

Town and Country Planning Act 1990 (as amended)

Land East of The Common, Barwell

**Statement of Case on behalf of Redrow Homes Ltd
(Harrow Estates Division)**

CD-A-3

Appeal reference: APP/K2420/W/24/3348387



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Reference: HARR-05

LPA ref: 23/01229/ OUT

Pins Ref: APP/K2420/W/24/3348387

1. Introduction

1.1 Ryan & May, Chartered Town Planners, are instructed by Redrow Homes Ltd (Harrow Estates Division) ('the Appellants' or 'Harrow'), to prepare this appeal against the decision of Hinkley and Bosworth Borough Council ('HBC' or 'the Council') to refuse an application for outline planning permission to develop land East of the Common, Barwell, for up to 95 dwellings and associated infrastructure.

1.2 This is a good scheme and one that should be allowed to go ahead in order to meet the urgent need for new and better housing in Barwell, including the provision of good quality affordable housing.

1.3 In her statement made when publishing the consultation on the NPPF, the Deputy Prime Minister, and Secretary of State for Housing, Communities and Local Government said:

We are in the middle of the most acute housing crisis in living memory. Home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home.

There is no time to waste. It is time to get on with building 1.5 million homes.

1.4 The appeal application, reference 23/01229/OUT, can do just that. It is made by one of the country's leading home builders, with decades of experience in delivery of high quality development.

1.5 The application sought outline planning permission for the following description of development:

"Demolition of all buildings on site and development of up to 95 dwellings, together with associated access, open space and landscaping"

1.6 The appeal application was submitted in December 2023 and registered by the Council on 20 December 2023. It comprised a comprehensive range of technical and supporting documents; further supplementary information in response to queries from the highway authority was submitted to HBC on 30 April 2024. The final list of documents as determined by HBC (the 'appeal documents') is listed at **Appendix 1** (individual appeal application documents are referred to in this Statement as **CD-A-1, CD-B-1** etc following the numbering convention set out in the accompanying draft list of Core Documents).

1.7 This Statement comprises the Appellant's Statement of Case (SoC) and has been prepared having regard to the Planning Inspectorate's most recent Procedural Guidance. It has been prepared with technical input from the following members of the Appellant's professional project team:

- | | |
|--|------------------|
| • Urban Design | Urban Design Box |
| • Landscape and Visual (including Green Wedge) | Pegasus |
| • Transport | Stantec |
| • Socio-Economics | Turley |
| • 5 Year Housing Land Supply | Ryan & May |

1.8 Statements from each of these disciplines are appended to this SoC, setting out the experience and credentials of the authors, who will attend the hearing and take part in hearing sessions and roundtable discussions. Each statement in the appendix confirms the most up to date position with regard to the issue covered, including setting out any changes in circumstances since the application was determined by the LPA.

- 1.9 Unless explicitly stated in this SoC the documents (plans and supporting statements) submitted with the planning application remain relevant and are to be read alongside this SoC. In particular the Planning Statement (**CD-B-5**) and its appendices (**CD-B-6**); the Design and Access Statement (**CD-B-7**); Design Code (**CD-B-8**); Transport assessment (**CD-B-9**); Travel Plan (**CD-B-10**); Socio-Economic Report (**CD-B-11**) and Landscape and Visual Impact Appraisal (**CD-B-12**) with its appendices (**CD-B-13**) all form part of the Appellants case.

2. Description of the Appeal Site and Surroundings

The Appeal Site

- 2.1 The appeal site comprises land of 10.92ha. located immediately adjacent to the southern and eastern edges of Barwell. It is bound by existing housing and industrial premises on The Common and Garner Close to the west and housing on Dawson's Lane to the north. It comprises an area of gently sloping grazing land on the eastern side of The Common at Barwell. The land is tenanted for horsey-culture, with fields producing hay and grazing land and there is no public access.

The red line boundary plan of the appeal site is at **Appendix 2 (CD-B-1)**.

- 2.2 The town centre of Barwell is located a fifteen-minute walk to the north-west of the application site. It contains a range of shops, services and community uses, which are adequate for day-to-day needs, but which require a greater population to fully support them. The 'historic core' of the town centre is now badly run down and has been subject of unsympathetic interventions.
- 2.3 Schools, a medical centre, pharmacy, sports and community facilities are all located within a 20-minute walk of the site and accessible via the existing footpath network. The site is also located within a suitable distance of bus and rail services which provide connections to destinations further afield including Hinckley, Earl Shilton, and Leicester for wider employment, leisure, and retail opportunities.
- 2.4 There are no Scheduled Monuments, Listed Buildings, Conservation Areas, or other designated heritage assets of national importance within the appeal site. It lies entirely within Flood Zone 1 and on-site physical constraints are limited to the retention of existing hedgerows and trees.

Barwell and the Borough in Context

- 2.5 Hinkley and Bosworth is a largely rural borough in south-west Leicestershire. The majority of its residents live in the urban areas of Hinckley, Burbage, Barwell and Earl Shilton all located in close proximity to one another in the south-west of the borough. Hinckley functions as a sub-regional centre, with the closely-connected Burbage, Barwell and Earl Shilton supporting the primary retail, employment and leisure facilities in the main town whilst providing local services for their immediate populations.
- 2.6 The Socio-Economic Report accompanying the appeal application describes the how several parts of Barwell and Earl Shilton remain amongst the most deprived in Leicester and Leicestershire. There is a lack of variety in the housing offer, with semi-detached properties dominating and relatively few households living in larger homes. The Report identifies a range of key local challenges for Barwell and it's immediate neighbour Earl Shilton:
- The rate of population growth in Barwell and Earl Shilton has markedly slowed since 2011, contrasting with the previous decade when it outpaced the wider borough.
 - Increasingly few residents are now of working age and fewer households have children, whereas the number of older residents has grown rapidly.
 - Parts of Barwell and Earl Shilton continue to rank amongst the most deprived neighbourhoods in Leicester and Leicestershire.
 - While residents of Barwell and Earl Shilton are increasingly skilled, fewer still possess a degree-level qualification compared to the wider borough, and they remain more likely to be working in lower-paid roles.
 - There is a lack of variety in the housing on offer in Barwell and Earl Shilton, with semi-detached properties dominating and relatively few households living in larger properties.

- Retailers in Barwell in particular continue to face challenges, with vacancy rates across its retail units consistently being amongst the highest in the borough.

2.7 Those challenges led the Council to identify Sustainable Urban Extensions (SUEs) to deliver significant growth in each settlement and act as a catalyst for their regeneration (see Section 4).

2.8 Beyond the urban settlements in the south-west, the remaining parts of the borough are generally rural in character and comprise a large number of small – medium-sized villages surrounded by farmland. Some of the larger villages are identified as Key Rural Centres providing necessary day-to-day services for local residents.

3. Background to the Appeal

- 3.1 The entire site, including the land to the south (blue edge), is in the single control of the Appellant, Harrow Estates which is a Redrow Group Company.
- 3.2 Redrow is a national housebuilding company that is committed to early delivery on sites with planning permission. The company aims to submit first reserved matters in accordance with the illustrative masterplan within 12 months of obtaining consent and is willing to agree to a condition requiring the submission of all reserved matters for the market and affordable homes within 18 months enabling construction to commence immediately with an anticipated build-out period of c.3years.
- 3.3 Harrow has promoted the land as an allocation for housing development through the emerging local plan process and it has been identified as a Developable Site in the SHELAA¹.

Relevant Planning History

- 3.4 Prior to Harrow ownership the site was in the control of Gladman who made an application for c.185 dwellings in 2017. That application was refused by H&BC for four reasons, including highways; by the time that the inquiry was held, negotiations had resulted in these being reduced to a single reason for refusal relating to the impact of the development on the character and appearance of the area and the Green Wedge (Appeal ref: APP/K/2420/W/17/3188948) [CD-D-1].
- 3.5 A second planning application for up to 110 dwellings was submitted by Harrow Estates in 2021; an appeal was lodged on the grounds of non-determination and dismissed by the Inspector on 27th March 2023 (Appeal ref: APP/K2420/W/22/3295558). [CD-D-1]
- 3.6 In each case the outcome of the appeals turned upon the impact of the development on the character and appearance of the area and the Green Wedge. In the second appeal, it is clear that the Inspector based her judgement of impact on local character on an in-house 'testing layout'. This was not a formal application document and was prepared only as part of the visually verified (3D) montage exercise to test visual impact. The Inspector's key conclusion being that she was *"not satisfied that a development of the quantum of houses proposed could be accommodated on the site in a manner which would respect the character and appearance of the area."*²
- 3.7 The appeal decisions set out two important conclusions relevant to the Council's reasons for refusal of the appeal application; that the development would:
- Not harm the function of the Green Wedge in preventing the merging of settlements³; nor
 - Result in an unacceptable impact on highways.

Housing Supply Context in Hinkley and Bosworth

- 3.8 The adopted development plan documents were prepared on the basis of a housing requirement for H&BC of 450 dwellings per annum (dpa). The Core Strategy was adopted in 2009, its strategic housing policies are clearly out-of-date having regard to the NPPF; this has been accepted by the LPA in a number of recent appeals. Accordingly, the Standard Housing Method (SHM) provides the starting point for determining the strategic housing requirement for the Borough; it currently points to a minimum housing requirement of 468dpa (see **Appendix 6**).

¹ Strategic Housing and Employment Land Availability Assessment 2024 [CD-E-2]

² Appeal ref: APP/K2420/W/22/3295558, [CD-D-2, para 16]

³ Ibid, paragraph 27

- 3.9 In June 2022, the Leicestershire authorities published a joint Statement of Common Ground in which they recognised and agreed that:

“Leicester City Council is the only authority in the Housing Market Area HMA to have declared and quantified (with evidence) an unmet [housing] need 2020 to 2036. Assisting Leicester to meet its unmet need is therefore a key element of the Duty to Co-operate across the HMA”⁴

- 3.10 The level of unmet housing need in Leicester City (LC), at that time, was calculated as 18,700 homes. Accordingly, the Leicestershire authorities agreed there should be a redistribution of LC’s unmet housing need across the wider area, resulting in a redistributed housing provision in the majority of Boroughs and a higher figure than the SHM starting point.
- 3.11 At a meeting of the full Council on 30 January 2024, H&BC agreed to become a signatory to the Statement of Common Ground and provided a commitment to accommodate 102dpa towards meeting Leicester City Council’s unmet housing needs; this raised the annual requirement to 574dpa for the period 2020 - 2036.
- 3.12 Subsequently, the Council has carried out a Reg 18 consultation on the new local plan in which it sets out a housing requirement of 660dpa for the period 2020 – 2041, reflecting H&BC’s own basic needs under the current SHM plus a contribution towards meeting part of Leicester City Council’s unmet need⁵.
- 3.13 In July 2024, Government published a consultation on proposed revisions to the NPPF, including a revised methodology for calculating the SHM. For H&BC the outcome of the revised SHM calculation is a basic (minimum) requirement for 689dpa.

5YHLS

- 3.14 An analysis of the current position on 5YHLS has been prepared by Mrs Ryan for this appeal and is attached as **Appendix 6**.
- 3.15 In summary, the Council’s latest assessment of deliverable supply is contained in the 5YHLS Statement that was published in June 2024 [CD-E-9]; it has a base date of 1 April 2023. The Statement claims to have identified a deliverable supply of 5.6 years’ calculated against a SHM figure of 433dpa and without the application of a buffer. Mrs Ryan explains, in Appendix 6, that the 5YHLS Statement contains an error in the calculation under the SHM and that the minimum annualised requirement at the base date is, in fact, 468dpa.
- 3.16 The accompanying Schedule of Sites also includes some that do not meet the definition of ‘deliverable’ as set out in the Glossary to the Framework.
- 3.17 The Council’s calculation of the 5YHLS is based on the current SHM (erroneously applied) and excludes H&BC’s commitment to also provide at least 102dpa towards meeting LC’s unmet housing needs (see paragraph 3.10 above). Nor does it apply a 5% buffer or consider the effects of the revised SHM set out in NPPF24C. Appendix 6 carries out a comparative 5YHLS calculations taking each of those factors into account; this is discussed further in Section 7 below.

Affordable Housing

- 3.18 Historically, the Council has failed significantly to deliver sufficient affordable housing across the Borough. The most up-to-date evidence⁶ indicates that the total affordable housing need in the Borough is 498dpa comprising 321dpa affordable rent and 177 affordable ownership.

⁴ Leicester and Leicestershire Authorities Statement of Common Ground relating to Housing and Employment Needs (June 2022),[CD-E-5 paragraph 3.13]

⁵ Draft Hinckley and Bosworth Local Plan (July 2024) [CD-C-13, draft policy SP02].

⁶ Leicester and Leicestershire Housing and Employment Needs Assessment, June 2022 [CD-E-6]

3.19 The housing affordability indicators show a bleak situation in H&B for anybody in affordable housing need. A Report to the Council's Scrutiny Committee in July 2022 set out that the number of applications to join the Council's social housing register and the demand for affordable rental properties is increasing year on year; waiting times are lengthy and there is insufficient stock available. The demand is highest for one-bedroom flats, and two and three-bedroom homes, with the majority of applicants stating a preference for Hinkley, Burbage, Barwell and Earl Shilton⁷

New local plan

3.20 The Council commenced preliminary work on preparation of the new local plan in early 2018 with a consultation on Scope and Issues and Options. A consultation on 'New Directions for Growth' followed in early 2019. The Regulation 18 Plan was subject of consultation in summer 2021, and the Submission Plan (Regulation 19) in Spring 2022.

3.21 The Council decided not to proceed to submit the plan to the Secretary of State for examination pending discussions with Leicester City and the Leicestershire authorities to meet part of LC's unmet needs under the Duty to Cooperate.

3.22 At their meeting of 16th July 2024, the full Council resolved to carry out a new Regulation 18 consultation on the emerging local plan. The new plan:

- Includes Barwell in the second tier of the settlement hierarchy – as part of the urban area of Hinkley which is the only tier-one settlement;
- Sets out a spatial strategy of directing the majority of new housing development to the tier one and two settlements; and
- Aims to deliver 13,862 dwellings over the plan period 2020 – 2046 at an average of 660dpa

3.23 Consultation on the new Reg 18 plan took place between in August/September 2024. Detailed representations were submitted to the emerging plan on behalf of Harrow as summarised below:

- Supports the Vision, Spatial Framework and Objectives of the plan, but raises concerns that the draft policies do not provide an appropriate and realistic framework within which that Vision can be achieved.
- Draws attention to the Government's recent consultation on revisions to the NPPF (NPPF24C) which sets out a revised approach to calculating the SHM (the 'new SHM') resulting in a strategic requirement figure for H&BC of 698dpa. This arises through the proposed removal of the urban centres uplift (NPPF, paragraph 62) and has broadly the same effect of redistributing Leicester CC's housing needs to the boroughs as set out in the SoCG.
- States that the increased housing requirement and over-reliance upon delivery from large strategic sites will result in a situation where the plan is unable to demonstrate a deliverable 5YHLS at the point of adoption; this is contrary to national planning policy and guidance⁸.
- Recognises that development of the Barwell SUE is identified by the Council as a key component to meeting the regeneration objectives for the town. However, it is also clear that there are significant challenges to its delivery and the site is unlikely to provide any new housing for many years (if at all). In the meantime, the level of new housing that is being brought forward in Barwell is limited and has failed to broaden the range and type of accommodation that is available – including large family

⁷ Report to Scrutiny Committee, July 2022, [CD-E-7,para 6.5]

⁸ NPPG, Paragraph: 008 Reference ID: 68-008-20190722

homes, aspirational homes and affordable housing, or address the long-held regeneration strategy for the town.

- Objects to the draft Green Wedge policy (SP21) which does not provide the flexibility for development to come forward that does not significantly impact on the function and objectives of the Green Wedge; – the policy is too restrictive and, effectively, as stringent as Green Belt. It is also inconsistent with the justification to the policy.

- 3.24 A copy of the representations made on behalf of the Appellants is included as a Core Document (**CD-C-14**)
- 3.25 The Appellants have been fully engaged in the development plan process having made representations to the original round of Reg 18 and Reg 19 consultations in 2021/22; and submissions to the ‘call for sites’ exercise. The appeal site is included as a developable sites in the latest Strategic Housing and Employment Land Availability Assessment [**CD-E-2, site LPR75**].

The appeal application

- 3.26 The appeal application was submitted to HBC on 19 December and validated by the Council on 20 December 2023. It was accompanied by an extensive suite of supporting documents including: Planning Statement (**CD-B-5**), Design and Access Statement (**CD-B-7**), Design Code (**CD-B-8**), illustrative masterplan (**CD-B-4**), parameter plan (**CD-B-3**), Landscape and Visual Impact Assessment and associated appendices **CD-B-13 & 13**); Transport Assessment and Framework Travel Plan (**CD-B-9 & 10**), Ecology Reports (**CD-B-17**), and Socio-Economic Assessment (**CD-B-11**).

A schedule of all of the appeal application documents is at **Appendix 1**.

4. The Appeal Scheme

- 4.1 The development scheme is described in detail in the Application documents that form part of the Appeal; in the Design and Access Statement (**CD-B-7**), Draft Design Code (**CD-B-8**), Landscape and Visual Impact Assessment and associated appendices (**CD-B-12 & 13**) and Planning Statement (**CD-B-5**).
- 4.2 The appeal application is made in outline with all matters, except for access, reserved. It is for the development of up to 95 dwellings, together with associated access, open space and landscaping. Full details of the vehicular access from The Common are submitted for approval. It is supported by an Illustrative Masterplan which sets out the Appellant's particular proposals for the site, including strategic landscaping.
- 4.3 Built development (houses and roads infrastructure) will occupy approximately 3.9ha of land, while the greatest part of the site, approximately 7.0 ha, will be dedicated to open space including meadow grassland, SUDS features, hedges and woodland.
- 4.4 The proposed housing mix generally reflects the broad housing mix for the Borough identified in the LLHEDNA⁹, focussing on 2 and 3-bedroom affordable housing and larger market housing of 3 and 4-bedrooms. A higher proportion of 4-bedroom homes is proposed reflecting the Council's aspirations for regeneration of Barwell through, inter alia, broadening the housing offer and increasing the provision of larger family homes to attract and retain higher-worth households.
- 4.5 During the course of consideration of the application the percentage of Affordable Housing was increased to 35%, together with 5% custom/self-build. The proposed schedule of development is now as set out in Table 4.1 below.

Table 4.1 – Schedule of Development

Total site area 10.92 Ha				
Housing and roads – approximately 3.9 Ha				
	2-bed	3-bed	4-bed	Total
Open Market Housing		28	29	57
Affordable Housing	15	18		33
Self/Custom Build		2	3	5
Total	15	48	32	95
Open Space – approximately 7 Ha				

Design Evolution

- 4.6 The appeal application was prepared to address those matters identified by the Inspector in the latest appeal (see para 3.5 above) by demonstrating, through an informed and revised master-planning approach, how the development could be accommodated on the site in a manner that respects the character and appearance of the area. As a whole it is focussed on the end quality of the development and the part it can play in enhancing the built, social and economic environment of Barwell.

⁹ Leicester and Leicestershire Housing and Employment Needs Assessment, July 2022 [**CD-E-6, Table 6.1**]

- 4.7 The team has engaged in a bottom-up landscape and visual impact design-led approach that results in a high-quality scheme and an informed Outline application, supported by a robust Design Code. The Appellant's aim is to then deliver a scheme that widens the socio-economic profile of Barwell and creates an attractive village-fringe residential development.
- 4.8 The approach to the design evolution of the appeal scheme has been markedly different to its predecessors in that:
- 4.8.1 The site now takes in an additional field adjoining the built-up area, such that the whole of the proposed development is a logical and naturally seamless extension of the village. It excludes a field on its southern periphery, furthest from existing built form, that was previously proposed for development. That field remains in the control of the Appellant and can be dedicated to BNG improvements.
 - 4.8.2 The density of development has been reduced to less than 27dph to enable the provision of higher quality 3 and 4-bed family housing. This will help to broaden the housing offer in Barwell and, in turn, raise the socio-economic profile and support the economic regeneration of the town.
 - 4.8.3 The overall number of dwellings proposed has been reduced. Whereas previous proposals were made for developments of over 100 units on the site, this application is limited to 95 – that number being the out-turn product of the masterplanning process.
 - 4.8.4 The proportion of those 95 units dedicated to the delivery of Affordable Housing has increased and is in excess of the Council's (20%) policy requirement. This scheme will now deliver 35% Affordable homes, the equivalent of 33 new homes. In addition, the scheme will deliver 5% custom / self-build plots (5 dwellings).
 - 4.8.5 The layout of new homes has been designed from the starting point of retaining trees and hedgerows wherever possible; mitigating any potential visual impact upon any short, medium and long-range views; and providing for greenways allowing residents and visitors to connect directly with the countryside.
 - 4.8.6 The illustrative masterplan has been prepared and fully tested across the whole design team to ensure that the exceptional design quality envisaged by the Appellant can be guaranteed in the future delivery of Reserved Matters submissions. That quality will be secured through an approved Design Code.
- 4.9 The Appellant's aim is to deliver a scheme that widens the socio-economic profile of Barwell and creates a beautiful village-fringe residential development. The illustrative masterplan (**CD-B-4**) shows how this can be achieved and is then translated into fixed parameters (**CD-B-3**) for approval. The LVIA (**CD-B-12**) has been based upon those parameters identified integrally between the landscape and the urban design teams, and illustrated as such through the DAS and parameters plans of the Design Code (**CD-B-8**). The validity of this approach is confirmed in the statements by Urban Design Box and Pegasus at **Appendix 11** and **9** respectively.

5. The Council's Consideration of the Application

- 5.1 Both prior to submitting the application and during the Council's consideration of the proposals, the Appellants sought to engage with the planning officer on numerous occasions in order to discuss, in particular, the design approach as described in Section 4.
- 5.2 The Appellant's transport consultants also made efforts to engage with Leicestershire County Council as highways authority, initially through scoping of the Transport Assessment and more latterly in order to understand their 'substantive response' to the application. The highway authority did not engage in any direct discussions with the appellants and issued an objection to the application that is reflected in the second reason for refusal.
- 5.3 Only one meeting was held with the planning officer, on 15 April 2024, at which there was a broad discussion on matters of landscape and visual impact to the Green Wedge, planning benefits to be weighed in the decision-making balance, and the response of the highway authority. The Appellants wrote to the Council following that meeting to summarise the points discussed. There was no meaningful response from the planning officer following that meeting and correspondence.
- 5.4 The application was subsequently determined under delegated authority on 17 June 2024. The case officer's report:
- 5.4.1 Acknowledges that the Council is unable to demonstrate a deliverable 5YHLS and that the tilted balance is engaged by way of footnote 8 of the NPPF.
 - 5.4.2 While stating that the offer of 30% affordable housing is a significant benefit, fails to acknowledge that this is greater than the council's policy requirement or to acknowledge that the offer had been increased; and makes no reference to the provision of custom/self-build plots.
 - 5.4.3 Identifies socio-economic, economic and delivery of market housing benefits to be weighed in the balance.
 - 5.4.4 Generally fails to differentiate between the current proposals and the previous scheme determined at appeal in 2023. The report makes limited reference or analysis of the application documents when assessing landscape and visual impact, while referring extensively to the Inspector's decision letter into the previous appeal for an entirely different scheme.
 - 5.4.5 Summarises the consultation responses, confirming that, save for comments from the highway authority, there are no technical objections to the development.
 - 5.4.6 States that since there is an in-principle reason for refusal of permission, *"on this occasion it is considered reasonable to refuse the application on highways grounds also. If the applicant does pursue an appeal, the Highway Authority and Planning Authority will however work with the applicant to continue to resolve matters"*.

The officer's report is at **Appendix 4 (CD-B-26)**.

- 5.5 The officer's report concludes by recommending that planning permission should be refused for four reasons. Notwithstanding the officer's recognition of the S106 contributions offered by the Appellants, this includes two reasons relating to the fact that a signed S106 Agreement was not in place prior to determination of the application:

1. *The proposed development would result in an unsustainable residential development in the designated countryside outside the settlement boundary of Barwell and located within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge. From the development would arise harmful impacts upon the intrinsic value, beauty and undeveloped rural character of the area; landscape*

character; public views; the function of the Green Wedge; and harm to the existing settlement character and pattern. The development proposals are contrary to Policy 6 of the Core Strategy, Policies DM4 and DM10 of the Site Allocations & Development Management Policies Development Plan Document (2016).

- 2. The applicant has failed to demonstrate that the development would not have a severe cumulative impact on the highways network and has not shown that the development would pose no risk to highway safety. The development proposals are contrary to policy DM17 of the Site Allocations & Development Management Policies Development Plan Document (2016) and the advice contained in the National Planning Policy Framework.*
- 3. In the absence of a completed legal agreement, the proposed development fails to make adequate provision for affordable housing, contrary to policy 15 of the Core Strategy and section 6 of the National Planning Policy Framework.*
- 4. In the absence of a completed legal agreement the proposed development fails to provide planning obligations that would mitigate the development's impact on infrastructure contrary to Core Strategy policy 19, policy DM3 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 55 of the National Planning Policy Framework.*

The Council's decision notice, which was issued on 17 June, is at **Appendix 5 (CD-A-1)**.

6. Planning Policy and Legislative Framework

- 6.1 The statutory requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) is that the determination of a planning application must be made in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

- 6.2 In this case the development plan comprises the following documents:

- Core Strategy DPD: 2006- 2026 (Adopted December 2009)
- Site Allocations and Development Management DPD (Adopted July 2016)
- Earl Shilton and Barwell AAP (Adopted 23 September 2014)

Spatial Strategy

- 6.3 The Spatial Development Strategy follows a settlement hierarchy which focuses the majority of new development in the Hinkley sub-regional centre which includes Barwell, Burbage and Earl Shilton. More limited development is proposed across the remainder of the Borough *‘to support sustainable rural communities and provide local choice’*.

Spatial Objective 5: Housing for Everyone

“To ensure sufficient housing is provided to meet the requirements of the East Midlands Regional Plan to enable all residents of the borough to have access to a suitable home which they can afford in a range of sustainable locations, tenures and house types. The focus of development will be in and around the Hinckley urban area, with more limited development in the rural areas to meet local needs. All housing will be high quality, locally distinctive, sustainable developments”

- 6.4 Spatial Objective 5 is reflected in the Site Allocations and Development Management DPD where the majority of housing and employment allocations are directed towards Hinkley, and the Sustainable Urban Extensions (SUE) to Barwell and Earl Shilton.
- 6.5 The Earl Shilton and Barwell AAP was primarily prepared to support the policies of the Core Strategy to deliver significant housing growth at the two settlements and act as a catalyst for their regeneration. The overall vision for the two settlements for 2026 is:

“To see the development of sustainable communities with distinct identities and character, providing attractive and accessible living and working environments and thriving urban centres. The settlements will be well connected to Hinckley and the surrounding countryside and supported by infrastructure that encourages green living”¹⁰

Core Strategy Policies

- Policy 3: Development in Barwell
- Policy 5: Transport Infrastructure in the Sub-Regional Centre
- Policy 6: Hinkley /Barwell / Earl Shilton / Burbage Green Wedge

¹⁰ Earl Shilton and Barwell AAP, paragraph 1.4

- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure
- Policy 24: Sustainable Design and Technology

Site Allocations and Development Management Policies

- DM1: Presumption in Favour of Sustainable Development
- DM3: Infrastructure and Development
- DM4: Safeguarding the Countryside and Settlement Separation
- DM6: Enhancement of Biodiversity and Geological Interest
- DM7: Preventing Pollution and Flooding
- DM9: Safeguarding Natural and Semi-Natural Open Spaces
- DM10: Development and Design
- DM17: Highways and Transportation
- DM18: Vehicle Parking Standards

Earl Shilton and Barwell Area Action Plan Policies

- Policy 21: Infrastructure and Delivery
- Policy 22: Development and Design

Other Material Considerations

National Planning Policy

- 6.6 Government Policy in the form of the National Planning Policy Framework 2023 ('the NPPF 2023') along with the corresponding National Planning Practice Guidance ('NPPG') comprises a significant material consideration in the determination of this Appeal.
- 6.7 It is unnecessary to repeat the relevant provisions of the NPPF 2023 or NPPG. The Appellant has, however, had full regard to the relevant sections of those documents in the preparation of the application and appeal and in the context of Section 7 of this Statement.
- 6.8 The publication of a consultation version of the NPPF (NPPF24C) by the new Labour Government and statements from ministers, to the effect that changes to national policy will be made soon, are material considerations in this appeal. The greatest single significant change proposed by the current Government is in respect of housing supply and delivery, which is addressed in the following section of this Statement and in the assessment of housing land supply at **Appendix 6**.

Other Policies and Guidance

6.9 The following supplementary planning documents prepared by HBC are also material considerations in the determination of the appeal proposals.

- The Good Design Guide SPD
- Leicester and Leicestershire 2050: Our Vision for Growth (2018)
- Leicestershire Local Housing Needs Assessment (2020)
- Leicester and Leicestershire Employment and Housing Needs Assessment (update) (July 2022)

Emerging Local Plan

6.10 The Council's extensive evidence base in support of the emerging local plan and reports to committee are also relevant material considerations.

Other Legislation and Documents

6.11 It is the Appellants' case that the following documents are also relevant material considerations in the determination of this appeal:

- Manual for Streets (2010)
- Roads in Hertfordshire, Highway Design Guide 3rd Edition (2011)
- National Model Design Code (2021)
- Appeal decisions and court judgements.

Appeal decisions

6.12 A number of recent appeal decision in respect of residential developments in the borough are of direct relevance and are included in the list of Core Documents (**CD-D- 1 to CD-D 12** inc).

7. The Case for the Appellant

Addressing the Council's Reasons for Refusal

- 7.1 The appeal application was refused by HBC for the four reasons set out in Section 5.
- 7.2 It is the Appellants' case that reasons 2 - 4 have always been capable of early resolution through completion of the S106 agreement and further discussions with HBC and their technical advisors – notably Leicestershire County Council as highways authority; this is reflected in the officer's report. The Appellants' have sought to continue to engage with the Council to progress a legal agreement enabling those RfR to be withdrawn.
- 7.3 While every effort will be made to eliminate reasons for refusal, thus saving Hearing time, the Appellant expects to present its case in response to all of the Council's reasons for refusal as set out in the Decision Notice (**CD-A-1**) The following sets out the points the Appellants consider needs to be examined at the Hearing.

NPPF24C

- 7.4 It is clear that there is a new direction of travel with regard to national planning policy and a greater emphasis on releasing sustainable sites for early development. Previous policy approaches on calculation of housing land supply have been reversed and all local authorities, without exception, are now required to plan to meet their full housing needs. Of particular relevance to this appeal, NPPF24C:
- Reinstates the requirement for all local planning authorities to demonstrate a deliverable 5YHLS; and
 - Requires that (at least) a 5% buffer is included as part of the deliverable supply – brought forward from later stages of the plan period to ensure choice and competition in the market for land;
- 7.5 The complementary amendments to National Planning Practice Guidance include a revised approach to calculating the Standard Housing Method (new SHM). The consultation included tables setting out the results of the new SHM for boroughs across England; for H&BC the results of the new SHM require the provision of 689 dpa.

Housing Land Supply

- 7.6 **Appendix 6** of this statement comprises a detailed review and assessment of the Council's current claimed 5YHLS position at the base date of 1 April 2023¹¹ and a recalculation of the deliverable supply having regard to the correct application of the current SHM and discounting a number of sites. The Appendix also conducts alternative 5YHLS calculations based on two emerging (and likely) scenarios that clearly point to a higher housing requirement for the borough. Summary details are set out below.

Identifying the Requirement

- 7.7 While the Council's 5YHLS Statement correctly applies the SHM to calculate the housing requirement, it does so at a base date of 1 April 2024, whereas the base date for the 5YHLS calculation contained within the document is 1 April 2023. It is standard practice for the two dates to correlate and, as a consequence of that error, the 5year requirement for H&BC under the SHM is 2,340 dwellings (468 x 5), and not 2,165 as set out in the Council's document.

¹¹ 5YHLS Statement 1 April 2023 – 31 March 2028 [CD-E-9]

Deliverable Supply

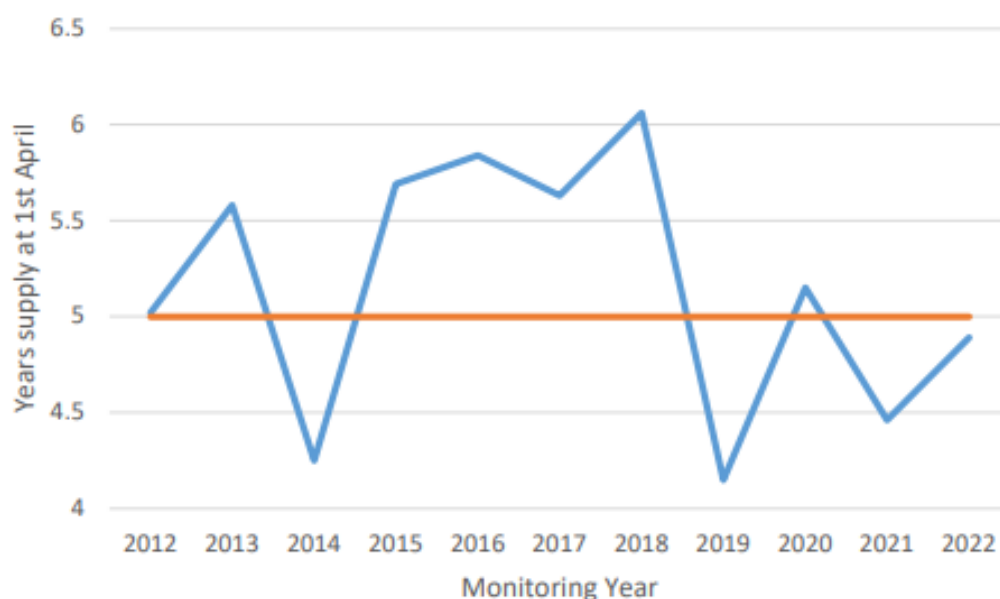
- 7.8 The Council claims to have identified a deliverable supply of 2,415 dwellings at the base date¹². However, a number of those sites contained within the claimed supply have been discounted in the Appellant's assessment for the following reasons:
- 25 units removed from the site at Crabtree Farm, Barwell as that site also benefits from an alternative planning permission for 51 units that is included in the Schedule.
 - 132 units on 4 large sites (>10 units) removed as planning permission had expired at the base date without development commencing.
 - 2 units removed from 2 small sites since the relevant planning permissions were for replacement dwellings (i.e. no net increase) – in any event each of those permissions had also expired at the base date.
 - 16 units from 10 small sites as those permissions had expired at the base date.
- 7.9 73 units removed from the Hinckley West site due to the LPA not providing clear evidence for this Category B site that it will be brought forward by the developer within 5 years.
- 7.10 The net effect of those revisions is to reduce the claimed deliverable supply by 248 units to 2,203 homes in the period 2023 – 2028.

5YHLS Calculation

- 7.11 It is the Appellant's position that the housing land supply at the base date was 2,171 dwellings resulting in a shortfall of 137 dwellings and a deliverable supply 4.7 years. In those circumstances, the tilted balance at paragraph 11(d)(ii) of the Framework would be engaged.
- 7.12 Once the correct housing requirement of 468dpa is applied to the Council's own assessment of supply then there would be a modest surplus of 75 dwellings, equivalent to 5.16 years' supply. That is only true if all of the sites by the Council are accepted (disputed by the Appellant) and even then it is clear that the Council's deliverable housing land supply would be precarious and could very quickly dip below 5 years through non-implementation of sites and/or delays in delivery. Such a situation has been occurring in H&BC for many years as the 5YHLS has wavered above and below the 5-year requirement as illustrated in **Diagram 7.1** – this has had significant implications in terms of the spatial strategy as discussed further at paragraphs 7.256 onwards

¹² Ibid, Table 8 and Appendix 1.

Diagram 7.1: H&BC's Fluctuating 5YHLS



Source: Housing Delivery Test Action Plan [CD-E-10]

- 7.13 The LPA has previously conceded that even a modest shortfall engages the tilted balance in a number of recent applications and appeals¹³ when its previously claimed supply at a base date of 1 April 2022 was 4.86 years.

Alternative Calculations

- 7.14 It is the Appellant's case that even if the LPA is able to demonstrate a deliverable 5YHLS at the point of drafting its Statement for this appeal, it is highly likely that the situation will change significantly by the end of the year upon final publication of NPPF24, and prior to the appeal being decided. In these circumstances the 5YHLS should also be assessed against the figure of 698dpa calculated according to the revised SHM in the table accompanying NPPF24C and a 5% buffer.
- 7.15 Additionally, it is appropriate to carry out the calculation according to the Council's own assessment of the housing requirement in the emerging local plan that reflects its commitment to accommodate part of Leicester City Council's unmet needs = 660dpa.
- 7.16 The outcome of those alternative calculations which are a material consideration, is to demonstrate a significantly greater shortfall against the 5YHLS requirement than under the current SHM as summarised in Table 7.1 below:

¹³ appeal decisions in the CD-D

	LPA	Appellant			
		Current SHM		Revised SHM	Draft Local Plan
Basic Requirement	2240 (5 x 468)	2340 (5 x 468)	2340 (5 x 468)	3445 (5 x 689)	3300 (5 x 660)
5% buffer	n/a	n/a	117	172	165
Total Requirement	2340	2340	2457	3617	3465
Dwellings per annum	468	468	491	723	693
Supply	2415	2203	2203	2203	2203
Shortfall	(+75)	137	254	1414	1262
No. of years	5.16	4.7	4.49	3.05	3.18

Table 7.1 Standard Housing Method calculation

- 7.17 Government is firmly committed to an overhaul of the planning system and making early amendments to the NPPF in order to boost housing delivery. It is inconceivable that, at the very least, it will not reinstate the requirement for LPAs to include a 5% buffer as part of the 5YHLS; in those circumstances, the deliverable supply, even under the current SHM, would fall to 4.49 years.
- 7.18 The revised (new) SHM is also expected to be included in the NPPF when it is published before the end of 2024. H&BC will then need to apply an annual housing requirement of 689dpa, with a 5% buffer that would increase the annual requirement to 723dpa. On that basis, the deliverable supply would fall to 3.05 years, which is similar to the out-workings based on H&BC's own recognition of the increased requirement to assist in meeting the unmet needs of Leicester.
- 7.19 Those figures more accurately reflect the actual housing requirement in the borough in accordance with Government's objectives to 'boost significantly' housing delivery. While at the time of writing this Statement neither approach is endorsed by adopted planning policy, it is anticipated that the new SHM will be in place by the end of the year. The calculations are, at the very least, important material considerations in the determination of this appeal.

Housing Delivery Test Action Plan

- 7.20 Government introduced the Housing Delivery Test in 2018, publishing annual results in January. For the last two available reporting years (2021 and 2022), H&BC's housing delivering has fallen below 95% of the annual requirement, meaning that the authority has had to produce a Housing Delivery Test Action Plan (HDTAP) to address the causes and identify measures to improve delivery.
- 7.21 The latest HDTAP was published in June 2024; it reflects a declining rate of housing completions across the Borough in the preceding 10 years, resulting in a HDT score of 89% in January 2022.

- 7.22 While focussing primarily on the Borough, the HDTAP is also aligned with the housing delivery priorities for the wider Leicestershire area, reflecting the ongoing work surrounding the wider housing need and its distribution across the Housing Market Area.
- 7.23 Analysis contained within the HDTAP identifies that two of the key causes in the decline of house-building in the Borough are:
- The lack of a new Local Plan with a new portfolio of sites; and
 - slow / nil rates of delivery on the allocated SUEs and the large development site at Hinckley West.

- 7.24 In response to those issues, the HDTAP states:

“Whilst the two SUEs and the development known as ‘Hinckley West’ have contributed to the lack of delivery in the borough, the Council has been proactive in encouraging further development in sustainable locations across the borough to ensure the Borough was meeting its housing needs by revisiting its SHLAA”.¹⁴

- 7.25 The locations quoted in the HDTAP include a range of sites in Key Rural Settlements and Rural Villages that H&BC has determined are sustainable locations for development.

Spatial Distribution of Housing

- 7.26 Even if the Council were able to demonstrate a deliverable 5YHLS (not accepted by the Appellant), that does not mean that it would be inappropriate to grant planning permission for housing on other sites where that would accord with the spatial strategy and meet other objectives of the development plan. Indeed, that has been the approach adopted by H&BC and Inspectors for many years in the face of a fluctuating housing land supply and out-of-date strategic policies for housing.
- 7.27 The Core Strategy was adopted in December 2009 with a housing requirement of 450dpa based on the now revoked East Midlands Regional Spatial Strategy; that figure is out-of-date and not based on the standard method. The Spatial Strategy and policies of the Core Strategy were designed to implement that housing requirement with settlement boundaries drawn to accommodate the number of homes planned for at that time. In turn the policies and site allocations in the SADMP were designed to implement the overarching strategy; it follows that if the Core Strategy is out of date, then so too are those policies in the SADMP.
- 7.28 A cornerstone of the Core Strategy was the delivery of two large sustainable urban extensions (SUE) at Earl Shilton and Barwell, with 4,120 homes expected to be delivered on those sites over the plan period to 2026, representing around 50% of the total housing development that was to come forward in the plan period. While the Council resolved to grant consent for 1,500 homes on the Earl Shilton SUE in June 2024, to date, neither site has the benefit of planning permission and no dwellings have been delivered. That is a fundamental failing of the Core Strategy and, in turn, a fundamental failing of the spatial strategy in the development plan; this has led to a disproportionate amount of new housing taking place outside settlement boundaries or in/on the edge of lower order settlements, including Key Rural Centres, Rural Villages and Rural Hamlets.
- 7.29 A schedule of large housing sites and their geographical distribution across the borough is contained in the Appendix to the appeal Planning Application Statement [CD-B-6]. Tables 7.2 and 7.3 below summarise and update the contents of that Appendix demonstrating both the geographic spread of large housing sites compared with the spatial strategy of the development plan and the number of dwellings on large housing sites that have been granted outside the settlement boundaries. A reproduction of the Borough-wide Proposals Map at **Appendix 7** depicts this in graphical form.

¹⁴ HDTAP, [CD-E-10, paragraph 3.9.2]

Table 7.2 Distribution of Large Housing Sites by Settlement

Settlement	Core Strategy Policy Figure (2006 – 26)	Permissions (2006 – 2023)			% of Borough total	
		Number of dwellings	Difference	% change	Policy	Actual
Urban Area						
Hinckley	1120	2,966	+1846	+165	17	35
Barwell	2500	395	-2105	-84	37	5
East Shilton	2000	994	-1006	-50	30	12
Burbage	295	1362	+1067	+361	4	16
Sub-total	5915	5717	-198	-3	88	68
Key Rural Centres						
Markfield	80	188	+108	+135		
Groby	110	179	+69	+63		
Ratby	75	498	+423	+564	1	6
Barlestone	40	31	-9	-22		
Desford	110	556	+446	+405	2	6
Newbold Verdon	110	406	+296	+269	2	5
Bagworth & Thornton	60	210	+140	+250		
Market Bosworth	100	112	+12	+12		
Stoke Golding	60	171	+111	+185		
Sub-total	685	2351	+1666	+343	10	27
Rural Villages						
Higham on the Hill	40	67	+27	+67		
Stanton under Bardon	30	149	+119	+396		
Sheepy Magna	20	69	+49	+245		
Nailstone	20	32	+12	+60		
Twycross	20	7	-13	-65		
Witherley	Limited	8	n/a	n/a		
Cornerstone	10	0	-10	-100	0	
Sub-total	140	232	+192	+65	2	3
Rural Hamlets						
Sub-total		254	n/a	n/a		4
Total	6740	8554				

Primary Source: Residential Land Availability Monitoring Statement [CD-E-12]

- 7.30 Table 7.2 shows that in the period 2006 – 2023 the proportion of housing granted planning permission on sites in the main urban area was significantly lower than planned for, with permissions for 68% of homes within that part of the Borough compared with the Core Strategy target of 88%.
- 7.31 For Barwell, the contrast between what was planned in the Core Strategy and permissions that have been granted is starker than for any other settlement in the Borough. Only 5% of homes were granted planning permissions on large sites between 2006 and 2023 against a target of 37%.
- 7.32 In the majority of rural settlements, the number of permissions for housing has far exceeded the spatial policy targets of the Core Strategy. Key Rural Centres have received planning permission for 27% of homes on large new housing sites against a collective target of 10%; and the proportion of new homes in Rural Villages is 50% higher than the Core Strategy target.

- 7.33 The number of homes granted planning permission in three of the Key Rural Centres (Ratby, Groby and Newbold Verdon) settlements now exceeds those granted in Barwell since 2006, despite their relative positions in the settlement hierarchy.

Table 7.3 Large Housing Sites Outside Settlement Boundaries

Application Ref	Address	Settlement	No. of Units
20/00470/FUL	Garden Farm, Bagworth Road	Barlestone	99
21/00096/OUT	Land north of Barton Road	(Barlestone)	55
20/01172/REM	Crabtree Farm, Hinckley Road	Barwell	51
19/01405/OUT	Land North of Deepdale Farm	Burbage	135
19/01416/REM	Land Opposite Bosworth College, Leicester Road	Desford	80
20/00347/REM	Land East of Peckleton Lane	Desford	80
19/01442/REM	Westfield Farm Keats Lane	Earl Shilton	350
21/01147/OUT	Land off Wood Lane	Higham on the Hill	61
MKBOS02	Land South of Station Road and Heath Road	Market Bosworth	100
19/01013/FUL	Pinewood Drive	Markfield	10
20/01283/FUL	Land off London Road	Markfield	282
20/00143/FUL	Land South of Bosworth Lane	Newbold Verdon	116
20/00711/REM	Springfield Riding School, Groby Road	Ratby	168
20/00462/FUL	Land South of Markfield Road	Ratby	90
19/01324/OUT	Land at Wykin Lane	Stoke Golding	55
21/00656/OUT	Stoke Fields Farm, Hinckley Road	Stoke Golding	70
20/00779/OUT	Land East of Roseway	Stoke Golding	65
19/00453/REM	Hornsey Rise Memorial Home, Bosworth Road	Wellsborough	19
23/00061/OUT	Land Adjacent to Lockey Farm Hunts Lane	Desford	100
23/01037/OUT	Land at Brascote Lane	Newbold Verdon	239
22/01037/OUT	Land Opposite and South of the Pumping Station, Aston Flamville Road	Burbage	343
23/01204/REM	Land south of Sketchley Grange Hotel, Sketchley Lane.	Burbage	29
22/00318/OUT	Land east of Stoke Road and north of Normandy Way (A47)	Hinkley	475
21/01295/OUT	Land off Desford Lane	Ratby	225
Total			3297

Source: Residential Land Availability Monitoring Reports

- 7.34 A detailed assessment of large housing sites with planning permission reveals that 24 of those sites, with a combined capacity of 3,297 homes, are on land outside of the settlement boundaries defined on the proposals maps of the adopted development plan. This can be seen in the Spatial Distribution of Large Housing Sites Map at **Appendix 7**.

- 7.35 It is clear that in assessing and granting planning permission for housing development in the Borough the Council and Inspectors at appeal have determined that strategic policies for housing are out of date and, in order to maintain housing delivery in the borough, it has been necessary to grant planning permission on sites outside settlement boundaries and in less-sustainable locations.

“..the spatial strategy in the CS is in broad accordance with the Framework, by focusing development in the most accessible locations. However, this is reliant on an out-of-date housing requirement that is highly likely to increase. I therefore place limited weight on the conflict I have identified with Policy DM4 of the SA DPD, and the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance”¹⁵

“I have identified some adverse impacts arising from the proposal, both in terms of the conflict with the spatial strategy of the plan, and its impact on the landscape. However, those only carry limited or moderate weight. When compared to the range of benefits that would flow from the proposal, I conclude that the harm does not significantly and demonstrably outweigh the benefits. Accordingly, it follows that the Framework supports planning permission being granted. That is an important material consideration that carries significant weight”¹⁶

Affordable Housing

- 7.36 Historically, the Council has failed significantly to deliver sufficient affordable housing across the Borough. While the Core Strategy sets out a minimum affordable housing target of 105dpa, the RLA 2023 confirms that actual delivery was 91dpa on average since the start of the plan period, representing just 70% of that minimum target.
- 7.37 The Council has also recently accepted that the affordable housing target in the Core Strategy does not represent the most up-to-date evidence of affordable housing need. That evidence indicates that the total affordable housing need in the Borough is 498dpa comprising 321dpa affordable rent and 177 affordable ownership¹⁷
- 7.38 The housing affordability indicators show a bleak situation in H&B for anybody in affordable housing need. A Report to the Council’s Scrutiny Committee in July 2022 set out that the number of applications to join the Council’s social housing register and the demand for affordable rental properties is increasing year on year; waiting times are lengthy and there is insufficient stock available. The demand is highest for one-bedroom flats, and two and three-bedroom homes, with the majority of applicants stating a preference for Hinkley, Burbage, Barwell and Earl Shilton¹⁸
- 7.39 The Report goes on to state that many applicants are ineligible to join the Council’s own housing register and acknowledges:

“The supply of private sector rental accommodation is vital for the housing service to support our home seekers, particularly as many housing applicants will not meet the threshold to join the housing register due to their income level”¹⁹

“Anecdotal information suggests that private sector renters are in fierce competition with as many as 20 renters at any one time trying to pursue a single property.”²⁰

¹⁵ Appeal Decision APP/K2420/W/23/3331081[CD-D-6, paragraph 15]

¹⁶ Appeal Decision APP/K2420/W/23/3330774 Desford Lane, Ratby [CD-D-4, paragraph 61]

¹⁷ Ashfield Farm, Statement of Common Ground [CD-E-11], paragraph 9.20

¹⁸ Report to Scrutiny Committee [CD-E-7], paragraph 6.5

¹⁹ Ibid, paragraphs 8.1 and 8.2

²⁰ Ibid, paragraph 8.1

- 7.40 Accordingly, the proposed delivery of 33 units (35%) of affordable housing as part of the current application is a substantial benefit of the scheme. Such benefits have been recognised by Inspectors of recent appeals in the borough, for example:

“It is common ground that there is an acute need for affordable housing in the Borough. The CS target for affordable housing delivery is 2,090 affordable homes during the plan period of 2006 to 2026, at 105 dpa. The Council’s Residential Land Availability Statement 1 April 2021 – 31 March 2022 identifies¹⁰ that, as of 1st April 2022, a gross total of 1,463 affordable dwellings have been completed over a 16-year period since 2006, equating to 91 dpa and therefore below the CS target. In addition, the latest estimates of affordable housing need set a far higher requirement, for example 498 dpa as set out in The Leicester and Leicestershire Housing and Employment Needs Assessment, June 2022. I therefore agree that there is an acute need for affordable housing and I place substantial positive weight on this factor”²¹

“The principal benefits, already mentioned in connection with heritage assets, are the provision of new market and affordable housing. Those homes would help meet demand for housing, which both parties recognise is not being adequately met in the borough at the current time. I give both those benefits significant weight”²²

“The provision of up to 25 dwellings at a time of pressing need, up to 5 of which would comprise affordable homes, on a site that is conveniently and sustainably located in terms of accessibility to local services and facilities, is a consideration that carries substantial weight”²³

“The Council has accepted that the need for affordable housing in the Borough is ‘desperate’. Evidence has shown a consistent under delivery in affordable housing in the Borough and that the need is growing. The appeal proposal would deliver around 40% affordable housing. As a result, I give this benefit substantial weight”²⁴.

Self and Custom-Build Housing

- 7.41 Central Government has been consistent in seeking to boost the supply of Self-Build and Custom Housebuilding for more than a decade; that requirement is enshrined in national policy through both the NPPF and PPG. However, there are no policies for the provision of such homes in the adopted development plan.
- 7.42 Local authorities are statutorily required to address demand through granting sufficient suitable development consents to meet the demand for Self-Build and Custom Housebuilding arising from their Self-Build Register within their administrative area.
- 7.43 The Council’s latest monitoring data, at 29 September 2023, indicates that there are currently 44 households on the self-build register; of those only 8 are identified as having a development plot. Accordingly, the offer of 5 serviced self / custom-build plots is a significant benefit of the scheme.

Socio-Economics

- 7.44 The Appellants have provided substantial and unrefuted evidence to demonstrate the clear socio-economic benefits of the appeal proposals; including the contribution that the development will make towards the Council’s aspirations for the regeneration of Barwell. The statement by Turley Socio-Economic at **Appendix 8** confirms the current position with regard to those benefits, which are to be weighed positively in the planning balance.

²¹ Appeal Decision APP/K2420/W/23/3331081 [CD-D-6, paragraph 38]

²² Appeal Decision APP/K2420/W/23/3330774 [CD-D-4, paragraph 51]

²³ Appeal Decision: APP/K2420/W/19/3222850 [CD-D-7, paragraph 29]

²⁴ Appeal Decision APP/K2420/3317090 [CD-D-10, paragraph 82]

Design

- 7.45 A review of the approach taken to developing the Design Code, parameter plan and the illustrative masterplan by reference to the National Model Design Code and H&BC's Local Design Code demonstrating compliance with design policy objectives at all levels and the ability to deliver a beautiful village-fringe development has been set out by Urban Design Box in **Appendix 11**. This should leave the inspector in no doubt that a high quality scheme can be delivered and suitably controlled through conditions.

Landscape

- 7.46 Detailed analysis of the appeal site within its local and wider context, and how this analysis as set out within the LVIA, together with a detailed assessment on the likely impact and functionality on the Green Wedge, was instrumental in shaping the illustrative masterplan and parameters plan has been explained in the LVIA accompanying the application. The appended statement by Pegasus, at **Appendix 9**, confirms the validity of the approach taken and the findings set out.

Highways

- 7.47 The planning application documents, including the Transport Assessment and subsequent Road Safety Audit, demonstrate that the appeal proposals, including proposed mitigation, will not result in an unacceptable impact on highways safety, or severe residual cumulative impacts on the road network. The statement by Stantec at **Appendix 10** confirms that there have been no material changes in circumstances since the refusal of permission that lead to any conclusion other than that the development is sustainable and will not result in highway related harm.

Legal Agreement

- 7.48 The Appellants have sought to continue to progress completion of the legal agreement and liaise with the Council with the objective of eliminating RfR 3 and 4. Once the LPA begin to engage in this process the legal agreement can be addressed.

Statements of Common Ground

- 7.49 The Appellants have sought to liaise directly with HBC and key stakeholders, including the LHA, to prepare Statements of Common Ground (SoCG) relating to planning and highways matters. No response has been received from the LPA or LHA.

Planning Balance

- 7.50 The Application is prima facie not in accordance with policies in the Hinkley Core Strategy in relation to the Green Wedge and as such the LPA have concluded that it is not in accordance with the development plan overall. However, whilst Policy 6: 'Hinkley / Barwell / Earl Shilton / Burbage Green Wedge' sets out a presumption against new built development in those parts of the Borough identified as a 'Green Wedge', it also requires an impact test against four criteria. In this case the site has been tested, and as confirmed through appeals decisions, this policy is not compromised by the limited scale of development now proposed. With no other development plan conflicts arising the appeal scheme is in conformity with the Development Plan overall.
- 7.51 The LVIA Report (**CD-B-12**) and **Appendix 9** contain a detailed appraisal of the site's contribution towards the functions of the Green Wedge in this location, in respect of landscape and visual matters, and the likely effects of the proposed development on those functions as set out in Policy DM4. They confirm that overall, in landscape and visual terms, the site does not perform a significant role in respect of any of the Green Wedge functions identified. The proposed development is likely to result in a limited impact on these functions, as well as providing some benefits.

- 7.52 Furthermore, as is now clear, the vision for the regeneration of Barwell by 2026 has not been and cannot be realised. To that extent the Spatial Strategy can be said to have failed. It is the tilted balance (whether applied at application or appeal stage) that is fulfilling the LPA's housing land supply, not the Council's planning strategy.
- 7.53 Accordingly Spatial Objective 5 of the Core Strategy, reflected in the Site Allocations and Development Management DPD directing the majority of housing and employment towards Hinkley, and the Sustainable Urban Extensions (SUE) to Barwell and Earl Shilton can be given no weight.
- 7.54 The relevant spatial policies are designed to restrict housing development beyond settlement boundaries in line with an out of date spatial strategy that has not delivered the homes that the Borough has needed to date and is not capable of delivering the homes that the Borough needs going forward.
- 7.55 The proposals are to be considered against that failed strategic policy background as well as detailed development plan policies. There is no material conflict with any policies that may be attributed weight.
- 7.56 As the Council cannot currently demonstrate a five year housing land supply paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
- 7.57 There are no Footnote 7 policies applying to the appeal proposals. Moreover, the adverse impacts of the development plainly do not significantly and demonstrably outweigh the benefits of the proposals when assessed against the policies in the NPPF taken as a whole.
- 7.58 We remain in the grip of a housing crisis that is having significant adverse effects on society and the economy and the Government continues to require local authorities and decision- takers to support its objective of significantly boosting the supply of homes. The market housing and affordable housing benefits carry very significant weight.
- 7.59 The development would offer a range of socio-economic benefits; including diversifying the housing stock and contributing towards the strategic objective for regeneration of Barwell; to which very significant weight should be attached.
- 7.60 The commitment to retain and reinstate trees on site and provide an adjacent offsite field for lowland meadow represents an important habitat enhancement. A net biodiversity gain of 23.55% can be achieved; and with hedgerows also being largely retained and subject to appropriate long-term management, this also delivers a significant improvement, increasing hedgerow units by 21.27%. These significant improvements in terms of ecology and biodiversity provision should attract substantial weight.
- 7.61 In landscape and visual terms, the site does not perform a significant role in respect of any of the Green Wedge functions identified. The proposed development is likely to result in either limited or very limited impact on these functions, as well as providing some recreational Green Wedge benefits. Overall the weight given to Green Wedge harm and benefits is neutral.
- 7.62 In spite of the LHA continuing to resist the development but offer no evidence of harm (contrary to NPPF paragraph 115) the Transport Assessment and **Appendix 9** have confirmed that the proposals will have an immaterial impact on the operation of the local highway network. Barwell has a good range of services and facilities and important facilities, such as schools, shops and employers may be accessed from the site by walking and bicycle; the appeal proposals represent sustainable development and transport consideration are neutral in the planning balance.
- 7.63 The scheme will provided for a well designed place that sustains its attractiveness over the long term. In doing so it will add to the quality of life of its users. Raising design quality in the Borough is an objective of

the development plan and the achievement of design quality should be afforded positive weight in the planning balance.

- 7.64 Any adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

Disclaimer

- 7.65 In the event that SoCG cannot be agreed with HBC the Appellant reserves the right to prepare further evidence and provide addenda to this SoC in respect of those matters. Similarly, the Appellant reserves the right to respond to the council's own SoC.

8. Planning Conditions and Obligations

- 8.1 As part of the appeal application, the Appellant prepared a Heads of Terms document for discussion with HBC (**CD-B-6**). This reflects those contributions that were agreed between the two parties as part of the previous appeal; it set out the Appellant's commitment to delivering the following:

Matter	Contribution	Comments
Affordable Housing	30% ²⁵ - including First Homes, affordable rent and intermediate tenures.	Financial contribution cost represents total additional cost to Developer of providing this level of affordable housing over and above the 20% policy requirement.
Open space and Play Areas	Provision of land and maintenance contributions	Management Company to be established.
Outdoor sports contribution	Multiplier of £1,035.26/dwelling	
Public realm contribution	Multiplier of £402 / dwelling	
Health Care Facilities Contribution	Formula for calculating contribution based on housing mix	
Education Contribution	Multiplier of £4187.56 + £564.53 towards the provision of primary, secondary, post-16 and SEND facilities in the borough	
Local Employment & Training Strategy	Nil	Strategy to be submitted relating to construction of the development
Highways improvement / public transport contribution	£7,500 £6,000	TRO on The Common Monitoring of the Travel Plan
Libraries contribution	£3,320	Earl Shilton library
Waste contribution	£5,448	Barwell household waste recycling centre
Monitoring fee	£6,357	

- 8.2 We note that the Officer's report contains some different figures for contributions, which will be the subject of on-going discussion with them.
- 8.3 The Appellants also prepared a draft schedule of conditions based on those agreed for the purposes of the last appeal, up-dated to include detailed provisions for ensuring design quality. This was appended to the Planning Statement (**CD-B-6**). The Appellants will seek to agree the schedule of conditions with H&BC for inclusion in the Statement of Common Ground.

²⁵ Now 35% Affordable housing

Appendix 1: Schedule of appeal documents

CD-B-3	Parameter Plan
CD-B-4	Illustrative Masterplan
CD-B-5	Planning Statement
CD-B-6	Appendices to Planning Statement
CD-B-7	Design and Access Statement
CD-B-8	Design Code
CD-B-9	Transport Assessment
CD-B-10	Framework Travel Plan
CD-B-11	Socio-Economic Report
CD-B-12	Landscape and Visual Impact Appraisal
CD-B-13	Appendices to Landscape and Visual Impact Appraisal
CD-B-14	Tree Survey and Report
CD-B-15	Arboricultural Impact Assessment and Method Statement
CD-B-16	Bio-diversity Survey and Report
CD-B-17	Ecological Impact Assessment
CD-B-18	Air Quality Assessment
CD-B-19	Noise Impact Assessment
CD-B-20	Energy Statement
CD-B-21	Historic Environment Desk-based Assessment
CD-B-22	Flood Risk Assessment
CD-B-23	Sustainable Drainage Statement
CD-B-24	Further highways information

Appendix 2: Red line boundary plan

Appendix 3: Illustrative Masterplan

Appendix 4: Officer's Delegated Report

Appendix 5: LPA Decision notice

Appendix 6: 5YHLS - Samantha Ryan (Ryan & May)

Bound Separately

Appendix 7: Spatial Distribution of Housing

Bound Separately

Appendix 8: Socio-Economics - Antony Pollard (Turley)

Bound Separately

Appendix 9: Landscape and LVIA - Jeremy Peachy (Pegasus)

Bound Separately

Appendix 10: Highways - Scott Witchalls (Stantec)

Bound Separately

Appendix 11: Design - Jonathan Vernon-Smith (Urban Design Box)

Bound Separately