satisfied that the submitted masterplan and development brief are sufficient to provide a framework to ensure comprehensive development across the allocation, to mitigate the impacts and to inform decisions on detailed planning applications or reserved matters applications. They form living documents capable of being updated by the developers of the other parcels within the allocation and fulfil the requirements of Policy DS2(HA49).

High quality design and overdevelopment

36. As outline planning permission is being sought for up to 70 dwellings, it is necessary for me to consider whether the site is capable of delivering that number

of dwellings, bearing in mind the site constraints and policy requirements. These constraints include the trees on the site, access and connectivity, the need to mitigate biodiversity loss, open space provision, the public right of way crossing the site, drainage, noise from the railway line and the principles of good design.

37. In cross examination, the Council's planning witness suggested that a capacity of 40-50 dwellings would be appropriate on the site. The witness increased the upper part of this range by 5 dwellings to 55, to take account of the loss of the black poplar tree in the centre of the site.
38. The appellant in evidence was keen to state that the figure of 70 dwellings had been 'tested' through the design process. However, there is no plan before me to show a scheme with 70 units laid out, the illustrative layout only shows blocks of properties. Equally, the Council's suggested range of up to 55 dwellings is not supported by a layout plan.
39. The appellant's urban design witness explained in evidence that taking account of site constraints, the net developable area equated to around 2ha, approximately 54% of the site. At a density of around 30-35 dwellings per hectare, which is not out of keeping with the surrounding area, this suggests a site capacity of approximately 70 dwellings. The Council argues that taking account of all of the trees which are the subject of tree preservation orders to be retained, the proposed attenuation pond, the existing group of trees on the northern boundary and the two retained dwellings, the net developable area of the site falls to less than 50% of the redline area. Whilst the Council's estimate is less precise, it indicates only a relatively small difference between the parties.
40. I take account of other variables that impact on capacity. All parties agree that typologies and housing mix can make a difference, for example the provision of terraced housing or apartments. Capacity is also dependent on the extent to which a policy compliant scheme for replacement trees and biodiversity improvement is provided on site or off site, a matter I return to below. The above variables suggest there is some flexibility.
41. The difference between the appellant's and Council's capacity estimates equates to 15 dwellings¹. Based on the evidence before me, consideration of the variables discussed above, together with the estimates of the net developable area, I conclude that the site would have the capacity to provide up to 70 dwellings.
42. The Council has criticised the submitted Illustrative Site Layout for a number of reasons. These are all related to design issues such as the proximity of residential gardens to the southern boundary, the extent of cut and fill to create the attenuation pond, dwellings shown backing on to the attenuation pond rather than facing it for natural surveillance, and the proximity of the public right of way to rear gardens resulting in privacy loss raising security and safety issues.
43. These are all important design matters. However, the illustrative layout is as the title suggests, illustrative. It provides a suggested layout, and it is not to be determined at this outline stage. These matters can all be considered in depth at reserved matters stage to ensure appropriate separation distances, green buffers, privacy and amenity for future residents as well as high quality design and

¹ 70-55=15 dwellings

materials. If these matters cannot be resolved to the Council's satisfaction, it should result in the detailed scheme being refused planning permission.

44. Overall, I am satisfied that a high-quality design can be achieved in line with Policy DS4 of the adopted Local Plan and the Barrow upon Soar Neighbourhood Plan Policy BuS4.

Biodiversity net gain

45. There remain two areas of dispute between the Council and the appellant, namely whether the BNG proposals are realistic and achievable and whether the proposal is an appropriate response to the ecological mitigation hierarchy. There is also dispute about the impact on the Catsick Marsh and Railway Fields LWS's which I address separately in relation to drainage.
46. The appeal proposal is exempt from the mandatory 10% Biodiversity Net Gain (BNG) requirement under the Environment Act 2021 because the application was submitted prior to February 2024. Nevertheless, the Framework in paragraph 187 d) seeks, amongst other things, to minimise impacts on biodiversity. Local Plan Policy EV6 also requires development proposals to demonstrate how they have been designed to minimise ecological impacts.
47. The appellant's revised Metric, which is agreed by the parties as a baseline valuation, demonstrates a net loss of 47.47%. This is a significant figure. It seems logical that reducing the capacity of the site would also reduce the habitat loss. However, I note that an earlier draft scheme for around 60 dwellings still resulted in nearly 40% habitat loss. In fact, it seems very unlikely that even with a scheme for 55 dwellings as suggested by the Council, that a significant net loss could be avoided. The question of whether a reduced quantum of development could have produced a lower net loss or more acceptable loss and how that was factored into design decisions is however irrelevant to my consideration. I must assess the scheme before me.
48. The appeal scheme proposes to retain and enhance the traditional orchard, a habitat of high distinctiveness. The vast majority of existing vegetation on the site boundaries is also retained. The existing scrub habitat by the railway line is to be enhanced with the removal of ruderal vegetation such as nettles and sterile brome. The northern boundary vegetation is also retained, apart from a break within it to allow access to the Ashberry site, Parcel D.
49. It is agreed that mitigation for the loss of a barn owl roost and day roost for bats when the black poplar tree in the centre of the site failed would be incorporated into the scheme. Mitigation measures including the protection of habitats and species during construction can be secured through the imposition of appropriately worded planning conditions. The attenuation pond is located more than 20 metres from the LWS, complying with the recommended buffer detailed in the Council's Ecological Report submitted to the Local Plan Examination.
50. The Illustrative Site Layout suggests that dwellings could back onto the southern site boundary where it is proposed to retain and manage the existing overgrown scrub and hedgerow. There is a risk that occupants may seek to extend their gardens or may tip grass cuttings over the fence resulting in the area's degradation. I acknowledge that this can be difficult to enforce. However, the design and or height of the boundary treatment could deter such activity. This

could be considered further at reserved matters stage. An important consideration is that at the other side of the boundary is the public right of way, which would ensure public surveillance of this area.

51. The Council also point to the possibility of further post development BNG loss in particular in relation to the grassland. The Council argue it will be difficult to maintain its 'good quality'. This is because maintaining the area with a variable sward height, can conflict with the need for short mown grass for recreational use. It may of course be possible to combine the two with different mowing regimes for different areas. I accept that trampling may also affect its condition, though some species are more tolerant of this than others. In any event, enhancements that could be achieved within the grassland areas are fairly small and not significant in terms of overall net gain.
52. The Ecological Mitigation Hierarchy provides a framework to avoid, minimise, restore or offset biodiversity loss. The Framework in paragraph 193 states that when determining planning applications, if significant harm to biodiversity cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused. Policy DS2 (HA49) of the Local Plan states in the supporting text that net gain should be achieved on site rather than through off site contributions. However, the text also goes on to refer to Policy EV6, which provides for offsetting where appropriate. The question therefore is whether this is appropriate in this case.
53. In terms of avoidance, the originally submitted illustrative layout proposed the use of the existing access to No. 83 Cotes Road. However, this would have required the access going through the rear garden area and the traditional orchard which is a habitat of high distinctiveness. The scheme was then amended to avoid harm to this area, and a new access was proposed from Cotes Road, though this would require the removal of a number of TPO'd lime trees.
54. I accept that there are limitations within the site to provide full mitigation for the anticipated loss of BNG. There are a number of reasons for this. The majority of the appeal site consists of low distinctive grassland, approximately 2.3 ha out of a total site area of 3.7 ha, over 62%. The retained modified grassland on the site is in good condition. It therefore has limited potential to increase its value. The nature of the green space on the site which is linear and fragmented reduces the opportunity for large scale habitat creation. Furthermore, the necessary infrastructure such as the access and drainage reduces the area available for mitigation. Bringing all this together, the appropriate way forward is therefore to provide both on-site and off-site mitigation, in line with Policy EV6.
55. I acknowledge that ideally, a masterplan for the whole site would have been prepared which could consider the overall biodiversity loss and provide for its mitigation within the allocation as a whole. However, it would have been difficult for the appellant to try to assess this, given the land ownership constraints of the allocation. What is important is that the appeal scheme mitigates its own impact.
56. The appellant proposes a compensation site at Rothley. This is a site within the appellant's control and has planning permission for residential development. The section 106 for this proposal requires an area of agricultural land to be set aside for agricultural use creating a green buffer separating Rothley and Mount Sorrel. The Biodiversity Impact Assessment Version 2 (Aug 2025) submitted with the

appeal, suggests that in combination, the on-site proposals together with the off-site measures would result in a net gain of 12.4% habitat units and 20.06% hedgerow units.

57. The appellant has confirmed that a condition requiring a Green Infrastructure and Biodiversity Management Plan for the Rothley site has been discharged by the Council. This includes improvements not accounted for in the offsetting proposals put forward in this appeal. The parties have put forward a draft planning condition requiring an updated Biodiversity Impact Assessment to provide a baseline for both the appeal site and the Rothley site and a demonstration of how BNG would be achieved. The section 106 agreement supports this approach and requires a Biodiversity Mitigation Strategy which makes provision for both on-site and off-site mitigation including if necessary, purchasing biodiversity units and or paying an offsetting contribution. I understand that a habitat bank is now available in Charnwood.
58. Bringing all the above together, I am satisfied that an appropriate mitigation strategy can be achieved by a combination of on-site and off-site measures. The Framework states that off-site mitigation should be a last resort, certainly after other opportunities have been exhausted. If there was a masterplan for the whole site it may be that on site mitigation could be achieved. It seems to me that this is the intention of the Policy. However, that is not achievable given the context and circumstances of this appeal. Accordingly, I find that with the imposition of an appropriate condition together with the obligation set out in the section 106 agreement, mitigation for the loss of BNG would be achieved. The proposal would comply with Local Plan Policy EV6 and Policy BuS1 of the Barrow upon Soar Neighbourhood Plan which seek to ensure that development does not harm local ecological features and habitats.

Trees and Mitigation

59. As previously stated, there are two Tree Preservation Orders on the site. The first protects a group of lime trees on the site frontage. In order to facilitate the site access from Cotes Road, five of these trees would need to be felled. The second TPO relates to a black poplar which failed just before the start of the Inquiry. There was dispute between the appellant and the Council as to whether this tree should be classed as a veteran tree. Since it has failed, this is no longer an issue, but it is agreed that its replacement is required as part of the development proposal.
60. The appeal scheme proposes the removal of a total of 41 trees. This includes both individual trees and groups of trees. The appellant's Tree Survey indicates that three trees to be removed are Category B, of moderate quality, four are Category U, unsuitable to be retained, and the remainder are Category C, of low value.
61. The Council considers that the appellant's Tree Survey, whilst following the recognised methodology in BS5837, downgrades a number of the trees, resulting in a large number of Category C specimens. The Council point to inconsistencies and fallacies in the schedule, which they argue raises the question of the reliability of the survey as a whole.
62. It is inevitable that any assessment will include a degree of professional judgment and this may differ between individuals. Assessment of defects and the longevity of a tree can be subjective. I bear in mind that the tree survey is a tool to aid

design and should be used in making balanced judgments about development proposals.

63. The Council make the case that putting the BS5837 to one side, visual amenity, age, place, identity, biodiversity and economic value all have an influence on the value of a tree and should also be considered. I agree that these other factors should be considered in the round in the design of a proposal.
64. The lime trees on the site frontage, five of which are to be removed to facilitate the proposed access are identified as Category C trees, of low value. The Council considers these should be graded Category B due to their group value. These trees have been maintained as pollards. I note the appellant's evidence shows they were pollarded in 2008 and overtime, due to the lack of maintenance, have regrown developing canopies which now need to be repollarded.
65. Having looked at the guidance for categories in BS5837, I am of the view that a case could be made for either category. Ultimately it is a matter of judgment. It is not necessary for my decision to conclude on this, as the issue here is one of amenity value. The five lime trees to be removed are located at the southern end of the group. Whilst a smaller row of limes would result, they would still have visual amenity value as a group in the street scene and would still provide a screen to the existing dwellings.
66. I acknowledge that an access to the appeal site could be obtained through the adjacent Ashberry site, removing the need for a separate access and the resultant loss of the lime trees. I understand that Ashberry has indicated a willingness to facilitate a ransom free access to other parcels of the allocation, though the specific details are unclear and the appellant has not been approached. Whether this could be achieved or not is not relevant, as I must determine the acceptability of the scheme before me.
67. The appellant has drawn my attention to the Ashberry masterplan, which not only illustrates a vehicular connection to the appeal site but also shows a pedestrian, cycle and emergency access from the appeal site on to Cotes Road. This proposal would still require the removal of some of the lime trees. The difference in terms of tree loss would be one or two trees. The loss of TPO'd trees to provide the site access clearly results in harm.
68. The Framework in paragraph 136 recognises the important contribution that trees make to the character and quality of urban environments and amongst other things states that existing trees should be retained where possible. Policy EV7 of the Charnwood Local Plan supports this objective. Some removal is clearly unavoidable. Ultimately the issue of tree removal is one for reserved matters stage when the final layout is put forward. There are opportunities for replacement tree planting on the site and the application of Policy EV7 provides some flexibility for replacements off site. This would be a matter for the Council to consider in the determination of the reserved matters scheme.
69. Policy EV7 goes on to state that the Council will support developments that provide new tree planting including replacing any removed trees with at least three new trees. The application of this policy would require the appeal scheme to include the planting of around 123 trees. The appellant has indicated that they are able to plant around 50 new trees on the site, comprising street trees, trees in gardens and through landscaping including supplementary planting on the site

boundaries. It is further proposed to plant around 100 new trees on the compensation site at Rothley.

70. Policy EV7 in the supporting text indicates a sequential approach to replacement tree planting, firstly within the site, in the vicinity of the appeal site and thirdly through a commuted sum for tree planting elsewhere in the Borough such as a local park or area of open space. The planting of additional trees on the compensation site would be in line with this policy approach.
71. I have regard to the fact that the appeal scheme is in outline and landscaping forms a reserved matter. Should the appeal be allowed, appropriate conditions could be imposed to require the identification of trees to be removed and retained and those to be planted and also to require an updated arboricultural assessment and Tree Protection Plan reflecting the final layout and design of the development proposed. The assessment of this matter and the compliance with Local Plan policy, is one for the Council at reserved matters application stage.
72. Given the above, I find that subject to appropriate planning conditions, the proposed development would, as far as possible, protect and enhance the natural environment and that appropriate mitigation would be proposed in line with Policy EV7.

Drainage Strategy and Impact on nearby Local Wildlife site

73. The Council's fifth putative reason for refusal raises concern that the drainage strategy for the proposed development could have an adverse impact on surface water runoff and the existing hydrology regime. This would cause harm to the Railway Fields LWS and the adjacent Catsick Marsh LWS to the north west of the site. The main areas of concern relate to water levels and water quality.
74. The appellant has submitted a hydrology review and a further report in rebuttal to the Council's evidence which considers how surface water is provided to the LWS, the contribution of the appeal site and the impact of the proposed drainage strategy. The appeal scheme proposes an attenuation pond which would store and then slowly release flows so that the overall volume of water leaving the site would be no less than existing greenfield flows.
75. The appellant calculates that the overall catchment serving the LWS is around 41.7 hectares, of which, the appeal site is approximately 3.7 hectares, under 9%.
76. A small ditch running south west from Cotes Road and into a natural valley provides the vast majority of water flow to the LWS. I observed this on my site visit. Whilst surface water and ground water flows from the appeal site will also contribute, the vast majority of flows are from within the wider catchment and not the appeal site.
77. In line with best practice, peak flows are to be attenuated preventing rapid runoff from flooding the LWS's. In a 1 in 2-year rainfall event, the peak flow has been calculated to result in an increase of 1.1%. This is minimal. Naturally there can be fluctuations in rainfall and seasonal changes to water levels, which the plant communities in the LWS tolerate. Given the above, I do not consider that the estimated changes in water flows would result in harm.
78. In terms of water quality, further measures are proposed. These include permeable paving and a permanent wet basin to the attenuation pond to provide

sedimentation and filtration. In addition, a 12-metre-long bank of stone filled gabion mattresses would be provided to create a flow diffuser through filtration. In larger storm events, flood water would overtop the gabions and spread out into the wooded slopes which would provide further filtration, plant uptake and sedimentation thereby improving water quality. A betterment can therefore be achieved.

79. In summary, on the basis of the evidence before me I am satisfied that the proposed drainage strategy would not cause harm to the LWS's. The scheme would therefore comply with the Framework objective of protecting and enhancing biodiversity, Policy EV6 of the adopted Local Plan and Policy BuS1 of the Neighbourhood Plan.

Infrastructure

Education

80. There are three primary schools within a two-mile radius of the appeal site. Only one, Hall Orchard C of E Primary School is within the statutory walking distance.
81. The Education Authority do not seek dismissal of the appeal on education grounds subject to the necessary financial contributions towards primary, secondary, post 16, special education needs and early years provision. The concern relates to the remaining parcels on HA49 and the potential future issue if collectively the number of dwellings within the allocation exceeds those planned in the Local Plan.
82. The Local Plan allocates five sites in Barrow upon Soar for residential development. As a result of a deficit in primary school provision in the locality, the need for a new school was identified. A Statement of Common Ground between the Council and the developers and site promoters of the five sites was submitted to support the examination process. It was agreed that the arrangements to be put in place for the timing and funding of a new one form entry (210 place) primary school to be provided on HA48, land off Willow Road, would be set out in an Education Delivery Strategy.
83. The difficulty that now arises is that the three planning applications currently pending on three of the five parcels in the allocation, seek planning permission for around 260 dwellings. When the other two parcels A and C are considered, the total number of dwellings on the allocation is approximately 340, well above the 220 allocated. This means that cumulatively, taking all the allocations in Barrow upon Soar, around 932 dwellings could come forward, with a potential deficit of 15 pupil places.
84. The Education Authorities' calculation of the likely pupil yield assumes that all the dwellings that come forward would be two bedrooms. However, Local Plan Policy H1 seeks a mix of house types to meet local needs in line with up-to-date evidence. Table 6 sets out a requirement for up to 10% one-bedroom market dwellings, between 10-20% of affordable home ownership dwellings and between 60-75% of affordable rent dwellings to be single bedroom. In reality, to comply with Policy H1, the development would include more single bed dwellings, thereby resulting in a lower child yield. The Education Authorities calculation clearly represents a worst-case scenario.

85. I accept that the percentages of single bed dwellings stated in the policy may not be feasible or practicable on the appeal site. The Council at the Education Round Table session gave the example of the Bloor Homes scheme on site H48, where 6.3% one bed dwellings have been agreed. Applying that figure to all the allocations in Barrow upon Soar, there would be no deficit in primary school places. This does not take account of falling birth rates, home schooled children, those attending independent schools and those children from outside Barrow upon Soar who are displaced, which could free up more pupil places.
86. Given the above, I am satisfied based on the evidence before me, that taking account of existing school places and the proposed new school, there is likely to be adequate primary school provision in Barrow upon Soar to accommodate the increased number of dwellings on the allocation together with the other residential proposals in the village. Local Plan Policy INF1 would therefore be complied with, in that the infrastructure needed to mitigate the impacts of development would be secured.
87. Notwithstanding the above, as my assessment in this appeal is based on the information available at this time, it would be necessary that any future applications for development taking the number of dwellings on HA49 above the 220 dwellings allocated, be required to demonstrate that there remains sufficient capacity in existing and planned primary education provision.
88. A contribution from the appeal scheme towards school transport is required in the event that pupils need to be taken elsewhere pending the completion of the new primary school. This is included within the section 106 obligation.

Open Space

89. The Council raise concern about the location of the open space on the appeal site, that it is too close to the railway line with the potential for noise and too close to the attenuation pond. In terms of noise, I note that the Council's Environmental Health Officer raises no objection to the scheme subject to a mitigation strategy. Should the appeal be allowed, a suitably worded condition could be imposed to require the submission of an Acoustic Design Statement to provide mitigation for any noise issues.
90. With regard to the proximity of open space to the attenuation pond, the scheme is currently in outline, and the precise position of the open space has not been determined. Any safety measures that would need to be installed can be considered further at reserved matters stage. To ensure the required minimum amounts and typologies of public open space are provided on the site in line with Policy EV9 of the Local Plan, a suitable planning condition can be imposed.

Off Site Highway Improvements

91. Off-site highway improvements are required to the A60/Barrow Road junction and also the provision of footpath improvements along Cotes Road heading south from the appeal site towards the village. There remains a dispute between the appellant and the Highway Authority as to the most appropriate mechanism by which these works can be secured, either by condition or through a planning obligation.
92. In regard to the A60/Barrow Road improvements, a condition is proposed to require the submission of a scheme. This is in principle agreed by all parties. The

specific wording of the condition is still a matter of dispute, and I address this later in my decision.

93. Turning to the footpath improvements, I noted on my site visit that there is no footway to the village on the western side of Cotes Road until north of Barrowcliffe Close. There is however a footpath on the other side of the road, but this would require users to cross the highway. No crossing facility is proposed in the appeal scheme, but I note that one is put forward within the Ashberry proposals. This of course has not been approved and cannot be relied upon.
94. I acknowledge that the footpath improvements would benefit all the future occupants of the allocation as a whole and it could be argued that all developers should contribute towards its cost. In the absence of a crossing facility to reach the footpath on the opposite side of Cotes Road, I take the view that the improvements are necessary to make the appeal scheme acceptable in planning terms and to promote active travel in line with the objectives of the Framework and Local Plan Policy INF2. During the Inquiry, the appellant agreed to fund the full extent of these footpath improvements.
95. The Highway Authority consider a condition should be imposed to secure the implementation of these works. The appellant however favours a planning obligation and has drafted a Unilateral Undertaking which secures a financial contribution to deliver the scheme. I am aware that the Highway Authority is concerned that the costs of design and implementation may exceed the contribution and that they will then be at risk financially. This can however be resolved through the s.278 agreement under the Highways Act. I find that a planning obligation is appropriate in these circumstances. A condition is also proposed to require the works be completed before occupation of any dwellings. This provides further certainty around its implementation.
96. The Unilateral Undertaking also includes an obligation in respect of the implementation of site frontage footpath works to be completed before first occupation of any of the dwellings. This is necessary to ensure a continuous route for footpath users.
97. Given the above, I am satisfied that the required off site highway improvements can be appropriately secured. The appeal scheme therefore complies with the Framework and Local Plan Policies DS4 and INF2 which require developments to provide safe and suitable access for all users.

Other Matters

98. Policy H6 of the Local Plan supports custom and self-build homes. In developments of more than 250 dwellings, the policy requires at least five serviced plots be provided. Should HA49 proceed and provide in excess of the 220 dwellings allocated, possibly up to around 350 dwellings, this policy would be engaged.
99. However, the parties agree that in respect of the appeal proposal, there is no requirement for the development provide self-build or custom build homes. I agree with this view.

Planning Obligation

100. As I have already outlined above, the appellant has submitted a completed section 106 agreement and a separate Unilateral Undertaking.
101. The section 106 agreement makes provision for obligations relating to a range of matters. These include affordable housing and requirements for a highway connection from the appeal site to adjoining land to prevent a ransom situation. The agreement also requires a Biodiversity Mitigation Strategy and makes provision for on-site and off-site mitigation, the purchase of biodiversity units from a registered off-site biodiversity gain site and or the payment of an offsetting contribution. Provision is also made for financial contributions towards open space and outdoor sport, allotments, health, early years, primary, secondary, SEND and post 16 education, school transport, libraries, bus passes, travel packs and monitoring costs.
102. An additional obligation is a financial contribution to the Parish Council towards the cost of a new community centre in Barrow upon Soar. This facility is required taking account of the additional need arising from the cumulative growth in the village due to development put forward in the Local Plan.
103. The Unilateral Undertaking is made by the appellant to the County Council to secure a financial contribution towards the cost of the off site footpath works and to implement the site frontage footpath works.
104. I am satisfied that the above obligations meet the tests in the Framework and regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). They are needed to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and kind. I have therefore taken them into account in my decision.

Planning Balance

105. The appeal proposal is located on an allocated site within the adopted Charnwood Local Plan. The principle of residential development on the site has been established. The site lies in a sustainable location with good access to services and facilities within the village. The proposal complies with Policy DS1 which sets out the development strategy for the Borough.
106. Allocation Policy DS2(HA49) has two parts. Firstly, it requires six criteria to be met then goes on to require a masterplan and development brief.
107. In regard to the first criterion, I have determined that the scheme would ensure that surface water runoff would not detrimentally affect the LWS's and would locate the SUDS feature at a sufficient distance away from them. In terms of the second criterion, the application is accompanied by a biodiversity and drainage strategy that demonstrates how these issues are to be addressed.
108. Turning to the third and fourth criteria, the relationship to the cemetery and the need for a Design and Access Statement to set out how the development would maintain and enhance the significance of the heritage assets and their setting, these are not directly relevant to the appeal scheme due to its distance from this facility.

109. The fifth criterion requires the proposal is accompanied by a flood risk assessment which has been provided. The sixth criterion seeks a contribution to the provision of a new primary school which is secured through the planning obligation.
110. In summary, I am satisfied that the appeal scheme complies with all six criteria in the first part of Policy DS2(HA49) as far as they are relevant to the appeal case.
111. With regard the second part of the Policy, I have discussed in detail issues regarding the concept masterplan and the development brief and found that the appeal submission is appropriate at this stage. It would secure a comprehensive development, deal with phasing and delivery, and adequately address the impacts.
112. I acknowledge that there is conflict with this part of Policy DS2 because the masterplan has not been agreed by all parties. However having regard to the circumstances of this appeal and the land ownership constraints, I take a pragmatic approach. The submitted masterplan and development brief are living documents, later applications on other parcels of the allocation can provide further iterations of these documents taking account of more detailed information available. The concept masterplan and development brief comply with the policy read as a whole. They also comply with Policy DS4 and Barrow upon Soar Neighbourhood Plan Policy BuS4, as a high-quality design can be achieved.
113. Policy EV1 of the Local Plan protects the landscape character of the Borough and seeks to enhance it. There will clearly be some landscape harm as a result of the development but due to the containment of the site and the provision of existing and proposed planting, this would be highly localised. Bearing in mind the site forms an allocation in the Local Plan, the weight given to this harm is limited.
114. I have found that the proposal complies with Policies EV6 of the Local Plan and Policy BuS1 of the Neighbourhood Plan in relation to biodiversity and Policy EV7 regarding trees. This is subject to the imposition of appropriate conditions and the requirements of the planning obligation to secure on site and off site BNG. The loss of TPO'd trees to facilitate the site access causes harm. Whilst this weighs against the proposal, it is tempered by the fact that the access in this location protects the traditional orchard, a high distinctiveness habitat.
115. Furthermore, the proposal complies with Policy EV9 in that it would provide a suitable amount and type of public open space, subject to appropriate conditions and the section 106 agreement. In terms of infrastructure provision, in particular education and off-site highway improvements, I have found the scheme is acceptable and complies with Policy INF1.
116. With regard to housing delivery and supply, the Council can demonstrate a 5.01-years supply of deliverable housing land. I agree with the appellant that this is marginal, but it is still over the five years required by national planning policy.
117. The Government has delayed the publication of the 2024 Housing Delivery Test (HDT) but has published the raw data. The appellant argues that based on their calculations, this data engages the presumption in favour of sustainable development, the tilted balance.
118. However, paragraph 80 of the Framework is clear that the HDT consequences apply the day after the annual publication of the test results. As this has not occurred, I must have regard to the 2023 results. The tilted balance does not

therefore apply. I acknowledge though that the data suggests a worsening picture in the Borough and forms a material consideration. The contribution of the appeal proposal both to market and affordable housing weigh in favour of the appeal.

119. I have considered whether allowing the appeal would prejudice the delivery of the remainder of the allocation. The appeal site forms the southernmost parcel, and it does not rely on any other parcel coming forward for it to be developed. Furthermore, the scheme can appropriately mitigate its own impacts. I am satisfied that the submitted concept masterplan and the development brief would provide the basis for a comprehensive sustainable development for the whole allocation, which can evolve as the other parcels come forward. Therefore, I am satisfied that allowing the appeal would not prejudice the delivery of the wider allocation, securing much needed market and affordable homes in the Borough.
120. In summary, I find that having regard to the minimal harms identified, the appeal proposal complies with the relevant policies of the development plan when read as a whole. The material considerations in this case do not indicate that the scheme should be determined other than in accordance with it. The appeal should therefore be allowed.

Conditions

121. The Council and the appellant agreed a set of conditions that were discussed at the Inquiry. I have considered all the conditions in light of the advice within the Framework, and I have revised some of them to avoid duplication or in the interests of clarity and enforceability.
122. It is necessary to impose conditions setting out time limits for development and the submission of reserved matters. (conditions 1 and 2).
123. Condition 3 which relates to the approved plans, the masterplan and development brief is in dispute between the parties. I agree with the parties that the appeal scheme should accord with the Key Site Wide Design principles in Rev E of the development brief and be in broad accordance with the remainder of its content.
124. The parties disagree on whether the proposal should be in broad accordance with the Illustrative Site Layout. Whilst layout is a reserved matter and not to be approved at this outline stage, this plan has been the subject of much scrutiny during the appeal. It provides an illustration of how the Site Wide Design Principles could be applied. It is unlikely that a very different scheme could be forthcoming taking account of the position of the access, which is to be approved at this outline stage, the need to connect to Parcel D and the most suitable location for the attenuation pond on the lowest part of the site. I do not therefore consider it necessary to require that the reserved matters scheme be in broad accordance with the Illustrative Site Layout.
125. In the interest of protecting the character of the landscape and the amenity of new residents, conditions are necessary to seek details of ground levels and finished floor levels as well as boundary treatments and any retaining structures (conditions 4 and 6). Condition 5 is required to secure the submission of an appropriate landscaping scheme at reserved matters stage.

126. To ensure the protection of existing trees and hedgerows, condition 7 requires an updated Arboriculture Impact Assessment, Tree Protection Plan and Arboricultural Statement at reserved matters stage.
127. Condition 8 which relates to the protection of existing trees and hedgerow is in dispute between the parties. As landscaping forms a reserved matter, it is not necessary to impose a condition retaining all trees on the site, with the exception of those to be removed for the site access, unless otherwise agreed by the Council. It is however appropriate and necessary to impose a condition protecting all trees identified to be retained in the submitted tree survey, and secure their replacement should they die, be damaged or diseased within five years of scheme completion.
128. Condition 9 is necessary to secure an appropriate scheme of open space for future residents. As part of a reserved matters application, schemes illustrating the housing mix, accessible and adaptable homes and adherence to the nationally Described Space Standards are necessary. This is to ensure the development is of an appropriate standard and complies with Local Plan Policies H1, H2 and H3. (conditions 10, 11 and 12).
129. In the interests of biodiversity and ecology, condition 13 requires an updated Biodiversity Impact Assessment as part of the reserved matters submission and condition 14 is necessary to require an updated ecological assessment. For the same reason, condition 15 requires details of a compensatory barn owl nesting box and condition 16 requires a pre commencement survey for badgers. Further conditions are necessary to secure a Landscape and Ecology Management Plan, and a scheme for bat and bird boxes (conditions 20 and 22).
130. Condition 17 is necessary to require an Acoustic Design Statement to protect future occupiers from noise from the railway line and other sources. To safeguard future users of the site from land contamination, conditions are required to secure site investigations, remediation and verification and to address any unforeseen contamination that may arise during the development (Conditions 18 and 19) .
131. A Construction Environmental Management Plan is necessary to minimise the environmental impacts of construction on local amenity, biodiversity and the surrounding area (Condition 21).
132. In the interests of highway safety, condition 23 requires the access arrangements including frontage footway to be provided before the dwellings are occupied. For the same reason Condition 24 is necessary to secure the off-site highway works.
133. The intentions around the existing dwelling No. 83 Cotes Road are unclear, whether it is to be retained as a separate unit and if it is, whether the existing access is to be retained. Condition 25 is necessary to seek confirmation of what is proposed and permanently stop up the existing access if that is subsequently proposed for highway safety reasons.
134. Condition 26 requires a scheme of off-site highway improvement works at the A60/Barrow road junction to be agreed and implemented. The wording of the condition is in dispute, in particular whether it is necessary to state that notwithstanding the plan included in the Transport Assessment, a new highway improvement scheme should be submitted and agreed. The plan shown in the Transport Assessment is an image of a signalised mitigation arrangement which

forms part of the Bloor Homes application, ref P22/1254/2. Whilst this plan has not been submitted as part of this appeal, it is referred to in evidence. In the interests of clarity, I consider it is necessary and appropriate to refer to this plan in the condition.

135. Condition 27 is necessary to seek a travel plan promoting sustainable travel.

136. A series of conditions are necessary to ensure a suitable surface water drainage scheme, to manage surface water during construction, safeguard rail infrastructure, and ensure the drainage scheme is maintained (Conditions 28, 29, 30, 31). The Council suggested a further condition relating to the management of surface water during construction. I do not impose this as it duplicates other conditions.

137. A condition to require a sustainability strategy is necessary to ensure sustainable construction principles are applied in accordance with Policy CC4 of the Local Plan. I impose the appellant's suggested wording as it is more concisely worded and still meets the objective of the policy.

138. Finally, I impose condition 33 to ensure that a bespoke compensation strategy is provided for the irreplaceable habitat provided by the black poplar tree in the centre of the site which has failed.

139. I do not impose a condition requested by the Council for a Boundary Green Infrastructure Protection Plan including a minimum 5 metre separation distance between all residential plots and each retained hedgerow, tree, woodland and orchard feature. I have been provided with insufficient evidence to justify this condition and explain its necessity, in particularly the separation distance. Whilst I appreciate the desire to protect boundary landscaping, this can be achieved though consideration of the site layout and the landscaping scheme to be submitted at reserved matters stage.

Conclusion

140. For the reasons given above and having had regard to all other matters raised, I allow this appeal.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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Counsel

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They called

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FOR THE LOCAL PLANNING AUTHORITY:

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He called :

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Urban Design Director, Stantec

Other Interested Parties

Christine James

Barrow upon Soar Parish Council

Tracey Filsell

Local resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

- ID1 Appellant's Opening Submission
- ID2 LPA Opening Submissions
- ID3 St. Philips Opening Submissions
- ID4 LCC Opening Submissions
- ID5 Drone photograph of Tree G36 - Feb 2026 1
- ID6 Drone photograph of Tree G36 - Feb 2026 2
- ID7 Drone photograph of Tree G36 - Feb 2026 3
- ID8 Draft agreement pursuant to Section 106 of the Town and Country Planning Act 1990
- ID8a Draft S106 Agreement as proposed to be revised - March 2026
- ID9 Draft Unilateral Undertaking Pursuant to Section 106 of the Town and Country Planning Act 1990
- ID9a Draft Unilateral Undertaking – revised - March 2026
- ID10 Historic Environment Desk Based Assessment Part 1 by Landgage Heritage
- ID11 Historic Environment Desk Based Assessment Part 2 by Landgage Heritage
- ID12 Site Access & Frontage Delivery drawing
- ID13 Proposed Off Site Footway Delivery drawing
- ID14 Tree Retention & Removal Plan – Access Only
- ID15 Hydrology Roundtable Agenda
- ID16 Hydrology Roundtable Report by BSP consulting, 3 March 2026
- ID17 BSI Standard - BS5837 - 2012 Trees in relation to design, demolition and construction
- ID18 BNG Metric v4 March 2026
- ID19 Arboriculture Roundtable Agenda
- ID20 Draft conditions v10
- ID21 Draft conditions v11
- ID22 SoCG CBC and Appellant v14 signed
- ID23 SoCG Arboriculture and Ecology – V6
- ID24 SoCG Ecology – V7 signed
- ID25 SoCG Arboriculture – V2 signed
- ID26 CBC List of appearances

ID27 Appellant List of appearances

ID28 LCC List of appearances

ID29 (Not Used)

ID30 Inquiry Timetable – March 2026

ID31 Final Draft Planning Conditions

ID32 Closing Submissions - Leicestershire County Council

ID33 Closing Submissions - Appellant

ID34 Closing Submissions – St. Phillips

ID35 Closing Submissions - Charnwood Borough Council

ID36 S106 Planning Agreement – Final draft version before signature

DOCUMENTS SUBMITTED AFTER THE INQUIRY

ID37 Final completed and signed section 106 agreement dated 11 May 2026

ID38 Final signed Unilateral Undertaking dated 11 May 2026

SCHEDULE OF CONDITIONS

- 1) Application for approval of 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 appearance, landscaping, layout, and scale, "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) Unless where required or allowed by other conditions attached to this permission, the development hereby approved shall be carried out in accordance with the following plan and document:
 - Site Location Plan - 21.041/04 A
 - 'Key Site Wide Design Principles' from Development Brief Rev Eand in broad accordance with:
 - the remaining content of Development Brief Rev E
- 4) The details submitted pursuant to condition 2 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 thereafter be carried out in accordance with the approved details.
- 5) The layout and landscaping details submitted pursuant to condition 2 shall include:
 - a) the treatment proposed for all ground surfaces, including hard surfaced areas;
 - b) planting schedules across the site, noting the species, sizes, numbers and densities of plants and trees;
 - c) finished levels or contours within any landscaped areas;
 - d) any structures to be erected or constructed within any landscaped areas including play equipment, street furniture and means of enclosure;
 - e) functional services above and below ground within landscaped areas; and
 - f) all existing trees, hedges and other landscape features indicating clearly any to be removed.
- 6) The details submitted pursuant to condition 2 shall include details of:
 - a) all proposed boundary treatments, including fencing, walls, and planting; and
 - b) existing and proposed site levels, including finished floor levels of buildings and the design, height, and materials of any retaining structures required to facilitate changes in level.

The development shall be carried out in accordance with the approved details.

- 7) The reserved matters application(s) shall include an updated Arboricultural Impact Assessment, Tree Protection Plan, and Arboricultural Method Statement, reflecting the final layout and design of the development. These documents shall demonstrate how retained trees and hedgerows will be protected and managed throughout the construction process and shall be submitted to and approved in writing by the local planning authority as part of the reserved matters submission.

No development, including site clearance or preparatory works, shall commence until the approved tree protection measures have been implemented in full. The protection measures shall be retained and maintained for the duration of the construction period.

- 8) Any tree or hedge to be retained within the application site boundary (as shown on Indicative Layout and Preliminary Tree Protection Plan (Ref: JH-TPP Dated May 2025, as shown at Appendix C of the submitted AIA Report Ref: JH0525COTESRD Dated May 2025 or any subsequent plan as approved under condition 8) shall be maintained at all times. Any tree or hedge dying, being severely damaged or becoming seriously diseased during construction or within five years of completion shall be replaced within the next planting season with specimens to be agreed in writing by the local planning authority.
- 9) The details submitted pursuant to condition 2 shall include the following minimum amounts and typologies of open space:
- Parks & Amenity space (minimum 0.24 ha)
 - Natural & semi-natural open space (minimum 0.34 ha)
 - A LEAP facility and an equipped young people's facility (minimum combined area 0.04 ha)
- 10) The details to be submitted pursuant to condition 2 shall include a housing size (number of bedrooms) mix for market and affordable homes that reflects up to date evidence of housing need in the Borough.
- 11) As part of any reserved matters application relating to layout and housing mix, a schedule shall be submitted identifying the plots, and the house types that will be constructed to meet the requirements of Building Regulations Approved Document M, Volume 1, Requirement M4(2) (accessible and adaptable dwellings). The schedule shall demonstrate that no less than 10% of the total number of dwellings will be constructed to meet M4(2) standards. The development shall thereafter be carried out in accordance with the approved schedule.
- 12) The details to be submitted pursuant to Condition 2 shall demonstrate that all residential units comply with the Nationally Described Space Standards (NDSS).

Where any deviation from the NDSS is proposed, the submitted details shall include clear and robust justification demonstrating how the scheme continues to achieve an appropriate standard of internal living space consistent with the intent of Local Plan Policy H3.

The development shall thereafter be carried out in accordance with the approved details.

- 13) The reserved matters application(s) shall be accompanied by an updated Biodiversity Impact Assessment (BIA), prepared in accordance with the most recent version of the DEFRA Biodiversity Metric.

The BIA shall:

- a) establish the baseline biodiversity value of the application site;
- b) where off-site biodiversity gain is proposed, establish both the baseline and projected post-intervention biodiversity value of both any on site provision and that provided by the off-site location;
- c) demonstrate how the development will achieve biodiversity net gain, including details of habitat creation, enhancement, and long-term management both on-site and off-site.

The development shall be carried out in accordance with the approved BIA and any associated biodiversity gain measures.

- 14) The reserved matters application shall be accompanied by an updated ecological assessment, prepared by a suitably qualified ecologist, to reflect the final layout and current site conditions. The assessment shall address the recommendations and mitigation proposals set out in the Ramm Sanderson report on “Aerial Tree Climbing Inspections for Roosting Bats and Barn Owl” (dated 3rd July 2025), and shall include updated species surveys where necessary. It shall set out appropriate and proportionate mitigation, enhancement, and management measures to ensure the protection and conservation of protected and priority species.

- 15) The updated ecological assessment submitted pursuant to Condition 14 shall include details of a compensatory barn owl nesting box, including its specification, exact location on a retained tree or suitable pole, and confirmation that the location minimises disturbance, with installation carried out in accordance with up to date best practice guidance published by the Barn Owl Trust (or equivalent recognised guidance).

The development shall be carried out in accordance with the approved ecological recommendations and the barn owl nesting provision, which shall be installed prior to first occupation of any dwelling.

- 16) No development shall commence, including any site clearance or preparatory works, until a pre-commencement survey for badger activity has been undertaken and the findings submitted to and approved in writing by the local planning authority. The survey shall be carried out by a suitably qualified ecologist no more than three months prior to the commencement of development. If active badger setts or signs of activity are identified, a mitigation strategy shall also be submitted and approved, and the development shall thereafter be carried out in accordance with the approved mitigation measures.

- 17) As part of any reserved matters application relating to layout or design, an Acoustic Design Statement (ADS) shall be submitted to and approved in writing by the local planning authority. The ADS shall incorporate and respond to the recommendations set out in Section 5 of the Noise Impact Assessment prepared by Omnia (Ref: C10942/NCA/1.0, dated May 2023).

The ADS shall demonstrate how noise impacts from existing and proposed sources have been assessed, mitigated, and minimised through site layout, building orientation, and design measures. It shall confirm that significant adverse effects will be avoided and that the development will achieve appropriate internal and external noise levels in accordance with BS 8233:2014.

The ADS shall include plot-by-plot details of necessary screening, glazing, and ventilation specifications to ensure compliance with acoustic standards within habitable rooms and shall identify mitigation measures for external amenity areas. The development shall thereafter be carried out in full accordance with the approved ADS.

- 18) As part of any reserved matters application, a Phase II site investigation shall be submitted to and approved in writing by the local planning authority. The investigation shall be informed by and respond to the findings and recommendations set out in the Phase I Study Report prepared by GeoDyne (Ref: D41047, dated 12/04/21).

The Phase II investigation shall assess the nature and extent of any land contamination on the site, including a risk assessment specific to the proposed development.

The report shall be prepared in accordance with a methodology agreed with the local planning authority and shall include a scheme of necessary remediation measures identified as required to make the site suitable for its intended use.

The scheme shall include details of proposed remediation measures, implementation timescales, and verification procedures. The development shall thereafter be carried out in accordance with the approved remediation scheme.

- 19) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
- a) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - b) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

Occupation of the site shall not commence until the approved remediation scheme verification report has been approved in writing by the local planning authority.

- 20) A detailed Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority, in consultation with Network Rail, following the approval of the first reserved matters application/s pursuant to 'layout' and 'landscaping', but prior to the commencement of development. The LEMP shall accord with the approved landscaping details and shall include long-term design objectives, management responsibilities and maintenance schedules for all public open spaces, ecological mitigation areas and surface water drainage systems. The development shall thereafter be carried out in accordance with the approved LEMP.

- 21) No development shall commence, including any site clearance or preparatory works, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not be limited to, details (including timing for their provision) of:
- construction working hours;
 - site access and haul routes;
 - measures to control noise, dust, vibration, and light spill;
 - pollution prevention and spill response procedures;
 - protection of retained trees, hedgerows, and habitats;
 - waste management and recycling;
 - site compound and material storage arrangements;
 - communication strategy with local residents;
 - roles and responsibilities for environmental management;
 - details of the routing of construction traffic;
 - wheel cleansing facilities;
 - vehicle parking facilities, and
 - measures to protect and manage Public Right of Way Footpath I15 during construction

The development shall thereafter be carried out in accordance with the approved CEMP.

- 22) Any application for approval of reserved matters shall include full details of a scheme for the location of bat and bird boxes, to be integrated into buildings. Thereafter and prior to the first use or occupation of any building with a bat or bird box, the bat and bird boxes shall be installed on that building in accordance with the approved details.
- 23) No part of the development hereby permitted shall be occupied until such time as the access arrangements and visibility splays shown on Proposed Access Arrangement (Drawing CRBS-BSP-XX-XX-D-H-001 Rev. P05) and Proposed William Davis Site Access and Frontage Footway Delivery (Drawing CRBS-BSP-XX-XX-D-H-003 Rev. P04) have been carried out and completed in full.
- 24) No part of the development shall be occupied until such time as the offsite works shown on the Drawing CRBS-BSP-XX-XX-D-H-004 Rev. P03 has been carried out and completed in full.
- 25) Pursuant to Condition 2, with the first application for approval of reserved matters, the applicant shall provide to the local planning authority a written statement confirming:
- a) whether the dwelling known as 83 Cotes Road is to be retained as a separate planning unit; and
 - b) if so retained, whether access to that dwelling is to continue to be taken solely from its existing means of access onto Cotes Road.

In the event that the applicant confirms either that:

- i. 83 Cotes Road is not to be retained as a separate dwelling; or
- ii. 83 Cotes Road is to be retained but its access is to be derived in whole or in part from the internal access arrangements serving the development hereby permitted,

then the existing means of access from Cotes Road serving 83 Cotes Road shall be permanently stopped up and closed. Details of the method, design and timing of the closure shall first be submitted to and approved in writing by the local planning authority. The approved closure shall thereafter be implemented within one calendar month of the new site access shown on Drawing CRBS-BSP-XX-XX-D-H-001 Rev. P05 first being brought into use.

- 26) Notwithstanding the submitted details shown in ADC drawing ADC2254-DR006-P8, 'A60 / Barrow Road Improvement', as shown within Image 7.1 of the BSP Consulting Transport Assessment (reference CRBS-BSP-ZZ-XX-RP-H-0003_Transport_Assessment), no part of the development shall be occupied until such time as the details of a highway improvement scheme at the A60 / Barrow Road junction have been submitted and agreed in writing with the local planning authority. The scheme will be implemented in full in accordance with a timetable to be agreed with the local planning authority.
- 27) No part of the development hereby permitted shall be first occupied until a framework Travel Plan which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the local planning authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.
- 28) Details submitted under condition 2 above shall include a surface water drainage scheme. The submitted details shall be broadly in accordance with the recommendations of the submitted Flood Risk Assessment & Drainage Strategy (BSP Consulting CRBS-BSP-ZZ-XX-RP-C-0001-P04 dated 26/03/25) and shall include:
 - a) confirmation that the attenuation pond will be constructed a minimum of 30 metres from the railway boundary;
 - b) construction specifications for the attenuation pond, hydro brake and gabion outfall, including a series of cross sections clearly illustrating existing site levels and proposed finished levels following completion of the engineering works;
 - c) a landscaping scheme for the southern boundary of the site adjacent to the railway, to be planted prior to first occupation of the development;
 - d) landscaping and boundary treatment details for the pumping station and for the attenuation basin and its embankments; and
 - e) an assessment of the hydrological and ecological impacts upon the Railway Fields Local Wildlife Site

The development must be carried out in accordance with the approved details, following consultation with Network Rail. The approved scheme shall be fully implemented prior to first occupation of the development.

- 29) Prior to the commencement of development, a Construction Surface Water Management Plan shall be submitted to and approved in writing by the local planning authority, in consultation with Network Rail. The plan shall:
- identify potential risks of increased surface water runoff during the construction phase.
 - set out mitigation measures to manage those risks.
 - include arrangements for Network Rail to review and comment on the plan.

In addition, Network Rail shall be granted access through the site at all times during construction and operation to inspect and maintain boundary fencing and other lineside features. Details of access arrangements shall be agreed with the local planning authority prior to commencement.

- 30) 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, in consultation with Network Rail. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.
- 31) 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, and has been submitted to and approved in writing by the local planning authority, in consultation with Network Rail.
- 32) The details submitted pursuant to Condition 2 shall include a Sustainability Strategy for the development hereby approved. The Strategy shall demonstrate how sustainable design and construction principles have been incorporated into the design, layout and delivery of the development and shall include, as a minimum, an assessment of the proposed development against each of the requirements of Local Plan Policy CC4 (Sustainable Construction).
- 33) No development (including site clearance, preparatory works, or any operations connected with the development hereby permitted) shall commence until bespoke compensation for the irreplaceable habitat represented by tree group G36 has been submitted to and approved in writing by the local planning authority.

The scheme shall:

- provide a bespoke compensation strategy, proportionate to the nature and scale of the impact of the loss of the habitat at tree G36, and consistent with national guidance for irreplaceable habitats.
- Include:
 - long term habitat management;
 - monitoring and reporting;

- the mechanism for securing delivery

The development shall thereafter be carried out in full accordance with the approved scheme, and the approved compensation measures shall be retained, managed and monitored for the duration specified within the approved strategy.

Richborough