

**Item No: 5a****Application Reference Number:** P/21/2639/2

<b>Application Type:</b>	Outline	<b>Date Valid:</b>	20 <sup>th</sup> Dec 2021
<b>Applicant:</b>	Taylor Wimpey (UK) Limited		
<b>Proposal:</b>	Outline application for up to 195 dwellings with all matters reserved except access.		
<b>Location:</b>	Land North of Barkby Road, Syston, Leicestershire		
<b>Parish:</b>	Barkby Syston	<b>Ward:</b>	Syston East
<b>Case Officer:</b>	Liam Ward	<b>Tel No:</b>	07808 844786

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**1. Background**

- 1.1 This application is referred to Plans Committee because the applicant has submitted an appeal to the Planning Inspectorate under Section 78 of the Town and Country Planning Act 1990, on the basis that the local planning authority has failed to determine the planning application within the relevant timeframe.
- 1.2 Much of the information required to inform a decision was available to the Borough Council several months ago but matters around access and traffic had not been resolved, and therefore an officer recommendation was not made to the Plans Committee at an earlier date.

**2. Description of the application site**

- 2.1 The application site, extending to 8.29Ha, lies to the east of the town of Syston. It is roughly wedge shaped, being wider toward the rear, and north of the lands. It has frontages onto Barkby Road and Queniborough Road.
- 2.2 Topographically, the site lies within the gently undulating river valley landscape which broadly falls from high land to the east to the river to the west. Within this broad framework there are localised low hills to the south rising to c.80m above Ordnance Datum (aOD) to the south of Barkby (at Barkby Thorpe). The site itself broadly falls gently south-west from Queniborough Road at its north-eastern extent (at c. 65m aOD) towards the settlement edge at its south-western extent (at c.59m aOD). The lowest area of the site falls towards the centre of its western boundary.
- 2.3 The site adjoins established residential development at Empingham Drive and John Frear Drive to the west. To the north are open fields and to the east is

Queniborough Road with fields beyond. To the south is Barkby Road and an open field beyond.

*Figure 1 - Site Location in context*



- 2.4 The land is currently divided into three component parts. A hedge running roughly east to west bisects the front portion of the site. The rear portion is separated from the rest by a Public Right of Way (PRoW) (footpath, ref J37), linking east from the settlement edge to Queniborough Road. The PRoW passes through the application site.

Figure 2 - Application site's 3 component parts



- 2.5 The site is outside the defined Limits to Development of Syston. The site has no landscape designations. The site is located at the intersection between Soar Valley Landscape Character Area and Wreake Valley Landscape Character Area.
- 2.6 The site and its environs are identified in the Council's Graphical Information System as having a series of notifiable constraints relevant to the residential proposal. It is within Landfill Buffer Zone EAHLD22640, which relates to historic landfill on land to the north, and beyond the application site boundary.
- 2.7 It has been identified as having a connection with a historic brickworks, which raises potential contamination risk. A pond, or ponds had existed in 1903, but are no longer evident. They may have been infilled. It is within a minerals consultation area for both gypsum and sand & gravel.
- 2.8 The site is allocated for housing in the submitted Local Plan 2021-37 under policy DS3 site identification HA3.

### **3. Description of the proposal**

- 3.1 The proposal is for outline planning permission for up to 195 dwellings on the site. All matters are reserved other than access.
- 3.2 The site's area is 8.29Ha. The illustrative masterplan, and Design and Access Statement show that 2.4Ha, or 29% would be devoted to publicly accessible open space. 5.5Ha would be developed, including the housing, internal roads, and footpaths. The net density would therefore be 35.5 dwellings per hectare. The balance of the site area is illustrated as being used for attenuation ponds.
- 3.3 The applicant offers 30% of the approved stock as affordable housing.
- 3.4 Access would be taken from Barkby Road, on the site's southern boundary, with a right-turning lane, and a road width of 5.5m. Provision is to be made for future junction improvements which could also serve the lands to the south of Barkby Road, should they become the subject of a future planning application. That improvement would be a roundabout to replace the priority junction, at the same location as the currently proposed junction. A footpath across the site's frontage, west of the vehicular entrance, will connect with the existing public footpath at Empingham Drive to the west.
- 3.5 Existing hedgerows around its eastern, western, and northern boundaries are to be retained, and enhanced. The hedgerow adjacent to Queniborough Road is to be widened to 10m. The existing southern boundary hedge would largely be removed in order to provide for the new access. The hedgerow which runs from east to west within the site is to be largely retained, except where internal development roads would pass through it.
- 3.6 The applicant proposes an internal roads hierarchy, with interlinking footpath providing pedestrian permeability. This proposed footway would connect with the PRow, offering linkages to the development to the west, the proposed development to the north, and to Queniborough Road. An equipped children's play is shown indicatively in the middle of the site, with other green and blue spaces distributed around the site.

3.7 This Outline Planning Application is comprehensive and is accompanied by the following supporting information:

- Design and Access Statement
- Planning Statement
- Arboricultural Impact Assessment
- Air Quality Assessment
- Travel Plan
- Transport Assessment
- Archaeological and Heritage Assessment
- Landscape & Visual Assessment
- Flood Risk Assessment
- Agricultural land classification
- Ground gas risk assessment
- Geological environmental site assessment
- Statement of Community Involvement
- Illustrative Masterplan
- Ecological Appraisal
- Biodiversity Metric

3.8 During the processing of the application, and in response to consultee comments, revised information has been submitted in respect of the flood risk, air quality and highways. The relevant consultees were re-consulted.

#### **4. Pre-Application Advice**

4.1 The applicant sought formal pre-application advice prior to the submission of the planning application. A meeting was held with planning, landscape and ecology officers on 13th May 2021. Following the meeting, a formal pre-application response was issued on 11th June 2021 (reference number: P/20/2260/2). That advice was that, on balance, a housing proposal on the site was likely to be approved in principle, subject to detailed consideration of identified areas of concern.

4.2 Public consultation was undertaken by the applicant prior to the submission of the outline planning application, including the circulation of a consultation leaflet to local residents, ward councillors and the launch of a project website. The website included a digital virtual public exhibition to enable to local community to find out more information about the proposals and provide feedback. The website included a live chat service, and responses could also be submitted via the website, email or by freephone. Meetings have also taken place between the applicant and Syston Town Council. The planning application is supported by a Consultation Statement by Development Communications Ltd (trading as Devcomms), which sets out details of the public consultation process to date.

## 5. Development Plan Policies

- 5.1 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).

The policies applicable to this application are as follows:

### 5.2 [Charnwood Local Plan Core Strategy \(CS\)](#)

Policy **CS1** Development Strategy  
Policy **CS2** High Quality Design  
Policy **CS3** Strategic Housing Needs  
Policy **CS11** Landscape and Countryside  
Policy **CS13** Biodiversity and Geodiversity  
Policy **CS14** Heritage  
Policy **CS16** Sustainable Construction and Energy  
Policy **CS17** Sustainable Travel  
Policy **CS18** The Local and Strategic Road Network  
Policy **CS24** Delivering Infrastructure  
Policy **CS25** Presumption in favour of sustainable development

### 5.3 [Borough of Charnwood Local Plan \(CLP\) \(adopted 12 January 2004\) \(saved policies\)](#)

Where they have not been superseded by Core Strategy policies previous Local Plan policies remain part of the development plan. In relation to this proposal the relevant ones are:

Policy **ST/2** Limits to Development  
Policy **CT/1** General Principles for areas of countryside  
Policy **CT/2** Development in the Countryside  
Policy **EV/1** Design  
Policy **TR/18** Parking in New Development

### 5.4 **Minerals and Waste Local Plan (2019)**

This document includes the County Council's spatial vision, spatial strategy, strategic objectives, and core policies which set out the key principles to guide the future winning and working of minerals and the form of waste management development in the County of Leicestershire over the period to the end of 2031.

Policy M11 seeks to safeguard mineral resources including sand, gravel, limestone, igneous rock, surface coal, fireclay, brick clay and gypsum. The policy sets out that planning permission will be granted for development that is incompatible with safeguarding minerals within a Mineral Safeguarding Area provided certain criteria are met.

Planning applications for non-mineral development within a Mineral Safeguarding Area should be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to it.

## **6. Other material considerations**

### **6.1 [The National Planning Policy Framework \(NPPF\) \(2021\)](#)**

The NPPF policy guidance which is of relevance to this proposal includes:

- Section 2: Achieving sustainable development.
- Section 4: Decision making
- Section 5: Delivering a sufficient supply of homes.
- Section 8: Promoting healthy and safe communities.
- Section 9: Promoting Sustainable Transport
- Section 12: Achieving well-designed places.
- Section 14: Meeting the challenge of climate change, flooding and coastal change.
- Section 15: Conserving and enhancing the natural environment
- Section 16: Conserving and enhancing the historic environment.

### **6.2 Planning Practice Guidance**

This national document provides additional guidance to ensure the effective implementation of the planning policy set out in the National Planning Policy Framework. The guidance sets out relevant guidance on aspects of flooding, air quality, noise, design, the setting and significance of heritage assets, landscape, contaminated land, Community Infrastructure Levy, transport assessments and travels plans, supporting the policy framework as set out in the NPPF.

### **6.3 National Design Guide**

This is a document created by government which seeks to inspire higher standards of design quality in all new development.

### **6.4 Leicestershire Housing and Economic Needs Assessment (HENA) –2022**

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.

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

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

**6.6 Design Supplementary Planning Document (January 2020)**

This document sets out the 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.

**6.7 Leicestershire Highways Design Guide**

The purpose of the guidance is to help achieve development that provides for the safe and free movement of all road users, including cars, lorries, pedestrians, cyclists and public transport. Design elements are encouraged which provide road layouts which meet the needs of all users and restrain vehicle dominance, create an environment that is safe for all road users and in which people are encouraged to walk, cycle and use public transport and feel safe doing so; as well as to help create quality developments in which to live, work and play. The document also sets out the quantum of off-street car parking expected to be provided in new housing development.

**6.8 Landscape Character Appraisal**

The Borough of Charnwood Landscape Character Assessment was prepared in July 2012. The purpose of the report was to assess the baseline study of the landscape character, at a sub-regional level that gives a further understanding of the landscape resource. The document 'provides a structured evaluation of the landscape of the borough including a landscape strategy with guidelines for the protection, conservation and enhancement of the character of the landscape, which will inform development management decisions and development of plans for the future of the Borough'.

**6.9 Technical Housing Space Standards (2015)**

Seeks to encourage minimum space standards for housing. This document has not been adopted for the purposes of Development Management at Charnwood Borough Council, but it is included in draft Policy H3 of the emerging local plan and is therefore a material consideration for which appropriate weight must be given.



## 6.10 **Conservation of Habitat and Species Regulations 2010 (as amended)**

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 to consider the likelihood of a license being subsequently issued by Natural England.

## 6.11 **Equality Act 2010**

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.

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

As the application proposals are for urban development on a site of more than 0.5 hectares, the proposals fall under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017. Such projects only require an EIA if the development is likely to have significant effects on the environment by virtue of factors such as its nature, size or location. Given the nature and location of the application proposals, it is not considered that the application would constitute EIA development.

## 6.13 **[The Draft Charnwood Local Plan 2021-37](#)**

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 to address the specific matter of Leicester's unmet need. Following the further consideration of this issue by the Planning Inspectorate, hearing sessions will resume in February 2023.

In accordance with NPPF paragraph 48, the relevant emerging policies in the plan may be given weight in determining applications, according to;

- (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight it may be given),
- (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given),
- (c) the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

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

- Policy **DS1** Development Strategy
- Policy **DS2** Leicester and Leicestershire Unmet Needs
- Policy **DS3** Housing Allocations (Allocated site HA3)
- Policy **DS5** High Quality Design
- Policy **LUA1** Leicester Urban Area
- Policy **H1** Housing Mix
- Policy **H2** Housing for Older People and People with Disabilities
- Policy **H3** Internal Space Standards
- Policy **H4** Affordable Housing
- Policy **EV1** Landscape
- Policy **EV6** Conserving and Enhancing Biodiversity and Geodiversity
- Policy **EV7** Tree Planting
- Policy **EV9** Open Spaces, Sport and Recreation
- Policy **EV11** Air Quality
- Policy **INF1** Infrastructure and Developer Contributions
- Policy **INF2** Local and Strategic Road Network

The application site area matches the housing allocation DS3(HA3).

The weight assigned to the relevant policies will be addressed in the assessment that follows.

#### 6.14 **Planning Guidance for Biodiversity June 2022**

This planning guidance seeks to provide further clarification to Core Strategy Policy CS13 insofar as ensuring development proposals secure biodiversity net gain on-site to contribute towards the overall sustainability of development proposals.

### 7. **Relevant Planning History**

7.1 The planning history of this site is described in the table below:

<b>Reference</b>	<b>Description</b>	<b>Decision &amp; Date</b>
P/18/0691/2	Screening need for environmental assessment	No EIA Required 31 <sup>st</sup> May 2018
P/18/1366/2	Outline application for up to 195 dwellings, together with open space, landscaping and drainage infrastructure, with all matters reserved except for access into the site from Barkby Road	Withdrawn 17 <sup>th</sup> Jan 2020

7.2 Also relevant to this consideration are some adjacent lands, and their planning history:

Reference	Description	Decision & Date
P/01/2462/2	Erection of 340 dwellings on lands adjacent to western boundary of current application site	Approved 2004 – now built
P/05/2311/2	Highways matters relating to discharge of conditions for application above. Includes traffic lighted junction at eastern end of current application site.	Approved 2005 – now completed
P/22/0354/2	Outline application for up to 251 dwellings on allocated site HA2, adjacent to northern boundary of current application site sharing common boundary along part of length of PRow J37	ongoing

## 8. Responses of Consultees & Other Comments Received

8.1 The table below sets out the responses that have been received from consultees with regard to the application. These requested obligations have been revisited with consultees following notice of the submission of the planning appeal. Please note that these can be read in full on the Council's website [www.charnwood.gov.uk](http://www.charnwood.gov.uk)

Consultee	Response
Leicestershire Lead Local Flood Authority – Leicestershire County Council (2/8/22)	Leicestershire County Council as Lead Local Flood Authority (LLFA) advises the Local Planning Authority (LPA) that the proposals are considered acceptable. A number of conditions are recommended to be attached to any grant of planning permission regarding surface water drainage. Confirms that the site is within Flood Zone 1.
Housing Strategy & Support Charnwood Borough Council (21/3/22)	In accordance Policy CS3 the Applicant is required to provide 30% (59) of the dwellings as Affordable Dwellings. Of the 59 Affordable Dwellings 77% (45) should be for rent and 23% (14) shared ownership. Regards should be given to the Adopted Housing Supplementary Planning Document (HSPD). The adopted HSPD seeks to secure affordable housing to accommodate the following: <ul style="list-style-type: none"> <li>• 1 bed: 2-person household</li> <li>• 2 bed: 4-person household</li> <li>• 3 bed: minimum 5-person household</li> <li>• 4 bed: minimum 7-person household</li> </ul>

	<p>House type drawings should show a proposed layout to demonstrate the property meets the appropriate household size.</p> <p>The Council does not own any 2 bed bungalows and are in need of 4 bed properties in Syston.</p> <p>It is recommended that the S106 Agreement secures a number of 2 bed wheelchair accessible bungalows with level access shower and 4 bed houses for rent.</p> <p>In accordance with Policy HSPD8 the Affordable Housing should be distributed across the site in clusters of no more than 10 dwellings.</p>
<p>Leicestershire County Council – Highways Various dates</p>	<p>28<sup>th</sup> February 2022 Requesting additional time to consider the information submitted</p>
	<p>13<sup>th</sup> May 2022 Concern that the proposal is not considered together with HA1 and HA2. Updated speed survey requested. Request that TRICS analysis re-run. Request that traffic flow counts are undertaken at 5 named junctions up-stream from the site. Request that other committed sites in the vicinity are included in the traffic flow analysis on local network. Ask that applicant explore/develop options for sustainable transport provision. Travel plan coordinator to be appointed.</p>
	<p>3<sup>rd</sup> October 2022 Approve submission on visibility splays, satisfied with speed survey. Otherwise, further information requested.</p>
	<p>27<sup>th</sup> January 2023 Responding to additional information submitted – not yet satisfied. Requests further information, including a broadened sensitivity test to include allocated sites in addition to approved sites.</p>
	<p>24<sup>th</sup> March 2023 (email) Not satisfied with proposals submitted for off-site improvement at Goodes Lane/ Melton Road junction.</p>
	<p>13<sup>th</sup> April 2023 (email) Not satisfied with recent submissions. Applicant submitted additional information on 29<sup>th</sup> June 2023. At the date of writing, we await a response from the LHA. Any further commentary received will be described in an Extras Report</p>

	<p>Planning obligations:</p> <ul style="list-style-type: none"> <li>• Nothing formally requested.</li> <li>• Appellant includes a schedule of proposed Highway Obligations as App K to its Statement of Case.</li> </ul>
<p>Leicestershire County Council – Education (16/2/22) (Updated 20/7/23)</p>	<ul style="list-style-type: none"> <li>• <b>Early Years - £304,250.70 contribution</b> towards provision, improvement, remodelling or enhancement of education facilities at Merton Primary School or at other schools or other early learning provision within the locality of the development.</li> <li>• <b>Primary School Sector – £679.172.00 contribution</b> towards provision, improvement, remodelling or enhancement of education facilities at Merton Primary School or any other school within the locality of the development</li> <li>• <b>Secondary School Sector - £0 contribution</b> towards provision. Wreake Valley Academy has sufficient surplus capacity.</li> <li>• <b>Post 16 Sector</b> – It is confirmed that <b>no contribution</b> is required from this sector.</li> <li>• <b>Special needs School Sector – £110,074.44 contribution</b> towards provision, improvement, remodelling or enhancement of education facilities at Ashmount School or any other school within the locality of the development improving capacity at SEN school.</li> </ul>
<p>Leicestershire County Council – Libraries (16/2/22)</p>	<p><b>£5,888.55 contribution</b> towards the enhancement of Syston Library.</p>
<p>Leicestershire County Council - Waste Management (3/3/22)</p>	<p><b>£10,075.65 contribution</b> towards HWRC at Mountsorrel.</p>
<p>Leicester, Leicestershire &amp; Rutland ICB Commissioning Group (NHS) (27/2/23)</p>	<p><b>£63,952.32</b> additional clinical accommodation for additional patients at The County Practice and The Jubilee Medical Practice, both based at Syston Health Centre. To be released prior to first occupation.</p>
<p>Charnwood Open Spaces (21/7/22) Updated (20/7/23)</p>	<p>Raises <b>no objection</b> subject to on-site/off-site contributions:</p> <ul style="list-style-type: none"> <li>• 0.66ha on-site accessible multi-functional green space area</li> </ul>

	<ul style="list-style-type: none"> <li>• 0.94ha on-site natural and semi-natural open space</li> <li>• On-site LEAP (Provision for Children), or £51,998 contribution to off-site provision at Chestnuts Play Area</li> <li>• On-site equipment/ facilities for Young People Local alongside LEAP or off-site contribution of £186,028</li> <li>• 1.22ha on-site, or £64,227 off-site contribution for Outdoor Sport facilities</li> <li>• 0.15ha on-site, or £22,020 off-site contribution for creation of additional allotments.</li> <li>• Off-site contribution to Indoor Sport of £88,566 toward swimming pools, plus £85,576 toward indoor courts, plus £12,636 toward indoor bowls rinks.</li> </ul>
Leicestershire County Council Mineral Planning Authority (8/3/22)	<b>No objections</b> in respect of mineral safeguarding.
Charnwood Borough Council Environmental Health (Updated 24/7/23)	<p><b>No objections</b> subject to conditions:</p> <ul style="list-style-type: none"> <li>• Scheme to identify and mitigate risk from ground gases, with remediation proposals to be submitted and approved prior to development.</li> <li>• Remediation scheme to be implemented.</li> <li>• Construction Management Plan to address air quality considerations during construction works.</li> <li>• The Construction Management Plan shall include: <ul style="list-style-type: none"> <li>• <i>details of site working hours;</i></li> <li>• <i>means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;</i></li> <li>• <i>measures to control and monitor construction noise;</i></li> <li>• <i>an undertaking that there must be no burning of materials on site at any time during construction;</i></li> <li>• <i>removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works; and</i></li> <li>• <i>contact details for the responsible person (site manager/office) who can be contacted in the event of any issue arising.</i></li> </ul> </li> </ul>
Charnwood Biodiversity (15/2/23)	<p>The Biodiversity Impact Assessment baseline is agreed and details of mitigation for anticipated net loss of biodiversity will be considered at Reserved Matters stage, via a S106 agreement.</p> <p>Conditions also recommended:</p>

	<ul style="list-style-type: none"> <li>• Submission of a CEMP to be approved prior to construction, and its measures implemented.</li> <li>• Clearance of hedgerows in the appropriate season.</li> <li>• A minimum of 8 bird boxes to be installed.</li> <li>• Bat protection measures, including submission of an appropriate lighting plan.</li> <li>• Artificial bat roost features to be fitted in at least 4 of the new buildings.</li> </ul>
Charnwood Conservation (2/8/23)	<ul style="list-style-type: none"> <li>• Archaeological assessment submitted not compliant with requirements of NPPF.</li> <li>• Does not concur with the conclusions in the submitted report that archaeological potential is low.</li> <li>• Field evaluation required, per para 194 of NPPF.</li> <li>• Use of planning conditions not sufficiently robust.</li> <li>• Recommends that further archaeological evaluation or impact assessment is sought, to include geophysical survey and trial trenching.</li> <li>• Suggests that it may be appropriate to consider directing the applicant to supply the information under Regulation 4 of the Town and Country Planning (Applications) Regulations 1988, or to refuse the application.</li> <li>• Says that these recommendations conform to the advice provided in DLUHC National Planning Policy Framework (NPPF) Section 16 paras 194 and 195.</li> </ul>

### Ward Councillor and Parish Council Response

Barkby and Barkby Thorpe Parish Council	<ul style="list-style-type: none"> <li>• Object for the following reasons:</li> <li>• Premature in respect of the emerging LDP.</li> <li>• Erosion of separation between Syston &amp; Barkby</li> <li>• Capacity of local services strained</li> <li>• Traffic</li> <li>• Piecemeal development</li> </ul>
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### Responses to publicity

From	Comments
11 letters of objection received from eight addresses	<ul style="list-style-type: none"> <li>• Queried veracity of submissions by applicant</li> <li>• Impact on sense of place</li> <li>• Traffic concerns</li> <li>• Impact on house prices</li> <li>• Concern for existing habitats</li> <li>• Loss of green separation between settlements</li> <li>• Overbearing</li> <li>• Development in the countryside</li> </ul>

	<ul style="list-style-type: none"> <li>• Accuracy of wildlife and habitats assessment</li> <li>• Flood risk</li> <li>• Development should be focused more on brownfield sites</li> <li>• Capacity of local services</li> <li>• Loss of privacy</li> <li>• Impact on views</li> <li>• Lack of investment in Syston's services</li> </ul>
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## 9. Consideration of the Planning Issues

- 9.1 Section 70(2) of the Town and Country Planning Act 1990 requires the decision taker to have regard to the development plan, so far as it is material to the application. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that: "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 9.2 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), "saved" policies within the Borough of Charnwood Local Plan 1991-2026 (2004) which have not been superseded by the Core Strategy (2011-2028) and the Minerals and Waste Local Plan (2019).
- 9.3 The Core Strategy and Charnwood Local Plan are over 5 years old, and it is important to take account of changing circumstances affecting the area, or any relevant changes in national policy. Other than those policies which relate to the supply of housing, the relevant policies listed above are up to date and compliant with national guidance. There is no reason for these to be given reduced weight.
- 9.4 Amongst the material considerations are the emerging Charnwood Local Plan 2021-37 (ELP) and the National Planning Policy Framework (NPPF).



9.5 The main planning considerations applicable to this application are considered to be:

- Principle of Development
- Sustainable Location
- Housing Mix
- Landscape & Visual Impact
- Design & Layout
- Open Space
- Impact on Residential Amenity
- Ecology and Biodiversity
- Impact on Trees
- Land Contamination
- Heritage and Archaeology
- Highway Matters
- Flooding and Drainage
- Impact on Mineral Reserves
- Benefits of the Proposal
- Planning Obligations / S106 Contributions

#### **Principle of the Development**

9.6 The principle of development is guided by local plan policy CS1 of the Charnwood Core Strategy (2015), which outlines the development strategy for the borough and the distribution of sustainable growth.

9.7 Policy CS1 defines a hierarchy of settlements for the Borough. Syston is in the third of five tiers, described as Service Centres. The Strategy aims to provide at least 3,000 new homes within and adjoining the Service Centres and aims to respond positively to sustainable development which contributes towards meeting development needs, supports the strategic vision, makes effective use of land and is in accordance with the policies elsewhere in the Charnwood Core Strategy. The site adjoins the limits to development of Syston to the western boundary, and therefore complies with policy CS1.

9.8 Saved Local Plan Policy ST/2 and Proposals Map of the Charnwood Local Plan identify Limits to Development for various settlements in the Borough. Policies CT/1 and CT/2 allow development outside the limits defined by ST/2 in very limited defined circumstances. Major housing development is not one of those developments permitted by CT/1. The proposal is therefore in conflict with policies CT/1 and ST/2.

- 9.9 The submitted Local Plan 2021-37 is a material consideration. The site is an emerging allocation for 195 new dwellings in the Charnwood Pre-Submission Local Plan 2021 – 2037 under Policy DS3, site reference HA3. That policy supports development proposals which are accompanied by a Flood Risk Assessment, and which make a financial contribution to the cost of part of a new primary school, to be located on site HA1. The submitted Local Plan supports housing development in this location and on this site.
- 9.10 The Planning Authority cannot currently demonstrate a 5-year supply of deliverable housing land (4.27 years on 1st April 2023). Footnote 8 in the NPPF, referencing its paragraph 11d advises that in such circumstances, where the proposal involves the provision of housing, the most important policies for determining the application are out-of-date. The policies which directly relate to the supply of housing are out of date and cannot be afforded full weight. The NPPF paragraph 11d guides decision makers to grant permission unless one, or both limbs of exception tests are satisfied.
- 9.11 NPPF paragraph 11(d)(i) relates to the protection of assets of particular importance, which are further defined by its footnote 7. These are generally nationally designated areas such as SSSI's, designated Local Green Space, AONBs and designated heritage assets. The subject proposals are not affected by, nor cause negative affects to the types of assets described, and so the limb (i) exception is not satisfied.
- 9.12 The second exception, at 11d(ii) would require that “any adverse impacts of [granting permission] would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.” That tilted balance will be weighed at the conclusion of this report, having considered the relevant adverse impacts and benefits throughout this section of the report.

### **Sustainable Location**

- 9.13 At its policy CS17 the Core Strategy seeks to achieve a 6% modal shift from travel by private car to walking, cycling and public transport.

- 9.14 The walking distance from the centre of the site to Syston town centre is approximately 1200m, or 14 mins, via PRoW J37, or around 1400m (16 mins) via the proposed vehicular entrance. These routes are also suitable for cycling, with journey times of around 5 minutes. The nearest bus stops are just over 300m from the site entrance, or 500m from the centre of the site. The bus route is Centrebus 100, which runs only a handful of services per day. Policy CS17 requires new or enhanced bus services where the new development is more than 400m from an existing bus stop.
- 9.15 Policy CC5 in the ELP shares the ambition of CS17 to shift from car to sustainable means of transportation, and to seek enhancements to bus services. This policy can be afforded moderate weight. Representations to this policy were discussed at hearing session in June 2022 and modifications to the policy agreed. It is consistent with NPPF paragraphs 104, 105 and 106.
- 9.16 Policy CS24 provides for financial contributions from developers toward the delivery of “essential infrastructure”, which in this case might include enhancement of the public transport provision. Its successor policy in the ELP, INF1 can only be afforded limited weight at this date, given the extent of unresolved representations.
- 9.17 The ELP identifies Syston as being within the “Leicester Urban Area”. This urban area is considered to be the most sustainable location for development, with 38% of housing allocations to be directed (emerging policy DS1 and LUA1). These policies can only be afforded limited weight at this date, given the extent of unresolved representations.
- 9.18 Syston town centre offers a wide variety of services, including everyday provisions. Public transport, from bus stops on Melton Road, and around a 15 minute walk from the site offer frequent routes to Leicester, Melton Mowbray and East Goscote. Whilst the 100-bus service passing the site is currently infrequent, the applicant has expressed a willingness to make a financial contribution toward enhancement of that service. The Merton Primary School is within a 15-minute walk from the site entrance. Overall, with enhancements to the bus service which can be secured by planning agreement, this proposal is thought to be at a sustainable location.

## Housing Mix

- 9.19 Policy CS3 (Affordable Housing) of the Core Strategy outlines a requirement to secure an appropriate housing mix having regard to the identified housing needs and the character of the area and suggests 30% of the units should be affordable homes to meet local needs. Similarly, paragraph 63 of the NPPF also allows for affordable housing contribution on major development sites of 10 or more dwellings.
- 9.20 Policy H1 (Housing Mix) in the ELP will seek a mix of house types, tenures, and sizes to meet the needs of the Borough. Policy H2 (housing for Older People and People with Disabilities) will seek a provision of at least 10% of new market homes to be compliant with the appropriate building regulations on accessibility and adaptability. Policy H4 (Affordable Housing) in the ELP will replace the tiered percentage provision expressed in CS3 with a flat requirement for 30% affordable housing across the Borough, with 67% of those being affordable for rent and 33% being affordable for ownership. These ELP policies can only be afforded limited weight at this date, given the extent of unresolved representations.
- 9.21 The Housing Supplementary Planning Document provides further guidance in support of this relating to how these units should be detailed. These policies generally accord with the NPPF and do not frustrate the supply of housing. As a result, it is not considered that there is a need to reduce the weight that should be given to them.
- 9.22 The Leicestershire Housing and Economic Needs Assessment (HENA) 2022 outlines a recommended housing mix for the Borough in respect of both market and affordable housing. This includes the following housing mix:

<b>Affordable social /affordable rented</b>	
1 bed	35%
2 bed	35%
3 bed	25%
4+ bed	5%
<b>Affordable home ownership</b>	
1 bed	20%
2 bed	40%
3 bed	30%
4+ bed	10%
<b>Market</b>	
1 bed	5%
2 bed	30%
3 bed	45%
4+ bed	20%

- 9.23 The delivery of 195 dwellings is a benefit to be weighed later in this report. Similarly, the delivery of 30% of those, or 59 dwellings as affordable homes is a benefit.
- 9.24 The proposal is capable of delivering affordable homes, in accordance with policies CS3 and H4 and this will be secured via a Section 106 Agreement. The detailed mix will be described in that agreement.

### **Landscape and Visual Impact**

- 9.25 The application is supported by a Landscape and Visual Impact Assessment (LVA) prepared by the Environmental Dimension Partnership. It considers the effects of the proposal in visual and landscape terms from a series of receptors, and against a range of policy and guidance publications. It is considered that the methodology described is appropriate.
- 9.26 The site is situated in the Wreake Valley Landscape Character Area (LCA). The LVA references the guidance for development in the LCA, including having retaining views of the village churches, use of locally native species, enhancement of the landscape character by use of tree cover around the fringes of settlements.
- 9.27 The landscape and visual sensitivities have influenced the scheme design in three ways. Firstly, the eastern boundary alongside Queniborough Road is to be enhanced with a 10m woodland belt. Along the southern boundary, where existing roadside vegetation will need to be removed around the access is to have any retained sections of hedge enhanced, and with new tree planting. Tree planting along the northern boundary of the site to filter and soften views of the development in views from the north, whilst incorporating a framed view across the development to retain a view towards Barkby church spire from public footpath 184 between Queniborough and Syston. The landscape strategy is illustrated on "Plan EDP L8: Landscape Strategy", with drawing number "edp4685\_d032a" (shown below).

Figure 3 - Landscape Strategy Plan



9.28 In the LVA's assessment of the effects on the character of the site, upon the character of the site's surroundings, and upon visual amenity it fairly assesses those harms in a range from negligible to major adverse. Unsurprisingly the most affected viewpoint is from the PRoW as it passes along the site boundary. The impact from most of the viewpoints were negligible to moderate/minor. The landscape strategy has illustrated how impact can be minimised.

9.29 The site is proposed to be allocated for housing in the emerging Local Plan and so the site was assessed in the SHLAA sites assessment 2019 (site PSH441). The site is relatively flat arable farmland which does not contain Priority Habitat Inventory vegetation. The Historic Landscape Character indicates that the site is strongly influenced by the wider agricultural setting, lying within land use defined as Re-organised Piecemeal Enclosure. Views extending south to the spire of the Church of St Mary are mentioned. The site does not make a significant contribution to the setting of any nearby heritage features. The site does not make a significant contribution to the sense of separation between Syston and neighbouring settlements.

- 9.30 The limited extent of adverse effect on both landscape and visual receptors together with retention and enhancement of green infrastructure and provision of public open space within the proposal would result in the development being acceptable in both landscape and visual terms.
- 9.31 Policies CS2 (Design) and CS11 (Landscape) of Charnwood Core Strategy are concerned with protecting the landscape and ensuring new development does not result in visual harm. These policies generally accord with the National Planning Policy Framework and do not directly impact on the supply of housing. As a result, it is not considered that there is a need to reduce the weight that should be given to them.
- 9.32 Policy DS5 (High Quality Design) can be afforded moderate weight, given that there are no unresolved representations, and its consistency with NPPF paragraph 130. Policy EV1 (Landscape) can be afforded moderate weight, given the nature and hearing of representations, and its consistency with NPPF paragraphs 20 and 130.
- 9.33 The approach taken to assessment of landscape and visual impact is sound, and the landscape strategy submitted in response to that assessment is compliant with the policy objectives of CS2, CS11, DS5 and EV1 from a landscape perspective.
- 9.34 That landscape strategy is also considered to satisfy CS12 (Green Infrastructure) policy objectives.

### **Design and Layout**

- 9.35 Policy CS2 of the Core Strategy requires new developments to respect and enhance the character of the area and saved policy EV/1 supports development that is of a design, scale, layout and mass compatible with the locality, and which uses materials appropriate to the locality. These policies generally accord with the NPPF and National Design Guide and do not frustrate the supply of housing. As a result, it is not considered that there is a need to reduce the weight that should be given to them.
- 9.36 The submitted illustrative masterplan has been informed by the LVA and the landscape strategy which flowed from that. The vehicular entrance position is limited by the need to create a right-turn lane, and by separation from existing junctions. The existing perimeter boundary hedges are to be retained and enhanced, particularly along the eastern and northern boundaries. The existing field boundary hedge crossing the site is retained, and the route of the PRow as it passes through the site is to be protected from development by a landscape corridor.

- 9.37 The internal roads layout shows a hierarchy of routes off the main spine road. That spine terminates in a T junction near the northernmost boundary. Low status roads and pedestrian links illustrate permeability. The PRoW, where it extends through the site's boundaries to the east and west extends that pedestrian permeability close to the rear of the site, such that all movement on foot or cycle need not pass through the main site entrance. A significant degree of separation between the car and the pedestrian is achievable.
- 9.38 A large area of publicly accessible open space is illustrated along the site's western boundary, midway between front and back of the site. It coincides with open space in the adjacent development to the west of the site. The combined areas of open space can make a meaningful contribution to the sense of openness. Other pockets of open space, landscape buffers and attenuation ponds are appropriately sited.
- 9.39 The proposal is considered to be compliant with policies CS2, CS11 and CS13 of Charnwood Core Strategy, EV/1 of Local Plan and the Charnwood Design SPD.
- 9.40 Policy DS5 (High Quality Design) in the ELP will require new developments to make a positive contribution to Charnwood. It lists six tests of quality, which are very similar to the policy tests in CS2. Policy EV1 (Landscape) in the ELP requires new development to protect landscape character and to reinforce a sense of place and local distinctiveness. The design and layout would be compliant with policies DS5 and EV1 of the ELP, both of which can be afforded moderate weight.
- 9.41 At the time of writing Policies H1 to H4 in the ELP carry limited weight, but that may change before the decision is made in this case. Policy H1 (Housing Mix) will seek a mix of housing types, tenures and sizes which meet the most up to date evidence of housing need. Policy H2 (Housing for Older People and People with Disabilities) in the ELP will seek at least 10% of market homes to meet the Building Regulations part M4(2) for accessibility and adaptation, together with an appropriate proportion of affordable homes. Some may also need to comply with Part M4(3) standards for being suitable for wheelchair users. H3 will require compliance with national space standards. H4 will set a Borough wide percentage of affordable housing for greenfield sites.



## **Impact on Trees**

- 9.42 Policies CS2 and CS11 of the Core Strategy seek to ensure high quality design that reflects the character and context of the area, which in this location comprises low density development and agricultural land with mature trees and hedges. These policies generally accord with the National Planning Policy Framework and do not conflict the supply of housing.
- 9.43 The application is supported by an Arboricultural Impact Statement which identifies trees to be retained on a Tree Removal and Retention Plan. The proposals are proportionate and appropriate, with only trees of poor quality and value to be removed. The site is not affected by any tree protection orders. This plan should be added to the list of decision documents within the planning conditions.
- 9.44 Consequently, the proposed development accords with relevant policies in the Core Strategy, particularly Policy CS11 (Landscape and Countryside) and Policy CS2 (High-Quality Design). Policy EV7 (Tree Planting) in the ELP seeks to retain existing trees where possible and the see new tree planting provided on site. The proposals comply with those policy objectives. Policy EV7 can be accorded moderate weight at this date, given the stage reached with representations to it, and that it is consistent with paragraphs 131 and 174 of the NPPF.

## **Ecology and Biodiversity**

- 9.45 The application is supported by an Ecological Appraisal which is informed by desktop research and by extended Phase 1 Survey and by a Detailed Phase 2 Survey. The key ecological features / receptors pertinent to the development proposals were summarised as:
- Farmland breeding birds: assemblage of Local level importance;
  - Bat roost potential in three trees on-site;
  - Bat foraging / commuting: moderate bat assemblage of Local level importance;
  - No evidence of current presence of badgers, but potential for new setts to be built onsite prior to commencement of development.
  - Potential occasional presence of grass snake on-site, Site-level importance; and
  - Presence of a hedgehog, Site-level importance.

- 9.46 This appraisal was supported by a biodiversity baseline assessment, in the standard Excel spreadsheet format. 9.44 The Council's Ecologist has confirmed that the baseline assessment is acceptable, and that the predicted Biodiversity Net Gain is achievable, based on the landscape strategy. It is acknowledged that this is an outline planning application and so the detailed landscaping proposals will need to be assessed at a later stage. Ecological mitigation and off-site compensation (if necessary) could be satisfactorily addressed by detailed measures secured as part of a detailed reserved matters application and secured and agreed through obligations as part of a S.106 Legal Agreement. Planning conditions are recommended (see consultation responses tabulated earlier in this report).
- 9.47 Policy CS13 seeks to conserve and enhance the natural environment with regard to biodiversity and ecological habitats. 9.46 The proposal, subject to the required obligations in the S106 Legal Agreement, imposition of planning conditions and detailed design/mitigation at reserved matters application, is considered acceptable and would comply with policy CS13 of the Charnwood Local Plan 2006-2028 Core Strategy.
- 9.48 Policy EV6 (Conserving and Enhancing Biodiversity and Geodiversity) will succeed policy CS13, and shares its objectives. Policy EV6 can be accorded moderate weight at this date, given the stage reached with representations to it, and that it is consistent with paragraphs 131 and 174 of the NPPF.

### **Open Space**

- 9.49 Policy CS15 of the Core Strategy seeks to ensure adequate open space is provided to serve the needs of new development. This policy generally accords with the NPPF and does not directly prevent the supply of housing. As a result, it is not considered that there is a need to reduce the weight that should be given to the policy.
- 9.50 The Council's Open Space team have raised no objections subject to the open space indicated on the indicative layout plan following good design principles to create a space that is visually attractive and encourages active lifestyles. A planning obligation can be imposed to secure on-site open space provision including natural and amenity green space and equipped play areas.
- 9.51 The requirement for open space is consistent with CS Policy CS15. The amount of space required is consistent with the findings of the Council's Open Space Assessment and Playing Pitch Strategy. Consequently, the proposal is considered to comply with policy CS15 of the Development Plan.

9.52 Emerging Policy EV9 (Open Spaces, Sport and Recreation) of the draft Local Plan will succeed policy CS15 and shares its objectives. The proposal satisfies those objectives. Policy EV9 can be accorded moderate weight at this date, given the stage reached with representations to it, and that it is consistent with paragraphs 84, 93,98 and 99 of the NPPF.

### **Impact on Residential Amenity**

9.53 Policies CS2 of the Core Strategy and EV/1 of the Local Plan seek to protect the amenity of existing and future residents. The Charnwood Design SPD (2020) also provides spacing standards and guidance to ensure an adequate level of amenity. Saved policy EV/1 of Local Plan and policy CS2 of Core Strategy require high quality design that does not impact on the amenity of adjacent properties or create poor standards of amenity for future occupiers.

9.54 The Charnwood Design SPD (2020) also provides spacing standards and guidance to ensure an adequate level of amenity is achieved.

#### *Existing properties*

9.55 11 objections have been received from members of the public, from eight different addresses. Only one of these addresses is adjacent to the application site, and that objection does not cite any aspect of residential amenity. The site abuts existing development to the west. but the existing dwellings are separated from the party boundary by landscape belts or open space. The masterplan illustrates one area where back to back relationships between existing and proposed dwelling could arise, and there is an established landscape buffer along the backs of the existing houses in that context.

9.56 In the planning judgement of this officer the application as presented has satisfactorily addressed the potential for harm to the residential amenity of its neighbours. Any future reserved matters application would have to demonstrate how the proposal would not cause any harm to residential amenity by reasons of overlooking, overshadowing or overbearing impact.

#### *Future occupants*

9.57 At the density illustrated on the application plans, and based on the indicative layout, it will be possible for the applicant to offer future occupants adequate amenity space.

- 9.58 Policy H3 (Internal Space Standards) in the ELP seeks that new developments comply with nationally described space standards for dwellings. This policy is the subject of unresolved representation, and so can be afforded limited weight. It is consistent with paragraph 130 of the NPPF.
- 9.59 The proposal has demonstrated that a scheme for 195 dwellings could comply with the provisions of policies CS2 of Charnwood Core Strategy and EV/1 of Local Plan along with NPPF, National Design Guidance and the guidance set out in the Design SPD to protect residential amenity, subject to detailed layout and design being finalised at reserved matters stage.
- 9.60 ELP Policy DS5 (High Quality Design) will succeed policy CS2 and shares its objectives. The proposal satisfies those objectives. Policy DS5 can be accorded moderate weight at this date, given the stage reached with representations to it, and that it is consistent with paragraphs 130 of the NPPF.

### **Heritage Assets & Archaeology**

- 9.61 The application was supported by an Archaeological and Heritage Assessment. The methodology included desktop research and site walk-over. No designated assets exist on, or adjacent to the site. There are seven listed buildings within 1km of the site, all located within Syston Conservation Area, which is itself almost 1km west of the site. The proposed development will not result in an adverse impact on, harm to, or loss of significance from any of the identified designated heritage assets, either in terms of an effect on their physical fabric or through changes to their wider setting.
- 9.62 The only locally listed asset relevant to this assessment is Syston Grange Farmhouse and Barns, which are situated south-east of the site, beyond the traffic lighted junction. The application site is not thought to form part of its setting.
- 9.63 The applicant's archaeologist considers that there is low potential to encounter archaeological remains from the prehistoric, Roman and early medieval periods within the site. Medieval and later activity is likely to be represented by nothing more than 'low value' features such as buried furrows, plough soils and former boundaries. The specialist report argues that no further assessment of the archaeological potential is necessary, and they support that argument by reference to an email exchanged with the council's Team Leader on Natural and Built Environment.

- 9.64 The Planning (Listed Buildings and Conservation Areas) Act 1990 provides a statutory duty for local authorities to have special regard to Listed Buildings and Conservation Areas. Section 66 (1) of the Act refers to the desirability of preserving Listed Buildings, the setting of Listed Buildings and the features of special architectural and historic interest which it possesses whilst Section 72(1) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
- 9.65 The submitted assessment of the potential heritage and archaeological harm has been reviewed by the council's specialist consultee. They disagree with the conclusion in the submitted report that the archaeological potential is low. The records of archaeological evidence for prehistoric activity in the vicinity of the site, and some of the evidence recorded from field walking across the site suggest at some potential. The work described in the submitted report was undertaken in 2003, and industry standard methodology has improved in the interim.
- 9.66 Paragraph 195 of the NPPF says "Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, **where necessary, a field evaluation**". In this case that field evaluation is considered to be necessary. It should include geophysical survey, followed by targeted trial trenching to identify any archaeological remains, and to make appropriate recommendations for mitigation.
- 9.67 Planning policy CS14 (Heritage) seeks that development will conserve and enhance historic assets in the Borough for their own value and the community, environmental and economic contribution they make, developments are expected to not only protect the assets, but also their setting. While the archaeological potential of the site remains unsatisfactorily considered, the proposal is in conflict with CS14.
- 9.68 ELP Policy EV8 (Heritage) will succeed policy CS14 and shares its objectives. The proposal conflicts with those objectives. Policy EV8 can be accorded moderate weight at this date, given the stage reached with representations to it, and that it is consistent with paragraphs 20 and 190 of the NPPF.

## Highway Matters

- 9.69 Policies CS2 and CS18 of the Core Strategy and saved policy TR/18 of the Local Plan seek to ensure safe access is provided to new development and policy CS17 of the Core Strategy is concerned with encouraging sustainable transport patterns. These policies generally accord with the National Planning Policy Framework and do not directly prevent the supply of housing. As a result, it is not considered that there is a need to reduce the weight that should be given to them. Paragraph 111 of the NPPF seeks to ensure new development does not result in an unacceptable impact on highway safety, or a severe residual cumulative impact on the road network. Paragraph 112 of the NPPF seeks to promote sustainable travel choices.
- 9.70 Similarly, policies in the ELP seek to promote high quality design (DS5 moderate weight), to deliver sustainable development (LUA1 – limited weight), appropriate car parking standards (T3 – limited weight), sustainable transport (CC5 – moderate weight), contributions toward infrastructure costs (INF1 – limited weight) and consideration of the local and strategic road network (INF2 – limited weight).
- 9.71 The local highway authority (LHA) has been consulted about the proposals and has not yet been satisfied that all of the relevant considerations have been satisfactorily addressed.
- 9.72 In a consultation response dated 3rd October 2022 the LHA discusses options around public transportation. Whilst the site is served by bus-stops on route 100 there are only four return journeys per day Monday to Saturday. The applicant had been engaged with Arriva Click, but the LHA concludes that a preferable option would be support for an enhanced 100 service. Whilst constructive discussions had continued about the quantum, timing and potential cost sharing with other application sites and allocated sites, the LHA has not expressed support for a public transport solution.
- 9.73 Whilst the walking distance to the town centre is more than 800m the LHA regard this as a reasonable walking distance and an option for some residents.
- 9.74 Whilst this is an outline planning application, access is to be considered in detail.
- 9.75 The form of priority junction appropriate to the application site, and the traffic which it will generate, is a priority junction, with a right-turn lane into the site. The applicant has submitted revised drawings in response to LHA comments, but in the latest formal response LCC Highways was not satisfied that the access geometry shown on drawing 20060-02-2 Rev D had complied with the relevant guidance.

- 9.76 The application site is allocated for residential development in the ELP. Similarly, the lands directly opposite the site, on the other side of Barkby Road are allocated for housing, with an indicative capacity for 960 homes, identified as HA1. Some of the traffic from HA1 would take its access from Barkby Road. In order to ensure that the HA1 allocation is not sterilized the LHA asked the applicant to table an access arrangement which would be appropriate to all of the potential traffic from HA1 and the application site. The solution presented (drawings 20060-06 and 20060-06-2) is a roundabout, with 4 exits: two for the existing Barkby road, and one each for the development sites. In their consultation response dated 27th January 2023 LCC Highways was satisfied with a roundabout as a future solution, but not satisfied with the design shown. The LHA does not request that the roundabout is built in order to access the application site. Rather they hope to ensure that sufficient land is set aside at the entrance to the application site in order to facilitate the construction of that roundabout if HA1 is to be developed.
- 9.77 Additionally, the LHA asked the applicant to consider the impact on a series of downstream junctions of the additional traffic generated by the application site, and by other committed sites and sites allocated for housing in the ELP. In their consultation response in January 23 the LHA was partially satisfied with junction capacity assessments for 6 downstream junctions, in respect of 3 identified committed sites in addition to the application site and HA1. They asked for a sensitivity test which would additionally consider the cumulative impacts of all the draft allocation sites in the draft ELP, which will include sites in Syston and Queniborough in particular.
- 9.78 The applicant has subsequently submitted further information, meetings between the applicant's team, the case officer and the LHA have taken place, and the LHA has offered further emailed feedback on 13th April. Copied from that email:

*To provide further advice to CBC (either condition or contribution) we will need to see evidence of site specific schemes i.e. detailed design (taking on board any previous LHA comments), supporting junction modelling, RSA and Designer's Response for the following junctions:*

- *High Street/Melton Road/Barkby Road;*
- *Goodes Lane/Melton Road (taking into consideration the LHA's design comments); and*
- *Fosse Way/High Street*

*This site specific mitigation is considered necessary to make the development acceptable, alongside a wider highway and transport contribution as identified in the CBC emerging Local Plan*

- 9.79 The applicant submitted further information on 29th June 2023, but the LHA had not commented on this additional information before the non-determination planning appeal was submitted on 13th July, nor before the date of this report.
- 9.80 Consequently, the proposed development is considered to conflict with Policies CS2 (Design), CS17(Sustainable Travel), CS18(Road Network) and CS24 (Delivering Infrastructure) of the Core Strategy and saved policy TR/18 of the Local Plan. Without satisfying the competent local highway authority that the proposed access is safe, and that the impact of the traffic generated by this development has not been adequately mitigated at downstream junctions, and without agreement with the County Council about the nature of a planning agreement which could address some of the travel and transportation matters, the local planning authority cannot recommend approval of permission.
- 9.81 Similarly, policies in the ELP which seek to promote high quality design (DS5 moderate weight), to deliver sustainable development (LUA1 limited weight), appropriate car parking standards (T3 limited weight), sustainable transport (CC5 moderate weight), contributions toward infrastructure costs (INF1 limited weight) and consideration of the local and strategic road network (INF2 limited weight) have not been satisfied. The proposal is in conflict with each of these policies.

### **Land Contamination**

- 9.82 Phase 1 Ground Conditions Assessment has been submitted as part of the supporting information. The results include an identified potential risk of ingress of ground gases into buildings. Gas protection measures could mitigate the risk. Such measures should be the subject of a planning condition which requires submission of proposals, and approval by the LPA.
- 9.83 On the basis set out above Environmental Health have raised no objections subject to imposition of a planning condition for a ground gas mitigation and verification strategy.
- 9.84 Consequently, with the imposition of conditions, the proposed development accords with relevant policies in the Core Strategy, particularly Policy CS2 and CS16 of Charnwood Core Strategy, Policy EV/1 of Local Plan and NPPF.

### **Flood risk and drainage**

- 9.85 The development is situated within Flood Zone 1 and being at low risk of fluvial flooding and a high risk of surface water flooding in the northwest part of the site.



- 9.86 The site is proposed to be split into 4 sub-catchments with their own outfall and attenuation. The proposals seek to discharge at a total of 36.6 l/s via dry detention basins to the on-site watercourse. The individual sub-catchment discharge rates and attenuation volumes have been itemised on the drainage strategy plan. To prevent increasing flood risk outside the site boundary it is proposed that a flow control is constructed where the watercourse leaves the development although it is not explained why this is required if new development discharge is limited to  $Q_{bar}$ . The Flood Risk Assessment does not mention historical flooding at the site to justify this.
- 9.87 To support the proposals, the applicant has commissioned a pluvial flood modelling due to the aforementioned high surface water flood risk according to the Environment Agency's RoFfSW map. The conclusions of this report are that the RoFfSW maps results of exceedance are broadly accurate and that development will not exacerbate flood risk across third-party land and will reduce the peak flow leaving the site due to the in-watercourse flow control.
- 9.88 Recommendations are for an emergency spillway at the site's western boundary, should the watercourse overtop. The applicant has submitted a revised modelling study document including an assessment of JBA Consulting's model methodology, carried out by BWB Consulting. The initial check of the model found some discrepancies however a second check has resolved these. However, some elements of the model will be dependent on the outcomes in detailed design. Due to this application being outline, this is advised to be acceptable at this stage.
- 9.89 The Lead Local Flood Authority have raised no objections subject to imposition of pre-commencement planning conditions in relation to detailed surface water drainage scheme, infiltration testing, management and long-term maintenance of surface water drainage system.
- 9.90 Consequently, subject to the conditions, the proposal is considered acceptable having regard to Policy CS16 of Charnwood Core Strategy and NPPF.

9.91 ELP Policy CC1 (Flood Risk Management) and Policy CC2 (Sustainable Urban Drainage Systems) require that development proposals are assessed for their risk of being flooded, and the risks arising from the proposals themselves. I am satisfied that the submitted FRA has addressed the requirements of these policies adequately, and that the proposals are compliant with the policies. Policy CC1 can be afforded limited weight at this date. The Examination Inspectors have requested further submissions following publication of the PPG on Flood Risk and Coastal Change published in August 2022. Policy CC2 can be afforded moderate weight. The discussions on representations to that policy have concluded, and the policy is consistent with NPPF paragraphs 167 and 169.

### **Impact on mineral resources**

9.92 In their consultation response dated 8th March 2022 LCC Minerals recorded that the site was allocated for housing in the ELP that it had been previously considered in the preparation of that Plan. The ELP considered the prevention of unnecessary mineral sterilisation when allocating its sites. The proposed development therefore falls within Table 4 of the Leicestershire Minerals and Waste Local Plan (LMWLP) and therefore the development is exempt from safeguarding as detailed within Policy M11 of the Leicestershire Minerals and Waste Local Plan (LMWLP). They do not object to the proposed development.

9.93 Consequently, the proposed development would not be in conflict with Policy M11 of the Leicestershire County Council Minerals and Waste Local Plan (2019). Furthermore, it is considered that the proposed development would not be in conflict with the relevant provisions of the National Planning Policy Framework, notably Paragraph 210.

9.94 However, the ELP is not yet adopted, and so the exemption noted in the consultation response cannot be determining. Unless, or until the application site is adopted as a development site, the proposal would be in conflict with policy M11 of the LMWLP.

### **Sustainable construction and energy efficiency**

9.95 The applicant describes a series of sustainable construction measures which could be adopted in the design of buildings, engineering and construction of the development. These include improved energy efficiency through siting, design and orientation; sustainable urban drainage systems; consideration of fabric efficiency in buildings; use of recyclable building materials; construction waste reduction.

- 9.96 At this stage the applicant has demonstrated that sustainable measures can be used, and this can be secured at reserved matters stage. The proposal in the interest of air quality and climate change would comply with policy CS16 of Charnwood Development Plan.
- 9.97 ELP Policy CC3 (Renewable and Low Carbon Energy Installations) and CC4 (Sustainable Construction) can be afforded moderate weight. The discussions on representations to these policies have concluded Policy CC3 is consistent with NPPF paragraphs 152, 155, 16, and 158. Policy CC4 is consistent with paragraph 157 of the NPPF.

### **Benefits of the proposal**

- 9.98 In the context of paragraph 11d(ii) being engaged it is necessary to consider the benefits of the proposal, in order to weigh those against adverse impacts later in this report. In this section I simply list the benefits, without applying weight. Some of the benefits of this development, if completed, would be:
- The provision of affordable housing
  - The provision of market housing
  - Construction phase employment
  - Contribution from completed housing to the local economy in the long term
  - Publicly accessible open space
- 9.99 Other benefits commonly claimed by applicants, such as landscaping around the site boundaries to countryside, are regarded as mitigation measures rather than benefits. Local taxation is similarly a mitigation against the additional draw on public resources, but there is no guarantee that such householder taxation would be spent on local services.

### **Planning Obligations/ S.106 Agreement**

- 9.100 Infrastructure Policies CS3, CS13, CS15, CS17 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 contribution towards infrastructure off-site relating to a range of services. ELP Policies DS3 (limited weight) DS5 (moderate), LUA1 (limited), SC1 (moderate), H1 (limited), H2 (limited), H4 (limited), CC1 (limited), CC2 (moderate), CC3 (moderate), CC4 (moderate), EV6 (moderate), EV7 (moderate), EV9 (moderate), EV11 (moderate) and INF1 (limited) also require the delivery of relevant infrastructure.

9.101 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. Consultation regarding the application resulted in the following requests to meet infrastructure deficits created by the development, with those which do not satisfy the CIL Regulations omitted:

<p>Affordable Housing (21st March 2022)</p>	<p>In accordance with Policy CS3 of the Core Strategy the Applicant is required to provide 30% (59) of the dwellings as Affordable Dwellings. Of the 59 Affordable Dwellings 77% (45) should be for rent and 23% (14) shared ownership. Regards should be given to the Adopted Housing Supplementary Planning Document (HSPD). The adopted SPD seeks to secure affordable housing to accommodate the following:</p> <ul style="list-style-type: none"> <li>• 1 bed: 2-person household</li> <li>• 2 bed: 4-person household</li> <li>• 3 bed: minimum 5-person household</li> <li>• 4 bed: minimum 7-person household</li> </ul> <p>It is recommended that the S106 Agreement secures a number of 2 bed wheelchair accessible bungalows with level access shower and 4 bed houses for rent. In accordance with Policy HSPD8 the Affordable Housing should be distributed across the site in clusters of no more than 10 dwellings.</p>
<p>Charnwood Borough Council Open Space (25th July 2022)</p>	<ul style="list-style-type: none"> <li>• 0.66ha on-site accessible multi-functional green space area.</li> <li>• 0.94ha on-site natural and semi-natural open space.</li> <li>• On-site LEAP (Provision for Children).</li> <li>• On-site equipment/ facilities for Young People Local alongside LEAP or off-site contribution of £186,028.</li> <li>• 1.22ha on-site, or £64,227 off-site contribution for Outdoor Sport facilities.</li> <li>• 0.15ha on-site, or £22,020 off-site contribution for creation of additional allotments.</li> </ul>
<p>Sustainable Transport</p>	<ul style="list-style-type: none"> <li>• Whilst discussions have been ongoing between the applicant, the LPA and the LHA an</li> </ul>

	agreed approach has not been reached at the date of writing.
Leicester, Leicestershire & Rutland ICB Commissioning Group (NHS) (26th July 2022)	<b>£69,952.32</b> additional clinical accommodation for additional patients at the County Practice, and the Jubilee Medical Practice, both based at Syston Health Centre
Leicestershire County Council Library Services (11th March 2022)	<b>£5,890</b> contribution towards the enhancement of Syston Library
Leicestershire County Council Waste management (3rd March 2022)	<b>£10,076</b> is required to contribute towards waste management at the HWRC at Mountsorrel.
Leicestershire County Council – Education (16/2/22) (Updated 20/7/23)	<p><b>Early Years - £304,250.70 contribution</b> towards provision, improvement, remodelling or enhancement of education facilities at Merton Primary School or at other schools or other early learning provision within the locality of the development.</p> <p><b>Primary School Sector – £679.172.00 contribution</b> towards provision, improvement, remodelling or enhancement of education facilities at Merton Primary School or any other school within the locality of the development</p> <p><b>Secondary School Sector - £0 contribution</b> towards provision. Wreake Valley Academy has sufficient surplus capacity.</p> <p><b>Post 16 Sector</b> – It is confirmed that <b>no contribution</b> is required from this sector.</p> <p><b>Special needs School Sector – £110,074.44 contribution</b> towards provision, improvement, remodeling or enhancement of education facilities at Ashmount School or any other school within the locality of the development improving capacity at SEN school.</p>

9.102 The Emerging Local Plan identifies a location within allocation site HA1 for the delivery of the new school. That site is not yet the subject of a planning application, and so there is no certainty about the delivery of the new school, or its timing.

- 9.103 Whilst the Open Space consultee offers an option to site the LEAP facility off-site, the site is large enough to be able to accommodate that provision on-site. The consultee recommendation for provision for Young People is left unchanged. It may be preferable to locate the relevant provision elsewhere, particularly if the adjacent allocated sites HA1 and HA2 are brought forward.
- 9.104 These contributions are considered to be CIL compliant and would allow the necessary infrastructure to meet policies CS3, CS13, CS15, CS17 and CS24 and meet the statutory tests contained in Regulation 122 of the CIL, and the requirements of paragraph 57 of the NPPF.

## **10. Consideration and Planning Balance**

- 10.1 Section 70(2) of the Town and Country Planning Act 1990 requires the decision taker to have regard to the development plan, so far as it is material to the application.
- 10.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that: "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 10.3 Recognising the primacy of the extant development plan(s) in the consideration of this development proposal, I begin by assessing the degree to which the proposal is compliant with, or in conflict with 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), and the Minerals and Waste Local Plan (2019).
- 10.4 The proposal conflicts with policies CT/1 and ST/2 from the saved 2004 policies. It is acknowledged that these policies are out of date, in that the council cannot demonstrate a 5-year deliverable housing land supply, but that is not to say that they carry no weight.
- 10.5 The consultation response from the Minerals planners in the LCC Planning, Historic and Natural Environment department identifies the site as being within a minerals safeguarding area. It goes on to apply an exception to that safeguarding in the assumption that the site is allocated for development in a development plan. Whilst it is an allocated site in a draft development plan, it does not yet benefit from the exception. Therefore, the proposal is in conflict with minerals Policy M11.

- 10.6 Whilst the submitted archaeological assessment suggests that the site has a low archaeological potential the council's expert disagrees. It is the council's opinion that the applicant has failed to satisfy the requirements of Chapter 16 of the NPPF, and in particular paragraphs 194, 195 and 203, and that field evaluation is necessary. Therefore, the proposal is in conflict with Policy CS14 in the Core Strategy and Policy EV8 in the emerging local plan.
- 10.7 LCC Highways has not been persuaded that the proposals represent an appropriate design solution. They have not approved the design tabled for site access. They are not satisfied that off-site junction improvements tabled thus far are adequate to address the traffic generated by the proposed development, when considered alongside other committed development. Similarly, the LHA is not satisfied that the sensitivity analysis requested has been completed to demonstrate that the design of the access for this site would not prejudice the delivery of other development sites. The proposed development is therefore considered to be in conflict with Policies CS2 (Design), CS17 (Sustainable Travel), CS18 (Road Network) and CS24 (Delivering Infrastructure) of the Core Strategy and saved policy TR/18 of the Local Plan.
- 10.8 Amongst the key material considerations are the emerging Charnwood Local Plan 2021-37 submitted for examination in December 2021, and the National Planning Policy Framework 2021.
- 10.9 The emerging local plan identifies the application site as HA3, a housing allocation site, within its Policy DS3. However, the policy carries limited weight. Whilst it is consistent with paragraph 65 of the NPPF it has a number of unresolved representations.
- 10.10 The highways issues described elsewhere are in conflict with ELP policies which seek to promote high quality design (DS5 moderate weight), to deliver sustainable development (LUA1 limited weight), appropriate car parking standards (T3 limited weight), sustainable transport (CC5 moderate weight), contributions toward infrastructure costs (INF1 limited weight) and consideration of the local and strategic road network (INF2 limited weight) have not been satisfied.
- 10.11 As the ELP makes its way through the stages in the process toward adoption it's policies may gain weight. The plan is at an advanced stage, with hearing sessions now concluded. The Local Development Scheme, published in April 2023 anticipated that the ELP would be adopted in September 2023. A lacuna during the pre-election period leading up to the May local elections has delayed that process, and so the turn of the year seems a more likely adoption date.

- 10.12 The National Planning Policy Framework (2021) defines a presumption in favour of sustainable development at its paragraph 11. Paragraph 11d requires decision takers to grant planning permission in circumstances where the most important policies for determining the application are out of date. Footnote 8 tells us that for proposals involving the delivery of housing those policies would be out-of-date if the local planning authority cannot demonstrate a five-year deliverable housing land supply. Charnwood Borough Council can only demonstrate a 4.27 year supply, and so the policies most important for determining this application are out of date.
- 10.13 There are two exceptions to the consequent requirement to granting of permission. The first relates to the protection of areas or assets where there is a clear reason for refusing the development proposed. In this case, that limb (i) is not satisfied. The second exception, described in paragraph 11dii, is that any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
- 10.14 The adverse impacts of the proposal, being those aspects of this report which conflict with policy are those relating to development beyond the defined limits of Syston, failure to safeguard a mineral reserve, highway safety, and the consequent inability to agree upon appropriate contributions toward infrastructure. Whilst the “tilted balance” described in 11d(ii) might outweigh the restriction imposed by the limits of development, and the minerals safeguarding, it cannot outweigh the considerations around road safety and related contributions to sustainable travel.
- 10.15 The benefits described in section 9 are reduced in weight in circumstances where the granting of planning permission is very close in time to the adoption date of the emerging local plan. The granting of outline planning permission does not, by itself satisfy the definition of deliverability in the glossary to the NPPF. A further step would need to be taken, by which time the ELP is likely to have been adopted. The contribution to a housing supply shortfall would, by then be redundant.
- 10.16 In this case, the conflict with highway related policies is an adverse impact which, by itself, outweighs the benefits. The exception of 11d(ii) is satisfied, and the tilted balance, at the date of writing, is not sufficiently compelling to merit a recommendation of approval.
- 10.17 In the event that the local highway authority was satisfied with the proposals before them now, or as evolved during the course of the processing of the non-determination appeal, that consideration of the tilted balance might change, and the recommendation which follows might alter.



## 11. RECOMMENDATION

### Recommendation A:

#### 11.1 Refuse planning permission for the following reasons:

1	The proposed development is on land which sits outside the limits to development for Syston identified on the Borough of Charnwood Local Plan 1991-2006 Proposals Map, adopted January 2004, and within Countryside. The form of development proposed does not fit with the exceptions defined in the Charnwood Local Plan (2004) and is therefore in conflict with its policies ST/2, CT/1 and CT/2.
2	The application site is within a Mineral Safeguarding Area, as defined in "Mineral and Waste Safeguarding, Charnwood Borough, Document S2/215" published December 2015. The application is not accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to it. It is therefore in conflict with Policy M11 (safeguarding of Mineral Resources) of the Leicestershire Minerals and Waste Local Plan up to 2031, adopted in 2019.
3	The applicant has not undertaken a sufficient level of archaeological investigation as required by NPPF Section 16, paragraph 194 to assist the local planning authority in understanding the heritage impacts of the scheme and thereby inform a balanced planning decision, as required by NPPF paras. 194, 195 and 203. The proposal is therefore in conflict with policy CS14 in the Core Strategy, and with Policy EV8 of the draft Charnwood Local Plan 2021-37.
4	Based upon the latest formal consultation response from the Local Highway Authority, dated 7th January 2023, the proposal has not demonstrated, to the satisfaction of the Local Highway Authority, that the access to the development is safe, and that the downstream impact of traffic generated by this proposal has been adequately considered, and the identified impacts mitigated appropriately. The

	proposal is therefore in conflict with the guidance in the Design Manual for Roads and Bridges. It is therefore in conflict with Policy CS2 in the Core Strategy and Policy DS5 in the emerging local plan, in respect of access arrangements.
5	Planning obligations relevant to the proposal have not been agreed with Leicestershire County Council in respect of Highways and sustainable travel. The proposal is therefore in conflict with Policies CSA17 and CS24 in the Core Strategy, and CC5 in the emerging local plan. At the date of writing policies INF1 and INF2 of the ELP have limited weight, but the proposal, without agreement between the applicant and LCC on contributions and obligations, is in conflict with these policies.
6	The development creates demand for open space, education provision and healthcare services 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. 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 and CS 24 of the Development Plan and would lead to significant and demonstrable harm which would outweigh the benefits of the scheme.

**Recommendation B:**

- 11.2 That delegated authority be given to the Head of Planning and Growth to respond to any changed circumstances in the context of the non-determination planning appeal which might alter the council's position. This authority would extend to whether to withdraw some or all reasons for refusal. It would also authorise him to agree the terms of a S106 agreement and planning conditions, which will be required by the Planning Inspectorate, regardless of the recommended decision.

**APPLICATION SITE**

