

Item No. 4

Application Reference Number P/21/1260/2

Application Type:	Outline Planning Permission	Date Valid:	02/06/2021
Applicant:	Penland Estates Ltd, RV Millington Ltd, Sarah Higgins and Gavin Higgins		
Proposal:	Outline planning application for residential development of up to 93 dwellings, public open space, landscaping and associated works. All matters reserved except for access.		
Location:	Land at Ashby Road, Markfield		
Parish:	Newtown Linford	Ward:	Forest Bradgate
Case Officer:	Susan Garbutt	Tel No:	07864 603389

Background

This application was brought to Plans Committee on 1 December 2021 as it relates to a major housing development and was considered a departure from the development plan and was recommended for approval. The officer committee report and additional items presented to that meeting are attached at Appendix A.

At the Plans Committee, it was resolved that planning permission be granted subject to recommendation A and B (planning conditions and S106 obligation) set out in the extras report of the Head of Planning and Regeneration. The S106 obligation has not yet been finalised and the planning permission has not been issued.

On the 25 January 2022 the Council received a letter from a member of the public that raised concerns about the proposed planning conditions. This report sets out those concerns and proposes amendments to the conditions.

In addition, this report notes any changes to policy since the application was considered at Plans Committee in December 2021.

Consideration of Planning Issues:

1. The wording of the approved planning conditions

A member of the public wrote to the Council in a letter dated 21 January 2022, which was received on 25 January 2022. The letter raised concerns that the wording of some of the planning conditions only required submission and approval of details, and not the implementation of those details. In particular, the letter highlighted concerns regarding the wording of conditions 9, 10, 11, 13 and 16.

The case officer has reviewed the planning conditions in light of the concerns raised, and it is considered that the conditions should be amended as set out in the recommendation below. Amendments are proposed to conditions 8, 9, 10, 11, 12, 13, 16 and 18. It is considered that with the suggested amendments, the conditions will be robust and accord with the guidance on conditions set out in the NPPF. Paragraph 55 of the NPPF sets out that conditions should meet the following tests:

1. Necessary,

2. Relevant to planning,
3. Relevant to the development to be permitted,
4. Enforceable,
5. Precise, and
6. Reasonable in all other respects.

2. Material Considerations update

All material considerations remain as per the previous report – see Appendix A – with the exception of the emerging Local Plan, as set out below.

The Draft Charnwood Local Plan 2019-37

The Pre-Submission Draft Charnwood Local Plan (July 2021) was consulted upon from 12th July 2021 to 23rd August 2021 and submitted to the Secretary of State on the 3rd December 2021. The Plan will now proceed to an examination hearing during 2022 with forecast adoption in very early 2023.

The Plan sets out strategic and detailed policies for the period 2019-37 and will replace the adopted Charnwood Local Plan Core Strategy (2015) and the saved policies of the Borough of Charnwood Local Plan 2004 when it is adopted. In accordance with NPPF paragraph 48, the relevant emerging policies in the plan may be given weight in determining applications, according to:

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

The following emerging policies are considered relevant in the determination of this application:

- DS1 Development Strategy
- DS5 High Design Quality
- C1 Countryside
- H1 Housing Mix
- H2 Housing for Older People and People with Disabilities
- H3 Internal Space Standards
- H4 Affordable Housing
- T3 Car Parking Standards
- CC1 Flood Risk Management
- CC2 Sustainable Drainage Systems
- CC4 Sustainable Construction
- CC5 Sustainable Transport
- CC6 Electric Vehicle Charging Points
- EV1 Landscape
- EV4 Charnwood Forest and the National Forest
- EV6 Conserving and Enhancing Biodiversity and Geodiversity
- EV7 Tree Planting
- EV8 Heritage

- EV9 Open Spaces, Sport and Recreation
- EV10 Indoor Sports Facilities
- EV11 Air Quality
- INF1 Infrastructure and Developer Contributions
- INF2 Local and Strategic Road Network

The proposed development does conflict with emerging policy in that it is located outside of a settlement boundary and within open countryside. The proposed development is considered to accord with all other relevant emerging policy, subject to reserved matters of appearance, landscaping, layout and scale being finalised at reserved matters stage.

Since the 1 December 2021 Plans Committee meeting, the local plan has been submitted to the Secretary of State, which is a material change in circumstances. Accordingly, at this stage in its production, the emerging Local Plan can only be afforded limited weight in decision making as hearing sessions have not yet commenced and it is not clear if there is any unresolved dispute in relation to its policies or if they require modification by the Inspector to make the plan sound.

Conclusion

The proposed amended conditions are considered to be appropriate for the development and will secure compliance with the policies of the adopted Development Plan. The conflict with the emerging Local Plan is the same as the conflict identified with the adopted Development Plan, in that the site is outside of defined limits to development and within countryside. Despite now having been submitted to the Secretary of State, the emerging Local Plan can only be afforded limited weight, as stated in the officer committee report of 1 December 2021 (see Appendix A).

Therefore, the conclusion set out in the officer committee report of 1 December 2021 remains unchanged. The application is recommended for approval subject to a S106 legal agreement to secure planning obligations and the amended planning conditions set out below (amendments to the planning conditions are highlighted in *underlined italics* for clarity).

RECOMMENDATION

That the application continues to be recommended for approval subject to s106 Agreement and conditions and therefore that the following resolution of the Plans Committee be amended to allow for amended Conditions and planning permission to be granted on the terms set out in the updated Recommendations A and B below.

Application Reference	Address	Date of resolution to grant/Minute Number
P/21/1260/2	Land at Ashby Road, Markfield	1 st December 2021 [38 (1.) refers]

RECOMMENDATION A

That authority us given to the Head of Planning and Regeneration and the Head of Strategic Support to enter into an agreement undersection 106 of the Town and

Country Planning Act 1990 to secure improvements, on terms to be finalised by the parties, as set out below:

Education	A contribution of £512,132.40 towards Mercenfield Primary School, or any other schools within the locality, and £277,632.16 Brookvale Groby Learning Campus Secondary School, or any other schools within the locality.
Affordable Housing	40% of units to be affordable comprising a mix of 77% social and affordable rent and 23% shared ownership
Open Space	The provision of off-site contributions for outdoor sports facilities £32,839.00 and allotments equating to £10,501.00 within Markfield
NHS – CCG	A contribution of £51,367.69 towards improving the capacity of Markfield Medical Centre to allow for the accommodation of 225 additional patients generated by the scheme.
Libraries	£2,810.00 towards library facilities.
Highways	A contribution of £454,212 (£4,884 per dwelling) towards the extended Coalville Transport Strategy to facilitate improvements to the A511/ A50 corridor in mitigating offsite impacts from developments in the area. The provision of raised kerbs at the nearest two bus stops. The provision of travel packs for each dwelling, which will include two six-month bus passes, two per dwelling. Sustainable Travel Accreditation and Recognition Scheme monitoring fee of £6,000
Civic Amenity	£6,080.00 towards improving waste capacity within the area.
Biodiversity Mitigation	The submission of a Biodiversity Mitigation Strategy which includes a new BIA assessment (using the Warwickshire County Council calculator) with an agreed baseline for the site, at reserved matters stage. Mitigation will be provided in order of the following preference: 1. To achieve no net biodiversity loss. 2. Mitigation on site. 3. Offsite contribution to commentary payment for a project within the vicinity of the development (to be agreed by all parties).

RECOMMENDATION B

The subject to the completion of the S106 legal agreement in Recommendation A above planning permission be granted for the development subject to the following Planning Conditions and Reasons why they have been imposed:

1.	<p>Application for the approval of the reserved matters shall be made within three years of the date of this permission and development shall commence within three years of the date of this permission or within two years of the date of approval of the last of the reserved matters, whichever is the later.</p> <p>REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p>
2.	<p>No development shall commence until details of the appearance, landscaping, layout and scale, (“the reserved matters”), have been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.</p> <p>REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.</p>
3.	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <ul style="list-style-type: none"> • 001 Revision B Site Location Plan <p>REASON: To provide certainty and define the terms of the permission.</p>
4.	<p>The reserved matters shall comprise a mix of market and affordable homes that has regard to both identified housing need for the borough and the character of the area.</p> <p>REASON: To ensure that an appropriate mix of homes is provided that meets the Council’s identified need profile in order to ensure that the proposal complies with Development Plan policy CS3, and the advice within the NPPF.</p>
5.	<p>The landscaping details submitted pursuant to condition 2 above shall include:</p> <ul style="list-style-type: none"> i) the treatment proposed for all ground surfaces, including hard surfaced areas; ii) planting schedules across the site, noting the species, sizes, numbers and densities of plants and trees; including tree planting within the planting belt to the east of the site; iii) finished levels or contours within any landscaped areas; iv) any structures to be erected or constructed within any landscaped areas including play equipment, street furniture and means of enclosure. v) functional services above and below ground within landscaped areas; and vi) all existing trees, hedges and other landscape features, indicating clearly any to be removed. <p>REASON: To make sure that a satisfactory landscaping scheme for the development is provided so that it integrates into the landscape and surrounding area and complies with policies CS2, CS11 of the Development Plan.</p>

6.	<p>The details submitted pursuant to condition 2 above shall include full details of existing and proposed ground levels and finished floor levels of all buildings relative to the proposed ground levels.</p> <p>REASON: To make sure that the development is carried out in a way which is in character with its surroundings and ensure compliance with policy CS2 of the Development Plan and associated national and local guidance.</p>
7.	<p>The details submitted pursuant to condition 2 above shall include the following minimum amounts and typologies of open space:</p> <ul style="list-style-type: none"> i. 0.07ha multi-functional green space area ii. 0.45ha of natural and semi-natural open space iii. 1 equipped LEAP iv. 0.10ha multi-functional green space area v. A young people's equipment/facilities <p>REASON: To ensure that the open space needs of future residents are met at a level that complies with Development Plan policies CS15.</p>
8.	<p>No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority. <u><i>The drainage works shall be constructed and completed in accordance with the approved plans before the first occupation of any of the dwellings hereby approved.</i></u></p> <p>REASON: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site <u><i>in accordance with policies CS2 and CS16 of the Charnwood Local Plan Core Strategy.</i></u></p>
9.	<p>No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority. <u><i>Thereafter the development shall be carried out in accordance with the approved details.</i></u></p> <p>REASON: To prevent an increase in flood risk, maintain the existing surface water run-off quality, and to prevent damage to the final surface water management systems though the entire development construction phase <u><i>in accordance with policies CS2 and CS16 of the Charnwood Local Plan Core Strategy.</i></u></p>
10.	<p>No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. <u><i>The surface water drainage system shall be maintained thereafter in accordance with the approved details.</i></u></p> <p>REASON: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development <u><i>in accordance with policies CS2 and CS16 of the Charnwood Local Plan Core Strategy.</i></u></p>

11.	<p>No development approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, <u>and the results of the testing have</u> been submitted to and approved in writing by the Local Planning Authority.</p> <p>REASON: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy <u>in accordance with policies CS2 and CS16 of the Charnwood Local Plan Core Strategy.</u></p>
12.	<p>No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This shall include the following:</p> <ul style="list-style-type: none"> • Details of the management of surface water during construction • Details of construction vehicle parking • Details of construction traffic routeing • Hours of operation for construction and delivery of materials <p><u>The approved CEMP shall be adhered to throughout the construction period for the development.</u></p> <p>REASON: To ensure that the development does not cause harm to amenity, biodiversity or the environment during the construction phase and ensure compliance with Development Plan policies CS2 and CS16.</p>
13.	<p>Prior to occupation of any dwelling a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all public open spaces and surface water drainage system, shall be submitted to and approved in writing by the local planning authority. The approved landscape management plan shall then be fully implemented <u>in accordance with the approved details.</u></p> <p>REASON: To ensure that public open spaces are maintained so that they are of good quality and that drainage systems retain full function. This is to make sure the development remains in compliance with Development Plan policies CS15 and CS16.</p>
14.	<p>No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted in writing to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.</p> <p>REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in the interests of public health and safety to comply with the aims and objectives of the National Planning Policy Framework.</p>
15.	<p>If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the</p>

	<p>Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.</p> <p>REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in the interests of public health and safety to comply with the aims and objectives of the National Planning Policy Framework.</p>
16.	<p>Upon completion of the remediation works, required by conditions <u>14 and 15</u>, a verification report shall be submitted to and approved by the Local Planning Authority. The verification report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site.</p> <p>REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in the interests of public health and safety to comply with the aims and objectives of the National Planning Policy Framework.</p>
17.	<p>No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained in accordance with the approved details.</p> <p>REASON: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with the National Planning Policy Framework (2021).</p>
18.	<p>The agreed Travel Plan (Revision B, dated September 2021) shall be implemented in accordance with the approved details.</p> <p>REASON: To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework (2021).</p>
19.	<p>No development approved by this planning permission shall commence until an Ecological Mitigation Strategy has been submitted to and agreed in writing by the Local Planning Authority. As a minimum these details shall include:</p> <ol style="list-style-type: none"> 1) The retention and enhancement of important ecological features including grassland, hedges and associated ditches. 2) Prior to the occupation of any dwelling a Biodiversity Management Plan (BMP) will be prepared and implemented. <p>The development shall be carried out and retained thereafter in accordance with the approved details.</p>

	REASON: To ensure the design and construction of the development does not result in the loss of any biodiversity features, habitats or protected species in accordance with Policy CS13 and the NPPF.
20.	<p>Development shall not begin until a scheme for protecting the proposed dwellings from noise from all issues highlighted in the supporting MEC Noise Assessment Report, Ref: 20860-04-NA-01 Rev A has been submitted to and approved in writing by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.</p> <p>REASON: To protect the amenity of future occupants in regard to noise pollution in accordance with Policies CS2 and EV/1 of the Charnwood Local Plan.</p>

Informative Note(s):

1. Planning Permission has been granted for this development because the Council has determined that it is generally in accordance with the terms of Development Plan policies CS1, CS2, CS3, CS11, CS13, CS14, CS16, CS24, CS25, ST/2, CT/1, CT/2, EV/1 and TR/18. Because the benefits of the proposal are not significantly and demonstrably outweighed by the harm identified. There are no other issues arising that would indicate that planning permission should be refused.
2. The Local Planning Authority has acted pro-actively through early engagement with the Applicant at the pre-application stage and throughout the consideration of this planning application. This has led to improvements with regards the development scheme in order to secure a sustainable form of development in line with the requirements of Paragraph 38 of the National Planning Policy Framework (2021), and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
3. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
4. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
5. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>



