

Plans Committee Date: 14th December 2023

Item Number:

Application Reference Number: P/22/2227/2

Application Type: Full
Applicant: Mr P Newbury
Proposal: Outline Application for the erection of 8no dwellings (Access only)
Location: 238B Barrow Road Sileby

Date Valid:
12/12/2022

Parish: Sileby
Case Officer: James Mountain
Ward: Sileby
Tel No: 07713 323437

1 Background

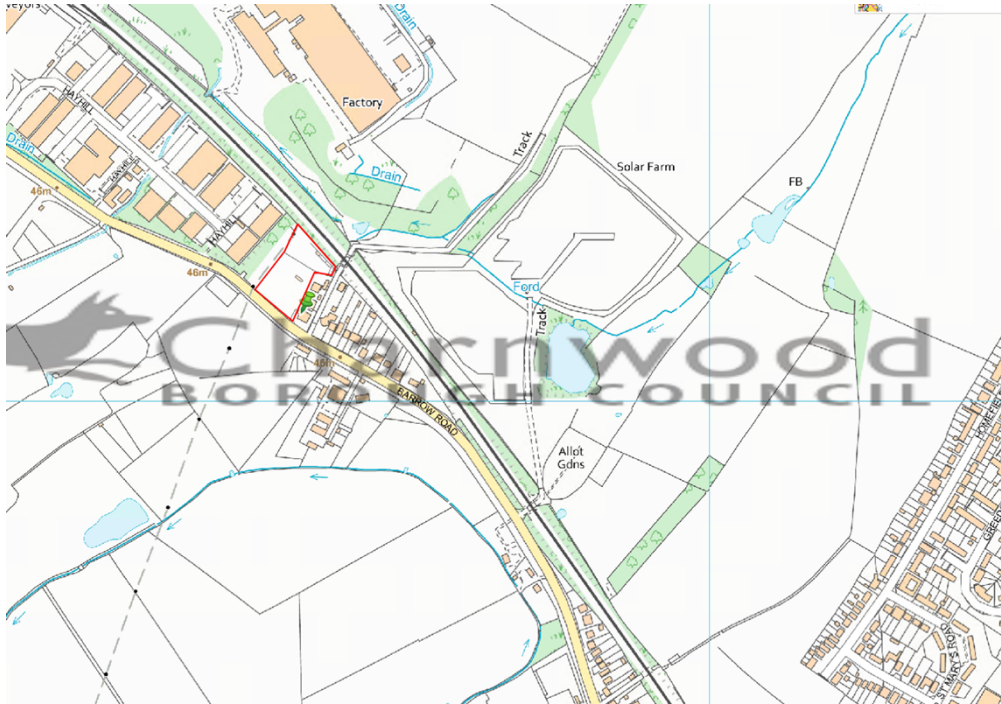
- 1.1 This application is referred to Plans Committee in accordance with the scheme of delegation because the proposed development site is situated beyond the limits of development of Sileby (as defined by Policy G1 of the Sileby Neighbourhood Plan 2022 and saved Policy ST/2 of the charnwood Local Plan 2004) and therefore lies within designated 'countryside'. The proposal represents a departure from the development plan and the officer recommendation is one of approval.

2 Description of the application site

- 2.1 The application site relates to land at 238B Barrow Road, which is situated on the western edge of the Parish of Sileby. While the site relates closely to eastern edge of Barrow upon Soar it is within the boundary of the Sileby Parish and therefore the Sileby Neighbourhood Plan applies. The site contains one large dwelling on the frontage and large gardens to the side and rear which have been used historically for the rearing and training of greyhounds. The dwelling on the front of the site was granted planning permission for a change of use in 2003 to be converted into 5 apartments and a bungalow was constructed to the rear. A further bungalow was constructed to the rear of that in 2015 and the wider grounds associated with No. 238 retained by the owner who now resides within No. 238B, one of the bungalows.
- 2.2 No. 238 occupies a building line consistent with approximately a dozen dwellings situated to the south east. To the north west is a brief gap in frontage development before giving way to high voltage overhead power lines and industrial development on the Hayhill Industrial Estate, Barrow. The south west side of Barrow Road, opposite, is open agricultural land, used for grazing and to the north east lies a railway line. The site is not deemed to be within Sileby or Barrow as settlements and therefore lies outside of and is physically detached from the Development Limits of either settlement as defined by their

respective Neighbourhood Plans, and is therefore located within the designated 'countryside'.

- 2.3 The site as shown below consists of an area of land, measuring approximately 0.5 Ha. in extent. It is tree lined from Barrow Road with dense tree cover on the south west and north west boundaries. The site is currently accessed from a shared driveway which serves 238, 238A and 238B and contains a number of structures associated with the previous use of the site for rearing and training greyhounds; kennels, runs etc.



Site location overview

- 2.4 The front section of the site is elevated slightly from Barrow Road and reaches a plateau approximately where the existing frontage to 238B is located and then slopes gently down to the north west boundary. The site is bound with close boarded fencing on the boundary, with the railway embankment elevated in comparison beyond. The site is bound by a timber close boarded fence from Barrow Road, with tree and hedge planting limiting views into and out of the site. The trees are subject of a Tree Preservation Order made in 1993 and the green frontage of the site makes a positive contribution to the appearance of this part of Barrow Road.
- 2.5 The front half of the site has an appearance of more domestic garden with the rear section more so associated with the previous dog training use, albeit still containing domestic sheds and log stores in addition to dog kennel areas.
- 2.6 The application site lies within a Minerals Safeguarding Area (MSA) for sand and gravel and according to government mapping, lies within Flood Zone 1, this being land at least risk of flooding. The development does not affect a listed building or a Conservation Area but is within an area of Archaeological Interest.

3. Description of the proposal

3.1 The application seeks Outline Planning Permission for the erection of 8 dwellings with all matters except access reserved. Notwithstanding the above the applicant has provided an indicative layout plan and states the intention for plots 5-8 to be 2 bed bungalows, plots 2-4 to be 3 bed dwellings and on plot 1 a 4 bed dwelling. A new access is proposed approximately centrally in the existing garden frontage with dwellings positioned either side of the drive.



Indicative layout plan

3.2 The application is accompanied by:

- An Arboricultural Survey
- A Flood Risk Assessment and drainage Strategy application.
- A Preliminary Ecological Appraisal (Updated February 2023)
- A Biodiversity Impact Assessment (submitted October 2023)
- A Noise Assessment (submitted October 2023)
- A Road Safety Audit (submitted July 2023)

4. Development Plan Policies

4.1 The Adopted Local Plan for the area comprises the Charnwood Local Plan 2011-2028 Core Strategy 2025 (CS), the saved policies of the Charnwood Borough Local Plan 2004 (LP), The Sileby Neighbourhood Plan (made November 2022) and the Minerals and Waste Local Plan (2019).

4.2 The policies relevant to the determination of this application include:

Charnwood Local Plan 2011-2028 Core Strategy

- Policy CS1 – Development Strategy
- Policy CS2 – High Quality Design
- Policy CS11 – Landscape and Countryside
- Policy CS13 – Biodiversity and Geodiversity
- Policy CS14 – Heritage
- Policy CS16 – Sustainable Construction and Energy
- Policy CS25 – Presumption in Favour of Sustainable Development

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

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

- Policy ST/2 - Limits to Development
- Policy CT/1 - General Principles for Areas of Countryside
- Policy CT/2 - Development in the Countryside
- Policy CT/4 - Development in Areas of Local Separation
- Policy EV/1 - Design
- Policy TR/18 - Parking in New Development

4.4 The Sileby Neighbourhood Plan 2022

- Policy G1 – Limits to Development
- Policy G2 - Design
- Policy H3 – Windfall Development
- Policy H4 - Housing Mix
- Policy ENV8 – Biodiversity Protection in New Development
- Policy ENV10 – Flood Risk and Brownfield Sites
- Policy T2 – Highway Safety
- Policy E4 – Broadband Infrastructure

4.5 Minerals and Waste Local Plan (2019)

4.5.1 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.

- 4.5.2 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 not be granted for development that is incompatible with safeguarding minerals within a Mineral Safeguarding Area provided certain criteria are met. The site lies within a Mineral Safeguarding Area for sand and gravel.

5. Material Planning Considerations

5.1 The National Planning Policy Framework 2023 (NPPF)

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 9: Promoting Sustainable Transport
- Section 12: Requiring Well-Designed Places.
- Section 14: Meeting the Challenge of Climate Change, Flooding, and Coastal Change
- Section 15: Conserving and Enhancing the Natural Environment
- Section 16: Conserving and Enhancing the Historic Environment

5.2 The Equality Act 2010

This Act requires local planning authorities, when making strategic decisions about the exercise of their functions to have regard to the desirability of reducing socio-economic inequalities in society. It consolidates 7 Acts including the Disability Discrimination Act. Whilst the accessible design of buildings is regulated by Part M of the Building Regulations, the Equality Act does require 'reasonable adjustments' to be made when providing access to goods, facilities, services and premises and this also applies to the design of proposed development. In terms of planning decisions, there is a need to have 'due regard' to the impact of planning application decisions and policies on anyone with a Protected Characteristic who may be affected by the decision.

5.3 National Planning Practice Guidance (PPG)

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

5.4 National Design Guide (2019)

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

5.5 Design Supplementary Planning Document (SPD) (2020)

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.

5.6 Leicestershire Highways Design Guide

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

5.7 Technical Housing Space Standards (2015)

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

5.8 Conservation of Habitat and Species Regulations 2010 (as amended)

The Council as Local Planning Authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged to consider the likelihood of a licence being subsequently issued by Natural England.

5.9 Planning Guidance for Biodiversity June 2022

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

5.10 The Draft Charnwood Local Plan (2021) 2021-37

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 is dictated by the Inspectors although, subject to their report, it is anticipated the Local Plan will be adopted by the Council in early 2024.

5.11 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).

5.12 The following policies are considered applicable to this application:

- Policy DS1 - Development Strategy
- Policy DS5 - High Quality Design
- Policy SC1 - Service Centres
- Policy C1 - Countryside
- Policy T3 - Car Parking Standards
- Policy CC1 - Flood Risk
- Policy CC2 - Sustainable Drainage
- Policy CC5 - Sustainable Transport
- Policy EV1 - Landscape
- Policy EV3 - Areas of Local Separation
- Policy EV6 - Conserving and Enhancing Biodiversity and Geodiversity
- Policy EV7 - Tree Planting
- Policy EV8 - Heritage

6. Relevant Planning History

6.1 The following applications relate to the site:

Reference	Description	Decision & Date
P/03/3724/2	Change of use from detached house into 5 apartments and conversion of rear outbuilding to form dwelling	Approved 2004
P/11/0984/2	Erection of bungalow, detached garage and site entrance	Refused 2011
P/14/0259/2	Erection of 1 detached bungalow	Approved 2014
P/15/1042/2	Erection of 1 bungalow (reserved matters).	Approved 2015

7. Responses of Consultees & Other Comments Received

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
Leicestershire County Council - Local Highways Authority	Initial comments – the access has sub-standard visibility which could result in highway safety concerns. Comments based on re-consultation - No objection – the development when considered cumulatively with other developments would not impact on the road network. Conditions are recommended in relation to provision of visibility splays and surfacing
Charnwood Biodiversity	No objection – the submitted assessment indicates a net loss of 0.67HU, if offsite compensation can be secured via a 3 rd party offsetting provider (via planning obligation) then the application can be determined on the basis that ecological constraints have been overcome and the application can be determined in accordance with Policy CS13 and relevant sections of the NPPF.
Charnwood Environmental Health	No objection – enhanced glazing and alternative ventilation is recommended. The acoustic design statement as part of the detailed design stage should be considered as part of the reserved matters submission with consideration given to the orientation of the dwellings to minimise noise impact and an overheating assessment is undertaken to identify ventilation requirements.
Charnwood Archaeology	No objection - a written scheme of investigation for an archaeological watching brief is recommended to be secured via condition

Leicestershire County Council as Minerals Authority	No objection – the site is within a minerals safeguarding area for sand and gravel and is subject to policy M11 (safeguarding of mineral resources) of the LMWLP. No minerals assessment is required in this instance.
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Ward Councillor and Parish Council Response	
Sileby Parish Council	Object – The proposal doesn't accord with Policy H3 (windfall housing) of the Sileby NP and the comments of the Highways Authority are supported.
Responses to publicity	
No Comments received	

8. Consideration of the Planning Issues

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 require that planning applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The most relevant policies for the determination of this application are listed above and are contained within the Development Plan for Charnwood which comprises the Core Strategy (2015), those “saved” policies within the Borough of Charnwood Local Plan 1991-2026 (2004) which have not been superseded by the Core Strategy (2011-2028), The Sileby Neighbourhood Plan (2022) and the Minerals and Waste Local Plan (2019).
- 8.2 Part i) of NPPF paragraph 11d) sets out that where there are NPPF policies that protect areas or assets this can be a clear reason to refuse an application and part 11 dii) does not then apply. These are generally nationally designated areas such as SSSI's, designated Local Green Space, AONBs and designated heritage assets which in this case includes the Conservation Area. In this case, the site is not in conflict with policies protecting an area specifically protected by the NPPF (the impact on archaeology is addressed below) such that the NPPF's presumption in favour of sustainable development and the 'tilted balance' applies, i.e planning permission should be granted unless its harm significantly and demonstrably outweighs any benefits arising from the proposal.
- 8.3 The main planning considerations applicable to this application are considered to be:
- Principle of Development
 - Design
 - Impact upon the character and landscape of the area
 - Impact upon amenity
 - Highways
 - Flood Risk and Drainage
 - Biodiversity and Trees

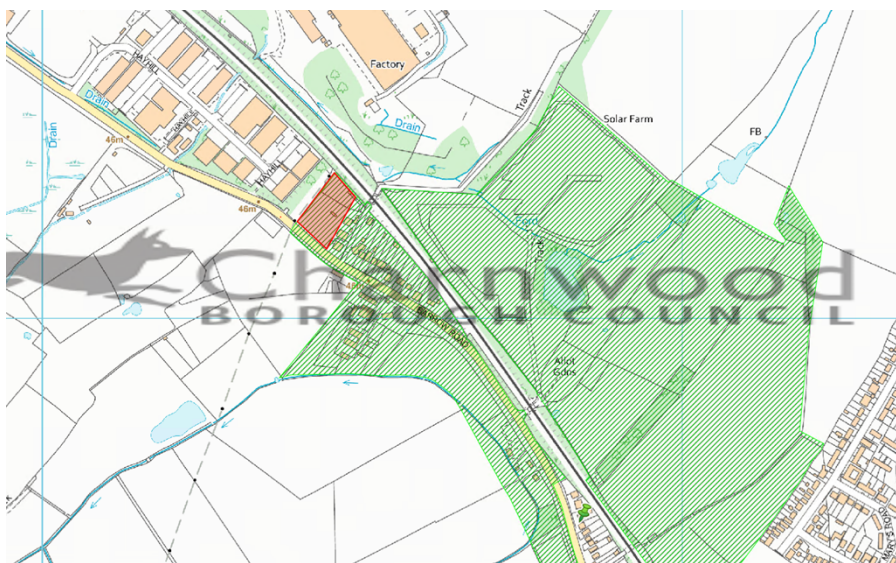
- Heritage and Archaeology

9. Planning Assessment

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. Policy CS1 seeks to provide at least 3,000 new homes within and adjoining the Service Centres and aims to respond positively to sustainable development which contributes towards meeting development needs, supports the strategic vision, makes effective use of land and is in accordance with the policies elsewhere in the Charnwood Core Strategy. Sileby is one of those service centres.
- 9.1.2 Saved Local Plan Policy ST/2 and Proposals Map of the Charnwood Local Plan identify Limits to Development for various settlements in the Borough. Policies CT/1 and CT/2 allow development outside the limits defined by ST/2 in very limited defined circumstances. However, the housing supply policies of the Development Plan are out of date as the Core Strategy is more than five years old and the Local Planning Authority can currently demonstrate only 4.27 years housing land supply (on 1st April '23).
- 9.1.3 The emerging Draft Local Plan 2021-37 defines its spatial strategy in Policy DS1 and regards both Sileby and Barrow as service centres suitable for residential development. Housing Allocations are defined by Policy DS3, with 345 units allocated in Sileby across six different sites. Policy DS1 has limited weight at the date of this report, due to the number and nature of unresolved representations to the Examination but is consistent with NPPF Paragraph 20. Emerging policy C1 (Countryside) states that development in areas of countryside will be managed to protect its largely undeveloped character.
- 9.1.4 Being outside the identified boundary of Sileby as indicated in the adopted Neighbourhood Plan and emerging Draft Local Plan, the site is considered to be in a countryside location. In such locations the Neighbourhood Plan states *“development will be carefully controlled in line with local and national strategic planning policies”*. The site is however not isolated, being flanked by existing residential properties to the south-east and commercial properties approximately 80m to the north-west. Whilst saved Local Plan Policy CT/2 (Countryside) details that development acceptable in principle will be permitted where it would not harm the character of the countryside and it could safeguard historic, nature conservation, amenity and other local interest, it does not fall within the types of development acceptable in principle. Emerging Draft Local Plan Policy C1 (Countryside) details that amongst other things small scale new build development will be supported where it would not result in significant environmental effects and meet a proven local need as identified by a Neighbourhood Plan or other community led plan.
- 9.1.5 The site was designated an Area of Local Separation under the Core Strategy in 2015 and is protected under Policy CS10 which states “We will protect the

predominantly open and undeveloped character of Areas of Local Separation unless new development clearly maintains the separation between the built-up areas of these settlements". Saved Local Plan Policy CT/4 (Development in Areas of Local Separation) states that 'development acceptable in principle will only be permitted where the location, scale and design of development would ensure that (amongst other things): the predominantly open and undeveloped character of the area is retained and the already narrow gap between settlements is not reduced. The emerging Draft Local Plan policy EV3 (Areas of Local Separation) details that development will only be supported which preserves settlement identity and maintains separation between built up areas. These policies do not preclude the principle of all development and development may be acceptable if it clearly enables separation between settlements to be maintained.



Extract from proposals map in the emerging Charnwood Local Plan (green highlighting area of local separation)

- 9.1.6 The proposed site does not comply with the identified policies in the existing Local Plan, Neighbourhood Plan or the emerging Local Plan in principle. However, whilst being in a countryside location and identified as being part of a much larger Area of Local Separation, it is also within 50m of existing bus stops to the east of the site, providing access into neighbouring settlements in addition to Leicester. In relation to the identified policies relating to 'areas of local separation', the indicative proposed layout plan demonstrates that the property closest to Barrow Road would be set back approximately 20-25m and screened by the existing and retained frontage tree/hedge planting. In relation to closing the gap between settlements, it is considered that the application site and the dozen or so properties to the east are already separated from Sileby by way of the narrowing of the land to the north of Barrow Road and its relationship with the railway line, as shown below. Therefore, it is not considered that development on this site would result in the merging of Barrow upon Soar and Sileby, nor harm the character of the countryside.



(Development site to the west of the blue dot)

- 9.1.6 It is considered that due to the setback nature of the proposed development, the retention of boundary trees to the frontage and east and west boundaries, development on the proposal site would not be unduly prominent and would sit comfortably with the pattern of the existing residential properties to the east and would not impact upon the settlement identity of Barrow. Neither saved Local Plan policy CT/4 or emerging Local Plan policy EV3 create a prohibition against development in Areas of Separation, referring to the impact proposals have on the designated area concerned and due to these findings, it is considered that their requirements are met.
- 9.1.7 Paragraph 14 of the NPPF states that conflict with the Neighbourhood Plan is likely to be significant if the Plan concerned is less than 2 years old, allocates housing sites and housing delivery has not reached stated thresholds. In the case of the Sileby Neighbourhood Plan all these criteria are met, so its weight is not compromised. Policies G1 (Limits to development) and H3 (Windfall housing) of The Neighbourhood Plan explain that the identified Limits to Development are intended to avoid unwanted encroachment into the countryside, to help maintain the setting of Sileby and steer development away from the least sustainable locations. However, the site is not considered to be typical of countryside owing to its former use and being contained between residential development south east, and the industrial estate and railway north west and north east respectively. The site is not considered to play any role in the setting of Sileby, which is defined further south. As rehearsed above the site is not unsustainable owing to the very close proximity to Barrow on Soar, bus stops and railway stations etc.
- 9.1.8 Furthermore, the Council cannot currently demonstrate a 5 year housing land supply and the proposed development would make a positive contribution

towards housing supply, in a location close to 2 settlements, with Sileby and Barrow upon Soar both identified as service centres and the site providing ready access to public transport connections to both settlements. The proposal of residential development on the site is therefore considered to be on-balance acceptable and would maintain separation between settlements.

9.1.9 Therefore, whilst the development is considered contrary to the provisions of saved Policies CT/1 of the Local Plan 20024, CS1 of the Core Strategy, G1 of the Neighbourhood Plan and DS1 of the emerging Local Plan, its location and site characteristics are such that it would complement, rather than undermine, their objectives and on this basis an exception to these policies is considered to be justified.

9.2 Housing Mix

9.2.1 Core Strategy Policy CS3 outlines a requirement to secure an appropriate housing mix having regard to the identified housing needs and affordable housing within schemes of 10 or more. The application is for 8 dwellings.

9.2.2 Emerging policy H1 seeks a mix of house types and sizes to meet the overall needs of the Borough in line with up to date evidence. The policy is at an advanced stage, was considered in the hearing sessions in February 2023 and is consistent with the NPPF and it is considered can currently be given limited weight. Emerging Policy H3 requires compliance with the Nationally Described Space Standards.

9.2.3 Neighbourhood Plan Policy H4 ‘Housing Mix’ states that developments should comprise a mix of house types and size that reflect up to date published evidence of local need in Sileby, or if this is not available, a larger area including Sileby.

9.2.4 The latest evidence of need is provided by the Leicestershire Housing and Economic Needs Assessment (HENA) 2022 outlines a recommended housing mix for the Borough in respect of market housing. This includes the following housing mix:

Market Units	
1 bed	5%
2 bed	30%
3 bed	45%
4+ bed	20%

9.2.5 The proposal is for outline planning permission with all matters except access reserved. However, the applicant has as part of the submission indicated that a mix of 2, 3 and 4 bed properties, with an emphasis to smaller dwelling types and inclusion of bungalows, can be provided upon the site, with sufficient room appearing available to ensure the development would accord with the Government’s ‘Technical housing standards - nationally described space standards’ as sought by emerging policy H3.

9.2.6 The precise mix would be secured as part of a future reserved matters submission; however, it is considered that an appropriate mix of dwelling sizes can be accommodated on the site. It is therefore considered to comply with the expectation of Core Strategy Policy CS3, Neighbourhood Plan Policy H4 and emerging Local Plan policies H1 and H3.

9.3 Design and Layout

9.3.1 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 appropriate materials. 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.

9.3.2 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. Policy G2 (Design) of the Sileby Neighbourhood Plan can however be afforded full weight and the policy seeks to reinforce local distinctiveness and character.

9.3.3 Only access is sought as part of this submission. The applicant has provided an indicative layout plan which indicates that frontage tree planting would be retained and 8 dwellings of varying scales constructed beyond. The practicality of doing so is supported by an Arboricultural Survey. Matters of layout, design and appearance would be secured as part of the future reserved matters submission. It is considered that the proposal would not appear out of keeping with that of the character of development to the east and the site is a mix of brownfield and garden area from previous dog rearing and training activities.

9.3.4 It is considered that development on the site is capable of sympathetic assimilation into its surroundings and would not detract from the character and appearance of the area, and subject to details being secured as part of the reserved matters submission the proposal would accord with the NPPF, National Design Guide, policy CS2 of Charnwood Core Strategy, EV/1 of Local Plan, G2 of the Neighbourhood Plan and the Charnwood Design SPD and emerging Local Plan Policy DS5.

9.4 Impact on Residential Amenity

9.4.1 Policies CS2 of the Core Strategy and EV/1 of the Local Plan seek to protect the amenity of existing and future residents. Saved policy EV/1 of the 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. The Charnwood Design SPD (2020) also provides spacing standards and guidance to ensure an adequate level of amenity is achieved.

- 9.4.2 Emerging Local Plan policy DS5 states that new development will be required to protect the amenity of people who live or work nearby and those who live in the new development. 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.
- 9.4.3 Layout was initially sought as part of this application. However, concern was raised regarding the potential relationship between plot 2 and the applicant's property (238B). The applicant has now sought for just matters of access to be secured via this permission. It is considered that with some minor alterations to the layout under a future reserved matters application, 8 units could be achieved on the site which would not result in a significant loss of amenity for existing dwellings and would result in an acceptable standard of amenity for future occupiers.
- 9.4.4 The application has been supported by a noise survey, given the proximity of the railway line on the northern boundary of the site. The assessment has been reviewed by the Environmental Health team who have raised no concern, subject to future development seeking to ensure development follows the guidance laid out in the report, which shall be secured by condition. Therefore, the proposal would comply with the provisions of policies CS2 of Charnwood Core Strategy and EV/1 of Local Plan along with NPPF, National Design Guidance, Emerging Local Plan Policy DS5 and the guidance set out in the Design SPD to protect residential amenity.

9.5 Highway Matters

- 9.5.1 Policy T2 of the Sileby NP seeks to ensure that development minimises traffic generation and movement through the village. Policy CS2 of the Core Strategy requires new development to provide well defined and legible streets and spaces that are easy to get around for all. Policy CS18 of the Core Strategy requires network improvements where they are identified in Transport Assessments. Policy TR/18 of the Saved Local Plan requires off-street parking to be provided for vehicles and cycles to secure highway safety and minimise harm to visual and local amenities. Adopted standards as set out in the saved Local Plan are provided as a starting point to assess the level of provision. 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.
- 9.5.2 The NPPF promotes sustainable travel choices and states development should ensure safe and suitable access and mitigation of any significant impacts. It states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe (paragraphs 110-112).

9.5.3 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.

9.5.4 The application proposes a new access to the west of the current access point with properties sited on a private drive. An initial objection was raised by the Local Highway Authority in relation to proposed visibility splays, however the applicant has worked with the Highway Authority and provided further supporting assessments to resolve initial concerns raised. The indicative plan submitted demonstrates a private drive approximately 5.8m wide with footpaths to serve the dwellings with a turning head at the northern end. Parking has been indicated to the front for 1-2 vehicles depending on the indicative scale of the dwelling which appears able to meet the required Local Highway Authority standards numerically and in terms of their dimensions.

9.5.5 On this basis it is considered that the relevant adopted and emerging policies are satisfied. The small-scale nature of the development means that there are no wider highways infrastructure issues.

9.6 Flood risk and drainage

9.6.1 Policy ENV10 of the Sileby NP seeks to ensure that development reduces surface water run off rates. Policy CS16 of the Core Strategy and the NPPF direct development away from areas at highest risk of flooding. The policy requires development to manage surface water run off with no net increase in the rate of surface water run off for green field sites. This policy generally accords with the NPPF and does not frustrate the supply of housing. It is therefore not considered there is a need to reduce the weight afforded to this policy.

9.6.2 Emerging Local Plan Policy CC1 of the Draft Local Plan encourages minor development to incorporate Sustainable Urban Drainage Systems (SuDS). Emerging policy CC2 states development will include appropriate measures to manage flood risk. This policy is at an advanced stage and was discussed at the hearing sessions in June 2022 and is consistent with the NPPF so can be given moderate weight.

9.6.3 The development is situated within Flood Zone 1 and being at low risk of fluvial flooding as identified by the Environment Agency flood maps and is not vulnerable to other forms of flooding.

9.6.4 Surface water disposal is indicated to be managed by way of SuDS. No details have been provided in relation to this and as such a surface water management condition is recommended as part of any grant of consent.

9.6.5 Consequently, the proposal is considered acceptable having regard to Policy ENV10, of the Sileby NP, Policy CS16 of Charnwood Core Strategy, emerging Local Plan policies CC1 and CC2 and the NPPF.

9.7 Impact on Biodiversity Interests Including Trees

- 9.7.1 Policy ENV8 of the Sileby NP seeks to ensure that development protects and enhances local biodiversity. Policy CS13 of the Core Strategy seeks to conserve and enhance the natural environment with regard to biodiversity and ecological habitats. The policy supports development that protects biodiversity and geodiversity and those that enhance, restore or re-create biodiversity. The loss of features of biodiversity and geodiversity will only be supported in exceptional circumstances where the benefit of the development clearly outweighs the impact. Where there are impacts, the policy requires mitigation or compensation of equal or greater value, likely to result in a net gain in biodiversity. The NPPF states that planning decisions should minimise impacts upon and provide net gains for biodiversity.
- 9.7.2 Emerging policy EV6 of the Draft Local Plan seeks 10% biodiversity net gain and the protection and enhancement of habitats, species and networks. 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. Therefore, emerging Local Plan policy EV6 can be given only moderate weight until the emerging policy is further progressed towards adoption except in relation to the 10% net gain requirement, which is limited.
- 9.7.3 Policy EV7 of the Draft Charnwood Local Plan (2021-2037) seeks to protect and enhance our natural environment by increasing the number of trees in Charnwood and supports development that retains existing trees, where appropriate. The emerging Local Plan is 'well advanced' having been subject to Examination and policies are consistent with the NPPF. Policy EV7 is largely uncontested and can therefore be afforded moderate weight.
- 9.7.4 The trees on the site are the subject of a Tree Preservation Order dating from 1993. Two trees are indicated to be removed to facilitate access to the site (T12 & T14) a hawthorn and purple cherry plum with both trees indicated as being 'category C' trees of the lowest value. Approximately 18 new trees are indicated as being planted on the proposed layout plan and the precise species, scale and location shall be secured as part of the future 'landscaping' element contained in any future reserved matters submission.
- 9.7.5 The application has been supported by a preliminary ecological appraisal and a biodiversity impact assessment (BIA). The BIA associated with the application recognises a net loss of 0.67 habitat units will occur, with no prospect of a remedy on site due to the size of the site. The Council's Ecologist considers the financial equivalent of 0.67 habitat units can be secured from the Habitat Bank, to positively contribute towards ecological projects within Leicestershire. This has been agreed with the applicant and can be secured as a planning obligation. This is considered to be necessary, related to the development and for planning purposes (Biodiversity compensation in accordance with NPPF paragraph 174 and the above referenced Policies) and therefore compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010. Planning conditions

are recommended to promote ecology on site as detailed within section 6.2 of the submitted ecology report.

- 9.7.6 The proposal is considered to accord with Policy ENV8 of the Sileby NP, Core Strategy Policy CS13, emerging Local Plan Policy EV6 and the Council's Planning Guidance for Biodiversity June 2022.

9.8 Heritage and Archaeology

- 9.8.1 Policy CS14 (Heritage) seeks development to 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.

- 9.8.2 Emerging Local Plan policy EV8 seeks to protect and enhance heritage assets, including archaeological assets. Under the guidance of NPPF paragraph 48 it is considered that the emerging Local Plan is 'well advanced' having been subject to Examination and policies are consistent with the NPPF. Policy EV8 is largely uncontested and can therefore be afforded moderate weight.

- 9.8.3 The application is accompanied by a desk-top archaeological assessment which has been reviewed by the archaeology officer. The assessment indicates the potential for archaeological remains to be within the area including potentially a roman cemetery and possibly a villa. There is however also the potential that the site was quarried for limestone sometime between 1883 and 1901. The desktop assessment therefore concludes that the archaeological significance of the site is considered low. Notwithstanding this, the archaeology officer has recommended that a written scheme of investigation be secured as a condition on any consent.

10. Conclusion

- 10.1 Decisions on applications need to be made in accordance with the adopted development plan policies unless material considerations indicate otherwise.

- 10.2 The development sits outside the limits to development for Sileby and Barrow within a designated Area of Local Separation and is therefore contrary to policies ST/2 and CT/1 of the adopted Local Plan 2004, policy CS1 of the Core Strategy 2015, Policies G1 and H3 of the Sileby Neighbourhood Plan, policy DS1 of the emerging Local Plan and guidance contained within paragraph 14 of the NPPF. However, as the Core strategy is now five years old and the Local Planning Authority cannot currently demonstrate a 5-year supply of housing land (4.27 years), any policies which directly relate to the supply of housing are out of date and cannot be afforded full weight. The shortfall in the supply of deliverable housing sites also means that, in accordance with the presumption in favour of sustainable development (at paragraph 11dii), any adverse impacts caused by the proposal must significantly and demonstrably outweigh its benefits, when assessed against the NPPF as a whole for planning permission to be refused.

- 10.3 The application site is also outside the Limits to Development as defined by the Sibley Neighbourhood plan policy G1. This policy is not out of date owing to its date (2022) and content, and housing delivery figures recently achieved and therefore retains full weight. Furthermore, paragraph 14 of the NPPF is considered to be fully 'engaged' in relation to the weight that the Neighbourhood Plan carries. This means that in a situation where paragraph 11 d applies, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits of the proposal.
- 10.4 Notwithstanding paragraph 14 of the NPPF, and as rehearsed in the 'principle' section (para 9.1) of the report, it is considered that the principle of outline residential development in this countryside location and within an Area of Local Separation is acceptable in this instance and would positively contribute towards the existing housing supply whilst resulting in very limited harm to the matters addressed by the policies with which it conflicts. It is considered to comply with saved Local Plan Policy CT/4, Core Strategy Policy CS10 and emerging Local Plan Policy EV3 owing to site circumstances, the scale of the Area of Local Separation concerned, and surrounding development. The proposal would make a modest contribution of 8 units to the overall housing shortfall (a deficiency of some 839 dwellings), the benefits of this limited housing provision, should be considered positive in the overall planning balance. The proposal would also be likely to generate some economic activity during construction and upon occupation but all developments of this nature are likely to result in such effects.
- 10.5 The proposal would be served by a safe and suitable vehicular access and off-street parking would be provided. The proposal, subject to the applicant entering into a legal agreement is considered acceptable in relation to ecology and trees and details relating to amenity, archaeology and drainage can be secured via condition/future reserved matters submission.
- 10.6 Notwithstanding the provisions of paragraph 14 of the NPPF, it is not considered that in light of the particular site circumstances the proposal would undermine the objectives of the Neighbourhood Plan, as the merits of the development as a whole represent a material consideration of such significance that outweigh the policy conflicts that have been identified. Therefore, it is recommended that planning permission should be approved.

11. RECOMMENDATION

RECOMMENDATION A:

That authority is given to the Head of Planning and Growth and the Head of Strategic Support to negotiate the terms of a Unilateral Undertaking with the applicant, on terms to be finalised by the parties, as set out below:

- (i) the receipt of a Unilateral Undertaking under s 106 of the Planning Act making adequate provision for:

(a) securing of 0.67HU credits from the Habitat Bank

11.2 RECOMMENDATION B:

That subject to the completion of the Unilateral Undertaking as set out above, grant planning permission conditionally subject to the imposition of the following draft planning conditions and reasons and that the Head of Planning and Growth be given delegated authority to determine the final detail of these planning conditions, in consultation with the Chair of the Plans Committee: .

1. Application for approval of reserved matters shall be made within three years of the date of this permission and the development shall be begun not later than two years from the final approval of the last of the reserved matters.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority: a. layout, b. scale, c. appearance and d. landscaping.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. The development hereby permitted shall be carried out in accordance with the following approved plans:

- 21050.13.PL5 proposed site layout plan (access only)
- 21050.10.PL3 site location plan

REASON: For the avoidance of doubt and to define the terms of the planning permission.

4. No development involving the breaking of ground shall take place within the site boundaries unless a written specification for the implementation of an archaeological watching brief, during the course of the development, has first been submitted to and approved in writing by the Local Planning Authority. The specification shall include arrangements for:

(a) the recording of any finds made during the watching brief and for the preparation of a final report;

(b) the deposition of the records of finds, and any significant finds, capable of removal from the site, in a registered museum; and

(c) proposals for the publication of a summary of the final report in an appropriate journal.

The archaeological works approved under this condition shall be carried out in accordance with the approved specification.

REASON: To safeguard archaeological resources in accordance with Policy EV8 of emerging the Local Plan.

5. No above ground works shall begin on the site until such time as a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate how as a minimum run off rates from the site shall be reduced by 30% by use of SuDS techniques which can include swales, attenuation ponds and green roofs. The development must be carried out in accordance with these approved details and completed prior to first occupation.

REASON: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site and in order to accord with Policy CS16 of the Charnwood Local Plan and Policy CC1 of the Draft Charnwood Local Plan (2021-2037)

6. Development shall not commence on site until such time as protective fencing as shown on the submitted tree protection plan 01 received 12/12/22 is implemented. The fencing shall be retained for the duration of the build process (relating to each individual plot)

REASON: In the interests of protecting tree which are considered to positively contribute to the character of the site and wider area and to accord with policy EV7 of the emerging Charnwood Local Plan (2021-2037).

7. Development shall be undertaken in accordance with the recommendations contained in the submitted preliminary ecological appraisal received 27/2/23 undertaken by Ramm Sanderson.

REASON: To ensure that important features of ecological interest are protected; to accord with Policy CS13 of the Charnwood Local Plan (2011-2028) Core Strategy and Policy EV6 of the Draft Charnwood Local Plan (2021-2037).

8. Development shall be undertaken in accordance with the recommendations made within the submitted noise assessment undertaken by Tetra Tech received 8/10/23

REASON: In the interests of amenity of future occupiers and to accord with emerging policy DS5 of the Local Plan.

9. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on 'Proposed Site Layout

drawing number 21050.13.PL4 have been implemented in full. Visibility splays shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway / verge / highway.

REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2023).

10. No part of the development hereby permitted shall be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

REASON: In the interests of pedestrian safety and in accordance with the National Planning Policy Framework (2023).

11. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

REASON: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2023)

12. Details submitted under condition 2 above shall provide for a mix of sizes reflecting the most recent evidence of housing need (2,3,4 bed, single and up to two ½ storey) as indicated as part of the information supporting the grant of this outline planning permission.

REASON: To seek to positively contribute towards a sustainable and inclusive community and to accord with Policy H4 of the Sileby Neighbourhood Plan, Policy CS3 of the Core Strategy and emerging policies H1 and H3 of the Local Plan

SITE LOCATION PLAN

