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COMMERCIAL PROPERTY ADVICE



STATEMENT OF CASE

Section 78 Appeal

Town and Country Planning Act 1990

Planning (Listed Buildings and Conservation Areas) Act 1990

Planning and Compulsory Purchase Act 2004

Localism Act 2011

On Behalf of Wulff Asset Management Limited

Land at Sowbrook Lane, Stanton by Dale

Local Planning Authority Reference No: ERE/0722/0038

Erection of up to 196 dwellings with all matters reserved other than access reserved

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STATEMENT OF CASE

LAND AT SOWBROOK LANE, STANTON

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1.0 INTRODUCTION

- 1.1 Harris Lamb Planning Consultancy has been instructed by Wulff Asset Management Limited (“**the Appellant**”) to submit this appeal following the refusal of full planning application ref. ERE/0722/0038 by Erewash Borough Council (“**EBC**”). This is an outline application for the erection of up to 196 dwellings with all matters reserved other than the means of access (“**the Appeal Scheme**”) at Land at Sowbrook Lane, Stanton by Dale (“**the Appeal Site**”). This is the address provided by EBC when the application was submitted; however, the Appellant submitted the application under the address ‘Land at Ilkeston Road / Sowbrook Lane, Ilkeston’. The address used by the Appellant being consistent with how the EBC describe the site in their Strategic Housing Land Availability Assessment (“**SHLAA**”).
- 1.2 The outline application was submitted to the Council in the context of this Appeal Site being in the location that the Council seeks to direct most of its housing growth in accordance with Policy 2 of the Erewash Core Strategy (“**ECS**”). The Appeal Scheme accords with the Development Plan in this context. The submission of an outline application was further supported by EBC’s acceptance that they are not able to demonstrate a five year housing land supply (3.43 years).
- 1.3 It is the Appellant’s case that the Appeal Scheme complies with the provisions of the Development Plan and there are no material considerations that would indicate a decision to the contrary. In this context, planning permission should be granted in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and Paragraph 11 of the National Planning Policy Framework (“**NPPF**”).
- 1.4 The compliance with the Development Plan notwithstanding, it is also the Appellant’s case that the tilted balance as set out in Paragraph 11 of the NPPF is engaged because the Council is not able to demonstrate a five year housing land supply. None of the site-specific policies set out in Footnote 7 are

relevant to the Scheme and the benefits of granting planning permission would significantly and demonstrably outweigh the adverse effects..

1.6 In addition to this Statement of Case the Appeal has been submitted with:

- A Transport Assessment Addendum and Proposed Mitigation Works prepared by Mr Martin Andrews of MAC Consulting which address Reasons for Refusal 1, 2 and 3.
- Biodiversity Net Gain Assessment Report, Reptile Mitigation Strategy, Skylark Mitigation Strategy and Biodiversity Metric which address Reason for Refusal 4.
- A Landscape Statement prepared by Mr Rob Hughes of Incola Landscape Planning to address Reason for Refusal 5
- A Technical Note prepared by Hepworth Acoustics to address Reason for Refusal 6.

2.0 DESCRIPTION OF APPEAL SITE AND SURROUNDING AREA

- 2.1 The Appeal Site is an agricultural field on the edge of the Ilkeston Urban Area. Sites in and adjoining the Ilkeston Urban Area being a location identified in the ECS as a focus for delivering housing growth over the plan period.
- 2.2 The Appeal Site is subject to no designation in the Development Plan. With the field to the north west, this is the only non-Green Belt land within the authority.
- 2.3 There are a mixture of trees and hedgerows along the boundary and there is one small section of hedge / trees that go west to east along the middle section of the Appeal Site.
- 2.4 To the north of the Appeal Site is the Nutbrook Canal, Nutbrook Trail and the Nut Brook. These form part of a leisure corridor that run north-west from here through Ilkeston.
- 2.5 To the east of the Appeal Site is Ilkeston Road, beyond which is the Stanton Regeneration Site (“**SRS**”). The SRS is a mixed-use allocation (employment and housing) in the adopted ECS and is part of the Ilkeston Urban Area. The SRS is a former Ironworks. The buildings and machinery have largely been removed, although there is some external storage of shipping containers. The northern part of the SRS now benefits from an outline planning permission, which I come back to in more detail in Section 5 – Planning History below.
- 2.6 The southern boundary of the Appeal Site is lined by Sowbrook Lane, beyond which is a set of Grade II listed cottages and a sub-station. Behind the cottages and sub-station are several employment sites, which extend to approximately 28 hectares.
- 2.7 To the west of the Appeal Site is a brook, which the Appellant has a right to discharge into, and the Sowbrook Pond Wildlife Site which is discussed

further in the PEA, along with the other habitats within and surrounding the Appeal Site.

- 2.8 In support of the application, a context plan was prepared to show the land uses surrounding the Appeal Site. This is included in Figure 1 below for easy of reference. What is evident from this is that the Appeal Site is surrounded by existing development.

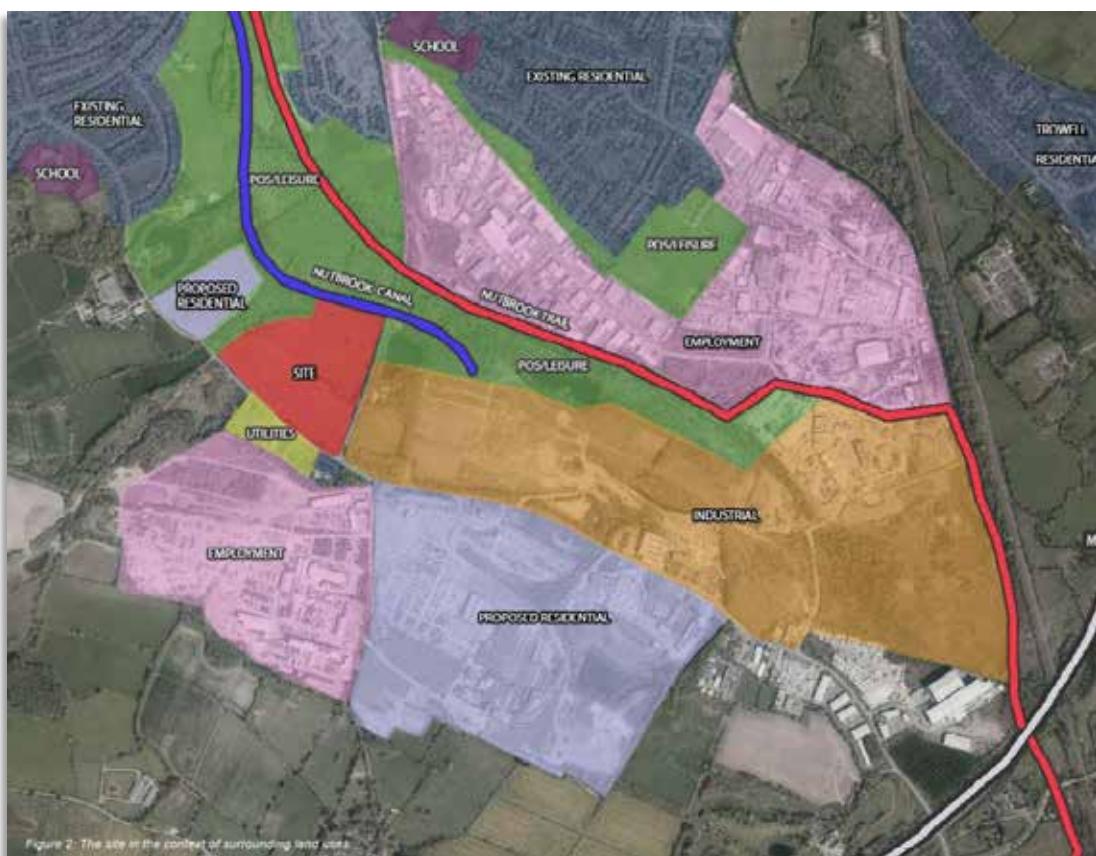


Figure 1 – Context Plan

- 2.9 There is an existing bus route that runs along Ilkeston Road. Details of which are discussed in the Transport Assessment.
- 2.10 There is an existing network of footpaths on the roads surrounding the Appeal Site. This includes a pedestrian footpath along Sowbrook Lane. This footpath would take future occupiers of the Appeal Site to Kirk Hallam, which is also

part of Ilkeston, and it is proposed to upgrade this as part of the Appeal Scheme.

- 2.11 Full details on walking / cycling distances to services and facilities are set out in Chapter 4 of the TA Addendum.

3.0 PROPOSED DEVELOPMENT

3.1 This is an outline application which proposes a residential development of up to 196 dwellings with all matters reserved other than the means of access. The Design and Access Statement provides a detailed description of the proposed development and the design process taken to get there. Below we set out a summary of the key features of the proposal:

- It would deliver up to 196 dwellings. This assumes a net density of 35 dwellings per hectare, which is normal for this type of edge of settlement location and consistent with the density assumptions set out in the Greater Nottingham SHLAA;
- The above assumes a net area of 56% of the site, which has been informed by a design led process;
- Two points of vehicle access are proposed – one on to Ilkeston Road and one on to Sowbrook Lane;
- Surface water drainage would be managed on site so that the development would not increase the flow of water off site;
- The existing easement and bell pit are accommodated in the Masterplan;
- All of the development is proposed outside of the small area of flood zone at the northern end of the Appeal Site next to the canal;
- Approximately 44% of the Appeal Site would not be developed. This would include the retention of existing trees and hedge rows where possible. Where this is not possible (e.g. to create access) replacement tree and/or hedge planting would be provided. It also includes a landscape buffer all the way around the proposed houses to ensure the proposal beds into the existing landscape;

- Provisionally a net gain of 10.55% in habitat units and 56.15% in hedgerow units achieved on site;
 - Play provision is proposed in the form of two play areas and a trim trail for kids;
 - The existing informal footpath that runs along the canal and the western side of the site would be retained and extended to form a circular walk around the site;
 - A tree lined avenue would form the primary route through the site, with a network of lower order roads stemming from this;
 - All dwellings would face out from the site toward the existing road network, providing a clear block structure; and
 - An offset is proposed to the existing sub-station to the south of the site to create an appropriate living environment for residents.
- 3.2 Further to the above, it is proposed to upgrade the bus stops on Ilkeston Road, to improve the bus provision that currently operates along this route, and improve the pedestrian footpath on Sowbrook Lane to Kirk Hallam. Full details on these improvements are set out in the addendum to the Transport Assessment.
- 3.3 It is also proposed to provide new habitat on a site on Seven Oaks Road to offset the loss of habitat from ground nesting birds. This site is in the same ownership as the Appeal Site and the Appellant has control of it. Full details of the mitigation scheme are set out in the Skylark Mitigation Strategy.

4.0 THE APPLICATION PROCESS

- 4.1 A pre-application was submitted in September 2020 and a subsequently submission made in April 2021 to seek Officer's views in relation to the residential development of the Site. The pre-application response to the original submission confirmed that the Council did not have a five year housing land supply, but raised some concerns with the sustainability of the location to deliver housing. The focus here being on the access to services and facilities from the Site.
- 4.2 In response to this, the Applicant instructed their Highway Consultant to prepare a note to address the point about access to services and facilities by other means of transport to the car. In doing so, they identified that there are a wide range of services, facilities and employment opportunities within the accepted walking and cycling distances and that appropriate walking and cycling routes existed to facilitate access to these.
- 4.3 However, despite the second submission in April 2022 to address these matters, Officers refused to provide any further pre-application advice and simply stated that the Appeal Site would be considered through the review of the Local Plan. During the Local Plan review, the first time the Council had considered the Appeal Site in the production of their new Core Strategy was in the SHLAA published in November 2022. This being after the Reg 19 Publication Plan consultation and a week before the plan was submitted for examination, so the Appellant has not been able to submit representations in relation to the Council's assessment of the Site. .
- 4.4 Details in relation to the accessibility of the Appeal Site are incorporated within both the Transport Assessment and the Design and Access Statement submitted with this Application.
- 4.5 In addition to the above, the scope and extent of the Transport Assessment had been agreed separately through direct communication between the Applicant's Highway Consultant and the Highway Authority. However, the

position changed during the planning application with the large employment scheme known as New Stanton Park (**NSP**) on the SRS to the east of the Appeal Site securing a resolution to grant. Comments relating to this were not received until late in the application process and the Appellant was not afforded an opportunity to address these comments during the outline application despite a request to do so.

- 4.6 Furthermore, there was also little to no engagement from Officers during the outline application process to address the matters raised through the consultation responses. This notwithstanding, the Appellant was able to agree solutions in relation to drainage and archaeology directly with the Consultees. A further submission was also made in response to the Planning Policy comments (Reason 1, 8, 9 and 10). However, insufficient time was available to address the Derbyshire County Highways comments which were received late in the application process (Reasons 2 and 3), the consultation response from the Environmental Health Officer raised no issues from a noise perspective (Reason 6), and the Appellant was not made aware of potential concerns from a landscape (Reason 5) or lack of public benefit (Reason 7).
- 4.7 No comments were received about prematurity, Green Belt, Green Infrastructure corridors, relationship with NSP, biodiversity, landscape impact or pedestrians on the highway during the pre-application process.

5.0 PLANNING HISTORY

- 5.1 There is no planning history for the Appeal Site.
- 5.2 As referenced in the description of the surrounding area above, a hybrid planning permission was recently granted for the former Ironworks site known as the SRS. This hybrid application had the following description:

“Hybrid planning application for the comprehensive redevelopment of the site comprising the provision of a maximum 261,471 sqm of employment (a mix of Class E.g. (iii) (Industrial Processes), B2 (General Industrial) and B8 (Storage & Distribution) with associated and related works and proposed access from Lows Lane. (Summary only – for full description of development please see application forms or Description of Development in the documents section).”

- 5.3 The extent of the NSP site can be seen in the latest Masterplan below. It adjoins the eastern boundary of the Appeal Site and then extends east to the M1. The employment scheme was original put forward as a storage and distribution site. However, EBC made it a requirement of the permission in Condition 34 to deliver a minimum of 10 hectares within Use Classes E(g)(iii) and/or B2. In practice this will still leave most of the site for Use Class B8.
- 5.4 The pink area of land on the Masterplan has been reserved for future highway improvements. However, there is no requirement to deliver any improvements to this junction as part of this planning permission.



Figure 2: Extract from the latest Masterplan for the northern part of the Stanton Regeneration Site

- 5.5 Condition 27 sets out that the height of the buildings should not exceed those on the 'Maximum Development Height' zones depicted on the Parameter Plan Rev P. For the buildings closest to the Site, this includes a 21 metre Haunch height and 24 metre ridge height. For buildings in the centre of the site this increases to 28 and 31 metres respectively. The delivery of this scale of employment development will fundamentally alter the character of that site. Currently, the character of this largely vacant site is dominated by the landscaped boundary treatments. The provision of buildings of this scale will make it clearly apparent this is a developed site.

6.0 PLANNING POLICY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF being a material consideration. Both parts of the local development plan were adopted prior to the latest version of the Framework. Consequently, in accordance with Paragraph 219 of the NPPF the weight to be given to the policies in the local development plan relates to their degree of consistency with the Framework. This being contrary to the position taken in the committee report that the Core Strategy is out of date in its entirety because it is more than 5 years old.
- 6.2 Set-out below is a summary of the planning policies and guidance relevant to the principle of the Scheme. The other planning application supporting reports should be referred to for an analysis of topic-specific policies.

The Local Development Plan

- 6.3 The Local Development Plan for Ilkeston consists of:
- the Erewash Core Strategy 2016; and
 - Erewash Local Plan Saved Policies Document 2005 (Amended 2014).

Erewash Core Strategy 2016 (ECS)

- 6.4 In their reasons for refusal, EBC assert conflict with the following policies. A more detailed review is set out in the Case for the Appellant section below:
- Policy 10: Design and Enhancing Local Identity.
 - Policy 14: Managing Travel Demand – sets out that new developments of appropriate scale should be directed to the most accessible locations following the Spatial Strategy in Policy 2, in combination with

the delivery of sustainable transport networks to serve these developments.

- Policy 17: Biodiversity – this does not include a requirement for new developments to secure an enhancement to biodiversity and so needs to be read in conjunction with the Environment Act 2021.

6.5 Other policies relevant to this appeal that EBC have not asserted conflict with include:

- Policy A - Presumption in favour of sustainable development
- Policy 1 - Climate Change.
- Policy 2 - Spatial strategy, which sets out that sites in and adjoining the Ilkeston Urban Area will be the main focus of new housing development, with 72% of the housing requirement (4500 dwellings) directed to this location.
- Policy 8 – Housing Size, Mix and Choice – includes a policy target of up to 30% affordable housing.
- Policy 11 sets out the policy context for the historic environment. This should be read in conjunction with Chapter 16 of the Framework.
- Policy 16: Green Infrastructure, Parks and Open Space
- Policy 20: Stanton Regeneration Site – A mixed use allocation. The primary uses being 2000 dwellings, 10 hectare business park, 10 hectare general industry and additional replacement employment land. However, the grant of outline planning permission for NSP has significantly increased the amount of employment land and halved the potential number of dwellings.

**Erewash Local Plan Saved Policies Document 2005 (Amended 2014)
(ESPD)**

6.6 The policies against which the EBC have asserted conflict are:

- Policy H10 – Conversion to residential development – it is appellant's view that this is not relevant to this appeal as the Appeal Scheme does not include conversion of any residential properties.
- Policy H12 - Quality and Design.
- Policy EV11 - Protected Species and Threatened Species – which confirms that schemes can be supported where appropriate mitigation exists to address to potential harm to protected species.

6.7 Other relevant policies include:

- Policy T6 - Cycling
- Policy EV16 - Landscape Character

Material Planning Considerations

The National Planning Policy Framework (NPPF)

6.8 The revised version of the NPPF was published in July 2021. The NPPF sets out the Government's planning policies for England and guidance on how they are expected to be applied. It is confirmed that planning law requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF must be taken into account in preparing Development Plans and is a material consideration in planning decisions.

6.9 EBC assert conflict with the NPPF in the first eight reasons for refusal. However, it provides no details as to what Chapters/Paragraphs they are

referring to, apart from the reference to Chapter 12 – Achieving Well Designed Place in their fifth reason for refusal which relates to landscape character.

6.10 The relevant parts of the NPPF include:

- Paragraph 11 – EBC accept that the tilted balance is engaged, but have concluded that the adverse impacts of the Scheme would significantly and demonstrably outweigh the benefits.
- Chapter 5 - Delivering a Sufficient Supply of Homes – this sets out the Government's objective to 'significantly boost' the supply of homes and requires Local Planning Authorities to identify and update annually a supply of specific and deliverable sites sufficient to provide a minimum of 5 years' worth of housing against the housing requirement set out in adopted strategic policies, or against their local housing needs where the strategic policies are more than 5 years old.
- Chapter 8 - Promoting healthy and safe communities.
- Chapter 9 – Promoting sustainable transport – Paragraphs 110 & 111
- Chapter 12 – Achieving well designed places – Paragraph 130
- Chapter 14 - Meeting the challenge of climate change, flood and coastal change.
- Chapter 15 – Conserving and Enhancing the Natural Environment – Paragraph 187
- Chapter 16 – Conserving and Enhancing the Historic Environment – Paragraph 202

National Design Guide

- 6.11 EBC make reference to the National Design Guide in the first reason for refusal which relates to access to services and facilities. It is not clear what part of the design guidance EBC are asserting conflict with.

The Landscaped Character of Derbyshire 2014

- 6.12 The Appeal Site is within the area defined as the Coalfield Village Farmlands. The SRS and the other employment sites to the south and north of Low's Lane are also in this area. A more detailed review is provided in the Landscape Statement of Case, but it is evident that "open landscape" is not a characteristic feature of this area, contrary to EBC's assertion in their sixth reason for refusal.

Core Strategy review

- 6.13 EBC's reference the emerging plan in their eighth, ninth and tenth reason for refusal. The Appellant's case in this regard is set out in the assessment of the Reasons for Refusal section below.

Supplementary Planning Documents

- 6.14 There are several Supplementary Planning Documents. The design principles within the Masterplan have been developed in this context, and the Applicant will seek to agree the Heads of Terms for the s.106 agreement in the context of Developer Contribution SPD. EBC assert no conflict with these documents.

SHLAA 2019

- 6.15 The SHLAA 2019 considers the Appeal Site as part of a much larger parcel of land which extended to 35.1 hectares and the conclusions need to be read in this context. This notwithstanding, it identified the following constraints that need to be addressed for this larger site to come forward (the bold text

represents our commentary and demonstrates all these matters have been positively addressed within the support pack of information):

- Early engagement with the Planning Department and Environmental Health Department is crucial to establish whether the land is determined as contaminated under Part 2A of the Environmental Protection Act 1990. This will clarify what assessment is needed to support any planning application. **A Phase 2 Ground Investigation has been undertaken and submitted. Remediation is needed, but this does not identify any fundamental issues that would prevent a residential development being delivered.**
- The appropriateness of the site for housing should be considered against the neighbouring land uses upon receipt of an application. **A noise survey has been submitted to assess the compatibility with adjoining land uses and concludes that an appropriate living environment can be secured for future occupiers of the Appeal Site.**
- With some of the site at risk from Flood Zone 3b (functional flood plain) then flood risk assessment must be undertaken as part of any future plans to develop land. **A small amount of Flood Zone 2 is located at the northern end of the site next to the canal. No residential development is proposed in this location and the Masterplan shows how the Appeal Scheme can come forward that achieves this.**
- A Coal Mining Risk Assessment must accompany any planning application. Contact with the Local Authority should be made at an early stage of the application to establish any ecological issues and mitigation methods. **A Coal Mining Risk Assessment has been submitted. Combined with the Phased 2 Ground investigations this demonstrates that a residential can be delivered on this site.**

- The benefit of housing on this site must be weighed up against the competing surrounding land uses before planning permission can be granted. **It is not clear what this means. However, it has been demonstrated that a scheme can come forward that does not undermine the operation of adjoining land uses.**
 - The site owner is unknown. The site owner must be supportive of development for the site to be considered available. **There is one landowner, and they actively support the development of the Appeal Site.**
- 6.16 The Council's assessment of the site in the SHLAA does not raise any issues in relation to whether the Appeal Site is a sustainable location to deliver housing or from a landscape perspective.

SHLAA 2022

- 6.17 In November 2022 the Council published an updated SHLAA. This was published after the Reg. 19 Pre-Submission consultation and after the determination of the planning application subject to this appeal, but before the submission to the Secretary of State. Consequently, no opportunity has been provided by the Council for us or anyone else to comment on this new piece of evidence.
- 6.18 In the 2022 SHLAA, the Appeal Site is identified with reference '371 - Land at Sowbrook Lane, Ilkeston'. The only commentary in this version of the SHLAA is as follows:

"This site has been promoted as a potential strategic housing allocation through the review of the Erewash Core Strategy. It has not been selected as a preferred site which the Council plans to include within its Core Strategy review. Regardless of the site's availability (a fact confirmed by the site's promotion), its isolated

location and remote positioning away from key local services makes land unsuitable for housing.”

- 6.19 Consequently, the 2022 SHLAA introduces the issue of access to services and facilities to retrospectively coordinate with EBC's first reason for refusal from this planning application. However, it provides no commentary on all of the other matters set out in the 2019 SHLAA or the other 9 reasons for refusal.

7.0 FIVE YEAR HOUSING LAND SUPPLY

Erewash Borough's 5-year housing land supply position: December 2019

- 7.1 In 2019, the five-year supply presented by the Council was 3.43 years.
- 7.2 There is nothing we have seen in the public domain that would suggest that any steps have been taken to rectify this shortfall or that the shortfall has not increased in the last two years. This being particularly pertinent as most of the Borough is designated as Green Belt and there are very limited opportunities to rectify this shortfall.

Erewash Borough's 5-year housing land supply position: November 2022

- 7.3 Following the determination of this application, EBC published a new position paper regarding their 5-year housing land supply, which concludes EBC have a 5.2-year housing land supply. However, this is heavily reliant on emerging allocations, which cannot be considered deliverable at the current time in accordance with the definition of deliverable in the Glossary to the NPPF.
- 7.4 This paper has been published after the Reg.19 Pre-submission consultation regarding the Core Strategy Review and before the submission of the plan to the Secretary of State. Consequently, it is assumed that this has been published in support of the emerging plan, rather than to present a new position when considering planning applications, because it is self-evident that a large part of the supply present does not meet the definition of deliverable at the current time.

8.0 OUT OF DATE POLICIES

- 8.1 The housing requirement set out in Policy 2 of the ECS is out of date. Both Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 and Paragraph 33 of the NPPF set out the requirement to undertake and complete a review of policies in local plans and spatial development plans once every five years. The ECS is more than 5 years old and whilst the Council is undertaking a review this has not been completed.
- 8.2 Since the adoption of the ECS, the way in which local housing need is calculated has changed with the introduction of the standard method as the starting point for assessing local housing need. In Erewash, the standard method currently presents an annual requirement of 386 dwellings, compared to annual requirement of 368 dwellings in the ECS. This is a relatively modest increase, but still requires more housing to be identified and a review is underway to determine what an appropriate housing requirement will be going forward. Until this is complete EBC does not have an up to date housing requirement.
- 8.3 The above notwithstanding, this does not mean that the remainder of Policy 2 is out of date which sets out the hierarchy of settlements and seeks to direct development to the most sustainable locations, with sites in and adjoining the Ilkeston being the focus for housing growth, because this strategy accords with the provisions of the NPPF.

9.0 HOUSING DELIVERY

- 9.1 The Annual Monitoring Report 2022 was published alongside the latest Five Year Supply Position Paper. This sets out the completion of market and affordable housing to date against the local plan requirement.

Housing Completions

- 9.2 The total requirement for the plan period in the ECS is 6,250 dwellings. This equates to an annual requirement of 368 dpa. To date, delivery has only met the annual requirement in 2015/16, when 369 dwellings were delivered. However, this year has been the exception to the rule, with delivery falling significantly below the annual requirement across the remainder of the plan period to date:

Table 1: Housing completions in EBC

	11/ 12	12/ 13	13/ 14	14/ 15	15/ 16	16/ 17	17/ 18	18/ 19	19/ 20	20/ 21	21/ 22	Total
Completed	222	198	257	222	369	179	173	321	245	208	243	2637
Target	368	368	368	368	368	368	368	368	368	368	368	4048
%	60	54	70	60	100	49	47	87	67	57	66	65%

- 9.3 As at 2021/22, 2637 dwellings had been built. This equates to 65% of the target to date of 4048 dwelling.

- 9.4 Tables 8.5.1 in the AMR breaks the completions down into the three locations for housing growth as identified in Policy 2 (i.e. Sites in and adjoining the Ilkeston Urban Area, Sites in and adjoining the Long Eaton Urban Area, and the Rural Settlements). However, the table splits ‘Sites in and adjoining the Ilkeston Urban Area’ into two rows (i.e. Ilkeston Urban and Stanton), when this is presented as one location in Policy 2. What this table shows is that the shortfall against the housing requirement to date is due to the lack of delivery at sites in and adjoining the Ilkeston Urban Area. Consequently, the delivery to date has been skewed toward lower order settlements, with the Rural

Settlements not only outperforming its target to date, but also exceeding its target for the entire plan period of 300 dwellings.

Table 8.5.1 - Cumulative housing completions April 2011 to March 2022

Sub-area	TOTAL as at March 2022	TARGET (2011-2022)	Percentage of 2022 target
Ilkeston Urban	1305	1617	81%
Stanton	0	1176	0%
Long Eaton Urban	972	935	104%
Rural Settlements	365	198	184%
TOTAL EREWASH	2642	4048	65%

Figure 3: Break down of Housing Completions

Affordable Housing Completions

9.5 Chart 8.2.3 in the AMR sets out that 603 affordable dwellings have been delivered since the plan period. This being 72% of the target set for monitoring purposes of 836 affordable dwellings to date or just 13% of the affordable housing need identified of 422 dpa or 4642 dwellings to date.

Target 8.2: Provision of affordable housing (1,200 for monitoring purposes)

Chart 8.2.3: Number of Housing completions and Number of Affordable Housing Completions 2011 – 2022

Affordable Housing	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	Total since 2011
Housing completions	222	198	257	222	369	179	173	321	246	208	243	2,638
Affordable Housing completions	36	19	82	71	34	28	74	54	78	53	74	603
Percentage Affordable	16%	10%	32%	32%	9%	16%	43%	17%	32%	25%	30%	23%

Figure 4: Affordable Housing Completions

10.0 COMPLIANCE WITH THE DEVELOPMENT PLAN

The approach to determining the application

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the development plan unless material considerations indicate otherwise, the Framework being a material consideration of significant weight.
- 10.2 Underpinning the NPPF is a presumption in favour of sustainable development as established by Paragraph 11. For decision-taking this means:
- approving development proposals that accord with the development plan without delay; and
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 10.3 The development plan in Erewash consists of the ECS and ESPD. The Appeal Site is subject to no designation within the development plan. It is not within the Green Belt and there are no countryside policies that would seek to restrict development in non-Green Belt locations. The Ilkeston Urban Area does not have a defined settlement boundary within the Local Plan and is defined only by the Green Belt that surrounds it. This is confirmed by the ECS

which states that Green Belt boundaries are “very tightly drawn around Erewash's built-up areas and a number of the Borough's settlements”.

- 10.4 It is the Appellants case that the proposal complies with the development plan.
- 10.5 In terms of the principle of residential development in this location, Policy 2 of the ECS sets out the Spatial Strategy for delivering the development needs identified by the plan. The Council assert no conflict with Policy 2. Policy 2 states that sustainable development in the plan area will be achieved through a strategy of urban concentration with regeneration. To achieve this, it states that most development will be located in or adjoining the urban areas of Ilkeston and Long Eaton. It is confirmed by both the adopted and emerging plan that the Stanton Regeneration Site (SRS) forms part of the Ilkeston Urban Area (See Paragraph 2.4.5 and Policy 2 of the ECS which refer to the SRS as an integral part of Ilkeston and include the housing figures from SRS under the target for sites in and adjoining figures for the Ilkeston urban area respectively, and the second bullet point in the Spatial Portrait in the Core Strategy Review which states the Ilkeston Urban Area includes Kirk Hallam and the SRS).
- 10.6 The recent outline planning permission for the large employment site known as NSP on the northern part of the SRS directly adjoins the eastern boundary of the Appeal Site. The masterplan is included in Figure 2 above. Consequently, the Appeal Site directly adjoins the SRS.
- 10.7 The Appeal Site therefore falls into the category of ‘the Ilkeston urban area and sites adjoining it’, which is where Policy 2 of the ECS directs the majority of new housing development (4,500 dwellings or 72%). The principle of delivering housing in this location therefore accords with the local development plan.
- 10.8 Furthermore, the submission version of the Core Strategy Review continues to include the remainder of the SRS as a proposed residential allocation for 1000 dwellings. This suggests that EBC continue to see this as a sustainable

location to deliver housing, contrary to their conclusion in relation to the Appeal Site.

- 10.9 It is worth noting that Policy 2 that the SRS will deliver 2000 homes across the plan period. The SRS is a mixed-use allocation, but the recent grant of outline planning permission for the employment site known as NSP has reduced the amount of SRS available for housing. Consequently, where Policy 2 envisaged 2,000 dwellings in the adopted allocation, the revised capacity for the remainder of the SRS is now 1,000 dwellings as set out in the Core Strategy review. . The residential development of the Appeal Site would go a small way to readdressing the balance between the amount of residential and employment development in this location.
- 10.10 Policy 2 of the ECS also sets out that:
- The Council will prepare a comprehensive action plan to identify and promote those housing sites capable of delivery in the short term and therefore able to ensure that the housing land supply requirements of the National Planning Policy Framework are met. If these requirements are not being met at the latest by the land supply calculated on the basis of the 2015 Strategic Housing Land Availability Assessment then the plan will be reviewed.***
- 10.11 We can find no record of an action plan nor the 2015 SHLAA. Despite this, a review of the ECS was not instigated at that time. The Council did not, therefore, comply with the provisions of their own policy. The consequence being that housing delivery has consistently fallen dramatically short of where it needed to be. This further emphasises the need for immediate action to secure the delivery of more housing.
- 10.12 In summary, the delivery of housing on the Appeal Site accords with Policy 2 of the ECS. EBC's lack of action in accordance with Policy 2 has seen a significant shortfall in housing delivery. More housing is needed and this

should be directed to the most sustainable locations as identified by Policy 2 of ECS.

- 10.13 Policy 14 relates to managing travel demand and links back to Policy 2. It sets out that the need to travel, especially by private car, will be reduced by securing new development in the most accessible locations following the Spatial Strategy in Policy 2, in combination with the delivery of sustainable transport networks to serve these developments.
- 10.14 The first thing to note is that the policy seeks to direct development to the 'most' accessible locations. The 'most' accessible locations being defined by the spatial strategy in Policy 2, which includes sites in and adjoining the Ilkeston Urban Area as the main focus of new housing development. Sites in this location, which includes the Appeal Site, are set to deliver 4,500 dwellings (72% of the housing requirement). The Appeal Site is therefore a location that EBC have identified as the 'most' sustainable location to deliver housing. This being further supported by the continued reliance on the SRS to deliver 1000 dwellings in the Core Strategy Review only a few hundred metres to the south east of the Appeal Site. Consequently, the Appeal Site is not in the middle of nowhere as EBC would have us believe.
- 10.15 Policy 14 goes on to note that where accessibility could be improved, this will need to be fully addressed. In this context, the following improvements are proposed as part of the Appeal Scheme:
- Improved bus stops on Ilkeston Road.
 - Improved bus service to extend its operation to 0700 to 1900 Monday to Saturday. This will be secured through a financial contribution for 5 years. At this point, the NSP will be operational and deliver starting on the residential scheme on the remainder of the SRS. Further contributions could be secured through the latter if needed and it is reasonable to assume that the additional quantum of

residents/workers in this location will naturally help sustain this service it into the future.

- Improved footpath provision on Sowbrook Lane to allow residents to walk to Kirk Hallam (also part of the Ilkeston Urban Area).
- 10.16 In terms of the proximity to services and walking and cycle distances, the Transport Addendum prepared by MAC Consulting sets out the walking distance to the full range of services. Access to employment opportunities are clearly excellent with existing employment opportunities surrounding the Appeal Site, which are set to be complemented by the 4000 job employment scheme at NSP. Access into the leisure corridor to the north of the site is also excellent with the canal path and Nutbrook Trail immediately to the north of the Appeal Site.
- 10.17 The Transport Addendum concludes that when the access to services, facilities and employment opportunities are considered that the Appeal Site is in a sustainable location.
- 10.18 Overall, it is clear that the Appeal Site is within an acceptable walking and cycle distance of a wide range of services, and that improvements will be made to walking and bus services to ensure these are credible alternatives to the private car. The Appeal Site is clearly in the 'most' accessible location to deliver housing to assist in rectifying the shortfall in housing delivery since the start of the plan period and EBC's 5-year housing land supply shortfall.
- 10.19 Further to the above, the level of services within walking distance of the Appeal Site is set to increase with the provision of 1000 dwellings on the remainder of the SRS. Based on the Council's assessment, delivery of these homes is expected to start delivering in 2027. There is no planning application at the moment, but the Strategic Policy for this site in the Core Strategy Review sets out that the development will provide the following (in addition to other things):

- A new village centre on Lows Lane with safe pedestrian and cycling access; and
 - A new primary school well located within the site to encourage access by active travel.
- 10.20 This level of service provision being commensurate to that envisaged by the Stanton Regeneration Site SPD 2017, which relates to the adopted allocation of the site.
- 10.21 The emerging Proposal Map sets out the broad location for where the village centre is envisaged to be delivered (see the blue square in Figure 4 below). This is approximately 500-700 metres walking distance from the Appeal Site:

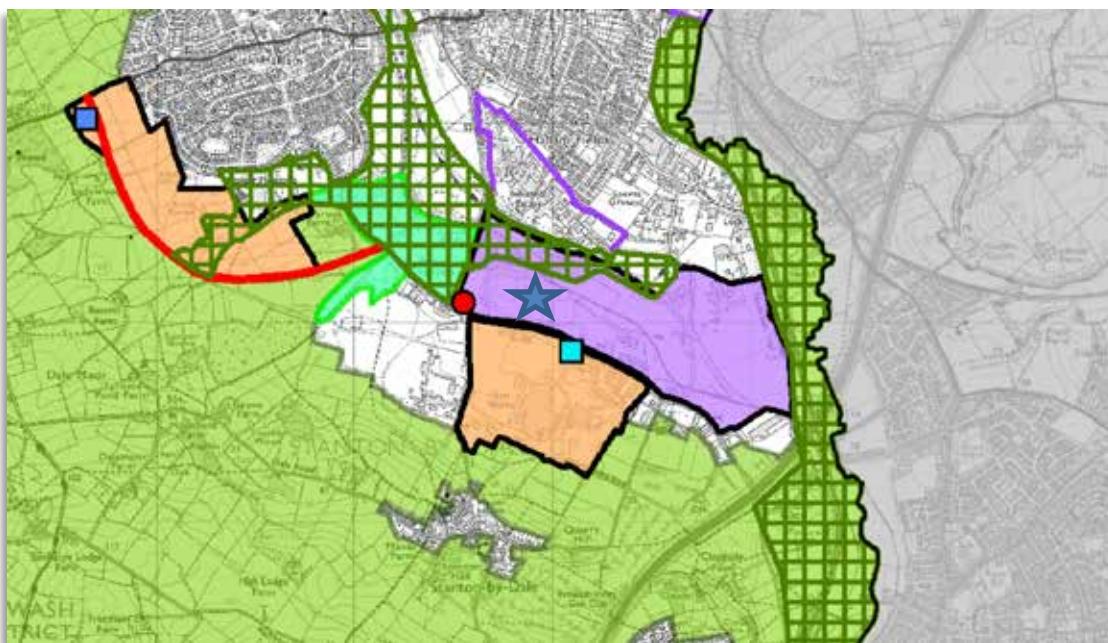


Figure 5: Extract from the emerging Proposal Map from the Councils Core Strategy Review (with a star added to show the location of the Appeal Site)

- 10.22 In summary, the Appeal Scheme accords with the provision of the development plan which seeks to direct homes to the most sustainable locations.

11.0 BENEFITS

- 11.1 In addition to complying with the development plan, the Appeal Scheme would deliver a range of benefits that would weigh in favour of the grant of planning permission. These benefits are summarised below.

Delivering housing

- 11.2 The delivery of housing attracts **substantial weight in favour** of the grant of planning permission.
- 11.3 As set out in Section 9 above, the delivery of housing has fallen significantly below the housing requirement since the start of the plan period, with just completions only achieving 65% of the requirement to date (i.e., up to 2022) and the Council can only demonstrate a 3.43 supply of housing land (see Section 7 above).
- 11.4 It is also the case that delivery in and adjoining Ilkeston has fallen well below the policy target and the proposal would delivery housing in the location deemed the most sustainable by Policy 2 of the ECS.
- 11.5 Furthermore, the number of dwellings coming forward on the SRS has reduced significantly following the grant of outline consent for NSP. The delivery of homes on the Appeal Site would go some way to readdressing the balance between the homes and jobs originally envisaged on SRS.

Delivering Affordable Housing

- 11.6 The delivery of a policy compliant 30% Affordable Housing attracts **substantial weight in favour** of the grant of planning permission.
- 11.7 Section 9 above identifies that affordable housing delivery has fallen significantly below the monitoring target set in the plan, with delivery at just 72% of the monitoring target to date of 836 dwelling.

- 11.8 The monitoring target was set because it was not considered viable to deliver the affordable housing need identified of 422 dwellings per annum (or a total of 4642 dwellings to date). Delivery of affordable housing against the affordable housing need target to date equates to just 13%, which emphasises the scale of the issue and the need to deliver more affordable homes.

Improving the bus service

- 11.9 The improvements to the bus service attract **significant weight** in favour of the grant of planning permission.
- 11.10 The improvements to the bus service will not only benefit the future occupiers of this site but will also benefit those existing residents who live along the route. It will provide a peak service for existing residents and, perhaps most notably, to and from the significant employment estate that already exists to the south and east of the Appeal Site, along with the additional 4000 jobs planned for the NSP which will adjoin the Appeal Site. This would be a significant improvement when it comes to providing a sustainable alternative to the car when commuting to these jobs, but for reasons we have not been able to ascertain was not secured when the NSP secured outline planning consent last year.

Improvements to the footpath provision on Sowbrook Lane

- 11.11 Widening the footpath on Sowbrook Lane attracts **moderate weight in favour** of the grant of planning permission.
- 11.12 The widening of the footpath would also be to the benefit of existing residents. In particular those living in Kirk Hallam who wish to walk to one of the existing or proposed jobs that are located to the south and east of the Appeal Site. This including the 4000 jobs planned for NSP. Again, the opportunity to

secure these improvements were not secured through the outline application for NSP approved last year.

Formalising the existing pedestrian link through the Appeal Site

- 11.13 Formalising the pedestrian link through the Appeal Site attracts **Significant Weight** in favour of the grant of planning permission.
- 11.14 The informal pedestrian route runs along the northern and western boundary of the site. It would be incorporated into the proposed public open space and surfaced to the required specification. It provides an important link between Public Right of Way (**PRoW**) FP15 and FP18, and FP20 (see Figure 6 for an extract of from the Derbyshire Mapping Portal, which shows the two PRoW in purple).

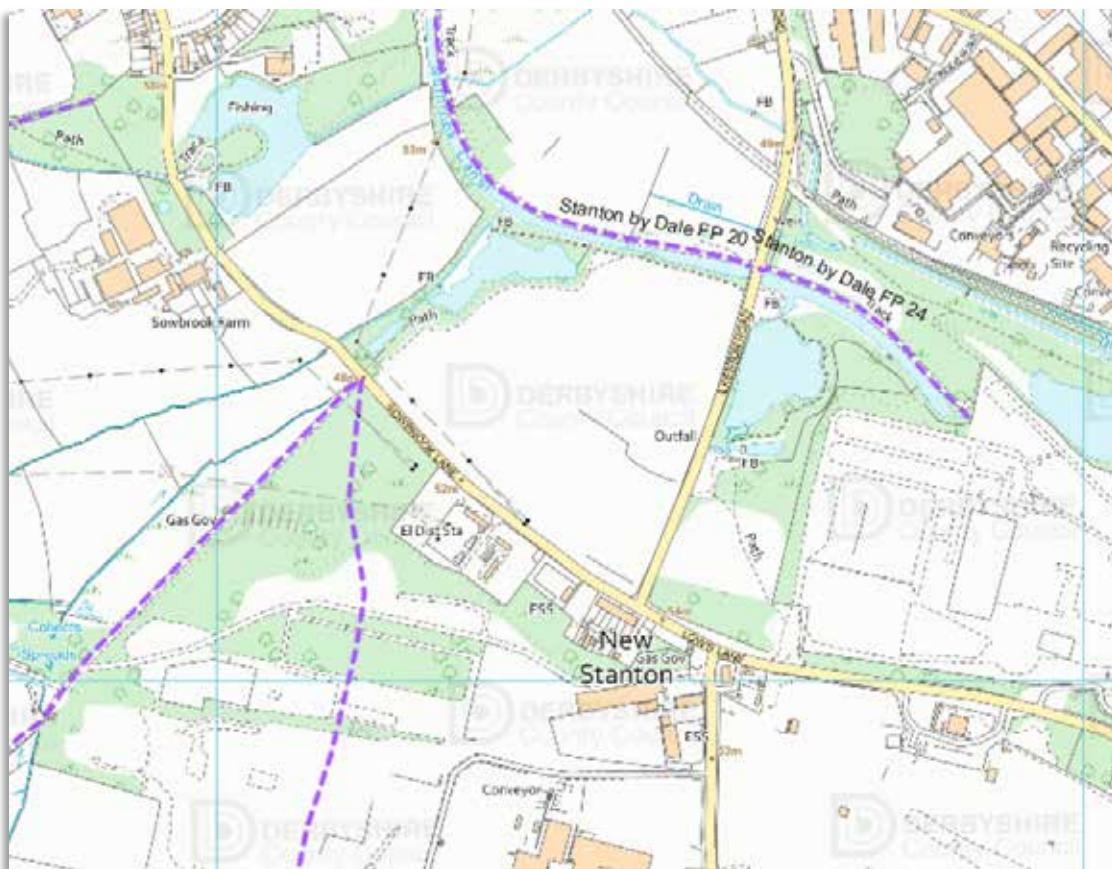


Figure 6: Extract from the Derbyshire Mapping Portal – Public Rights of Way

- 11.15 This route of also part of the Local Cycle Network proposed by Derbyshire County Council (see Figure 7 for extract from the Derbyshire Mapping Portal). The Appeal Scheme would facilitate the delivery of the part of the Local Cycle Network that would run through the Appeal Site.

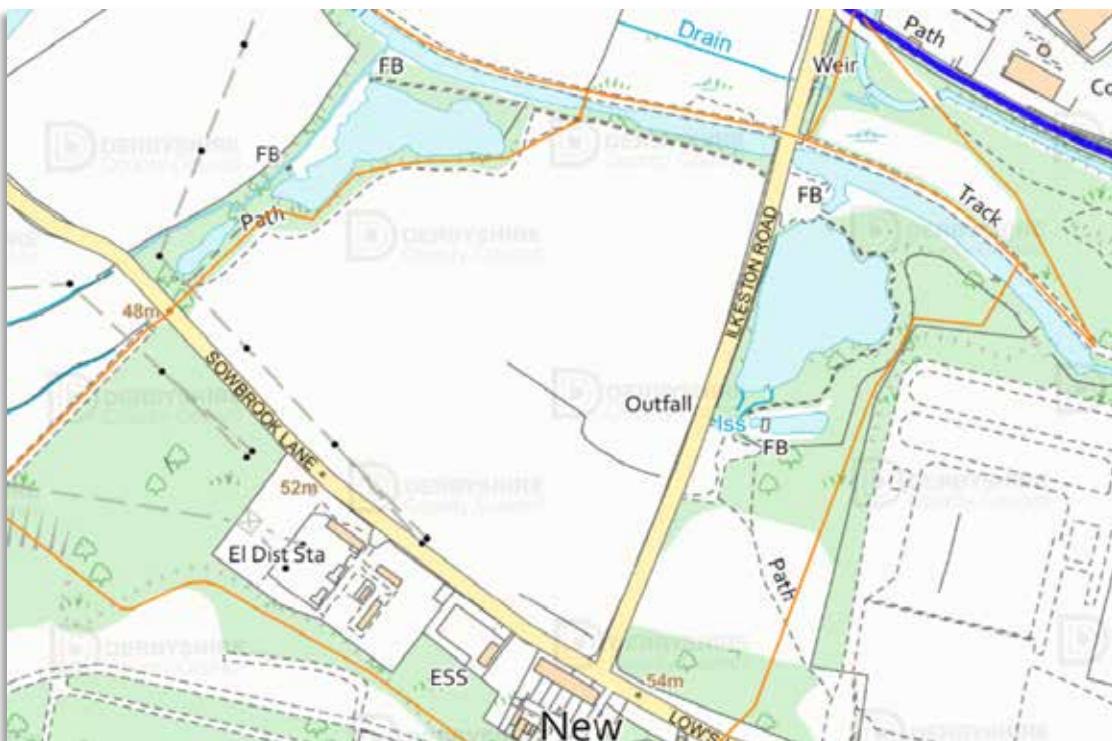


Figure 7: Extract from the Derbyshire Planning Portal – Proposed Local Cycle Network

Economic Benefits

- 11.16 The economic benefits (see Appendix 2) derived by the Scheme attract **significant weight in favour** of the grant of planning permission.

Biodiversity Enhancements

- 11.17 The biodiversity enhancements derived from the Scheme attract **limited weight in favour** of the grant of planning permission.

- 11.18 It has been demonstrated that BNG can be achieved above the policy requirement, and compensation is proposed for the loss of habitat for nest birds.

Provision of large areas of public open space and play provision

- 11.19 The delivery of open space will be a benefit for residents of the dwellings on the opposite side of Sowbrook Lane, who currently have no immediate access to play areas or more formal areas of open space. This attracts **moderate weight in favour of the grant** of planning permission.
- 11.20 The proposed development will deliver a significant amount of open space, with the masterplan indicating that 46% of the site will remain undeveloped. This will be delivered around the outskirts of the site and vary from linear features along the proposed circular foot link, through to play areas and areas of more definitive usable space. All of this will be accessible to the occupiers of the Stanton Cottages in addition to the residents of the proposed development.

12.0 ADVERSE IMPACTS

- 12.1 As with any new housing development, there is potential for the scheme to have adverse impacts if the technical and environmental matters are not properly considered, and appropriate measures put in place to address these potential impacts. In this instance, there are only two adverse impacts that cannot be fully mitigated. These are summarised below:

Impact on designated heritage assets

- 12.2 A Heritage Statement was submitted with the planning application. This concluded that the proposed residential development would result in less than substantial harm to the Grade II Listed Stanton Cottages. This harm is at the lower end of the less than substantial scale, but still attracts **significant weight against the grant of planning permission** in line with the statutory provisions.

Landscape and Visual Impact

- 12.3 A Landscape Statement of Case has been submitted with this appeal. This concludes that contrary to the assertions made in EBC's third reason for refusal, the proposed development will not introduce uncharacteristic elements into the local landscape and include measures for the retention of boundary features, along with providing substantial areas of green infrastructure to site boundaries, including at the frontage with the Nutbrook Canal, where there will be provisions for biodiversity and recreation benefits. This reflects the character of the urban edge alongside the canal in this location. The proposals retain and enhance existing hedgerows and trees that define the site and provide a structure within the local area. Whilst the proposals will result in the change of the site from a single field to a residential development, any adverse effects will be limited and localised, and not significant.

- 12.4 In terms of landscape effect it is the Appellant's case that the Appeal Scheme would give rise to a limited and localised adverse effect upon the character of the area and it is not considered these are significant.
- 12.5 In terms of visual amenity, it is the Appellant's case that the Appeal Scheme would be well contained within the landscape, with views limited to those obtained from adjacent roads, public footpaths along the canal towpath and permissive paths that run along the northern and north-western site boundaries. From these views the Appeal Scheme is considered to have a minor to moderate adverse effect.
- 12.6 When considering what weight to give these adverse effects in the planning balance, it is important to remember that the adopted strategy envisages significant housing growth (4250 dwellings) in or adjoining the Ilkeston Urban Area. It is inevitable that sites identified adjoining Ilkeston are going to impact on the landscape and visual amenity. What the Landscape Statement of Case shows is that the harm in this instance is at the lower end of the scale of potential harm and that this is a location that can clearly accommodate development. Consequently, whilst this does not remove the adverse effect and only **limited weight should be give to these matters against the grant of planning permission.**

13.0 NEUTRAL CONSIDERATIONS

- 13.1 In terms of the other matters relevant to the consideration of a residential development on this site, it is considered these would have a neutral impact:
- Residential amenity - It has been demonstrated that acceptable levels of residential amenity could be maintained for neighbouring residents.
 - Amenity of future occupiers - It has been demonstrated that an appropriate level of amenity can be secured for future occupiers of the site.
 - Highways - It has been demonstrated that safe and efficient access can be provided to the site and any potential impacts mitigated on the wider highway network.
 - Contaminated Land - Measures have been proposed to deal with any contamination relevant to the Site.
 - Trees and Landscaping - Important trees/landscaping are retained where possible, and a comprehensive landscaping scheme will come forward at the Reserved Matters stage
 - Flood Risk - All of the houses would be located in Flood Zone 1 and the Scheme would not increase the risk of flooding to the surrounding areas.
- 13.2 In addition to the above, the Appellant will also deliver the following planning obligations:
- Education – Special Educational Needs and Disability (SEND) - £727.63 per dwelling.
 - Library Provision - £70.30 per dwelling.

- Highway improvements as identified in the Transport Assessment
- £60,000 x 5 years to extend the existing Bus Service. This figure has been derived through discussions with the operator to establish the cost of extending the service as set out in the Transport Assessment.
- Provision of Bus Shelters on Ilkeston Road as per the request from the Highway Authority. Details of the location and nature of the bus stop to be confirmed with the Highway Authority.
- Nesting Bird mitigation site as set out in the Sky Lark Mitigation Strategy. This would be managed through the management company who will also manage the communal areas on the Appeal Site.

14.0 PLANNING BALANCE

- 14.1 Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined in accordance with the provisions of the relevant development plan unless material considerations indicate otherwise, the Framework being a material consideration.
- 14.2 In addition, it has been identified that the tilted balance has been engaged on two grounds. This means that planning permission should be granted unless the adverse impact of going do would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole.
- 14.3 The Scheme has been demonstrated to deliver a number of benefits that weigh in favour of the grant of planning permission. The benefits span across all three aspects of sustainable development and together present a clear case as to why delivering additional housing on the Appeal Site is so important.
- 14.4 By contrast, the adverse impacts have been limited to the impact on the significance of the Grade II Stanton Cottages and the landscape and visual impact that comes from developing a greenfield site. With regard to the former, a separate balance of the heritage harm against the public benefit is set out below.
- 14.5 It is considered that the benefits of the scheme would significantly and demonstrably outweigh the adverse impacts identified. The Scheme, therefore, represents a sustainable development and planning permission should be granted.

15.0 REASONS FOR REFUSAL

- 15.1 The Reasons for Refusal are now considered in turn. It is the Appellants case that subject to the attachment of appropriately worded conditions and planning obligations, none of these matters weigh against the grant of planning permission.

Reason for Refusal 1

- 15.2 The first reason for refusal relates to concerns that the site is remote from services and the site has poor options for walking and cycling to services. In this context it is stated the proposal is contrary to Policies 10 and 14 of the ECS. It is the Appellant's case the proposal complies with both of these policies.
- 15.3 Policy 10 is design policy. It is about the design of the scheme itself. It is the Appellant's case that it is not relevant to the matters raised in the first reason for refusal. It is also the Appellant's case that there is no reason to believe that the subsequent Reserved Matters application(s) could not comply with this policy. The Masterplan clearly shows how a high-quality residential development could come forward that would positively integrate into its environment.
- 15.4 Policy 14 relates to managing travel demand. It sets out that the need to travel, especially by private car, will be reduced by securing new development in the most accessible locations following the Spatial Strategy in Policy 2, in combination with the delivery of sustainable transport networks to serve these developments.
- 15.5 The assessment of the Appeal Scheme against this policy is set out in Paragraphs 10.14 to 10.22 above. In summary, the Appeal Site conforms with the objective of Policy 14 to direct housing to the most sustainable locations, opportunities for enhancements to the sustainable transport

methods are taken and the Appeal Scheme provides residents with access to services and facilitates by other means of transport to the car.

15.6 In terms of the EBC's assessment of the Appeal Site in this regard it notable that they ignore:

- The large amount of operational employment sites to the south and east of the Appeal Site.
- The recently granted NSP site on the SRS, which will see 4000 jobs delivered on the land immediately to the east of the Appeal Site.
- The proposed allocation for 1000 dwellings on the remainder on the SRS.
- The leisure corridor to the north of the Appeal Site.
- The provision of POS on the Appeal Site.
- Dallimore Primary School which is 740 metres from the Appeal Site.
- The footway improvements on Sowbrook Lane.
- The proposed improvements to the bus service.
- The Appeal Site is part of the Local Cycle Network proposed by Derbyshire County Council as identified by Inset 3.1 in the TA Addendum. The Appeal Scheme would facilitate this being delivered and would provide residents with links into the wider network as show in the TA Addendum.

15.7 Overall, it is clear that the site is within an acceptable walking and cycle distance of a wide range of services, and that improvements will be made to walking and bus services to ensure these are credible alternatives to the

private car. The Appeal Site is clearly in the ‘most’ accessible location to deliver housing to assist in rectifying the shortfall in housing delivery since the start of the plan period and the shortfall in the EBC’s 5-year housing land supply.

- 15.8 The above notwithstanding, it is also apparent the additional service and facilities are set to be delivered a short distance from the Appeal Site as part of the proposed residential allocation of the remainder of the SRS site, which is expected to start delivering in 2027.
- 15.9 Attached in Appendix 1 is an appeal decision for a site in the village of Launton for 65 dwellings which was allowed. The site was in Cherwell District Council, where they have a policy in the local plan that allows for new housing adjoining Category A villages subject to several criteria. One of these criteria related to the access to services and facilities and the compliance with this criterion was debated at the appeal. In their consideration of this matter, the Inspector identified (with our commentary in bold to compare this to the Appeal Scheme):
- Walking routes were lit and relatively flat (**which is also the case here**).
 - The Convenience store was 1km from the site (**a shop is currently slightly further to the Appeal Site, however, a shop is planned to be developed closer to the Appeal Site in the near future**).
 - Primary school 1.3km from the site (**the primary school is 560m closer to the Appeal Site**).
 - A reasonable bus service exists to larger order settlements, but the bus stops were 800m from the site (**the existing bus service would be extended, and the bus stops are right next to the Appeal Site, thereby representing a more credible alternative to the car**).

- Access to the upper order settlement was seen to enhance the sustainability of the location (**the Appeal Site is on the edge of the main settlement and closer to the services, facilities and employment opportunities it has to offer**).
- Cycling to the upper order settlement was considered an option (**cycle distances are much shorter here to all the services, facilities and employment opportunities offered by the Ilkeston Urban Area**).
- The Inspector concludes some conflict with the policy in that regard should be given to sites being well located to services and facilities (**the Appeal Site has better access to services, facilities and employment opportunities. At the same time, the policy wording in the ECS states that development will be directed to the most sustainable locations, with the Appeal Site being in a location where most of the housing development is planned to be delivered**).
- It was common ground that Cherwell could not demonstrate a 5 year housing land supply, with the Inspector concluding that a 3.5 year supply represented a significant shortfall and that the benefits outweighed the limited harm they concluded in terms of the impact on the character and appearance of the settlement and the access to services and facilities (**Erewash have a 3.4 year supply, which also represents a significant shortfall. The Appeal Scheme contains all the benefits identified by the Inspector in that appeal (although with a bigger contribution toward market and affordable housing in this instance) and the Appeal Scheme generates several other benefits unique to it. Consequently, even if the Inspector does agree with the Council's case in relation to the access to services and facilities, this appeal demonstrates that this can and should still lead to the approval of the Appeal Scheme to achieve all the benefits it will deliver**).

Reason for Refusal 2

- 15.10 The second reason for refusal states the proposal would require pedestrians to use the carriageway as there are no footways exist. It is the Appellant's case that this is patently not the case.
- 15.11 Footpath provision is available on Ilkeston Road, Sowbrook Lane and Lows Lane. These provide links to the existing bus stops, the canal tow path in the leisure corridor to the north, all of the existing and proposed employment sites to the east / south, the proposed 1000 dwelling scheme on the remainder of the SRS to the south-east, and Kirk Hallam to the north west.
- 15.12 On review of the committee report it appears this reason for refusal relates to the small section of Ilkeston Road to the north of the Appeal Site that runs through the leisure corridor to the north. In relation to this section of road, it had never been envisaged that pedestrians would travel along this section of road. It does not have footpaths and has none of the attributes that a pedestrian route has. It would not be a route that would appeal to residents and it is anticipated that residents would look to alternatives. These alternatives being other means of travel (e.g., bike or bus) or an alternative route.
- 15.13 Further to the above, Travel Packs will be provided to highlight what is accessible on foot from the Appeal Site and will not promote walking to the north along Ilkeston Road. If travelling north, bike or the improved bus service will be promoted.

Reason for Refusal 3

- 15.14 The third reason for refusal relates to the impact on the development on the safe and efficient operation of the surrounding highway network. It originates from the fact that the Transport Assessment did not consider the NSP application to the east, which at the time of preparing the TA had not been

determined. The application was not in line with the adopted mixed use allocation which proposed more housing on SRS or the SRS SPD. Consequently, it was not for the Appellant to prejudge the application which represented a departure from the ECS. .

- 15.15 The committee report seeks to highlight the Appellant's "lack of awareness" in the Transport Assessment in relation to the NSP planning. This is actively misleading, because Officers would have known the TA was drafted a long time before permission had been granted on the adjoining site.
- 15.16 The committee report also makes reference to the "Kirk Hallam relief road related to the Emerging Core Strategy proposal for a strategic housing site to the west of Kirk Hallam". This has no relevance to the consideration of this allocation. It is part of a Green Belt site where the allocation in an emerging plan that is not supported by a Green Belt review and where the allocation is subject to significant objections. Consequently, it is not a committed development and it is not a consideration when assessing the impact on the safe and efficient operation of the surrounding highway network at this time.
- 15.17 Now NSP is a committed development the Appellant has updated the Transport Assessment. It concludes that the proposed development would not have a significant or severe impact on the safe and efficient operation of the surrounding highway network.
- 15.18 It is the Appellant's case that the proposal would not have an unacceptable impact on the safe and efficient operation of the surrounding highway network.

Reason for Refusal 4

- 15.19 The fourth reason for refusal relates to the loss of hedgerow and trees, along with habitat for ground nesting birds including Skylarks. It is the Appellants case that there is no reason to believe that appropriate compensation cannot be provided subject to appropriately worded conditions and planning obligations. A Skylark Mitigation Strategy has been submitted with this appeal

and sets out a site within the Appellant's control that where the mitigation can be provided.

- 15.20 The loss of hedgerow / habitat will be subject to a biodiversity net gain calculation at the time of the Reserved Matters. To give confidence that net gain is achievable on site in both respects, an indicative calculation has been prepared by the Appellant's ecologist. This concludes 10.55% gain in habitat and 56.15% gain in hedgerow.
- 15.21 With regard to compensating for the loss of habitat for ground nesting birds, the Appellant has an agreement with the same landowner on a piece of land on Seven Oaks Road, which is about 1.25km from the Appeal Site. A compensation scheme has been drawn up for the southern part of this additional piece of land and its delivery can be controlled through the s.106 agreement. This approach being supported by Policy 17e) of the ECS and Saved Policy EV11. Discussions are ongoing with the Derbyshire Wildlife Trust to secure common ground as this appeal progresses.
- 15.22 It is the Appellant's case that the proposal complies with Policy 17 of the ECS and Saved Policy EV11.

Reason for Refusal 5

- 15.23 Reason for Refusal 5 relates to the loss of open landscape, which the Council say is characteristic of the area. In doing so they state the proposal is contrary Saved Policy H12, Policy 10 of the ECS and Section 12 of the NPPF. By contrast, it is the Appellants case that the proposal complies with these policies.
- 15.24 The reasons for this are set out in the Statement of Case prepared by Mr Robert Hughes, the Appellant's landscape consultant, which forms the basis of the Appellant's case in this regard.

- 15.25 The Appeal Site is not in site is not situated within a landscape that is subject to either a statutory or local non-statutory landscape designation, and I do not consider it to be a valued landscape under the provisions of paragraph 174(a) of the NPPF.
- 15.26 Part 3 of Policy H10 states that outside settlements, new development should conserve or, where appropriate enhance landscape character. The policy goes on to state that proposals will be assessed with regard to the Derbyshire Landscape Character Assessment. Saved Policy 12 reflects the requirements of Policy H10, requiring proposals to have regard to distinctive landscape features and to provide supplementary landscaping where appropriate, particularly where situated on the established urban fringe.
- 15.27 Mr Hughes identifies that the Derbyshire Landscape Character Assessment recognises that the area is heavily influenced by urban development, including both industrial and residential areas. The appeal site is situated within the urban fringe and a landscape that is dominated by development. The context is not a rural one, and those key characteristics and features that are identified for the landscape type are limited to those alongside the canal and Nut Brook, where there are distinctive lines of trees along the Ilkeston Road, Ilkeston, watercourses, set within the urban edge context alongside residential and commercial development.
- 15.28 The proposed development will not introduce uncharacteristic elements into the local landscape and include measures for the retention of boundary features, along with providing substantial areas of green infrastructure to site boundaries, including at the frontage with the Nutbrook Canal, where there will be provisions for biodiversity and recreation benefits. This reflects the character of the urban edge alongside the canal in this location. The proposals retain and enhance existing hedgerows and trees that define the site and provide a structure within the local area.

- 15.29 Whilst the proposals will result in the change of the site from a single field to a residential development, any adverse effects will be limited and localised, and not significant.
- 15.30 Given the above, it is the Appellant's case that the appeal proposals accord with the requirements of Core Strategy Policy H10 and Saved Policy H12.

Reason for Refusal 6

- 15.31 The sixth reason for refusal relates to the impact of the now permitted NSP to the east of the Appeal Site on the amenity of the future occupiers of the Appeal Scheme. It is noted that the Environmental Health officer did not object to the application on this basis. Instead, this concern stems from Officer's in the committee report. It is also noted that the reason for refusal refers to the "approved industrial development", when the approved scheme is predominately a storage and distribution scheme, with a requirement for 10 hectares of light industrial/industrial land negotiated by the Council.
- 15.32 Like with other matters raised in the reason for refusal, the Appellant was not given the opportunity to address this matter during the application. An addendum has now been prepared to the Noise Assessment by Hepworth Acoustics and the Appellant will continue discussions with the Council's Environmental Health Officer to seek common ground on this basis.
- 15.33 The Noise Survey addendum assesses the likely noise that would be generated from the now permitted NSP based on the information provided in the outline application. In doing so it identifies that the road noise from Ilkeston Road would remain the prominent noise source. The impact on Ilkeston Road has previously been assessed through the original noise survey and EBC has raised no concerns with the measures previously proposed to address the road noise.
- 15.34 Consequently, it is the Appellants Case that an appropriate living environment will be delivered for future occupiers of the Appeal Site.

Reason for Refusal 7

- 15.35 The seventh reason for refusal asserts that less than substantial harm would occur to the significance of the Grade II New Stanton Cottages to the south of the site and that this harm would not be outweighed between the public benefit.
- 15.36 It is common ground that some harm would be unavoidable, and it is the Appellant's case that this harm would be at the lower end of the less than substantial scale for the reasons set out in the Heritage Statement submitted with this outline application. The committee report confirms that their heritage adviser agrees with the level of harm identified in the Appellant's Heritage Statement. The main difference between the parties is whether there are public benefits that outweigh this harm in accordance with the Paragraph 202 of the NPPF. It is Appellant's case that the numerous public benefits generated by the Appeal Scheme would clearly outweigh this harm.
- 15.37 Paragraph 202 states that where less than substantial harm occurs this needs to be balanced against the public benefit arising from the proposal. The public benefit in this instance being:
- The delivery of market housing on a site at the top of the settlement hierarchy in the context of the Council being unable to demonstrate a 5-year housing land supply and with a chronic under delivery since the start of the plan period. This attracts substantial weigh in favour of the proposal.
 - The delivery of a policy compliant level of affordable housing in the context of demonstrable need, and with a notable shortfall in delivery since the start of the plan period in the context of the need identified at that time and the significantly reduced target set in the adopted plan. This attracts substantial weigh in favour of the proposal.

- The economic benefits derived through the construction phase and once the Site is occupied. An infographic on the economic benefits has been prepared in support of this Appeal and is attached in Appendix 2. This demonstrates considerable economic benefits arising from the proposed development. This attracts significant weight in favour of the proposal.
 - Improvements to the bus service to the benefit of all users on the route and for commuters to the significant existing and recently approved NSP to the east and site of the Appeal Site – significant weight in favour of the proposal
 - Improvements to the footpath provision on Sowbrook Lane which would improve pedestrian connectivity to between Kirk Hallam and the significant existing and recently approved NSP to the east and site of the Appeal Site – moderate weight in favour of the proposal.
 - Biodiversity enhancements beyond the policy requirement. Limited weight in favour of the proposal
 - The proposal would formalise the existing pedestrian route within the site by surfacing it and make it accessible in perpetuity. In doing so this would link Public Right of Way FP15 and FP18 to the south west of the Appeal Site with FP 20 to the north east of the Appeal Site for the benefit of all users. This route is also part of the Local Cycle Network proposed by Derbyshire County Council. The Appeal Scheme would facilitate this being delivered on site. Significant weight in favour of the proposal.
- 15.38 The level of harm to the designated heritage asset has been identified as being less than substantial, with the harm at the lower end of that scale. Whilst we will still need to give significant weight to this harm, the level of public benefit that needs to be demonstrated are less than if the harm was at the upper end of this scale and closer to substantial harm. This was confirmed

by the high court in R (James Hall and Company Ltd) v City of Bradford MDC [2019] EWHC 2899 (Admin), HHJ Belcher.

- 15.39 When the significant weight to be given to the harm to the significance of these listed cottages are balanced against the multi public benefits, it is clear the benefits would outweigh the harm. The Scheme therefore complies with Paragraph 202 of the Framework.

Reason for Refusal 8

15.40 The eighth reason for refusal seeks to assert that granting planning permission would undermine the emerging Core Strategy. It is the Appellant's case that there is no reasonable interpretation of the policy position set out in Paragraph 49 of the NPPF that would lead to the refusal of this application on these grounds.

15.41 Paragraph 49 of the NPPF states that in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

15.42 When considering the first criterion, it is evident that cumulative effects are not an issue in Erewash given the chronic under delivery of market and affordable housing across the plan period, and the 5 year supply shortfall.

- 15.43 In terms of the scale of this scheme, it is only 196 dwellings. Set against an emerging housing requirement 5,800 dwellings, this equates to just 3.4% of the requirement.
- 15.44 It is also notable that the Ilkeston urban area remains the focus of new housing in the Core Strategy Review, including the remainder of the SRS just to the south east of the site which is allocated for 1000 dwellings. 3950 dwellings are proposed in or on the edge of the Ilkeston Urban Area. The Appeal Site represents just 5% of the planned numbers. Consequently, the Appeal Site accords with the emerging strategy in terms of location, scale and phasing, with the Appeal Site supporting the later as the early delivery of the Appeal Site will assist with what is currently a very marginal 5-year supply presented by EBC in the '5 YLS Paper November 2022'.
- 15.45 The Appeal Site could be granted permission and there would be no material effect on the emerging strategy or its deliver, other than providing a small degree of flexibility which has yet to be allowed for in the Core Strategy Review.
- 15.46 In terms of the stage of production, the plan has been submitted for examination and have recently responded to the Inspectors initial questions. At this stage, the emerging plan has not been subject to independent examination and the conclusions of the Inspector have not been published.
- 15.47 There are a variety of objections to the emerging strategy that have been raised by the CPRE, local residents and the Appellant. These relate to the EBC's approach to releasing Green Belt and Green Infrastructure Corridors. The detail of these objections is set out in more detail in response to the Council's 9th and 10th Reasons for Refusal.
- 15.48 In summary, the emerging plan is not at an advanced stage, there are outstanding objections and the Appeal Scheme is not even close to being of a scale that justify a refusal on these grounds.

Reason for Refusal 9

- 15.49 The ninth reason for refusal asserts conflict with the emerging Core Strategy because this seeks to add this site to the Green Belt. It is the Appellant's case that the Council's approach in this regard is so fundamentally flawed in the context of the policy requirements of the NPPF that the emerging Green Belt designation should hold no weight in the determination of this appeal.
- 15.50 Paragraph 48 of the NPPF sets out when weight can be given to the emerging plan. The stage in preparation is discussed above in Paragraph 6.71. In terms of the other two considerations:
- **Unresolved objections** – The Appellant has submitted objections to the changes proposed to the status of the application site in the Core Strategy Review, which were only introduced at the pre-submission stage. Our objection raised fundamental issues that undermine the proposed extension of the Green Belt. The reasons for this are set out below.
 - **Degree of consistency with the Framework** - It is evident from a review of the Core Strategy that the proposed changes effecting the Appeal Site do not comply with the Framework. These can be summarised as follows:
 - No exceptional circumstances have been presented in the CSR or the evidence base to justify the extension of the Green Belt to include the application site contrary to Paragraph 139 of the Framework.
 - The Council has not undertaken a Green Belt review. This is also highlighted in the consultation response from the Campaign to Protect Rural England who have queried the approach to releasing Green Belt land.

- The Appeal Site does nothing to contribute to the original purpose of the Green Belt in Erewash which was to stop the conurbations of Nottingham and Derby from joining one another. Instead, the site forms a natural infill on the edge of Ilkeston urban area, which is the main urban area in the Borough.
- The only reason set out by the Council for including the application site within the Green Belt is oddly set out in Strategic Policy 1.5 – South West of Kirk Hallam (the policy for the large housing allocation to Kirk Hallam), which states that “Land to the south east of this site is added to the Green Belt to ensure the continued separation of Kirk Hallam from Stanton”. However, this does not accord with national policy. Paragraph 138 of the Framework sets out that one of the purposes of including land in the Green Belt is “to prevent neighbouring towns merging into one another”. The SRS and Kirk Hallam are part of the same urban area. This is an infill site (which should support its development), not a site that will cause neighbouring towns to merge.
- When considering the other four purposes of including land in the Green Belt, the development of the Appeal Site would not impact on a historic town, and in the context of the emerging plan the need to release greenfield sites in addition to brownfield sites to meet the development needs has been established. The level of encroachment would be significantly reduced due to the Appeal Site already being surrounded by development and on three sides and having a clear urban focus, whilst the Site is contained by the existing road network and existing Green Belt boundary.

15.51 The approach being taken by EBC to extending the Green Belt in this location is, therefore, fundamentally flawed. There are objections to this and it has not

been subjection to independent examination. Consequently, it should hold no weight in the determination of this application.

Reason for Refusal 10

- 15.52 The tenth reason for refusal relates to the proposal conflicting with the emerging Core Strategy Review, but this time in relation to the proposed inclusion of the site in a Strategic Green Infrastructure Corridor (**SGIC**). It is the Appellant's case that on very limited weight can be given to the emerging SGIC designation on the Appeal Site and that the proposal accords with the emerging SGIC policy in any event.
- 15.53 Regarding Policy 48 of the NPPF, the emerging plan is still at an early stage of production with the site not being subject to independent examination and there are unresolved objections to the inclusion of the Appeal Site within the Green Infrastructure corridor.
- 15.54 The objection is based on the merits of including the Appeal Site in this SGIC is at odds with the NPPF. It is evident that the Appeal Site does not include any of the features for which this SGIC is proposed to be designated. These being Nutbrook Tributary, Nutbrook Washlands, 14 Local Wildlife Sites, including six wetlands, four secondary woodlands, two neutral grasslands and two areas of mosaic habitat, five Local Nature Reserves and the Nutbrook Trail. In this context, there is no reason to include this agricultural field within the SGIC. Excluding this site from the SGIC would do nothing to undermine the objective for which this SGIC is being proposed.
- 15.55 The above notwithstanding, Strategic Policy 5 in the emerging Core Strategy states that proposals in the SGIC that further the objectives set out in the policy will be supported. These objectives are to provide:
- Sustainable flood water management;
 - Biodiversity improvement, including natural carbon capture;
 - Active travel; and

- Open space recreational uses.
- 15.56 The Appeal Scheme would include a sustainable drainage system. This will include basins and will form a betterment relative to the existing green field run off rates in terms of the flow of water and filtration of surface water.
- 15.57 Biodiversity improvements will be secured as demonstrated by the Biodiversity Net Gain Calculation submitted with this appeal.
- 15.58 The Appeal Scheme supports active travel. It will formalise the pedestrian route through the site and protect it in perpetuity, thereby creating a formal link between PRoW FP15 and FP18 with FP20. This route also being part of the proposed cycle network.
- 15.59 The Appeal Scheme includes large areas of open space for recreation use.
- 15.60 The proposal, therefore, accords with Strategic Policy 5. Consequently, the Appeal Scheme does not conflict with the Core Strategy Review in any event.

16.0 CONCLUSIONS

- 16.1 This Statement of Case has been prepared in support of an appeal against EBC's decision to refuse planning application Ref. ERE/0722/0038, which proposed the erection of up to 196 dwellings with all matters reserved other than the means of access.
- 16.2 The Council's reasons for refusal have been addressed in turn with reference to the other supporting reports and Statements prepared by the Appellant to address the issues raised by the Council where appropriate.
- 16.3 It has been demonstrated that there are two pathways that lead to the grant of outline planning consent for the Appeal Scheme. The first is in accordance with Section 38(6) of the Planning and Compulsory Purchase Act because the Appeal Scheme accords with the local development plan and there are no material considerations that indicate that a decision should be made contrary to this. The second is that the titled balance is engaged as set out in Paragraph 11 of the NPPF.
- 16.4 The benefits arising from the Appeal Scheme can be summarised as follows:
- Delivery of housing in the context of chronic under delivery since the start of the plan period and with the Council unable to demonstrate a 5 year housing land supply.
 - Delivery of affordable housing in the context of the under delivery against the monitoring target in the plan, which had already been significantly suppressed against the need identified for viability reasons.
 - Delivery of an extended bus service to the benefit of all residents on the route and that will provide an credible alternative means of commuting to existing employment estate to the south and east of the

Appeal Site, along with the 4000 job employment scheme that has outline permission at NSP.

- Delivery of the improved pedestrian link along Sowbrook Lane, which will also provide a link for residents from Kirk Hallam to access the aforementioned employment opportunities.
- Provision of open space for the benefit of the residents of Stanton Cottages.
- Provision of the pedestrian link in perpetuity between Public Rights of Way FP15 / FP18 and FP20.
- Biodiversity net gain in excess of the policy requirement.
- Economic benefits as set out in the infographic in Appendix 2.

16.5 It is evident that the benefits of the Appeal Scheme would significantly and demonstrably outweigh the adverse impacts.

16.6 The presumption in favour of sustainable development applies and it is respectfully requested that this appeal be allowed.

17.0 QUALIFICATIONS AND EXPERIENCE

- 17.1 My name is Samuel Joseph Silcocks. I am a Director at Harris Lamb Property Consultants. I am a member of the Planning Team and we specialise in providing expert planning advice on a broad range of planning matters, including a large number of residential schemes.
- 17.2 I am a full member of the Royal Town Planning Institute (RTPI). I hold an Honours Degree in Geography from the University of Birmingham and a Master's Degree in Urban and Regional Planning from the University of Westminster.
- 17.3 I commenced work in the public sector in 2006 at Welwyn Hatfield Borough Council. I worked in the Development Control team and was responsible for giving informal and formal pre-application advice, determining planning applications, contributing to the formulation of new policies and the defence of decisions through the appeal process. I was at Welwyn Hatfield for 5 years and became responsible for dealing with the more complex and major applications/ proposals, including my first Public Inquiry.
- 17.4 I was then employed by East Staffordshire Borough Council, followed by Malvern Hills District Council. At both authorities I was employed to deal with major applications, with a focus on residential/mixed use sites.
- 17.5 I joined Harris Lamb at the end of 2013, where I provide professional planning advice to a range of clients on residential and commercial projects on green and brownfield sites.
- 17.6 I have given evidence at S.78 Planning Inquiries and Hearings. I advise clients on a wide range of planning matters, including the preparation and submission of planning applications, advice on development management matters, and advice on policy formulation and the promotion of land through the Development Plan process.

- 17.7 I can confirm that the evidence which I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions.

APPENDIX 1
**APP/C3105/W/22/3301485 Land North West
of Station Road, Launton, Oxfordshire**



Appeal Decision

Hearing held on 11 October 2022

Site visit made on 11 October 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref: APP/C3105/W/22/3301485

Land North West of Station Road, Launton, Oxfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
- The appeal is made by Richborough Estates against the decision of Cherwell District Council.
- The application Ref 21/04112/OUT, dated 8 December 2021, was refused by notice dated 22 April 2022.
- The development proposed is Outline application for the erection of up to 65 dwellings, including up to 8 live-work dwellings (use class sui generis), public open space, access, infrastructure and demolition of existing buildings (all matters reserved except principal means of access from Station Road).

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 65 dwellings, including up to 8 live-work dwellings (use class sui generis), public open space, access, infrastructure and demolition of existing buildings (all matters reserved except principal means of access from Station Road) at Land North West of Station Road, Launton, Oxfordshire in accordance with the terms of the application, Ref 21/04112/OUT, dated 8 December 2021, subject to the conditions listed at the end of this decision.

Preliminary Matters

2. I have used the site address as it appears on the appeal form, as opposed to as stated on the application form. This is because it accurately and concisely pinpoints **the site's location relative** to Station Road.
3. The appeal proposal is for outline planning permission with all detailed matters except for access reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of appearance, landscaping, layout and scale as a guide to how the site might be developed.
4. It is apparent from the evidence before me that the Cherwell Local Plan Review 2040 is currently emerging. However, as confirmed at the Hearing, this is at an early stage such that its emerging policies currently attract very limited weight. I shall consider the appeal on this basis.

5. Various revised plans¹ have been submitted at appeal stage and in advance of the Hearing that were not before the Council when it made its decision to refuse planning permission. A small strip of land formerly falling under the **appellant's control** has been transferred to East West Rail, which has necessitated a minor **alteration to the scheme's blue line**. Other amendments have had the effect of clarifying intended off-site footway improvements, refining indicative future structural landscaping proposals, and affirming anticipated future connection points to the public right of way network. The revised plans do not materially alter the outline proposal that is before me. Thus, I am satisfied that no party with a potential interest in the outcome of this appeal is prejudiced by me taking the revised plans into account for either determination or indicative purposes as applicable.
6. A planning obligation pursuant to Section 106 of the Act (the legal agreement) is before me. This is dated 27 October 2022 and is signed by the appellant, relevant landowners, the Council and the County Council. The legal agreement contains various provisions related to affordable housing, open space, biodiversity land, community hall facilities, indoor and outdoor sports facilities, health facilities, waste receptacles, education capacity, household waste recycling centre facilities, highway works, public transport services and infrastructure, and public right of way enhancements. I shall return to the legal agreement later.
7. **The Council's** third reason for refusing planning permission indicates that it has not been demonstrated that the necessary infrastructure directly required because of the proposed development would be provided. However, the finalisation of the legal agreement has enabled the Council to withdraw this refusal reason. I shall formulate the Main Issues on this basis.

Main Issues

8. The main issues are:
 - The effect upon the character and appearance of the village of Launton and the surrounding area; and
 - Whether or not the site represents an appropriate location for housing, having particular regard to access to facilities and services.

Reasons

Character and appearance

9. The site is, for the most part, comprised of grassed fields and areas of woodland. Nevertheless, its southern part contains commercial uses and various buildings of typically utilitarian and sometimes dilapidated appearance. These buildings are served by yard/external areas that I observed to be used, in part, for parking and open storage. To the south-west of the site is situated a neighbouring complex of commercial buildings, beyond which village housing is situated. The site is otherwise surrounded by open countryside predominantly comprised of grassed agricultural fields.
10. In accordance with the Oxfordshire Wildlife and Landscape Study (2004), the **site falls within the 'Clay Vale' Landscape Character Type, the key**

¹ 45439-05A (supersedes 45439-05); T21547 001A (supersedes T21547 001); 11096/P10b (supersedes 11096/P10); 454539-04E (supersedes 454539-04C)

characteristics of which include a flat, low-lying landform, mixed land uses dominated by pastureland, and mature hedgerow trees. The landscape character of the site is broadly reflective of these characteristics. Nevertheless, in part due to its somewhat limited scenic qualities and the existence of hedgerows **of sometimes fragmented composition, the site's landscape is of** localised importance and medium value only. This is consistent with the findings of a Landscape and Visual Impact Assessment (December 2021) (the LVIA) **and the considerations of the Council's** Landscape Architect.

11. Launton has historically evolved as a cruciform village with linear development focussed along, and providing active frontages to, four routes that meet at a central crossroads and that include Station Road. Even so, various modern housing developments have materialised at depth to the north-western side of Station Road. Indeed, the depth of the appeal site, measured back from Station Road, is respectful of the depth of close by cul-de-sac development at Blenheim Drive and Yew Tree Close. Nevertheless, at the north-eastern end of Launton, where the site is located, the depth of built development recedes and a more fragmented and informal development pattern ensues.
12. Of relevance to my considerations, the local public right of way network is in the process of being altered in accordance with an agreed scheme of works² associated to an East West Rail upgrade. The railway line is situated to the **north of the site beyond a parcel of pastureland falling under the appellant's** control (the blue land). At the point in time of my inspection, part of the **footpath that formerly ran alongside the entirety of the appeal site's northern** boundary had been extinguished and a new/replacement route through the site, the blue land, and then along the northern edge of the railway line was accessible in part. It is my understanding, from discussions at the Hearing, that the precise route through the appeal site could be subject to re-delineation to align with any future detailed development proposals upon the site.
13. In any event, there is agreement between the main parties that the proposal would have a limited and localised visual envelope. Moreover, existing landscape infrastructure, that includes on-site woodland and established boundary planting, would heavily filter views of the proposed development from a variety of different publicly accessible vantage points, including from along Station Road. Such woodland/planting is intended to be retained and supplemented by additional planting, the full details of which would become apparent at detailed planning stage. It was also observable upon my inspection that where views into the site were available, these tended to be influenced by the presence of built form on or adjacent to the site, as well as by the existing roofscape of the village.
14. Furthermore, **the scheme's likely visual effects would** realistically become increasingly limited as landscaping measures establish and mature over time. This would include recent planting put in place along the railway line corridor. Thus, despite the not insignificant loss of greenfield land that would materialise, the proposal would typically be experienced as a somewhat contained excursion into the open countryside. Moreover, consistent with the findings of the LVIA, an overall minor adverse landscape effect would be realistically envisaged upon maturation of future structural landscaping.

² Plan Ref: 133735_2A-EWR-OXD-XX-DR-CH-000601 Rev B01

15. The Council has raised specific concerns with respect to how users of any new public footpath through the site would experience the proposed development due to countryside either side of the route being transformed by urbanisation. However, given the sometimes-discordant visual influences provided by existing development at the site and the opportunities that would be anticipated to prevail at reserved matters stage to finesse the delineation and makeup of this route, I see little merit in the stance taken by the Council on this particular point.
16. For the above reasons, significant adverse landscape impacts would be avoided. However, it is inevitable that the proposal, which involves the loss of agricultural land and considerable development in an edge-of-settlement location that presently offers something of a transition between the built-up extent of the village and its inherently rural surroundings, would cause some harm, albeit limited, to the character and appearance of the village of Launton and the surrounding rural area. There is thus conflict with Policy ESD15 and Policy Villages 2 of The Cherwell Local Plan 2011-2031 (July 2015) (the Local Plan), in so far as these policies require consideration to be given to whether development would contribute to enhancing the built environment, and that new development proposals should **contribute positively to an area's character** and identity by creating or reinforcing local distinctiveness.
17. I find saved Policy C28 of the Cherwell Local Plan (November 1996) to be of limited relevance to my considerations. This is because it is focussed upon standards of layout, design and external appearance, which are matters that would be thoroughly assessed at detailed planning stage.

Access to facilities and services

18. Launton is categorised as a Category A Service Village under Policy Villages 1 of the Local Plan. Whilst this policy is intended to guide the consideration of small-scale proposals for residential development within the built-up limits of settlements, the Category A categorisation of Launton reflects the number and range of facilities and services that are on offer within the village. These include a convenience store/post office, a farm shop, a primary school, public houses, a sports and social club and a bus service.
19. The route from the site along Station Road to the crossroads and then along Bicester Road to where a number of the above referenced facilities and services are located is flat, overlooked and well served by footway. Even so, the distances involved are not short. For example, from the centre of the site to the **village's convenience** store the distance is estimated to be just under 1km whilst the distance to the primary school is approximately 1.3km. The National Design Guide (January 2021) meanwhile, indicates that walkable local facilities are generally sited no more than ten minutes away which equates to around 800m in distance terms.
20. Whilst the public right of way network offers an alternative connection from the rear of the site to the heart of the village, the distances involved are not dissimilar to those that would avail when utilising Station Road. Also, this alternative route is subject to obstacles such as stiles and gates and is not formerly surfaced or lit for much of its extent such that it may not resemble an attractive proposition for future occupiers. Further, any contribution to be secured towards improving the public right of way network may not ultimately deliver direct enhancements to the footpath that connects the north-western

rear boundary of the site to the village. Thus, considering the walkability constraints that apply, it is inevitable that the proposal would increase travel by private modes of transportation.

21. However, the National Planning Policy Framework (July 2021) (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and states that this should be taken into account in decision-making.
22. The bus service that serves Launton is relatively regular, runs six days per week, and offers trips to various destinations including Bicester and Aylesbury. Although the nearest bus stops to the site are located on Bicester Road and thus on the cusp of what could be fairly considered walkable (particularly if to be accessed on a day-to-day basis), this bus service would still provide future occupiers of the proposed development with a genuine alternative option to private car travel should they desire to pursue it. Further, it is relevant that contributions would be secured towards the running of the service and improvements to bus stop infrastructure.
23. **The site's relative proximity to Bicester is also a relevant factor.** Indeed, relatively short journeys (by private car or otherwise) would be required to access the wide range of facilities and services on offer in this neighbouring town. Further, whilst not all residents would own a bike or have both the desire and ability to cycle, Bicester, as well as the facilities and services contained in Launton village, would be cyclable by future occupiers.
24. All related matters considered, I find that the proposal would cause some harm, albeit limited in extent, by virtue of the site not representing an appropriate location for housing having particular regard to access to surrounding facilities and services. The scheme conflicts with Policies ESD15 and Policy Villages 2 of the Local Plan in so far as these policies require that, in considering sites, particular regard will be given to criteria including whether the site is well located to services and facilities.

Other Matters

25. The site is located in proximity to Grade II listed buildings that address Station Road and that include Grange Farmhouse situated approximately 75 metres south of the site. The significance and special interest of this designated asset is drawn, in-part, from its traditional form and relevance to the historic evolution and rural history of Launton. It is common ground between the main parties to this appeal that the proposal, by virtue of bringing forward development within the setting of Grange Farmhouse, would cause a low level of less than substantial harm to the heritage significance of this designated asset **that would be outweighed by the scheme's public benefits.**
26. The Framework indicates that, when considering the impact of a proposal upon the significance of a designated heritage asset, great weight should be given to **the asset's conservation.** Having inspected the nature of the separation and intervening building stock that prevails, I have no reason to question the extent of less than substantial harm adjudged by the main parties. I am also **satisfied that the scheme's public benefits**, which I shall turn to in detail in the Planning Balance below, would outweigh the heritage harm identified. For the avoidance of doubt, other designated assets in the locality are sufficiently distanced from the site such that the proposal would avoid causing any loss of

- special interest or heritage significance through bringing forward development within their settings.
27. Policy Villages 2 of the Local Plan sets out that a total of 750 homes will be delivered at Category A villages across the plan period. It is common ground between the main parties that the 750 figure is not a ceiling or a cap and that the delivery of 65 additional houses at Launton would not cause harm to the overall housing strategy endorsed by the development plan. Indeed, Policy Villages 2 has neither a temporal dimension, in that it does not specify when during the plan period housing should be delivered, or a spatial dimension, in that it does not specify how housing should be distributed across the Category A villages. Thus, having also studied the related findings of other Inspectors with respect to recent housing appeals on other sites in the District and notwithstanding that there has been strong delivery of housing at Launton since the beginning of the plan period, I too am satisfied that the scheme would not prejudice the **Council's current housing** strategy.
28. Various concerns have been raised by interested parties in the context of highway safety. Moreover, visibility restrictions at the crossroads where Station Road meets Bicester Road have been highlighted due to a curve in the alignment of Bicester Road and the regular presence of parked cars close by. A recent collision at the crossroads has also been brought to my attention. However, a scheme of junction improvements, albeit minor and already part-implemented, incorporating revised hatching, lining and footway provision, is proposed that assists in offering suitable assurances that satisfactory levels of visibility would avail for future users of the crossroads and that this junction would operate satisfactorily post-development. Indeed, the Highway Authority (the HA) has raised no objection. This is a matter of importance as the HA is responsible for the safety of users of the local highway network.
29. It is apparent that the submitted Transport Assessment (dated December 2021) relies upon traffic counts collected back in 2015 and 2016, with subsequent adjustments applied to take account of traffic growth and committed traffic flows. Capacity analysis is focussed upon the year 2026, when the development proposal would realistically be fully built out. Notwithstanding any past or ongoing alterations made to the A41, or references made to Launton being used as a rat run, I have not been provided with clear or persuasive evidence to demonstrate that the **proposal's** effect upon the local highway network would be unacceptable. It is again relevant that the HA has raised no objection in a network capacity sense.
30. References have been made by interested parties to standing water often prevailing at the site, and to local ditches at times being full or overflowing. **Moreover, the Environment Agency's Surface Water Flood Risk Mapping** indicates that parts of the site are at risk of surface water flooding. It is apparent that soakage testing has revealed the site to be overlain by mixed clays meaning infiltration is unlikely to be feasible. Nevertheless, a drainage strategy has been formulated that ultimately involves discharge into the existing ditch network at a restricted rate.
31. The drainage strategy also involves site levels re-profiling, the clearance and maintenance of existing ditches, the provision of new culverts and the formation of on-site attenuation basins. Any suggestion that the capacity of these basins would not be fit for purpose has not been robustly substantiated,

whilst the Lead Local Flood Authority has raised no objection subject to a planning condition being imposed to secure full details of the drainage scheme to be implemented. I am content that any risks of surface water flooding have been suitably addressed at this outline planning stage.

32. It has also been brought to my attention that there have been local issues with the foul water sewage system in recent times, which has led to instances of foul water flooding. However, Thames Water, the relevant statutory undertaker, has confirmed that the scale of proposed development would not materially affect the sewer network and has raised no objection to the proposal. In this context, I cannot find that the scheme would be likely to exacerbate the past issues that have been highlighted.
33. The proposal would result in the displacement of existing commercial operations from the site that no doubt contribute to the local economy and community and that include a car and van rental business. Nevertheless, from the evidence before me, there is no clear reason to consider that suitable alternative premises would not be obtainable elsewhere in the local area. Whilst it is unfortunate to disrupt existing occupation, this is an inevitable consequence of a scheme involving redevelopment. I further note that any potential planning condition seeking to control the timeframe of any future relocation from the site could not override the terms of any private tenancy agreement, or similar, and would not, to my mind, be relevant to planning.

The Legal Agreement

34. The legal agreement contains various provisions. It secures the on-site provision of 35% affordable housing in accordance with the requirements of Policy BSC3 of the Local Plan. A mix of affordable rented, shared ownership and First Homes properties is secured in broad accordance with requirements set out **by the Council's Housing Strategy and Development Team**.
35. Provisions related to public open space and play provision, including the delivery and/or maintenance of informal open space, hedgerows, mature trees, new and mature woodland, a local equipped area of play and sustainable drainage systems are justified in accordance with Policies INF1, BSC10, BSC11 and ESD7 of the Local Plan as well as guidance contained within the Developer Contributions Supplementary Planning Document (February 2018) (the SPD). Potential commuted maintenance sums have been calculated in accordance with **the Council's standard formulae**.
36. **The blue land is integral to the appellant's intention** to deliver a net gain in biodiversity in accordance with the requirements of Policy ESD10 of the Local Plan. It is justified therefore to secure the detailed ongoing management and maintenance of the blue land for biodiversity enhancement purposes.
37. In accordance with the requirements of Policies INF1, BSC10 and BSC12 of the Local Plan, as well as with the guidance contained within the SPD, contributions to community hall facilities (the improvement, enhancement or redevelopment of Launton Parish Hall or other community buildings in the vicinity), off-site indoor sports facilities (enhancements at either Launton Parish Hall or Bicester Leisure Centre) and off-site outdoor sports facilities (enhancements at Launton Playing Fields) are justified.

38. An additional community hall facilities contribution has arisen via the Parish **Council's preliminary estimation** that £200,000 is required to redevelop Launton Parish Hall. This position is not supported by a definitive scheme of works or detailed costings. Thus, I cannot be sure that any additional contribution (over and above those calculated for community hall facilities and off-site indoor sports facilities in accordance with standard Council formulae) would be fairly and reasonably related in scale and kind to the development. I therefore attach no weight to the Additional Community Hall Facilities Contribution as defined under Schedule 5 of the legal agreement.
39. An Oxfordshire clinical commissioning group contribution to go towards increased surgery capacity to cater for additional health facility demand is justified. The sum has been calculated in accordance with the NHS Oxfordshire clinical commissioning **group's** adopted policy. This approach is in line with the requirements of Policy INF1 of the Local Plan and guidance contained within the SPD.
40. A waste receptacles contribution to go towards the provision of waste bins for each new dwelling is justified and is in compliance with Policy BSC9 of the Local Plan and guidance contained within the SPD.
41. Various education contributions are secured, including towards primary education, secondary education and special educational needs. Each of these is intended to go towards the expansion of education capacity serving the development and has been calculated in accordance with standard formulae to ensure proportionate contributions. This approach accords with Policy INF1 of the Local Plan and the SPD. With respect to the primary education contribution, it was confirmed by the County Council at the Hearing that a scheme of works for on-site expansion at Launton Primary School has been formulated. As this is the only primary school situated within a two-mile safe walking distance of the site, there are suitable assurances that the primary education contribution would be directed to this expansion project.
42. A secondary school land contribution is secured towards the acquisition of land for the expansion of secondary education capacity given that a new school is planned for north-west Bicester. This sum has been calculated in accordance with educational land value and the anticipated pupil numbers to be generated by the development.
43. A household waste recycling centres contribution would be directed towards the expansion and efficiency of household recycling centres serving the development in the interests of addressing existing issues of overcapacity. This has been calculated in accordance with additional space required per dwelling as a proportion of the anticipated total cost of infrastructure and land for a new household waste recycling centre.
44. A public transport services contribution towards maintaining the bus service that serves Launton is justified. The sum has been calculated in accordance with the **Council's standard public transport** calculation and this approach accords with guidance contained within the SPD. Similarly, a public transport infrastructure contribution towards the provision and maintenance of a new bus shelter is justified in the interests of promoting patronage of the service and has been calculated based on the sum required to cover the standard cost of installation.

45. A public right of way contribution to cover small-scale improvements to the network in the vicinity of the site is reasonable and justified in the interests of promoting sustainable travel choices. A variety of potential improvement works have been pinpointed by the County Council and I am content that the sum requested is fairly and reasonably related to the development proposal.
46. The legal agreement also secures the undertaking of highway works in accordance with a Highways Agreement to be entered into, to include the provision of site access, footpath improvements and the relocation of speed limit signs. This is justified to provide the legal certainty that these works would indeed take place in a timely manner.
47. I am satisfied that, except for the Additional Community Hall Facilities Contribution, the various contributions and provisions secured through the legal agreement are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind. I am satisfied too that the monitoring fees secured are proportionate and reflect the actual costs of monitoring. I am also content that, from the evidence before me, both the legal agreement and a supplemental Deed of Covenant, which ensures the agreed obligations are secure, are fit for purpose.

Planning Balance

48. As indicated at paragraph 11 to the Framework, the presumption in favour of sustainable development is engaged in circumstances that include where the policies most important for determining a scheme are out-of-date. This includes, with respect to proposals for housing, where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
49. The Council has accepted that it cannot currently demonstrate a five-year supply of deliverable sites. The latest published position for the period 1 April 2022 to 31 March 2027 is a housing supply figure of 3.5 years. This represents a significant shortfall. As such, the presumption in favour of sustainable development is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against **the Framework's policies taken as a whole**.
50. I have identified conflict with Policy ESD15 and Policy Villages 2 of the Local Plan. Both are consistent with the Framework in the sense that it seeks to ensure developments are sympathetic to local character and promotes the provision of sustainable travel opportunities. For reasons that I have already set out above, the proposal would cause some limited harms to the character and appearance of the village of Launton and its surrounding rural area and by virtue of the site not representing an appropriate location for housing having particular regard to access to surrounding facilities and services. Further, as identified above, the scheme would cause less than substantial harm to the heritage significance of Grange Farmhouse through bringing forward development within its setting.
51. However, the scheme would provide various sometimes weighty benefits. These include the provision of a considerable number of additional market dwellings in a District where there is a significant housing land supply deficit. As set out in the Framework, it is a Government objective to significantly boost

the supply of homes. Whilst it is my understanding that the supply shortfall has been heavily contributed to by delays to a selected number of major schemes situated elsewhere in the District, it remains that the benefit of new market housing attracts significant weight.

52. A policy-compliant level of affordable housing in a District where a considerable accumulated shortfall of affordable housing units exists also constitutes a scheme benefit that attracts significant weight. Further, the economic and social benefits that would be brought about by the provision of up to eight live-work units attract considerable weight. Other benefits include investment in the local economy at both construction and occupation stage, the provision of publicly accessible open space and the delivery of biodiversity net-gain.
53. Having considered the benefits and adverse impacts of the scheme before me, I conclude that the harms and associated policy conflicts that I have identified **would not significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole**. As such, the presumption in favour of sustainable development, as set out in the Framework applies.
54. Thus, whilst the proposal conflicts with the development plan when read as a whole, there are other material considerations, including the Framework, that outweigh that conflict, such that the appeal should be allowed.

Conditions

55. As part of a Statement of Common Ground signed by the main parties to this appeal and submitted in advance of the Hearing, a list of agreed conditions has been provided. Following further discussion at the Hearing, I have considered the conditions against advice in the Framework and Planning Practice Guidance. As a result, I have made amendments to some of them for consistency and clarity purposes. Pre-commencement conditions have only been applied where agreed to by the appellant and where necessary to guide initial works on site.
56. In the interests of certainty, a condition specifying the approved plans is required. In the interests of protecting the visual amenities of the area and the living conditions of existing and future residential occupiers, a condition requiring levels details to be submitted for approval is reasonable and necessary.
57. To suitably guard against the risks associated with contamination, conditions are reasonable and necessary requiring intrusive investigation and subsequent remediation and verification if required. In the interests of guarding against flood risk and promoting sound surface water management, a condition requiring the submission, implementation and retention of a detailed surface water drainage scheme is necessary to impose.
58. In the interests of ensuring appropriate archaeological investigation and recording, conditions requiring the preparation of a Written Scheme of Investigation and the subsequent undertaking of a staged programme of archaeological evaluation and mitigation are reasonable and necessary to impose.
59. In the interests of highway safety, conditions requiring full details of schemes of improvement works at the crossroads where Station Road meets Bicester Road and to the footway along Station Road are reasonable to impose. Such

works would be undertaken off-site on lands outside of the appellant's ownership. However, the locations in question fall under the full control of the Highway Authority who are supportive of the works being undertaken. I am thus sufficiently satisfied that such conditions would be both implementable and enforceable.

60. In the interests of highway safety also, conditions requiring the site's principal point of access to be installed as approved prior to **the site's** first occupation, as well as full details of the various vehicular accesses, driveways and turning areas to be installed across the development, are reasonable and necessary to impose.
61. In the interests of ensuring acceptable living conditions for future occupiers, a condition is reasonable and necessary that secures the submission of a noise assessment and implementation of the development in accordance with the approved assessment including any associated mitigation measures approved.
62. In the interests of ensuring that existing trees and hedgerows of value are properly protected, conditions to secure the submission of, at detailed planning stage, an Arboricultural Impact Assessment, a Tree Protection Plan and an Arboricultural Method Statement, as well as replacement planting in specified circumstances, are reasonable and necessary to impose.
63. In the interests of highway safety and protecting the living conditions of local residential occupiers, a condition requiring the submission and implementation of a Construction Traffic Management Plan is reasonable and necessary to impose.
64. Full details of the live-work dwellings hereby permitted, including of a management plan to be implemented, are reasonable to secure via condition in the interests of ensuring that the development is built out as applied for and operated in an acceptable manner.
65. To provide appropriate assurances that the water network has sufficient capacity to serve the development, a condition requiring upgrade works to be installed or future occupation in full accordance with a housing and infrastructure phasing plan to be agreed between Thames Water and the Local Planning Authority is reasonable and necessary to impose.
66. In the interests of providing full assurances that protected species shall not be harmed, conditions are reasonable to confirm that, prior to the commencement of works, relevant licences shall be required should future works be likely to impact upon bats, badgers or Great Crested Newts. A copy of any such license would need to be submitted to the Council. I am content that, as not yet at detailed planning stage, this represents an appropriately robust approach to safeguarding protected species.
67. In the interests of attaining bio-diversity net-gain, the submission and implementation of an associated method statement and scheme for enhancing biodiversity is reasonable and necessary to secure via condition. In the interests of protecting and promoting biodiversity conservation, conditions securing a Landscape and Ecology Management Plan and a full lighting strategy (should external lighting be installed) are also reasonable and necessary to secure.

68. In the interests of environmental sustainability, conditions securing the submission and implementation of a renewable energy statement and details of the measures to be installed to achieve a high standard of energy performance are reasonable and necessary to impose. For the same reason, a condition securing the installation of water efficiency measures is reasonable.

Conclusion

69. For the reasons given, the appeal is allowed and planning permission is granted subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
- 2) Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission and the development hereby permitted shall be begun either before the expiration of four years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following approved plans: 45439-02; 45439-05A; T21547 001A (appended to Planning Appeal Hearing Statement – Transport, dated 9 June 2022); T21547 002 (contained in Transport Assessment, dated 6 December 2021).
- 4) No development shall commence until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.
- 5) No development shall commence until a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals has been documented as a report undertaken by a competent person and in accordance with DEFRA and **the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'** and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.
- 6) If contamination is found by undertaking the work required under Condition 5, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with **DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'** and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring that is required by this condition.
- 7) If remedial works are required in accordance with Condition 6, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved. A verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development.

- 8) No development shall commence, including any works of demolition, until an Archaeological Written Scheme of Investigation relating to the application site area and prepared by a professional archaeological organisation acceptable to the Local Planning Authority has been submitted to and approved in writing by the Local Planning Authority.
- 9) Following the approval of the Written Scheme of Investigation referred to in Condition 8, and prior to the commencement of development including any works of demolition (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to and approved in writing by the Local Planning Authority.
- 10) No development shall commence until full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings hereby permitted, which shall include construction, layout, surfacing, lighting and drainage details, have been submitted to and approved in writing by the Local Planning Authority. The accesses, driveways and turning areas shall be constructed in accordance with the approved details prior to the first occupation of any of the dwellings hereby permitted and shall be retained as such thereafter.
- 11) No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.
- 12) No development shall commence, including any works of demolition or site clearance, unless and until a method statement and scheme for enhancing biodiversity such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, has been submitted to and approved in writing by the Local Planning Authority. The method statement and scheme shall accompany any reserved matters application relating to layout and/or landscaping and shall include a timetable for provision. Thereafter, biodiversity enhancement measures shall be carried out in accordance with the approved details and shall be retained as such thereafter in accordance with the approved details.
- 13) No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), which shall cover both the construction and operational phases of the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP.
- 14) Prior to the installation of any external lighting, a full lighting strategy to include an illustration of proposed light spill and which adheres to best practice guidance in relation to ecological impact, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the

- development shall be carried out and retained in accordance with the approved strategy.
- 15) Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby permitted, no works of site clearance, demolition or construction shall take place which are likely to impact on bats until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to and approved in writing by the Local Planning Authority.
 - 16) Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby permitted, no works of site clearance, demolition or construction shall take place which are likely to impact on Great Crested Newts until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to and approved in writing by the Local Planning Authority.
 - 17) Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby permitted, no works of site clearance, demolition or construction shall take place which are likely to impact on badgers until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to and approved in writing by the Local Planning Authority.
 - 18) Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings shall be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed in writing with the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved details and no dwelling hereby permitted shall be occupied until it has been constructed in accordance with the approved energy performance measures.
 - 19) No part of the development hereby permitted shall be constructed above finished floor level until a full scheme of works for the following improvements have been submitted to and approved in writing by the Local Planning Authority: the Bicester Road/Station Road/Blackthorn Road/West End junction, as shown indicatively on drawing Ref: T21547 003 contained within the submitted Transport Assessment, dated 6 December 2021. The occupation of the development shall not begin until those works have been completed in accordance with the approved details.
 - 20) No development shall commence above slab level unless and until full specification details of the proposed new footway along Station Road, connecting the site access to the existing footway on the southeast side of Station Road, which shall include construction, layout, surfacing, lighting and drainage details, have been submitted to and approved in writing by the Local Planning Authority. No property hereby permitted

shall be occupied until the new footway has been constructed in full accordance with the approved details, which shall be retained as implemented thereafter.

- 21) As part of any reserved matters application relating to layout, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. The scheme shall thereafter be managed in perpetuity in accordance with the approved details. The scheme shall also include: Discharge rates based on 1:1 year greenfield run off rate; Discharge Volumes; Sustainable Drainage Systems (SuDS); Maintenance and management of drainage and SuDS features (to include the provision of a SuDS Management and Maintenance Plan); Infiltration in accordance with BRE365; Detailed drainage layout with pipe numbers; Network drainage calculations; Phasing; Flood Flow Routing in exceedance conditions (to include provision of a flood exceedance route plan); A detailed surface water catchment plan.
- 22) As part of any reserved matters application relating to layout, a noise assessment shall be submitted and approved in writing by the Local Planning Authority to demonstrate how acceptable internal and external noise levels shall be achieved for the proposed dwellings and amenity spaces. If the proposal includes the use of background ventilation, a ventilation and overheating assessment shall be carried out and submitted for approval. The development shall thereafter be carried out in accordance with the approved details and any approved mitigation measures shall be retained thereafter.
- 23) As part of any reserved matters application relating to layout, an Arboricultural Impact Assessment, a Tree Protection Plan and an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837: 2012 and all subsequent amendments and revisions, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved Tree Protection Plan and AMS.
- 24) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works. If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority. For the purposes of this condition, a **"retained tree"** is an existing tree which shall be retained in accordance with the approved plans and particulars. The requirements of this condition shall have effect until the expiration of five years from the date of the approval of the final reserved matters.

- 25) As part of any reserved matters application relating to layout, the details of a new public right of way across the site from existing right of way 272/12 to the west as far as Station Road to the east shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the new public right of way shall be constructed and retained in accordance with the approved details and made available to use by the public at all times.
- 26) As part of any reserved matters application relating to layout, full details of the live-work dwellings hereby permitted, including the extent and type of commercial workspace within each unit and a management plan of how they will be controlled and the division of space between residential and commercial space provided, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be occupied in accordance with the approved details. The live-work dwellings shall thereafter be used solely as live-work units (*sui generis*) and for no other purpose including for residential or employment use.
- 27) As part of any reserved matters application, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan (July 2015), shall be submitted and approved in writing by the Local Planning Authority. Prior to the first occupation of any building the renewable energy serves, the relevant measures contained within the approved strategy shall be carried out in full.
- 28) Prior to the first occupation of any property hereby permitted, a revised Residential Travel Plan Statement meeting the requirements set out in the **Oxfordshire County Council guidance document, "Transport for New Developments; Transport Assessments and Travel Plans"** shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented and monitored in accordance with the approved details.
- 29) No property hereby permitted shall be occupied until written confirmation has been sought and attained from the Local Planning Authority that either: evidence to demonstrate that all water network upgrades required to accommodate the additional flows/demand from the development have been completed; or a housing and infrastructure phasing plan has been agreed with Thames Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.
- 30) No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day, a limit that shall continue to be accorded with at all times thereafter.
- 31) Prior to the first occupation of any part of the development, the means of access shall be constructed in accordance with the details shown on the approved plans Ref: T21547 001A and T21547 002 and shall be retained as such thereafter.

APPEARANCES

FOR THE APPELLANT

Sarah Reid KC	Barrister, Kings Chambers
David Bainbridge	Director, Savills Planning
Rebecca Bacon	Associate, Savills Planning
Clare Mitchell	Associate Director, Savills Urban Design
Wendy Lancaster	Landscape Director, Tyler Grange
James Parker	Director, Hub Transport Planning Ltd
Nick Banks	Regional Director (South East), Richborough Estates
Alex Bennett	Director, Mewies Engineering Consultants Ltd

FOR THE COUNCIL

James Kirkham	Case Officer
Andrew Murphy	Planning Consultant, Stansgate Planning

INTERESTED PARTIES

Judith Coats	Infrastructure Funding Team Leader, Oxfordshire County Council
Roger Plater	Transport Planner, Oxfordshire County Council
Angus Patrick	Local Councillor
Simon Turner	Launton Parish Council
Richard Lodge	Local resident
Bridget Evans	Local resident

DOCUMENTS SUBMITTED AFTER THE HEARING

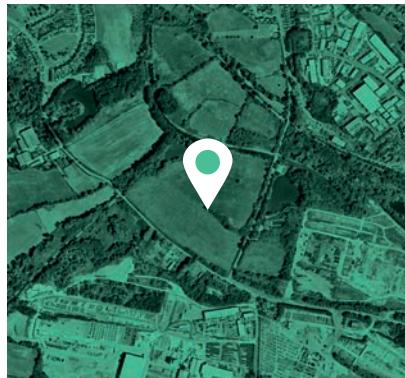
Planning Obligation by deed of agreement under Section 106 of the Act, dated 27 October 2022

Deed of Covenant, dated 27 October 2022

APPENDIX 2

Updated Socio-Economic Infographic

The development of Land at Ilkeston Road, Stanton by Dale



The proposal



196 New homes

30% Affordable homes

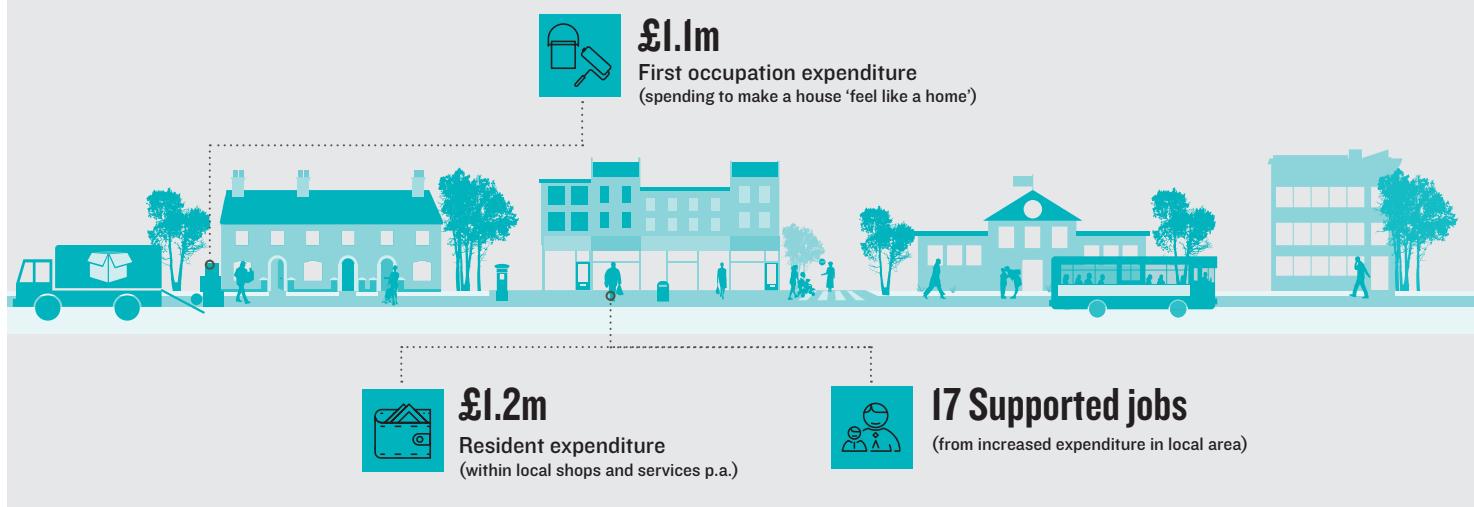
Other details:

The scheme will also deliver appropriate levels of amenity and green open space, as well as two children's play areas and a community garden.

Construction benefits



Operational and expenditure benefits



Local Authority revenue benefits



clearthinking

COMMERCIAL PROPERTY ADVICE



BUILDING
CONSULTANCY



COMMERCIAL
INDUSTRIAL AGENCY



CORPORATE
SUPPORT



DEVELOPMENT AND
RESIDENTIAL LAND



ENVIRONMENTAL
CONSULTANCY



INVESTMENT



LEASE
ADVISORY



LICENSED AND
LEISURE



PLANNING



PROPERTY
MANAGEMENT



RATING



RECEIVERSHIP
AND RECOVERIES



RETAIL, LEISURE
AND ROADSIDE



VALUATION