

Plans Committee Date:	28th September 2023
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Item No: 5a

Application Reference Number: P/22/2096/2

Application Type:	Outline	Date Valid:	17 th Nov 2022
Applicant:	Sowden Group Limited		
Proposal:	Residential Development for up to 28 Dwellings (All Matters reserved apart from Access and Layout)		
Location:	Land off Moor Lane, Loughborough		
Parish:	Loughborough	Ward:	Loughborough Hastings
Case Officer:	Liam Ward	Tel No:	07808 844786

1 Background

- 1.1 This application is referred to Plans Committee as the development is a major application for housing, set outside the settlement limits for Loughborough, and in the opinion of the Head of Planning and Regeneration, the application is controversial or likely to be of significant public interest and would have a significant impact on the environment.

2 Description of the application site

- 2.1 The application site, extending to 1.79Ha, lies to the east of the Grand Union Canal in Loughborough. It is roughly rectangular in shape, being wider toward the rear, and north of the lands. It has frontage onto Moor Lane, with access to be taken from Moor Lane.
- 2.2 The site has water bodies along its eastern, western and northern boundaries. The Grand Union Canal forms the western boundary, with the Hermitage Brook wrapping around the east and north of the site, discharging into the canal. A public footpath runs alongside the canal.

Figure 1 - Site Location in context



- 2.3 The land was formerly used for various purposes, including as a scrap and recycling yard. Since the closure of those businesses the level of the land on the part of the site upon which housing is proposed has been raised, without the benefit of a planning permission.
- 2.4 The site is outside the defined Limits to Development of Loughborough. It has no landscape designations. The site is located within the Soar Valley Landscape Character Area.

3 Description of the proposal

- 3.1 The proposal is for outline planning permission for up to 28 dwellings on the site, with associated infrastructure, accesses, landscaping and open space. All matters are reserved other than access. The illustrative site plan shows built development on approximately 40% of the site's area. Development density across the entire site would be 15.6 dwellings per Ha. On the developed component, that density would increase to approximately 35 d/Ha.

Figure 2 - Extract from proposed site plan



- 3.2 Access would be taken from Moor Lane, on the site's southern boundary. The connecting route into Loughborough is over the bridge which straddles the canal. The bridge is relatively narrow, and would not accommodate two cars passing, and a footpath.
- 3.3 The north-western quadrant of the site is densely wooded, with a stand of mature deciduous trees, on original ground level.
- 3.4 This Outline Planning Application is comprehensive and is accompanied by the following supporting information:

- Design and Access Statement
- Geo-environmental and Geotechnical site assessment
- Cricket Club – Boundary Risk Assessment
- Arboricultural Assessment
- Flood Risk Assessment
- Technical Note for Flood Risk Assessment & Drainage Strategy
- Landscape & Visual Assessment
- Ecological Appraisal
- Illustrative Masterplan

4 Development Plan Policies

- 4.1 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)
- 4.2 The policies applicable to this application are as follows:

Charnwood Local Plan Core Strategy

- 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

Borough of Charnwood Local Plan (adopted 12 January 2004) (saved policies)

- 4.3 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

Minerals and Waste Local Plan (2019)

- 4.4 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.
- 4.5 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.
- 4.6 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.

5 Other material considerations

The National Planning Policy Framework (NPPF September 2023)

- 5.1 The NPPF policy guidance of particular relevance to this proposal includes:
- Section 2: Achieving sustainable development
 - Section 5: Delivering a sufficient supply of homes
 - Section 8: Promoting healthy and safe communities
 - Section 9: Promoting Sustainable Transport
 - Section 12: Requiring well-designed places.
 - Section 14: Meeting the challenge of climate change, flooding and coastal change
 - Section 16: Conserving and enhancing the historic environment

Planning Practice Guidance

- 5.2 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 travel plans, supporting the policy framework as set out in the NPPF.

National Design Guide

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

Leicestershire Housing and Economic Needs Assessment (HENA) –2022

- 5.4 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.

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

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

Design Supplementary Planning Document (January 2020)

- 5.6 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

- 5.7 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.

Landscape Character Appraisal

- 5.8 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'.

Technical Housing Space Standards (2015)

- 5.9 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.

Conservation of Habitat and Species Regulations 2010 (as amended)

- 5.10 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 licence being subsequently issued by Natural England.

Equality Act 2010

- 5.11 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.

The Draft Charnwood Local Plan 2019-37

- 5.12 This document sets out the Council's strategic and detailed policies for the Borough over the period 2021-37. The local plan was submitted for examination in December 2021 with hearings concluding in February 2023. It is anticipated that the Inspectors will issue a letter setting out the requirement for main modifications to be made to make the plan sound. These modifications will be published for six weeks of public consultation so that the responses can assist the Inspectors in preparing their final report. The precise timings of these events are dictated by the Inspectors although, subject to their report, it is anticipated the Local Plan will be adopted by the Council in early 2024. 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).

- 5.13 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 **DS3**: Housing Allocations
- Policy **DS5**: High Quality Design
- Policy **C1**: Countryside.
- Policy **H1**: Housing Mix
- Policy **H2**: Housing for Older People and People with Disabilities
- Policy **H3**: Internal Space

- Policy **H4**: Affordable Housing
- Policy **EV1**: Landscape
- Policy **EV5**: River Soar and Grand Union Canal Corridor
- Policy **EV6**: Conserving and Enhancing Biodiversity and Geodiversity
- Policy **EV7**: Tree Planting
- Policy **EV9**: Open Spaces, Sport, and Recreation

Planning Guidance for Biodiversity (June 2022)

- 5.14 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.

6 Relevant Planning History

- 6.1 There is an involved planning history for the site. The key relevant history of applications, and decisions is listed below.

Pre-Application Advice

- 6.2 The applicant sought pre-application advice prior to the submission of the planning application. A formal pre-application response was issued on 22nd October 2018 (reference number: P/18/1832/2). The advice was that, on balance, a housing proposal on the site was unlikely to be approved. The following matters were listed in the conclusion:
- The site sits outside the limits of development, and in the countryside. A major residential development would not be acceptable in principle.
 - The site layout represented a poor quality design and would have an adverse impact upon the undeveloped character and appearance of the countryside.
- 6.3 The advice references a s106 agreement made on 16th December 2013, which required various financial contributions to be made, and a transfer of land which was the subject of that enquiry. At the advice date the obligations of that agreement had not been wholly satisfied.

Table 1 - Most relevant planning history

Reference	Description	Decision & Date
P/91/2105/2	Provision of enclosure for scrap transfer station	Conditional grant 31 st October 1991
P/91/3190/2	Retention of use of part of land for storage of lorries and skips and erection of 8ft high steel fence. Land opposite scrap yard	Conditional grant 11th June 1992
P/93/0553/2	Change of use from farm land to civic amenity compound	Refused 3rd November 1993
P/01/0464/2	Change of use from agricultural land for the storage of topsoil	Refused 8th October 2002
P/02/3000/2	Erection of replacement workshop building	Withdrawn 11 th Dec 2004
P/03/2136/2	Demolition of existing buildings and clearance of hardstanding to allow residential and leisure use plus associated car parking and delivery areas. New marina proposed linked to Grand Union canal	Refused 11 th November 2003
P/12/2130/2	Erection of 38 dwellings to phase 1 and outline application for residential development and community building.	Conditional grant 20 th Dec 2013
P/16/1054/2	Erection of 62 dwellings as part of development phase 2 (reserved matters - outline application P/12/2130/2 refers)	Conditional grant 7th June 2018
P/18/1832/2	Pre Application Advice: Erection of 29 dwelling houses and mass visitor car parking.	<ul style="list-style-type: none"> The site sits outside the limits of development, and

		<p>in the countryside.</p> <ul style="list-style-type: none"> • The site layout represented a poor quality • A previous s106 had not been wholly satisfied.
P/21/0476/2	Site for the erection of up to 28 dwellings	Refused 18th Nov 2021
P/21/2673/2	Certificate of lawfulness (existing) for engineering works comprising the releveling of land	Refused 14 th October 2022

- 6.4 The supporting documents submitted with application P/12/2130/2 included a “Sites Constraints Plan”. The decision granted full permission for the development of housing on the lands labelled “Phase 01”. The current application site is coincident with the area labelled as “North east quadrant”. The blue hatching on the Site Constraints Plan is described in the legend as “flood plain extent 1:100 year”. The pink shaded land is labelled as “flood plain extent 1:100 year with climate change”.
- 6.5 The built development in Phase 01 has been completed.
- 6.6 Part of the P/12/2130/2 application site, extending to 1.05 acres, was identified in the S106 agreement as “community building and public park land”. It was the intention of the signatories of the S106 agreement, including the current applicant, that ownership of this part of the application site would be transferred to the Council. The process involved a series of notifications and trigger events. There is a dispute about the date of receipt of a notice of commencement of development which was to have been issued by the developer to the Council. By the time the Council received it the time limit for the transfer of the land had elapsed, and so the parkland and community building were not delivered.

Figure 3 - Site Constraints Plan (P/12/2130/2)

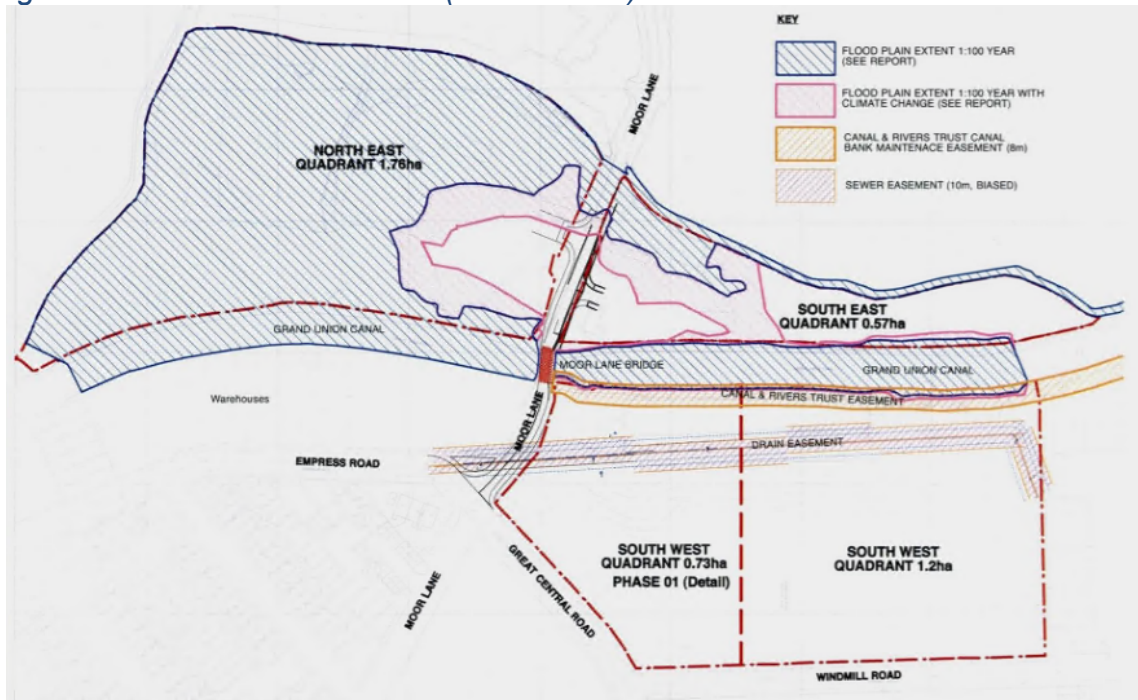
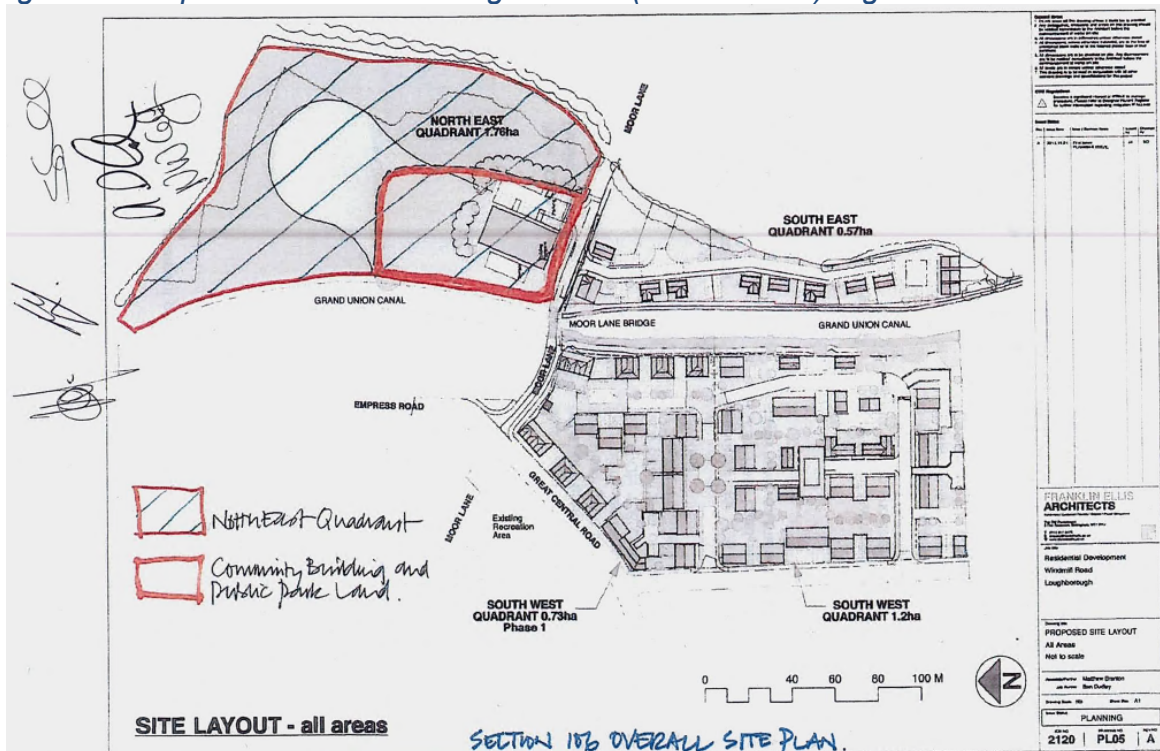


Figure 4 - Map extract from S106 agreement (P/12/2130/2) Signed 16th Dec 2013



6.7 The heavy red line on the s106 map illustrates the land upon which the parkland and community building were to have been delivered. That land is wholly within the current application site.

- 6.8 Application P/21/0476/2 was refused permission on 18th November 2021 for five reasons, which related to i) landscape harm, ii) development within flood zone 3b, iii) no agreed contributions to local infrastructure, iv) harm to ecology and v) poor design. The Proposed Site Plan submitted in support of that application is precisely the same as that submitted with the current application.
- 6.9 In addition, there is an extensive, and ongoing history of planning enforcement action at the site. Most of the enforcement cases have now been resolved, but one remains live, and unresolved. An Enforcement Notice E/18/0476 has been issued on 18th April 2023 which alleges raising of ground levels at the site. That is alleged to be a breach of planning control under paragraph (a) of section 171A(1) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) for several reasons. The harms alleged to be caused by the breach of planning control that are cited in the Notice are:
- inappropriate development in the countryside
 - harm to the undeveloped character of the countryside
 - harm to the biodiversity which had previously existed on the land
 - development within flood zone 3 which could displace flooding risk to elsewhere
- 6.10 These breaches are in conflict with a series of the policies listed above in the development plan, the NPPF and the emerging local plan.
- 6.11 The Enforcement Notice requires the landowner to reduce the levels on the land to a level recorded on an earlier topographical survey, and to replant the land. The Enforcement Notice has been appealed and the matter is to be heard by the Inspector in the form of a Hearing, as present no date has been set for when the Hearing will take place

7 Responses of Consultees & Other Comments Received

- 7.1 The table below sets out the responses that have been received from consultees with regard to the application. Please note that these can be read in full on the Council's website www.charnwood.gov.uk

Consultee	Response
<p>Leicestershire Lead Local Flood Authority (LLFA) – Leicestershire County Council (LCC)</p> <p>(25/01/23)</p>	<p>The site is located substantially within Flood Zone 2 and 3 being at high risk of fluvial flooding at the northern part of the site from the Hermitage Brook tributary watercourse.</p> <p>The applicant submitted a fluvial modelling study. However, since the report's publication in 2021, Flood Zone 3b (functional flood plain) has been redefined within the PPG as the 1 in 30 year event.</p> <p>Additionally, climate change should be accounted for within all applications and as such, any assessment should also account for this.</p> <p>The modelling submitted challenges the published Environment Agency flood maps associated with the main rivers along the east and north boundaries of the site.</p> <p>The surface water proposals must remain operational for up to the 1 in 100 year critical event plus climate change. The proposals seek to discharge at 5 l/s via pervious paving and a detention basin to the unnamed watercourse (Hermitage Brook tributary). However, this has not been supplemented with indicative level information for the pond, outfall and indicative pipe falls to demonstrate a gravity connection is feasible.</p> <p>The documents as submitted are insufficient for the LLFA to provide a substantive response at this stage. In order to provide a substantive response, the following information is required:</p> <ul style="list-style-type: none"> • Indicative level information for the site's outfall, basin and indicative pipe falls with sufficient details to evidence a gravity solution can be delivered. • Evidence showing that the proposed surface water drainage will remain operational during a peak design event. • Modelling updated to cater for revised Flood Zone 3 definition, inclusive of climate change.

	<ul style="list-style-type: none"> The modelling seeking to challenge the existing published flooding zones must be reviewed and supported by the Environment Agency. 										
<p>Housing Strategy & Support Charnwood Borough Council (5th Sept '23)</p>	<p>30% affordable homes required, of which 67% should be social or affordable rent and 33% intermediate (shared ownership or first homes). Regard should be given to the Adopted Housing Supplementary Planning Document (HSPD)</p> <p>The adopted SPD seeks to secure affordable housing to NDSS standards to accommodate the following number of people: -</p> <ul style="list-style-type: none"> 1 bed: 2 person maisonette / house 2 bed: 3 person bungalow 2 bed: 4 person house 3 bed: minimum 5 person house 4 bed: minimum 7 person house <p>It is also expected that affordable homes should meet lifetime homes standards (please note this has now been incorporated into Part M of building regulations – to align our policies with this update, affordable homes should be built to M4(2) building regulation standards.</p> <p>The exact mix should be secured prior to any reserved matters application being approved through dialogue with the Council's Strategic Housing Team, however, the following has been supplied as a framework.</p> <table border="1" data-bbox="635 1547 1198 1982"> <thead> <tr> <th data-bbox="635 1547 1094 1671">Affordable / Social Rent Affordable/ Social Rent No of Units</th> <th data-bbox="1094 1547 1198 1671"></th> </tr> </thead> <tbody> <tr> <td data-bbox="635 1671 1094 1749">1 bed/2 person</td> <td data-bbox="1094 1671 1198 1749">2</td> </tr> <tr> <td data-bbox="635 1749 1094 1827">2 bed/ 4 person</td> <td data-bbox="1094 1749 1198 1827">2</td> </tr> <tr> <td data-bbox="635 1827 1094 1906">3 bed/ 5 person</td> <td data-bbox="1094 1827 1198 1906">6</td> </tr> <tr> <td data-bbox="635 1906 1094 1982">4 bed/ 7 person</td> <td data-bbox="1094 1906 1198 1982">0</td> </tr> </tbody> </table>	Affordable / Social Rent Affordable/ Social Rent No of Units		1 bed/2 person	2	2 bed/ 4 person	2	3 bed/ 5 person	6	4 bed/ 7 person	0
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Total	10													
<p>Leicestershire County Council – Highways (LHA) (30/01/23)</p>	<table border="1"> <tr> <td colspan="2">Intermediate No of Units</td> </tr> <tr> <td>1 bed/2 person</td> <td>0</td> </tr> <tr> <td>2 bed/ 4 person</td> <td>2</td> </tr> <tr> <td>3 bed/ 5 person</td> <td>1</td> </tr> <tr> <td>4 bed/ 7 person</td> <td>0</td> </tr> <tr> <td>Total</td> <td>3</td> </tr> </table>	Intermediate No of Units		1 bed/2 person	0	2 bed/ 4 person	2	3 bed/ 5 person	1	4 bed/ 7 person	0	Total	3	<p>Based on the information provided, the development therefore does not conflict with paragraph 111 of the National Planning Policy Framework (2021), subject to conditions and/or planning obligations</p> <p>Moor Lane is only publicly maintained up to and including Moorlane bridge. Where the site access is proposed, East of Windlass Close and Moorlane Bridge, Moor Lane is a private road Byway Open to All Traffic (BOAT). Therefore the LHA cannot comment on the proposed suitability of the site access junction nor can it request for the access to be designed in accordance with the LHA's design standards and policy, as set out in the Leicestershire Highway Design Guide (LHDG). It should be noted however that an access which was in accordance with LHDG would be likely to provide a suitable access.</p> <p>Planning conditions were recommended which addressed the following:</p> <ul style="list-style-type: none"> • Construction traffic management plan • Scheme of improvement for the Public Right of Way • Boundary treatment alongside PRow to be submitted and approved prior to development • No tree or shrubs to be planted within 1m of the PRow
Intermediate No of Units														
1 bed/2 person	0													
2 bed/ 4 person	2													
3 bed/ 5 person	1													
4 bed/ 7 person	0													
Total	3													

	<ul style="list-style-type: none"> • Protection measures for users of the PRow during the construction phase <p>Planning obligations:</p> <ul style="list-style-type: none"> • Travel pack (one per dwelling) (£52.85 per pack) • 6 months bus pass (two per dwelling) (£360 per pass) • Raised kerb provision at bus stop 260080125 (Great Central Road, opposite Windmill Road) at a cost of £3,500 to support modern bus fleets with low floor capabilities and information display case at a cost of £120.
<p>Leicestershire County Council – Education (15/2/23)</p>	<p>Early Years - £0 contribution. Contributions not typically sought from developments below 100 dwellings</p> <p>Primary School Sector – £0 contribution towards provision, improvement, remodelling or enhancement of education facilities at Cobden Primary School. The school has spare capacity.</p> <p>Secondary School Sector - £83,588.18 contribution towards provision, improvement, remodelling or enhancement of education facilities at Limehurst Academy or at other schools or other school within the locality of the development</p> <p>Post 16 Sector – £17,858.15 contribution towards Rawlins College</p> <p>Special needs School Sector - £0 contribution. Contributions not typically sought from developments below 100 dwellings</p> <p>The total request for Education across all sectors for the proposed development equals: £101,446.32</p>
<p>Leicestershire County Council – Libraries (15/2/23)</p>	<p>£845.54 contribution towards the enhancement of Loughborough Library.</p>

<p>Leicestershire County Council - Waste Management (15/2/23)</p>	<p>£0 contribution</p>
<p>Leicester, Leicestershire & Rutland ICB Commissioning Group (NHS) (7th Aug '23)</p>	<p>A financial contribution of £13,639 toward the upgrading of access to service capacity at Park View Surgery (24-28 Leicester Road, Loughborough LE11 2AG), and/or Pinfold Medical Practice (Pinfold Gate, Loughborough, LE11 1DQ)</p>
<p>Environment Agency (16th Aug '23) (29th Aug '23)</p>	<p>Object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone (3b) in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and planning practice guidance (PPG). EA recommends that planning permission is refused on this basis.</p> <p>NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones. This site lies within Flood Zone 3b functional floodplain, which is land defined by the Strategic Flood Risk Assessment as having a high probability of flooding.</p> <p>The development is classed as more vulnerable in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted.</p> <p>Notes This 'in principle' policy objection is based on the classification of this land as functional floodplain/flood zone 3b in the Charnwood Strategic Flood Risk Assessment (SFRA).</p> <p>Land raising</p>

We have been made aware that the land level on site has been artificially raised significantly. It should not be raised within the functional floodplain and no works should increase flood risk elsewhere by reducing flood storage or diverting flood flows.

Raising the land level does not change the flood zone of the development site as the flood zone is a policy designation. The development site therefore remains in the functional floodplain as defined by the Charnwood SFRA.

Note – Sequential Test

In accordance with the National Planning Policy Framework (paragraph 158), development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

It is for the local planning authority to determine if the sequential test has to be applied and whether or not it is adequate. Our flood risk standing advice reminds you of this and provides advice on how to apply the test

Environment Agency Bio-diversity position

Development that encroaches on watercourses can have a potentially severe impact on their ecological value. The development has the opportunity to provide a buffer zone to the watercourse and hence provide better habitat and space for wildlife.

The proposed development will therefore be acceptable if a planning condition is included requiring a scheme to be agreed to protect a minimum 10 m wide buffer zone around the watercourse.

Groundwater & Contaminated Land (16th Aug)

	<p>The source of the material used to raise the land is unknown. It may contain wastes and contaminants which are already leaching into the underlying soils and watercourses, and which may also be released during flooding events.</p> <p>EA recommends that the CBC Environmental Health officer is consulted about the removal of soils in order to assess for risks to human health.</p> <p>The response goes on to consider planning conditions, should the council be minded to grant permission contrary to the EA advice.</p>
<p>Charnwood Borough Council Open Spaces (9th Aug '23)</p>	<p>Express concern that this application's development proposal is on land identified and agreed in a S106 agreement associated with P/12/2130/2 which was to be public open space and a public building. The result is that no open space was provided for the circa 100 houses built under that previous approval.</p> <p>For the current application - No Objection subject to on-site/off-site contributions:</p> <p>0.09ha on-site accessible multi-functional green space area.</p> <p>0.13ha on-site natural and semi-natural open space.</p> <p>On-site LEAP (Provision for Children) with a 20m minimum buffer to nearest dwelling.</p> <p>On-site equipment/ facilities for Young People Local alongside LEAP or off-site contribution of £26,712</p> <p>£9,194 off-site contribution for Outdoor Sport facilities to be used to implement recommendations of the Charnwood PPS 2018, e.g., Carillion Cricket Club.</p> <p>£7,114 off-site contribution for creation of additional allotments.</p>
<p>Charnwood Borough Council Landscape</p>	<p>The site is part of the River Soar functional flood plain / wash lands. The site would therefore require significant remediation to allow for retention of existing woodland</p>

<p>(8/7/21 in respect of P/21/0476/2)</p>	<p>and riparian vegetation along the Hermitage brook and new landscape provision.</p> <p>There needs to be a wider spatial allocation of landscaping along the canal edge to accommodate the towpath for dual or multifunctional use of canal users, residents and walkers or to establish a clear separation between the towpath proper and another parallel path for other users at a higher level.</p> <p>Landscape character effects:</p> <p>Overall developing the site from its current use to fringe of settlement suburban scheme should ideally yield moderately beneficial outcomes initially with low adverse impact being mitigated by retention of woodland block and wooded riparian corridor for Hermitage brook. The current scheme however cannot be regarded as strictly low density for built zone comprising of terrace housing with small gardens nor does it currently provide a satisfactory 'active' frontage to Moor Lane. In view of the recent former use however it is agreed the current scheme would yield a low adverse impact.</p> <p>Visual effects:</p> <p>The baseline visual analysis and predicted effects are accepted as accurate.</p>
<p>Leicestershire County Council Mineral Planning Authority</p>	<p>No comments received at the time of writing this report. Any comments received after publication will be reported in the Extras Report.</p>
<p>Charnwood Borough Council Environmental Health (11/8/23)</p>	<p>No Objection: subject to conditions</p> <ol style="list-style-type: none"> 1. The site shall be investigated to determine the significance of any land contamination arising from current or former uses. A suitable site investigation report, incorporating a risk assessment for the proposal, shall be submitted for the approval of the Local Planning Authority. 2. A detailed remediation scheme to address all significant risks identified in the approved site

	<p>investigation report shall be submitted for the approval of the Local Planning Authority.</p> <p>3. On completion of the approved remediation scheme, a suitable verification report shall be submitted for the approval of Local Planning Authority.</p>
<p>Charnwood Borough Council Biodiversity</p>	<p>Design: the proposals seek to retain a buffer around Hermitage Brook, which is welcomed, but would seek to remove additional trees from the woodland in the north west corner of the site. They would also seek to establish a permanent built frontage along the Grand Union Canal. This is an important wildlife corridor and recreational route. Whilst other parts of the corridor do include development along the frontage this increases the importance of the remaining vegetated sections and should not be used as a precedent for further degradation. The scheme has been designed with insufficient regard to avoiding and mitigating ecological impact. This objection could be overcome by redesigning the scheme to avoid any further tree removal and to retain a vegetated buffer (including tall trees) along the grand union canal boundary.</p> <p>The scheme is not supported by an adequate ecological appraisal. There are technical issues, including the description of an area dominated by crack willow as “broad leaved woodland plantation” and there is inadequate consideration the likely impact of the proposals. The appraisal states that habitats should be retained “where possible” and that “Any habitat creation should seek to provide habitats of a similar type or value (or higher) to those lost” (paragraph 4.15) but draws no conclusion about how or whether this could be achieved, despite that fact that approval is sought for the layout.</p> <p>More significantly the ecological appraisal uses an incorrect baseline that includes an elevated platform that has been constructed without planning consent and</p>

	<p>which is itself subject to enforcement action. The platform itself required significant vegetation removal from parts of the site and none of this forms a part of the ecological appraisal as submitted. This objection could be overcome were the applicant to submit a BIA using a baseline which precedes the construction of the platform and the vegetation clearance which facilitated it.</p>
<p>Charnwood Natural & Built Environment (17th Aug '23)</p>	<p>The proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. Since it is possible that archaeological remains may be adversely affected by this proposal, we recommend that the planning authority defer determination of the application and request that the applicant complete an Archaeological Impact Assessment of the proposals.</p> <p>This will require provision by the applicant for:</p> <ol style="list-style-type: none"> 1. An archaeological desk-based impact assessment of the proposals, to include historic land use data, LiDAR data and walkover survey to determine extent of previous ground disturbance. 2. The results of an archaeological field evaluation by trenching, if proved necessary by the assessment, to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development. Further design, civil engineering or archaeological work may then be necessary to achieve this.

Ward Councillor and Parish Council Response

Councillor Draycott

- Site levels raised
- Development in the floodplain
- Photographs in Design and access statement deceptive
- Displaced flooding, eg sports ground and near stile on Moor Lane
- Impact of traffic, including on single lane bridge
- No main sewer on east side of canal. Odours from sewerage system at new-build Windlass Close
- A better use of the site would be open space

Responses to publicity

From	Comments
<p>Three letters of objection received from three addresses. One of these was a composite letter from a collective of residents of Windlass Close, as the “Grand Union Management Company” plus one submitted via Cllr Draycott</p>	<ul style="list-style-type: none"> • Site has been raised • Extra flooding on footpath • Floodplain should not be altered • Sewer capacity • Too much traffic on bridge • Too much traffic coming out of Moor Lane onto Central Road / Empress Road • Upkeep of Moor Lane • Landscape / trees / wildlife preferable use • Pumping station’s capacity is 37 dwellings. 16 already built. • Lack of parking • Danger for pedestrians on narrow bridge • Reference to conflict with the Core Strategy objectives 10, 11 and 12 • Not a sustainable urban extension

8 Consideration of the Planning Issues

- 8.1 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."
- 8.2 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).
- 8.3 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.
- 8.4 Amongst the material considerations are the emerging Charnwood Local Plan 2021-37 (ELP) and the National Planning Policy Framework (NPPF).
- 8.5 The main planning considerations applicable to this application are considered to be:
- Principle of development
 - Flooding and drainage
 - Landscape & Visual Impact
 - Impact on trees
 - Ecology and biodiversity
 - Land contamination
 - Design & Layout
 - Housing mix
 - Open Space
 - Impact on residential amenity
 - Heritage and Archaeology
 - Highway matters
 - Mineral Resources

- Sustainable Construction and Energy Efficiency
- Other Concerns
- Benefits
- Planning Obligations/ S106 Contributions

9 Key Issues

9.1 Principle of the Development

- 9.1.1 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.
- 9.1.2 Policy CS1 defines a hierarchy of settlements for the Borough. After the Leicester Principal Urban Area Loughborough and Shepshed are expected to provide for the majority of the remaining growth. The Strategy aims to provide approximately 3,000 new homes to the west of Loughborough, plus 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.
- 9.1.3 Saved Local Plan Policy ST/2 and the Proposals Map of the Charnwood Local Plan identify Limits to Development for various settlements in the Borough. This site sits outside the limits of development for Loughborough.
- 9.1.4 Policies CT/1 and CT/2 of the saved policies from the 2004 Local Plan 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.
- 9.1.5 The submitted Local Plan 2021-37 is a material consideration. Its Policy DS1 defines a future development strategy for the Borough. At this date it carries limited weight due to the nature and extent of unresolved representations made during the Independent Examination. It is supportive of sustainable development within the defined Limits to Development and allocations defined in that plan. The application site is outside the Limits to Development for Loughborough, and in the Countryside. Policies for the Countryside include C1, which carries moderate weight. No further discussion of that policy is planned, and there are no unresolved representations. It

is consistent with NPPF paragraphs 11, 16, 20, 23, 80, 84 and 174. Policy C1 aims to protect the largely undeveloped character of the countryside, whilst providing for some limited forms of development. The form of development proposed herein is not amongst those exceptions and is therefore in conflict with the policy.

- 9.1.6 The Planning Authority cannot currently demonstrate a 5-year supply of deliverable housing land (4.27 years on 1st April 2023). Paragraph 11dii 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 11dii guides decision makers to grant permission unless one, or both limbs of exception tests are satisfied.
- 9.1.7 NPPF paragraph 11(d)(i) relates to the protection of assets of particular importance. 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 engaged.
- 9.1.8 The second limb, 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.

9.2 Flooding and drainage

- 9.2.1 Core Strategy Policy CS16 and the NPPF direct development away from areas at the highest risk of flooding.
- 9.2.2 Emerging Local Plan 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. The submitted FRA has not addressed the requirements of these policies adequately. The application proposals conflict with these 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.

9.2.3 The site is within Flood Zone 3 (dark blue) and Flood Zone 2 (light blue), as shown on the Environment Agency flood maps. Locations in flood zone 2 have a medium probability of flooding. This means in any year land has between a 1% and 0.1% chance of flooding from rivers. Locations in flood zone 3 have a high probability of flooding. This means in any year land has a 1% or more chance of flooding from rivers. In the Charnwood Strategic Flood Risk Assessment (2108) the site is shown as being within Flood Zone 3b.



9.2.4 The flood risk assessment includes a drawing at its Appendix A which is labelled as "Survey Levels" and is numbered 1202 rev P2. That survey information indicates that ground levels have been raised significantly by comparison with the information provided in support of application P/12/2130/2.

9.2.5 The conclusions of this report are that the southern portion of the site is not overlain by flood extents up to the 1 in 1000 (FZ2) event. However, since the report's publication in 2021, Flood Zone 3b (functional flood plain) has been redefined within the PPG as the 1 in 30-year event. Additionally, climate change should be accounted for within all applications and as such, any assessment should also account for this. The applicant must also ensure that the latest climate change requirements are also being followed. Therefore, the model is required to be updated to reflect this. The response from Lead Local Flood Authority was dated 25th January 2023, and identified additional information required from the applicant before it could support the proposal. That information has not been submitted.

9.2.6 The raising of ground levels within Flood Zones 2 and 3 at this site is development, as defined by section 55 of the Town and Country Planning Act 1990 and requires planning permission. No planning permission has been granted for this development.

- 9.2.7 The Environment Agency is opposed to the development. The land is classified as a functional floodplain, zone 3b and is not suitable to accept More Vulnerable forms of development, such as housing (NPPF Annex 3). Knowing that the land has been raised the EA say that raising the land does not change the flood zone designation. It remains as a part of the functional floodplain defined by the Charnwood Strategic Flood Risk Assessment and illustrated on Flood Risk Map B2. No works should risk the displacement of flood waters to another location, by reducing flood storage or diverting flood flows.
- 9.2.8 The current application does not seek permission to raise the land, but instead invites the decision taker to base the decision on the housing proposal upon the now raised ground level. If approved it would nonetheless support development in a floodplain, and could undermine ongoing enforcement action at this site.
- 9.2.9 This application seeks permission for development within high-risk flood zones, and would see flood water, which might otherwise have flowed over this site, displaced to other parts of the flood plain potentially adding to flood risk elsewhere. It is in therefore conflict with Core Strategy Policy CS16 and emerging Local Plan Policy CC1.

9.3 Landscape and Visual Impact

- 9.3.1 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.
- 9.3.2 Emerging Local Plan 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) has similar expectations as those of the CS11 above, and can be afforded moderate weight, given the nature and hearing of representations, and its consistency with NPPF paragraphs 20 and 130.

- 9.3.3 The site lies within the Soar Valley landscape character area, as defined in the Borough of Charnwood Landscape Character Assessment 2012. Key characteristics include flat wide river floodplain which experiences regular flooding. The guidance at paragraph 7.62 of that assessment suggests that the current balance between urban and rural character is maintained, public access along river corridor is compatible with the tranquil and pastoral quality of the landscape, remove conifers in preference to native species, amongst other objectives.
- 9.3.4 The application is supported by a Landscape and Visual Impact Assessment (LVA) prepared in 2021. It differs from the LVA submitted in support of the 2012 application in some significant respects. The earlier application sought permission to develop lands south of Moor Lane, with the current application site being preserved for its landscape and public benefits. Its Figure 2 and Figure 3 show that the southern part of the current site, where it runs alongside Moor Lane, was at roughly the same topographical level as the road.
- 9.3.5 The 2021 LVA follows a stepwise process, beginning with a baseline assessment. It records at its paragraph 1.54 that the assessment of the landscape and visual effects refer to the change predicted between the baseline condition of the landscape, and the condition resulting from the completion of the development proposed. It then includes a photograph entitled "Viewpoint 01" within drawing N0752-(08)003 showing the raised land.
- 9.3.6 The Council's landscape officer's view was that developing the site from its current use to a fringe of settlement suburban scheme should ideally yield moderately beneficial outcomes initially with low adverse impact being mitigated by retention of woodland block and wooded riparian corridor for Hermitage brook. The current scheme, however, cannot as claimed in the Summary and Conclusions para 8.1 be regarded as strictly low density for built zone comprising of terrace housing with small gardens nor does it currently provide a satisfactory 'active' frontage to Moor Lane. Whilst the Council's landscape officer felt that, by comparison with the former use of the land as a scrapyard and recycling centre, that is no longer a fallback position for these lands, and ought not to be regarded as the baseline position. The scrap yard use has ceased, and the site has subsequently been cleared, with the land raised. In the parallel enforcement case, the applicant argues that the raising of land, which also involved the removal of trees which had screened the scrapyard from view, is exempt from enforcement because it happened more than four years before the

enforcement action commenced. If the applicant is correct the new development (land raising) superseded the previous land use.

- 9.3.7 The approach taken to the assessment of landscape and visual impact is unsound, in that it relies upon a baseline which results from unauthorised development (the raising of land levels). The landscape strategy submitted in response to that assessment cannot therefore be compliant with the policy objectives of Core Strategy Policies CS2 and CS11, and emerging Local Plan Policy EV1 from a landscape perspective.
- 9.3.8 That landscape strategy is also considered to be in conflict with Core Strategy Policy CS12 (Green Infrastructure) policy objectives. The policy would support proposals which protect and enhance water bodies and resources along the Grand Union Canal corridor and elsewhere. The unauthorised raising of land alongside the canal has damaged the green infrastructure which had previously existed, and the proposals would bring developed form very close to the edge of the towpath, thereby diminishing the quality of the I27 Public Right of Way.
- 9.3.9 Emerging Local Plan policy LUC1 (Loughborough Urban Centre) has limited weight at this date due to the nature of unresolved representations, but it is consistent with NPPF paragraphs 11, 16, 20 and 23. It requires that development adjacent to the Grand Union Canal would provide an active waterfront with public access.

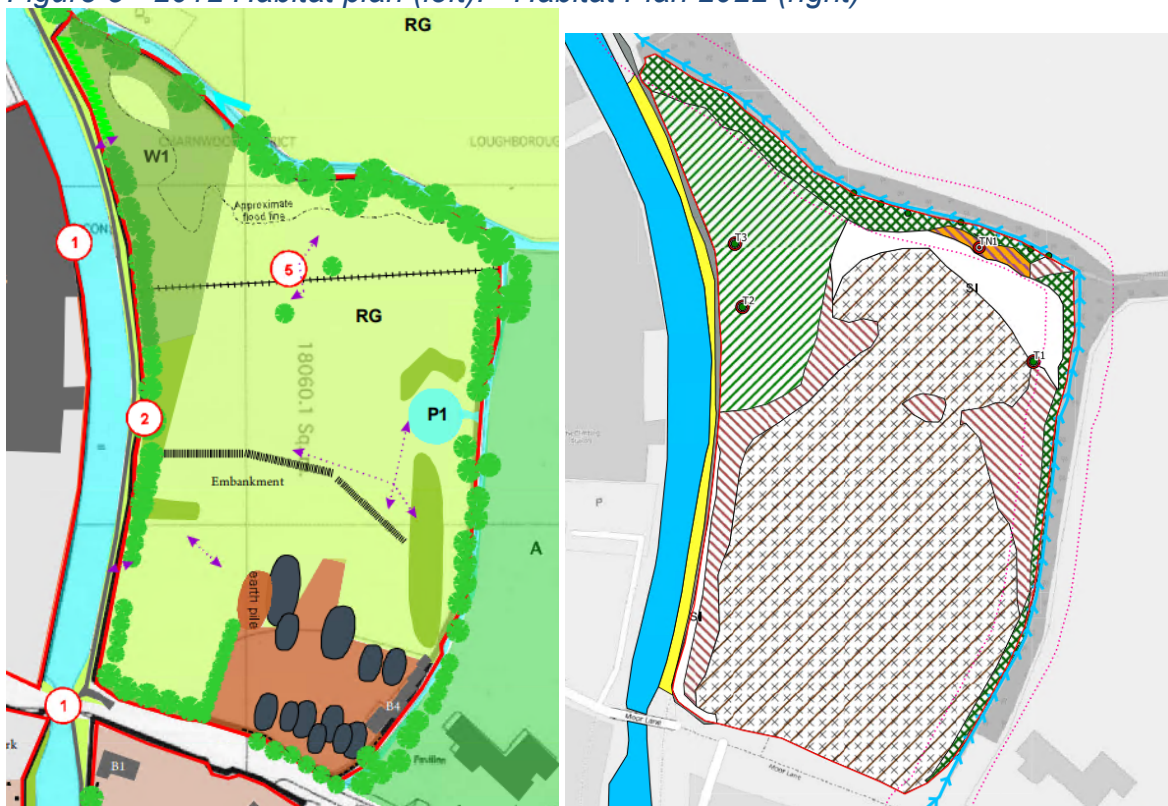
9.4 **Impact on Trees**

- 9.4.1 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.
- 9.4.2 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 conflict 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.

- 9.4.3 The 2012 LVA shows semi-mature trees alongside the canal at the western site boundary, and toward the south-western corner of the site. These have all been removed. It is acknowledged that the stand of mature trees toward the north western corner of the site have been retained, and that the proposal is to retain them. However, the imported landfill material has been filled right up to the southern edge of these trees, putting them at some risk. The Proposed Site Plan indicates that 27/28 existing trees are to be removed. These have not been identified precisely, and no detailed tree survey has been submitted which might describe the condition of trees to be removed or retained.
- 9.4.4 Consequently, the proposed development conflicts with relevant policies in the Core Strategy, particularly Policy CS11 (Landscape and Countryside) and Policy CS2 (High-Quality Design) and emerging Local Plan Policy EV7.
- 9.5 Ecology and Biodiversity
- 9.5.1 Policy CS13 seeks to conserve and enhance the natural environment with regard to biodiversity and ecological habitats.
- 9.5.2 Emerging Policy EV5 (River Soar and Grand Union Canal Corridor) supports development which, amongst other objectives, actively seeks to enhance its wildlife and biodiversity. This proposal is in conflict with that policy aim. EV5 carries moderate weight at this date. Discussion on the policy at the Examination has concluded, and the policy is consistent with NPPF paragraphs 105, 106, 174, and 179.
- 9.5.3 Emerging policy EV6 of the Draft Local Plan seeks 10% biodiversity net gain and the protection and enhancement of habitats, species and networks. Emerging policy EV7 supports the retention of existing trees and new tree planting. Although the Environment Act 2021 makes provision for 10% biodiversity net gain, the relevant sections of the Act have not yet been brought into force to make it a legal requirement and is not currently required by national policy. 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
- 9.5.4 There is a significant difference between the 2012 Ecological Appraisal and that submitted with the current application. There has been a significant loss of habitat in the interim, caused by the unauthorised development.

- 9.5.5 The baseline ecological information submitted in support of the current application was gathered after the unauthorised land raising. This has resulted in the destruction of a recorded pre-existing ecological baseline, yet the Appraisal then aims to seek credit for improvements above the level resulting from the unauthorised works.
- 9.5.6 The canal waterway is an important habitat for white letter hairstreak butterfly, which is a rare species for this county. The canal should be adequately buffered with native structural planting, to include Wyche Elm. The Council's ecologist has suggested that dark areas (<1lux) are designed along the canal, the woodland and the watercourse along the northern boundary. The submitted layout would not provide for these. A revised layout could be submitted at a later stage, but it has not been demonstrated that up to 28 dwellings could be accommodated on a site which has appropriate protective buffers deducted from its developable area. In those circumstances, with the description of the development proposal unchanged, planning conditions could not satisfactorily address this issue.
- 9.5.7 No BIA information has been submitted.

Figure 5 - 2012 Habitat plan (left): - Habitat Plan 2022 (right)



9.5.8 The proposal fails to measure an appropriate baseline position. The gains being claimed in the submitted Assessment are not demonstrated to be achievable in the submission. The proposal conflicts with Policy CS13 of the Charnwood Local Plan 2006-2028 Core Strategy. The proposals also conflict with Policies EV5 and EV6 of the emerging Local Plan.

9.6 Land Contamination

9.6.1 Policy EV/1 of the saved policies from the Charnwood Local Plan 2004 requires that new development respects and enhances the local environment, utilises materials appropriate to the locality, and uses the landform and existing features as the focus around which any new development is designed. Policy CS16 from the 2015 Core Strategy directs development to areas which are at low risk of flooding. Policy CC4 in the emerging Local Plan, dealing with sustainable construction, would support the use of previously developed land, provided that it is not of high environmental value, and that it protects environmental resources. Policy CC4 is consistent with paragraph 157 of the NPPF.

9.6.2 A Geo-environmental and geotechnical assessment has been submitted as part of the supporting information. That report, at its Appendix A pages 8-12 includes a series of aerial photographs of the site over time, which clearly show the growth of the filled area from 2010 onward, and the related loss of vegetation and habitats. The report identifies how the “made ground” would make standard shallow foundations unsuitable. Depending upon further investigation outputs, and engineering design, it may be necessary to lift all of the fill material in the made ground, sort it and recompact.

9.6.3 The Council’s Environmental Health Team has raised no objections subject to the imposition of planning conditions for intrusive ground investigation and remediation strategy. The Environment Agency cautions that the nature of the fill material is unknown. It may well contain contaminants which are already leaching into the underlying soils and into the watercourses. This fear is exacerbated because the land is within flood zone 3b, where flood waters could carry contamination away more rapidly. They recommend that the fill materials are removed and tested, before potentially being returned to the site, if verified as being uncontaminated.

- 9.6.4 However, this returning of material to site for the purpose of facilitating the proposed housing development would, in itself be development within flood zone 3. Although the EA recommend planning conditions which could potentially deal with the contamination risk, the application of their suggested methodology would be contrary to policies on flood risk. Those conditions are therefore inappropriate, and could not, when read with other policy, satisfactorily address the concerns expressed by the Environment Agency.
- 9.6.5 In this regard, the proposed development conflicts with relevant policies in the Core Strategy, particularly Policy CS16 of the Charnwood Core Strategy, saved Policy EV/1 of the Local Plan, emerging Local Plan policies CC1 and CC4, and the NPPF.
- 9.6.6 Policy DS5 (High Quality Design) in the ELP requires new development to, amongst other considerations, to protect the amenity of those who will live in the development, in homes which are built to last. It will be possible, by application of planning conditions, to protect future residents from ground pollution, and so the proposal complies with this policy. Policy DS5 carries moderate weight at this date. No further discussion is planned during the Examination and the policy is consistent with NPPF paragraph 130. The development is considered compliant with this Policy so far as contamination is concerned.

9.7 Design and Layout

- 9.7.1 Policy CS2 of the Core Strategy requires new developments to respect and enhance the character of the area and saved policy EV/1 of the Local Plan 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.
- 9.7.2 Emerging Local Plan Policy DS5 requires development to make a positive contribution to Charnwood by responding positively to local distinctiveness. The policy is at an advanced stage and hearing sessions in June 2022 considered the policy and it is consistent with the NPPF. The policy can be given moderate weight.

- 9.7.3 It is acknowledged that this is an outline planning application, with all matters reserved, except access and layout. The site layout submitted (drawing number 1203 rev P2) is not sufficiently detailed to be considered as a document which could be an approved drawing. It is not dimensioned. It includes housing footprints, without an indication of the accommodation within each house. It makes no assessment of the car parking requirement arising from the housing mix shown. The red-line does not extend as far as the adopted public road, and so no connection is indicated to the public highway. Features within the site layout are not labelled, and so the viewer is left to guess which elements are intended to be private, or public spaces. There is no topographical information shown, either on the plan drawing or in any cross, or longitudinal sections. There is no indication of open space provision, play areas, storm water attenuation or boundary treatment.
- 9.7.4 The site layout shown on drawing 1203-P2 shows vehicular and pedestrian access to the site taken from its eastern boundary, at the furthest point from the town centre. Much of the development is then shown to be served by two parallel roads running roughly north-south, perpendicular to Moor Lane and parallel with the canal. Two pairs of semi-detached houses are shown with direct frontage to Moor Lane.
- 9.7.5 Plot 1 has an uncomfortable relationship with the bridge, and it is not clear how parking for it could be provided safely. It seems reasonable to have housing on the site face towards Moor Lane, but the multiple direct accesses could be problematic at the detailed design stage, with satisfactory separation between adjacent and opposite accesses difficult to achieve. The relationship between the parking which would be necessary for the terraced block shown on plots 5-8 would involve reversing into the road quite close to the main site access point. This should be reconsidered.
- 9.7.6 The housing shown from plots 19-28 faces the canal in some cases and in others they back onto it. This would appear incongruous and inconsistent. Those houses which are shown fronting the canal are so close to the PRow that they would prevent planting of the kind required to satisfy landscape and ecology policies. The principal vehicular and pedestrian approaches to those houses would be from their rear, with the bulk of their private amenity space between the houses and the internal roads. This arrangement would necessitate privacy screening, which would be difficult to make attractive.

- 9.7.7 Emerging Local Plan policy LUC1 (limited weight) requires that development adjacent to the canal would provide an active frontage. With many of the plots turning their back to the canal that would be in conflict with this policy.
- 9.7.8 Plots 9-18 are shown with a road to serve their frontages and another to serve parking to the rear. Again, this would necessitate privacy screening to protect private amenity space.
- 9.7.9 Plots 9-18 are shown with a road to serve their frontages and another to serve parking to the rear. Again, this would necessitate privacy screening to protect private amenity space.
- 9.7.10 Overall, it is considered that the tabled site layout is a poor response to the challenges and opportunities presented by this site. It has not demonstrated that up to 28 dwellings could be development within the site, in a manner which could satisfy the relevant policies.
- 9.7.11 This application, as tabled, is therefore in conflict with policies CS2, EV/1 of the adopted Development Plan and policies DS5 and LUC1 of the emerging Local Plan.

9.8 Housing Mix

- 9.8.1 Policy CS3 (Affordable Housing) of 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 that 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.
- 9.8.2 At the time of writing Policies H1 to H4 in the ELP carry limited weight. 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 adaption, 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.

- 9.8.3 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.
- 9.8.4 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:

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

- 9.8.5 The current proposal is an outline application, with all matters reserved except access and layout. Based upon the submitted layout (1203-P2) there is no reason to doubt that a scheme could come forward at reserved matters stage that complies with the relevant policy requirements for housing mix, types, sizes and tenures. This could be secured by conditions and obligations, if minded to approve the current proposal. However, it has not been demonstrated that up to 28 dwellings could be delivered, based on that layout, which could satisfy other policy requirements.

9.9 Open Space

- 9.9.1 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.

- 9.9.2 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.
- 9.9.3 The application site was identified in a S106 agreement, dated 16th December 2013 in relation to application P/12/2130/2, and signed by the current applicants, as “the Community Building and Public Park Land”. It was to be transferred to the Council’s ownership following a series of trigger events and notifications. The date on which a notice of commencement of development was served by the developer to the Council is disputed. The Council had a time limited period following service of that notice during which to initiate a transfer of ownership. Because of the uncertainty about the date of issuance of the notice, the land for open space on P/12/2310/2, which is coincident with this application site, has not been provided by the applicant for the approved purpose.
- 9.9.4 The Council’s Open Space team has raised no objections subject to any open space offered being of the minimum areas described in the consultation response, and following good design principles to create a space that is visually attractive and encourages active lifestyles. A planning condition and obligations could be imposed to secure on-site open space provision including natural and amenity green space. Financial contributions to off-site amenities could be secured by a s106 planning agreement.
- 9.9.5 The requirement for open space is consistent with CS Policy CS15 and emerging Local Plan Policy EV9. 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 these policies.
- 9.10 Impact on Residential Amenity
- 9.10.1 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.

- 9.10.2 ELP Policy DS5 (High Quality Design) will succeed policy CS2 and shares its objectives. Policy DS5 can be accorded moderate weight at this date, given the stage reached with limited representations to it, and that it is consistent with paragraphs 130 of the NPPF.
- 9.10.3 The Charnwood Design SPD (2020) also provides spacing standards and guidance to ensure an adequate level of amenity is achieved.

Existing properties

- 9.10.4 The previous approval P/12/2130/2 included an area of open space for the benefit of residents of the housing (now built) within that approval. That open space, together with a proposed community building were within the current application site. This application seeks permission to significantly reduce the extent of that amenity space.
- 9.10.5 The proposed housing sits on the opposite side of Moor Lane from some of the housing approved in P/12/2310/2, which is now complete and occupied. A combination of separation distances are achievable, and privacy fencing around the closest garden obviate concerns about unacceptable overlooking. There are no other existing properties to the north, east or west whose amenity needs to be considered.

Future occupants

- 9.10.6 The site layout (1203-P2) shows a poor relationship between proposed houses, with some uncomfortable relationships between proposed houses. Whilst the quantity of private open space seems to be adequate, the potential for overlooking is undesirable. The proximity of some houses to the towpath could be detrimental to their amenity. Access to proposed public open space is good. A connection from the towpath to that open space would be beneficial.
- 9.10.7 It seems possible, within the site area, to design a scheme for up to 28 dwellings which would be of better quality. However, the proposed scheme is not of sufficiently high design quality.
- 9.10.8 A scheme for 28 dwellings could comply with the provisions of Policies CS2 of Charnwood Core Strategy, EV/1 of Local Plan along with NPPF, Emerging Local plan Policy DS5 and 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.

9.11 Heritage Assets & Archaeology

- 9.11.1 Core Strategy 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.
- 9.11.2 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.
- 9.11.3 The applicant has not submitted any form of archaeological desk-based assessment in support of their application, which is surprising for a development of this scale.
- 9.11.4 The application area is located on the eastern bank of the Grand Union Canal, which was constructed as part of the Leicester Navigation in 1784 (Leicestershire and Rutland Historic Environment Record (HER) ref MLE16281), outside the historic medieval and post-medieval core of Loughborough town and is bound to the north and east by the Hermitage Brook. No previous archaeological investigation has been undertaken within nor in the immediate vicinity of the application area and, accordingly the HER record for the surrounding area is sparse: a cropmark representing the remains of a rectilinear enclosure is located to the north of the site has not been subject to archaeological investigation and is of uncertain date, although a prehistoric origin cannot be ruled out (MLE584). Ancient watercourses are known to be a focal point for archaeological activity and the present application area therefore has the potential for the presence of buried archaeological remains relating to settlement and occupation, ranging in date from the prehistoric through to the medieval periods.
- 9.11.5 Historic map regression indicates that the site does not appear to have been subject to significant ground disturbance previously; aerial photographs show that part of the site has been used for storage of waste materials in the recent past and information contained within the geotechnical report indicates that the southern part of the site in particular may have been subject to some regrading works, although the extent and depth of this, including the extent to which this may have impacted upon any underlying archaeological deposits is unknown.

- 9.11.6 The preservation of archaeological remains is a “material consideration” in the determination of planning applications. The proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. Since it is possible that archaeological remains may be adversely affected by this proposal, the applicant should complete an Archaeological Impact Assessment of the proposals. Without the information that such an Assessment would provide, it would be difficult in our view to assess the archaeological impact of the proposals. These recommendations conform to the advice provided in DCLG National Planning Policy Framework Section 16, paras. 194, 195 and 203.
- 9.11.7 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**”.
- 9.11.8 While the archaeological potential of the site remains unsatisfactorily considered, the proposal is in conflict with Core Strategy Policy CS14 and emerging Local Plan Policy EV8.

9.12 Highway Matters

- 9.12.1 Policies CS2 and CS18 of the Core Strategy and 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. Policy CS24 provides for the delivery of infrastructure where it is relevant and necessary in respect of the development proposed.

- 9.12.2 Emerging local plan policy T3 requires new development to provide car parking in accordance with the latest published guidance of the County and Borough Councils. Emerging policies INF1 and INF2 seek to secure appropriate infrastructure to mitigate the impacts of development. Emerging Local plan Policy CC5 seeks to promote development which is well located and accessible to services and or public transport and 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.
- 9.12.3 **Site Access:** Moor Lane is only publicly maintained up to and including Moorlane bridge. Where the site access is proposed, East of Windlass Close and Moorlane Bridge, Moor Lane is a private road Byway Open to All Traffic (BOAT). Therefore, the LHA cannot comment on the proposed suitability of the site access junction, nor can it request for the access to be designed in accordance with the LHA's design standards and policy, as set out in the Leicestershire Highway Design Guide (LHDG). It should be noted however that an access which was in accordance with LHDG would be likely to provide a suitable access.
- 9.12.4 **Highway Safety:** One Personal Injury Collision (PIC) has been reported in close proximity to the site within the most recent five-year period. The 'slight' PIC was recorded along Empress Road. The LHA do not consider that the proposed development would exacerbate any known highway safety concerns.
- 9.12.5 **Trip Generation:** Typically, the LHA prefers the trip generation figures to be calculated based on person trip rates and Census information. The applicant has instead used vehicle trip rates and, using TRICS software predicted 14 two-way trips in the peak AM hour. The LHA's preferred method is unlikely to make a difference in this case and anticipated trips would still be demonstrated as well under 30 two-way trips, which is the threshold for junction capacity assessments.
- 9.12.6 **Off-Site Implications:** The Applicant proposes carriageway surface improvements along the length of Moor Lane from its junction with Empress Road. These improvements also include the creation of a 2m wide footway on the northern boundary of Moor Lane along the site's frontage. This shall tie into the access path to the Grand Union Canal / Purnell Walk towpath. The Applicant should note any proposed improvements within the public highway would need approval from the LHA and would need to be undertaken under a s278 legal agreement. The LHA cannot comment on any improvements to the private road at this stage, however the public right of way related planning conditions which the LHA advises should be

noted. The local planning authority would, where off-site works are necessary, secure these in a planning permission by use of a “Grampian” condition.

- 9.12.7 **Internal Layout:** The site is not adoptable by the LHA as access is proposed off a private road. The LHA has not, therefore, reviewed the adoptability of the internal road layout.
- 9.12.8 The parking arrangements shown on the illustrative site layout were discussed in detail in the design section of this report. As presented the parking for the site is not acceptable, but given that this is an outline application there would be an opportunity for the applicant to present a revised layout at a later design stage which would satisfy the policy requirements of TR/18 in the saved 2004 Plan and T3 in the emerging Local Plan.
- 9.12.9 The internal site layout, and the unadopted section of Moor Lane from the bridge to the site entrance would have to be maintained in the long term. A management plan could be required by planning condition, and a s106 obligation could be used to secure an obligation from the developer to maintain these roads, in accordance with Policy CS24 of the Core Strategy, and policy INF1 in the emerging Local Plan. Such an obligation would need to include provision for any succession planning in the event of the demise of the signatories.

Transport Sustainability

- 9.12.10 **Pedestrian accessibility:** The site will benefit from good, local pedestrian infrastructure. The LHA note that this infrastructure facilitates access to many of the typical services and amenities that may be required by future residents within a preferred maximum walking distance of 1.6km. The majority of local services and amenities are located in the centre of Loughborough which is approximately 1.0km to the north-west of the site. Some local facilities such as a convenience store are within an easier walking distance to the north on Empress Road and the nearest bus stop on Great Central Road is a little over 200m from the site.
- 9.12.11 **Cycle Accessibility:** The site benefits from a number of defined cycle routes which form part of the wider designated cycle network in the town.
- 9.12.12 **Bus Accessibility:** The nearest bus stops to the site are within a 220m walk of the site on Great Central Road with an additional bus stop located on Windmill Road some 300m from the site which both serve the number 13 Loughborough Circular bus. The local bus stops are provided with a flag and pole arrangement, some with raised kerbs and timetable information. Beyond the bus stop on Great Central Road,

in the centre of Loughborough there are additional bus services which also provide frequent connections both during peak and off-peak periods.

9.12.13 **Train Accessibility:** Approximately 1.2km to the north of the site is Loughborough Train Station. Operators provide frequent services to local cities including Nottingham and Leicester as well as London, Sheffield and Lincoln.

9.12.14 Overall, the site is considered to be located in a sustainable location with ready access to facilities and good transport links.

9.12.15 Consequently, the proposed development is considered to be capable of being compliant with Policies CS2 (Design), CS17 (Sustainable Travel), CS18 (Road Network) and CS24 (Delivering Infrastructure) of the Core Strategy, INF1 and INF2 in the emerging Local Plan and saved policy TR/18 of the Local Plan.

9.12.16 Similarly, the proposal could satisfy policies in the ELP to deliver appropriate car parking standards (T3 limited weight), and sustainable transport (CC5 moderate weight), albeit that the submitted site layout does not demonstrate how that can be achieved for up to 28 dwellings.

9.12.17 Developer contributions toward infrastructure costs have been requested by the Highways Authority, which are necessary and relevant. The requests are consistent with ELP Policy INF1, which has limited weight on the date of this report, but which is consistent with NPPF paragraph 34. These contributions have not been agreed and so the proposal is in conflict with INF1. Similarly, ELP Policy INF2 will support development which contributes to the reasonable costs of measures required to mitigate the cumulative impacts of the development strategy upon the local and strategic road network. INF2 has limited weight today, but is consistent with NPPF paragraphs 104, 105, 106, 110 and 113. Such contributions have not been agreed with the applicant and so the proposal is in conflict with this policy.

9.13 Impact on mineral resources

9.13.1 Policy M11 from the Leicestershire Minerals and Waste Local Plan aims 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.

- 9.13.2 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.
- 9.13.3 No such assessment has been submitted in respect of this application, which is sited within an area identified on the Minerals Safeguarding map within the Mineral and Waste Safeguarding (Charnwood Borough) Document S2/2015 as an area with sand and gravel resource.
- 9.13.4 The proposals do not benefit from any of the exemptions to safeguarding, and so the proposal is in conflict with policy M11.

9.14 Sustainable construction and energy efficiency

- 9.14.1 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.
- 9.14.2 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.
- 9.14.3 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.

9.15 Other concerns

- 9.15.1 The failure of the applicant to deliver the obligations agreed in a 106 agreement, the unauthorised development on the site, and the live Enforcement Notice are material considerations. The details of these matters have been discussed earlier in this report.

9.16 Benefits of the Proposal

9.16.1 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 the benefits are listed, 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

9.16.2 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.

9.17 Planning Obligations/ S.106 Agreement

9.17.1 Policies CS3, CS13, CS15, CS17 and CS24 of the Core Strategy require the delivery of appropriate infrastructure and planning obligations of various kinds 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 contributions.

9.17.2 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:

Consultee	Response												
<p>Housing Strategy & Support Charnwood Borough Council</p>	<p>30% affordable homes required, of which 67% should be social or affordable rent and 33% intermediate (shared ownership or first homes). Regard should be given to the Adopted Housing Supplementary Planning Document (HSPD)</p> <p>The adopted SPD seeks to secure affordable housing to NDSS standards to accommodate the following number of people: -</p> <ul style="list-style-type: none"> • 1 bed: 2 person maisonette / house • 2 bed: 3 person bungalow • 2 bed: 4 person house • 3 bed: minimum 5 person house • 4 bed: minimum 7 person house <p>It is also expected that affordable homes should meet lifetime homes standards (please note this has now been incorporated into Part M of building regulations – to align our policies with this update, affordable homes should be built to M4(2) building regulation standards.</p> <p>The exact mix should be secured prior to any reserved matters application being approved through dialogue with the Council's Strategic Housing Team, however, the following has been supplied as a framework.</p> <table border="1" data-bbox="635 1485 1195 2000"> <thead> <tr> <th data-bbox="635 1485 1091 1608">Affordable / Social Rent</th> <th data-bbox="1091 1485 1195 1608">Affordable/ Social Rent No of Units</th> </tr> </thead> <tbody> <tr> <td data-bbox="635 1608 1091 1686">1 bed/2 person</td> <td data-bbox="1091 1608 1195 1686">2</td> </tr> <tr> <td data-bbox="635 1686 1091 1765">2 bed/ 4 person</td> <td data-bbox="1091 1686 1195 1765">2</td> </tr> <tr> <td data-bbox="635 1765 1091 1843">3 bed/ 5 person</td> <td data-bbox="1091 1765 1195 1843">6</td> </tr> <tr> <td data-bbox="635 1843 1091 1921">4 bed/ 7 person</td> <td data-bbox="1091 1843 1195 1921">0</td> </tr> <tr> <td data-bbox="635 1921 1091 2000">Total</td> <td data-bbox="1091 1921 1195 2000">10</td> </tr> </tbody> </table>	Affordable / Social Rent	Affordable/ Social Rent No of Units	1 bed/2 person	2	2 bed/ 4 person	2	3 bed/ 5 person	6	4 bed/ 7 person	0	Total	10
Affordable / Social Rent	Affordable/ Social Rent No of Units												
1 bed/2 person	2												
2 bed/ 4 person	2												
3 bed/ 5 person	6												
4 bed/ 7 person	0												
Total	10												

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Intermediate No of Units													
1 bed/2 person	0												
2 bed/ 4 person	2												
3 bed/ 5 person	1												
4 bed/ 7 person	0												
Total	3												
<p>Leicestershire County Council – Highways (30/01/23)</p>	<ul style="list-style-type: none"> • Travel pack (one per dwelling) (£52.85 per pack) • 6 months bus pass (two per dwelling) (£360 per pass) • Raised kerb provision at bus stop 260080125 (Great Central Road, opposite Windmill Road) at a cost of £3,500 to support modern bus fleets with low floor capabilities and information display case at a cost of £120. 												
<p>Leicestershire County Council – Education (15/2/23)</p>	<p>Early Years - £0 contribution. Contributions not typically sought from developments below 100 dwellings</p> <p>Primary School Sector – £0 contribution towards provision, improvement, remodelling or enhancement of education facilities at Cobden Primary School. The school has spare capacity.</p> <p>Secondary School Sector - £83,588.18 contribution towards provision, improvement, remodelling or enhancement of education facilities at Limehurst Academy or at other schools or other school within the locality of the development</p> <p>Post 16 Sector – £17,858.15 contribution towards Rawlins College</p> <p>Special needs School Sector - £0 contribution. Contributions not typically sought from developments below 100 dwellings</p>												

	The total request for Education across all sectors for the proposed development equals: £101,446.32
Leicestershire County Council – Libraries (15/2/23)	£845.54 contribution towards the enhancement of Loughborough Library.
Leicestershire County Council - Waste Management (15/2/23)	£0 contribution
Leicester, Leicestershire & Rutland ICB Commissioning Group (NHS) (7 th Aug '23)	A financial contribution of £13,639 toward the upgrading of access to service capacity at Park View Surgery (24-28 Leicester Road, Loughborough LE11 2AG), and/or Pinfold Medical Practice (Pinfold Gate, Loughborough, LE11 1DQ)
Charnwood Open Spaces (9 th Aug '23)	<p>0.09ha on-site accessible multi-functional green space area</p> <p>0.13ha on-site natural and semi-natural open space</p> <p>On-site LEAP (Provision for Children) with a 20m minimum buffer to nearest dwelling</p> <p>On-site equipment/ facilities for Young People Local alongside LEAP or off-site contribution of £26,712</p> <p>£9,194 off-site contribution for Outdoor Sport facilities to be used to implement recommendations of the Charnwood PPS 2018, e.g., Carillion Cricket Club</p> <p>£7,114 off-site contribution for creation of additional allotments.</p>
Charnwood Biodiversity	Any comments received after publication will be reported in the Extras Report.

9.17.3 These contributions would allow the necessary infrastructure and contributions to meet policies CS3, CS13, CS15, CS17 and CS24 and meet the statutory tests contained in Regulation 122 of the Community Infrastructure Levy regulations 2010, 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, consideration begins 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. Similarly, in the submitted Local Plan 2021-37 the application site sits outside proposed limits of development and in the Countryside. It conflicts with Policy C1.

10.5 The application is supported by documents which illustrate the changes to the site over time between 2010 and 2022. These include photographs taken at street level and aerial photographs. When added to topographical survey information over time and the series of applications on the site it is clear that the ground levels at the site have been raised. The site is within Flood Zone 3b and Flood Zone 2, and the raising of the land was not authorised. This application does not directly seek permission to raise the land, but it indicates that the housing would be built on top of the raised land. To grant approval for the current application would be to permit the land raising

in a flood zone. That would be in conflict with Policies CS16 in the Core Strategy and CC1 and CC2 in the Emerging Local Plan .

- 10.6 The application is supported by a landscape and visual impact assessment, which uses as its baseline the current situation at the site. Changes to the landscape are assessed against that unauthorised position. To argue, as the submission does, that the proposed development would result in an improvement against the current position is an unjustified approach. Instead, the baseline ought to have been that recorded in a similar assessment submitted in 2012 which covered all of the current application site, together with other lands. In the assessment of the Council's landscape officer the current proposal fails to offer a solution which offers moderately beneficial outcomes, against the more appropriate baseline. The proposal is therefore in conflict with policies CS2 and CS11 of the Core Strategy and DS5 and EV1 of the Emerging Local Plan.
- 10.7 The removal of trees which has happened during recent years, and which is illustrated within the photographs in submitted documents has not been addressed. Policy EV7 of the Emerging Local Plan would seek a 3 for 1 replacement ratio. The proposal is therefore in conflict with EV7.
- 10.8 Like the landscape assessment the ecological assessment has used the rubble filled site assessment as its baseline. It is indefensible to argue that the destruction of a habitat recorded and submitted to Charnwood Borough Council in support of an application in 2021, should be rewarded with an assessment of the damaged resultant situation as the new baseline. The proposals therefore conflict with policies CS13 from the Core Strategy and policy EV6 of the Emerging Local Plan. It is also in conflict with Policy EV5 of the Emerging Local Plan which specifically aims to protect wildlife habitats alongside the Grand Union Canal.
- 10.9 The quality of the design of the site layout is discussed above. It has not been demonstrated in this application that up to 28 dwellings could be accommodated in a high quality design. The site has many constraints as it currently exists, and even more if its levels are to be reduced to those which existed prior to the unauthorised land raising. The proposals are therefore at odds with the design objectives of EV/1 in the 2004 saved policy, CS2 of the Core Strategy and its successor DS5 of the ELP. Similarly, the requirements of Policy EV1 in the Emerging Local Plan, which seek to protect and enhance local landscape character have not been satisfied.

- 10.10 A draft S106 planning agreement with Leicestershire County Council has not been prepared, nor have Heads of Terms of Agreement been tabled for discussion. The proposal is therefore in conflict with Policies CS17 and CS24 in the Core Strategy and CC5, INF1 and INF2 from the Emerging Local Plan
- 10.11 A draft S106 planning agreement with Charnwood Borough Council has not been prepared, nor have Heads of Terms of Agreement been tabled for discussion. The proposal is therefore in conflict with Policies CS3 and CS24 in the Core Strategy and CC5 of the Emerging Local Plan.
- 10.12 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 Loughborough, development in a flood zone, unauthorised land raising, landscape impact including loss of trees, ecological impact, lack of archaeological exploration, failure to agree contributions to infrastructure and poor-quality design.
- 10.13 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.
- 10.14 Applying the presumption in favour of sustainable development through application of the tilted balance in paragraph 11d(ii), it is considered that the identified adverse impacts would significantly and demonstrably outweigh the benefits of the development (addition of dwellings to Charnwood's supply of housing and economic impacts) when assessed against the NPPF taken as a whole.
- 10.15 Whilst the "tilted balance" described in 11d(ii) might outweigh the restriction imposed by the limits of development in itself, it cannot outweigh the considerations around flood risk and unauthorised land raising, either individually or cumulatively.
- 10.16 In this case, the conflict with flood-risk 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.

11 Recommendation

11.1 Refuse planning permission for the following reasons:

1	The proposed development is on land which sits outside the limits to development for Loughborough 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. It is in an area of Countryside as defined by the proposals map submitted with the draft Charnwood Local Plan 2021-37 and does not fit within the forms of development described in its Policy C1 as being appropriate in the Countryside. It would cause harm to the intrinsic character and beauty of the Countryside and fails to protect its largely undeveloped character.
2	The proposed development is within Flood Zone 3b, and includes seeking retrospective permission for raising of land within a functional flood zone, contrary to Policy CS16 of the adopted Charnwood Core Strategy 2015 and policies CC1 and CC2 of the draft Charnwood Local Plan 2021-37, and contrary to paragraphs 167 and 169 in the National Planning Policy Framework.
3	By using unauthorised development, which included partial clearance of vegetation from the site, as a baseline from which to assess landscape impacts arising from the proposal the applicant has failed to respect the character of the area nor to make a positive contribution to Charnwood, contrary to adopted Charnwood Core Strategy 2015 Policy CS2. Neither has it protected landscape character and tranquillity, contrary to Policy CS11. The proposals are also in conflict with the successor policies of the emerging Local Plan 2021-37, Policy DS5 (High Quality Design) and EV1 (Landscape).
4	The removal of trees prior to the submission of the current application has not been addressed by proposals to replace trees, contrary to Policy EV7 of the emerging Local Plan 2021-37, and with the NPPF paragraphs 131 and 174.










<p>5</p>	<p>The ecological appraisal submitted with the current application uses as its baseline the current site condition, which is in turn based upon unauthorised development in a flood zone. The application has failed to demonstrate how the proposals will conserve and enhance the natural environment or protect biodiversity. The benefit of the development does not outweigh the adverse impact on ecology. The proposal is contrary to the provisions of Policy CS13 of the Core Strategy. The proposals are also contrary to its successor Policy EV6 in the emerging Local Plan 2021-37, and with the NPPF paragraphs 131 and 174. The proposals are also in conflict with Policy EV5 of the emerging Local Plan 2021-37, and with the NPPF paragraphs 174 and 179, in that it fails to enhance the wildlife and biodiversity along the Grand Union Canal.</p>
<p>6</p>	<p>The site layout illustrated in the submitted design and access statement and on drawing number 1202-P3 fails to show how a development of up to 28 dwellings could be accommodated on the subject land in a manner which represents high quality design, and which would protect the amenity of future residents. The proposal is in conflict with Policy EV/1, a saved policy from the Borough of Charnwood Local Plan 2004, with Policy CS2 of the Core Strategy, and its successor Policy DS5 in the emerging Local Plan 2021-37, and with the NPPF paragraph 130 and with the adopted Supplementary Planning Document on Design. It conflicts with Policy EV1 (Landscape) in the emerging Charnwood Local Plan 2021-37, and with the NPPF paragraphs 20 and 130, in that it fails to protect landscape character and to reinforce a sense of place and local distinctiveness, and with Policy LUC1 in that it has not been demonstrated that the relationship between the development and the canal would provide an active frontage with public access.</p>
<p>7</p>	<p>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 Core Strategy policy CS3. No details of the means of delivery these matters has been provided. Accordingly, the development fails to comply with policies CS3 and CS 24 of the adopted Charnwood Core Strategy 2015, and INF1 in the emerging Local Plan,</p>

	and would lead to significant and demonstrable harm which would outweigh the benefits of the scheme.
8	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 of the adopted Charnwood Core Strategy 2015, and with Policy EV8 of the draft Charnwood Local Plan 2021-37.
9	The application site is within an area identified within the Mineral and Waste Safeguarding (Charnwood Borough) Document S2/2015 as an area with sand and gravel resource, benefitting from safeguarding in accordance with Policy M11 from the Leicestershire Minerals and Waste Local Plan. No assessment of the impact on the minerals resource has been submitted in support of the application, and so the proposal is contrary to Policy M11.
10	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, and NPPF paragraph 34, 105, 105, 106, 110 and 113. At the date of writing policies INF1 and INF2 of the emerging Local Plan have limited weight, but the proposal, without agreement between the applicant and LCC on contributions and obligations, is in conflict with these policies.

APPLICATION SITE



and routes.

-  Vehicular site access & egress
-  Canal and tow path. Outdoor recreational space
-  Brook
-  Site access route
-  Public Open Space (POS)/ Recreational Space
-  Public transport connection e.g. bus, train, tram, aeroplane, ferry
-  Existing mature trees & vegetation
-  Sun path
-  Topography (Falls high to low)

