

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Grounds of Appeal prepared for Mr Tony Coombs against the refusal of application 25/01029/PIP by Hinckley & Bosworth Borough Council for Permission in Principle for the erection of a single C3 self-build dwelling, associated amenity space and parking Paddock House, Ashby Road, Stapleton, Leicestershire, LE9 8JF.

Application 25/01029/PIP was received by the LPA 20th October 2025 and refused by notice dated 24th November 2025.

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Material Considerations

1. The starting point for the determination of any proposal remains the Development Plan, and Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms this statutory requirement and the NPPF (2024) reiterates the approach where planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
2. Local Plan policy should follow the approach of the presumption in favour of sustainable development where such development should be approved without delay. On this basis the Government is committed to ensuring the planning system supports all sustainable development.
3. Currently the policies the LPA relies upon are contained within 2009 Core Strategy and the Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016). The Framework was updated on 12th December 2024 alongside the NPPG that revised the standard method for calculating the local housing need assessment and, as a consequence, the LPA are unable to demonstrate a 5YHLS, which is one of the key circumstances for the engagement of the 'tilted' balance as per Paragraph 11(d).
4. In addition, and in relation to the Emerging Local Plan for 2024-2045, Hinckley & Bosworth Borough Council is proposing to publish the Regulation 19 (Pre-submission) Local Plan for public consultation summer 2026. Given its early stage of preparation, the Emerging Local Plan is attributed no weight when determining this appeal.

Main Issue

5. The LPA is currently in the position where all housing supply policies and settlement boundaries are out of date and cannot demonstrate a robust 5YHLS or Self-Build Housing Register. Regarding the emerging Local Plan for 2024-2045, the LPA acknowledge between 15,000 and 20,000 new homes will need to be built within the Borough during this period, the vast majority of which will be built outside existing settlement boundaries.
6. The LP is crucially silent on the provision of self-build and custom housing and due to the changes in National Policy and the Council's requirement to take on a portion of Leicester City Council's unmet housing need. In this policy context the appeal scheme represents an integrated and sustainable development in accordance with paragraph 83 of the Framework that states:

"Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly."

7. As noted within the delegated report within Stapleton there is a village hall, a public house, and a church and a bus stop is located 600m to the south of the site that is served by Service LC6, which runs between Hinckley and Coalville and the timetable is included in Appendix 1 of the Grounds of Appeal for the avoidance of doubt. In terms of key walking distance considerations, generally 800m (half a mile) is considered a standard 10-minute walk for daily needs, while 20-minute walks (1,600m) are considered the maximum many will walk.

8. In terms of sustainable development paragraph 116 of the Framework states:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.”

9. Both National and Local policy continues to support new residential development in rural areas. In terms of access to certain services such as food shopping, whilst it is acknowledged that people seeking to undertake their weekly shop at a supermarket will not be able to do so in the immediate vicinity of the site, weekly shops are less significant in terms of vehicle trips by virtue of their less frequent nature. The Framework also envisages that sustainable development is achievable in rural areas which means that the lack of a shop or supermarket in the immediate vicinity cannot of itself mean that a site is not a sustainable location for development.

10. The Framework does not set any specific criteria that must be met in order for a location to be considered sustainable and there is no provision that a particular percentage, or indeed the majority of trips, must be made by non-car means in order for the site to be considered sustainable. Instead, paragraph 83 of the Framework states:

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.”

11. The objective of ensuring “the fullest possible use” of sustainable transport does not mean rejecting development in rural areas on the grounds that towns and cities will always be better. Consequently, the tilted balance is fully engaged, and it is considered that any perceived harm arising from the provision of a single self-build dwelling in this location, when considering accessibility, does not significantly and demonstrably outweigh the benefits when assessed against policies of the Framework taken as a whole.

12. Overall, whilst there are limitations regarding the frequency of the bus service and a requirement to currently use a short length of highway verge to reach the footpaths leading to both Stapleton and Barwell, the Highway Authority are open to the suggestion for a new footpath link to be implemented by the applicant and to be installed and constructed to the required HA standards.

13. On this basis, occupiers of the proposal would have a genuine choice of sustainable travel modes to reduce the reliance on private cars including the choice of walking and cycling and the existing bus service. Therefore, the location of the appeal proposal with regard to access to services and facilities would be acceptable, as it would have provide access to a choice of modes of travel, thereby promoting sustainable patterns of development in accordance with Policy DM17 of the SADMP, and the Framework.

14. LP policy makes reference to the fact it is necessary to meet an identified Borough wide housing need, or local housing need as evidenced through a housing needs survey or a neighbourhood plan. The specific Borough wide housing need in this instance, relates to the provision of self-build and custom housing that is a separate legal duty placed on the LPA, that is to be weighed entirely separately from the now revised mandatory 5YHLS requirement.

15. In terms of its assimilation within the existing street scene and neighbouring properties, the comments from the LPA regarding the pre-application enquiry states:

“Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.

Policy DM10 of the Site Allocations and Development Management Policies (SADMP) requires development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, material and architectural features.

The proposed scheme takes the form of a courtyard design taking design influence from nearby ‘farmstead’ arrangements. The scale and form of the proposal is drawn from nearby High Barn and Paddock House, with a combination of single and two-storey buildings, wrapping around a central courtyard. The scale, massing and overall footprint would appear consistent with the surrounding development in terms of scale and massing and has been designed with the rural character of the site and equestrian use in mind. Although detailed elevations and materials have not been submitted, it is considered that the layout is suitable for a development of this type, subject to other material considerations being considered, including visual impact upon the countryside and character of the area.”

16. On this basis, the final design solution will allow the new dwelling to be readily assimilated within the existing street scene and would not therefore be considered an incongruous addition to it. Nor would it represent the extension of ribbon development as the appeal site is located between the residential properties of Paddock House and Rose Cottage and would not extend past the built form of Field View Farm, therefore it can only be reasonably described as infill development.

17. As a continuation of the evolving local residential built form, there would be some low level landscape harm, however the modest scale of a single dwelling would be viewed on a very limited local basis only, and the case of **Shadwell Estates v Breckland DC [2013]** states:

“a decision-maker should give the views of statutory consultees... “great” or “considerable” weight. A departure from those views requires “cogent and compelling reasons.”

18. Appendix 1 contains an appeal decision issued on the 13th March 2025 for a development of 95 homes within the Green Wedge adjacent to the settlement boundary of Barwell under PINS reference APP/K2420/W/24/3348387, Land East of The Common, Barwell, LE9 8BR.

At paragraphs 12 and 41 the Inspector states:

“The lack of five-year supply, the continuing delay with previously identified sites coming forward and the uncertainty over the timescale of examination and adoption of the emerging local plan are factors to which substantial weight needs to be given. Consequently the Core Strategy adopted in 2009 has to be regarded as out-of-date as the development strategy put forward has not been achieved. This reduces the weight that can be given to Core Strategy policies which restrict development including on sites in a Green Wedge.”

And

“On the main issues I have found that the principle of development in this area of countryside conflicts with SAMD policy DM4 but this only carries limited weight because of

the Council's HLS position. The proposal would cause some moderate harm to the rural landscape character of the area and to a limited geographical area but it would not result in a significant adverse effect which is the test set out in criteria (i) of Policy DM4 and criteria (a) of Policy DM10."

19. The conclusions of the Inspector and the acknowledgement the entire 2009 CS and the policies contained within it are out of date, are significant material considerations that are directly applicable to the appeal submission, particularly as the 2009 Core Strategy expires December 2026. The CS sought to meet overall housing needs up to 2026 and the settlement boundaries were drawn up to accord with that plan period and not beyond it. Moreover, housing land supply is calculated across the whole of the Council's area and is not based on any particular settlement, and the appeal scheme would provide a meaningful contribution to the current shortfall in the mandatory self-building housing register as expanded upon below.

20. The minimum housing target expressed in the CS over the plan period up to December 2026 will not be met and is exacerbated by the continuing shortfall in the 5YHLS, therefore it is inevitable and accepted by the Council, that permission for housing will need to be granted on unallocated greenfield sites. The LPA are currently working on a new Local Plan which will set out land allocations and planning policies for the period 2024 to 2045. The implication of this is that there will not be a strategic plan in place to lead development in HBBC for the foreseeable future, and more importantly there will be no plan led mechanism to rectify the 5 year housing land supply shortfall, or indeed the persistent shortfall in the current self-build register. Thus making it ever more pressing that housing continues to come forward in a timely manner in sustainable locations such as Stapleton, where the appeal site is well related to the existing built-up area and would form a logical extension to this part of the village.

21. Based on the above, the proposed development would result in a modest change to the existing built form of the immediate locality and would extend the built-up area beyond the footprint of Paddock House. The small-scale nature of the proposed development and the fact it would not extend beyond Rose Cottage or Field View Farm, means it would not harmfully contribute to a ribboning of development and would not significantly erode the exiting rural vernacular or the wider countryside setting, particularly where existing policy does not place a bar on other forms of sustainable and appropriate development.

22. The acceptance of this type of infill development is acknowledged in paragraph 8.13 of the delegated report below:

"The application site is in the designated open countryside to the north of the rural hamlet, Stapleton. The adopted Core Strategy states that rural hamlets have limited, if any services and generally rely on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. Because of the limited services in these hamlets, development will be confined to infill housing development, local choice schemes and conversion of agricultural buildings to employment uses."

23. In the context of the absence of a five year supply of deliverable housing sites, or a significant shortfall in the Self-Build Register that represents a type of specialist housing, the conflict with Policy DM4 is afforded limited weight as it restricts the type of development proposed in the countryside in absence of harm to the character and appearance of the countryside, and therefore has the potential to limit the supply of housing.

24. Based on the above the appeal proposal and the suggested design solution would not be contrary to Policy 2 of the Core Strategy (Adopted December 2009) or Policy DM10 of the SADMP which amongst other matters seek to protect and enhance the character and

appearance of the area. Similarly, the proposed development would not be contrary to the Framework or the National Design Guide in so far as they relate to the protection of character and appearance, and thereby represents appropriate development in terms of the Stoke Golding Rolling Farmland Landscape Character Area, and the Earl Shilton North and Barwell West Landscape Sensitivity Area.

25. As a direct consequence, the appeal scheme ethos as a bespoke self-build can be secured and designed to fully reflect local design policies and Government Guidance on design as a matter of principle, via the second technical stage. The proposal is therefore wholly in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), as well as Chapters 11, 12 and 15, and Key Policy Paragraphs 129, 135 and 139 of the National Planning Policy Framework (2024). The benefits significantly and demonstrably outweigh any negligible or perceived harm of the scheme, when assessed against the Framework as a whole, accordance with Paragraphs 11(d) and 139 of the National Planning Policy Framework.

26. As the appeal site adjoins the existing built-up area of a sustainable settlement and the proposed specialist form of housing will be proportionate in both scale and design relative to the size of the existing village, it will naturally complement the semi-rural vernacular. The site is physically and visually connected to settlement where the proposed access and layout would respect the existing settlement and landscape, thus it is considered the appeal scheme is acceptable in principle on this basis.

The HBBC Self-Build Register

27. The delegated report confirms the LPA cannot demonstrate and up to date self-build register and in this respect the *Right to Build Task Force Custom and Self-Build Planning Guidance PG3.3: NPPF and Right to Build legislation – Delivering appropriate permissions (January 2024 – Version 3)* states:

“Where there are no policies and/or LPAs are not meeting their duty in relation to provision of CSB plots, the fact of an application delivering CSB plots should be given significant weight in the planning balance. Where there are no planning harms, it is possible that meeting the LPA’s statutory duties will be sufficient to indicate an approval, even in the case of a minor departure in relation to a local policy.(My emphasis)

However, notwithstanding the above, where a council cannot demonstrate that plots are being secured there is an increased risk of approval by appeal and this should be considered in the context of the approach taken in terms of planning for sites and granting permissions. Availability of CSB plots should be a factor in the determination of the application and given significant weight in the planning balance.”(My emphasis)

28. On the 6th August 2025, the LPA issued the delegated approval related to application 24/01155/FUL for the erection of a dwelling (self-build) with associated parking and landscaping Upper Grange Farm, 1A Ratby Lane, Markfield, Leicestershire, LE67 9RJ. For ease of reference, the application documents are included in Appendix 2, which includes a legal opinion and an HBBC Self-Build & Custom Housebuilding Assessment.

29. Paragraphs 8.4 and 8.5 of the delegated report associated with application 24/01155/FUL state the below:

“8.4. The Planning Policy team are currently reviewing the revised NPPF and implications for the Council’s Five-Year Housing Land Supply. A revised position will be published in the coming months once the monitoring for the 2024/25 year has been completed. It is however

likely that, with the revised need figure of 682 dwellings per annum from the Dec 2024 NPPF (649dpa + 5% buffer as per Para 78a), that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published.

8.5. Therefore, the application should be determined against Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.”

30. And paragraph 8.11 that states:

“It is acknowledged that, through its intentions to implement the Core Strategy through its approach to the countryside and settlement boundaries, Policy DM4 is considered out-of-date. Nevertheless, the emphasis of Policy DM4 is to promote sustainable development proposals within the countryside and to safeguard it from unsustainable schemes(My emphasis).”

31. As such, the delegated report above issued on the 6th August 2025, confirms Policy DM4 is out of date and it should not be treated as blanket protection to resist all countryside proposals, only those that are deemed to represent unsustainable development.

32. The legal opinion offered by Mr Paul Wakefield in relation to the approval of Upper Grange Farm concluded that where there is an acknowledged shortfall in the HBBC self-build register, and any application that seeks to address a shortfall in part or in whole, should be afforded significant weight in the planning balance.

33. In addition, the accompanying Marrons HBBC Self-Build & Custom Housebuilding Assessment 2024 states:

“6.3 The Council has confirmed through a Freedom of Information request (Appendix 1) that as of February 2023, there were a total of 48 individuals and associations on its Right to Build Register within Hinckley and Bosworth. However, it is clear that the Council rationalised its register in Summer 2021 omitting many individuals who registered prior to this. A review of the governments RTB monitoring register as shown in Table 5.1 confirms there to be a total of 117 registrants over this period, averaging 15 per annum (over complete base periods 2-8).”

34. And concludes:

“6.10 The evidence presented within this Report demonstrates a clear and significant demand for self-build and custom build plots within Hinckley and Bosworth. The Proposed Development will make a contribution towards the Borough’s housing supply, meeting a local need for self-build and custom building plots, which should be afforded significant weight, particularly in the absence of any identifiable future supply of self/ custom build plots which will address needs identified from the Council’s Right to Build Register.”

35. What the Upper Grange Farm delegated report does not make clear however is, the fact the shortfall of 5 plots is carried over from Base Period 9 into Base Period 10, where 15 self-build plots were required to be granted in Base Period 10 that ended on the 30th October 2025. As a consequence, a minimum of 15 plots will be carried over into Base Period 11 further increasing the shortfall year on year, as demonstrated in the Marrons Self-Build Assessment associated with the approval of Upper Grange Farm.

36. Since the end of Base Period 10 on the 30th October 2025, it is now agreed common ground that the shortfall rolled over from Base Period 10 has increased from 5 in Base Period 9 to 17 in Base Period 11, which when added to the required 10 plots that need to be approved during Base Period 11, gives a current and increasing year on year shortfall of 27 plots that need to be approved by 30th October 2026, or in 6 months' time.

37. The importance of such material considerations was demonstrated in relation the appeal decision that was allowed on the 4th July 2025 for the erection of a self-build dwelling, land between 118 and 124 Battram Road, Ellistown, Coalville, Leicestershire LE67 1GB. The full appeal decision is included in Appendix 3, where in allowing the appeal the Inspector opined:

"16. It therefore follows that the appeal site would not provide a suitable location for the proposed dwelling having regard to the spatial strategy of the development plan, whether the site constitutes PDL or not and the accessibility of the site. As such, it would be contrary to Policies S2 and S3 of the LP, the aims of which I have outlined above."

38. However, balanced against the above, the "Battram" Inspector concluded:

"17. It is common ground between the main parties that the Council has a significant unmet need for self-build and/or custom-build housing (SBCB housing), which is required by the Self-Build and Custom Housebuilding Act 2015 (as amended) (the Act). This is a matter of serious concern and the provision of housing in this respect should be attributed significant weight. Despite the proposal being for just a single dwelling and the Council advising of other applications currently being considered for SBCB housing, it would assist in reducing the Council's deficit and would be secured by the UU submitted with this appeal."

39. The "Battram" Inspector viewed the issue of the shortfall in the supply of self-build housing as a matter of serious concern, and that the provision of this type of specialist housing should be attributed significant weight. Under such circumstances, **The Right to Build Task Force** guidance is directly aimed to assist the LPA in relation to addressing an undersupply of self-build plots states the below:

"18. The basics of the statutory duties for delivering self/custom build homes are set out in the Task Force Guidance note PG3.3: National Planning Policy Framework and Right to Build legislation Delivering appropriate permissions. Local Planning Authorities have a statutory duty to consider the demand for custom and self-build (CSB) homes in plan making and decision taking. Councils are required to consider self-build in planning, housing, land disposal, and regeneration functions. This legal responsibility is set out in (s2(1)) of the Self and Custom Housebuilding Act 2015.

19. The Housing and Planning Act 2016 introduced the specific legal duty on authorities to provide at least a number of permissions for self/custom build homes based on a figure linked to the self-build register. Subsequent legislation, such as the Levelling Up and Regeneration Act (LURA) 2023 (s123) and the Biodiversity Gain Requirements regulations make it clear that there is ongoing commitment to this housebuilding sector. Significantly the LURA makes it clear that any past under-supply of permissions is rolled forward. This clarifies that simply taking people off the self-build register does not eliminate the requirement to provide at least an equivalent number of permissions.

20. While the legislation refers to the custom and self-build register as a primary consideration, councils are encouraged in policy to consider the wider strategic demand for self/custom build housing. Where there is a mismatch between the target dwelling types of those joining the register and the housing demand profile in an area, councils can help enable delivery of more size-appropriate and well-located plots through policies and actions.

Attempting to meet demand through supressing the self-build registers is not helpful in ensuring delivery.” (My emphasis)

Conclusion

40. Critically the LPA 5YHLS and the Self-Build Register are two separate and distinct metrics and they are not to be confused or be used on an interchangeable basis. The 5YHLS provides the total amount of housing that needs to be provided over the lifetime of the Local Plan and can run into thousands and thousands of market and affordable house types. However, the Self-Build Register only pertains to private individuals and not PLC or regional commercial housebuilders.

41. The LP is crucially silent on the provision of self-build and custom housing and due to the changes in National Policy and the Council's requirement to take on a portion of Leicester City Council's unmet housing need, it is unlikely the New Local Plan will be adopted until 2027 at the earliest and in the meantime, the LPA has a lawful duty to grant sufficient self-build approvals irrespective of any 5YHLS or existing settlement boundaries.

42. The Local Planning Authority are not meeting their statutory duty to permit a sufficient number of self-build and custom house-build schemes, and the appeal proposal would contribute to this supply. By the end of October 2026 and Base Period 11, the LPA will need to approve a minimum of 27 self-build plots to address the current and significant shortfall in the Self-Build Register. The evidence provided by Marrons in Appendix 2 of the DAS demonstrates the Council has only permitted 16 plots since 2016, an average of 2 per annum, and has yet to meet its statutory obligations in permitting sufficient plots to meet numbers of its register (within a 3 year period).

43. As a result and in considering this specific case, paragraph 11 d) (ii) fully applies, as although there would be some limited harm arising from the “ evolving changing appearance” of the appeal site, this could not be considered materially significant or detrimental, and instead would be wholly consistent with the recent residential planning history related this area of Ashby Road.

44. Based on the above, the adverse impacts of the appeal proposal do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole, particularly as the proposal is considered pass the test contained in Paragraph 11 d) (ii). Therefore, the appeal proposal does benefit from the presumption in favour of sustainable development where the proposal will contribute to reducing the current and increasing year on year shortfall of 17 self-build and custom plots within the Borough on a meaningful material basis, in terms of this specific material consideration within the planning balance.