

## **Land off Desford Lane, Ratby**

**Against the Refusal by Hinckley and Bosworth Borough Council of:**

***"Outline planning application for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point. All matters reserved except for means of access"***

### **Statement of Common Ground**

**between**

**Gladman & Bletsoe and Hinckley & Bosworth Borough Council**



**January 2024**

## CONTENTS

<b>1</b>	<b>Introduction .....</b>	<b>4</b>
1.1	Background.....	4
1.2	Parties.....	4
1.3	Additional Statements of Common Ground.....	4
<b>2</b>	<b>Background and Proposals .....</b>	<b>5</b>
2.1	Background to the Appeal.....	5
2.2	The Appeal Site and its Surroundings.....	5
2.3	The Proposal.....	6
2.4	Drawings Sought for Approval.....	7
2.5	Scale of Weight .....	7
<b>3</b>	<b>Planning Policy.....</b>	<b>8</b>
3.1	Development Plan.....	8
3.2	Relevant Policies .....	8
3.3	Most Important Policies .....	9
3.4	Emerging Hinckley and Bosworth Local Plan .....	9
<b>4</b>	<b>Matters of Agreement.....</b>	<b>10</b>
4.1	Introduction .....	10
4.2	Access.....	10
4.3	Affordable Housing .....	10
4.4	Air Quality.....	10
4.5	Arboriculture.....	10
4.6	Built Heritage and Archaeology.....	10
4.7	Delivery of the Site.....	11
4.8	Design and Layout .....	11
4.9	Drainage and Flood Risk.....	12
4.10	Ecology and Biodiversity.....	12
4.11	Economic Benefits .....	13
4.12	Footpaths and Public Rights of Way.....	13
4.13	Five-Year Housing Land Supply.....	13
4.14	Highways.....	14
4.15	Landscape.....	14
4.16	National Planning Policy Framework and Planning Practice Guidance .....	14
4.17	Noise.....	15

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4.18	Planning Obligations.....	15
4.19	Principle of Development.....	15
4.20	Public Open Space .....	15
4.21	Site and Settlement Sustainability .....	16
4.22	Site Status and Designations .....	16
4.23	Social Infrastructure.....	16
<b>5</b>	<b>Matters of Disagreement.....</b>	<b>18</b>
5.1	Introduction .....	18
5.2	Landscape/Character and Appearance .....	18
5.3	Locational Sustainability .....	18
5.4	Developer Contributions .....	18

## 1 INTRODUCTION

## 1.1 Background

1.1.1 This Statement of Common Ground (SoCG) has been drafted by Gladman & Bletsoe ('Gladman' or 'the Appellant') and agreed by Hinckley & Bosworth Borough Council ('HBBC' or 'the Council'). It relates to outline planning application 21/01295/OUT:

**“Outline planning application for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point. All matters reserved except for means of access”.**

1.1.2 This Statement of Common Ground has been prepared in accordance with the online Procedural Guide for Planning Appeals.

## 1.2 Parties

1.2.1 This final version of SoCG is jointly agreed by:

Signed Date

Date

16<sup>th</sup> January 2024

Name P. Dutton

## **On behalf of the Appellant**

Signed

Date

16 January 2024

Name \_\_\_\_\_

On behalf of Hinckley & Bosworth Borough Council

### 1.3 Additional Statements of Common Ground

1.3.1 It is in anticipated that separate Statements of Common Ground will be agreed on specific matters including landscape and highway matters.

## 2 BACKGROUND AND PROPOSALS

### 2.1 Background to the Appeal

- 2.1.1 The Appellant undertook a public consultation exercise prior to the submission of the application. The process of engagement allowed the Appellant to consider the concerns and suggestions of interested parties. Full details of the public consultation are set out in the Statement of Community Involvement submitted with the planning application [CD1.16].
- 2.1.2 An online pre-application meeting discussing the site took place on 21 January 2021 in order to understand initial views on the development. Written advice was subsequently issued, a copy of the advice is provided at CD4.
- 2.1.3 A chronology of relevant subsequent correspondence between the Appellant and the Council is set out in full in CD4.

### 2.2 The Appeal Site and its Surroundings

- 2.2.1 The boundary of the appeal site is shown on the Location Plan [CD1.02] submitted with the application.
- 2.2.2 The Site occupies part of a single, irregularly shaped arable field on the southwestern edge of Ratby. The Site's north-western boundary follows Desford Lane. The Site's northern boundary follows the tree belt adjacent to Ratby Sports Club. An area of informal open space and woodland, incorporating a stream, lies between the site's eastern boundary and residential properties situated off Park Road. As a factual position, it does not physically adjoin the settlement boundary of Ratby as shown on page 56 of the Site Allocations and Development Management Policies Development Plan Document.
- 2.2.3 The Site's southern boundary follows a tree belt, alongside a former railway, which separates the Site from the meadows and grassland fields which cover the base of the Rothley Brook valley. The western Site boundary follows the curtilage edge of Stonecroft Paving Centre (stoneworks).
- 2.2.4 The remainder of the western boundary is not defined on the ground but crosses the arable field alongside the route of public footpath R41. Public footpath R41 crosses the Site from Desford Lane southwards to follow the hedgerow and earth bund on the eastern edge of the stoneworks, before continuing southwards to Kirby Muxloe.

## 2.3 The Proposal

2.3.1 The Appellant seeks outline planning permission with all matters reserved except for access for a residential development comprising:

- Up to 225 dwellings;
- 40% affordable housing;
- Vehicular access point from Desford Lane;
- Highways improvements to Desford Lane;
- Significant areas of informal and formal public open space, with full details of composition to be agreed at Reserved Matters stage

2.3.2 Access to the site is intended to be achieved via a simple priority junction from Desford Lane. The proposed access arrangement is shown on submitted drawings Proposed Access Strategy – 1726/16 Rev E [CD2.11].

2.3.3 Further details of the works shown on submitted drawing and Proposed Access Arrangements – 1726/15 Rev H [C2.12]. Alongside the main site access, the proposed works on Desford Lane comprise:

- Realignment of part of Desford Road to accommodate visibility,
- Traffic calming measures and gateway features to the south of the site access,
- Introduction of a bus stop and layby both north and south of Desford Lane with associated pedestrian island,
- A 3m wide shared footway/cycleway and 0.5m wide verge along Desford Lane,
- Introducing street lighting on the approach to the access junction and between the access and the existing street lighting,
- White lining in the vicinity of the bridge,
- Introduction of a Toucan crossing on a raised table and relocation of 30mph speed limit south of the proposed crossing.

2.3.4 As the appeal is seeking outline planning permission, the precise housing mix is not yet set. The appellant has committed to providing 40% of properties as affordable housing.<sup>1</sup> Thus, if 225 homes were to be provided, 90 of these would be affordable dwellings.

2.3.5 The appeal application included a Development Framework Plan [CD1.03] and a Design and Access Statement (DAS) [CD1.06], demonstrating in outline how the appeal proposals could be accommodated on the site.

2.3.6 The Development Framework Plan is an illustrative summary of the reports submitted with the application. It indicates the provision of approximately 6.29ha of green infrastructure to include structural landscape planting, areas of informal and formal public open space with pedestrian/cycle routes links through the site, a sustainable urban drainage system and a children's play area.

## 2.4 Drawings Sought for Approval

2.4.1 The drawings for which planning permission is sought are:

<b>Drawing Ref.</b>	<b>Drawing Name</b>	<b>CD Ref.</b>
CSA/5249/108/Rev B	Location Plan	CD1.02
1726/15 Rev H <sup>2</sup>	Proposed Access Arrangements	CD2.11
1726/16 Rev E	Proposed Access Strategy	CD2.12
1726/19 Rev C	Proposed Toucan Crossing	CD2.13

## 2.5 Scale of Weight

2.5.1 The agreed scale of weight is as follows:

- Full weight
- Significant weight
- Moderate weight
- Limited weight
- No weight

<sup>1</sup> In accordance with the definition of affordable housing in the National Planning Policy Framework (September 2023).

<sup>2</sup> LCC Highways Consultation Response refers to Rev G but this was updated to Rev H when 'Indicative' was removed at request of the Council Case Officer.

### 3 PLANNING POLICY

#### 3.1 Development Plan

3.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

3.1.2 The development plan documents for Hinckley and Bosworth Borough Council of relevance to the appeal are the Core Strategy (2009), Site Allocations and Development Management Policies DPD (2016), and Leicestershire Minerals and Waste Local Plan (LMWLP, 2019).

#### 3.2 Relevant Policies

3.2.1 The parties agree that the following policies are of relevance in the determination of the appeal:

Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Relating to Leicester
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding

- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation

*Leicestershire Minerals and Waste Local Plan (2019)*

3.2.2 It is agreed that there are no policies of the Leicestershire Minerals and Waste Local Plan (2019) that are considered relevant to the determination of the appeal proposals.

### 3.3 Most Important Policies

3.3.1 The parties agree that the 'most important' policies for the determination of the appeal are:

*Hinckley and Bosworth Core Strategy*

- Policy 7
- Policy 8

*Site Allocations and Development Management Policies.*

- DM1
- DM4
- DM10
- DM11
- DM12
- DM17

### 3.4 Emerging Hinckley and Bosworth Local Plan

3.4.1 As the emerging Hinckley & Bosworth Local Plan is not at an advanced stage of preparation and given the extent of unresolved objections, the parties agree it should be afforded limited to no weight.

## 4 MATTERS OF AGREEMENT

### 4.1 Introduction

4.1.1 This section sets out the matters on which both parties agree and therefore the following matters are not considered to be an issue for this appeal except where otherwise stated.

### 4.2 Access

4.2.1 The design of the vehicular access for the site is shown on the submitted access arrangement plans - 1726/16 Rev E and 1726/15 Rev H [CD2.11, CD2.12].

### 4.3 Affordable Housing

4.3.1 The proposals will secure 40% of the proposed dwellings as affordable homes. The parties agree that this is compliant with Policy 15 of the Core Strategy (2009).

4.3.2 The parties agree that the provision of affordable housing is a benefit of the proposals, that should be attributed significant weight in the planning balance.

### 4.4 Air Quality

4.4.1 The application is supported by an Air Quality Assessment [CD1.14]. It is agreed that there are no material reasons in relation to air quality why the proposed development should not proceed.

4.4.2 With the implementation of mitigation measures, secured by condition, the dust impacts from construction would have no significant residual effects on air quality.

### 4.5 Arboriculture

4.5.1 The application was supported by an Arboricultural Impact Assessment (CD1.09) which considers the implications created by the proposed development.

4.5.2 The appeal site will be able to provide an increase in tree and hedgerow cover at Reserved Matters stage.

4.5.3 There are no objections on arboricultural grounds.

### 4.6 Built Heritage and Archaeology

4.6.1 The site is not in a Conservation Area.

4.6.2 In accordance with Policy DM11(c) of the SADMP and paragraph 208 of the NPPF the less than substantial harm caused to Ratby Conservation Area and the Grade II Listed Church of St Philip and St James by the proposal should be weighed against the public benefits. In completing this balancing exercise great weight should be given to the conservation of heritage assets as required by paragraph 205 of the NPPF.

4.6.3 In accordance with paragraph 208 of the Framework, it is agreed that the less than substantial caused to the Ratby Conservation Area and the Grade II Listed Church of St Philip and St James would be outweighed by the public benefits arising from the appeal proposals.

4.6.4 It is agreed that the appeal site does not form part of a 'view to be protected' or a 'vista to be protected' identified in the Ratby Conservation Area Management Plan. It is agreed that the appeal site does not form part of views identified in the Ratby Village Design Statement.

4.6.5 It is agreed that the Ratby Conservation Area Appraisal does not identify Desford Lane adjacent to the Appeal Scheme as a rural approach to Ratby Conservation Area. It is agreed that the Ratby Village Design Statement does not identify Desford Lane as a rural approach to Ratby in the context of a heritage assessment of Ratby Conservation Area.

4.6.6 It is agreed that the Ratby Conservation Area is not surrounded by open countryside.

4.6.7 A geophysical survey was completed on the site (see CD2.14). No prehistoric or Roman finds or features are recorded within or adjacent to the Site and no anomalies of likely archaeological interest were identified during the geophysical survey. .

4.6.8 It is agreed any further archaeological investigation can be secured by planning condition.

#### 4.7 Delivery of the Site

4.7.1 It is agreed that there are no technical reasons the appeal site could not deliver quickly. The proposed development could make a significant contribution to the delivery of market and affordable housing to meet the needs of the HBBC authority area.

#### 4.8 Design and Layout

4.8.1 The parties agree that, as the application is in outline only, save for access, the approval of layout, scale, design and landscaping should be considered at reserved matters application stage.

4.8.2 The Development Framework Plan [CD1.03] indicates one way in which the site could be laid out to achieve up to 225 dwellings on the site.

4.8.3 The site will accommodate green infrastructure, open space and sustainable drainage infrastructure. It is recognised that the information provided at this stage is illustrative and that the reserved matters stage would consider the exact number of dwellings (up to maximum of 225), the hierarchical structure of the street layout, landscaping and associated infrastructure and other detailed matters.

## 4.9 Drainage and Flood Risk

4.9.1 The majority of the appeal site and all proposed development is located within Flood Zone 1 as defined by the Environment Agency, being at least risk of flooding. A small part of the site, predominantly at the southern boundary is within Flood Zones 2 and 3, however no development is located within this area.

4.9.2 There is no objection on any matters relating to flooding issues. The Lead Local Flood Authority has recommended that conditions be attached.

4.9.3 A Sustainable Drainage System is proposed on-site and will discharge water in the existing network at the greenfield run off rate and not exacerbate any flooding issues downstream.

4.9.4 Detailed design of surface water drainage can be secured through a suitably worded planning condition.

4.9.5 On-going maintenance of the surface water mitigation measures would be undertaken by a Management Company that could be established through a S106 obligation and conditions.

4.9.6 There is no requirement for an off-site foul drainage condition.

## 4.10 Ecology and Biodiversity

4.10.1 The proposal will retain and increase in extent the on-site habitats of greater ecological value, incorporating them into the green infrastructure or public open space.

4.10.2 The biodiversity of the site will be protected, diversified and improved through new hedgerow and tree planting and the delivery of new garden spaces and formal and informal green spaces. The parties agree that the proposed development is capable of achieving a net gain in biodiversity on-site with a 11.51% gain in habitat units and 9.11% gain in hedgerow units.

4.10.3 Mitigation measures are proposed to minimise impacts to aquatic habitats and notable species both on and offsite.

4.10.4 It is agreed that measures to enhance areas of the site which have ecological importance, as well as mitigation measures to minimise any potential impacts on wildlife, can be secured through planning conditions.

## 4.11 Economic Benefits

4.11.1 Both parties agree that the proposal will generate economic benefits. Economic benefits of the development are set out in the Socio-economic Benefits Statement [CD1.17] and will deliver an estimated (at 2019 prices):

- £21m in construction spend
- £8.1m contribution to GDP
- New residents could generate gross expenditure of £6.3m per annum a proportion of which would be spent in local services and facilities

4.11.2 It is agreed that the economic benefits of the appeal proposals should be afforded moderate weight.

## 4.12 Footpaths and Public Rights of Way

4.12.1 A PRoW (R41) lies inside the appeal site on its western boundary. Its upgrade can be secured by condition.

4.12.2 The appeal proposals will not result in any permanent diversion of the PRoW.

4.12.3 Through development of the appeal site and improvements to Desford Lane, PRoW R41 and R42 will be connected by footway which they are not currently. This is material benefit only realised by the development of the appeal site.

## 4.13 Five-Year Housing Land Supply

4.13.1 The parties agree that the strategic policies for Hinckley & Bosworth Borough are more than five years old and consequently, the local housing need figure (based upon the standard method in national planning guidance) should be used for the purposes of calculating five-year housing land supply.

4.13.2 Both parties note the removal of the 5% buffer requirement in the most recent version of the National Planning Policy Framework. Owing to the 1<sup>st</sup> April 2022 base date of the Council's latest five-year land supply assessment and the requirement to update annually a five-year supply of specific deliverable housing sites, it is agreed that the Council is unable currently to demonstrate a five-year housing land supply.

4.13.3 It is also agreed that the provisions of paragraph 226 of the Framework and the requirement to demonstrate a four-year deliverable housing land supply do not apply in HBBC's position.

4.13.4 It is agreed that as the Council cannot demonstrate a five-year supply of housing sites, paragraph 11d) of the Framework is engaged unless any restrictive policies at footnote 8 of the Framework apply.

4.13.5 It is agreed that there are no policies in the Framework which indicate that development should be restricted on the appeal site and therefore the tilted balance at paragraph 11(d)(ii) is engaged.

4.13.6 The parties agree that the provision and delivery of market housing is a benefit of the proposals that should be afforded significant weight.

#### 4.14 Highways

4.14.1 The parties agree that a safe and suitable access to the development can be achieved off Desford Lane.

4.14.2 There are no objections on highways grounds from the Local Authority or the Local Highways Authority, Leicestershire County Council.

#### 4.15 Landscape

4.15.1 The site is not covered by any statutory designations for landscape character or quality.

4.15.2 The proposal is also supported by a Landscape Visual Impact Assessment (LVIA).

4.15.3 The appeal proposals conflict with Policy DM4. It is agreed that this policy is out of date; the parties' respective views on Policy DM4 are set out in evidence.

#### 4.16 National Planning Policy Framework and Planning Practice Guidance

4.16.1 It is agreed that the National Planning Policy Framework and Planning Practice Guidance are important material considerations in the determination of this appeal.

4.16.2 The parties agree that paragraph 11d of the NPPF is relevant and the "*Presumption in Favour of Sustainable Development*" applies and the "tilted balance" is engaged in the determination of the appeal. The parties agree this is the case irrespective of HBBC's land supply position.

4.16.3 The weight to be attached to relevant policies in the adopted and any emerging development plan needs to be considered having regard to the degree of consistency of those policies with the NPPF, in accordance with the advice set out in paragraphs 48 and 225 of the Framework.

#### 4.17 Noise

4.17.1 It is agreed that the site does not require any further detailed noise monitoring or noise modelling at outline stage to assess the impact of noise, either existing or a result of the development, and that there is no noise-related reason that should preclude the development.

#### 4.18 Planning Obligations

4.18.1 Both parties agree that planning obligations are required towards local infrastructure to mitigate the impacts of the development.

4.18.2 It is agreed by both parties that all planning obligations must be reasonably related in scale and kind to the proposed development and must also meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

4.18.3 There is no objection on any infrastructure grounds from any statutory consultee.

#### 4.19 Principle of Development

4.19.1 For the purposes of the development plan, the site lies beyond the formal settlement boundary for Ratby. It is within 'open countryside' in planning policy terms.

4.19.2 Ratby is categorised as a Key Rural Centres relating to Leicester and is a suitable settlement in which to accommodate housing growth.

4.19.3 The development of up to 225 dwellings in this location does not constitute an inappropriate level of development for the village.

4.19.4 It is agreed between the parties that due to the absence of a five-year housing land supply and the restrictive nature of the strategic policies governing development outside settlement boundaries, that the most important policies for the determination of this appeal are out of date.

4.19.5 The parties also agree that Core Strategy Policies 7 and 8 and Site Allocation and Development Management Plan Policy DM4 are out-of-date notwithstanding HBBC's housing land supply position. Further commentary on the parties' views on these policies is set out in evidence.

#### 4.20 Public Open Space

4.20.1 The scheme proposes circa 6.29ha of green infrastructure, including public open space. Details of layout, maintenance and management of on-site public open space would be secured through planning conditions and/or a planning obligation.

4.20.2 Policy 19 of the Core Strategy (2009) sets out the standards that will be required in relation to green space and play provision in the borough. The Development Framework Plan [CD1.03] and the Design and Access Statement [CD1.06] demonstrate that the proposed green space and play provision (circa 6.29ha) exceeds the open space requirements necessitated by Policy 19.

## 4.21 Site and Settlement Sustainability

4.21.1 The proposed development site lies adjacent to the settlement of Ratby. It does not adjoin the settlement boundary of Ratby as shown on page 56 of the Site Allocations and Development Management Policies Development Plan Document.

4.21.2 It is agreed that Ratby is a Key Rural Centres relating to Leicester and that the facilities shown on Figure 5.1 of the Transport Assessment (TA) [CD1.12], reflect those available in Ratby.

4.21.3 Figure 5.1 of the TA identifies that a number of amenities are within an 800m and 1600m walk of the Site. There are a few additional amenities within the wider area and a 2000m walk of the Site, including sports grounds/clubs and playgrounds, The Brookvale High School and Groby Community College are just beyond a 2000m walk of the Site.

4.21.4 Walk distances between Ratby's services and amenities and the appeal site are to be set out within a separate Accessibility SoCG

## 4.22 Site Status and Designations

4.22.1 The two parties agree that the appeal site;

- Comprises agricultural land;
- Is in the 'countryside';
- The site is not situated within any nationally or locally designated area, including Conservation Area, Special Area of Conservation or Special Landscape Area.

## 4.23 Social Infrastructure

4.23.1 There is no objection on impact on Infrastructure.

4.23.2 There are no grounds to reject the proposal because of any unacceptable adverse impact on local services and infrastructure. The proposal complies with all development plan document policies in this respect.

4.23.3 Payments toward community and social infrastructure will be secured in the Section 106 obligation submitted to Inquiry.

## 5 MATTERS OF DISAGREEMENT

### 5.1 Introduction

5.1.1 This section of the SoCG sets out the areas of disagreement between the appeal parties.

### 5.2 Landscape/Character and Appearance

5.2.1 The parties disagree about the level of landscape harm that would be caused by the appeal proposals.

### 5.3 Locational Sustainability

5.3.1 The parties disagree on whether the site provides convenient access for pedestrians to services and facilities and minimises the need to travel.

### 5.4 Developer Contributions

5.4.1 The parties disagree on whether the developer contributions and open space secured in connection with the appeal proposals would be a benefit in the planning balance and to new and existing residents of Ratby alike.