

Item No: 5**Application Reference Number:** P/24/0258/2

Application Type:	FULL	Date Valid:	28 th May 2024
Applicant:	Mr Gurdev Mattu		
Proposal:	Installation of track and use of existing vehicular access point and the track for access to existing dwellinghouse with associated works (Retrospective)		
Location:	Brand Hill House, Brand Hill, Woodhouse Eaves, Leicestershire, LE12 8SX		
Parish:	Woodhouse	Ward:	Forest Bradgate
Case Officer:	Lewis Marshall	Contact No:	01509 634782

1.0 Background

- 1.1 This application is recommended for refusal due to the conflict with countryside policies of the development plan and impact on the character and appearance of the conservation area.

2.0 Description of the application site

- 2.1 The application site relates to a small parcel of land which includes a section of track and access from Brand Hill which falls under the ownership of the applicant and owner of Brand Hill House. The access and track serves an area of paddock and woodland to the north and east of Brand Hill House. Brand Hill House is set back from the road and has two access points, between which are a row of established trees which screen the house from the road.
- 2.2 The site is located within the countryside, within the Woodhouse Eaves Conservation Area and Charnwood Forest Landscape Character Area. A Grade II Listed building is located approximately 180m to the north-west of the application site. The site is within Flood Zone 1. There are protected trees alongside, and outside the boundaries of the application site.

3.0 Description of the proposal

- 3.1 This FULL planning application seeks planning permission for use of the existing access and track in connection with Brand Hill House as well as the creation of an additional section of track (the residential spur) to provide residential access to Brand Hill House. The access would result in the closure of an existing access which serves

Brand Hill House directly from Brand Hill. The existing track and gates that serve the woodland and paddock are deemed to be lawful following the grant of a certificate of lawfulness (P/23/1857/2). The current application therefore seeks to introduce a residential use. The track would essentially become mixed use with the new residential spur being solely residential. It is proposed to close the existing southern-most vehicular access.

3.2 The application has been subject to amended documents and plans as the application has progressed. The following documents are relevant to the application:

- Application form
- Site location plan
- Landscaping Plan
- Curtilage Plan
- Planning Statement
- Design and Access Statement
- Biodiversity Impact Assessment

4.0 **Development Plan Policies**

4.1 The Development Plan comprises the Woodhouse Neighbourhood Plan, the Charnwood Local Plan Core Strategy (adopted 9 November 2015), the Borough of Charnwood Local Plan (adopted 12 January 2004) (saved policies), and the Minerals and Waste Local Plan (2019).

4.2 The policies applicable to this application are as follows:

4.3 [Charnwood Local Plan Core Strategy \(2015\)](#)

- Policy CS1 – Development Strategy
- Policy CS2 – High Quality Design
- Policy CS11 – Countryside
- Policy CS12 – Green Infrastructure
- Policy CS13 – Biodiversity and Geodiversity
- Policy CS14 – Heritage
- Policy CS16 – Sustainable Construction and Energy
- Policy CS17 – Sustainable Transport
- Policy CS18 – The Local and Strategic Road Network
- Policy CS25 – Presumption in Favour of Sustainable Development

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

4.5 Where they have not been superseded by Core Strategy Policies previous Local Plan Policies remain part of the Development Plan. In relation to this proposal, the relevant ones are:

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

4.6 [Woodhouse Neighbourhood Plan](#)

- Policy H3 – Limits to Development
- Policy H6 – Design Standards
- Policy ENV4 - Biodiversity, Woodland, Trees and Hedgerows, and Habitat Connectivity
- Policy ENV8 – Protection of Important Views
- Policy T1 – Traffic Flow and Volume Management
- Policy BE5 – Farm Diversification

4.7 [Minerals and Waste Local Plan](#)

- Policy M11 - Safeguarding of Mineral Resources - Minerals

5.0 Other material considerations

5.1 [The National Planning Policy Framework \(NPPF Dec 2023\)](#)

5.2 The NPPF policy guidance of particular relevance to this proposal includes:

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

5.3 [National Planning Practice Guidance](#)

- 5.4 This national document provides additional guidance to ensure the effective implementation of the planning policy set out in the National Planning Policy Framework. The guidance sets out relevant guidance on aspects of flooding, air quality, noise, design, the setting and significance of heritage assets, landscape, contaminated land, Community Infrastructure Levy, transport assessments and travels plans, supporting the policy framework as set out in the NPPF.
- 5.5 National Design Guide
- 5.6 This is a document created by Government which seeks to inspire higher standards of design quality in all new development.
- 5.7 The Planning (Listed Buildings and Conservation Areas) Act 1990.
- 5.8 The Planning (Listed Buildings and Conservation Areas) Act 1990 provides a statutory duty for local authorities to have special regard to Listed Buildings and Conservation Areas. Section 66 (1) of the Act refers to the desirability of preserving Listed Buildings, the setting of Listed Buildings and the features of special architectural and historic interest which it possesses whilst Section 72(1) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 5.9 Design Supplementary Planning Document (SPD) (January 2020)
- 5.10 This document sets out the Borough Council's expectations in terms of securing high quality design in all new development. Schemes should respond well to local character, have positive impacts on the environment and be adaptable to meet future needs and provide spaces and buildings that help improve people's quality of life.
- 5.11 Leicestershire Highways Design Guide
- 5.12 The purpose of the guidance is to help achieve development that provides for the safe and free movement of all road users, including cars, lorries, pedestrians, cyclists and public transport. Design elements are encouraged which provide road layouts which meet the needs of all users and restrain vehicle dominance, create an environment that is safe for all road users and in which people are encouraged to walk, cycle and use public transport and feel safe doing so; as well as to help create quality developments in which to live, work and play. The document also sets out the quantum of off-street car parking expected to be provided in new housing development and advice regarding the design of parking courts and waste collection.
- 5.13 Landscape Character Appraisal

- 5.14 The Borough of Charnwood Landscape Character Assessment was prepared in July 2012. The purpose of the report was to assess the baseline study of the landscape character, at a sub-regional level that gives a further understanding of the landscape resource. The document 'provides a structured evaluation of the landscape of the borough including a landscape strategy with guidelines for the protection, conservation and enhancement of the character of the landscape, which will inform development management decisions and development of plans for the future of the Borough'.
- 5.15 Conservation of Habitat and Species Regulations 2010 (as amended)
- 5.16 The Council as Local Planning Authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged to consider the likelihood of a licence being subsequently issued by Natural England.
- 5.17 Equality Act 2010
- 5.18 Section 149 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality.
- 5.19 The Draft Charnwood Local Plan 2021-37
- 5.20 This document sets out the Council's strategic and detailed policies for the Borough over the period 2021-37. The local plan was submitted for examination in December 2021. The document now carries significant weight.
- 5.21 In accordance with NPPF paragraph 48, the relevant emerging policies in the plan may be given weight in determining applications, according to:
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight it may be given);
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
 - c) the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

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

- Policy DS1 - Development Strategy
- Policy C1 – Countryside
- Policy DS5 - High Quality Design
- Policy EV4: Charnwood Forest and the National Forest
- Policy EV6 - Conserving and Enhancing Biodiversity and Geodiversity
- Policy CC1 - Flood Risk Management
- Policy CC4 - Sustainable Construction
- Policy CC5 - Sustainable Transport
- Policy EV7 - Tree Planting
- Policy EV8 – Heritage
- Policy INF2 - Local and Strategic Road Network

5.22 Planning Guidance for Biodiversity June 2022

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

5.24 The Environment Act 2021

5.25 In England, Biodiversity Net Gain is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). This is now a mandatory requirement for this application.

6.0 Relevant Planning History

6.1 A number of applications are relevant to the current application:

P/24/0257/2	Retention of a power supply and an intercom installed on the entrance gates to a track in association with existing dwelling house (Retrospective Application)	Withdrawn as the proposal as described may be considered integral to an unauthorised change of use but is not itself considered to be development and therefore does not require planning permission thus
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		an application is not required
P/23/1857/2	Development for track and vehicle access point off Brand Hill. (Lawful Development Certificate for Existing Use)	Granted 20/12/2023
P/22/0770/2	Certificate of Lawful (existing) development for track and vehicle access point off Brand Hill. Refused 31 March 2023	Refused 31/3 2023
P/22/0771/2	Application for use of existing vehicular access point and track for access to dwelling and for the creation of a section of track and lighting (retrospective)	Refused 29/7/2022 and appeal dismissed 20/3/2023
P/16/2384/2	Installation of compacted loose stone to provide an all weather track for access.	No submission of details required decision date 8/11/ 2016

7.0 Responses of Consultees and Other Comments Received

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

Consultee	Response
Leicestershire County Council – Local Highway Authority (LHA)	No objection subject to conditions. Considers that the closure of the existing access will result in highway safety gains.
Charnwood Borough council Design and Conservation Officer	Considers that the proposal would result in slight but less than substantial harm to the significance of the conservation area. This is on the basis that the existing gates would be retained in situ.
Charnwood Borough Council Tree Officer	Raises no objection.
Charnwood Borough Council Biodiversity	Raises no objection subject to the imposition of conditions.
Parish Council	Objects and contest the change of land use through incorporating part of the field for domestic use from agricultural. The Woodhouse Neighbourhood Plan limits to

Consultee	Response
	development, including vehicular access, should be respected
Ward Cllr Snartt	<p>Raises the following concerns:</p> <ul style="list-style-type: none"> • Previous applications and appeals have been refused in conflict with local planning policies. • the lighting element has been removed, which is welcomed, however, the proposal does not overcome the significant harm to the character and appearance of the Conservation Area. • The application was initially called-in but has subsequently been withdrawn.

Responses to publicity	
Two letters of objection have been received from local residents raising the following concerns:	<ul style="list-style-type: none"> • The access is unnecessary and unjustified due to the two existing access points • The application is not materially different to the previous refusal and appeal. • The application does not overcome previous appeal Inspectors concerns • Encroachment into open countryside • The case is incremental development with a view to vehicular access being obtained to a proposed new residential development on the adjacent land

8.0 Consideration of the Planning Issues

8.1 The starting point for decision making on all planning applications is that they must be made in accordance with the adopted Development Plan unless material considerations indicate otherwise. The most relevant policies for the determination of this application are listed above and are contained within the Development Plan for Charnwood which comprises the Core Strategy (2015), “saved” policies within the Borough of Charnwood Local Plan 1991-2026 (2004) which have not been superseded by the Core Strategy (2011-2028), The Woodhouse Neighbourhood Plan (202) and the Minerals and Waste Local Plan (2019). The Core Strategy and Charnwood Local Plan are over 5 years old, and it is important to take account of changing circumstances affecting the area, or any relevant changes in national policy. Development proposals that accord with an up-to-date Development Plan must be determined without delay.

8.2 Amongst the material considerations are the emerging Charnwood Local Plan 2021-37 (ELP) and the National Planning Policy Framework (NPPF).

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

- Principle of Development
- Design and impact on the street scene
- Heritage
- Ecology and Biodiversity
- Residential Amenity
- Flooding and Drainage
- Highways and Parking
- Other matters

9.0 Key Issues

9.1 Principle of the Development

9.1.1 The NPPF makes it clear that the purpose of the planning system is to contribute towards achieving sustainable types of development through economic, social and environmental objectives. In terms of meeting the need for new homes, it is clear the framework promotes the effective use of land, while safeguarding and improving environments and healthy living conditions, it is expected that Local Planning Authorities should plan to make as much use as possible of previously developed or brownfield land, in achieving sustainable patterns of development.

9.1.2 The application site is located within an area of Open Countryside as identified in Saved Policies ST/2, CT/1 and CT/2 of the Borough of Charnwood Local Plan (2004). Policy CT/1 restricts acceptable development outside the Limits to Development, to small-scale new built development where there would not be a significant adverse environmental impact and the proposal would be for agricultural, horticultural or forestry works, diversification of the rural economy, improvement of facilities for recreational or leisure use, and the strategic mineral, transport, Infrastructure, and public services/utilities works. While Policy CT/2 recognises developments as acceptable in principle where they would not harm the character and appearance of the countryside, and safeguards its historic, nature conservation, amenity, and other local interest. It is recognised that these saved policies are amongst the most important policies for determination of the application, notwithstanding acknowledgement of their reduced weight.

9.1.3 Policy CS11 of the Core Strategy requires new development to protect landscape character and reinforce a sense of place. It supports residential development where it has a strong relationship with the operational requirements of agriculture, horticulture, forestry, or other land-based industries and contributes to a low carbon economy, in accordance with Policy CS10. Policy CS12 of the Core Strategy and

EV4 of the emerging Local Plan supports development that supports the woodland economy and rural diversification, including sustainable small-scale tourism and recreation opportunities which protect, and enhance the distinctive landscape character of the Charnwood Forest; Policy CS1 supports development at 'Other Settlements', such as Woodhouse Eaves where it is small scale and within the defined limits to development.

- 9.1.4 The emerging Local Plan is in an advanced stage and while not forming part of the Development Plan, it is a material consideration in the determination of applications attracting significant weight. Policy DS1 of the emerging local plan sets the strategy for development. This supports development that meets our needs for growth whilst protects the intrinsic character of the Countryside and where it accords with other policies in the plan. Policy C1 of the emerging Local Plan supports development in the countryside which is limited to rural economic development that has a strong relationship with other operational requirements of agriculture, horticulture, forestry or other land-based industries and small scale new built development where there would be no significant adverse effects. Policy OS1 of the emerging local plan supports development at 'Other Settlements' such as Woodhouse eaves where it is small-scale and within defined Limits to Development.
- 9.1.5 In terms of the principle of the proposed development, the application is for the use of land for domestic purposes. The application site is located in the Open Countryside and Charnwood Forest and would subsequently result in the use of agricultural/forestry land for residential purposes which by nature would not respect the intrinsic character and beauty of the countryside, nor is it amongst the types of development that is supported in such locations as required by policies CS11 and CS12 of the Core Strategy, policies CT/1 and CT/2 of the Saved Local Plan, Policy H3 of the Woodhouse Neighbourhood Plan and policies C1, EV4 and OS1 of the emerging local plan. The applicant has not advanced sufficient justification for the proposed development having regard for the existing accesses that are available to serve the dwelling and the adjoining woodland/meadows.
- 9.1.6 The proposed use is unacceptable in principle and would constitute an unwarranted intrusion into the countryside and Charnwood Forest thus the development fails to protect the landscape character, sense of place and local distinctiveness and would therefore conflict with Policies CT/1 and CT/2 of the adopted Borough of Charnwood Local Plan, Policies CS11 and CS12 of the Charnwood Local Plan (2011-2028) Core Strategy, Policy H3 of the Woodhouse Neighbourhood Plan and Policies C1, EV1 and EV4 of the emerging Local Plan (2021-2037) as well as the Paragraph 180 of the National Planning Policy Framework.
- 9.1.7 The identified conflict with the above policies is considered within the planning balance below.

9.2 Design and Impact on Character

- 9.2.1 Policies CS2 and CS11 of the Core Strategy and Policy H6 of the Neighbourhood Plan are concerned with protecting the landscape and ensuring new development respects and enhances the character of an area whilst reinforcing a sense of place and local distinctiveness through high quality design. Policy ENV8 of the Neighbourhood Plan identifies the view up Brand Hill towards Hunger Hill (view 15) as important to the setting and character of the village and appreciation of the landscapes of the Plan area. New development should be designed to respect these locally important and valued views and where possible enhance them. The site is located within the Charnwood Forest. Policy CS12 of the Core Strategy and Policy EV4 of the emerging local plan seek to protect and enhance the distinctive character of the Charnwood Forest.
- 9.2.2 Saved Policy EV/1 of the Local Plan supports development that is of a design, scale, layout and mass compatible with the locality, and which uses appropriate materials. It seeks positive and attractive built frontages to existing or proposed public spaces including roads, footpaths and areas of public open space.
- 9.2.3 These policies generally accord with the NPPF and National Design Guide and do not frustrate the supply of housing. As a result, it is not considered that there is a need to reduce the weight that should be given to them.
- 9.2.4 Emerging Local Plan Policy DS5 requires development to make a positive contribution to Charnwood by responding positively to local distinctiveness. Policy EV1 seeks to protect and enhance the Borough's distinctive landscape by requiring new development to protect landscape character and to reinforce sense of place and local distinctiveness. The emerging Local Plan is at an advanced stage and these policies can be given significant weight.
- 9.2.5 The character of the area is defined by its wooded forest setting situated outside of the settlement boundary and in the countryside. The built character of the area is defined by large, detached houses which are set back from Brand Hill and screened from the road by mature trees and hedgerows. Vehicular access gates of different styles punctuate the roadside. The character and location of the proposed track is different to that of the house due to its location outside of the curtilage and within a clearing, or meadow as described within the conservation area appraisal.
- 9.2.6 The physical development as proposed consists of the retention of an area of compacted stone track and timber knee-high posts to provide access to the Brand Hill House via the existing access from Brand Hill. The proposed posts are to prevent vehicles driving across the root protection area of the adjacent trees that line part of the track. Having regard for the limited and screened views of the site by virtue of the existing gates and tree cover, the proposed development would result in very little

change to the visual appearance of the countryside or views up Brand Hill at this location as the track would not be readily viewed as part of the traditional domestic curtilage. However, the use of the track for domestic purposes would result in negative change to the character of the countryside at this location by reason of the unwarranted incursion of the domestic curtilage into the countryside thus eroding its intrinsic agrarian character. The comings and goings along the track and through the gates where associated with the dwelling would result in additional incremental change to the rural character of the site adding to the change that has already occurred with the unauthorised erection of the unsympathetic gates and associated paraphernalia which have now become lawful through the passage of time. In this regard, the proposed development would conflict with Policies CS2 and CS11 of the Core Strategy and Policy H6 of the Neighbourhood Plan as well as saved policy EV/1 of the Local Plan. The proposal would also therefore conflict with policies DS5 and EV1 of the emerging local plan.

9.2.7 For the same reasons, the proposal would therefore also fail to accord with Policies CS12 of the Core Strategy and EV4 of the emerging Local Plan which seek to protect and enhance the distinctive landscape character of the Charnwood Forest.

9.2.8

9.3 Heritage

9.3.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in considering whether to grant planning permission for development which affects the character or appearance of a conservation, the local planning authority shall have special regard to the desirability of preserving the conservation area.

9.3.2 Policy CS14 (Heritage) of the Core Strategy seeks development to conserve and enhance historic assets in the Borough for their own value and the community, environmental and economic contribution they make, developments are expected to not only protect the assets, but also their setting.

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

9.3.4 NPPF chapter 16 provides national guidance on consideration of heritage assets. Where there is less than substantial harm to a heritage asset, this harm must be outweighed by the public benefits (paragraph 209).

- 9.3.5 The site is located within the conservation area and the defining character of the area also defines the characteristics and significance of the conservation area. The Conservation Area Appraisal describes the house that the track would serve, collectively with other nearby houses in its assessment of the character of this part of the Conservation Area which states, "The road runs straight, dropping gently through woods with openings and scattered houses, some very large and important, though most of them hidden in the woods" and "a pleasant alternation of dense woodland which comes up to the edge of the highway with open clearings of meadows and openings to private gardens" Brand Hill itself is "effectively hidden in the woods". This relationship between the large houses and the woods, the separation between development, woods and countryside, form part of the key features of the heritage asset. The existing curtilage of the dwelling is well defined on its southern boundary by hedgerows and trees. The proposal would result in encroachment of the domestic curtilage and associated activity beyond the existing well-defined boundary and into the open countryside.
- 9.3.6 In the determination of the previous appeal, the Inspector concluded that the domestic activity through the comings and goings along the track combined with the lighting, both result in harm to the predominantly rural and tranquil character and appearance of the conservation area and countryside at this location. Although the lighting has been removed from the current application and can be restricted in future by condition, the use and activity associated with domestic movements along the section of track, outside of the defined domestic curtilage would result in harm when having regard for the conclusions made by the Inspector in the previous appeal. The timber gate fronting Brand Hill was also raised as out of character with the area, but has now been deemed to be Lawful Development, albeit not for residential use and without the intercom and automation of the gates.
- 9.3.7 The Conservation Officer considers that with these elements of the application variously removed or deemed lawful, there would be no further impact on the 'appearance' of the conservation area or loss of the characteristics set out in the Conservation area Character Appraisal. There would, however, be some change to its 'character' due to the introduction of domestic vehicle movements outside of the established domestic curtilage. The extent or frequency of these vehicle movements is not clear, particularly given there is no proposal to close up or remove the existing gate and access to the northwest.
- 9.3.8 The Conservation Officer has also identified concerns with the application in its amended form which proposes to remove the existing cast iron gates to the southerly access as well as removal of the existing access track within the curtilage. The existing metal gate is considered to be a feature that contributes to the special character and appearance of the Woodhouse Eaves Conservation Area. It is of decorative cast iron in an Arts and Crafts style. It is paired with the residential access

gate further to the northwest, which still serves the drive to the house. The removal of this feature from the street scene of the conservation area would harm its character and appearance, and together with the removal of the access drive, there would be a dilution of the legibility of the historic plan form of the gardens to Brand Hill House. However, the removal of the gates does not form part of the description of development, and in the event that the application is approved, it is considered that an alternative scheme to stop up the existing access whilst retaining the cast iron gates could be required by condition thus eliminating the harm in this regard.

9.3.9 However and overall, the harm identified to the character of the conservation area is considered to be minor and less than substantial. Paragraph 205 of the NPPF requires that great weight should be given to the asset's conservation. Where there is less than substantial harm, it should be outweighed by the public benefits. This is considered within the planning balance below.

9.4 Landscaping and Trees

9.4.1 Policy CS2 of the Core Strategy seeks to ensure high quality design including landscaping. This policy generally accords with the National Planning Policy Framework and does not conflict the supply of housing.

9.4.2 Emerging Local Plan Policy DS5 makes similar requirements and EV7 encourages tree planting. These policies are at an advanced stage following hearing sessions in June 2022 and they are consistent with the NPPF and can, therefore, be given significant weight.

9.4.3 The application is accompanied by a proposed landscaping plan which seeks to plant eight native scrub trees along the proposed access track which would assist in mitigating the above identified harms to a limited extent.

9.4.4 The proposed landscaping scheme will mitigate to a limited extent the area of trees and scrub which has been removed along the boundary to facilitate the proposed access track. It is not known how many trees or the extent of scrub which has been removed, thus is given neutral weight in the planning balance, subject to the provision and retention of proposed planting which can be secured by planning conditions.

9.4.6 Overall, the proposed development in respect of landscaping and trees is considered to accord with Policy CS2 of the Core Strategy and Policy ENV4 of the Neighbourhood Plan as well as Policy DS5. It is not considered that the scheme provides additional tree planting within the Charnwood Forest therefore does not accord with policy EV7 of the emerging Local Plan.

9.5 Ecology and Biodiversity

- 9.5.1 Policy CS13 of the Core Strategy seeks to conserve and enhance the natural environment with regard to biodiversity and ecological habitats. The policy supports development that protects biodiversity and geodiversity and those that enhance, restore or re-create biodiversity. The loss of features of biodiversity and geodiversity will only be supported in exceptional circumstances where the benefit of the development clearly outweighs the impact. Where there are impacts, the policy requires mitigation or compensation of equal or greater value, likely to result in a net gain in biodiversity. The NPPF states that planning decisions should minimise impacts upon and provide net gains for biodiversity.
- 9.5.2 Emerging policy EV6 of the Draft Local Plan seeks 10% biodiversity net gain and the protection and enhancement of habitats, species and networks. In England, Biodiversity Net Gain is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). The Environment Act 2021 makes provision for 10% biodiversity net gain and the application is not exempt from the provisions of the act thus is a legal requirement of this application.
- 9.5.4 The site is not subject to any statutory nature conservation designations nor are there any internationally or nationally significant nature conservation sites considered to be impacted by the proposed development.
- 9.5.5 The proposed surfacing of the track, which consists of compacted stone and rubble has resulted in the loss of an area that was previously vegetated habitat which equates to the loss of 0.23 habitat units. In order to mitigate the loss and achieve a 10% net gain in biodiversity, the applicant has proposed the purchase of off-site habitat credits from a local habitat bank.
- 9.5.6 Overall and subject to conditions and the completion of a legal agreement to secure the off-site credits, the proposed development will avoid unacceptable impacts on protected species and their habitats and will achieve a biodiversity net gain overall in accordance with Policy CS13 of the Core Strategy and Emerging policy EV6 of the Draft Local Plan.
- 9.7 Residential amenity
- 9.7.1 Policies CS2 of the Core Strategy and EV/1 of the Local Plan seek to protect the amenity of existing and future residents. They require high quality design that does not impact on the amenity of adjacent properties or create poor standards of amenity for future occupiers.
- 9.7.2 Emerging Local Plan Policy DS5 states that new development will be required to protect the amenity of people who live or work nearby and those who live in the new

development. The policy is at an advanced stage and it is consistent with the NPPF and can therefore carry significant weight.

9.7.3 The site is remote from any other neighbouring dwellings with the nearest unrelated property to the proposed track being located along Lady Martin Drive, to the west of Brand Hill. Given the number of vehicular movements are not likely to increase as a result of the development and would instead be relocated slightly further south along Brand Hill, it is not considered that the proposed use or development would give rise to any harm to neighbouring amenity nor the amenity of those that reside in Brand Hill House.

9.7.4 Overall, the proposed development in respect of existing and future occupiers accords with Policies CS2 of the Core Strategy and EV/1 of the Local Plan and Emerging Local Plan Policy DS5.

9.8 Flooding and drainage

9.8.1 Core Strategy Policy CS16 and the NPPF direct development away from areas at the highest risk of flooding. Emerging Local Plan Policy CC1 (Flood Risk Management) and Policy CC2 (Sustainable Urban Drainage Systems) require that development proposals are assessed for their risk of being flooded, and the risks arising from the proposals themselves.

9.8.2 The submitted application form states that surface water will be disposed of via an existing watercourse. The Lead Local Flood Authority (LLFA) has not been consulted on the application because it is not major development nor is the site within an area of increased surface water flood risk. The operational development associated with the proposal is limited to the laying of an area of additional track which is permeable and immediately adjacent to greenfield areas which allow for any excess run off to naturally permeate and filtrate without surface water leaving the wider site area.

9.8.3 It is therefore considered that the development would not increase flood risk and the scheme does comply with Core Strategy Policy CS16 and emerging Local Plan Policy CC1 and the NPPF.

9.9 Highway and Transport Matters

9.9.1 Policy CS2 of the Core Strategy requires new development to provide safe access for all users. Policy CS17 of the Core Strategy makes provision to achieve a 6% shift from travel by private car to walking, cycling and public transport. Policy CS18 of the Core Strategy requires network improvements where necessary. Saved Policy TR/18 of the Local Plan seeks to ensure adequate parking is provided in new development.

- 9.9.2 Emerging local plan policy T3 requires new development to provide car parking in accordance with the latest published guidance of the County and Borough Councils.
- 9.9.3 Brand Hill House has two existing access points. The Applicant proposes to close the southern access and transfer the residential trips to the adjacent access that serves the woodland/meadow. All accesses lead onto Brand Hill which is an adopted, 'C' classified road subject to a 30mph speed limit. No changes are proposed to the northern residential access.
- 9.9.4 The existing access is at least 4.0m wide for the first 5.0m from the carriageway with inward opening gates setback approximately 4.0m from the public footway and approximately 6.0m from the carriageway.
- 9.9.5 The Applicant conducted a speed survey between the 24 March 2024 to determine the speed of passing traffic. The speed survey captured an 85th percentile eastbound speed of 40mph and an 85th percentile westbound speed of 41mph. As to be in accordance with Part 3, Table DG4 of the Leicestershire Highway Design Guide (LHDG) a visibility splay of 2.4m by 65m to the west of the access is required and a splay to the east of 2.4m by 120m is required. The existing access proposed to be closed (the southern residential access) provides a visibility splay of 2.4m by 43m to the east and 2.4m by 10m to the west. The access serving the woodland/meadow offers visibility splay of 2.4m by 43m in either direction. Whilst neither access provides visibility splay in accordance with Part 3, Table DG4 of the LHDG it is evident that the woodland/meadow access offers greater visibility splay than the existing residential access that is proposed to be closed. In addition, the woodland/meadow access gates are setback further from the carriageway in comparison to the gates at the access that is proposed to be closed which provides standing clearance for vehicles as well as better pedestrian visibility. It is therefore concluded that the proposed access is of a better design and safer than the access that is proposed to be closed.
- 9.9.6 In respect of parking, the proposal would not increase demand for parking at the existing residential property or the woodland, nor would it reduce the availability of parking within either site. The application is therefore acceptable in respect of parking.
- 9.9.7 The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided and subject to planning conditions the development therefore does not conflict with paragraph 115 of the National Planning Policy Framework (Dec 2023).

10.0 Conclusions and Planning Balance

- 10.1 Section 70(2) of the Town and Country Planning Act 1990 requires the decision taker to have regard to the Development Plan, so far as it is material to the application. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that: "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 10.2 The application proposes to the development and encroachment of a residential use in the countryside that broadly conflicts with Policies CS11 of the Core Strategy and saved Policies CT/1 and CT/2 of the 2004 Local Plan which seek to restrict development in the countryside unless specific circumstances apply. None of those circumstances apply to the proposed development and is therefore unacceptable in principle. The application therefore also conflicts with Policy H3 of the Woodhouse Eaves Neighbourhood Plan and Policy C1 of the emerging local plan. The proposal therefore constitutes an unwarranted intrusion into the countryside thus fails to protect or enhance its intrinsic character and beauty and also conflicts with policies CS2 of the Core Strategy, Policy EV/1 of the saved Local Plan and Policies DS5 and EV1 of the emerging Local Plan.
- 10.3 The proposed development would result in minor and less than substantial harm to the character and appearance Woodhouse Eaves Conservation Area and would also result in an unwarranted intrusion and minor degradation of the natural characteristics of the countryside at this location. Balanced against this, the proposal would result in a safer access to serve Brand Hill House subject to a condition that requires a scheme to close the existing southern access. However, this benefit to highway safety is given only limited weight because Brand Hill House is served by another existing access which is deemed to be safe. Subject to the completion of a Section 106 agreement, the proposal would also achieve a 10% net gain in biodiversity which would weigh in favour of the development. However, in the absence of a signed legal agreement, or other mechanism to ensure the compensatory planting, the proposal would result in a net-loss of biodiversity thus weighs against the development. In the event of an appeal, the biodiversity harm can be addressed with the submission of a legal agreement, however, this would not change the overall planning balance.
- 10.4 Overall, the public benefits of the development are not considered to outweigh the heritage harms identified having regard for paragraph 208 of the NPPF which requires that great weight should be given to the conservation of heritage assets. Furthermore, the proposal would result in conflict with local and national policies that seek to restrict unwarranted development in the countryside. Furthermore, it is not considered that the applicant has overcome the previous reasons for refusal which were upheld at appeal in March 2023.

11.0 Recommendation

Refuse for the following reasons:

1. The application proposes to the development and encroachment of a residential use in the countryside that conflicts with Policies CS11 and CS12 of the Charnwood Local Plan Core Strategy 2015 and saved Policies CT/1 and CT/2 of the 2004 Charnwood Local Plan which seek to restrict development in the countryside unless specific circumstances apply. None of those circumstances apply to the proposed development and is therefore unacceptable in principle. The application therefore also conflicts with Policy H3 of the Woodhouse Parish Neighbourhood Plan and Policy C1 of the emerging Charnwood Local Plan 2021-37. The proposal therefore constitutes an unwarranted intrusion into the countryside and location within the Charnwood Forest thus fails to protect or enhance its intrinsic character and beauty and also conflicts with policies CS2, CS11 and CS12 of the Charnwood Core Strategy 2015, Policy EV/1 of the saved Charnwood Local Plan 2004 and Policies DS5, EV1 and EV4 of the emerging Charnwood Local Plan 2021-37.
2. As a result of the encroachment of the domestic curtilage into the countryside that forms part of the Conservation Area and the domestic activity through the comings and goings along the track, the proposal is not considered to preserve nor enhance the character and appearance of the Woodhouse Eaves Conservation Area as required by Section 72 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990. The proposal is therefore also contrary to Policy CS14 of the Charnwood Core Strategy (2015) and Policy EV8 of the emerging Charnwood Local Plan (2021-2037) which seek appropriate forms of development that conserve and protect heritage assets and their settings. The harm identified is less than substantial and is not outweighed by the public benefits of the proposals and is therefore contrary to paragraph 208 of the NPPF.
3. In the absence of a signed Legal Agreement, or other mechanism. to secure the proposed off-site Biodiversity Net Gain, the application has failed to demonstrate how the proposals will conserve and enhance the natural environment or protect biodiversity. The benefit of the development does not outweigh the adverse impact on ecology. The proposal is contrary to the provisions of Policy CS13 of the Core Strategy. The proposals are also contrary to its successor Policy EV6 of the emerging Local Plan 2021-37, and with the NPPF paragraph 180.