

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



Contents

1.	Introduction	2
2.	Description of the Appeal Site and Surroundings	4
3.	Background to the Appeal	6
4.	The Appeal Scheme	10
5.	The Council's Consideration of the Application	12
6.	Planning Policy and Legislative Framework	14
7.	The Case for the Appellant	17
8.	Planning Conditions and Obligations	29
Appendix 1: Schedule of appeal documents		30
Appendix 2: Red line boundary plan		31
Appendix 3: Illustrative Masterplan		32
Appendix 4: Officer's Delegated Report		33
Appendix 5: LPA Decision notice		34
Appendix 6: 5YHLS - Samantha Ryan (Ryan & May)		35
Appendix 7: Spatial Distribution of Housing		36
Appendix 8: Socio-Economics - Antony Pollard (Turley)		37
Appendix 9: Landscape and LVIA - Jeremy Peachy (Pegasus)		38
Appendix 10: Highways - Scott Witchalls (Stantec)		39
Appendix 11: Design - Jonathan Vernon-Smith (Urban Design Box)		40

Authors Mrs Samantha Ryan and Rev'd Professor Bob May

Date: 18 October 2024

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 with 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

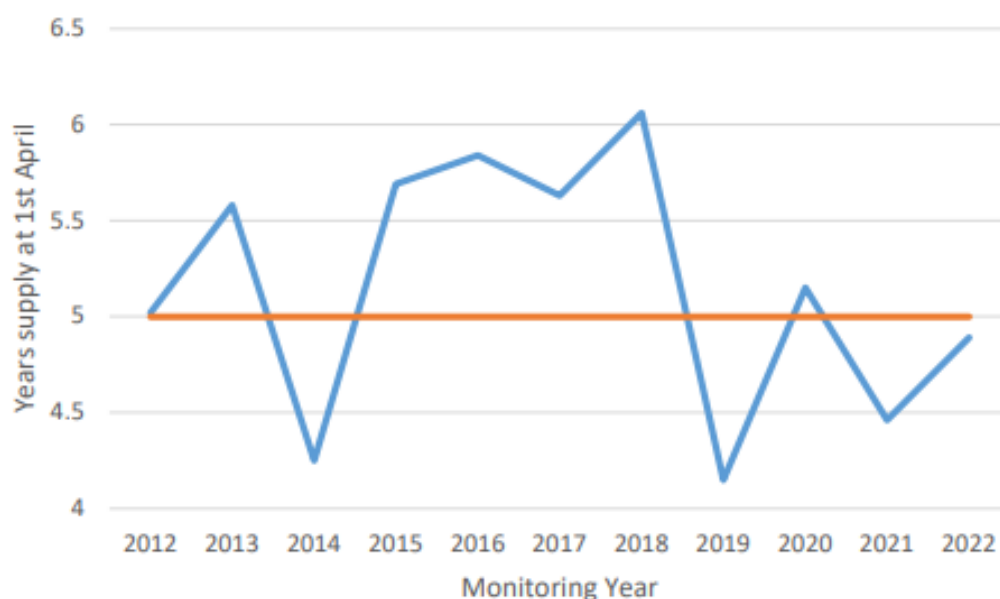
- 7.8 The Council claims to have identified a deliverable supply of 2,415 dwellings at the base date¹². However, a number of those sites contained within the claimed supply have been discounted in the Appellant's assessment for the following reasons:
- 25 units removed from the site at Crabtree Farm, 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

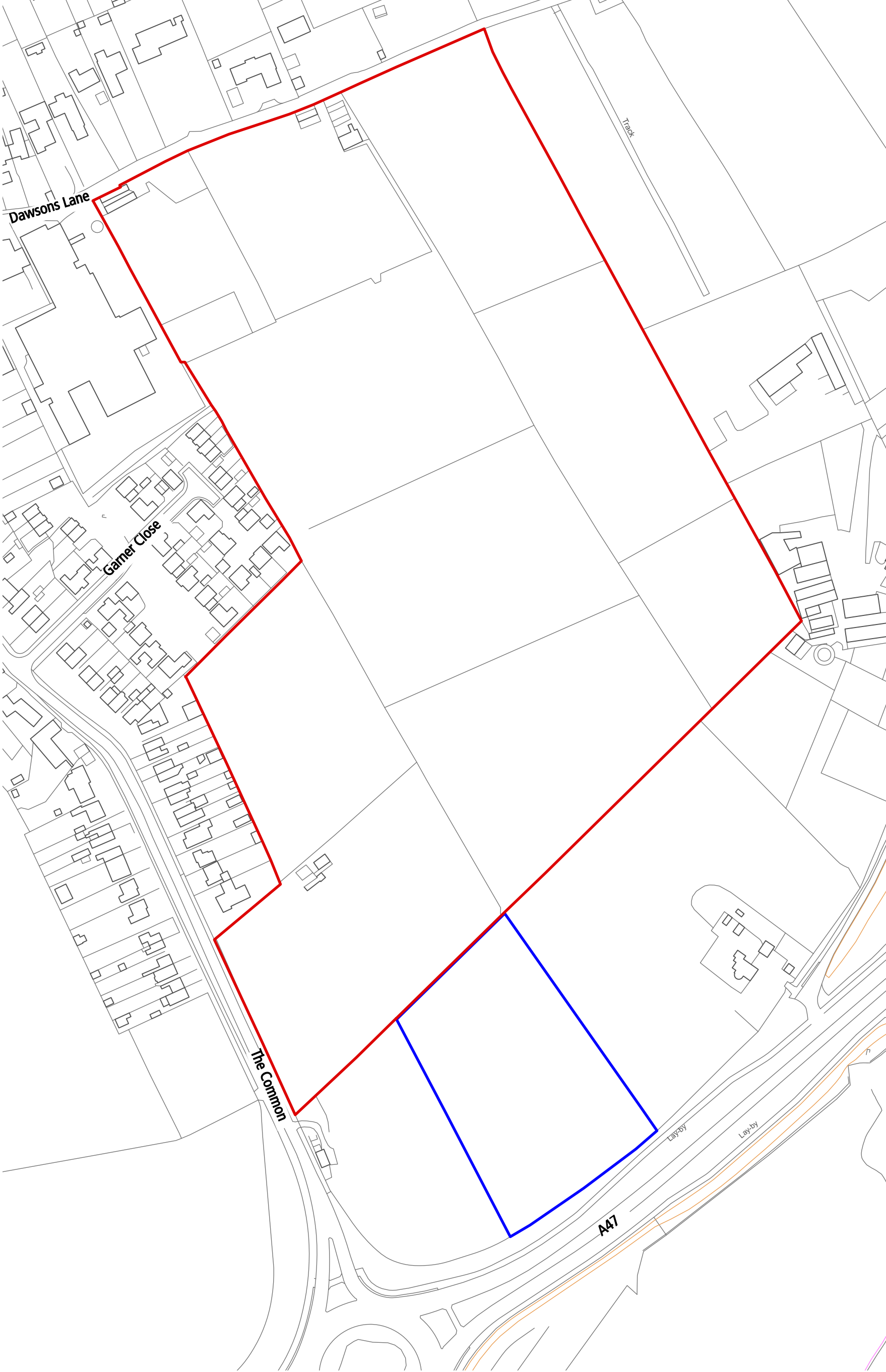
Appendix 1: Schedule of appeal documents

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

Site boundary

Land also under the control of the applicant



client:
Harrow Estates

project:
Land East of The Common, Barwell

drawing title:
Site Boundary Plan

job number:
HAR102

scale
1:2000 @ A3

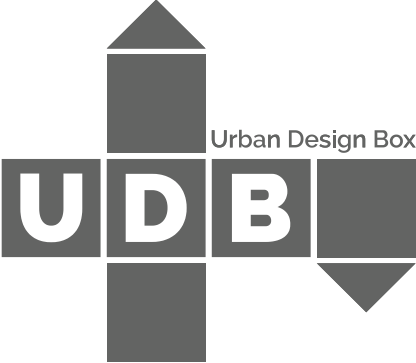
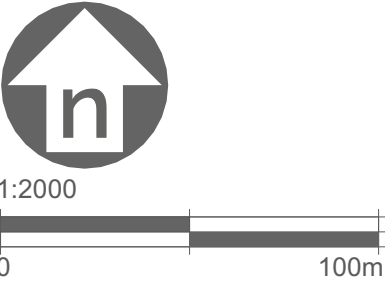
date:
November 2023

drawing number:
1001D

drawn
AJ

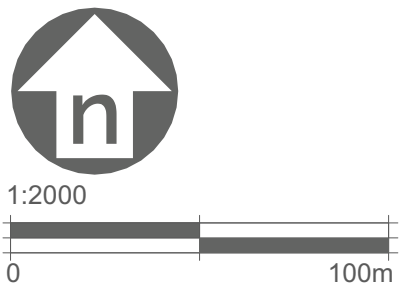
status:
Preliminary

urbandesignbox.co.uk
Copyright of Urban Design Box. This drawing is for illustrative purposes only and should not be used for any construction or estimation purposes. No liability or responsibility is accepted arising from reliance upon the information contained within this drawing. DO NOT SCALE DRAWINGS FOR CONSTRUCTION PURPOSES.



Appendix 3: Illustrative Masterplan

- Site boundary
- Land also under the control of the applicant
- Proposed all modes access
- Proposed pedestrian and cycle access
- Proposed pedestrian access
- Proposed pedestrian route
- Proposed shared pedestrian and cycle route
- Residential development
- Self build development
- Proposed main street and pathway
- Proposed shared surface
- Public open space
- Meadow grassland with mown paths
- Maintenance area
- Attenuation area / swales
- Existing hedges / trees / planting
- Proposed trees
- Proposed woodland
- Proposed hedges / strategic planting infrastructure
- Play area
- Outdoor recreation
- Walking routes
- Offsite proposed permissive pedestrian route



client:
Harrow Estates

project:
Land East of The Common, Barwell

drawing title:
Illustrative Masterplan

urbandesignbox.co.uk

Copyright of Urban Design Box. This drawing is for illustrative purposes only and should not be used for any construction or estimation purposes. No liability or responsibility is accepted arising from reliance upon the information contained within this drawing. DO NOT SCALE DRAWINGS FOR CONSTRUCTION PURPOSES.

job number:
HAR102

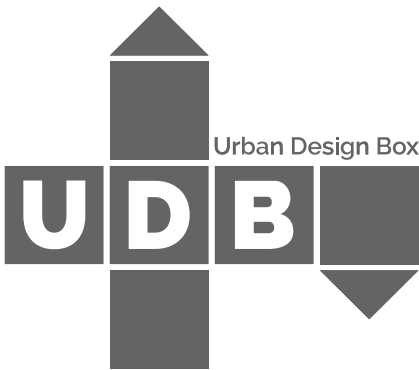
scale
1:2000 @ A3

date:
December 2023

drawing number:
4001G

drawn
AJ

status:
Preliminary



Appendix 4: Officer's Delegated Report

**Delegated Report
Report to the Planning Manager (Development Management)**

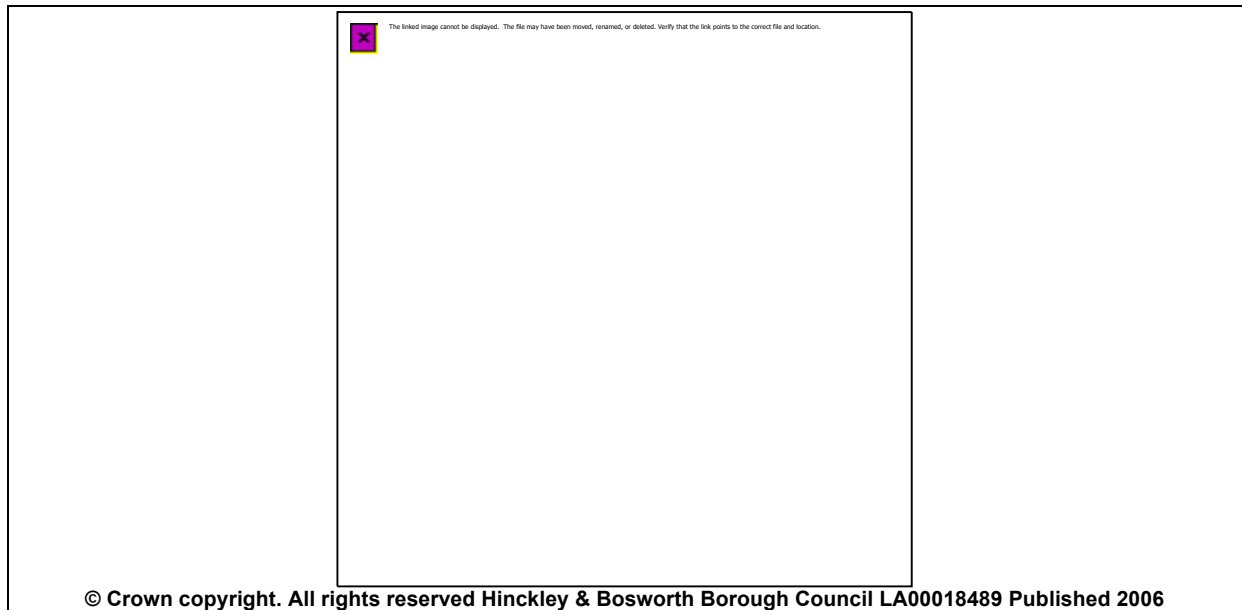
**Planning Ref: 23/01229/OUT
Applicant: Ms Ashleigh Genco
Ward: Barwell**



**Hinckley & Bosworth
Borough Council**

Site: Land East Of The Common Barwell

Proposal: Outline Planning application for up to 95 dwellings with associated access, open space and landscaping following demolition of all buildings on site



1. Recommendations

- 1.1. **Refuse planning permission** for the **reasons** listed at the end of this report.

2. Planning application description

- 2.1. The planning application is in outline form. Only the principle of the proposed development and the means of access are to be considered in detail for the purposes of this assessment. All other matters – landscaping, layout, scale and appearance would be deferred to reserved matters should permission be granted
- 2.2. The planning application seeks outline planning permission for the development of the application site to provide up to 95 homes.
- 2.3. The proposed single point of vehicle access is located to the south of 89 The Common and “hugs” a row of proposed dwellings that are arranged in a perpendicular fashion to The Common, to the north of the access road. Public open space is located to the south of the access and extends eastwards towards Inglenook Farm. The illustrative masterplan shows the easternmost fields as being retained for public open space with the proposed dwellings being located within, what are currently the western and central fields. A landscape buffer abuts Dawsons Lane and two new accesses – a pedestrian link and a cycle and pedestrian link are taken off Dawsons Lane. A network of footpaths are shown through the houses and public open space, which features a circular walk, and a

new footpath is shown, linking the site with the A47. A play area, outdoor recreation space and attenuation basin are shown within the public open space.

- 2.4. The current proposals are a reduced scheme compared to that proposed under planning application reference 21/01229/OUT which was dismissed under appeal reference 3295558 following a public inquiry.

3. Description of the site and surrounding area

- 3.1. The application site comprises approximately 10.92 hectares and is made up of nine field parcels, which are used as paddocks, divided by mature native hedgerows and trees and some sections of fencing. The site is accessed at present by field accesses taken from The Common and Dawson's Lane. The site slopes gently upwards towards Dawson's Lane.
- 3.2. The boundaries of the site are predominantly defined by existing hedgerows and sporadic tree planting. The site is bounded to the north by Dawson's Lane; to the west by the rear boundaries of the existing dwellings on The Common and The Enterprise Centre. Open countryside lies beyond the site boundaries to the east and south. The A47, Leicester Road, is located beyond the fields/paddocks located to the south of the site.
- 3.3. The site is located within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge, a multi-functional designation that provides recreational opportunities; performs an agricultural role; provides opportunities for flora and fauna; and links urban areas with open countryside. Its primary function is to guide development form of urban areas in order to maintain settlement identity and prevent coalescence.
- 3.4. The site is located in Flood Zone 1 and is at low risk of fluvial flooding. The part of the site that is bounded by the A47 is at high risk of surface water flooding. There are also some areas at low risk of surface water flooding within the site which correspond with the existing settlement edges. There are no heritage assets within the vicinity of the site and the site is not subject to any Tree Preservation Order.
- 3.5. The site composition has undergone minor changes, compared to earlier applications, now excludes the field/paddock to the south that bounds the A47 and in its place includes the paddock located to the west of The Enterprise Centre.

4. Relevant planning history

17/00030/PP

- Residential development of up to 185 dwellings (outline - access only)
- Appeal dismissed
- 20.07.2018

17/00507/SCOPE

- Screening opinion for residential development of up to 185 dwellings and associated infrastructure.
- 13.06.2017

17/00531/OUT

- Residential development of up to 185 dwellings (outline - access only)
- REFUSED – Appeal Dismissed
- 29.08.2017

21/01470/OUT

- Residential development of 110 dwellings with associated access, open space and landscaping (outline - access only)
- Appeal dismissed
- 27.3.2023

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. In response to the publicity surrounding this application 13 objections have been received. The areas of concern raised can be summarised as follows:
- Loss of Greenspace/ incursion on Green Wedge
 - Flood risk
 - Traffic issues/congestion/car reliance
 - Highway Safety
 - Loss of privacy
 - Access for emergency services
 - Strain on infrastructure
 - Light pollution
 - Loss of outlook
- 5.3. The development's impact on house prices was raised as a concern in more than one response. Whilst this matter is clearly a concern to residents, unfortunately this matter is not a material planning consideration that can be taken into account in the determination of this planning application.
- 5.4. No representations of support have been received.

6. Consultation

- 6.1. The following provides a summary of the consultation responses that have been received. Where appropriate, a fuller account of the consultation responses have been incorporated into the body of the report below.

No comment

- Environment Agency
- LCC Trees
- LCC Minerals
- Coal Authority

No Objection subject to conditions and/or planning obligations

- Housing Strategy

- Leicester Police
- NHS England
- LLFA
- LCC Archaeology
- Environmental Health
- HBBC Ecologist
- HBBC Conservation
- HBBC Drainage
- Environmental Health
- LCC Developer Contributions

Objection

- LCC Highways

7. Policy

7.1. Core Strategy (2009)

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

7.2. 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 DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Earl Shilton and Barwell Area Action Plan (2014)

- Policy 2: Provision of Community Facilities
- Policy 3: Primary, Secondary and upper Education provision

- Policy 4: Provision of Indoor Sports and Leisure Facilities
- Policy 5: Waste Management Provision
- Policy 19: Regeneration of the District Centres
- Policy 20: Skills Development

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- Hinckley and Bosworth Landscape Character Assessment (2006)
- Green Wedge Review (2020)
- Affordable Housing SPD
- Earl Shilton and Barwell Area Action Plan: Topic Paper 2
- Strategic Housing Market Assessment (2014)
- Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage

Assessment against strategic planning policies

7.6. Paragraph 2 of the National Planning Policy Framework (NPPF) (2023) reaffirms that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

7.7. The development plan in this instance comprises the adopted Core Strategy (2009), the Earl Shilton & Barwell Area Action Plan (2014) and the adopted Site Allocations & Development Management Policies (SADMP) DPD (2016).

7.8. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the SADMP set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise.

7.9. ***Housing Land Supply Position***

- 7.10. The Council's housing land supply position is set out within its 'Residential Land Availability Monitoring Statement 1 April 2021 to 31 March 2022'. This paper is based on the need to deliver 472 dwellings per annum, demonstrating a housing supply calculated at 4.89 years under the Standard Method.
- 7.11. Due to the shortfall in the five year housing land supply, paragraph 11(d) of the NPPF is triggered. This application should therefore be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 7.12. Footnote 8 to paragraph 11 clarifies *"this includes, for applications involving the provision of housing, situations where a) the local planning authority cannot demonstrate a five year housing land supply (or a four year supply, if applicable, as set out in paragraph 77); and does not benefit from the provisions of paragraph 76; or (b) where Housing Delivery Test indicates that the delivery of housing was substantially below 75% of the housing requirement over the previous three years"*. In this instance "a" of footnote 8 is applicable.
- 7.13. Paragraph 77 of the NPPF sets out that *'To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority's housing requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years.'*
- 7.14. The Council acknowledges that it cannot currently demonstrate a five year housing land supply position, and so by way of footnote 8 of the Framework the 'tilted balance' element of the presumption in favour of sustainable development as set out in paragraph 11(d) is triggered. The latest Action Plan can be found at https://www.hinckley-bosworth.gov.uk/downloads/file/7754/housing_delivery_test_action_plan_july_2022
- 7.15. Whilst some of the policies most relevant for this proposal are considered to be out-of-date the amount of weight to be afforded to them will be dependent on their consistency with the Framework. Due to the lack of a 5 year housing land supply, paragraph 11(d) of the NPPF is triggered and permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is a material consideration to weigh in the context of the statutory requirement to determine applications and appeals in accordance with the Development Plan unless considerations indicate otherwise.

Spatial Strategy

- 7.16. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.

- 7.17. Barwell is an Urban Area as identified in Policy 3 of the Core Strategy and is identified as such in chapter 4 of the SADMPDPD with detailed allocations for Barwell contained in the Earl Shilton and Barwell AAP. Barwell supports Hinckley as the sub regional centre and along with Burbage and Earl Shilton, provides more local services to the populations residing there.
- 7.18. Two large Sustainable Urban Extensions (SUE's) are identified in the AAP for Earl Shilton and Barwell, these have been allocated on the basis of their ability to contribute to the long-term housing needs of the Borough and to address issues in relation to deprivation and regeneration in the settlements (para 4.1 and 4.2 of the AAP).
- 7.19. Currently the SUE to the west of Barwell does not have planning permission but outline permission exists, subject to the signing of a S106 agreement for the SUE to the east of Earl Shilton (ref 12/00295/OUT). In terms of sustainability, the settlement of Barwell is considered to be a highly sustainable location.

Other Strategic Policy

- 7.20. The site lies outside but adjoining the settlement boundary of Barwell in the Countryside as identified in Policy DM4 of the SADMPDPD. New residential development in this location is not acceptable in line with the provisions of the policy and as such the principle of development in the countryside is contrary to policy DM4.
- 7.21. The application site is located within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge. The green wedge protects the separation of the settlements, helping to protect their individual identities and provides easy access from the urban areas into green spaces and contributes towards the quality of life for residents in their urban areas. They also provide a "green lung" to urban areas; this relates to environmental value such as green infrastructure, wildlife sites, air quality and flood alleviation measures. Policy 6 of the Core Strategy identifies acceptable land uses, provided the operational development associated with the use does not damage the function of the green wedge. The acceptable uses are as follows:
- a) Agriculture, including allotments and horticulture not accompanied by retail development
 - b) Recreation
 - c) Forestry
 - d) Footpaths, bridleways and cycleways
 - e) Burial grounds
 - f) Use for nature conservation
- 7.22. It is also stated in the policy that development in the Green Wedge should:
- a) Retain the function of the Green Wedge
 - b) Retain and create green networks between the countryside and open spaces within the urban areas
 - c) Retain and enhance public areas to the Green Wedge, especially for recreation; and
 - d) Should retain the visual appearance of the area
- 7.23. Policy 20 of the Core Strategy identifies that the green wedge between Hinckley and Barwell should be maintained as it plays an important environmental and

landscape protection role. The proposal for residential development is not a form of development supported by Policies 6 and 20 of the Core Strategy and therefore would be in conflict with the development plan.

- 7.24. Paragraphs 39 to 41 of the previous appeal decision, relating to the same site, set out that development of the site would have an effect on the character and appearance of the area and on the Hinckley/Barwell/Earl Shilton Green Wedge. The current application has reduced the proposed development by 94 units, however, the fact remains that any development on this parcel of land would remain contrary to policy. For the reasons outlined above the principle of residential development on this site is contrary to the spatial policies within the development plan, specifically Policy 6 and 20 of the Core Strategy and Policy DM4 of the SADMP.

Design and impact upon the character of the area

- 7.25. Policy DM4 of the adopted SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development. Furthermore, as identified above, Policy 6 of the Core Strategy identifies acceptable land uses within the green wedge and also identifies that land uses should retain the function of the green wedge, retain and create green networks between the countryside and open spaces within urban areas, retain and enhance public access to the green wedge, especially for recreation and should retain the visual appearance of the area.
- 7.26. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the area generally.
- 7.27. The planning application was accompanied by an LVIA.

Landscape Character

- 7.28. The application site is situated within the Character Area F: Hinckley, Barwell and Burbage Fringe identified within the Hinckley and Bosworth Landscape Character Assessment (LCA) (2006). The key characteristics of the area are:
- Gently rolling landform with some areas of flat land such as Burbage Common.
 - Mix of arable and pasture with isolated areas of woodland.
 - Increasing industrial use around urban areas
 - Medium sized rectilinear field pattern bounded by mixed hedgerows and few hedgerow trees.
 - Agricultural land provides open areas of separating landscape between Barwell, Earl Shilton and Hinckley.
 - Landscape heavily influenced by established settlements, often situated on higher ground, with masts and poles prominent.
 - Significant transport infrastructures subdivides area
 - Distinctive landscape features such as Burbage Common and Wood have local and national importance as ecological and recreational resources

- Localised containment provided by woodland by urban areas frequently visible on ridgelines

- 7.29. The LCA identifies that the sensitivity of this area varies across the diverse urban fringe character area. It is concluded that strategically significant landscapes of high sensitivity are located close to principal urban areas. In the context of the previous application/appeal, the Council's Landscape Consultant found that the impact of the development upon the Landscape Character Area had been downplayed in the LVIA. This appears to be the case once again.
- 7.30. In the context of the earlier application/appeal the Council was advised that at a district level there would be Moderate adverse effects on the landscape character of Area F at year 1 reducing to Moderate-Minor adverse in year 15. At a site to local level there would be a Medium to High magnitude of change at year 1 reducing to Medium in year 15. This would result in a Moderate adverse effect in year 1 and Moderate to Minor adverse by year 15. There would be some Major-Moderate adverse effects on site features including land use which would be partly offset by Moderate neutral and beneficial effects through new planting. Effects on vegetation will arise from the impact on three hedgerows and a section of the boundary along The Common.
- 7.31. The adverse effects at district and site and local level count against the proposed development giving rise to some significant effects (where moderate and above). There appears to be no reason why an alternative conclusion would be made in the context of the current application and this weighs heavily against the development proposals.

Visual Effects

- 7.32. The Council was advised in the context of the previous application/appeal that Major Adverse to Moderate Adverse effects arise from the development and impact upon public views. These include views from Dawson's Lane looking to the south (Major adverse and Major to Moderate adverse); elevated views from Shilton Road looking to the south (Moderate adverse); and at the proposed access from The Common (Moderate adverse).
- 7.33. It is possible that views from Dawsons Lane could be partly mitigated by the increased planting compared to earlier iterations of the scheme, yet it should be noted that the Inspector in the context of the earlier appeal considered the potential for additional planting on Dawson's Lane. She noted that *"Notwithstanding this [the prospect of reducing the scheme to 95 dwellings and increasing planting along the boundary with Dawsons Lane] the housing of the scale indicated, i.e., with a maximum height of 9m, would be visible above the hedgerow to users of Dawsons Lane."* She added that *"it was put to me that landscaping in the form of extensive planting of trees could mitigate these effects. However, landscaping cannot be considered permanent, and all vegetation has a natural life cycle and is susceptible to disease. Furthermore, extensive planting of tree belt would, in any event, alter the existing open character of the site and the rural amenity it currently affords users of Dawsons Lane and the allotments."*
- 7.34. It is unlikely that the long views from Shilton Road will be improved due to the elevated position. The impact on views from The Common have likely been worsened due to the location of dwellings to the south and south east of 89 The Common, in a configuration that is not characteristic of the site's surroundings and settlement pattern, and the inclusion of housing within an additional field/paddock within the centre of the site. Where moderate and above these visual effects amount to significant effects at a local level to visual receptors and this weighs heavily against the development proposals

Green Wedge

- 7.35. As explored above a Green Wedge Review was undertaken in 2020 which reviews the two green wedges within the borough and assists in determining whether any alterations to the boundaries should be made. Within this review Area C: East of The Common and south of Shilton Road is assessed, which includes the application site. The assessment pro-forma in appendix c of the Review notes that:

"Due to the sloping topography of the green wedge, development of this site would have a substantial visual impact and bring development closer to the A47, compromising the integrity of the wedge". It also observes that the Green Wedge in this location provides *"green open space in a predominantly urban environment"*. The assessment of this area concludes:

"The topography enables a unique character to the edge of Barwell; there are long distance views from Shilton Road. From this vantage point it is possible to view Burbage, Elmesthorpe and the spire of the church in Stoney Stanton. Paragraph 24 of the Inspector's Planning Appeal Decision for Shilton Road also found this area was particularly sensitive in terms of providing a green lung. The Inspector stated 'I consider the scheme would have a substantial and adverse effect on the third purpose – that of providing a green lung into the urban areas. Attributable in no small part to the elevation of Shilton Road, the existence of the appeal site as undeveloped land ensures the extension of the countryside into the built-up area of Barwell in a particularly attractive manner'. The Landscape Character Assessment (2017) supports this and identifies that a key

sensitivity within this area is the 'extensive visibility and long distance views across open expanses of rolling farmland' and 'any change/development has the potential to be widely visible'.

This area helps to guide development form and contributes collaboratively to the prevention of the merging of settlements. It provides access via public rights of way, allotments and horse paddocks, performing the role of a green lung and a recreational resource.

The area is particularly sensitive to coalescence, providing a green lung and acting as recreational resource. It also plays an important role in connecting Barwell to Earl Shilton and provides intravisibility between a number of the settlements.'

- 7.36. In a recent Appeal Decision at The Common, Barwell, the Inspector identified that the appeal site would was an integral part of the Green Wedge. He noted that *'the site would significantly erode the function of coalescence, visual appearance and the green lung element afforded by this site. These harms together lead me to conclude that substantial harm arises to the character and appearance of the countryside'*. This highlights the importance of this area in the function of the green wedge.'
- 7.37. Ultimately the Green Wedge review recommends that no changes to the Green Wedge boundary should be made in the vicinity of the application site. The site itself consists of a number of agricultural fields/paddocks, divided by boundary hedgerows and trees. The site slopes upwards towards Barwell. The site is bound by residential development to the west (The Common); a mixture of paddocks and residential to the north and allotments and agriculture to the west, and is adjacent to agricultural fields to the south and the southern most part is bound by the A47. The site is distinctively different in character to the urban form of the village of Barwell and is rural in nature.
- 7.38. Whilst there are a number of hedgerows and trees within the application site, due to the topography there are still public views into the site both locally from The Common and Dawson's Lane and from further afield. Additionally this site enables long distance views from Barwell to Burbage and other village's key vistas. This site therefore provides a 'green lung' upon the edge of Barwell which plays an important contribution towards the quality of life for residents within the urban area of Barwell and plays an important role in the setting of the settlement. It has a recreational and perceptual value to those using the surrounding footpaths and footways.
- 7.39. The application includes a large area of proposed green infrastructure. It is proposed that this would include informal footpaths linking into the existing pedestrian routes through the village, areas of amenity and meadow grassland, equipped area of play space, proposed attenuation area. Whilst there is a large area of open space proposed on site, it is considered that this does not remove the harm of the built development upon the character of the area as the overall amount of green space is reduced, as is the separation between the two settlements. The presence of existing built incursions within the Green Wedge, including the buildings around Inglenook Farm and White Oaks, would be exacerbated by the proposed development. The recreational value of the allotments as a countryside pursuit would also be degraded by the presence of additional built form. Whilst the inclusion of public footpaths within the development is a public benefit and promotes countryside access; the development overall narrows the area of open land and changes its characteristics. Those using surrounding routes would have an altered

experience from entering the countryside to one of passing through or near an urban extension.

- 7.40. It should be noted that the Inspector in deciding the most recent appeal noted the loss of Green Wedge. Whilst she identified no harm in respect of settlement separation she noted the role played by the Green Wedge in providing easy access from the urban areas into green spaces, thereby contributing towards the quality of life for local residents. In this regard the Inspector observed that there is currently no public access to the site she stated that:

“The development could provide access into and through the site by way of creation of new footpaths. However, its value as a Green Wedge i.e., a green space, would be significantly diminished by the development. Furthermore, whilst footpaths across the site might provide a route to Burbage Common this is equally accessible along The Common and other routes.

Furthermore, even though public access is not currently available onto the appeal site, based on submissions from local residents, it is clear it still has a function as green space. It enhances the local area and makes an attractive contribution to the quality of life of nearby urban residents who are presently able to enjoy it from the adjacent public footpaths and allotments, for example. This would be diminished by the development.”

- 7.41. The Inspector concluded her consideration of Green Wedge matters by observed that *“By virtue of the physical loss of Green Wedge and the resulting diminishing of its value and the effects that would have on the quality of life of local residents, I find that the development would not retain the function of the Green Wedge nor would it retain the visual appearance of the area.”*
- 7.42. There is no reason why different conclusions would be made in the context of the current application.
- 7.43. It should however be acknowledged that the detailed design and appearance of the scheme would be fully assessed at reserved matters stage if planning permission was granted.

Appeal Conclusions

- 7.44. In the context of the previous most recent appeal (3295558) the Inspector made a number of remarks that are still considered to be relevant despite the scheme being reduced. The current application proposes up to 95 dwellings and the Inspector noted that, in the light of the Appellant's offer to reduce the scheme to 95 dwellings *"I am not satisfied that such a small reduction in dwellings would overcome my concerns"*. In making this comment the Inspector would have had regard for the fact that the application was in outline form and that the layout was not fixed. Whilst the inclusion of additional paddocks have allowed for additional landscaping within the housing layout, the development remains dense, particularly on the western side of the site.

Impact upon neighbouring residential amenity

- 7.45. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties. The NPPF in paragraph 135 bullet "f" seeks to ensure a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.
- 7.46. The residential properties which could be most impacted by the development, with regards to overlooking, privacy and overbearing impacts, are those properties situated to the western side of The Common, properties within Garner Close and along Dawsons Lane.
- 7.47. This is an outline application with all matters reserved with the exception of access. Full details of matters arising from scale, layout, and appearance and landscaping are not available and would be considered at reserved matters stage, should permission be granted. The impact of the development on the amenity of neighbouring occupiers must therefore be deferred to a reserved matters assessment. At this stage there is nothing to suggest that reasonable amenity standards could not be achieved and so a reason for refusal on this basis cannot be substantiated.
- 7.48. To ensure the development does not have a detrimental impact upon existing residential amenity a condition would be applied to any forthcoming consent requiring the submission of a construction environmental management plan, no waste materials to be burnt on site and a restriction of construction hours to 08:00- 18:00 Monday – Friday, 09:00 – 13:00 Saturday and no working on Sunday or Bank Holidays. These conditions are considered to be reasonable and necessary to mitigate the impacts of the development.
- 7.49. With the use of the recommended condition the development would accord with SADMP policy DM10 and the advice contained in the NPPF in respect of amenity.

Housing Mix and Affordable Housing

- 7.50. Core Strategy, policy 15, states that sites of 15 dwellings or more, or 0.5 hectares or more in urban settlements, require 20% of the housing to be offered for affordable housing. This site exceeds the threshold and therefore if 95 dwellings are provided, 19 should be offered for affordable housing.
- 7.51. Since the Core Strategy was adopted there have been changes introduced nationally which affect the delivery of on-site affordable housing. The main changes in urban areas are to tenure types. Section of the NPPF requires 10% of all homes on qualifying sites to be for affordable home ownership. Subsequent to this guidance, NPPF also introduced a new affordable home ownership product called First Homes. On qualifying sites, 25% of all affordable housing should be for First Homes.
- 7.52. As this application is in outline form the precise quantum and mix of housing will be determined at reserved matters stage. The tenure breakdown for this site would need comprise 10 homes for affordable rent, 5 homes for First Homes and 4 homes for shared ownership.
- 7.53. The applicant has indicated that 30% of the dwellings will be offered as affordable housing and would deliver 29 affordable, which would give the following tenure breakdown: 8 First Homes; 5 shared ownership homes; 16 affordable or social rented homes.
- 7.54. Affordable home ownership properties should normally comprise a mix of 2 and 3 bedroomed houses; affordable homes for rent should include 4 x 1 bed roomed properties as well as a mix of 2 bedroomed 4 person and 3 bedroomed 5 person houses. The properties should meet the Nationally Described Space Standards.
- 7.55. If permission were to be granted, a S106 agreement would be drafted to secure the required affordable housing and a mix of housing types and tenures. In the absence of such an agreement or mechanism to secure a policy compliant mix of homes a reason for refusal will accordingly be included on any decision notice.

Highway Matters

- 7.56. The Highway Authority originally advised that additional information was required to be submitted by the Applicant in order for the proposals to be considered fully. The following additional information was requested:
- A Stage 1 Road Safety Audit (RSA1) of the site access proposals and off-site works, along with a designer's response and amended drawing if required;
 - Clarity in respect of the why the proposed future year assessment is 2035 as opposed to 2029 and adjustments to 2029 if necessary; and
 - Clarity in respect of alternative assumptions applied in order for the LHA to consider accepting traffic growth factors.
- 7.57. The applicant has submitted an e-mail to the LPA dated 11th March 2024, which includes additional information in respect of the proposals, notably:
- A Stage 1 Road Safety Audit (RSA1), dated March 2024, which includes a designer's response;
 - Stantec drawing number 332610546/5501/001 Rev P04, which details the site access arrangements; and
 - A spreadsheet detailing committed developments in the area.

Site Access

- 7.58. The Highway Authority has reviewed the submitted RSA1 of the site access proposals. This has raised two problems. Firstly the swept path requirements of large vehicles turning, entering and exiting the proposed new priority T junction require the vehicles' bodies to encroach into the opposing vehicular traffic lanes. Secondly there is a lack of corduroy tactile paving where pedestrians cross the carriageways and join the shared pedestrian/pedal cycle facility could lead to a potential increased risk of blind or visually impaired pedestrian collisions occurring with pedal cyclists, whereby blind or visually impaired pedestrians could sustain personal injury. This problem was identified at two locations. The Applicant has responded to the problems as follows: 1. The Applicant has stated the junction has been designed in accordance with Manual for Streets and LHDG guidance and that similar designs have been accepted elsewhere in the county for similar scale developments. In addition, it is stated that a refuse collection vehicle would only travel to/ from the site on a weekly basis and that the risk of conflict is likely to be low. The Applicant is not proposing to amend the access design. 2. The Applicant has agreed the recommendation in the RSA1 to provide corduroy tactile paving and shared space pedestrian/pedal cycle facility signing.
- 7.59. The Highway Authority has considered the applicant's response in respect of problem 1 and accepts that whilst a refuse collection vehicle would encroach fully in to opposing lanes, such a vehicle would only be required to access the site infrequently during the week. In addition, speed cushions are proposed to reduce the speed of traffic either side of the site access, along with a reduction of the speed limit from 40mph to 30mph. On this basis, the LHA accepts the applicant's response to problem 1.
- 7.60. In respect of problem 2, it should be noted that shared use footway/cycleway facilities are proposed on the southern corner of the proposed access junction. The tactile paving here should be corduroy hazard paving as per section 3 of the Department for Transport document "Guidance on the use of tactile paving surfaces" The paving currently shown is for segregated facilities. The Highway Authority notes that as part of the previous application, visibility splays were

based on the 85th percentile traffic speeds for the road, which were 36.6mph northbound and 38.6mph southbound. On this basis the Applicant provided visibility splays of 2.4 x 73 metres at the access in addition to the proposed speed cushions either side.

- 7.61. The Highway Authority notes that splays of 2.4 x 47m have been provided in each direction as part of the current application. The Highway Authority therefore request that splays of 2.4 x 73 metres are provided at the access to support the current proposals along with a number of additional changes to safely accommodate pedestrian and cyclist movements.

Highway Safety

- 7.62. Once the LHA is in a position to review the capacity assessments, further advice will be provided on Highway Safety.

Trip Generation and Distribution

- 7.63. The Highway Authority has advised that the proposed trip generation and distribution analysis was accepted.

Junction Capacity Assessments

- 7.64. The LHA previously advised that the Applicant has undertaken capacity assessments at the following junctions:

1. Chapel Street / High Street / Shilton Road / Stapleton Lane Priority controlled mini roundabout
2. A47/ The Common / B4668 Leicester Road priority-controlled roundabout
3. A47 / Leicester Road priority-controlled roundabout;
4. A47 / A447 Ashby Road / B4667 Ashby Road signalised junction; and
5. The Common / Proposed Site Access junction

- 7.65. Previously, the Highway Authority advised that baseline traffic flow data collected by the Applicant has first been adjusted to take into account Covid-19 uplift factors and then uplifted to a baseline year of 2024 and future year of 2035 using TEMPro traffic growth factors. Clarity was requested as to why a future year of 2035 was used as opposed to 2029. The applicant has clarified that a future year assessment of 2035 has been undertaken following the County's advice on the previous application (21/01470/OUT).

- 7.66. As part of the previous application, it was request that the TA should account for an assessment year of opening year + 10 where the housing trajectories of committed development extended beyond the five-year period. This advice has been followed for this application assessing a future year of 2035. This is accepted by the Highway Authprity. In addition, the LHA previously advised that the Applicant had also stated within paragraph 7.5.2 of the TA that growth assumptions have been adjusted to account for the committed developments that have been manually added to the assessment. No clarification had been provided on what adjustments have been made. It was therefore advised that further clarification would be required in respect of alternative assumptions applied in order for traffic growth factors to be accepted.

- 7.67. The applicant has subsequently provided a spreadsheet which details the committed developments and housing trajectories in the area. The assumptions were based upon those projections detailed in the HBBC Residential Land Availability Monitoring Statement (RLAMS) 2022 which was the latest available information at the time of the submission of the application. Two sites, Westfield Farm and land North East of Triumph Motorcycles are currently under

construction and as such the housing assumptions within the growth rates for 2021 – 2024 was adjusted accordingly reflecting the build out trajectories from Appendix 4 of the RLAMS. For the remainder of the committed development sites where no construction had begun the housing projections were adjusted within the growth rates for 2024 -2035 to account for these developments.

- 7.68. The Highway Authority has requested that the applicant provide the traffic flow diagrams for each of the developments included for the calculations, along with an indication as to how many additional vehicles would travel through the junctions based on this information.

Off site implications

- 7.69. The Highway Authority previously advised that Leicestershire County Council are continuing to investigate a potential improvement scheme for Junction 4 and it is a contribution would be required from the proposed development towards an improvement scheme, which will be in proportion to the impact and scale of the development proposed.

- 7.70. The applicant acknowledges that Junction 4 operates over capacity in both the current and future year scenarios but consider a contribution towards an improvement scheme at the junction to be unnecessary. Leicestershire County Council is currently working on a scheme to put in place at the junction. As part of the appeal decision for the previous application, the Planning Inspector highlighted that there was no suitable mitigation in place to resolve the capacity issue. It was also stated the applicant should not shoulder the full responsibility for upgrading the junction. It would however be reasonable for the applicant to contribute proportionately towards a wider scheme.

Internal Layout

- 7.71. As previously advised, the internal layout of the development is not for consideration at this stage and therefore the indicative plans have not been considered in detail.

Highway Conclusions

- 7.72. In summary the following matters remain outstanding and the following details are required in order to make a full assessment of the highway implications of the scheme:

- Details of additional improvements to the site access.
- Further information to support the alternative assumptions calculations, such as provision of the traffic flow diagrams of the developments considered and the number of additional vehicles forecast through each junction.
- Junction model files for review and approval
- Contribution to junction improvements to improve capacity

- 7.73. In the absence of the above information it cannot be concluded that the scheme will not pose a threat to highway safety and it cannot be concluded that there would be no severe cumulative impact on the highway network. Whilst a contribution to junction improvements was not pursued in the context of the earlier appeal, the Planning Authority accepts that work is progressing in terms of deriving a project and proportionate contribution to meet the CIL tests. Whilst ideally all of these matters would have been resolved in the context of the determination of this application, it has not been possible within the timeframe set by the Planning Guarantee. Given the in-principle reason for refusal, on this occasion it is considered reasonable to refuse the application on highways

ground 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

Ecology

- 7.74. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. Paragraph 180 bullet “d” of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by (inter alia) minimising impacts upon and providing net gains for biodiversity.
- 7.75. The Council’s Ecologist has confirmed that the submitted ecology report is satisfactory and demonstrates that much of the existing grassland and hedges on the site have high conservation value. Some of the grassland would meet Local Wildlife Site criteria (the two oblong fields alongside the eastern boundary and the field behind houses on the south side of Garner Close). There are also some veteran ash (T5, T7, T8 and T42) , which meet Local Wildlife Site criteria in their own right, and a veteran oak (T39). These should be retained.
- 7.76. The two oblong species-rich candidate LWS fields will be enhanced as a result of development, according to the ecology report and the masterplan, which is welcomed. The field to rear of Garner Close will be lost to development. It’s clear that some mitigation/ compensation for the loss of grasslands is possible with in the red-line boundary.
- 7.77. The baseline habitat assessment that form the first part of the BNG metric are also satisfactory. The assessments are repeated in the accompanying documents, and correctly cross-referenced to the habitat plan. The grasslands are assessed as either ‘Other Neutral Grassland’, for the more species-rich fields, or ‘modified grassland’ for those that are of lesser 2 value. Two of the cLWS fields are classed as Other neutral grasslands (field 10 and 4). The third field (9) which does meet LWS criteria is classed as the less valuable ‘Modified grassland’. Although field 9 meets LWS criteria, it is only on the basis of a few plants of some indicator species. For this reason the lower classification is accepted. All the grasslands have value as relatively undisturbed grasslands, and there is potential and opportunity to improve their biodiversity value through management.
- 7.78. It is proposed to convert all the retained meadows (both ‘Other Neutral Grasslands’ and ‘Modified grassland’) to a higher category of more value – ‘Lowland Meadow’. This appears to be a scarce habitat in Leicestershire, although it is difficult to apply the habitat descriptions in the BNG documentation to the grasslands of this type in Leicestershire; however it is assumed that it would be close to SSSI standard. Normally caution would be advised when ‘Lowland Meadow’ is proposed as a biodiversity gain; it is often unrealistic or overambitious, given the scarcity of this very high-quality grassland habitat in our area. On balance, it is possible, and should be the aim of management. This is based partly on the location and context of the site, which is separated from heavily improved agricultural grasslands and arable land that may have adverse indirect impacts. They are also, in part, still of reasonable quality and clearly have not been heavily improved.
- 7.79. No proposals for how Lowland Meadow will be achieved have been put forward. A combination of haycutting and grazing, preferably in rotation, will be required. Hay-cutting alone will not achieve the desired result.
- 7.80. The main loss of habitat is field 4, which meets LWS criteria. It will all be lost to development (it is the southernmost parcel of the scheme, numbered 4 on the illustrative masterplan). This is regrettable, and if possible, the layout should seek to retain all or some of it. It contains one locally notable plant species – Pepper Saxifrage. This is not common in Leicestershire, and is in decline; it is particularly associated with old semi-improved or unimproved grasslands. It is recommended that, if this field is lost to development, the Pepper Saxifrage and other grassland

is translocated into one of the retained but currently species-poor meadows, to assist in the conversion to Lowland Meadow. Translocation should be based on a more detailed survey of both receptor and donor, to establish the locations of the best turf to move and the best place in which to translocate – which should be close in terms of soil-type, aspect, drainage etc. to the donor site's features.

- 7.81. Small amounts of woodland are proposed, some in Fields 9 and 10, which are already relatively species -rich (and meet LWS criteria). It would be preferable if this tree and shrub planting was relocated to another field of lower value, to avoid loss of potentially better grassland habitat.
- 7.82. A large SUDS feature is shown on the illustrative masterplan and features in the BNG as habitat creation. For it to achieve the desired condition it will need to be designed to optimise biodiversity value.
- 7.83. The majority of hedges within the site are retained with gaps to allow access. Further hedge planting in compensation is proposed, and is acceptable; overall the development should be in clear net-gain as regards hedgerow habitat.
- 7.84. Several small badger setts are present along the northern site edge. They may comprise subsidiary setts to a main sett in the wider area. They are not main setts in themselves, and can be closed down under licence from natural England.
- 7.85. The Council's Ecologist recommends that, on balance the development is acceptable and can achieve BNG onsite; there should be no need for offsetting. This is subject to the following two measures: :
- the submission of a 30-year landscape and biodiversity management plan that 3 demonstrates that all the grassland retained on site can achieve 'Lowland Meadow' status within the time period. This will require a combination of hay meadow and grazing, which must be established on granting of planning permission and before development starts, to avoid further damage to grasslands through neglect or inappropriate management.
 - grassland translocation from the LWS field that will be lost into the retained grasslands. It is unlikely that all the grassland will need to be translocated, but recommend that at least 50% of the area is earmarked for this approach. A method statement will be needed, and it should be done before development starts.
- 7.86. These measures should be subject to planning conditions. The baseline assessment will form the basis for any future reserved matters. Each reserved matters application for each phase will need to revisit the BNG metric and make any changes needed as plans develop. In accordance with DEFRA current proposals, on-site gains should be front-loaded – therefore the landscape and biodiversity plan, establishment of the correct meadow management regime and the grassland translocation should occur alongside the first phase of development; it cannot be deferred to the end.
- 7.87. A planning condition regarding badger mitigation will be needed, as set out in the submitted document (PCA, April 2022). In the 3-month period before the commencement of ground clearance for each phase of development, an updated badger surveys and updated mitigation plan for that phase must be submitted to and approved, alongside the reserved matters,
- 7.88. The veteran/near-veteran oak and ash should also be retained and this should be secured by condition.

- 7.89. With the use of the recommended conditions, the development proposals comply with SADMP Policy DM6 and the advice contained in the NPPF. Notwithstanding the public concern regarding the development's impact on wildlife, no objection is raised on these grounds.

Archaeology

- 7.90. Policy DM13 relates to the preservation of the Borough's archaeology and requires, where a development proposal has the potential to impact a site of archaeological interest, developers should set out an appropriate assessment, and where applicable, the results of a field evaluation detailing the significance of any affected asset.
- 7.91. The County Archaeologist has noted the submission of a Desk Based Assessment (SLR DBA submitted 20/12/2023), although they suggest that the conclusions drawn within the document are based upon an inadequate level of information. The DBA states that 'the lack of findings in the evaluation suggests the site does not contain buried archaeological remains beyond Medieval ridge and furrow cultivation'. However the 2018 targeted evaluation undertaken in response to 17/00531/OUT was limited to two specific areas where anomalies had been identified in the geophysical survey. Whilst this was sufficient in addressing the need to enable an informed planning decision, the evaluation did not provide a comprehensive investigation of the site's archaeological interest.
- 7.92. Whilst geophysical survey can be a useful tool in establishing presence of archaeological deposits, it is not definitive and cannot be used to establish absence. As a minimum, the applicant should be required to provide further post-determination trenching to address the potential for archaeological buried remains across the remainder of the site, and determine the scope and targeting of any required mitigation.
- 7.93. In accordance with the NPPF developers should record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.
- 7.94. In that context it is recommended that the current application could be approved subject to conditions for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by intrusive and non-intrusive investigation and recording. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant's request.
- 7.95. If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief, and with relevant Chartered Institute for Archaeologists "Standards" and "Code of Practice". It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development. The recommended measures will be secured by condition if planning permission is granted and would ensure compliance with SADMP policy DM13 and the advice contained in the NPPF.

Flood Risk, Drainage & Pollution

- 7.96. Policy DM7 of the SADMP relates to the prevention of pollution and flooding and identifies a number criteria that development should achieve. The criteria most relevant to this proposal are a) proposals would not adversely impact the water quality, ecological value or drainage function of water bodies in the Borough; d) it would not cause noise or vibrations of a level which would disturb areas that are valued for their tranquillity in terms of recreation or amenity; e) appropriate remediation of contaminated land in line with minimum national standards is undertaken; f) it will not contribute to poor air quality; h) the development doesn't create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against in line with National Policy.
- 7.97. Due to the former agricultural use a land contamination assessment should be undertaken prior to the commencement of development. This could be secured by planning condition should planning permission be granted.
- 7.98. A Noise Assessment was submitted in support of the planning application. It has been highlighted that the acceptable noise standards will be exceeded across parts of the site. It is acknowledged in the report that careful consideration will be required at the detailed design stage to ensure maximum protection to the amenity of future residents. At reserved matters stage the design and layout of the development should be informed by the noise assessment and should consider orientation of buildings, bunding, barriers, construction measures to ensure maximum protection from noise is achieved. It has also been highlighted that where acoustic ventilation is required, it should be mechanical rather than passive to ensure that adequate ventilation is provided when windows are closed. Due to these factors it is considered that a condition requiring a scheme for protecting proposed dwellings from noise associated with road traffic and industrial/commercial noise to be submitted prior to the commencement of development is necessary.
- 7.99. An Air Quality Assessment was submitted with the application. The air quality assessment recommends the development of a green travel plan to further reduce the impact of the development. A travel plan has been submitted. It is identified by Environmental Health (Pollution) that it is best practice to incorporate into detailed design properties with garages including a charging point for electric vehicles and accordingly this will be conditioned.
- 7.100. A further air quality assessment would be required once the layout and construction methods have been finalised to ensure the conclusions and recommendations of the air quality assessment remain accurate. Therefore a condition requiring the submission of a revised air quality assessment, including proposed mitigation measures, prior to the commencement of development is necessary.
- 7.101. The site is within Flood Zone 1 and there are no historic records of fluvial flooding on site. There are some areas within the site that are at risk of surface water flooding. Conditions requiring the submission of surface water drainage scheme, a management scheme of surface water on site during construction and the long term maintenance of the sustainable surface water drainage system. A condition securing this information prior to the commencement of development would be reasonable and necessary to ensure flood risks are minimised on and off site.
- 7.102. Due to the outline nature of this application details of lighting have not been provided and therefore the impacts of this issue cannot be undertaken. This matter could, however, reasonably be considered at reserved matters stage.
- 7.103. Based on the assessment above and subject to appropriately worded conditions, as referred to above, the development would be in accordance with Policy DM7 of the SADMP and the relevant advice contained in the NPPF.

Planning Obligations

7.104. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the Core Strategy identifies standards for play and open space within the borough. Developments should accord with the policy and provide acceptable open space within the development, or if that is not possible contribute towards the provision and maintenance of open space off site. The Open Space and Recreation Study 2016 updates these standards and also identifies the costs for off-site and on-site contributions

7.105. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations and paragraph 57 of the NPPF state that planning obligations must only be sought where they meet all of the following tests:

- A) Necessary to make the development acceptable in planning terms;
- B) Directly related to the development; and
- C) Fairly and reasonably related in scale and kind to the development..

7.106. The following planning obligations are sought:

- HBBC POS Contributions comprising
 - Equipped Open Space on site provision (to include a minimum cost of equipment to be provided) plus maintenance
 - Casual Informal Open Space on site provision plus maintenance
 - Accessible Natural Green Space on site provision plus maintenance
 - POS to be transferred to a management company
 - Outdoor Sports provision and maintenance contribution (offsite)
- HBBC 30% Affordable Housing comprising
 - 8 First Homes
 - 16 Affordable Rent
 - 5 Shared Ownership
 - Affordable home ownership properties are usually a mix of 2 and 3 bedroomed houses; affordable homes for rent would ideally include 4 x 1 bed roomed properties as well as a mix of 2 bedroomed 4 person and 3 bedroomed 5 person houses. All properties should meet Nationally Described Space Standards where possible. A cascade should be included in the section 106 legal agreement to require the affordable rented housing to be offered in the first instance to people with a local connection to Barwell, and in the absence of applicants with a local connection, to people with a connection to the Hinckley and Bosworth, as defined in the council's Housing Allocations Policy.
- A Local Employment and Training Strategy
- Monitoring fees of £489 per obligation payable prior to commencement of development
- £219 site inspection fee payable prior to arranged visit (min 2 inspections of open space areas)
- Council's Legal Fees
- NHS England
- LCC Planning Obligations
 - Libraries - Earl Shilton Library - £2,868.78
 - Waste - Barwell HWRC - £4,705.35
 - Secondary Education (11-16) - Heath Lane Academy - £283,602.74

➤ Post 16 Education - The Hinckley School - £60,590.15

- 7.107. There is a policy basis for each contribution and the method of calculating each contribution shows that the obligations are directly related, fairly and reasonably related in scale and kind to the development proposed and subsequently meet the skills tests. The obligations set out above, together with the highways contribution, Travel Plan framework, and affordable housing should have been included in a Section 106 Agreement. In the absence of a legal agreement to secure the necessary obligations, reasons for refusal will accordingly be included at the end of this report.

8. Equality implications

- 8.2 **Implications** Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 8.3 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 8.4 There are no known equality implications arising directly from this development.

9. Conclusion

- 9.1 This report has assessed the development proposals against the presumption that planning permission should be granted for sustainable development unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This report has demonstrated that there are serious policy breaches and that the proposals do not constitute sustainable development. Nonetheless, it is necessary to weigh the harms and benefits arising from the proposals.
- 9.2 The development would make a modest contribution to the supply of market housing and this benefit is held in moderate positive weight in the overall planning balance. Whilst there is no legal agreement to secure a contribution to affordable housing, had one been drafted the applicant would have offered a 30% proportion of the development in the form of affordable housing which would have been held in significant positive weight. There would also be economic benefits in terms of the construction of the development and those associated with the resultant increase in local population. These social and economic benefits are held in moderate weight.
- 9.3 There are a number of areas of compliance with development plan policies including matters surrounding amenity, drainage and environmental health, and biodiversity/ecological matters and are subsequently not regarded as benefits as such. These matters are subsequently held in neutral weight when considering the overall benefits of the scheme.

- 9.4 The benefits and adverse impacts are carefully weighed in the planning balance. It is considered that the significant public benefits of the scheme identified above would not outweigh the substantial harm apportioned to the countryside and settlement character and pattern, by virtue of the introduction of built form; the significant harm apportioned to the harm to the function of the Green Wedge; the significant and permanent harm to the intrinsic value, beauty and undeveloped rural character of the area; and the significant harm arising from the landscape and visual impacts of the development.
- 9.5 Significant negative weight is apportioned in the light of lack of evidence to show that the development would not have a significant impact on the highway network and would not pose a risk to highway safety and the lack of obligations to mitigate the development's impact on infrastructure.
- 9.6 The substantial harm arising from the development proposals is considered to significantly and demonstrably outweigh the significant public benefits identified. Weighing all the above factors into the planning balance, and having regard to the NPPF as a whole, all relevant policies of the Development Plan, in applying paragraph 11 of the NPPF; it is considered that the adverse impacts significantly and demonstrably outweigh the identifiable benefits of the proposal as a whole. The development proposals cannot be regarded to represent a sustainable form of development and it is recommended that this application is refused for the reasons set out below.

10. Recommendation

11.1 Refuse planning permission for the following reasons:

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 NPPF.
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 NPPF.
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 & Development Management Policies Development Plan Document (2016) and paragraph 55 of the NPPF.

Appendix 5: LPA Decision notice

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Refusal of Planning Permission

Name and Address of Applicant

Ms Ashleigh Genco
Redrow Homes Ltd (Harrow Estates Division)
Redrow House
6400 Cinnabar Court
Daresbury Business Park
Warrington
Cheshire
WA4 4GE

Name and Address of Agent (if any)

Mrs Samantha Ryan
Ryan & May Ltd
75 Ye Priory Court
Liverpool
L25 7BG

Part I - Particulars of Application

Date of Application	Application No.
20 December 2023	23/01229/OUT

Particulars and location of development:

Outline Planning application for up to 95 dwellings with associated access, open space and landscaping following demolition of all buildings on site

Land East Of The Common Barwell Leicestershire

Part II - Particulars of decision

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council refuses to permit the carrying out of the development referred to in Part I hereof for the following reason(s):-

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.

IMPORTANT - PLEASE READ THE NOTES AT THE END OF THIS DOCUMENT

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.



Christopher Brown MRTPI
Head of Planning

Date :17 June 2024

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.
2. If you consider that this decision has been made invalidly through the Council failing to follow a procedure correctly, not having the legal power to make the decision in the way it did or through its decision being so unreasonable as no reasonable local authority would make the same decision based on the same facts, then you may enter a claim for judicial review to quash the decision. In order to proceed with a claim for judicial review an initial application for permission will need to be made to the Administrative Court, this application is required to be made "promptly and in any event within three months of the decision". The initial permission application will decide if you have an arguable case, whether you are sufficiently materially affected by the decision to bring the claim. If you are granted permission to bring the claim it will proceed to a full hearing at the Administrative Court. Although there is no requirement for you to do so it is highly recommended that you seek independent legal advice before bringing forward a claim for Judicial Review
3. If you are aggrieved by the decision of the Local Planning Authority to refuse permission you may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. If your appeal is against a Minor Commercial Development, we would advise you to view the guidance on the Planning Portal website under Procedure Guidance, to confirm the time frame for appealing. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, tel. 0303 444 5000 or online at <https://www.gov.uk/appeal-planning-decision>). You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, (or could not have been so granted otherwise than subject to the conditions imposed by them,) having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 14 October 2004 must be made within six months of the date of this notice. If you intend to submit an appeal that you would like examined by inquiry then you must notify your Local Planning Authority (planning@hinckley-bosworth.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found on [GOV.UK](https://www.gov.uk).
4. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application then, you must do so in accordance with the guidance found using the following link <https://www.gov.uk/appeal-enforcement-notice/>.
5. If permission to develop land is refused whether by the Local Planning Authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

RNOTES (02/07/2014)

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