

Outline Application**Refuse**

Howes Percival
 3 The Osiers Business Park
 Laversall Way
 BRAUNSTONE TOWN
 LE19 1DX

**Details of Application**

APPLICATION NO: P/22/2096/2
PROPOSAL: Outline application for Residential Development for up to 28 Dwellings (All Matters reserved apart from Access and Layout)
LOCATION: Land off Moor Lane, Loughborough, Leicestershire, LE11 1FR
APPLICANT Sowden Group Ltd

Details of Decision Please Read All the Information in this Decision Notice.

Charnwood Borough Council has considered this application under the Town and Country Planning Act, 1990, and refuses planning permission for the development described in the submitted documents and on any accompanying plans and drawings.

The reasons for refusal are as follows:

1	The proposed development is on land which sits outside the limits to development for Loughborough identified on the Borough of Charnwood Local Plan 1991-2006 Proposals Map, adopted January 2004, and within Countryside. The form of development proposed does not fit with the exceptions defined in the Charnwood Local Plan (2004) and is therefore in conflict with its policies ST/2, CT/1 and CT/2. It is in an area of Countryside as defined by the proposals map submitted with the draft Charnwood Local Plan 2021-37 and does not fit within the forms of development described in its Policy C1 as being appropriate in the Countryside. It would cause harm to the intrinsic character and beauty of the Countryside and fails to protect its largely undeveloped character.
2	The proposed development is within Flood Zone 3b, and includes seeking retrospective permission for raising of land within a functional flood zone, contrary to Policy CS16 of the adopted Charnwood Core Strategy 2015 and policies CC1 and CC2 of the draft Charnwood Local Plan 2021-37, and contrary to paragraphs 167 and 169 in the National Planning Policy Framework.
3	By using unauthorised development, which included partial clearance of vegetation from the site, as a baseline from which to assess landscape impacts arising from the proposal the applicant has failed to respect the character of the area nor to make a positive contribution to Charnwood, contrary to adopted Charnwood Core Strategy 2015 Policy CS2. Neither has it protected landscape character and tranquillity, contrary to Policy CS11. The proposals are also in conflict with the successor policies of the emerging Local Plan 2021-37, Policy DS5 (High Quality Design) and EV1 (Landscape).
4	The removal of trees prior to the submission of the current application has not been addressed by proposals to replace trees, contrary to Policy EV7 of the emerging Local Plan 2021-37, and with the NPPF paragraphs 131 and 174.
5	The ecological appraisal submitted with the current application uses as its baseline

	<p>the current site condition, which is in turn based upon unauthorised development in a flood zone. The application has failed to demonstrate how the proposals will conserve and enhance the natural environment or protect biodiversity. The benefit of the development does not outweigh the adverse impact on ecology. The proposal is contrary to the provisions of Policy CS13 of the Core Strategy. The proposals are also contrary to its successor Policy EV6 in the emerging Local Plan 2021-37, and with the NPPF paragraphs 131 and 174. The proposals are also in conflict with Policy EV5 of the emerging Local Plan 2021-37, and with the NPPF paragraphs 174 and 179, in that it fails to enhance the wildlife and biodiversity along the Grand Union Canal.</p>
6	<p>The site layout illustrated in the submitted design and access statement and on drawing number 1202-P3 fails to show how a development of up to 28 dwellings could be accommodated on the subject land in a manner which represents high quality design, and which would protect the amenity of future residents. The proposal is in conflict with Policy EV/1, a saved policy from the Borough of Charnwood Local Plan 2004, with Policy CS2 of the Core Strategy, and its successor Policy DS5 in the emerging Local Plan 2021-37, and with the NPPF paragraph 130 and with the adopted Supplementary Planning Document on Design. It conflicts with Policy EV1 (Landscape) in the emerging Charnwood Local Plan 2021-37, and with the NPPF paragraphs 20 and 130, in that it fails to protect landscape character and to reinforce a sense of place and local distinctiveness, and with Policy LUC1 in that it has not been demonstrated that the relationship between the development and the canal would provide an active frontage with public access.</p>
7	<p>The development creates demand for open space, education provision and healthcare services which cannot be met by existing services. Additionally, there is a need to secure affordable housing and an appropriate mix of type tenure and size of home in order to ensure that the proposal complies with Core Strategy policy CS3. No details of the means of delivery these matters has been provided. Accordingly, the development fails to comply with policies CS3 and CS 24 of the adopted Charnwood Core Strategy 2015, and INF1 in the emerging Local Plan, and would lead to significant and demonstrable harm which would outweigh the benefits of the scheme.</p>
8	<p>The applicant has not undertaken a sufficient level of archaeological investigation as required by NPPF Section 16, paragraph 194 to assist the local planning authority in understanding the heritage impacts of the scheme and thereby inform a balanced planning decision, as required by NPPF paras. 194, 195 and 203. The proposal is therefore in conflict with policy CS14 of the adopted Charnwood Core Strategy 2015, and with Policy EV8 of the draft Charnwood Local Plan 2021-37.</p>
9	<p>The application site is within an area identified within the Mineral and Waste Safeguarding (Charnwood Borough) Document S2/2015 as an area with sand and gravel resource, benefitting from safeguarding in accordance with Policy M11 from the Leicestershire Minerals and Waste Local Plan. No assessment of the impact on the minerals resource has been submitted in support of the application, and so the proposal is contrary to Policy M11.</p>
10	<p>Planning obligations relevant to the proposal have not been agreed with Leicestershire County Council in respect of Highways and sustainable travel. The proposal is therefore in conflict with Policies CSA17 and CS24 in the Core Strategy, and CC5 in the emerging local plan, and NPPF paragraph 34, 105, 105, 106, 110 and 113. At the date of writing policies INF1 and INF2 of the emerging Local Plan have limited weight, but the proposal, without agreement between the applicant and LCC on contributions and obligations, is in conflict with these policies.</p>

The following was taken into account when determining this application

1. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal, but fundamental objections could not be overcome. The decision was therefore made in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.



Richard Bennett
Head of Planning and Regeneration

29 September 2023

NOTES: P/22/2096/2

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are here: <https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries>

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Resubmissions

A revised application for similar development may be exempt from a planning fee, if the proposal is the first revision of an application for development of the same character or description on the same site by the same applicant within 12 months of making the earlier application if withdrawn or the date of decision if granted or refused and NOT a duplicate application made by the same applicant within 28 days.