

Plans Committee Date:	MeetingDateDM
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Item No: 1

Application Reference Number P/20/2373/2

Application Type:	Outline	Date Valid:	12 th January 2021
Applicant:	Swithland Homes		
Proposal:	Site for the erection of up to 18 dwellings (outline planning application considering access)		
Location:	Land to the rear of 83-89 Loughborough Road Hathern Leicestershire LE12 5HY		
Parish:	Hathern	Ward:	Loughborough Hathern and Dishley
Case Officer:	Deborah Liggins	Tel No:	07864 603401

1. Background

- 1.1 This application is referred back to Plans Committee in accordance with the scheme of delegation.
- 1.2 Members may recall that the application was presented to Plans Committee on 29th March 2021 when it resolved to grant outline planning permission subject to the completion of a legal agreement under Section 106 of the Town and Country Planning act 1990 in order to secure developer contributions as set out in the previous committee report. This report should be read in tandem with the March 2021 plans committee report (A copy of the report is appended to this item).
- 1.3 Although a draft agreement was submitted to the local planning authority on 27th July 2021 no further progress has been made towards its completion and because of this, planning permission has not yet been issued for the proposal. Instead, the applicant submitted a Viability Assessment on 12th July 2022. This report was commissioned by the applicant in accordance with industry methodology set out in the Royal Institute of Chartered Surveyors (RICS) Guidance Note 'Assessing Viability in planning under the National Planning Policy Framework 2021' and the Planning Practice Guidance on Viability (May 2019). The methodology seeks to establish the financial viability of a development scheme and can be summarized as follows:

Gross Development Value (GDV) less Costs less Profit = Residual Land Value. The methodology recognizes that a reasonable return from development should be produced with the aim of securing a surplus once other deductions such as developer contributions are made. The report concluded that the Residual Land Value was a negative value of almost £330,000. However, this report was independently reviewed by the District Valuation Office (DVO) in September 2022 when a fully policy compliant scheme for up to 18 dwellings was found to be viable with a £282,405 surplus.

- 1.4 The assessment by the District Valuation Office utilised RICS Red Book Standards for assessing the report and these are accepted best practice for assessing the viability of schemes. Whilst there were areas of agreement in the analysis of the supplied data, the DVO assessed the final market value of a typical range of dwellings to be included within the final development had been underestimated. This was based on the sale prices of similar sized new-build properties nearby and this leads to a yield £254,500 higher than that anticipated by the applicant. When rent from affordable housing is included, this adds a further £113,500 into the scheme concluding that the total Gross Development Value of the scheme would be £348,900 higher than the figure arrived at by the applicant. In addition, the DVO assessed the building costs of the scheme to be slightly exaggerated when compared to other sites. The evaluation of the viability report concludes that a planning policy compliant scheme is viable.
- 1.5 Despite various communications with the applicant's agent, no further progress has been made towards completing the necessary legal agreement and the application is therefore brought back before members for re-determination. The matter has been with the applicant's viability team for some months with no update provided to the local planning authority.

2. Development Plan Policies

- 2.1 The Development Plan comprises the Charnwood Local Plan Core Strategy (adopted 9 November 2015), the Borough of Charnwood Local Plan (adopted 12 January 2004) (saved policies), and the Minerals and Waste Local Plan (2019).
- 2.2 The policies applicable to this application are set out in the appended March 2021 committee report, in addition the following are applicable to the further considerations discussed in this report:

Charnwood Local Plan Core Strategy

- 2.3 Policy CS1 – Development Strategy – sets out a growth hierarchy for the Borough that sequentially guides development towards the most sustainable settlements. This identifies Hathern as an 'other' settlement (4² in the hierarchy of 5) where small scale development within limits to development is supported.

- 2.4 Policy CS2 – High Quality design – requires development to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access, and protect the amenity of people who live or work nearby.
- 2.5 Policy CS3 – Strategic Housing Needs – seeks to manage the delivery of the Borough’s housing need and ensure a good mix of house types, tenures and size of properties, having regard to identified housing needs and the character of the area. In addition, Policy CS3 sets out a requirement for affordable housing to be included within proposed developments of more than 10 dwellings and in Hathern this equates to 40% of overall provision.
- 2.6 Policy CS11 – Landscape and Countryside – seeks to protect the character of the landscape and countryside. It requires new development to protect landscape character, reinforce sense of place and local distinctiveness, tranquillity and to maintain separate identities of settlements.
- 2.7 Policy CS13 – Biodiversity and Geodiversity - seeks to conserve and enhance the natural environment to ensure development protects, enhances or restores biodiversity.
- 2.8 Policy CS14 – sets out to conserve and enhance our historic assets for their own value and the community, environmental and economic contribution they make.
- 2.9 Policy CS15 – Open Spaces, Sports and Recreation – sets out how the Council will work with its partners to meet the strategic open space needs of our community. One of the ways is by retaining open spaces, sport and recreation facilities unless they are clearly surplus to requirements or replacement provision of at least equal quantity and quality is made within a suitable location. The local planning authority will respond positively to open space, sport and recreation provision and secure long-term management and investment plans for existing and new facilities.
- 2.10 Policy CS16 – Sustainable Construction and Energy – supports sustainable design and construction techniques.
- 2.11 Policy CS17 – Sustainable Travel – seeks to increase sustainable travel patterns and ensure major development is aligned with this.
- 2.12 Policy CS18 – The Local and Strategic Road Network – Seeks to maximise the efficiency of the road network by delivering sustainable travel.
- 2.13 Policy CS24 – Delivering Infrastructure – Policy CS24 of the adopted Core Strategy aims to make significant progress towards the delivery of essential infrastructure as set out in the Infrastructure Delivery Plan appended to the document. The policy also sets out an expectation that local impacts of proposed development on existing infrastructure and the community will need to be managed and mitigated.

- 2.14 Policy CS25 – Presumption in Favour of Sustainable Development – echoes the sentiments of the National Planning Policy Framework in terms of sustainable development.

Borough of Charnwood Local Plan (adopted 12th January 2004) (saved policies)
Where they have not been superseded by the Core Strategy policies previous Local Plan policies remain part of the development plan. In relation to this proposal the relevant ones are:

- 2.15 Policy ST/2 – Limits to Development – this policy sets out the limits to development for settlements within Charnwood.
- 2.16 Policy CT/1 – General Principles for areas of countryside – this policy defines which types of development are acceptable in principle within areas of countryside.
- 2.17 Policy CT/2 – Development in the Countryside – Sets out how development that is within the countryside will be assessed to ensure there is no harms to the rural character of the area.
- 2.18 Policy EV/1 – Design – This seeks to ensure a high standard of design and developments which respect the character of the area, nearby occupiers, and which are compatible in mass, scale, layout, whilst using landforms and other natural features. Developments should meet the needs of all groups and create safe places for people.
- 2.19 Policy TR/18 – Parking in New Development – this seeks to set the maximum standards by which development should provide for off-street car parking.

3. Other Material Considerations

The National Planning Policy Framework (NPPF 2021)

- 3.1 The NPPF sets out the government's view of what sustainable development means. It is a material consideration in planning decisions and contains a presumption in favour of sustainable development. For planning decisions this means approving proposals that comply with an up to date development plan without delay. If the Development Plan is silent or policies most relevant to determining the application are out of date permission should be granted unless protective policies within the NPPF give a clear reason for refusal or any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. The NPPF policy guidance of particular relevance to this proposal includes:

Section 5: Delivering a sufficient supply of homes

The NPPF requires local planning authorities to significantly boost the supply of housing and provide five years' worth of housing against housing requirements (paragraph 73). Where this is not achieved policies for the supply of housing are rendered out of date and for decision-taking this means granting permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, (paragraph 11d). Local planning authorities should plan for a mix of housing and identify the size, type, tenure and range of housing that is required and set policies for meeting the need for affordable housing on site. (Para 62)

Section 8: Promoting healthy and safe communities

Planning decisions should promote a sense of community and deliver the social, recreational and cultural facilities and services that such a community needs.

Section 9: Promoting Sustainable Transport

All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and a Travel Plan (paragraph 113). Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable modes maximised (paragraph 105). Developments should be designed to give priority to pedestrian and cycle movements and create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians and within large scale developments, key facilities should be located within walking distance of most properties (paragraph 106). Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts would be severe (paragraph 111).

Section 12: Requiring well-designed places.

The NPPF recognises that good design is a key aspect of sustainable development, and that high quality and inclusive design should be planned for positively (paragraph 126).

Section 14: Meeting the challenge of climate change, flooding and coastal change

New development should help reduce greenhouse gas emissions and energy efficiency improvements in buildings should be actively supported (paragraph 153). It should also take account of layout, landform, building orientation, massing and landscaping to minimise energy consumption (paragraph 157) and renewable and low carbon energy development should be maximised (paragraph 158).

Planning Practice Guidance

- 3.2 This national document provides additional guidance to ensure the effective implementation of the planning policy set out in the National Planning Policy Framework.

National Design Guide

- 3.3 The National Planning Policy Framework makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve. This design guide, the National Design Guide, illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.

As well as helping to inform development proposals and their assessment by local planning authorities, it supports paragraph 130 of the National Planning Policy Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Planning (Listed Building and Conservation Areas) Act 1990 (as amended)

- 3.4 This consolidates previous legislation relating to special controls in respect outbuildings and areas of special architectural or historic merit and sets out what alterations can be carried out to listed buildings and within Conservation Areas without the formal consent of the local planning authority. The Act also sets out the procedure for local authorities to consider compiling a list of properties considered to be of special architectural or historic interest and how applications affecting such assets are to be advertised. The legislation gives Local Planning Authorities a statutory duty to give special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Leicestershire Housing and Economic Needs Assessment (HENA) – 2022

- 3.5 HENA provides an up to date evidence base of local housing needs including an objectively assessed housing need figure based on forecasts and an assessment of the recommended housing mix based on the expected demographic changes over the same period. The housing mix evidence can be accorded significant weight as it reflects known demographic changes.

Landscape Character Assessment (2012)

- 3.6 The Borough of Charnwood Landscape Character Assessment 2012 explains that the Charnwood Forest Area of Landscape Character is the most complex of the landscape character areas in the Borough such that five sub-areas were identified within the Borough. Its purpose is to provide a framework for the assessment of planning applications and supports Policy CS11.

The site is at the edge of the Langley Lowlands Character Area which is described as a rolling landscape with gentle slopes and broad valleys in intensive arable cultivation with wooded fringes. The eastern side of the area transitions into the Soar Valley Landscape Area.

Key Characteristics of the area are:

- Rolling landform with gentle slopes
- Large arable fields
- Low hedges with few hedgerow trees
- Open views from ridgeline roads, (Oakley Road/Tickow Lane, Hathern/Shepshed
- Road) and the M1 Motorway
- Wooded fringes to streams in broad valleys
- Garendon Park: Grade II Historic Park and Garden
- M1 motorway divides the area
- Settlements are the western areas of Loughborough and northern Shepshed.

Housing Supplementary Planning Document (adopted May 2017 – updated December 2017)

- 3.7 The SPD provides guidance on affordable housing to support Core Strategy Policy CS3.

Hathern Conservation Area Character Appraisal

- 3.8 Hathern Conservation Area was designated in September 1975 and follows the meandering route through the village centre, principally along Wide Street, Dovecote Street, Church Street and The Green. The boundaries of the Conservation Area largely define the settlement as it existed in 1884 and includes a broad range of built development that is representative of the medieval and post medieval settlement and subsequent Victorian and Edwardian expansion. The boundary was revised in 2019.

The purpose of the appraisal is to examine the historic development of the Area and to describe its present appearance in order to assess the special architectural and historic interest of the Conservation Area. The appraisal will then be used to inform the consideration of management and development proposals within the Area.

The characteristics of special interest are:

- The nature of the network of narrow streets and broad junctions that make up the surviving medieval street pattern within the conservation area;
- the nature of the lanes as they cut down from the A6;
- the dominance of St. Peter and St. Paul's church tower in a number of views from within the area;
- groups of trees and individual specimens that dominate certain streets and spaces, and provide the back drop to many views within the conservation area;
- the use of terracotta details such as copings, window heads, etc and the variety of chimney pots;

- The variation of highway widths and lack of pavements;
- the variety and nature of front boundary treatments, consisting of brick, stone, hedge, with wild flowers and grasses;
- the wide range of building types that display the social and economic history of the village;
- the use of a range of local materials derived from the local geology are significant; red brick from local works is common, terracotta of local provenance, and surviving timber frame are very distinctive;
- The colours and textures that these distinctive local materials provide.

Design Supplementary Planning Document (January 2020)

- 3.9 This document sets out the Borough Council's expectations in terms of securing high quality design in all new development. Schemes should respond well to local character, have positive impacts on the environment and be adaptable to meet future needs and provide spaces and buildings that help improve people's quality of life.

Leicestershire Highways Design Guide

- 3.10 The Leicestershire Highways Design Guide deals with highways and transportation infrastructure for new developments. It replaces the former 6C's Guidance.

Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended)

- 3.11 The Environmental Impact Assessment Regulations set out the parameters, procedures and Regulatory detail associated with the screening, scoping and preparation of an Environmental Statement and consideration of significant environmental impacts of development. As this application is for a site of less than 5 hectares and is for less than 150 dwellings it does not stand to be screened for an Environmental Impact Assessment.

Conservation of Habitat and Species Regulations 2010 (as amended)

- 3.12 The Council as local planning authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged

Protection of Badgers Act 1992

- 3.13 Badgers are subject to protection under the above Act. This Act includes various offences, including wilfully killing, injuring or taking a badger or deliberately damaging a badger sett. A licence is required from Natural England where development proposals may interfere with badger setts.

Equality Act 2010

- 3.14 Section 149 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality.

Planning Guidance for Biodiversity

- 3.15 This document was adopted by the Council's Cabinet in June 2022 and it sets out guidance for applicants on how to avoid biodiversity loss or how to mitigate it on site, and where this is not possible, the document sets out how compensation can be achieved for mitigation off-site through the securing of developer contributions. The document is a material consideration in the determination of planning applications

Housing Needs Assessment (2020)

- 3.16 This report provides a new Housing Needs Assessment (HNA) for the Borough and provides an update to the previous Leicester and Leicestershire Housing and Economic Development Needs Assessment with the analysis in the 2020 document importantly providing information at a smaller area level than was previously available. The document forms part of the evidence base in relation to the emerging Draft Local Plan. The assessment reflects the Government's stated objective within the NPPF of significantly boosting housing supply and the analysis is also mindful of the Planning Practice Guidance (PPG) which calls for housing need assessments to respond to housing for older and disabled people and the housing needs of different groups. The report describes the existing housing stock in Charnwood, average prices, affordable housing need and provides an analysis of demographic changes and household growth.

The Community Infrastructure Levy Regulations 2010 (CIL) (as amended)

- 3.17 The Regulations set out the process and procedure relating to infrastructure requirements. Regulation 122 states that it must relate in scale and kind to the development. Regulation 123 precludes repeat requests for funding of the same items (pooling). The Community Infrastructure Levy (CIL) places the Government's policy tests on the use of planning obligations into law. It is unlawful for a planning obligation to be a reason for granting planning permission when determining a planning application for a development, or part of a development, that is capable of being charged CIL, whether or not there is a local CIL in operation, if the obligation does not meet all of the following tests:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

National Planning Policy Framework (2021)

- 3.18 Paragraph 55 sets out that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

The Draft Charnwood Local Plan 2019-37

- 3.19 This document was submitted for examination in December 2021. It sets out the Council's strategic and detailed policies for the plan period 2019-37. A number of hearing sessions have been held on some matters in June 2022. Further hearing sessions were held in October 2022 and February 2023.

At this stage the emerging Local Plan is generally given limited weight in the assessment of planning applications depending on the degree of contention there is with its policies through the Examination process. The next stage is to await a letter from the Inspectorate setting out main modifications and this will be subject to public consultation.

The following policies are considered applicable to this application, and the weight they can be assigned is addressed in the 'Planning Consideration' part of this report.

DS1 – Development Strategy – This sets out the overall spatial strategy for Charnwood between 2021 and 2037 and takes a hierarchical approach focussed on urban concentration and intensification in the most sustainable settlements with some limited dispersal to other areas of the Borough. The most environmentally sensitive areas will be protected, and the pattern of development will provide a balance between homes, jobs and facilities. The plan is at an advanced stage but as there are unresolved objections, this policy is therefore considered only to carry limited weight.

DS3 (HA61) – Land to rear of Loughborough Road, Hathern – this sets out that we will support development proposals at site HA61 (the application site) that

- Restrict development to the eastern part of the site and
- Through their design and layout, clearly maintains the physical and perceptual separation between Hathern and Loughborough and preserves the separate identity of those settlements

The plan is at an advanced stage and Examination hearing sessions concluded in Feb 2023. It is considered that the policy is consistent with Paragraph 68 of the National Planning Policy Framework and the policy carries limited weight

OS1 – Other Settlements – We will support our Other Settlements to meet their local social and economic needs. We will do this by supporting development that:

- Delivers allocations in accordance with Policy DS3 or sustainable development that is in accordance with the pattern of development outlined in Policy DS1 and which supports our vision and objectives including making effective use of land
- Is small-scale and within defined Limits to Development
- Ensures the timely and co-ordinated delivery of infrastructure to support sustainable communities, in accordance with Policy INF1, including contributing to expanded primary school provision in Cossington

- Supports the provision of community services and facilities that meet proven local needs as identified by a neighbourhood plan or other community led plan;
- Safeguards existing services and facilities; and
- Contributes to local priorities as identified in neighbourhood plans.

The plan is at an advanced stage – Examination. Hearing session on Other Settlements took place during discussions in June 2022. No further discussion planned for Other Settlements and it is considered there are no unresolved objections thus far. OS1 is consistent with NPPF paras 11, 16, 20 & 23 and carries moderate weight.

C1 – Countryside – This policy sets out how development in the countryside will be managed to ensure that its largely undeveloped character and intrinsic beauty and character are protected. It supports some rural economic development and the re-use and adaptation of rural buildings and supports new rural housing in exceptional circumstances as set out in the policy. The plan is at an advance stage and discussions on the Countryside took place in Examination Hearing sessions in June 2022 and it is considered that there are no unresolved objections. The policy is considered to be consistent with NPPF Paras 11, 16, 20, 23, 80, 84 and 174 and can therefore carry moderate weight.

EV1 – Landscape - requires new development to protect landscape character and to reinforce sense of place and local distinctiveness. The policy also requires new development to maintain the separate identifies of our towns and villages. The plan is at an advanced stage and modifications to the policy were agreed at Examination hearing sessions held in June 2022. The policy is therefore considered to carry moderate weight.

EV6 – Conserving and Enhancing Biodiversity and Geodiversity – This sets out how we will conserve, restore and enhance our natural environment for its own value and the contribution it makes to our communities and economy to ensure it is resilient to current and future pressures. Examination hearing sessions held in June 2022 and it is considered that the policy is consistent with NPPF Paras 174 and 179. The policy therefore carries moderate weight.

EV8 – Heritage – This sets out that we will conserve and enhance the historic environment including our heritage assets for their own value and the contribution they make to the community, environment and economy. The policy sets out the criteria by which development affecting heritage assets will be assessed and that we will also support neighbourhood plans in identifying and protecting local heritage assets which are of importance to their local community. The plan is at an advanced stage and representations on the policy were heard at the Examination hearing sessions held in June 2022. The policy is considered to be consistent with Paras 20 and 190 of the NPPF and the policy therefore carries moderate weight.

EV/9 – Open Spaces, Sport and Recreation – We will work with our partners to meet the open space, sport and recreation facilities needs of our communities to support their health, well-being and cohesion. We will support major residential development where they meet the needs generated by the proposed community and that:

- Provide on-site open space, sport and recreation facilities in accordance with our standards, having regard to the latest assessment of needs and priorities, the quantity, accessibility and quality of existing provision and viability; and/or
- Contribute towards off site provision in accordance with our standards, where on site provision is not possible or desirable. The policy also calls for new and enhanced open green space, sport and recreation facilities to contribute towards healthier and more active lifestyles.

The plan is at an advance stage and Examination Hearing sessions on the topic took place in June 2022. It is considered that the policy accords with Paragraphs 84, 93, 98 and 99 of the National Planning Policy Framework and carries moderate weight.

INF1 – Infrastructure and Developer Contributions – this policy states that we will work with infrastructure providers, developers and partner organisations to ensure the delivery of new or improved infrastructure necessary to support our development strategy and maintain sustainable and healthy communities and sets out how this would be achieved through legal agreements. The plan is at an advanced stage with representations having been heard at the Feb 2023 Examination Hearing sessions. It is considered the policy is consistent with Paragraph 34 of the NPPF but carries limited weight because modifications were proposed through the hearing sessions

H1 – Housing Mix – this sets out that we will seek a mix of house types, tenures and sizes that meet the overall needs of the Borough in line with the most up to date evidence. The plan is at an advanced stage with further representations due to be heard at the Examination hearing sessions scheduled for Feb 2023. The policy therefore carries limited weight.

H2 – Housing for Older People and People with Disabilities – This policy sets out the ways we will plan for the needs of the ageing population and people with disabilities by ensuring that a proportion of all new homes (including affordable homes) on major developments are accessible and adaptable in accordance with Part M4(2) of the Building Regulations. Viability of the development will also be considered and the policy supports the provision of bungalows or other single-level properties and specialist accommodation to meet the needs of younger or older people in need of some extra care or specialist accommodation. The plan is at an advanced stage and further Examination Hearing sessions including this topic are scheduled for Feb 2023. It is considered that H2 is consistent with NPPF Paragraphs 60, 61 and 62 and the policy carries limited weight.

H4 - Affordable Housing – This policy sets out the requirements for the provision of affordable housing and indicates that if these are on a greenfield site 30% will be required or on a brownfield site 10% will be expected. This would be applicable to all developments of 10 or more dwellings except those which are self-build projects or custom housebuilding developments. The plan is at an advanced stage. The policy is considered to accord with NPPF Paragraphs 63, 64 and 65 and carries limited weight because it was contested at the hearings.

CC5 – Sustainable Transport – This policy sets out that we will support sustainable patterns of development which will minimise the need to travel and seek to support a shift from travel by private car to walking, cycling and public transport. The plan is at an advanced stage and Examination Hearing sessions on the topic took place in June 2022. It is considered that the policy accords with Paragraphs 104, 105 and 106 of the National Planning Policy Framework and that the policy carries moderate weight.

4. Relevant Planning History

- 4.1 The relevant planning history for the site is set out in the appended March 2021 Committee Report.

5. Consideration of the Planning Issues

- 5.1 The starting point for decision making on all planning applications is that they must be made in accordance with the adopted Development Plan unless material considerations indicate otherwise. The most relevant policies for the determination of this application are listed above and are contained within the Development Plan for Charnwood which comprises the Core Strategy (2015) and those “saved” policies within the Borough of Charnwood Local Plan 1991-2026 (2004) which have not been superseded by the Core Strategy (2011-2028), Minerals and Waste Local Plan (2019).

- 5.2 The main planning considerations applicable to this application are considered to be:
- Whether or not the proposed development is acceptable in the absence of any of the developer contributions set out the previous committee report appended.
 - Whether or not there have been any material changes since a resolution was made to grant planning permission at the Plans Committee in March 2021.

6. Planning Obligations / S.106 Agreement

- 6.1 Infrastructure Policies CS3, CS13, CS15, and CS24 of the Core Strategy require the delivery of appropriate infrastructure to meet the aspirations of sustainable development either on site or through appropriate contributions towards infrastructure off-site relating to a range of services. As set out within related legislation such requests must be necessary to make the development acceptable in planning terms, directly related to the development and fairly related in scale and kind. Previous Consultation responses regarding the application resulted in requests to meet infrastructure deficits created by the development as set out in Recommendation A of the previous Committee Report. These were:

Education	£53,735.26 towards secondary school provision in the area. The catchment school is Charnwood College in Loughborough and most likely to benefit from the developer contribution, but other schools include De Lisle and Limehurst School also in Loughborough or Iveshead School in Shepshed.
Civic Amenity	£769.00 towards additional capacity at Shepshed Household Waste and Recycling Centre.
NHS	£9,113.62 towards improving Hathern Cross Street Surgery.
Open Space	Provision on site for young people (additional to children's play) or an offsite contribution of £17,172 towards facilities at Pasture Lane. Provision of onsite 0.12 ha (combined) of amenity space and park provision. Provision of 1 facility for children's play or offsite contribution of £9,600 towards a facility at Pasture Lane. Provision of 0.01ha of allotment land or off-site contribution of £2,033 for the provision or enhancement of existing allotments within Hathern. £5,902 towards the improvement of facilities at Derby Road Sports Ground in Loughborough.
Libraries	£540 to increase stock at Hathern Library.
Affordable Housing	40% Affordable housing (77% for rent and 23% for shared ownership)

6.2 Members are reminded that the developer contributions agreed in March 2021 are index-linked and are most likely to have increased since the previous resolution to grant planning permission. If permission were granted then the figures would need to be brought in to line with current costs within any S106 Legal Agreement.

7. Material Changes

7.1 Since the original resolution to grant was reached in March 2021 the housing land supply position has reduced from 4.1 years supply to 3.04 years supply and housing need is even more acute. The eventual adoption of the replacement local plan should identify suitable sites where this shortfall can be met and lead to a more certain supply of deliverable housing up to 2037. The policies of the Draft Local Plan have been reviewed and are considered in this report at section 8 below.

7.2 Additionally, it is acknowledged that the originally submitted Ecological Survey is now out of date. However, it was previously concluded that it would be possible to develop the site without significant ecological loss and indeed, provide a net biodiversity gain. The previous report to Committee Members sought to impose Cond No. 8 which would have required the developer to include an updated badger report, bat roost assessment and protection measures for birds as part of any eventual 'reserved matters' application. Because suitable mitigation could eventually be provided on site, the lack of up-to-date surveys today is not considered to constitute further grounds for now refusing the application.

8. The Planning Balance

8.1 As there is currently an insufficient supply of deliverable housing sites, the application would have to be determined on the basis of Paragraph 11(d) of the presumption in favour of sustainable development in the NPPF. This means that there must be adverse impacts which would significantly and demonstrably outweigh the benefits for planning permission to be refused.

8.2 In this case, the development would provide up to 18 new units, 7 (40%) of which should be affordable homes, at a time when there is an acute need for these. The provision of additional housing is a significant benefit of the scheme. These would not be provided in the most sustainable type of settlement in the Borough but nevertheless in an 'Other Settlement' where there are some local facilities and a bus service to higher order centres like Loughborough. The site offers the potential for high quality design and an acceptable mix of housing. There are no technical constraints relating to highways, noise or flooding which cannot be mitigated and ecological gain and landscape compensation can be secured by way of detailed landscape design. The site is also allocated for future housing in Policy DS3 (HA61) of the Draft Charnwood Local Plan (2021-2037). That plan is at an advanced stage with housing allocations having been discussed at Examination Hearing sessions in Feb 2023. The policy is considered to be consistent with Paragraph 68 of the NPPF but at this stage the many of the housing policies of the draft local plan carry limited weight. These are considered to be the positives of the scheme.

8.3 Weighted against these are the conflict with Policy CS1 of the Core Strategy and the saved Policies of the Borough of Charnwood Local Plan which do not seek to provide new housing outside the limits of Other Settlements. There would be localised harm to landscape and visual amenity as viewed from existing dwellings and the nearest public footpath. Additionally, the proposal would lead to loss of potentially what could be regarded as the best and most versatile agricultural land. The most significant harms however are considered to be the shortfall of developer contributions including a commitment to secure affordable homes which are most needed within the Borough. In addition, the proposal fails to take the opportunity to off-set its social and community impact by not making the expected contributions to education, civic amenity, library facilities, open space provision or towards medical general practice services in the village on which potential occupiers of the development would place demands.

8.4 The test from the framework is whether the detrimental impacts of the proposal described above would significantly and demonstrably outweigh the benefits of making a significant contribution to the supply of housing or whether specific policies within the Framework indicate that development should be restricted. In the absence of the required affordable housing and other developer contributions, it is considered that the identified harms, taken together, would significantly and demonstrably outweigh the benefits of the scheme.

9. Conclusion

9.1 These contributions are still considered to be CIL compliant and would allow the necessary infrastructure to meet policies CS3, CS15, and CS24 of the Core Strategy and meet the statutory tests contained in Regulation 122 of the CIL, and the requirements of paragraph 57 of the NPPF. In the absence of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure the necessary developer contributions in order to off-set the social and amenity impacts of the scheme, it is recommended that the development should not be granted planning permission.

10. Recommendation

10.1 That in the absence of a legal agreement under Section 106 of the Town and Country Planning Act 1990 which would secure developer contributions to off-set the social and amenity impacts of the scheme, it is recommended that planning permission be refused for the following reason:

1. The development creates demand for education provision, civic amenity, open space provision and library facilities which cannot be met by existing services. Additionally, there is a need to secure affordable housing and an appropriate mix of type tenure and size of home in order to ensure that the proposal complies with development plan policy CS3 of the Charnwood Local Plan (2011-2028) Core Strategy and Policy H4 of the Draft Charnwood Local Plan (2021-2037) . These matters would normally be secured by way of a Section 106 Legal Agreement, but this has not, at this time, been provided. Accordingly, the development fails to comply with policies CS3, CS15 and CS24 of the Charnwood Local Plan (2011-2028) Core Strategy and Policies H/4, EV/9 and INF1 of the Draft Charnwood Local Plan (2021-2037) and would lead to significant and demonstrable harm which would outweigh the benefits of the scheme.

