

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Grounds of Appeal prepared for Mr & Mrs Morley against the refusal of application 25/00883/OUT by Hinckley & Bosworth Borough Council for Outline planning permission (access only) for the erection of a C3 self-build dwelling and associated amenity space and parking (Resubmission of 24/00872/OUT) land south west of Sibson Road, Sheepy Parva, Leicestershire, CV9 3RE (Easting 433254 Northing 301328).

Application 25/00883/OUT was received by the LPA 15th September 2025 and refused by notice dated 11th November 2025.

May 2026

Simon Cheshire BA(Hons) DipTP MRTPI

Material Considerations

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

Main Issue

5. The LPA is currently in the position where all housing supply policies and settlement boundaries are out of date and cannot demonstrate a robust 5YHLS or Self-Build Housing Register. Regarding the emerging Local Plan for 2024-2045, the LPA acknowledge between 15,000 and 20,000 new homes will need to be built within the Borough during this period, the vast majority of which will be built outside existing settlement boundaries. With specific reference to the Sheepy Parish Neighbourhood Plan (SPNP 2022) it is noted the emerging Local Plan continues to identify Sheepy Magna as a 'Rural Village'.
6. The SNP is crucially silent on the provision of self-build and custom housing and due to the changes in National Policy and the Council's requirement to take on a portion of Leicester City Council's unmet housing need, the Neighbourhood Plan does not meet its identified housing requirement or policy provision for specialist self-build / custom housing, therefore Paragraph 14 of the Framework is not engaged.
7. The position concerning Paragraph 14 is confirmed in the minutes of the Sheepy Parish Council Meeting 7th October 2025 that state:

"The Parish Council became aware at the end of September that the Borough Council was to consider approving the revised draft Local Plan for consultation (Regulation 18) at its full Council meeting (1st October). This draft plan, amongst other things, identifies a specific site for proposed housing development (56 houses) in Sheepy Magna, a proposed large housing development of up to 10,000 houses near Norton-Juxta-Twycross and 3,500 new homes near Fenny Drayton (Lindley Meadow).

The proposal for a specific development site in Sheepy Magna is in contravention of the Sheepy Neighbourhood Plan (Made May 2022) (SNP). In the SNP, it was recognised that the emerging HBBC Local Plan would require the identification of additional sites for housing in the Parish and once this housing requirement was known, the SNP (and Parish Council) committed to undertaking a review of the SNP involving community consultation to identify one or more potential sites to meet this identified housing need. This commitment is explicitly stated in the SNP, with the text agreed with the Borough Council and the Planning Inspectorate's Independent Examiner.

The Parish Council wrote to object to the text in the draft Local Plan, and via our Borough Councillor asked that a motion (with an evidence-based justification) be put forward to amend it, before consultation started. The Parish Council's proposal was for the reference to the specific site in Sheepy Magna be removed from the plan and instead only the housing need (number) for the Parish be included. Thereby aligning the draft Local Plan with the Made SNP. Despite this request, the motion wasn't tabled at the full Council meeting, nor were our concerns raised at the meeting. The consultation version will therefore contain reference to a specific housing development site despite the Parish Council's best efforts.

However, the Parish Council has separately received correspondence from the Head of Planning offering to meet with the Parish Council and stating that 'they [HBBC] would be happy' to consider an alternative site(s) if one (or more) was put forward in a revised Neighbourhood Plan.

The Parish Council voted unanimously (as the Qualifying Body) to formally approve that a review of the Sheepy Neighbourhood Plan (SNP) be formally started, with the aim of allowing our community to be properly consulted on the identification of site(s) to meet future housing development needs and the necessary infrastructure improvements to ensure sustainability. Councillors also agreed to review the membership of the Neighbourhood Plan Steering Group and invite members of our community to join this group.

The Parish Council encourages all parishioners to look at the Local Plan consultation documents when they are published (17th October) and comment. The Parish Council would also like to hear your views. The consultation will run for 6 weeks.

ACTIONS – Parish Clerk to ensure HBBC Local Plan consultation is advertised on noticeboards and website. NP Steering Group to draft communication leaflet on Neighbourhood Plan review. Parish Clerk and Chair to liaise with HBBC Head of Planning to arrange meeting."

8. The full Parish minutes of the 7th October 2025 are included in Appendix 5, which confirm in terms of housing policy, the SNP is out of date and is silent on the provision of self-build specialist housing and the tilted balance is triggered accordingly, and Paragraph 14 of the Framework does not currently apply.

9. Furthermore, the SPNP notes Sheepy Parva adjoins Sheepy Magna on the B585 and are "twin settlements" only separated by the River Sence. In this respect, both Sheepy Magna and Sheepy Parva have equal accessibility via existing footpath linkages to all of the twin villages facilities and services. This means Sheepy Magna and Sheepy Parva are equally sustainable in terms of location and position within the LP settlement hierarchy.

10. In this policy context the appeal scheme represents an integrated and sustainable development in accordance with paragraphs 73 and 83 of the Framework that state:

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

And:

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

11. The issue of sustainability and the very close linkages between Sheepy Magna and Sheepy Parva are a matter of common ground as highlighted in paragraph 8.17 of the delegated report:

“8.17 Overall, whilst there are limitations regarding the frequency of the bus service and requirement to use a shared surface to reach Sheepy Magna on foot/cycling, prospective occupiers of the proposal would have a genuine choice of sustainable travel modes to reduce the reliance on private cars. Therefore, the location of the proposed development with regard to access to services and facilities would be acceptable, as it would have access by a choice of modes of travel. This would promote sustainable patterns of development in accordance with Policy DM17 of the SADMP, and the Framework.”

12. Indeed, this view was also shared by the previous Inspector (Appendix 1) at paragraph 14 below:

“Consequently, given the particularities of the appeal site, I find that the location of the development, with particular regard to access to services and facilities, would be acceptable, as it would have access by a choice of modes of travel. This would promote sustainable patterns of development in accordance with Policy DM17 of the SADMP, and the Framework.”

13. If Sheepy Magna is designated with the settlement hierarchy as a sustainable location for the potential growth of another 56 new dwellings, then by extension the “twin village” of Sheepy Parva must also logically fall within this category, wholly in accordance with paragraph 83 of the Framework.

14. Policies S1, S8 and S10 of the Sheepy Neighbourhood Plan and policies DM4, DM10 and DM17 of the adopted Site Allocations and Development Management Development Plan Document (2016) relate to promoting sustainable development proposals within the countryside and to safeguard it from unsustainable schemes, rather than to apply a blanket protection.

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

16. In terms of its assimilation within the existing street scene and neighbouring properties, the previous delegated report included the comments below from the Conservation Officer:

“The application site is an undeveloped pasture field that reflects the semi-rural character of the settlement edge of Sheepy Parva and sits comfortably within the wider settings of the two listed buildings. Access is the only matter for which a determination is sought, with all other matters reserved. A small section of front boundary hedgerow would need to be

removed to provide a suitable vehicular access to the site. In my opinion the minor loss only of a typical and historic landscape feature would result in a negligible visual change within the setting of the two listed buildings and will not affect how their respective significance is appreciated or understood. (my emphasis) The access for the proposed development will therefore not cause harm to the significance of any designated heritage assets, so consequently the proposal accords with Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD, section 16 of the NPPF and the statutory duty of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

It should be noted that depending on the details of the appearance, landscaping, layout and scale of a proposed dwelling on the application site then there is the possibility that such a development would result in greater than negligible changes within the setting of the two listed buildings, so an assessment of the impact of the proposal on their significance will be required at the reserved matters application stage.”

17. On this basis, the final design solution will allow the new dwelling to be readily assimilated within the existing street scene and would not therefore be considered an incongruous addition to it. Nor would it represent the extension of ribbon development as the appeal site is located between the residential properties of South Riding and Meadowside and would not extend past the built form of Forest View directly opposite, therefore it can only be reasonably described as infill development. On this basis the proposal would reflect and fit in with the established pattern of development that would not result in any significant or widespread visual harm where the built form of Meadowside, Forest View and South Riding through modern extensions and alterations, has already created an “urbanising effect” to a material, however acceptable degree.

18. As a continuation of this evolving local residential built form, there would be some low level landscape harm, however the modest scale of a single dwelling would be viewed on a very limited local basis only. This would further decrease with the passage of time, particularly with the retention of the majority of the existing hedgerow, that can be supplemented by the imposition of a standard landscaping condition, where the Inspector concluded at paragraph 16 of the previous appeal:

“The appeal site is within proximity to two Grade II listed buildings, namely Barns at Manor Farm and Manor Farmhouse. Section 66(1) of the Act requires that I have special regard to the desirability of preserving the setting of the listed buildings. The Council found the proposal acceptable in terms of its effect on the setting of the listed buildings. Given the evidence before me, and the location of the appeal site in relation to the listed buildings I am also satisfied that the development would have a neutral effect on the setting of the listed buildings.”

19. The comments of the Conservation Officer above confirm the principle of the residential development of the site is acceptable, subject to a suitable design solution that can be determined at the reserved matters stage. On the basis of no objection from the relevant statutory consultee in the form of the LPA Conservation Officer, significant weight should be given to the case of **Shadwell Estates v Breckland DC [2013]** that states:

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

20. Appendix 2 contains an appeal decision issued on the 13th March 2025 for a development of 95 homes within the Green Wedge adjacent to the settlement boundary of Barwell under PINS reference APP/K2420/W/24/3348387, Land East of The Common, Barwell, LE9 8BR.

At paragraphs 12 and 41 the Inspector states:

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

And

“On the main issues I have found that the principle of development in this area of countryside conflicts with SAMD policy DM4 but this only carries limited weight because of the Council’s HLS position. The proposal would cause some moderate harm to the rural landscape character of the area and to a limited geographical area but it would not result in a significant adverse effect which is the test set out in criteria (i) of Policy DM4 and criteria (a) of Policy DM10.”

21. The conclusions of the Inspector and the acknowledgement the entire 2009 CS and the policies contained within it are out of date, are significant material considerations that are directly applicable to the appeal submission, particularly as the 2009 Core Strategy expires December 2026. In terms of the SNP, Policy S11: Housing Mix states new housing development shall provide for a mix of housing types that will be informed by the most up to date evidence of housing need as below:

“5.20 Using data from the 2011 Census, compared to Hinckley and Bosworth Borough, Sheepy Parish has a smaller proportion of young householders (under 35) but more households over the age of 65. Local house prices are high compared to neighbouring settlements, a high proportion of homes are detached and there are high levels of under-occupancy.

5.21 The provision of market housing units which cater for older households is a key supply gap which urgently needs to be addressed. While bungalows require more land and are therefore not attractive for developers, it is important that efforts are made within new developments to provide for older households.”

The HBBC Self-Build Register

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

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

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

of the application and given significant weight in the planning balance.”(My emphasis)

23. On the 6th August 2025, the LPA issued the delegated approval related to application 24/01155/FUL for the erection of a dwelling (self-build) with associated parking and landscaping Upper Grange Farm, 1A Ratby Lane, Markfield, Leicestershire, LE67 9RJ. For ease of reference, the application documents are included in Appendix 3, which includes a legal opinion and an HBBC Self-Build & Custom Housebuilding Assessment.

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

“8.4. The Planning Policy team are currently reviewing the revised NPPF and implications for the Council’s Five-Year Housing Land Supply. A revised position will be published in the coming months once the monitoring for the 2024/25 year has been completed. It is however likely that, with the revised need figure of 682 dwellings per annum from the Dec 2024 NPPF (649dpa + 5% buffer as per Para 78a), that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published.

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

25. And paragraph 8.11 that states:

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

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

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

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

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

29. And concludes:

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

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

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

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

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

33. However, balanced against the above, the “Battram” Inspector concluded:

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

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

“18. The basics of the statutory duties for delivering self/custom build homes are set out in the Task Force Guidance note PG3.3: National Planning Policy Framework and Right to Build legislation Delivering appropriate permissions. Local Planning Authorities have a statutory duty to consider the demand for custom and self-build (CSB) homes in plan making and decision taking. Councils are required to consider self-build in planning, housing, land

disposal, and regeneration functions. This legal responsibility is set out in (s2(1)) of the Self and Custom Housebuilding Act 2015.

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

20. While the legislation refers to the custom and self-build register as a primary consideration, councils are encouraged in policy to consider the wider strategic demand for self/custom build housing. Where there is a mismatch between the target dwelling types of those joining the register and the housing demand profile in an area, councils can help enable delivery of more size-appropriate and well-located plots through policies and actions. Attempting to meet demand through supressing the self-build registers is not helpful in ensuring delivery." (My emphasis)

Conclusion

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

36. The SNP is crucially silent on the provision of self-build and custom housing and due to the changes in National Policy and the Council's requirement to take on a portion of Leicester City Council's unmet housing need, the Neighbourhood Plan does not meet its identified housing requirement or policy provision for specialist self-build / custom housing, therefore Paragraph 14 of the Framework is not currently engaged.

37. The specific material considerations of this appeal clearly demonstrates the appeal proposal is situated within the twin village of Sheepy Parva and is within walking distance to all of the shared amenities and facilities of Sheepy Magna and is therefore equally sustainable in this respect, given the case law already cited. The emerging LP and SPNP acknowledge the twin villages will be allocated in the region of 56 new dwellings due to their current standing within the settlement hierarchy. However, it is unlikely the New Local Plan will be adopted until 2027 at the earliest and in the meantime, the LPA has a lawful duty to grant sufficient self-build approvals irrespective of any 5YHLS or existing settlement boundaries.

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

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

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